IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, Petitioner	:	No. 2829 Disciplinary Docket No. 3
v.	:	No. 97 DB 2020
ANDREW WILSON BARBIN, Respondent	:	Attorney Registration No. 43571
	:	(Cumberland County)

O R D E R

PER CURIAM

AND NOW, this 18th day of November, 2021, upon consideration of the Report and Recommendations of the Disciplinary Board, Andrew Wilson Barbin is suspended from the Bar of this Commonwealth for a period of eighteen months. Respondent shall comply with all the provisions of Pa.R.D.E. 217 and pay costs to the Disciplinary Board. *See* Pa.R.D.E. 208(g).

A True Copy Nicole Traini
As Of 11/18/2021

Attest: Nicole Traini
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, Petitioner	:	No. 97 DB 2020
v.	:	Attorney Registration No. 43571
ANDREW WILSON BARBIN, Respondent	:	(Cumberland County)

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

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

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

I. HISTORY OF PROCEEDINGS

By Petition for Discipline filed on June 3, 2020, Petitioner, Office of Disciplinary Counsel, charged Respondent, Andrew Wilson Barbin, with multiple violations of the Pennsylvania Rules of Professional Conduct in five matters, alleging incompetence, neglect, failure to communicate, filing and pursuing frivolous litigation, and

conduct prejudicial to the administration of justice. Respondent filed an Answer to Petition on August 5, 2020.[1]

Following a prehearing conference on September 18, 2020, a District III Hearing Committee ("Committee") held a disciplinary hearing on November 9 and November 10, 2020. Petitioner presented eight witnesses and offered documentary evidence. Respondent appeared pro se and testified on his own behalf. He did not offer any exhibits.

On December 22, 2020, Petitioner filed a post-hearing brief to the Committee and requested that the Committee recommend a suspension for more than one year and one day. On January 12, 2021, Respondent filed a post-hearing brief to the Committee but did not make any recommendation of discipline.

By Report filed on March 8, 2021, the Committee concluded that Respondent violated the Rules of Professional Conduct related to four of the five matters charged in the Petition for Discipline and recommended that he be suspended for a period of one year and one day, with the suspension stayed in its entirety and probation for two years and a practice monitor.

On March 26, 2021, Petitioner filed a Brief on Exceptions and contended that the Committee erred in concluding that Petitioner failed to meet its burden in the Senior Judge Braxton matter and further erred in its recommendation of discipline. Petitioner requested that the Board recommend to the Court that Respondent be suspended for a period of eighteen months. Respondent did not take exceptions to the Committee's Report and did not oppose Petitioner's exceptions.

[1] Respondent's Answer was untimely filed, having been filed eight days after it was due. Respondent filed a Motion for Leave to File an Answer, which the Hearing Committee granted.

The Board adjudicated this matter on July 23, 2021.

II. FINDINGS OF FACT

The Board makes the following findings:

1. Petitioner, whose principal office is located at the Pennsylvania Judicial Center, 601 Commonwealth Avenue, Suite 2700, P.O. Box 62485, Harrisburg, Pennsylvania 17106, is invested, pursuant to Rule 207 of the Pennsylvania Rules of Disciplinary Enforcement, with the power and duty to investigate all matters involving alleged misconduct of an attorney admitted to practice law in the Commonwealth of Pennsylvania and to prosecute all disciplinary proceedings brought in accordance with the provisions of the aforesaid Rules.

2. Respondent is Andrew Wilson Barbin, born in 1960 and admitted to practice law in Pennsylvania in 1985. Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

3. Respondent has a history of prior discipline.

   a. On December 15, 2016, Respondent received an Informal Admonition based on a Philadelphia court's determination that he had defamed another.

   b. By Order dated April 9, 2018, the Supreme Court of Pennsylvania imposed on Respondent a one year and one day stayed suspension on consent for neglect, commingling of entrusted

funds and failure to maintain proper financial records. Respondent was placed on probation for the entirety of his stayed suspension and required to provide records under RPC 1.15(c) to Office of Disciplinary Counsel on a quarterly basis. By Order dated October 12, 2018, the Supreme Court of Pennsylvania extended the length of Respondent's stayed suspension after Respondent failed to abide by the terms of the Court's April 9, 2018 Order. Respondent was released from probation on January 10, 2020.

The Senior Judge John L. Braxton Matter

4. On or around August 14, 2012, Respondent filed a complaint on behalf of his client, Jessie Smith, in Dauphin County, docketed at ***Jessie Smith v. Main Line Rescue, Inc., et al.,*** 2012-CV-4739 ("Dauphin Litigation"). (Pet. for Disc., ¶ 73; ODC-10)

5. In the Dauphin Litigation, Respondent alleged that the defendants, including Jenny Stephens and Theresa Gervase, had defamed Ms. Smith by making public comments and publishing blog posts concerning Ms. Smith's performance as Special Deputy Secretary of Pennsylvania's Bureau for Dog Law Enforcement. (Pet. for Disc., ¶ 74; ODC-10; ODC-13)

6. Respondent failed to include a Notice to Defend with the Complaint or any subsequent amended complaints. (Pet. for Disc., ¶ 75; ODC-10)

7. On an unknown date, Respondent provided a copy of the Complaint in the Dauphin Litigation to Amy Worden, a Philadelphia Inquirer reporter. (Pet. for Disc., ¶ 78; ODC-10; ODC-13; N.T. at 30)

8. Ms. Worden thereafter authored an article based on the Complaint. (Pet. for Disc., ¶ 79; ODC-10; ODC-13)

9. In response to Ms. Worden's article, Ms. Stephens filed defamation and false light claims against Respondent and Ms. Smith in Philadelphia County, docketed at ***Jenny Stephens v. Jessie L. Smith, et al.,*** No. 00418 ("Philadelphia Litigation"). (Pet. for Disc., ¶ 80; ODC-10; ODC-13; N.T. at 30)

10. Before the Philadelphia Litigation proceeded to hearing, Ms. Stephens discontinued her claims against Ms. Smith, leaving Respondent as the sole defendant. (Pet. for Disc., ¶ 81; ODC-13; N.T. at 53)

11. Thereafter, the court dismissed Ms. Smith's claims in the Dauphin Litigation against all defendants except Ms. Gervase. (Pet. for Disc., ¶ 82; ODC-10; N.T. at 24)

12. On July 27, 2015, the court convened a multi-day jury trial in the Philadelphia Litigation. (Pet. for Disc., ¶ 83; ODC-10; N.T. at 28-30)

13. On August 10, 2015, the jury found that Respondent defamed Ms. Stephens, cast her in a false light, and acted with actual malice in doing so ("Philadelphia Verdict"). (Pet. for Disc., ¶ 85; ODC-10; N.T. at 30)

14. The jury awarded Ms. Stephens $50,000.00 in compensatory damages and $50,000.00 in punitive damages. (Pet. for Disc., ¶ 86; ODC-10; N.T. at 30)

15. Respondent satisfied the judgment with payment from his insurance carrier. (Pet. for Disc., ¶ 89; N.T. at 13)

16. Respondent thereafter failed to withdraw the Dauphin Litigation, inform the Dauphin Court of the Philadelphia Verdict, or amend the Dauphin Litigation Complaint. (Pet. for Disc., ¶ 91; N.T. at 31)

17. On July 15, 2015, Respondent obtained a default judgment in the Dauphin Litigation against Ms. Gervase. (Pet. for Disc., ¶¶ 92-94; ODC-10; N.T. at 12, 31-32)

18. On December 15, 2016, Respondent received an Informal Admonition based on the Philadelphia Verdict for having violated RPC 4.1(a), RPC 4.4(a), RPC 8.4(c), and RPC 8.4(d). (ODC-A)

19. The Dauphin Court thereafter convened a hearing on the issue of damages. (Pet. for Disc., ¶ 94; ODC-10; N.T. at 21-22, 33)

20. Following the damages hearing, Respondent filed Proposed Findings of Fact and Conclusions of Law ("Proposed Findings"), wherein he failed to mention the Philadelphia Litigation or Verdict. (Pet. for Disc., ¶ 96; ODC-10; N.T. at 36-37)

21. Ms. Stephens thereafter filed a counseled response to the Proposed Findings, noting that Respondent had failed to inform the Dauphin Court of the Philadelphia Litigation. (Pet. for Disc., ¶ 97; ODC-10; N.T. at 37)

22. By Memorandum Opinion filed June 8, 2018, Senior Judge Braxton:

a. noted that neither the initial Complaint nor the Third Amended Complaint contained a notice to defend, and that Ms. Gervase had never received proper service thereof;

b. concluded that Ms. Smith was collaterally estopped from pursuing her claims in the Dauphin Litigation and that the matter

should have been discontinued after the conclusion of the Philadelphia Litigation; and

c. struck the Default Judgment and dismissed all claims against Ms. Gervase with prejudice.

(Pet. for Disc., ¶¶ 98-99; ODC-10; N.T. at 30-31, 37)

23. Respondent thereafter filed a Notice of Appeal to the Pennsylvania Superior Court, challenging Senior Judge Braxton's June 8, 2018, Order. (Pet. for Disc., ¶ 101; N.T. at 57)

24. On September 18, 2019, the Superior Court affirmed. (Pet. for Disc., ¶ 103; ODC-13)

25. Senior Judge Braxton testified at the disciplinary hearing that he filed a complaint against Respondent with the Disciplinary Board because Respondent had not been forthright about the Philadelphia Litigation, and, in Senior Judge Braxton's view, had attempted to perpetrate a fraud upon the Dauphin Court by continuing the Dauphin Litigation when the underlying claims therein had been fully resolved in the Philadelphia Litigation. (N.T. at 39-41, 49, 50-52, 59-61)

The Evertts Matter

26. On or around January 15, 2018, Randall Evertts, Sr. ("Decedent") died testate. (Pet. for Disc., ¶ 239; ODC-65)

27. Decedent's son, Randall Evertts, Jr. ("Mr. Evertts"), served as executor for Decedent's Estate. (Pet. for Disc., ¶ 240; ODC-71)

28. Eventually, Nancy Hayes, Mr. Evertts' sister and Decedent's daughter, retained Respondent to represent her interests relative to Decedent's Estate. (Pet. for Disc., ¶ 241; ODC-62)

29. On February 18, 2018, Respondent sent a letter to Robert Clofine, Esq., counsel for Decedent's Estate, wherein Respondent extensively set forth Ms. Hayes' concerns about the propriety of Mr. Evertts' actions regarding certain sentimental items in Decedent's Estate. (Pet. for Disc., ¶ 243; ODC-62; N.T. at 66-68, 80)

30. By correspondence dated March 6, 2018, Attorney Clofine asked Respondent and Ms. Hayes to arrange pick up of personal property from Decedent's home. (Pet. for Disc., ¶ 244; ODC-63; N.T. at 68-70)

31. On April 2, 2018, Attorney Clofine notified Respondent *via* email that Decedent's home was soon to be sold, and again noted the need to retrieve the tangible personal property still located there. (Pet. for Disc., ¶ 245; ODC-64; N.T. at 68-70)

32. Respondent failed to respond to Attorney Clofine's communications and Mr. Evertts placed the items in storage. (Pet. for Disc., ¶ 252; ODC-66; N.T. at 70)

33. On April 17, 2018, Respondent filed a Petition to Remove Executor and Require an Accounting ("Removal Petition") on Ms. Hayes' behalf. (Pet. for Disc., ¶ 247; ODC-65; N.T. at 71-72)

34. Respondent attached a Certificate of Service to the Removal Petition stating that he had served a copy upon Attorney Clofine via first class mail on April 8, 2018. (Pet. for Disc., ¶ 248; ODC-65; N.T. at 72, 78-79)

35. The Certificate of Service was false and misleading, in that Respondent did not serve Attorney Clofine with a copy of the Removal Petition on

April 8, 2018, or at any point prior to submitting the filing. (Pet. for Disc., ¶ 249; N.T. at 71-72, 75-76, 78)

36. By email dated April 25, 2018, Respondent notified Attorney Clofine that Ms. Hayes wished to access Decedent's home. (Pet. for Disc., ¶ 250; ODC-66; N.T. at 74-75)

37. Respondent failed to alert Attorney Clofine of the Removal Petition. (Pet. for Disc., ¶ 251; ODC-66; N.T. at 74-75)

38. By Order dated April 27, 2018, the Court directed Mr. Evertts to suspend administration of Decedent's Estate and scheduled a hearing on the Removal Petition for July 2, 2018. (Pet. for Disc., ¶¶ 253-254; ODC-67; N.T. at 73, 88)

39. Later that same day, Respondent, via email, provided Attorney Clofine with a copy of the Removal Petition for the first time. (Pet. for Disc., ¶ 255; ODC-68; N.T. at 71-72, 75-76)

40. Attorney Clofine had not received any notice of the Removal Petition prior to Respondent's April 27, 2018, email. (N.T. at 76)

41. Because of Respondent's delay in serving the Removal Petition, Attorney Clofine did not have an opportunity to file a response before the Court entered its April 27, 2018, Order. (N.T. at 72-73)

42. Attorney Clofine thereafter arranged for Mr. Evertts to meet with attorneys from Barley Snyder LLP ("Barley Snyder"), who Mr. Evertts retained to represent him with regard to the Removal Petition. (N.T. at 76-77, 86)

43. In its filings, Barley Snyder made a strategic decision not to raise Respondent's failure to serve the Removal Petition and proceeded to address its merits. (N.T. at 78)

44. By Order dated June 21, 2018, the Court continued the Removal Petition hearing to August 1, 2018, and scheduled a status conference for July 20, 2018. (Pet. for Disc., ¶ 257; ODC-69; N.T. at 88)

45. Respondent failed to appear for the status conference without prior notice to the Court or opposing counsel. (Pet. for Disc., ¶ 260; ODC-70; N.T. at 89)

46. As a result, the Court issued an Order, directing Respondent to show cause within ten days why he should not be held in contempt ("Show Cause Order"). (Pet. for Disc., ¶ 261; ODC-70; N.T. at 89-90)

47. Respondent failed to file a timely response to the Show Cause Order ("Show Cause Response") or seek an extension therefor. (N.T. at 94)

48. On July 31, 2018, the day after the deadline, Respondent incorrectly filed the Show Cause Response with the Dauphin County Court. (Pet. for Disc., ¶ 264; ODC-72; N.T. at 93-94)

49. On August 1, 2018, the Cumberland County Court convened the Removal Petition hearing. (Pet. for Disc., ¶ 265; ODC-71; N.T. at 90)

50. During the hearing, the Court noted that the evidence and testimony Respondent presented failed to meet the legal standards for removal. (Pet. for Disc., ¶ 266; ODC-71)

51. Ultimately, Respondent withdrew the Removal Petition during the presentation of his case-in-chief. (Pet. for Disc., ¶ 267; ODC-71; N.T. at 91)

52. At the conclusion of the hearing, the Court vacated its April 27, 2018, Order suspending the administration of Decedent's Estate. (Pet. for Disc., ¶ 268; ODC-71)

53. Respondent ultimately filed the Show Cause Response with the Cumberland County Court on August 30, 2018 – one month after the deadline expired. (Pet. for Disc., ¶ 269; ODC-71; N.T. at 93-94)

54. By Order dated September 10, 2018, the Cumberland County Court held Respondent's contempt in abeyance for 30 days, directed Stephanie DiVittore, Esquire to file a summary of her fees for attending the status conference, and specified that Respondent's contempt would be null and void if he paid Attorney DiVittore's fees within 20 days of his receipt of her fee summary. (Pet. for Disc., ¶¶ 273-274; ODC-73; N.T. at 94-95)

55. On September 19, 2018, Attorney DiVittore filed a summary of her fees for the status conference, which totaled $750.00. (Pet. for Disc., ¶ 275; ODC-74; N.T. at 94-95)

56. From September 20, 2018, to January 23, 2019, Respondent failed to pay Attorney DiVittore's fees, despite the Court's 20-day deadline and his receipt of multiple requests from Attorney DiVittore for payment. (Pet. for Disc., ¶ 278; N.T. at 96)

57. Ultimately, on January 23, 2019, Respondent paid Attorney DiVittore's fees. (Pet. for Disc., ¶ 279; N.T. at 96)

58. In all, Decedent's Estate incurred more than $19,000.00 in legal fees to litigate the withdrawn Removal Petition. (N.T. at 77)

The Gina Brown Matter

59. Respondent represented Ms. Brown on a pro bono basis in two domestic relations matters in Dauphin County, docketed at 2012-CV-8557-DV and 2012-CV-9510-CU. (Pet. for Disc., ¶ 5; N.T. at 207)

60. Respondent was aware that Ms. Brown could not afford to retain other counsel. (N.T. at 217-218)

61. Throughout his representation of Ms. Brown, Respondent often noted that he was working for free, and would threaten to withdraw as Ms. Brown's counsel. (N.T. at 218)

Divorce Matter

62. On July 22, 2015, the Court issued the Divorce Decree in Ms. Brown's Divorce. (Pet. for Disc., ¶ 12; N.T. at 209)

63. The Divorce Decree incorporated a Marital Settlement Agreement ("MSA") that Ms. Brown and her ex-husband had negotiated through their respective counsel. (Pet. for Disc., ¶¶ 7, 12; N.T. at 209)

64. The MSA awarded Ms. Brown the marital home but required her to refinance the mortgage thereon by December 31, 2015. (Pet. for Disc., ¶ 8; ODC-78; N.T. at 209-210, 227)

65. The MSA also required Respondent to obtain confirmation from One Main Financial ("One Main") that an outstanding personal loan ("Loan") was an uncollectible debt, thereby absolving Ms. Brown and her ex-husband of responsibility therefor. (Pet. for Disc., ¶ 10; ODC-78; N.T. at 208-209)

66. The MSA specified that Ms. Brown would become solely liable for the Loan if Respondent failed to secure such confirmation. (Pet. for Disc., ¶ 11; ODC-78; N.T. at 208-209)

67. After entry of the Divorce Decree, Respondent continued to represent Ms. Brown concerning her obligations under the MSA. (Pet. for Disc., ¶ 13; N.T. at 209-210)

68. Ms. Brown thereafter attempted to refinance the marital home through Wells Fargo. (N.T. at 228)

69. On multiple occasions, Respondent advised Ms. Brown that he would contact Wells Fargo on her behalf, and then failed to do so. (N.T. at 229-230, 232)

70. Respondent also failed to undertake any action relative to the Loan, and to inform Ms. Brown that she had become solely responsible therefor. (Pet. for Disc., ¶ 15; N.T. at 226-227)

71. Ultimately, Ms. Brown was unable to refinance the marital home and sold it in a short sale. (Pet. for Disc., ¶ 19; N.T. at 232-233)

72. On May 5, 2016, counsel for Ms. Brown's ex-husband filed a Petition for Special Relief to Enforce Decree in Divorce ("Enforcement Petition") (Pet. for Disc., ¶ 20; N.T. at 210)

73. Thereafter, the Court scheduled a preliminary conference regarding the Enforcement Petition for August 11, 2016. (Pet. for Disc., ¶ 23; N.T. at 210)

74. Respondent failed to inform Ms. Brown of the preliminary conference, and that she was required to attend. (Pet. for Disc., ¶ 24; N.T. at 210)

75. Accordingly, Ms. Brown did not attend the preliminary conference. (Pet. for Disc., ¶ 24; N.T. at 210-211)

76. Eventually, Respondent terminated his representation of Ms. Brown. (N.T. at 218, 241)

77. On February 16, 2018, Ms. Brown's ex-husband, through counsel, filed a Petition for Special Relief concerning the Loan ("Loan Petition") alleging that Ms. Brown was in contempt of the MSA for failing to pay the Loan, and requesting that the Court, *inter alia*, order Ms. Brown to pay the legal fees, costs, and expenses incurred by her ex-husband relative to the enforcement of the MSA. (Pet. for Disc., ¶ 36; ODC-96; N.T. at 212)

78. Ms. Brown was unaware that Respondent failed to secure a release of the Loan until she received notice of the Loan Petition. (Pet. for Disc., ¶ 38; N.T. at 212)

79. By Order dated November 28, 2018 ("Loan Order), the Court directed Ms. Brown to pay her ex-husband $2,917.00 for his payment toward the Loan and an additional $1,864.40 in legal fees. (Pet. for Disc., ¶ 39; ODC-97; N.T. at 213)

Custody Matter

80. After entry of the Divorce Decree, there were ongoing custody issues that involved multiple hearings and petitions. (N.T. at 214)

81. Less than an hour prior to one such hearing, Respondent contacted Ms. Brown via text message and informed her that the Court had rescheduled the hearing for later in the day. (Pet. for Disc., ¶ 54; N.T. at 214)

82. Ms. Brown was scheduled to meet with Respondent on that same date before the custody hearing. (N.T. at 214-215)

83. Respondent was not at his office when Ms. Brown arrived for her meeting. (N.T. at 214-215)

84. Ms. Brown then attempted to call Respondent multiple times but was unable to get in contact with him. (N.T. at 214-215)

85. Eventually, Respondent contacted Ms. Brown and informed her that he had gotten delayed by another matter in another county. (N.T. at 214-215)

86. After the hearing, Ms. Brown continued to communicate with Respondent and bring various custody-related issues to his attention. (Pet. for Disc., ¶ 60; N.T. at 215-216)

87. On November 1, 2017, Respondent emailed the Judge's judicial assistant and law clerk about certain provisions that were missing from the Court's most recent custody order. (Pet. for Disc., ¶ 62; ODC-95; N.T. at 240)

88. On November 3, 2017, Ms. Brown sent Respondent emails expressing frustration that Respondent's correspondence with the Court had failed to address her ex-husband's post-Custody Order violations. (Pet. for Disc., ¶ 64; ODC-95)

89. In response, Respondent stated that he would address those issues with the Court on November 6, 2017, and threatened to withdraw as her counsel. (Pet. for Disc., ¶ 65; ODC-95)

90. Respondent thereafter failed to file anything with the Court and terminated his representation of Ms. Brown. (Pet. for Disc., ¶ 66; ODC-95; N.T. at 218, 241-243)

91. Eventually, Respondent returned Ms. Brown's file to her. (Pet. for Disc., ¶ 69; N.T. at 218-219)

92. The file was incomplete and included copies of documents relating to Respondent's representation of other clients. (Pet. for Disc., ¶ 70; N.T. at 219)

The Dr. Peter J. Sakol Matter
Divorce and Custody Matters

93. In May 2015, Dr. Sakol retained Respondent as his counsel for ongoing divorce and custody matters. (N.T.T. at 7-8)

94. Respondent chose Darrin Holst, Esquire to assist him with Dr. Sakol's divorce and custody issues. (N.T.T. at 10)

95. While Dr. Sakol signed a separate fee agreement with Attorney Holst, Respondent was to be Dr. Sakol's primary counsel for all matters. (N.T.T. at 10-11, 71)

96. On October 21, 2016, Respondent and opposing counsel, Sandra L. Meilton, Esquire and Quintina Laudermilch, Esquire, reached a negotiated settlement of the financial issues in the Sakol Divorce ("Financial Settlement"). (Pet. for Disc., ¶ 134; ODC-25; N.T. at 157; N.T.T. at 8)

97. Pursuant to the Financial Settlement, Dr. Sakol was required to pay his ex-wife $558,983.00 and transfer various investment accounts to her. (ODC-25; N.T. at 157; N.T.T. at 9)

98. Respondent failed to consult with Dr. Sakol regarding the terms of the Financial Settlement. (N.T.T. at 9)

99. On October 24, 2016, Respondent and Attorneys Meilton and Laudermilch placed the terms of the Financial Settlement on the record. (ODC-25; N.T. at 157; N.T.T. at 12)

100. Dr. Sakol thereafter promptly transferred two investment accounts to his ex-wife and provided three checks totaling $516,125.77 to Respondent for payment to Dr. Sakol's ex-wife. (ODC-25; N.T. at 157; N.T.T. at 9)

101. On November 11, 2016, Respondent provided Attorneys Meilton and Laudermilch with the three checks from Dr. Sakol. (ODC-25; N.T. at 157)

102. By email dated November 16, 2016, Attorney Laudermilch notified Respondent that Dr. Sakol still owed money to his ex-wife according to the terms of the Financial Settlement. (Pet. for Disc., ¶ 136; ODC-22; N.T. at 158-159; N.T.T. at 10)

103. By email dated December 1, 2016, Attorney Laudermilch advised Respondent that, by her calculations, Dr. Sakol still owed his ex-wife $73,901.58. (Pet. for Disc., ¶ 137; ODC-23; N.T. at 159-160)

104. In response, Respondent advised Attorney Laudermilch that he was ill and would follow up with her on Monday, December 5, 2016; however, he failed to do so. (Pet. for Disc., ¶ 138; ODC-23; N.T. at 160)

105. Respondent failed to promptly inform Dr. Sakol of Attorney Laudermilch's calculations. (N.T.T. at 11, 13)

106. From December 6 to December 13, 2016, Respondent failed to take any action on Dr. Sakol's behalf to settle the alleged outstanding balance, even though Dr. Sakol had previously authorized Respondent to settle any and all issues in his divorce and custody matters and was specifically willing to reach an agreement regarding the Financial Settlement. (Pet. for Disc., ¶ 140; N.T.T. 13-15)

107. By email dated December 13, 2016, Attorney Laudermilch again noted that Dr. Sakol had not fulfilled his obligations under the Financial Settlement and advised that she would file a Petition to Enforce if Dr. Sakol failed to remit the remaining funds by December 19, 2016. (ODC-24; N.T. at 160-161)

108. By emails dated December 13 and 14, 2016, Respondent asserted that the concerns about the Financial Settlement were not urgent and that, in any event, he was too ill to consider them. (ODC-24; N.T. at 161)

109. Respondent thereafter failed to contact Attorney Laudermilch in any fashion regarding the Financial Settlement or to undertake any effort to resolve the matter without the need to involve the Court. (N.T. at 161-163)

110. From December 2016 to July 2017, Attorneys Laudermilch and Meilton scheduled approximately three meetings with Respondent in an effort to address the Financial Settlement issues. (N.T. at 162)

111. While Respondent attended one meeting, he cancelled the other two meetings on the days each was to take place without providing prior notice. (N.T. at 162)

112. Over the course of this same time period, in his communications with Dr. Sakol, Respondent falsely claimed that he had been unable to reach Attorney Meilton or Attorney Laudermilch to discuss settlement. (N.T.T. at 15)

113. On December 22, 2016, Attorneys Laudermilch and Meilton filed a Petition to Enforce the Financial Settlement ("Petition to Enforce") requesting that the Court order Dr. Sakol to pay his ex-wife $73,901.58 pursuant to the Financial Settlement, and $1,500.00 in legal fees. (Pet. for Disc., ¶¶ 143-144; ODC-25; N.T. at 164; N.T.T. at 14-16)

114. On December 29, 2016, the Court issued a Rule to Show Cause why Dr. Sakol's ex-wife was not entitled to the relief sought in the Petition to Enforce. (Pet. for Disc., ¶ 145; ODC-26)

115. Dr. Sakol's response to the Rule to Show Cause was due within 10 days of service thereof, by January 9, 2017. (Pet. for Disc., ¶ 146; ODC-26; N.T. at 165)

116. Respondent filed Dr. Sakol's response to the Rule to Show Cause on January 13, 2017, by which point it was untimely. (Pet. for Disc., ¶ 147; N.T. at 165)

117. On March 29, 2017, the Divorce Master convened a Preliminary Conference. (ODC-28)

118. At the Preliminary Conference, Respondent claimed that there had been mistake and fraud in the inducement of the Financial Settlement. (Pet. for Disc., ¶ 149; N.T. at 167)

119. By memorandum dated that same day, the Divorce Master ordered Respondent to file a Legal Memorandum in support of Dr. Sakol's defenses on or before July 5, 2017. (Pet. for Disc., ¶ 150; ODC-28; N.T. at 167)

120. The Divorce Master further scheduled a hearing for July 18, 2017 ("Divorce Master Hearing") (Pet. for Disc., ¶ 151; ODC-28; N.T. at 167)

121. At approximately 9:00 p.m. on July 5, 2017, Respondent emailed the Legal Memorandum to the Divorce Master, Attorney Laudermilch, and Attorney Meilton; however, he failed to file the same with the court. (Pet. for Disc., ¶¶ 153-154; N.T. at 168)

122. On the morning of July 18, 2017, before the Divorce Master Hearing commenced, Respondent submitted a settlement proposal to Attorneys Meilton and Laudermilch in an effort to resolve all issues relative to the Financial Settlement. (Pet. for Disc., ¶ 155; N.T. at 168; N.T.T. 15-16)

123. This proposal was the first time Respondent had engaged in any settlement discussions concerning the Financial Settlement. (Pet. for Disc., ¶ 156; N.T. at 168; N.T.T. 15-16)

124. At the conclusion of the Divorce Master Hearing, Respondent and Attorneys Meilton and Laudermilch waived the preparation and filing of a transcript and agreed to jointly prepare a Transcript Request Form if either party filed exceptions to the Divorce Master's decision. (Pet. for Disc., ¶ 158; ODC-30; N.T. at 173-174)

125. After the Divorce Master Hearing, the Divorce Master issued a Post-Hearing Directive ordering Respondent to file a Post-Hearing Memorandum by July 31, 2017, and provide a "clocked-in" copy of the same to her and opposing counsel. (Pet. for Disc., ¶ 159; ODC-30; N.T. at 168-170; N.T.T. at 17)

126. Respondent failed to file the Post-Hearing Memorandum until August 7, 2017, by which point it was untimely by one week. (Pet. for Disc., ¶ 161; N.T. at 170; N.T.T. at 17-18)

127. Respondent failed to inform Dr. Sakol that he had untimely filed the Post-Hearing Memorandum. (Pet. for Disc., ¶ 160; N.T.T. at 18)

128. On October 13, 2017, the Divorce Master filed a Report and Recommendation ("R&R") concerning the Petition to Enforce. (Pet. for Disc., ¶ 162; ODC-31; N.T. at 170-171; N.T.T. at 18)

129. In the R&R, the Divorce Master:

a. stated that she had disregarded Respondent's Post-Hearing Memorandum because of its untimely submission;

b. noted that Respondent had not engaged in settlement efforts until the morning of the Divorce Master Hearing; and

c. dismissed Respondent's arguments concerning mistake and fraud in the inducement as meritless.

(Pet. for Disc., ¶¶ 163-164; ODC-31; N.T. at 171; N.T.T. at 19)

130. Ultimately, the Divorce Master found in favor of Dr. Sakol's ex-wife and included a proposed Order with the R&R directing Dr. Sakol to pay his ex-wife $65,612.00 pursuant to the Financial Settlement within two days, and $10,310.00 in attorney's fees within 30 days. (Pet. for Disc., ¶ 165; ODC-31; N.T. at 171; N.T.T. at 18)

131. The proposed Order also included a penalty of $100.00 for each day the amounts remained outstanding after the respective deadlines. (Pet. for Disc., ¶ 166; ODC-31; N.T. at 171-172; N.T.T. at 18)

132. On November 2, 2017, Respondent filed Exceptions to the R&R. (Pet. for Disc., ¶ 167; N.T. at 172; N.T.T. at 19, 21)

133. By email that same day, Respondent advised Attorneys Meilton and Laudermilch that he would file a request for the Divorce Master Hearing transcript. (Pet. for Disc., ¶ 168; ODC-33; N.T. at 172-173)

134. Respondent filed the Exceptions without the benefit of the Divorce Master Hearing transcript.

135. On November 3, 2017, Respondent replied to an email from the Divorce Master, and reiterated that he would request the transcript on November 6, 2017. (Pet. for Disc., ¶ 169; ODC-33; N.T. at 172-173)

136. Respondent failed to request the transcript from the Divorce Master Hearing on November 6, 2017, or any date thereafter. (Pet. for Disc., ¶ 170; N.T. at 174)

137. Attorney Laudermilch later ordered the transcript so that she could file a brief relative to the Exceptions to the Divorce Master's R&R. (N.T. at 174)

138. By Order dated November 6, 2017, the Court directed Respondent to file a Brief in Support of Dr. Sakol's Exceptions to the R&R ("Supporting Brief") within 20 days. (Pet. for Disc., ¶ 171; ODC-34; N.T. at 174-175)

139. Respondent failed to timely file the Supporting Brief; therefore, on November 29, 2017, Attorney Laudermilch filed a Motion to Dismiss Dr. Sakol's Exceptions. (Pet. for Disc., ¶¶ 172-173; N.T. at 176)

140. Respondent finally filed the Supporting Brief on December 5, 2017, by which point it was untimely by more than one week. (Pet. for Disc., ¶ 175; ODC-36; N.T. at 176)

141. The Supporting Brief included a footnote, wherein Respondent falsely claimed that he had thought Attorneys Meilton and Laudermilch were going to request the Divorce Master Hearing transcript. (Pet. for Disc., ¶ 176; ODC-36)

142. Respondent failed to offer any evidence that either attorney had volunteered to obtain the transcript after Respondent's November 2 and 3, 2017, emails, copies of which were attached to the Supporting Brief. (Pet. for Disc., ¶ 177; ODC-36)

143. In fact, neither attorney had volunteered to obtain the transcript. (N.T. at 174)

144. On December 13, 2017, the Court issued a Rule to Show Cause directing Respondent to file a response within seven days, by December 21, 2017, as to why the Motion to Dismiss should not be granted. (Pet. for Disc., ¶ 178; ODC-37; N.T. at 176-177)

145. Respondent filed the Response to the Rule to Show Cause on December 26, 2017, by which point it was untimely by five days. (Pet. for Disc., ¶ 179; ODC-38; N.T. at 177-178)

146. Therein, Respondent asserted that he filed the Supporting Brief late because he thought it was due 20 days after receipt of the Divorce Master Hearing transcript. (Pet. for Disc., ¶ 180; ODC-38; N.T. at 178)

147. In fact, the Court's November 6, 2017, Order clearly directed Respondent to file the Supporting Brief within 20 days of service of the Order, and Respondent failed to take any action to request the Divorce Master Hearing transcript, despite his statements that he would do so. (ODC-34; N.T. at 178)

148. By Order dated January 9, 2018, the Court dismissed Dr. Sakol's Exceptions and adopted the R&R in full. (Pet. for Disc., ¶ 181; ODC-39; N.T. at 178-179; N.T.T. at 21)

149. Because the Court adopted the R&R in full, Dr. Sakol was required to pay his ex-wife $65,612.00 within two business days and $10,310.00 within 30 days for attorney's fees and costs. (Pet. for Disc., ¶ 182; ODC-31; ODC-39)

150. Both sums were subject to a penalty of $100.00 per day for each day that the amounts remained unpaid. (Pet. for Disc., ¶ 183; ODC-31; ODC-39; N.T. at 178-79)

151. Respondent failed to promptly inform Dr. Sakol of the Court's Order, and the financial obligations it imposed, despite exchanging numerous communications with him. (N.T.T. at 22)

152. Finally, on or around February 20, 2018, Respondent informed Dr. Sakol of the Court's Order, but failed to advise him how much he owed. (Pet. for Disc., ¶ 184; N.T.T. at 21-22, 101-102)

153. By email dated February 22, 2018, Dr. Sakol asked Respondent how much the Court's Order directed him to pay his ex-wife, including penalties. (Pet. for Disc., ¶ 186; ODC-40; N.T.T. at 22-24)

154. In response, Respondent told Dr. Sakol that he would provide the final amounts later that day, but he failed to do so until February 24, 2018. (Pet. for Disc., ¶ 187; ODC-40; ODC-41; N.T.T. at 24-25)

155. On February 24, 2018, Respondent sent Dr. Sakol an email advising that he owed his ex-wife $75,922.00. (Pet. for Disc., ¶ 188; ODC-41; N.T.T. at 24-25)

156. The amount Respondent provided to Dr. Sakol failed to include penalties. (Pet. for Disc., ¶ 189; ODC-41; N.T.T. at 25)

157. On Sunday, February 25, 2018, Dr. Sakol provided Respondent with a check in the amount of $75,922.00, the memo line of which stated, "for escrow per court order" ("Settlement Check") (Pet. for Disc., ¶ 190; ODC-42; N.T.T. at 25-26)

158. Respondent delayed in providing Dr. Sakol's payment to Attorney's Meilton and Laudermilch until March 1, 2018. (Pet. for Disc., ¶ 193; N.T. at 179; N.T.T. at 26-27)

159. On March 2, 2018, Attorney Laudermilch sent a letter to Respondent, wherein she noted that the Settlement Check failed to include the amount Dr. Sakol owed in penalties. (Pet. for Disc., ¶ 194; N.T. at 179; N.T.T. at 26-27)

160. Respondent thereafter advised Dr. Sakol that he owed $6,800.00 in penalties. (N.T.T. at 27)

161. On March 16, 2018, Dr. Sakol gave Respondent a $ 6,800.00 check ("Penalty Check"). (Pet. for Disc., ¶ 196; ODC-44; N.T.T. at 28-29)

162. On that same date, Respondent told Attorneys Laudermilch and Meilton that he would provide the Penalty Check to them by Monday, March 19, 2018. (ODC-45; N.T. at 180-181)

163. On March 20, 2018, Respondent advised Attorneys Laudermilch and Meilton that he would deliver the Penalty Check on Wednesday, March 21, 2018. (Pet. for Disc., ¶ 198; ODC-45; N.T. at 180-181)

164. Inclement weather prevented Respondent from delivering the Penalty Check on March 21, 2018. (Pet. for Disc., ¶ 199; ODC-45; N.T. at 180-181)

165. By email dated March 22, 2018, Respondent stated that he would provide the Penalty Check that day. (Pet. for Disc., ¶ 199; ODC-45; N.T. at 180-181)

166. Respondent thereafter failed to deliver the penalty check until April 16, 2018, a full month after he received the funds from Dr. Sakol. (Pet. for Disc., ¶ 200; N.T. at 181; N.T.T. at 29)

Medical Laser Matter

167. In or around December 2017, Dr. Sakol paid to purchase a laser for his medical practice. (Pet. for Disc., ¶ 222; N.T.T. at 29)

168. The vendor thereafter failed to deliver the laser to Dr. Sakol. (Pet. for Disc., ¶ 223; N.T.T. at 29-30)

169. Dr. Sakol retained Respondent to represent him in seeking a refund. (N.T.T. at 30)

170. By email dated March 1, 2018, Dr. Sakol asked Respondent to file a lawsuit against the vendor ("Laser Claim"). (Pet. for Disc., ¶ 224; ODC-43; N.T.T. at 30-31)

171. Respondent replied that same day and told Dr. Sakol that he could not file the Laser Claim until Monday, March 5, 2018. (Pet. for Disc., ¶ 225; ODC-43; N.T.T. at 31)

172. Respondent did not file the Laser Claim on March 5, 2018. (Pet. for Disc., ¶ 226; N.T.T. at 31)

173. On March 20, 2018, Dr. Sakol sent Respondent an email, in which he again requested that Respondent file the Laser Claim. (Pet. for Disc., ¶ 227; ODC-46; N.T.T. at 31-32)

174. In response, Respondent promised to attend to the Laser Claim after he finished drafting an Answer in an unrelated matter. (Pet. for Disc., ¶ 228; ODC-46)

175. By email dated March 24, 2018, Dr. Sakol asked Respondent if the vendor had transferred money as a refund for the laser. (Pet. for Disc., ¶ 229; ODC-47; N.T.T. at 33)

176. By email dated March 26, 2018, Respondent informed Dr. Sakol that the vendor had not yet provided any refund. (Pet. for Disc., ¶ 230; ODC-47; N.T.T. at 33)

177. Later that same day, Dr. Sakol directed Respondent to proceed with filing the Laser Claim. (Pet. for Disc., ¶ 231; ODC-47; N.T.T. at 33)

178. Respondent thereafter failed to file the Laser Claim. (N.T.T. at 34)

179. At no point did Respondent advise Dr. Sakol against pursuing the Laser Claim. (N.T.T. at 34-35)

180. By email dated September 25, 2018, Respondent, *inter alia*, admitted that he was "tardy" in filing the Laser Claim, but claimed Dr. Sakol had only recently decided to file the Laser Claim, and had "gone back and forth" about whether pursing the Laser Claim was worthwhile. (Pet. for Disc., ¶ 237; ODC-55; N.T.T. at 35-36)

181. In fact, Dr. Sakol had never changed his mind about whether to pursue the Laser Claim. (N.T.T. at 37)

182. Dr. Sakol ultimately terminated Respondent's representation due to his failure to file the Laser Claim. (ODC-51; ODC-52; N.T.T. at 40)

183. Sometime after Dr. Sakol terminated Respondent, he filed a lawsuit against the vendor and received a verdict awarding him approximately $8,300.00, plus costs and fees. (N.T.T. at 94-95)

Post-Termination Matters

184. By letter dated September 14, 2018, Dr. Sakol terminated Respondent's representation for all legal matters, and requested that Respondent provide Dr. Sakol with his complete file on or before September 24, 2018 ("Termination Letter"). (Pet. for Disc., ¶¶ 201, 236; ODC-51; N.T.T. at 37-38; 40-41)

185. On September 15, 2018, Dr. Sakol sent an electronic copy of the Termination Letter to Respondent via email. (ODC-52; N.T.T. at 39-40)

186. Respondent failed to return Dr. Sakol's file on or before September 24, 2018. (N.T.T. at 41)

187. Instead, by email dated September 24, 2018, Respondent sent Dr. Sakol a letter regarding Respondent's receipt and maintenance of fees ("Escrow Letter"). (Pet. for Disc., ¶ 204; ODC-54; N.T.T. at 41-42)

188. Respondent backdated the Escrow Letter to August 20, 2018. (ODC-54)

189. In the Escrow Letter, Respondent, *inter alia*, indicated that he had deposited a $2,000.00 check dated February 20, 2018, into his Operating Account, even though it was supposed to have gone into his IOLTA account to be held for payment of guardian ad litem ("GAL") services. (Pet. for Disc., ¶ 205; ODC-54; N.T.T. at 42)

190. The Escrow Letter further noted that the balance of the "GAL escrow" as of June 30, 2017, was $325.00, which had been transferred to be "paid to offset the prior error." (Pet. for Disc., ¶ 206; ODC-54; N.T.T. at 42)

191. Respondent asked Dr. Sakol to sign the Escrow Letter to confirm his "agreement and acceptance" of the information contained therein. (ODC-54)

192. Dr. Sakol declined to sign the Escrow Letter because he believed it was inaccurate and contained information he could not confirm. (Pet. for Disc., ¶ 208; N.T.T. at 44)

193. By email dated September 25, 2018, Dr. Sakol advised Respondent that he had directly paid the GAL's most recent invoice. (Pet. for Disc., ¶ 207; ODC-56; N.T.T. at 46)

194. On that same date, Respondent replied stating that all of Dr. Sakol's files would be available the following day, September 26, 2018, at noon. (ODC-55; N.T.T. at 41)

195. On or around September 26, 2018, Respondent provided a thumb drive purportedly containing Dr. Sakol's files to his successor counsel, Robert H. Davis, Jr., Esquire. (Pet. for Disc., ¶ 211; N.T.T. at 41)

196. The thumb drive did not contain all of Dr. Sakol's files. (N.T.T. at 52)

197. By email dated September 27, 2018, Dr. Sakol expressed concern that neither Respondent nor his accountant had contacted him relative to the Escrow Letter and asked for the number and bank for the $2,000.00 check, as he had been unable to locate the same in his records. (Pet. for Disc., ¶ 209; ODC-57; N.T.T. at 47-48)

198. Later that same day, Respondent replied to Dr. Sakol that he was "fine with it now." (Pet. for Disc., ¶ 210; ODC-57)

199. On October 4, 2018, Dr. Sakol sent Respondent an email requesting copies of all transactions from the GAL escrow account, and again asking for the number and bank for the $2,000.00 check. (Pet. for Disc., ¶ 212; ODC-58; N.T.T. at 48-49)

200. Dr. Sakol further expressed displeasure that Respondent still had not delivered the remainder of his files. (Pet. for Disc., ¶ 213; ODC-58; N.T.T. at 48-49)

201. In response, Respondent sent Dr. Sakol a reconciliation of account that the GAL had prepared ("GAL Reconciliation") (Pet. for Disc., ¶ 214; ODC-59; N.T.T. at 49-51)

202. The GAL Reconciliation reflected Dr. Sakol's payment of the GAL's most recent invoice and showed that he had an outstanding balance of $462.50. (Pet. for Disc., ¶ 215; ODC-59; N.T.T. at 51)

203. Respondent failed to provide Dr. Sakol with any information relative to the $2,000.00 check referenced in the Escrow Letter. (N.T.T. at 51)

204. In or around November 2018, Respondent delivered multiple banker's boxes of paper files to Attorney Davis. (Pet. for Disc., ¶ 216; N.T.T. at 51)

205. Dr. Sakol's physical files failed to include ledgers relative to Respondent's accounting of Dr. Sakol's escrow funds and was missing some documents for the custody matter. (N.T.T. at 52-53)

206. By letter dated November 9, 2018, Attorney Davis noted that the files Respondent had provided did not include an accounting for his handling of the GAL payments, and that Respondent had failed to furnish any records relative to the GAL escrow. (Pet. for Disc., ¶ 217; ODC-60; N.T.T. at 53-55)

207. Attorney Davis further reminded Respondent that RPC 1.15(c)(2) required that he maintain individual client ledgers and requested that he promptly supply an individualized ledger for Dr. Sakol. (Pet. for Disc., ¶ 218; ODC-60; N.T.T. at 53-55)

208. On November 12, 2018, Respondent sent Attorney Davis an email, in which he claimed that Attorney Davis' November 9, 2018, correspondence was the first time he recalled any request regarding the GAL financial transactions. (Pet. for Disc., ¶ 219; ODC-61; N.T.T. at 56-57)

209. Respondent also promised to provide records of the GAL transactions by Wednesday, November 14, 2018. (Pet. for Disc., ¶ 220; ODC-61; N.T.T. at 56-57)

210. Respondent thereafter failed to provide any additional records to either Dr. Sakol or Attorney Davis. (Pet. for Disc., ¶ 221; N.T.T. at 57)

The Alfred and Jennifer Albright Matter

211. Alfred and Jennifer Albright (collectively, "the Albrights") retained Respondent to represent them as beneficiaries to the Estate of Alfred's Mother. (N.T. at 103)

212. The Albrights' objective was for Respondent to file objections to the executor's handling of the Estate before it was finalized and distributed. (N.T. at 104, 110)

213. The Albrights informed Respondent of the issues they wanted to raise and noted that they did not want to contest the values that had been assigned to the Estate's racehorses. (Pet. for Disc., ¶ 107; N.T. at 103)

214. Nonetheless, Respondent focused considerably on the racehorse valuations during his representation of the Albrights. (N.T. at 105-106, 139-140)

215. In his communications with the Albrights, Respondent claimed that he was using the racehorse valuations as a bargaining chip to secure concessions with regard to the matters the Albrights wanted to pursue. (N.T. at 107)

216. Respondent failed to consult with the Albrights about the strategy of leveraging the racehorse valuations to accomplish the Albrights' objectives. (N.T. at 107)

217. During a particular meeting with Respondent, the Albrights told Respondent that they did not care about the value of the Estate's racehorses. (N.T. at 106-107)

218. In response, Respondent indicated that he did not want any input from the Albrights about the strategy he had chosen. (N.T. at 107-108)

219. The Albrights did not thereafter discuss with Respondent their desire to ignore the racehorse valuation issue. (N.T. at 107-108)

220. On May 30, 2017, Respondent contacted the Estate counsel, Horace Ehrgood, Esq., and summarized the Albrights' concerns about the administration of the Estate. (Pet. for Disc., ¶ 109-110; N.T. at 138-139)

221. On June 6, 2017, Respondent met with Attorney Ehrgood and the Executor regarding the administration of the Estate. (Pet. for Disc., ¶ 111; N.T. at 139)

222. At the meeting, Respondent focused primarily on the value of the Estate's racehorses. (N.T. at 139-140)

223. Ultimately, Respondent and the Executor agreed to consult a mutual acquaintance about the value of some of the Estate's racehorses. (Pet. for Disc., ¶ 112; N.T. at 139-140)

224. In the weeks following the meeting, Attorney Ehrgood attempted to call Respondent about the issues raised by the Albrights. (ODC-15; N.T. at 142)

225. Respondent failed to respond to Attorney Ehrgood's communications. (ODC-15; N.T. at 142)

226. On July 13, 2017, Attorney Ehrgood sent Respondent a letter ("July Letter") addressing the issues Respondent had outlined in his initial contact with Attorney Ehrgood. (Pet. for Disc., ¶ 114-115; ODC-15; N.T. at 140-142)

227. Respondent thereafter failed to communicate with Attorney Ehrgood in any fashion until 2018. (N.T. at 143)

228. On January 19, 2018, Respondent sent Attorney Ehrgood a letter ("Position Letter") setting forth the Albrights' position with regard to the propriety of the Executor's administration of the Estate. (Pet. for Disc., ¶ 118; ODC-18; N.T. at 143-144, 146)

229. Respondent thereafter failed to follow up with Attorney Ehrgood concerning the Position Letter. (Pet. for Disc., ¶ 120; N.T. at 144)

230. On February 2, 2018, Attorney Ehrgood filed the First and Final Account for Decedent's Estate. (Pet. for Disc., ¶ 121; ODC-16)

231. By letter dated February 5, 2018 ("Notice Letter"), Attorney Ehrgood informed the Albrights that he had filed the First and Final Account ("Account"), which the Court would finalize unless it received objections on or before March 26, 2018. (Pet. for Disc., ¶ 122; ODC-17; N.T. at 108-109, 145-146)

232. Attorney Ehrgood sent a courtesy copy of the Notice Letter to Respondent. (Pet. for Disc., ¶ 123; ODC-17; N.T. at 146)

233. Shortly thereafter, the Albrights informed Respondent via email that they had received the Notice Letter and asked for an update on the status of their objections. (N.T. at 109-110)

234. By letter dated February 7, 2018, Attorney Ehrgood responded to the Position Letter, noting that he had filed the Account with the Court. (Pet. for Disc., ¶ 124; ODC-18; N.T. at 146-147)

235. Based on the Position Letter, Attorney Ehrgood believed that Respondent would file objections to the Account. (N.T. at 144).

236. None of the Albrights' concerns about the administration of Decedent's Estate had been resolved at the time they received the Notice Letter. (N.T. at 110)

237. The Albrights expected Respondent to file objections to Account on or before the deadline to do so. (N.T. at 110)

238. However, Respondent failed to respond to the Notice Letter or Attorney Ehrgood's subsequent correspondence and failed to file objections to the Account. (Pet. for Disc., ¶ 125; N.T. at 147-148)

239. Respondent was aware that the deadline to file objections to the Account was March 26, 2018. (ODC-20; N.T. at 111)

240. On at least two occasions, the Albrights reminded Respondent of the deadline to file objections. (N.T. at 111)

241. On March 1, 2018, Respondent sent an email to the Albrights, wherein he confirmed that the deadline to file objections was March 26, 2018 and stated that he would provide a draft thereof to the Albrights on March 12 or 13. (ODC-20; N.T. at 112-113)

242. Respondent thereafter failed to provide the Albrights with any draft objections. (N.T. at 113)

243. Respondent at no point advised the Albrights against filing objections. (N.T. at 110-111)

244. At no point did the Albrights change their mind about filing objections. (N.T. at 113)

245. Ultimately, Respondent failed to file objections on the Albrights' behalf. (Pet. for Disc., ¶ 128; N.T. at 113, 148)

246. As a result, Attorney Ehrgood finalized and distributed the Estate in accordance with the Account. (Pet. for Disc., ¶ 129; N.T. at 148)

247. Respondent failed to promptly inform the Albrights that he had failed to file any objections on their behalf. (N.T. at 113-114)

248. On April 13, 2018, the Albrights sent an email to Respondent requesting an update on their objections. (ODC-20; ODC-21; N.T. at 114)

249. In response, Respondent asked if the Albrights had received any papers from the Court and claimed that he had not received any filing relative to the Estate. (ODC-20; ODC-21; N.T. at 114)

250. In that same email, Respondent asserted that he was "ready to file" the Albrights' objections. (ODC-20; ODC-21)

251. Later that same day, April 13, 2018, the Albrights sent Respondent two additional emails, in which they reminded Respondent that the Notice Letter stated that the deadline for objections was March 26, 2018, and asked if they had missed the deadline. (ODC-21)

252. In his reply, Respondent again asserted that the Albrights should receive "something" from the Court and stated that there was still a process to file objections even if the deadline to do so had passed. (ODC-21)

253. The Albrights later learned that the Court had finalized the Estate when they received a letter from Attorney Ehrgood enclosing a check for their portion thereof. (N.T. at 113)

254. Respondent thereafter failed to communicate with the Albrights, despite their multiple attempts to contact him *via* telephone and text message. (N.T. at 116)

255. Eventually, Respondent admitted to the Albrights that he had missed the opportunity to present their objections to the Estate and offered to assist them with an ongoing Unemployment Compensation Tax audit, free of charge. (Pet. for Disc., ¶ 131; N.T. at 116-117)

256. In total, the Albrights paid Respondent approximately $10,000.00 for his representation. (N.T. at 122)

Additional Findings

257. The testimony of Senior Judge Braxton; Robert Clofine, Esquire; Stephanie DiVittore, Esquire; Jennifer Albright; Horace Ehrgood, Esquire; Quintina Laudermilch, Esquire; Gina Brown McGovern; and Dr. Peter J. Sakol is credible.

258. Respondent testified on his own behalf.

259. Respondent is a sole practitioner. N.T. 199.

260. Respondent explained that he periodically does business with other attorneys, who he described as "subject matter specialists" while he handled litigation. Respondent testified that 90% of his cases come from other attorneys. N.T. 200.

261. Respondent employs one office assistant on a 30-hour per week basis, whose primary responsibility is to address accounting and scheduling.

Respondent testified that his assistant "puts every deadline on a computerized calendar." N.T. 201, 207.

262. Respondent did not take responsibility for his actions and did not express remorse.

III. CONCLUSIONS OF LAW

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

1. RPC 1.1 - A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation. (Senior Judge Braxton, Evertts, Brown, Sakol, Albright)

2. RPC 1.3 – A lawyer shall act with reasonable diligence and promptness in representing a client. (Evertts, Brown, Sakol, Albright)

3. RPC 1.4(a)(2) – A lawyer shall reasonably consult with the client about the means by which the client's objectives are to be accomplished. (Brown, Sakol, Albright)

4. RPC 1.4(a)(3) – A lawyer shall keep the client reasonably informed about the status of the matter. (Brown, Sakol)

5. RPC 1.4(a)(4) - A lawyer shall promptly comply with reasonable requests for information. (Albright)

6. RPC 1.4(b) – A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation. (Brown, Sakol, Albright)

7. RPC 1.6(d) – A lawyer shall make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of a client. (Brown)

8. RPC 1.15(c)(2) – A lawyer shall maintain the following books and records for each Trust Account and for any other account in which Fiduciary Funds are held pursuant to Rule 1.15(l): check register or separately maintained ledger, which shall include the payee, date, purpose and amount of each check, withdrawal and transfer, the payor, date, and amount of each deposit, and the matter involved for each transaction; provided, however, that where an account is used to hold funds of more than one client, a lawyer shall also maintain an individual ledger for each trust client, showing the source, amount and nature of all funds received from or on behalf of the client, the description and amounts of charges or withdrawals, the names of all persons or entities to whom such funds were disbursed, and the dates of all deposits, transfers, withdrawals and disbursements. (Sakol)

9. RPC 1.15(e) – 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. (Sakol)

10. RPC 1.15(l) – All Fiduciary Funds shall be placed in a Trust Account (which, if the Fiduciary Funds are also Qualified Funds, must be an IOLTA Account) or in another investment or account which is authorized by the law applicable to the entrustment or the terms of the instrument governing the Fiduciary Funds. (Sakol)

11. RPC 1.16(a)(1) – A lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if the representation will result in violation of the Rules of Professional Conduct or other law. (Senior Judge Braxton)

12. RPC 1.16(d) – Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as 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. (Sakol)

13. RPC 3.1 – A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous, which includes a good faith argument for an extension, modification, or reversal of existing law. A lawyer for the defendant in a criminal proceeding, or the respondent in a proceeding that could result in incarceration, may nevertheless so defend the proceeding as to require that every element of the case be established. (Senior Judge Braxton, Evertts)

14. RPC 3.2 – A lawyer shall make reasonable efforts to expedite litigation consistent with the interest of the client. (Evertts, Brown, Sakol, Albright)

15. RPC 3.3(a)(1) – A lawyer shall not knowingly make a false statement of material fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer. (Senior Judge Braxton, Evertts, Sakol)

16. RPC 4.1(a) – 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. (Sakol)

17. RPC 8.4(c) – It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation. (Senior Judge Braxton, Evertts, Sakol)

18. RPC 8.4(d) - It is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice. (Evertts, Brown, Sakol, Albright)

IV. DISCUSSION

In this disciplinary matter, the Board considers the Committee's unanimous recommendation to suspend Respondent for a period of one year and one day and stay the suspension in its entirety, imposing probation for a period of two years with a practice monitor. Petitioner takes exception to this recommendation, contending that the Committee erred in concluding that Petitioner failed to meet its burden in the Senior Judge Braxton matter and erred in concluding that Respondent's misconduct warrants a stayed suspension with probation.

Petitioner bears the burden of proving ethical misconduct by a preponderance of the evidence that is clear and satisfactory. ***Office of Disciplinary Counsel v. John T. Grigsby, III***, 425 A.2d 730, 732 (Pa. 1981). Upon this record, the Board concludes that Petitioner satisfied its burden of proof as to each of the charged

rule violations in the Petition for Discipline. For the following reasons, the Board recommends that Respondent be suspended for a period of eighteen months.

The record established that Respondent engaged in a pattern of repeated neglect and incompetence in four client matters, with many of the problems arising from missed court hearings, out of time filings, and poor communication. The record further established that Respondent filed frivolous pleadings and acted with deception to the court.

In the Evertts matter, Respondent failed to competently represent his client, Nancy Hayes, who retained him to represent her interests relative to an estate. Respondent filed a Petition to Remove Executor and Request an Accounting on Ms. Hayes' behalf. Respondent attached a certificate of service stating he had served a copy upon the estate's counsel, Mr. Clofine, but in fact he had not served him. The court scheduled a hearing on the Removal Petition and that same date, Respondent via email provided Mr. Clofine with a copy of the Removal Petition. Thereafter, Respondent failed to appear at a status conference and the court issued an order directing Respondent to show cause why he should not be held in contempt. Respondent failed to file a timely response to the Show Cause order. During the hearing on the Removal Petition, the court found that the evidence presented by Respondent failed to meet the legal standards for removal, so Respondent withdrew the Petition. The court held Respondent's contempt for failing to appear at the status conference in abeyance for 30 days and specified it would be null and void if Respondent paid attorney's fees within 20 days of his receipt of the opposing counsel's fee summary. However, Respondent failed to timely pay the fees, eventually paying them four months later. The decedent's estate incurred more than $19,000 in legal fees to litigate the withdrawn removal petition.

Respondent represented Gina Brown on a pro bono basis in two domestic relations matters. In the divorce matter, the divorce decree incorporated a marital settlement agreement that the Browns had negotiated through respective counsel. The agreement awarded Ms. Brown the marital home but required her to refinance the mortgage by a certain date and required Ms. Brown to obtain confirmation that an outstanding personal loan was an uncollectible debt, thereby absolving the Browns of responsibility. After entry of the divorce decree, Respondent continued to represent his client concerning her obligations under the agreement. Respondent on multiple occasions advised his client he would undertake action on the refinance of the home and the loan but failed to do so.

Mr. Brown file a Petition for Special Relief to enforce the divorce decree and the court scheduled a preliminary conference. Respondent failed to inform Ms. Brown of the conference and that she was required to attend. Accordingly, Ms. Brown did not attend. Eventually, Respondent terminated his representation in the divorce matter. Sometime later, Mr. Brown filed a Petition for Special Relief concerning the loan, alleging that Ms. Brown was in contempt of the agreement for failing to pay the loan. Ms. Brown was unaware that Respondent failed to secure a release of the loan until she received notice of the petition. The court later directed Ms. Brown to pay her ex-husband $2,917 for his payment toward the loan and an additional $1,864.40 in legal fees.

Respondent terminated his representation of Ms. Brown as to her custody issues, but when he eventually returned her file, it was incomplete and contained copies of documents relating to Respondent's representation of other clients.

Respondent represented Dr. Sakol in divorce and custody matters and in a matter involving Dr. Sakol's dissatisfaction with the purchase of a medical laser for his

practice. In the domestic relations matters, pursuant to a final settlement, Dr. Sakol was to pay $558,983.00 to his ex-wife. Dr. Sakol paid the vast majority but still owed approximately $75,000.00. Opposing counsel filed a Petition to Enforce. Throughout the litigation, Respondent missed filing deadlines, of which he failed to inform his client. On one occasion, Respondent failed to timely file a post-hearing memorandum and the divorce master disregarded the memorandum because it was one week late. Ultimately, the divorce master found in favor of the ex-wife and directed Dr. Sakol to pay $65,612.00 and $10,310.00 in attorney's fees. Respondent filed exceptions, which commenced a new round of untimely filings by Respondent. The court eventually dismissed Dr. Sakol's exceptions. Dr. Sakol was required to pay the monies within a certain time, with penalties applied for each day that the amounts remained unpaid. Respondent failed to promptly inform his client of the court's order and the financial obligation it imposed. When Respondent finally informed Dr. Sakol, he did not tell him about the $6,800 in penalties that had accrued, which resulted in Dr. Sakol writing a check that failed to include that amount. Thereafter, Dr. Sakol wrote a check for the penalties, which Respondent failed to promptly deliver to opposing counsel.

In the medical laser issue, Respondent failed to file a lawsuit against a vendor, even though his client directed him to do so. Dr. Sakol eventually terminated Respondent's representation. Issues arose post-termination, as Respondent delayed turning over Dr. Sakol's file and did not satisfactorily handle issues concerning escrowed monies.

The Albrights retained Respondent to represent them as beneficiaries of an estate. The clients' stated objective from the outset of representation was for Respondent to file objections to the executor's handing of the estate before it was finalized and

distributed. The Albrights informed Respondent that they did not want to contest values that had been assigned to the estate's racehorses, yet Respondent kept pursuing that issue without consulting his clients. Respondent only sporadically communicated with the estate's counsel, despite that counsel's efforts. In 2018, the estate's counsel informed the Albrights that he had filed the First and Final Account, which the court would finalize unless it received objections by March 26, 2018; Respondent received a courtesy copy of the notice letter. The Albrights expected Respondent to file objections before the deadline, as they had expressed to Respondent from the beginning, but he failed to do so. The Albrights later learned that the court had finalized the estate. When they attempted to contact Respondent, he failed to communicate with them. Eventually, Respondent admitted to his clients that he had missed the deadline.

As demonstrated by the record, Respondent's neglect was severe and had significant consequences to his clients. The Albright matter offers the best illustration of the harm done by Respondent's misconduct. The Albrights lost their day in court because Respondent failed to file objections to the First and Final Account, even though the Albrights had retained Respondent's services for that very reason and paid him approximately $10,000. At the disciplinary hearing, Ms. Albright testified that she and her husband did not receive anything in exchange for their fees, and she took it upon herself to resolve some of their concerns after Respondent missed the deadline to file objections.

In Dr. Sakol's matter, Respondent routinely ignored filing deadlines after opposing counsel filed the Petition for Enforcement. Respondent's untimely submission of the post-hearing memorandum caused harm, in that the divorce master disregarded it entirely. Respondent's neglect resulted in an order directing Dr. Sakol to pay his ex-wife $10,310.00 in attorney's fees and $6,800 in penalties. Ms. Brown also was financially

injured, as she was ordered to pay $4,781.40 after Respondent failed to take any action relative to the loan.

In addition to Respondent's severe neglect in four client matters, his misconduct also included the pursuit of frivolous filings and deception to the court. The record established that Respondent initiated a lawsuit in Dauphin County on behalf of Jessie Smith, alleging that defamatory public statements and blog posts made by Jenny Stephens and others had resulted in Ms. Smith's removal from her position as Special Deputy Secretary of Pennsylvania's Bureau for Dog Law Enforcement. Ms. Stephens filed a separate defamation action against Ms. Smith and Respondent in Philadelphia after a Philadelphia Inquirer reporter authored an article based on the Dauphin County complaint, which the reporter had obtained from Respondent.

After a multi-day trial, the Philadelphia jury concluded that Respondent had defamed Ms. Stephens with actual malice and awarded her $50,000.00 in compensatory damages and $50,000.00 in punitive damages. Respondent did not withdraw the Dauphin County litigation after the conclusion of the Philadelphia matter, and failed to inform the Dauphin County Court of the existence of the Philadelphia proceedings and the outcome thereof, even though the Philadelphia verdict determined that the allegations in the Dauphin litigation were false. Respondent's pursuit of the Dauphin litigation prompted the unnecessary expenditure of judicial resources and required Ms. Stephens to incur additional expense to bring the Philadelphia litigation to the Dauphin Court's attention. Senior Judge Braxton testified at the disciplinary hearing and when asked why he had filed his complaint against Respondent, the judge credibly testified that he had done so because Respondent had tried to "work a fraud upon the court" by continuing to litigate

the lawsuit in Dauphin County when the underlying merits thereof had been resolved against Respondent in Philadelphia.

Having concluded that Respondent engaged in professional misconduct, this matter is ripe for the determination of discipline. In assessing appropriate discipline, the Board must weigh any aggravating and mitigating circumstances. ***Office of Disciplinary Counsel v. Brian Preski***, 134 A.3d 1027, 1031 (Pa. 2016).

Respondent's history of private and public discipline is an aggravating circumstance. On December 15, 2016, Respondent received an Informal Admonition based on the Philadelphia Court's determination that he had defamed Ms. Stephens. Although the facts of the defamation matter are related to the Senior Judge Braxton matter herein, the misconduct in the instant matter involves Respondent's failure to disclose the Philadelphia litigation to the Dauphin Court, not the act of defaming another.

Not long after the imposition of the Informal Admonition, on April 9, 2018, the Supreme Court suspended Respondent for one year and one day on consent, with the suspension stayed in its entirety and probation. The Court imposed the discipline to address Respondent's neglect, commingling of funds and failure to keep proper financial records. The Court's order directed Respondent to provide records required by RPC 1.15(c) to the Office of Disciplinary Counsel on a quarterly basis during the probation period. However, Respondent failed to timely provide records, leading Disciplinary Counsel to file a petition for a probation violation hearing. Ultimately, by Order dated October 12, 2018, the Court extended the length of Respondent's stayed suspension to September 30, 2019 for failing to abide by the terms of the Court's April 9, 2018 Order. Unfortunately, the Court's order did not persuade Respondent to meet his probationary conditions. He continued to miss deadlines and provide incomplete records to Office of

Disciplinary Counsel, prompting additional motions, conferences and hearings to address Disciplinary Counsel's concerns. Respondent's probation was eventually terminated by Disciplinary Board Order dated January 10, 2020. We note that the Petition for Discipline in the instant matter was filed approximately six months later.

In reviewing the record before us, we find no mitigation. Respondent was admitted to the bar in 1985 and has practiced law for well over thirty years. Respondent touts his experience, particularly his litigation skills, and claims that he respects the legal profession. In our assessment, Respondent's misconduct in the instant matter demonstrates a marked lack of respect for the legal system and a casual disregard of his professional duties. In the matters before us, a common theme is Respondent's constant late filings and missed deadlines, failure to appear for hearings and contemptuous behavior to the court. His penchant for missing deadlines extended to the filing of the Answer in the instant matter. Inexplicably, even in a matter where his law license was at stake, Respondent could not be bothered to timely file his response to the serious charges against him.

Another common theme in these matters is Respondent's failure to accept responsibility and show remorse. Instead of apologizing and acknowledging his professional derelictions, the record demonstrated that Respondent deflected accountability, placed blame on others, and proffered many excuses. Not once during these proceeding did Respondent show remorse for the impact of his actions on his clients. Not once did he appear apologetic. Respondent presented no character testimony on his behalf.

Disciplinary sanctions serve the dual role of protecting the interests of the public while maintaining the integrity of the bar. ***Office of Disciplinary Counsel v. John***

Keller, 506 A.2d 872, 875 (Pa. 1986). Each disciplinary matter is considered on its own unique facts and circumstances; there is no per se discipline for attorney misconduct in the Commonwealth of Pennsylvania. ***Office of Disciplinary Counsel v. Robert Lucarini***, 472 A.2d 186, 190 (Pa. 1983).

To address Respondent's serious misconduct, the Committee recommended a stayed suspension with probation and conditions to include, *inter alia*, appointment of a practice monitor, maintenance of RPC 1.15 records, review of records by a CPA, and quarterly reports filed with the Board. Petitioner advocates for an eighteen month period of suspension, contending that probation is not warranted under the facts of this matter.

After review, we concur with Petitioner's position and conclude that probation is not appropriate under the instant circumstances. This conclusion is consistent with recent matters where the Board considered the appropriateness of probation. In ***Office of Disciplinary Counsel v. John A. Gallagher***, No. 65 DB 2019 (D. Bd. Rpt. 9/29/2020) (1/22/2021), the Board stated that it would not recommend a stayed suspension with probation unless it was "satisfied from the record that a respondent will comply with conditions attached to probation." D. Bd. Rpt. at 31. Therein, the Board rejected the Committee's recommendation for a stayed suspension and probation because Gallagher had a past history of noncompliance with ethical rules and regulations and had not shown that he had remediated prior practice problems. Likewise, in ***Office of Disciplinary Counsel v. Valerie Andrine Hibbert***, No. 215 DB 2019 (D. Bd. Rpt. 2/17/2021) (S. Ct. Order 4/27/2021), the Board rejected Hibbert's request for probation, based on her record of noncompliance during disciplinary proceedings, in that she failed to produce requested financial records, failed to respond to Petitioner's request for a

statement of her position, failed to file a timely answer to Petition for Discipline, and failed to appear at the prehearing conference.

The Board's conclusions in ***Gallagher*** and ***Hibbert*** resonate here. As discussed above, Respondent previously has been disciplined by a stayed suspension and probation and throughout the duration of probation, frequently failed to abide by deadlines to comply with conditions, resulting in the Court's further order extending the time period of probation. Respondent's demonstrated inability to abide by terms and conditions of a prior probation raises legitimate concerns that he will not comply with probation requirements here. Under Disciplinary Board Rule § 89.291, probation may be imposed if the respondent-attorney has demonstrated that he or she is unlikely to harm the public during the period of probation. Upon this record, Respondent has not met this standard.

An examination of prior similar matters supports the imposition of a term of suspension for at least one year and one day where an attorney engages in multiple acts of client neglect, incompetence, frivolous filings, and deception to the court. *See,* ***Hibbert***, *supra*, (suspension for one year and day for neglect in three client matters and nonconformance with recordkeeping duties; no prior discipline); ***Office of Disciplinary Counsel v. Tangie Marie Boston***, 99 DB 2018 (D. Bd. Rpt. 12/10/2019) (S. Ct. Order 2/12/2020) (suspension for one year and one day for multiple instances of client neglect, failure to communicate, failure to protect a client's interests, and conduct prejudicial to the administration of justice, no prior discipline); ***Office of Disciplinary Counsel v. Douglas Andrew Grannan***, No. 197 DB 2016 (D. Bd. Rpt. 4/3/2019) (S. Ct. Order 7/9/2019) (suspension for one year and one day for neglect of seven client matters, incompetence, lack of diligence, failure to communicate, failure to return client files, and conduct

prejudicial to the administration of justice, no prior discipline, no remorse or acceptance of responsibility); ***Office of Disciplinary Counsel v. Joseph P. Maher***, No. 4 DB 2018 (D. Bd. Rpt. 12/14/2018) (S. Ct. Order 2/25/2019) (suspension for one year and one day, lack of candor to tribunal, inadequate representation of a client, disregard of disciplinary process, prior record of private discipline); ***Office of Disciplinary Counsel v. Mark David Johns***, No. 95 DB 2013 (D. Bd. Rpt. 10/2/2014) (S. Ct. Order 12/30/2014) (suspension for one year and one day for neglecting two clients matters; prior record of private discipline).

Under certain circumstances, suspension greater than one year and one day has been imposed in matters involving repeated acts of neglect where the respondent-attorney has a prior disciplinary record. *See*, ***Office of Disciplinary Counsel v. Nicholas E. Fick***, No. 132 DB 2012 (D. Bd. Rpt. 11/4/2013) (S. Ct. Order 3/31/2014) (suspension for eighteen months for neglecting two client matters; extensive history of prior discipline for similar misconduct consisting of an informal admonition, private reprimand, and stayed suspension with probation); ***Office of Disciplinary Counsel v. Matthew Gerald Porsch***, No. 248 DB 2018 (D. Bd. Rpt. 2/20/2020) (S. Ct. Order 5/29/2020) (suspension for two years for neglect of three client matters, failure to refund unearned fee, failure to respond to Office of Disciplinary Counsel's inquiries; this misconduct was aggravated by Porsch's prior history of discipline consisting of a public reprimand for failure to appear for an informal admonition and comply with a condition to refund monies; the informal admonition had been determined for neglect of a client matter; the Board found that Porsch showed little sympathy for his clients' predicaments).

Similar to ***Fick***, Respondent's previous interactions with the disciplinary system have resulted in increased sanctions but no greater adherence to the rules.

Although Respondent's prior misconduct was not the same type of misconduct as in the instant matter, nonetheless, the instant proceeding marks the third time in five years that Respondent has been professionally disciplined. Similar to ***Porsch***, Respondent conveyed little regard or remorse for how his actions impacted his clients. However, we view Porsch's misconduct as more serious than Respondent's misconduct and therefore deserving of more severe discipline, as Porsch failed to refund client monies and failed to respond to inquiries from disciplinary authorities.

Upon this record, we conclude that Respondent is a recidivist disciplinary offender who engaged in multiple acts of serious misconduct for which he has accepted no responsibility and exhibited no remorse, thereby demonstrating his unfitness to practice law. We recommend an eighteen month period of suspension in order to fulfill the predominant purpose of the disciplinary system "to protect the public from unfit attorneys and to maintain the integrity of the legal system." ***Office of Disciplinary Counsel v. Robert Costigan***, 584 A.2d 296, 300 (Pa. 1990).

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that the Respondent, Andrew Wilson Barbin, be Suspended for 18 months from the practice of law in this Commonwealth.

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

Respectfully submitted,

THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

By: _____
Christopher M. Miller, Member

Date: 9/30/2021