

**IN THE SUPREME COURT OF PENNSYLVANIA**

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 2872 Disciplinary Docket No. 3
	:	
Petitioner	:	No. 35 DB 2022
	:	
v.	:	Attorney Registration No. 201295
	:	
	:	(Philadelphia)
	:	
ROYCE W. SMITH,	:	
	:	
Respondent	:	

**ORDER**

**PER CURIAM**

**AND NOW**, this 16<sup>th</sup> day of August, 2022, upon consideration of the Verified Statement of Resignation, Royce W. Smith is disbarred on consent from the Bar of this Commonwealth. See Pa.R.D.E. 215. Respondent shall comply with all of the provisions of Pa.R.D.E. 217 and pay costs to the Disciplinary Board pursuant to Pa.R.D.E. 208(g).

A True Copy Nicole Traini  
As Of 08/16/2022

Attest:   
Chief Clerk  
Supreme Court of Pennsylvania

**BEFORE THE DISCIPLINARY BOARD OF  
THE SUPREME COURT OF PENNSYLVANIA**

<b>OFFICE OF DISCIPLINARY COUNSEL,</b>	:	<b>No. 2872 Disciplinary Docket</b>
	:	<b>No. 3</b>
<b>Petitioner</b>	:	
	:	<b>No. 35 DB 2022</b>
	:	
<b>v.</b>	:	
	:	
	:	<b>Atty. Reg. No. 201295</b>
<b>ROYCE W. SMITH,</b>	:	
	:	
<b>Respondent</b>	:	<b>(Philadelphia)</b>

**RESIGNATION STATEMENT  
UNDER Pa.R.D.E. 215**

Royce W. Smith ("Respondent") hereby tenders his voluntary resignation from the practice of law in the Commonwealth of Pennsylvania pursuant to Pa.R.D.E. 215(d) ("Enforcement Rules"), and further states as follows:

1. He is an attorney licensed to practice law in the Commonwealth of Pennsylvania, having been admitted to the Bar on November 21, 2005. His attorney registration number is 201295.
2. By Order dated April 8, 2022, this Court granted a Petition for Emergency Temporary Suspension and placed Respondent on temporary suspension pending further action by the Court.
3. He desires to submit his resignation as a member of the bar.

<p><b>FILED</b>  <b>08/03/2022</b>  <b>The Disciplinary Board of the</b>  <b>Supreme Court of Pennsylvania</b></p>
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4. His resignation is freely and voluntarily rendered; he is not being subjected to coercion or duress; he is fully aware of the implications of submitting this resignation.

5. He is aware that there is presently pending an investigation into allegations that he has been guilty of misconduct, the nature of the allegations having been made known to him in a Petition for Issuance of a Rule to Show Cause Why Respondent Should Not Be Placed on Temporary Suspension Pursuant to Pa.R.D.E. 208(f)(5), filed by the Office of Disciplinary Counsel with the Court in the above-docketed matter on March 8, 2022. ("Petition for RTSC," Exhibit A)

6. By counseled Answer to the Rule to Show Cause, filed on March 15, 2022, he admitted the material allegations of the Petition for RTSC (Exhibit B), and he hereby reaffirms the admissions contained in that Answer.

7. His resignation is being submitted because he knows that if charges were predicated upon the misconduct under investigation he could not successfully defend against them.

8. He is also aware that additional disciplinary complaints have been filed against him under the following ODC file numbers: C1-21-164; C1-21-461; C1-22-48; C1-22-51; C1-22-102; C1-22-103; C1-22-230; C1-22-252; and C1-22-572. All except for the last three of these complaints were

filed before the instant case was filed. These additional complaints are under investigation and Respondent, through his counsel, has been apprised of the nature of the complaints; however, DB-7 letters Requesting a Statement of Respondent's Position have yet to be sent to Respondent. Respondent acknowledges the existence of these complaints and also acknowledges that the facts alleged therein contain additional bases for discipline.

9. He is fully aware that the submission of his Resignation Statement is irrevocable and that he can only apply for reinstatement to the practice of law pursuant to the provisions of Enforcement Rule 218(b) and (c).

10. He is aware that pursuant to Enforcement Rule 215(c), the fact that he has tendered this resignation shall become a matter of public record immediately upon delivery of the Resignation Statement to Disciplinary Counsel or the Disciplinary Board Prothonotary.

11. Upon entry of the order disbaring him on consent, he will promptly comply with the notice, withdrawal, resignation, trust accounting, and cease-and-desist provisions of subdivisions (a), (b), (c), and (d) of Enforcement Rule 217.

12. After entry of the order disbaring him on consent, he will file a verified statement of compliance as required by Enforcement Rule 217(e)(1).

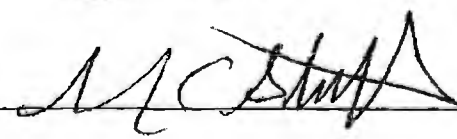
13. He is aware that the waiting period for eligibility to apply for reinstatement to the practice of law under Enforcement Rule 218(b) shall not begin to run until he files the verified statement of compliance, and, if the order of disbarment contains a provision that makes the disbarment retroactive to an earlier date, then the waiting period will be deemed to have begun on that earlier date.

14. He acknowledges that he is fully aware of his right to consult and employ counsel to represent him in the instant proceeding. He has retained and acted upon the advice of Samuel C. Stretton, Esquire in connection with his decision to execute this Resignation Statement.

The statements in this Resignation Statement are subject to the penalties of 18 Pa.C.S., Section 4904 (relating to unsworn falsification to authorities).

Signed this 2 day of August, 2022.

  
\_\_\_\_\_  
Royce W. Smith

WITNESS:   
\_\_\_\_\_

Print Name: Sam Stretton  
610-696-4243

# **Exhibit A**

Thomas J. Farrell  
Chief Disciplinary Counsel

Raymond S. Wierciszewski  
Deputy Chief Disciplinary Counsel

Anthony P. Sodroski  
Disciplinary Counsel-In-Charge,  
Special Projects

District I Office  
1601 Market Street  
Suite 3320  
Philadelphia, PA 19103-2337

(215) 560-6296  
FAX (215) 560-4528

THE DISCIPLINARY BOARD  
OF THE  
SUPREME COURT OF PENNSYLVANIA



OFFICE OF DISCIPLINARY COUNSEL  
[www.padisciplinaryboard.org](http://www.padisciplinaryboard.org)

March 8, 2022

Disciplinary Counsel-In-Charge  
Ramona M. Mariani

Disciplinary Counsel  
Richard Hernandez  
Gloria Randall Ammons  
Harriet R. Brumberg  
Michael D. Gottsch  
Jeffrey M. Krulik  
Mark F. Gilson

RECEIVED  
03/08/2022  
PA Disciplinary Board  
Executive Office

**FILED ELECTRONICALLY**

Marcee D. Sloan, Prothonotary  
The Disciplinary Board of the  
Supreme Court of Pennsylvania  
Pennsylvania Judicial Center  
601 Commonwealth Avenue, Suite 5600  
P.O. Box 62625  
Harrisburg, PA 17106-2625

**35 DB 2022**

RE: *In the Matter of Royce W. Smith*  
ODC File No. C1-22-105  
Attorney Registration No. 201295  
(Philadelphia)

Dear Ms. Sloan:

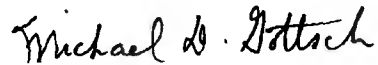
Enclosed for filing please find Office of Disciplinary Counsel's Petition for Issuance of a Rule to Show Cause Why Respondent Should Not Be Placed on Temporary Suspension Pursuant to Pa.R.D.E. 208(f)(5), together with Exhibits A through E thereto, as well as the related Certificate of Service and Certificate of Compliance. Note, Confidential Document Forms have been completed and placed at the beginning of Exhibits A and B to the petition. Service is being made upon Respondent through his counsel, Samuel C. Stretton, Esquire, by email and regular mail.

Marcee D. Sloan, Prothonotary

March 8, 2022

Page 2

Very truly yours,  
OFFICE OF DISCIPLINARY COUNSEL



Michael D. Gottsch  
Disciplinary Counsel

MDG/rbc

cc: (email and U.S. mail)

Samuel C. Stretton, Esquire

(email)

Thomas J. Farrell, Chief Disciplinary Counsel

Raymond S. Wierciszewski, Deputy Chief Disciplinary Counsel

Ramona M. Mariani, Disciplinary Counsel-in-Charge, District I



**BEFORE THE DISCIPLINARY BOARD OF  
THE SUPREME COURT OF PENNSYLVANIA**

<b>OFFICE OF DISCIPLINARY COUNSEL,</b>	:	<b>No. DB 2022</b>
<b>Petitioner</b>	:	
	:	
<b>v.</b>	:	<b>ODC File No. C1-22-105</b>
	:	
	:	
<b>ROYCE W. SMITH,</b>	:	<b>Atty. Reg. No. 201295</b>
	:	
<b>Respondent</b>	:	<b>(Philadelphia)</b>

**ORDER AND RULE TO SHOW CAUSE**

And now, this \_\_\_\_\_ day of \_\_\_\_\_, 2022, upon  
Petition of the Office of Disciplinary Counsel, a Rule is hereby issued  
upon Respondent to show cause, within ten (10) days following service  
of this Rule, why he should not be placed on Temporary Suspension  
pursuant to Pa.R.D.E. 208(f)(5). Any response must be filed with the  
Board Prothonotary and a copy served on Office of Disciplinary  
Counsel.

By the Board:

\_\_\_\_\_  
Board Chair

**BEFORE THE DISCIPLINARY BOARD OF  
THE SUPREME COURT OF PENNSYLVANIA**

**OFFICE OF DISCIPLINARY COUNSEL, : No. 35 DB 2022**  
**Petitioner :**  
**v. : ODC File No. C1-22-105**  
**ROYCE W. SMITH, : Atty. Reg. No. 201295**  
**Respondent : (Philadelphia)**

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**PETITION FOR ISSUANCE OF A RULE TO SHOW CAUSE WHY  
RESPONDENT SHOULD NOT BE PLACED ON TEMPORARY  
SUSPENSION PURSUANT TO Pa.R.D.E. 208(f)(5)**

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OFFICE OF DISCIPLINARY COUNSEL  
Thomas J. Farrell  
Chief Disciplinary Counsel

Michael D. Gottsch  
Disciplinary Counsel  
1601 Market Street, Suite 3320  
Philadelphia, PA 19103  
(215) 560-6296

**FILED**  
**03/08/2022**  
**The Disciplinary Board of the**  
**Supreme Court of Pennsylvania**

1. Office of Disciplinary Counsel ("ODC"), whose principal office is located at PA Judicial Center, 601 Commonwealth Avenue, Suite 2700, P.O. Box 62625, Harrisburg, PA 17106-2625, is invested pursuant to Rule 207 of the Pennsylvania Rules of Disciplinary Enforcement (hereinafter "Pa.R.D.E."), 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 of Disciplinary Enforcement.

2. Respondent, Royce W. Smith, Esquire was born on December 26, 1978, and was admitted to practice law in the Commonwealth on November 21, 2005.

3. Respondent is subject to the disciplinary jurisdiction of The Disciplinary Board of the Supreme Court of Pennsylvania.

4. Respondent's public mailing and office address as set forth in his most recent annual fee form is 1500 Walnut Street, Suite 1304, Philadelphia, PA 19102.<sup>1</sup>

5. As particularly alleged below, ODC is proceeding under the

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<sup>1</sup> Respondent is no longer at this address but has not updated his information with the Disciplinary Board's Executive Office. Upon information and belief, Respondent's current office address is Queen Memorial Church Building, 1313 S. 33<sup>rd</sup> Street, Philadelphia, PA 19146-3303.

procedure set forth in Pa.R.D.E. 208(f)(5) and requesting: (a) the Board issue a Rule to Show Cause; (b) a hearing if Respondent files a response raising issues of fact; and (3) a recommendation to the Supreme Court that Respondent should be temporarily suspended. As demonstrated below, Respondent's misconduct also violates Pa.R.D.E. 208(f)(1), which also warrants temporary suspension.

**Respondent has withdrawn client settlement funds from his IOLTA account, depleting the account; he has not paid such funds to the client(s), and he cannot account for the funds**

6. This matter arises from a partial settlement of a federal civil action that Respondent entered into on behalf a severely brain-damaged minor (XR), and the minor's father (Eriberto Rodriguez) and grandmother (Daisy Morales). The father and grandmother share custody of the minor, whose mother, Joanne Rodriguez, died in childbirth. The minor lives with his grandmother.

7. The civil action is entitled *Rodriguez et al v. City of Philadelphia et al.*, No. 2:14-cv-04435-JHS (E.D.Pa.). The settlement agreement was signed on June 26, 2020. The settlement agreement and related documentation are under seal pursuant to order of the court.

8. Among other things, the net settlement provided for the sum of \$354,450.48 to paid to a Special Needs Trust established for XR. That money is needed to purchase an appropriate handicapped accessible vehicle and an appropriate handicapped accessible home that can make XR's current untenable situation as good as possible.

9. By Order dated July 14, 2020, United States District Judge Joel H. Slomsky granted a petition, filed by Respondent, to compromise and settle a minor's claim and wrongful death claim, and approved the settlement agreement.

10. By Order dated June 16, 2021, Philadelphia Orphans' Court Judge Matthew D. Carrafiello approved the Special Needs Trust and authorized MassMutual Trust Company, FSB to act as Trustee of the trust. Judge Carrafiello ordered that "[t]he net Settlement Proceeds to [XR] from the [federal] litigation ... including amounts distributable to [XR] from the Estate of Joanne Rodriguez, shall be deposited into the Trust pursuant to the Settlement Agreement within thirty (30) days of the date of this Order."

11. On February 3, 2022, a complaint was filed with ODC by counsel who drafted the Special Needs Trust, who, together with the Trustee (MassMutual) had been attempting to secure payment from Respondent of the balance of \$354,450.48 owed to the Trust. The complaint alleged that the Complainant and MassMutual had been requesting the funds from Respondent for a long time and that Respondent had failed to respond to their requests, return their phone calls, or show up for meetings.

12. Because of Respondent's non-responsiveness and failure to pay the funds to the Trust, the Complainant was forced to file a petition for a citation in the Philadelphia Orphans' Court to seek relief.

13. The disciplinary complaint also referenced possible theft of client funds by Respondent.

14. On February 9, 2022, Disciplinary Counsel, by email, pursuant to D.Bd. Rules §§ 87.7(b) and 87.7(e), and Pa.R.D.E. 221(g), served Respondent's then-counsel, Richard J. Fuschino, Esquire, with a combined Request for Statement of Respondent's Position (DB-7) and Request for Required Records, which Mr. Fuschino accepted on Respondent's behalf.

15. The required records portion of the combined letter requested production, within the ten business days allowed under the Enforcement Rules, of the following:

1. With respect to:

- (a) your former TD Bank IOLTA account, no. ending in 9703, for the period July 1, 2020 until no further transactions took place in the account and the account was closed;
- (b) your Citizens Bank IOLTA account, no. ending in 9946, for the period from the date the account was opened to the present;
- (c) any other IOLTA account, trust account, or fiduciary account, or other account in which you placed or kept client or third-party funds, required to be maintained by Rule 1.15, during the period July 1, 2020 to the present:
  - (1) all transaction records provided to you or available to you, such as periodic statements of account (monthly bank statements), front and back of cancelled checks in whatever form, deposit slips, deposited items, debit and credit memos, and records of electronic transactions;
  - (2) any check register or separately maintained ledger (including individual client ledgers), whether in electronic form or otherwise, which shall include the payee, date, purpose and amount of each check, withdrawal and transfer, the payor, date, and amount of each deposit, and the matter involved for each transaction;

- (3) copies of every settlement check (front and back) that you received for any client, and bank records reflecting the deposit of such check and the distribution of the proceeds of such check; and
- (4) a copy of every Schedule of Distribution you furnished to any client.

Id. at 5-6.

16. The DB-7 portion of the combined letter alleges in pertinent part:

4. As part of th[e] settlement, \$1,250,000 was allocated to the wrongful death and survival action claims of Eriberto Rodriguez and [XR], a minor, due to the death of Joanne Rodriguez.

5. Of the \$1,250,000, the net amount of \$739,073.96 was allocated to your client, the Estate of Joanne Rodriguez, to be divided between Eriberto Rodriguez and [XR].

6. The funds owing to [XR] were to be paid into a Special Needs Trust that had been established for him.

7. At some point after July 14, 2020, you received settlement funds ... and deposited the same to your IOLTA account at TD Bank, account no. ending in 9703.

8. On November 18, 2020, you drew a check on that account in the amount of



\$348,793.00 payable to the order of your client, Eriberto Rodriguez, the widower of Joanne Rodriguez.

9. You have never distributed the remaining amount of \$354,450.48, or any portion thereof, to the [XR] Special Needs Trust.

10. MassMutual Trust Company, FSB, the Trustee of the Special Needs Trust, and its counsel, Kristen Behrens, Esquire of Dilworth Paxson, LLP, have made numerous inquiries to you over a period of months to find out why you have not distributed the funds that are owed to the Special Needs Trust.

11. You have failed and/or refused to respond to their inquiries.

12. Another of your clients in the same matter, Daisy Morales (maternal grandmother of [XR]), was allocated a gross settlement amount of \$500,000 ....

13. Ms. Morales was to be paid a net amount of \$295,629.59.

14. You have never distributed this amount, or any portion thereof, to Ms. Morales.

15. During the time when you have been in possession of Ms. Morales' settlement funds, she has made numerous inquiries of you seeking an explanation as to why you have not

paid her the settlement funds to which she is entitled.

16. You have failed to pay the funds to her, or to provide any explanation as to why you have not done so.

Id. at 2-3.

17. At the end of November, 2020, Respondent closed his TD Bank IOLTA account and opened an IOLTA account at Citizens Bank.

18. Based on records that Disciplinary Counsel subpoenaed from Citizens Bank, and from telephone discussions with Kacie Pryor of Citizens Bank's Subpoena Summons Processing department, Disciplinary Counsel has learned that:

- (a) as of January 31, 2022, the balance of Respondent's IOLTA account, ending in 9946, was \$356,470.01 (Exhibit A attached);
- (b) during February 2022, Respondent withdrew \$15,300 from his IOLTA account and placed it in his operating account (Exhibit B attached);
- (c) as of February 28, 2022, the balance of Respondent's IOLTA account was \$341,165.70 (*Id.*); and
- (d) on March 2, 2022, the amount of \$340,000 was wire-transferred from Respondent's IOLTA account to the Special Needs Trust for XR (\$14,450.48 short the amount to which the trust is entitled).

(e) As of March 2, 2022, Respondent's IOLTA account has a balance of a mere \$1,139.00.

19. Respondent has paid no money to Daisy Morales.

20. On March 1, 2022, Disciplinary Counsel received a phone call from Samuel C. Stretton, Esquire in which Mr. Stretton stated that he would be representing Respondent in this matter and that Respondent was then present in Mr. Stretton's office with him.

21. Mr. Stretton relayed to Disciplinary Counsel from Respondent that the funds to which Ms. Morales is entitled are not in Respondent's IOLTA account and that Respondent is unable to account for such funds.

22. Because Ms. Morales's settlement funds were deposited to Respondent's IOLTA account but are no longer there and have not been paid to Ms. Morales, and because Respondent is unable to account for such funds, it is clear that Respondent has misappropriated or mishandled funds belonging to Ms. Morales in violation of the Rules of Professional Conduct.

23. Respondent's required records were due on February 24, 2022 but Respondent failed to provide them. By email dated February 23, 2022, Mr. Fuschino informed Disciplinary Counsel that he had withdrawn from representing Respondent. Respondent did not furnish any required records to ODC until March 2, 2022, as an attachment to a letter from Mr. Stretton. Even then, he furnished only a small portion of the required records that had been requested.

24. Indeed, in contrast to ODC's required records request, which sought essentially all documents relating to Respondent's former TD Bank IOLTA account and his current Citizens Bank IOLTA account, Respondent provided merely monthly account statements, for his Citizens Bank IOLTA account only, from November 2020 through October 2021 (ODC requested records to the present, i.e., February 9, 2022).

25. Based on Respondent's failure to provide the requested required records, Respondent has violated RPC 1.15(c)(3).

26. Further, it appears that Respondent has also violated additional Rules of Professional Conduct, in particular RPC 1.15(c)(1), RPC 1.15(e), RPC 8.4(b), and RPC 8.4(c), and that he is engaged in

a continuing violation of those rules.<sup>2</sup>

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<sup>2</sup> Respondent is presently on temporary suspension in New Jersey based upon failure to produce IOLTA records, mishandling his New Jersey IOLTA account, and mishandling the funds of numerous other clients. On January 4, 2021, Respondent stipulated: "Respondent's negligent misappropriation requires a level of discipline higher than a reprimand. Despite his very active personal injury practice and constant receipt of client funds, Respondent did not undertake efforts to ensure that the funds he was receiving, and disbursing were accurate. His conduct was beyond mere negligence and rather fell into the reckless category." Disciplinary Stipulation dated January 4, 2021 (date of Respondent's signature) and January 27, 2021 (date of the signature of the New Jersey Office of Attorney Ethics) (Exhibit D attached). Subsequently, the report of the New Jersey Disciplinary Review Board ("DRB") dated September 23, 2021 stated: "Although the OAE concluded that it could not prove knowing misappropriation in connection with respondent's mishandling of clients' funds due to his poor recordkeeping, the OAE has proven, by clear and convincing evidence, that respondent's negligence in handling his recordkeeping resulted in the repeated invasion of other clients' trust funds, in violation of RPC 1.15(a). Finally, respondent failed to keep accurate and necessary financial records for his law practice. He was unable to produce the demand audit records requested by the OAE, including client ledger cards and three-way ATA reconciliations. Respondent's lack of attention to his recordkeeping practices was so egregious that a bookkeeping firm and Ringler, an experienced ethics attorney, could not reconcile his accounts. He, thus, violated RPC 1.15(d) and R. 1:21-6." The DRB recommended discipline is presently before the New Jersey Supreme Court. The majority of the DRB members recommended censure, while two members recommended a six-month suspension and one recommended a three-month suspension. (Exhibit E attached).

**In his annual fee forms for the years 2016-2017 through the present, Respondent falsely stated that he maintains professional liability insurance pursuant to the provisions of Rule of Professional Conduct 1.4(c)**

27. On Friday February 9, 2022, in the course of his investigation of the disciplinary complaint in this matter, undersigned Disciplinary Counsel learned that Respondent did not carry professional liability insurance and has not carried such insurance as a sole practitioner in the past.

28. Both Respondent's prior counsel, Mr. Fuschino, by email, and his current counsel, Mr. Stretton, in his March 1, 2022 phone call with Disciplinary Counsel, confirmed that Respondent does not carry professional liability insurance.<sup>3</sup> Further, Mr. Stretton relayed to Disciplinary Counsel Respondent's concession that he has not carried professional liability since he has had his own practice.

29. Furthermore, Nicole Manning, Respondent's former paralegal/secretary, who held such position with Respondent for the entire time he has had his own practice (until late 2021) and who would

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<sup>3</sup> By email to Disciplinary Counsel dated February 18, 2022, Mr. Fuschino stated that Respondent "cannot find any evidence of professional liability insurance ... [and] it does not appear he is currently covered."

have handled payment of Respondent's insurance premiums if Respondent had had professional liability insurance, informed Disciplinary Counsel that she has never paid a premium for any professional liability insurance for Respondent.

30. On each of his annual fee forms since establishing his own law practice in 2016, Respondent has checked the box stating that he does carry professional liability insurance in the amounts required by Pennsylvania Rule of Professional Conduct 1.4(c) (Exhibit C attached). Such information is reflected on Respondent's listing on ODC's website, to provide information for members of the public, including clients and potential clients.

31. Based upon the foregoing, it appears that:

- (a) Respondent has failed to produce required records pursuant to ODC's demand for such records, Respondent having produced only a small amount of such records;
- (b) Respondent has failed to produce:
  - 1. any records of his former TD Bank IOLTA account;
  - 2. copies of every settlement check (front and back) that Respondent received for any client, and bank

records reflecting the deposit of such check and the distribution of the proceeds of such check;

3. a copy of every Schedule of Distribution

Respondent furnished to any client;

4. deposit slips, deposited items, debit and credit memos, records of electronic transactions; and

5. check registers, ledgers, client ledgers showing the payee, date, purpose and amount of each check, withdrawal and transfer, the payor, date, and amount of each deposit, and the matter involved for each transaction;

- (c) Respondent has misappropriated, withdrawn or expended funds from his IOLTA account improperly and has failed to account for a significant amount of funds belonging to one or more clients that should be in his IOLTA account, including the more than \$295,000 to which Daisy Morales is entitled; and
- (d) rather than informing clients that he does not carry and has not carried professional liability insurance of at least \$100,000 per occurrence and \$300,00 in the aggregate per year, subject to commercially reasonable deductibles, retention or co-insurance, as required by Pennsylvania Rule of Professional Conduct 1.4(c), Respondent has falsely stated in his annual fee forms that he does carry such insurance,



thereby misleading existing and potential clients, leaving them vulnerable to retaining Respondent without knowing that he lacks professional liability insurance, and using the Disciplinary Board's website to mislead members of the public.

- (e) Based upon the records available to ODC, ODC is unable to ascertain the extent to which Respondent has taken or mishandled the funds of other clients as well. For instance, because Respondent has failed to produce the required records, there is no way to tell whether the funds he wired to the Special Needs Trust were actually the specific funds to which the Trust was entitled, or whether Respondent used the funds of other clients to pay the Special Needs Trust.

32. Pa.R.D.E. 221(g)(3) provides, in relevant part: "Failure to produce Pa.R.P.C. 1.15 records in response to a request or demand for such records may result in the initiation of proceedings pursuant to Enforcement Rule 208(f)(1) or (f)(5) (relating to emergency temporary suspension orders and related relief), the latter of which specifically permits Disciplinary Counsel to commence a proceeding for the temporary suspension of a respondent-attorney who fails to maintain or produce Pa.R.P.C. 1.15 records after receipt of a request or demand

authorized by subdivision (g) of this Rule or any provision of the Disciplinary Board Rules.”

33. Pa.R.D.E. 208(f)(1) provides, in relevant part: “Disciplinary Counsel, with the concurrence of a reviewing member of the Board, whenever it appears by an affidavit demonstrating facts that the continued practice of law by a person subject to these rules is causing immediate and substantial public or private harm because of the misappropriation of funds by such person to his or her own use, or because of other egregious conduct, in manifest violation of the Disciplinary Rules or the Enforcement Rules, may petition the Supreme Court for injunctive or other appropriate relief. ...”

34. Pa.R.D.E. 208(f)(5) provides, in relevant part: “The Board on its own motion, or upon the petition of Disciplinary Counsel, may issue a rule to show cause why the respondent-attorney should not be placed on temporary suspension whenever it appears that the respondent-attorney has disregarded an applicable provision of the Enforcement Rules, failed to maintain or produce the records required to be maintained and produced under Pa.R.P.C. 1.15(c) and subdivisions (e) and (g) of Enforcement Rule 221 in response to a

request or demand authorized by Enforcement Rule 221(g) or any provision of the Disciplinary Board Rules, failed to comply with a valid subpoena or engaged in other conduct that in any such instance materially delays or obstructs the conduct of a proceeding under these rules.”

35. Respondent has disregarded the provisions of the Enforcement Rules regarding maintenance of IOLTA records and has failed to produce the records required to be maintained and produced under Pa.R.C.P. 1.15(c) and Pa.R.D.E. 221(e) and (g). Thus, the relief of temporary suspension under Enforcement Rule 208(f)(5) is necessary and appropriate.

36. Further, Respondent’s depleting of his IOLTA account without paying clients the funds to which they are entitled, and his false statements in his annual fee forms, for inclusion in ODC’s website, that he maintains professional liability insurance in the amounts specified under Pa.R.D.E. 1.4(c), constitutes egregious conduct warranting temporary suspension under Pa.R.D.E. 208(f)(1).

37. ODC believes it will be in the best interests of the public, the bar, and the courts for Respondent to be suspended from the

practice of law at this time pending the conclusion of ODC's investigation and further proceedings under Rule 208(b), Pa.R.D.E.

38. Accordingly, it is appropriate for the Board to issue a Rule to Show cause upon Respondent why he should not be temporarily suspended from the practice of law.

WHEREFORE, ODC respectfully requests this Honorable Board to issue a Rule upon Respondent to show cause, if he has any, within ten (10) days following service of the Rule, as to why he should not be temporarily suspended.

Respectfully submitted,

OFFICE OF DISCIPLINARY COUNSEL

Thomas J. Farrell  
Chief Disciplinary Counsel

DATE 03/08/2022

By: Michael D. Gottsch  
Michael D. Gottsch  
Disciplinary Counsel  
Attorney Registration No. 39421

BEFORE THE DISCIPLINARY BOARD OF  
THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. DB 2022  
Petitioner :  
v. : ODC File No. C1-22-105  
ROYCE W. SMITH, : Atty. Reg. No. 201295  
Respondent : (Philadelphia)

VERIFICATION

The statements contained in the foregoing Petition for Emergency Temporary Suspension are true and correct to the best of my knowledge or information and belief and are made subject to the penalties of 18 Pa.C.S. §4904, relating to unsworn falsification to authorities.

DATE 03/08/2022

By:

*Michael D. Gottsch*

Michael D. Gottsch  
Disciplinary Counsel  
Attorney Registration No. 39421

**BEFORE THE DISCIPLINARY BOARD OF  
THE SUPREME COURT OF PENNSYLVANIA**

<b>OFFICE OF DISCIPLINARY COUNSEL,</b>	<b>:</b>	<b>No. DB 2022</b>
<b>Petitioner</b>	<b>:</b>	
	<b>:</b>	
<b>v.</b>	<b>:</b>	<b>ODC File No. C1-22-105</b>
	<b>:</b>	
	<b>:</b>	
<b>ROYCE W. SMITH,</b>	<b>:</b>	<b>Atty. Reg. No. 201295</b>
<b>Respondent</b>	<b>:</b>	<b>(Philadelphia)</b>

**CERTIFICATE OF SERVICE**

I hereby certify that I am this day serving a copy of the Petition for Emergency Temporary Suspension upon the person and in the manner indicated below:

Service by first-class U.S. mail as follows:

Samuel C. Stretton, Esquire  
103 South High Street  
P.O. Box 3231  
West Chester, PA 19381-3231

Service by Email as follows:

strettonlaw.samstretton@gmail.com

Date: 03/08/2022

By:

*Michael D. Gottsch*

Michael D. Gottsch, Disciplinary Counsel  
Attorney Registration No. 39421  
Office of Disciplinary Counsel  
1601 Market Street, Suite 3320  
Philadelphia, PA 19103  
Michael.Gottsch@pacourts.us  
(215) 560-6296

CERTIFICATE OF COMPLIANCE

I certify that this pleading 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: *Michael D. Gottsch*

Name: Michael D. Gottsch

Attorney No. 39421



# **Exhibit A**

# **Exhibit B**

# Exhibit C

# 2021-2022 PENNSYLVANIA ATTORNEY ANNUAL FEE FORM

**DUE ON OR BEFORE JULY 1, 2021**

REGISTRATION COMPLETE  PENFIL009473097  www.padisciplinaryboard.org	<u>NON-WAIVABLE PENALTIES</u>  <b>\$200 LATE FEE AFTER JULY 16</b>  <b>\$400 LATE FEE AFTER AUGUST 1</b>  <b>\$25 RETURNED PAYMENT FEE</b>	<input checked="" type="checkbox"/>  <input type="checkbox"/>  <input type="checkbox"/>	Status Active Inactive Retired	Fee \$225 \$100 None	\$ <span style="border: 1px solid black; padding: 2px;">6</span> <span style="border: 1px solid black; padding: 2px;">2</span> <span style="border: 1px solid black; padding: 2px;">5</span> .00
---	--	---	---	-------------------------------	--

**CURRENT STATUS: Active**

### ATTORNEY DATA

NAME AND PREFERRED MAILING ADDRESS: <input checked="" type="checkbox"/> PUBLIC ID #201295 Royce W. Smith ROYCE SMITH LLC 1500 WALNUT ST STE 1304 PHILADELPHIA, PA 19102 PHILADELPHIA COUNTY  TELEPHONE: (215) 310-9050 SECONDARY TELEPHONE: FAX: (215) 310-9065 E-MAIL: royce@roycesmithllc.com SECONDARY E-MAIL: nikki@roycesmithllc.com  PRIMARY EMPLOYER NAME: <input checked="" type="checkbox"/> I DO NOT HAVE AN EMPLOYER TO REPORT	OFFICE ADDRESS: <input type="checkbox"/> PUBLIC ROYCE SMITH LLC 1500 WALNUT ST STE 1304 PHILADELPHIA, PA 19102 PHILADELPHIA COUNTY  RESIDENCE ADDRESS: 927 SPRUCE ST UNIT 3 PHILADELPHIA, PA 19107 PHILADELPHIA COUNTY  S.S.N.: XXX-XX-XXXX BIRTH DATE: 12/26/1978 ADMISSION DATE: 11/21/2005 DEMOGRAPHICS: Answered
--	--

LIST ALL COURTS (EXCEPT COURTS OF THIS COMMONWEALTH) AND JURISDICTIONS IN WHICH YOU HAVE BEEN LICENSED TO PRACTICE LAW AND THE CURRENT STATUS THEREOF:

I HAVE NO JURISDICTIONS TO REPORT

STATE/FEDERAL COURT	ACTIVE	INACTIVE	ADMIN. SUSP.	RETIRED	RESIGNED	SUSPENDED DISBARRED ETC.

### FINANCIAL DATA

From May 1, 2020 to date of filing this form, name of each financial institution, account number and location (state) of:

A) every account within or outside Pennsylvania in which I or my employer/law firm held my client or third-party funds subject to Pa.R.P.C. 1.15;  
*Note: Rule 1.15 funds are funds which the lawyer receives from a client or third person in connection with the client-lawyer relationship, or as an escrow agent, settlement agent or representative payee, or as a fiduciary, or receives as an agent, having been designated as such by a client or having been so selected as a result of a client-lawyer relationship or the lawyer's status as such.*

B) every account holding funds of a client or third party (whether or not subject to Pa.R.P.C. 1.15) over which I had sole or shared signature authority or authorization to transfer funds to or from the account; and  
*Note: "Funds of a third person" shall not include funds held in: 1) an attorney's personal account held jointly; or 2) a custodial account for a minor or dependent relative unless the source of any account funds is other than the attorney and his or her spouse.*

C) every business/operating account maintained or used by me in the practice of law. See Pa.R.D.E. 219(d)(1)(iii)-(v).

I DO NOT HAVE ANY ACCOUNTS REQUIRED TO BE REPORTED

BANK CODE	BANK / BROKERAGE NAME	ACCOUNT NUMBER	HOLDS Pa.R.P.C. 1.15 FUNDS	BANK LOCATION	ACCOUNT TYPE
561	Citizens Bank, NA	6314849946	Y	PA	IOLTA
	Citizens Bank	6314849938	N	PA	BUSINESS/OPERATING

**PROFESSIONAL LIABILITY INSURANCE**

<input checked="" type="checkbox"/>	I maintain, either individually or through my firm, professional liability insurance pursuant to the provisions of Rule of Professional Conduct 1.4(c).
<input type="checkbox"/>	I do not maintain professional liability insurance because I do not have private clients and have no possible exposure to malpractice actions (e.g., retired, full-time in-house counsel, prosecutor, full time government counsel, etc.).
<input type="checkbox"/>	I do not maintain professional liability insurance pursuant to the provisions of Rule of Professional Conduct 1.4(c), but I do have private clients and/or a possible exposure to malpractice actions.

**SUCCESSION PLANNING**

The question below is for informational purposes only and failure to have a designated successor is NOT a violation of the Rules of Professional Conduct or the Pennsylvania Rules of Disciplinary Enforcement. The Board would appreciate notification of any change to the provided information should such a change occur prior to the next registration period.

<input type="checkbox"/>	In the event of my death or incapacity, I have made arrangements for another Pennsylvania attorney, who is capable of conducting and/or overseeing my legal practice, to protect the interests of my client(s). My designated successor is:
<input type="checkbox"/>	I do not have a designated successor because I do not have Pennsylvania clients.
<input checked="" type="checkbox"/>	I do not currently have a designated successor and I do have Pennsylvania clients.

**OPPORTUNITIES TO PROVIDE PRO BONO SERVICE**

Each year, the Chief Justice of Pennsylvania reaches out to the legal profession to encourage pro bono service, which can be one of the most rewarding experiences in an attorney's career. The Disciplinary Board, Continuing Legal Education Board (CLE), and Interest on Lawyers' Trust Accounts Board (IOLTA) join the Court in supporting this worthwhile endeavor. Through these Court entities, there are many opportunities for the profession to support pro bono programs: by the direct provision of pro bono services as an emeritus status attorney; by participation in the CLE Board's pro bono pilot program aimed at blending legal education initiatives with assistance for legal service programs; or by financial contribution to the IOLTA Board's mission to fund accessible, high-quality legal aid programs.

Please check the applicable box(es) to receive information on these opportunities:

<input type="checkbox"/>	Please send me information on the Disciplinary Board's emeritus pro bono attorney program for retired attorneys.
<input type="checkbox"/>	Please send me information on the CLE Board's pro bono pilot program.
<input type="checkbox"/>	Please send me information on pro bono opportunities funded by IOLTA.
<input checked="" type="checkbox"/>	Not at this time.

**CERTIFICATION AND AGREEMENT**

I am familiar and in compliance with Rule 1.15 of the Pennsylvania Rules of Professional Conduct regarding the handling of funds and other property of clients and others and the maintenance of IOLTA Accounts, and with Rule 221 of the Pennsylvania Rules of Disciplinary Enforcement regarding the mandatory reporting of overdrafts on fiduciary accounts.

I understand that any action brought against me by the Pennsylvania Lawyers Fund for Client Security for the recovery of monies paid by the Fund as a result of claims against me may be brought in the Court of Common Pleas of Allegheny, Dauphin or Philadelphia County.

I certify that all information provided in connection with this form is complete and accurate.

**2020 - 2021 PA ATTORNEY'S ANNUAL FEE FORM**

**DUE ON OR BEFORE JULY 1, 2020**

REGISTRATION COMPLETE  PENFIL008054807  www.padisciplinaryboard.org	<b>NON-WAIVABLE PENALTIES</b>	CHECK ONE	STATUS	FEES	\$ <span style="border: 1px solid black; padding: 2px;">2</span> <span style="border: 1px solid black; padding: 2px;">2</span> <span style="border: 1px solid black; padding: 2px;">5</span> .00
	\$200 LATE FEE AFTER JULY 16	<input checked="" type="checkbox"/>	Active	\$225	
	\$400 LATE FEE AFTER AUGUST 1	<input type="checkbox"/>	Inactive	\$100	
	\$100 RETURNED PAYMENT FEE	<input type="checkbox"/>	Retired	None	
<b>CURRENT STATUS: Active</b>					

**ATTORNEY DATA**

1. NAME AND PREFERRED MAILING ADDRESS: <input type="checkbox"/> Public ID# 201295 Royce W. Smith ROYCE SMITH LLC 1500 WALNUT ST STE 700 PHILADELPHIA, PA 19102	2. OFFICE ADDRESS: <input checked="" type="checkbox"/> Public ROYCE SMITH LLC 1500 WALNUT ST STE 700 PHILADELPHIA, PA 19102
4. TELEPHONE: (215) 310-9050 SECONDARY TELEPHONE: (215) 694-7818 FAX: (215) 310-9065 E-MAIL: royce@roycesmithllc.com SECONDARY E-MAIL: ntkki@roycesmithllc.com	3. RESIDENCE ADDRESS: 927 SPRUCE ST UNIT 3 PHILADELPHIA, PA 19107
10. NAME OF LAW FIRM, OTHER THAN SOLO, THROUGH WHICH I PRACTICE: <input checked="" type="checkbox"/> I AM NOT EMPLOYED BY A LAW FIRM.	5. COUNTY OF MAILING ADDRESS: Philadelphia 6. S.S.N.: XXX-XX-XXXX 7. BIRTH DATE: 12/26/1978 8. ADMISSION DATE: 11/21/2005 9. RACE/GENDER: Answered
11. NAME OF ORGANIZATION THROUGH WHICH I PRACTICE: (e.g. CORP. LEGAL DEPT., GOV'T LEGAL DEPT., LEGAL SERVICE, D.A.'s OFFICE, PUBLIC DEFENDER): <input checked="" type="checkbox"/> I AM NOT EMPLOYED BY AN ORGANIZATION.	
12. LIST ALL COURTS (EXCEPT COURTS OF THIS COMMONWEALTH) AND JURISDICTIONS IN WHICH YOU HAVE BEEN LICENSED TO PRACTICE LAW AND THE CURRENT STATUS THEREOF: <input checked="" type="checkbox"/> I HAVE NO JURISDICTIONS TO REPORT.	

STATE/FEDERAL COURT	ACTIVE	INACTIVE	ADMIN. SUSP.	RETIRED	RESIGNED	SUSPENDED DISBARRED ETC

**FINANCIAL DATA**

13. FROM MAY 1, 2019 TO DATE OF FILING THIS FORM, NAME OF EACH FINANCIAL INSTITUTION, ACCOUNT NUMBER AND LOCATION (STATE) OF:

A) EVERY ACCOUNT WITHIN OR OUTSIDE PENNSYLVANIA IN WHICH I OR MY EMPLOYER/LAW FIRM HELD MY CLIENT OR THIRD-PARTY FUNDS SUBJECT TO PA.R.P.C. 1.15;  
*NOTE: RULE 1.15 FUNDS ARE FUNDS WHICH THE LAWYER RECEIVES FROM A CLIENT OR THIRD PERSON IN CONNECTION WITH THE CLIENT-LAWYER RELATIONSHIP, OR AS AN ESCROW AGENT, SETTLEMENT AGENT OR REPRESENTATIVE PAYEE, OR AS A FIDUCIARY, OR RECEIVES AS AN AGENT, HAVING BEEN DESIGNATED AS SUCH BY A CLIENT OR HAVING BEEN SO SELECTED AS A RESULT OF A CLIENT-LAWYER RELATIONSHIP OR THE LAWYER'S STATUS AS SUCH.*

B) EVERY ACCOUNT HOLDING FUNDS OF A CLIENT OR THIRD PARTY (WHETHER OR NOT SUBJECT TO PA.R.P.C. 1.15) OVER WHICH I HAD SOLE OR SHARED SIGNATURE AUTHORITY OR AUTHORIZATION TO TRANSFER FUNDS TO OR FROM THE ACCOUNT; AND  
*NOTE: "FUNDS OF A THIRD PERSON" SHALL NOT INCLUDE FUNDS HELD IN: 1) AN ATTORNEY'S PERSONAL ACCOUNT HELD JOINTLY; OR 2) A CUSTODIAL ACCOUNT FOR A MINOR OR DEPENDENT RELATIVE UNLESS THE SOURCE OF ANY ACCOUNT FUNDS IS OTHER THAN THE ATTORNEY AND HIS OR HER SPOUSE.*

C) EVERY BUSINESS/OPERATING ACCOUNT MAINTAINED OR USED BY ME IN THE PRACTICE OF LAW. SEE PA.R.D.E. 219(D)1)(III)-(V)  
 I DO NOT HAVE ANY ACCOUNTS REQUIRED TO BE REPORTED.

BANK CODE	BANK/BROKERAGE NAME	ACCOUNT NUMBER	HOLDS Pa.R.P.C. 1.15 FUNDS	BANK LOCATION	ACCOUNT TYPE IOLTA IOLTA EXEMPT INTEREST FOR CLIENTS OTHER AUTHORIZED ACCOUNTS BUSINESS/OPERATING

**PROFESSIONAL LIABILITY INSURANCE**

<input checked="" type="checkbox"/>	I MAINTAIN, EITHER INDIVIDUALLY OR THROUGH MY FIRM, PROFESSIONAL LIABILITY INSURANCE PURSUANT TO THE PROVISIONS OF RULE OF PROFESSIONAL CONDUCT 1.4(C)
<input type="checkbox"/>	I DO NOT MAINTAIN PROFESSIONAL LIABILITY INSURANCE BECAUSE I DO NOT HAVE PRIVATE CLIENTS AND HAVE NO POSSIBLE EXPOSURE TO MALPRACTICE ACTIONS (E.G., RETIRED, FULL-TIME IN-HOUSE COUNSEL, PROSECUTOR, FULL TIME GOVERNMENT COUNSEL, ETC)
<input type="checkbox"/>	I DO NOT MAINTAIN PROFESSIONAL LIABILITY INSURANCE PURSUANT TO THE PROVISIONS OF RULE OF PROFESSIONAL CONDUCT 1.4(C), BUT I DO HAVE PRIVATE CLIENTS AND/OR A POSSIBLE EXPOSURE TO MALPRACTICE ACTIONS.

**SUCCESSION PLANNING**

The question below is for informational purposes only and failure to have a designated successor is NOT a violation of the Rules of Professional Conduct or the Pennsylvania Rules of Disciplinary Enforcement. The Board would appreciate notification of any change to the provided information should such a change occur prior to the next registration period.

<input type="checkbox"/>	In the event of my death or incapacity, I have made arrangements for another Pennsylvania attorney, who is capable of conducting and/or overseeing my legal practice, to protect the interests of my client(s). My designated successor is:
<input type="checkbox"/>	I do not have a designated successor because I do not have Pennsylvania clients.
<input type="checkbox"/>	I do not currently have a designated successor and I do have Pennsylvania clients.
<input checked="" type="checkbox"/>	I prefer not to answer.

**CERTIFICATION AND AGREEMENT**

<p>I am familiar and in compliance with Rule 1.15 of the Pennsylvania Rules of Professional Conduct regarding the handling of funds and other property of clients and others and the maintenance of IOLTA Accounts, and with Rule 221 of the Pennsylvania Rules of Disciplinary Enforcement regarding the mandatory reporting of overdrafts on fiduciary accounts.</p> <p>I understand that any action brought against me by the Pennsylvania Lawyers Fund for Client Security for the recovery of monies paid by the Fund as a result of claims against me may be brought in the Court of Common Pleas of Allegheny, Dauphin or Philadelphia County.</p> <p>I certify that all information provided in connection with this form is complete and accurate.</p>
---



**2019 - 2020 PA ATTORNEY'S ANNUAL FEE FORM**

**DUE ON OR BEFORE JULY 1, 2019**

REGISTRATION COMPLETE  PENFIL006675354  www.padisciplinaryboard.org	<b>NON-WAIVABLE PENALTIES</b>	CHECK ONE	STATUS	FEES	\$ <span style="border: 1px solid black; padding: 2px;">2</span> <span style="border: 1px solid black; padding: 2px;">2</span> <span style="border: 1px solid black; padding: 2px;">5</span> .00
	\$200 LATE FEE AFTER JULY 16	<input checked="" type="checkbox"/>	Active	\$225	
	\$400 LATE FEE AFTER AUGUST 1	<input type="checkbox"/>	Inactive	\$100	
	\$100 RETURNED PAYMENT FEE	<input type="checkbox"/>	Retired	None	

**CURRENT STATUS:** Active

**ATTORNEY DATA**

1. NAME AND PREFERRED MAILING ADDRESS: <input type="checkbox"/> Public ID# 201295 Royce W. Smith ROYCE SMITH LLC 1500 WALNUT ST STE 700 PHILADELPHIA, PA 19102	2. OFFICE ADDRESS: <input checked="" type="checkbox"/> Public ROYCE SMITH LLC 1500 WALNUT ST STE 700 PHILADELPHIA, PA 19102
4. TELEPHONE: (215) 310-9050 SECONDARY TELEPHONE: FAX: (215) 310-9065 E-MAIL: royce@roycesmithllc.com SECONDARY E-MAIL: nidd@roycesmithllc.com	3. RESIDENCE ADDRESS: 927 SPRUCE ST UNIT 3 PHILADELPHIA, PA 19107  5. COUNTY OF MAILING ADDRESS: Philadelphia 6. S.S.N.: XXX-XX-XXXX 7. BIRTH DATE: 12/26/1978 8. ADMISSION DATE: 11/21/2005 9. RACE/GENDER: Answered
10. NAME OF LAW FIRM, OTHER THAN SOLO, THROUGH WHICH I PRACTICE: Royce Smith, LLC <input type="checkbox"/> I AM NOT EMPLOYED BY A LAW FIRM.	
11. NAME OF ORGANIZATION THROUGH WHICH I PRACTICE: (e.g. CORP. LEGAL DEPT., GOV'T LEGAL DEPT., LEGAL SERVICE, D.A.'s OFFICE, PUBLIC DEFENDER): <input checked="" type="checkbox"/> I AM NOT EMPLOYED BY AN ORGANIZATION.	
12. LIST ALL COURTS (EXCEPT COURTS OF THIS COMMONWEALTH) AND JURISDICTIONS IN WHICH YOU HAVE BEEN LICENSED TO PRACTICE LAW AND THE CURRENT STATUS THEREOF: <input type="checkbox"/> I HAVE NO JURISDICTIONS TO REPORT.	

STATE/FEDERAL COURT	ACTIVE	INACTIVE	ADMIN. SUSP.	RETIRED	RESIGNED	SUSPENDED DISBARRED ETC
New Jersey	X					
New Jersey, USDC	X					
Pennsylvania, USDC Eastern District	X					

**FINANCIAL DATA**

13. FROM MAY 1, 2018 TO DATE OF FILING THIS FORM, NAME OF EACH FINANCIAL INSTITUTION, ACCOUNT NUMBER AND LOCATION (STATE) OF:

A) EVERY ACCOUNT WITHIN OR OUTSIDE PENNSYLVANIA IN WHICH I OR MY EMPLOYER/LAW FIRM HELD MY CLIENT OR THIRD-PARTY FUNDS SUBJECT TO PA.R.P.C. 1.15;  
 NOTE: RULE 1.15 FUNDS ARE FUNDS WHICH THE LAWYER RECEIVES FROM A CLIENT OR THIRD PERSON IN CONNECTION WITH THE CLIENT-LAWYER RELATIONSHIP, OR AS AN ESCROW AGENT, SETTLEMENT AGENT OR REPRESENTATIVE PAYEE, OR AS A FIDUCIARY, OR RECEIVES AS AN AGENT, HAVING BEEN DESIGNATED AS SUCH BY A CLIENT OR HAVING BEEN SO SELECTED AS A RESULT OF A CLIENT-LAWYER RELATIONSHIP OR THE LAWYER'S STATUS AS SUCH.

B) EVERY ACCOUNT HOLDING FUNDS OF A CLIENT OR THIRD PARTY (WHETHER OR NOT SUBJECT TO PA.R.P.C. 1.15) OVER WHICH I HAD SOLE OR SHARED SIGNATURE AUTHORITY OR AUTHORIZATION TO TRANSFER FUNDS TO OR FROM THE ACCOUNT; AND  
 NOTE: "FUNDS OF A THIRD PERSON" SHALL NOT INCLUDE FUNDS HELD IN: 1) AN ATTORNEY'S PERSONAL ACCOUNT HELD JOINTLY; OR 2) A CUSTODIAL ACCOUNT FOR A MINOR OR DEPENDENT RELATIVE UNLESS THE SOURCE OF ANY ACCOUNT FUNDS IS OTHER THAN THE ATTORNEY AND HIS OR HER SPOUSE.

C) EVERY BUSINESS/OPERATING ACCOUNT MAINTAINED OR USED BY ME IN THE PRACTICE OF LAW. SEE PA.R.D.E. 219(D)(1)(III)-(V)  
 I DO NOT HAVE ANY ACCOUNTS REQUIRED TO BE REPORTED.

BANK CODE	BANK/BROKERAGE NAME	ACCOUNT NUMBER	HOLDS Pa.R.P.C. 1.15 FUNDS	BANK LOCATION	ACCOUNT TYPE IOLTA IOLTA EXEMPT INTEREST FOR CLIENTS OTHER AUTHORIZED ACCOUNTS BUSINESS/OPERATING
143	TD Bank, NA	4325289703	Y	PA	IOLTA
	TD Bank, N.A.	4325289696	N	PA	BUSINESS/OPERATING

**PROFESSIONAL LIABILITY INSURANCE**

<input checked="" type="checkbox"/>	I MAINTAIN, EITHER INDIVIDUALLY OR THROUGH MY FIRM, PROFESSIONAL LIABILITY INSURANCE PURSUANT TO THE PROVISIONS OF RULE OF PROFESSIONAL CONDUCT 1.4(C).
<input type="checkbox"/>	I DO NOT MAINTAIN PROFESSIONAL LIABILITY INSURANCE BECAUSE I DO NOT HAVE PRIVATE CLIENTS AND HAVE NO POSSIBLE EXPOSURE TO MALPRACTICE ACTIONS (E.G., RETIRED, FULL-TIME IN-HOUSE COUNSEL, PROSECUTOR, FULL TIME GOVERNMENT COUNSEL, ETC)
<input type="checkbox"/>	I DO NOT MAINTAIN PROFESSIONAL LIABILITY INSURANCE PURSUANT TO THE PROVISIONS OF RULE OF PROFESSIONAL CONDUCT 1.4.(C), BUT I DO HAVE PRIVATE CLIENTS AND/OR A POSSIBLE EXPOSURE TO MALPRACTICE ACTIONS.

**SUCCESSION PLANNING**

The question below is for informational purposes only and failure to have a designated successor is NOT a violation of the Rules of Professional Conduct or the Pennsylvania Rules of Disciplinary Enforcement. The Board would appreciate notification of any change to the provided information should such a change occur prior to the next registration period.

<input type="checkbox"/>	In the event of my death or incapacity, I have made arrangements for another Pennsylvania attorney, who is capable of conducting and/or overseeing my legal practice, to protect the interests of my client(s). My designated successor is:
<input type="checkbox"/>	I do not have a designated successor because I do not have Pennsylvania clients.
<input type="checkbox"/>	I do not currently have a designated successor and I do have Pennsylvania clients.
<input checked="" type="checkbox"/>	I prefer not to answer.

**CERTIFICATION AND AGREEMENT**

I am familiar and in compliance with Rule 1.15 of the Pennsylvania Rules of Professional Conduct regarding the handling of funds and other property of clients and others and the maintenance of IOLTA Accounts, and with Rule 221 of the Pennsylvania Rules of Disciplinary Enforcement regarding the mandatory reporting of overdrafts on fiduciary accounts.

I understand that any action brought against me by the Pennsylvania Lawyers Fund for Client Security for the recovery of monies paid by the Fund as a result of claims against me may be brought in the Court of Common Pleas of Allegheny, Dauphin or Philadelphia County.

I certify that all information provided in connection with this form is complete and accurate.

**2018 - 2019 PA ATTORNEY'S ANNUAL FEE FORM**

**DUE ON OR BEFORE JULY 1, 2018**

ATTORNEY REGISTRATION OFFICE  PENFIL005304658  www.padboard.org	<b>NON-WAIVABLE PENALTIES</b> \$200 LATE FEE AFTER JULY 31	CHECK ONE <input checked="" type="checkbox"/>	STATUS Active	FEES \$225	\$ 2 2 5 .00
	\$400 LATE FEE AFTER AUGUST 31	<input type="checkbox"/>	Inactive	\$100	
	\$100 RETURNED CHECK FEE	<input type="checkbox"/>	Retired	None	
	<b>CURRENT STATUS: Active</b>				

**ATTORNEY DATA**

1. NAME AND PREFERRED MAILING ADDRESS: <input type="checkbox"/> Public ID# 201295 Royce W. Smith ROYCE SMITH LLC 1500 WALNUT ST STE 700 PHILADELPHIA, PA 19102	2. OFFICE ADDRESS: <input checked="" type="checkbox"/> Public ROYCE SMITH LLC 1500 WALNUT ST STE 700 PHILADELPHIA, PA 19102
4. TELEPHONE: (215) 310-9050 FAX: (215) 310-9065 E-MAIL: royce@roycesmithllc.com SECONDARY E-MAIL: nikki@roycesmithllc.com	3. RESIDENCE ADDRESS: 927 SPRUCE ST UNIT 3 PHILADELPHIA, PA 19107
5. COUNTY OF MAILING ADDRESS: Philadelphia	6. S.S.N.: XXX-XX-XXXX 7. BIRTH DATE: 12/28/1978 8. ADMISSION DATE: 11/21/2005 9. RACE/GENDER: Answered
10. NAME OF LAW FIRM, OTHER THAN SOLO, THROUGH WHICH I PRACTICE: Royce Smith, LLC <input type="checkbox"/> NONE/NOT APPLICABLE	
11. NAME OF ORGANIZATION THROUGH WHICH I PRACTICE: (e.g. CORP. LEGAL DEPT., GOVT LEGAL DEPT., LEGAL SERVICE, D.A.'S OFFICE, PUBLIC DEFENDER): <input checked="" type="checkbox"/> NONE/NOT APPLICABLE	
12. LIST ALL COURTS (EXCEPT COURTS OF THIS COMMONWEALTH) AND JURISDICTIONS IN WHICH YOU HAVE BEEN LICENSED TO PRACTICE LAW AND THE CURRENT STATUS THEREOF: <input type="checkbox"/> NONE/NOT APPLICABLE	

STATE/FEDERAL COURT	ACTIVE	INACTIVE	ADMIN. SUSP.	RETIRED	RESIGNED	SUSPENDED DISBARRED ETC
New Jersey	X					
New Jersey, USDC	X					
Pennsylvania, USDC Eastern District	X					

**FINANCIAL DATA**

13. FROM MAY 1, 2017 TO DATE OF FILING THIS FORM, NAME OF EACH FINANCIAL INSTITUTION, ACCOUNT NUMBER AND LOCATION (STATE) OF:

A) EVERY ACCOUNT WITHIN OR OUTSIDE PENNSYLVANIA IN WHICH I OR MY EMPLOYER/LAW FIRM HELD MY CLIENT OR THIRD-PARTY FUNDS SUBJECT TO PA.R.P.C. 1.15;  
 NOTE: RULE 1.15 FUNDS ARE FUNDS WHICH THE LAWYER RECEIVES FROM A CLIENT OR THIRD PERSON IN CONNECTION WITH THE CLIENT-LAWYER RELATIONSHIP, OR AS AN ESCROW AGENT, SETTLEMENT AGENT OR REPRESENTATIVE PAYEE, OR AS A FIDUCIARY, OR RECEIVES AS AN AGENT, HAVING BEEN DESIGNATED AS SUCH BY A CLIENT OR HAVING BEEN SO SELECTED AS A RESULT OF A CLIENT-LAWYER RELATIONSHIP OR THE LAWYER'S STATUS AS SUCH.

B) EVERY ACCOUNT HOLDING FUNDS OF A CLIENT OR THIRD PARTY (WHETHER OR NOT SUBJECT TO PA.R.P.C. 1.15) OVER WHICH I HAD SOLE OR SHARED SIGNATURE AUTHORITY OR AUTHORIZATION TO TRANSFER FUNDS TO OR FROM THE ACCOUNT; AND  
 NOTE: "FUNDS OF A THIRD PERSON" SHALL NOT INCLUDE FUNDS HELD IN: 1) AN ATTORNEY'S PERSONAL ACCOUNT HELD JOINTLY; OR 2) A CUSTODIAL ACCOUNT FOR A MINOR OR DEPENDENT RELATIVE UNLESS THE SOURCE OF ANY ACCOUNT FUNDS IS OTHER THAN THE ATTORNEY AND HIS OR HER SPOUSE.

C) EVERY BUSINESS/OPERATING ACCOUNT MAINTAINED OR USED BY ME IN THE PRACTICE OF LAW. SEE PA.R.D.E. 219(D)1)(II)-(V)  
 NONE/NOT APPLICABLE

BANK CODE	BANK/BROKERAGE NAME	ACCOUNT NUMBER	HOLDS Pa.R.P.C. 1.15 FUNDS	BANK LOCATION	ACCOUNT TYPE IOLTA IOLTA EXEMPT INTEREST FOR CLIENTS OTHER AUTHORIZED ACCOUNTS BUSINESS/OPERATING
143	TD Bank, NA	4325289703	Y	PA	IOLTA

**CHECK ONE PROFESSIONAL LIABILITY INSURANCE**

<input checked="" type="checkbox"/>	I MAINTAIN, EITHER INDIVIDUALLY OR THROUGH MY FIRM, PROFESSIONAL LIABILITY INSURANCE PURSUANT TO THE PROVISIONS OF RULE OF PROFESSIONAL CONDUCT 1.4(C)
<input type="checkbox"/>	I DO NOT MAINTAIN PROFESSIONAL LIABILITY INSURANCE BECAUSE I DO NOT HAVE PRIVATE CLIENTS AND HAVE NO POSSIBLE EXPOSURE TO MALPRACTICE ACTIONS (E.G., RETIRED, FULL-TIME IN-HOUSE COUNSEL, PROSECUTOR, FULL TIME GOVERNMENT COUNSEL, ETC)
<input type="checkbox"/>	I DO NOT MAINTAIN PROFESSIONAL LIABILITY INSURANCE PURSUANT TO THE PROVISIONS OF RULE OF PROFESSIONAL CONDUCT 1.4.(C), BUT I DO HAVE PRIVATE CLIENTS AND/OR A POSSIBLE EXPOSURE TO MALPRACTICE ACTIONS.

**CERTIFICATION AND AGREEMENT**

I am familiar and in compliance with Rule 1.15 of the Pennsylvania Rules of Professional Conduct regarding the handling of funds and other property of clients and others and the maintenance of IOLTA Accounts, and with Rule 221 of the Pennsylvania Rules of Disciplinary Enforcement regarding the mandatory reporting of overdrafts on fiduciary accounts.

I understand that any action brought against me by the Pennsylvania Lawyers Fund for Client Security for the recovery of monies paid by the Fund as a result of claims against me may be brought in the Court of Common Pleas of Allegheny, Dauphin or Philadelphia County.

I certify that all information provided in connection with this form is complete and accurate.

**2017 - 2018 PA ATTORNEY'S ANNUAL FEE FORM**

**DUE ON OR BEFORE JULY 1, 2017**

ATTORNEY REGISTRATION OFFICE  PENFIL004237748  www.padboard.org	<b>NON-WAIVABLE PENALTIES</b> \$200 LATE FEE AFTER JULY 31	CHECK ONE <input checked="" type="checkbox"/>	STATUS Active	FEES \$225	\$ <input type="text" value="2"/> <input type="text" value="2"/> <input type="text" value="5"/> .00
	\$400 LATE FEE AFTER AUGUST 31	<input type="checkbox"/>	Inactive	\$100	
	\$100 RETURNED CHECK FEE	<input type="checkbox"/>	Retired	None	
	<b>CURRENT STATUS: Active</b>				

**ATTORNEY DATA**

1. NAME AND PREFERRED MAILING ADDRESS: <input type="checkbox"/> Public ID# 201295 Royce W. Smith ROYCE SMITH LLC 1500 WALNUT ST STE 700 PHILADELPHIA, PA 19102	2. OFFICE ADDRESS: <input checked="" type="checkbox"/> Public ROYCE SMITH LLC 1500 WALNUT ST STE 700 PHILADELPHIA, PA 19102
4. TELEPHONE: (215) 310-9065 FAX: (215) 310-9065 E-MAIL: royce@roycesmithllc.com	3. RESIDENCE ADDRESS: 927 SPRUCE ST UNIT 3 PHILADELPHIA, PA 19107
5. COUNTY OF MAILING ADDRESS: Philadelphia	6. S.S.N.: XXX-XX-8684
10. NAME OF LAW FIRM, OTHER THAN SOLO, THROUGH WHICH I PRACTICE: <input type="checkbox"/> NONE/NOT APPLICABLE	7. BIRTH DATE: 12/28/1978 8. ADMISSION DATE: 11/21/2005 9. GENDER: Male Royce Smith, LLC
11. NAME OF ORGANIZATION THROUGH WHICH I PRACTICE: (e.g. CORP. LEGAL DEPT., GOVT LEGAL DEPT., LEGAL SERVICE, D.A.'S OFFICE, PUBLIC DEFENDER): <input checked="" type="checkbox"/> NONE/NOT APPLICABLE	
12. LIST ALL COURTS (EXCEPT COURTS OF THIS COMMONWEALTH) AND JURISDICTIONS IN WHICH YOU HAVE BEEN LICENSED TO PRACTICE LAW AND THE CURRENT STATUS THEREOF: <input type="checkbox"/> NONE/NOT APPLICABLE	

STATE/FEDERAL COURT	ACTIVE	INACTIVE	ADMIN. SUSP.	RETIRED	RESIGNED	SUSPENDED DISBARRED ETC
New Jersey	X					
New Jersey, USDC	X					
Pennsylvania, USDC Eastern District	X					

**FINANCIAL DATA**

13. FROM MAY 1, 2016 TO DATE OF FILING THIS FORM, NAME OF EACH FINANCIAL INSTITUTION, ACCOUNT NUMBER AND LOCATION (STATE) OF:

A) EVERY ACCOUNT WITHIN OR OUTSIDE PENNSYLVANIA IN WHICH I OR MY EMPLOYER/LAW FIRM HELD MY CLIENT OR THIRD-PARTY FUNDS SUBJECT TO P.A.R.P.C. 1.15;  
 NOTE: RULE 1.15 FUNDS ARE FUNDS WHICH THE LAWYER RECEIVES FROM A CLIENT OR THIRD PERSON IN CONNECTION WITH THE CLIENT-LAWYER RELATIONSHIP, OR AS AN ESCROW AGENT, SETTLEMENT AGENT OR REPRESENTATIVE PAYEE, OR AS A FIDUCIARY, OR RECEIVES AS AN AGENT, HAVING BEEN DESIGNATED AS SUCH BY A CLIENT OR HAVING BEEN SO SELECTED AS A RESULT OF A CLIENT-LAWYER RELATIONSHIP OR THE LAWYER'S STATUS AS SUCH.

B) EVERY ACCOUNT HOLDING FUNDS OF A CLIENT OR THIRD PARTY (WHETHER OR NOT SUBJECT TO P.A.R.P.C. 1.15) OVER WHICH I HAD SOLE OR SHARED SIGNATURE AUTHORITY OR AUTHORIZATION TO TRANSFER FUNDS TO OR FROM THE ACCOUNT; AND  
 NOTE: "FUNDS OF A THIRD PERSON" SHALL NOT INCLUDE FUNDS HELD IN: 1) AN ATTORNEY'S PERSONAL ACCOUNT HELD JOINTLY; OR 2) A CUSTODIAL ACCOUNT FOR A MINOR OR DEPENDENT RELATIVE UNLESS THE SOURCE OF ANY ACCOUNT FUNDS IS OTHER THAN THE ATTORNEY AND HIS OR HER SPOUSE.

C) EVERY BUSINESS/OPERATING ACCOUNT MAINTAINED OR USED BY ME IN THE PRACTICE OF LAW. SEE P.A.R.D.E. 219(D)1)(III)-(V)  
 NONE/NOT APPLICABLE

BANK CODE	BANK/BROKERAGE NAME	ACCOUNT NUMBER	HOLDS Pa.R.P.C. 1.15 FUNDS	BANK LOCATION	ACCOUNT TYPE IOLTA IOLTA EXEMPT INTEREST FOR CLIENTS OTHER AUTHORIZED INVESTMENTS BUSINESS/OPERATING
143	TD Bank, NA	4325289703	Y	PA	IOLTA

**CHECK ONE PROFESSIONAL LIABILITY INSURANCE**

<input checked="" type="checkbox"/>	I MAINTAIN, EITHER INDIVIDUALLY OR THROUGH MY FIRM, PROFESSIONAL LIABILITY INSURANCE PURSUANT TO THE PROVISIONS OF RULE OF PROFESSIONAL CONDUCT 1.4(C)
<input type="checkbox"/>	I DO NOT MAINTAIN PROFESSIONAL LIABILITY INSURANCE BECAUSE I DO NOT HAVE PRIVATE CLIENTS AND HAVE NO POSSIBLE EXPOSURE TO MALPRACTICE ACTIONS (E.G., RETIRED, FULL-TIME IN-HOUSE COUNSEL, PROSECUTOR, FULL TIME GOVERNMENT COUNSEL, ETC)
<input type="checkbox"/>	I DO NOT MAINTAIN PROFESSIONAL LIABILITY INSURANCE PURSUANT TO THE PROVISIONS OF RULE OF PROFESSIONAL CONDUCT 1.4(C), BUT I DO HAVE PRIVATE CLIENTS AND/OR A POSSIBLE EXPOSURE TO MALPRACTICE ACTIONS.

**CERTIFICATION AND AGREEMENT**

I am familiar and in compliance with Rule 1.15 of the Pennsylvania Rules of Professional Conduct regarding the handling of funds and other property of clients and others and the maintenance of IOLTA Accounts, and with Rule 221 of the Pennsylvania Rules of Disciplinary Enforcement regarding the mandatory reporting of overdrafts on fiduciary accounts.

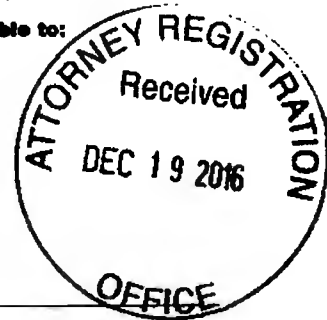
I understand that any action brought against me by the Pennsylvania Lawyers Fund for Client Security for the recovery of monies paid by the Fund as a result of claims against me may be brought in the Court of Common Pleas of Allegheny, Dauphin or Philadelphia County.

I certify that all information provided in connection with this form is complete and accurate.

2016-17 PA ADMINISTRATIVE CHANGE IN STATUS FORM

Return Completed Form and Make Check/Money Order Payable to:

PA ATTORNEY REGISTRATION
601 Commonwealth Avenue, Suite 5800
P.O. Box 84025
Harrisburg, PA 17165-2626



Current Status: Administrative Suspension

New Status: Active

Total Amount Due: \$900

ATTORNEY DATA

Name of Attorney: Royce Smith PA ID#: 201295

(Pa.R.D.E. Rule 219(d)(1)(ii) requires that the current office and residence address of all attorneys shall have an actual street address or rural box number. However, a preferred mailing address different from those addresses may be a post office box number. The address checked below will be accessible on the Internet through searches performed at the Disciplinary Board website and by written or oral request. If for good cause, you do not wish to have an address posted on the website, please write the Registrar at the address listed above.)

All Addresses Required - Must Check One Address for Public Access Use

Office Address: 1500 Walnut Street - Suite 700 - Philadelphia, PA 19102

Residence Address:

Mailing Address: Office Residence Other:

E-Mail Address (will not be published or shared): Royce@RoyceSmithLLC.com

Telephone: 215-310-9050 Fax: 215-310-9065

- 1. Name of law firm through which I practice, if applicable.
2. Name of organization through which I practice, if applicable.
3. Other than the Commonwealth of PA, listed are jurisdictions where I have ever been licensed as a lawyer and the current status thereof.
None/Not Applicable New Jersey DJT EDAA

ELIGIBLE INSTITUTIONS

- 4. From May 1, 2015 to date of filing this form, name of each financial institution, account number and location (state) of:
A) Every account within or outside PA in which I or my employer/law firm held any client or third-party funds subject to Pa.R.P.C. 1.15;
B) Every account holding funds of a client or third party (whether or not subject to Pa.R.P.C. 1.15) over which I had sole or shared signature authority or authorization to transfer funds to or from the account; and
C) Every business/operating account maintained or used by me in the practice of law. See Pa.R.D.E. 219(d)(1)(ii) - (v)
Provide Bank/Brokerage Name, Account Number, if the account holds Pa.R.P.C. 1.15 Funds, Bank Location (State), and Account Type (IOLTA, IOLTA Exempt, Interest for Clients, Other Authorized Investments, or Business/Operating)
\*HOLDS Pa.R.P.C. 1.15 FUNDS is defined as any account "established to hold client/third party funds related to the practice of law in Pennsylvania."
None/Not Applicable

(CHECK ONE) PROFESSIONAL LIABILITY INSURANCE

- I maintain, either individually or through my firm, professional liability insurance pursuant to the provisions of Rule of Professional Conduct 1.4(c).
I do not maintain professional liability insurance because I do not have private clients and have no possible exposure to malpractice actions (e.g. retired, full-time in-house counsel, prosecutor, full-time government counsel, etc.)
I do not maintain professional liability insurance pursuant to the provisions of Rule of Professional Conduct 1.4(c), but I do have private clients and/or possible exposure to malpractice actions.

CERTIFICATION, AGREEMENT and SIGNATURE

I am familiar and in compliance with Rule 1.15 of the PA Rules of Professional Conduct regarding the handling of funds and other property of clients and third persons and the maintenance of IOLTA Accounts and with Pa.R.D.E. Rule 221 regarding the mandatory reporting of overdraft on trust accounts.
I certify that all Trust Accounts that I maintain are in financial institutions approved by the Supreme Court of Pennsylvania for the maintenance of such accounts pursuant to Pa.R.D.E. 221 (relating to mandatory overdraft notification) and that each Trust Account has been identified as such to the financial institution in which it is maintained.
I further certify that there are no outstanding orders of suspension or disbarment against me as of the date of this application and that the information provided is true. If any statements made on this form are false, I realize I am subject to discipline by the Supreme Court.
I hereby agree that any action brought against me by the Pennsylvania Lawyers Fund for Client Security for the recovery of monies paid by the Fund as a result of claims against me may be brought in the Court of Common Pleas of Allegheny, Dauphin or Philadelphia County.

Date: 12/16/16 Signature (Required): [Signature]

# Exhibit D

**SUPREME COURT OF NEW JERSEY**  
District XIV Ethics Committee  
Docket No. XIV-2019-0048E

**IN THE MATTER OF**

**ROYCE W. SMITH,**

**AN ATTORNEY-AT-LAW**

**DISCIPLINARY ACTION**

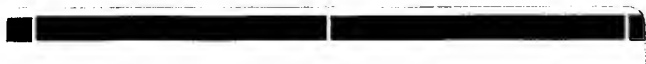
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**DISCIPLINARY STIPULATION**

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CHARLES CENTINARO, DIRECTOR  
OFFICE OF ATTORNEY ETHICS  
P.O. BOX 963  
TRENTON, NEW JERSEY 08625

Ryan J. Moriarty  
Deputy Ethics Counsel  
Of Counsel

—  —  
Exhibit D

**THIS STIPULATION** is made and entered into between Royce W. Smith, Esq., (Respondent) and the Office of Attorney Ethics (OAE), Charles Centinaro, Director, by Ryan J. Moriarty, Deputy Ethics Counsel. This Stipulation is entered in accord with R. 1:20-15(f).

Respondent violated RPC 1.5(a) and R. 1:21-7(d) (unreasonable fee), RPC 1.15(d) (failure to maintain records in accordance with R. 1:21-6), RPC 8.1(b) and R. 1:21-6(h) & (i) (failure to cooperate with lawful demand for information by a disciplinary authority) and RPC 1.15(a) (negligent misappropriation of client funds). The pertinent facts are set forth below. Exhibits 1 through 21 are attached hereto and incorporated herein.

1. Respondent was admitted to practice law in the State of New Jersey in 2004.
2. Respondent is currently administratively ineligible for his failure to comply with the requirements of the Lawyer's Fund For Client Protection and the Board on Continuing Education.
3. At the time of the events forming the basis for this Stipulation, Respondent's law office was located at 1500 Walnut Street, Suite 700, Philadelphia, Pennsylvania 19102.
4. Respondent maintained the following accounts in connection with the practice of law:<sup>1</sup>
  - a. Pennsylvania Attorney Trust Account ("ATA") ending in 9703 at TD Bank;
  - b. Pennsylvania Attorney Business Account ("ABA") ending in 9696 at TD Bank;
  - c. New Jersey Attorney Trust Account ("ATA2") ending in 1791 at Republic Bank;
  - d. New Jersey Attorney Business Account ("ABA2") ending in 1759 at Republic Bank.
5. On December 27, 2018, District XII Fee Arbitration Committee referred the matter to the OAE for investigation.

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<sup>1</sup> The subject of the investigation focused on the accounts held at TD Bank as Respondent did not maintain New Jersey accounts until notified of the requirement by the OAE during the investigation.



6. On January 30, 2019, the OAE docketed the matter for investigation to review Respondent's books and records in accordance with R. 1:21-6.
7. On March 31, 2020, the OAE filed a motion seeking Respondent's immediate temporary suspension from the practice of law. As of the date of this Stipulation, the motion is still pending before the Court. **(Exhibit 1)**<sup>2</sup>

***Unreasonable fee***

8. On December 4, 2017, Cinquetta Frazier ("Frazier") retained Respondent to represent her in a medical malpractice matter in New Jersey. **(Exhibit 2)**
9. On March 5, 2018, Respondent settled Frazier's matter for \$49,000. **(Exhibit 2)**
10. On June 9, 2018, Respondent created the following distribution sheet:

Settlement:	\$ 49,000.00
Respondent's legal fee	<u>\$ 16,333.33</u>
Net to Client:	\$ 32,666.67
Costs:	
Law Cash - Loan	\$ 4,500.00
Firm Travel Reimbursement	\$ 3,057.86
Janer Robel, RN - Expert	\$ 1,737.50
Transportation	\$ 650.00
Signature - Lien Request	\$ 50.00
Courier/FedEx/Postage/Copying	<u>\$ 276.00</u>
	\$ 11,024.86
Payable to Client	\$ 21,641.81

**(Exhibit 3)**

11. The distribution sheet provided by Respondent was not signed or dated by Frazier. **(Exhibit 3)**

<sup>2</sup> Respondent has indicated his willingness to consent to temporary suspension. A consent order has been provided to him contemporaneously with the present matter. The OAE will keep the Board apprised of the status of the motion for temporary suspension.

12. Respondent advised that a signed distribution sheet was received by his office but that he later turned it over to Frazier as part of her file and could not produce one as part of this investigation.
13. Respondent calculated his fee based upon the gross settlement rather than the net settlement. **(Exhibit 3)**
14. Respondent advised that this calculation error was unknowingly made.
15. Respondent calculated the total expenses as \$11,024.81. However, the totaled expenses were \$10,271.36. Therefore, Respondent miscalculated expenses by \$753.50.
16. Had Respondent properly calculated the contingent fee pursuant to R. 1:21-7, his fee would have been \$12,909.21 and Frazier would be due \$25,818.43.
17. In so doing, Respondent violated the Rules of Professional Conduct as follows:
  - a. **RPC 1.5(a) and R. 1:21-7** in that Respondent calculated his fee based upon the gross settlement rather than the net settlement.

***Failure to maintain records in accordance with R. 1:21-6 and Non-Cooperation with Disciplinary Authorities in violation of RPC 8.1(b) and Court Rule 1:21-6(h) & (i)***

18. On March 27, 2019, the OAE sent a letter to Respondent and scheduled him for a demand audit of his books and records on April 25, 2019. **(Exhibit 4)**
19. In the March 27, 2019 letter, the OAE requested that Respondent provide his ATA records in accordance with R. 1:21-6 including client ledger cards, three-way reconciliations, schedule of client balances, receipts and disbursements journals and ABA receipts and disbursements journals. **(Exhibit 4)**
20. On April 22, 2019, Kim D. Ringler, Esq. ("Ringler") sent a letter to the OAE and advised that she had been retained to represent Respondent and requested an adjournment of the scheduled demand audit interview. **(Exhibit 5)**

21. On April 29, 2019, the OAE sent a letter to Ringler and directed Respondent to provide the requested documents in the March 27, 2019 letter (see **Exhibit 4**) by May 17, 2019 and rescheduled the audit for May 22, 2019. (**Exhibit 6**)
22. On May 13, 2019, Ringler provided an incomplete response to the OAE's request for records. Respondent, through Ringler, provided only ABA and ATA statements, but did not provide client ledger cards, ATA three-way reconciliations, ATA receipts and disbursements journals and ABA receipts and disbursement journals. (**Exhibit 7**)
23. On May 22, 2019, the OAE conducted a demand audit of Respondent's books and records. (**Exhibit 8**)
24. During the May 22, 2019 demand audit interview, Respondent did not provide his records in accordance with R. 1:21-6. (**Exhibit 8**)
25. During the demand audit interview on May 22, 2019, the OAE noted that Respondent's records were not kept in accordance with R. 1:21-6. Specifically, the OAE noted the following deficiencies:
  - a. No three-way reconciliations of ATA [R. 1:21-6(c)(1)(H)];
  - b. No client ledger cards [R. 1:21-6(c)(1)(B)];
  - c. No ATA receipts and disbursements journals [R. 1:21-6(c)(1)(A)];
  - d. No ABA receipts and disbursements journals [R. 1:21-6(c)(1)(A) and R. 1:21-6(b)(1)(A)];
  - e. Improper designation on ATA [R. 1:21-6(a)(1)];
  - f. Improper designation on ABA [R. 1:21-6(a)(2)];
  - g. Online transfers were not on written instructions [R. 1:21-6(C)(1)(a)];
  - h. Failure to maintain New Jersey ATA and ABA [R. 1:21-6(a)(1)] (**Exhibit 11**)

26. On May 29, 2019, the OAE sent a letter to Ringler directing Respondent to provide additional documents and updated corrected records. **(Exhibit 9)**
27. On August 16, 2019, after several unsuccessful attempts by Respondent to correct his books and records with assistance from Ringler, Respondent advised that he had retained a legal bookkeeping firm to assist in the reconstruction process. **(Exhibit 10)**
28. On September 29, 2019, Ringler provided the OAE with updated records that were created with the assistance of the bookkeeper. **(Exhibit 11)**
29. The records provided in the September 29, 2019 letter were again incomplete as the client ledger cards provided were incomplete and inaccurate and the three-way reconciliations were incomplete and inaccurate. **(Exhibit 11 & 13)**
30. On October 18, 2019, the OAE sent a letter to Ringler scheduling Respondent for a second demand audit interview on November 7, 2019. **(Exhibit 12)**
31. On November 7, 2019, the OAE conducted the second demand audit interview with Respondent who appeared with Ringler. **(Exhibit 13)**
32. During the November 7, 2019 interview, the OAE reviewed the provided records with Respondent and Ringler and specifically noted the deficiencies with the provided records and the inability to reconcile the ATA. **(Exhibit 13)**
33. On November 8, 2019, the OAE sent a letter to Ringler outlining the requested updated documents and remedial measures necessary for Respondent to bring his records into compliance with R. 1:21-6. **(Exhibit 14)**
34. On March 12, 2020, after several back and forth communications between the OAE and Ringler, Respondent sent a letter to the OAE and advised that he was no longer represented by Ringler. **(Exhibit 15)**

35. Respondent further noted that he was unable to address the issues that the OAE noted and that he was therefore amendable to a temporary suspension from the practice of law in New Jersey. (See Paragraph 4, supra) (Exhibit 15)
36. In so doing, Respondent violated the Rules of Professional Conduct as follows:
- a. RPC 1.15(d) in that Respondent failed to maintain the required books and records in accordance with R. 1:21-6 as detailed in paragraph 23, supra.
  - b. RPC 8.1(b) in that Respondent failed to cooperate with the OAE in that he did not maintain records as required by R. 1:21-6 and the principles of R. 1:21-6(h) and (i).

*Negligent misappropriation of client funds<sup>3</sup>*

37. On March 4, 2019, Respondent made three transfers from his ATA to his ABA totaling \$1,950 on behalf of his client, Leora Tucker (“Tucker”) before he received his client’s settlement proceeds. (Exhibit 16)
38. On March 8, 2019, Respondent deposited Tucker’s proceeds into his ATA. (Exhibit 16)
39. By transferring the \$1,950 prior to receiving Tucker’s proceeds, Respondent invaded funds of the following clients:

Client	Amount
Unidentified <sup>4</sup>	\$5,319.55
Owens, Sonya	\$196.52
Campbell, Eunice	\$999.25
Young, Joanne	\$4,383.31

<sup>3</sup> Respondent did not maintain his books and records in accordance with R. 1:21-6 contemporaneously with the transactions. The allegations regarding the negligent misappropriations reflect the information provided by Respondent during the course of the investigation where he attempted to attribute his online transfers between his ATA and ABA several months after the transactions occurred. Although the transactions described herein appear to be consistent with knowing misappropriation, the OAE was unable to prove this violation to the standard of clear and convincing evidence due the lack of the records maintained by Respondent and the independent efforts of the OAE to properly reconstruct his accounts.

<sup>4</sup> Respondent advised that the unidentified funds were not attributable to him.

40. Between April 5, 2019 and April 8, 2019, Respondent made four online transfers, totaling \$9,800 from his ATA to his ABA on behalf of his client, Mt. Olivet Tabernacle Church (“Mt. Olivet”) before he received his client’s proceeds. (**Exhibit 17**)
41. On April 11, 2019, Respondent deposited \$90,000 on behalf of Mt. Olivet into his ATA.
42. By transferring the funds prior to receiving his client’s proceeds, Respondent invaded funds of the following clients:

Client	Amount
Owens, Sonya	\$196.52
Campbell, Eunice	\$999.25
Young, Joanne	\$4,383.31
Tucker, Leora	\$3,174.59

43. On April 16, 2019, Respondent made an online transfer of \$20,000 from his ATA to his ABA. \$10,000 of the transfer was attributable to Mt. Olivet, decreasing the client ledger balance to (\$4,800). (**Exhibit 17**)
44. By transferring the funds prior to receiving his client’s proceeds, Respondent invaded funds of the following clients:

Client	Amount
Owens, Sonya	\$196.52
Campbell, Eunice	\$999.25
Young, Joanne	\$4,383.31
Tucker, Leora	\$3,174.59
1902 Holding, LLC	5,507.98
Pembelton, ShaMonte	12,000.00

45. Between November 14, 2018 and November 26, 2018, Respondent made five online transfers, totaling \$3,750, from his ATA to his ABA on behalf of his client Sonya Owens (“Owens”). (Exhibit 18)
46. On November 27, 2018, Respondent deposited \$45,000 on behalf of Owens into his ATA.
47. By transferring the funds prior to receiving Owens’ proceeds, Respondent invaded funds of the following clients:

Client	Amount
Unidentified <sup>5</sup>	\$7,019.55
Campbell, Eunice	\$999.25

48. Between December 6, 2018 and December 19, 2018, Respondent made six online transfers totaling \$4,175 from his ATA to his ABA on behalf of his client Dorothea Cavalli (Cavalli). (Exhibit 19)
49. On December 27, 2018, Respondent deposited \$25,000 on behalf of Cavalli. (Exhibit 19)
50. By transferring the funds prior to receiving the client’s proceeds, Respondent invaded funds of the following clients:

Client	Amount
Unidentified <sup>6</sup>	\$7,019.55
Owens, Sonya	\$196.52
Campbell, Eunice	\$999.25
Green, Demetrius	\$5,000.00
Whitefield, Keith	\$3,000.00

<sup>5</sup> See fn. 3, *supra*.

<sup>6</sup> See fn. 3, *supra*.

51. On January 29, 2019, Respondent made an online transfer of \$7,000 from his ATA to his ABA on behalf of Cavalli.
52. On January 29, 2019, Cavalli's ledger balance was only \$5,272.63. (Exhibit 19)
53. The January 29, 2019 \$7,000 transfer decreased Cavalli's ledger card balance to (1,727.37) and invaded funds of the following clients:

Client	Amount
Unidentified <sup>7</sup>	\$7,019.55
Owens, Sonya	\$196.52
Campbell, Eunice	\$999.25
Young, Joanne	\$54,000.00

54. On August 9, 2019, Respondent issued ATA check #125 in the amount of \$7,000 to client Basil Lester ("Lester") designated "final settlement". (Exhibit 20)
55. On August 9, 2019, Lester deposited the check.
56. On August 9, 2019, Lester's client ledger card was only \$6,532. (Exhibit 21)
57. Check #125 decreased Lester's client ledger card balance to (\$468) and invaded funds of the following clients:

Client	Amount
Owens, Sonya	\$196.52
Campbell, Eunice	\$999.25
Tucker, Leora	\$3,174.59
1902 Holding LLC	\$11,923.38
Pembelton, ShaMonte	\$855.00

<sup>7</sup> See fn. 3, *supra*.



Lighteard, Shamika	\$4,514.74
Henley, Herriet	\$13,240.48

58. In so doing, Respondent violated the Rules of Professional Conduct as follows:

- a. **RPC 1.15(a)** in that Respondent negligently misappropriated client funds by transferring funds from his ATA to his ABA before depositing the fees to his ATA.

### **C. REPRESENTATIONS**

By entering into this Stipulation, Respondent waives a public hearing,<sup>8</sup> it being agreed that the matter may proceed directly to the Disciplinary Review Board (hereinafter the "Board") in accordance with Rule 1:20-15(f) for the sole purpose of determining the extent of final discipline to be imposed.

Respondent shall have the right to present relevant and material written evidence of non-causal mitigating factors to the Board which relate to the issue of the quantum of discipline to be imposed. Ethics Counsel shall have an equal right to produce relevant and material written evidence of aggravating factors to the Board directed to the issue of the quantum of discipline to be imposed. Any such mitigating or aggravating evidence shall be in writing and in accordance with the briefing schedule determined by the Board. No evidence may be submitted by either party which is inconsistent with the essential facts set forth in this Stipulation.

It is understood that, other than in this or any reciprocal disciplinary proceeding or proceeding before the Lawyers' Fund for Client Protection, this Stipulation is not to be utilized in any matter, whether civil or criminal, nor shall it be deemed to be an admission of any wrongdoing on the part of the Respondent.

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<sup>8</sup> A complaint was issued on May 26, 2020 and Respondent submitted his answer on August 7, 2020.

#### **D. RECOMMENDED DISCIPLINE**

For the following reasons, the OAE hereby expresses its recommendation of discipline of a discipline of a six-month suspension<sup>9</sup> or such lesser discipline that the Board deems appropriate. The OAE's recommendation for discipline is not binding on Respondent, the Disciplinary Review Board, or the Supreme Court.

Charging an unreasonable fee ordinarily warrants an admonition if it is limited to one incident. See, e.g., In the Matter of Angelo Bisceglie, Jr., DRB 98-129 (September 24, 1998) (admonition for attorney who billed a Board of Education for work not authorized by that Board, although it was authorized by its president; the fee charged was unreasonable, but did not reach the level of overreaching) and In the Matter of Robert S. Ellenport, DRB 96-386 (June 11, 1997) (admonition for attorney who received \$500 in excess of the contingent fee permitted by the Rules).

If the charge is so excessive as to evidence an intent to overreach the client, then the more severe discipline of a reprimand is required. See, e.g., In re Doria, 230 N.J. 47 (2017) (attorney refused to return any portion of a \$35,000 retainer after the client terminated the representation; the Board upheld a fee arbitration determination awarding the client the return of \$34,100 of the \$35,000 retainer; the Board determined that the fee was so excessive as to evidence an intent to overreach; thereafter, the attorney promptly returned the \$34,100 to the client) and In re Read, 170 N.J. 319 (2000) (attorney charged grossly excessive fees in two estate matters and presented inflated time records to justify the high fees; strong mitigating factors considered).

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<sup>9</sup> There is currently a motion for Respondent's temporary suspension pending. Should Respondent be suspended, the OAE has no objection to any disciplinary suspension running retroactive to the start of the temporary suspension.

The facts of the fee overreaching in the Frazier matter do not support a finding that Respondent was engaging in fee overreaching. Rather, the facts support, as Respondent has submitted, that the miscalculation was the result of an unawareness of the proper calculation. Upon being made aware of this, Respondent rectified the situation. Accordingly, the appropriate quantum of discipline for the unreasonable fee would be an admonition.

Recordkeeping violations are ordinarily met with an admonition, so long as there is no negligent misappropriation of client funds. See, e.g., In the Matter of Eric Salzman, DRB 15-064 (May 27, 2015) and In the Matter of Leonard S. Miller, DRB 14-178 (September 23, 2014). However, if the recordkeeping violations are accompanied by negligent misappropriation of client funds, a reprimand is routinely imposed. See, In re Cameron, 221 N.J. 238 (2015) (after the attorney deposited \$8,000 into his trust account, earmarked to satisfy a second mortgage on a property that his two clients intended to purchase, he disbursed \$3,500, representing legal fees that the clients owed him for prior matters, leaving in his trust account \$4,500 for the clients, in addition to \$4,406.77 belonging to other clients; when the deal fell through, the attorney, who had forgotten about the \$3,500 disbursement, issued an \$8,000 refund to one of the clients, thereby invading the other clients' funds, a violation of RPC 1.15(a); upon learning of the overpayment, he rectified it and the ensuing demand audit revealed "various recordkeeping deficiencies," in violation of RPC 1.15(d)); In re Wecht, 217 N.J. 619 (2014) (attorney's inadequate records caused him to negligently misappropriate trust funds, violations of RPC 1.15(a) and RPC 1.15(d)); and In re Gleason, 206 N.J. 139 (2011) (attorney negligently misappropriated client funds by disbursing more than he had collected in five real estate transactions in which he represented a client; the excess disbursements, which were the result of the attorney's poor recordkeeping practices, were solely for the benefit of the client; the attorney also failed to memorialize the basis or rate of his fee)

Although a reprimand is the usual quantum of discipline for negligent misappropriation, there are circumstances in which a Respondent's reckless handling of client funds can result in a higher level of discipline. See, e.g., In re Kim, 222 N.J. 3 (2015) (six-month suspension imposed on attorney whose accounting system and recordkeeping practices were horrendously reckless and whose knowledge of his recordkeeping responsibilities was so lacking that he did not even understand what the documents that the OAE had requested were, and willfully disregarded his recordkeeping obligations, placing his clients' funds at great risk); In re Bevacqua, 180 N.J. 21 (2004) (six-month suspension for attorney who misappropriated a client's funds; he wire-transferred an earned legal fee of \$5,000 from his trust account to his business account; when his attempts to withdraw monies from the business account were unsuccessful, he assumed that the transfer had not gone through, when in fact it had; he then used \$5,000 from his trust account for personal and business expenses, thereby invading a client's funds; the attorney had a practice of leaving earned fees in his trust account to satisfy his personal and office bills; the attorney's conduct toward his recordkeeping responsibilities was found to have been reckless; he also engaged in a conflict of interest by representing clients with adverse interests; prior reprimand); In re White, 192 N.J. 443 (six-month suspension, on a motion for reciprocal discipline for attorney disbarred in New York, who failed to report his disbarment to New Jersey disciplinary authorities; the attorney was found guilty in New York of converting client funds, commingling trust and personal funds, making twenty-seven ATM withdrawals, negligently misappropriating at least \$2,752.98 in trust funds during a nine-month period, and engaging in recordkeeping violations; the attorney admitted the facts in the petition but claimed that his "mistakes" were due to carelessness; he made no attempt to maintain adequate records or to review recordkeeping rules, even after disciplinary proceedings were instituted against him; his refusal to review, learn, or implement the recordkeeping requirements caused the misuse of escrow funds; his recordkeeping

was found to be not merely "'totally inadequate,' but virtually nonexistent;" the record, however, did not clearly and convincingly support a finding of knowing misappropriation; we considered as significant aggravating factors that the attorney never reviewed the recordkeeping rules, even after disciplinary proceedings were instituted against him and made no attempt at adequate trust account recordkeeping).

In re Ichel, 126 N.J. 217 (1991), the attorney was suspended for a period of six-months after he was found guilty of reckless handling of his trust account funds. Specifically, on ninety occasions, Ichel withdrew legal fees from his trust account before either a recovery in personal injury cases or settlement in real estate or estate matters which caused an overdraft. Icehl argued that the overdraft was caused by a misconception regarding the available personal funds he had in his account. The Passage of nine years since the conduct and the imposition of discipline justified a six-month suspended suspension. Ichel had no prior discipline.

In re Gallo, 117 N.J. 365 (1989), the attorney was suspended for three months for poor recordkeeping practices. Gallo left earned legal fees in his trust account, paid all of his operating expenses .from his trust account, never kept a running balance of the account, and never used client ledger cards. As a result, Gallo never knew how much money was in hi trust account or to whom the funds belonged. *Id.* at 368. Gallo had taken over another attorney's practice, inheriting over 200 files in a completely disorganized state. *Ibid.* In addition, he had adopted the same improper practice utilized by the attorney for whom he had previously worked. *Id.* at 371;373. Gallo's inadequate bookkeeping practices led to the invasion of clients' funds on numerous occasions. *Id.* at 369-370. The Court's opinion emphasized the seriousness of Gallo's inadequate accounting methodology. *Id.* at 373. Gallo had no prior discipline.

Respondent's negligent misappropriation requires a level of discipline higher than a reprimand. Despite his very active personal injury practice and constant receipt of client funds,

Respondent did not undertake efforts to ensure that the funds he was receiving, and disbursing were accurate. His conduct was beyond mere negligence and rather fell into the reckless category. Respondent's conduct is in line with that of the attorneys in Kim, Bevacqua, White, and Ichel, supra, and therefore taking into account the below aggravating and mitigating factors, the appropriate quantum of discipline is a six month suspension or such lesser discipline as the Board deems appropriate. In addition, as a condition of Respondent's reinstatement, he should be required to provide quarterly three-way reconciliations to the OAE for a period of two-years.

Therefore, based upon the foregoing and the following aggravating and mitigating factors, the OAE recommends the imposition of a six-month suspension or such lesser discipline as the Board deems appropriate. As a condition of reinstatement Respondent should be required to produce all outstanding items previously requested by the OAE. In addition, , he should be required to provide quarterly three-way reconciliations to the OAE for a period of two years.

## **E. AGGRAVATING AND MITIGATING CIRCUMSTANCES**

### **1. Aggravating Factors**

- a. Failure to remediate despite opportunities to do so. In re Silber, 100 N.J. 517 (1985).

### **2. Mitigating Factors**

- a. Respondent was admitted to the Bar in 2004 and has no prior disciplinary history. In re Convery, 166 N.J. 298, 308 (2001).
- b. Respondent has readily admitted to his unethical conduct and has entered into this discipline by consent.

Respondent undertook significant efforts to remediate his recordkeeping deficiencies and reconcile his accounts including engaging experienced ethics defense counsel and a legal bookkeeping firm to recreate his accounts. However, due to Respondent's reckless handling of

his trust account and failure to maintain contemporaneous records with the electronic transfers, even these professionals were unable to accurately recreate his accounts. As a failure to remediate despite opportunities to do so is an aggravating factor, see In re Silber, supra and subsequent remedial measures is a mitigating factor, see In re Librizzi, 117 N.J. 481 (1990), the OAE submits these circumstances to the Board for proper consideration.


**F. SIGNATURES**

  
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Charles Centinaro, Esq., Director

1/27/21  
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Dated

  
\_\_\_\_\_  
Ryan J. Moriarty, Esq. Deputy Ethics Counsel

1/27/2021  
\_\_\_\_\_  
Dated

  
\_\_\_\_\_  
Royce W. Smith, Esq. Respondent

1-4-2021  
\_\_\_\_\_  
Dated

**Office of Attorney Ethics vs. Royce W. Smith, Esq.  
Docket No. XIV-2019-0048E  
Disciplinary Stipulation Exhibit List**

	<b>Office of Attorney Ethics vs. Royce W. Smith, Esq. Docket No. XIV-2019-0048E Disciplinary Stipulation Exhibit List</b>
1	Office of Attorney Ethics (OAE) cover letter to Supreme Court dated March 31, 2020, Petition for Immediate Temporary Suspension and Affidavit in Support of Petition w/o exhibits.
2	Royce Smith (Smith) letter to OAE dated March 15, 2019 w/encl check only 1156.
3	Smith Statement of Distribution Sheets to Cinquetta Frazier dated June 9, 2018 and May 21, 2018.
4	OAE letter to Smith dated March 27, 2019 w/encl.
5	Kim D. Ringler (Ringler) letter of representation to OAE dated April 22, 2019
6	OAE letter to Ringler dated April 29, 2019 w/encl.
7	Ringler letter to OAE dated May 13, 2019 with Exhibits 1 through 9. Note that Exhibit 6 was not included with this submission received from Ringler.
8	Memo to File from Jasmin Razanica dated May 22, 2019.
9	OAE letter to Ringler dated May 29, 2019.
10	Ringler letter to OAE dated August 16, 2019.
11	Ringler letter to OAE dated September 29, 2019 w/o encl.
12	OAE letter to Ringler dated October 18, 2019.
13	Memo to File from Jasmin Razanica dated November 7, 2019.
14	OAE letter to Ringler dated November 8, 2019.
15	Smith letter to OAE dated March 13, 2020.
16	Client's Trust Ledger Card – Tucker, Leora.
17	Client's Trust Ledger Card – Mt. Olivet Tabernacle Church.
18	Client's Trust Ledger Card – Owens, Sonya
19	Client's Trust Ledger Card – Cavallia, Dorothea .
20	TD Bank ATA Check no. 125 in the amount of \$7,000.
21	Client's Trust Ledger Card – Lester, Basil.



# **Exhibit E**

Supreme Court of New Jersey  
Disciplinary Review Board  
Docket No. DRB 21-021  
District Docket No. XIV-2019-0048E

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In the Matter of  
Royce W. Smith  
An Attorney at Law

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Decision

Argued: June 17, 2021

Decided: September 23, 2021

Ryan J. Moriarty appeared on behalf of the Office of Attorney Ethics.

Respondent appeared pro se.

To the Honorable Chief Justice and Associate Justices of the Supreme Court of New Jersey.

This matter was before us on a disciplinary stipulation between the Office of Attorney Ethics (the OAE) and respondent. Respondent stipulated to having

violated RPC 1.5(a) (unreasonable fee); RPC 1.15(a) (negligent misappropriation of client funds); RPC 1.15(d) (failure to comply with the recordkeeping provisions of R. 1:21-6); and RPC 8.1(b) (failure to cooperate with disciplinary authorities).

For the reasons set forth below, we determine to impose a censure, with conditions.

Respondent was admitted to the New Jersey bar in 2004 and to the Pennsylvania bar in 2005. Respondent has no disciplinary history in New Jersey. At the relevant times, he maintained a practice of law in Philadelphia, Pennsylvania.

Effective July 22, 2019, the Court declared respondent administratively ineligible to practice law for failure to pay his annual assessment to the Lawyers' Fund for Client Protection.

Additionally, effective November 4, 2019, the Court declared respondent administratively ineligible to practice law in New Jersey for failure to comply with continuing legal education requirements.

On March 31, 2020, the OAE filed a motion with the Court seeking respondent's immediate temporary suspension due to a substantial and unexplained shortage in his attorney trust account (ATA). On February 4, 2021,

the Court temporarily suspended respondent, on consent, and dismissed the OAE's pending motion as moot. In re Smith, 245 N.J. 77 (2021).

Respondent and the OAE entered into a January 27, 2021 disciplinary stipulation (S) which sets forth the following facts in support of respondent's admitted misconduct.

### **The Unreasonable Fee Charge**

On December 4, 2017, Cinquetta Frazier retained respondent to represent her in connection with a medical malpractice matter. On March 5, 2018, respondent settled Frazier's matter for \$49,000.

Thereafter, on June 9, 2018, respondent created a settlement statement and mistakenly calculated his fee based on the gross settlement, rather than the net settlement. Respondent also overcalculated his expenses by \$753.50.<sup>1</sup> The settlement statement was neither signed nor dated by Frazier. Respondent claimed that Frazier had signed an earlier settlement statement, but he was unable to produce it.

As a result of his miscalculation, respondent disbursed to himself a \$16,333.33 legal fee from the \$49,000 settlement, and erroneously calculated that Frazier was owed \$21,641.81 after deducting expenses. Had respondent

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<sup>1</sup> It appears that the five cent difference in paragraph 15 of the stipulation is a typographical error.

properly calculated the contingent fee, he would have received a contingent fee of \$12,909.55, a difference of \$3,423.78. Further, Frazier would have received \$25,819.09 from the settlement, rather than the \$15,724.01 that respondent disbursed. Thus, respondent disbursed to Frazier \$10,095.08 less than she was entitled to receive.

Due to his mistaken miscalculation of his fee, the OAE charged respondent with having violated RPC 1.5(a) and R. 1:21-7.

#### **Failure to maintain records and failure to cooperate with the OAE**

On March 27, 2019, the OAE sent a letter to respondent scheduling an April 25, 2019 demand audit of his financial books and records and directing him to provide, by April 11, 2019: client ledger cards; ATA three-way reconciliations; schedule of client balances; and receipts and disbursements journals for both his ATA and attorney business account (ABA).

By letter dated April 22, 2019, Kim D. Ringler, Esq. informed the OAE that she represented respondent. Ringler requested an adjournment of the demand audit. On April 29, 2019, the OAE replied to Ringler's letter, extending the time for respondent to provide documents to May 17, 2019, and rescheduling the demand audit for May 22, 2019.

In connection with his law practice, respondent maintained two bank accounts at TD Bank: a Pennsylvania ATA and a Pennsylvania ABA. As a result

of the OAE's investigation, respondent opened two bank accounts at Republic Bank: a New Jersey ATA and a New Jersey ABA. Because the New Jersey accounts were not established until the OAE notified respondent of the requirement for such accounts, the OAE's investigation focused on respondent's original TD Bank accounts.

On May 13, 2019, Ringler provided to the OAE an incomplete response to the prior records request – specifically, she provided only ABA and ATA statements. On May 22, 2019, the demand audit occurred, and the OAE discovered that respondent had not maintained records in accordance with R. 1:21-6. The OAE found numerous deficiencies, including: no ATA three-way reconciliations; no client ledger cards; no ATA or ABA receipts and disbursements journals; improper designation on the ATA and ABA; online transfers to and from respondent's ATA; and failure to maintain a New Jersey ATA and ABA.

Thus, on May 29, 2019, the OAE sent Ringler a letter directing respondent to provide additional documents and to take corrective actions by July 8, 2019. On August 16, 2019, after respondent made several unsuccessful attempts to correct his books and records with Ringler's assistance, respondent advised the OAE that he had retained a legal bookkeeper, Rochelle DeJong of R&D Legal Bookkeeping, to assist him in reconstructing his accounts.

On September 29, 2019, Ringler provided the OAE with updated records, which had been created with DeJong's assistance. The OAE found the records insufficient, citing inaccurate and incomplete client ledger cards and three-way reconciliations. As a result, on October 18, 2019, the OAE sent Ringler a letter scheduling a second demand audit for November 7, 2019.

On November 7, 2019, at the second demand audit, the OAE noted the deficiencies with the provided records as well as respondent's inability to reconcile his ATA. The next day, the OAE sent Ringler a letter enumerating additional requested documents and the remedial measures necessary for respondent to conform his financial records to the Rules.

On March 12, 2020, following additional communications between Ringler and the OAE, respondent sent the OAE a letter stating that Ringler no longer represented him. Respondent further noted that he was unable to address the OAE's stated deficiencies and was amenable to a temporary suspension from the practice of law in New Jersey. Respondent stated, "[d]espite my best attempts to recreate all of my records, including my allocation of significant sums on professional assistance, I cannot fully answer all of the questions posed."

Based on the foregoing, the OAE charged respondent with having violated RPC 1.15(d) for failing to maintain required records in accordance with R. 1:21-

6, and with having violated RPC 8.1(b), for failing to maintain or produce to the OAE the records required to conclude the demand audit.

### **The Negligent Misappropriation Charge**

The facts supporting respondent's negligent misappropriation<sup>2</sup> of client funds are as follows. On March 4, 2019, respondent made three transfers from his ATA to his ABA, totaling \$1,950, on behalf of his client, Leora Tucker, prior to receiving Tucker's settlement proceeds. Four days later, on March 8, 2019, respondent deposited Tucker's proceeds in his ATA. By transferring the \$1,950 to his ABA prior to receiving Tucker's proceeds, respondent invaded the ATA funds of four unrelated clients.

From April 5 through April 8, 2019, respondent made four online transfers from his ATA to his ABA, totaling \$9,800, purportedly on behalf of his client, Mt. Olivet Tabernacle Church (Mt. Olivet), prior to receiving Mt. Olivet's funds. On April 11, 2019, respondent deposited \$90,000 in his ATA on behalf of Mt. Olivet. By transferring the \$9,800 to his ABA prior to receiving Mt. Olivet's funds, respondent invaded the ATA funds of four other clients.

On April 16, 2019, respondent made an online transfer of \$20,000 from his ATA to his ABA. \$10,000 dollars of the transfer was attributable to Mt.

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<sup>2</sup> In the stipulation, the OAE specifically addressed its conclusion that there was insufficient evidence to establish that respondent's misappropriation was knowing.



Olivet, decreasing the client ledger balance to (\$4,800). By transferring those funds, respondent invaded the ATA funds of six unrelated clients.

From November 14 through November 26, 2018, respondent made five online transfers from his ATA to his ABA, totaling \$3,750, on behalf of his client, Sonya Owens. On November 27, 2018, respondent deposited \$45,000 in his ATA on behalf of Owens. By transferring the \$3,750 to his ABA prior to receiving Owens' proceeds, respondent invaded the ATA funds of two unrelated clients.

From December 6 through December 19, 2018, respondent made six online transfers from his ATA to his ABA, totaling \$4,175, on behalf of his client, Dorothea Cavalli. On December 27, 2018, respondent deposited \$25,000 in his ATA on behalf of Cavalli. By transferring the \$4,175 to his ABA prior to receiving Cavalli's proceeds, respondent invaded the ATA funds of five other clients.

On January 29, 2019, respondent made an online transfer of \$7,000 from his ATA to his ABA on behalf of Cavalli. On that date, Cavalli's ledger balance was only \$5,272.63. Therefore, the January 29, 2019 transfer of \$7,000 decreased Cavalli's ledger card balance to (\$1,727.37) and invaded the ATA funds of four unrelated clients.

On August 9, 2019, respondent issued an ATA check in the amount of \$7,000, designated “final settlement,” to his client, Basil Lester. Lester deposited the check the same day. However, on August 9, 2019, Lester’s client ledger card balance was only \$6,532. Thus, the negotiation of the \$7,000 ATA check decreased Lester’s client ledger balance to (\$468) and invaded the ATA funds of five unrelated clients.

Based on the foregoing, the OAE charged respondent with having violated RPC 1.15(a) by repeatedly and negligently misappropriating client funds.

### **The OAE’s Recommended Discipline**

The OAE asserted that a six-month suspension is the proper quantum of discipline for respondent’s misconduct and raised no objection to that term running retroactive to the Court’s February 4, 2021 temporary suspension Order.

The OAE argued that respondent’s negligent misappropriation “requires a level of discipline higher than a reprimand,” because “[d]espite his very active personal injury practice and constant receipt of client funds, Respondent did not undertake efforts to ensure that the funds he was receiving, and disbursing were accurate.” The OAE further asserted that respondent’s conduct was “beyond mere negligence and rather fell into the reckless category.”

The OAE cited four disciplinary cases in support of its argument that a six-month suspension is the appropriate quantum of discipline: In re Kim, 222 N.J. 3 (2015) (six-month suspension imposed on attorney whose accounting system and recordkeeping practices were reckless, and whose knowledge of his recordkeeping responsibilities was so lacking that he willfully disregarded his recordkeeping obligations, placing his clients' funds at great risk); In re Bevacqua, 180 N.J. 21 (2004) (six-month suspension was imposed for "inexcusably careless" and "reckless" execution of attorney recordkeeping responsibilities); In re White, 192 N.J. 443 (2007) (six-month suspension imposed, in connection with a motion for reciprocal discipline, when an attorney, who was disbarred in New York, was found guilty of converting client funds, commingling trust and personal funds, and negligently misappropriating over \$2,000 in trust funds during a nine-month period; the attorney claimed his mistakes were due to carelessness but made no attempt to maintain adequate records or to review recordkeeping Rules); and In re Ichel, 126 N.J. 217 (1991) (six-month suspension imposed on attorney who had no prior discipline for his reckless handling of his ATA, as demonstrated by his withdrawal, on ninety occasions, of legal fees from his ATA prior to either a recovery or a settlement).

The OAE further cited In re Gallo, 117 N.J. 365 (1989), in which we imposed a three-month suspension on an attorney, who had no prior discipline,

for poor recordkeeping practices that led to invasion of client funds on numerous occasions. In that case, the attorney had inherited another attorney's practice, which was in a disorganized state, and adopted the same improper practices, including inadequate bookkeeping.

The OAE cited, as mitigating factors, respondent's lack of prior discipline, admission of misconduct, and entry into the stipulation. The OAE further acknowledged respondent's "significant efforts to remediate his recordkeeping deficiencies and reconcile his accounts including engaging experienced ethics defense counsel and a legal bookkeeping firm to recreate his accounts." Although subsequent remedial measures are ordinarily weighed in mitigation, here, the OAE asked us to balance that mitigation against the unsuccessful character of the effort, and the aggravating character of respondent's failure to remediate. See generally, In re Silber, 100 N.J. 517, 521 (1985) (the Court weighed in aggravation "that Respondent deliberately failed to take proper action although he had several opportunities to do so. The Bar must be cautioned that such action or lack of action by an attorney cannot be permitted"); In re Librizzi, 117 N.J. 481, 493 (1990) (the Court weighed, among multiple mitigating factors in a negligent misappropriation and recordkeeping case, that "when he realized his error, he moved quickly and took appropriate corrective measures, including hiring an accountant to handle his trust account.

He still has an accountant and his present system is in compliance with the rules”).

The OAE argued, that, because professionals were unable to accurately recreate respondent’s financial records, we should consider, as an aggravating factor, his failure to fully remediate, as balanced against the mitigating factor of his good faith attempts at subsequent remedial measures.

\* \* \* \*

Following a review of the record, we are satisfied that the facts contained in the stipulation clearly and convincingly support the finding that respondent violated RPC 1.5(a), RPC 1.15(a), and RPC 1.15(d). However, we determine to dismiss the charged violation of RPC 8.1(b).

Specifically, respondent’s miscalculation of his fees and expenses in the Frazier matter resulted in his receipt of \$4,177.28 to which he was not entitled. By overstating his expenses by \$753.50 and mistakenly calculating his fee based on the gross settlement award, rather than the net settlement, causing a \$3,423.78 error in his favor, respondent charged an unreasonable fee, and violated RPC 1.5(a).

Further, respondent repeatedly and negligently misappropriated client funds, in five client matters, by transferring funds from his ATA to his ABA, purportedly on behalf of those clients, prior to receiving the clients’ funds.

Although the OAE concluded that it could not prove knowing misappropriation in connection with respondent's mishandling of clients' funds due to his poor recordkeeping, the OAE has proven, by clear and convincing evidence, that respondent's negligence in handling his recordkeeping resulted in the repeated invasion of other clients' trust funds, in violation of RPC 1.15(a).

Finally, respondent failed to keep accurate and necessary financial records for his law practice. He was unable to produce the demand audit records requested by the OAE, including client ledger cards and three-way ATA reconciliations. Respondent's lack of attention to his recordkeeping practices was so egregious that a bookkeeping firm and Ringler, an experienced ethics attorney, could not reconcile his accounts. He, thus, violated RPC 1.15(d) and R. 1:21-6.

We determine, however, to dismiss the RPC 8.1(b) charge. The facts set forth in the stipulation do not support, by clear and convincing evidence, the conclusion that respondent knowingly failed to comply with the OAE's requests for information. Rather, the evidence supports to conclusion that respondent attempted to comply – albeit unsuccessfully – with every demand made of him by the OAE. He hired counsel and a bookkeeper and produced the records he was able to gather or re-create. He also attended multiple demand audits and interviews.

In sum, we find that respondent violated RPC 1.5(a), RPC 1.15(a), and RPC 1.15(d). We determine to dismiss the RPC 8.1(b) charge. There remains for determination the appropriate quantum of discipline to impose on respondent for his misconduct.

A mistaken miscalculation of a contingent fee typically results in an admonition. See e.g., In the Matter of Michael S. Kimm, DRB 09-351 (January 28, 2010) (attorney improperly calculated his contingent fee on the gross recovery, rather than on the net recovery, a violation of RPC 1.5(c)); the attorney also improperly advanced more than \$17,000 to his client, prior to the conclusion of her personal injury case, a violation of RPC 1.8(e); although the attorney had been censured previously, we did not consider it in aggravation because it had been imposed for entirely different misconduct); In re Weston-Rivera, 194 N.J. 511 (2008) (admonition for attorney who negligently took a contingent fee greater than that to which she was entitled; the excess fee occurred as a result of her failure to calculate the fee in compliance with R. 1:21-7(d)); the attorney also violated RPC 1.15(a) and RPC 1.15(d)); and In the Matter of Robert S. Ellenport, DRB 96-386 (June 11, 1997) (admonition for attorney who, with his client's consent, received \$500 in excess of the contingent fee permitted by the Court Rules).

Generally, a reprimand is imposed for recordkeeping deficiencies that result in the negligent misappropriation of client funds. See, e.g., In re Mitnick, 231 N.J. 133 (2017) (as the result of poor recordkeeping practices, the attorney negligently misappropriated client funds held in his trust account; violations of RPC 1.15(a), and RPC 1.15(d); significant mitigation included the attorney's lack of prior discipline in a thirty-five-year legal career); In re Rihacek, 230 N.J. 458 (2017) (attorney was guilty of negligent misappropriation of client funds held in his trust account, various recordkeeping violations, and charging mildly excessive fees in two matters; no prior discipline in thirty-five years); and In re Cameron, 221 N.J. 238 (2015) (after the attorney had deposited in his trust account \$8,000 for the pay-off of a second mortgage on a property that his two clients intended to purchase, he disbursed \$3,500, representing legal fees that the clients owed him for prior matters, leaving in his trust account \$4,500 for the clients, in addition to \$4,406.77 belonging to other clients; when the deal fell through, the attorney, who had forgotten about the \$3,500 disbursement, issued an \$8,000 refund to one of the clients, thereby invading the other clients' funds; a violation of RPC 1.15(a); upon learning of the overpayment, the attorney collected \$3,500 from one of the clients and replenished his trust account; a demand audit of the attorney's books and records uncovered various recordkeeping deficiencies, a violation of RPC 1.15(d)).



Nonetheless, in In re Kim, 222 N.J. 3 (2015), upon which the OAE relies in seeking a six-month suspension, the attorney had no knowledge of his recordkeeping obligations, and no formal recordkeeping system; he kept track of his financial matters, including his receipts and disbursements, in his head. In the Matter of Daniel Donk-Min Kim, DRB 14-171 (December 11, 2014) (slip op. at 5-6). As a result, his ATA eventually suffered a shortage. Id. at 59. We determined the attorney's "arrogance in believing that his mental juggling of his trust funds was sufficient [was], in a word, astonishing." Id. at 63-64. We voted to impose a three-month suspension due to Kim's "extreme recklessness in handling client and escrow funds for so many years." Id. at 65. The Court then imposed a six-month suspension.

In a recent case, In the Matter of Dennis Aloysius Durkin, DRB 19-254 (June 3, 2020), we applied the Kim precedent and imposed a one-year suspension. In that case, the attorney's complete lack of a recordkeeping system neither jeopardized nor resulted in the invasion of trust account funds, but he relied on estimates and maintained a running balance of his ATA and ABA in the form of a Quickbooks check register, which identified neither the client nor the matter. Id. at 81-83. The Court agreed. In re Durkin, 243 N.J. 542 (2020).

Thus, pursuant to New Jersey disciplinary precedent, the appropriate range of discipline for the totality of respondent's misconduct is a censure to a

short term of suspension. However, in crafting the appropriate quantum of discipline, we also consider mitigating and aggravating factors.

Here, respondent had a recordkeeping system, albeit a grossly deficient one. Although his recordkeeping deficiencies were not as egregious as those encountered in Kim, where the attorney was making calculations in his head, or Durkin, where the attorney failed to maintain any recordkeeping system, instead relying on a check register program with a running balance of funds, his repeated failure to account for his clients' ATA funds is alarming. Even professionals were unable to reconcile respondent's books, and he eventually conceded that he could not satisfy the OAE's requests for required financial records and consented to a temporary suspension. Funds were unidentified, unattributable to particular clients, and not documented in accordance with R. 1:21-6. Respondent did not even maintain a New Jersey ATA and ABA as required by the recordkeeping Rules until the OAE prompted him to do so.

At oral argument, in response to our question about whether respondent committed knowing misappropriation, the OAE again represented that it was unable to determine, based on the record in this matter, that respondent's misappropriation was knowing. Further, the OAE stated, and respondent confirmed, that no clients were harmed by respondent's poor recordkeeping.

In turn, respondent noted that he had learned lessons over the two years that he had been working with the OAE and realized his errors; that he had withdrawn from practice in New Jersey and did not renew his attorney registration; and that he had no plans to practice in New Jersey in the future.

In mitigation, respondent has no disciplinary history in over sixteen years as a member of the bar, and made good faith, remedial efforts to improve his recordkeeping practices, including the hiring of a legal bookkeeping firm. Moreover, he stipulated to his misconduct and consented to a temporary suspension in New Jersey. Notably, respondent is administratively ineligible to practice law in New Jersey and has indicated that he no plans to practice law in New Jersey in the future.

In aggravation, as the OAE noted, some of the ATA funds scrutinized in the course of the OAE's investigation remain unattributable to clients, due to respondent's poor practices.

On balance, in consideration of the significant mitigation, we determine that a censure is the quantum of discipline necessary to protect the public and preserve confidence in the bar.

In addition, in light of respondent's demonstrated failure to comply with the recordkeeping Rules, we require respondent, if and when he is reinstated to the practice of law in New Jersey, to complete two recordkeeping courses pre-

approved by the OAE, with proof of completion to be submitted to the OAE within ninety days of such reinstatement. Further, upon any reinstatement, respondent is required to submit monthly reconciliations of his attorney accounts to the OAE, on a quarterly basis, for a two-year period.

Moreover, respondent is required to satisfy all the OAE's outstanding financial record requests. We further determine to prohibit respondent from applying for pro hac vice admission before any New Jersey court or tribunal until further Order of the Court.

Finally, respondent is required, within sixty days of the date of the Court's Order in this matter, to (i) disgorge to Frazier the retained fees, expenses, and settlement funds totaling \$10,095.08, or provide documentary proof to the OAE that he previously so disgorged, and (ii) place any unidentified client trust funds with the Superior Court Trust Fund Unit.


Chair Gallipoli and Member Menaker voted to impose a six-month suspension, retroactive to February 4, 2021, the date of respondent's temporary suspension, with the same conditions.

Member Hoberman voted to impose a three-month suspension, retroactive to February 4, 2021, with the same conditions.

Member Rivera was absent.

We further determine to require respondent to reimburse the Disciplinary Oversight Committee for administrative costs and actual expenses incurred in the prosecution of this matter, as provided in R. 1:20-17.

Disciplinary Review Board  
Hon. Maurice J. Gallipoli, A.J.S.C.  
(Ret.), Chair

By:   
\_\_\_\_\_  
Johanna Barba Jones  
Chief Counsel

SUPREME COURT OF NEW JERSEY  
DISCIPLINARY REVIEW BOARD  
VOTING RECORD

In the Matter of Royce W. Smith  
Docket No. DRB 21-021

Argued: June 17, 2021

Decided: September 23, 2021

Disposition: Censure

<i>Members</i>	Censure	Three-Month Suspension	Six-Month Suspension	Absent
Gallipoli			X	
Singer	X			
Boyer	X			
Campelo	X			
Hoberman		X		
Joseph	X			
Menaker			X	
Petrou	X			
Rivera				X
Total:	5	1	2	1



Johanna Barba Jones  
Chief Counsel

# **Exhibit B**

**BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA**

<b>OFFICE OF DISCIPLINARY COUNSEL,</b>	:	
	:	
<b>Petitioner</b>	:	<b>No. 35 DB 2022</b>
	:	
<b>v.</b>	:	<b>ODC File No. C1-22-105</b>
	:	
	:	<b>Attorney Registration No.</b>
<b>ROYCE W. SMITH,</b>	:	<b>201295</b>
<b>Respondent</b>	:	<b>(PHILADELPHIA)</b>
	:	

**ANSWER OF THE RESPONDENT, ROYCE SMITH, TO THE ORDER AND RULE TO  
SHOW CAUSE DATED MARCH 8<sup>TH</sup>, 2022**

The Respondent, Royce Smith, by his counsel, Samuel C. Stretton, Esquire, hereby answers the Rule to Show Cause issued by the Disciplinary Board of the Supreme Court of Pennsylvania as follows:

The Respondent accepts full and complete responsibility. The underlying suit involved a very difficult case involving brain damage to a minor child during child birth and the death of the child's mother. This was a very complicated case because the emergency medical services were unable to open the door of the ambulance to get the mother and child out on a timely basis, so there was litigation against the manufacturer of the lock, emergency medical personnel, and the manufacturer of the ambulance. The Respondent did an excellent job and got them a very good settlement on a difficult factual case. The problem occurred when the Respondent was apparently having some

<b>FILED</b> <b>03/15/2022</b> <b>The Disciplinary Board of the Supreme Court of Pennsylvania</b>
---



psychological issues. The monies were placed in his IOLTA account, originally with TD Bank and then later with Citizen's Bank. Substantial monies were paid to the Special Needs Trust but there was still an additional amount due of \$354,450.48. The Respondent was not paying attention and got confused and thought at the Special Needs Trust had already been paid and that money was being held for the grandmother, Ms. Morales', settlement. There is no excuse for that mistake.

The Respondent has recently paid the Special Needs Trust an additional \$340,000.00 by wire transfer as of March 2<sup>nd</sup>, 2022. He is still short \$14,450.48, at least in terms of the original fee not counting any interest or delay. The Respondent recognizes that he still owes Ms. Morales \$295,629.59.

The Respondent cannot presently explain where that money went for the \$14,450.48 and the \$295,629.59. He accepts responsibility for not making timely payment. Initially, Ms. Morales asked the Respondent to hold the money because she had disability payments. But she has been asking for the money recently. The Respondent thought he had the money but obviously he did not. He accepts full responsibility for that. During this time in his life, the Respondent and his paralegal who had worked together for 15 years, had a disagreement. She was the lease holder on his office building lease in Philadelphia and she had padlocked the doors and refused to give him the files

and his checkbook. Unfortunately, the Respondent went into a deep depression and did nothing. Unfortunately, he did not seek psychological help though he will now and will be contacting Lawyers Concerned for Lawyers.

The Respondent does not know where \$295,629.59 went. He is in the process of collecting his financial records to have an audit done. He does not know if his former paralegal, who had access to his books, was involved but in any event, it is his responsibility and he accepts this responsibility. The Respondent is making arrangements now to obtain the funds to pay the \$295,629.95 down to Ms. Morales and the \$14,450.48 to the Special Needs Trust. In the same case, there was a lawsuit in Philadelphia Court of Common Pleas against the manufacturer of the lock. There is a proposed settlement that is awaiting Orphans' Court approval in the amount of \$1,000,000.00. The Respondent's fee from that would be \$333,000.33. The Respondent will make arrangements to waive his fee so Ms. Morales can be paid and the Special Needs Trust can be given the additional amount of \$14,450.48. He will file an Amended Petition to ensure both the Special Needs Trust and Ms. Morales will be paid the monies due out of his fee.

The Respondent is now taking steps to look at the rules and will comply with all the escrow and record keeping rules in the future. The Respondent has given Mr. Stretton permission to work

out consent discipline with the Office of Disciplinary Counsel. The Respondent will do everything he can to make amends and make sure that all parties have been paid in this matter. The Respondent is most regretful for these problems and will now seek the necessary psychological help and treatment. Apparently, he has the abilities to be an excellent attorney as seen by some of the personal injury cases he has handled. Unfortunately, his record keeping and failure to properly maintain the funds has been lacking and he now must seek help to deal with his depression.

WHEREFORE, the Respondent, Royce Smith, by his counsel, Samuel C. Stretton, Esquire respectfully answers the Rule to Show Cause, apologizes for his misconduct, accepts responsibility, will seek help, is making the provisions to reimburse Ms. Morales and the balance of the Special Needs Trust and will not oppose an Order of interim suspension.

Respectfully submitted,

s/Samuel C. Stretton

Samuel C. Stretton, Esquire  
Attorney for Respondent,  
Royce W. Smith  
103 South High St., P.O. Box 3231  
West Chester, PA 19381-3231  
(610) 696-4243  
Attorney I.D. No. 18491

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY :  
COUNSEL, :  
Petitioner : No. 35 DB 2022  
 :  
v. : ODC File No. C1-22-105  
 :  
 : Attorney Registration No.  
ROYCE W. SMITH, : 201295  
Respondent : (PHILADELPHIA)  
 :

CERTIFICATE OF COMPLIANCE

I, Samuel C. Stretton, Esquire, 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.

Respectfully submitted,

March 15, 2022  
Date

s/Samuel C. Stretton  
Samuel C. Stretton, Esquire  
Attorney for Respondent,  
Royce W. Smith  
103 South High St., P.O. Box 3231  
West Chester, PA 19381-3231  
(610) 696-4243  
Attorney I.D. No. 18491

**BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA**

<b>OFFICE OF DISCIPLINARY COUNSEL,</b>	:	
	:	
<b>Petitioner</b>	:	<b>No. 35 DB 2022</b>
	:	
<b>v.</b>	:	<b>ODC File No. C1-22-105</b>
	:	
	:	<b>Attorney Registration No.</b>
<b>ROYCE W. SMITH,</b>	:	<b>201295</b>
<b>Respondent</b>	:	<b>(PHILADELPHIA)</b>
	:	

**CERTIFICATE OF SERVICE**

I hereby certify I am this date serving a copy of the Answer of the Respondent to the Rule to Show Cause in the captioned matter upon the following persons in the manner indicated below:

Service by electronic mail addressed as follows:

1. Marcee Sloan, Prothonotary  
The Disciplinary Board of the  
Supreme Court of Pennsylvania  
Pennsylvania Judicial Center  
601 Commonwealth Avenue, Suite 5600  
P.O. Box 62625  
Harrisburg, PA 17106-2625  
padboardfilings@pacourts.us  
marcee.sloan@pacourts.us
2. Michael D. Gottsch, Esquire  
Office of Disciplinary Counsel  
1601 Market St., Suite 3320  
Philadelphia, PA 1910-2337  
Michael.Gottsch@pacourts.us

3. Royce W. Smith  
1313 S. 33<sup>rd</sup> Street  
Philadelphia, PA 19146  
Royce@roycesmithllc.com

Respectfully submitted,

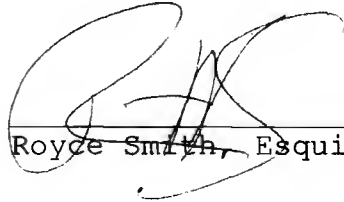
March 15, 2022  
Date

s/Samuel C. Stretton  
Samuel C. Stretton, Esquire  
Attorney for Respondent,  
Royce W. Smith  
103 South High St., P.O. Box 3231  
West Chester, PA 19381-3231  
(610) 696-4243  
Attorney I.D. No. 18491

**VERIFICATION**

I, Royce Smith, Esquire, hereby verify that the facts set forth in the attached Answer to the Rule to Show Cause are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 18 Pa.C.S.A. Section 4904 relating to unsworn falsification to authorities.

Date: 5-17-2022

  
\_\_\_\_\_  
Royce Smith, Esquire

Marcee D. Sloan, Prothonotary  
August 3, 2022  
Page 3

CERTIFICATE OF COMPLIANCE

I certify that this pleading 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: *Michael D. Gottsch*  
Name: Michael D. Gottsch  
Attorney No. 39421