

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 2802 Disciplinary Docket No. 3
: :
Petitioner : :
: : No. 86 DB 2020
v. : :
: : Attorney Registration No. 22838
WILLIAM T. KRZTON, : :
: :
Respondent : (Allegheny County)

ORDER

PER CURIAM

AND NOW, this 6th day of August, 2021, upon consideration of the Report and Recommendations of the Disciplinary Board, William T. Krzton is suspended from the Bar of this Commonwealth for a period of six months. Respondent shall comply with all the provisions of Pa.R.D.E. 217 and pay costs to the Disciplinary Board. See Pa.R.D.E. 208(g).

A True Copy Patricia Nicola
As Of 08/06/2021


Attest:
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 86 DB 2020
Petitioner	:	
	:	
v.	:	Attorney Registration No. 22838
	:	
WILLIAM T. KRZTON,	:	
Respondent	:	(Allegheny 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 June 4, 2020, Petitioner, Office of Disciplinary Counsel, charged Respondent, William T. Krzton, with multiple violations of the Pennsylvania Rules of Professional Conduct arising from allegations that he failed to supervise a nonlawyer, who stole a total of \$191,026.99 from seven estates represented by Respondent between 2013 and 2016, and separately failed to communicate with a client and diligently handle the client’s matter. On July 1, 2020, Respondent filed a counseled Answer to Petition for Discipline.

Following a prehearing conference on August 6, 2020, a District IV Hearing Committee (“Committee”) held a hearing on September 23, 2020. Petitioner offered Administrative Exhibits I and II and Petitioner’s Exhibits 5 through 10 and 13, which were admitted into evidence. Petitioner presented the testimony of five witnesses. Respondent offered 37 exhibits, which were admitted into evidence, testified on his own behalf, and offered the testimony of four witnesses.

On November 24, 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. Respondent filed a Brief to the Committee on December 22, 2020 and requested that the Committee recommend that the Board impose a public reprimand.

By Report filed on February 19, 2021, the Committee concluded that Respondent violated the rules charged in the Petition for Discipline and recommended that he be suspended for a period of one year and one day.

On March 11, 2021, Respondent filed a Brief on Exceptions and requested oral argument. Petitioner filed a Brief Opposing Exceptions on March 31, 2021.

On April 12, 2021, a three-member panel of the Board held oral argument.

The Board adjudicated this matter at the meeting on April 14, 2021.

II. FINDINGS OF FACT

The Board makes the following findings:

1. Petitioner, whose principal office is located at Pennsylvania Judicial Center, Suite 2700, 601 Commonwealth Avenue, P.O. Box 62485, Harrisburg, PA 17106-2485, is invested, pursuant to Rule 207 of the Pennsylvania Rules of Disciplinary Enforcement with the power and the duty to investigate all matters involving alleged misconduct of an attorney admitted to practice law in the Commonwealth of Pennsylvania and to prosecute all disciplinary proceedings brought in accordance with the various provisions of the aforesaid rules.

2. Respondent is William T. Krzton, born in 1951 and admitted to practice law in the Commonwealth in 1976. Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

3. Respondent has no history of professional discipline.

The Mains, Maurhoff, Stroud, Jendrzejeski, Arnold, Farkosh, Hatalski and Murphy Estates Matter

4. From 2008 through approximately August 31, 2016, Respondent employed Joy Hale as a nonlawyer in his law office. AE I, AE II; N.T. 193-195.

5. During Ms. Hale's employment with Respondent, Ms. Hale's duties included preparing estate administration forms, preparing estate account checks so the authorized signatories of the respective accounts could pay estate debts and make distributions, and "all of the accounting for all of the estates." AE I, AE II; PE 5, p. 4 of 5, PE 9, 9:10, 9:14, 13:24, 19:4; PE 10, 14:7-19, 15:20-16:12, 36:10-12; N.T. 60-67, 75-81, 196, 254-255.

6. During Ms. Hale's employment, Respondent had direct supervisory authority over her. AE I, AE II.

7. In 2013, Respondent became aware that Ms. Hale had stolen \$3,300 from the decedent estate assets of Anita Mains by drawing one check on the estate account on which she had forged Respondent's signature. Ms. Mains was Respondent's aunt and he served as executor for her estate. AE I, AE II; PE 5, p. 4 of 5; N.T. 61-63.

8. Respondent testified that "\$3,300 was what my fee was going to be to the estate, so nobody lost any money except me." Respondent admonished Ms. Hale not to take monies again and gave her a "second chance." N.T. 202-203.

9. Respondent had Ms. Hale repay the estate "through [a reduction in] her wages and bonus" from her employment with Respondent. AE I, AE II; PE 5, p. 4 of 5; N.T. 62.

10. Despite Respondent's knowledge that Ms. Hale had stolen funds from the Mains estate account, he continued to employ Ms. Hale in his law office and her job duties remained the same. AE I, AE II; N.T. 62-63, 258.

11. During Ms. Hale's employment with Respondent, she had access to estate account documents and the capability to access the assets of at least seven estates which had been entrusted to Respondent: the estates of Maurhoff, Stroud, Jendrzejewski, Arnold, Farkosh, Hatalski, and Murphy. PE 5, p. 4 of 5; N.T. 60-67.

12. While Ms. Hale was employed under Respondent's supervision, Respondent failed to:

- a. maintain an accurate regular trial balance of client trust ledgers and perform accurate monthly reconciliations of each estate account; (PE 9, 9:10, 9:14, 13:24, 19:4, PE 10, 14:7-19, 15:20-16:12, 18:22-19:14, 35:23-

36:12; N.T. 29-31, 60-67, 75-81, 196, 207-208,254-255, 262-263, 266-268)
or

b. prevent or adequately supervise Ms. Hale's access to checks for the estate accounts. PE 9, 9:10, 9:14, 13:24, 19:4, PE 10, 14:7-19, 15:20-16:12, 18:22-19:14, 36:6-12; N.T. 29-31, 60-67, 75-81, 196, 207-208, 254-255, 262-263, 266-268.

13. Ms. Hale stole funds from the estate accounts by:

a. drafting checks made payable to herself and forging the name of an authorized payor on the checks she had drawn on the respective accounts; (AE I, AE II; PE 5, p. 3 of 5; N.T. 32, 60-67) and,

b. depositing the estate funds into her personal account using automated teller machines. AE I, AE II; PE 5, p. 3 of 5; N.T. 32, 61.

14. Ms. Hale was not entitled to receive the funds she had paid to herself from the various estate accounts. AE I; AE II.

15. On November 7, 2013, Paul G. Maurhoff died testate in Allegheny County, Pennsylvania. AE I, AE II; N.T. 23.

16. Mr. Maurhoff's will appointed Sandra L. Smith as Executrix of his estate. AE I, AE II; PE 5 p. 3 of 5; N.T. 22.

17. In or about November 2013, Ms. Smith hired Respondent to represent her in her capacity as personal representative of the Maurhoff estate. AE I, AE II; N.T. 23.

18. Respondent instructed Ms. Smith to open an estate account, have the periodic statements of account sent to Respondent, close Mr. Maurhoff's personal

checking accounts, deposit the balances in the estate account, and give Respondent the estate account checks. AE I, AE II; PE 5, p. 3 of 5; N.T. 24-25.

19. On or about January 6, 2014, Respondent accompanied Ms. Smith to First Commonwealth Bank, opened an estate account, and deposited the estate funds in the estate account. Respondent retained possession of the estate account checkbook and had the periodic statements of account mailed to his office. AE I, AE II; PE 5, p. 3 of 5; N.T. 24-27.

20. Ms. Hale began stealing funds from the Maurhoff estate account by drawing 20 checks, on 19 of which she had forged the signature of Ms. Smith, made payable to herself, and depositing the checks via an ATM to her personal account at PNC. AE I, AE II; PE 5, p. 3 of 5; N.T. 59-67.

21. Thereafter, on approximately a monthly basis through May 19, 2016, Ms. Hale knowingly provided false estate account balances to Ms. Smith in an effort to conceal Ms. Hale's thefts from the Maurhoff estate. AE I, AE II; N.T. 26-29, 35, 65.

22. On May 19, 2016, Ms. Smith met with Respondent:

a. Ms. Smith informed him that Ms. Hale's representations to her about the estate account balances were inaccurate; (AE I, AE II; PE 5, p. 3 of 5; N.T. 29-31, 267-268) and

b. Respondent told Ms. Smith that she, rather than Ms. Hale, must have been mistaken. AE I, AE II; PE 5, p. 3 of 5; N.T. 29-31, 267-268.

23. On or about May 20, 2016, Ms. Smith met with a representative of First Commonwealth Bank and learned that nearly half of the estate funds had been withdrawn from the estate account via checks forged by Ms. Hale, made payable to Ms. Hale. PE 5, p. 4 of 5; N.T. 31-33, 57, 63.

24. On or about May 24, 2016:

a. Ms. Smith met with Ms. Hale; (PE 5, p. 3 of 5; N.T. 33- 35)

b. Ms. Hale had prepared a falsified account statement for the Maurhoff estate account and a falsified copy of the estate account checkbook ledger; (PE 5, pp. 3-4 of 5; N.T. 33-35)

c. Ms. Hale provided the falsified documents to Ms. Smith in an attempt to conceal her theft of the Maurhoff estate funds; (PE 5, pp. 3-4 of 5; N.T. 33-35, 65)

d. Ms. Hale's falsified periodic statements of account for the Maurhoff estate account reflected an account balance of \$215,823.91 on February 8, 2016; (PE 5, p. 3 of 5; N.T. 65) and,

e. the actual account balance on February 8, 2016, was \$115,830.75. PE 5, p. 3 of 5.

25. On or about June 7, 2016, Ms. Smith communicated her allegations about the Maurhoff estate account to Detective William Miller of the Allegheny County District Attorney's Office. PE 5, p. 3 of 5; N.T. 36, 56-57.

26. On or about July 1, 2016, Respondent:

a. learned that Ms. Hale was being investigated for her alleged thefts from the Maurhoff estate; (AE I, AE II; PE 5, p. 4 of 5, PE 10, 26:6-28:2; N.T. 60-61, 259-261) and

b. was interviewed by a detective with the Allegheny County District Attorney's Office. AE I, AE II; PE 5, p. 4 of 5; N.T. 60-62.

27. From approximately February 2015 through the end of June 2016, Respondent had failed to reconcile at least seven estate accounts, including the Maurhoff

estate account, on a monthly basis. AE I, AE II; PE 5, p. 4 of 5, PE 9, 9:10, 9:14, 13:24, 19:4, 20:21-21:10, PE 10, 14:7-14:19, 15:15-16:15, 15:20-16:12, 18:22-19:14, 24:22, 36:10-12; N.T. 60-61, 65-67, 75-81, 196, 207-209, 254-255, 257-258, 266-268.

28. Between July 1, 2016 and September 4, 2016, Respondent learned that, in addition to Ms. Hale's theft from the Mains estate, she had stolen the following additional amounts from the following estates, during the following time periods:

<u>Estate</u>	<u>Amount</u>	<u>Time Period</u>
Stroud	\$2,825.00	2013-2015
Maurhoff	\$96,480.00	2013-2016
Jendrzejewski	\$13,213.37	2014-2016
Arnold	\$8,550.00	2014-2016
Farkosh	\$17,001.12	2015-2016
Hatalsky	\$9,663.12	2015-2016
<u>Murphy</u>	<u>\$43,294.38</u>	<u>2015-2016</u>
Total:	\$191,026.99	

AE I, AE II; PE 5, p. 4 of 5, PE 10, 24:22-27; N.T. 63-64, 77-80, 127-128.

29. Despite Respondent's knowledge as of July 1, 2016 that Ms. Hale had stolen funds from several estates, Respondent did not immediately terminate Ms. Hale's employment. AE I, AE II; PE 10, 34:12-35:22; N.T. 77-81, 207-209, 263.

30. Respondent continued to employ Ms. Hale until approximately September 1, 2016, in order for her to complete clerical work for Respondent's clients. N.T. 270-272.

31. In July 2016, Ms. Smith twice attempted to speak with Respondent by telephone about the Maurhoff estate account. AE I, AE II; N.T. 38.

32. On each occasion, Ms. Smith left messages on Respondent's answering machine requesting that he return her calls. *Id.*

33. Respondent failed to return some of Ms. Smith's calls, and failed to otherwise communicate with her about her legal matter. *Id.*

34. By letter to Respondent dated September 4, 2016, Ms. Smith recounted her unsuccessful attempts to communicate with him by phone, and stated that she needed answers from him about Ms. Hale's theft of the Maurhoff estate funds. AE I, AE II; N.T. 38-39.

35. Soon thereafter Respondent contacted Ms. Smith, at which time he stated he would see to it that the Maurhoff estate would be reimbursed. N.T. 38.

36. On September 6, 2016, a Police Criminal Complaint was filed against Ms. Hale, accusing her of committing nine counts of Theft by Failure to Make Required Disposition of Funds and twenty-one counts of Forgery. AE I, AE II; PE 5, p. 1 of 6; PE 6, PE 7, PE 8.

37. On February 7, 2018, pursuant to a negotiated plea agreement, Ms. Hale was sentenced as follows:

- a. on one count of Theft by Failure to Make Required Disposition of Funds, to serve a period of confinement of a minimum of nine and a maximum of eighteen months; (AE I, AE II; PE 7, PE 8)
- b. on one count of Theft by Failure to make Required Disposition of Funds, and two counts of Forgery, to serve a period of probation of seven years; (AE I, AE II; PE 7, PE 8)
- c. to pay restitution totaling \$202,291.99; (AE I, AE II; PE 7, PE 8) and,
- d. all other counts were withdrawn. AE I, AE II; PE 7, PE 8.

38. Neither Respondent nor Ms. Hale immediately used their own funds to reimburse the remaining seven estates for the thefts committed by Ms. Hale. Eventually, as part of Ms. Hale's sentencing, she began making monthly restitution payments in the amount of \$12.50. Ms. Smith on behalf of the Maurhoff estate filed a lawsuit against Respondent, which settled in mid-September 2020 for the sum of \$92,500, with \$12,500 paid by First Commonwealth Bank and \$80,000 paid by Respondent's liability insurance carrier. AE I, AE II; PE 7, PE 8; N.T. 37, 39-40; RE-II.

The Krotec Estate Matter

39. Prior to her death, Elizabeth Krotec established "The Elizabeth Krotec Educational Family Trust." N.T. 85-86, 103.

40. On August 4, 2007, Ms. Krotec died testate in Allegheny County, Pennsylvania. AE I, AE II.

41. Decedent's will directed:

a. Dwayne Bauknight would serve as executor of decedent's estate;

(AE I, AE II)

b. Decedent's Index Annuity would fund an educational trust, for which Mr. Bauknight and Mary Alice Burkholder were to act as trustees; (AE I, AE

II)

c. sixty-seven percent (67%) of the Index Annuity was to be used to establish and fund a scholarship in the name of Raymond Krotec, to benefit students who graduated from North Hills High School; (AE I, AE II)

d. thirty-three percent (33%) of the Index Annuity was to be gifted in memory of Raymond Krotec to the University of Pittsburgh's Graduate

School of Public and International Affairs to use as the school would deem appropriate; (AE I, AE II) and,

e. the residue of decedent's property was bequeathed to individuals and entities in varying amounts and percentages. AE I, AE II.

42. In August 2007, Mr. Bauknight retained Respondent to represent him in his capacity as the personal representative of decedent's estate. AE I, AE II; N.T.85.

43. On August 13, 2007, Respondent filed Letters Testamentary on behalf of Mr. Bauknight with the Orphans' Court Division of the Allegheny County Court of Common Pleas at docket number 2007-04701. AE I, AE II; PE 13.

44. On December 7, 2007, Respondent filed a Certification of Notice under Rule 5.6(a) for the Krotec estate, but the notice was not received by the Pennsylvania Attorney General's Office, Charitable Trusts and Organizations Section, until August 30, 2013. AE I, AE II PE 13; N.T. 103-104.

45. On October 10, 2008, Respondent filed the Inventory and the Inheritance Tax Return for the Krotec estate. AE I, AE II; PE 13.

46. The inheritance tax return set forth that the:

a. gross assets of the estate were valued at \$999,676; (AE I, AE II)

b. total deductions were \$95,073; (AE I, AE II)

c. net value of the estate was \$904,603; (AE I, AE II)

d. charitable and governmental bequests totaled \$844,603; (AE I, AE II)

e. Respondent's fee was \$28,500; (AE I, AE II)

f. net value subject to tax was \$60,000; (AE I, AE II) and,

g. tax due was \$9,000. AE I, AE II.

47. On February 17, 2009, the Commonwealth of Pennsylvania Department of Revenue issued a Notice of Inheritance Tax Appraisement, Allowance or Disallowance of Deductions and Assessment of Tax, which stated that the inheritance tax return had been accepted as filed. AE I, AE II; PE 13.

48. By letter dated July 25, 2013, addressed to Ed Wielgus, President of the North Hills Foundation, Respondent stated that:

- a. he had enclosed a petition which he intended to present to Orphans' Court seeking to allow the North Hills Foundation to administer the scholarship established by decedent's Will; (AE I, AE II) and,
- b. it would be extremely helpful if the North Hills Foundation would join in the petition. AE I, AE II.

49. Respondent enclosed a joinder to be signed and attached to the petition. AE I, AE II.

50. Soon thereafter, Mr. Wielgus executed and returned the joinder to Respondent. AE I, AE II.

51. From October 10, 2008, to September 3, 2013, Respondent took no action of record on the Allegheny County Orphans' Court docket in the Krotec estate administration. PE 13.

52. On September 4, 2013, Respondent filed a Petition to Modify a Charitable Trust with Orphans' Court. AE I, AE II; PE 13.

53. The Court denied the petition, refusing to modify the charitable trust and directing that the testator's wishes be fulfilled. AE I, AE II.

54. After September 5, 2013, Respondent took no further action of record on the Allegheny County Orphans' Court docket in the Krotec estate

administration, and he would not do so for another five and a half years, when he filed a Petition for Distribution and Audit on April 29, 2019. PE 13; N.T. 105.

55. On September 7, 2016, Regis J. Schnippert, Senior Deputy Attorney General of the Commonwealth of Pennsylvania Office of Attorney General, Charitable Trusts and Organizations Section, contacted Respondent by phone concerning the status of the Krotec estate administration:

a. They discussed the limitations of the testamentary charitable scholarship trust that made it impractical to implement; (AE I, AE II; N.T. 105-106)

b. Mr. Schnippert suggested a resolution of the issue, with which Respondent agreed; (AE I, AE II; N.T. 105-106) and

c. Mr. Schnippert's suggestion was for Respondent to file a final accounting and, in his Petition for Adjudication, request the Auditing Court to approve the distribution of the funds to the North Hills Foundation (or other appropriate beneficiary), and the proposed modification of the impractical limitations. AE I, AE II; N.T. 105-106.

56. By letter dated September 8, 2016, Mr. Schnippert memorialized his telephone conversation with Respondent that had occurred on the previous day. AE I, AE II; N.T. 106.

57. Despite Respondent's stated agreement with Mr. Schnippert's suggested attempt at a resolution, Respondent took no action at that time to file a final accounting or take any other action in an effort to bring the estate administration to a close. AE I, AE II; PE 13; N.T. 105-106.

58. Between 2008 and 2018, Mr. Bauknight and Respondent had approximately four to five telephone conversations regarding the status of the Krotec estate administration. N.T. 88-89.

59. On the occasions when Mr. Bauknight spoke with Respondent, Respondent told Mr. Bauknight he was “working on it,” but there was a problem with the way the will had been drafted and North Hills High School did not want to be a beneficiary of the scholarship trust. AE I, AE II; N.T. 86-96.

60. In or about the first week of October 2018, Mr. Bauknight contacted Respondent, who informed him that the testamentary trust for the scholarship for North Hills High School was difficult to manage. AE I, AE II; N.T. 86-96.

61. In October 2018, Mr. Schnippert contacted Respondent to inform him that he needed to file an accounting by November 2, 2018, which was the December filing deadline. AE I, AE II; N.T. 106-107.

62. Respondent assured Mr. Schnippert that he would try to file an accounting before the deadline. AE I, AE II.

63. Respondent failed to file the accounting by November 2, 2018 and failed to inform Mr. Bauknight of that omission. AE I, AE II; N.T. 90-93.

64. Due to Respondent’s failure to file an accounting, on November 9, 2018, the Honorable Lawrence J. O’Toole, Administrative Judge of the Orphans’ Court Division, entered an Order of Court directing that the first and final account be filed for decedent’s estate no later than December 9, 2018. Respondent also failed to inform Mr. Bauknight of the entry of the court order. AE I, AE II; N.T. 90-93, 106-107.

65. Respondent failed to file a first and final account for the Krotec estate matter in compliance with the Order of Court dated November 9, 2018, and failed to inform Mr. Bauknight of that omission. AE I, AE II; N.T. 90-93, 107.

66. Respondent's failure to file a first and final account resulted in Judge O'Toole's issuance of an Order of Court, dated February 6, 2019:

a. the Court issued a Rule to Show Cause why Mr. Bauknight, as personal representative of the Krotec estate, should not be held in contempt and why he should not be surcharged; (AE I, AE II; N.T. 90-93, 107-108)

b. the Rule was made returnable March 15, 2019; (AE I, AE II; N.T. 90-93, 107-108) and

c. Respondent failed to inform Mr. Bauknight that, as the personal representative of the Krotec Estate, Mr. Bauknight had incurred personal liability due to Respondent's failure to act diligently on his behalf. N.T. 90-93, 107-108.

67. On March 15, 2019, a hearing was held on the Rule to Show Cause. AE I, AE II.

68. By Order of Court dated April 2, 2019, the Court scheduled a contempt hearing for May 2, 2019. AE I, AE II.

69. On April 29, 2019, Respondent filed a First and Final Account and Petition for Distribution on behalf of Mr. Bauknight. AE I, AE II; N.T. 108.

70. On June 10, 2019, Respondent filed an Amended First and Final Account on behalf of Mr. Bauknight. At the audit held on June 17, 2019, Gene Herne, Senior Deputy Attorney General-in-Charge, gave Respondent his objections to Respondent's accounting, asking if Respondent would be willing to work out the matter

without Mr. Herne having to file formal objections. Respondent agreed to do so. AE I, AE II; N.T. 108.

71. The Krotec estate administration was pending before the Orphans' Court until September 7, 2020, because although Respondent had agreed to remedy the issues Mr. Herne had with the accounting, and Mr. Herne had issued a no-objection letter on January 17, 2020, Respondent did not file a proposed decree of distribution with the Court until late August 2020. N.T. 103-104, 108-109.

72. Respondent failed to conclude the Krotec estate administration for thirteen years. N.T. 105-109.

73. The trust, as originally contemplated under the Krotec will, was particularly difficult to implement because it would have imposed significant conditions on scholarship recipients. N.T. 241-243.

74. Respondent charged a fee in this matter of \$28,500 and received \$18,500 of that amount. AE I, AE II.

75. The Office of the Attorney General did not file an objection to Respondent's fee. AE I, AE II; N.T. 108.

Additional Findings of Fact

76. Two actions are pending against Respondent in Armstrong County, Pennsylvania:

- a. a complaint in civil action alleging malpractice, filed by the Administrator D.B.N.C.T.A. for the decedent estate of Helen Murphy and the beneficiaries of the estate; (PE 9, PE 10; N.T. 117-119) and

b. a petition for surcharge filed against Respondent in his capacity as the former executor for the Murphy estate. PE 9, PE 10; N.T. 117-119.

77. Joy Hale had stolen \$43,294.28 from the Murphy estate while employed by Respondent. PE 9; N.T. 120.

78. Respondent charged the Murphy estate fees totaling \$39,500 in his capacity as Executor and as counsel for the personal representative (himself). PE 9; N.T. 123.

79. The Murphy estate's claims against Respondent had not been settled as of the date of the disciplinary hearing. N.T. 122.

80. Respondent testified at the disciplinary hearing that upon learning of Ms. Hale's theft in July 2016, he felt surprised by her criminal conduct, as he had put a lot of trust in her and thought she was a "perfect" secretary. N.T. 206 – 207.

81. Respondent testified that he continued to employ Ms. Hale for two months after the estate thefts were discovered in July 2016 because he "was not literate on [Ms. Hale's] computer at that – on a computer at that time, and there were a number of pressing matters that I had to get out for my clients." N.T. 208.

82. Respondent testified that between approximately July 5, 2016 and September 1, 2016, while Ms. Hale "finished up" work, he made sure she did not work on any estates and had no access to estate files and checkbooks. N.T. 208, 270.

83. Respondent presented four character witnesses.

84. Robert Masarik has known Respondent for approximately 15 to 20 years as a friend, neighbor and social acquaintance. N.T. 139.

85. Mr. Masarik knows people who know Respondent and their opinion of him is that he is a very trusting empathetic person. N.T. 141.

86. Mr. Masarik testified that he was not aware that Ms. Hale had stolen from Respondent at an earlier point in time and that Respondent continued to employ her. N.T. 142.

87. Ulf Skreppen is the chief compliance officer and director of operations for C.S. McKee investment firm. Mr. Skreppen has known Respondent since approximately 2007 or 2008 as a good friend. N.T. 144-145.

88. Mr. Skreppen testified that Respondent did some legal work for him and did a good job. He also testified that among his circle of friends who know Respondent, Respondent has a very good reputation for integrity. N.T. 146.

89. Robert B. Liotta, Esquire is a Pennsylvania attorney admitted to practice in 1999. He has known Respondent since approximately 2001. Mr. Liotta knows people in the legal community who also know Respondent and testified that Respondent is known for demonstrating the highest level of professionalism and courtesy. N.T. 159.

90. Charles Clark, Esquire is a Pennsylvania attorney admitted to practice in 1990. Mr. Clark has known Respondent for a long time as a neighbor and as a legal practitioner. Among the people in the legal community that he knows and who also know Respondent, Respondent has a good reputation for integrity and honesty. N.T. 163 – 165.

91. Respondent's witnesses credibly testified on his behalf.

III. CONCLUSIONS OF LAW

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

1. RPC 1.3 – A lawyer shall act with reasonable diligence and promptness in representing a client. (Krotec Matter)
2. RPC 1.4(a)(3) – A lawyer shall keep the client reasonably informed about the status of the matter. (Estates Matter, Krotec Matter)
3. RPC 1.4(a)(4) – A lawyer shall promptly comply with reasonable requests for information. (Estates Matter, Krotec Matter)
4. RPC 1.15(c)(4) – A regular trial balance of the individual client trust ledgers shall be maintained. The total of the trial balance must agree with the control figure computed by taking the beginning balance, adding the total of monies received in trust for the client, and deducting the total of all monies disbursed. On a monthly basis, a lawyer shall conduct a reconciliation for each fiduciary account. The reconciliation is not complete if the reconciled total cash balance does not agree with the total of the client balance listing. A lawyer shall preserve for a period of five years copies of all records and computations sufficient to prove compliance with this requirement. (Estates Matter)
5. RPC 5.3(a) – With respect to a nonlawyer employed or retained by or associated with a lawyer: (a) a partner and a lawyer who individually or together with other lawyers possesses

comparable managerial authority in a law firm shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the person's conduct is compatible with the professional obligations of the lawyer. (Estates Matter)

6. RPC 5.3(b) – With respect to a nonlawyer employed or retained by or associated with a lawyer: (b) a lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer. (Estates Matter)

7. RPC 8.4(d) – It is professional misconduct for a lawyer to: (d) engage in conduct that is prejudicial to the administration of justice. (Krotec Matter)

IV. DISCUSSION

Petitioner bears the burden of proving ethical misconduct by a preponderance of evidence that is clear and satisfactory. ***Office of Disciplinary Counsel v. John T. Grigsby, III***, 425 A.2d 730, 732 (Pa. 1981). On this record, we conclude that Petitioner met its burden to establish that Respondent violated Pennsylvania Rules of Professional Conduct 1.4(a)(3), 1.4(a)(4), 1.15(c)(4), 5.3(a) and 5.3 (b) in the Estates matter and 1.3, 1.4(a)(3), 1.4(a)(4) and 8.4(d) in the Krotec matter.

The salient facts of record establish that Respondent employed Joy Hale, a nonlawyer, as his secretary and bookkeeper in his law practice, which practice consisted

in large part of estates work. Respondent had managerial and supervisory authority over Ms. Hale. In 2013, Respondent became aware that Ms. Hale had stolen \$3,300 from the Mains estate. Respondent rationalized that because the sum stolen constituted his fee to the estate, no one was hurt except him, and he did not terminate her employment, deciding instead to give Ms. Hale another chance. Respondent did not require Ms. Hale to repay the stolen funds, instead “withholding” the sum from her salary and bonus. There is no dispute that despite Respondent’s knowledge that Ms. Hale had stolen funds, he continued to task Ms. Hale with the same level of responsibility and continued to allow her full access and control over multiple estate accounts, checkbooks and monthly statements. Inexplicably, despite his knowledge of Ms. Hale’s dishonest conduct, Respondent made no efforts to enhance supervision of her activities to ensure compliance with record-keeping responsibilities and prevent further thefts. Respondent’s dereliction of his ethical duties had very serious consequences, as Ms. Hale’s unfettered access allowed her to steal \$191,026.99 from seven other estates following the theft from the Mains estate.

According to Respondent, his reaction to the discovery of Ms. Hale’s thefts in July 2016 was one of surprise, as he had trusted her and thought she was a good employee. While it is understandable that Respondent felt betrayed, he should not have been surprised, as he was on notice that his employee was dishonest as early as 2013. Indeed, had Respondent performed the requisite supervision and account management, arguably he would not have been caught off guard by Ms. Hale’s nefarious actions. Respondent contends that Ms. Hale’s sophisticated methods of stealing the estate funds prevented him from discovering her thievery. In fact, while Detective Miller credibly testified that Ms. Hale’s scheme involving the Maurhoff estate was “extremely elaborate,

because the forged documents were colored bank statements that looked identical to the real ones” (N.T. 60-63, 73), he also testified that there was nothing elaborate about Ms. Hale’s thefts from the other estates. N.T. 65-66, 77-78.

Respondent’s choice to maintain Ms. Hale’s employment after discovering the stolen Mains estate funds was risky and perhaps an exercise in poor judgment, but his decision to permit Ms. Hale to operate with the same level of trust and responsibility without the meaningful supervision necessary to prevent another theft was a violation of the Rules of Professional Conduct and allowed Ms. Hale’s criminal conduct to go unchecked for years. Also puzzling is Respondent’s decision to allow Ms. Hale to continue her employment for two months after the 2016 discovery of her thefts from seven additional estates. To that point, Respondent explained that he had pressing client matters and needed Ms. Hale to finish work on client files, apparently because she was computer proficient, a skill he lacked. Respondent assured the Committee that he took steps to prevent Ms. Hale’s access to estate files and checkbooks during the two months she remained in the office. Unfortunately, Respondent’s sudden realization that he needed to prevent Ms. Hale’s access to those items came too late for his other clients. Respondent abdicated his responsibility to his clients by failing to take immediate action to supervise Ms. Hale, who posed a clear danger to his clients.

Separately, Respondent’s representation of the Krotec estate involved a single, prolonged failure to timely assist his client, the estate’s personal representative, in administering a decedent estate that posed an obstacle regarding the implementation of the testator’s intent. The resolution of the estate was delayed for thirteen years, during which time Respondent failed to adequately communicate with his client. At one point,

Respondent's client risked being held in contempt and incurring personal liability due to Respondent's lack of diligence.

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 our analysis of the aggravating and mitigating circumstances. ***Office of Disciplinary Counsel v. Brian Preski***, 134 A.3d 1027, 1031 (Pa. 2016).

As an aggravating factor, Respondent kept Ms. Hale employed in a position of trust despite his knowledge that she stole money from the Mains estate, and without any meaningful effort to supervise her activities. This decision reflected a lack of comprehension of the seriousness of Ms. Hale's conduct and the risk to his clients. Even after the discovery by the authorities that Ms. Hale had stolen a large sum of money, Respondent did not terminate Ms. Hale's employment for two additional months because he needed her assistance to finish work on client files. Respondent's actions demonstrated that he did not fully acknowledge or understand the gravity of these matters, or accept his own responsibility therein, as he displayed no sense of urgency to rid his office of a dishonest employee who had harmed his clients.

In mitigation, we consider Respondent's lengthy legal career for more than four decades without the blemish of prior discipline. This is a compelling mitigating factor. Respondent's character witnesses, two of whom are lawyers, testified that he has a good reputation in the community for integrity and honesty. Additionally, Respondent cooperated with the criminal investigation of Ms. Hale and Petitioner's disciplinary investigation of his conduct. Respondent admitted the majority of Petitioner's factual allegations. The record reflects that Respondent has made some reimbursement to the estates either directly or through his professional liability insurance carrier.

“The primary purpose of our system of lawyer discipline is to protect the public from unfit attorneys and to maintain the integrity of the legal system.” **Office of Disciplinary Counsel v. John Keller**, 506 A.2d 872, 875 (Pa. 1986). In determining the appropriate discipline, the Board examines precedent for the purpose of analyzing “the respondent’s conduct against other similar transgressions.” **In re Anonymous No. 56 DB 1994 (Linda Gertrude Roback)**, 29 Pa. D. & C. 4th 398, 406 (1995).

Respondent’s failure to supervise his employee’s accountings or manage her access to entrusted funds and his failure to recognize the seriousness of the problem that he faced with his employee’s deceitful conduct allowed the employee to steal from his clients for years. His dilatory representation in the Krotec matter caused a delay of thirteen years in resolving the estate. To address the totality of this misconduct, the Committee recommended a one year and one day suspension. Respondent advocates for a public reprimand, contending that the Committee did not properly weigh his mitigating factors, and therefore, a suspension is unduly harsh and not reflective of the facts and circumstances.

In support of its recommendation, the Committee cited **Office of Disciplinary Counsel v. Robert J. Colaizzi**, No. 120 DB 2016 (D. Bd. Rpt. 9/28/2018) (S. Ct. Order 1/4/2019). Therein, Colaizzi’s nonlawyer wife acted as his bookkeeper and used her access to the law firm’s accounts to divert funds related to six separate matters, using the monies for personal reasons, including college tuition for the Colaizzi children. In one of the matters, Colaizzi was held in contempt of a court order for his failure to repay the funds his wife diverted and jailed until he was able to purge the contempt. After Colaizzi discovered that his wife was stealing funds, for a period of two additional years he allowed her to be present at his law office, to train new employees, and to access his

firm's financial information, accounts, mail and email. During that time frame, the wife diverted client funds on two additional occasions. In aggravation, the Board found that Colaizzi did not demonstrate sincere remorse and acceptance of responsibility. In mitigation, Colaizzi had no prior discipline during a legal career of nearly thirty years and cooperated with the disciplinary investigation. The Board recommended a one year and one day suspension to the Court, which imposed the recommended discipline.

Aspects of **Colaizzi** and the instant matter are similar in that both respondent-attorneys failed to supervise their employees and allowed the dishonest parties to remain in their trusted positions without supervision after learning of the thefts, and neither respondent truly grasped their own responsibility for what happened. However, we discern several facts that compel a lesser discipline in the case at bar. Here, the record established that at least for the Maurhoff estate, it would have been difficult for Respondent to know that Ms. Hale was stealing funds, as she had concocted an elaborate scheme to hide her theft. As well, none of the stolen funds benefitted Respondent. Contrast this with the respondent in **Colaizzi**, where a portion of the stolen funds paid for his children's tuition. Another difference between the cases is that the instant Respondent produced character evidence that he has a good reputation for honesty and integrity; Colaizzi did not present character evidence.

The matter of **Office of Disciplinary Counsel v. Ronald Peter Langella**, No. 102 DB 2012 (D. Bd. Rpt. 9/23/2013) (S. Ct. Order 1/15/2014) involves similar issues to the instant matter. In 2005, Langella, a sole practitioner, discovered that his wife, who was his office manager, had misappropriated \$57,000 in entrusted funds. Langella restored the funds and took immediate action to deprive his wife of access to his accounts and checkbooks. However, despite those efforts, Langella's wife continued to

misappropriate funds in the amount of \$76,000 from his IOLTA. Once again, Langella restored the funds and took action to deny his wife access to his accounts, by destroying signature stamps and securing his checkbooks. The Board determined that although the matter was very serious, a private reprimand and five years of probation was appropriate in light of Langella's quick action to reimburse funds and to prevent his wife's access to his accounts, along with his cooperation with Office of Disciplinary Counsel. The Board concluded that private discipline was warranted in order to permit Langella to continue practicing law. The conditions attached to Langella's probation required him to take certain actions to deny his wife's access to the law firm's bank accounts. Unfortunately, Langella was not able to comply with the conditions, failing for the third time to hold entrusted funds separate from his own, as his wife was implicated in overdrafts that occurred in his IOLTA. Disciplinary charges were brought against Langella based on his probation violation, which included failing to reimburse clients and failing to file monthly reports with Office of Disciplinary Counsel. The Board recommended a suspension of one year and one day, but the Court rejected that recommendation and imposed a five year suspension.

We compare the result in **Langella** with the instant matter and conclude that the repetitive nature of Langella's failure to supervise and his failure to comply with probation conditions by failing to make restitution and file reports with disciplinary authorities warranted a severe sanction. Here, Respondent failed to provide proper supervision to his employee but the other egregious factors present in **Langella** are absent.

Upon review of prior similar matters, we conclude that Respondent's request for a public reprimand is not supported by the case law. In light of Respondent's

misconduct, the totality of the aggravating and mitigating factors and the decisional law, we conclude that Respondent is not fit to practice and recommend that he be suspended from the practice of law. A suspension of six months is consistent with the sanctions imposed for similar misconduct and is appropriate to address Respondent's serious failure to supervise his employee, while accounting for his blemish-free disciplinary record during a lengthy legal career and his cooperation with both the criminal investigation of the thefts and the disciplinary investigation of his conduct.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that the Respondent, William T. Krzton, be Suspended for six months from the practice of law in this Commonwealth.

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

Respectfully submitted,

THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

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

Date: June 2, 2021