

**IN THE SUPREME COURT OF PENNSYLVANIA**

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 2756 Disciplinary Docket No. 3
Petitioner	:	
	:	No. 65 DB 2019
v.	:	
	:	Attorney Registration No. 61914
JOHN A. GALLAGHER,	:	
Respondent	:	(Chester County)

**ORDER**

**PER CURIAM**

**AND NOW**, this 22<sup>nd</sup> day of January, 2021, upon consideration of the Report and Recommendations of the Disciplinary Board and Respondent's Petition for Review, the Petition for Review is denied. John A. Gallagher is suspended from the Bar of this Commonwealth for a period of one year and one day, and he shall comply with all the provisions of Pa.R.D.E. 217. Respondent shall pay costs to the Disciplinary Board. See Pa.R.D.E. 208(g).

A True Copy Patricia Nicola  
As Of 01/22/2021

Attest:   
Chief Clerk  
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 65 DB 2019
Petitioner	:	
	:	
v.	:	Attorney Registration No. 61914
	:	
JOHN A. GALLAGHER,	:	
Respondent	:	(Chester County)

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

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

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

I. HISTORY OF PROCEEDINGS

By Petition for Discipline filed on March 27, 2019, Petitioner, Office of Disciplinary Counsel, charged Respondent, John A. Gallagher, with violations of the Rules of Professional Conduct and Pennsylvania Rules of Disciplinary Enforcement arising from allegations of Respondent’s misuse of his IOLTA accounts, failure to maintain required records, and unauthorized practice of law. Respondent filed an Answer to Petition for Discipline on May 13, 2019.

Following a prehearing conference on October 30, 2019, a District II Hearing Committee (“Committee”) conducted a disciplinary hearing on December 3, 2019 and December 4, 2019. Respondent appeared pro se. Prior to the hearing, the parties agreed to extensive stipulations of fact and law. Additionally, the parties stipulated to select facts and rule violations not set forth in the Petition for Discipline arising from Respondent’s 2004 criminal conviction for driving under the influence. The parties jointly requested to consolidate this misconduct with that alleged in the Petition, and the Petition was formally amended to include such.

At the hearing, Petitioner offered into evidence, without objection, exhibits ODC-1 through ODC-26, ODC-33 through ODC-36, ODC-37B, ODC-38, ODC-39B and ODC-42 through ODC-43. Exhibits ODC-27 through ODC-32, ODC-37A, ODC-39A, ODC-40 and ODC-44 were admitted over Respondent’s objections. Respondent testified on his own behalf and presented the testimony of Paul Nofer, Esquire; Carolyn Mildner; Ronald Redden; and Dr. Gina Colamarino. Respondent offered into evidence, without objection, exhibits R-3 through R-4, R-7 through R-10, R-13, R-16, R-18, R-22 through R-23, R-25, R-28 through R-29, and R-32. Exhibits R-12, R-27 and R-34 through R-35 were admitted over Petitioner’s objections.

On January 8, 2020, Petitioner filed a Brief to the Committee and requested that the Committee recommend to the Board that Respondent be suspended for a period of one year and one day. On February 10, 2020, Respondent filed a Brief to the Committee and requested discipline commensurate with his violations, which he argued should not entail active suspension.

By Report filed on May 14, 2020, the Committee recommended that Respondent be suspended for a period of one year, with the suspension stayed in its

entirety and Respondent placed on probation for a period of one year subject to conditions.

On May 22, 2020, Petitioner filed a Brief Opposing Exceptions and requested that the Board recommend to the Supreme Court that Respondent be suspended for one year and one day. On June 22, 2020, Respondent filed a Brief on Exceptions and requested that the Board adopt the Report and recommendation of the Hearing Committee.

On June 22, 2020, Respondent filed a Brief Opposing Petitioner's Exceptions. On June 23, 2020, Petitioner filed a Brief Opposing Respondent's Exceptions.

The Board adjudicated this matter at the meeting on July 23, 2020.

## II. FINDINGS OF FACT

The Board makes the following findings:

1. Petitioner, whose office is situated at Pennsylvania Judicial Center, 601 Commonwealth Avenue, Suite 2700, P.O. Box 62485, Harrisburg, Pennsylvania 17106, is vested, pursuant to Rule 207 of the Pennsylvania Rules of Disciplinary Enforcement, with the power and duty to investigate all matters involving alleged misconduct of any attorney admitted to practice law in the Commonwealth of Pennsylvania and to prosecute all disciplinary proceedings brought in accordance with the various provisions of said Rules.

2. Respondent is John A. Gallagher, born in 1962 and admitted to practice law in the Commonwealth in 1991. He maintains his office at 5 Great Valley

Parkway, Suite 210, Malvern, PA 19355. Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

3. Respondent has a prior record of discipline. On February 8, 2017, he received an Informal Admonition for failing to safekeep property pursuant to RPC 1.15 and depositing personal funds into his IOLTA account. A condition to the admonition required Respondent to attend a CLE on the Disciplinary Board rules. On May 11, 2016, he received an Informal Admonition for undertaking a representation involving a concurrent conflict of interest without obtaining the necessary informed consent, neglecting the client matter and failing to communicate.

#### Misuse of IOLTA and Failure to Maintain Required Records

4. From in or before September 2016 through April 2018, Respondent used an IOLTA account he maintained at Citizens Bank to hold funds of more than one client. ODC-1, Stip. 4; Answer ("Ans.") at ¶ 5.

5. From in or before September 2016 through April 2018, Respondent continuously failed to maintain individual ledgers for each trust client on whose behalf he held funds in the IOLTA, showing the source, amount and nature of all funds received from or on behalf of the client, the description and amounts of charges or withdrawals, the names of all persons or entities to whom such funds were disbursed, and the dates of all deposits, transfers, withdrawals and disbursements. Ans. at ¶ 6.

6. On September 26, 2016, Respondent maintained a balance of \$4.75 in the IOLTA Account. ODC-1, Stip. 5.

7. On September 26, 2016, the following transactions against the IOLTA were returned due to insufficient funds:

a. an ACH transaction in the amount of \$479.16 payable to “ATT”; and

b. an ACH transaction in the amount of \$25.00 payable to “ATT.”

ODC-1, Stip. 6.

8. These transactions were not executed on behalf of a client or third party on whose behalf Respondent was holding funds in the IOLTA and were submitted in payment of Respondent’s personal or business expenses. ODC-1, Stip. 7.

9. In Respondent’s July 2017 Statement of Position regarding IOLTA overdrafts, (ODC-1, Stip. 18), Respondent claimed that, *inter alia*, his wife, Katherine Lane, initiated two payments to AT & T in September 2016 against the IOLTA, without his knowledge. Ans. at ¶ 21(a), ODC-18D at 2.

10. On October 18, 2016, the balance in the IOLTA was \$726.59. ODC-1, Stip. 8.

11. On October 18, 2016, the following checks drawn against the IOLTA were presented for payment:

a. check number 1081 in the amount of \$200.00, made out to “Cash” for a “Pay Advance”;

b. check number 1086 in the amount of \$505.00, payable to “U.S. Dist. Ct.” for “Haymaker Appeal”;

c. check number 1087 in the amount of \$400.00, payable to “U.S. Dist. Ct.” for “Reese Complaint”; and

d. check number 1089 in the amount of \$200.00, payable to Katherine Lane.

ODC-1, Stip. 9.

12. The latter two checks were returned for insufficient funds. ODC-1, Stip. 10.

13. Respondent claimed that two checks were written by his wife, without his knowledge, and to which she had forged his signature. ODC-1, Stip. 10; Ans. at 21(b); ODC-18D at 3-4.

14. On June 1, 2017, the balance in the IOLTA was \$15.46. ODC-1, Stip. 11.

15. On June 1, 2017, check number 1116, drawn against the IOLTA in the amount of \$88.10 and made payable to the "Sheriff of Delaware County" for "Zimmerman v. Thompson et al," was returned due to insufficient funds. ODC-1, Stip. 12.

16. On June 7, 2017, Petitioner requested Respondent's Statement of Position regarding the September 2016 and October 2016 overdrafts, and requested all records of the IOLTA account. ODC-1, Stips. 13, 14.

17. On June 15, 2017, Petitioner requested Respondent's Statement of Position regarding the June 1, 2017 overdraft. ODC-1, Stip. 15.

18. By email to Disciplinary Counsel dated July 7, 2017, Respondent provided copies of the monthly statements relating to the IOLTA for the period of June 2016 through June 2017, copies of all checks drawn against the IOLTA for the period of June 2016 through June 2017, and copies of all ACH notices issued between June 2016 and June 2017. ODC-1, Stip. 17.

19. By email to Disciplinary Counsel dated July 10, 2017, Respondent provided his Statement of Position regarding the September 26, 2016 Overdrafts and the

October 18, 2016 Overdrafts (hereinafter the “First Statement of Position”). ODC-1, Stip. 18.

20. In the First Statement of Position, Respondent conceded that his conduct violated RPC 1.15(b), RPC 1.15(c)(1), RPC 1.15(c)(2) and RPC 1.15(h). ODC-1, Stip. 19.

21. Respondent failed to produce copies of any monthly reconciliations for the IOLTA with the First Statement of Position or at any time thereafter. ODC-1, Stip. 20.

22. Respondent failed to produce copies of any deposited items for the IOLTA with the First Statement of Position. ODC-1, Stip. 21.

23. By letter to Respondent dated July 11, 2017, Disciplinary Counsel requested “all contemporaneous records [Respondent] maintained per Rule 1.15(c), including but not limited to client ledgers and all other required records” and “a copy of the engagement letter and any materials reflecting settlements and the distributions of settlement funds” regarding any client reflected in such records. ODC-1, Stip. 22.

24. By email dated March 13, 2018, Respondent, through counsel, provided his Statement of Position regarding the June 1, 2017 Overdraft (hereinafter the “Second Statement of Position”). ODC-1, Stip. 23.

25. Through counsel, Respondent claimed that the June 1, 2017 overdraft was the result of a “mathematical error” by his wife, Ms. Lane. Ans. at ¶ 27; ODC-18F at 3.

26. Through counsel, Respondent claimed that his engagement letters were often sent “by Outlook calendar invite,” which were “purged” when Respondent



switched to a new email provider in February of 2017 and “could not be retrieved.” ODC-1, Stip. 26.

27. Respondent did not produce individual ledgers or monthly reconciliations associated with his IOLTA account. ODC-1, Stips. 27, 28.

28. On January 1, 2018, more than six months after receiving Petitioner’s first request for Respondent’s Statement of Position, the balance in the IOLTA was \$5,076.80. ODC-1, Stip. 29.

29. On January 5, 2018, Bentrans debited the IOLTA in the amount of \$24.95. ODC-1, Stip. 30.

30. On January 8, 2018, Health Insurance Innovations debited the IOLTA in the amount of \$861.17. ODC-1, Stip. 31.

31. Neither transaction was executed for a client, and were for payment of Respondent’s personal expenses. ODC-1, Stip. 32.

32. On January 10, 2018, Respondent deposited Official Check number 501528745-0 in the amount of \$8,300.00 into the IOLTA; this check represented legal fees that Respondent had already earned in a client matter. ODC-1, Stip. 33.

33. On January 22, 2018, Respondent deposited check number 1888 in the amount of \$250.00 into the IOLTA; this check represented legal fees that Respondent had already earned in a client matter. ODC-1, Stip. 35.

34. On January 22, 2018, T-Mobile debited the IOLTA in the amount of \$337.74. ODC-1, Stip. 36.

35. On January 23, 2018, Verizon and Billmatrix debited the IOLTA account for \$188.32 and \$3.50, respectively. ODC-1, Stips. 37, 38.

36. The transactions set forth in paragraphs 34-35 *supra* were not executed on behalf of a client or third party on whose behalf Respondent was holding funds in the IOLTA and were submitted in payment of Respondent's personal or business expenses. ODC-1, Stip. 39.

37. This pattern was repeated numerous times over the next several months. Between January 25, 2018 and April 17, 2018, the IOLTA account was debited or drawn on for expenses and matters not executed for a client on ten occasions. ODC-1, Stips. 42, 43, 47, 50, 51, 55, 59, 60, 64, 66.

38. The transactions stipulated to at 50, 51, 55, 59, and 60 were returned due to insufficient funds. ODC-1, Stips. 53, 57, 62.

39. On seven occasions, Respondent deposited earned legal fees into his IOLTA account as opposed to depositing them into his operating account or another appropriate account. ODC-1, Stips. 40, 41, 46, 63, 69, 72, 73.

40. On February 6, 2018, Respondent called Citizens Bank and attempted to put a stop payment on any "auto debits" against the IOLTA. ODC-1, Stip. 45.

41. The majority of the "auto debits" or personal expense debits from the IOLTA account occurred after Respondent provided this instruction to Citizens Bank.

42. By letter dated April 3, 2018, Mackenzie Shivery, Contact Center Assistant Manager for Citizens Bank, advised Respondent that "[a]s the following charges on March 1st, March 6th, and March 8th were requested to be blocked, and they were unauthorized on [the IOLTA], [the IOLTA] should not have become overdrawn." ODC-1, Stip. 71.

43. On April 17, 2018, Respondent closed the IOLTA and opened a new IOLTA at Citizens Bank. ODC-1, Stips. 75, 76.

44. By letter to Respondent dated May 21, 2018, Disciplinary Counsel requested Respondent's Statement of Position regarding overdrafts in March 2018. ODC-1, Stip. 78.

45. This letter directed Respondent to produce copies of all records regarding the IOLTA that he was required by RPC 1.15(c) to maintain for the period of January 1, 2018, through the date of the letter, including deposited items, monthly reconciliations and individual client ledgers for any client on whose behalf Respondent held funds in the IOLTA. ODC-1, Stip. 79.

46. By letter to Disciplinary Counsel dated June 25, 2018, Respondent, through counsel, provided his Statement of Position regarding the March 2018 Overdrafts. ODC-1, Stip. 80.

47. Through counsel, Respondent claimed that, *inter alia*:

a. Ms. Lane had executed all of the transactions against the IOLTA that were not executed on behalf of clients or third parties on whose behalf Respondent was maintaining funds in the IOLTA (Ans.

at ¶ 83; ODC-19B at 1- 4 (¶¶ 2, 4, 6, 8, 10, 14, 17);

b. Ms. Lane had "surreptitiously accessed" the books and records associated with the IOLTA. Ans. at ¶ 83; ODC-19B at 2 (¶ 2.

48. Respondent failed to produce any individual client ledgers associated with the IOLTA. ODC-1, Stip. 81.

Failure to Maintain Rule 1.15 Funds

49. Respondent maintains an operating account at Citizens Bank titled Law Offices of John A. Gallagher PC. ODC-1, Stip. 82.

50. On June 5, 2018, Respondent agreed to a fixed fee agreement with Kim Edwards to represent her in an unemployment matter, which included appearing at a June 12, 2018 hearing. ODC-1, Stip. 83

51. On June 6, 2018, Respondent accepted a legal fee in the amount of \$780.00 from Ms. Edwards, which he deposited into his operating account. ODC-1, Stip. 85.

52. At the time he deposited the monies into his operating account, Respondent had not attended the hearing with his client, but he attended the hearing on June 12, 2018.

53. Wendy Stone retained Respondent on August 7, 2018 to represent her at an upcoming Unemployment Compensation Hearing, which included a “prep session” on August 14, 2018. ODC-1, Stip. 87; ODC-1, Stip. 92.

54. Respondent accepted a legal fee of \$500 from Ms. Stone on August 13, 2018, which he deposited into his operating account. ODC-1, Stip. 89.

55. At the time he deposited the monies into his operating account, Respondent had not completed all of the services associated with the fixed fee, but he did eventually provide all of the services covered by the fee in a timely manner.

56. Respondent engaged in a fix fee agreement with Monica Harrell on August 30, 2018, in which he agreed to register her appeal with the Unemployment Compensation Board of Review, obtain a copy of the transcript and exhibits from the hearing referee, and review and discuss with Ms. Harrell. ODC-1, Stip. 94.

57. Respondent accepted a legal fee from Ms. Harrell on August 31, 2018 in the amount of \$500.00, which he deposited into his operating account. ODC-1, Stip. 95.

58. At the time of the deposit of the monies into his operating account, Respondent had not performed all of the services associated with the fixed fee, but Respondent did provide those services in a timely manner.

#### Unauthorized Practice of Law

59. Respondent failed to submit his 2016-2017 PA Attorney's Annual Fee Form on or before July 1, 2016. ODC-1, Stip. 98.

60. By Order dated October 5, 2016, effective thirty (30) days thereafter, the Supreme Court of Pennsylvania placed Respondent on Administrative Suspension. ODC-1, Stip. 99.

61. By letter to Respondent dated October 5, 2016, Suzanne E. Price, Attorney Registrar, enclosed a copy of the October 5, 2016 Order and advised Respondent that he would be placed on Administrative Suspension on November 4, 2016, if he failed to submit his 2016-2017 PA Attorney's Annual Fee Form on or before that date. ODC-1, Stip. 100.

62. The October 5, 2016 letter was delivered to Respondent's mailing address as listed on his 2015-2016 annual fee form, at John A. Gallagher PC, 1055 Westlakes Dr. Fl. 3, Berwyn, PA 19312. ODC-26C.

63. Respondent received this letter. ODC-1, Stip. 132(b); ODC-18F at 2 ("Mr. Gallagher now believes that the letters from the Administrative Office were forwarded to his home..."); N.T. 12/4/19 at 244-249.

64. Respondent failed to submit his 2016-2017 PA Attorney's Annual Fee Form on or before November 4, 2016, and was placed on Administrative Suspension. ODC-1, Stip. 101.

65. Respondent failed to file a Statement of Compliance with the Board on or before November 14, 2016, as required by Pa.R.D.E. 217(e)(1). ODC-1, Stip. 102.

66. On December 20, 2016, Respondent submitted a 2016-17 PA Administrative Change in Status Form to the Attorney Registration Office. ODC-1, Stip. 103.

67. Respondent certified on this form that he was "familiar and in compliance with Rule 1.15 of the PA Rules of Professional Conduct regarding the handling of funds and other property of clients and third persons and the maintenance of IOLTA Accounts." ODC-1, Stip. 104.

68. On December 21, 2016, Respondent submitted a Statement of Compliance to the Attorney Registration Office in which he certified that he had fully complied with Pa.R.D.E. 217. ODC-1, Stip. 105.

69. Respondent was reinstated to active status on December 22, 2016. ODC-1, Stip. 106.

70. During the period of his administrative suspension, and in defiance of the Supreme Court's Order dated October 5, 2016, Respondent agreed to represent twenty-nine clients. ODC-1, Stip. 132(a).

71. Upon engagement, the clients paid Respondent between \$75.00 and \$2,500.00 for his services. ODC-1, Stips. 133-243.

72. Respondent did not notify these clients that he had been placed on administrative suspension. ODC-1, Stips. 133- 243.

73. Among the clients Respondent agreed to represent while administratively suspended was Bonnie Rexroth, who retained Respondent on December 13, 2016, in connection with a Family and Medical Leave Act matter. ODC-1, Stips 107, 109.

74. On December 13, 2016, Ms. Rexroth paid Respondent \$500.00 via PayPal. ODC-1, Stips. 112, 113.

75. On December 14, 2016, Respondent had his wife Ms. Lane, who is not a lawyer, call Ms. Rexroth to provide Ms. Rexroth instructions on consulting with her physician to obtain support for her claim. ODC-1, Stips. 116, 120.

76. Respondent was present during this call and instructed Ms. Lane regarding what to say. ODC-37B at 4 (¶14a).

77. By email dated December 21, 2016, Respondent advised Ms. Rexroth of his administrative suspension, although he did not provide Ms. Rexroth with the effective date of the administrative suspension order. ODC-1, Stip. 121, 122.

78. By email on December 23, 2016, Ms. Rexroth requested a refund of her \$500.00 fee. ODC-1, Stip. 123.

79. Respondent failed to respond to this email. ODC-1, Stip. 124.

80. By letter to Respondent dated June 9, 2017, Disciplinary Counsel requested Respondent's Statement of Position regarding, *inter alia*, his unauthorized practice of law while on Administrative Suspension. ODC-1, Stip. 125.

81. Respondent returned Ms. Rexroth's funds after receiving Disciplinary Counsel's June 9, 2017 letter. ODC-1, Stip. 128(c).

### Failure to Report Criminal Conviction

82. On August 13, 2003, Respondent was cited for operating a motor vehicle while under the influence of alcohol. ODC-1, Stip. 244.

83. On or about January 7, 2004, Respondent pled guilty to driving while the amount of alcohol by weight in his blood was .08% or greater, in violation of 75 Pa.C.S. § 3731(a)(4)(i), a second-degree misdemeanor. ODC-1, Stip. 250.

84. On or about February 4, 2004, Respondent was sentenced to, *inter alia*, probation for a period of one year. ODC-1, Stip. 254.

85. This conviction was a “serious crime” as that term was defined by former Rule 214(i), Pa.R.D.E. ODC-1, Stip. 252.

86. Respondent failed to report this conviction to the Board. ODC-1, Stip. 253.

### Additional Findings

87. Respondent testified on his own behalf.

88. Respondent acknowledged that he committed multiple rules violations and misused his IOLTA account. ODC-1, Stip. 255.

89. Respondent claimed that several of the improper payments were made without his knowledge by his wife, whom he described as having drug issues, and claimed she forged his signature to certain checks:

a. “In 2010, she [Respondent’s wife] was given a black box antibiotic with a steroid. The black box said, never give this antibiotic with a steroid.” (N.T. 12/4/19 at 112;

b. “I didn’t know she [Respondent’s wife] had ripped off the Fentanyl patch and gone off the Percocet, and she did not know that



she was in withdrawal, but she couldn't take it after a while...it might have been four months...so she went back on them." (N.T. 12/4/19 at 113-114);

c. "My wife is withdrawing all of this money, and I can't stop it, and I wonder what kind of mistake I made." (N.T. 12/4/19 at 114);

d. "But she [Respondent's wife] needed money every day. I realized that by 2016, but I didn't do anything to stop it." (N.T. 12/3/19 at 118); and

e. "So she [Respondent's wife] has also written checks out of IOLTA. And the forgeries are obvious." N.T. 12/4/19 at 119.

90. Respondent was aware his wife had access to his IOLTA account but failed to take steps to prohibit her access. N.T. 12/4/19, at 114, 118.

91. Respondent acknowledged that he deposited his own funds, earned fees, into his IOLTA account:

And there have been times I deposited money into my own IOLTA account. I did that for two reasons, and I knowingly did it. I knowingly did it because achieving the outcome I needed was more important than following rules. I'd like to put it in a better way, but I can't, because I'd be lying if I did. The two reasons I did it was, one, I did it sometime because I found out – I'd find out about these ACH transactions after they happened. And then I'm like, I need to put money in IOLTA to clear it. But I also did it because my operating accounts got overdrawn, and I needed every penny." N.T. 12/4/19 at 122-123.

92. Respondent further explained:

"So there would be times where I got a check to myself, and knowingly – I remember one time being outside of Acme while this was going on, while I was being investigated in early 2018, sitting in the parking lot with the check drawn to me that I had earned,

knowing, given the amount of the check, if I deposit it in my operating account, that I wouldn't see anything. But if I put it in IOLTA, then I would get all of it. I remember sitting in the parking lot, and you know what I said to myself, if no more checks bounce, they won't find out. That's what I said. Of course, that was horrible thinking on every level. I knowingly went into the Acme on at least two occasions that I remember and deposited earned funds into IOLTA, and I knew it was wrong, and I'm responsible for that. I made that decision. N.T. 12/4/19 at 123-124.

93. Respondent testified that he has taken steps to prevent these improprieties from occurring in the future.

94. On May 1, 2018, Respondent hired a CPA, James J. Newhart, who Respondent testified has exclusive custody and control of Respondent's IOLTA checkbook, books, and records. N.T. 12/4/19 at 122, 249-250, 256-258.

95. Respondent testified that at the time of the disciplinary hearing in December 2019, there had been no transactions in his IOLTA since he retained Mr. Newhart in May 2018. Respondent did not know how Mr. Newhart would conduct a monthly reconciliation, and Respondent "believe[s] that he's [Mr. Newhart] doing everything correctly." N.T. 12/4/19 at 249-250.

96. Respondent did not call Mr. Newhart as a witness, nor did Respondent introduce any reconciliation or individual client ledgers.

97. Respondent testified that at no time did he hold funds in trust for more than one client at a time, and so did not maintain individual client ledgers. N.T. 12/4/19 at 50, 126.

98. Respondent testified that he was aware of his obligation to pay his yearly license fee and did not know why he failed to pay it. N.T. 12/4/19 at 150.

99. Respondent conceded that he engaged in the unauthorized practice of law between October 5, 2016 and December 16, 2016 (ODC-1, Stips. 133-243) but claims that “he did not consciously” do it. N.T. 12/4/19 at 190.

100. Respondent described his “virtual office” arrangement and attempted to claim that “I don’t remember getting the notice in October of 2016 that was signed for by someone at my virtual office saying I was administratively suspended” but later conceded that he received the October 5, 2016 letter from the Attorney Registrar. N.T. 12/4/19 at 244-249, 151; ODC-18F at 2.

101. Respondent testified that upon learning of his administrative suspension from a colleague on December 16, 2016, he ceased all practice, advised his clients and the courts, deleted all reference to his practice on social media platforms, and ceased contact with all clients. N.T. 12/4/19 at 191-192.

102. Respondent admitted that he did not report his DUI conviction in 2004. He testified that the law firm where he was employed was aware and the managing partner of the firm was placed on notice. N.T. 12/4/19 at 198.

103. Respondent testified that he did not knowingly fail to report the conviction; he did not believe it needed to be reported. N.T. 12/4/19 at 198.

104. Respondent expressed remorse for his misconduct. “I hope that I have expressed my sincere acknowledgement of my wrongdoing. I say that first because until you can acknowledge personal responsibility for your wrongdoing, you really can’t have remorse.” N.T. 12/4/19 at 276.

105. Respondent presented the credible testimony of four witnesses.

106. Paul Nofer, Esquire, has practiced law in Pennsylvania for approximately thirty years and has a professional relationship with Respondent, having litigated cases against Respondent a number of times. N.T. 12/3/19 at 21, 25.

107. Mr. Nofer testified that Respondent's reputation in the legal community is as "an absolute gentlemen" and he has a good reputation for honesty and integrity. N.T. 12/3/19 at 28, 30.

108. Mr. Nofer did not review the Petition for Discipline and was unaware of the specific allegations of misconduct against Respondent. N.T. 12/3/19 at 31-32.

109. Mr. Nofer was unaware of Respondent's criminal history. N.T. 12/3/19 at 32.

110. Carolyn Milden is Respondent's former wife of sixteen years. Ms. Milden testified that Respondent was respected by other members of the bar. N.T. 12/4/19 at 60.

111. Ronald Redden is Respondent's former client and testified that he was happy with Respondent's representation of him. Mr. Redden was not aware of Respondent's criminal history. N.T. 12/4/19 at 85.

112. Dr. Gina Colamarino is a former client of Respondent and retained him after performing internet research and reading good reviews of Respondent. Dr. Colamarino testified that she was pleased with Respondent's representation. N.T. 12/4/19 at 95, 99.

113. Dr. Colamarino was unaware of the allegations of misconduct charged in the Petition for Discipline against Respondent, and was unaware of Respondent's criminal history. N.T. 12/4/19 at 100, 101.

### III. CONCLUSIONS OF LAW

By his conduct as set forth above, Respondent violated the following Rules of Professional Conduct (RPC) and Pennsylvania Rules of Disciplinary Enforcement (Pa.R.D.E.):

1. In connection with his misuse of the IOLTA account, failure to maintain Rule 1.15 Funds, and failure to maintain required records:

a. 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.

b. RPC 1.15(c)(1) and (2) - Complete records of the receipt, maintenance and disposition of Rule 1.15 Funds and property shall be preserved for a period of five years after termination of the client-lawyer or Fiduciary Relationship or after distribution or disposition of the property, whichever is later. A lawyer shall maintain the writing required by Rule 1.5(b) (relating to the requirement of a writing communicating the basis or rate of the fee) and the records identified in Rule 1.5(c) (relating to the requirement of a written fee agreement and distribution statement in a contingent fee matter). A lawyer shall also maintain the following books and records for each Trust Account and for any other account in which Fiduciary Funds are held pursuant to Rule 1.15(l): (1) all transaction records provided to the lawyer by the Financial Institution or other investment entity, such as periodic statements, cancelled checks in whatever form, deposited items and

records of electronic transactions; and (2) check register or separately maintained ledger, which shall include the payee, date, purpose and amount of each check, withdrawal and transfer, the payor, date, and amount of each deposit, and the matter involved for each transaction; provided, however, that where an account is used to hold funds of more than one client, a lawyer shall also maintain an individual ledger for each trust client, showing the source, amount, and nature of all funds received from or on behalf of the client, the description and amounts of charges or withdrawals, the names of all persons or entities to whom such funds were disbursed, and the dates of all deposits, transfers, withdrawals and disbursements.

c. RPC 1.15(h) – A lawyer shall not deposit the lawyer’s own funds in a Trust Account except for the sole purpose of paying service charges on that account, and only in an amount necessary for that purpose. ODC-1, Stip 255B.

d. RPC 1.15(i) – A lawyer shall deposit into a Trust Account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred, unless the client gives informed consent, confirmed in writing, to the handling of fees and expenses in a different manner.

e. RPC 1.15(m) – All Qualified Funds which are not Fiduciary Funds shall be placed in an IOLTA account.

2. In connection with his administrative suspension and unauthorized practice of law:

a. RPC 1.15(e) – 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. ODC-1, Stip. 255A.

b. RPC 1.16(a)(1) – 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 a violation of the Rules of Professional Conduct or other law. ODC-1, Stip. 255C.

c. RPC 1.16(d) – Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred.

d. RPC 5.5(a) – A lawyer shall not practice in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so. ODC-1, Stip. 255D.

e. RPC 5.5(b)(2) – A lawyer who is not admitted to practice in this jurisdiction shall not hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction. ODC-1, Stip. 255E.

f. RPC 1.16(d) – Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred.

g. Pa.R.D.E. 217(a) – Which provides, in pertinent part, that a formerly admitted attorney shall promptly notify, or cause to be promptly notified, all clients being represented in pending matters...of the...administrative suspension...and the consequent inability of the formerly admitted attorney to act as an attorney after the effective date of the...administrative suspension.

h. Pa.R.D.E. 217(b) – Which provides, in pertinent part, that a formerly admitted attorney shall promptly notify, or cause to be notified, all clients who are involved in pending litigation or administrative proceedings...of the...administrative suspension.

i. Pa.R.D.E. 217(d)(1) – Which provides, in pertinent part, that the formerly admitted attorney, after entry of the...administrative suspension...order, shall not accept any new retainer or engage as



attorney for another in any new case or legal matter of any nature.  
ODC-1, Stip. 255H.

j. Pa.R.D.E. 217(e)(1) – Which provides, in pertinent part, that within ten days after the effective date of the...administrative suspension...order, the formerly admitted attorney shall file with the Board a verified statement and serve a copy on Disciplinary Counsel.  
ODC-1, Stip. 255I.

k. Pa.R.D.E. 217(j)(4)(iv) – Which provides, in pertinent part, that a formerly admitted attorney is specifically prohibited from...representing himself or herself as a lawyer or person of similar status. ODC-1, Stip. 255J.

l. Pa.R.D.E. 217(j)(4)(v) – Which provides, in pertinent part, that a formerly admitted attorney is specifically prohibited from...having any contact with clients either in person, by telephone, or in writing.  
ODC-1, Stip. 255K.

m. Pa.R.D.E. 217(j)(4)(vi) – Which provides, in pertinent part, that a formerly admitted attorney is specifically prohibited from...rendering legal consultation or advice to a client. ODC-1, Stip. 255L.

n. Pa.R.D.E. 217(j)(4)(x) – Which provides, in pertinent part, that a formerly admitted attorney is specifically prohibited from...receiving, disbursing or otherwise handling client funds. ODC-1, Stip. 255M.

3. In connection with his 2004 criminal conviction:

- a. Pa.R.D.E. 203(b)(1) – Conviction of a crime shall be grounds for discipline. ODC-1, Stip. 255F.
- b. Pa.R.D.E. 214(a) - An attorney convicted of a crime shall report the fact of such conviction within 20 days to the Office of Disciplinary Counsel. ODC-1, Stip 255G.

#### IV. DISCUSSION

In this matter, the Board considers the Committee's unanimous recommendation to suspend Respondent for a period of one year and stay the suspension in its entirety, imposing probation for a period of one year subject to conditions. Petitioner takes exception to this recommendation, contending that the Committee erred in concluding that Respondent's misconduct warrants a sanction less than a suspension of one year and one day. Respondent urges the Board to adopt the Committee's recommended discipline.

Petitioner bears the burden of proving ethical misconduct by a preponderance of the evidence that is clear and satisfactory. ***Office of Disciplinary Counsel v. John T. Grigsby, III***, 425 A.2d 730, 732 (Pa. 1981). Upon review, the Board concludes that Petitioner satisfied its burden of proof. Petitioner's evidence proves the facts and circumstances of the ethical violations and demonstrates Respondent's lack of fitness to practice law. For the following reasons, the Board recommends that Respondent be suspended for a period of one year and one day.

The record demonstrates that Respondent's misconduct encompassed a disregard for his fiduciary and administrative obligations. These deficiencies, viewed as

a whole, depict a respondent who is unwilling or unable to meet his fundamental professional responsibilities, constraining the Board to conclude that suspension is necessary and warranted.

Respondent repeatedly violated his fiduciary duties by misusing his IOLTA account. He acknowledged that personal expenses were paid from the IOLTA, but claimed that several of the improper payments were made without his knowledge by his wife, who forged his signature on certain checks. Respondent alluded to his wife's drug addiction and her need to access funds. While unfortunate, Respondent was duty-bound to preserve his clients' funds inviolate, which he failed to do. What is troubling in this scenario is that despite Respondent's knowledge of the bounced checks and his belief that it was due to his wife's subterfuge in accessing the account, he inexplicably failed to take the steps necessary to prevent more occurrences. "But she needed money every day. I realized that by 2016, but I didn't do anything to stop it." N.T. 12/4/19, at 118.

While Respondent has offered his wife as an excuse for certain improprieties with his IOLTA account, other instances of misuse can be attributed solely to Respondent. He acknowledged that he endorsed withdrawals from his IOLTA account to pay for a personal health insurance bill, and on more than one occasion he deposited earned fees into his IOLTA account to shelter them from personal creditors. Significant to our analysis is that some of Respondent's misconduct occurred after Respondent became aware that Petitioner was scrutinizing his activity. This displays a level of irresponsibility and lack of concern that warrants significant discipline.

Respondent testified that he has taken steps to prevent these transgressions from recurring. In May 2018, Respondent hired a CPA, Mr. Newhart who, according to Respondent, has exclusive custody and control of Respondent's IOLTA

check book, and other books and records. Respondent did not call his CPA as a witness, nor did Respondent introduce a single monthly reconciliation or individual client ledger into evidence to demonstrate that he is in compliance with the rules. In fact, Respondent testified that his CPA has never sent him a monthly reconciliation or individual client ledger, and claims that since he retained Mr. Newhart in May 2018, there have been no IOLTA transactions. While the Committee viewed Respondent's hiring of Mr. Newhart as "the most notable example" of "ameliorative measures taken" by Respondent to prevent further violations of his record-keeping obligations, we conclude that Respondent still has not produced evidence that he is in compliance with RPC 1.15, either before or after hiring Mr. Newhart.

Additionally, between June 2018 and August 2018, Respondent deposited Rule 1.15 funds into his operating account. Respondent charged the clients flat fees and, accordingly, was required to maintain them in trust until he had earned their fees by performing the services he was engaged to perform. While there is no dispute that Respondent performed the services he was engaged to perform, he failed to properly hold these funds.

As well, there is no dispute that all funds to which Respondent's clients were entitled were distributed to the clients. We note that Respondent was not charged with dishonesty in his handling of client funds. However, as the Committee observed, the rules used to enforce proper use and maintenance of the IOLTA account are in place to protect clients from the very behavior that Respondent engaged in. His inability to conform his actions to the rules, even when he knew of the IOLTA improprieties, is extremely serious.

Respondent admits that he engaged in the unauthorized practice of law while on administrative suspension. This suspension was the consequence of

Respondent's failure to pay his annual attorney registration fee. Respondent offered no explanation for his failure to pay the license fee, which he acknowledged is an annual requirement that all lawyers must meet in order to maintain an active license to practice law in the Commonwealth. The notice of Respondent's administrative suspension was mailed to his office address of record, which he had provided to the Attorney Registrar. His claim that he was not aware of his suspension until December 16, 2016 is not logical or acceptable, based on the evidence that the letter was mailed to his address of record. Respondent offered an excuse related to a "virtual office," but the onus remained on Respondent to ensure that he was able to obtain mail sent to the address he provided to the Attorney Registrar. Respondent later stipulated that he "believes" the notice was forwarded to his home address.

During the time frame of the administrative suspension, from October 5, 2016 through his resumption of active status on December 22, 2016, Respondent represented twenty-nine clients. The evidence of record demonstrates that Respondent accepted legal fees from each client in amounts ranging between \$75 and \$2,500 and did not advise the clients of his administrative suspension. One of these clients was Bonnie Rexroth, who paid Respondent \$500.00 on December 13, 2016 for representation in a Family Medical Leave Act matter. During this representation, Respondent rendered legal consultation to Ms. Rexroth. This representation did not last long, as Ms. Rexroth terminated Respondent's services after he informed her that he was administratively suspended. Her request for a refund of her monies was met with silence from Respondent for nearly six months, until Petitioner's request for a statement of position in the matter of his unauthorized practice of law triggered Respondent's refund to Ms. Rexroth of the full \$500.00

The record demonstrates that Respondent was convicted of a DUI in 2004 and failed to report the conviction to the Disciplinary Board. While Petitioner asserts that this failure is illustrative of Respondent's overall failure to comprehend his professional responsibilities, based on our review of the record, we are satisfied that Respondent did not attempt to hide his conviction from the Board. He apprised his law firm of the conviction, which was a matter of public record. While Respondent's failure to report is a transgression that we must consider, we do not find this sixteen year old conviction particularly weighty in our analysis of discipline.

Having concluded that Respondent engaged in professional misconduct, this matter is ripe for the determination of discipline. Significant to the Board's assessment of discipline is consideration of the aggravating and mitigating circumstances. ***Office of Disciplinary Counsel v. Brian Preski***, 134 A.3d 1027, 1031 (Pa. 2016).

In aggravation, Respondent has a history of prior discipline consisting of two informal admonitions. The first was imposed on May 11, 2016 for Respondent's misconduct in undertaking a representation notwithstanding a conflict of interest, neglecting the client's matter and failing to adequately communicate with his client. A second admonition was imposed nine months later on February 8, 2017 for Respondent's failure to maintain required records and for depositing his own funds into his IOLTA. A condition required Respondent to attend a CLE related to Disciplinary Board rules. The misconduct at issue today is similar to the misconduct in the latter admonition. Despite being disciplined for his misuse of his IOLTA account, Respondent persisted in violating his fiduciary obligations. The record evidences Respondent's misuse of his IOLTA in June 2017 and into 2018. Some four months subsequent to the imposition of the 2017 admonition, Petitioner asked Respondent for his position in the new matters that had been

brought to their attention. Even with the stark realization that he was once again being investigated, Respondent was not dissuaded from his misuse of the IOLTA account, and he continued to violate the rules. Respondent conceded he was aware of the investigation and its implications, knew his actions were wrong, but engaged in them despite this knowledge. N.T. 12/4/19 at 123.

Respondent has apologized for his transgressions and expressed remorse for his conduct, a fact we must consider in mitigation. However, we are troubled by his attempts to excuse his misconduct by blaming others, for example his wife, to whom he attributed misuse of his law firm's IOLTA account, and an unknown person at his "virtual office" arrangement who apparently did not promptly retrieve or forward the Attorney Registrar's notice informing him of his administrative suspension, leading to his testimony that as relates to his unauthorized practice of law, "I did not consciously do it." This testimony undercuts Respondent's genuine acceptance of responsibility and is weighed accordingly in our assessment of the mitigating nature of Respondent's remorse.

Respondent presented character testimony from four witnesses. Two former clients were pleased with Respondent's representation, but admitted that they had no knowledge of the nature of the disciplinary charges against Respondent or his criminal history. Attorney Nofer offered testimony that Respondent was respected in the legal community, but he was similarly unaware of any detail of Respondent's alleged misconduct or any prior criminal history. Respondent's former wife testified that to her knowledge during the time they were married, Respondent was well-respected among the members of the bar. The testimony of these character witnesses, while well-meaning, is not weighty in our estimation, as there was no evidence presented that demonstrated these witnesses understood why Respondent was facing disciplinary charges.

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). Each disciplinary matter is considered on its own unique facts and circumstances, and there is no per se discipline for attorney misconduct in the Commonwealth of Pennsylvania. ***Office of Disciplinary Counsel v. Robert Lucarini***, 472 A.2d 186, 190 (Pa. 1983). In order to “strive for consistency so that similar misconduct is not punished in radically different ways,” ***Office of Disciplinary Counsel v. Anthony Cappuccio***, 48 A.3d 1231, 1238 (Pa. 2012) (quoting ***Lucarini***, 473 A.2d at 190), the Board is guided by precedent for the purpose of measuring “the respondent’s conduct against other similar transgressions.” ***In re Anonymous No. 56 DB 94***, 28 Pa. D. & C. 4<sup>th</sup> 398 (1995).

Respondent’s misconduct involved his defiance of a variety of ethical obligations, including fiduciary duties, compliance with a Supreme Court order related to his administrative suspension, and client obligations. To address this misconduct, the Committee has recommended a one year suspension, stayed in its entirety, with probation for one year and conditions to include, *inter alia*, maintenance of RPC 1.15 records, certification of records by a CPA, and quarterly reports filed with Petitioner. Petitioner advocates for a one year and one day suspension, contending that probation is not warranted under the facts of this matter.

Probation allows an attorney to continue practicing law and holding himself out to the public for the provision of legal services. See, Disciplinary Board Rule § 89.291. Before recommending that the Court impose probation, the Board must be satisfied from the record that a respondent will comply with conditions attached to probation; otherwise, the public may suffer. See, ***Office of Disciplinary Counsel v. Anthony Charles***



**Mengine**, No. 66 DB 2017 (D. Bd. Rpt. 9/24/2019) (S. Ct. Order 11/26/2019) (Mengine suspended for a period of two years, nine months stayed and fifteen months on probation for financial improprieties including misuse of his IOLTA account; Mengine made “concerted efforts” to organize his law firm to provide oversight and accountability of financial matters; and he “exhibited a full understanding of the steps he needed to take to align his conduct with professional standards.” Board Report at p. 56.)

Upon review of the record, we agree with Petitioner’s position and conclude that probation is not appropriate. Respondent has a demonstrated record of noncompliance with ethical rules and regulations. He did not comply with his obligation to file his annual attorney registration form and pay his fee, leading to his administrative suspension. Once suspended, Respondent did not comply with the Supreme Court’s order and continued to practice law. Respondent failed to heed the implicit warning in his two instances of prior discipline and continued to violate the rules, in particular related to his IOLTA account. Likewise, Petitioner’s investigation did not frustrate his ongoing misconduct. By his own admission, Respondent knew he was committing misconduct and failed to stop. The Committee relies on Respondent’s testimony that he retained a CPA to handle his records and bookkeeping as evidence to support their conclusion that he has “ameliorated” his misconduct. Other than Respondent’s testimony, there is nothing to suggest that Respondent is in compliance with the rules.

Based on his record of noncompliance over the years and the lack of compelling evidence that Respondent has remediated his practice problems, we cannot conclude with confidence that Respondent will adhere to probation standards; therefore, the risk to the public is too great to allow Respondent to continue practicing law through probation.

In light of Respondent's misconduct, the aggravating factors, and the lack of sufficiently compelling mitigating circumstances, we conclude that Respondent is not fit to practice and should be suspended for a sufficient length to compel him to petition for reinstatement. A suspension of one year and one day is consistent with the range of sanctions imposed for similar misconduct and appropriate to address Respondent's persistent misuse of his IOLTA account, unauthorized practice of law involving twenty-nine clients, and failure to promptly refund a client's monies. **Office of Disciplinary Counsel v. William James Helzlsouer**, 197 DB 2018 (D. Bd. Rpt. 11/18/2019) (S. Ct. Order 1/23/2020) (one year and one day suspension for misconduct in three matters, misuse of IOLTA account stemming from adult son's unauthorized access, unauthorized practice of law while suspended, failure to refund unearned fees, neglect, prior discipline aggravating factor).

Our review of prior matters reveals that standing alone, Respondent's unauthorized practice of law requires suspension. Attorneys who engaged in the unauthorized practice of law in limited matters as compared to Respondent's twenty-nine matters, have been suspended from the practice of law. See, **Office of Disciplinary Counsel v. William C. Kerr, III**, No. 9 DB 2015 (D. Bd. Rpt. 9/28/2016) (S. Ct. Order 12/14/2016) (one year suspension); **Office of Disciplinary Counsel v. Theodore Q. Thompson**, No. 159 DB 2005 (D. Bd. Rpt. 12/28/2006) (S. Ct. Order 3/23/2007) (six month suspension); **Office of Disciplinary Counsel v. Julie Ann Marzano**, No. 46 DB 2006 (D. Bd. Rpt. 5/16/2007) (S. Ct. Order 8/1/2007) (nine month suspension).

Likewise, attorneys who engage in IOLTA misuse and failure to promptly return client funds face public discipline, including suspension. See, **Office of Disciplinary Counsel v. Richard Patrick Gainey**, No. 160 DB 2018 (D. Bd. Order

4/15/2020) (public reprimand to address mishandling of IOLTA account for one year and failure to maintain required RPC 1.15 records, sincere remorse, credible evidence of remedial steps to address future mismanagement, no prior discipline); **Office of Disciplinary Counsel v. Adam Luke Brent**, 225 DB 2018 (D. Bd. Rpt. 12/20/2019)(S. Ct. Order 2/13/2020) (one year and one day suspension imposed for neglect, lack of communication, failure to refund unearned fees, and failure to abide by the terms of the administrative suspension order; no history of discipline); **Office of Disciplinary Counsel v. Jeff Lee Lewin**, No. 11 DB 2019 (S. Ct. Order 7/1/2019) (two year period of suspension on consent for lack of diligence, lack of communication, failure to maintain client accounts, and failure to refund unearned fees).

The totality of the facts and circumstances of this matter warrant a suspension for one year and one day, which discipline is consistent and appropriate to address the misconduct and protect the public.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that the Respondent, John A. Gallagher, 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

A handwritten signature in blue ink, appearing to read "Eugene F. Scanlon, Jr.", is written over a horizontal line.

By: \_\_\_\_\_  
Hon. Eugene F. Scanlon, Jr., Member

Date: 09/29/2020

Members Mundorff and Rassias recused.