

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 2614 Disciplinary Docket No. 3
	:	
Petitioner	:	No. 69 DB 2019
	:	
v.	:	Attorney Registration No. 49457
	:	
MICHAEL ALBERT HANAMIRIAN,	:	(Philadelphia)
	:	
Respondent	:	

ORDER

PER CURIAM

AND NOW, this 1st day of July, 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 Michael Albert Hanamirian is suspended on consent from the Bar of this Commonwealth for a period of two years. The suspension is stayed in its entirety, and he is placed on probation for a period of one year, subject to the following conditions:

1. Respondent shall continue to maintain the records required by Pa.R.P.C. 1.15(c) for all IOLTA accounts;
2. Respondent shall send those records to the Office of Disciplinary Counsel on a quarterly basis;
3. Respondent shall select a CPA or other qualified professional, subject to the Office of Disciplinary Counsel's approval, to review Respondent's records and certify the same for accuracy prior to their submission to the Office of Disciplinary Counsel;

4. Respondent shall comply with any request by the Office of Disciplinary Counsel for corrected or supplemented records within 20 days of receipt of such request, without the need for the Office of Disciplinary Counsel to issue a subpoena;
5. Respondent shall maintain all of the required books and records provided by Pa.R.P.C. 2.25(c) in electronic form, which shall be securely backed up and readily accessible to Respondent and, upon demand, to the Office of Disciplinary Counsel;
6. Respondent shall comply with any request by the Office of Disciplinary Counsel for backup records, within 20 days of receipt of such request, without the need for the Office of Disciplinary Counsel to issue a subpoena, see Pa.R.P.C. 1.15(c)(3);
7. Respondent's probationary term shall not expire until he has provided the Office of Disciplinary Counsel with the required records, and any requested corrected or supplemental records, and the Office of Disciplinary Counsel has determined that those records are sufficient, see Pa.R.P.C. 1.15(c); and,
8. Any failure by Respondent to comply with the terms of his probation shall result in his immediate transfer to suspended status for the remainder of the two-year term, and he shall be required to file a petition and proceed to a hearing prior to any reinstatement. See Pa.R.D.E. 218(a)(1).

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

A True Copy Patricia Nicola
As Of 07/01/2019

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.
Petitioner :
: No. DB 2019
: (File Reference #C1-16-814 & C1-16-888)
v. :
: :
MICHAEL ALBERT HANAMIRIAN, : Attorney Registration No. 49457
: :
Respondent : (Philadelphia County)

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

Petitioner, Office of Disciplinary Counsel, by Paul J. Killion, Chief Disciplinary Counsel, and Cory John Cirelli, Disciplinary Counsel, and Respondent, Michael Albert Hanamirian, Esquire, and Ellen Brotman, Esquire, Counsel for Respondent, file this Joint Petition In Support Of Discipline On Consent Under Rule 215(d), Pa.R.D.E. and respectfully represent as follows:

1. Petitioner, whose principal office is located at Pennsylvania Judicial Center, Suite 2700, 601 Commonwealth Avenue, P. O. Box 62485, Harrisburg, Pennsylvania 17106-2485, is invested, pursuant to Rule 207 of the Pennsylvania Rules of Disciplinary Enforcement (hereafter "Pa.R.D.E."), 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, Michael Albert Hanamirian, was born in 1961. He was admitted to the bar of the courts of Commonwealth of Pennsylvania on November 6, 1987.

3. Respondent's attorney registration office address is The Hanamirian Firm PC, 1608 Walnut Street, Ste. 803, Philadelphia, PA 19103-5450.

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

**SPECIFIC FACTUAL ADMISSIONS AND
RULES OF PROFESSIONAL CONDUCT VIOLATED**

The Kennedy Matter

5. On October 9, 2010, Harvey and Regina Kennedy (the Kennedys), husband and wife, were involved in a slip and fall accident at the Pennsylvania SPCA (PaSPCA) in Philadelphia.

6. The Kennedys retained Respondent to represent them in a personal injury action for injuries they sustained as a result of the slip and fall, in exchange for a 40% contingent fee.

7. On September 28, 2012, Respondent filed a complaint in civil action against the PaSPCA in the Court of Common Pleas of Philadelphia County on behalf of the Kennedys. The Kennedys' case was docketed at No. 121000006.

8. ***Kennedy et al. v. PaSPCA*** was scheduled for arbitration on June 25, 2013.
9. On or before June 25, 2013, Respondent settled the Kennedys' case against the PaSPCA.
10. By letter dated July 8, 2013, from Margot B. Smith, Esquire, counsel for PaSPCA, hand-delivered to Respondent's office, Ms. Smith enclosed:
 - (a) Check number 1111387876, dated July 3, 2013, in the amount of \$20,000, made payable to "Harvey Kennedy and Regina Kennedy The Hanamiriam [sic] Firm PC," from Philadelphia Indemnity Insurance Company, in full and final settlement of the Kennedys' claim for pain and suffering; and,
 - (b) Check number 1111387877, dated July 3, 2013, in the amount of \$19,319, made payable to "Harvey Kennedy and Regina Kennedy The Hanamiriam [sic] Firm PC," from Philadelphia Indemnity Insurance Company, in full and final settlement of the Kennedys' claim for medical expenses.
11. On July 9, 2013, as permitted by the fee agreements, Respondent endorsed the names of Harvey Kennedy, Regina Kennedy, and Michael Hanamirian to the back of the two settlement checks, then deposited the two settlement checks into Respondent's IOLTA at Citizens Bank, account number xxxxxx7285 (IOLTA).
12. After deducting Respondent's 40% contingent fee and costs of \$1,280.18, he was thereby entrusted with \$23,591.40 of the \$39,319 total recovery he received on behalf of the Kennedys and the Kennedys' medical providers.

13. The lawyer who served as the Hanamirian firm's bookkeeper failed to disclose to Respondent imbalances in the firm's IOLTA until they became aware of Office of Disciplinary Counsel's investigation. Although Respondent acknowledges his ultimate responsibility for safeguarding all Rule 1.15 funds received on behalf of the Kennedys and their medical providers and other client and third parties, he did not knowingly fail to do so.

14. Respondent failed to maintain a sufficient aggregate entrustment balance in his IOLTA to support the amount with which he was entrusted on behalf of the Kennedys and their medical providers, but because of his lawyer-bookkeeper's concealment of that fact, Respondent did not do so knowingly.

15. At the Kennedys' request, Respondent disbursed their funds as "partial distributions" over a period of eight months, from 2013-2016. At the time of the award, the Kennedys had medical bills that amounted to a combined total of \$20,346, or almost the entire award. Payment to the Kennedys was delayed, with the Kennedys' consent, so that Respondent could negotiate a compromise with the medical providers. One of those providers was in a bankruptcy proceeding that began in 2010 and is still pending.

16. Due to the bankruptcy of the major medical provider, Respondent was unable to promptly pay the Kennedys' medical providers from the proceeds of the settlement checks he had deposited into his IOLTA, with the payments to the medical providers spanning 2013-2017.

17. On August 19, 2013, Harvey and Regina Kennedy suffered personal injuries as a result of an accident that occurred in New Jersey.

18. During the time period Respondent was entrusted with funds on behalf of the Kennedys and third parties related to his representation of the Kennedys:

(a) Respondent's firm's IOLTA bank balance was insufficient to support the firm's aggregate entrustment on behalf of all law firm clients.

(b) As one example, on December 9, 2013, the IOLTA should have held an aggregate balance of \$349,258.20 for thirty clients, including the Kennedys.

(c) The IOLTA balance on that date was only \$8,285.10, which was insufficient to support the Kennedy entrustment, alone. Because the IOLTA was not overdrawn, Respondent was not aware that the IOLTA was out of trust.

The Hinkle Matter

19. On December 13, 2010, Diane Hinkle was injured in a motor vehicle accident while a passenger in a vehicle operated by Lauren Jones of M.A.G. Enterprises, Inc., D/B/A Cheerleaders.

20. Ms. Jones was insured by American Independent Insurance Company (AIICO).

21. Ms. Hinkle retained Respondent to represent her in a personal injury action for injuries she sustained as a result of the accident, in exchange for a 40% contingent fee.

22. Ms. Hinkle received medical treatment for the injuries she sustained as a result of the accident.

23. Ms. Hinkle received medical assistance benefits from the Department of Public Welfare (DPW) for the payment of her medical treatment.

24. On June 8, 2011, Respondent settled Ms. Hinkle's claim with AllCO.

25. On July 20, 2011, AllCO issued a check payable to Ms. Hinkle and Respondent's firm in the amount of \$15,000, in settlement of Ms. Hinkle's claim.

26. Respondent deposited the AllCO check into his IOLTA on July 26, 2011.

27. After deducting Respondent's 40% contingent fee, he was thereby entrusted with \$9,000 on behalf of Ms. Hinkle and DPW.

28. By letter to DPW dated July 26, 2011, Respondent:

(a) Advised DPW of his representation of Ms. Hinkle for personal injuries she sustained as a passenger involved in a motor vehicle accident on December 13, 2010;

(b) Stated that he had settled Ms. Hinkle's claim and inquired whether DPW would be asserting a lien for any benefits paid to Ms. Hinkle; and,

(c) Requested that DPW contact his office within fourteen days or he would assume that DPW would not be asserting a lien and he would distribute the settlement proceeds.

29. By letter dated November 17, 2011, because Respondent had not received a response from DPW, he again inquired about whether DPW had asserted a statutory lien against Ms. Hinkle.

30. By letter to Respondent dated December 23, 2011, DPW:

(a) Provided Respondent with notice of his statutory responsibilities pursuant to 62 P.S. § 1409 for representing a recipient of Medical Assistance benefits;

(b) Explained that Respondent's compliance with the statutory responsibilities required him to provide notice to DPW of information set forth in Section 1409(b)(5), including the court number, defendant, defendant's attorney, insurance carrier, third party insurer, and case file number; and,

(c) Attached a Casualty Incident Information (CII) form for Respondent to complete and fax to DPW.

31. Respondent received DPW's December 23, 2011, letter.

32. Respondent failed to promptly provide the required statutory notice to DPW, as described in DPW's letter to Respondent dated December 23, 2011.

33. By letter to Respondent dated January 12, 2012, DPW provided him with a detailed Statement of Claim (SOC) showing Ms. Hinkle owed DPW reimbursement in the amount of \$16,878.79.

34. Respondent received DPW's January 12, 2012, letter.

35. By letter dated March 22, 2012, Respondent wrote to DPW in response to its letter of December 23, 2011, but he did not execute the CII form as DPW had requested. Despite having received DPW's detailed SOC for \$16,878.79, provided by its letter dated January 12, 2012, Respondent requested DPW's "claim for medical assistance reimbursement as well as cash assistance reimbursement."

36. By a letter faxed to DPW, dated March 27, 2012, Respondent:

- (a) Acknowledged receipt of DPW's January 12, 2012, SOC;
- (b) Stated that Ms. Hinkle's case had been settled for \$15,000 against the driver of the vehicle in which she was a passenger;
- (c) Explained that \$15,000 was the tortfeasor's policy limits;
- (d) Requested that DPW review his attached distribution sheet and, if acceptable, notify Respondent's office in writing so that he could make distribution in accordance with his distribution sheet; and,
- (e) Respondent attached a distribution sheet that provided for distribution as follows:

1.	Gross Settlement:	\$15,000
2.	Attorney's Fee (40%):	\$6,000

3.	Total Costs:	\$866.63
4.	Proceeds Available for Distribution:	\$8,133.37
5.	Payment to DPW (50% of net proceeds):	\$4066.69
6.	Net Proceeds to Ms. Hinkle:	\$4,066.68

37. From July 26, 2011, through December 14, 2012, because the DPW lien exceeded Ms. Hinkle's award, Respondent made only one distribution (\$3,000) of the settlement proceeds to Ms. Hinkle.

38. Respondent had represented Ms. Hinkle in an earlier lawsuit in which she had been awarded a large recovery that she subsequently squandered. As a consequence of that history, Respondent agreed to hold Ms. Hinkle's subsequent recoveries for her and provide funds to her at regular intervals for the specific purpose of moderating her spending. Each time Ms. Hinkle came to his office, Respondent would review the distributions with her.

39. Respondent, however, failed to hold Ms. Hinkle's nonqualified funds in a non-IOLTA or other investment vehicle for Ms. Hinkle.

40. On April 2, 2012, Respondent faxed a copy of his fee agreement with Ms. Hinkle to DPW.

41. By letter dated April 2, 2012, to Ms. Hinkle, Respondent enclosed copies of his March 27, 2012, letter to DPW, and his proposed distribution sheet.

42. On September 4, 2012, Respondent filed a praecipe to issue writ of summons in the Court of Common Pleas of Philadelphia County on behalf of Ms. Hinkle and against M.A.G. Enterprises, Inc., D/B/A Cheerleaders (M.A.G.). Ms. Hinkle's case was docketed at No. 299, September Term, 2012.

43. By letter to Scottsdale Insurance, insurer for M.A.G., dated December 12, 2012, Respondent enclosed Ms. Hinkle's executed release and W-9 for Respondent's firm for settlement of Ms. Hinkle's claim against M.A.G. in the amount of \$325,000.

44. By check dated December 12, 2012, drawn in the amount of \$325,000, Scottsdale Insurance disbursed to Ms. Hinkle and Respondent's firm the settlement proceeds.

45. On December 14, 2012, Respondent deposited Scottsdale's check into his firm's IOLTA.

46. After deducting Respondent's 40% contingent fee, he was thereby entrusted with an additional \$195,000 on behalf of Ms. Hinkle and DPW.

47. By letter to DPW dated December 14, 2012, two days after settling the second case, Respondent wrote to Marianne Meckley, TPL Program Investigator, to inform her that he had settled Ms. Hinkle's case. Respondent did not disclose to DPW the \$325,000 settlement reached with Scottsdale Insurance, but he did not intend to hide the amount of the settlement from DPW.

48. By letter to Respondent dated April 12, 2013, DPW:

- (a) Reiterated its claim for \$16,878.79;
- (b) Agreed to compromise its claim to 50% of Ms. Hinkle's net settlement proceeds (\$4,066.69), of the proceeds available for distribution from the \$15,000 recovery;
- (c) Requested that Respondent remit a check payable to DPW with a copy of the final distribution sheet; and,
- (d) Stated that, in the event Respondent would bring another action resulting in additional recovery, DPW reserved the right to seek recovery of the unpaid portion of its claim.

49. By letter to Respondent dated June 25, 2013, DPW stated it was investigating a welfare fraud complaint involving Ms. Hinkle and requested verification of all money awarded and dates money had been received by her for all claims, both pending and finalized.

50. By letter to DPW dated July 8, 2013, Respondent enclosed copies of checks written by his firm to Ms. Hinkle for partial distributions from the settlement of her claims, attached a copy of DPW's letter dated June 25, 2013, and noted there had not been a final distribution because he was waiting for DPW to confirm the lien amount.

51. DPW contacted Respondent by telephone on July 15, 2013, at which time Respondent again discussed the settlement of Ms. Hinkle's claim against M.A.G. and DPW told Respondent the claim against Ms. Hinkle would have to be updated.

52. By letter to Respondent dated July 23, 2013, DPW reiterated the content of its April 12, 2013, letter to Respondent setting forth its claim for \$4,066.69 against the \$15,000 Hinkle settlement proceeds. Although Respondent has no recollection of receiving that letter and has no copy of it in his file, Respondent was aware of the ongoing fraud investigation being conducted by DPW and believed that the claim for benefits might increase as a result of the investigation.

53. Respondent admits that he failed to promptly pay DPW in 2013. However, through 2014, 2015, and 2016 he did not hear from DPW about Ms. Hinkle's claim. When Respondent was notified of disciplinary complaints against him, it prompted him to audit his files and he realized that he had not disbursed funds to DPW in Ms. Hinkle's case. That event prompted Respondent to pay DPW in full. By letter to DPW dated December 13, 2016, Respondent enclosed a check for \$16,878.79 as payment of the full amount of DPW's lien against Ms. Hinkle's claims for recovery, along with a final distribution sheet which stated, in pertinent part:

- (a) Total of Gross Settlements: \$340,000.00;
- (b) Attorneys Fee: (40%): \$136,000.00;
- (c) Costs: \$795.51;
- (d) American Lawsuit Funding: \$4,445.00;
- (e) DPW Lien: \$16,878.79; and,

(f) Net proceeds to Diane Hinkle: \$181,880.07.

54. The Pennsylvania Welfare Code, 62 P.S. § 1409, provides, in pertinent part, that:

(a) Unless otherwise directed by DHS, no distribution may be made in any settlement without first satisfying or assuring the satisfaction of DHS's interest in the case, § 1409(b)(9); and,

(b) A person's failure to comply with § 1409 may result in the imposition of penalties, including a \$5,000 civil penalty, § 1409(c).

55. From Ms. Hinkle's settlements totaling \$340,000, Respondent was entrusted with a total of \$203,204.49. He was entrusted with \$181,800.70 of that amount on behalf of Ms. Hinkle for her personal injury claims, \$16,878.79 for the DPW lien, and \$4,445 for her advance from American Lawsuit Funding.

Aggregate Entrustments, Insufficient IOLTA Balances,
and Incomplete Records of Rule 1.15 Funds

56. Respondent failed to update his firm's IOLTA number from xxxxxx7899 to xxxxxx7285 on his attorney annual fee forms from 2010 – 2017.

57. From June 1, 2011, through February 28, 2017, there were approximately 2,284 transactions on his firm's IOLTA pertaining to approximately 433 clients.

58. Although the lawyer-bookkeeper for Respondent's firm failed to provide Office of Disciplinary Counsel with complete documentation of the items deposited during that

period, Respondent is also ultimately responsible for the failings of his firm's lawyer-bookkeeper in that regard. While required documents are not available, Respondent and his firm were cooperative and provided years of bank statements, deposit slips, checks, engagement letters and distribution sheets.

59. Respondent failed to identify clients for whom 133 deposits were made to his IOLTA, totaling \$2,692,395.80, during the period June 1, 2011, through February 4, 2016.

60. Respondent's lawyer-bookkeeper failed for that same period to designate which clients' funds constituted the opening IOLTA balance of \$105,064.17 on June 1, 2011.

61. Respondent's lawyer-bookkeeper failed to identify clients for most of the IOLTA transactions that occurred prior to July 1, 2012.

62. In regard to the \$3.5 million dollar settlement that Respondent's firm reached on behalf of the William Chalus and Diane Korhan estates and beneficiaries in 2008, Respondent's firm does not have complete records of the receipt, maintenance, and disposition of Rule 1.15 funds. Respondent provided documents from the case file, some bank records, and incomplete, handwritten summaries.

63. Respondent's firm failed to provide complete check registers or separately maintained ledgers showing the payee, date, and amount of each check, withdrawal, and transfer, the payor, date, and amount of each deposit, and the matter involved for each of the transactions of his IOLTA:

64. Multiple transactions were made by drawing funds from the firm's IOLTA for deposit into the firm's Citizens Bank account number xxxxxx6971 (operating account) in "round numbers" from June 8, 2011, through November 22, 2016.

(a) Those transactions were in excess of, and had no direct correspondence to, fees earned.

(b) The firm failed to note the client's name on all but a few of those checks.

65. Respondent had no actual knowledge that, from December 2011 through June 2015, twenty-three IOLTA checks totaling \$95,500 were made payable to an individual who worked for the firm. That individual had a legal matter resolved in 2010-2011, but complete records of it are not available to account for the payments.

66. From December 2012 through April 2013, six IOLTA checks drawn in the total amount of \$140,861 were made payable to a Merrill Lynch investment account owned by Respondent's lawyer-bookkeeper, which disbursements Respondent had no knowledge of.

67. Respondent had no actual knowledge that the firm's lawyer-bookkeeper failed to keep records of whose funds were being removed from the IOLTA, related to which client's legal matter, and which work the law firm had performed to earn each fee or incur each cost, even when Respondent's firm had a legitimate reason for making those transactions.

68. As of January 2013 Respondent's firm ceased drawing checks on the IOLTA for deposit to the operating account and, instead, began employing electronic transfers from the IOLTA to the operating account. Respondent did not make these electronic transfers, himself. The lawyer-bookkeeper admits that he made these transfers.

69. Documentation Office of Disciplinary Counsel obtained from Citizens Bank does not identify the individual who made the electronic transfers and Respondent's firm kept no record of who at his firm had transferred the money. The firm's lawyer-bookkeeper admits that he made these transfers.

70. After Respondent received Office of Disciplinary Counsel's letter requesting a statement of position in December 2016, his firm resumed utilizing checks to draw funds from the IOLTA for deposit to the operating account, noting on each check the name of the client to whom the disbursement pertained. At that time, Respondent assumed the bookkeeping duties for the firm.

71. Respondent and his firm's lawyer-bookkeeper failed to preserve records to document the basis for several transactions by which the firm disbursed funds from the IOLTA for American Express and Citibank revolving credit accounts, payments to Wells Fargo for loan indebtedness, and payment to USI Affinity for malpractice coverage premiums. Respondent had relied upon his firm's lawyer-bookkeeper and was not aware that these payments were being made from the IOLTA. Respondent takes responsibility for these matters, but because the IOLTA was not overdrawn, Respondent mistakenly believed the IOLTA was being properly maintained.

72. Due to the failure to preserve complete records of the receipt, maintenance, and disposition of Rule 1.15 funds, Office of Disciplinary Counsel's audit of Respondent's IOLTA is based upon the *minimum* aggregate amount his firm was required to hold for all clients who could be identified for purposes of Office of Disciplinary Counsel's audit.

73. For the following dates and/or periods, Respondent's firm had an insufficient IOLTA bank balance to support the law firm's entrustments on behalf of clients and third parties:

<u>Date or Period</u>	<u>Deficiency at Close of Business</u>
05/11/12 - 06/03/12	\$ 15,065.40 (maximum)
06/22/12 - 06/25/12	\$ 10,009.56 (maximum)
06/28/12 - 07/02/12	\$ 609.56 (maximum)
08/13/12	\$ 7,231.64
09/05/12	\$ 4,447.24
09/07/12 - 09/11/12	\$ 28,876.84 (maximum)
09/25/12 - 09/26/12	\$ 22,007.01 (maximum)
09/28/12 - 11/12/12	\$ 54,583.81 (maximum)
01/07/13 - 12/16/16	\$ 573,284.86 (maximum)

74. Because of the near-constant insufficiency in the IOLTA, Respondent's firm paid clients incrementally, resulting in Respondent's firm failing to promptly disburse entrusted funds to at least 36 clients and at least 59 third parties from entrusted funds. Although Respondent had a practice of retaining funds, with client approval, for the

purpose of negotiating liens and other third party payments, Respondent was not aware of the insufficiency in the IOLTA.

75. From May 21, 2012, through December 16, 2016, due to insufficient IOLTA balances, in order to support even the incremental disbursements of entrusted funds, thirty transactions totaling \$854,913.37 were drawn on the firm's operating account and deposited into the IOLTA, as needed, to permit IOLTA checks to be drawn for clients and related third parties. Respondent did not make these deposits and was unaware of them.

76. Several of the transactions by which withdrawals were made from the firm's operating account for deposit into the IOLTA were not made until after Respondent had notice of Office of Disciplinary Counsel's investigation of his conduct.

77. Between November 28, 2016, and December 16, 2016, the firm's lawyer-bookkeeper made draws against his Merrill Lynch investment account totaling \$580,000, and those funds were deposited into the firm's IOLTA to bring the IOLTA bank balance to a sufficient amount to support the firm's entrustments for the first time in nearly four years.

SPECIFIC RULE VIOLATIONS

By his conduct as set forth in paragraphs 5 through 77, Respondent admits that he violated the following Rules of Professional Conduct and Pennsylvania Rule of Disciplinary Enforcement:

Rule of Professional Conduct 1.15(b) - A lawyer shall hold all Rule 1.15 Funds and property separate from the lawyer's own property. Such property shall be identified and

appropriately safeguarded.

Rule of Professional Conduct 1.15(c) - Required records. Complete records of the receipt, maintenance and disposition of Rule 1.15 Funds and property shall be preserved for a period of five years after termination of the client-lawyer or Fiduciary relationship or after distribution or disposition of the property, whichever is later. A lawyer shall maintain the writing required by Rule 1.5(b) (relating to the requirement of a writing communicating the basis or rate of the fee) and the records identified in Rule 1.5(c) (relating to the requirement of a written fee agreement and distribution statement in a contingent fee matter). A lawyer shall also maintain the following books and records for each Trust Account and for any other account in which Fiduciary Funds are held pursuant to Rule 1.15(l):

(1) all transaction records provided to the lawyer by the Financial Institution or other investment entity, such as periodic statements, cancelled checks in whatever form, deposited items and records of electronic transactions; and

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

persons or entities to whom such funds were disbursed, and the dates of all deposits, transfers, withdrawals and disbursements.

(3) The records required by this Rule may be maintained in hard copy form or by electronic, photographic, or other media provided that the records otherwise comply with this Rule and that printed copies can be produced. Whatever method is used to maintain required records must have a backup so that the records are secure and always available. If records are kept only in electronic form, then such records shall be backed up on a separate electronic storage device at least at the end of any day on which entries have been entered into the records. These records shall be readily accessible to the lawyer and available for production to the Pennsylvania Lawyers Fund for Client Security or the Office of Disciplinary Counsel in a timely manner upon a request or demand by either agency made pursuant to the Pennsylvania Rules of Disciplinary Enforcement, the Disciplinary Board Rules, the Pennsylvania Lawyers Fund for Client Security Board Rules and Regulations, agency practice, or subpoena.

Rule of Professional Conduct 1.15(k) - All Nonqualified Funds which are not Fiduciary Funds shall be placed in a Non-IOLTA Account or in another investment vehicle specifically agreed upon by the lawyer and the client or third person which owns the funds.

Pennsylvania Rule of Disciplinary Enforcement 219(d)(1)(iii) - On or before July 1 of each year all attorneys required by this rule to pay an annual fee shall electronically file

with the Attorney Registration Office an electronically endorsed form prescribed by the Attorney Registration Office in accordance with the following procedures. The form shall set forth the name of each financial institution, as defined in Pa.R.P.C. 1.15(a)(4), within or outside this Commonwealth in which the attorney, from May 1 of the previous year to the date of the filing of the annual fee form, held funds of a client or a third person subject to Rule 1.15 of the Pennsylvania Rules of Professional Conduct. The form shall include the name and account number for each account in which the attorney held such funds, and each IOLTA Account shall be identified as such. The form provided to a person holding a Limited In-House Corporate Counsel License or a Foreign Legal Consultant License need not request the information required by this subparagraph.

SPECIFIC JOINT RECOMMENDATION FOR DISCIPLINE

78. Petitioner and Respondent jointly recommend that the appropriate discipline for Respondent's admitted misconduct is a suspension from the practice of law for a period of two years, stayed in its entirety, and a one year period of probation, subject to the following conditions:

(a) Respondent shall continue to maintain the records required by Pa.R.P.C. 1.15(c) for all IOLTA accounts;

(b) Respondent shall send those records to the Office of Disciplinary Counsel on a quarterly basis;

(c) Respondent shall select a CPA or other qualified professional, subject to the Office of Disciplinary Counsel's approval, to review Respondent's records and certify the same for accuracy prior to their submission to the Office of Disciplinary Counsel;

(d) Respondent shall comply with any request by the Office of Disciplinary Counsel for corrected or supplemented records within 20 days of his receipt of such request, without the need for the Office of Disciplinary Counsel to issue a subpoena;

(e) Respondent shall maintain all of the required books and records provided by Pa.R.P.C. 1.15(c) in electronic form, which shall be securely backed up and readily accessible to Respondent and, upon demand, to the Office of Disciplinary Counsel;

(f) Respondent shall comply with any request by the Office of Disciplinary Counsel for backup records, see Pa.R.P.C. 1.15(c)(3), within 20 days of his receipt of such request, without the need for the Office of Disciplinary Counsel to issue a subpoena;

(g) Respondent's probationary term shall not expire until he has provided the Office of Disciplinary Counsel with the required records, and any requested corrected or supplemented records, and the Office of Disciplinary Counsel has determined that those records are sufficient under Pa.R.P.C. 1.15(c); and,

(h) Any failure by Respondent to comply with the terms of his probation shall result in his immediate transfer to suspended status for the remainder of the two-year term, and he shall be required to file a petition and proceed to a hearing prior to any reinstatement. See Pa.R.D.E. 218(a)(1).

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

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

(a) Respondent did not convert entrusted funds to his own use.

(b) Although Respondent drew checks on the IOLTA for disbursements to clients and third parties related to his clients' legal matters, the lawyer-bookkeeper was the firm's primary bookkeeper and Respondent was led to believe the lawyer-bookkeeper maintained complete financial records and bank accounts.

(c) Respondent did not know of the IOLTA deficiencies until the issues were raised in the disciplinary complaints filed against Respondent and his lawyer-bookkeeper.

(d) Despite Respondent's limited involvement in the firm's finances, he accepts responsibility for the firm's failure to maintain and produce complete

required documentation of the receipt, maintenance, and disposition of Rule 1.15 funds.

(e) Respondent has taken remedial steps to correct the firm's failure to comply with Rule 1.15 by utilizing a certified public accountant to reform the firm's accounting practices.

(f) Respondent cooperated with Office of Disciplinary Counsel's investigation. Such cooperation chiefly took the form of acknowledging his misconduct by means of this Petition for Discipline on Consent. Respondent's failure to keep complete required records of his firm's maintenance and disposition of Rule 1.15 funds limited his ability to comply with Office of Disciplinary Counsel's requests for documentation.

(g) Respondent has expressed sincere remorse for his misconduct in this matter.

(h) Respondent has no record of prior disciplinary sanctions.

81. It is the joint recommendation of the parties, based upon precedent, that Respondent's misconduct warrants a suspension for a period of two years, stayed in its entirety, and a probationary period of one year, pursuant to the conditions set forth at length above.

In *Office of Disciplinary Counsel v. Jonathan M. Levin*, 108 DB 2001 (2004), it was determined that Levin deposited his personal funds into his trust accounts, failed to

separate his own funds from those of his clients and third parties, and also permitted the balances in his trust accounts to fall below the amounts entrusted to him for clients and third parties. Levin was found to have converted trust funds and failed to promptly distribute those funds to third parties. Both the Hearing Committee and the Disciplinary Board in *Levin* that the lawyer was unlikely to repeat his conduct and resulted in the recommendation of a suspension of less than one year, followed by a lengthy period of probation. The Supreme Court, instead, suspended Levin for a period of two years.

The amounts of money Levin mishandled fall far below the amounts that Respondent's IOLTA was out of trust. The number of clients and third parties whose funds were placed at risk by Levin was also significantly fewer than those whose funds Respondent failed to appropriately maintain and safeguard. The key distinction between Respondent's misconduct and that of Levin is that it was Respondent's lawyer-bookkeeper, rather than Respondent, himself, who engaged in the conversion of entrusted funds. The lawyer in *Levin* sought credit for mitigation pursuant to *Office of Disciplinary Counsel v. Braun*, 553 A.2d 894 (Pa. 1989), but failed to meet the requisite standard of proof. Respondent herein has no claim for *Braun* mitigation. In all other respects, the mitigation here, and offered in the cited case, served as "some explanation for his dereliction of duties as regards his escrow account." Levin and Respondent share similar mitigating factors, including their lack of prior discipline during a lengthy career in the law. They each employed a CPA to remediate their firms' accounting methods. Each were materially influenced by a personal relationship (Levin's involved a custody dispute, whereas Respondent's relationship involved his lawyer-bookkeeper, who converted entrusted funds)

that negatively affected their respective law practices during the time of their respective Rule violations.

Office of Disciplinary Counsel v. Jeffrey Brian Feinman, 157 DB 2005 (2007), involved a Joint Petition in Support of Discipline on Consent for Feinman's commingling of the funds of clients or third persons with his own property, his failure to preserve complete records of such funds, his failure to promptly render a full accounting of fiduciary funds, and his failure to promptly disburse to clients and third parties funds they were entitled to receive because he had commingled and converted them. Feinman mitigated his misconduct by admitting that he had engaged in the charged rule violations, cooperating with Office of Disciplinary Counsel, showing his remorse for his misconduct, and making restitution. Feinman had no prior disciplinary history. Feinman was suspended on consent from the bar of the Commonwealth for a period of two years.

The major factor of distinction between the cited case and the instant matter is that Respondent herein did not personally convert client and third party funds as did his firm's lawyer-bookkeeper. Respondent, through his failure to maintain and appropriately safeguard the funds of others, unwittingly contributed to his lawyer-bookkeeper's misconduct, but Respondent did not engage in the transactions whereby entrusted funds were converted. Respondent's firm's IOLTA was not overdrawn, which event Respondent contends would have immediately alerted him to the problems caused by his lawyer-bookkeeper. The greater number of clients affected in Respondent's case and the significantly greater amounts of entrusted funds missing from Respondent's IOLTA over long periods of time place this matter on par with *Feinman*.

Office of Disciplinary Counsel v. John J. O'Brien, III, 69 DB 2012 (2013), involved a Joint Petition in Support of Discipline on Consent in which it was agreed that O'Brien failed to hold Rule 1.15 funds and property separate from his own, failed to transfer fees to an operating account as they were earned, and that he deposited his own funds into a trust account. The Supreme Court granted the Joint Petition in Support of Discipline on Consent in ***O'Brien***, suspending the lawyer for a period of one year, with the suspension being stayed in its entirety, and O'Brien placed on probation for a period of one year, subject to the condition that he provide Office of Disciplinary Counsel, on a quarterly basis, with bank statements, including monthly statements of account, deposit slips, and client ledgers demonstrating the proper maintenance of his IOLTA.

O'Brien had prior discipline in the form of an informal admonition for misuse of his IOLTA. Respondent herein has no prior discipline. However, by comparison, O'Brien's mishandling of client funds involved relatively small sums, whereas Respondent's misconduct deals with multiple clients, high dollar amounts, and longer periods of time out of trust. Since neither O'Brien nor Respondent converted client funds, it appears that similar discipline is warranted for Respondent in this case.

In ***Office of Disciplinary Counsel v. Andrew Wilson Barbin***, 176 DB 2017 (2018), a Joint Petition in Support of Discipline on Consent was submitted for Barbin's failure to hold Rule 1.15 funds and property separate from his own, his failure to identify and properly safeguard that property, his failure to preserve complete records of the receipt, maintenance, and disposition of Rule 1.15 funds, his failure to promptly deliver to clients or third persons entrusted funds they were entitled to receive and promptly render a full

accounting regarding the property. The Supreme Court granted the Joint Petition in Support of Discipline on Consent in **Barbin** for a suspension from the bar of the courts of the Commonwealth of Pennsylvania for a period of one year and one day, stayed in its entirety, and placed Barbin on probation for a period of one year and one day, subject to the conditions that he continue to maintain records required by Rule 1.15(c), provide those records to Office of Disciplinary Counsel on a quarterly basis, select a CPA or other qualified professional (subject to Office of Disciplinary Counsel's approval) to review his records and certify their accuracy prior to submission to Office of Disciplinary Counsel, comply with any request by Office of Disciplinary Counsel to correct or supplement such records, maintain records required by Rule 1.15(c) in electronic form, and comply with any other requests of Office of Disciplinary Counsel for such backup.

The similarities between the mitigating factors for Barbin and Respondent in this case include lengthy careers in the practice of law during which the business administration of their respective practices became a struggle due to the departure of support staff. Each claimed that the shortfalls in their respective IOLTAs were due to their failures to keep appropriate records, and not the result of any intent to convert entrusted funds. Despite Barbin having had a history of discipline consisting of an informal admonition, that misconduct did not involve the mishandling of entrusted funds. Although Respondent's matter can be distinguished from **Barbin** due to the significantly smaller amount for which Barbin was out of trust, and that Barbin's misconduct occurred over a shorter period of time than Respondent's IOLTA shortfalls, the two cases, on balance, are sufficiently similar to warrant a similar result.

WHEREFORE, Petitioner and Respondent respectfully request that, pursuant to Rule 215(e) and 215(g), Pa.R.D.E., the three-member panel of the Disciplinary Board review and approve the above Joint Petition In Support Of Discipline On Consent for the imposition of a suspension from the Bar of the Commonwealth of Pennsylvania for a period of two years, stayed in its entirety, and a probationary period of one year, pursuant to the conditions set forth at length above.

Respectfully submitted,

OFFICE OF DISCIPLINARY COUNSEL


PAUL J. KILLION
CHIEF DISCIPLINARY COUNSEL

By 
Cory John Cirelli
Disciplinary Counsel

and

By 
Michael Albert Hanamirian, Esquire
Respondent

and

By 
Ellen C. Brotman, Esquire
Counsel for Respondent

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	No. Disciplinary Docket
	:	No.
Petitioner	:	
	:	No. DB 2019
	:	(File Reference #C1-16-814 & C1-16-888)
v.	:	
	:	
MICHAEL ALBERT HANAMIRIAN,	:	Attorney Registration No. 49457
	:	
Respondent	:	(Philadelphia County)

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

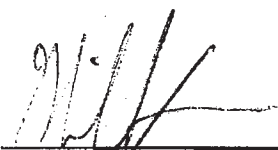
Respondent, Michael Albert Hanamirian, hereby states that he consents to a suspension of two years, stayed in its entirety, and a one-year period of probation during which Respondent shall, on a quarterly basis, provide Office of Disciplinary Counsel with bank statements, including monthly statements of account, checks, deposit slips, and other transactions, and client ledgers for his IOLTA, as well as monthly reconciliations for each fiduciary account as jointly recommended by Petitioner, Office of Disciplinary Counsel, and Respondent, in the Joint Petition In Support Of Discipline On Consent, and further states that:

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

2. He is aware that there is a pending proceeding involving allegations that he has been guilty of misconduct as set forth in the Joint Petition;

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

4. He consents because he knows that if the matter pending against him is prosecuted, he could not successfully defend against the charges.

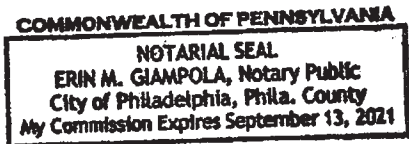


Michael Albert Hanamirian, Esquire
Respondent

Sworn to and subscribed
before me this 27th
day of March, 2019.



Notary Public



BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. Disciplinary Docket
: No.
Petitioner :
: No. DB 2019
: (File Reference #C1-16-814 & C1-16-888)
v. :
: :
MICHAEL ALBERT HANAMIRIAN, : Attorney Registration No. 49457
: :
Respondent : (Philadelphia County)

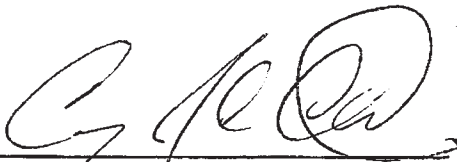
VERIFICATION

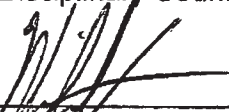
The statements contained in the foregoing Joint Petition In Support Of Discipline On Consent Under Rule 215(d), Pa.R.D.E. are true and correct to the best of my knowledge or information and belief and are made subject to the penalties of 18 Pa.C.S. §4904, relating to unsworn falsification to authorities.

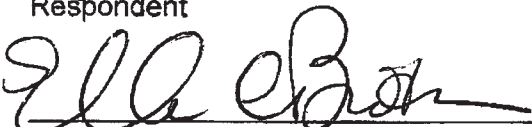
4/3/19
Date

3/26/19
Date

3/27/19
Date


Cory John Cirelli
Disciplinary Counsel


Michael Albert Hanamirian, Esquire
Respondent


Ellen C. Brotman, Esquire
Counsel for Respondent

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	No.	Disciplinary Docket
	:	No.	
Petitioner	:	No.	DB 2019
	:		(File Reference #C1-16-814 & C1-16-888)
v.	:		
	:		
MICHAEL ALBERT HANAMIRIAN,	:	Attorney Registration No.	49457
	:		
Respondent	:		(Philadelphia County)

ORDER

PER CURIAM:

AND NOW, this ____ day of _____, 2019, upon consideration of the Joint Petition in Support of Discipline on Consent, it is hereby recommended to the Supreme Court that the Respondent, Michael Albert Hanamirian, be suspended from the practice of law in the Commonwealth of Pennsylvania for a period of two years, stayed in its entirety, and a probationary period of one year, pursuant to the following conditions:

- (a) Respondent shall continue to maintain the records required by Pa.R.P.C. 1.15(c) for all IOLTA accounts;
- (b) Respondent shall send those records to the Office of Disciplinary Counsel on a quarterly basis;
- (c) Respondent shall select a CPA or other qualified professional, subject to the Office of Disciplinary Counsel's approval, to review Respondent's records and

certify the same for accuracy prior to their submission to the Office of Disciplinary Counsel;

(d) Respondent shall comply with any request by the Office of Disciplinary Counsel for corrected or supplemented records within 20 days of his receipt of such request, without the need for the Office of Disciplinary Counsel to issue a subpoena;

(e) Respondent shall maintain all of the required books and records provided by Pa.R.P.C. 1.15(c) in electronic form, which shall be securely backed up and readily accessible to Respondent and, upon demand, to the Office of Disciplinary Counsel;

(f) Respondent shall comply with any request by the Office of Disciplinary Counsel for backup records, see Pa.R.P.C. 1.15(c)(3), within 20 days of his receipt of such request, without the need for the Office of Disciplinary Counsel to issue a subpoena;

(g) Respondent's probationary term shall not expire until he has provided the Office of Disciplinary Counsel with the required records, and any requested corrected or supplemented records, and the Office of Disciplinary Counsel has determined that those records are sufficient under Pa.R.P.C. 1.15(c); and,


(h) Any failure by Respondent to comply with the terms of his probation shall result in his immediate transfer to suspended status for the remainder of the

two-year term, and he shall be required to file a petition and proceed to a hearing prior to any reinstatement. See Pa.R.D.E. 218(a)(1).

Respondent is directed to pay the costs/expenses associated with this Petition, Rule 208(g), Pa.R.D.E., and that he comply with Rule 217, Pa.R.D.E.

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: Cory John Cirelli
Signature: 
Name: Cory John Cirelli
Attorney No. (if applicable): 59954