

IN THE SUPREME COURT OF PENNSYLVANIA

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| OFFICE OF DISCIPLINARY COUNSEL, | : | No. 3099 Disciplinary Docket No. 3 |
| | : | |
| Petitioner | : | No. 172 DB 2023 |
| | : | |
| v. | : | Attorney Registration No. 48329 |
| | : | |
| | : | (Philadelphia) |
| RICHARD JOSEPH SILVERBERG, | : | |
| | : | |
| Respondent | : | |

ORDER

PER CURIAM

AND NOW, this 16th day of May, 2025, the Motion for Leave to File Amended Petition for Review is granted. Upon consideration of the Report and Recommendations of the Disciplinary Board, as well as the Amended Petition for Review, Richard Joseph Silverberg is suspended from the Bar of this Commonwealth for a period of five years. Respondent shall comply with the provisions of Pa.R.D.E. 217 and pay costs to the Disciplinary Board. See Pa.R.D.E. 208(g).

A True Copy Nicole Traini
As Of 05/16/2025

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

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| OFFICE OF DISCIPLINARY COUNSEL, Petitioner | : : : : : : : | No. 172 DB 2023 |
| v. | : | Attorney Registration No. 48329 |
| RICHARD JOSEPH SILVERBERG, Respondent | : : : : : : : | (Philadelphia) |

REPORT AND RECOMMENDATIONS OF
THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

TO THE HONORABLE CHIEF JUSTICE AND JUSTICES
OF THE SUPREME COURT OF PENNSYLVANIA:

Pursuant to Rule 208(d)(2)(iii) of the Pennsylvania Rules of Disciplinary Enforcement, the Disciplinary Board of the Supreme Court of Pennsylvania (“Board”) herewith submits its findings and recommendations to your Honorable Court with respect to the above-captioned Petition for Discipline.

I. HISTORY OF PROCEEDINGS

By Petition for Discipline filed on December 6, 2023, Petitioner, Office of Disciplinary Counsel, charged Respondent, Richard Joseph Silverberg, with violating RPC 3.1, 3.3(a)(1), 3.4(a), 8.2(a), 8.4(c), and 8.4(d). These charges are based on allegations that Silverberg impugned the integrity of Philadelphia Court of Common Pleas Judge Joshua H. Roberts in pleadings and correspondence in state and federal court cases, refused to comply with multiple discovery orders issued by Judge Roberts, and failed to appear for contempt hearings scheduled by Judge Roberts. Silverberg filed an

Answer to the Petition for Discipline on January 29, 2024. Therein, Silverberg alleged his actions were proper and excused because he was the victim of a conspiracy intended to prevent him from publishing a book exposing alleged past corporate misconduct. Silverberg claimed that, following his offer to sell the publishing rights to the entities that were the books' subjects, those entities and others acting in concert with them used their contacts at the City of Philadelphia to try to stop him from publishing his book. Silverberg claims they pursued this goal by allegedly causing the City's Law Department to improperly pursue collection of a 2008 tax judgment and to bring time-barred fraudulent transfer litigation against him. In his Answer, Silverberg accused Office of Disciplinary Counsel of improper conduct in investigating and filing the Petition for Discipline and of joining the conspiracy against him.

Shortly after Silverberg filed his Answer to the Petition for Discipline, he filed *Silverberg v. DuPont de Nemours, Inc. et al.*, in the United States District Court for the Eastern District of Pennsylvania, 2:24-cv-00924 (E.D. Pa. Mar. 4, 2024) (*Silverberg IV*). Therein, he reiterated the conspiracy allegations he had raised in his Answer and named 29 entities and individuals as defendants, including Office of Disciplinary Counsel, Chief Disciplinary Counsel Thomas J. Farrell, and Disciplinary Counsel Richard Hernandez, who prosecuted the instant matter.

A Hearing Committee was appointed in this matter on March 7, 2024. On March 8, 2024, Silverberg advised the Committee Chair in writing that he refused to participate in the disciplinary proceedings, that the proceedings were preempted by federal court cases he filed, and that the proceedings were otherwise being pursued for unlawful and unethical purposes. On March 8, 2024, Silverberg filed a Motion for

Deferment with the Board asking that the disciplinary proceedings be stayed until such time as the federal court cases concluded.

A prehearing conference was held on March 11, 2024. Silverberg was notified of the date and time but did not appear. Following the prehearing conference, the Committee Chair issued an order which, *inter alia*, established deadlines for identifying witnesses and exchanging exhibits, submitting objections to proposed witnesses and exhibits, and submitting responses to objections filed. Silverberg did not submit a witness list or exhibit list under the prehearing conference order, nor did he submit any objections to Petitioner's lists as filed. On March 15, 2024, Petitioner filed a Response in opposition to Silverberg's Motion for Deferment. By Order of March 18, 2024, the Board denied the motion.

The Committee held a disciplinary hearing on May 1 and 2, 2024. Despite notice, Silverberg did not appear. Petitioner presented six witnesses and introduced 158 exhibits. The witnesses who testified were: Judge Joshua H. Roberts, Judge Daniel J. Anders, Philadelphia Court of Common Pleas Civil Trial Division Deputy Court Administrator Steven J. Wulko, former Philadelphia Law Department Attorney Brian R. Cullin, Philadelphia Law Department Divisional Deputy City Solicitor Marissa M. O'Connell, and Philadelphia Sheriff's Office Assistant Undersheriff Shyann Gales-Poland.

Petitioner filed a post-hearing brief on July 1, 2024, and requested that the Committee recommend to the Board that Silverberg be suspended for a period of five years. Silverberg filed a post-hearing brief on August 9, 2024. Therein, he reiterated his claim that there was a conspiracy against him and contended there was no legitimate basis for the institution of disciplinary proceedings against him. Silverberg requested that the Committee recommend to the Board that the Petition for Discipline be dismissed.

By Report filed on October 8, 2024, the Committee concluded that Silverberg violated the rules as charged in the Petition for Discipline and recommended that he be suspended for a period of five years. On October 25, 2024, Silverberg filed a Brief on Exceptions and Additional Findings/Conclusions. He claims that his due process rights were violated. On November 7, 2024, Petitioner filed a Brief Opposing Exceptions.

The Board adjudicated this matter at the meeting on January 23, 2025.

II. FINDINGS OF FACT

The Board makes the following findings:

1. Petitioner, whose principal office is located at Pennsylvania Judicial Center, Suite 2700, 601 Commonwealth Avenue, P.O. Box 62485, Harrisburg, Pennsylvania, is invested, pursuant to Pa.R.D.E. 207, with the power and duty to investigate all matters involving alleged misconduct of an attorney admitted to practice law in the Commonwealth of Pennsylvania and to prosecute all disciplinary proceedings brought in accordance with the various provisions of said Rules of Disciplinary Enforcement.

2. Respondent, Richard Joseph Silverberg, was born in 1957 and was admitted to practice law in the Commonwealth in 1986. Silverberg is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court.

3. Silverberg has no record of prior discipline.

The 2008 Tax Case Judgment Against Silverberg

4. This matter arises out of a Complaint the City of Philadelphia filed against Silverberg and his law firm, Richard J. Silverberg & Associates, P.C., on March 11, 2008, seeking payment of unpaid business privilege and wage taxes for the period 1992 through 2004 (the “2008 tax case”). ODC-1.

5. The City obtained a default judgment in the amount of \$310,586.53 on June 3, 2008. N.T. 338-341; ODC-1, Bates Nos. 000010-000011; ODC-154-155.

6. It is not unusual for a multi-year passage of time between the entry of tax judgment in favor of the City and attempts to collect on that judgment, particularly given the number of judgments and the small size of the tax unit. N.T. 334-35.

7. Accordingly, on June 3, 2013, the City timely filed paperwork to keep the judgment on the judgment index and maintain the City's lien. ODC-1, Bates Nos. 000011, 000015.

8. Some four years later, in July of 2017, Silverberg filed a Motion for Judgment of Non Pros. The motion was denied by Judge Daniel J. Anders. Silverberg appealed and the Commonwealth Court affirmed. The Supreme Court of Pennsylvania denied Silverberg's Petition for Allowance of Appeal in November of 2019. ODC-1, Bates No. 000012; N.T. 57-58; ODC-2, Bates No. 000106.

9. On May 14, 2018, while Silverberg's appeal of the denial of his Motion for Judgment of Non Pros was pending, the City again timely filed paperwork to keep the judgment in the 2008 tax case on the judgment index and maintain the City's lien. ODC-1, Bates No. 000015.

10. The next year, on May 31, 2019, on behalf of the City, Brian R. Cullin, Esquire, served Interrogatories in Aid of Execution and Requests for Documents in Aid of Execution upon Silverberg. ODC-3; Bates Nos. 000110, 000127-000177.

11. The multi-year passage of time between the entry of the judgment in the 2008 tax case and the initiation of collection activity on that judgment in 2019 was not an unusual or atypical amount of time from judgment to collection across the tax unit's entire portfolio of judgments. N.T. 334-35.

12. In response to the City's collection activity, Silverberg filed a Motion for Protective Order and to Stay Proceedings in the 2008 tax case on June 19, 2019. The motion was denied by Philadelphia Court of Common Pleas Judge Denis P. Cohen on July 8, 2019. ODC-1, Bates No. 000018; ODC-3, Bates Nos. 000178-000191.

Silverberg I

13. On June 20, 2019, the day after filing his Motion for Protective Order in the 2008 tax case, Silverberg filed *Silverberg I* against the City and various officials employed by the City in the United States District Court for the Eastern District of Pennsylvania. Silverberg alleged that the City's resumption of collection activity in the 2008 tax case violated various provisions of the Racketeer Influenced and Corrupt Organizations Act ("RICO"), 18 U.S.C. §§ 1961 *et seq.*, the First and Fourteenth Amendments pursuant to 42 U.S.C. § 1983, and state law. ODC-146-147, Bates Nos. 004197-004201. Federal Judge R. Barclay Surrick dismissed *Silverberg I* on January 8, 2020, on the ground that he lacked subject matter jurisdiction; that ruling was upheld on appeal by the United States Court of Appeals for the Third Circuit. ODC-146-148.

The PUFTA Case

14. In the meantime, in or about August or September of 2019, the City's counsel learned that Silverberg had transferred money out of his name to a company named ELS Realco, LLC ("ELS"), and that on December 29, 2011, ELS purchased 2101 Market Street, #3201, Philadelphia, PA 19103 (the "Market Street property," where Silverberg resided)—which transaction was intended to enable Silverberg to avoid satisfying the City's judgment in the 2008 tax case. N.T. 300-305.

15. Accordingly, in October 2019, the City filed a Complaint against Silverberg and ELS in the Philadelphia Court of Common Pleas, assigned docket number

190903805 (the “PUFTA case”), alleging that Silverberg and ELS had violated the Pennsylvania Uniform Fraudulent Transfers Act (“PUFTA”), 12 Pa.C.S.A. §§ 5101 *et seq.* ODC-75-76. Silverberg represented himself and ELS in the PUFTA case. ODC-75.

16. In January 2020, roughly three months after the PUFTA case was filed, and before the pleadings had closed in that case, Silverberg filed a Motion for Summary Judgment asserting a statute of limitations defense; Philadelphia Court of Common Pleas Judge Paula A. Patrick dismissed that motion as premature because “the pleadings are not closed and discovery in this matter is not yet complete.” ODC-78, 80, 81.

17. A January 13, 2020 Case Management Order set June 1, 2020, as the deadline for completing discovery; however, the discovery deadline was extended to January 4, 2021. ODC-75, Bates Nos. 001843-001844, 001883.

18. At no time thereafter did Silverberg seek any discovery on the core statute of limitations question of at what point in time did the City know or should have known that Silverberg had engaged in fraudulent transfers involving the Market Street property. N.T. 308-09.

19. For its part, on April 28, 2020, the City propounded discovery on Silverberg and ELS in the PUFTA case in the form of interrogatories, requests for production of documents, requests for admissions, and notices of deposition. ODC-83-90, Bates Nos. 002091-002101, 002184-002191, 002274-002287, 002370-002382, 002464-002472, 002555-002570, 002653-002657, 002678-002682.

20. Silverberg failed to comply with the City’s discovery requests, necessitating the filing in the PUFTA case of multiple motions to compel on May 29, 2020, and June 1, 2020. ODC-75, Bates Nos. 001850-001854; ODC-83-90.

21. On July 2, 2020, Silverberg filed a Motion for Protective Order in the PUFTA case. ODC-91-92.

Judge Roberts' Assignment to the PUFTA Case

22. In the summer of 2020, Judge Joshua H. Roberts was assigned to the Philadelphia Court of Common Pleas Complex Litigation Center and, in the normal course of his judicial assignment, was randomly delegated the discovery motions filed in the PUFTA case. N.T. 65-68, 71-73, 75-76; ODC-42, Bates Nos. 001245-001246; ODC-144.

23. Judge Roberts scheduled the pending motions in the PUFTA case for a Zoom hearing on August 25, 2020. Silverberg appeared and argued that discovery should not be permitted because the City was acting in bad faith in seeking it in that the PUFTA case had—according to Silverberg—been filed after the statute of limitations had expired on the City's fraudulent conveyance claims. ODC-93; N.T. 83-84; ODC-94; ODC-94; Bates Nos. 002758-002759.

24. On August 25, 2020, Judge Roberts granted the City's discovery motions, noting in response to Silverberg's argument at the hearing that the only matters before him were the discovery motions, that Silverberg's argument had been previously considered and denied by Judge Patrick when she rejected as premature Silverberg's summary judgment motion, and that he had to respect Judge Patrick's ruling based on the coordinate jurisdiction rule. ODC-75, Bates Nos. 001850-001866; ODC-104; N.T. 84-86, 118-119, 130-131, 134-136, 207-208; ODC-94, Bates Nos. 002762-002763; ODC-95-102; ODC-137, Bates Nos. 003941-003945, fn.6.

25. In a ministerial and innocent error, the control numbers on the orders were mismatched by the Office of Judicial Records with the control numbers for the respective

motions; Judge Roberts had no responsibility for or involvement in that tracking process. ODC-75, Bates Nos. 001850-001854; ODC-83-90; ODC-95-102; N.T. 222-260.

26. Despite the denial of his Motion for Protective Order, on September 4, 2020, Silverberg filed a Renewed Motion for Protective Order and/or to Stay Discovery. ODC-75, Bates Nos. 001872-001874.

27. By Order dated September 9, 2020, Judge Roberts denied Silverberg's Renewed Motion for Protective Order and/or to Stay Discovery. N.T. 107-108; ODC-105, 107-108.

28. Silverberg then filed yet another motion for protective order on September 18, 2020. ODC-75, Bates Nos. 001871.

29. In the meantime, Silverberg failed to comply with Judge Roberts' discovery orders, forcing the City to file a series of sanctions motions. ODC-110-113, 116, 119, 120.

30. Judge Roberts scheduled the parties' motions for a Zoom hearing on October 6, 2020, at which time Silverberg appeared and presented argument. ODC-118. At the conclusion of the hearing, Judge Roberts' granted the City's motions and denied Silverberg's latest motion for protective order. ODC-122-129.

31. On October 16, 2020, the City filed two additional motions for sanctions seeking default judgments and other appropriate relief based on the failure of Silverberg and ELS to comply with the orders issued on October 6, 2020, that directed their appearance at deposition. ODC-130-131.

32. Following a November 10, 2020 Zoom hearing, Judge Roberts entered default judgments against Silverberg and ELS, enjoined them from disposing of real property, and permitted the City to proceed to execute on that real property. ODC-133-135.

33. Silverberg then appealed the various orders entered by Judge Roberts in the PUFTA case, but after the Commonwealth Court rejected three “emergency” applications for a stay pending appeal, Silverberg discontinued his appeal in May of 2021. ODC-136, 137, 138, Bates Nos. 003963-003967.

Silverberg II

34. In the meantime, on October 12, 2020, six days after Judge Roberts’ initial sanctions rulings in the PUFTA case, Silverberg filed *Silverberg II* in the United States District Court for the Eastern District of Pennsylvania on behalf of himself and ELS against the City, various City employees, the William Penn Foundation (the “Foundation”), and the Foundation’s Chairperson. Silverberg asserted RICO, constitutional, and state tort claims against the named defendants, alleging that they had conspired to engage in unlawful tax collection activities in connection with the 2008 tax case and the PUFTA case for the sole purpose of harassing and intimidating Silverberg into dropping his alleged plans to write a book about the corporate misdeeds of Rohm and Haas and others. ODC-149-150.

Judge Roberts’ Assignment to the 2008 Tax Case

35. In January of 2021, while Silverberg was pursuing the appeal in the PUFTA case and several months after the filing of *Silverberg II* in federal court, Judge Roberts was assigned to the Philadelphia Court of Common Pleas Civil Motions Program and assumed responsibility for motions in cases ending in an even docket number. As tax cases fell under the purview of the Civil Motions Program and the 2008 tax case ended in an even docket number, Judge Roberts was assigned responsibility for all pending motions in the 2008 tax case, including a motion for sanctions for Silverberg’s failure to provide discovery in aid of execution. Judge Roberts’ assignment to the 2008 tax case

motions occurred in the normal course of judicial assignments in the Philadelphia Court of Common Pleas and he had no role in how those motions were assigned. ODC 17, 20, N.T. 64-67, 73-74, 140-141; ODC-42, Bates Nos. 001246-001247; ODC-145.

36. Silverberg initially reacted to the assignment by sending a letter on January 19, 2021, to Judge Roberts—copying then-Chief Justice Thomas G. Saylor, then-President Judge of Commonwealth Court P. Kevin Brobson, and then-President Judge of the Philadelphia Court of Common Pleas Idee Fox—which claimed:

- a. that Judge Roberts' actions in the PUFTA case revealed "a deeply troubling pattern of improper conduct/misconduct, all of which significantly benefitted the City of Philadelphia (and any interested and/or related parties) and severely prejudiced defendants;"
- b. that Judge Roberts' "recent unexpected/unexplained assignment" to the 2008 tax case was "both alarming and highly concerning;"
- c. that Silverberg intended to request that Philadelphia Court of Common Pleas President Judge Idee Fox intervene;
- d. that Silverberg intended to add Judge Roberts as a defendant in *Silverberg II*; and
- e. stated that Judge Roberts was now "in an adversarial relationship with both defendants" in the 2008 tax case and that he could no longer preside "over matters involving defendants."

ODC-23.

37. At the disciplinary hearing, Judge Roberts denied the allegations against him in Silverberg's January 19, 2021 letter and credibly testified that he was not acting based on any bias when he issued the various orders in the PUFTA case, that he did not

act deceptively, dishonestly or improperly in that matter, that he did not engage in a “pattern of improper conduct/misconduct, all of which significantly benefitted the City of Philadelphia (and any interested and/or related parties) and severely prejudiced defendants,” and that the orders he issued in the PUFTA case were not influenced by any third party but rather were the result of his own analysis and application of the Pennsylvania Rules of Civil Procedure and Pennsylvania law. N.T. 148-149; 203-204.

38. Judge Anders credibly testified that Judge Roberts’ assignment to the 2008 tax case and the PUFTA case occurred in the normal course of Judge Roberts’ judicial assignments in 2020 and that Judge Roberts had no role in having the assignment of those cases to him. N.T. 65-68; ODC-144.

39. Silverberg did not present any evidence to establish that the allegations were true or that he had an objective reasonable belief that the allegations were true, based upon a reasonably diligent inquiry.

40. The credible testimony of Judge Roberts, Judge Anders, Mr. Cullin, and Deputy Court Administrator Steven J. Wulko, in conjunction with Petitioner’s exhibits, establish that Silverberg had no good faith basis for the statements questioning Judge Roberts’ integrity and qualifications made in Silverberg’s January 19, 2021 letter, that those statements were frivolous, and that Silverberg made those statements knowing they were false or in reckless disregard as to their truth or falsity. N.T. 84-111, 118-119, 121-132, 134-136, 207-208, 222-260; ODC-75, Bates Nos. 001850-001868, 001878, and 001880; ODC-83-90; ODC-94-102, Bates Nos. 002762-002763; ODC-137, Bates Nos. 003941-003945, fn.6; ODC-103; ODC-104; ODC-105; 107-109; ODC-123; ODC-133.

The Recusal Motion in the 2008 Tax Case

41. Also on January 19, 2021, Silverberg filed a motion seeking recusal of Judge Roberts from the 2008 tax case. ODC-22. In it, Silverberg repeated the false claim that Judge Roberts had “engaged in a pattern of improper conduct and/or misconduct in the PUFTA matter and his actions have demonstrated actual bias, prejudice, and/or unfairness toward defendants, and/or the appearance thereof” and further claimed that Judge Roberts had:

- a. intentionally issued seven orders on August 25, 2020, that had control numbers that did not match the control numbers assigned to the originating motions (§§24-25);
- b. engaged in a “particularly insidious act of deception and dishonesty” by issuing an order dated October 6, 2020, that denied “defendants’ Motion for Protective Order and/or to Stay Proceedings (Control No. 31-20092231)” and having an entry placed on the docket report on October 8, 2020, that the Motion was moot when it had been decided and denied (§§50-53); and
- c. “engaged in illegitimate and improper actions as part of a pattern of biased conduct intended to undercut the Motions and defendants’ claims concerning the City’s bad faith conduct” (§57).

ODC-22, Bates Nos. 000548, 000555-000556, 000565-000567.

42. Silverberg also filed a Motion to Stay the 2008 tax case on January 20, 2021, incorporating the allegations he had made in the Recusal Motion. ODC-24, Bates Nos. 001093-001095.

43. With respect to the new allegations in the Recusal Motion, Judge Roberts testified that he was neither responsible for, nor involved in, the incorrect control numbers appearing on orders he issued on August 25, 2020. N.T. 86-93, 95-100.

44. Deputy Court Administrator Steven Wulko credibly testified that the Office of Judicial Records was responsible for—and confirmed Judge Roberts’ testimony that he had nothing to do with—the mismatched control numbers appearing on the August 25, 2020 orders, the absence of control numbers appearing on certain orders and the docket report, and the two docket entries worded “MOTION/PETITION MARKED MOOT,” along with control numbers. N.T. 222-260.

45. Silverberg did not present any evidence to establish that the allegations were true or that he had an objective reasonable belief that the allegations were true, based upon a reasonably diligent inquiry.

46. The credible testimony of Judge Roberts, Judge Anders, Mr. Cullin, Ms. O’Connell, and Mr. Wulko, in conjunction with Petitioner’s exhibits, establish that Silverberg had no good faith basis for the statements questioning Judge Roberts’ integrity and competence made in the January 19, 2021 Recusal Motion, that those statements were frivolous, and that he made those statements knowing they were false or in reckless disregard as to their truth or falsity. N.T. 65-68, 71-73, 75-76, 84-104, 107-111, 118-119, 121-131, 134-136, 145-148, 166, 207-208, 242-243, 246-247, 270-333, 337-353; ODC-42, Bates Nos. 001245-001246; ODC-75, Bates No. 001850-001868; ODC-94, Bates Nos. 002762-002763; ODC-103-105; ODC-107-109; ODC-123; ODC-130-131; ODC-133; ODC-137, Bates Nos. 003941-003945, fn.6; ODC-144; ODC-154-155.

The Amended Complaint and TRO Motion in *Silverberg II*

47. On January 29, 2021, Silverberg filed an Amended Complaint in *Silverberg II*. ODC-150.

48. The Amended Complaint named Judge Roberts as an additional defendant and raised claims against Judge Roberts based on judicial actions that Judge Roberts had taken in the 2008 tax case and the PUFTA case. ODC-150. Specifically, Silverberg alleged that Judge Roberts:

- a. had intentionally issued seven discovery-related Orders on August 25, 2020, that had incorrect Control Numbers and that Judge Roberts “had to take great care to insure (sic) the Control Numbers did *not* properly match the originating Motion and related Response” (¶134; italics in original);
- b. issued orders on August 25, 2020 Orders that “were intentionally anticipatory and intended to serve as predicates for purposes of creating legal flaws in all of the discovery-related orders (i.e., the orders of August 25, October 6, and November 10, 2020), thereby rendering all such orders of no legal force or effect” (¶137);
- c. “intentionally ignored the facts (including the plain language of the Complaint), intentionally ignored controlling authority, [and] improperly denied the PUFTA defendants’ Motion and granted the City’s various Motions to Compel” (¶149);
- d. had engaged in an “egregious act of deception and dishonesty” in that he “intentionally mischaracterized” on the docket for the PUFTA case that the September 2020 Protective Order Motion was moot,

when Judge Roberts had denied that motion by Order dated October 6, 2020 (§160);

- e. “engaged in improper and illegitimate actions as part of a pattern of improper conduct intended to undercut the Motions and plaintiffs’ claims concerning the City’s own pattern of improper bad faith conduct” (§163);
- f. had acted in a manner that was “contrary to his role, duties and responsibilities as a judge (and/or exceeded his position, role, and authority as a judge), not within the proper course and scope of his employment as a judge, contrary to his oath as a judge, evidence a bias in favor of the City and against plaintiffs including prejudice and actual malice toward plaintiffs, as well as an intent to not preside over the proceedings fairly and impartially but rather to render decisions favorable to the City and unfavorable to plaintiffs. Alternatively, although Judge Roberts holds the position of judge and appeared to be performing his duties and responsibilities as a judge, his actions were not for a legitimate, proper, and/or authorized purpose; rather, he improperly used his position and authority as a judge to carry out a personal, professional, business and/or political agenda, and/or otherwise in his capacity as a private citizen” (§244);
- g. engaged in “the intentional, improper alteration of and/or interference with official court proceedings, official court records (including the docket and Court Orders), and participation in the creation, publication and/or dissemination of knowingly false and/or

misleading information in connection with the official PUFTA proceedings” (§245); and

- h. conspired with the other named defendants in *Silverberg II* to act “with a common purpose to do an unlawful act, or to do a lawful act by unlawful means or for an unlawful purpose, and committed an overt act in furtherance of the common purpose, all with an intent to injure plaintiffs and/or with malice, and which did injure plaintiffs.” (§260; ODC-150, Bates Nos. 004263-004264, 004269, 004271-004272, 004301-004302, 004307)

49. Judge Roberts credibly testified that the allegations leveled against him in the Amended Complaint were false. N.T. 205-213.

50. Silverberg did not present any evidence to establish that the allegations were true or that he had an objective reasonable belief that the allegations were true, based upon a reasonably diligent inquiry.

51. The credible testimony of Judge Roberts, Mr. Cullin, and Mr. Wulko, in conjunction with Petitioner’s exhibits, establish that Silverberg had no good faith basis for the statements challenging Judge Roberts’ integrity and competence made in the Amended Complaint in *Silverberg II*, that those statements were frivolous, and that Silverberg made those statements knowing they were false or in reckless disregard as to their truth or falsity. N.T. 84-95, 195-111, 118-119, 121-136, 205-213, 222-260; ODC-75, Bates Nos. 001850-001868, 001878, 001880; ODC-94, Bates Nos. 002762-002763; ODC-103-105; ODC-107-109; ODC-123; ODC-133; ODC-137, Bates Nos. 003941-003945, fn.6.

52. Silverberg followed the Amended Complaint in *Silverberg II* by filing a Motion for a Temporary Restraining Order and/or Preliminary Injunction (the “TRO Motion”) on February 8, 2021, asking that the federal court stay the 2008 tax case and the PUFTA case. ODC-151. The Recusal Motion filed in the 2008 tax case was also submitted to the federal court at that time. ODC-151, Bates Nos. 004336-004398.

53. In his supporting Memorandum of Law, Silverberg asserted that Judge Roberts:

- a. had rescheduled the hearing on the pending motions in the 2008 tax case from February 4, 2021, to February 19, 2021, “as a cudgel against plaintiffs [Respondent and ELS] for the exercise of their Constitutional rights, to retaliate, and as part of an effort to intimidate plaintiffs out of their claims against [Judge Roberts]” in *Silverberg II*;
- b. had “engaged in threats and intimidation, and is now using his authority as a weapon to retaliate against plaintiffs for the exercise of their Constitutional rights and remedies, causing plaintiffs immediate and irreparable harm.” ODC-151, Bates Nos. 004324, 004332.

54. Judge Roberts credibly testified that the allegations made against him by Silverberg in the Memorandum of Law were false. N.T. 213-215.

55. Silverberg did not present any evidence to establish that the allegations were true or that he had an objective reasonable belief that the allegations were true, based upon a reasonably diligent inquiry.

56. The credible testimony of Judge Roberts, Mr. Cullin, and Mr. Wulko, in conjunction with Petitioner’s exhibits, establish that Silverberg had no good faith basis for

the statements challenging Judge Roberts' integrity and competence made in the Memorandum of Law, that those statements were frivolous, and that Silverberg made those statements knowing they were false or in reckless disregard as to their truth or falsity. ODC-31, Bates Nos. 001163-001172; N.T. 152-513; ODC-29; N.T. 213-215.

Silverberg Voluntarily Dismisses *Silverberg II*

57. On February 23, 2021, after the City and the City officials filed a Motion for Sanctions under Rule 11 of the Federal Rules of Civil Procedure, and the attorneys for Judge Roberts, the Foundation, the Foundation's Chairperson, the City, and the City officials filed responses to the TRO motion, Silverberg filed a Notice of Voluntary Dismissal in *Silverberg II*. ODC-149, Bates Nos. 004231-004233.

Judge Roberts and the 2008 Tax Case Motions

58. In the meantime, a hearing on the motions pending in the 2008 tax case had been scheduled for the afternoon of February 4, 2021. At 12:45 p.m. on that day, Silverberg sent an email to Judge Roberts and the City's counsel that:

- a. stated that "it is defendant's position that the hearing scheduled for this afternoon is highly improper, violates prevailing legal, ethical, and Constitutional standards, and should not take place. For these reasons, should the Court still determine to go forward, defendant will not participate in the proceeding;" and
- b. attached a copy of the Amended Complaint that had been filed in *Silverberg II* that named Judge Roberts as a defendant in a RICO federal lawsuit.

ODC-28.

59. Judge Roberts decided not to proceed with the February 4, 2021 Zoom hearing and issued an order that:

- a. re-listed all pending motions in the 2008 tax case for oral argument via Zoom on February 19, 2021, at 11:00 a.m.;
- b. stated that he would “hear argument on, and consider whether or not it is appropriate for this Court to recuse from this matter”; and
- c. advised that if the Recusal Motion was granted, the pending motions would be re-assigned to another judge, but if the Recusal Motion was denied, he would hear oral argument that day on all remaining pending motions.

N.T. 152-513; ODC-29.

60. On February 19, 2021, at 10:46 a.m., Silverberg sent an email to Judge Roberts and the City’s counsel that:

- a. stated that “it remains defendant’s position that the hearing rescheduled for this morning is highly improper, violates prevailing legal, ethical, and Constitutional standards, and should not take place;” and
- b. referred to the Motion for Temporary Restraining Order and/or Preliminary Injunction that Silverberg had filed on February 8, 2021, in *Silverberg II*.

ODC-30

61. On February 19, 2021, Judge Roberts proceeded with the hearing on the Recusal Motion and all other motions pending in the 2008 tax case; Silverberg failed to appear. N.T. 154-155; ODC-31.

62. On February 19, 2021, and March 3, 2021, Judge Roberts issued eight orders in the 2008 tax case. Among other things, Judge Roberts denied the Recusal Motion and granted the City's motion for sanctions. Silverberg appealed the eight orders to the Commonwealth Court but discontinued that appeal in May 2021—the same month he discontinued his appeal of Judge Roberts' rulings in the PUFTA case. ODC-32-39; ODC-40-42; Bates Nos. 001221-001223.

63. Silverberg thereafter failed to comply with the February 19, 2021 Order issued by Judge Roberts in the 2008 tax case that had directed Silverberg to pay a \$250 sanction and to provide responses to the discovery in aid of execution served in the 2008 tax case; as a result, the City filed a Motion for Sanctions. ODC-35; 43; 45.

Judge Roberts Holds Silverberg in Contempt

64. By orders entered in the 2008 tax case dated April 14, 2021, and April 28, 2021, Judge Roberts granted the motion for sanctions and escalated the monetary sanctions imposed on Silverberg to compel compliance with the prior discovery orders; ultimately, by Order dated July 8, 2021, Judge Roberts granted a contempt motion filed by the City after Silverberg failed to appear for the hearing on the motion. ODC-46, 48, 54.

65. To monitor Silverberg's compliance with the July 8, 2021 Contempt Order, Judge Roberts scheduled a status hearing in the 2008 tax case for July 23, 2021. ODC-54, 61.

66. By letter dated July 19, 2021, sent by email to then-Chief Justice Max Baer and then-President Judge Fox, Silverberg contended that:

- a. “Judge Roberts is either fundamentally incompetent, compromised, and/or engaged in a conspiracy to corrupt the outcome of the above-referenced proceedings;”
- b. Judge Roberts and “the City” had “engaged in a fraud and/or cover-up,” they had also engaged “in both civil and criminal violations,” Silverberg was “meeting with prosecutors for purposes of pursuing criminal charges against City officials, lawyers in the Law Department, Judge Roberts, and possibly others,” and Silverberg was “confident” that “criminal charges ultimately will be filed;”
- c. Silverberg was “facing fines of \$2,500/day, the threat of imprisonment for failure to comply with discovery-related order(s), and a ‘knock-down’ order for purposes of gaining forcible entry to [Silverberg’s] apartment – all of which are illegitimate;”
- d. Judge Roberts had “issued an illegitimate order in an illegitimate proceeding” when Judge Roberts issued the July 14, 2021 Order, which order Silverberg claimed violated Administrative Order No. 18 of 2021 promulgated by President Judge Fox;
- e. “the City and Judge Roberts (upon his introduction to the cases) knowingly have engaged in a pattern of illegal conduct” by violating the Pennsylvania statute prohibiting official oppression, 18 Pa.C.S.A. § 5301; and
- f. among all the government officials directly involved “Judge Roberts is the worst offender – he is supposed to support and defend the

Constitution and not violate it, and certainly not use it to violate the rights of others.”

ODC-59, Bates Nos. 001629-001630, 001649-001650, 001654-001655.

67. Judge Roberts credibly testified that the statements made against him in Silverberg’s July 19, 2021 letter were false, and explained that nothing he did violated Administrative Order No. 18 of 2021. N.T. 177-184; ODC-58, 74.

68. Silverberg did not present any evidence to establish that the allegations were true or that he had an objective reasonable belief that the allegations were true, based upon a reasonably diligent inquiry.

69. The credible testimony of Judge Roberts, Mr. Cullin, Ms. O’Connell, and Mr. Wulko, in conjunction with Petitioner’s exhibits, establish that Silverberg had no good faith basis for the statements questioning Judge Roberts’ integrity and competence made in his July 19, 2021 letter, that those statements were frivolous, and that Silverberg made those statements knowing they were false or in reckless disregard as to their truth or falsity. N.T. 65-68, 71-73, 75-76, 84-104, 107-111, 118-119, 121-131, 134-136, 145-148, 166, 177-184; 207-208, 242-243, 246-247, 270-333, 337-353; ODC-42, Bates Nos. 001245-001246; ODC-54; ODC-58; ODC-74-75, Bates No. 001850-001868; ODC-94, Bates Nos. 002762-002763; ODC-103-105; ODC-107-109; ODC-123; ODC-130-131; ODC-133; ODC-137, Bates Nos. 003941-003945, fn.6; ODC-144; ODC-154-155.

70. On July 21, 2021, Silverberg filed a Renewed Motion for Recusal and to Stay Proceedings in the 2008 tax case, attaching the July 19, 2021 letter (the “Renewed Recusal Motion”). He also filed a Motion to Recuse in the PUFTA case. ODC-1, Bates No. 000090; ODC-75, Bates No. 001898.

71. Two days later, Silverberg failed to appear for the July 23, 2021 Zoom status hearing Judge Roberts had scheduled in the 2008 tax case to monitor Silverberg's compliance with the July 8, 2021 Contempt Order. N.T. 184-185; ODC-61, Bates No. 001758-001759.

72. By Orders dated July 23, 2021, Judge Roberts denied the Renewed Recusal Motion and directed the issuance of a civil bench warrant for Silverberg and that Silverberg be brought before the Court on August 2, 2021, at 1:30 p.m., to show cause why he "should not be further adjudicated to be in contempt and subject to sanctions." ODC-63.

73. Silverberg received electronic notice of the July 23, 2021 order scheduling the in-person hearing for August 2, 2021. N.T. 190-191; ODC-64.

74. When the time came for the August 2, 2021 in-person hearing, Silverberg again failed to appear. ODC-65, Bates No. 001783.

75. By Order dated August 2, 2021, Judge Roberts continued the civil bench warrant, and the contempt hearing associated with the bench warrant, to August 6, 2021. ODC-66.

76. Silverberg received electronic notice of the August 2, 2021 Order scheduling an in-person hearing for August 6, 2021. N.T. 190-191, 196; ODC-66, ODC-67, Bates Nos. 001793-001795; ODC-69, Bates Nos. 001815-001816.

77. When the time came for the August 6, 2021 contempt hearing, Silverberg once again failed to appear. N.T. 196; ODC-67.

78. The Philadelphia Sheriff went to Silverberg's residence at the Market Street property to attempt to execute the bench warrant; however, Silverberg was not there. N.T. 196-197; ODC-67, Bates Nos. 001792-001793; ODC-69, Bates No. 001816.

79. By letter dated August 6, 2021, sent by email to Judge Roberts and copied to then-Chief Justice Baer, then-President Judge Fox, and others, Silverberg asserted that “these proceedings [referring to the 2008 tax case and the PUFTA case] and your collective actions [referring to Judge Roberts and certain attorneys for the City] have had no legitimate purpose for nearly two years, but rather have been for the specific purpose of harassment, intimidation, coercion, retaliation, and oppression, and are sufficient to support a criminal charge.” ODC-68.

80. Judge Roberts credibly testified that the statements made against him in Silverberg’s August 6, 2021 letter were false, and that the orders he issued in the 2008 tax case and the PUFTA case were simply intended to compel Silverberg and ELS to provide the City with the discovery responses the City was entitled to receive. N.T. 194-195.

81. Silverberg did not present any evidence to establish that the statements were true or that he had an objective reasonable belief that the allegations were true, based upon a reasonably diligent inquiry.

82. The credible testimony of Judge Roberts, Mr. Cullin, Ms. O’Connell, and Mr. Wulko, in conjunction with Petitioner’s exhibits, establish that Silverberg had no good faith basis for the statements questioning Judge Roberts’ integrity and qualifications made in the August 6, 2021 letter, that those statements were frivolous, and that Silverberg made those statements knowing they were false or in reckless disregard as to their truth or falsity. N.T. 65-68, 71-73, 75-76, 84-104, 107-111, 118-119, 121-131, 134-136, 145-148, 166, 177-184; 194-195, 207-208, 242-243, 246-247, 270-333, 337-353; ODC-42, Bates Nos. 001245-001246; ODC-54; ODC-58; ODC-74-75, Bates No. 001850-001868; ODC-

94, Bates Nos. 002762-002763; ODC-103-105; ODC-107-109; ODC-123; ODC-130-131; ODC-133; ODC-137, Bates Nos. 003941-003945, fn.6; ODC-144; ODC-154-155.

83. By letter dated August 8, 2021, sent by email to then-Chief Justice Baer and then-President Judge Fox, Silverberg claimed:

- a. that Judge Roberts had “knowingly fabricated the reason for the contempt proceeding/warrant, and did so for the specific purpose of benefitting the City, harming defendants, and/or harming me professionally/personally;”
- b. that Judge Roberts was prohibited from convening the in-person contempt hearings on August 2 and 6, 2021, based on the promulgation of Administrative Order No. 24 of 2021, which contained a provision stating that all “hearings on motions, petitions, and Rules to Show Cause shall proceed via Advanced Communication Technology unless otherwise ordered;”
- c. that Judge Roberts, along with the City, “are engaged in a sham litigation whereby they are using the court system to carry out a corrupt plan or scheme on behalf of themselves and/or certain third parties;” and
- d. that “Judge Roberts’ actions constitute an abuse of office and criminal harassment in violation of 18 Pa.C.S.A. § 5301 and 18 Pa.C.S.A. § 2709, respectively.”

ODC-69, Bates Nos. 001815-001818.

84. However, then-Administrative Judge Lisette Shirdan-Harris promulgated Administrative Order No. 24 of 2021 and advised that paragraph 6 of that order authorized

any judge in the Civil Trial Division to schedule an in-person hearing on a motion, petition or Rule to Show Cause. ODC-73.

85. Judge Roberts credibly testified that the statements made against him in Silverberg's August 8, 2021 letter were false, and that paragraph 6 in Administrative Order No. 24 of 2021 authorized any judge in the Philadelphia Court of Common Pleas to convene an in-person hearing. N.T. 198-203; ODC-72, Bates No. 001826.

86. Silverberg did not present any evidence to establish that the statements were true or that he had an objective reasonable belief that the allegations were true, based upon a reasonably diligent inquiry.

87. The credible testimony of Judge Roberts, Mr. Cullin, Ms. O'Connell, and Mr. Wulko, in conjunction with Petitioner's exhibits, establish that Silverberg had no good faith basis for the claims he made against Judge Roberts in the August 8, 2021 letter, that the claims were frivolous, and that Silverberg made those claims knowing they were false or in reckless disregard as to their truth or falsity. N.T. 65-68, 71-73, 75-76, 84-104, 107-111, 118-119, 121-131, 134-136, 145-148, 166, 177-184, 187-188, 194-195, 198-203, 207-208, 242-243, 246-247, 270-333, 337-353; ODC-42, Bates Nos. 001245-001246; ODC-54; ODC-58; ODC-64; ODC-72, Bates No. 001826; ODC-74-75, Bates No. 001850-001868, 001878, 001880; ODC-94, Bates Nos. 002762-002763; ODC-103-105; ODC-107-109; ODC-122-129; ODC-130-131; ODC-133; ODC-137, Bates Nos. 003941-003945, fn.6; ODC-144; ODC-154-155.

88. By Order dated August 10, 2021, Judge Roberts found Silverberg in contempt in the 2008 tax case for willfully failing to appear for hearings on July 23, 2021, August 2, 2021, and August 6, 2021. ODC-70.

Additional Findings

89. The testimony of all the witnesses presented at the hearing is credible. This includes the following testimony:

- a. Brian Cullin testified that:
 - i. he worked for the Philadelphia Law Department from November of 2014 through June of 2022;
 - ii. he was assigned to the 2008 tax case in April of 2019, and tasked with collecting on the default judgment against Silverberg;
 - iii. he sent discovery in aid of execution to Silverberg, filed motions to compel and for sanctions, and filed a contempt petition, but Silverberg never provided the requested discovery responses;
 - iv. he issued writs of execution to several financial institutions to attach any bank accounts in Silverberg's name, resulting in the collection of \$2,500 from Wells Fargo;
 - v. he filed a Lien Foreclosure Motion to allow the City to sell Silverberg's interest in ELS at a Sheriff's sale;
 - vi. he issued a writ of execution against Silverberg's personal property at the Market Street property, and filed a Compel Entry Motion and the Motion for Supplementary Relief in Aid of Execution to allow the Sheriff's Office to enter the Market Street property, inventory, and sell any personal property of value at a Sheriff's sale;
 - vii. he issued a writ to Vanguard and learned Silverberg had an account with that company;

- viii. Silverberg claimed the Vanguard account was a retirement account exempt from collection proceedings;
- ix. he dissolved the writ of attachment related to the Vanguard account in favor of pursuing a sale of the Market Street property based on the default judgment entered against ELS in the PUFTA case;
- x. he issued a subpoena to Vanguard to obtain documents showing any bank accounts belonging to Silverberg that received funds from the Vanguard account, but Vanguard had no documents;
- xi. he filed the PUFTA case after receiving a tip from Silverberg's brother that Silverberg was residing in the Murano Condominium and learning thereafter that ELS owned the Market Street property, which likely was purchased using cash Silverberg inherited from his father;
- xii. the summary judgment motion in the PUFTA case was "clearly premature" because the pleadings were still open in the PUFTA case and the City was requesting discovery;
- xiii. Silverberg claimed the PUFTA case was barred by the four-year statute of limitations, but a judgment creditor could file a claim within one year after a fraudulent transfer is discovered or should have been discovered;
- xiv. genuine issues of material fact existed as to whether the City knew or should have known that ELS had acquired the Market Street property prior to August/September 2019, and the City

- required discovery from Silverberg and ELS, in part, to address Silverberg's statute of limitations claim;
- xv. he sent discovery requests to, and sought to depose, Silverberg and ELS;
 - xvi. he filed eight motions to compel, seven motions for sanctions, and two Default Judgment Motions in the PUFTA case to obtain discovery from Silverberg and ELS, but neither Silverberg nor ELS provided any discovery to the City;
 - xvii. Judge Roberts never exhibited any misconduct or improper, illegal, prejudicial, or biased conduct toward Silverberg and ELS in the 2008 tax case and the PUFTA case as alleged by Silverberg in pleadings and correspondence; and
 - xviii. Silverberg falsely alleged in Silverberg's July 19, 2021 letter, August 6, 2021 letter, August 8, 2021 letter, the Amended Complaint in *Silverberg II*, and the Complaint in *Silverberg IV*, that Judge Roberts, the City, and Mr. Cullin (and others), were involved in a conspiracy that was targeting Silverberg or Silverberg and ELS. N.T. 270-333.
- b. Marissa O'Connell, Esquire, Divisional Deputy City Solicitor with the Philadelphia Law Department, testified that she oversaw Mr. Cullin's work in the 2008 tax case and the PUFTA case, that the actions taken by Mr. Cullin in those cases were solely for the purpose of obtaining legitimate discovery and collecting on the default judgment,

and that Silverberg's various conspiracy allegations against the City, its employees, and others were false. N.T. 337-353; ODC-154-155.

- c. Shyann Gales-Poland, Esquire, Assistant Undersheriff with the Philadelphia Sheriff's Office, testified that beginning in March 2020 through the date of the disciplinary hearing, the Philadelphia Sheriff's Office has paused the tax collection sales of real property in Philadelphia County, excluding April 2021, when a tax sale occurred. N.T. 354-355.
- d. Judge Roberts, Judge Anders, Mr. Cullin, and Ms. O'Connell each testified that the conspiracy and improper conduct allegations included in the Complaint filed in *Silverberg IV* are false. N.T. 61-64, 215-216, 332-333, 351-352.

90. No one told Judge Roberts how to rule on any of the motions in the 2008 tax case or the PUFTA case, nor did anyone suggest to him how he should rule; his rulings were the result of his own independent analysis and he believed he was following Pennsylvania law and procedure in ruling. N.T. 203-204.

91. Outside of the adversarial litigation context of the 2008 tax case and the PUFTA case, Judge Roberts had no communications with any member of the City's Law Department concerning Silverberg and had no communications with the other alleged non-government co-conspirators concerning Silverberg—he did not even know those individuals. N.T. 218-219.

92. As the record above reflects, Judge Roberts comported himself ethically and well within the bounds of Pennsylvania law and procedure during the 2008 tax case and the PUFTA case.

93. In May of 2021, Silverberg discontinued two separate appeals that were pending before the Commonwealth Court that related to rulings made by Judge Roberts in the 2008 tax case and the PUFTA case. Since May of 2021 to the date of the disciplinary hearing in this matter, Silverberg has not sought appellate review of any rulings made by Judge Roberts.

94. Shortly after Silverberg filed his Answer to the Petition for Discipline on January 29, 2024, he filed *Silverberg v. DuPont de Nemours, Inc. et al.*, in the United States District Court for the Eastern District of Pennsylvania, 2:24-cv-00924 (E.D. Pa. Mar. 4, 2024) (*Silverberg IV*). Therein, he reiterated the conspiracy allegations he had raised in his Answer and named 29 entities and individuals as defendants, including Office of Disciplinary Counsel, Chief Disciplinary Counsel Thomas J. Farrell, and Disciplinary Counsel Richard Hernandez. ODC-153; ODC-156.

95. Silverberg received notice of the dates and times of the prehearing conference and the disciplinary hearing but failed to appear. PHC N.T. 2-3; N.T. 44.

96. Silverberg failed to accept responsibility for his misconduct or demonstrate remorse. N.T. 44, 61-64, 215-216, 267-268, 332-333, 351-352; ODC-153; ODC-156.

97. On April 11, 2005, and April 17, 2006, the Commonwealth of Pennsylvania Department of Revenue filed two liens against Respondent in the amounts of \$17,313.31 and \$5,069.49, respectively, that remain unsatisfied. ODC-157-158.

III. CONCLUSIONS OF LAW

1. Silverberg violated the following Rules of Professional Conduct (“RPC”) when he impugned the integrity of Judge Roberts in pleadings and correspondence in the 2008 tax case, the PUFTA case, and *Silverberg III*:

- a. RPC 3.1, which provides that “A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact that is not frivolous, which includes a good faith argument for an extension, modification or reversal of existing law.”
- b. RPC 3.3(a)(1), which provides that “A lawyer shall not knowingly make a false statement of material fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer.”
- c. RPC 8.2(a), which provides that “A lawyer shall not make a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge, adjudicatory officer or public legal officer, or of a candidate for election or appointment to judicial or legal office.”
- d. RPC 8.4(c), which provides that “It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.”¹

2. Silverberg violated the following Rules of Professional Conduct (“RPC”) when he failed to comply with Judge Roberts’ orders to provide discovery and to be deposed:

¹ We take judicial notice that by Order of April 3, 2024, the Court amended RPC 8.4(c) to provide that it is professional misconduct for a lawyer to “engage in conduct involving dishonesty, fraud, deceit or misrepresentation, except that a lawyer may advise, direct, or supervise others, including clients, law enforcement officers, and investigators, who participate in lawful investigative activities.” The Petition for Discipline in the instant matter was filed on December 6, 2023, prior to the adoption of the amendment.

- a. RPC 3.4(a), which provides that “A lawyer shall not unlawfully obstruct another party’s access to evidence or unlawfully alter, destroy or conceal a document or other material having potential evidentiary value or assist another person to do any such act.”
- b. RPC 8.4(d), which provides that “It is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice.”

IV. DISCUSSION

This matter is before the Board on review of the Committee’s Report and unanimous recommendation to suspend Silverberg for a period of five years based on his violation of multiple Rules of Professional Conduct related to his false statements against Judge Roberts and refusal to comply with discovery orders issued by Judge Roberts. Silverberg filed exceptions to the Committee’s Report and recommendation and advances an overarching grievance that the Committee violated due process and the proceedings against him were not legitimate. He requests that the Committee’s Report and recommendation be rejected and the Petition for Discipline be dismissed. Petitioner opposes Silverberg’s exceptions and urges the Board to adopt the Committee’s Report and recommendation.

A. Silverberg’s Exceptions

We first address Silverberg’s exceptions. They may be summarized as challenges to procedural and substantive due process, the Committee’s consideration of testimony and evidence, the Committee’s role in the proceedings, and the application of

judicial privilege. We find no merit to these exceptions and reject Silverberg's contention that the Petition for Discipline should be dismissed, for the following reasons.

First and foremost, the record supports the conclusion that Silverberg received due process. Before discipline is imposed, an attorney's entitlement to procedural due process includes fair notice of the charge and an opportunity for explanation and defense. *In re Ruffalo*, 390 U.S. 544, 550 (1968). Silverberg was served with the Petition for Discipline providing him notice of the charged rule violations; he filed an Answer to the Petition. Silverberg received notice of the dates and times of the prehearing conference and disciplinary hearing. Three days were set aside for the disciplinary hearing for Petitioner to present evidence to establish that Silverberg violated the rules and for Silverberg to present his defense. Silverberg received the Pre-Hearing Order that established dates for the parties to: identify and exchange exhibits, object to exhibits and respond to objections, identify proposed witnesses and object to proposed witnesses, identify expert witnesses and provide a report, object to proposed experts and report, and file motions and responses.

Silverberg claims the Committee violated his procedural due process rights by not treating his Answer to the Petition as "equivalent to testimony." Respondent's Brief on Exceptions, p. 5. This is not so. Board Rule § 89.141(b) states the "petition for discipline and answer thereto, and similar formal documents upon which a hearing is fixed shall, without further action, be considered as parts of the record, but in no event shall pleadings, or any part thereof, be considered as evidence of any fact other than that of the filing thereof unless offered and received in evidence in accordance with these rules." Silverberg failed to offer his Answer as evidence at the disciplinary hearing. The Committee did not err when it failed to accord Silverberg's Answer any evidentiary effect.

Silverberg contends any exhibits offered by Petitioner consisting of his “submissions” in the 2008 tax case, the PUFTA case, and in his federal filings, constituted evidence supporting his position and the Committee denied him due process by only considering and accepting evidence favoring Petitioner’s position. The Committee considered the evidence put forth in this matter. That evidence consisted of the testimony of Petitioner’s six witnesses and Petitioner’s exhibits. Silverberg did not offer any evidence to substantiate any statements or allegations in his pleadings. The Committee did not err in making factual findings and conclusions of law based on the record before it.

Silverberg further contends that Judge Anders’ referral to Office of Disciplinary Counsel of his suspected ethical misconduct and the subsequent investigation was improper, illegitimate, and an infringement of his constitutional rights. This claim cannot stand. The Board Rules, the Rules of Disciplinary Enforcement, and the Pennsylvania Code of Judicial Conduct collectively establish that Silverberg does not have a protected interest in not being investigated and charged with disciplinary violations. Judge Anders acted pursuant to his duties under the Code of Judicial Conduct when he referred suspected ethical misconduct by Silverberg to Office of Disciplinary Counsel. See Code of Judicial Conduct, Canon 2, Rule 2.15(D) (“a judge who receives information indicating a substantial likelihood that a lawyer has committed a violation of the Pennsylvania Rules of Professional Conduct shall take appropriate action.”). Rule 2.15(D)’s commentary explains that appropriate action may include reporting the suspected violation to the appropriate authority or other agency or body. Upon receiving Judge Anders’ referral, Petitioner took action pursuant to the Board Rules. There was nothing improper or illegitimate about the referral and Petitioner’s subsequent

investigation of the referral and initiation of disciplinary proceedings that raise any constitutional concerns.

Silverberg criticizes the Committee's conclusion that he made false and frivolous statements about Judge Roberts. In faulting the Committee, Silverberg incorrectly relies on a federal circuit court case and two Pennsylvania Superior Court cases in stating the elements Petitioner had to establish to prove his statements were false and frivolous.² We conclude the Committee correctly noted the applicable legal standards for proving violations of the Rules of Professional Conduct and properly relied on the wording of the ethical rules themselves and the Court's precedent to make its conclusions of law.

Silverberg's contentions that the Committee erroneously found he made false statements about Judge Roberts in two letters and a recusal motion are discredited by the record. The Committee's detailed findings are based on its review of Petitioner's exhibits and the credible witness testimony. Silverberg did not offer any evidence to the contrary. Likewise, Silverberg did not offer evidence at the disciplinary hearing to support his claim that the City was not entitled to conduct discovery in the 2008 tax case and the PUFTA case. The evidence of record supports the conclusion that the City acted in good faith. However, even if Judge Roberts had erred in allowing the City to conduct discovery, that circumstance does not justify Silverberg's false and frivolous statements against the judge.

² The three cases are *U.S. v. Hopkins*, 916 F.2d 201 (5th Cir. 1990), *Commonwealth v. Orie*, 33 A.3d 17 (Pa. Super 2011), and *Commonwealth v. Gains*, 556 A.2d 870 (Pa. Super. 1989). These cases do not involve an interpretation of the Pennsylvania Rules of Professional Conduct or relate to an attorney disciplinary proceeding.

In the same vein, Silverberg contends the Committee could not consider whether he made false and frivolous statements about Judge Roberts because neither Judge Roberts nor the defendants in *Silverberg II*, *III*, and *IV* advanced such claims against Silverberg. However, Silverberg cites to no legal doctrine or authority to support his contention that the Committee was precluded from addressing the disciplinary charges against him based on what transpired in any proceedings in the Court of Common Pleas and the Eastern District. We conclude that Silverberg lacks legal support for this exception.

Next, Silverberg contends the Committee improperly moved forward with the disciplinary hearing because “all or nearly all of the factual/legal questions that are the subject of the disciplinary proceedings are also the subject of SIII/SIV” and the Committee is not equipped “to determine the legitimacy of a party’s actions in connection with an ongoing, complex fraud and racketeering litigation....” Respondent’s Brief on Exceptions, pp. 25-26. Shortly after the Committee was appointed in this matter, Silverberg filed a Motion for Deferment seeking a stay of the disciplinary proceedings until final disposition of *Silverberg III* and *IV*.³ Petitioner filed a Response opposing the Motion that argued Silverberg had not shown good cause for deferring the disciplinary matter. The Board reviewed the Motion and the Response and denied the Motion. The Committee did not act improperly by holding the hearing.

Finally, Silverberg raises judicial privilege as a basis for insulating him from facing disciplinary proceedings for the statements he made about Judge Roberts. This privilege offers immunity for civil claims. The Court has stated that “Pennsylvania, like

³ Pa.R.D.E. 211(a) provides that the “[p]rocessing of complaints involving material allegations which are substantially similar to the material allegations of pending criminal or civil litigation shall not be deferred unless the Board in its discretion, for good cause shown, authorizes such deferment.”

many other jurisdictions, recognizes a judicial privilege providing immunity for communications which are made in the regular course of judicial proceedings and are material to the relief sought.” *Schanne v. Addis*, 121 A.3d 942, 947 (Pa. 2015) (citing case). The purpose of the judicial privilege “is to allow participants to speak freely without fear of civil liability.” *Schanne*, 131 A.3d at 947. We find no precedent for the application of the judicial privilege in a disciplinary proceeding and Silverberg has not shown that the Court intended for the judicial privilege to apply under these circumstances.

B. Silverberg’s Ethical Misconduct

Having disposed of Silverberg’s exceptions, we turn to the substance of the allegations against him. Petitioner bears the burden of proof in attorney disciplinary matters. Evidence is sufficient to prove unprofessional conduct if a preponderance of the evidence established the conduct and the proof of such conduct is clear and satisfactory. *Office of Disciplinary Counsel v. Lawrence J. DiAngelus*, 907 A.2d 452, 456 (Pa. 2006).⁴ Petitioner presented evidence consisting of 156 exhibits and the testimony of six witnesses. Silverberg did not present any evidence.⁵ Upon our independent review,⁶ we find that Petitioner met its burden of proof and conclude that Silverberg violated the Rules of Professional Conduct charged in the Petition for Discipline.

The facts demonstrate that in pleadings and correspondence Silverberg filed in two civil cases in the Philadelphia Court of Common Pleas and a civil case in the

⁴ We take judicial notice of *Office of Disciplinary Counsel v. Anonymous Attorney*, No. 2947 DD 3 (Pa. Feb. 12, 2025), which clarified that the standard of proof in attorney disciplinary matters requires the Office of Disciplinary Counsel to establish attorney misconduct with evidence that is sufficient to satisfy a clear and convincing evidence standard of proof. The Court explained that the clear and satisfactory standard has been consistently stated in disciplinary cases for over 70 years and is another articulation of the clear and convincing standard. See pp. 14-18. Here, the Committee conducted Silverberg’s disciplinary hearing and the Board adjudicated the instant matter before *Anonymous Attorney* was issued.

⁵ As explained above, Silverberg’s Answer is not afforded evidentiary effect under the Board Rules.

⁶ Pursuant to Pa.R.D.E. 208(d)(2), the Board may change the Committee’s recommendation.

United States District Court for the Eastern District of Pennsylvania, Silverberg impugned the integrity and qualifications of Judge Roberts by making statements Silverberg knew to be false or in reckless disregard as to their truth and falsity. Silverberg failed to comply with multiple orders issued by Judge Roberts in the two Common Pleas civil cases directing Silverberg to provide responses to discovery requests filed by the City of Philadelphia and to appear for depositions and failed to appear for contempt hearings scheduled by Judge Roberts.

1. RPC 3.1, 3.3(a)(1), 8.2(a) and 8.4(c)

Silverberg violated RPC 3.1, 3.3(a)(1), 8.2(a) and 8.4(c) by making false and frivolous statements concerning Judge Roberts' integrity and qualifications in connection with the judge's handling of the 2008 tax case and the PUFTA case. Silverberg alleged in pleadings he filed in the 2008 tax case and *Silverberg II*, and in four letters he circulated to Judge Roberts and other judicial officials, including Justices of the Supreme Court of Pennsylvania, that Judge Roberts, *inter alia*:

- “engaged in illegitimate and improper actions as part of a pattern of biased conduct” against Silverberg and ELS in the PUFTA case;
- conspired with the City to pursue a sham litigation and to use “the court system to carry out a corrupt plan or scheme on behalf of themselves and/or certain third parties”;
- intentionally issued Orders in the PUFTA case that mismatched the control numbers assigned to the originating discovery motions;

- behaved dishonestly by having an October 8, 2020 entry appear on the docket report for the PUFTA case stating that a Motion for Protective Order was moot when that motion was denied by order dated October 6, 2020;
- issued orders that contravened Administrative Orders that applied to judges in the Philadelphia CCP or that were otherwise illegitimate; and
- violated criminal statutes.

The testimony of Judge Roberts, Judge Anders, Mr. Cullin, Ms. O’Connell, and Mr. Wulko, along with the docket reports, pleadings, letters, and orders related to the 2008 tax case, the PUFTA case, and *Silverberg II*, conclusively established that Silverberg’s statements about Judge Roberts were false.

Judge Roberts credibly testified that the orders he entered in the PUFTA case and the 2008 tax case were solely based on his application of the Rules of Civil Procedure and Pennsylvania law, and were not the product of a conspiratorial plan involving him and the City, or of a bias he held, against Silverberg and ELS. Further, Office of Judicial Records, not Judge Roberts, was responsible for mismatched control numbers appearing on the August 25, 2020 Orders, for the absence of control numbers on certain orders and docket entries, and for the docket entries containing the words “MOTION/PETITION MARKED MOOT.” N.T. 242-243, 246-247. Judge Roberts issued two orders that contained word errors (ODC-64 and ODC-123), but he explained how the absence of adequate support staff due to the COVID-19 pandemic and reliance on a form led to those accidental errors. Silverberg offered no evidence to demonstrate that these isolated errors were anything other than inadvertent, and no legal authority to establish that the errors invalidated those two orders, or that any other order issued by Judge Roberts was “illegitimate.”

The testimony of Judge Anders, Mr. Cullin, and Ms. O'Connell reinforced many aspects of Judge Roberts' testimony, such as the circumstances that led to Judge Roberts' assignment to the 2008 tax case and the PUFTA case, the absence of any conduct on Judge Roberts' part that showed a bias held against Silverberg and ELS, and the non-existence of a purported conspiracy involving Judge Roberts and the City (or any other persons/entities) targeting Silverberg and ELS.

Silverberg's statements about Judge Roberts were false, and Silverberg knew they were false; at a minimum, Silverberg made the statements with reckless disregard as to their truth or falsity. Silverberg presented no evidence showing that the allegations were true or that he had a good faith, non-frivolous, reasonable basis for believing the allegations were true; therefore, he violated RPC 3.1.⁷

Silverberg's conduct violated RPC 3.3(a)(1)⁸ and 8.2(a).⁹ As to RPC 3.3(a)(1), Silverberg's false statements were material because they served as the basis for the Recusal Motion and the Amended Complaint in *Silverberg II*, and were also incorporated by reference in the TRO motion. Silverberg presented false statements to a tribunal in the form of Judge Roberts, District Court Judge Surrick, and the Commonwealth Court. And generally, Silverberg's false and frivolous statements against Judge Roberts violated RPC 8.2(a).

In Office of Disciplinary Counsel v. Neil Werner Price, 732 A.2d 599 (Pa.

⁷ "A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact that is not frivolous, which includes a good faith argument for an extension, modification or reversal of existing law."

⁸ "A lawyer shall not knowingly make a false statement of material fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer."

⁹ "A lawyer shall not make a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge, adjudicatory officer or public legal officer, or of a candidate for election or appointment to judicial or legal office."

1999), the Court set forth the burden of proof for violations of RPC 3.3(a)(1) or RPC 8.2(b) [now RPC 8.2(a), effective date January 1, 2005].¹⁰ Pursuant to *Price*, Petitioner must initially establish that Silverberg made false statements about Judge Roberts' integrity and qualifications. Here, Petitioner presented testimony from Judge Roberts, Judge Anders, Mr. Wulko, Mr. Cullin, and Ms. O'Connell that Silverberg's allegations about Judge Roberts were false. Thereafter, the burden shifted to Silverberg to establish that his "allegations are true or that he had an objective reasonable belief that the allegations were true, based upon a reasonably diligent inquiry." *Price*, 732 A.2d at 604.

Silverberg failed to present any evidence showing that the statements he made against Judge Roberts were true or that he had an objective reasonable belief that the statements were true. The totality of the evidence establishes that Silverberg made his accusations against Judge Roberts knowingly or with reckless disregard as to their truth or falsity. Therefore, the evidence establishes that Silverberg violated RPC 8.2(a).

Silverberg's false statements also violated RPC 8.4(c).¹¹ RPC 8.4(c) prohibits a lawyer from knowingly or recklessly making a misrepresentation. *Office of Disciplinary Counsel v. Anonymous Attorney A*, 714 A.2d 402 (Pa. 1998). Recklessness is described as "the deliberate closing of one's eyes to facts that one had a duty to see or stating as fact, things of which one was ignorant." *Id.* at 407. As set forth above, Silverberg ignored facts he had a duty to see and stated as fact things of which he was ignorant.

¹⁰ RPC 8.2(b) previously read: "A lawyer shall not *knowingly* make false accusations against a judge or other adjudicatory officers." (emphasis added) By Order dated August 23, 2004, the Supreme Court expanded the *mens rea* to include "reckless disregard" and re-designated the subsection as RPC 8.2(a).

¹¹ "It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation."

2. RPC 3.4(a) and 8.4(d)

Silverberg violated RPC 3.4(a)¹² and RPC 8.4(d)¹³ by failing to comply with multiple discovery orders issued by Judge Roberts in the 2008 tax case and the PUFTA case directing Silverberg to provide discovery responses to the City and to be deposed, which conduct unlawfully obstructed the City's access to evidence. His repetitive non-compliance represented an attempt to thwart the City's ability to pursue its case and an indifference to his legal responsibilities in the case and his ethical duties. This was conduct designed to prejudice the administration of justice. While Silverberg initially pursued appellate review of Judge Robert's discovery rulings before the Commonwealth Court, he discontinued two separate appeals that were pending in that court and let the Orders stand. These rule violations are supported by the testimony of Judge Roberts and Mr. Cullin, along with the docket reports, the City's discovery requests, the motions to compel, the motions for sanctions, the Default Judgment Motions, the Petition for Contempt, and the transcripts of hearings for the 2008 tax case and the PUFTA case.

C. The Appropriate Discipline

Having concluded that Respondent engaged in professional misconduct, this matter is ripe for the determination of discipline. Disciplinary sanctions serve the dual role of protecting the interests of the public while maintaining the integrity of the bar. *Office of Disciplinary Counsel v. John Keller*, 506 A.2d 872, 875 (Pa. 1986). In assessing the appropriate quantum of discipline, the Board must weigh any aggravating and mitigating

¹² "A lawyer shall not unlawfully obstruct another party's access to evidence or unlawfully alter, destroy or conceal a document or other material having potential evidentiary value or assist another person to do any such act."

¹³ "It is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice."

circumstances. *Office of Disciplinary Counsel v. Brian J. Preski*, 134 A.3d 1027, 1031 (Pa. 2016).

Considering this record, we find two weighty aggravating factors. First, Silverberg failed to appear for the hearing. Silverberg's nonappearance at his own disciplinary hearing signifies the ultimate act of disinterest in his professional license and weighs heavily in aggravation. See *Office of Disciplinary Counsel v. Lon VanDusen Hughes*, No. 128 DB 2021 (D. Bd. Rpt. 8/22/2022) (S. Ct. Order 10/25/2022). Particularly troubling here is that Silverberg participated in the process by answering the Petition for Discipline and filing post-hearing briefs. Yet Silverberg refused to attend the hearing. He correctly states that he is not required to attend the hearing (Respondent's Brief on Exceptions, p. 5), yet his failure to do so projects an explicit lack of respect for the disciplinary proceedings that cannot be ignored.

The second weighty aggravating factor is Silverberg's lack of remorse. There is no evidence of record to support a finding that Silverberg bears any responsibility for his misconduct or is sorry for it. In fact, the record demonstrates the opposite. Silverberg's March 4, 2024 complaint that commenced *Silverberg IV* exemplifies his current lack of remorse, as he continues to make false and frivolous allegations against Judge Roberts and others, including attorneys for Office of Disciplinary Counsel. Silverberg's successive filings, culminating in the latest filing, demonstrate his troubling penchant for adding as defendants to his lawsuits those lawfully charged with adjudicating proceedings in which he is involved when he is displeased with the outcomes of those proceedings. The record establishes that Silverberg fails to recognize his wrongdoing, accept responsibility and show remorse, and further demonstrates that he is unrepentant and has no regard for his actions. These failures constitute weighty aggravating factors.

See Office of Disciplinary Counsel v. Donald B. Moreman, No. 112 DB 2019 (D. Bd. Rpt. 7/31/2020 (S. Ct. Order 3/18/2021)).

The Committee weighed a third factor in aggravation, that of unsatisfied tax liens filed against Silverberg. *See Office of Disciplinary Counsel v. Steven Lawrence Sigal*, No. 14 DB 2006 (D. Bd. Rpt. 4/11/2008, p. 11) (S. Ct. Order 9/4/2008) (Sigal's failure to pay his city, state and federal taxes in a timely manner was an aggravating factor). While we consider this factor, we accord it much less weight than the above factors.

In mitigation, we give weight to Silverberg's lack of prior discipline since his admission to the Pennsylvania bar in 1986. *See Office of Disciplinary Counsel v. Philip A. Valentino*, 730 A.2d 479, 483 (Pa. 1999) (the Court considered Valentino's lack of prior disciplinary history when it imposed a five year suspension instead of disbarment). The Committee did not assign significant weight to this factor. Yet this is not a trivial factor—practicing law for nearly forty years within the guardrails of the ethical rules counts in Silverberg's favor in our assessment of appropriate discipline. We find no other mitigation.

On this record, we conclude that the serious nature of the violations discussed in this Report and the two weighty aggravating factors of failing to appear and failing to demonstrate remorse, balanced by the mitigating factor of a faultless disciplinary record, warrant Silverberg's suspension from practice for five years.

The decisional law supports the Board's recommendation. Attorneys who engaged in similar serious misconduct by making false and frivolous statements against judicial officers, and who lacked a record of discipline, but failed to express remorse, received sanctions ranging from a five year suspension to disbarment.

We begin our analysis with review of matters where a five year suspension was imposed. In *Price, supra*, Price received a five year suspension for filing three court documents that contained false allegations against two district justices and an assistant district attorney. Price accused one district justice of conspiracy, “official oppression,” and “coercion over various law enforcement or political officials”; and accused a second district justice of abuse of office, “prosecutorial bias to ingratiate [the district justice] with disciplinary and other authorities,” and sexual harassment of several constituents. 732 A.2d at 602. Also, Price on two occasions completed Department of Public Welfare forms relating to his clients and in the section designated to be completed by “medical providers” signed the forms “Dr. Neil Price, J.D.,” “diagnosed” his clients, and stated they were “incapacitated.” *Id.*

The Court found that Price’s assertions were either knowingly or recklessly made in violation of the rules. The Court noted that Price had presented no evidence establishing a factual basis to support his allegations, and that his “suspicions” did not give rise to an objective, reasonable belief that his allegations were true. 732 A.2d at 604. The Court explained why a five year suspension was warranted:

In determining the appropriate discipline to be imposed, . . . [w]e note that even at this stage of the proceeding, Respondent denies that he engaged in any wrongdoing and submits that he should not be subject to any form of discipline. This indicates that Respondent has no understanding of the potential damage he may have caused to the victims’ reputations and to the functioning of our legal system, which is based upon good faith representations to the court. Moreover, the false accusations against District Justice Farra and District Justice Berkheimer included attacks upon their performance of official duties. Such scandalous accusations erode the public confidence in the judicial system in general and in these District Justices in particular. 732 A.2d at 606-607.

In *Office of Disciplinary Counsel v. Robert B. Surrick*, 749 A.2d 441 (Pa. 2000), Surrick falsely accused two judges of wrongdoing. Surrick alleged that: (1) Judge Harry Bradley “fixed” a verdict in a civil matter in the Delaware County Court of Common Pleas; and (2) Judge Peter Paul Olszewski issued orders and decisions against Surrick to gain favor with a Pennsylvania Supreme Court Justice. *Id.* at 446-448. In suspending Surrick for five years, the Court elaborated on the harm arising from Surrick’s ethical misconduct:

An accusation of judicial impropriety is not a matter to be taken frivolously. An attorney bringing such an accusation has an obligation to obtain some minimal factual support before leveling charges that carry explosive repercussions. When an attorney makes an accusation of judicial impropriety without first undertaking a reasonable investigation of the truth of that accusation, he injures the public, which depends upon the unbiased integrity of the judiciary, the profession itself, whose coin of the realm is their ability to rely upon the honesty of each other in their daily endeavors, and the courts, who must retain the respect of the public and the profession in order to function as the arbiter of justice. “Truth is the cornerstone of the judicial system; a license to practice law requires allegiance and fidelity to the truth.” [citing case]. When a lawyer holds the truth to be of so little value that it can be recklessly disregarded when his temper and personal paranoia dictate, that lawyer should not be permitted to represent the public before the courts of this Commonwealth. *Id.*

In *Office of Disciplinary Counsel v. Daniel C. Barrish*, No. 130 DB 2004 (D. Bd. Rpt. 12/6/2005) (S. Ct. Order 3/15/2006), Barrish received a five year suspension for falsely alleging that two judges were involved in case fixing in pleadings to the Supreme Court and in an article published over the internet. Barrish expressed no remorse for his conduct. In more than 30 years of practice, Barrish had no disciplinary history.

In *Office of Disciplinary Counsel v. William Z. Warren*, No. 151 DB 2007 (D. Bd. Rpt. 8/15/2008) (S. Ct. Order 2/2/2009), Warren received a five year suspension for

falsely accusing two Common Pleas Court judges in pleadings filed with a trial court and the Superior Court of “acting maliciously with indifference to his rights, conspiring to extort a settlement and deprive him of his rights, and committing perjury, bribery, and obstruction of justice.” D. Bd. Rpt. at 9-10. Warren did not attend the prehearing conference or the disciplinary hearing. Warren had practiced law for more than 30 years with no record of discipline.

Finally, in *Office of Disciplinary Counsel v. Robert J. Murphy*, No. 206 DB 2016 (D. Bd. Rpt. 9/3/2019) (S. Ct. Order 12/19/2019), Murphy received a five year suspension. In this matter, while representing a claimant in workers’ compensation proceedings before two Workers’ Compensation Judges, and in subsequent filings in the Commonwealth Court and the Supreme Court, Murphy falsely alleged that those judges and opposing counsel had engaged in improper, unethical ex parte communications and other unethical behavior, and that they had actually admitted to having done so. Murphy also filed frivolous motions to recuse the two judges based on false allegations. The Board found that Murphy lacked remorse for his actions and failed to appreciate the effect of his conduct on the profession. Like Barrish and Warren, Murphy had practiced law for many decades and had no history of professional discipline.

Moving to disbarment cases, we review two matters. In *Office of Disciplinary Counsel v. Eugene Andrew Wrona*, No. 123 DB 2004 (D. Bd. Rpt. 3/31/2006) (S. Ct. Order 6/29/2006), Wrona falsely accused a Common Pleas Court judge of altering court audiotapes, having knowledge that a court monitor provided false testimony, failing to correct the record, suborning perjury, and engaging in criminal conduct. Wrona’s accusations were contained in multiple letters to media outlets, pleadings, court filings, Judicial Conduct Board filings, affidavits, and internet postings. Wrona’s accusations

against the judge also included “domestic terrorism” and a comparison to “priests who molested young boys.” D. Bd. Rpt. at 12. The Board acknowledged the guiding decisions of *Price* and *Surrick*, which resulted in suspensions for five years, but concluded that Wrona’s matter warranted disbarment because he represented an egregious example of being unfit to practice law. The Board considered that the case Wrona litigated where he engaged in the misconduct was the first court case Wrona had handled on his own, and there was no evidence of “steady, competent legal work to help mitigate the severity of his misconduct.” D. Bd. Rpt. at 21.

In *Office of Disciplinary Counsel v. Joseph R. Reisinger*, No. 44 DB 2015 (D. Bd. Rpt. 8/15/2016) (S. Ct. Order 3/31/2017), Reisinger was disbarred for, *inter alia*, alleging that two judges intentionally conspired with Reisinger’s opposing parties, claiming that a judge “is obviously not fit to continue to serve as a jurist in any courtroom in this Commonwealth,” initiating a lawsuit against another titled “Complaint for Permanent Injunction Because of Judicial Corruption and Commission of Criminal Acts,” and alleging that a judge’s decisions in Reisinger’s matters had absolutely no legal basis and, therefore, constituted “criminal” acts. D. Bd. Rpt. at 5-7. Reisinger’s accusations were noticed by the Supreme Court of Pennsylvania in connection with his filing of an Application for Exercise of King’s Bench Power, wherein he accused a judge of committing various crimes in his judicial capacity. The Court denied the Application, and cautioned Reisinger as to his “vituperative and unprofessional language” with regard to the judge. *Id.* at 11, 12. This caution did not have the intended effect. Reisinger also “had a penchant for filing criminal complaints against judges” in an effort to force the recusal of the judge. D. Bd. Rpt. at 24. In assessing appropriate discipline, the Board noted Reisinger’s failure to appear at the disciplinary hearing and lack of remorse as

aggravating factors, while also weighing his lack of prior discipline in a legal career of four decades. The Board recommended disbarment based on Reisinger's pattern of persistent and disruptive misconduct.

Comparing the controlling precedent to the instant case, we conclude that a suspension for five years is appropriate here. Of the matters discussed, all involved the serious misconduct of making false accusations against judges. A five year suspension was deemed appropriate discipline in most of the matters; only two resulted in disbarment. The two disbarment matters, *Wrona* and *Reisinger*, have a more serious combination of facts or aggravating circumstances in terms of the nature of the accusations, the spread of the accusations, and the persistence of the accusations that warranted the severe sanction of disbarment. On this record, we conclude that a five year period of suspension will protect the public, in keeping with the predominant purpose of the disciplinary system "to protect the public from unfit attorneys and to maintain the integrity of the legal system." *Office of Disciplinary Counsel v. Robert Costigan*, 584 A.2d 296, 300 (Pa. 1990).

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that the Respondent, Richard Joseph Silverberg, be Suspended for five years from the practice of law in this Commonwealth.

It is further recommended that the expenses incurred in the investigation and prosecution of this matter are to be paid by the Respondent.

Respectfully submitted,

THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

By: */s/ Bryan S. Neft*
Bryan S. Neft, Member

Date: 03/11/2025