

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 2603 Disciplinary Docket No. 3
: :
Petitioner : No. 196 DB 2017
: :
v. : Attorney Registration No. 311730
: :
AMANDA IANNUZZELLI, : (Delaware County)
: :
Respondent :

ORDER

PER CURIAM

AND NOW, this 1st day of July, 2019, upon consideration of the Report and Recommendations of the Disciplinary Board, Respondent's petition for review, and the Office of Disciplinary Counsel's response, the petition for review and request for oral argument is denied. Amanda Iannuzzelli is suspended from the Bar of this Commonwealth for a period of three years and shall comply with all the provisions of Pa.R.D.E. 217. Respondent shall pay costs to the Disciplinary Board pursuant to Pa.R.D.E. 208(g).

A True Copy Patricia Nicola
As Of 07/01/2019

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 | : | No. 196 DB 2017 |
| Petitioner | : | |
| | : | |
| v. | : | Attorney Registration No. 311730 |
| | : | |
| AMANDA IANNUZZELLI | : | |
| Respondent | : | (Delaware County) |

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 Petitioner for Discipline filed on December 15, 2017, Petitioner, Office of Disciplinary Counsel, charged Respondent, Amanda Iannuzzelli, with multiple violations of the Rules of Professional Conduct and Pennsylvania Rules of Disciplinary Enforcement arising out of eight separate charges. Following the parties' stipulation to a one-time twenty-day extension, Respondent filed her Answer to the Petition for Discipline on January 23, 2018.

On February 15, 2018, the Petition for Discipline was referred to a District II Hearing Committee ("Committee") comprised of Chair Diane Edbril, Esquire, and Members James E. Gavin, Esquire, and Kelley B. Hodge, Esquire. Chair Edbril held a prehearing conference on March 9, 2018.

The Committee conducted a hearing on April 10, 2018, April 16, 2018 and May 17, 2018. Petitioner presented the testimony of five witnesses and introduced into evidence Exhibits ODC-1 through ODC-81 and ODC-Akanno. Respondent was represented by counsel. She testified on her own behalf and presented the testimony of four witnesses. Respondent introduced into evidence Exhibits R-1 through R-529 and R-CLE Compliance transcript.

On July 13, 2018, Petitioner filed a Brief to the Committee and requested that the Committee recommend that Respondent be suspended for a period of three years.

After receiving an extension, on August 30, 2018, Respondent filed a Brief to the Committee, requested that the Committee find no violations except for Respondent's unauthorized practice of law, and further requested that the Committee recommend a private reprimand or a public reprimand with probation and a sobriety monitor.

The Committee filed a Report on October 29, 2018, concluding that Respondent committed professional misconduct and recommending that she be suspended for a period of three years.

On November 27, 2018, Respondent filed a Brief on Exceptions and requested oral argument before the Board. Respondent requests that the Board reject the Committee's findings and impose either a public reprimand or a private reprimand.

On December 17, 2018, Petitioner filed a Brief Opposing Exceptions and requests that the Board reject Respondent's exceptions and recommend to the Court that Respondent be suspended for three years.

A three-member Board panel held oral argument on January 4, 2019.

The Board adjudicated this matter at the meeting on January 10, 2019.

II. FINDINGS OF FACT

The Board makes the following findings:

1. Petitioner's principal office is situated at Pennsylvania Judicial Center, 601 Commonwealth Avenue, Suite 2700, P.O. Box 62485, Harrisburg, Pennsylvania 17106.

2. Pursuant to Rule 207 of the Pennsylvania Rules of Disciplinary Enforcement, Petitioner is invested with the power and duty to investigate all matters involving alleged misconduct of any 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.

3. Respondent is Amanda Iannuzzelli, born in 1982 and admitted to practice law in the Commonwealth of Pennsylvania in 2011. Respondent's registered address for the practice of law is 349 West Baltimore Avenue, Media, Pennsylvania. Respondent is subject to the jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

4. Respondent has no history of professional discipline.

5. In August 2012, Respondent opened an office in Delaware County and began to practice law as a solo general practitioner. N.T. 5/17/18, 27-28, 31.

UNAUTHORIZED PRACTICE OF LAW

6. Respondent failed to pay her annual attorney registration fee for the 2016-2017 registration year and by Order of October 5, 2016, the Supreme Court of Pennsylvania placed Respondent on administrative suspension from the practice of law, effective November 4, 2016. ODC-44; Answer-223.

7. By certified letter dated October 5, 2016, the Attorney Registrar provided Respondent with a certified copy of the Administrative Suspension Order, a Statement of Compliance and forms Respondent needed to complete and submit in order to comply with Pa.R.D.E. 217. Respondent received the certified mailing and was aware that she was administratively suspended. Answer-141; ODC-43; N.T. 4/16/18, 282.

8. Respondent did not notify her clients, the courts or opposing counsel of her suspension and her ineligibility to practice law. Respondent testified that she did not want her practice to suffer by complying with the notice requirement of Pa.R.D.E. 217. N.T. 4/16/18, 299-300.

9. Respondent submitted a false verified Statement of Compliance to the Attorney Registrar wherein she verified that she complied with Pa.R.D.E. 217. Answer-220; N.T. 4/16/18, 278-282, 299-300.

10. Respondent admitted she continued to practice law as a formerly admitted attorney. Answer-221; N.T. 4/16/18, 266-273; ODC-45; ODC-58.

11. Respondent claimed that she did not find out about her administrative suspension until November 11, 2016; however, on November 10, 2016, she submitted a 2016-17 PA Attorney's Annual Fee Form to Attorney Registration but did not pay the correct fee of \$900.00. ODC-44; 4/16/18, N.T. 214-217.

12. On November 15, 2016, Respondent re-submitted the 2016-17 annual fee form with the correct fee and was immediately returned to active status. Answer-223.

THE RALPH PERPETUA MATTER

13. On October 25, 2013, Respondent accepted a non-refundable retainer of \$1,000.00 to represent Mr. Ralph Perpetua in a support hearing scheduled for November 19, 2013. Respondent did not record the date and time of the First Support Hearing in her calendar. ODC-6, ¶12.

14. On November 19, 2013, after Mr. Perpetua placed five phone calls to Respondent asking when she would arrive, Respondent called her client at approximately 9:45 a.m. and reported having a scheduling conflict as she was in court in Philadelphia on another matter. This was the first time she informed her client of her conflict. ODC-4, ¶2, ODC-6 at Exhibit B, ODC-8.

15. At that time, Respondent offered to represent Mr. Perpetua after she had concluded the Philadelphia matter. Respondent also suggested that Mr. Perpetua could proceed without an attorney and that she would refund the \$1,000.00 fee or he could request a continuance. Mr. Perpetua decided to wait. Answer-31; ODC-7.

16. Mr. Perpetua updated the court about Respondent's estimated time of arrival, but Respondent never arrived and the court determined it would not wait and

granted Mr. Perpetua's request for a continuance until February 11, 2014. ODC-7, pp. 6-8.

17. Following the hearing, Mr. Perpetua and Respondent discussed her continued representation and a refund. ODC-1; ODC-6 ¶¶ 5, 6.

18. On February 11, 2014, Respondent appeared in court with Mr. Perpetua and filed a Downward Modification of Child Support petition, which reflected inaccurate information regarding Mr. Perpetua's income and compliance with an existing child support order. Answer-18; ODC-9, p. 35-36.

19. On March 4, 2014, Respondent notified Mr. Perpetua by letter that she was terminating her representation of him and provided an invoice reflecting that the \$1,000.00 non-refundable retainer had been exhausted and that she would not issue a refund for any amount. ODC-6, Exhibit E.

20. Mr. Perpetua filed a breach of contract action against Respondent on July 2, 2014 in Magisterial District Court seeking \$500.00 plus costs. Answer-36.

21. On November 25, 2014, a judgment was entered against Respondent in the amount of \$500.00 plus costs. Answer-36.

22. On April 2, 2014, Petitioner served on Respondent a DB-7 Request for Statement of Respondent's position concerning Mr. Perpetua's complaint. ODC-5. Respondent responded to the DB-7, but did not disclose that she was unaware of Mr. Perpetua's First Support hearing because she had not recorded the date and time in her calendar. Based on Respondent's representations in the letter, Petitioner dismissed the April 2, 2014 DB-7.

23. Respondent provided misleading statements in her response to a DB-7 issued on April 2, 2014. On January 13, 2017, Petitioner filed a new DB-7

concerning Mr. Perpetua's complaint and Respondent's false and misleading statements.

THE FELICITAS AKANNO MATTER

24. On November 15, 2015, Felicitas Akanno paid Respondent a \$150.00 consultation fee that was to be credited towards a \$5000.00 retainer to represent Ms. Akanno in her divorce proceedings. N.T. 4/10/18, 312-313.

25. On November 19, 2015, Ms. Akanno retained Respondent and signed a fee agreement which stated that the five thousand dollar (\$5000.00) retainer was not a flat fee and would need be replenished when exhausted. Further, the agreement stated that "Five hundred (\$500.00) dollars is a non-refundable fee to open case and file." R-510.

26. Ms. Akanno paid the retainer incrementally with one check for \$2,500.00 on November 19, 2015 and another check for \$2,500.00 on January 7, 2016. N.T. 4/10/18, 312-313; ODC-23.

27. Respondent did not deposit Ms. Akanno's checks for fees into a trust account (IOLTA) to be withdrawn only as fees were earned or expenses incurred. Answer-73.

28. Respondent did not credit Ms. Akanno's retainer in the amount of \$150.00 for the consultation fee.

29. Respondent did not file for Ms. Akanno's divorce and failed to respond to Ms. Akanno's calls or messages. For example, in a March 3, 2016 email to Respondent, Ms. Akanno stated, in part,

"Last week I spoke to Stephanie she placed me on hold to speak with you and you told her you would call me back. I still haven't heard

from you. I paid my retainer fee in full first week of January and it is over 2 months [sic] nothing is done.”
ODC-24.

30. Ms. Akanno scheduled a meeting with Respondent for early June 2016, which Respondent cancelled thirty (30) minutes prior to its scheduled time. In cancelling the meeting, Respondent stated to Ms. Akanno by phone that she would file a Petition to Relist the Matter and apologized for failing to take any action in pursuit of Ms. Akanno’s interests. N.T. 4/10/18, 316.

31. Respondent filed a Petition to Relist the Matter on June 17, 2016 and received a conference date for some time in September 2016, which was then continued until October 25, 2016.

32. On September 14, 2016, Respondent met with Ms. Akanno and offered to refund the \$5,000.00 fee she had paid to retain Respondent. During the meeting, Respondent gave Ms. Akanno a notice for the hearing scheduled on October 25, 2016. Respondent did not realize that the notice (and possibly the petition) had not been sent to Ms. Akanno. N.T. 4/10/18, 318-219.

33. On October 1, 2016, Ms. Akanno emailed Respondent the following message

Hi Amanda
This is Felicitas Akanno. During my last appointment with you [September 14], you said you will be willing to give me back my retainer deposit if it is okay with me since you don’t have enough info regarding my case. So I wil [sic] like to have my money back to look for a lawyer who will be able to handle my case since you are not familiar with divorce involving bankruptcy. Please let me know when I can come for my money.
ODC-24; Answer 89.

34. On October 4, 2016, Respondent responded and asked Ms. Akanno to allow thirty days for a full itemized invoice, accounting and refund. ODC-24; Answer-91.

35. On October 4, 2016, Ms. Akanno responded to Respondent's email. She explained that Respondent did not communicate with her during the representation and did not seem to understand her case. Ms. Akanno emphasized that she wanted her money returned in full just as Respondent had offered during their September 14, 2016 meeting. ODC-24; Answer-92; R-505-507.

36. Ms. Akanno retained a new attorney and requested that Respondent forward her entire file to her new counsel. ODC-24; Answer-94.

37. Although Respondent agreed to have everything to Ms. Akanno by October 31, 2016, Respondent never provided Ms. Akanno's file to her new attorney. ODC-24; Answer-95; ODC-25; Answer 96; N.T. 4/10/18 319-321, 325, 326, 332, 242.

38. On December 29, 2016, Petitioner served a DB-7 Request for Statement of Respondent's Position concerning Ms. Akanno's complaint. ODC-15.

39. On February 23, 2017, Respondent answered the DB-7 and represented to ODC that she would "now" make a full refund and that she had no obligation to deposit the \$5,000.00 retainer in a trust account because the retainer was non-refundable. Answer-7; ODC-16.

40. On June 23, 2017 Respondent issued a check to Ms. Akanno for \$1,068.00, which represented only a partial refund. R-494.

41. Respondent sent an invoice to Ms. Akanno on July 6, 2017 (ODC-28; R-496

42. From July 6, 2017 through December 2017, Petitioner inquired of Respondent's counsel and Respondent when Respondent would be making a full refund to Ms. Akanno. ODC-28; R-496; ODC-19; ODC-20; ODC-21; ODC-28; ODC-32.

43. On July 12, 2017, Respondent's counsel contacted Petitioner and advised that Respondent had agreed to refund the entire fee to Ms. Akanno and that Respondent would be providing the outstanding documents "early next week."

44. Nine months later, on April 8, 2018, Respondent issued a check for the remaining balance of \$3,932.00 and reissued a check for \$1,068.00, since the previous check was no longer valid.

45. Ms. Akanno testified at the disciplinary hearing that she did not cash the initial \$1,068.00 check because she did not want acceptance of the check to indicate that the outstanding debt was satisfied. N.T. 4/10/18, 333, 336-337.

THE KRISTEN McFARLAND MATTER

46. On September 6, 2016, Ms. Kristen McFarland paid a retainer of \$2000.00 by credit card to have Respondent represent her in spousal support proceedings. R-389.

47. Once retained, Ms. McFarland texted Respondent on September 6, 2016 and asked Respondent to send her a copy of the draft spousal support agreement that Ms. McFarland had shared with Respondent during their initial consultation meeting earlier that day. Answer-133.

48. Although Respondent acknowledged the text, she did not respond to the request for a copy of the draft spousal support agreement. Answer-134, 135.

49. Ms. McFarland sent an email and text message to Respondent on September 19, 2016 stating she wanted to proceed with a spousal support claim and asked for a timeline so she would know what to expect. Answer-136.

50. Respondent's paralegal responded to Ms. McFarland on September 23, 2016 and provided a copy of Respondent's letter and petition for spousal support. Answer -137.

51. Ms. McFarland communicated with Respondent's staff from September 23, 2016 to October 10, 2016, regarding her petition for spousal support and was told by staff that Respondent would telephone her to review a divorce complaint Ms. McFarland had received and to answer any questions. Answer-138, 139, 140, 143, 144, 145.

52. On October 10, 2016, Respondent had a brief conversation with Ms. McFarland but Respondent failed to follow-up with an additional call later in the day. Petition 147, 148; Answer 147, 148.

53. On October 13, 2016, Ms. McFarland sent a text message to Respondent complaining that Respondent failed to call as promised [on October 10]. Respondent replied to Ms. McFarland that she was not aware Ms. McFarland was expecting a call and blamed staff for the lapse in communication. ODC-35; R-369.

54. Respondent telephoned and scheduled an appointment with Ms. McFarland for October 18, 2016 at 2:00 pm. Answer -151.

55. On October 18, 2016, Respondent was not present for the scheduled appointment and only after contact by Ms. McFarland to Respondent, did Respondent arrive to her office at 3:20 pm. Answer -152 through 155.

56. On October 18, 2016, Ms. McFarland signed a fee agreement for support and divorce actions, which provided for a total retainer payment of \$5000.00. The fee agreement acknowledged Ms. McFarland's payment of \$2000.00 on September 16, 2016 and requested three (3) additional payments of \$1000.00, on October 18, 2016, December 15, 2016 and January 15, 2017. Respondent's fee agreement stated "Five hundred (\$500.00) dollars is non-refundable to open case and file" and earned upon receipt. R-386.

57. A support hearing was scheduled for 12:30 pm on October 27, 2016. Respondent arrived late.

58. While waiting for Respondent in court, Ms. McFarland sent a text to Respondent asking when the Respondent would arrive. Respondent stated at 12:48 p.m. that she was done with PFA court, was checking in "now" with court personnel and would see Ms. McFarland in a few minutes. Answer-169; R-371,372.

59. At 12:56 p.m. Respondent sent a text to Ms. McFarland stating that she was waiting on one of her staff to drive her to the courthouse. Answer-169 through 171.

60. Respondent arrived at the courthouse and spoke with opposing counsel. Respondent then agreed to opposing counsel's request for a continuance over Ms. McFarland's objection. Answer-174, 175, 179.

61. Following this court appearance, Ms. McFarland told Respondent she was terminated and no longer her counsel and went to Respondent's office to ask for a full refund. Ms. McFarland retained new counsel. Answer-183, 184; R-373.

62. Respondent did not issue a refund as requested.

63. Respondent did not provide an invoice or billing statement to Ms. McFarland.

64. Ms. McFarland filed a civil complaint on December 20, 2016 in Magisterial District Court for \$3000.00. Answer-196; ODC-37.

65. At the hearing in Magisterial District Court on February 1, 2017, Respondent asserted the position that Ms. McFarland owed \$3,064.55 for services purportedly rendered from September 14, 2016 to November 7, 2016, even though no bill had ever been sent to Ms. McFarland. ODC-40; ODC-54; ODC-64, p. 17.

66. Ms. McFarland received a judgment in the amount of \$649.40, which Respondent paid on March 30, 2017. ODC-39; R-379.

67. On October 5, 2016, the Supreme Court of Pennsylvania entered an Order placing Respondent on administrative suspension effective November 4, 2016.

68. Respondent did not notify Ms. McFarland of Respondent's suspended status.

69. On February 24, 2017, Petitioner served a DB-7 Request for Statement of Respondent's position concerning Ms. McFarland's complaint. ODC-30.

70. By letter dated March 23, 2017, Respondent provided a verified response to the DB-7. She claimed that she had just realized that her staff had not been communicating with her and her clients, hid mail, and was incompetent. Respondent falsely stated that she did not hold herself out as an attorney while she was administratively suspended. ODC-3 ¶10, 19, 24, 29c, 40, 45.

THE JENNIFER KAPUSNIAK MATTER

71. Beginning in the summer of 2016, Respondent started a romantic relationship with Alex Kapusniak, estranged spouse of Jennifer Kapusniak.

72. In or about July 2016, while already engaged in the romantic relationship, Mr. Kapusniak retained Respondent to represent him in his custody, divorce and support matters. On July 14, 2016, Respondent entered her appearance as Mr. Kapusniak's attorney in the custody and support matters and entered her appearance in the divorce matter a few months later. Answer-241.

73. Respondent and Mr. Kapusniak referred to Respondent under a pseudonym, "Michelle," in front of and to his seven-year old daughter, who was the subject of the custody dispute. N.T. 4/16/18, 102-108.

74. Ms. Kapusniak learned from her daughter that "Michelle" was living with Mr. Kapusniak. N.T. 4/10/18, 66.

75. Under the custody statute, Mr. Kapusniak was required to file an Affidavit of Criminal History for each adult who resided with him. An affidavit of criminal history was not filed on behalf of Respondent or "Michelle." N.T. 4/10/18, 67.

76. Respondent continued to represent Mr. Kapusniak while on administrative suspension from the practice of law. For example, on November 8, 2016, Respondent exchanged emails with Ms. Kapusniak's counsel with the subject line of the email titled "Re: Kapusniak" concerning the divorce, custody and support, and negotiating the terms of a proposed property settlement agreement. Each of Respondent's emails represented that they were from "Amanda J. Iannuzzelli, Esquire" of the "*LAW OFFICES OF A.J. IANNUZZELLI*."

77. On January 4, 2017, Ms. Kapusniak learned from her daughter that “daddy’s girlfriend, Michelle, is really his lawyer, Amanda.” N.T. 4/10/18, 69.

78. A custody conference was held on January 6, 2017. At that time Respondent had not disclosed to the court that she and Mr. Kapusniak were involved in a romantic relationship.

79. On January 10, 2017, Mr. Kapusniak and Respondent did not appear at a scheduled custody conference. Answer-267, 268.

80. Mr. Kapusniak entered his appearance on January 10, 2017 as a self-represented party and Respondent’s appearance was withdrawn. Answer 267, 268.

81. Mr. Kapusniak and Ms. Kapusniak were divorced on January 10, 2017. Answer-269.

82. Respondent and Mr. Kapusniak were married on February 20, 2017. Answer -278.

83. Respondent, as stepmother to Mr. Kapusniak’s daughter, had a financial interest in the custody and support matter involving her stepdaughter. N.T. 4/10/18, 93.

84. On March 9, 2017, Respondent re-entered her appearance in the custody matter and served an intent to issue subpoenas for Ms. Kapusniak’s medical records as evidence in the custody and support proceedings. Answer-278, 279.

85. On March 22, 2017, counsel for Ms. Kapusniak filed a Petition for Special Relief seeking to disqualify Respondent from representing Mr. Kapusniak for custody and all related matters. ODC-52 at Exhibit C, ¶¶3, 4.

86. On March 24, 2017, Respondent filed an Answer to the Petition for Special Relief in which she represented that she would be re-entering her appearance in the custody matter. Answer-284.

87. The court, at Respondent's request, held a pre-trial conference with Respondent and opposing counsel on April 5, 2017.

88. On April 5, 2017, the court discussed the issues presented and encouraged Respondent to withdraw her appearance. N.T. 4/10/18, 94-96, 160.

89. Respondent did not withdraw her appearance. N.T. 4/10/18, 95.

90. Subsequently, Mr. Kapusniak entered his appearance as a self-represented party and the court dismissed the Petition for Special Relief. Answer-287.

91. On June 15, 2017, the court held a hearing on the custody matter. When Mr. Kapusniak's new attorney had not arrived, Respondent insisted that she be permitted to represent Mr. Kapusniak. Answer-300; ODC-59.

92. The court did not permit Respondent to represent Mr. Kapusniak; explained on the record that Respondent's staff continued to send correspondence on Mr. Kapusniak's behalf to the court's chambers and that Respondent had been informed that such was inappropriate; and the court asked Mr. Kapusniak if anyone else had prepared the documents submitted to the court. Mr. Kapusniak stated he went over the document with Respondent. ODC-59; Answer 305; ODC-59; Answer-303, 304; ODC-59; Answer 302.

93. The court told Mr. Kapusniak that, in the court's opinion, Respondent's representation of Mr. Kapusniak was problematic and in violation of the Rules of Professional Conduct. ODC-59; Answer 303, 304.

THE KARL R. BLOHM MATTER

94. Mr. Karl Blohm is the maternal grandfather of Steve Fedon's children. Petition-311; R-488.

95. Mr. Blohm supported Steven Fedon in Mr. Fedon's pursuit of custody, but also wanted to make sure that Mr. Blohm's rights as the children's grandfather were protected. Mr. Fedon and Mr. Blohm met with Respondent on July 20, 2016.

96. On July 20, 2016, the Respondent entered a fee agreement with Mr. Fedon which stated that "Five Hundred (\$500.00) dollars is non-refundable to open a case and [the] file." R-473 through 477. Respondent did not have a fee agreement with Mr. Blohm.

97. Mr. Blohm paid fees of \$1000.00 by check which Respondent stated was non-refundable. ODC-62 ¶12; ODC-63; Answer -314.

98. Respondent did not deposit Mr. Blohm's check into an IOLTA account.

99. On July 23, 2016, Mr. Blohm contacted Respondent's office and advised that he changed his mind and did not want to pursue a custody action against his daughter, the mother of Mr. Fedon's two children. ODC-62.

100. Mr. Blohm requested a refund minus Respondent's consultation fee. ODC-62.

101. Mr. Blohm called Respondent's office two times after July 23, 2018 requesting a refund.

102. Respondent did not reply to Mr. Blohm.

103. Respondent's secretary informed Mr. Blohm that no refund would be issued. Answer-321.

104. Mr. Blohm filed a complaint with the Magisterial District Court on September 1, 2016 for the return of \$1000.00. Answer-322.

105. On November 3, 2016, Mr. Blohm appeared for a hearing on his complaint scheduled for 10:00 am. Respondent failed to appear and a default judgment was entered for \$1,104.00 (damages and costs). Petition-322; ODC-61; Answer -324, 325.

106. On October 3, 2017, Petitioner served a DB-7 Request for Statement of Respondent's Position concerning Mr. Blohm's complaint. ODC-60.

107. By letter dated October 16, 2017, Respondent responded to the DB-7 and stated she would "now "make a full refund to Mr. Blohm. Answer-334. However, she did not do so at that time.

108. Four months after claiming she would reimburse Mr. Blohm, on February 15, 2018, Respondent issued payment to Mr. Blohm for \$1,104.00. R-488.

RESPONDENT'S FAILURE TO PAY TAXES

109. Respondent failed to pay employment taxes to the IRS and the Commonwealth of Pennsylvania, including unemployment insurance premiums in 2015 and 2016.

110. Respondent failed to issue W-2s and 1099s to former non-lawyer office staff for the years 2015, 2016 and 2017.

111. Respondent failed to remit quarterly federal tax returns in relation to her law firm, other employer-related tax filings with the federal government and the Commonwealth of Pennsylvania and failed to pay over employment taxes.

112. Respondent, as of the date of the disciplinary hearing, had not filed her tax returns for 2015 and 2016.

ADDITIONAL FINDINGS

113. From May 2017 until July 2017, Heather Barnett worked as a paralegal at Respondent's law office. Among her duties, Ms. Barnett scheduled appointments, answered the telephone, and assisted with billing. N.T. 4/10/18, 177-178.

114. Ms. Barnett testified that within the first two weeks of her employment with Respondent, an individual from the Disciplinary Board served documents on Respondent. N.T. 4/10/18, 184.

115. After receiving Petitioner's DB-7 pertaining to Ms. Akanno and a subpoena regarding the Akanno and McFarland matters, Respondent directed Ms. Barnett to increase the amount of time previously recorded in Respondent's billing program and to create entries for telephone calls. N.T. 4/10/18, 181-182; 202, 2205, 206, 251, 253.

116. Respondent directed Ms. Barnett to print out Respondent's calendar for specific dates outlined in the documents, and then Respondent marked an X through what Respondent wanted Ms. Barnett to remove. Respondent explained to Ms. Barnett that she was suspended for a short period of time and "they" wanted to see exactly what Respondent was doing during the suspension. Respondent directed Ms. Barnett to delete

information from the calendar, reprint it, and give it back to Respondent. N.T. 4/10/18, 183-185.

117. Respondent produced the altered calendar at the June 30, 2017 subpoena return indicating that she had learned about her administrative suspension on Veteran's Day, November 11, 2016. N.T. 4/16/18, 214-217; ODC-64; ODC-69.

118. While Ms. Barnett worked for Respondent, Respondent did not use her IOLTA account for advanced fees and costs. After reviewing fee agreements with Ms. Barnett, Respondent instructed Ms. Barnett to change the fee agreements so that Respondent could spend fees as if she had already earned the fees. N.T. 4/10/18, 224-227; 292; R-183 through 185.

119. On July 13, 2017, Ms. Barnett resigned from her employment with Respondent, citing Respondent's lack of professionalism and "chaotic" nature of the office. N.T. 4/10//18, 304-305.

120. Respondent testified that "if people make mistakes and no harm comes about as a result of it, and nobody is injured or hurt, and those people rectify their mistakes and are sorry for them, there isn't any reason to enforce a suspension or disbarment or anything." N.T. 4/16/18 at 301.

121. Respondent believes she could have avoided interaction with the disciplinary system if she "had not done so many stupid and silly little things." N.T. 5/17/18, 146.

122. Respondent is not remorseful.

123. Respondent did not acknowledge or accept responsibility for her misconduct.

124. Respondent blames others for her problems and thinks the complaints against her were fabricated. N.T. 4/16/18 at 302-303.

125. Respondent testified that she felt victimized by the disciplinary process until shortly before the hearing. N.T. 5/17/18, 138.

126. While in law school, Respondent became an alcoholic. N.T. 5/17/18, 42, 43.

127. Respondent's alcohol use reached a high point in her late twenties and she testified that she ceased drinking alcohol in May 2013. N.T. 5/17/18, 44. Respondent has attended Alcoholics Anonymous meetings sporadically. N.T. 5/17/18, 44-46.

128. At some point after she stopped drinking alcohol, Respondent used drugs such as Percocet and Adderall (which had been proscribed for her), as well as Xanax. Respondent did not use the drugs as prescribed. Respondent testified to feelings of depression caused by the termination of a relationship with a fiancé. N.T. 5/17/18, 48, 49.

129. In February 2016, nine individuals, including Respondent's family and friends, a judge and several lawyers, held an intervention instigated by Respondent's mother, who was concerned about Respondent's drug use. N.T. 5/17/18, 50- 57; N.T. 4/16/18, 12-13.

130. As a result of the intervention, Respondent agreed to receive in-patient treatment at the CARON Foundation, where she stayed from February 15, 2016 through March 3, 2016. N.T. 5/17/18, 54.

131. Respondent left CARON after 18 days because she was concerned about what was going on at her law office. N.T. 5/17/18, 55.

132. After she left CARON, Respondent did not treat regularly with a psychiatrist or psychologist. N.T. 5/17/18, 65.

133. During the twelve to eighteen month period following her stay at CARON, Respondent used drugs such as Adderall and Percocet on at least twelve occasions. These drugs were not prescribed to Respondent; she obtained them from friends. N.T. 5/17/18, 58.

134. At some point following the twelve to eighteen month period when she occasionally used drugs, Respondent stopped using any substances. N.T. 5/17/18, 64.

135. Respondent still experienced feelings of depression and anxiety and decided to try a natural supplement that she obtained on the Internet, known as a nootropic, which she started taking in November 2017. Respondent decided to try the supplement because she felt that she was in an acute state and the other methods she tried to help alleviate her problems, such as meditation, yoga and Lawyers Concerned for Lawyers, were not working. N.T. 5/17/18, 69, 73-74.

136. In December 2017, while taking the nootropic, Respondent suffered a seizure and was hospitalized and placed in a medically-induced coma. She remained in the hospital for a period of five days. N.T. 5/17/2018, 71-72.

137. Following her release, Respondent saw a psychiatrist approximately three times. N.T. 5/17/18, 77

138. Currently, Respondent takes Wellbutrin for depression. N.T. 5/17/18, 67.

139. Respondent is not in therapy, although she testified she plans to do so. N.T. 5/17/18, 80.

140. Sometime in November 2017, Respondent's professional liability insurance lapsed. N.T. 5/17/18, 100.

141. Although Respondent admitted that her law practice appeared out-of-control, she testified that she "strongly" believes she can meet the responsibilities of her own practice. N.T. 5/17/18, 182.

142. Respondent's testimony regarding her misconduct was not credible.

III. CONCLUSIONS OF LAW

By her actions as set forth above, Respondent violated the following Rules of Professional Conduct and Pennsylvania Rules of Disciplinary Enforcement:

1. RPC 1.1 – A lawyer shall provide competent representation to a client.

2. RPC 1.3 – A lawyer shall act with reasonable diligence and promptness in representing a client.

3. RPC 1.4(a)(2), (3) and (4) – A lawyer shall reasonably consult with the client about the means by which the client's objectives are to be accomplished; keep the client reasonably informed about the status of the matter; and promptly comply with reasonable requests for information.

4. RPC 1.4(b) – A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

5. RPC 1.5(a) and (b) – A lawyer shall not enter into an agreement for, charge, or collect an illegal or clearly excessive fee; when the lawyer has not regularly represented the client, the basis or rate of the fee shall be communicated to the client, in

writing, before or within a reasonable time after commencing the representation.

6. RPC 1.7(a)(2) – Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if there is a significant risk that the representation of one or more clients will be materially limited by the lawyer’s responsibilities to another client, a former client, or a third person or by a personal interest of the lawyer.

7. RPC 1.15 (b), (e), (f), (i), and (m) – A lawyer shall hold all Rule 1.15 Funds and property separate from the lawyer’s own property; a lawyer shall promptly deliver to the client or third person any property, including but not limited to Rule 1.15 Funds, that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding the property; when in possession of funds or property in which two or more persons, one of whom may be the lawyer, claim an interest, the funds or property shall be kept separate by the lawyer until the dispute is resolved; a lawyer shall deposit into a Trust Account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred, unless the client gives informed consent, confirmed in writing, to the handling of fees and expenses in a different manner; all Qualified Funds which are not Fiduciary Funds shall be placed in an IOLTA Account.

8. RPC 1.16(a)(2) and (3) – A lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if the lawyer’s physical or mental condition materially impairs the lawyer’s ability to represent the client or the lawyer is discharged.

9. RPC 1.16(c) and (d) – A lawyer must comply with applicable law requiring notice to or permission of a tribunal when terminating a representation. When ordered to do so by a tribunal, a lawyer shall continue representation notwithstanding good cause for terminating the representation; upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client’s interest.

10. PRC 3.1 – 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 for doing so that is not frivolous.

11. RPC 3.2 - A lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client.

12. RPC 3.3(a)(1) – 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.

13. RPC 3.4(a) – 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.

14. RPC 4.1(a) – In the course of representing a client a lawyer shall not knowingly make a false statement of material fact or law to a third person.

15. RPC 5.5(a) and (b)(2) – A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so; A lawyer who is not admitted to practice in this jurisdiction shall not hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction.

16. RPC 8.1(a) and (b) – ...a lawyer...in connection with a disciplinary matter, shall not knowingly make a false statement of material fact or fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter, or knowingly fail to respond to a lawful demand for information from ...disciplinary authority.

17. RPC 8.4(a), (b), (c) and (d) – It is professional misconduct for a lawyer to violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another, or do so through the acts of another; commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as lawyer in other respects; engage in conduct involving dishonesty, fraud, deceit or misrepresentation; engage in conduct that is prejudicial to the administration of justice.

18. Pa.R.D.E. 203(b)(3) and (4) – Willful violation of the Enforcement Rules is a ground for discipline; failure by a respondent-attorney without good cause to comply with any order under the Enforcement Rules, the Board, a hearing committee or special master.

19. Pa.R.D.E. 217(b), (c)(2), (d), (e), (l), and (j)(4) – rules pertaining to formerly admitted attorneys - failing to notify clients, other parties and the courts of inability to practice; failing to file a verified statement of compliance with the Board within ten days after the effective date of the administrative suspension; and engaging in the unauthorized practice of law.

IV. DISCUSSION

Petitioner must establish, by a preponderance of clear and satisfactory evidence, that Respondent's actions constitute professional misconduct. ***Office of Disciplinary Counsel v. John T. Grigsby, III***, 425 A.2d 730, 732 (Pa. 1981). The testimony and evidence presented by Petitioner and Respondent's own testimony support the conclusion that Respondent violated multiple Rules of Professional Conduct and Pennsylvania Rules of Disciplinary Enforcement and committed ethical misconduct.

The evidence established that in five client matters, Respondent neglected clients, refused to account for and refund unearned fees, and engaged in a conflict of interest. Respondent ignored voicemail messages, texts and emails from her clients asking about their respective matters, then appeared surprised that clients expected Respondent to be prepared and to show up for meetings and hearings. Respondent's clients had an expectation that Respondent would represent them competently and diligently. If Respondent was unable to fulfill her obligations, she had a duty to withdraw and refund unearned fees. In three of the matters, Respondent's clients sued her and obtained judgments against her. Respondent failed to comply with IOLTA rules, as she established a pattern of using unearned advanced retainers and not depositing these retainers in her IOLTA, including retainers from Ms. Akanno, Mr. Perpetua, Ms. McFarland, and Mr. Blohm. Respondent had a fundamental duty to properly handle the funds of her clients, but failed to do so.

Respondent allowed her law license to lapse by failing to file the annual registration statement and pay her annual attorney fee. The Supreme Court transferred Respondent to administrative suspension, and for a period of eleven days, she continued

to engage in the practice of law in contravention of the Court's Order. While attempting to return to active status, Respondent filed a false verified compliance statement indicating that she notified clients, opposing counsel and the courts of her inability to practice law while on administrative suspension. Respondent admitted she chose to file a false compliance statement because she did not want her practice to suffer adverse consequences if she notified the various parties that she could not practice law. While Respondent admitted that she engaged in the unauthorized practice of law, she complained that her misconduct was inadvertent and the fault of office staff. Additionally, Respondent engaged in inappropriate and deceptive actions by submitting an altered document to Petitioner during its investigation, and engaged in criminal behavior by failing to pay employment taxes.

The primary purpose of the disciplinary system is to determine the fitness of an attorney to continue in the practice of law in order to protect the public and the courts from unfit attorneys and to preserve public confidence in the legal profession and judicial system. ***Office of Disciplinary Counsel v. John Keller***, 506 A.2d 872, 875 (Pa. 1986); ***Office of Disciplinary Counsel v. Suber Lewis***, 426 A.2d 1138, 1143 (Pa. 1981). While being mindful of precedent and the need for consistency, each case must be decided on the totality of facts and circumstances. ***Office of Disciplinary Counsel v. Robert Lucarini***, 472 A.2d 186, 190 (Pa. 1983).

Respondent was admitted to the bar in 2011, opened a solo practice in 2012, and by 2013 was engaging in client misconduct. Based on these facts, we accord no weight to Respondent's lack of prior discipline. The evidence of record demonstrates that during Respondent's brief time practicing law, she exhibited an extreme degree of unprofessionalism towards her clients, the courts, and her office staff. She neither

appreciates nor understands the impact of her conduct, and attempted on numerous occasions to blame others for matters that were her own responsibility. As noted by the Committee, who had the opportunity to listen to Respondent's testimony, to observe her physical behavior and mannerisms on the witness stand, and to observe her interactions with her counsel, Petitioner's counsel and the Committee, it is clear that Respondent believed she was being unfairly burdened by these disciplinary proceedings. The Committee found Respondent's testimony as to her misconduct to be incredible, as it was non-responsive, argumentative and difficult to follow. We agree with this assessment and give substantial deference to the Committee's findings on Respondent's credibility. As well, it is abundantly clear from the record that Respondent did not accept responsibility for her actions and failed to demonstrate genuine and sincere remorse. She described her misconduct as "silly and stupid mistakes" and feels that as long as no one was injured by her actions, she should not suffer consequences.

Respondent's testimony evidences that during the time frame of her misconduct, she was beset by extensive personal problems. It is apparent from her lengthy testimony that these issues still exist. Respondent chose not to assert mitigation pursuant to *Office of Disciplinary Counsel v. Seymour Braun*, 553 A.2d 894 (Pa. 1989).¹ We conclude that the breadth of Respondent's misconduct, her lack of remorse, her unwillingness to accept responsibility, her bewildering attitude towards her professional problems, and the lack of mitigating factors present in this matter, in combination with the evidence of Respondent's personal problems, warrant a suspension of three years.

¹ Respondent testified that although she and her counsel discussed mitigation, she would not permit him to pursue a mitigation claim under *Braun*. N.T. 5/17/18, 78-79.

Upon review, discipline imposed in prior similar matters supports our recommendation for a three year period of suspension. Attorneys who engaged in serial neglect have been disciplined with suspensions of at least one year and one day. The lower range of discipline is often imposed when the attorney has no prior record of discipline and the misconduct does not involve many matters. When that neglect is coupled with other acts of serious misconduct, the sanction imposed has been more severe. See, **Office of Disciplinary Counsel v. Howard Goldman**, No. 157 DB 2003 (D. Bd. Rpt. 5/20/2005) (S. Ct. Order 8/30/2005) (Supreme Court imposed a one year and one day suspension on Goldman, who neglected four client matters and engaged in misrepresentation; Goldman cooperated with Petitioner and demonstrated remorse); **Office of Disciplinary Counsel v. Paula Lappe**, No. 38 DB 2004 (D. Bd. Rpt. 2/22/2005) (S. Ct. Order 5/11/2005) (Supreme Court imposed a two year suspension on Lappe, who neglected two client matters; failed to refund unearned fees; failed to communicate with her clients; and failed to inform her clients that she had been placed on inactive status and was not permitted to represent them); **Office of Disciplinary Counsel v. Susan Bell Bolno**, No. 162 DB 2000 (D. Bd. 12/16/2002) (S. Ct. Order 3/7/2003) (Supreme Court imposed a two year suspension on Bolno, who neglected four matters; made misrepresentations to her clients to conceal her neglect; ignored DB-7 requests by Petitioner seeking a statement of her position; and wrote false answers on her annual attorney registration form; Bolno admitted her misconduct and cooperated with Petitioner by stipulating that she violated the Rules of Professional Conduct); **Office of Disciplinary Counsel v. Donna Marie Albright-Smith**, No. 225 DB 2010 (D. Bd. Rpt. 12/30/2011) (S. Ct. Order 5/30/2012) (Supreme Court imposed a suspension for two years on Albright-Smith, who engaged in serial neglect of eight matters over a period of

four years; made misrepresentations; failed to properly handle entrusted funds; and failed to return files and refund unearned fees; Albright-Smith acknowledged her misconduct and demonstrated remorse).

Not only did Respondent engage in serial neglect in five matters, she engaged in the unauthorized practice of law and filed a false verified compliance statement to the Board, produced an altered document to Petitioner in response to a subpoena, and failed to pay employment taxes. Aggravating this already serious conduct is Respondent's complete failure to show remorse and appreciation for her actions. These serious and troubling facts, placed in the context of Respondent's personal issues, lead us to conclude that the instant matter requires a lengthier suspension than that imposed in the above-cited cases. A three year suspension is warranted to meet the goals of the disciplinary system and to allow Respondent the opportunity to fully address her professional and personal difficulties.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania recommends that the Respondent, Amanda Iannuzzelli, be Suspended for three 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: Jerry M. Lehoccky, DAS
Jerry M. Lehoccky, Member

Date: 4/9/19

Member Rassias abstained.