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THE DISCIPLINARY BOARD
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SUPREME COURT OF PENNSYLVANIA

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December 19, 2023

Marcee D. Sloan, Prothonotary
The Disciplinary Board of the
Supreme Court of Pennsylvania
Pennsylvania Judicial Center
601 Commonwealth Avenue, Suite 5600
P.O. Box 62625
Harrisburg, PA 17106-2625

RE: Office of Disciplinary Counsel
v. JOSEPH D. LENTO
No. 80 DB 2022
Attorney Registration No. 208824
(Philadelphia)

Dear Ms. Sloan:

Pursuant to D.Bd.Rule § 89.201, attached for filing please find the Brief of Office of Disciplinary Counsel Opposing Exceptions to the Report of the Hearing Officer in the above-referenced matter.

As noted on the cover of the Brief, service on all parties will be by E-mail.

Thank you for your attention to this matter.

Very truly yours,

Harriet R. Brumberg

Harriet R. Brumberg
Disciplinary Counsel

HRB/red
Attachments

cc: Stewart L. Cohen, Hearing Officer
James C. Schwartzman, Esquire, Counsel for Respondent
Matthew C. Brunelli, Esquire, Counsel for Respondent
Thomas J. Farrell, Chief Disciplinary Counsel
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BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, Petitioner	:	No. Disciplinary Docket No. 3
v.	:	No. 80 DB 2022
JOSEPH D. LENTO, Respondent	:	Atty. Registration No. 208824 (Philadelphia)

BRIEF OF OFFICE OF DISCIPLINARY COUNSEL OPPOSING EXCEPTIONS TO THE REPORT OF THE HEARING OFFICER

OFFICE OF DISCIPLINARY COUNSEL

Thomas J. Farrell
Chief Disciplinary Counsel

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I hereby certify that I have this day served by E-mail the within document upon all parties of record in this proceeding in accordance with the requirements of 204 Pa. Code § 89.22.

December 19, 2023

Harriet R. Brumberg

Harriet R. Brumberg
Counsel for Office of Disciplinary Counsel

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METHOD OF CITATION

D-_____ refers to Respondent's numbered exhibit;

FOF _____ refers to a finding of fact set forth in the September 18, 2023 Report of the Hearing Officer;

NT I, _____ indicates a page of the notes of testimony of the January 23, 2023 disciplinary hearing;

NT II, _____ indicates a page of the notes of testimony of the January 24, 2023 disciplinary hearing;

NT III, _____ indicates a page of the notes of testimony of the January 25, 2023 disciplinary hearing;

NT IV, _____ indicates a page of the notes of testimony of the January 26, 2023 disciplinary hearing;

NT V, _____ indicates a page of the notes of testimony of the January 27, 2023 disciplinary hearing;

NT VI, _____ indicates a page of the notes of testimony of the D.Bd. Rules § 89.151(b) hearing on March 6, 2023;

NT VII, _____ indicates a page of the notes of testimony of the D.Bd. Rules § 89.151(b) hearing on March 8, 2023;

ODC- _____ refers to Office of Disciplinary Counsel's numbered exhibit;

P- _____ refers to a numbered D.Bd.Rules § 89.151(b) exhibit of Office of Disciplinary Counsel;

Rpt-_____ refers to a page of September 18, 2023 Report of the Hearing Officer; and

Stip _____ refers to a Joint Stipulation between Office of Disciplinary Counsel and Respondent.

I. STATEMENT OF THE CASE

This matter is before the Disciplinary Board on Exceptions filed by Respondent, Joseph D. Lento, contesting the September 18, 2023 Report of the Hearing Officer finding that Respondent violated all charged Rules of Professional Conduct (RPC) and recommending Respondent's receipt of a four-year suspension. Office of Disciplinary Counsel (ODC) opposes Respondent's exceptions to the Officer's well-supported findings and discipline recommendation.

On June 3, 2022, ODC filed a Petition for Discipline (PFD) charging Respondent with violating 47 RPCs in six client matters. On July 18, 2022, Respondent filed an Answer to the PFD denying all charges. On January 23, 2023, following the Officer's ruling on multiple pre-hearing motions, Respondent's disciplinary hearing commenced. After the introduction of Joint Stipulations and exhibits, ODC called three of Respondent's former clients, John Gardner, Renee Dougalas, and La'Slondi Copelin. The clients testified credibly regarding how Respondent misled them to pay him a substantial legal fee for work that Respondent could not or did not perform. (FOF 33, 329, 344, 431) The next day, ODC presented the credible testimony of two of Respondent's former employees, Joan A.

Feinstein, Esquire, and Steven C. Feinstein, Esquire.[1] (FOF 17, 23) Both witnesses testified regarding Respondent's failure to supervise his attorneys and non-attorney employees, their efforts to discuss with Respondent the shortcomings in his law office management, Respondent's failure to undertake remedial measures to address these shortcomings, and the negative consequences of Respondent's mismanagement on his clients' cases and his law firm's employees.

During the next three days, Respondent testified on his own behalf. In sum, Respondent failed to recognize any wrongdoing for his deceitful conduct in the ***Dougalas***, ***Gardner***, and ***Copelin*** matters and blamed his clients for not understanding the limitations in his representation and his vague fee agreements. (FOF 483, 485) Furthermore, Respondent blamed his law associates and non-lawyer assistants for not following his instructions or not knowing applicable court rules, which resulted in the law firm's filing multiple incorrect pleadings in the ***Robreno***, ***American Club***, and ***Watsons*** matters. (FOF 485)

During an occasionally heated cross-examination, Respondent revealed the dysfunctional nature of his two semi-virtual law firms, Lento Law Group (LLG) and Lento Law Firm (LLF). To wit, Respondent did not

[1] Joan A. Feinstein, Esquire, and Steven C. Feinstein, Esquire, are not related.

take written notes of his conversations with clients, failed to keep a copy of documents that he sent to court, had vague and misleading Letters of Engagement, failed to have another attorney review pleadings and motions before they were filed in court, was unfamiliar with the Rules of Civil Procedure and established case law, and relied heavily on his office manager to handle the operation of his law firms. While Respondent ultimately recognized his failure to supervise his employees and have procedures in place to prevent mishandling of client matters, Respondent failed to express remorse for the harm his misconduct inflicted on his clients, the court system, the profession as well as his former employees. (FOF 484)

On January 29, 2023, Respondent rested his case without calling *any* witnesses on his own behalf. The Officer found ODC had established at least one RPC violation (NT V, 232) and continued the proceedings to hear evidence relevant to the quantum of discipline to be imposed.

Respondent's hearing reconvened on March 6, 2023, at which time ODC introduced aggravating evidence pursuant to D.Bd. Rules §89.151(b), including evidence of Respondent's disciplinary history, unsuccessful attempt to seek reinstatement to the Eastern District of Pennsylvania (EDPA), and lack of recognition of prior misconduct. (P-1 through P-5)

Respondent then presented the testimony of five character witnesses. Respondent's hearing continued on March 8, 2023, with Respondent's presentation of an additional four character witnesses. Overall, Respondent's character witnesses had limited, remote, or isolated professional contacts with Respondent.

On September 18, 2023, the Officer filed his Report finding that Respondent violated all charged RPCs and recommending Respondent receive a four-year suspension. On November 7, 2023, Respondent filed a Brief on Exceptions. Pursuant to D.Bd.Rules §89.201(d), ODC submits this Brief Opposing Exceptions.

II. SUMMARY OF ODC'S BASIC POSITION

Respondent argues that since his "testimony directly contradicted the vast majority of the allegations contained within the Petition and the proofs offered in support of its allegations were largely dependent on the Complainants' testimony," ODC failed to meet its burden of proving 28 of the 47 charged rule violations. (RBOE at 2) Respondent's argument is without factual or legal support. The Hearing Officer properly found, upon consideration of the *totality* of the Joint Stipulations of Fact, ODC's and Respondent's exhibits, the credible testimony of ODC's witnesses, and the testimony of Respondent himself, that a preponderance of the evidence established Respondent's violation of all RPCs charged in the six client matters.[2]

Moreover, while there were contradictions between Respondent's version of events and the testimony of Respondent's former clients and former employees, the Disciplinary Board's *de novo* review of the record affords great deference to the credibility findings of the Officer, who had ample opportunity to assess Respondent during the course of the seven-day disciplinary hearing and repeatedly found Respondent not

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[2] ***ODC v. Grigsby***, 425 A.2d 730, 732 (Pa. 1981) (ODC has the burden of proving ethical misconduct by a preponderance of the evidence)

credible.[3](FOF 488) Thus, there is no basis to disturb the Officer's well-grounded finding of Respondent's RPCs violations.

Likewise baseless is Respondent's accusation that the Officer's recommendation of a four-year suspension is "overly harsh." (RBOE, 23-26) Over the course of two years, Respondent engaged in a pattern of misconduct involving entering into vague fee agreements with clients for legal work that he could not or did not perform, repeatedly filing incorrect or false pleadings in state and federal courts, and failing to properly supervise his lawyer and non-lawyer assistants, which resulted in three of his client's cases being dismissed. Respondent, who has a record of discipline and had a practice monitor, failed to recognize most of his wrongdoing and express remorse for his misconduct. Established precedent fully supports the Officer's recommendation of a four-year suspension for Respondent's myriad misconduct.

[3] ***ODC v. Joseph Q. Mirarchi,*** No. 56 DB 2016 (D.Bd. Rpt.5/28/2019, 67) (S.Ct. Order 3/18/2019).

III. ARGUMENT

A. THE HEARING OFFICER CORRECTLY FOUND RESPONDENT VIOLATED ALL RULES OF PROFESSIONAL CONDUCT CHARGED IN THE PETITION FOR DISCIPLINE.

CHARGE I: *JOHN GARDNER*

Respondent contends that the Officer wrongly concluded that he violated RPC 1.3, 1.4(b), 1.5(a), 1.16(d), and 8.4(c) in the ***Gardner*** matter. (RBOE, 4-8) Respondent is mistaken.[4]

On December 21, 2016, John C. Gardner, Sr., was arrested and charged with Disorderly Conduct (Summary) and three-related misdemeanors. Pursuant to a negotiated guilty plea, on January 25, 2017, Gardner pled guilty to Disorderly Conduct and the Luzerne County District Attorney's Office dismissed the misdemeanor charges. In August 2018, Gardner spoke with Respondent about expunging Gardner's entire criminal record.

Respondent failed to act with the diligence required for the representation in violation of RPC 1.3 when he failed to ascertain that: Gardner would not be eligible for expungement of his summary conviction until 2022, as the expungement statute (ODC-5) required Gardner to be

[4] Notably, Respondent does not challenge the Officer's finding that Respondent violated RPC 1.1.

free of arrest for five years following his January 2017 summary conviction; and ***Commonwealth v. Lutz***, 788 A.2d 993 (Pa. Super. 2001), prohibited the expungement of Gardner's misdemeanor charges that were withdrawn as part of his guilty plea agreement. (FOF 45)

Furthermore, until the D.A.'s Office objected to Gardner's Petition for Expungement, Respondent did even not know that Gardner's misdemeanor charges were withdrawn pursuant to a guilty plea agreement. (NT III, 252) After learning of the D.A.'s objection, Respondent failed to act with diligence and undertake any research to determine if there was a legal basis for the D.A.'s objection. (NT III, 272, 390-391) Instead, Respondent flippantly advised Gardner that the D.A.'s objection was "disingenuous," prompting Gardner to pay Respondent $7,500 for additional representation. (NT I, 140) The record reveals that the only aspect of Gardner's representation that Respondent diligently pursued was obtaining funds from Gardner.

Respondent violated RPC 1.4(b) when he failed to explain Gardner's legal matter to the extent necessary to enable Gardner to make an informed decision regarding the representation. (FOF 40, 63) Respondent failed to inform Gardner that: his summary Disorderly Conduct conviction could not be expunged until January 2022 because Pennsylvania law

requires an individual to be free of arrest or prosecution for five years (NT I, 129); and the District Attorney's Office had objected to Gardner's expungement of his misdemeanor charges because the charges were withdrawn as part of a guilty plea agreement. (NT I, 288)

Contrary to Respondent's delusional claim, Respondent's vague fee agreements referencing expungement of the "applicable charges" failed to inform Gardner of the impossibility of Gardner's seeking an expungement at that time. (FOF 43-44; NT III, 264, 380-381) Gardner credibly testified that he understood "applicable charges" to include expungement of "everything that happened that day" he was arrested, as Gardner believed he had retained Respondent to do. (NT I, 134; *see also* NT I, 144-145; FOF 33) Respondent also failed to have Gardner review the Expungement Petition before it was filed or provide Gardner with a copy of the Petition after it was filed.

Respondent's fee in the ***Gardner*** matter violated RPC 1.5(a), 1.16(d), and 8.4(a). In August 2018, Respondent received $1,500 to file a petition for the "expungement of the applicable charges," and in January 2019, Respondent received an additional $7,500 to file a formal motion with the Court for a contested hearing on his expungement. (Stip 4) Both statutory law and case law prohibited the expungement of Gardner's January 2017

guilty plea until 2022. (Stip 5) Respondent failed to file the formal motion and Gardner terminated Respondent's representation in May 2019, approximately four months after paying the $7,500 fee. Respondent failed to promptly refund any of his unearned fee. Given the minimal time and labor Respondent had expended on this routine matter, as well as the unlikelihood of success under statutory law and case law, the Officer objectively determined based on the criteria set forth in RPC 1.5(a) that Respondent's $7,500 fee was clearly excessive.[5] It was not until June 2021, after Respondent received notice that Gardner filed a Statement of Claim with the Fund, that Respondent refunded a partial fee of $3,500 to Gardner. (Stip 23, 24, 25) Respondent's conduct in collecting the $7,500 fee, failing to refund his unearned fee upon the termination of the representation, attempting to retain an excessive fee, and belatedly refunding only a portion of his fee violated RPC 1.5(a), 1.16(d), and 8.4(a).

Finally, Respondent's course of conduct as detailed above misled Gardner to believe he was retaining Respondent to expunge Gardner's entire criminal record and violated RPC 8.4(c). (NT I, 145, 170) Gardner

[5] Respondent's brazen claim that his "fee agreement memorialized the fee as 'nonrefundable' and 'earned upon receipt'" (RBOE, 8) does not ipso facto shield Respondent from RPC 1.5(a) and 1.16(d) violations and give Respondent carte blanche to charge an excessive fee. Further, expert testimony is not required to demonstrate a violation of RPC 1.5(a). *See, e.g.*, ***ODC v. Scott Lawrence Kramer***, No. 127 DB 2017 (D.Bd. Rpt. 3/15/19) (S.Ct. Order 7/30/19).

credibly explained that had Respondent informed him at the outset that his conviction could not be expunged for five years from the date of his guilty plea, he would "absolutely not" have retained Respondent (NT I, 129) and would have waited until 2022 to expunge his entire criminal record as he had "no choice."[6] (*Id.,* 130) The Hearing Officer correctly found Respondent's testimony, that Gardner elected to proceed with the expungement of his misdemeanor charges knowing his summary conviction could not be expunged until 2022, was "not credible."[7] (FOF 48)

CHARGE II: *THE HONORABLE EDUARDO C. ROBRENO*

As a preliminary matter, Respondent claims that the Officer erred in finding that he violated RPC 1.1 and 1.3 because the Honorable Eduardo C. Robreno, and not Respondent's client, filed a disciplinary complaint against Respondent. (RBOE, 8-12) Respondent's claim is absurd. The attorney discipline system does not turn a blind eye to RPC violations absent a client complaint. Rather, the attorney discipline system is tasked with protecting the public, courts, and profession from attorney misconduct.

Alternatively, Respondent claims that his conduct did not violate RPC

[6] Gardner forthrightly testified that he "felt used, lied to. I felt like he stole my money." (NT I, 152)

[7] *See* ***ODC v. Anonymous Attorney A,*** 714 A.2d 404 (Pa. 1998) (A violation of RPC 8.4(c) can be established by an attorney's reckless disregard of truth or falsity).

1.1 and 1.3.[8] (RBOE, 8-12) Again, Respondent is woefully mistaken.

In the ***Red Wine Restaurant*** cases, Respondent was retained to represent a disabled individual and assigned his legal associate, Mr. Feinstein, to file a complaint under the ADA against Red Wine Restaurant for failing to make the restaurant handicap accessible. Objective credible evidence established that Respondent failed to handle the ***Red Wine Restaurant*** cases with competence and diligence when he failed: to assign substitute counsel to attend the December 20, 2019 prehearing conference after Mr. Feinstein resigned (NT II, 85; FOF 126); to confirm there was legal authority under the ADA for bringing a claim against Alex Torres Production, Inc., and if so, to include the legal authority in the complaints (FOF 103, 174-176, 194); and through the acts of his lawyer assistants, nonlawyer assistants, and himself, to complete and file the correct forms and pleadings with the EDPA and District Court of New Jersey. (FOF 162, 164, 166, 169, 179, 186) The fact that Respondent was suspended from the EDPA did not preclude Respondent from researching the applicability of the ADA, reviewing documents to be filed in the EDPA, and ensuring compliance with the Court's order. Nor does Respondent's

[8] Respondent does not except to the Officer's finding that he violated: 5.1(a); 5.1(b), 5.1(c)(1); 5.1(c)(2); 5.3(a); 5.3(c)(1); 5.3(c)(2); 8.4(a); and 8.4(d). Given that Respondent concedes he failed to supervise his employees, Respondent's attempt to attack their credibility and blame them for his misconduct deserves no weight. (RBOE, 9-12)

reliance on others to assist him absolve Respondent from properly representing his client and complying with the RPCs.

CHARGE III: ***WATSONS***

While Respondent concedes that he failed to properly supervise his attorney and non-attorney assistants in the ***Watsons*** matter, Respondent asserts that his conduct was not prejudicial to the administration of justice in violation of RPC 8.4(d). (RBOE, 12) Respondent's assertion is misguided. Conduct is prejudicial to the administration of justice when it needlessly expends the limited time and resources of the court system.[9] Through the conduct of Respondent's lawyer and nonlawyer assistants, Respondent needlessly expended the time and resources of the Court of Common Pleas when Respondent's nonlawyer assistants filed a Praecipe to Enter Default Judgment that contained inconsistent dates the Notice of Intent to Take Default was served (Stip 109; FOF 255), resulting in the Watsons filing a Petition Strike, the Court's issuance of a Rule to Show Cause Order, Mr. Feinstein's filing a Response to the Petition, the Court holding a Rule to Show Cause hearing, and the Court dismissing the

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[9] *See, e.g.,* ***ODC v. Douglas Andrew Grannan,*** No. 197 DB 2016 (D.Bd. Rpt. 4/13/2019, 94) (S.Ct. Order 7/9/2019) (Grannan's conduct "burdened the court system, which had to contend with his repeated incompetence."); ***ODC v. Daniel Silverman***, No. 125 DB 2015 (D.Bd. Public Reprimand 7/11/2016) (Silverman's "unprofessional conduct unnecessarily expended the Court's limited time and resources and needlessly delayed the resolution of his client's PCRA matter.)

complaint against the Watsons. (FOF 259-261, 266, 270, 272)

CHARGE IV: ***AMERICAN CLUB OF BEIJING***

Respondent blames others for the multiple false and incorrect *Pro Hac Vice* pleadings in the ***American Club*** matter. (RBOE, 12-14) Respondent's testimony, court filings, and emails, however, fully demonstrate his culpability and violations of RPC 1.3, 8.1(a), and 8.4(c).

In ***American Club***, Respondent was retained to represent the plaintiff in a matter transferred to Commerce Court in Philadelphia County. Respondent subsequently assigned the case to a legal associate who had not been admitted to practice law in Pennsylvania. Respondent failed to handle the matter with competence[10] and diligence in violation of RPC 1.1 and 1.3 when he: failed to research the legal requirements for filing a *Pro Hac Vice* Motion prior to filing three separate deficient motions (NT V, 11); failed to review and correct the first *Pro Hac Vice* Motion drafted by his legal assistant, despite having been provided the opportunity to do so (NT III, 137; NT V, 12-14); signed and filed the first Motion for a legal associate's *Pro Hac Vice* admission, which misrepresented or omitted Respondent's disciplinary history[11] (Stip 125-128); disobeyed the Court's

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[10] Respondent does not except to the Officer's finding that he violated RPC 1.1.

[11] In ***ODC v. Joseph D. Lento,*** No. 5 DB 2013 (S.Ct. Order 7/14/2013) (on consent) Respondent received a one-year suspension and a consecutive one-year term of

Order dismissing the first Motion without prejudice to a refiling that would include "*disclosure of movant's disciplinary history*" (emphasis added) (FOF 295); signed and filed a second *Pro Hac Vice* Motion that knowingly and intentionally failed to include Respondent's disciplinary history in the EDPA[12] (ODC-68/Bates 634; FOF 298, 301-302); signed two *Pro Hac Vice* motions that failed to comply with Pa.R.Civ.P. 1021.1 (FOF 307); and through the acts of his legal associate, filed a third *Pro Hac Vice* Motion that failed to comply with Pa.R.Civ.P. 1021.1 (Stip 150). Respondent's false statements of material fact regarding his disciplinary history in the first and second *Pro Hac Vice* Motions also violated RPC 8.1(a).

Respondent likewise violated RPC 8.4(c) when he misrepresented his attorney discipline history in the two *Pro Hac Vice* Motions. Respondent engaged in *additional* misrepresentations when he requested that his legal assistant inform the Court and all parties that the false statements about his disciplinary history in the first Motion were a "clerical error" (D-30) and instructed his legal assistant to file a Certification claiming

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probation with a practice monitor for violating RPC: 5.4(a); 7.3(a); 8.4(a); 8.4(c); and 8.4(d). Respondent also received a reciprocal suspension in the EDPA and withdrew his application for reinstatement after a reinstatement hearing before the Court. (P-3 (a)-(e)) In addition, Respondent received a Public Reprimand in New Jersey. (P-2)

[12] Although Respondent's legal associate advised Respondent "it might be worth just putting in a short-one sentence reference" to his NJ and EDPA discipline in his second Motion (ODC-68/Bates 634), Respondent intentionally disregarded his associate's advice and omitted his EDPA discipline.

the false statements were due to *her* "inadvertence." (ODC-64/Bates 599) In fact, the false statements were a result of *Respondent's* admitted failure to diligently review the first *Pro Hac Vice* motion before it was filed. (FOF 277-279) Respondent's defense to excluding his EDPA suspension, that he relied upon the advice of others (RBOE, 13-14), is not only unavailing, it reflects Respondent's core lack of honesty.

CHARGE V: ***RENEE DOUGALAS***

Respondent challenges the "evidentiary foundation upon which the" Officer found that he violated any RPCs in the ***Dougalas*** matter. (RBOE, 14) According to Respondent, since his testimony contradicted Dougalas's testimony, ODC failed to meet its burden of proof and the charges should be dismissed. Respondent's challenge is unfounded. The Officer's findings, that Respondent's testimony was not credible (FOF 342) and Dougalas's testimony was credible (FOF 329, 344) should be given great weight. ***ODC v. Joseph Q. Mirarchi***, *surpa*. Moreover, the documentary evidence, including Respondent's fee agreement, email correspondence, and pleadings, corroborate Dougalas's testimony and establish Respondent's violations of RPC: 1.1; 1.2(a); 1.3; 1.4(a)(3); 1.4(a)(4); 1.4(b); 1.16(d); and 8.4(c).

Dougalas, a "recovering pharmacist," was convicted of thirteen

felonies for forging prescriptions for Vicodin.[13] Subsequently, Dougalas attained sobriety, was granted reinstatement of her suspended pharmacy license, relocated to Texas, and decided she wanted to expunge or seal her criminal records. (FOF 324-331) After doing legal research, Dougalas "felt that [she] needed some good legal advice about the Clean Slate Act (the Act)[14] and if there was anything [she] could do about old felonies." (NT I, 91) Dougalas left a message on Respondent's Clean Slate lawyer website and Respondent called her back. The following day, Dougalas retained Respondent.

At the outset of Respondent's representation in February 2020, Dougalas told Respondent about her convictions for forging prescriptions for controlled substances. (FOF 335) While Respondent's and Dougalas's testimony regarding this initial conversation differed (RBOE, 15-16), Dougalas sent Respondent copies of the docket entries that showed she was arrested and held for court on thirteen felony charges in Pennsylvania. Dougalas explained that she wanted to seal her criminal record "because" it

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[13] Vicodin was then a Scheduled III and is now a Schedule II controlled substance.

[14] The Clean Slate Limited Access Act (the Act), 18 Pa.C.S.A. §9122.2, (ODC-81/Bates 711), grants limited access to criminal history record information for some misdemeanor convictions, summary offenses, pardons, and dispositions other than convictions. (Stip 165) Section 9122.3 of the Act (ODC-82/Bates 713) lists exceptions to granting limited access to criminal records for an individual who at any time has been convicted of: a felony; two or more offenses punishable by imprisonment of more than two years; and four or more offenses punishable by imprisonment of one or more years.

"follow[ed] [her] around anywhere" and contacted Respondent because she was "confused" as to whether she qualified for sealing under the Act. (*Id.,* 35-36) Respondent violated RPC 1.4(b) when he failed to explain to Dougalas, to the extent necessary to enable her to make an informed decision regarding the representation, that her felony convictions would not be eligible for limited access as felony convictions were listed as specific exceptions under the Act. (NT I, 41-42) Respondent's failure to explain the limitations of the Act and the necessity of obtaining her State Police records at the outset of the representation also violated RPC 1.2(a), as Respondent could not possibly achieve Dougalas's objectives to fully seal her criminal record.

Respondent violated RPC 8.4(c) when he deceived Dougalas to retain him to seal her criminal record for a fee of $5,500, when in fact, the Act expressly excluded the sealing of her thirteen felony convictions. Respondent failed to: advise Dougalas that her criminal dockets did not reflect the grading of her criminal convictions (NT III, 164); inquire whether Dougalas knew if she had been convicted of any of the felonies for which she was arrested and held for court (ODC-133/Bates 936-37); ask Dougalas the schedule of drug for which she had forged prescriptions; explain the limitations of the Act; and inform Dougalas that he needed to

obtain official confirmation of the grading of her convictions. (NT I, 41-42)[15]

Instead of obtaining this important information, Respondent provided Dougalas with a vague Letter of Engagement promising to seal "3 applicable cases" and expunge "2 applicable cases" for a $5,500 fee. (ODC-80/Bates 709) Dougalas explained that "[b]ased upon the docket that [she] had sent [Respondent]," Dougalas reasonably assumed that the "three applicable" cases and the "two applicable" cases referred to her misdemeanor *and* felony cases. (NT I, 57, 60) Dougalas signed the Engagement Letter, paid $2,500, and agreed to pay the balance of the fee upon request. (Stip 164; NT I, 64) Dougalas testified that had Respondent initially informed her that her felony convictions did not "qualify for anything," it would have been the "end of the conversation right there." (NT I, 113)

One month after being retained, Respondent's lawyer assistant notified Respondent of the need to obtain the grading of Dougalas's convictions in order to complete the petitions to seal and expunge Dougalas's record. (FOF 371) Rather than contacting Dougalas, advising

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[15] Respondent's conduct also ran afoul of RPC 1.1 and 1.3, discussed *infra*. At the time Dougalas contacted Respondent in February 2020, Dougalas knew the difference between a felony and misdemeanor conviction, knew the schedule of the drug for which she had forged prescriptions, and knew that she had been convicted of thirteen felony charges in Luzerne County. (NT I, 34)

her that the dockets were unclear regarding the grading of her offense (NT I, 67, 100), and expeditiously obtaining information about her convictions (NT IV, 210), Respondent engaged in continued deceit and waited until October 2020, after being paid in full, to order the State Police Background Check. (NT III, 183; NT IV, 119, 212-213) If Respondent had been forthright and advised Dougalas at the outset that her felony convictions could not be sealed, Dougalas testified she would not have then paid $5,500 and "could have put her money somewhere else." (NT I, 63)[16]

Irrespective of the alleged conflicting testimony concerning the initial telephone conversation between Respondent and Dougalas (RBOE, 15), Respondent's subsequent course of conduct violated additional RPCs. Respondent violated RPC 1.1 and 1.3 (FOF 341) when he failed to: properly conduct an intake interview and take written notes of his interview to determine whether Dougalas had any felony convictions (FOF 339-340); expeditiously order Dougalas's State Police Background Check upon learning that Dougalas's docket entries did not reflect the grading of her criminal convictions (FOF 371-373); promptly ascertain that the Act would not permit Dougalas to seal her Pennsylvania felony convictions and

[16] Dougalas relayed that she felt "lied to and grifted," "violated," and "hurt." (NT I, 72, 77).

continued "operating under the impression that [Dougalas's convictions] don't involve felonies" (NT IV, 223-224); and keep a copy of the pleadings and Background Check he purportedly filed on behalf of Dougalas. (NT IV, 261)

Respondent also violated RPC 1.4(a)(3) when he failed to keep Dougalas apprised of the status of his efforts to seal and expunge her criminal record. Although one month after being retained, Respondent learned he could not complete drafting her petitions because the criminal dockets did not reflect the grading of all her convictions, Respondent failed to promptly advise Dougalas. (FOF 371) Despite Respondent receiving monthly inquiries from Dougalas about the status of her legal matter (ODC-84/Bates 719-725) and receiving an official criminal history from the Pennsylvania State Police "sometime in December 2020" (NT IV, 234), at **no** time prior to January 28, 2021, (NT I, 62) did Respondent inform Dougalas that her felony convictions would not be eligible for sealing under the Act. (Stip 170, 173) Respondent similarly violated RPC 1.4(a)(3) when he failed to advise Dougalas that he had filed on her behalf a Petition for Expungement and provide Douglas with a copy of the pleading. (NT IV, 250-251)

Finally, Respondent violated RPC 1.4(a)(4) when he failed to:

comply with Dougalas's reasonable requests for information (ODC-91/Bates 736; NT I, 80); promptly provide Dougalas with copies of the New Jersey pleadings she had requested (NT I, 80, NT IV, 219); and send Dougalas copies of any correspondence, pleadings, and records from her Luzerne County legal matter. (NT I, 78-79, 81; NT IV, 250-252, 261)

CHARGE VI: *La'SLONDI COPELIN*

Respondent "conten[ds] that he was retained in a non-lawyer capacity" in the ***Copelin*** matter and the Officer erred in finding that the RPCs applied to his actions.[17](RBOE, 17) Respondent's contentions are belied by his text messages, emails, legal stationery, correspondence, and conduct as well as Copelin's credible testimony, the totality of which demonstrate Copelin retained Respondent as her attorney. (FOF 431, 453) Alternatively, Respondent contends that the Officer erred in finding any RPC violations in his handling of Copelin's legal matter. (RBOE, 18-23) Once again, the testimony of Respondent's client, the clear inferences therefrom, and the documentary evidence establish all charged RPC violations--RPC 1.1, 1.2(a), 1.3, 1.4(a), 1.5(a), 1.16(d), 5.5(a), 8.4(a), and 8.4(c).

[17] The Georgia Code, § 15-19-51 (a), prohibits any person other than a duly licensed attorney in Georgia, from furnishing *advice or legal services* of any kind. (emphasis added) In addition, PA RPC 5.5(a) and Georgia RPC 5.5(a) employ identical language prohibiting an attorney from practicing law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction or assisting another in doing so.

Copelin, a resident of Georgia, received a letter from Georgia State University (GSU) stating that she had 10-days to submit an appeal of her pending expulsion to the college president. (NT I, 185) Copelin then called GSU and was "advised" that her appeal "needed to be done by end of business" on February 9, 2021.[18](*Id.*, 226) Subsequently, Copelin decided she wanted an attorney to handle her appeal, "Googled school discipline attorneys" and discovered Respondent's website, and contacted Respondent's office.[19] (FOF 412-414)

Respondent's contention that Copelin did not thereafter retain him as an "attorney" defies Copelin's unequivocal and credible testimony (FOF 453) and the direct inferences therefrom. From the outset of her first conversation with Respondent, Copelin made clear that she wanted an attorney. (FOF 417, 423) Copelin explained that she "never looked for anybody other than an attorney" to handle her school discipline matter. (NT I, 205; *see also* FOF 452, 453) Even after Copelin wrote a letter to GSU on

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[18] The GSU student handbook defines a "business day" as any day that the Office of the Dean of Students is open. (NT IV, 313; FOF 411(a))

[19]Respondent maintains a website address at https://www.studentdisciplinedefense.com/; on August 16, 2021, the website stated Respondent "represents students and others in disciplinary cases and other proceedings at colleges and universities across the United States"; "helped countless students, professors, and others in academia at more than a thousand colleges and universities across the United States"; is "admitted pro hac vice as needed nationwide;" and is licensed in Pennsylvania, New Jersey, and New York. (FOF 407)

her own behalf (FOF 404), Copelin called Respondent and paid the first installment of his legal fee "[b]ecause I was still giving him an opportunity to represent me. Because I still had a shot, and it was a stronger shot if I had representation than just my letter." (NT I, 204, *see also* NT I, 205, 217-218) Although Respondent and Altman represented themselves as attorneys in prior conversations with Copelin (NT I, 92, 190, 192, 198, FOF 435), prior to accepting payment from Copelin, Respondent failed to inform Copelin that neither he nor Altman could act as her attorney. (FOF 448-450, 461(b)) Furthermore, Respondent's website, text message signature line[20], email signature line[21], law office letterhead[22], and email address[23], wherein Respondent touts himself as an attorney who represents clients "nationwide," validated Copelin's belief that she was retaining Respondent

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[20] Respondent's text message signature line is:

> Attorney Joseph D. Lento
> Lento Law Firm
> Helping Clients Nationwide
>
> Additional Information:
> StudentDisciplineDefense.com

[21] Respondent's email (ODC-96/Bates 755) was signed:

> Joseph D. Lento, Esquire
> Attorney & Counselor at Law
> **Lento Law Firm**
> Helping Clients Nationwide

[22] Respondent's letterhead states "Lento Law Firm."

[23] Respondent's email address is joseph@StudentDisciplineDefense.com.

as an attorney to represent her.[24] Finally, Copelin immediately protested upon her close review of Respondent's letter to GSU and discovery that Respondent was not admitted to practice law in Georgia. (FOF 465-466) Copelin testified that she was upset and felt it "wasn't honest and they wrote something on [her] behalf and they weren't legally able to represent" her. (*Id.* at 215; FOF 466) Copelin's spontaneous objection to Respondent's letter is further evidence that Copelin believed she had retained Respondent to be her lawyer. Respondent's contention that Copelin had only retained him as an "advisor," for a fee of $7,500, to "ghostwrite" a letter is not credible. (FOF 425) Respondent's pattern of deceits to secure his representation of Copelin also violated RPC 8.4(c).

Moreover, with the assistance of Altman, Respondent engaged in the unauthorized practice of law in Georgia with impunity. (FOF 463) Respondent deposited Copelin's $2,500 installment of his fee into his law firm operating account. (NT IV, 374) At 8:05 p.m. on February 9, 2021, Altman sent an email to the GSU president stating that the email was from "The Law Office of Keith Altman." The email attached a letter written on stationery with the letterhead "Lento Law Firm," signed by Respondent with

[24]While Respondent's "Consultation" agreement limits Respondent's role for the consult as being an "advisor," the agreement also states "the consultation does not cover representation for the case itself." Copelin paid an additional $7,500 for Respondent's representation of the case itself.

the title "Esq." after his name, included a footnote stating that Respondent is licensed to practice law in New York, New Jersey, and Pennsylvania, contained substantive legal arguments in support of Copelin's appeal, and advocated for Copelin's suspension *in lieu* of expulsion.[25] (*See* Stip. 200, 201, 207) Respondent's letter contained neither the salient fact that he and Altman were acting as non legal "advisors" to Copelin nor a disclaimer that he and Altman were not acting in a legal capacity. (NT IV, 369-370) In sum, Respondent's conduct violated RPC 5.5(a)(1) and 8.4(a), and via RPC 8.5(a), violated Georgia RPC 5.5(a).

Respondent also failed to handle Copelin's legal matter with competence and diligence in violation of RPC 1.1 and 1.3. During Copelin's initial telephone conversation with Respondent on February 4, 2021, Copelin informed Respondent that her deadline to file an appeal to the GSU college president was "by the end of business day" on February 9, 2012. (NT I, 226) Respondent never contacted GSU to determine the

[25] In the text of the letter, Respondent argued that Copelin should not be expelled because (Stip 201): it would "impose a punishment so severe that she will not have an opportunity to earn a degree"; expulsion "does not serve any useful purpose and appears to be retribution"; "no rationale was provided [as] to why expulsion was the most appropriate disciplinary option"; Respondent's review of GSU "policies shows no guidelines for the imposition of such a severe sanction"; an expulsion "appears to be arbitrary and capricious" and "seems disproportionate to [Copelin's] misconduct"; and a suspension is "an adequate consequence of [Copelin's] actions."

specific time the business day ended. (FOF 446) During a subsequent telephone consult with Respondent and Altman on February 6, Copelin reiterated that her deadline was close of business day on February 9, 2021, yet neither Respondent nor Altman replied that they could not meet this deadline. (NT, 193, 244; FOF 423) On the morning of February 9, when Copelin called Respondent to remit partial payment, Respondent reassured Copelin, "don't worry, he'll get" a letter to the college president by the close of business on February 9, 2021, *without* knowing the specific closing time. (NT I, 206) Respondent failed to act with the requisite competence and diligence and timely send the appeal of Copelin's expulsion to the college president by close of business on February 9, and also copy Copelin on the letter written on her behalf. (FOF 457, 459) Respondent's failure to abide by Copelin's objectives for the representation and submit a timely letter to the GSU president likewise violated RPC 1.2(a).

In addition, Respondent failed to communicate with Copelin, respond to Copelin's request to call for payment, and send Copelin his fee agreement as he had promised to do. To the extent Respondent does not call clients to obtain payment information, Respondent failed to communicate with Copelin and send an email or text message to Copelin requesting that she call him back with her payment information. (FOF 439)

Respondent also failed to inform Copelin that he would not begin working on her matter until he received payment. (FOF 438-441)

Despite the foregoing improprieties, Respondent attempted to collect an excessive fee for the letter and failed to promptly refund his unearned fee upon termination of the representation. After discovering that neither Respondent nor Altman were members of the Georgia Bar, Copelin terminated Respondent's representation and instructed Respondent not to charge her credit card. (ODC-107/Bates 770) Respondent subsequently offered to refund $1,000. (ODC-108/Bates 772) It was not until July 2021, after Respondent received notice that Copelin filed a Statement of Claim with the Fund, that Respondent refunded $2,500 to Copelin.

At his disciplinary hearing, Respondent justified his $7,500 fee to ghostwrite one letter because "[t]here were approximately 100 pages of documentation as part of the case . . . and being expelled from school can have a lifetime of consequences." (NT IV, 318) Respondent's justification is untenable. Given the time and labor involved, the lack of novelty and difficulty of the question involved, the skill required to ghostwrite a letter, and the unsuccessful results obtained, Respondent's attempt to charge an excessive fee to a desperate client [26] violated RPC 1.5(a). Finally,

[26] Copelin revealed that she had informed Respondent that she "didn't have the money

Respondent failed to promptly refund his unearned fee upon termination of the representation. Respondent's conduct violated RPC 1.5(a), 1.16(d), and 8.4(a).

B. THE HEARING OFFICER APPROPRIATELY RECOMMENDED IMPOSITION OF A FOUR-YEAR SUSPENSION FOR THE TOTALITY OF RESPONDENT'S MISCONDUCT.

Respondent objects that the Officer's recommendation of a four-year suspension for the totality of his misconduct is "harsh." (RBOE, 23-26) The Officer's recommendation, based on established facts and caselaw, is appropriate.

First, Respondent asserts that in the ***American Club*** matter, the Officer erred in relying on cases where attorneys made false statements about their disciplinary history on their own applications for *Pro Hac Vice* admission whereas Respondent made false statements in pleadings sponsoring his legal associate's *Pro Hac Vice* admission. (RBOE, 24-25) This is a distinction without a difference. The false statements are of the same caliber and had the same impact on the judicial process. Where, as here, an attorney files motions and completes forms containing misstatements of material fact, signs false verifications, neglects court

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to spare initially. . . he took advantage of the situation. He preyed upon her urgency." (NT I, 220)

rules, disregards court orders, and does not take full responsibility for his wrongdoing, an attorney should receive no less than a one-year suspension.[27] Consistent with precedent, the Officer correctly recommended that Respondent receive a suspension no less than a one-year-and-one-day suspension.(Rpt., 177)

Second, Respondent asserts that the Officer's recommendation of an 18-month suspension for his failure to act with competence and diligence, lack of communication, and misrepresentations in the ***Gardner, Dougalas,*** and ***Copelin*** matters, should be reduced by at least 6 months. (RBOE, 25-26) The Supreme Court often imposes a suspension of one year and one day on attorneys who fail to act with competence and diligence, do not communicate with their clients, and make misrepresentation to their clients. (Rpt., 153) But where, as here, an attorney has a record of discipline (P-1, P-2, P-3), the Court often increases the discipline imposed as prior

[27] *See* ***ODC v. Tuerk***, No. 51 DB 2014 (D.Bd. Rpt. 7/20/2015)(S.Ct. Order 10/15/2015) (Tuerk received a one-year-and one day suspension for failing to properly complete his application for admission to the EDPA and fully disclose his disciplinary history); ***ODC v. Steele***, No. 110 DB 2014 (D.Bd. Rpt. 3/14/2016) (S.Ct. Order 6/6/2016) (Steele received a one-year suspension for his failure to disclose his criminal conviction and disciplinary history in his Petition for Special Admission to practice before the Middle District of Pennsylvania (MDPA) and failure to disclose his full attorney disciplinary history in his application to the EDPA); and ***ODC v. Heyburn***, No. 58 DB 2020 (D.Bd. Rpt. 4/28/2021) (S.Ct. Order 6/22/2021) (Heyburn received a three-year suspension for failing to disclose his Pennsylvania inactive status and New Jersey discipline history on his application for *Pro Hac Vice* admission in Pennsylvania).

discipline is an aggravating factor. [28] The Board has explained that greater discipline is imposed "in recognition that the attorney has not learned from the prior discipline." ***ODC v. Allan K. Marshall***, No. 136 DB 2019 (D.Bd. Rpt. 10/16/2020, 28) (S.Ct. Order 2/12/2021).

While attorneys with a record of discipline may occasionally receive lesser discipline (RBOE, 26)[29] there are weighty aggravating factors in the ***Gardner, Dougalas,*** and ***Copelin*** matters. Respondent's greedy conduct betrayed the trust of his vulnerable clients (FOF 482). In addition, Respondent failed to recognize his wrongdoing (FOF 483) and express remorse for the harm his misconduct inflicted on his clients. (FOF 484) Moreover, Respondent filed false DB-7 Answers. (FOF 486) The entirety of Respondent's misconduct and aggravating factors fully sustain the Officer's recommendation of Respondent's receipt of no less than an 18-

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[28] *See, e.g.*, ***ODC v. Barbin***, No. 97 DB 2020 (D.Bd. Rpt. 9/30/2021, pp. 50-51) (S.Ct. Order 11/18/2021) (Barbin, who had prior discipline, received an eighteen-month suspension for misconduct in four client matters that involved his lack of competence and diligence, failure to communicate, deception to the court, failure to make proper service, and filing incorrect or improper pleadings); ***ODC Counsel v. Allan K. Marshall***, (D.Bd. Rpt. at 29-30) (Marshall, who had prior discipline, received a thirty-month suspension for his lack of competence, neglect, failure to communicate, misrepresentations, and failure to refund unearned fees to his financially distressed clients); ***ODC v. Porsch***, No. 248 DB 2018 (D.Bd. Rpt. 2/20/2020, pp. 28-30) (S.Ct. Order 5/29/2020) (Porsch, who had prior discipline, received a two-year suspension for neglecting three client matters, failing to communicate with his clients, misrepresenting the status of his client's cases, and failing to refund unearned fees and return property upon the termination of the representation).

[29] In contrast to Respondent, the misconduct of the attorneys in the cases cited by Respondent involved less client matters and the attorneys expressed remorse and recognition of their wrongdoing.

month suspension. (Rpt., 153-156)

Third, Respondent asserts that the Officer's recommendation of a one-year-and-one-day suspension for his failure to supervise his subordinate attorneys and non-attorney assistants in the ***Red Wine Restaurant, Watsons,*** and ***American Club*** matters "is also overly harsh" because "there is no evidence of record that any clients were harmed or otherwise prejudiced" by Respondent's misconduct. (RBOE at 26) Respondent is patently wrong. The courts *dismissed* all three client matters following Respondent's failure to supervise his employees, which resulted in the lack of substitute counsel after an attorney's departure, incorrect completion of numerous forms filed with the federal courts, filing of erroneous pleadings, disregard of court rules, and disobeying court orders. Notably, both the federal and state court systems were also burdened by this litany of misconduct. The Officer rightly recommended Respondent's receipt of no less than a one-year-and-one-day suspension for his violations of RPC 5.1 and 5.3.[30]

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[30] *See, e.g.*, ***ODC v. Colaizzi***, No. 120 DB 2016 (D.Bd. Rpt. 9/28/2018) (S.Ct. Order 1/4/2019) (Colaizzi received a one-year-and-one day suspension for failing to undertake adequate measures to avoid further misconduct after learning that his office manager, who was also his wife, had misappropriated fiduciary funds); ***ODC v. Carpenter,*** No. 147 DB 2022 (S.Ct. Order 12/15/2022) (on consent). (Carpenter received an 18-month suspension for misconduct that involved his failing to have safeguards in place to ensure that his employees competently and diligently handled his clients' cases and accurately explain matters to his clients so that they could make informed decisions

All told, the compelling evidence of Respondent's misconduct involving violations of forty-seven RPCs, nine weighty aggravating factors, and one mitigating factor, lead to the indubitable conclusion that Respondent must receive a lengthy term of suspension. Respondent's conduct at his disciplinary hearing, wherein he failed to recognize his misconduct, blamed others for his wrongdoings, and failed to express sincere remorse, demonstrates that Respondent remains a serious danger to the public, courts, and legal profession. To best serve the goals of the attorney discipline system and consistent with precedent, ODC requests the Disciplinary Board to adopt the Officer's recommendation that Respondent receive a four-year suspension.

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about the representation).

IV. CONCLUSION

WHEREFORE, Office of Disciplinary Counsel respectfully requests that the Disciplinary Board reject Respondent's exceptions, adopt the Officer's findings of fact and conclusions of law, and recommend to the Supreme Court that Respondent be suspended from the practice of law for four years.

Respectfully submitted,

OFFICE OF DISCIPLINARY COUNSEL

Thomas J. Farrell
Chief Disciplinary Counsel

Harriet R. Brumberg

By _____
Harriet R. Brumberg
Disciplinary Counsel

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania*: *Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by: Office of Disciplinary Counsel

Signature: Harriet R. Brumberg

Name: Harriet R. Brumberg, Disciplinary Counsel

Attorney No. (if applicable): 31032