

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL : No. 19 DB 2023
Petitioner :
v. : Attorney Registration No. 50867
JOHN MCDANEL :
Respondent : (Luzerne County)

ORDER

AND NOW, this 22nd day of June, 2023, in accordance with Rule 215(g), Pa.R.D.E., the three-member Panel of the Disciplinary Board having reviewed and approved the Joint Petition in Support of Discipline on Consent filed in the above captioned matter; it is

ORDERED that JOHN McDANEL be subjected to a **PUBLIC REPRIMAND** by the Disciplinary Board of the Supreme Court of Pennsylvania as provided in Rule 204(a) and Rule 205(c)(9) of the Pennsylvania Rules of Disciplinary Enforcement.

BY THE BOARD:



Board Chair

TRUE COPY FROM RECORD

Attest:



Marcee D. Sloan
Board Prothonotary
The Disciplinary Board of the
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :
Petitioner :
 : 19 DB 2023
v. :
 : Attorney Reg. No. 50867
JOHN MCDANEL, :
Respondent : (Columbia County)

JOINT PETITION IN SUPPORT OF DISCIPLINE ON CONSENT
PURSUANT TO Pa.R.D.E. 215(d)

Petitioner, Office of Disciplinary Counsel (“ODC”) by Thomas J. Farrell, Chief Disciplinary Counsel, and Kristin A. Wells, Disciplinary Counsel, and Respondent, John McDanel, Esquire, respectfully petition the Disciplinary Board in support of discipline on consent, pursuant to Pennsylvania Rule of Disciplinary Enforcement (“Pa.R.D.E.”) 215(d), and in support thereof state:

1. ODC, whose principal office is located at the Pennsylvania Judicial Center, 601 Commonwealth Avenue, Suite 2700, P.O. Box 62485, Harrisburg, PA 17106, is invested, pursuant to Pa.R.D.E. 207, with the power and the duty to investigate all matters involving alleged misconduct of an attorney in the Commonwealth of Pennsylvania and to prosecute all disciplinary proceedings brought in accordance with the various provisions of the aforesaid Rules.

2. Respondent, John McDanel, was born on March 29, 1963, and was admitted to practice law in Pennsylvania on December 7, 1987. Respondent is on active status. His registered address is McDanel Law Firm, 107 Rear East 2nd Street, Berwick, Pennsylvania 18603.

3. Pursuant to Pa.R.D.E. 201(a)(1), Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

FILED
06/08/2023
The Disciplinary Board of the
Supreme Court of Pennsylvania

SPECIFIC FACTUAL ALLEGATIONS ADMITTED

4. On January 10, 2008, Huber Lee Kline and Nancy Lee Kline created the Huber Lee Kline and Nancy Lee Kline Revocable Trust ("Trust").
5. The Trust primarily consisted of three assets – the Klines' personal residence and two IRA CDs held at Pentagon Federal Credit Union.
6. On the same date, Mr. Kline executed a Last Will and Testament.
7. On January 3, 2009, Mrs. Kline died.
8. On December 21, 2018, Mr. Kline executed a codicil to his Will naming Respondent as executor of Mr. Kline's estate.
9. Respondent was unaware at the time that he was named executor of Mr. Kline's estate.
10. On December 24, 2018, Mr. Kline amended the Kline Trust to name Respondent as trustee.
11. Respondent was unaware at the time that he was named trustee of the Kline Trust.
12. Shortly prior to Mr. Kline's death, he informed Respondent that he had named Respondent executor of his estate and trustee of his Trust.
13. On May 3, 2021, Mr. Kline died testate.
14. As executor of Mr. Kline's estate, Respondent failed to file a Petition for Grant of Letters Testamentary for purposes of opening and administering Mr. Kline's estate.
15. As executor of Mr. Kline's estate, Respondent failed to file an estate tax

return and pay the amount due within nine months of Mr. Kline's death or at any point thereafter.

16. Pursuant to Article 6 of the Trust, upon Mr. Kline's death, Respondent was to distribute the residue of the Kline Trust Estate to Mr. Kline's adult children, Laurie Lamoreaux and Scott Kline.

17. As trustee of the Kline Trust, Respondent failed to distribute the two IRA CDs upon Mr. Kline's death.

18. On September 8, 2021, the Kline personal residence was sold.

19. Respondent attended the closing.

20. Following the closing, the sale proceeds, \$145,565.81, which Respondent held in his IOLTA, were available for distribution pursuant to the terms of the Kline Trust.

21. On January 3, 2022, Mrs. Lamoreaux and her husband (collectively "the Lamoreauxes") sent Respondent an email requesting that Respondent provide an update on the status of Mr. Kline's estate and the Kline Trust.

22. Respondent responded by email the same day stating, in part, "We are in the process of finalizing everything. Hope to be finished in the next few days."

23. Over the course of the next two months, the Lamoreauxes repeatedly contacted Respondent *via* emails, certified mail, and phone concerning the status of the estate and trust.

24. Respondent received the Lamoreauxes' communications.

25. Respondent:

a. as executor of Mr. Kline's estate, failed to take steps to open

and administer Mr. Kline's estate; and

b. as trustee of the Kline Trust, failed to distribute the Kline Trust Estate to the beneficiaries.

26. On April 15, 2022, Attorney Marissa Marshall sent Respondent a letter in which she, on behalf of the Lamoreauxes, *inter alia*, requested that Respondent renounce his roles as Executor and Trustee.

27. Respondent received Attorney Marshall's April 15, 2022 letter.

28. On May 11, 2022, Respondent spoke with Attorney Marshall by telephone, and agreed to renounce his roles as Executor and Trustee.

29. On May 16, 2022, following consultation with Scott Kline, Respondent renounced his roles as executor and trustee.

30. On May 17, 2022, Respondent issued a check from his escrow account to Attorney Marshall's firm in the amount of \$145,565.81, which consisted of the proceeds from the sale of the Kline residence.

SPECIFIC RULES OF PROFESSIONAL CONDUCT VIOLATED

31. Respondent violated the following Pennsylvania Rules of Professional Conduct:

a. RPC 1.3, which requires a lawyer to act with reasonable diligence and promptness in representing a client; and

b. RPC 1.15(e), which requires a lawyer to promptly deliver to a client or third person any property that the client or third person is entitled to receive.

SPECIFIC RECOMMENDATION FOR DISCIPLINE
PUBLIC REPRIMAND

32. Petitioner and Respondent jointly request that Respondent receive a Public Reprimand before the Disciplinary Board.

33. Respondent hereby consents to that discipline being imposed upon him by the Supreme Court of Pennsylvania. Attached to this Petition as Exhibit "A" is Respondent's executed Affidavit required by Pa.R.D.E. 215(d), stating that he consents to the recommended discipline and including the mandatory acknowledgements contained in Pa.R.D.E. 215(d)(1)-(4).

Mitigating Circumstances

34. In support of Petitioner and Respondent's joint recommendation, it is respectfully submitted that the following mitigating circumstances are present:

- a. Respondent admits engaging in misconduct and violating the charged Rules of Professional Conduct;
- b. Respondent cooperated with Petitioner in connection with this Petition, as evidenced by Respondent's admissions herein and his consent to receiving a Public Reprimand; and
- c. Respondent understands and agrees he should be disciplined, as evidenced by his consent to receiving a Public Reprimand.

Aggravating Circumstances

35. Respondent has a history of prior discipline consisting of:
- a. an October 21, 2005 informal admonition, based on Respondent's failure to timely pay restitution funds owed to a criminal client, in violation of RPC 1.3, RPC 1.15(a), and RPC 1.15(b);

b. a February 19, 2010 informal admonition, based on Respondent's neglect of a criminal client, in violation of RPC 1.1, RPC 1.3, RPC 1.4(a)(1), RPC 1.4(a)(2), RPC 1.4(a)(3), RPC 3.2, and RPC 8.4(d);

c. a December 21, 2011 informal admonition, based on Respondent's neglect of an estate matter, in violation of RPC 1.3; and

d. a December 14, 2015 public reprimand, based on Respondent's neglect of a divorce client, in violation of RPC 1.1, RPC 1.3, RPC 1.4(a)(3), and RPC 1.5(b).

36. Disciplinary precedent supports imposition of a public reprimand in matters where the underlying misconduct is relatively minor but aggravated by prior discipline. **See e.g., ODC v. George W. Bills, Jr.**, 108 DB 2022 (PR 9/15/2022) (public reprimand with condition that respondent refund fees to client for failure to communicate, mishandling of client funds, and failure to refund unearned fees in one client matter; prior informal admonition and public reprimand both with condition that respondent refund fees within prior four years aggravated); **ODC v. William E. Vinsko, Jr.**, 4 DB 2022 (PR 1/18/2022) (public reprimand for neglect and failure to communicate in one civil litigation matter; prior public reprimand and informal admonition within prior three years aggravated); **ODC v. Hay Yeon Baik**, 192 DB 2016 (PR 12/7/2016) (public reprimand for unauthorized practice of law in New Jersey; prior informal admonition in Pennsylvania and public reprimand in New Jersey within preceding two years aggravated); **ODC v. Jeffrey Dean Servin**, 118 DB 2015 (PR 7/23/2016) (public reprimand for neglect, failure to communicate, and failure to refund unearned fees in one debt collection matter; two prior informal admonitions and public reprimand in preceding four years aggravated); **ODC v. Andre Michniak**, 27 DB 2016 (PR 3/8/2016) (public reprimand with two years' probation on mental health treatment conditions

for neglect and failure to communicate in one immigration matter; prior informal admonition and public reprimand with two years' probation on mental health treatment conditions, which respondent was still serving at the time of his misconduct, aggravated); **ODC v. Michael Coard**, 218 DB 2015 (PR 1/28/2016) (public reprimand for neglect and failure to communicate in two criminal matters, both of which were dismissed based on respondent's inaction; prior informal admonition, private reprimand, and public reprimand with two years' probation within prior eight years aggravated). Respondent's prior disciplinary history, the first of which was imposed over 17 years ago and the most recent of which was imposed over seven years ago, is more removed than that at issue in the cases cited above, further supporting that more serious discipline is not necessary in this case.

37. Based upon the circumstances presented and precedent, it is jointly recommended to the Disciplinary Board that Respondent receive a Public Reprimand.

WHEREFORE, Petitioner and Respondent respectfully request, pursuant to Pa.R.D.E. 215(e), 215(g) and 215(i), a three-member panel of the Disciplinary Board review and approve the Joint Petition in Support of Discipline on Consent.

Respectfully submitted,

OFFICE OF DISCIPLINARY COUNSEL
Thomas J. Farrell
Chief Disciplinary Counsel

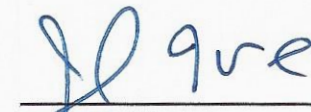
Date: 6-7-2023

By: _____



Kristin A. Wells,
Disciplinary Counsel
Attorney Registration No. 312080
601 Commonwealth Avenue, Suite 5800
P.O. Box 62675
Harrisburg, PA 17106
Telephone (717) 772-8572

Date: 6-6-23

By: 

John McDanel
Respondent
Attorney Registration No. 50867
McDanel Law Firm
107 Rear East 2nd Street
Berwick, PA 18603
Telephone (570)752-3687

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA


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Respondent : (Columbia County)

VERIFICATION

The statements made in the foregoing Joint Petition in Support of Discipline on Consent Pursuant to Pa.R.D.E. 215(d) are true and correct to the best of my knowledge or information and belief. This statement is made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Respectfully submitted,

Date: 6/7/2023

By: 
Kristin A. Wells, Disciplinary Counsel
Attorney Registration No. 312080
601 Commonwealth Avenue, Suite 5800
P.O. Box 62675
Harrisburg, PA 17106
Telephone (717) 772-8572

Date: 6-6-23

By: 
John McDanel
Attorney Registration No. 50867
McDanel Law Firm
107 Rear E. 2nd St.
Berwick, PA 18603
Telephone (570) 752-3687

BEFORE THE DISCIPLINARY BOARD OF THE
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RESPONDENT'S AFFIDAVIT UNDER RULE 215(d)
OF THE PENNSYLVANIA RULES OF DISCIPLINARY ENFORCEMENT

John McDanel, Respondent in the above-captioned matter, being duly sworn according to law, deposes and hereby submits this affidavit consenting to the recommendation of a Public Reprimand and further states as follows:

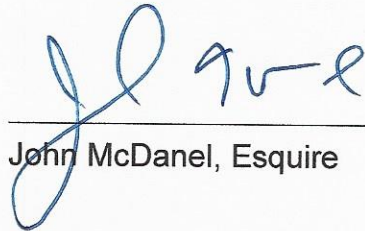
1. I am an attorney actively licensed in the Commonwealth of Pennsylvania, having been admitted to the bar on December 7, 1987.
2. I desire to submit a Joint Petition in Support of Discipline on Consent pursuant to Pa.R.D.E. 215(d).
3. My consent is freely and voluntarily rendered; I am not being subjected to coercion or duress; I am fully aware of the implications of submitting this consent.
4. I am aware there is presently pending a proceeding involving allegations that I have been guilty of misconduct as set forth in the Joint Petition in Support of Discipline on Consent pursuant to Pa.R.D.E. 215(d) to which this affidavit is attached.
5. I acknowledge that the material facts set forth in the Joint Petition are true;

6. I consent because I know that if charges continued to be prosecuted in the pending proceeding, I could not successfully defend against them.

7. I am aware of my right to retain counsel in the instant proceeding and I have decided to proceed without counsel in connection with my decision to execute the Joint Petition.


It is understood that the statements made herein are subject to the penalties of 18 Pa.C.S.A. §4904 (relating to unsworn falsification to authorities).

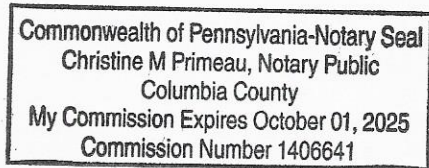
Signed this 6th day of June, 2023.



John McDanel, Esquire

Subscribed and sworn before me
on this 6th day of June, 2023


Notary Public



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	:	19 DB 2023
v.	:	
	:	Attorney Reg. No. 50867
JOHN MCDANEL,	:	
Respondent	:	(Columbia County)

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving the foregoing document upon all parties of record in this proceeding in accordance with the requirements of Disciplinary Board Rules and Procedures § 89.22 (service by a participant).

First Class Mail and Electronic Mail as follows:

John McDanel, Esquire
McDanel Law Firm
107 Rear E. 2nd St.
Berwick, PA 18603

jmcdanel@yahoo.com

Date: 6/7/2023

By: 

Kristin A. Wells
Disciplinary Counsel
Attorney Registration No. 312080
601 Commonwealth Avenue, Suite 5800
P.O. Box 62675
Harrisburg, PA 17106
Telephone (717) 772-8572

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by: Office of Disciplinary Counsel

Signature: Kristin A. Wells

Name: Kristin A. Wells

Attorney No. (if applicable): 312080