

**IN THE SUPREME COURT OF PENNSYLVANIA**

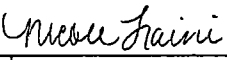
OFFICE OF DISCIPLINARY COUNSEL,	:	No. 3126 Disciplinary Docket No. 3
	:	
Petitioner	:	No. 56 DB 2024
	:	
v.	:	Attorney Registration No. 323402
	:	
	:	(Lycoming County)
	:	
MATTHEW JAMES MARCELLO,	:	
	:	
Respondent	:	

**ORDER**

**PER CURIAM**

**AND NOW**, this 4<sup>th</sup> day of September, 2025, upon consideration of the Report and Recommendations of the Disciplinary Board, Matthew James Marcello is suspended from the Bar of this Commonwealth for a period of one year and one day. He shall comply with the provisions of Pa.R.D.E. 217 and pay costs to the Disciplinary Board. See Pa.R.D.E. 208(g).

A True Copy Nicole Traini  
As Of 09/04/2025

Attest:   
Chief Clerk  
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 56 DB 2024
Petitioner	:	
	:	
v.	:	Attorney Registration No. 323402
	:	
MATTHEW JAMES MARCELLO,	:	
Respondent	:	(Lycoming County)

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

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

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

I. HISTORY OF PROCEEDINGS

On May 31, 2024, Petitioner, Office of Disciplinary Counsel, filed a Petition for Discipline charging Respondent, Matthew James Marcello, with violation of the Rules of Professional Conduct based on allegations related to Respondent's maintenance and disbursement of settlement funds in one client matter, misrepresentation to Petitioner, and failure to produce records requested by Petitioner.

On June 3, 2024, Disciplinary Counsel contacted Respondent concerning the need to personally serve him the Petition. Disciplinary Counsel then provided

Respondent via email with a copy of the Petition for Discipline and Notice to Plead, as well as an Acceptance/Waiver of Service, and requested that Respondent sign and return the waiver by June 5, 2024 if he desired to waive personal service. Respondent did not sign and return the Acceptance/Waiver of Service and did not further communicate with Petitioner. On June 6, 2024, Petitioner retained Harris Investigations, LLC for purposes of attempting to personally serve Respondent with the Petition for Discipline. Harris made attempts to locate Respondent at the addresses he furnished on his most recent attorney registration form but was unsuccessful on five attempts between June 17, 2024 and June 21, 2024.

On July 3, 2024, Petitioner filed an Affidavit of Substituted Service pursuant to Pa.R.D.E. 212. Respondent thereafter failed to timely respond to the Petition for Discipline or provide good cause for his failure to respond. On July 31, 2024, Petitioner and Respondent filed a stipulation providing Respondent a one-time 20-day extension, until August 12, 2024, to respond to the Petition. Respondent again failed to timely respond or provide good cause for his failure to respond. On August 21, 2024, Respondent attempted to file an untimely response to the Petition, which was rejected by the Board Prothonotary.

On September 6, 2024, a prehearing conference was held before the Hearing Committee Chair, at which Respondent appeared pro se. Deadlines were established at the prehearing conference for submission of exhibits, witness lists, exchange of documents, and objection deadlines. On October 16, 2024, Respondent filed a "Motion to Reconsider" seeking to have his untimely response to the Petition accepted for filing. The basis claimed in the motion was a "lack of transparency" by Petitioner in that Respondent did not receive directions to submit documents. On October

21, 2024, Petitioner filed a response opposing the requested relief. By order dated October 22, 2024, the Committee Chair denied Respondent's reconsideration motion. On October 28, 2024, Respondent filed a "Motion to Dismiss" the disciplinary proceedings on the grounds of deficient service of process and lack of personal jurisdiction, to which Petitioner filed a response in opposition. The Committee denied the motion on October 30, 2024.

The Committee held a disciplinary hearing on November 4, 2024. Prior to the presentation of evidence, the Committee Chair ruled that the factual allegations in the Petition for Discipline were deemed admitted pursuant to Pa.R.D.E. 208(b)(3). Petitioner presented exhibits ODC-1 through ODC-15. The Committee determined that Petitioner established a prima facie case of at least one violation of the Rules of Professional Conduct, after which Petitioner presented evidence on the type of discipline. Respondent appeared pro se. He did not offer any exhibits or witness testimony. However, Respondent was sworn in and answered questions by the Committee.

Petitioner filed a post-hearing brief to the Committee on December 9, 2024, requesting that the Committee recommend to the Board that Respondent be suspended for one year and one day, with the suspension stayed in its entirety and Respondent placed on probation for a corresponding period, subject to conditions that he open an IOLTA and provide quarterly reports Petitioner. Respondent did not file a post-hearing brief.

By Report filed on February 26, 2025, the Committee concluded that Respondent's misconduct violated the Rules of Professional Conduct as set forth in the Petition for Discipline and recommended that he be suspended for a period of one year and one day. The Committee rejected Petitioner's probation recommendation as

inappropriate in light of Respondent's disregard for the disciplinary process and likelihood that Respondent would not be willing and/or successful in complying with the terms of probation. The parties did not take exception to the Committee's Report and recommendation. The Board adjudicated this matter at the meeting on April 9, 2025.

## II. FINDINGS OF FACT

The Board makes the following findings:

1. Petitioner, whose principal office is located at the Pennsylvania Judicial Center, 601 Commonwealth Avenue, Suite 2700, P.O. Box 62485, Harrisburg, Pennsylvania 17106-2485, is invested, pursuant to Rule 207 of the Pennsylvania Rules of Disciplinary Enforcement, with the power and the duty to investigate all matters involving alleged misconduct of an attorney admitted to practice law in the Commonwealth of Pennsylvania and to prosecute all disciplinary proceedings brought in accordance with the various provisions of the aforesaid Rules.
2. Respondent, Matthew James Marcello, was born in 1981 and was admitted to practice law in the Commonwealth in 2016. Respondent is currently on active status and is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.
3. Respondent has no record of prior discipline.
4. On September 19, 2019, Respondent filed a personal injury civil complaint on behalf of Robert Rice initiating *Robert E. Rice v. Forza Fort Pitt, Inc., et al.*, GD 19-6012 (Allegheny Co.).
5. In or about early 2021, Respondent requested Attorney Michael Fives enter his appearance as co-counsel in Mr. Rice's case.

6. On February 8, 2021, Attorney Fives entered his appearance as co-counsel and thereafter assisted in taking depositions and conducting settlement negotiations.
7. On or about March 24, 2022, the parties settled the matter and defendants agreed to pay funds in settlement to Mr. Rice ("settlement funds").
8. Respondent knew the settlement funds were subject to subrogation liens held by Medicare and Equian, LLC.
9. Respondent requested the settlement funds be sent to him for distribution to the appropriate parties.
10. In or about early April 2022, Respondent received the settlement funds.
11. Respondent failed to deposit the settlement funds into an IOLTA or other trust account.
12. Respondent deposited the settlement funds into his law firm's Citizens Bank Clearly Better Business Checking Account ending in 3100 ("3100 account").
13. The 3100 account is not an IOLTA or other trust account.
14. Respondent did not report the 3100 account on his 2021-2022 or 2022-2023 Attorney Annual Fee Form.
15. On May 4, 2022, Respondent disbursed to himself a \$23,380.00 fee and to Attorney Fives a \$32,620.00 fee, from the settlement funds.
16. On July 12, 2022, Respondent transferred \$43,974.20 of the settlement funds to Attorney Fives, with the understanding that Attorney Fives would distribute the funds to Mr. Rice.
17. Following the July 12, 2022 transfer, Respondent was still holding \$60,025.80 on behalf of Mr. Rice.

18. Of the amount Respondent held on Mr. Rice's behalf, \$52,883.64 was potentially subject to the subrogation liens held by Medicare and Equian, LLC.
19. On July 12, 2022, Respondent was still holding at least \$7,142.16 in funds indisputably owed to Mr. Rice.
20. Respondent failed to promptly disburse to Mr. Rice the undisputed \$7,142.16 in settlement funds that were not subject to the subrogation liens.
21. Between July 2022 and June 6, 2023, Respondent failed to pay the subrogation liens.
22. On or about June 6, 2023, Respondent paid the Medicare lien, in the amount of \$16,103.82.
23. On August 30, 2023, Petitioner sent Respondent a DB-7 Request for Statement of Respondent's Position letter ("DB-7 letter") outlining concerns with *inter alia*, Respondent's failure to distribute the settlement funds to Mr. Rice and to Equian, LLC.
24. On October 3, 2023, Respondent answered the DB-7 letter and stated that he scheduled payments to Mr. Rice and Equian, LLC, for distribution on October 6, 2023.
25. Respondent knew his statements to Petitioner that disbursement of funds to Mr. Rice and Equian, LLC would be made promptly, were false when he made them because:
  - a. the accounts from which he scheduled the disbursements did not have sufficient funds to cover the payments; and
  - b. the payments were not scheduled from the 3100 account in which the settlement funds were held.

26. Respondent scheduled payments to Mr. Rice and Equian, LLC as follows:
- a. the scheduled payment to Mr. Rice was from a Better Business Advisor Checking account ending in 1321; and
  - b. the scheduled payment to Equian, LLC was from an IOLTA ending in 1348.
27. The IOLTA ending in 1348 had been closed since 2018.
28. Respondent knew or should have known he scheduled the payments from accounts other than the 3100 account in which the settlement funds were held.
29. In his DB-7 response to Petitioner, Respondent also stated that the settlement funds were being held in an IOLTA.
30. This statement was false and Respondent knew or should have known this statement was false when made because the 3100 account is not an IOLTA.
31. By letter to Respondent dated October 5, 2023, Petitioner requested Respondent provide within 10 days:
- a. complete transaction records for the accounts ending in 1321 and 1348 for the period of January 1, 2022 to present;
  - b. an explanation for why the payments to Mr. Rice and Equian, LLC were scheduled for a future date; and
  - c. a complete accounting of the settlement funds.
32. Respondent failed to provide the requested records and explanation.
33. On October 6, 2023, Respondent issued checks to Mr. Rice and Equian, LLC as follows:
- a. \$7,142.16 to Mr. Rice from Better Business Advisor Checking account ending in 1321; and



- b. \$36,779.75 to Equian, LLC from an IOLTA ending in 1348.
34. Respondent knew or should have known the disbursements to Mr. Rice and Equian, LLC would not be honored because they were not made from the 3100 account in which Respondent held the settlement funds.
35. On or about October 6, 2023, Mr. Rice presented the \$7,142.16 check to his bank; however, the check was not honored because there were insufficient funds in the account on which Respondent wrote the check.
36. On October 26, 2023, Respondent issued a second check to Mr. Rice, this time drawn on the closed IOLTA ending in 1348.
37. On or about October 26, 2023, Mr. Rice presented the second check to his bank; however, the check was rejected because it was drawn on a closed account.
38. On October 31, 2023, Respondent issued checks to Mr. Rice and Equian, LLC from the 3100 account, in the amounts of \$7,142.16 and \$36,779.75, respectively.
39. On November 9, 2023, Petitioner sent Respondent a subpoena *duces tecum* requiring him to appear on November 23, 2023 and produce the following records:
- a. For the Citizens Bank Clearly Better Business Checking account ending in 3100, periodic statement of account for October 2023;
  - b. Identify and provide complete account numbers for all accounts in which Respondent held client funds (including accounts holding client funds subject to RPC 1.15 and accounts holding client funds not subject to RPC 1.15) and every business/operating account Respondent maintained or used in the practice of law;

- c. Complete transaction records, including all transactions and running balance, for the Better Business Checking account ending in 1321 for the period of January 1, 2022 to present;
- d. Complete transaction records, including all transactions and running balance, for the IOLTA Checking account ending in 1348 for the period of January 1, 2022 to present;
- e. Explanation for why Respondent scheduled the payments to Equian, LLC and Mr. Rice for October 6, 2023; and
- f. Complete accounting of Respondent's disbursement of Mr. Rice's settlement funds, including funds disbursed to Respondent, Attorney Fives, Mr. Rice, and any subrogation lienholders. For each of the disbursements, provide documentation of the disbursement (e.g. copy of the check or bank transfer record), payee, and the purpose of the disbursement.

40. Respondent appeared for the November 23, 2023 subpoena return hearing, but failed to produce the following records required by the subpoena:

- a. October 2023 periodic statement of account for the 3100 account;
- b. periodic statements for the checking account ending in 1321 for the period of January 1, 2022 to December 31, 2022; and
- c. complete accounting for the settlement funds.

41. During the subpoena return hearing, Respondent insisted the 3100 account is an IOLTA.

42. Respondent did not fully cooperate with Petitioner during this disciplinary proceeding.

43. Respondent failed to accept responsibility and demonstrate remorse for his misconduct.

III. CONCLUSIONS OF LAW

By his conduct as set forth above, Respondent violated the following Rules of Professional Conduct ("RPC"):

1. RPC 1.15(b) - A lawyer shall hold all Rule 1.15 Funds and property separate from the lawyer's own property. Such property shall be identified and appropriately safeguarded;
2. RPC 1.15(l) - All Fiduciary Funds shall be placed in a Trust Account (which, if the Fiduciary Funds are also Qualified Funds, must be an IOLTA Account) or in another investment or account which is authorized by the law applicable to the entrustment or the terms of the instrument governing the Fiduciary Funds;
3. RPC 1.15(e) - Except as stated in this Rule or otherwise permitted by law or by agreement with the client or third person, a lawyer shall promptly deliver to the client or third person any property, including but not limited to Rule 1.15 Funds, that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding the property; Provided, however, that the delivery, accounting, and disclosure of Fiduciary Funds or property shall continue to be governed by the law, procedure and rules governing the requirements of Fiduciary administration, confidentiality, notice and accounting applicable to the Fiduciary entrustment;

4. RPC 8.1(a) - An applicant for admission to the bar, or a lawyer in connection with a bar admission application or in connection with a disciplinary matter, shall not knowingly make a false statement of material fact; and
5. RPC 8.1(b) - An applicant for admission to the bar, or a lawyer in connection with a bar admission application or in connection with a disciplinary matter, shall not ... fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter, or knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6.

#### IV. DISCUSSION

This matter is before the Board for consideration of the Committee's Report and unanimous recommendation to suspend Respondent for one year and one day for his violations of RPC 1.15(b), 1.15(e), 1.15(l), 8.1(a) and 8.1(b). Respondent failed to respond to the Petition for Discipline; factual allegations contained therein are deemed admitted under Pa.R.D.E. 208(b)(3). These admissions and Petitioner's exhibits demonstrate that Petitioner met its burden of proof by clear and convincing evidence that Respondent violated the rules charged in the Petition for Discipline.<sup>1</sup> *Office of Disciplinary Counsel v. Anonymous Attorney*, 331 A.3d 523 (Pa. 2025).

---

<sup>1</sup> *Anonymous Attorney* clarified that the standard of proof in attorney disciplinary matters requires the Office of Disciplinary Counsel to establish attorney misconduct with evidence that is sufficient to satisfy a clear and convincing evidence standard of proof. Here, the Committee conducted the disciplinary hearing before *Anonymous Attorney* was issued and applied the "preponderance of clear and satisfactory evidence" standard. HC Rpt. at p. 12. Nevertheless, we find that the evidence presented meets the newly clarified standard.

#### Respondent's failure to properly maintain settlement funds

Respondent failed to properly maintain and distribute Mr. Rice's settlement funds and mishandled the settlement funds at every step. In or about early April 2022, Respondent received \$160,000 in settlement funds for Mr. Rice's personal injury matter. Respondent utilized the 3100 account to deposit and maintain those funds. The 3100 account is not an IOLTA or other trust account, but rather a business checking account connected to Respondent's law office. Respondent's conduct violated 1.15(l), which requires attorneys to deposit all fiduciary funds in a trust account, and RPC 1.15(b), which requires attorneys to appropriately safeguard client funds.

#### Respondent's failure to promptly distribute settlement funds

RPC 1.15(e) requires attorneys to promptly distribute funds owed to clients and third parties. Respondent failed to meet this obligation as to the remaining funds owed to Mr. Rice and the funds owed to Medicare and Equian, LLC. Between July 2022 and October 2023, Respondent failed to disburse the entirety of the funds owed to Mr. Rice and failed to fully satisfy the subrogation liens. In August 2023, Respondent was still holding \$43,921.98 of Mr. Rice's settlement funds, of which \$7,142.16 was owed to Mr. Rice and \$35,779.82 was owed to Equian, LLC. Respondent did not take action to disburse these remaining funds until October 2023, after he was notified of Petitioner's investigation. Respondent continued to mismanage his obligation by issuing payments to Mr. Rice and Equian, LLC from accounts other than the 3100 account. The accounts from which Respondent attempted to issue the payments were in fact closed or held insufficient funds to cover the payments.

#### Respondent's misrepresentation to Petitioner

Throughout Petitioner's investigation and these disciplinary proceedings Respondent misrepresented that the 3100 account is an IOLTA. In response to the DB-7 letter, Respondent denied that he failed to hold Mr. Rice's settlement funds in an IOLTA but provided bank records that clearly listed the 3100 as a business checking account. When Petitioner brought this discrepancy to Respondent's attention, he denied that the 3100 account was not an IOLTA. To date, Respondent continues to advance his claim that the 3100 is in fact an IOLTA. N.T. 14-15, 34, 39, 43, 44. Respondent provided no evidence to support his claim. Respondent's repeated misrepresentation of the 3100 account as an IOLTA violates RPC 8.1(a), which prohibits an attorney making a false statement of fact in disciplinary matters.

Respondent's failure to fully cooperate with Petitioner's requests for information

Respondent's failure to produce complete records in response to Petitioner's requests violated RPC 8.1(b), which requires an attorney to respond to disciplinary counsel's requests for information. On October 5, 2023, Petitioner sent Respondent a letter requesting financial records and an accounting of Mr. Rice's settlement funds. Respondent failed to respond or produce any records. Subsequently, Petitioner issued to Respondent a subpoena *duces tecum* directing him to appear and produce records. Respondent appeared for the November 23, 2023 subpoena return hearing, but failed to produce complete records, including the October 2023 periodic statement of account for the 3100 account, periodic statements for the checking account ending in 1321 for the period of January 1, 2022 to December 31, 2022, and a complete accounting of the Rice settlement funds.

The disciplinary hearing

Respondent's statements on the events in question are troubling as they

demonstrate Respondent's lack of accountability for his actions. Respondent insists that the 3100 account in question is a proper IOLTA account. He repeatedly stated throughout the hearing that it was his belief that he had opened an IOLTA account at Citizens Bank, he had no responsibility to show that it was an IOLTA account, and he has not seen proof that it was not an IOLTA. N.T. 14, 15, 24, 25, 26, 26, 34, 39, 43, 44. Despite the pendency of these disciplinary proceedings, Respondent still made no inquiry to independently confirm the status of the 3100 account. N.T. 44-46. Respondent blamed Citizens Bank for his deposit of funds into a business checking account rather than a proper IOLTA or trust account, and also blamed Petitioner for failing to investigate Citizens Bank's "shady" policies and practice. N.T. 14, 15, 18, 19, 67. Further, although Respondent testified to an expertise in legal accounting, experience in bookkeeping, and knowledge of the nuances of specific business practices (N.T. 40, 64), he acknowledged that he did not keep proper bank records and that he did not use an accountant, but kept his own books. N.T. 40. Respondent also testified that he did not keep billing records. N.T. 58, 59.

Respondent blamed his failure to disburse the funds in a timely manner on his client, describing Mr. Rice as a "simple man" who had not asked Respondent for the money. Respondent further testified that Mr. Rice had directed him to not send Mr. Rice a check. N.T. 17, 18, 38, 51, 52, 68, 69. However, Respondent admitted that Mr. Rice called him repeatedly asking for updates regarding the whereabouts of the payments. N.T. 51, 52.

During the hearing, the Committee asked Respondent on several occasions if he had any documentation regarding the conversations he had with Mr. Rice about the settlement funds and Respondent indicated it was Petitioner's burden to provide such evidence. N.T. 22. It was not until Respondent was repeatedly asked about his

discussions and/or documentation of the settlement funds with Mr. Rice that Respondent reluctantly admitted that he either had not, or at the most very sparingly, memorialized his discussions with Mr. Rice in a letter or an email. N.T. 37, 38, 69. Respondent stated that his communications with Mr. Rice during the 18 months that he held the settlement funds took the form of text messages or telephone calls because Mr. Rice did not have a computer, yet Respondent did not provide evidence of any such texts. N.T. 70, 71, 25, 72, 72, 73. Respondent claimed he documented his communication with Mr. Rice regarding the money in the account in memos to the file, but he did not produce them. N.T. 52, 53.

Of further concern is that Respondent blamed his co-counsel in the Rice matter, Attorney Fives, for the instant proceedings. Despite stating that about one-third of his practice was in personal injury and that he had handled previous personal injury cases in which settlements had been disbursed, Respondent blamed his misconduct in this matter on his ignorance in trusting Attorney Fives. N.T. 22, 32, 33, 46, 47, 65, 67. Respondent described Mr. Fives as "underhanded," gaming the system, lying to Mr. Rice, filing a disciplinary complaint against Respondent to aggravate the lawsuit between them, not understanding that there were two medical liens, misadvising Mr. Rice, and as confused, mistaken, and inexperienced. N.T. 16, 17, 32, 48, 49, 50, 51. 47, 65, 67.

Continuing with his cycle of blaming others for his disciplinary proceedings, Respondent admitted that he had not provided Petitioner with the requested bank records for two years but attempted to excuse his actions on the basis of Petitioner's lack of clarity and to being intimidated by Petitioner. N.T. 31, 33, 34. Additionally, Respondent attributed his failure to produce requested documents to his ignorance in speaking with disciplinary counsel, following the recommendation of "the Ethics Committee," following the rules, and



to Petitioner's "dishonesty, deception." N.T. 8, 33, 34. Respondent essentially placed the blame on everyone else but himself for his noncompliance with Petitioner's requests.

We further observe that despite Respondent's participation in the September 26, 2024 prehearing conference in which deadlines were set for submission of exhibits, witness lists, exchange of documents, and objection deadlines, and in which Respondent stated that he anticipated bringing in two witnesses, Respondent attributed his failure to produce evidence, documents, or witnesses on his behalf to being advised or understanding that he could not present evidence or to his belief that all such deadlines applied only to Petitioner. Prehearing Conference N.T. 10; N.T. 6, 7, 23, 26, 43, 53, 54, 56, 57. Lastly, Respondent blamed his decision to not present evidence on improper service of process of the Petition for Discipline. N.T. 53, 54. None of Respondent's claims are supported by the record.

Respondent's participation in the disciplinary proceedings further reinforces the evidence of his current lack of fitness to practice law. The Committee found that Respondent displayed a cavalier attitude regarding maintaining his law license. N. T. 59, 60, 61. The Committee observed Respondent's demeanor to be flippant and detailed in its Report that Respondent rolled his eyes at the Hearing Committee or disciplinary counsel, laughed at some of his own responses to questions, provided long-winded but non-responsive answers to the Hearing Committee, and displayed grandiosity. N.T. 41, 47, 48, 60. When Respondent was asked what he would do differently regarding the matter, Respondent stated that he "would not talk to clients" on the phone. N.T. 37. When the Committee asked if Respondent planned to return to the practice of law, Respondent emphatically responded, "absolutely not." N.T. 41. Respondent generally does not seem to understand his rules violations or why they are concerning. When questioned by the

Committee whether the disciplinary proceeding dealt with Respondent's law license and his ability to earn a livelihood, Respondent inexplicably responded, "No, I don't think so." N.T. 59. Respondent also demonstrated impatience with the process, Petitioner, and the Committee, and at one point during the hearing asked if the process could be sped up and even went so far as to ask if a harsher penalty could be imposed because, "I need this done." N.T. 75, 76.

We find that Respondent failed to offer any credible evidence to explain his misconduct. Respondent's behavior and cavalier attitude toward the disciplinary process and maintaining his law license demonstrate a fundamental lack of insight, accountability, or remorse regarding his professional misconduct, his client, and the disciplinary system. Respondent used the hearing as an opportunity to cast blame for every aspect of his misconduct on Attorney Fives, Mr. Rice, Citizens Bank, and Petitioner.

Having concluded that Respondent engaged in professional misconduct, this matter is ripe for the determination of discipline. Disciplinary sanctions serve the dual role of protecting the interests of the public while maintaining the integrity of the bar. *Office of Disciplinary Counsel v. John Keller*, 506 A.2d 872, 875 (Pa. 1986). In assessing the appropriate quantum of discipline, the Board must weigh any aggravating and mitigating circumstances. *Office of Disciplinary Counsel v. Brian J. Preski*, 134 A.3d 1027, 1031 (Pa. 2016).

We consider in mitigation that Respondent has no prior discipline, although we note that he had only been practicing for approximately six years at the time of his misconduct. We find the aggravating factors in this matter significantly outweigh any mitigating factors. Respondent's lack of cooperation with Office of Disciplinary Counsel, his deficiencies in defending his own disciplinary matter, his failure to take the

proceedings seriously, and his failure to assume any personal responsibility or exhibit any insight or remorse demonstrate that he not fit to practice law.

Precedent supports a suspension of one year and one day. Respondent's behavior and complete disregard for the disciplinary process presents the same as that in *Office of Disciplinary v. Richard Hulings Luciana*, 91 DB 2021 (D. Bd. Rpt. 12/22/22) (S. Ct. Order 3/8/2023) in which Luciana was suspended for one year and one day for his severe lack of diligence in his representation of estate matters, as well as his disregard for disciplinary procedures. Furthermore, in *Office of Disciplinary Counsel v. John Klinger Mort*, 110 DB 2016 (5/10/2016) (S. Ct. Order 6/30/2016), Mort was suspended for one year and one day after failing to appear for an informal admonition, failing to answer the petition for discipline or appear at the prehearing conference, and exhibiting a lack of respect for his professional duties and for the disciplinary process in general. Respondent presents similar conduct as that in *Office of Disciplinary Counsel v. Joseph M. Yablonski*, No. 128 DB 2022 (2024) in which Yablonski was suspended for one year and one day for *inter alia* neglecting a personal injury matter, failing to communicate with clients, and deficiencies in defending his own disciplinary matter evidencing a continuation and extension of the practice problems and indicia of his inability to perform as a lawyer.

Respondent failed to hold Mr. Rice's settlement funds in an IOLTA or other trust account and failed to timely disburse those funds to his client and third-party lien holders. Standing alone, Respondent's single instance of mishandling of client funds might warrant no more than a public reprimand or private discipline. However, Respondent's misconduct also includes misrepresentation to disciplinary authorities and failure to cooperate in the disciplinary process. This increases the severity of the discipline to be imposed. As well, the aggravating circumstances discussed above weigh in favor

of more severe discipline. We share the concerns expressed by the Committee regarding Respondent's perplexing attitude towards his misconduct and these proceedings. Viewing Respondent's misconduct, the aggravating factors, and the limited weight of the mitigating factor of his lack of disciplinary record, we conclude that Respondent's license should be suspended for a period of time that requires him to undergo a rigorous reinstatement inquiry and prove his fitness to practice. Upon this record, after considering the goals of the disciplinary system and established precedent to ensure the application of consistent discipline, we respectfully recommend that Respondent be suspended for one year and one day.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that the Respondent, Matthew James Marcello, be Suspended for one year and one day from the practice of law in this Commonwealth.

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

Respectfully submitted,

THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

By: /s/ Robert J. Mongeluzzi  
Robert J. Mongeluzzi, Member

Date: 07/08/2025