

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 2301 Disciplinary Docket No. 3
	:	
Petitioner	:	No. 90 DB 2016
	:	
v.	:	Attorney Registration No. 38490
	:	
JEFFREY L. PERLMAN,	:	(Philadelphia)
	:	
Respondent	:	
	:	

ORDER

PER CURIAM

AND NOW, this 4th day of November, 2016, 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 Jeffrey L. Perlman is suspended on consent from the Bar of this Commonwealth for a period of eighteen months, retroactive to October 5, 2016. He shall comply with all the provisions of Pa.R.D.E. 217.

A True Copy Patricia Nicola
As Of 11/4/2016

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :
Petitioner :
: Board File Nos.
: 90 DB 2016 and C1-16-324,
: C1-16-388, C1-16-658 and
: C1-16-692
v. :
: Atty. Reg. No. 38490
JEFFREY L. PERLMAN, :
Respondent : (Philadelphia)

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

Petitioner, Office of Disciplinary Counsel ("ODC"), by Paul J. Killion, Esquire, Chief Disciplinary Counsel, and by Richard Hernandez, Esquire, Disciplinary Counsel, and Respondent, Jeffrey L. Perlman, who is represented by Samuel C. Stretton, Esquire, file this Joint Petition In Support Of Discipline On Consent Under Pennsylvania Rule of Disciplinary Enforcement 215(d) ("the Joint Petition"), and respectfully represent that:

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 Rule 207 of the Pennsylvania Rules of Disciplinary Enforcement ("Pa.R.D.E."), with the power and

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9/21/2016

The Disciplinary Board of the
Supreme Court of Pennsylvania

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, Jeffrey L. Perlman, was born in 1955, was admitted to practice law in the Commonwealth of Pennsylvania on October 18, 1983, and has a public access address at 1500 Walnut Street, Suite 700, Philadelphia, PA 19102.

3. Pursuant to Pa.R.D.E. 201(a)(1), Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court.

4. On June 16, 2016, Petitioner filed a Petition for Discipline against Respondent with the Secretary of the Disciplinary Board ("the Secretary"), which Petition was docketed at No. 90 DB 2016.

5. On July 15, 2016, Respondent, through his counsel, filed an Answer to the Petition for Discipline with the Secretary.

6. Respondent is aware that there are four open complaint files that are under investigation by ODC that are not raised in the Petition for Discipline; they are File No.

C1-16-324, File No. C1-16-388, File No. C1-16-658, and File No. C1-16-692.

7. In connection with File No. C1-16-324, Respondent received a Request for Statement of Respondent's Position (Form DB-7) dated May 24, 2016; by letter dated July 14, 2016, Respondent submitted a counseled response to the DB-7 letter.

8. In connection with File No. C1-16-388, Respondent received a Request for Statement of Respondent's Position (Form DB-7) dated May 24, 2016; by letter dated July 14, 2016, Respondent submitted a counseled response to the DB-7 letter.

9. Respondent has agreed to enter into a joint recommendation for consent discipline that encompasses all of the charges raised in the Petition for Discipline and the allegations of misconduct raised in File Nos. C1-16-324, C1-16-388, C1-16-658, and C1-16-692.

10. Respondent and Petitioner will also be filing with the Supreme Court of Pennsylvania a Joint Petition to Temporarily Suspend an Attorney.

SPECIFIC FACTUAL ADMISSIONS AND
RULES OF PROFESSIONAL CONDUCT VIOLATED

11. Respondent hereby stipulates that the following factual allegations are true and correct and that he violated the Rules of Professional Conduct as set forth herein.

CHARGE I: **The Jenny Jean-Louis Matter; No. 90 DB 2016**

12. On November 10, 2010, Ms. Jenny Jean-Louis was involved in a motor vehicle accident with Michael John Smith ("the November 2010 accident").

13. Sometime prior to October 17, 2012, Ms. Jean-Louis retained Respondent to represent her in obtaining compensation for the injuries she sustained in the November 2010 accident.

14. On October 17, 2012, Respondent filed a complaint against Mr. Smith on Ms. Jean-Louis' behalf in the Philadelphia Court of Common Pleas, said case captioned **Jenny Jean-Louis v. Michael John Smith**, docket number 121002487 ("the Jean-Louis civil case").

15. On December 11, 2012, Paul Gambone, Esquire, entered his appearance on behalf of the defendant, Mr. Smith, in the Jean-Louis civil case.

16. On July 31, 2013, Peter A. Dorn, Esquire, entered his appearance as co-counsel on behalf of Mr. Smith in the Jean-Louis civil case.

17. On August 5, 2013, Mr. Gambone withdrew his appearance on behalf of Mr. Smith.

18. On or before January 16, 2014, Respondent reached an agreement with the defendant to settle Ms. Jean-Louis'

claims arising from the November 2010 accident for the sum of \$10,000.00.

19. Prior to Respondent agreeing to settle Ms. Jean-Louis' claims, Respondent had communicated to Ms. Jean-Louis that Respondent had received a \$10,000.00 settlement offer and that he did not believe that he could obtain a higher settlement offer.

20. On January 16, 2014, the Arbitration Center was advised that the Jean-Louis civil case had settled.

21. Mr. Dorn forwarded to Respondent a release that memorialized the terms of the settlement agreement, to be executed by Ms. Jean-Louis.

22. By letter dated February 10, 2014, sent to Respondent via facsimile transmission, Mr. Dorn:

- a. inquired when he could expect the executed release; and
- b. enclosed another copy of the release.

23. Respondent failed to:

- a. advise Ms. Jean-Louis that Respondent had accepted the \$10,000.00 settlement offer;
- b. forward the release to Ms. Jean-Louis; and
- c. request that she execute and return the release.

24. On March 6, 2014, Mr. Dorn filed a Motion to Enforce Settlement ("the first Motion to Enforce Settlement").

25. Respondent received a copy of the first Motion to Enforce Settlement.

26. On April 4, 2014, the court issued a rule to show cause ("the first Rule") why the first Motion to Enforce Settlement should not be granted, returnable on April 29, 2014, in courtroom 426, City Hall, at 10:00 a.m.

27. Respondent received the first Rule.

28. Respondent failed to file a response to the first Motion to Enforcement Settlement.

29. On May 1, 2014, Mr. Dorn filed another Motion to Enforce Settlement ("the second Motion to Enforce Settlement").

30. Respondent received a copy of the second Motion to Enforce Settlement.

31. On May 1, 2014, the court issued a rule to show cause ("the second Rule") why the second Motion to Enforce Settlement should not be granted, returnable on May 27, 2014, in courtroom 426, City Hall, at 1:30 p.m.

32. Respondent received the second Rule.

33. Respondent failed to file a response to the second Motion to Enforcement Settlement.

34. By Order dated May 27, 2014, the court granted the second Motion to Enforce Settlement.

35. By Order dated June 3, 2014, the court dismissed the first Motion to Enforce Settlement because it was moot.

36. On July 10, 2014, Mr. Dorn filed a Motion for Sanctions.

37. By letter dated August 12, 2014, sent to Respondent by Frank N. DiMeo, Jr., Esquire, an attorney with Rosen, Schafer & DiMeo ("the firm"), Mr. DiMeo:

- a. advised that the firm had been recently retained by Ms. Jean-Louis; and
- b. requested that Respondent forward to the firm Respondent's file concerning her legal matter.

38. Respondent received this letter.

39. Respondent failed to forward the file for Ms. Jean-Louis' legal matter to Mr. DiMeo.

40. On September 3, 2014, the court issued a rule to show cause why the Motion for Sanctions should not be granted, returnable on September 30, 2014, in courtroom 426, City Hall, at 1:30 p.m.

41. Respondent received the rule to show cause.

42. By letter dated September 9, 2014, sent to Respondent by certified mail, Mr. DiMeo again:

- a. advised that the firm had been recently retained by Ms. Jean-Louis; and
- b. requested that Respondent forward to the firm the file concerning her legal matter.

43. Respondent received this letter on September 11, 2014.

44. Respondent failed to forward the file for Ms. Jean-Louis' legal matter to Mr. DiMeo.

45. On September 30, 2014, Respondent appeared for the show cause hearing on the Motion for Sanctions.

46. On that date, outside courtroom 426, Respondent had a conversation with: James D. Rosen, Esquire, a partner with the firm; Ms. Jean-Louis; and Mr. Dorn.

47. During this conversation:

- a. Ms. Jean-Louis agreed to accept the \$10,000.00 settlement offer provided that she would receive between \$5,500.00 and \$6,000.00 from the settlement proceeds;
- b. Respondent represented to Ms. Jean-Louis and Mr. Rosen that Ms. Jean-Louis would receive between \$5,500.00 and \$6,000.00 from the settlement proceeds;
- c. Ms. Jean-Louis executed the document titled "Full Release of all Claims with Indemnity"

("the Release"), formalizing her agreement to accept \$10,000.00 for the November 2010 accident; and

- d. Respondent had agreed to have Ms. Jean-Louis' outstanding medical bills satisfied through either first party benefits or Respondent's own personal funds and to advise Ms. Jean-Louis' medical providers that had not been paid that they would be paid by Respondent, with no contribution from Ms. Jean-Louis.

48. On October 2, 2014, the court noted on the docket that the Motion for Sanctions was withdrawn.

49. By letter dated October 2, 2014, from Mr. Rosen to Respondent, Mr. Rosen:

- a. stated that he was writing "to confirm the discussions and agreements made outside Courtroom 426 on the afternoon of September 30th concerning our mutual client [Ms. Jean-Louis] and the settlement of her 2010 motor vehicle accident case";
- b. listed the specific items that Respondent, Ms. Jean-Louis, and he had resolved during their conversation, as enumerated in paragraph 47, above; and

- c. advised that he was returning the Release to Mr. Dorn and that he would be drafting an addendum to the Release to protect the interests of Ms. Jean-Louis in the event that she is pursued for payment of medical expenses after the \$10,000.00 in settlement proceeds is distributed.

50. Respondent received this letter.

51. By letter dated October 2, 2014, from Mr. Rosen to Mr. Dorn, with a copy to Respondent, Mr. Rosen:

- a. enclosed the Release executed by Ms. Jean-Louis; and
- b. advised that, pursuant to the conversations held outside courtroom 426 on September 30, 2014, the settlement funds were to be sent to Respondent and Respondent was responsible for executing a previously forwarded Order to Settle, Discontinue and End the matter.

52. Respondent received this letter.

53. By certified letter dated October 6, 2014, from Mr. Dorn to Respondent, with a copy to Mr. Rosen, Mr. Dorn:

- a. enclosed a \$10,000.00 settlement check and an Order to Settle, Discontinue and End; and

- b. requested that Respondent execute and return the Order to Settle, Discontinue and End.

54. Respondent received this letter.

55. By letter dated October 13, 2014, from Mr. Rosen to Respondent, with a copy to Ms. Jean-Louis, Mr. Rosen:

- a. advised that he had received a copy of Mr. Dorn's letter to Respondent dated October 6, 2014, enclosing the \$10,000.00 settlement check; and
- b. stated that he expected Respondent to forward to him a check in an amount no less than \$5,500.00, made payable to Ms. Jean-Louis.

56. Respondent received this letter.

57. Sometime before November 12, 2014, Respondent had a telephone conversation with Mr. Rosen regarding Respondent's distributing the share of the settlement proceeds to Ms. Jean-Louis, during which Respondent represented to Mr. Rosen that he had yet to deposit the \$10,000.00 settlement check into Respondent's escrow account.

58. By letter dated November 12, 2014, from Mr. Rosen to Respondent, Mr. Rosen, *inter alia*:

- a. stated that he was following up on the letter he had sent to Respondent dated October 2, 2014, and their subsequent telephone

conversation in which Respondent represented that he had not deposited the \$10,000.00 settlement check into Respondent's escrow account;

b. noted that over a month had passed since Respondent had received the \$10,000.00 settlement check and Ms. Jean-Louis had yet to receive her portion of the settlement funds; and

c. advised that if Respondent failed to forward at least \$5,500.00 to Ms. Jean-Louis within the following week, Ms. Jean-Louis would report Respondent "to the Bar Association."

59. Respondent received this letter.

60. Respondent failed to forward any portion of the settlement funds to Ms. Jean-Louis.

61. On December 3, 2014, Mr. Dorn filed a Motion to Enforce Settlement ("the third Motion to Enforce Settlement").

62. Respondent received the third Motion to Enforce Settlement.

63. By Order dated January 26, 2015, the court:

- a. decreed that the Jean-Louis civil case will be marked settled, discontinued and ended on the court docket immediately; and
- b. stated that the defendant had received the executed Release and had sent the \$10,000.00 settlement check to plaintiff, but Respondent had failed to sign an Order to Settle, Discontinue and End.

64. In June 2015, Respondent mailed a \$6,000.00 check to Ms. Jean-Louis, which represented her share of the settlement proceeds.

65. By his conduct as alleged in Paragraphs 12 through 64 above, Respondent violated the following Rules of Professional Conduct:

- a. RPC 1.3, which states that a lawyer shall act with reasonable diligence and promptness in representing a client;
- b. RPC 1.4(a)(3), which states that a lawyer shall keep the client reasonably informed about the status of the matter;
- c. RPC 1.4(a)(4), which states that a lawyer shall promptly comply with reasonable requests for information;

- d. RPC 1.15(e), which states that except as stated in this Rule or otherwise permitted by law or by agreement with the client or third person, a lawyer shall promptly deliver to the client or third person any property, including but not limited to Rule 1.15 Funds, that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding the property; Provided, however, that the delivery, accounting and disclosure of Fiduciary Funds or property shall continue to be governed by the law, procedure and rules governing the requirements of Fiduciary administration, confidentiality, notice and accounting applicable to the Fiduciary entrustment; and
- e. RPC 8.4(d), which states that it is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice.

CHARGE II: Mishandling of Fiduciary Funds, No. 90 DB 2016

66. At all times relevant hereto, Respondent maintained an IOLTA account for holding fiduciary funds of clients and

third parties at PNC Bank, account number 86-1163-3073, titled "Jeffrey L. Perlman Attorney At Law" ("the IOLTA account").

A. Failure to Pay Third Parties

67. On December 2, 2014, Respondent deposited into the IOLTA account a \$12,500.00 settlement check that he received in connection with a personal injury matter involving Respondent's client, Ms. Valerie Farmer.

68. According to a hand-written distribution sheet that Respondent prepared and presented to Ms. Farmer, Respondent withheld \$1,400.00 from the settlement proceeds to pay a third party identified as "Cover Bridge."

69. Respondent failed to pay \$1,400.00 to "Cover Bridge" on behalf of Ms. Farmer.

70. On December 29, 2014, Respondent deposited into the IOLTA account an \$18,000.00 settlement check that he received in connection with a personal injury matter involving Respondent's client, Ms. Yolanda Willis.

71. According to a hand-written distribution sheet that Respondent prepared and presented to Ms. Willis, Respondent withheld \$800.00 from the settlement proceeds to pay a medical bill that Ms. Willis owed to "Dr. Weinerman."

72. Respondent failed to pay \$800.00 to Dr. Weinerman on behalf of Ms. Willis.

73. On January 16, 2015, Respondent deposited into the IOLTA account a \$10,800.00 settlement check that he received in connection with a personal injury matter involving Respondent's client, Ms. Stephanie Scannapieco.

74. According to a hand-written distribution sheet that Respondent prepared and presented to Ms. Scannapieco, Respondent withheld \$1,500.00 from the settlement proceeds to pay an outstanding medical bill; the medical provider was not identified on the distribution sheet.

75. Respondent failed to pay \$1,500.00 to any medical provider on behalf of Ms. Scannapieco.

76. On March 4, 2015, Respondent deposited into the IOLTA account a \$13,500.00 settlement check that he received in connection with a personal injury matter involving Respondent's client, Ms. Mariana Kandeh.

77. According to a hand-written distribution sheet that Respondent prepared and presented to Ms. Kandeh, Respondent withheld \$160.00 from the settlement proceeds to pay a medical bill; the medical provider was not identified on the distribution sheet.

78. Respondent failed to pay \$160.00 to any medical provider on behalf of Ms. Kandeh.

79. On March 19, 2015, Respondent deposited into the IOLTA account a \$4,850.00 settlement check that he received

in connection with a personal injury matter involving Respondent's client, Ms. Jasmine Farmer.

80. According to a hand-written distribution sheet that Respondent prepared and presented to Ms. Jasmine Farmer, Respondent withheld \$825.00 from the settlement proceeds to pay a third party identified as "Cover Bridge."

81. Respondent failed to pay \$825.00 to "Cover Bridge" on behalf of Ms. Jasmine Farmer.

B. Failure to Make Full Distribution of Client Funds

82. On December 8, 2014, Respondent deposited into the IOLTA account a \$25,000.00 settlement check that he received in connection with a personal injury matter involving Respondent's client, Ms. Kameron Fowlkes.

83. Respondent distributed the \$25,000.00 in settlement proceeds as follows:

- a. \$12,240.52 to Ms. Fowlkes as her share of the settlement proceeds, by check number 1758 drawn on the IOLTA account;
- b. \$10,000.00 to Respondent as an attorney fee, by check number 1759 drawn on the IOLTA account; and
- c. \$509.48 to Respondent as reimbursement of costs, by check number 1760 drawn on the IOLTA account.

84. After deducting the sum total of check numbers 1758, 1759, and 1760, Respondent had distributed \$22,750.00 of the \$25,000.00 in settlement proceeds that he had received in connection with Ms. Fowlkes' personal injury matter.

85. Respondent failed to distribute to Ms. Fowlkes the additional sum of \$2,250.00, the remaining balance from the \$25,000.00 in settlement proceeds.

C. Commingling of Personal Funds with Fiduciary Funds

86. On December 30, 2014, Respondent deposited into the IOLTA account check number 5077, in the amount of \$2,000.00, drawn on an operating account that he maintains with PNC Bank.

87. This deposit represented Respondent's personal funds.

88. At the time Respondent deposited check number 5077, Respondent was holding in the IOLTA account fiduciary funds that he had deposited on behalf of Ms. Yolanda Willis on December 29, 2014.

89. Respondent commingled in the IOLTA account his personal funds with fiduciary funds that he was holding on behalf of Ms. Willis.

90. By his conduct as alleged in Paragraphs 66 through 89 above, Respondent violated the following Rules of Professional Conduct:

- a. RPC 1.15(b), which states that a lawyer shall hold all Rule 1.15 Funds and property separate from the lawyer's own property. Such property shall be identified and appropriately safeguarded;
- b. RPC 1.15(d), which states that upon receiving Rule 1.15 Funds or property which are not Fiduciary Funds or property, a lawyer shall promptly notify the client or third person, consistent with the requirements of applicable law. Notification of receipt of Fiduciary Funds or property to clients or other persons with a beneficial interest in such Fiduciary Funds or property shall continue to be governed by the law, procedure and rules governing the requirements of confidentiality and notice applicable to the Fiduciary entrustment;
- c. RPC 1.15(e), which states that except as stated in this Rule or otherwise permitted by law or by agreement with the client or third person, a lawyer shall promptly deliver to the client or third person any property, including but not limited to Rule 1.15 Funds, that the

client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding the property; Provided, however, that the delivery, accounting and disclosure of Fiduciary Funds or property shall continue to be governed by the law, procedure and rules governing the requirements of Fiduciary administration, confidentiality, notice and accounting applicable to the Fiduciary entrustment; and

- d. RPC 1.15(h), which states that a lawyer shall not deposit the lawyer's own funds in a Trust Account except for the sole purpose of paying service charges on that account, and only in an amount necessary for that purpose.

CHARGE III: **The Derrick J. James Matter, No. 90 DB 2016**

91. Mr. Derrick James retained Respondent to represent him for injuries he sustained in a slip and fall accident that occurred sometime in 2011 in Philadelphia, Pennsylvania.

92. On March 5, 2013, Respondent filed a lawsuit on behalf of Mr. James in the Philadelphia Court of Common Pleas, said case captioned **Derrick James vs. 626 North Fifth**

Partners, LP. et al., docket number 130300425 ("the James civil case").

93. On October 29, 2013, Respondent filed a praecipe to defer the James civil case because Mr. James was incarcerated.

94. On November 7, 2013, the court placed the James civil case on deferred status.

95. On December 1, 2015, the court issued a "1901 Docket Inactivity Notice" ("the Notice") in the James civil case.

96. The Notice was issued pursuant to Pa.R.J.A. 1901, titled "Prompt Disposition of Matters; Termination of Inactive Cases," which provides that a matter that has been inactive for an unreasonable period of time shall be terminated on the motion of the court.

97. The Notice provided that Respondent, on behalf of Mr. James, had 30 days to seek a hearing on the proposed termination of the James civil case.

98. On or about December 3, 2015, the court mailed the Notice to Respondent.

99. Respondent received and reviewed the Notice from the court.

100. By letter dated December 4, 2015, sent to Samuel C. Stretton, Esquire, via facsimile transmission and regular mail, Disciplinary Counsel Richard Hernandez, *inter alia*:

- a. notified Mr. Stretton that the docket report for the James civil case showed that on December 3, 2015, the court had issued the Notice;
- b. stated that the Notice was likely issued pursuant to Pa.R.J.A. 1901, titled "Prompt Disposition of Matters; Termination of Inactive Cases"; and
- c. requested that Mr. Stretton advise Respondent immediately that the court issued the Notice and that Respondent must act promptly to ensure that the James civil case is not terminated due to an "unreasonable period of time" of inactivity.

101. Mr. Stretton informed Respondent that:

- a. the docket report for the James civil case showed that on December 3, 2015, the court had issued the Notice; and
- b. he must act promptly to ensure that the James civil case is not terminated due to an "unreasonable period of time" of inactivity.

102. Respondent failed to take any action in response to the Notice.

103. On February 1, 2016, the court administratively closed the James civil case due to docket inactivity of more than 24 months.

104. Respondent failed to notify Mr. James that pursuant to Pa.R.J.A. 1901, the court administratively closed the James civil case due to docket inactivity of more than 24 months.

105. By his conduct as alleged in Paragraphs 91 through 104 above, Respondent violated the following Rules of Professional Conduct:

- a. RPC 1.3, which states that a lawyer shall act with reasonable diligence and promptness in representing a client;
- b. RPC 1.4(a)(3), which states that a lawyer shall keep the client reasonably informed about the status of the matter; and
- c. RPC 1.4(b), which states that a lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

CHARGE IV: The Terrence L. Taylor Matter, No. 90 DB 2016

106. On May 4, 2009, Mr. Terrence Taylor was a passenger on a SEPTA bus that while operating in Philadelphia was struck by an automobile ("the May 2009 accident").

107. Mr. Taylor suffered injuries as a result of the May 2009 accident.

108. Sometime after May 4, 2009, Mr. Taylor retained Respondent to represent him in obtaining compensation for the injuries he sustained in the May 2009 accident.

109. On April 21, 2011, Respondent commenced a lawsuit on behalf of Mr. Taylor in the Philadelphia Court of Common Pleas, said case captioned **Terence Taylor v. Desiree Lisby, et al.**, docket number 110402546 ("the Taylor lawsuit").

110. On July 23, 2012, an arbitration hearing was held.

111. On July 23, 2012, Mr. Taylor was awarded \$3,500.00 by a panel of arbitrators; no appeal was taken from that award.

112. Sometime after July 23, 2012, Respondent received a \$3,500.00 settlement check from SEPTA.

113. Respondent misplaced the \$3,500.00 settlement check.

114. Respondent failed to advise Mr. Taylor that he had received and misplaced the \$3,500.00 settlement check.

115. Respondent failed to act promptly to obtain a replacement check.

116. During the course of 2015, Mr. Taylor and Mr. Taylor's friend, Ms. Laverne Burgess, called Respondent to inquire about the delay in Mr. Taylor receiving money from

the Taylor lawsuit, during which conversations Respondent represented to Mr. Taylor and Ms. Burgess that he was waiting to receive a settlement check.

117. In October 2015, Respondent received a replacement \$3,500.00 settlement check from SEPTA.

118. On November 24, 2015, Respondent provided Mr. Taylor with a \$2,100.00 check drawn on the IOLTA account, representing Mr. Taylor's share of the settlement proceeds.

119. By his conduct as alleged in Paragraphs 106 through 118 above, Respondent violated the following Rules of Professional Conduct:

- a. RPC 1.3, which states that a lawyer shall act with reasonable diligence and promptness in representing a client;
- b. RPC 1.4(a)(3), which states that a lawyer shall keep the client reasonably informed about the status of the matter; and
- c. RPC 1.4(b), which states that a lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

CHARGE V: **The Alhaji I. Abraham Matter, No. 90 DB 2016**

120. Mr. Alhaji I. Abraham retained Respondent to represent him for injuries he sustained in a slip and fall accident that occurred at a Quick Stop store located in Philadelphia, Pennsylvania ("the Abraham accident").

a. The Abraham accident took place on November 1, 2010.

121. On October 19, 2012, Respondent commenced a lawsuit on behalf of Mr. Abraham in the Philadelphia Court of Common Pleas by filing a Praecipe to Issue Writ of Summons, said case captioned **Alhaji Abraham vs. Jehan Kuttub et al.**, docket number 121002902 ("the Abraham lawsuit").

122. On May 9, 2013, Respondent filed a Complaint in the Abraham lawsuit.

123. On March 21, 2014, an arbitration hearing was held.

124. On March 21, 2014, the arbitrators awarded Mr. Abraham \$9,000.00.

125. By letter dated March 31, 2014, sent to Respondent by John F. Lewis, Esquire, counsel for the defendants in the Abraham lawsuit, Mr. Lewis:

a. advised Respondent that the defendants would not file an appeal from the award issued by the arbitrators;

- b. enclosed a GENERAL RELEASE OF ALL CLAIMS ("Release") for Mr. Abraham to sign and for Respondent to return along with an order to satisfy the award of arbitrators; and
- c. stated that when he received the "aforementioned closing papers, we will forward our principal's settlement draft."

126. Respondent received this letter.

127. On May 13, 2014, Respondent filed in the Abraham lawsuit an "Order to Satisfy the Award of Arbitrators."

128. On July 14, 2014, Mr. Lewis sent Respondent a facsimile transmission in which he advised Respondent that he had yet to receive the Release signed by Mr. Abraham.

129. Respondent received Mr. Lewis' facsimile transmission.

130. By letter dated August 11, 2014, sent by Mr. Lewis to Respondent, Mr. Lewis:

- a. recounted that on March 31, 2014, he had sent Respondent the Release for Mr. Abraham's signature and that on July 14, 2014, he had "sent [Respondent] a follow-up fax requesting the signed release";
- b. stated that he had yet to receive the Release;

- c. advised Respondent that he had the settlement check but he needed the executed Release before he could send Respondent the settlement check; and
- d. requested that Respondent send him the executed Release "within the next 10 days, or we will have no alternative but to file a motion to enforce the settlement, with a request for counsel fees and costs."

131. Respondent received this letter.

132. Respondent forwarded the executed Release to Mr. Lewis.

133. By letter dated September 2, 2014, sent by Mr. Lewis to Respondent, Mr. Lewis, *inter alia*, enclosed "Nationwide Insurance Company's check in the amount of \$9,000.00 in settlement of the above-captioned matter."

134. The United States Postal Service delivered the September 2, 2014 letter and the \$9,000.00 settlement check to Respondent's office.

135. The September 2, 2014 letter and the \$9,000.00 settlement check were not returned to Mr. Lewis by the United States Postal Service.

136. After the passage of nine months and the \$9,000.00 settlement check became void, Respondent failed to promptly act to have a replacement \$9,000.00 settlement check issued.

137. From September 2014 through June 2015, Mr. Abraham called Respondent from time to time to ascertain when he could expect to receive his share of the settlement proceeds from the Abraham lawsuit.

138. On those occasions when Mr. Abraham had reached Respondent, Respondent told Mr. Abraham that he needed 30 more days to address the delay in distribution of the settlement proceeds.

139. In early July 2015, Mr. Abraham filed a disciplinary complaint against Respondent with the Office of Disciplinary Counsel.

140. On July 10, 2015, Respondent's counsel, Samuel C. Stretton, Esquire, had a telephone conversation with Disciplinary Counsel Richard Hernandez, at which time Mr. Stretton was advised that Mr. Abraham had filed a disciplinary complaint against Respondent.

141. Thereafter, Mr. Stretton advised Respondent that Mr. Abraham had filed a disciplinary complaint against him.

142. On or about July 11, 2015, Respondent placed a telephone call to Mr. Abraham, at which time Respondent:

a. advised Mr. Abraham that he had learned that Mr. Abraham had filed a disciplinary complaint against him; and

b. arranged for Mr. Abraham to come to Respondent's office on July 16, 2015.

143. On July 16, 2015, Mr. Abraham met Respondent at Respondent's office and Respondent again had Mr. Abraham sign the Release.

144. Thereafter, Respondent forwarded another executed Release to Mr. Lewis and requested that he issue a settlement check.

145. By letter dated July 29, 2015, sent to Respondent by regular mail and facsimile transmission, Mr. Lewis:

a. informed Respondent that his "file reflects that the settlement check was sent to [Respondent] on September 2, 2014";

b. enclosed copies of the September 2, 2014 letter and the \$9,000.00 settlement check; and

c. requested that Respondent confirm receipt of his letter.

146. Respondent received this letter.

147. During the months of August and September, 2015, Mr. Abraham called Respondent to ascertain when he could expect to receive his share of the settlement proceeds.

148. When Mr. Abraham was able to reach Respondent, Respondent told Mr. Abraham that he would contact Mr. Abraham when Respondent received the settlement proceeds.

149. Mr. Abraham has yet to receive his share of the settlement proceeds.

150. By his conduct as alleged in Paragraphs 120 through 149 above, Respondent violated the following Rules of Professional Conduct:

- a. RPC 1.3, which states that a lawyer shall act with reasonable diligence and promptness in representing a client;
- b. RPC 1.4(a)(3), which states that a lawyer shall keep the client reasonably informed about the status of the matter; and
- c. RPC 1.4(b), which states that a lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

CHARGE VI: The Carolyn Pugh Matter, No. 90 DB 2016

151. On October 4, 2013, Ms. Carolyn Pugh was injured while a passenger on a SEPTA bus.

- a. The accident occurred at or near the intersection of 11th and Race Streets, in Philadelphia, Pennsylvania.

152. On or about October 7, 2013, Ms. Pugh retained Respondent to represent her for any claims she had arising from the October 4, 2013 accident.

- a. Respondent had Ms. Pugh sign a written fee agreement.

153. Sometime in the summer of 2015, Ms. Pugh spoke to Respondent on the telephone and inquired about the status of her case, during which conversation Respondent told Ms. Pugh not to worry and that he would be calling her soon.

154. Respondent failed to commence a lawsuit on behalf of Ms. Pugh in the Philadelphia Court of Common Pleas prior to October 4, 2015, which was the date the statute of limitations expired for Ms. Pugh to pursue any claims that she had arising from the October 4, 2013 accident.

155. Respondent failed to advise Ms. Pugh that he had failed to commence a lawsuit on her behalf before the statute of limitations had expired.

156. From time to time, Ms. Pugh has called Respondent and left messages on Respondent's answering machine inquiring about the status of her accident case.

157. Respondent received these messages.

158. Respondent failed to return Ms. Pugh's telephone calls.

159. By his conduct as alleged in Paragraphs 151 through 158 above, Respondent violated the following Rules of Professional Conduct:

- a. RPC 1.3, which states that a lawyer shall act with reasonable diligence and promptness in representing a client;
- b. RPC 1.4(a)(3), which states that a lawyer shall keep the client reasonably informed about the status of the matter;
- c. RPC 1.4(a)(4), which states that a lawyer shall promptly comply with reasonable requests for information; and
- d. RPC 1.4(b), which states that a lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

CHARGE VII: The Frederick Hayes Matter, No. 90 DB 2016

160. On April 14, 2012, Mr. Fredrick Hayes was involved in an automobile accident that occurred in Philadelphia, Pennsylvania.

161. Shortly after April 14, 2012, Mr. Hayes retained Respondent to represent him for any claims he had arising from the April 14, 2012 accident.

162. Sometime in the spring of 2014, Mr. Hayes went to Respondent's law office to learn about the status of his accident case.

- a. Respondent told Mr. Hayes that he would contact Mr. Hayes if he received information about Mr. Hayes' accident case.

163. On April 1, 2014, Respondent commenced a lawsuit on behalf of Mr. Hayes by filing a Praecipe to Issue Writ of Summons in the Philadelphia Court of Common Pleas, said case captioned **Frederick Hayes et al. vs. Hong Q. Quan**, docket number 140305070 ("the Hayes lawsuit").

164. On November 26, 2014, Respondent filed a Complaint in the Hayes lawsuit.

165. By letter dated January 6, 2015, sent to Respondent by regular mail, Atarah J. Hornezes, Esquire, an attorney with the law office of Kenneth S. O'Neill (which represented Mr. Quan), *inter alia*:

- a. enclosed a copy of her entry of appearance and the Answer with New Matter to the Complaint;
- b. enclosed Interrogatories and Request for Production of Documents; and

- c. requested that Respondent respond "according to the Rules of Civil Procedure."

166. Respondent received Ms. Hornezes' letter, with enclosures.

167. Respondent failed to respond to the Interrogatories and the Request for Production of Documents.

168. By letter dated February 10, 2015, sent to Respondent by regular mail, Ms. Hornezes' paralegal, Ms. Linda Green, *inter alia*:

- a. stated that Interrogatories and Request for Production of Documents were forwarded to Respondent under cover of letter dated January 6, 2015;
- b. noted that her office had yet to receive a response to the discovery requests; and
- c. advised Respondent that if Mr. Hayes' responses to the discovery requests were not received within ten days of receipt of the letter, a "Motion to Compel will be filed with the Court."

169. Respondent received Ms. Green's letter.

170. Respondent failed to advise Mr. Hayes that there was a deadline to respond to defendant's discovery requests.

171. Respondent failed to respond to the Interrogatories and the Request for Production of Documents.

172. On March 13, 2015, Ms. Hornezes filed with the court Defendant's Motion to Compel Directed to Plaintiff ("Motion to Compel").

173. Respondent was served with the Motion to Compel.

174. Respondent failed to advise Mr. Hayes that he had been served with the Motion to Compel.

175. On March 30, 2015, the court issued an Order:

- a. granting the Motion to Compel; and
- b. requiring the submission of responses to the Interrogatories and Request for Production of Documents within twenty days of the date of the Order.

176. Respondent received the March 30, 2015 Order.

177. Respondent failed to advise Mr. Hayes of the entry of the March 30, 2015 Order.

178. The Hayes lawsuit was scheduled for an arbitration hearing on May 14, 2015, at 10:45 a.m. at the Arbitration Center.

179. Respondent received notice of the date and time of the arbitration hearing.

180. Respondent failed to advise Mr. Hayes of the date, time and location of the arbitration hearing.

181. On May 11, 2015, Respondent filed an application for a continuance of the arbitration hearing.

182. Respondent alleged in the application for a continuance that Mr. Hayes was not available because he was attending a funeral outside of Philadelphia.

183. Mr. Hayes had not advised Respondent that he was attending a funeral outside of Philadelphia on or about May 14, 2015.

184. Respondent misrepresented in the application that Mr. Hayes was attending a funeral outside of Philadelphia so that Respondent could obtain a continuance of the May 14, 2015 arbitration hearing.

185. On May 11, 2015, the application was granted and the arbitration hearing was rescheduled to June 30, 2015, at 10:45 a.m. at the Arbitration Center.

186. Respondent received notice of the rescheduled date and time for the arbitration hearing.

187. Respondent failed to advise Mr. Hayes of the date, time, and location of the arbitration hearing.

188. On June 24, 2015, the defendant filed an application for continuance, which was granted; consequently, the June 30, 2015 arbitration hearing was rescheduled to August 11, 2015, at 2:00 p.m. at the Arbitration Center.

189. Respondent received notice of the rescheduled date and time for the arbitration hearing.

190. Respondent failed to advise Mr. Hayes of the date, time, and location of the arbitration hearing.

191. On August 11, 2015, Respondent filed with the Prothonotary a Praecipe to Defer Arbitration Case from Active Arbitration List to Deferral Status ("the Deferral Praecipe").

192. Respondent represented in the Deferral Praecipe that:

- a. Mr. Hayes was "incarcerated in prison in the Philadelphia Prison System and will not be available for the scheduled Arbitration Hearing on August 11, 2015"; and
- b. counsel for the defendant did not oppose the Deferral Praecipe.

193. Respondent attached to the Deferral Praecipe a Verification signed by him that was dated August 10, 2015, in which he:

- a. verified that the "statements made in the foregoing Praecipe to Defer Arbitration Case from Active Arbitration List to Deferral Status are true and correct to the best of [his] knowledge, information and belief"; and

- b. stated that he understood that "false statements herein are subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities."

194. Mr. Hayes has never been incarcerated in the "Philadelphia Prison System."

195. At no time had Mr. Hayes advised Respondent that he was incarcerated and, therefore, unable to attend an arbitration hearing.

196. Respondent misrepresented to the Prothonotary and to counsel for Mr. Quan that Mr. Hayes was incarcerated.

197. Based on the filing of the Deferral Praecipe, the Hayes lawsuit was placed on deferred status.

198. Respondent failed to advise Mr. Hayes that the Hayes lawsuit was placed on deferred status.

199. By letter dated October 23, 2015, which was hand-delivered to Respondent's law office, Mr. Hayes, *inter alia*:

- a. notified Respondent that he was terminated;
- b. advised Respondent that he had retained new counsel, Andrew B. Shaw, Esquire; and
- c. requested that Respondent forward a copy of the file for Mr. Hayes' accident case to Mr. Shaw.

200. Respondent received this letter.

201. By letter dated October 27, 2015, which was hand-delivered to Respondent's law office, Mr. Shaw, *inter alia*:

- a. requested that in accordance with Mr. Hayes' hand-delivered October 23, 2015 letter, Respondent arrange to have the file for Mr. Hayes' accident case delivered to Mr. Shaw's office "as soon as possible"; and
- b. advised Respondent that any delay in the delivery of the file could "potentially prejudice" Mr. Shaw's "rights."

202. Respondent received this letter.

203. By letter dated November 11, 2015, which was hand-delivered to Respondent's law office, Mr. Shaw, *inter alia*:

- a. stated that "based upon letters of October 23, 2015 and October 27, 2015," Respondent knew that Mr. Shaw was retained to handle Mr. Hayes' accident case;
- b. noted that he had sent Respondent a letter and called Respondent "in an attempt to arrange for the orderly transfer" of Mr. Hayes' file but Respondent had not responded;
- c. enclosed an "Entry/Withdrawal of Appearance";

- d. requested that Respondent sign and return the "Entry/Withdrawal of Appearance" as well as Mr. Hayes' file by November 20, 2015; and
- e. advised Respondent that if he did not comply with Mr. Shaw's requests, Mr. Shaw intended to enter his appearance in the Hayes lawsuit, to file a motion with the court to have Respondent removed as Mr. Hayes' counsel, and to allow Mr. Hayes to file a disciplinary complaint against Respondent.

204. Respondent received this letter.

205. Respondent failed to:

- a. provide Mr. Shaw with the file for Mr. Hayes' accident case; or
- b. explain to Mr. Shaw why he was not providing Mr. Shaw with the file for Mr. Hayes' accident case.

206. By his conduct as alleged in Paragraphs 160 through 205 above, Respondent violated the following Rules of Professional Conduct:

- a. RPC 1.3, which states that a lawyer shall act with reasonable diligence and promptness in representing a client;

- b. RPC 1.4(a)(3), which states that a lawyer shall keep the client reasonably informed about the status of the matter;
- c. RPC 1.4(a)(4), which states that a lawyer shall promptly comply with reasonable requests for information;
- d. RPC 1.4(b), which states that a lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation;
- e. RPC 1.16(d), which states that upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by other law;

- f. RPC 3.2, which states that a lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client;
- g. RPC 4.1(a), which states that in the course of representing a client a lawyer shall not knowingly make a false statement of material fact or law to a third person;
- h. RPC 8.4(c), which states that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation; and
- i. RPC 8.4(d), which states that it is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice.

**CHARGE VIII: The Sheila Muhammad Matter,
File No. C1-16-324**

207. On or about March 30, 2012, Ms. Sheila Muhammad was involved in an automobile accident that occurred in Philadelphia, Pennsylvania.

208. Shortly after March 30, 2012, Ms. Muhammad retained Respondent to represent her for any claims she had arising from the March 30, 2012 accident.

a. Ms. Marcia Harrison-Kirby and Mr. George Kirby also retained Respondent to represent them for any claims they had arising from the March 30, 2012 accident.

209. Ms. Muhammad signed a written fee agreement that provided that Respondent's contingent fee would be 40% of any award or settlement that Respondent obtained on her behalf.

210. On March 18, 2014, Respondent commenced a lawsuit on behalf of Ms. Muhammad, Ms. Harrison-Kirby, and Mr. Kirby by filing a Praecipe to Issue Writ of Summons in the Philadelphia Court of Common Pleas, said case captioned **Sheila Muhammad et al. vs. Gregory A. Boyd et al.**, docket number 140302767 ("the Muhammad lawsuit").

211. On August 27, 2014, Respondent filed a Complaint in the Muhammad lawsuit.

212. On April 29, 2015, an arbitration hearing was held in the Muhammad lawsuit.

213. On April 29, 2015, the panel of arbitrators awarded Ms. Muhammad the sum of \$12,000.00 and Ms. Harrison-Kirby the sum of \$15,000.00.

214. On May 26, 2015, Earl Robert Uehling, Esquire, counsel for Mr. Boyd and Ms. Vanessa Tucker, filed an appeal from the arbitration awards entered on behalf of Ms. Muhammad and Ms. Harrison-Kirby.

215. Prior to July 1, 2015, Mr. Uehling had Rx Professional Services, Inc. ("Rx") contact Respondent for the purpose of having Ms. Muhammad attend an independent medical examination ("IME").

216. Respondent failed to advise Ms. Muhammad that Mr. Uehling wanted to schedule her for an IME.

217. By letter dated July 1, 2015, sent to Respondent by facsimile transmission, Rx notified Respondent that Ms. Muhammad had been scheduled to attend an IME with Dr. Vanett on July 28, 2015, at 5:15 p.m.

218. Respondent received this letter.

219. Respondent failed to notify Ms. Muhammad that she was scheduled to attend an IME with Dr. Vanett on July 28, 2015, at 5:15 p.m.

220. On July 2, 2015, Mr. Uehling filed with the court a Motion to Compel Independent Medical Examinations ("the IME Motion").

- a. The purpose of the IME Motion was to compel Ms. Muhammad and Ms. Harrison-Kirby to attend independent medical examinations.

221. Respondent received the IME Motion.

222. Respondent failed to respond to the IME Motion.

223. Respondent failed to advise Ms. Muhammad about the filing of the IME Motion.

224. By Order dated July 23, 2015, the court directed that:

- a. Ms. Muhammad submit to an IME with Dr. Bruce Vanett on July 28, 2015 at 5:15 p.m.; and
- b. Ms. Harrison-Kirby submit to an IME with Dr. Vanett on July 30, 2015 at 5:15 p.m.

225. The court also warned Ms. Muhammad and Ms. Harrison-Kirby in the July 23, 2015 Order that the failure to comply with that Order could result in the imposition of sanctions including preclusion of any or all of their testimony and evidence at the arbitration, the trial, or both.

226. Respondent received the July 23, 2015 Order.

227. Respondent failed to:

- a. advise Ms. Muhammad that the court had ordered her to attend an IME with Dr. Vanett on July 28, 2015 at 5:15 p.m.; and
- b. provide Mr. Muhammad with a copy of the July 23, 2015 Order.

228. By letter dated July 31, 2015, sent to Respondent by facsimile transmission, Rx notified Respondent that Ms. Muhammad had been scheduled to attend an IME with Dr. Vanett on August 25, 2015, at 5:15 p.m.

229. Respondent received this letter.

230. Respondent failed to notify Ms. Muhammad that she was scheduled to attend an IME with Dr. Vanett on August 25, 2015, at 5:15 p.m.

231. On August 5, 2015, and again on August 6, 2015, Mr. Uehling filed with the court a Motion for Sanctions ("the Sanctions Motions").

- a. The Sanctions Motions were filed because Ms. Muhammad and Ms. Harrison-Kirby did not appear for their scheduled IME appointments.

232. Respondent received the Sanctions Motions.

233. Respondent failed to respond to the Sanctions Motions.

234. Respondent failed to advise Ms. Muhammad about the filing of the Sanctions Motions.

235. By Orders dated August 20, 2015, the court:

- a. granted the Sanctions Motions;
- b. directed Ms. Muhammad to appear for an IME on August 25, 2015, at 5:15 p.m. with Dr. Vanett;
- c. directed Ms. Harrison-Kirby to appear for an IME on September 8, 2015, at 5:15 p.m. with Dr. Vanett; and
- d. stated that the failure to comply could result in the preclusion of any or all testimony and evidence at arbitration and/or trial.

236. Respondent received the August 20, 2015 Orders.

237. Respondent failed to:

- a. advise Ms. Muhammad that the court had ordered her to attend an IME with Dr. Vanett on August 25, 2015, 2015 at 5:15 p.m.; and
- b. provide Ms. Muhammad with a copy of the August 20, 2015 Order relating to her non-appearance for the IME appointment with Dr. Vanett.

238. On August 28, 2015, Mr. Uehling filed with the court a Motion of Defendants to Preclude Plaintiff, Sheila Muhammad ("the Preclusion Motion").

- a. The Preclusion Motion was filed to preclude Ms. Muhammad from testifying or offering other evidence at trial about her injuries and medical treatment because she had failed to attend an IME with Dr. Vanett.

239. Respondent received the Preclusion Motion.

240. Respondent failed to file a response to the Preclusion Motion.

241. By Order dated September 21, 2015, the court:

- a. granted the Preclusion Motion; and
- b. directed that both Ms. Muhammad and Ms. Harrison-Kirby were precluded from offering

any evidence and testimony at trial as to their injuries and medical treatment.

242. Respondent received the September 21, 2015 Order.

243. By a second Order dated September 21, 2015, the court:

- a. vacated the Order granting preclusion;
- b. directed Ms. Muhammad to appear for an IME with Dr. Vanett on October 6, 2015, at 5:15 p.m.; and
- c. imposed a \$1,000.00 sanction for attorney fees and costs against Ms. Muhammad, to be paid from any recovery that Respondent obtained on Ms. Muhammad's behalf.

244. Respondent failed to advise Ms. Muhammad that the court had issued an Order imposing sanctions in the amount of \$1,000.00 because of her prior failures to appear for an IME, to be paid from any recovery that Respondent obtained on her behalf.

245. Ms. Muhammad appeared for the IME appointment with Dr. Vanett on October 6, 2015.

246. The Muhammad lawsuit was scheduled for trial on March 21, 2016.

247. On March 16, 2016, Respondent filed a Stipulation to Limitation of Monetary Recovery Pursuant to Rule 1311.1 ("the Stipulation") in the Muhammad lawsuit.

248. The Stipulation provided that pursuant to Pa.R.Civ.P. 1311.1, Ms. Muhammad, Ms. Harrison-Kirby, and Mr. George Kirby were each electing to cap at \$25,000.00 the maximum amount of damages recoverable.

249. On March 21, 2016, Ms. Muhammad appeared for the trial.

250. On March 21, 2016, Respondent and Ms. Muhammad conversed prior to trial, during which discussion:

- a. Respondent informed Ms. Muhammad that he believed she may lose at trial because of a Motion in Limine that Mr. Uehling had filed on March 2, 2016;
- b. Respondent conveyed to Ms. Muhammad that Mr. Uehling had offered \$8,000.00 to settle Ms. Muhammad's claims;
- c. Ms. Muhammad stated that she wanted to address the court because she was dissatisfied with Respondent's representation;
- d. Respondent told Ms. Muhammad that she could not address the court but he would waive his legal fee and he would give her an additional

\$3,000.00, so that she would receive a total of \$11,000.00;

- e. Ms. Muhammad told Respondent that she still required treatment for her injuries arising from the accident;
- f. Respondent told Ms. Muhammad that he would personally contact Dr. Angelo Karakasis and request that he resume treating her; and
- g. Ms. Muhammad decided to accept the \$8,000.00 settlement offer, on the understanding that Respondent would pay her \$3,000.00 from Respondent's own funds, he would waive his legal fee, and he would contact Dr. Karakasis to request that he resume treating her.

251. Respondent provided to Ms. Muhammad a hand-written, one-page document dated March 21, 2016 ("the Agreement"), in which he stated that:

- a. he had agreed to pay Ms. Muhammad \$3,000.00;
- b. Ms. Muhammad was to receive \$8,000.00 "from the defendants";
- c. no attorney fee would be deducted from the \$8,000.00; and

- d. he would provide Ms. Muhammad with a \$3,000.00 check when he distributed to her the proceeds from the \$8,000.00 settlement check.

252. Ms. Muhammad signed the Agreement and her son signed the Agreement as a witness.

253. On March 21, 2016, Respondent and Ms. Muhammad went to Mr. Uehling's office, at which time Ms. Muhammad signed a General Release in Full of all Claims ("Release") agreeing to settle the Muhammad lawsuit for \$8,000.00.

254. Prior to trial, Ms. Harrison-Kirby settled her claims arising from the accident for \$3,000.00.

255. Under cover of letter dated April 15, 2016, sent to Respondent by certified mail, Mr. Uehling enclosed two checks issued by State Farm Insurance Company, one in the amount of \$8,000.00, made payable to Respondent and Ms. Muhammad, and the second in the amount of \$3,000.00, made payable to Respondent, Ms. Harrison-Kirby, and Mr. Kirby.

- a. Mr. Uehling provided Ms. Muhammad and Ms. Harrison-Kirby with a copy of his April 15, 2016 letter.

256. On April 20, 2016, Respondent's agent signed for this letter.

257. Respondent received the \$8,000.00 and the \$3,000.00 settlement checks.

258. Respondent failed to contact Ms. Muhammad to have her come to Respondent's office to endorse the \$8,000.00 settlement check.

259. Respondent has failed to take any action to distribute the proceeds from the \$8,000.00 settlement check to Ms. Muhammad.

260. Upon Respondent's receipt of the \$8,000.00 settlement check, Respondent failed to provide Ms. Muhammad with a \$3,000.00 personal check, in accordance with the Agreement.

261. Commencing sometime in April 2016, and continuing through at least May 6, 2016, Ms. Muhammad had called Respondent from time to time to inquire about the distribution of the \$8,000.00 in settlement proceeds and the \$3,000.00 check from Respondent's personal funds.

262. Respondent had failed to return Ms. Muhammad's messages.

263. On April 29, 2016, Ms. Muhammad called Respondent using her daughter's cellphone and he answered the call.

264. Respondent represented to Ms. Muhammad that he was not in the office due to the flu, that he would be in the office the following week, and that she could retrieve her funds.

265. For several weeks following the April 29, 2016 telephone conversation between Ms. Muhammad and Respondent, Ms. Muhammad on multiple occasions had visited Respondent's office but Respondent was not present in his office.

266. Respondent failed to contact Dr. Karakasis and request that he resume treating Ms. Muhammad for the injuries she sustained during the accident.

267. Respondent misrepresented to Ms. Muhammad that he would contact Dr. Karakasis and request that Dr. Karakasis resume treating Ms. Muhammad for the injuries she sustained during the accident.

268. On March 21, 2016, Mr. Uehling provided to Respondent a release for Ms. Harrison-Kirby to sign and for Respondent to return to him.

269. By letter dated April 25, 2016, sent to Respondent via facsimile transmission, Mr. Uehling:

- a. stated that he had yet to receive Ms. Harrison-Kirby's signed release; and
- b. requested that Respondent immediately forward to him the signed release because Respondent had already received the \$3,000.00 settlement check.

270. Respondent received this letter.

271. After April 25, 2016, Mr. Uehling called Respondent several times as a follow-up to his April 25, 2016 letter.

272. Respondent failed to return Mr. Uehling's messages.

273. Respondent failed to return to Mr. Uehling a release signed by Ms. Harrison-Kirby.

274. On May 13, 2016, Mr. Uehling filed in the Muhammad lawsuit a Motion to Enforce Settlement Agreement, for the purpose of compelling Respondent and Ms. Harrison-Kirby to forward to him a signed release, so that he could thereafter have the Muhammad lawsuit discontinued.

275. By his conduct as alleged in Paragraphs 207 through 274 above, Respondent violated the following Rules of Professional Conduct:

- a. RPC 1.3, which states that a lawyer shall act with reasonable diligence and promptness in representing a client;
- b. RPC 1.4(a)(3), which states that a lawyer shall keep the client reasonably informed about the status of the matter;
- c. RPC 1.4(a)(4), which states that a lawyer shall promptly comply with reasonable requests for information;
- d. RPC 1.4(b), which states that a lawyer shall explain a matter to the extent reasonably

necessary to permit the client to make informed decisions regarding the representation;

e. RPC 1.15(d), which states that upon receiving Rule 1.15 Funds or property which are not Fiduciary Funds or property, a lawyer shall promptly notify the client or third person, consistent with the requirements of applicable law. Notification of receipt of Fiduciary Funds or property to clients or other persons with a beneficial interest in such Fiduciary Funds or property shall continue to be governed by the law, procedure and rules governing the requirements of confidentiality and notice applicable to the Fiduciary entrustment;

f. RPC 1.15(e), which states that except as stated in this Rule or otherwise permitted by law or by agreement with the client or third person, a lawyer shall promptly deliver to the client or third person any property, including but not limited to Rule 1.15 Funds, that the client or third person is entitled to receive and, upon request by the client or third

person, shall promptly render a full accounting regarding the property; Provided, however, that the delivery, accounting and disclosure of Fiduciary Funds or property shall continue to be governed by the law, procedure and rules governing the requirements of Fiduciary administration, confidentiality, notice and accounting applicable to the Fiduciary entrustment;

- g. RPC 8.4(c), which states that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation; and
- h. RPC 8.4(d), which states that it is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice.

**CHARGE IX: The Judith Spiller Matter,
File No. C1-16-388**

276. On April 24, 2010, Ms. Judith Spiller was injured while a passenger on a SEPTA bus that was involved in a motor vehicle collision.

- a. The April 24, 2010 accident occurred in Philadelphia, Pennsylvania.

277. Sometime after April 24, 2010, Ms. Spiller retained Respondent to represent her for any claims she had arising from the April 24, 2010 accident.

278. Respondent and Ms. Spiller entered into a contingent fee agreement.

279. On April 12, 2012, Respondent commenced a lawsuit on behalf of Ms. Spiller by filing a Complaint in the Philadelphia Court of Common Pleas, said case captioned **Judith K. Spiller vs. Luiz Velazquez, et al.**, docket number 120401438 ("the Spiller lawsuit").

280. Sometime prior to July 25, 2013, Respondent entered into an agreement with John M. Palm, Esquire, counsel for defendants Enterprise Rent-a-Car, EAN Trust, and ELRAC, LLC, to settle Ms. Spiller's claims against those defendants for the sum of \$7,500.00.

281. On July 25, 2013, Mr. Palm filed in the Spiller lawsuit a Praecipe to Settle, Discontinue, and End as to defendants Enterprise Rent-a-Car, EAN Trust, and ELRAC, LLC.

282. Respondent failed to advise Ms. Spiller about the filing of the Praecipe to Settle, Discontinue, and End.

283. A Release was forwarded to Respondent to consummate the \$7,500.00 settlement that Respondent entered into on behalf of Ms. Spiller with Enterprise Rent-a-Car, EAN Trust, and ELRAC, LLC.

284. Respondent had Ms. Spiller sign the Release.

285. Respondent forwarded the signed Release to Mr. Palm.

286. Mr. Palm forwarded a \$7,500.00 settlement check to Respondent.

287. Respondent failed to provide Ms. Spiller with her share of the proceeds from the \$7,500.00 settlement check.

288. Respondent failed to advise Ms. Spiller when she could expect to receive her share of the proceeds from the \$7,500.00 settlement check.

289. After several continuances, an arbitration hearing was scheduled in the Spiller lawsuit for November 4, 2013.

290. On or about October 31, 2013, Respondent advised the Arbitration Center that the Spiller lawsuit had settled.

291. On October 31, 2013, the docket was updated to reflect that the Arbitration Center had been advised that the Spiller lawsuit had settled, and the Spiller lawsuit was marked "Discontinued."

292. Respondent failed to advise Ms. Spiller that the Spiller lawsuit had been discontinued.

293. When Respondent agreed to discontinue the Spiller lawsuit for \$7,500.00, Medicare had a lien in the amount of \$7,820.31 for payments that were made to medical providers

for treatment that Ms. Spiller received that Medicare attributed to the April 24, 2010 accident.

294. Prior to settling the Spiller lawsuit, Respondent failed to ascertain if Medicare had a lien over any settlement proceeds that were generated in the Spiller lawsuit.

295. Respondent failed to advise Medicare that he was representing Ms. Spiller for claims arising from the April 24, 2010 accident.

296. Respondent failed to obtain from Medicare paperwork showing the payments that were made to medical providers that Medicare attributed to the April 24, 2010 accident in order to confirm that the Medicare payments were related to the April 24, 2010 accident.

297. Respondent failed to take any action to have Medicare reduce its lien.

298. In September 2014, Ms. Spiller received a September 8, 2014 letter from the Centers for Medicare & Medicaid Services ("CMS"), in which she was advised, *inter alia*, that CMS had determined that she owed the Medicare program \$7,820.31 for payments related to the April 24, 2010 accident and that CMS had the right to collect this debt through offset of any payments she received from a federal agency, such as Social Security retirement benefits.

299. Ms. Spiller sent the September 8, 2014 letter to Respondent via facsimile transmission.

300. In December 2014, Ms. Spiller received a December 24, 2014 letter from the Department of the Treasury ("Treasury"), in which she was advised, *inter alia*, that Treasury was notified that Ms. Spiller owed a debt to a federal agency and that commencing in February 2015, up to 15% of her Social Security retirement benefits would be garnished to satisfy that debt.

301. Ms. Spiller provided Respondent with a copy of the December 24, 2014 letter.

302. In February 2015, Ms. Spiller received a February 25, 2015 letter from Treasury notifying her, *inter alia*, that commencing in February 2015, \$234.60 from her monthly Social Security retirement benefits was being garnished to pay off her debt to a federal agency.

303. Ms. Spiller provided Respondent with a copy of the February 25, 2015 letter.

304. On or about March 9, 2015, Respondent gave Ms. Spiller a \$235.00 check for the purpose of making up the shortfall in her monthly Social Security retirement benefits.

305. Between October 2013 and March 2015, Ms. Spiller would periodically contact Respondent to inquire about the status of the Spiller lawsuit and the Medicare lien.

306. Respondent told Ms. Spiller not to worry and that all was well with the Spiller lawsuit and the Medicare lien.

307. Respondent failed to resolve the Medicare lien.

308. Sometime after Ms. Spiller received the \$235.00 check from Respondent, Ms. Spiller learned that the Spiller lawsuit had been discontinued.

309. By letter dated March 19, 2015, sent to Respondent by regular mail, Brad Cooper, Esquire, *inter alia*:

- a. stated that he had met with Ms. Spiller regarding her April 24, 2010 accident;
- b. advised that Ms. Spiller had told him that Respondent had represented her, that Respondent had settled her accident case in October 2013, that she had not received any monies from the accident case, and that her Social Security retirement benefits had been reduced because Respondent had failed to address Medicare's lien; and
- c. requested that Respondent provide him with Respondent's complete file for Ms. Spiller's accident case, including medical records and liens, so that he could assist her with the reduction of her Social Security retirement benefits.

310. Respondent received Mr. Cooper's letter.

311. Respondent failed to respond to this letter.

312. By letter dated April 2, 2015, sent to Respondent by regular mail, Mr. Cooper, *inter alia*:

- a. stated that he had met with Ms. Spiller on March 30, 2015, and that she had brought with her to the meetings some documents that Respondent had forwarded to her that related to her accident case;
- b. reiterated his request that Respondent provide him with a "full, complete and unredacted copy of [Respondent's] file";
- c. advised that Ms. Spiller was unaware that Respondent had settled the Spiller lawsuit in October 2013; and
- d. requested that Respondent forward his letter to Respondent's insurance carrier.

313. Respondent received Mr. Cooper's letter.

314. Respondent failed to respond to this letter.

315. By letter dated May 12, 2015, sent to Respondent by regular mail, Mr. Cooper, *inter alia*:

- a. reiterated his request that Respondent provide him with a copy of the file for Ms. Spiller's accident case;

- b. explained why he needed the file; and
- c. requested that Respondent forward to him the name of Respondent's malpractice carrier.

316. Respondent received Mr. Cooper's letter.

317. Respondent failed to respond to this letter.

318. By letter dated August 26, 2015, sent to Respondent by regular mail, Mr. Cooper, *inter alia*:

- a. stated that he had made numerous requests that Respondent provide him with a copy of the file for Ms. Spiller's accident case and that Respondent's "failure to provide the file to [him] causes more harm and increases damages suffered by Ms. Spiller"; and
- b. requested that Respondent forward Mr. Cooper's letter to an attorney if Respondent was represented by counsel.

319. Respondent received Mr. Cooper's letter.

320. Respondent failed to respond to this letter.

321. On September 9, 2015, Mr. Cooper commenced a legal malpractice lawsuit against Respondent on behalf of Ms. Spiller by filing a Praecipe to Issue Writ of Summon in the Philadelphia Court of Common Pleas, said case captioned **Judith K. Spiller vs. Jeffrey L. Perlman**, docket number 150900372 ("the malpractice lawsuit").

322. On September 11, 2015, Respondent was served with the Writ of Summons.

323. On September 18, 2015, Mr. Cooper sent Respondent a Notice of Deposition ("the Notice") by regular mail and facsimile transmission; the Notice informed Respondent that Mr. Cooper was going to depose Respondent's custodian of records for Respondent's law office so that he could obtain information to prepare a Complaint in the legal malpractice lawsuit, said deposition to take place on September 29, 2015, at 3:00 p.m. at Mr. Cooper's law office.

- a. Mr. Cooper also listed eleven categories of documents that the custodian of records was to produce at the deposition.

324. Respondent received the Notice.

325. Respondent is the custodian of records for Respondent's law office.

326. Respondent failed to appear for the deposition or to provide Mr. Cooper with copies of the eleven categories of documents listed in the Notice.

327. By letter dated September 30, 2015, sent to Respondent by facsimile transmission and regular mail, Mr. Cooper, *inter alia*:

- a. stated that "[Respondent's] Custodian of Records did not appear or produce the

requested documents" for the September 29, 2015 deposition;

- b. requested that Respondent contact Mr. Cooper's office within five days to reschedule the deposition and that Respondent provide the name of Respondent's malpractice carrier; and
- c. advised that if Respondent did not contact his office, he would file a Motion to Compel.

328. Respondent received Mr. Cooper's letter.

329. Respondent failed to respond to this letter.

330. On October 14, 2015, Mr. Cooper filed Plaintiff's Motion to Compel.

331. Respondent received the Motion to Compel.

332. Respondent failed to file a response to the Motion to Compel.

333. By Order dated November 13, 2015, the court:

- a. granted the Motion to Compel; and
- b. directed that Respondent's custodian of records "shall appear for a deposition and produce the requested documents, for the purpose of preparing a complaint, at the office of Brad Cooper & Associates, LLC, 1525 Locust Street, 13th Floor, Philadelphia,

Pennsylvania within ten (10) days" of the date of the Order.

334. Respondent received this Order.

335. On December 9, 2015, Mr. Cooper sent Respondent a Notice of Deposition ("the second Notice") by regular mail and facsimile transmission; the second Notice informed Respondent, *inter alia*, that Mr. Cooper was going to depose Respondent's custodian of records, said deposition to take place on December 16, 2015, at 12:00 p.m. at Mr. Cooper's law office.

a. Mr. Cooper also listed eleven categories of documents that the custodian of records was to produce at the deposition.

336. Respondent received the second Notice.

337. Respondent failed to appear for the deposition or to provide Mr. Cooper with copies of the eleven categories of documents listed in the second Notice.

338. On January 19, 2016, Respondent had a telephone conversation with Mr. Cooper regarding the malpractice lawsuit.

339. During this telephone conversation:

a. Mr. Cooper asked Respondent if he had malpractice insurance;

- b. Respondent told Mr. Cooper that he had malpractice insurance;
- c. Respondent informed Mr. Cooper that he required additional time to comply with the court's November 13, 2015 Order to produce the file for Ms. Spiller's accident case; and
- d. Respondent conveyed to Mr. Cooper that he wanted to "work this file out."

340. By letter dated January 27, 2016, sent to Respondent by regular mail, Mr. Cooper, *inter alia*:

- a. recounted the telephone conversation of January 19, 2016, which he described as set forth in the preceding paragraph;
- b. requested that Respondent provide him with information concerning Respondent's malpractice insurance;
- c. afforded Respondent five days from the date of Mr. Cooper's letter to produce the file for Ms. Spiller's accident case;
- d. expressed his willingness to resolve the malpractice lawsuit, and invited Respondent to make a settlement offer, which he would convey to Ms. Spiller; and

- e. advised Respondent that he must "move this case along" in order to protect Ms. Spiller's interests.

341. Respondent received Mr. Cooper's letter.

342. Respondent failed to respond to this letter.

343. On February 4, 2016, Mr. Cooper filed a Complaint in the malpractice lawsuit.

344. Respondent was served with that Complaint.

345. By letter dated February 18, 2016, sent to Respondent by regular mail, Mr. Cooper, *inter alia*:

- a. notified Respondent of his intention to "report [Respondent] to the Disciplinary Board as violating a Court Order and failing to respond to a pleading"; and
- b. requested that Respondent advise him if Respondent was sick or "otherwise infirm such that there is some excuse for [Respondent's] conduct."

346. Respondent received Mr. Cooper's letter.

347. Respondent failed to respond to this letter.

348. Under cover of letter dated February 26, 2016, sent to Respondent by regular mail, Mr. Cooper enclosed a "Notice, Rule 237.5, Notice of Praeceptum to Enter Judgment by Default."

349. Mr. Cooper's letter and the enclosure were delivered to Respondent's office.

350. On March 9, 2016, Mr. Cooper filed a Praecipe for Entry of Default Judgment in the malpractice lawsuit.

351. Respondent was served with the Praecipe for Entry of Default Judgment.

352. A Default Judgment was entered against Respondent.

353. The malpractice lawsuit was scheduled for trial on May 11, 2016, for the court to receive evidence bearing on Ms. Spiller's damages.

354. By letter dated May 2, 2016, sent to Respondent by regular mail and facsimile transmission, Mr. Cooper, *inter alia*:

- a. enclosed a "Notice of Trial Attachment," which stated that the malpractice lawsuit was scheduled for trial on May 11, 2016; and
- b. requested that Respondent "bring with you the complete un-redacted" files that Respondent maintained for the malpractice lawsuit and the Spiller lawsuit.

355. Mr. Cooper's letter and the enclosure were delivered to Respondent's office.

356. By letter dated May 4, 2016, sent to Respondent by regular mail and facsimile transmission, Mr. Cooper enclosed a "Notice to Attend," which directed Respondent to appear at City Hall, Courtroom 243, on May 11, 2016 at 9:30 a.m., in order to testify and to bring with him "the complete un-redacted" files that Respondent maintained for the malpractice lawsuit and the Spiller lawsuit.

357. This letter and the enclosure were delivered to Respondent's office.

358. Respondent failed to:

- a. appear for the trial on May 11, 2016; and
- b. provide Mr. Cooper with copies of the files that Respondent maintained for the Spiller lawsuit and the malpractice lawsuit.

359. On May 11, 2016, Mr. Cooper presented evidence to the court that related to the issue of Ms. Spiller's damages.

360. On May 18, 2016, the court found in favor of Ms. Spiller and against Respondent and awarded Ms. Spiller \$100,000.00 in compensatory damages and \$50,000.00 in punitive damages.

361. By his conduct as alleged in Paragraphs 276 through 360 above, Respondent violated the following Rules of Professional Conduct:

- a. RPC 1.1, which states that a lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation;
- b. RPC 1.3, which states that a lawyer shall act with reasonable diligence and promptness in representing a client;
- c. RPC 1.4(a)(3), which states that a lawyer shall keep the client reasonably informed about the status of the matter;
- d. RPC 1.4(a)(4), which states that a lawyer shall promptly comply with reasonable requests for information;
- e. RPC 1.4(b), which states that a lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation;
- f. RPC 1.16(d), which states that upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable

notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by other law; and

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

**CHARGE X: The Johnnie C. Mebane, Jr. Matter,
File No. C1-16-658**

362. On September 18, 2012, Mr. Johnnie C. Mebane, Jr. was injured when bricks fell on him while he was standing outside a property located at 4515 University Avenue, Philadelphia, Pennsylvania.

363. On September 24, 2012, Mr. Mebane retained Respondent to represent him for any claims Mr. Mebane had arising from the September 18, 2012 incident.

- a. Respondent had Mr. Mebane sign a written fee agreement.

364. Respondent failed to commence a lawsuit on behalf of Mr. Mebane in the Philadelphia Court of Common Pleas prior to September 18, 2014, which was the date the statute of limitations expired for Mr. Mebane to pursue any claims that he had arising from the September 18, 2012 incident.

365. Respondent failed to advise Mr. Mebane that Respondent had failed to commence a lawsuit on Mr. Mebane's behalf before the statute of limitations had expired.

366. By his conduct as alleged in Paragraphs 362 through 365 above, Respondent violated the following Rules of Professional Conduct:

- a. RPC 1.3, which states that a lawyer shall act with reasonable diligence and promptness in representing a client;
- b. RPC 1.4(a)(3), which states that a lawyer shall keep the client reasonably informed about the status of the matter; and
- c. RPC 1.4(b), which states that a lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

CHARGE XI: **The Shona Fooks Matter,**
 File No. C1-16-692

367. Ms. Shona Fooks retained Respondent to represent her for injuries she sustained in a slip and fall accident that occurred in September 2011 in Philadelphia, Pennsylvania.

368. On September 12, 2013, Respondent filed a lawsuit on behalf of Ms. Fooks in the Philadelphia Court of Common Pleas, said case captioned **Shona Fooks vs. Issam Masri et al.**, docket number 130901418 ("the Fooks lawsuit").

369. The Fooks lawsuit was scheduled for an arbitration hearing on June 3, 2014, at 9:15 a.m. at the Arbitration Center.

370. Respondent received notice of the scheduling of the arbitration hearing.

371. Respondent failed to advise Ms. Fooks of the date, time, and location of the arbitration hearing.

372. Respondent and Ms. Fooks failed to appear for the June 3, 2014 arbitration hearing.

373. The defendants did not appear for the June 3, 2014 arbitration hearing.

374. On February 24, 2016, the Fooks lawsuit was rescheduled for an arbitration hearing due to an administrative error.

375. On February 26, 2016, the court sent to Respondent a Notice that the Fooks lawsuit was rescheduled for an arbitration hearing on March 29, 2016, at 9:15 a.m. at the Arbitration Center.

376. Respondent received and reviewed the Notice of the rescheduling of the arbitration hearing.

377. Respondent failed to advise Ms. Fooks of the date, time, and location of the arbitration hearing.

378. Respondent and Ms. Fooks failed to appear for the March 29, 2016 arbitration hearing.

379. The defendants and Andrew L. Riemenschneider, Esquire, counsel for the defendants, appeared for the arbitration hearing.

380. With the consent of the defendants and Mr. Riemenschneider, the Fooks lawsuit was transferred to the Philadelphia Court of Common Pleas to be heard by a judge pursuant to Pa.R.C.P. 1303(b)(2) and Phila.Civ.R. 1303(a).

381. By Order dated March 29, 2016, the court entered a judgment of non pros against Ms. Fooks in the Fooks lawsuit.

382. On March 29, 2016, the court sent to Respondent a Notice about the entry of the March 29, 2016 Order in the Fooks lawsuit.

383. Respondent received and reviewed the Notice of the entry of the March 29, 2016 Order in the Fooks lawsuit.

384. Respondent failed to take any action in response to the Notice.

385. Respondent failed to advise Ms. Fooks about the entry of the March 29, 2016 Order in the Fooks lawsuit.

386. By his conduct as alleged in Paragraphs 367 through 385 above, Respondent violated the following Rules of Professional Conduct:

- a. RPC 1.3, which states that a lawyer shall act with reasonable diligence and promptness in representing a client;
- b. RPC 1.4(a) (3), which states that a lawyer shall keep the client reasonably informed about the status of the matter; and
- c. RPC 1.4(b), which states that a lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

SPECIFIC JOINT RECOMMENDATION FOR DISCIPLINE

387. Petitioner and Respondent jointly recommend that the appropriate discipline for Respondent's admitted misconduct is a suspension of eighteen months.

388. Respondent hereby consents to that discipline being imposed upon him by the Supreme Court of Pennsylvania.

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

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

- a. Respondent has been diagnosed with "Major Depression, Generalized Anxiety Disorder, and Persistent Complex Bereavement Disorder with underlying Dependent personality features," and has submitted the attached psychiatric report detailing his diagnosis, treatment, and prognosis. (Attachment A);
- b. Respondent has established that there is a causal connection between his misconduct and his mental conditions so as to constitute mitigation under **Office of Disciplinary Counsel v. Braun**, 553 A.2d 894 (Pa. 1989);
- c. Respondent has agreed to be temporarily suspended, as shown by his willingness to enter into a Joint Petition to Temporarily Suspend an Attorney;

- d. Respondent has admitted engaging in misconduct and violating the charged Rules of Professional Conduct;
- e. Respondent has cooperated with Petitioner, as is evidenced by Respondent's admissions herein and his consent to receiving a suspension of eighteen months;
- f. Respondent is remorseful for his misconduct and understands he should be disciplined, as is evidenced by his consent to receiving a suspension of eighteen months; and
- g. Respondent has no prior record of discipline.

390. There is precedent that supports the recommendation that Respondent receive a suspension of eighteen months, which is best characterized as involving a pattern of neglect and lack of communication with some mishandling of fiduciary funds.

In ***Office of Disciplinary Counsel v. Ann Adele Ruben***, No. 6 DB 2011 (Recommendation of the Three-Member Panel of the Disciplinary Board 2/8/11)(S.Ct. Order 4/28/11), Respondent Ruben, who had no record of discipline, was suspended for one year and one day for engaging in neglect and lack of communication in sixteen immigration matters; this misconduct occurred over a period approximating thirty-

three months. In the joint petition for consent discipline, the parties agreed that Respondent Ruben had **Braun** mitigation because she suffered from depression, anxiety, and attention deficit/hyperactivity. Jt. Pet. 30-31. Other mitigating circumstances were Respondent Ruben having: self-reported her misconduct; admitted her misconduct; cooperated; exhibited remorse; and agreed to serve her entire suspension before filing a petition for reinstatement. Jt. Pet. 31-32.

Respondent Perlman's matter resembles Respondent Ruben's matter in that both attorneys engaged in serial neglect, exhibited remorse, cooperated, admitted their misconduct, had no record of discipline, and established **Braun** mitigation.

In **Office of Disciplinary Counsel v. Thomas William Smith**, No. 21 DB 2000 (D.Bd. Rpt. 9/8/03)(S.Ct. Order 12/9/03), Respondent Smith received a suspension of one year and one day for engaging in neglect in eleven client matters during a three-year period and sought to conceal his misconduct by making misrepresentations to his clients (in 4 matters) and his employer (in 7 client matters) over a three-month period. All of the cases Respondent Smith neglected were dismissed; however, Respondent Smith's former firm was successful in having the cases reinstated. D.Bd. Rpt. at 36. Although the clients' cases were resurrected, the Disciplinary Board remarked that some of the clients may not

have obtained the "full recovery" they would have received had their cases not been mishandled. *Id.* An aggravating factor was Respondent Smith's public censure, but that sanction was not given substantial weight because it was imposed fourteen years earlier. *Id.* at 38. Respondent Smith had **Braun** mitigation due to his alcoholism, as well as mitigation consisting of remorse, cooperation, and good character testimony. *Id.* The Board recommended a four-year suspension, retroactive to December 13, 1998, the date Respondent Smith was transferred to inactive status for failing to meet his continuing legal education requirements. However, the Pennsylvania Supreme Court imposed a prospective suspension of one year and one day.

Respondent Perlman's matter is similar to Respondent Smith's case in that both attorneys engaged in serial neglect, exhibited remorse, cooperated, and established **Braun** mitigation. **Smith** and Respondent Perlman's matter are different in that Respondent Perlman has no prior disciplinary history.

In ***In re Anonymous No. 56 DB 93 (Malcolm P. Rosenberg)***, 36 Pa. D.&C.4th 11 (1996), the attorney received a suspension of one year and one day for the neglect of ten legal matters during a period of approximately two years. Respondent Rosenberg received **Braun** mitigating by proving that his

misconduct was caused by a severe mental depression that resulted from the cumulative effect of family misfortunes, including his father's death and his mother's serious health problems, and the resulting stress. *Id.* at 28-29. Respondent Rosenberg received informal admonitions on three occasions either shortly before or during the period of misconduct. *Id.* at 29. After reviewing similar cases, the Disciplinary Board determined that it was appropriate to recommend a suspension of one year and one day, which would require Respondent Rosenberg to undergo the reinstatement process and would protect the interests of the public and the courts. *Id.* at 30. **Rosenberg** and Respondent Perlman's matter are similar in that both cases involved serial neglect. Unlike Respondent Rosenberg, Respondent Perlman has no record of discipline.

Based on **Ruben**, **Smith** and **Rosenberg**, a suspension of eighteen months would be appropriate discipline for Respondent's misconduct. Respondent's mitigating factors also support the imposition of a suspension of eighteen months, which will require Respondent to prove at a reinstatement hearing that his psychiatric problems are sufficiently resolved so that he can resume the practice of law without endangering the public.

391. Respondent requests that his eighteen-month suspension be made retroactive to the date of the Order for

temporary suspension that the parties anticipate will be entered by the Supreme Court of Pennsylvania after consideration of the Joint Petition to Temporarily Suspend an Attorney. Petitioner does not oppose Respondent's request. Respondent understands that the decision to grant his request lies solely within the discretion of the Supreme Court of Pennsylvania.

WHEREFORE, Petitioner and Respondent respectfully request that:

a. 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 and file its recommendation with the Supreme Court of Pennsylvania in which it is recommended that the Supreme Court enter an Order:

(i) suspending Respondent from the practice of law for a period of eighteen months, retroactive to the date of Respondent's temporary suspension; and

(ii) directing Respondent to comply with all of the provisions of Rule 217, Pa.R.D.E.

- b. Pursuant to Pa.R.D.E. 215(i), the three-member panel of the Disciplinary Board enter an order for Respondent to pay the necessary expenses incurred in the investigation and prosecution of this matter as a condition to the grant of the Petition, and that all expenses be paid by Respondent before the imposition of discipline under Pa.R.D.E. 215(g).

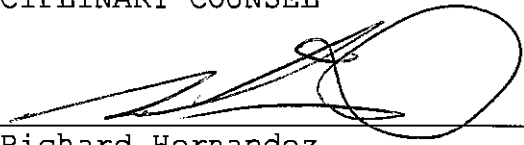
Respectfully and jointly submitted,

OFFICE OF DISCIPLINARY COUNSEL

PAUL J. KILLION
CHIEF DISCIPLINARY COUNSEL

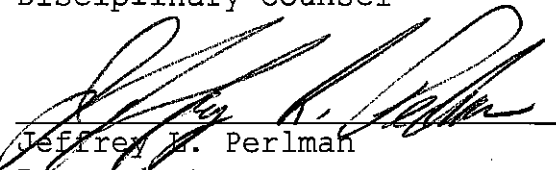
Sept. 20, 2016
Date

By


Richard Hernandez
Disciplinary Counsel

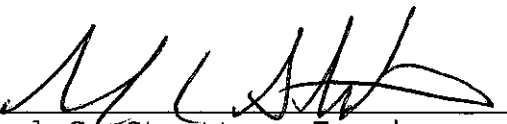
9/19/16
Date

By


Jeffrey L. Perlman
Respondent

9/19/16
Date

By


Samuel C. Stretton, Esquire
Respondent's Counsel

ATTACHMENT A



June 23, 2016

Mr. Samuel Stretton, Esq.
301 South High Street
West Chester, PA 19381

RE: Jeffrey Perlman
DOB 7/17/1955

Dear Mr. Stretton:

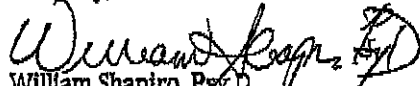
As you requested, we are writing to provide you with an update about Mr. Perlman's current psychological functioning and prognosis. As you know, Mr. Perlman has been in treatment at Einstein since August 2013. He originally presented to treatment with complaints of depression and anxiety exacerbated by a complicated grief reaction to his mother's death in February 2013. Since the time of our previous letter to you in July 2015, Mr. Perlman has demonstrated some improvement in his mood and psychological functioning. He is no longer tearful in sessions, and reports that his concentration at work has improved. His sleep disturbance has improved as well. While he still misses his parents and wishes that they were still alive, Mr. Perlman is learning to distinguish between his "wanting" them to be alive versus "needing" them to be alive in order for him to function optimally. When he discusses his processes at the office, his psychological issues appear to be interfering to a lesser degree. He reports that he is staying on task more regularly and when he gets off task he is employing strategies to improve his focus and be task oriented. He currently denies suicidal thoughts and he reports no intent or plan to harm himself.

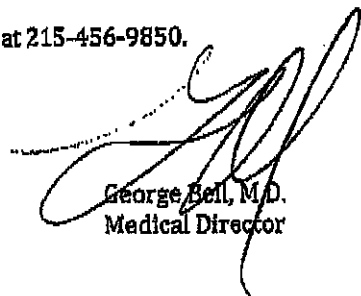
In recent months, Mr. Perlman has been making increased gains in treatment as he has been attending treatment on a regular basis, avoiding less and has appeared to have moved forward with increased diligence in addressing issues at work. He remains fearful about the pending results of the disciplinary board review of the complaints against him and hopes that he is able to continue to practice law.

Mr. Perlman's current diagnoses are Major Depression, Generalized Anxiety Disorder, and Persistent Complex Bereavement Disorder with underlying Dependent personality features. In addition to regular therapy appointments, he is being treated with Lexapro, 20 mg, once a day, Abilify, 5 mg once a day and Ativan 0.5 mg as needed. Based on recent gains in his psychological functioning, we believe that he has the potential to continue to improve if he continues in treatment, takes his medication regularly and is vigilant about continuing to take the steps he has initiated to function in his role as an attorney.

Feel free to contact us if you need any additional information at 215-456-9850.

Sincerely,


William Shapiro, Psy.D.
Licensed Psychologist


George Bell, M.D.
Medical Director

5501 Old York Road

Philadelphia, PA 19141

P: 215-456-7200

F: 215-456-7156

einstein.edu

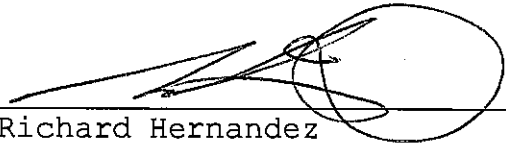
BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :
Petitioner :
: Board File Nos.
: 90 DB 2016 and C1-16-324,
: C1-16-388, C1-16-658 and
: C1-16-692
v. :
: Atty. Reg. No. 38490
JEFFREY L. PERLMAN, :
Respondent : (Philadelphia)

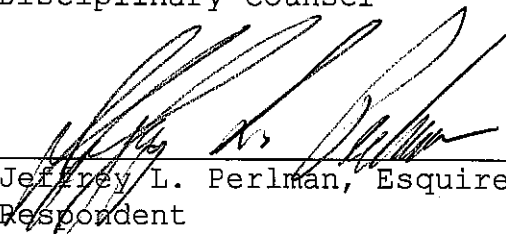
VERIFICATION

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

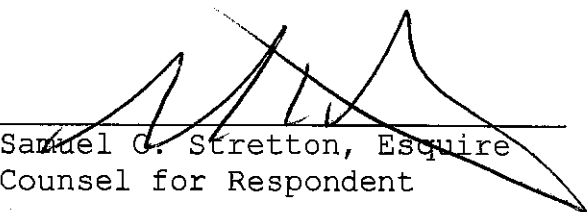
Sept. 20, 2016
Date


Richard Hernandez
Disciplinary Counsel

9/19/16
Date


Jeffrey L. Perlman, Esquire
Respondent

9/19/16
Date


Samuel C. Stretton, Esquire
Counsel for Respondent

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :
Petitioner :
: Board File Nos.
: 90 DB 2016 and C1-16-324,
: C1-16-388, C1-16-658 and
: C1-16-692
v. :
: Atty. Reg. No. 38490
JEFFREY L. PERLMAN, :
Respondent : (Philadelphia)

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

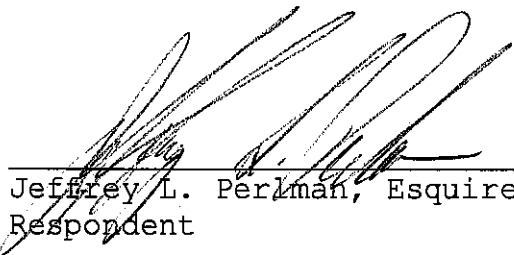
Respondent, Jeffrey L. Perlman, hereby states that he consents to the imposition of a suspension of eighteen months as jointly recommended by Petitioner, Office of Disciplinary Counsel, and Respondent in the Joint Petition in Support of Discipline on Consent and further states that:

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

2. He is aware that there is presently pending a disciplinary proceeding at 90 DB 2016, as well as investigations related to File Nos. C1-16-324, C1-16-388, C1-16-658, and C1-16-692, 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 charges pending at No. 90 DB 2016 continued to be prosecuted, and if charges predicated upon the matters under investigation (i.e., File Nos. C1-16-324, C1-16-388, C1-16-658, and C1-16-692) were filed, he could not successfully defend against them.



Jeffrey L. Perlman, Esquire
Respondent

Sworn to and subscribed

before me this 19th
day of September, 2016.



Notary Public

