

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 2599 Disciplinary Docket No. 3
	:	
Petitioner	:	No. 199 DB 2018
	:	
v.	:	Attorney Registration No. 307915
	:	
KEITH FRANCIS GARRITY, SR.,	:	(Delaware County)
	:	
Respondent	:	

ORDER

PER CURIAM

AND NOW, this 24th day of May, 2019, upon consideration of the Recommendation of the Three-Member Panel of the Disciplinary Board, the Joint Petition in Support of Discipline on Consent is granted, and Keith Francis Garrity, Sr. is suspended on consent from the Bar of this Commonwealth for a period of five years. 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 05/24/2019

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

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

OFFICE OF DISCIPLINARY COUNSEL,	:	No.	Disciplinary Docket No. 3
Petitioner	:		
	:	No. 199 DB 2018	
v.	:		
	:	Attorney Reg. No. 307915	
KEITH FRANCIS GARRITY, SR.	:		
Respondent	:	(Delaware County)	

**JOINT PETITION IN SUPPORT
OF DISCIPLINE ON CONSENT
PURSUANT TO Pa.R.D.E. 215(d)**

Petitioner, the Office of Disciplinary Counsel (“ODC”) by Paul J. Killion, Chief Disciplinary Counsel, and Krista K. Beatty, Disciplinary Counsel and Keith Francis Garrity, Sr., Esquire (“Respondent”), respectfully petition the Disciplinary Board in support of discipline on consent, pursuant to Pennsylvania Rule of Disciplinary Enforcement (“Pa.R.D.E.”) 215(d), and in support thereof state:

1. ODC, whose principal office is situated at Office of Chief Disciplinary Counsel, Pennsylvania Judicial Center, Suite 2700, 601 Commonwealth Avenue, P.O. Box 62485, Harrisburg, Pennsylvania 17106, is invested, pursuant to Pa.R.D.E. 207, with the power and 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 Enforcement Rules.

2. Respondent, Keith Francis Garrity, Sr. was born September 23, 1979, was admitted to practice law in the Commonwealth of Pennsylvania on November 5, 2009, and maintains his office at 313 W. Front St., Media, PA 19061. Respondent is currently on active status, and has a

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residence address located at 14 Chestnut Street, Marcus Hook, PA 19061.

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

4. Respondent's affidavit stating, *inter alia*, his consent to the recommended discipline is attached hereto as Exhibit "A."

SPECIFIC FACTUAL ALLEGATIONS ADMITTED

CHARGE I Mary B. Smith

4. On April 19, 2016, Respondent met with Mary B. Smith at the Offices of Mark P. Much, 341 West Baltimore Avenue, Media, Pennsylvania 19063. Respondent was employed by Mr. Much's firm at that time.

5. Respondent met with Ms. Smith about representing her with regard to amending a custody agreement. Ms. Smith desired to relocate to Florida with her two children, but could not do so without Court permission.

6. Ms. Smith conveyed to Respondent that time was of the essence in pursuing the relocation so the children could be enrolled for school in Florida beginning in August 2016.

7. Respondent represented to Ms. Smith that he would charge a flat fee of \$3,500.00 for the engagement.

8. Respondent had not regularly represented Ms. Smith, and Respondent did not provide her with the basis or rate of his fee, in writing, before or within a reasonable time after commencing the representation.

9. On or about April 26, 2016, Ms. Smith contacted Respondent to arrange a partial payment of his fee. Respondent suggested they meet at a Taco Bell in Delaware.

10. Respondent met with Ms. Smith at a Delaware Taco Bell restaurant. She gave him a check for \$2,000.00 and Respondent gave Ms. Smith a handwritten receipt for the deposit that also stated a balance owed of \$1,500.00. The receipt did not state whether Respondent's fee was flat or based upon an hourly rate, an advance, or was intended to be earned upon receipt. The receipt also did not state that Respondent's fee was earned upon receipt or non-refundable.

11. Respondent did not obtain Ms. Smith's informed consent, confirmed in writing, that legal fees and expenses paid in advance would not be deposited into a Trust Account and withdrawn by Respondent only as the fees were earned or expenses incurred.

12. On April 26, 2016, Respondent cashed the \$2,000.00 check Ms. Smith gave him.

13. Respondent did not deposit the funds into a Trust Account to be withdrawn only as fees were earned or expenses incurred.

14. On April 27, 2016, Ms. Smith sent Respondent an email containing additional information relevant to the relocation.

15. On April 28, 2016, Ms. Smith sent Respondent an email asking Respondent whether the information she supplied was sufficient and whether Respondent needed any additional information. Respondent responded: "Looks great in set [sic] I'll be in touch soon."

16. Ms. Smith did not hear from Respondent for a few days following the April 26, 2016 meeting at Taco Bell, and she made attempts to reach Respondent by telephone at the Offices of Mark P. Much.

17. Respondent did not return Ms. Smith's calls; Ms. Smith received a telephone call from Mark P. Much, who informed her that Respondent was no longer with his firm.

18. On May 3, 2016, Ms. Smith sent Respondent an email, asking: "How are things looking?"

19. Respondent responded to Ms. Smith's email the same day, stating:
- It's looking OK I'm hoping to have all documentations that I need to file finished up by Thursday for your review I'll be in touch by then please don't hesitate to call or email if you have any questions for them [sic].
20. On May 6, 2016, Ms. Smith emailed Respondent, stating:
- Hello Keith,
How does it look?
Were you able to get the school report for the Fla school district?
I was unable to obtain a printable version.
Mary
21. Respondent answered the same day, stating:
- That's all I'm waiting on I have one I found on the internet but I requested one from the school itself. His objection notice should go out today. We're in good shape the school district looks good.
22. On May 12, 2016, Ms. Smith followed up with Respondent by email:
- Was the paperwork sent out? If so, do you know if he received it?
23. Respondent answered the same day, stating:
- it was sent I have not received the signed slip yet I'll check with post office tomorrow.
24. On May 14, 2016, Ms. Smith sent Respondent an email stating:
- Im [sic] not sure if he received the papers yet since I have not seen a big difference in his mood.
25. On May 22, 2016, Ms. Smith emailed Respondent stating:
- Please tell me that something was sent out? I think that if this delays any more there will not be any time for this to actually work out.
26. On May 23, 2016, Respondent answered, stating: "It has been sent."
27. That representation was false; Respondent had not sent anything to Ms. Smith's husband.

28. Also on May 23, 2016, Ms. Smith inquired:

Could you let me know the date that it was sent? I'd really like to know when he should or would have gotten it.

29. Respondent answered, stating: "I will send date when I get back to the office and check file."

30. On May 25, 2016, Ms. Smith emailed Respondent again, stating: "Did you get the date that the papers were sent out to Tom?"

31. Respondent replied, stating:

I did I sent an email I think the mixup as [sic] I have a new email address kgesq@garritylegal.com I'll resend when I get home later today look for it from that address and if you have any further emails can you send him [sic] there I'm having a hard time getting emails forwarded from the old address [keithgesq1@aol.com]."

32. On May 28, 2016, Respondent sent an email to Ms. Smith from his new email address (kgesq@garritylegal.com) attaching a draft Notice to Relocate and Counter-Affidavit Regarding Relocation ("Notice"). In the email, Respondent claimed he served Ms. Smith's husband with the Notice multiple times, the most recent being that weekend.

33. That representation was false; Respondent had not served Ms. Smith's husband with the Notice.

34. Ms. Smith requested a meeting with Respondent to address concerns about the content of the Notice. Respondent arranged to meet Ms. Smith at a Wendy's in Media, Pennsylvania, on June 1, 2016.

35. On June 1, 2016, Ms. Smith waited for Respondent at the Wendy's in Media for an hour past the appointed time, but Respondent never appeared. Respondent explained his failure to appear for the meeting by text message, stating that he was in court.

36. Concerned that Respondent was not seeking relocation on her behalf consistent with her interest in relocating by the start of the school year beginning in Florida in August 2016, Ms. Smith consulted another attorney, Maureen Repetto, Esquire.

37. On June 7, 2016, at Ms. Smith's request, Maureen Repetto contacted Respondent and requested that Respondent supply her with Ms. Smith's file and a copy of Respondent's fee agreement with Ms. Smith.

38. On the same date, Respondent sent Ms. Smith the following email, copying Ms. Repetto, stating:

I am in receipt of the message from Maureen. I am currently reviewing and preparing the file to be returned, while also reviewing my time spent on the case for a proper determination of an appropriate refund. Once that's completed, I will contact you to retrieve your file and appropriate refund. I will do this as time efficiently as possible. Any questions, feel free to contact me by phone or email.
Thank you.

39. Respondent sent Ms. Repetto a separate email on June 7, 2016, not copying Ms. Smith, stating: "I will send her a copy of her file what she does with it is up to her."

40. On June 8, 2016, Ms. Smith answered Respondent by email, stating:

Keith,
I never saw a fee agreement from you, I [sic] there is one please email it to me.
Please refund the full retainer of \$2000 or I will be forced to file a complaint with the fee dispute committee.
Sincerely,
Mary Beth Smith

41. On June 9, 2016, Respondent sent the following response to Ms. Smith:

I will refund your money, not because you deserve it or because I didn't work on your case but because I don't have any more time to waste on you. I will let you know when your check is mailed. Please send me the address you want it sent to. It will be sent within 7-10 business days.
Good Luck.

42. Thereafter, Ms. Smith filed a Petition with the Delaware County Bar Association Fee Dispute Resolution Committee ("Petition") concerning the \$2,000.00 fee she paid Respondent.

43. On August 31, 2016, Jeffrey Sherman, Esquire sent Respondent a letter concerning Ms. Smith's Petition.

44. On September 6, 2016, Respondent sent Mr. Sherman the following email:

My name is Keith Garrity I have been told you will handle a fee dispute that has been filed against me. This is the first time I am dealing with this so if it's not too much trouble please let me know what you would like me to do next. I appreciate your time.

45. On September 21, 2016, Mr. Sherman responded to Respondent's September 6, 2016 email, stating:

I sent you a letter dated August 31, 2016. I acknowledge your email response on September 6th. Please provide me with a telephone number and a hard address.

Lastly before total review, I understand that you did acknowledge that you would return Mrs. Smith's funds. If that is correct, is there a need for me to go through a whole process or will you submit her a check for the amount due, sending it to this office?

I await your response.

46. Respondent did not refund Ms. Smith any portion of the \$2,000.00 she advanced to him, either directly or through Mr. Sherman.

47. Respondent did not perform any legal services for Ms. Smith that were of any value or benefit to her. Respondent never entered an appearance on Ms. Smith's behalf in the Delaware County divorce and custody matter (Case Number 2015-007298), and Respondent never served Ms. Smith's husband with the papers required to initiate the relocation request.

48. Ms. Smith's pursuit of relocation was delayed, and she had to retain and pay another attorney, Maureen Repetto, to take all steps legally required to obtain court permission to relocate to Florida with her children.

Charge II
Brandon K. Cooper matter

49. In November 2014, Brandon K. Cooper retained Respondent to represent him in defending criminal charges of driving under the influence and related offenses in the Court of Common Pleas of Delaware County.

50. On June 17, 2015, Respondent completed representation of Mr. Cooper in his criminal matter; Mr. Cooper was admitted into the County ARD program and placed on ARD probation for twelve (12) months.

51. On June 15, 2016, Mr. Cooper contacted Respondent to inform him his ARD probation period was ending; Mr. Cooper wanted to retain Respondent expunge the criminal conviction.

52. Respondent met with Mr. Cooper in Respondent's office, and Respondent told Mr. Cooper that his fee for preparing and filing the Petition for Expungement would be \$850.00.

53. Between about June 15, 2016 and June 17, 2016, Mr. Cooper made payments to Respondent totaling \$850.00. Respondent provided Mr. Cooper with a receipt stating his fee for the representation was "paid in full."

54. Respondent did not prepare a Petition for Expungement for Mr. Cooper, as agreed.

55. Respondent did not perform any work for Mr. Cooper in exchange for his \$850.00 fee.

56. On April 3, 2017, Mr. Cooper contacted Respondent to inquire about the status of his case. Respondent did not immediately respond.

57. On April 17, 2017, Mr. Cooper contacted Respondent again via text message. Respondent replied, stating "Back in town tomorrow will call with status then."

58. On April 24, 2017, Mr. Cooper contacted Respondent via text message, inquiring, "So anything yet" and Respondent replied, "Not yet I'll check tomorrow."

59. On April 27, 2017, Mr. Cooper again contacted Respondent via text message, asking, "what's going on with this case."

60. Respondent replied, stating Respondent would let Mr. Cooper know "when the process is complete."

61. On May 1, 2017, Mr. Cooper contacted Respondent via text message, and asked Respondent to send him proof that the expungement paperwork was filed.

62. Mr. Cooper followed up by text message to Respondent, asking to meet at the Media courthouse the following Monday at 4:00 p.m., because Respondent no longer had a regular office location.

63. Respondent replied that he would "let [Cooper] know," but Respondent never followed up with a plan to meet.

64. On or about May 17, 2017, Mr. Cooper prepared and filed on behalf of himself a Petition for Expungement of his DUI conviction in the Court of Common Pleas of Delaware County, Pennsylvania. He also tendered the required payment of \$149.50.

65. On June 1, 2017, the Honorable Chad F. Kenney, President Judge of the Court of Common Pleas of Delaware County, signed an Order granting Mr. Cooper's Petition for Expungement.

66. On June 5, 2017, Mr. Cooper contacted Respondent requesting a refund of the \$850.00 fee paid to Respondent since Respondent did not perform the work as agreed.

67. Respondent has not responded to Mr. Cooper's telephone calls or text messages, and Respondent has not returned the unearned fee.

68. By DB-7 Request for Statement of Respondent's Position dated September 26, 2017, personally served at Respondent's residence on January 31, 2018, Respondent was apprised of the alleged misconduct in the Cooper matter and was advised that failure to respond without good cause is an independent ground for discipline pursuant to Pa.R.D.E. 203(b)(7).

69. Respondent did not provide a response to the September 26, 2017 Request for Statement of Respondent's Position.

Charge III
Joseph Sabatini Matter

70. On March 24, 2016, Joseph F. Sabatini, Jr. retained Respondent to represent him in a divorce, protection from abuse ("PFA") and modification of custody matters then pending in the Court of Common Pleas of Delaware County.

71. That same date, Respondent acknowledged receipt of Mr. Sabatini's payment of \$5,000.00 toward legal fees.

72. On December 12, 2016, Mr. Sabatini authorized an additional payment to Respondent in the amount of \$2,500.00, toward legal fees.

73. During the period of time Respondent represented Mr. Sabatini, Respondent failed to personally appear at hearings to represent Mr. Sabatini on November 16, 2016, January 18, 2017 and March 13, 2017.

74. On July 18, 2017, Mr. Sabatini wrote to Respondent to terminate Respondent's representation. Mr. Sabatini also asked for a full statement of accounting, and return of unearned fees.

75. Although Mr. Sabatini notified Respondent he was terminating Respondent's representation and requested an accounting, Respondent failed to provide Mr. Sabatini an accounting, and did not return any unearned fee.

76. By DB-7 Request for Statement of Respondent's Position dated November 8, 2017, which was personally served at Respondent's residence on January 31, 2018, Respondent was apprised of the alleged misconduct in the Sabatini matter and was advised that failure to respond without good cause is an independent ground for discipline pursuant to Pa.R.D.E. 203(b)(7).

77. Respondent did not provide a response to the November 8, 2017 Request for Statement of Respondent's Position.

Count IV
Tyesha Starkey Matter

78. On or about March 12, 2018, Respondent met with Tyesha Starkey, who retained Respondent to defend Troy Bush against criminal charges in the Court of Common Pleas of Delaware County Pennsylvania in a matter captioned *Commonwealth of Pennsylvania v. Troy Bush*, No. CP-23-CR-000951-2018 (Delaware Co.).

79. Ms. Starkey paid Respondent \$1,200.00 on March 12, 2018 and \$1,300.00 on March 22, 2018.

80. On March 22, 2018, Respondent provided Ms. Starkey a receipt stating that she had "paid in full."

81. Respondent did not appear for Mr. Bush's pre-trial conference, which was scheduled for April 9, 2018.

82. Respondent did not enter an appearance for Mr. Bush until April 11, 2018.

83. Between March 22, 2018 and April 11, 2018, Respondent did not meet with or otherwise make any effort to contact Mr. Bush.

84. Mr. Bush's trial was scheduled for May 29, 2018, at 9 a.m. before the Honorable Anthony Scanlon.

85. Respondent did not appear in court to defend Mr. Bush on May 29, 2018. As of that date, Respondent still had not met with or spoken to his client, Mr. Bush.

86. By DB-7 Request for Statement of Respondent's Position dated June 22, 2018, personally served on Respondent's residence June 26, 2018, Respondent was apprised of the alleged misconduct in the Starkey/Bush matter and was advised that failure to respond without good cause is an independent ground for discipline pursuant to Pa.R.D.E. 203(b)(7).

87. Respondent did not provide a response to the Request for Statement of Respondent's Position.

Charge V
Unauthorized Practice of Law

88. On September 26, 2017, the Supreme Court of Pennsylvania entered an Order administratively suspending Respondent from practicing law, pursuant to Rule 219, Pa.D.R.E. The Order stated that the suspension would take effect 30 days later pursuant to Rule 217(d), Pa.D.R.E., or October 26, 2017.

89. Between September 26, 2017 and October 26, 2017, Respondent did not submit to the Attorney Registration Office a completed annual fee form and satisfactory payment of the annual fee, including late payment penalties.

90. Respondent's administrative suspension became effective on October 26, 2017.

91. Between October 26, 2017 and November 8, 2017 Respondent was administratively suspended from practicing law in the Commonwealth of Pennsylvania because he failed to timely file his 2017-2018 Annual Attorney Registration and pay the required assessment.

92. On October 3, 2017, after receiving notice of Respondent's administrative suspension, but before the suspension became effective, Respondent entered an appearance on behalf of Gregory V. Riddagh in a criminal matter pending before Magisterial District Judge David R. Griffin docketed as *Commonwealth v. Riddagh*, MJ-32136-CR-0000343-2017.

93. Respondent continued to represent Mr. Riddagh after the effective date of his administrative suspension.

94. Respondent did not notify Mr. Riddagh or the court that he was administratively suspended and ineligible to practice.

95. On October 10, 2017, after receiving notice of Respondent's administrative suspension but before the suspension became effective, Respondent entered an appearance on behalf of Jessica Ferguson in a criminal matter pending before Magisterial District Judge David R. Griffin docketed as *Commonwealth v. Ferguson*, MJ-32136-CR-0000376-2017.

96. On October 31, 2017, Respondent signed and filed on behalf of Ms. Ferguson, a Waiver of Preliminary Hearing, and Waiver of Rule 600 and Speedy Trial Rights.

97. Respondent did not notify Ms. Ferguson or the court that he was administratively suspended and ineligible to practice.

98. On or about October 23, 2017, Respondent entered an appearance for Shane Cross in the Delaware County Court of Common Pleas docketed as *Commonwealth v. Shane Cross*, No. CP-23-CR-0003437-2016.

99. Respondent continued to represent Mr. Cross, and on October 26, 2017 Respondent filed with the court an Application for Continuance in the case, which was granted.

100. On or about November 1, 2017, Respondent appeared in court on behalf of Mr. Cross during his entry of a guilty plea, and sentencing.

101. Respondent did not notify Mr. Cross or the court that he was administratively suspended and ineligible to practice.

102. On or about October 23, 2017, Respondent entered an appearance on behalf of Kristy Lynn McGroarty in the Court of Common Pleas of Chester County, in a matter docketed as *Commonwealth v. Kristy Lynn McGroarty*, No. CP-15-CR-0003509-2017.

103. On October 27, 2017, Respondent received notice of criminal trial for Kristy Lynn McGroarty, to be held November 27, 2017.

104. Respondent did not notify Ms. McGroarty or the court that he was administratively suspended and ineligible to practice.

105. During Respondent's administrative suspension, he continued to represent Trevor Wyatt King in a matter docketed as *Commonwealth v. Trevor Wyatt King*, No. MJ-15203-TR-0002277-2017.

106. On or about November 1, 2017, Respondent wrote to Magisterial District Judge William Kraut requesting a continuance of Mr. King's trial scheduled for November 2, 2017

because Respondent was scheduled to appear before the Honorable Kelly C. Wall in the Montgomery County Court of Common Pleas on November 2, 2017, at 11 a.m.

107. Respondent's correspondence to MDJ Kraut was on Respondent's law firm letterhead; Respondent signed as "Keith F. Garrity, Sr., Esquire."

108. Respondent did not notify Mr. King or the court that he was administratively suspended and ineligible to practice.

109. During Respondent's administrative suspension, he continued to represent Charles Flynn in a custody matter pending in the Court of Common Pleas of Montgomery County.

110. On November 2, 2017, Respondent appeared on behalf of Mr. Flynn before the Honorable Kelly C. Wall regarding Mr. Flynn's petition for change of venue.

111. Respondent did not notify Mr. Flynn or the court that he was administratively suspended and ineligible to practice.

112. During Respondent's administrative suspension, he continued to represent Bernard Ray in a matter docketed as *Commonwealth v. Bernard Ray*, No. MJ-32247-CR-0000041-2017.

113. On October 31, 2017, while Respondent was administratively suspended, Respondent wrote to Magisterial District Judge W. Keith Williams requesting a continuance of a preliminary hearing scheduled later that day. Respondent's letter stated that Respondent had a case before the Honorable Richard Cappelli in the Court of Common Pleas scheduled the same day.

114. The letter to MDJ Williams on Respondent's firm letterhead; Respondent signed as "Keith F. Garrity, Sr., Esquire."

115. Respondent did not notify Mr. Ray or the court that he was administratively suspended and ineligible to practice.

116. During Respondent's administrative suspension, he continued to represent his client, Jacob Hendrickson, in a matter docketed as *Commonwealth v. Jacob Hendrickson*, No. CP-23-CR-0005457-2017.

117. On October 31, 2017, while Respondent was administratively suspended, Respondent filed an application for continuance on behalf of Mr. Hendrickson, in the Court of Common Pleas of Delaware County.

118. Respondent did not notify Mr. Hendrickson or the court that he was administratively suspended and ineligible to practice.

119. During Respondent's administrative suspension, Respondent did not notify any clients in pending matters of his administrative suspension and consequent inability to act as an attorney. Respondent did not advise his clients to seek legal advice elsewhere.

120. On or about November 7, 2017, Respondent submitted to Attorney Registration, payment of his 2018-2019 Attorney Registration fees, including late payment fees, in the amount of \$925.00.

121. Also on or about November 7, 2017, Respondent signed and submitted to Attorney Registration a Statement of Compliance, or form DB-25(a).

122. In Respondent's Statement of Compliance, he certified:

That I fully complied with the applicable provisions of Pa.R.D.E. 217 by notifying all clients being represented in pending litigation or administrative proceedings; attorneys for each adverse party in such matter or proceeding; all persons or their agents or guardians to whom a fiduciary duty is owed; any other persons with whom I have professional contacts; and all other tribunals, courts, agencies or jurisdictions in which I am admitted to practice.

123. Respondent certified:

There are currently no clients or others I need to notify in accordance with Pa.R.D.E. 217(a), (b) and (c).

124. Respondent certified:

I have provided written notice of my administrative suspension to appointing and supervising judges and courts, wards, heirs, beneficiaries, interested third parties, and other recipients of my services that are of a fiduciary nature so that all interested parties have an opportunity to consider replacing me or enlisting a person other than myself to serve as the fiduciary in the first instance.

125. Respondent certified, "I have no such appointments and no parties to notify."

126. Respondent certified:

I have ceased and desisted from using all forms of communication that expressly or implicitly convey eligibility to practice law in the state courts of Pennsylvania, including but not limited to professional titles, letterhead, business cards, signage, websites and references to admission to the Pennsylvania Bar.

127. Respondent certified:

I hereby certify under the penalties provided by 18 Pa. C.S. §4904 (relating to unsworn falsification to authorities) that the foregoing statements are true and correct and contain no misrepresentations or omissions of material fact.

128. Respondent's certified statements in Respondent's Statement of Compliance as set forth in paragraphs 122-27 were false.

129. Based on the knowingly false Statement of Compliance, Respondent's license status was returned to active.

130. By DB-7 Request for Statement of Respondent's Position dated July 27, 2018, personally served on Respondent's residence July 30, 2018, Respondent was apprised of the alleged misconduct and advised that failure to respond without good cause is an independent ground for discipline pursuant to Pa.R.D.E. 203(b)(7).

131. Respondent did not provide a response to the July 27, 2018 Request for Statement of Respondent's Position.

Charge VI
Complaint of Brandy Bannon - Child Custody Matter

132. On September 3, 2015, a Final Order was entered in the Court of Common Pleas of Chester County Pennsylvania, Domestic Relations Section, in the matter of *Brandy M. Bannon v. Keith F. Garrity*, Docket No. 00758N2015, approving an agreement between Ms. Bannon and Respondent regarding child support (“child support action”).

133. By Order dated August 23, 2016, the Chester County Court of Common Pleas directed Respondent to appear in Court on September 14, 2016, at 10:00 a.m. for an expedited contempt conference.

- a. The Order stated: **“IF YOU DO NOT APPEAR IN PERSON, THE COURT MAY ISSUE A WARRANT FOR YOUR ARREST AND YOU MAY BE COMMITTED TO JAIL.”**
- b. The Order further stated: “if the Court finds that you have willfully failed to comply with its order for support, you may be found to be in contempt of court and committed to jail, fined, or both.”

134. On September 12, 2016, Respondent wrote to the court requesting a continuance, stating that he was “on call” for Jury Trial that week.

135. Respondent did not appear in Court on September 14, 2016 as required.

136. By Order entered September 26, 2016, Respondent was directed to appear in Court on October 25, 2016, at 10:00 a.m.

- a. The Order stated: **“IF YOU DO NOT APPEAR IN PERSON, THE COURT MAY ISSUE A WARRANT FOR YOUR ARREST AND YOU MAY BE COMMITTED TO JAIL.”**

- b. The Order further stated: “if the Court finds that you have willfully failed to comply with its order for support, you may be found to be in contempt of court and committed to jail, fined, or both.”

137. On October 24, 2016, Respondent wrote to the court requesting a continuance because he was scheduled to represent a client at trial on that date.

138. Respondent did not appear in Court on October 25, 2016 as required.

139. On October 31, 2016, the Court entered an Order to suspend Respondent’s driver’s license.

140. On November 17, 2016, the Court entered an Order finding Respondent in willful contempt of its September 3, 2015 Order. Respondent was sentenced to probation for a period of one year with the following conditions of probation:

1. In addition to any special provisions listed below the defendant shall pay twelve (12) consecutive monthly payments of \$975.00 on the current support Order and \$195.00 per month on arrearages; and
2. First payment is due by December 14, 2016;
3. Special Provisions are: Defendant made a good faith payment of \$1200 today. Defendant’s driver’s license shall be restored.

141. The November 17, 2016 Probation Order specifically stated that “[f]ailure to comply with any of the conditions of th[e] Order w[ould] result in the defendant being committed to total confinement in Chester County Prison for a period of 11 months or until such time as defendant purges by payment of all missed payments.”

142. A hearing before a Support Master was scheduled to take place January 24, 2017. Although Ms. Bannon appeared, Respondent contacted Chester County Domestic Relations the morning of January 24, 2017, to state he would be unable to attend the hearing because he would

be in court in another county. Respondent requested to participate for the hearing by telephone, but the Support Master denied Respondent's request.

143. As of February 1, 2017, Respondent's balance due for child support was \$9,091.45.

144. On February 1, 2017, upon motion of the Domestic Relations Section, the Court ordered and directed that a Bench Warrant be issued for Respondent's arrest and incarceration for failure to comply with the November 17, 2016 Probation Order, and directed that Respondent be committed for 6 months incarceration at the Chester County Prison or until such time as Respondent purged contempt by paying the amount due pursuant to the Probation Order.

145. On February 23, 2017, the Bench Warrant was quashed after Respondent made a good faith payment.

146. On October 31, 2018, ODC filed a Petition for Discipline against Respondent.

147. On November 6, 2018, ODC served the Petition for Discipline upon Respondent by hand delivery, personal service.

148. Respondent did not file an Answer within the prescribed time and pursuant to Rule 208(b)(3), Pa.R.D.E., the factual allegations of the Petition for Discipline are deemed admitted.

149. On February 6, 2018, Respondent appeared at the District II offices of ODC, for a scheduled prehearing conference in his disciplinary matter.

150. Respondent expressed a desire to cooperate with ODC, and agreed to engage in discussion concerning discipline, on consent.

SPECIFIC RULES OF PROFESSIONAL CONDUCT VIOLATED

151. By his conduct as alleged in Paragraphs 1 through 150 above, Respondent violated the following Rules of Professional Conduct and Pennsylvania Rules of Disciplinary Enforcement:

A. RPC 1.1, which states that a lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

B. RPC 1.3, which requires a lawyer act with reasonable diligence and promptness in representing a client.

C. RPC 1.4(a)(2) which states that “a lawyer shall reasonably consult with the client about the means by which the client’s objectives are to be accomplished.”

D. RPC 1.4(a)(3) which states that “a lawyer shall keep the client reasonably informed about the status of the matter.”

E. RPC 1.4(a)(4) which states that “a lawyer shall promptly comply with reasonable requests for information.”

F. RPC 1.4(b) which states that a lawyer shall “explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.”

G. RPC 1.5(b) which states that “when the lawyer has not regularly represented the client, the basis or rate of the fee shall be communicated to the client, in writing, before or within a reasonable time after commencing the representation.”

H. RPC 1.15(b), which states that “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.”

I. RPC 1.15(e), which states that except as otherwise permitted by law or agreement, “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.”

J. RPC 1.15(f), which states that when in possession of funds or property in which two or more persons, one of whom may be the lawyer, claim an interest, the funds shall be kept separate by the lawyer until the dispute is resolved and any portion of the funds not in dispute shall be distributed promptly.

K. RPC 1.15(i) which states that “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.”

L. RPC 1.15(m), which states that “[a]ll Qualified Funds which are not Fiduciary Funds shall be placed in an IOLTA Account.”

M. RPC 1.16(a)(1), which states that except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if the representation will result in violation of the rules of professional conduct or other law.

N. RPC 1.16(d), which states that “upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client’s interests, such as ... 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.”

O. RPC 3.2, which states that “a lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client.”

P. RPC 3.5(d) which states that “a lawyer shall not engage in conduct intended to disrupt a tribunal.”

Q. RPC 5.5(a) which states that “a lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction.”

R. RPC 7.1, which states that a lawyer shall not make a false or misleading communication about the lawyer’s services;

S. RPC 8.4(b), which states it is professional misconduct for a lawyer to commit a “criminal act that reflects adversely on the lawyer’s honesty, trustworthiness or fitness as a lawyer in other respects.”

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

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

V. Pa.R.D.E. 203(b)(3), which states that “willful violation of any other provision of the Enforcement Rules, shall be grounds for discipline.”

W. Pa.R.D.E. 203(b)(7), which states that failure by a respondent-attorney without good cause to respond to Disciplinary Counsel’s request or supplemental request under Disciplinary Board Rules, §87.7(b) for a statement of the respondent-attorney’s position shall also be grounds for discipline.

X. Pa.R.D.E. 217(a) which states that a formerly admitted attorney shall promptly notify all clients being represented in pending matters, other than litigation or administrative proceedings, of the administrative suspension and consequent inability of the former attorney to act as an attorney and shall advise said clients to seek legal advice elsewhere.

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

Z. Pa.R.D.E. 217(c)(2), which states that a formerly admitted attorney shall promptly notify, or cause to be promptly notified, of the disbarment, suspension, administrative suspension or transfer to inactive status: all other persons with whom the formerly admitted attorney may at any time expect to have professional contacts under circumstances where there is a reasonable probability that they may infer that he or she continues as an attorney in good standing. The responsibility of the formerly admitted attorney to provide the notice required by this subdivision shall continue for as long as the formerly admitted attorney is disbarred, suspended, administratively suspended or on inactive status.

AA. Pa.R.D.E. 217(d)(1), which states that "orders imposing suspension, disbarment, administrative suspension or transfer to inactive status shall be effective 30 days after entry. The formerly admitted attorney, after entry of the disbarment, suspension, administrative suspension

or transfer to inactive status order, shall not accept any new retainer or engage as attorney for another in any new case or legal matter of any nature. However, during the period from the entry date of the order and its effective date the formerly admitted attorney may wind up and complete, on behalf of any client, all matters which were pending on the entry date.”

BB. Pa.R.D.E. 217(d)(2), which states that “in addition to the steps that a formerly admitted attorney must promptly take under other provisions of this Rule to disengage from the practice of law, a formerly admitted attorney shall promptly cease and desist from using all forms of communication that expressly or implicitly convey eligibility to practice law in the state courts of Pennsylvania, including but not limited to professional titles, letterhead, business cards, signage, websites, and references to admission to the Pennsylvania Bar.”

CC. Pa.R.D.E. 217(j)(4)(iii), (iv), (v), (vi), (vii) and (x), which states that “a formerly admitted attorney may not engage in any form of law-related activities in this Commonwealth except in accordance with the following requirements: Without limiting the other restrictions in this subdivision (j), a formerly admitted attorney is specifically prohibited from engaging in any of the following activities: ... (iii) performing any law-related services for any client who in the past was represented by the formerly admitted attorney; (iv) representing himself or herself as a lawyer or person of similar status; (v) having any contact with clients either in person, by telephone, or in writing, except as provided in paragraph (3); (vi) rendering legal consultation or advice to a client; (vii) appearing on behalf of a client in any hearing or proceeding or before any judicial officer, arbitrator, mediator, court, public agency, referee, magistrate, hearing officer or any other adjudicative person or body; . . . and (x) receiving, disbursing or otherwise handling client funds.”

**SPECIFIC RECOMMENDATION FOR DISCIPLINE CONSISTING OF A
FIVE-YEAR LICENSE SUSPENSION**

152. Petitioner and Respondent jointly recommend the appropriate discipline for Respondent's admitted misconduct is a five-year suspension.

153. Petitioner and Respondent agree that Respondent's misconduct was very serious and warrants a suspension of five years. Respondent took money from clients and performed little or no work. Respondent failed to safeguard client funds by not placing them in an IOLTA or Trust Account. He commingled client funds with personal funds. Respondent neglected client matters, failed to communicate with clients, ignored client requests for information and updates regarding their cases and misrepresented the status of matters. In 2017, Respondent was administratively suspended for failing to pay his annual attorney registration fee, and engaged in the unauthorized practice of law by continuing to attend to client matters, including writing letters to and appearing before the Courts. When seeking return to active status after administrative suspension, Respondent made written misrepresentations, falsely certifying that he had complied with Rule 217 and all of its provisions, when in fact he had not.

154. The primary role of our system of attorney discipline is to "determine the fitness of an attorney to continue to practice of law, and maintain the integrity of the legal system." *ODC v. Quigley*, 161 A.3d 800, 807 (Pa. 2017) quoting *ODC v. Cappuccio*, 48 A.3d 1231, 1238-39 (Pa. 2012). "The objective is to protect the public and courts from attorneys unfit to practice law." *Id.*

155. Respondent's conduct with regard to clients presents serious concern regarding his fitness. The Supreme Court in *Office of Disciplinary Counsel v. Joshua Adam Janis*, 2221 DD No. 3, 160 DB 2015 (S.Ct. Order November 25, 2015), approved a Joint Petition for five year suspension based on similar widespread misconduct in multiple client matters. Respondent Janis

converted over \$13,000 from his former employer, made misrepresentations to clients, and converted approximately \$5,000 of client funds by placing unearned retainers in non-trust accounts. Additionally, Mr. Janis misrepresented to the court that a particular settlement, which he entered into contrary to his client's clear directive, was valid. Janis and Respondent's misconduct are strikingly similar, both including commingling of client and personal funds, failure to safeguard client funds, extensive client neglect including misrepresentations, failure to communicate, and failure to refund unearned fees. Respondent's equivalent misconduct toward clients warrants a similar period of suspension.

156. Independently, these categories of misconduct generally result in a lengthy suspension. *See Office of Disciplinary Counsel v. Joan Gaughan Atlas*, 171 DB 2001 (D.Bd. Rpt. 3/24/04)(S.Ct. Order 6/29/04) (three-year suspension for conduct including commingling of personal and fiduciary funds, failing to hold client funds in trust, and filing false certifications with the Secretary's Office regarding compliance with RPC 1.15); *Office of Disciplinary Counsel v. Daniel E. Houlihan*, 208 DB 2003 & 110 DB 2004 (four-year suspension for neglect, lack of communication, and submitting to the Court a knowingly false Acceptance of Service); *Office of Disciplinary Counsel v. James Edward Elam*, 160 DB 2010 (three-year suspension for depositing five thousand dollar advance fee into personal account, failing to provide written fee agreement, performing minimal work and failing to provide an accounting).

157. Respondent's unauthorized practice of law, and false certification of compliance with Rule 217 on application for return to active status from administrative suspension, additionally support a five-year suspension.

158. In support of ODC and Respondent's joint recommendation, it is respectfully submitted that the following mitigating circumstances are also present:

a. Respondent has admitted engaging in misconduct and violating the charged Rules of Professional Conduct;

b. Respondent has cooperated with Petitioner in connection with this Joint Petition, as evidenced by Respondent's admissions herein and his consent to receiving a five-year suspension;

c. Respondent expresses remorse for his misconduct and understands he should be disciplined, as evidenced by his consent to receiving a five-year suspension;

159. Petitioner and Respondent jointly recommend that as mitigation for Respondent's agreement to waive disciplinary hearing and consent to discipline, a suspension of five years, rather than disbarment, is warranted.

160. If approved, Respondent's five-year suspension will commence within 30 days and many months sooner than were Respondent to proceed through a fully litigated hearing.

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

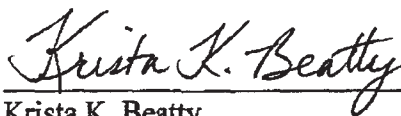
WHEREFORE, Petitioner and Respondent respectfully request that, pursuant to Pennsylvania Rules of Disciplinary Enforcement 215(e), 215(g) and 215(i), a three member panel of the Disciplinary Board review and approve the Joint Petition in Support of Discipline on Consent and file a recommendation with the Supreme Court of Pennsylvania that Respondent receive a five-year suspension.

Respectfully submitted,

OFFICE OF DISCIPLINARY COUNSEL
PAUL J. KILLION,
Attorney Registration No. 20955
Chief Disciplinary Counsel

3-12-19

DATE



Krista K. Beatty
Disciplinary Counsel
Attorney Registration No. 75211
Office of Disciplinary Counsel
Suite 170, 820 Adams Avenue
Trooper, PA 19403
(610) 650-8210

3-12-19

DATE



Keith Francis Garrity, Esquire
Attorney Registration No. 307915
Respondent

VERIFICATION

The statements contained in the foregoing *Joint Petition In Support of Discipline on Consent Discipline* are true and correct to the best of my knowledge or information and belief and are made subject to the penalties of 18 Pa.C.S.A. §4904, relating to unsworn falsification to authorities.

3-12-19
DATE

Krista K. Beatty
Krista K. Beatty
Disciplinary Counsel

3-12-19
DATE

[Signature]
Keith Francis Garrity, Sr., Esquire
Respondent

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

OFFICE OF DISCIPLINARY COUNSEL,	:	No.	Disciplinary Docket No. 3
Petitioner	:		
	:	No. 199 DB 2018	
v.	:		
	:	Attorney Reg. No. 307915	
KEITH FRANCIS GARRITY, SR.	:		
Respondent	:	(Delaware County)	

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

COMMONWEALTH OF PENNSYLVANIA:
COUNTY OF MONTGOMERY:

Keith F. Garrity, being duly sworn according to law, deposes and hereby submits this affidavit consenting to the recommendation of a five-year suspension in conformity with Pa.R.D.E. 215(d) and further states as follows:


1. He is an attorney admitted in the Commonwealth of Pennsylvania, having been admitted to the bar on or about November 5, 2009.
2. He desires to submit a Joint Petition in Support of Discipline on Consent Pursuant to Pa.R.D.E. 215(d).
3. His consent is freely and voluntarily rendered; he is not being subjected to coercion or duress, and he is fully aware of the implications of submitting this affidavit.
4. He is aware that there is presently pending a proceeding into allegations that he has been guilty of misconduct as set forth in the Joint Petition in Support of Discipline on Consent Pursuant to Pa.R.D.E. 215(d) to which this affidavit is attached.
5. He acknowledges that the material facts set forth in the Joint Petition are true.

6. He submits the within affidavit because he knows that if charges predicated upon the matter under investigation were filed, or continued to be prosecuted in the pending proceeding, he could not successfully defend against them.

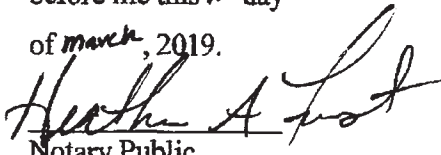
7. He acknowledges that he is fully aware of his right to consult and employ counsel to represent him in the instant proceeding. He has elected not to retain counsel in connection with his decision to execute the within Joint Petition.

It is understood that the statements made herein are subject to the penalties of 18 Pa.C.S.A. §4904 (relating to unsworn falsification to authorities).

Signed this 12 day of MARCH, 2019.


Keith Francis Garrity, Sr.

Sworn to and subscribed
before me this 11th day
of march, 2019.



Notary Public
COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
HEATHER A. FOERST, Notary Public
Aston Township, Delaware County
My Commission Expires August 21, 2021

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

OFFICE OF DISCIPLINARY COUNSEL,	:	No.	Disciplinary Docket No. 3
Petitioner	:		
	:	No. 199 DB 2018	
v.	:		
	:	Attorney Reg. No. 307915	
KEITH FRANCIS GARRITY, SR.	:		
Respondent	:	(Delaware County)	

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving the foregoing document upon all parties of record in this proceeding in accordance with the requirements of 204 Pa. Code §89.22 (relating to service by a participant).

First Class and Overnight Mail, as follows:

Keith Francis Garrity, Sr., Esquire
14 Chestnut Street
Marcus Hook, PA 19061

Dated: 3-12-19



Krista K. Beatty
Disciplinary Counsel
Attorney Registration No. 75211
Office of Disciplinary Counsel
820 Adams Avenue, Suite 170
Trooper, PA 19403
(610) 650- 8210

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by:

Signature: Krista K. Beatty

Name: Krista K. Beatty

Attorney No. (if applicable): 75211