

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 2482 Disciplinary Docket No. 3
: :
Petitioner : No. 60 DB 2018
: :
v. : Attorney Registration No. 38490
: :
JEFFREY L. PERLMAN, : (Philadelphia)
: :
Respondent :

ORDER

PER CURIAM

AND NOW, this 1st day of June, 2018, upon consideration of the Recommendation of the Three-Member Panel of the Disciplinary Board, the Joint Petition in Support of Discipline on Consent is granted, and Jeffrey L. Perlman is suspended on consent from the Bar of this Commonwealth for a period of eighteen months, consecutive to the eighteen-month suspension ordered by this Court on November 4, 2016. He shall comply with all the provisions of Pa.R.D.E. 217.

Respondent shall pay costs incurred by the Disciplinary Board in the investigation and prosecution of this matter.

A True Copy Patricia Nicola
As Of 6/1/2018

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA


OFFICE OF DISCIPLINARY COUNSEL : No. ____ Disciplinary Docket No. 3
Petitioner :
 : No. 60 DB 2018
v. :
 : Attorney Registration No. 38490
JEFFREY L. PERLMAN :
Respondent : (Philadelphia)

RECOMMENDATION OF THREE-MEMBER PANEL
OF THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

The Three-Member Panel of the Disciplinary Board of the Supreme Court of Pennsylvania, consisting of Board Members P. Brennan Hart, Jerry M. Lehocky, and Douglas W. Leonard, has reviewed the Joint Petition in Support of Discipline on Consent filed in the above-captioned matter on April 23, 2018.

The Panel approves the Joint Petition consenting to suspending Respondent from the practice of law for a period of eighteen months, to run consecutive to the suspension of eighteen months imposed by Order dated November 4, 2016 and recommends to the Supreme Court of Pennsylvania that the attached Petition be Granted.

The Panel further recommends that any necessary expenses incurred in the investigation and prosecution of this matter shall be paid by the respondent-attorney as a condition to the grant of the Petition.


P. Brennan Hart, Panel Chair
The Disciplinary Board of the
Supreme Court of Pennsylvania

Date: May 9, 2018

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : 60 DB 2018
Petitioner :
: Board File Nos.
: C1-16-724, C1-17-31,
: C1-17-39, C1-17-73,
: C1-17-74, C1-17-120,
: C1-17-162, and C1-17-272
v. :
: Atty. Reg. No. 38490
JEFFREY L. PERLMAN, :
Respondent : (Philadelphia)

JOINT PETITION IN SUPPORT OF DISCIPLINE
ON CONSENT UNDER RULE 215(d), Pa.R.D.E.

Petitioner, Office of Disciplinary Counsel ("ODC"), by Paul J. Killion, Esquire, Chief Disciplinary Counsel, and by Richard Hernandez, Esquire, Disciplinary Counsel, and Respondent, Jeffrey L. Perlman, who is represented by Samuel C. Stretton, Esquire, file this Joint Petition In Support Of Discipline On Consent Under Pennsylvania Rule of Disciplinary Enforcement 215(d) ("the 2018 Joint Petition"), and respectfully represent that:

1. Petitioner, whose principal office is located at Pennsylvania Judicial Center, Suite 2700, 601 Commonwealth Avenue, P.O. Box 62485, Harrisburg, Pennsylvania, is invested, pursuant to Rule 207 of the Pennsylvania Rules of Disciplinary Enforcement ("Pa.R.D.E."), with the power and

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The Disciplinary Board of the
Supreme Court of Pennsylvania

duty to investigate all matters involving alleged misconduct of an attorney admitted to practice law in the Commonwealth of Pennsylvania and to prosecute all disciplinary proceedings brought in accordance with the various provisions of said Rules of Disciplinary Enforcement.

2. Respondent, Jeffrey L. Perlman, was born in 1955, was admitted to practice law in the Commonwealth of Pennsylvania on October 18, 1983, and has a residence in Penn Valley, Pennsylvania.

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

4. By Order of the Supreme Court of Pennsylvania dated November 4, 2016, Respondent was suspended on consent for eighteen months, retroactive to October 5, 2016 ("the Suspension Order"); that disciplinary matter was assigned the following disciplinary docket and board docket numbers: No. 2301 Disc. Dkt. No. 3; and No. 90 DB 2016.

5. In the Joint Petition In Support Of Discipline On Consent that was the basis of Respondent's eighteen-month suspension ("the 2016 Joint Petition"), eleven separate charges were listed; ten of the eleven charges related to specific client complaints. In that disciplinary matter, Respondent's misconduct principally involved neglect, lack of

communication, and mishandling of fiduciary funds.

6. Respondent is aware that there are eight open complaint files relating to seven client matters that are under investigation by ODC: File No. C1-16-724, File No. C1-17-31, File No. C1-17-39, File No. C1-17-73, File No. C1-17-74, File No. C1-17-120, File No. C1-17-162, and File No. C1-17-272.

7. For each of the eight open complaint files, ODC has sent to Respondent a Request for Statement of Respondent's Position (Form DB-7); Respondent has submitted a counseled response to each of the DB-7 letters.

8. Respondent has agreed to enter into a joint recommendation for consent discipline that encompasses the allegations of misconduct raised in the eight open complaint files, as referenced above.

SPECIFIC FACTUAL ADMISSIONS AND
RULES OF PROFESSIONAL CONDUCT VIOLATED

9. Respondent hereby stipulates that the following factual allegations are true and correct and that he violated the Rules of Professional Conduct and Pennsylvania Rules of Disciplinary Enforcement as set forth herein.

CHARGE I: Alice S. Aikens Matter; File No. C1-16-724

10. Ms. Alice S. Aikens retained Respondent to represent her for injuries she sustained in an automobile

accident that occurred in Philadelphia, Pennsylvania ("the Aikens accident").

a. The Aikens accident took place on May 11, 2010.

11. On May 1, 2012, Respondent commenced a lawsuit on behalf of Ms. Aikens in the Philadelphia Court of Common Pleas by filing a Complaint, said case captioned **Alice S. Aikens vs. Hakeem Pettway et al.**, docket number 120403737 ("the Aikens lawsuit").

12. The Aikens lawsuit was eventually re-scheduled for an arbitration hearing on August 30, 2013, at 10:30 a.m. at the Arbitration Center.

13. Sometime prior to August 22, 2013, Respondent agreed, on behalf of Ms. Aikens, to settle the Aikens lawsuit against the defendants for the sum of \$15,000.00.

14. On or about August 22, 2013, the Arbitration Center was advised that the Aikens lawsuit had settled and that fact was docketed in the Aikens lawsuit.

15. By letter dated August 22, 2013, sent to Respondent via facsimile transmission and first class mail, Jillian Bluestone, Esquire, counsel for the defendants in the Aikens lawsuit, *inter alia*:

a. confirmed that Ms. Aikens had agreed to settle the Aikens lawsuit for the sum of \$15,000.00;

- b. enclosed copies of a Release and a Medicare form; and
- c. advised Respondent that the settlement check would be issued when Respondent provided her with an executed Release, the completed Medicare form, Respondent's firm's tax identification number, and an Order to Settle, Discontinue and End.

16. Respondent received this letter.

17. Respondent advised Ms. Aikens that the Aikens lawsuit had settled for \$15,000.00 and requested that Ms. Aikens come to Respondent's law office to sign the Release and the Medicare form.

18. Ms. Aikens appeared at Respondent's law office and signed the Release and the Medicare form.

19. Respondent failed to forward the executed Release and the executed Medicare form to Ms. Bluestone.

20. By cover letter dated September 24, 2014, sent to Respondent via facsimile transmission, Larry R. McDowell, Esquire, counsel for the defendants in the Aikens lawsuit, *inter alia*:

- a. advised Respondent that Ms. Bluestone had left the firm and that he was assigned to handle the Aikens lawsuit;

- b. attached copies of the August 22, 2013 letter, with enclosures, that Ms. Bluestone had sent to Respondent;
- c. stated that he noted that Ms. Bluestone had sent Respondent the August 22, 2013 letter, with enclosures; and
- d. requested that Respondent advise him of "the status of the signed closing documents"

21. Respondent received this letter.

22. Respondent failed to forward the executed Release and the executed Medicare form to Mr. McDowell.

23. By email dated December 17, 2015, sent by Mr. McDowell to Respondent, Mr. McDowell, *inter alia*:

- a. stated that his office had not received from Respondent the "signed closing documents" for the Aikens lawsuit;
- b. attached the Release and the Medicare form; and
- c. requested that Respondent "let [him] know the status."

24. Respondent received this email, with attachments.

25. Respondent failed to forward the executed Release and the executed Medicare form to Mr. McDowell.

26. By his conduct as alleged in Paragraphs 10 through 25 above, Respondent violated the following Rule of Professional Conduct:

- a. RPC 1.3, which states that a lawyer shall act with reasonable diligence and promptness in representing a client.

CHARGE II: **Robert L. Sizer Matter; File No. C1-17-31**

27. On or about August 10, 2013, Mr. Robert L. Sizer and his daughter, Ms. Yvette Thompson, were involved in an automobile accident that occurred in Philadelphia, Pennsylvania.

28. Mr. Sizer drove the vehicle and Ms. Thompson was a passenger.

29. Sometime after August 10, 2013, Mr. Sizer and Ms. Thompson retained Respondent to represent them for any claims they had arising from the August 10, 2013 accident.

30. Mr. Sizer and Ms. Thompson signed a contingent fee agreement.

31. On August 10, 2015, Respondent commenced a lawsuit on behalf of Mr. Sizer and Ms. Thompson by filing a Praecipe to Issue Writ of Summons in the Philadelphia Court of Common Pleas, said case captioned **Robert Sizer et al. vs. Abu Rahman Abdu Karriem**, docket number 150801159 ("the Sizer lawsuit").

32. The Sizer lawsuit was scheduled for an arbitration hearing on May 9, 2016, at 9:15 a.m. at the Arbitration Center.

33. Respondent received notice of the date and time of the arbitration hearing.

34. Respondent failed to advise Mr. Sizer and Ms. Thompson of the date, time, and location of the arbitration hearing.

35. On May 6, 2016, Respondent filed an application for a continuance of the arbitration hearing.

36. On May 6, 2016, the application was granted and the arbitration hearing was rescheduled to June 9, 2016, at 10:45 a.m. at the Arbitration Center.

37. Respondent received notice of the rescheduled date and time of the arbitration hearing.

38. Respondent failed to advise Mr. Sizer and Ms. Thompson of the date, time, and location of the arbitration hearing.

39. On June 9, 2016, Respondent, Mr. Sizer, and Ms. Thompson failed to appear for the arbitration hearing.

40. Based on the failure of Respondent, Mr. Sizer, and Ms. Thompson to appear for the arbitration hearing, the Sizer lawsuit was transferred to a judge of the Philadelphia Court of Common Pleas pursuant to Pa.R.C.P. 1303(b)(2) and

Phila.Civ.R. 1303(a) for a decision; there would be no right to a trial de novo from the judge's decision.

41. By Order dated June 13, 2016, docketed on June 14, 2016, the Honorable Abbe F. Fletman entered a judgment of non pros in the Sizer lawsuit, pursuant to Pa.R.C.P. 1303(b)(2) and Phila.Civ.R. 1303(a).

42. Respondent received notice of the entry of the June 13, 2016 Order.

43. Respondent failed to:

- a. advise Mr. Sizer and Ms. Thompson that the Sizer lawsuit had been dismissed; and
- b. explain to Mr. Sizer and Ms. Thompson their legal options, including the possibility of filing a legal malpractice action against Respondent.

44. From time to time, Mr. Sizer had called Respondent at Respondent's office telephone number and left messages requesting a return call.

45. Respondent failed to return Mr. Sizer's messages.

46. From time to time, Mr. Sizer had visited Respondent's office so that he could speak with Respondent about his personal injury case, but Respondent was not at Respondent's office when Mr. Sizer appeared.

47. By his conduct as alleged in Paragraphs 27 through 46 above, Respondent violated the following Rules of Professional Conduct:

- a. RPC 1.3, which states that a lawyer shall act with reasonable diligence and promptness in representing a client;
- b. RPC 1.4(a)(3), which states that a lawyer shall keep the client reasonably informed about the status of the matter;
- c. RPC 1.4(a)(4), which states that a lawyer shall promptly comply with reasonable requests for information; and
- d. RPC 1.4(b), which states that a lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

CHARGE III: Keith L. Wilkins Matter; File No. C1-17-39

48. On March 9, 2015, Mr. Keith L. Wilkins was involved in an automobile accident that occurred in Philadelphia, Pennsylvania.

49. On or about March 11, 2015, Mr. Wilkins retained Respondent to represent him for any claims he had arising from the March 9, 2015 accident.

50. Commencing in July 2016, and continuing through December 2016, Mr. Wilkins had called Respondent from time to time to ascertain the status of his accident case; Mr. Wilkins left messages for Respondent requesting that Respondent return his calls.

51. Respondent received these messages.

52. Respondent failed to return Mr. Wilkins' telephone calls.

53. In July 2016, Mr. Wilkins went to Respondent's office to discuss with Respondent his accident case.

54. Respondent was not in Respondent's office so Mr. Wilkins left a note with the receptionist to give to Respondent; the note requested that Respondent contact him.

55. Respondent failed to contact Mr. Wilkins.

56. By Order dated October 5, 2016, the Supreme Court of Pennsylvania granted a Joint Petition to Temporarily Suspend an Attorney and temporarily suspended Respondent's license to practice law in the Commonwealth of Pennsylvania ("the temporary Suspension Order").

57. The temporary Suspension Order also directed Respondent to comply with Pennsylvania Rule of Disciplinary Enforcement ("Pa.R.D.E.") 217.

58. Respondent received the temporary Suspension Order.

59. Respondent failed to advise Mr. Wilkins that:

- a. Respondent had been temporarily suspended; and
- b. Respondent could no longer represent Mr. Wilkins because Respondent could not provide any legal services in the Commonwealth of Pennsylvania.

60. On November 4, 2016, the Supreme Court of Pennsylvania granted the 2016 Joint Petition and entered the Suspension Order referenced in ¶ 4, *supra*.

61. The Suspension Order also directed Respondent to comply with Pa.R.D.E. 217.

62. Respondent received the Suspension Order.

63. Respondent failed to advise Mr. Wilkins that:

- a. Respondent had been suspended for eighteen months; and
- b. Respondent could no longer represent him because Respondent could not provide any legal services in the Commonwealth of Pennsylvania.

64. By his conduct as alleged in Paragraphs 48 through 63 above, Respondent violated the following Rules of Professional Conduct and Pennsylvania Rules of Disciplinary Enforcement:

- a. RPC 1.4(a) (3), which states that a lawyer shall keep the client reasonably informed about the status of the matter;
- b. RPC 1.4(a) (4), which states that a lawyer shall promptly comply with reasonable requests for information;
- c. RPC 1.4(b), which states that a lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation; and
- d. Pa.R.D.E. 203(b) (3), which states that a wilful violation of any other provision of the Enforcement Rules shall be grounds for discipline, via:
 - (1) Pa.R.D.E. 217(a), which states that a formerly admitted attorney shall promptly notify, or cause to be promptly notified, all clients being represented in pending matters, other than litigation or administrative proceedings, of the disbarment, suspension, administrative suspension or transfer to inactive status and the consequent inability of the formerly admitted attorney to act as an attorney after the effective date of the disbarment, suspension, administrative suspension or transfer to inactive status and shall advise said clients to seek legal advice elsewhere. The notice required by this subdivision (a) may be delivered by the most efficient method

possible as long as the chosen method is successful and provides proof of receipt. At the time of the filing of the verified statement of compliance required by subdivision (e)(1) of this Rule, the formerly admitted attorney shall file copies of the notices required by this subdivision and proofs of receipt with the Secretary of the Board and shall serve a conforming copy on the Office of Disciplinary Counsel. See D.Bd. Rules § 91.91(b) (relating to filing of copies of notices); and

- (2) Pa.R.D.E. 217(b), which states that a formerly admitted attorney shall promptly notify, or cause to be promptly notified, all clients who are involved in pending litigation or administrative proceedings, and the attorney or attorneys for each adverse party in such matter or proceeding, of the disbarment, suspension, administrative suspension or transfer to inactive status and consequent inability of the formerly admitted attorney to act as an attorney after the effective date of the disbarment, suspension, administrative suspension or transfer to inactive status. The notice to be given to the client shall advise the prompt substitution of another attorney or attorneys in place of the formerly admitted attorney. In the event the client does not obtain substitute counsel before the effective date of the disbarment, suspension, administrative suspension or transfer to [inactive] status, it shall be the responsibility of the formerly admitted attorney to move in the court or agency in which the proceeding is pending for leave to withdraw. The notice to be given to the attorney or attorneys for an adverse party shall state the place of residence of the client of the formerly admitted attorney. The notice required by this

subdivision (b) may be delivered by the most efficient method possible as long as the chosen method is successful and provides proof of receipt. See Note after subdivision (a)[of Rule 217]. At the time of the filing of the verified statement of compliance required by subdivision (e)(1) of this Rule, the formerly admitted attorney shall file copies of the notices required by this subdivision and proofs of receipt with the Secretary of the Board and shall serve a conforming copy on the Office of Disciplinary Counsel. See D.Bd. Rules § 91.92(b) (relating to filing of copies of notices).

CHARGE IV: Jerry Mendez and Yemarie Feliciano Matters;
File Nos. C1-17-73 and C1-17-74

65. On May 31, 2011, Mr. Jerry Mendez and his wife, Ms. Yemarie Feliciano, were involved in an automobile accident that occurred in Philadelphia, Pennsylvania.

66. Sometime after May 31, 2011, Mr. Mendez and Ms. Feliciano retained Respondent to represent them for any claims they had arising from the May 31, 2011 accident.

67. On May 14, 2013, Respondent commenced a lawsuit on behalf of Mr. Mendez and Ms. Feliciano by filing a Praecipe to Issue Writ of Summons in the Philadelphia Court of Common Pleas, said case captioned ***Jerry Mendez et al. vs. Jerome Grady***, docket number 130501247 ("the Mendez lawsuit").

68. The Mendez lawsuit was scheduled for an arbitration hearing on January 31, 2014.

69. On June 11, 2013, Ryan C. Donnelly, Esquire, entered his appearance on behalf of Mr. Jerome Grady.

70. On June 18, 2013, Mr. Grady filed in the Mendez lawsuit a Praeceptum and Rule upon Mr. Mendez and Ms. Feliciano to File a Complaint within 20 days or Suffer a Judgment of Non Pros ("the Rule to File Complaint").

71. Respondent received the Rule to File Complaint.

72. Respondent failed to file a Complaint in the Mendez lawsuit.

73. On August 22, 2013, Mr. Donnelly filed in the Mendez lawsuit a Praeceptum for Entry of Judgment of Non Pros in Favor of Jerome Grady.

74. On August 22, 2013, the Prothonotary entered a judgment of non pros.

75. Respondent received the judgment of non pros.

76. On October 1, 2013, Mr. Donnelly filed in the Mendez lawsuit a Stipulation to withdraw the judgment of non pros.

77. By Order dated October 2, 2013, docketed on October 4, 2013, the Court, acting pursuant to the Stipulation, withdrew the judgment of non pros.

78. On November 20, 2013, Mr. Grady filed in the Mendez lawsuit a second Praeceptum and Rule upon Mr. Mendez and Ms. Feliciano to File a Complaint within 20 days or Suffer a Judgment of Non Pros ("the second Rule to File Complaint").

79. Respondent received the second Rule to File Complaint.

80. Respondent again failed to file a Complaint in the Mendez lawsuit.

81. On January 7, 2014, Mr. Donnelly filed in the Mendez lawsuit a second Praecipe for Entry of Judgment of Non Pros in Favor of Jerome Grady.

82. On January 7, 2014, the Prothonotary entered a second judgment of non pros.

83. Respondent received the second judgment of non pros.

84. Respondent failed to take any action to have the second judgment of non pros withdrawn.

85. Respondent failed to advise Mr. Mendez and Ms. Feliciano that the Mendez lawsuit had been dismissed because Respondent had failed to file a Complaint on their behalf.

86. Respondent failed to inform Mr. Mendez and Ms. Feliciano of their legal options following the entry of the second judgment of non pros in the Mendez lawsuit.

87. From time to time, Mr. Mendez and Ms. Feliciano would call Respondent and leave messages inquiring about the status of the Mendez lawsuit.

88. Respondent failed to call back Mr. Mendez and Ms. Feliciano.

89. By his conduct as alleged in Paragraphs 65 through 88 above, Respondent violated the following Rules of Professional Conduct:

- a. RPC 1.3, which states that a lawyer shall act with reasonable diligence and promptness in representing a client;
- b. RPC 1.4(a)(3), which states that a lawyer shall keep the client reasonably informed about the status of the matter;
- c. RPC 1.4(a)(4), which states that a lawyer shall promptly comply with reasonable requests for information; and
- d. RPC 1.4(b), which states that a lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

CHARGE V: Robert E. Thompson Matter; File No. C1-17-120

90. On May 25, 2011, Mr. Robert E. Thompson was involved in a trip and fall accident that occurred at a property located at 820 Spring Garden Street, Philadelphia, Pennsylvania.

91. Sometime after May 25, 2011, Mr. Thompson retained Respondent to represent Mr. Thompson for any claims he had

arising from the accident.

92. On May 6, 2013, Respondent commenced a lawsuit on behalf of Mr. Thompson by filing a Praecipe to Issue Writ of Summons in the Philadelphia Court of Common Pleas, said case captioned **Robert E. Thompson v. Spring Garden Marketing & Investment, LLC, et al.**, docket number 130501513 ("the Thompson lawsuit").

93. On September 12, 2013, Respondent filed a Complaint in the Thompson lawsuit.

94. On November 25, 2013, Robert E. McDivitt, III, Esquire, counsel for the defendants, filed with the court: a discovery hearing request; and a Motion to Compel Answers and Production of Documents ("the Motion to Compel").

95. The Motion to Compel was scheduled for a hearing on December 12, 2013, at 9:00 a.m. in Room 243, City Hall.

96. Respondent was served with the Motion to Compel and was notified of the date of the hearing.

97. By Order dated December 12, 2013, docketed that day, the court:

- a. granted the Motion to Compel; and
- b. directed Mr. Thompson to respond to the defendants' Interrogatories, Request for Production of Documents, and Supplemental Interrogatories within 20 days of the date of

the docketing of the Order or risk the imposition of sanctions.

98. Respondent received the December 12, 2013 Order.

99. Respondent failed to advise Mr. Thompson about the entry of the December 12, 2013 Order.

100. On January 15, 2014, Mr. McDivitt filed with the court: a discovery hearing request; and a Motion for Sanctions ("the Sanctions Motion").

101. The Sanctions Motion was scheduled for a hearing on January 30, 2014, at 9:00 a.m. in Room 243, City Hall.

102. Respondent was served with the Sanctions Motion and was notified of the date of the hearing.

103. By Order dated January 30, 2014, docketed that day, the court:

- a. stated that by agreement of the parties, the Sanctions Motion was granted;
- b. directed Mr. Thompson to respond to the defendants' Interrogatories, Request for Production of Documents, and Supplemental Interrogatories within 20 days of the date of the Order;
- c. sanctioned Mr. Thompson the amount of \$397.68 for attorney's fees and costs incurred by the defendants in filing the Sanctions Motion,

said fees and costs to be made payable to Fineman, Krekstein & Harris, P.C.; and

d. advised that additional sanctions may be imposed if Mr. Thompson failed to comply with the Order.

104. Respondent received the January 30, 2014 Order.

105. Respondent failed to advise Mr. Thompson about the entry of the January 30, 2014 Order.

106. On April 1 and May 12, 2014, Mr. Thompson went to Respondent's office, at which times Respondent told him that Respondent would complete the case in 45 days; Respondent gave Mr. Thompson \$40.00.

107. On May 12, 2014, Mr. McDivitt filed with the court: a discovery hearing request; and a Motion to Compel Deposition ("the second Motion to Compel").

108. The second Motion to Compel was scheduled for a hearing on May 29, 2014, at 9:00 a.m. in Room 243, City Hall.

109. Respondent was served with the second Motion to Compel and was notified of the date of the hearing.

110. By Order dated May 29, 2014, docketed that day, the court:

- a. granted the second Motion to Compel; and
- b. directed Mr. Thompson to appear for a deposition on June 3, 2014, at 10:00 a.m. at

the offices of Fineman, Krekstein & Harris, P.C., at 1735 Market Street, Suite 600, Philadelphia, Pennsylvania or risk the imposition of sanctions.

111. Respondent received the May 29, 2014 Order.

112. Respondent failed to advise Mr. Thompson about the entry of the May 29, 2014 Order.

113. On June 5, 2014, Mr. McDivitt filed with the court: a discovery hearing request; and a Motion for Sanctions ("the second Sanctions Motion").

114. The second Sanctions Motion was scheduled for a hearing on June 19, 2014, at 9:00 a.m. in Room 243, City Hall.

115. Respondent was served with the second Sanctions Motion and was notified of the date of the hearing.

116. By Order dated June 19, 2014, docketed on June 20, 2014, the court:

- a. stated that by agreement of the parties, the second Sanctions Motion was granted;
- b. directed Mr. Thompson to respond to the defendants' Interrogatories, Request for Production of Documents, and Supplemental Interrogatories within 10 days of the date of the Order;

- c. directed Mr. Thompson to appear for a deposition on July 1, 2014, at 10:00 a.m. at the offices of Fineman, Krekstein & Harris, P.C., at 1735 Market Street, Suite 600, Philadelphia, Pennsylvania;
- d. sanctioned Mr. Thompson the amount of \$397.68 for attorney's fees and costs incurred by the defendants in filing the second Sanctions Motion, said fees and costs to be made payable to Fineman, Krekstein & Harris, P.C.; and
- e. advised that additional sanctions may be imposed if Mr. Thompson failed to comply with the Order.

117. Respondent received the June 19, 2014 Order.

118. Respondent failed to advise Mr. Thompson about the entry of the June 19, 2014 Order.

119. After several continuances, the Thompson lawsuit was scheduled for an arbitration hearing on September 29, 2014, at 10:45 a.m. at the Arbitration Center.

120. Sometime prior to September 22, 2014, Respondent and Mr. McDivitt agreed to settle the Thompson lawsuit for the sum of \$8,250.00.

121. On September 22, 2014, the court was advised that the parties had settled the Thompson lawsuit and the court

discontinued the Thompson lawsuit.

122. By letter dated September 26, 2014, sent by Mr. McDivitt to Respondent via facsimile transmission, Mr. McDivitt:

- a. enclosed a document titled "General Release and Settlement Agreement" ("the Release"); and
- b. requested that the Release be executed and returned to him.

123. Respondent received this letter, with enclosure.

124. Respondent failed to:

- a. notify Mr. Thompson that Respondent had received the Release;
- b. arrange for Mr. Thompson to sign the Release; and
- c. return the executed Release to Mr. McDivitt.

125. By letter dated November 21, 2014, sent by Mr. McDivitt to Respondent via facsimile transmission and email, Mr. McDivitt stated that:

- a. he had sent Respondent the Release on September 26, 2014;
- b. he had not received a signed copy of the Release from Respondent; and
- c. he would file a motion to deposit the settlement funds with the court if he did not

receive a signed Release from Respondent by
November 26, 2014.

126. Respondent received this letter.

127. Respondent again failed to:

- a. notify Mr. Thompson that Respondent had received the Release;
- b. arrange for Mr. Thompson to sign the Release;
and
- c. return the executed Release to Mr. McDivitt.

128. On February 16, 2015, Mr. McDivitt filed with the Court a Motion to Enforce Settlement ("the Motion to Enforce").

129. Respondent was served with the Motion to Enforce.

130. Respondent failed to file a response to the Motion to Enforce.

131. Respondent failed to advise Mr. Thompson that the Motion to Enforce had been filed.

132. By Order dated April 9, 2015, docketed on April 10, 2015, the court, *inter alia*:

- a. granted the Motion to Enforce;
- b. held that the Thompson lawsuit had settled for \$8,250.00, which sum was to be paid by the defendants; and

c. directed Mr. Thompson to execute the Release and to forward the Release to Mr. McDivitt within 30 days from the date of the Order.

133. Respondent received the April 9, 2015 Order.

134. Respondent failed to advise Mr. Thompson about the entry of the April 9, 2015 Order.

135. On May 22, 2015, Mr. McDivitt filed with the court a Petition for Payment Into Court ("the Petition").

136. Respondent was served with the Petition.

137. Respondent failed to file a response to the Petition.

138. Respondent failed to advise Mr. Thompson that the Petition had been filed.

139. By Order dated June 3, 2015, docketed on June 5, 2015, the court:

- a. granted the Petition, in part; and
- b. permitted the defendants to deposit the sum of \$8,250.00 with the Clerk of the Civil Division, Office of Judicial Records, to be held in escrow pending further Order of the court.

140. Respondent received the June 3, 2015 Order.

141. Respondent failed to advise Mr. Thompson about the entry of the June 3, 2015 Order.

142. On June 12, 2015, Mr. Thompson came to Respondent's office and signed the Release.

143. On July 20, 2015, Mr. McDivitt deposited with the Office of Judicial Records the sum of \$8,250.00.

144. After Mr. Thompson signed the Release, Respondent failed to take any action to obtain the settlement monies that Mr. McDivitt had deposited with the Office of Judicial Records.

145. By Order dated October 5, 2016, the Supreme Court of Pennsylvania granted a Joint Petition to Temporarily Suspend an Attorney and temporarily suspended Respondent's license to practice law in the Commonwealth of Pennsylvania ("the temporary Suspension Order").

146. The temporary Suspension Order also directed Respondent to comply with Pennsylvania Rule of Disciplinary Enforcement ("Pa.R.D.E.") 217.

147. Respondent received the temporary Suspension Order.

148. Respondent failed to advise Mr. Thompson that:

- a. he had been temporarily suspended;
- b. he could no longer represent Mr. Thompson; and
- c. he should retain other counsel to assist him in obtaining the \$8,250.00 in settlement proceeds that Mr. McDivitt had deposited with the Office of Judicial Records.

149. On November 4, 2016, the Supreme Court of Pennsylvania granted the 2016 Joint Petition and entered the Suspension Order referenced in ¶ 4, *supra*.

150. The Suspension Order also directed Respondent to comply with Pa.R.D.E. 217.

151. Respondent received the Suspension Order.

152. Respondent failed to advise Mr. Thompson that:

- a. he had been suspended for eighteen months;
- b. he could no longer represent Mr. Thompson; and
- c. he should retain other counsel to assist him in obtaining the \$8,250.00 in settlement proceeds that Mr. McDivitt had deposited with the Office of Judicial Records.

153. By his conduct as alleged in Paragraphs 90 through 152 above, Respondent violated the following Rules of Professional Conduct and Pennsylvania Rules of Disciplinary Enforcement:

- a. RPC 1.3, which states that a lawyer shall act with reasonable diligence and promptness in representing a client;
- b. RPC 1.4(a)(3), which states that a lawyer shall keep the client reasonably informed about the status of the matter;

- c. RPC 1.4(b), which states that a lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation;
- d. RPC 8.4(d), which states that it is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice; and
- e. Pa.R.D.E. 203(b)(3), which states that a wilful violation of any other provision of the Enforcement Rules shall be grounds for discipline, via:
 - (1) Pa.R.D.E. 217(b), which states that a formerly admitted attorney shall promptly notify, or cause to be promptly notified, all clients who are involved in pending litigation or administrative proceedings, and the attorney or attorneys for each adverse party in such matter or proceeding, of the disbarment, suspension, administrative suspension or transfer to inactive status and consequent inability of the formerly admitted attorney to act as an attorney after the effective date of the disbarment, suspension, administrative suspension or transfer to inactive status. The notice to be given to the client shall advise the prompt substitution of another attorney or attorneys in place of the formerly admitted attorney. In the event the client does not obtain substitute counsel

before the effective date of the disbarment, suspension, administrative suspension or transfer to [inactive] status, it shall be the responsibility of the formerly admitted attorney to move in the court or agency in which the proceeding is pending for leave to withdraw. The notice to be given to the attorney or attorneys for an adverse party shall state the place of residence of the client of the formerly admitted attorney. The notice required by this subdivision (b) may be delivered by the most efficient method possible as long as the chosen method is successful and provides proof of receipt. See Note after subdivision (a)[of Rule 217]. At the time of the filing of the verified statement of compliance required by subdivision (e)(1) of this Rule, the formerly admitted attorney shall file copies of the notices required by this subdivision and proofs of receipt with the Secretary of the Board and shall serve a conforming copy on the Office of Disciplinary Counsel. See D.Bd. Rules § 91.92(b) (relating to filing of copies of notices).

**CHARGE VI: Alonzo Brown and Dorothy Broadus Matter;
File No. C1-17-162**

154. On or about May 26, 2011, Mr. Alonzo Brown and his wife, Mrs. Dorothy Broadus, were involved in an automobile accident that occurred at 17th and Master Streets in Philadelphia, Pennsylvania.

155. On or about May 27, 2011, Mr. Brown and Mrs. Broadus retained Respondent to represent them for any claims they had arising from the March 26, 2011 accident.

156. On May 14, 2013, Respondent commenced a lawsuit on behalf of Mr. Brown and Mrs. Broadus by filing a Praecipe to Issue Writ of Summons in the Philadelphia Court of Common Pleas, said case captioned **Alonzo Brown et al. vs. Fayard Richardson et al.**, docket number 130501245 ("the Brown lawsuit").

157. An arbitration hearing in the Brown lawsuit was scheduled for January 31, 2014, at 9:15 a.m. at the Arbitration Center.

158. On August 2, 2013, Krishna S. Bhavsar Varma, Esquire, entered her appearance on behalf of Fayard Richardson, Itron Electricity Metering, Inc., and Itron, Inc.

159. On August 2, 2013, Ms. Varma filed in the Brown lawsuit a Praecipe and Rule upon Mr. Brown and Mrs. Broadus to File a Complaint within 20 days or Suffer a Judgment of Non Pros ("the Rule to File Complaint").

160. Respondent received the Rule to File Complaint.

161. On October 2, 2013, Respondent filed a Complaint in the Brown lawsuit.

162. On November 7, 2013, Ms. Varma filed with the court a Discovery Hearing Request with regard to a Motion to Compel Answers and Production of Documents ("the Motion to Compel"); the hearing was scheduled for November 21, 2013 at 9:00 a.m. in Room 243 at City Hall.

163. Respondent was served with the Motion to Compel.

164. Respondent received notice of the November 21, 2013 discovery hearing.

165. Respondent failed to advise Mr. Brown and Mrs. Broadus that he had been served with the Motion to Compel.

166. By Order dated November 21, 2013, docketed on that day, the court:

- a. granted the Motion to Compel; and
- b. required the submission of responses to the Defendants' Interrogatories and Documents Request within twenty days of the date of the Order or risk the imposition of sanctions.

167. Respondent received the November 21, 2013 Order.

168. Respondent failed to advise Mr. Brown and Mrs. Broadus of the entry of the November 21, 2013 Order.

169. Respondent failed to comply with the November 21, 2013 Order.

170. On January 17, 2014, Ms. Varma filed an application for a continuance of the arbitration hearing.

171. On January 17, 2014, the application was granted and the arbitration hearing was rescheduled to April 14, 2014, at 10:45 a.m. at the Arbitration Center.

172. Respondent received notice of the rescheduled date and time for the arbitration hearing.

173. On February 6, 2014, Ms. Varma filed with the court a Discovery Hearing Request with regard to a Motion for Sanctions ("the Sanctions Motion"); the hearing was scheduled for February 20, 2014, at 9:00 a.m. in Room 243 at City Hall.

174. Respondent was served with the Sanctions Motion.

175. Respondent received notice of the February 20, 2014 discovery hearing.

176. Respondent failed to advise Mr. Brown and Mrs. Broadus that he had been served with the Sanctions Motion.

177. By Order dated February 18, 2014, docketed on February 25, 2014, the court:

- a. determined that Plaintiffs had failed to provide full and complete answers to Defendants' Interrogatories and responses to Requests for Production of Documents;
- b. granted the Sanctions Motion;
- c. directed Plaintiffs to pay \$60.00 to Defendants' counsel for the preparation of the Sanctions Motion; and
- d. directed Plaintiffs to provide answers and responses to the Defendants' Interrogatories and Requests for Production of Documents within twenty days of the date of the Order or risk the imposition of additional sanctions.

178. Respondent received the February 25, 2014 Order.

179. Respondent failed to advise Mr. Brown and Mrs. Broadus of the entry of the February 25, 2014 Order.

180. Respondent failed to comply with the February 25, 2014 Order.

181. On March 7, 2014, Ms. Varma filed a second application for a continuance of the arbitration hearing.

182. On March 7, 2014, the second application was granted and the arbitration hearing was rescheduled to June 16, 2014, at 10:45 a.m. at the Arbitration Center.

183. Respondent received notice of the rescheduled date and time for the arbitration hearing.

184. On March 10, 2014, Ms. Varma filed with the court a Discovery Hearing Request with regard to a Motion for Sanctions ("the second Sanctions Motion"); the hearing was scheduled for March 27, 2014, at 9:00 a.m. in Room 243 at City Hall.

185. Respondent was served with the second Sanctions Motion.

186. Respondent received notice of the March 27, 2014 discovery hearing concerning the second Sanctions Motion.

187. On March 10, 2014, Ms. Varma filed with the court a Discovery Hearing Request with regard to a Motion to Compel Deposition ("the second Motion to Compel"); the hearing was

scheduled for March 27, 2014, at 9:00 a.m. in Room 243 at City Hall.

188. Respondent was served with the second Motion to Compel.

189. Respondent received notice of the March 27, 2014 discovery hearing concerning the second Motion to Compel.

190. Respondent failed to advise Mr. Brown and Mrs. Broadus that he had been served with the second Sanctions Motion and the second Motion to Compel.

191. By Order dated March 27, 2014, docketed on that day, the court:

- a. granted the second Motion to Compel; and
- b. directed Plaintiffs to appear for depositions at the law offices of William J. Ferren & Associates on Tuesday, April 15, 2014, at 10:00 a.m. or risk further sanctions.

192. By Order dated March 27, 2014, docketed on March 28, 2014, the court:

- a. determined that Plaintiffs had failed to provide full and complete answers to Defendants' Interrogatories and responses to Requests for Production of Documents, and had failed to comply with the November 21, 2013 and February 25, 2014 Orders;

- b. granted the second Sanctions Motion;
- c. directed Plaintiffs to pay \$500.00 to Defendants' counsel for the preparation and presentation of the second Sanctions Motion;
- and
- d. precluded Plaintiffs from offering testimony and/or evidence at arbitration and/or trial.

193. Respondent received the March 27, 2014 and March 28, 2014 Orders.

194. Respondent failed to advise Mr. Brown and Mrs. Broadus of the entry of the March 27, 2014 and March 28, 2014 Orders.

195. Respondent failed to explain to Mr. Brown and Mrs. Broadus how the entry of the March 28, 2014 Order adversely impacted Respondent's ability to obtain a recovery on their behalf in the Brown lawsuit.

196. On April 11, 2014, Ms. Varma filed with the court a Discovery Hearing Request with regard to a Motion to Compel Deposition ("the third Motion to Compel"); the hearing was scheduled for April 24, 2014, at 9:00 a.m. in Room 243 at City Hall.

197. Respondent was served with the third Motion to Compel.

198. Respondent received notice of the April 24, 2014 discovery hearing concerning the third Motion to Compel.

199. Respondent failed to advise Mr. Brown and Mrs. Broadus that he had been served with the third Motion to Compel.

200. By Order dated April 24, 2014, docketed on April 25, 2014, the court:

- a. granted the third Motion to Compel; and
- b. directed Plaintiffs to appear for depositions at the law offices of William J. Ferren & Associates on Wednesday, May 14, 2014, at 10:00 a.m. or risk further sanctions.

201. On June 13, 2014, Respondent filed an application for a continuance of the arbitration hearing.

202. On June 13, 2014, the application was granted and the arbitration hearing was rescheduled to August 22, 2014, at 10:45 a.m. at the Arbitration Center.

203. Respondent received notice of the rescheduled date and time for the arbitration hearing.

204. Respondent failed to advise Mr. Brown and Mrs. Broadus of the date, time, and location of the August 22, 2014 arbitration hearing.

205. Mr. Brown and Mrs. Broadus failed to appear for the August 22, 2014 arbitration hearing.

206. Respondent failed to appear for the August 22, 2014 arbitration hearing.

207. Based on the failure of Respondent, Mr. Brown, and Mrs. Broadus to appear for the arbitration hearing, the Brown lawsuit was transferred to a judge of the Philadelphia Court of Common Pleas pursuant to Pa.R.C.P. 1303(b)(2) and Phila.Civ.R. 1303(a) for a decision; there would be no right to a trial de novo from the judge's decision.

208. By Order dated August 22, 2014, docketed on that day, the Honorable Idee C. Fox entered a judgment of non pros in the Brown lawsuit.

209. Respondent received notice of the entry of the August 22, 2014 Order.

210. Respondent failed to:

- a. advise Mr. Brown and Mrs. Broadus that the Brown lawsuit had been dismissed; and
- b. explain to Mr. Brown and Mrs. Broadus their legal options, including the possibility of filing a legal malpractice action against Respondent.

211. After the entry of the August 22, 2014 Order, and continuing through April 2016, Mr. Brown and Mrs. Broadus would call Respondent from time to time to inquire about the status of the Brown lawsuit.

212. On those occasions that Mr. Brown and Mrs. Broadus were able to reach Respondent, he misrepresented to them that he was continuing to work on the Brown lawsuit.

213. After April 2016, Mr. Brown and Mrs. Broadus called Respondent from time to time and left messages requesting that he call them back.

214. After April 2016, Respondent failed to return the messages that Mr. Brown and Mrs. Broadus left for him.

215. By his conduct as alleged in Paragraphs 154 through 214 above, Respondent violated the following Rules of Professional Conduct:

- a. RPC 1.3, which states that a lawyer shall act with reasonable diligence and promptness in representing a client;
- b. RPC 1.4(a) (3), which states that a lawyer shall keep the client reasonably informed about the status of the matter;
- c. RPC 1.4(a) (4), which states that a lawyer shall promptly comply with reasonable requests for information;
- d. RPC 1.4(b), which states that a lawyer shall explain a matter to the extent reasonably necessary to permit the client to make

informed decisions regarding the representation;

e. RPC 8.4(c), which states that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation; and

f. RPC 8.4(d), which states that it is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice.

CHARGE VII: Richard J. Mennies Matter; File No. C1-17-272

216. Respondent was retained to represent Ms. Mandy Sokol-Przybyla to recovery monetary damages for injuries she sustained in a motor vehicle accident that occurred sometime in January 2013, in Philadelphia, Pennsylvania ("the accident").

217. On January 7, 2015, Respondent commenced a civil case on behalf of Ms. Sokol-Przybyla by filing a Praecipe to Issue Writ of Summons in the Court of Common Pleas of Philadelphia County, said case captioned **Mandy Sokol-Przybyla v. Barry Kamin**, docket number 150100654 ("the civil case").

218. On January 21, 2015, Richard J. Mennies, Esquire, entered his appearance on behalf of Mr. Kamin in the civil case.

219. The civil case was scheduled for an arbitration hearing on October 1, 2015, at 9:15 a.m. at the Arbitration Center.

220. Respondent failed to file and to make service of a Complaint prior to October 1, 2015.

221. On September 30, 2015, Respondent spoke on the telephone with Mr. Mennies.

222. During this telephone conversation:

- a. Mr. Mennies offered Respondent \$1,000.00 to settle the civil case; and
- b. Respondent accepted Mr. Mennies' offer to settle the civil case for \$1,000.00.

223. On October 1, 2015, the Arbitration Center was advised that the civil case had settled.

224. On October 1, 2015, the Arbitration Center marked on the docket for the civil case that the matter had settled.

225. By letter dated October 2, 2015, Mr. Mennies forwarded to Respondent a Release to be signed by Ms. Sokol-Przybyla.

226. Respondent received Mr. Mennies' October 2, 2015 letter and the enclosed Release.

227. Respondent failed to return to Mr. Mennies the Release, signed by Ms. Sokol-Przybyla.

228. By letter dated December 14, 2015, Mr. Mennies again forwarded to Respondent a Release to be signed by Ms. Sokol-Przybyla.

229. Respondent received Mr. Mennies' December 14, 2015 letter and the enclosed Release.

230. Respondent again failed to return to Mr. Mennies the Release, signed by Ms. Sokol-Przybyla.

231. On April 21, 2016, Mr. Mennies filed Defendant Barry Kamin's Motion to Enforce Settlement Agreement ("the Motion to Enforce").

232. Respondent was served with the Motion to Enforce via electronic filing.

233. Respondent failed to file a response to the Motion to Enforce.

234. By Order dated May 16, 2016, docketed on May 17, 2016, the court:

- a. granted the Motion to Enforce; and
- b. directed that if Ms. Sokol-Przybyla did not sign the Release within ten days from the date of the Order, the "Defendant shall place the settlement funds in escrow and this matter shall be marked discontinued upon further application to the court."

235. Respondent received a copy of the May 16, 2016 Order.

236. Respondent failed to arrange to have Ms. Sokol-Przybyla sign the Release.

237. In accordance with the court's May 16, 2016 Order, Mr. Mennies established an escrow account and deposited in that account \$1,000.00, representing Ms. Sokol-Przybyla's settlement proceeds.

238. On November 4, 2016, the Supreme Court of Pennsylvania granted the 2016 Joint Petition and entered the Suspension Order referenced in ¶ 4, *supra*.

239. Respondent received the Suspension Order.

240. Respondent failed to move to withdraw his appearance in the civil case.

241. On January 4, 2017, Mr. Mennies filed Defendant Barry Kamin's Motion to Mark Case Settled, Discontinued, and Ended ("the SD&E Motion").

242. Respondent was served with the SD&E Motion via electronic filing.

243. Respondent failed to take any action in response to the SD&E Motion, including moving to withdraw his appearance.

244. By Order dated January 26, 2016[sic], docketed on January 30, 2017, the court granted the SD&E Motion.

245. By his conduct as alleged in Paragraphs 216 through 244 above, Respondent violated the following Rules of Professional Conduct and Pennsylvania Rules of Disciplinary Enforcement:

- a. RPC 1.3, which states that a lawyer shall act with reasonable diligence and promptness in representing a client;
- b. RPC 1.16(a)(1), which states that except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if the representation will result in violation of the rules of professional conduct or other law;
- c. RPC 1.16(c), which states that a lawyer must comply with applicable law requiring notice to or permission of a tribunal when terminating a representation. When ordered to do so by a tribunal, a lawyer shall continue representation notwithstanding good cause for terminating the representation;
- d. RPC 8.4(d), which states that it is professional misconduct for a lawyer to engage

in conduct that is prejudicial to the administration of justice; and

e. Pa.R.D.E. 203(b)(3), which states that a wilful violation of any other provision of the Enforcement Rules shall be grounds for discipline, via:

- (1) Pa.R.D.E. 217(b), which states that a formerly admitted attorney shall promptly notify, or cause to be promptly notified, all clients who are involved in pending litigation or administrative proceedings, and the attorney or attorneys for each adverse party in such matter or proceeding, of the disbarment, suspension, administrative suspension or transfer to inactive status and consequent inability of the formerly admitted attorney to act as an attorney after the effective date of the disbarment, suspension, administrative suspension or transfer to inactive status. The notice to be given to the client shall advise the prompt substitution of another attorney or attorneys in place of the formerly admitted attorney. In the event the client does not obtain substitute counsel before the effective date of the disbarment, suspension, administrative suspension or transfer to [inactive] status, it shall be the responsibility of the formerly admitted attorney to move in the court or agency in which the proceeding is pending for leave to withdraw. The notice to be given to the attorney or attorneys for an adverse party shall state the place of residence of the client of the formerly admitted attorney. The notice required by this subdivision (b) may be delivered by the most efficient method possible as long as

the chosen method is successful and provides proof of receipt. See Note after subdivision (a)[of Rule 217]. At the time of the filing of the verified statement of compliance required by subdivision (e)(1) of this Rule, the formerly admitted attorney shall file copies of the notices required by this subdivision and proofs of receipt with the Secretary of the Board and shall serve a conforming copy on the Office of Disciplinary Counsel. See D.Bd. Rules § 91.92(b) (relating to filing of copies of notices).

SPECIFIC JOINT RECOMMENDATION FOR DISCIPLINE

246. Petitioner and Respondent jointly recommend that the appropriate discipline for Respondent's admitted misconduct is a suspension of eighteen months, to run consecutive to the prior suspension of eighteen months imposed in the Suspension Order. Parenthetically, eighteen months from the effective date of the Suspension Order was April 5, 2018.

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

248. In support of Petitioner and Respondent's joint recommendation, it is respectfully submitted that there are several mitigating circumstances:

- a. Respondent has been diagnosed with "Major Depression, Generalized Anxiety Disorder, and Persistent Complex Bereavement Disorder with underlying Dependent personality features," which mitigating factor was identified in the 2016 Joint Petition and supported by a psychiatric report attached to the 2016 Joint Petition;
- b. Respondent has established that there is a causal connection between his misconduct and his mental conditions so as to constitute mitigation under *Office of Disciplinary Counsel v. Braun*, 553 A.2d 894 (Pa. 1989);
- c. Respondent has admitted engaging in misconduct and violating the charged Rules of Professional Conduct and Pennsylvania Rules of Disciplinary Enforcement;
- d. Respondent has cooperated with Petitioner, as is evidenced by Respondent's admissions herein and his consent to receiving a suspension of eighteen months, to run consecutive to the

suspension of eighteen months imposed in the Suspension Order; and

- e. Respondent is remorseful for his misconduct and understands he should be disciplined, as is evidenced by his consent to receiving a suspension of eighteen months, to run consecutive to the suspension of eighteen months imposed in the Suspension Order.

249. There is precedent that supports the recommendation that Respondent receive a suspension of eighteen months for his misconduct in the eight complaint files as discussed above, which is best characterized as involving a pattern of neglect and lack of communication.

In *Office of Disciplinary Counsel v. Ann Adele Ruben*, No. 6 DB 2011 (Recommendation of the Three-Member Panel of the Disciplinary Board 2/8/11) (S.Ct. Order 4/28/11), Respondent Ruben, who had no record of discipline, was suspended for one year and one day for engaging in neglect and lack of communication in sixteen immigration matters; this misconduct occurred over a period approximating thirty-three months. In the joint petition for consent discipline, the parties agreed that Respondent Ruben had **Braun** mitigation because she suffered from depression, anxiety, and attention deficit/hyperactivity. Jt. Pet. 30-31. Other mitigating

circumstances were Respondent Ruben having: self-reported her misconduct; admitted her misconduct; cooperated; exhibited remorse; and agreed to serve her entire suspension before filing a petition for reinstatement. Jt. Pet. 31-32.

Respondent Perlman's matter resembles Respondent Ruben's matter in that both attorneys engaged in serial neglect, exhibited remorse, cooperated, admitted their misconduct, and established **Braun** mitigation.

In *Office of Disciplinary Counsel v. Thomas William Smith*, No. 21 DB 2000 (D.Bd. Rpt. 9/8/03) (S.Ct. Order 12/9/03), Respondent Smith received a suspension of one year and one day for engaging in neglect in eleven client matters during a three-year period and sought to conceal his misconduct by making misrepresentations to his clients (in 4 matters) and his employer (in 7 client matters) over a three-month period. All of the cases Respondent Smith neglected were dismissed; however, Respondent Smith's former firm was successful in having the cases reinstated. D.Bd. Rpt. at 36. Although the clients' cases were resurrected, the Disciplinary Board remarked that some of the clients may not have obtained the "full recovery" they would have received had their cases not been mishandled. *Id.* An aggravating factor was Respondent Smith's public censure, but that sanction was not given substantial weight because it was

imposed fourteen years earlier. *Id.* at 38. Respondent Smith had **Braun** mitigation due to his alcoholism, as well as mitigation consisting of remorse, cooperation, and good character testimony. *Id.* The Board recommended a four-year suspension, retroactive to December 13, 1998, the date Respondent Smith was transferred to inactive status for failing to meet his continuing legal education requirements. However, the Pennsylvania Supreme Court imposed a prospective suspension of one year and one day.

Respondent Perlman's matter is similar to Respondent Smith's case in that both attorneys engaged in serial neglect, exhibited remorse, cooperated, had a prior record of discipline, and established **Braun** mitigation.

In *In re Anonymous No. 56 DB 93 (Malcolm P. Rosenberg)*, 36 Pa. D.&C.4th 11 (1996), the attorney received a suspension of one year and one day for the neglect of ten legal matters during a period of approximately two years. Respondent Rosenberg received **Braun** mitigating by proving that his misconduct was caused by a severe mental depression that resulted from the cumulative effect of family misfortunes, including his father's death and his mother's serious health problems, and the resulting stress. *Id.* at 28-29. Respondent Rosenberg received informal admonitions on three occasions either shortly before or during the period of misconduct. *Id.*

at 29. After reviewing similar cases, the Disciplinary Board determined that it was appropriate to recommend a suspension of one year and one day, which would require Respondent Rosenberg to undergo the reinstatement process and would protect the interests of the public and the courts. *Id.* at 30. **Rosenberg** and Respondent Perlman's matter are similar in that both attorneys engaged in serial neglect, had a prior record of discipline, and established **Braun** mitigation.

Based on **Ruben**, **Smith** and **Rosenberg**, a suspension of eighteen months, to run consecutive to the suspension of eighteen months imposed in the Suspension Order, would be appropriate discipline for Respondent's misconduct.

WHEREFORE, Petitioner and Respondent respectfully request that:

- a. Pursuant to Rule 215(e) and 215(g), Pa.R.D.E., the three-member panel of the Disciplinary Board review and approve the above Joint Petition In Support Of Discipline On Consent and file its recommendation with the Supreme Court of Pennsylvania in which it is recommended that the Supreme Court enter an Order:
 - (i) suspending Respondent from the practice of law for a period of eighteen months, to run

consecutive to the suspension of eighteen months imposed by Order dated November 4, 2016, and docketed at No. 2301 Disc. Dkt. No. 3;

(ii) directing Respondent to comply with all of the provisions of Rule 217, Pa.R.D.E.


- b. Pursuant to Pa.R.D.E. 215(i), the Three-Member Panel of the Disciplinary Board enter an order for Respondent to pay the necessary expenses incurred in the investigation and prosecution of this matter, and that under Pa.R.D.E. 208(g)(1) all expenses be paid by Respondent within 30 days after the notice of the taxed expenses is sent to Respondent.

Respectfully and jointly submitted,

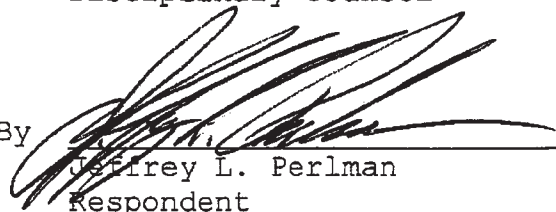
OFFICE OF DISCIPLINARY COUNSEL

PAUL J. KILLION
CHIEF DISCIPLINARY COUNSEL

April 19, 2018
Date

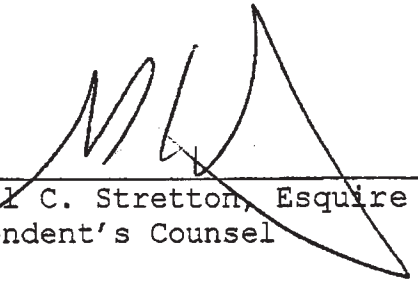
By 
Richard Hernandez
Disciplinary Counsel

4/16/2018
Date

By 
Jeffrey L. Perlman
Respondent

Date 4/16/18

By



Samuel C. Stretton, Esquire
Respondent's Counsel

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :
Petitioner :
: Board File Nos.
: C1-16-724, C1-17-31,
: C1-17-39, C1-17-73,
: C1-17-74, C1-17-120,
: C1-17-162, and C1-17-272
v. :
JEFFREY L. PERLMAN, :
Respondent : (Philadelphia)

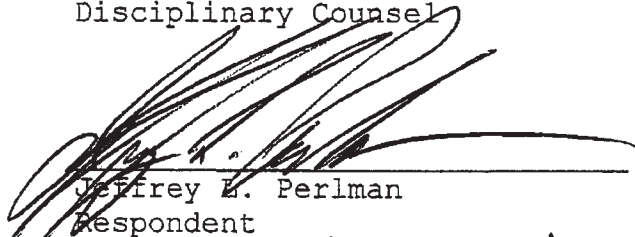
VERIFICATION

The statements contained in the foregoing Joint Petition
In Support Of Discipline On Consent Under Pa.R.D.E. 215(d)
are true and correct to the best of our knowledge or
information and belief and are made subject to the penalties
of 18 Pa.C.S. §4904, relating to unsworn falsification to
authorities.

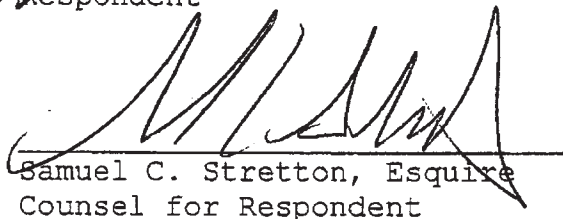
April 19, 2016
Date


Richard Hernandez
Disciplinary Counsel

4/16/2018
Date


Jeffrey L. Perlman
Respondent

4/16/18
Date


Samuel C. Stretton, Esquire
Counsel for Respondent

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :
Petitioner :
: Board File Nos.
: C1-16-724, C1-17-31,
: C1-17-39, C1-17-73,
: C1-17-74, C1-17-120,
: C1-17-162, and C1-17-272
v. :
: Atty. Reg. No. 38490
JEFFREY L. PERLMAN, :
Respondent : (Philadelphia)

AFFIDAVIT UNDER RULE 215(d), Pa.R.D.E.

Respondent, Jeffrey L. Perlman, hereby states that he consents to the imposition of a suspension of eighteen months, to run consecutive to the suspension of eighteen months imposed by the Supreme Court of Pennsylvania by Order dated November 4, 2016, and docketed at No. 2301 Disc. Dkt. No. 3, as jointly recommended by Petitioner, Office of Disciplinary Counsel, and Respondent in the Joint Petition in Support of Discipline on Consent and further states that:

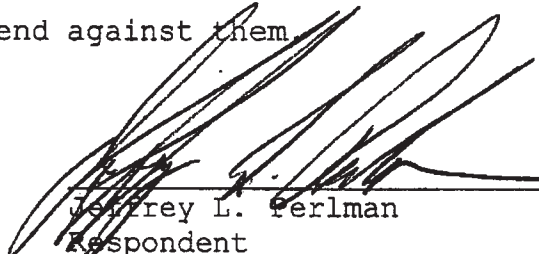
1. His consent is freely and voluntarily rendered; he is not being subjected to coercion or duress; he is fully aware of the implications of submitting the consent; and he has consulted with Samuel C. Stretton, Esquire, in connection with the decision to consent to discipline;

2. He is aware that there is presently pending investigations related to File Nos. C1-16-724, C1-17-31, C1-

17-39, C1-17-73, C1-17-74, C1-17-120, C1-17-162, and C1-17-272, involving allegations that he has been guilty of misconduct as set forth in the Joint Petition;

3. He acknowledges that the material facts set forth in the Joint Petition are true; and

4. He consents because he knows that if charges predicated upon the matters under investigation (as identified in ¶ 2, *supra*) were filed, he could not successfully defend against them.


Jeffrey L. Perlman
Respondent

Sworn to and subscribed

before me this

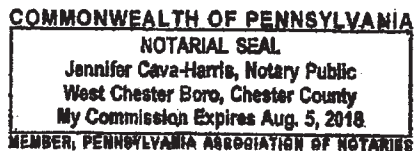
16th

day of

April

, 2018.


Notary Public



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: 

Name: Richard Hernandez

Attorney No. (if applicable): 57254