**IN THE SUPREME COURT OF PENNSYLVANIA**

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| OFFICE OF DISCIPLINARY COUNSEL, | : | No. 2608 Disciplinary Docket No. 3 |
| | : | |
| Petitioner | : | No. 87 DB 2019 |
| | : | |
| v. | : | Attorney Registration No. 24513 |
| | : | |
| JIMMIE MOORE, | : | (Philadelphia) |
| | : | |
| Respondent | : | |

**O R D E R**

**PER CURIAM**

**AND NOW**, this 16th day of March, 2022, upon consideration of the Report and Recommendations of the Disciplinary Board, and following oral argument, Jimmie Moore is suspended from the practice of law in the Commonwealth of Pennsylvania for four years, retroactive to May 13, 2019. Respondent shall comply with all of the provisions of Pa.R.D.E. 217 and pay costs to the Disciplinary Board. *See* Pa.R.D.E. 208(g).

Justices Todd, Dougherty, and Wecht did not participate in the consideration or decision of this case.

A True Copy Nicole Traini
As Of 03/16/2022

Attest: Nicole Traini
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

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| OFFICE OF DISCIPLINARY COUNSEL, Petitioner | : | No. 87 DB 2019 |
| v. | : | Attorney Registration No. 24513 |
| JIMMIE MOORE, Respondent | : | (Philadelphia) |

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 7, 2020, Petitioner, Office of Disciplinary Counsel, charged Respondent, Jimmie Moore, with violations of Pennsylvania Rules of Professional Conduct 8.4(a), 8.4(b), 8.4(c) and 8.4(d) and Pennsylvania Rule of Disciplinary Enforcement 203(b)(1) based on Respondent's criminal conviction of False Statements, in violation of 18 U.S.C. § 1001(a)(1) and (2). On June 22, 2020, Respondent filed a counseled Answer to Petition for Discipline.

Following prehearing conferences on September 3 and September 17, 2020, a District I Hearing Committee ("Committee") conducted a disciplinary hearing on October 8, 2020. Petitioner offered the Joint Stipulation of Fact and Law and exhibits ODC-1 through ODC-11. Petitioner did not present any witnesses. Respondent testified on his own behalf and presented the testimony of three witnesses.

Petitioner filed a brief to the Committee on November 23, 2020 and requested that the Committee recommend a five year suspension, retroactive to June 12, 2019, the effective date of Respondent's temporary suspension. Respondent filed a Brief to the Committee on January 6, 2021 and requested that the Committee recommend a two year suspension.

By Report filed on March 12, 2021, the Committee concluded that Respondent violated the rules as charged in the Petition for Discipline and recommended that Respondent be suspended for a period of four years, retroactive to May 13, 2019, the date of Respondent's temporary suspension.

The parties did not take exception to the Committee's Report and recommendation.

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

## II. FINDINGS OF FACT

The Board makes the following findings:

1. Petitioner, Office of Disciplinary Counsel, whose principal office is located at Pennsylvania Judicial Center, Suite 2700, 601 Commonwealth Avenue, Harrisburg, Pennsylvania 17106-2485, is invested pursuant to Pennsylvania Rules of

Disciplinary Enforcement 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 rules.

2. Respondent is Jimmie Moore, born in 1951 and admitted to practice law in the Commonwealth in 1976. Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania. Joint Stipulation of Fact and Law ("Jt. Stip.") 2.

3. Respondent has no history of prior discipline.

4. In 1999, Respondent was elected a judge of the Philadelphia Municipal Court. Jt. Stip. 3.

5. In June 2011, Respondent retired from serving as a judge on the Municipal Court. Jt. Stip. 4.

6. Respondent served as a senior judge from December 8, 2016 until he resigned effective September 11, 2017. Jt. Stip. 5.

7. Respondent had no history of judicial discipline. N.T. 46.

8. Respondent resumed active status to practice law on March 26, 2018.

9. On May 2, 2019, Petitioner filed with the Court a Joint Petition to Temporarily Suspend an Attorney, signifying Respondent's agreement to a temporary suspension of his law license. N.T. 53.

10. By Order dated May 13, 2019, the Supreme Court of Pennsylvania placed Respondent on temporary suspension from the practice of law. Jt. Stip. 6.

Criminal Conduct

11. Robert "Bob" A. Brady ("Rep. Brady") was an incumbent of the United States House of Representatives, 1st Congressional District, Pennsylvania, running for re-election in 2012. Jt. Stip. 9.

12. In February 2011, Respondent commissioned a poll from Lake Research Partners to analyze the primary matchup between Rep. Brady and Respondent. Jt. Stip. 10.

13. Respondent decided to enter the Congressional race and challenge incumbent Rep. Brady as a candidate for the Democratic Party's 2012 nomination to become a member of the United States House of Representatives, 1st Congressional District. Jt. Stip. 11.

14. By February 2012, Respondent had difficulty raising money for his campaign, had no funds, and was accumulating debt. Jt. Stip. 12; N.T. 47, 48.

15. In February 2012, Respondent and Rep. Brady met at the office of former Philadelphia Mayor W. Wilson Goode, Sr. to discuss Respondent's possible departure from the Congressional race, during which time, Rep. Brady stated that he: "was going to step down within two years"; would "get [Respondent] the [Democratic Party] endorsement"; could be Respondent's "finance chair and help [him] raise money"; and could give Respondent "a job in the interim." Jt. Stip. 13.

16. Respondent requested $120,000 from Rep. Brady to withdraw from the Congressional race so that Respondent could pay off his campaign debts. ODC-8(a), p. 143; N.T. 258.

17. Rep. Brady agreed to give Respondent $90,000 for Respondent to pay off his campaign debts in exchange for Respondent's agreement to withdraw from the primary election. Jt. Stip. 14.

18. During the meeting with Rep. Brady, Respondent discussed "how we were going to get the money from his – from Congressman Brady's campaign to my campaign…What really matters was the $90,000 coming from Brady's campaign to-to Jimmie Moore's campaign for Congress." ODC-8(a), at p. 158.

19. On February 29, 2012, Respondent withdrew from the race for the 1st Congressional District. Jt. Stip. 15.

20. In March 2012, Respondent met with Rep. Brady's political consultant, Kenneth Smukler, to discuss Rep. Brady's payment of $90,000 to Respondent's campaign to pay off Respondent's campaign debts. Jt. Stip. 16.

21. Rep. Brady and Mr. Smukler devised a scheme to hide both the source and reason for the $90,000 payment from Rep. Brady's campaign committee to Respondent's campaign committee whereby Rep Brady would make three payments to repay the campaign debts of Jimmie Moore for Congress as follows:

a. the first two payments would be justified by a purported purchase of a poll; and

b. the third payment would be justified by a purported "no show" consulting contract with D. Jones & Associates.

Jt. Stip. 17.

22. In or around May 2012, Mr. Smukler instructed Respondent to create a "dummy corporation" (shell company) that would issue "dummy invoices" and

receive the funds from Rep. Brady's campaign committee. In response, Respondent created CavaSense Associates, Inc. ("CavaSense") for the sole purpose of receiving Rep. Brady's funds. Jt. Stip. 18.

23. In June 2012, Carolyn Cavaness, Respondent's campaign manager, created "dummy invoices" for CavaSense's purported sale of the poll that Respondent's campaign had obtained analyzing the primary matchup between Rep. Brady and Respondent. Jt. Stip. 19.

24. On or about June 4, 2012, Ms. Cavaness emailed Mr. Smukler the two "dummy invoices" from CavaSense requesting payment of $40,000 and $25,000 for the poll, after which time:

a. on or about June 11, 2012, Rep. Brady's campaign committee wrote Voter Link Data Systems ("VLDS"), a company owned and operated by Mr. Smukler, a check for $40,000;

b. on or about June 13, 2012, Mr. Smukler wrote a check from VLDS, in the amount of $40,000, to Ms. Cavaness with the notation "Poll" written on the memo line;

c. on or about July 10, 2012, Rep. Brady's campaign committee wrote VLDS a $25,000 check;

d. on or about July 17, 2012, VLDS wrote a $25,000 check to Ms. Cavaness with the notation "Poll" written on the memo line; and

e. on or about August 6, 2012, at Respondent's direction, Ms. Cavaness emailed the data associated with the poll to Mr. Smukler.

Jt. Stip. 20.

25. On or about June 20, 2012, Ms. Cavaness sent an email to political consultant Donald Jones attaching a "dummy invoice" stating that D. Jones & Associates would pay CavaSense $25,000 for purported "consulting services," after which time:

a. On or about August 23, 2012, Rep. Brady's campaign committee wrote a $25,000 check payable to D. Jones & Associates; and

b. On or about August 30, 2012, Mr. Jones wrote a $25,000 check payable to CavaSense with the notation in the memo line, "Consulting," notwithstanding that neither CavaSense nor Ms. Cavaness did any consulting work for Mr. Jones, his company, or Rep. Brady's campaign committee.

Jt. Stip. 21.

26. From June 2012 through August 2012, Respondent directed that the $90,000 received from Rep. Brady's campaign committee be used as follows:

a. $21,000 to pay vendors owed money by Jimmie Moore for Congress; and

b. $19,500 via checks to Respondent with the notation "Reimbursement" written on the memo line.

Jt. Stip. 22.

27. Respondent directed that the remaining $49,500 be placed in Ms. Cavaness's personal bank account. Jt. Stip. 23.

28. Respondent testified that he knew at the time that he agreed to accept the $90,000 that he could not receive it under federal law. N.T. 107-108.

29. The Federal Election Campaign Act of 1971, as amended, 52 U.S.C. § 30101 *et seq.* ("Election Act") formerly 2 U.S.C. § 431 *et seq*, limits financial influence in the election of candidates for federal office, including candidates for the office of Member of the United States House of Representatives, and provides for public disclosure of the financing of federal election campaigns. Jt. Stip. 32.

30. The Federal Election Commission ("FEC") is a federal agency charged with the duty to enforce the limits and prohibitions of the Election Act and to compile and publically report accurate information about the source and amounts of campaign contributions. Jt. Stip. 33.

31. In 2011-2012, the Election Act limited the amount and source of money that may be contributed to a federal candidate or that candidate's authorized campaign committee, and:

a. limited both the primary and general election campaign contributions in 2012 to $2,500, for a combined total of $5,000 from any individual to any one candidate in an election cycle;

b. limited contributions from one federal candidate's authorized committee to another federal candidate's authorized committee to $2,000 per candidate for both the primary and general elections, for a combined total of $4,000 in an election cycle;

c. provided that the contributions made through an intermediary were to be treated as contributions from the original payer; and

d. required that "expenditures made by any person in cooperation, consultation, or concert, with or at the request or suggestion of, a

candidate … shall be considered to be a contribution to such candidate."

Jt. Stip. 34.

32. The Election Act requires campaign committees to file with the FEC quarterly campaign reports accurately disclosing activities related to contributions, expenditures, debts, and loans of the committee. Jt. Stip. 35.

33. Respondent knew that federal law placed limits on contributions to political campaigns for federal office. Jt. Stip. 24.

34. Respondent knew that federal law required political campaigns to file reports with the FEC that truthfully and accurately reported contributions and expenditures. Jt. Stip. 25.

35. In October 2012 and June 2013, Respondent knowingly and intentionally filed false campaign finance reports with the FEC that failed to disclose:

a. the receipt of any funds from Rep. Brady's committee;

b. the political consulting companies through which funds were passed to Respondent's campaign;

c. payment of funds to campaign vendors from the funds received from Rep. Brady's campaign committee;

d. reimbursement of funds to Respondent; and

e. payments to Ms. Cavaness.

Jt. Stip. 26.

36. In October 2012 and June 2013, Respondent knowingly and intentionally filed campaign finance reports with the FEC that:

a. falsely listed the same debts owed by Respondent's campaign as had been listed in Respondent's earlier reports;

b. purposely omitted the material fact that Respondent's campaign debts had been repaid using funds from Rep. Brady's campaign committee; and

c. concealed the fact that Rep. Brady's campaign committee had made excess campaign contributions to Respondent's campaign in exchange for Respondent's agreement to withdraw from the primary election.

Jt. Stip. 27.

37. Respondent admitted that it was his decision alone, to file false reports with the FEC. N.T. 69-70.

38. On September 13, 2017, the government filed a Bill of Information charging Respondent with the criminal offense of False Statements, 18 U.S.C. § 1001(a)(1) and (2) (one count), for knowingly and willfully concealing from the FEC the three payments, totaling $90,000, from Rep. Brady's campaign to Respondent's campaign in violation of 52 U.S.C. § 30104. Jt. Stip. 28.

39. On October 3, 2017, Respondent appeared before the Honorable Jan E. DuBois in the United States District Court for the Eastern District of Pennsylvania and pled guilty to the crime of False Statements. By pleading guilty, Respondent admitted that he knowingly and willfully, falsified, concealed or covered up a material fact, by trick, scheme or fraud, that he had a duty to disclose. Jt. Stip. 29.

40. The crime of False Statements to which Respondent pled guilty is a Class E felony punishable by imprisonment of not more than five years and a fine of not more than $250,000 (unless a statutory exception applies). 18 U.S.C. §§ 1001(a), 3559(a)(5), 3571(b)(3). Jt. Stip. 36.

41. The crime to which Respondent pled guilty is a "crime" as defined in Pa.R.D.E. 214(h). Jt. Stip. 37.

42. By letter dated September 24, 2018, Respondent reported the entry of his guilty plea in 2017 to Office of Disciplinary Counsel. Jt. Stip. 30.

43. In his September 24, 2018 letter, Respondent wrote that he only "later discovered that he had violated the federal campaign finance laws" by his "accommodation" with Rep. Brady to withdraw from the Congressional race.

44. On December 12, 2019, Judge DuBois sentenced Respondent to two years of probation and a special assessment of $100. Jt. Stip. 31.

Additional Findings

45. Respondent credibly testified at the disciplinary hearing.

46. Respondent is a public figure as a former judge and an individual who ran for Congress. N.T. 37, 42, 25; Jt. Stip. 2.

47. Respondent's misconduct generated media publicity and brought disrepute to the legal profession. ODC-11.

48. In Respondent's June 22, 2020 Answer to Petition for Discipline, he denied that he and Ms. Cavaness used the funds for their personal expenses. Respondent later testified on cross-examination that he agreed the statement was false. Petition for Discipline at ¶ 23; Answer at ¶ 23; N.T. 266-267.

49. Respondent, along with Ms. Cavaness, used a portion of these funds for personal expenses that included the purchase of a Cadillac and vacations in Canada and Florida. N.T. 262-265; ODC-4, pp. 5-7; ODC-8(a), p. 166.

50. In Respondent's June 22, 2020 Answer to Petition for Discipline, he stated he "did not know what Mr. Brady was proposing was illegal." Answer at ¶ 16.

51. Although there was some inconsistency as to when Respondent knew it was wrong for his Congressional campaign to receive $90,000 from Rep. Brady's campaign, Respondent ultimately admitted that he knew it was a crime to participate in the scheme proposed for Respondent to receive $90,000 from Rep. Brady's campaign to pay off Respondent's campaign debts. N.T. 48-49, 108-110.

52. At the disciplinary hearing on October 8, 2020, Respondent testified on cross-examination that he knew at the time he agreed to accept $90,000 from Rep. Brady that it was a violation of federal law and "initially I probably felt that it was the wrong thing to do." N.T. 110.

53. Respondent cooperated with the government after he was contacted by the FBI in April 2017, and assisted by wearing a wire and testifying against Mr. Smukler. N.T. 49, 51, 76, 154, 156, 253, 256, 257.

54. As far as his involvement in the scheme, Respondent testified that "when you have experienced folks such as Bob Brady and Ken Smukler coming to you and saying 'you need to do this, you need to do that,' I was doing what they were telling me to do. I thought they would know better than me, so I just followed what they told me to do." N.T. 99-100.

55. Respondent accepted responsibility for his criminal conduct. He testified that he pled guilty because he knew he broke the law, and there was no reason for him to deny something that he knew he did. N.T. 50.

56. Respondent was embarrassed by his misconduct and expressed remorse. N.T. 49, 278-279.

57. Respondent explained that he should have "stayed in [his] own lane" and did not realize the significance of running against an incumbent in terms of raising money. N.T. 48, 58

58. Respondent testified to the impact his conviction had on his relationship with his family and the decline in his health caused by "this incident." N.T. 56-58

59. Respondent testified that "if there were any victims, I would have absolutely no problem apologizing." NT. 56.

60. Respondent has a record of community service. N.T. 43-44, 60, 286.

61. By application dated November 1, 2016, which post-dated Respondent's criminal conduct but pre-dated his knowledge of the FBI investigation, Respondent applied to be a senior judge on the Philadelphia Municipal Court. N.T. 113, 116.

62. The application asked whether, to the applicant's knowledge, there was any pending investigation of the applicant by any local, state or federal law enforcement agency, and further stated that the applicant agreed to inform the Administrative Office of Pennsylvania Courts of any change in circumstances regarding that information. N.T. 115-116.

63. Shortly after applying for senior judge status, Respondent was appointed a senior judge. N.T. 117.

64. While Respondent was on senior judge status, on April 12, 2017, Ms. Cavaness contacted Respondent and alerted him that the FBI was investigating his Congressional campaign. N.T. 253.

65. The very next day, the FBI contacted Respondent and he met with them and agreed to cooperate. N.T. 253.

66. After the FBI contacted Respondent in April 2017, he continued to maintain senior judge status and failed to report to the Administrative Office of Pennsylvania Courts that there was a change in his circumstances and he was being investigated by law enforcement. N.T. 253- 255, 256.

67. Respondent signed the guilty plea agreement on September 12, 2017 and resigned as a senior judge the next day. N.T. 255-256.

68. Respondent admitted that he sat as a senior judge after he had committed a crime. N.T. 257-258.

69. Respondent corrupted his campaign manager, Ms. Cavaness, by involving her in the scheme to funnel the monies from Rep. Brady's campaign to Respondent's campaign. Ms. Cavaness was prosecuted for her role in the scheme. N.T. 52; 283.

70. Respondent expressed remorse for involving Ms. Cavaness in the corruption scheme. N.T. 282-283.

71. Respondent presented the credible testimony of three character witnesses.

72. Sarah Lewis is a retired nurse's aide who first met Respondent in late 2012 at a political committee meeting. N.T. 121-122.

73. Ms. Lewis found Respondent to be a "God-send" and a friend to her community. N.T. 125, 128.

74. Ms. Lewis testified that Respondent is an honest man and a man of integrity. N.T. 129.

75. Jeffrey M. Miller, Esquire was admitted to practice law in Pennsylvania in 1969 and represented Respondent in connection with his criminal proceedings. N.T. 145-146.

76. Mr. Miller testified that Respondent cooperated extensively with the government. N.T. 155-157.

77. Mr. Miller testified that Respondent had an excellent reputation as a judge. N.T. 146-147.

78. Mr. Miller testified that Respondent has an excellent reputation in the community for integrity and honesty. N.T. 164.

79. James J. McEldrew, III, Esquire was admitted to practice law in Pennsylvania in 1982 and has known Respondent as a personal friend for approximately 34 years. N.T. 191, 192.

80. Mr. McEldrew testified that Respondent's misconduct has not changed his high opinion of Respondent as a "terrific lawyer" and a "terrific man." N.T. 195.

81. Mr. McEldrew testified that over the years he has heard "great things" about Respondent in the community. N.T. 196.

## III. CONCLUSIONS OF LAW

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

1. RPC 8.4(a) – It is professional misconduct for a lawyer to violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another.

2. RPC 8.4(b) – 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.

3. RPC 8.4(c) – It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

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

5. Pa.R.D.E. 203(b)(1) – Conviction of a crime shall be grounds for discipline.

## IV. DISCUSSION

This matter is before the Board following the issuance of a Report by the Committee recommending that Respondent be suspended for a period of four years, retroactive to May 13, 2019, after he pled guilty in the United States District Court for the Eastern District of Pennsylvania to False Statements, in violation of 18 U.S.C. § 1001(a)(1) and (2), for his willful filing of false campaign finance reports with the FEC. Conviction of a crime is incontrovertible evidence of misconduct and constitutes a basis

for discipline. ***Office of Disciplinary Counsel v. Robert Costigan*****,** 584 A.2d 296, 297-298 (Pa. 1990). The Joint Stipulations of Fact and Law, Petitioner's exhibits, Respondent's Answer to the Petition for Discipline and his testimony at the disciplinary hearing established that Petitioner met its burden of proof by clear and satisfactory evidence that Respondent violated the Pennsylvania Rules of Professional Conduct and Pennsylvania Rules of Disciplinary Enforcement charged in the Petition for Discipline. ***Office of Disciplinary Counsel v. John Grigsby***, 425 A.2d 730, 732 (Pa. 1981).

The Board's task is to determine the appropriate level of discipline, bearing in mind 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. Joshua Eilberg***, 441 A.2d 1193, 1195 (Pa. 1982). Further, the Board must "examine the underlying facts involved in the criminal charge to weigh the impact of the conviction upon the measure of discipline." ***Office of Disciplinary Counsel v. Frank Troback***, 383 A.2d 952, 953 (Pa. 1978). Despite the fact-intensive nature of the endeavor, consistency is required so that similar misconduct "is not punished in radically different ways." ***Office of Disciplinary Counsel v. Robert S. Lucarini***, 472 A.2d 186, 190 (Pa. 1983).

The Committee has recommended a four year suspension, retroactive to Respondent's temporary suspension. In making this recommendation, the Committee considered Petitioner's recommendation for a five year suspension and Respondent's recommendation for a two year suspension. Under Pa.R.D.E. 208(d)(2), the Board is not bound by the Committee's recommendation and may change it after reviewing the facts and circumstances of record. On our review, we conclude that the appropriate discipline is disbarment, retroactive to the date of Respondent's temporary suspension from the

practice of law, for the reasons that follow.

The record established that in 2012, Respondent struck a corrupt deal to withdraw from a Congressional campaign in exchange for $90,000 from his opponent to pay off Respondent's campaign debts. The scheme was multi-layered in that it required setting up a shell company, creating three "dummy invoices" and sending the "dummy invoices" to Rep. Brady's various political consultants, who then sent monies by three separate checks to the shell company for Respondent to distribute. Although Respondent was not the mastermind of this scheme, the record evidences that he was all too willing to go along with it in order to rid himself of his debt. Respondent was responsible for either implementing the details of the scheme himself or directing Ms. Cavaness to set up the "dummy" corporation and prepare the "dummy invoices." Upon receipt of the $90,000, Respondent made distribution to vendors, to Ms. Cavaness and to himself. Thereafter, to conceal the scheme Respondent knowingly filed false campaign finance reports with the FEC that failed to disclose his receipt of any funds from Rep. Brady's campaign, any money that Respondent received personally, or the fact that vendors were paid. Respondent admitted that he alone was responsible for filing the false campaign finance reports. Respondent used the monies for personal expenses, including vacations and a car.

In 2017, Respondent was caught, cooperated with the government, pled guilty to the crime of False Statements and was sentenced to probation for a period of two years and a special assessment of $100. Respondent reported his conviction to Office of Disciplinary Counsel on September 24, 2018 and cooperated with the disciplinary authorities by agreeing to the temporary suspension of his law license.

Respondent's cooperation with the government and the disciplinary authorities serves as a mitigating factor. In other mitigation, we find that Respondent, who was admitted to the bar in Pennsylvania in 1976, has no history of professional or judicial discipline and has a demonstrated record of community service. Respondent expressed personal remorse for the impact his criminal conduct had on his family and described the decline in his health caused by "this incident." Respondent's character witnesses credibly testified that he is a person of integrity and honesty who enjoys a good reputation in the community.

This record established several weighty aggravating factors. Although Respondent cooperated with Petitioner in its investigation of his wrongdoing, he was inconsistent as to when he knew his conduct was wrong and downplayed his culpability in his submissions to Petitioner. Respondent's September 24, 2018 letter to Office of Disciplinary Counsel reporting his conviction as required under Pa.R.D.E. 214(a), states that he only "later discovered that he had violated the federal campaign finance laws" by his "accommodation" with Rep. Brady to withdraw from the Congressional race. Respondent's June 22, 2020 Answer to Petition for Discipline states he "did not know what Mr. Brady was proposing was illegal." However, Respondent admitted on cross-examination at the disciplinary hearing that he knew at the time he agreed to accept $90,000 from Rep. Brady that it was a violation of federal law and "initially I probably felt that it was the wrong thing to do." N.T. 110.

During the time frame following his criminal conduct, Respondent applied for senior judge status and was appointed a senior judge in December 2016. He held this status until September 13, 2017, the day after he agreed to plead guilty. From April 2017 when Respondent became aware that the FBI was investigating his conduct until he

resigned in September 2017, a period of five months, Respondent maintained his senior judge status. He took no action to report to the AOPC that he was the subject of an investigation by law enforcement, as the senior judge application directed him to do, nor did he resign his position at any time prior to the entry of his guilty plea. It does not appear that Respondent gave any consideration to the uncomfortable reality that he was tasked with upholding the law while simultaneously under investigation for a crime implicating his own integrity and honesty. The blatant hypocrisy of this situation is astounding and serves as a serious aggravating factor.

Another serious aggravating factor is Respondent's complete failure to appreciate and acknowledge that his criminal conduct as a public figure brought disrepute to the legal profession. When the trust between a public servant and the public is broken, there is no doubt that the public's perception of the legal profession is damaged. As the Court concluded in ***Office of Disciplinary Counsel v. Brian Preski***, 134 A.3d 1027, 1033 (Pa. 2016), "[T]he transgressions of a lawyer who is also a public servant are even more injurious to the reputation of the bar because they bring dishonor both to the profession and to our democratic institutions."

While the record established that Respondent has suffered embarrassment and is genuinely remorseful for the impact his criminal activity had on his family and himself in a personal capacity, he has not demonstrated insight into the impact that his misconduct had on the reputation of the courts and the legal profession, nor has he shown remorse for the breach of trust engendered by his corruption of the election process. Respondent testified that his crime had no victim; he disregards the fact that the "victim" is the reputation of the bar, which reputation by his criminal conduct sustained injury. The Court has previously addressed the failure to express remorse for harm to the profession.

In ***Office of Disciplinary Counsel v. Jonathan F. Altman***, 228 A.3d 508 (Pa. 2020) the Court stated ("[A]ltman's] concern for how his misconduct has affected his life, rather than how it has affected his client's life or the reputation of the legal profession is telling." Therein, the Court found that Altman's failure to acknowledge harm to others besides himself undermined his expression of remorse.

In balancing the aggravating and mitigating facts, we find that the aggravating circumstances are significant and serious enough to outweigh the benefit brought by the mitigation.

The case law demonstrates that attorneys who engage in public corruption may be disciplined by lengthy terms of suspension or disbarment. The Court imposed a two year suspension retroactive to the temporary suspension for an attorney who was the vice-president of a company interested in receiving a contract for street lights in Allentown, Pennsylvania. In ***Office of Disciplinary Counsel v. Patrick O'Hare Regan***, No. 191 DB 2017 (D. Bd. Rpt. 10/21/2019) (S. Ct. Order 1/2/2020), Regan pled guilty to the crime of conspiring to commit mail and wire fraud for making campaign contributions to an elected Allentown official who made it known that satisfactory campaign contributions would receive favorable official action, and assisting Allentown officials with writing a request for proposal with language favorable to Regan's company.

In making its recommendation for a two year suspension in ***Regan***, the Board compared the facts to those in matters involving attorneys who were public officials, and determined that cases involving officials in a position of trust were more serious and deserved more severe discipline. In its discussion, the Board cited to ***Office of Disciplinary Counsel v. Dale Robert Wiles***, No. 3 DB 2019 (S. Ct. Order 5/2/2019). Wiles was the assistant city solicitor in Allentown who awarded the municipal contracts to

campaign donors such as Regan. In aggravation, Wiles was a public figure when engaged in the misconduct. In mitigation, Wiles showed remorse by being the first defendant to plead guilty to the conspiracy; cooperated with the government; cooperated with Office of Disciplinary Counsel by entering into consent discipline; provided truthful and reliable information regarding his own culpability; and had no prior discipline. Therein, the Court approved the Joint Petition in Support of Discipline on Consent and suspended Wiles for five years, retroactive to the date of his temporary suspension.

The Court imposed a five year suspension in ***Office of Disciplinary Counsel v. Rhonda McCullough Anderson***, 156 DB 2004 (D. Bd. Rpt. 11/21/2006) (S. Ct. Order 2/23/2007). In that matter, City of Philadelphia Treasurer Corey Kemp suggested that Anderson, who was not a public figure, become involved in the asset locator business and pay Kemp 35% of her earnings in cash. Sometime after Anderson's receipt of $9,100, of which she paid $1,300 to Kemp, Anderson concluded that the payments were improper and stopped making them. At Kemp's behest, Anderson also submitted an invoice to a federally funded program for $3,200 in legal services she did not render to the program, but had rendered to another program for which she had not been paid. Anderson then gave Kemp 50% of her gross proceeds. After being contacted by federal prosecutors, Anderson cooperated, pled guilty to one count of mail fraud, and testified at Kemp's trial. Anderson also cooperated with Office of Disciplinary Counsel and agreed to the temporary suspension of her law license. The Board recommended to the Court that Anderson be suspended for a period of three years, retroactive to her temporary suspension. The Court declined to accept the recommendation and imposed a five year suspension, retroactive to the temporary suspension.

Similar to Respondent, Regan, Wiles and Anderson had no prior discipline, cooperated with the government and disciplinary authorities and expressed remorse. Like Respondent, Wiles was a public figure. Significantly, and in contrast to those matters, Respondent's act of sitting as a senior judge while being investigated for a crime and failing to notify AOPC aggravates the instant matter, as does his failure to recognize, acknowledge and apologize for the harm his actions caused to the reputation of the legal profession.

Our recommendation to disbar Respondent is not without precedent. The Court has not hesitated to disbar public officials who have been involved in official corruption. In the matter of ***Office of Disciplinary Counsel v. Jeff Foreman***, No. 164 DB 2009 (D. Bd. Rpt. 5/19/2014) (S. Ct. Order 9/17/2014), Foreman was the Chief of Staff for a state representative and engaged in extensive conflict of interest activities, whereby he assigned campaign work to legislative staffers, mixed legislative work, private legal work and political campaign work during his workday without accounting for the improper work he did on state time, and received a monthly retainer for legal work he had previously performed as part of his legislative activities. In examining the evidence, the Board found that "a particularly weighty aggravating factor" was "the harm Respondent caused to the reputation of the bar" as a result of the widespread adverse media publicity that "repeatedly invoked [Foreman's] status as a lawyer." D. Bd. Rpt. at p. 11. The Board recommended disbarment because it concluded that Foreman "willingly chose financial enrichment and involvement in an illegal scheme over integrity and such a lawyer cannot be allowed to practice law in this Commonwealth." *Id*. at p. 13.

The purpose of the disciplinary system is to protect the public and preserve the public's confidence in the legal profession by maintaining the integrity of the legal

system. ***Office of Disciplinary Counsel v. John Keller***, 506 A.2d 872, 875 (Pa. 1986); ***Office of Disciplinary Counsel v. Suber Lewis***, 426 A.2d 1138, 1142 (Pa. 1981). The egregious nature of Respondent's criminal conduct, the serious aggravating factors and the decisional law support Respondent's disbarment. The public's confidence has been shaken by Respondent's dishonesty and willingness to involve himself and others in corruption, which actions render him unfit to practice law and require disbarment. In order to restore confidence, Respondent must be removed from practice until such time as he can convincingly demonstrate that he comprehends the damage his criminal behavior inflicted on the reputation of the courts and the legal profession.

On this record, we respectfully recommend that Respondent be disbarred, retroactive to the date of his temporary suspension.

## V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that the Respondent, Jimmie Moore, be Disbarred from the practice of law in this Commonwealth, retroactive to May 13, 2019.

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

Respectfully submitted,

THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

By: _____
Gretchen A. Mundorff, Member

Date: 6/18/2021

Member Dee recused.