

IN THE SUPREME COURT OF PENNSYLVANIA


OFFICE OF DISCIPLINARY COUNSEL, : No. 2987 Disciplinary Docket No. 3
: :
Petitioner : :
: : No. 72 DB 2021
v. : :
: :
: : Attorney Registration No. 2560
JOSHUA M. BRISKIN, : :
: :
Respondent : (Bucks County)

ORDER

PER CURIAM

AND NOW, this 4th day of August, 2023, upon consideration of the Report and Recommendations of the Disciplinary Board, Joshua M. Briskin is suspended from the Bar of this Commonwealth for a period of three years. Respondent shall comply with 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 Nicole Traini
As Of 08/04/2023

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 72 DB 2021
Petitioner	:	
	:	
v.	:	Attorney Registration No. 2560
	:	
JOSHUA M. BRISKIN,	:	
Respondent	:	(Bucks County)

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

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

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

I. HISTORY OF PROCEEDINGS

By Petition for Discipline filed on May 24, 2021, Office of Disciplinary Counsel, Petitioner, charged Joshua M. Briskin, Respondent, with violations of the Rules of Professional Conduct based on allegations of misconduct in the matters of two separate clients. Respondent filed an Answer to Petition for Discipline on June 29, 2021, and denied that he engaged in any misconduct.

Following a prehearing conference on August 26, 2021, a District I Hearing Committee conducted disciplinary hearings on October 6, 2021, January 26, 2022, and

May 11, 2022. Notably, although Respondent appeared *pro se* on October 6, 2021 and January 26, 2022, he failed to appear on May 11, 2022. Petitioner presented the testimony of six witnesses, including Respondent—whom it was permitted to question as a hostile witness (*i.e.*, as if on cross-examination). Petitioner also introduced Exhibits ODC-1 through ODC-27, which were admitted into evidence. Respondent did not testify on his own behalf and did not present any witnesses, but identified four character letters and offered to submit them into evidence subsequent to the hearing. The Committee provisionally agreed to admit the letters into evidence and, to that end, held the record open for ten days for the limited purpose of allowing Respondent to furnish the same. Thereafter, however, Respondent failed to submit the letters.

On June 30, 2022, Petitioner filed a post-hearing brief and requested that the Committee recommend to the Board that Respondent be suspended for a period of thirty months. Respondent did not file a post-hearing brief. By Report filed on October 3, 2022, the Committee concluded that Respondent committed professional misconduct and recommended that he be suspended for a period of twenty-four months. The parties did not take exception to the Committee's Report and recommendation. The Board adjudicated this matter at the meeting on January 19, 2023.

II. FINDINGS OF FACT

The Board makes the following findings:

1. Petitioner, whose principal office is located at Pennsylvania Judicial Center, Suite 2700, 601 Commonwealth Avenue, P.O. Box 62485, Harrisburg, Pennsylvania, 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 said Rules of Disciplinary Enforcement.

2. Respondent is Joshua M. Briskin, born on June 21, 1941, and admitted to practice law in the Commonwealth on November 18, 1970. Respondent's registered mailing address is in Bucks County, Pennsylvania. Respondent voluntarily assumed retired license status on March 20, 2022.

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

Lopez-Alameda Matter

4. In May 2019, Juan Carlos Lopez-Alameda, a Mexican national, retained Respondent to represent him in a DUI matter in the Court of Common Pleas of Bucks County. The arraignment was scheduled for August 9, 2019. ODC-1; ODC-2; N.T. 1/26/2022, 16-20.

5. Mr. Lopez-Alameda paid Respondent \$2,000 towards a \$7,500 fee for representation in his DUI matter. ODC-2; N.T. 1/26/2022, 21-22.

6. Respondent did not give Mr. Lopez-Alameda a written fee agreement for this representation, despite never having represented Mr. Lopez-Alameda in the past. N.T. 1/26/2022, 24, 115-116.

7. Respondent did not advise Mr. Lopez-Alameda that he did not carry professional liability insurance. N.T. 1/26/2022, 24, 117.

8. Mr. Lopez-Alameda paid his fee in full by the time that he appeared in court for the DUI preliminary hearing in July 2019. N.T. 1/26/2022, 25-29, 113; ODC-1.

9. At the preliminary hearing, Respondent informed Mr. Lopez-Alameda that he would have to complete drug and alcohol classes and that a second hearing would be scheduled. ODC-1; N.T. 1/26/2022, 29-30, 113.

10. Respondent failed to enter his appearance or appear at Mr. Lopez-Alameda's arraignment hearing on the DUI on August 9, 2019, nor did Mr. Lopez-Alameda appear, and a bench warrant was issued for Mr. Lopez-Alameda's arrest. N. T. 10/6/2021, 58-59; N.T. 1/26/2022, 37-38.

11. Respondent failed to advise his client that he would not appear on his behalf at his arraignment hearing. N.T. 10/6/2021, 58-59; N.T. 1/26/2022, 37-38.

12. On or about June 24, 2019, Mr. Lopez-Alameda retained Respondent to represent him in his immigration matter. N.T. 1/26/2022, 30-32.

a. Mr. Lopez-Alameda paid Respondent \$5,000 that same day after Respondent told Mr. Lopez-Alameda that he could obtain a work permit for him despite Mr. Lopez-Alameda being stopped at the border twice in the past. N.T. 1/26/2022, 32-37.

13. Approximately a week or two later, Mr. Lopez-Alameda signed a fee agreement that contained Respondent's signature. The agreement indicated that Mr. Lopez-Alameda had paid Respondent a nonrefundable retainer fee of \$5,000, which represented the minimum fee for Respondent's representation, the balance of the fee was to be determined, and Respondent did not carry malpractice insurance. ODC-3; N.T. 1/26/2022, 35-37.

14. The fee agreement was in English and Mr. Lopez-Alameda did not read the English language. Respondent did not ascertain whether his client had the ability to read the fee agreement or required a translation. N.T. 1/26/2022, 36.

15. On or about July 31, 2019, Mr. Lopez-Alameda was arrested and detained by United States Immigration and Customs Enforcement (“ICE”). N.T. 1/26/2022, 37-38.

16. Mr. Lopez-Alameda’s relatives contacted Respondent about the arrest, to which Respondent indicated that he would take no steps to defend against his client’s removal. N.T. 10/6/2021, 38-42; N.T. 1/26/2022, 40-41.

17. On August 1, 2019, Respondent was contacted by Jennifer Isaacs, an advocate from the Immigration Rights Action Group, on behalf of Mr. Lopez-Alameda’s family. Ms. Isaacs attempted to obtain information that would be helpful to the family and Respondent rejected her communications. N.T. 10/6/2021, 41-58.

18. Respondent failed to communicate with Mr. Lopez-Alameda or his family in relation to the immigration case. N.T. 10/6/2021, 58-59; N.T. 1/26/2022, 37-38.

19. Respondent failed to refund the \$5,000 fee that he had received from Mr. Lopez-Alameda, although he took no steps on his client’s behalf in the immigration matter. N.T. 1/26/2022, 42.

20. In or about June 2020, Ms. Isaacs filed a claim with the Pennsylvania Lawyers Fund for Client Security (“the Fund”) on behalf of Mr. Lopez-Alameda. N.T. 10/6/2021, 77-78.

21. Respondent submitted a response to the Fund. N.T. 5/11/2022, 16.

22. In or about March 2021, the Fund found against Respondent and awarded Mr. Lopez-Alameda \$5,000. N.T. 10/6/2021, 85-86.

23. As of May 11, 2022, Respondent had not reimbursed the Fund. N.T. 5/11/2022, 18.

Shykeir Smith Matter

24. In or around March 2018, Ms. Lakiefa Smith retained Respondent to prepare and file two post-conviction relief act petitions for her son, Shykeir Smith. N.T. 10/6/2021, 171-176.

a. Respondent failed to provide a fee agreement to Ms. Smith or to Mr. Smith, even though he had not previously represented Mr. Smith. N.T. 10/6/2021, 172, 174.

b. Respondent failed to provide Ms. Smith with a receipt for her \$1,500 deposit. N.T. 10/6/2021, 171-176.

25. Ms. Smith gave Respondent all of the documents needed to prepare the petitions, including trial transcripts and discovery. N.T. 10/6/2021, 174-176.

26. Respondent failed to do any work on Mr. Smith's case and did not communicate with Mr. Smith. N.T. 10/6/2021, 249.

27. Throughout the course of representation, Ms. Smith made payments either directly to Respondent or into his IOLTA account, which account information Respondent gave to Ms. Smith. N.T. 10/6/2021, 183-218.

28. At some point in late 2018, Ms. Smith telephoned Respondent requesting a refund of the fees paid to him. N.T. 10/6/2021, 254-255.

29. In response, Respondent told Ms. Smith that he owed her nothing, never represented her son, and he did not know what Ms. Smith was talking about. *Id.*

30. Respondent failed to return any of the fees that Ms. Smith paid to him. N.T. 10/6/2021, 255.

31. By letter dated June 5, 2020, Petitioner put Respondent on notice of Ms. Smith's complaint and requested that Respondent provide financial documents in regard to the payments made by Ms. Smith. ODC-8.

32. By letter dated June 19, 2020, Respondent answered and claimed he had no knowledge of Ms. Smith or Mr. Smith. ODC-9.

33. Respondent failed to provide the requested records. ODC-9.

34. By letter dated July 28, 2020, Petitioner forwarded to Respondent copies of text messages between him and Ms. Smith wherein payment of his fee was discussed. ODC-10.

35. By letter dated July 30, 2020, Respondent again denied knowing Ms. Smith or Mr. Smith. ODC-11.

Additional Findings of Facts

36. Mr. Lopez-Alameda was a credible witness.

37. Ms. Isaacs was a credible witness.

38. Ms. Smith was a mostly credible witness.

39. Respondent failed to cooperate with Petitioner in its investigation.

40. Respondent failed to offer any evidence to refute the charges.

41. Respondent failed to demonstrate acceptance of responsibility or remorse.

42. During the hearing, Respondent referred to his clients as "trash." N.T. 1/26/2022, 210.

43. During the hearing, Respondent was disrespectful to the Committee, Disciplinary Counsel, and the witnesses.

44. Respondent has a history of discipline.

a. By Order dated May 16, 2019, the Board ordered a Public Reprimand with one year of probation for Respondent's misconduct that occurred in 2016 through 2017 during his representation of a client in a criminal matter, wherein, *inter alia*, he failed to provide a written fee agreement, failed to advise his client that he did not have professional liability insurance, sent sexually explicit text messages to his client, made verbal sexual comments to his client, and attempted to kiss his client on at least five occasions. Respondent also failed to refund unearned fees after his client terminated the representation. The client subsequently filed a claim with the Fund and Respondent made false statements in his response thereto. The Board imposed the Public Reprimand on Respondent on September 10, 2019. ODC-12.

b. On December 19, 2019, Respondent received an Informal Admonition for his misconduct that occurred in or around 2017 in one matter where he had two overdrafts in his IOLTA account and failed to maintain required records under Rule of Professional Conduct 1.15(c). ODC-13.

45. Respondent has approximately fifteen tax liens in the Court of Common Pleas of Philadelphia County and Bucks County ranging from \$987.24 to \$121,838.73. ODC-14; N.T. 5/11/2022, 41-47.

46. In July 2020, Respondent's client, Sergio Benson, filed a claim with the Fund seeking recovery of an unearned fee. In March 2021, after considering Respondent's response to the claim, the Fund entered an award in the amount of \$10,193.00 for Mr. Benson and against Respondent. Respondent submitted a request for reconsideration of the award and a hearing but did not submit any new information. The

Fund denied the request and paid the award to Mr. Benson in July or August 2021. As of May 11, 2022, Respondent had not repaid the Fund. N.T. 5/11/2022, 23, 24, 26.

47. Respondent failed to appear on May 11, 2022, for the third day of hearing, despite receiving multiple notices of the date and time, as well as a reminder at 9:00 a.m. on the day of the hearing as to the 10:30 a.m. start time. N.T. 5/11/2022, 7.

48. Respondent did not provide good cause for his failure to appear on May 11, 2022.

49. Respondent never produced the letters that he claimed were written to demonstrate his good character.

50. Respondent did not produce any mitigating evidence.

III. CONCLUSIONS OF LAW

By his conduct as set forth above, Respondent violated the following Rules of Professional Conduct ("RPC"):

1. RPC 1.1 - A lawyer shall provide competent representation to a client.
2. RPC 1.3 - A lawyer shall act with reasonable diligence and promptness in representing a client.
3. RPC 1.4(b) - A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.
4. RPC 1.4(a)(3) - A lawyer shall keep the client reasonably informed about the status of the matter.
5. RPC 1.5(a) - A lawyer shall not enter into an agreement for, charge, or collect an illegal or clearly excessive fee.

6. RPC 1.5(b) - 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.
7. RPC 1.15(c) - 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.
8. RPC 1.16(d) - Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as refunding any advance payment of fee or expense that has not been earned or incurred.
9. RPC 8.4(c) - It is professional misconduct for lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.
10. RPC 8.4(d) - It is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice.

IV. DISCUSSION

In this disciplinary matter, the Board considers the Committee's unanimous recommendation to suspend Respondent for a period of twenty-four months for his misconduct in two separate client matters, which included incompetence, neglect, communications deficiencies, collecting excessive fees, failing to provide a written fee agreement, failing to maintain proper records, failing to refund unearned fees, dishonest conduct, and conduct prejudicial to the administration of justice. The parties did not take exception to the Committee's recommendation.

Petitioner bears the burden of proving ethical misconduct by a preponderance of clear and satisfactory evidence. See, e.g., *Office of Disciplinary Counsel v. Neil Werner Price*, 732 A.2d 599, 603 (Pa. 1999) (“The Office of Disciplinary Counsel must prove the misconduct by a preponderance of the evidence and the proof must be clear and satisfactory.”). Upon review, the Board concludes that Petitioner has met that burden. Specifically, Petitioner’s evidence, in the nature of the testimony of Petitioner’s witnesses, the testimony elicited on Respondent’s cross-examination,¹ and Petitioner’s exhibits, proves the facts and circumstances of the ethical violations and demonstrates Respondent’s misconduct. Respondent, for his part, failed to offer any evidence to rebut the credible testimony of Mr. Lopez-Alameda, Ms. Isaacs, and Ms. Smith.

The evidence adduced demonstrates that Respondent accepted money in exchange for representation that was not given—or, for that matter, even attempted—in DUI and immigration matters for Mr. Lopez-Alameda and in two PCRA petitions for Mr. Smith. Indeed, Respondent further compounded the violations resulting from his inaction by failing to refund unearned monies to his clients. Such breaches of professional ethics cast doubt on Respondent’s integrity and fitness as a lawyer and demand a disciplinary response. For the following reasons, the Board recommends that Respondent be suspended for a period of three years.

Respondent’s conduct in two client matters evidences a disturbing pattern of noncommunication and neglect. Turning initially to the Lopez-Alameda matter, the record establishes that Respondent violated of RPC 1.1, 1.3, 1.4(a)(3), 1.4(b), 1.5(a),

¹ On cross-examination, Respondent invoked his Fifth Amendment rights in response to many of Petitioner’s questions.

1.5(b), 1.16(d), and 8.4(d). During the course of the proceedings before the Hearing Committee, Petitioner proved that Respondent accepted fees from his client for representation in a DUI case and an immigration case. Respondent, however, failed to provide a written fee agreement in the criminal case. Furthermore, although Respondent took some initial steps to represent Mr. Lopez-Alameda by appearing at the preliminary hearing, he later failed to enter his appearance and, subsequently, neither he, nor his client, appeared at the arraignment; in direct consequence of Respondent's disregard of his obligations to his client, the court issued a bench warrant for Mr. Lopez-Alameda's arrest. With regard to Mr. Lopez-Alameda's immigration matter, although Respondent subsequently provided him with a fee agreement, he failed to ascertain whether his client—a Mexican national—was able to read and understand the agreement, which was written in English. Moreover, after accepting the fees from his client, Respondent failed to perform the legal services relative to the immigration matter for which he had been paid and, ultimately, did nothing after the client was deported to Mexico. Indeed, throughout the course of his representation, Respondent failed to respond to requests from his client and his client's family for status updates on the two matters. Subsequently, with the assistance of Ms. Isaacs, an immigration advocate, Mr. Lopez-Alameda filed a claim with the Fund and was awarded \$5,000. Despite this palpable breach of his ethical duties, as of the May 11, 2022 hearing, Respondent had not reimbursed the Fund.

Respondent engaged in similar neglectful misconduct in the Smith matter and, ultimately, Petitioner furnished ample proof of Respondent's violation of RPC 1.1, 1.3, 1.5(b), 1.15(c), 1.16(d), and 8.4(c). In this regard, the record demonstrates that Respondent accepted partial payments from his client's mother to file Post Conviction Relief Act petitions on behalf of her son in two criminal matters. As with the Lopez-

Alameda matter, Respondent received payment to represent Mr. Smith, but did not provide a written fee agreement to either his client or his client's mother—despite the fact that he had not previously represented Mr. Smith and, thus, was required to provide a written engagement letter. Moreover, after accepting payment, Respondent failed to provide any services to Mr. Smith. Ultimately, Ms. Smith terminated Respondent's representation and sought a refund of her monies, whereupon Respondent inexplicably denied either knowing Ms. Smith, or being hired to represent Mr. Smith, and failed to refund the advance fees that he had not earned.

Having concluded that Respondent violated the ethical rules charged in the Petition for Discipline, we turn to the appropriate sanction to address his serious misconduct. In looking at the general considerations governing the imposition of final discipline, it is well-established that disciplinary sanctions serve the dual role of protecting the public from unfit attorneys and maintaining the integrity of the legal system. *Office of Disciplinary Counsel v. John Keller*, 506 A.2d 872, 875 (Pa. 1986). Another compelling goal of the disciplinary system is deterrence. *In re Dennis Iulo*, 766 A.2d 335, 338, 339 (Pa. 2001). In this regard, the Board also recognized that the recommended discipline must reflect facts and circumstances unique to the case, including circumstances that are aggravating or mitigating. *Office of Disciplinary Counsel v. Anthony C. Cappuccio*, 48 A.3d 1231, 1238 (Pa. 2012). And importantly, while there is no per se discipline in Pennsylvania, the Board is mindful of precedent and the need for consistency in discipline. *Office of Disciplinary Counsel v. Robert Lucarini*, 472 A.2d 186, 189-91 (Pa. 1983).

We have carefully evaluated the Committee's recommendation for a suspension of twenty-four months and concur with the thrust of the Committee's analysis:

namely, that a suspension requiring Respondent to undergo a reinstatement proceeding before resuming practice is warranted on the facts and circumstances of this matter. However, upon the Board's independent review of this record, and after reviewing the decisional law, weighing the aggravating factors and the absence of any mitigation, and recognizing that there is a range of sanctions for misconduct, we conclude that a three year suspension is commensurate with the totality of the facts and circumstances in this matter and is consistent with sanctions imposed under similar circumstances.

The record before us reveals numerous significant aggravating factors—with few countervailing mitigating factors—which weigh in favor of a severe sanction in the instant matter. Here, as will be explained in more detail below, Respondent's misconduct is exacerbated by his lack of remorse, lack of recognition of wrongdoing, and failure to appear for one day of the disciplinary hearing, as well as Respondent's record of public and private discipline since 2019, which reflects his troubling inability to conform to ethical standards of the profession.

Respondent was admitted to practice law in the Commonwealth in 1970 and practiced for decades without professional blemish. However, the instant matter marks the third time since 2019 that Respondent has faced discipline for his unprofessional conduct. Precedent establishes that recidivist offenders receive more severe disciplinary sanctions. See, e.g., *Office of Disciplinary Counsel v. William D. Hobson*, Nos. 154 DB 2019 & 31 DB 2020 (D. Bd. Rpt. 11/24/2021) (S. Ct. Order 2/11/2022); *Office of Disciplinary Counsel v. Frank C. Arcuri*, No. 147 DB 2019 (D. Bd. Rpt. 8/20/2020) (S. Ct. Order 10/6/2020).

Reviewing Respondent's record of discipline, we note that by Order dated May 16, 2019, the Board directed that Respondent receive a Public Reprimand with

probation for one year for his misconduct in a client matter during the time frame of 2016 through 2017. Therein, Respondent failed to provide a written fee agreement to his client, whom he had never previously represented. In addition, during the course of that representation, Respondent engaged in extremely inappropriate conduct by sending sexually explicit texts to his client, a 21 year old female, making sexual comments to his client, and attempting to kiss his client on the lips on at least five occasions. After the client terminated the representation, Respondent failed to refund unearned fees, similar to his deficiencies in the instant matter. Further, after the client filed a claim with the Fund, Respondent made false statements in his response filed with the Fund.

Approximately seven months after the Board ordered the Public Reprimand, on December 19, 2019, Respondent received an Informal Admonition for violations of RPC 1.15(c) pertaining to his IOLTA account and failure to maintain required records, which conduct occurred in or around 2017. The time frame of the instant misconduct during 2018 and 2019 is an extension of his prior bad acts and supports our conclusion that Respondent is a recidivist offender whose continued professional misconduct signifies the need for a lengthy suspension.

Other aggravating factors are also present in this record. Respondent failed to show any understanding of his wrongdoing and did not exhibit any remorse for how he treated his clients. Respondent saw nothing wrong with his conduct and, egregiously, referred to his own clients as "trash." Respondent conveyed his disdain for these proceedings through his disrespectful behavior to the Committee, Petitioner's counsel, and the witnesses. Respondent's testimony on cross-examination revealed his penchant for flippant and discourteous responses. While lawyers facing discipline are entitled to advance a good-faith defense, the decisional law establishes that respondents who lack

remorse for conduct that is plainly violative of the rules, reject accountability for their actions, and display disdain for the disciplinary system heighten the risk of harm to the public and deserve more serious discipline. See, *Office of Disciplinary Counsel v. Alan Kane*, No. 77 DB 2021 (D. Bd. Rpt. 12/13/2022) (S. Ct. Order 3/8/2023); *Office of Disciplinary Counsel v. Andrew Wilson Barbin*, No. 97 DB 2020 (D. Bd. Rpt. 9/30/2021) (S. Ct. Order 11/18/2021); *Office of Disciplinary Counsel v. Allan K. Marshall*, No. 136 DB 2019 (D. Bd. Rpt. 10/16/2020) (S. Ct. Order 2/12/2021).

Further evincing his cavalier attitude toward the disciplinary proceedings, Respondent failed to appear for the last day of his disciplinary hearing on May 11, 2022, despite receiving several notices and a reminder on the morning of the hearing, and thereafter did not show cause for his nonappearance. A respondent's failure to appear is an aggravating factor. See, *Office of Disciplinary Counsel v. Lon VanDusen Hughes*, No. 128 DB 2021 (D. Bd. Rpt. 8/22/2022) (S. Ct. Order 10/25/2022).

In stark contrast to the numerous aggravating factors outlined above, upon review, we find the record devoid of mitigating factors that weigh in Respondent's favor in considering the appropriate discipline to address his misconduct.

Surveying the decisional law, we find there are several matters that provide guidance and support the Board's recommendation for a three year suspension. In *Marshall*, No. 136 DB 2019, Marshall, with a history of discipline consisting of a private reprimand, engaged in misconduct in three client matters, including neglect, failure to communicate, misrepresentation, and dishonesty. Marshall showed no remorse and displayed scorn for his clients. The Court accepted the Board's recommendation and suspended Marshall for thirty months. Comparing the facts of *Marshall* to the instant matter, Respondent has a more serious prior record of discipline consisting of a public

reprimand and an informal admonition. Like Marshall, Respondent displayed contempt for his clients, calling them “trash.” Additionally, Respondent failed to appear at a portion of the disciplinary hearing without showing good cause, a fact which was not present in Marshall’s case. These additional aggravating factors weigh in favor of a three year period of suspension in the instant matter.

Similarly, in *Office of Disciplinary Counsel v. Clarence E. Allen*, No. 190 DB 2020 (D. Bd. Rpt. 1/31/2022) (S. Ct. Order 4/14/2022), Allen engaged in misconduct in five separate client matters, which included incompetence, neglect, failure to communicate, and conduct prejudicial to the administration of justice. In aggravation, the Board found that Allen had a prior disciplinary record consisting of an informal admonition, failed to accept responsibility for his actions, and failed to show remorse. The Court accepted the Board’s recommendation and suspended Allen for a period of two years. While Allen engaged in misconduct in five matters compared to Respondent’s misconduct in two matters, unlike Respondent, Allen appeared for his disciplinary hearing, did not show contempt for his clients, and had one prior incident of private discipline, as compared to Respondent’s two recent prior incidents of discipline.

In the matter of *Office of Disciplinary Counsel v. Melanie D. Naro*, No. 212 DB 2011 (D. Bd. Rpt. 9/19/2012) (S. Ct. Order 12/6/2012), the Court imposed a two year suspension where Naro committed misconduct constituting neglect and lack of communication in one matter. Naro’s misconduct was aggravated by her extensive prior record of discipline, consisting of a private reprimand in 2006 for mishandling escrow funds, an informal admonition in 2007 for neglect and lack of communication in three matters, and a six month suspension with probation for one year and a practice monitor in 2012 for neglect in two matters. In mitigation, Naro admitted that she failed to properly

represent her clients. Here, while Respondent's record of discipline is not as serious as Naro's record, his lack of remorse and failure to accept responsibility, as well as his failure to appear and disdain for clients and participants in the disciplinary system militate against a two year suspension and support a three year suspension.

Finally, while we are cognizant that Respondent is on retired license status and unable to practice law at this time, that fact does not assuage the Board's concern with Respondent's actions, nor does it obviate the need for imposing discipline that is commensurate with Respondent's conduct. Upon this record, and consistent with determinations made in prior similar disciplinary matters, we conclude that a suspension for three years is warranted in order to fulfill the predominant mission of the disciplinary system to protect the public and maintain the integrity of the legal system.

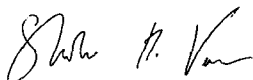
V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that the Respondent, Joshua M. Briskin, be Suspended for three years from the practice of law in this Commonwealth.

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

Respectfully submitted,

THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

By: 

Shohin H. Vance, Member

Date: June 13, 2023