

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 112 DB 2023

Petitioner :

:

v.

: Attorney Registration No. 49055

:

MILTON E. RAIFORD,

:

Respondent : (Allegheny County)

**BRIEF OF OFFICE OF DISCIPLINARY COUNSEL
TO HEARING COMMITTEE**

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FILED

04/12/2024

**The Disciplinary Board of the
Supreme Court of Pennsylvania**

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Numbers and letters in parentheses indicate documents and location as follows:

N.T. _____ indicates a page or pages of the notes of testimony from the disciplinary hearing on February 26, 2024;

ODC-_____ at _____ indicates a (numbered) exhibit of the Office of Disciplinary Counsel at Bates stamp pagination; and

Pet. for Disc. _____ indicates a (numbered) paragraph of the Petition for Discipline filed with the Board Prothonotary on August 3, 2023.

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*To access an unreported Disciplinary Board Report, go to <http://www.pacourts.us>. Hover the pointer over the Supreme Court heading at the top, and then click on “Opinions and Postings.” From the pull-down box for “Court Type” select Disciplinary Board, then select an appropriate date range according to the year of the case (e.g. 1/01/1995 to Today’s Date), and then enter the Disciplinary Board case number (be sure to use the four-digit year for the case in the Board Docket Number field). Click “Search,” then click on the .pdf link to open the Report.

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I. STATEMENT OF THE CASE

This matter is before the Hearing Committee as a result of disciplinary proceedings instituted by the Office of Disciplinary Counsel (hereinafter “ODC”) by way of a Petition for Discipline filed on August 3, 2023, to No. 112 DB 2023. The Petition charged Respondent with violations of RPC 1.2(a), RPC 1.3, RPC 1.4(a)(2), RPC 1.4(b), RPC 1.15(b), RPC 1.15(i), RPC 8.1(b) and RPC 8.4(d). Respondent failed to file an Answer to the Petition for Discipline. Accordingly, all allegations contained therein are deemed admitted. Rule 208(b)(3), Pa.R.D.E. The Board Prothonotary appointed Hearing Committee Members Robert Sean O’Connell, Esquire, Chair; Charles Joseph Avalli, Esquire; and Michael D. Simon, Esquire. A prehearing conference was conducted on January 8, 2024, before Designated Member O’Connell.

A disciplinary hearing was conducted on February 26, 2024. ODC introduced exhibits ODC-1 through ODC-16. N.T. at 12. Respondent testified on his own behalf and presented the testimony of Leo Wisniewski, Abigail Heit and attorney William Krahe. *Id.* at 13-124. Respondent did not introduce any exhibits.

This brief is presented in support of ODC’s position that Respondent’s abandonment of a client and disregard of an Order issued by the Superior Court, particularly in light of Respondent’s extensive disciplinary history for

similar misconduct and other substantial aggravating factors, warrant a suspension from the Bar of the Commonwealth of Pennsylvania for a period of one year and one day.

II. PROPOSED FINDINGS OF FACT

1. Respondent, through counsel, accepted service of the Petition for Discipline in this matter. ODC-1.

2. Respondent failed to file an Answer to this Petition for Discipline.

3. All allegations in the Petition for Discipline are deemed admitted. Rule 208(b)(3), Pa.R.D.E.

4. Petitioner, whose principal office is located at Pennsylvania Judicial Center, Suite 2700, 601 Commonwealth Avenue, P.O. Box 62485, Harrisburg, PA 17106-2485, is invested, pursuant to Rule 207 of the Pennsylvania Rules of Disciplinary Enforcement, with the power and the duty to investigate all matters involving alleged misconduct of an attorney admitted to practice law in the Commonwealth of Pennsylvania and to prosecute all disciplinary proceedings brought in accordance with the various provisions of the aforesaid Rules. Pet. for Disc. at ¶ 1.

5. Respondent, Milton E. Raiford, was born in 1955. He was admitted to practice law in the Commonwealth of Pennsylvania on May 27,

1987. Respondent's attorney registration mailing address is P.O. Box 17952, Pittsburgh, Pennsylvania, 15235. *Id.* at ¶ 2.

6. Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania. *Id.* at ¶ 3.

7. Respondent has an extensive disciplinary history for misconduct that is remarkably similar to the instant misconduct. See Section IV(C)(1) *infra*.

- (a) Respondent was disbarred for “engag[ing] in a series of flagrant deceptions that were designed to undermine the proper functioning of the criminal justice system,” which ultimately resulted in Respondent’s criminal conviction for “obstructing administration of law or other governmental function, unsworn falsification to authorities and tampering with public records or information.” ODC-15 at 000074-000075 (internal citations omitted).¹

¹ Respondent was reinstated by Order dated April 16, 2010, after his “previous attempt at reinstatement was denied in 2002.” *In the Matter of Milton E. Raiford*, 50 DB 1994 (S. Ct. Order 4/16/2010) (D. Bd. Rpt. 2/16/2010) at 1-2.

(b) On June 17, 2022—a mere eleven (11) days before the Superior Court issued the rule to show cause set forth in paragraph 25(c) *infra*—a public reprimand was imposed upon Respondent for, *inter alia*, abandoning a client on the day of her criminal trial. ODC-16 at 000079.

8. On or about July 1, 2019, David Walker, Jr., was arrested and charged with, *inter alia*, manufacture, delivery or possession with intent to manufacture or deliver controlled substances. This matter was thereafter docketed in the Court of Common Pleas of Indiana County at CP-32-CR-0000007-2020 (hereinafter the “Criminal Proceedings”). Pet. for Disc. at ¶ 4; ODC-2 at 000005.

9. In or before May of 2021, Mr. Walker engaged Respondent to represent him in the Criminal Proceedings in exchange for eight thousand dollars (\$8,000.00). Pet. for Disc. at ¶ 5.

10. In or about May of 2021, Mr. Walker’s mother paid Respondent nine thousand two hundred and fifty dollars (\$9,250.00) in cash. Pet. for Disc. at ¶ 6; ODC-12 at 000060-0000061 (“Despite the agreement being in the amount of \$8,000.00, Mr. Walker actually paid beyond the agreed amount due to his request for additional services outside what was initially agreed upon by both parties.”).

11. Respondent failed to maintain these advanced payments in a trust account or IOLTA until earned. Pet. for Disc. at ¶ 7; ODC-12 at 000060 (“We do not deny the failure to deposit the payments in a trust account or IOLTA account.”).

12. Respondent failed to obtain Mr. Walker’s informed consent, confirmed in writing, or the informed consent of Mr. Walker’s mother, to not maintain these advanced payments in a trust account or IOLTA until earned. Pet. for Disc. at ¶ 8.

13. On January 4, 2022, Mr. Walker pled guilty to manufacture, delivery or possession with intent to manufacture or deliver controlled substances. *Id.* at ¶ 9; ODC-2 at 000006, 000018.

14. On April 25, 2022, Mr. Walker was sentenced to confinement for a period of no less than two (2) years and no more than four (4) years. Pet. for Disc. at ¶ 10; ODC-2 at 000006, 000019.

15. Any appeal of this sentence was required to be filed on or before May 25, 2022. Pa.R.Crim.P. 903(a). Pet. for Disc. at ¶ 11.

16. By text message to Respondent dated April 26, 2022, Noel Miller, Mr. Walker’s fiancée, said, *inter alia*, “David also wanted me to ask you about an appeal he said he only has 30 days to do that.” *Id.* at ¶ 12; ODC-4 at 000040.

17. Respondent failed to respond to this text message. Pet. for Disc. at ¶ 13.

18. By text message to Respondent dated May 23, 2022, Ms. Miller said, *inter alia*, “he wants to appeal the suppression hearing.” *Id.* at ¶ 14; ODC-4 at 000041.

19. By text message to Ms. Miller dated May 23, 2022, Respondent said, *inter alia*, “[i]f David appeals, he will lose and be exposed to 7 1/2 years in prison from the door. David is a child spoiled by his mom who lives a child’s life who always latches on to someone like you.” Pet. for Disc. at ¶ 15; ODC-4 at 000041. See *a/so* N.T. at 85-86 (“Q. You did not say that ‘Mr. Walker hasn’t authorized me to discuss this legal matter with you’? A. **No**. The language that I used was the language that I used.”) (emphasis supplied).

20. By letter filed in the Criminal Proceedings on May 25, 2022, Mr. Walker said, *inter alia*:

I wanted to inform you that I have made several attempts to *[sic]* my attorney Mr. Milton Rayford *[sic]* that I wanted to appeal and withdraw my plea. I have been trying to contact him, my mother and my fiancé *[sic]* have made several attempts to *[sic]* him there are numerous things on appeal I would like to address

Pet. for Disc. at ¶ 16; ODC-5.

21. Respondent failed to file an appeal on Mr. Walker's behalf on or before May 25, 2022. Pet. for Disc. at ¶ 17; ODC-2 at 000019-000020.

22. Respondent failed to consult with Mr. Walker regarding the possibility of filing an appeal, or otherwise address the means by which Mr. Walker's objectives could be accomplished. Pet. for Disc. at ¶ 18; ODC-5. *See also* N.T. at 85.

23. Respondent did not seek leave to withdraw his appearance in the Criminal Proceedings. *Compare* Pa.R.Crim.P. 120(A)(4) ("An attorney who has been retained...shall continue such representation ***through direct appeal*** or until granted leave to withdraw by the court pursuant to paragraph (B)") (emphasis supplied) *with* N.T. at 81-82.

24. On May 27, 2022, Mr. Walker filed a *pro se* "Motion to Appeal" in the Criminal Proceedings. This appeal was thereafter docketed in the Superior Court at 694 WDA 2022. Pet. for Disc. at ¶ 19; ODC-6.

25. By Order dated June 28, 2022, the Superior Court, *inter alia*:

- (a) noted that Respondent had not been permitted to withdraw in the Criminal Proceedings;
- (b) directed the Superior Court Prothonotary to enter Respondent's appearance as Mr. Walker's counsel; and
- (c) directed Respondent to show cause within ten (10) days why

Mr. Walker's appeal should not be quashed as untimely.

Pet. for Disc. at ¶ 20; ODC-7.

26. Respondent failed to file anything on Mr. Walker's behalf in response to the rule to show cause set forth in paragraph 25(c) *supra*. Pet. for Disc. at ¶ 21; ODC-3 at 000036.

27. Respondent did not file anything on Mr. Walker's behalf with the Superior Court. Pet. for Disc. at ¶ 22. *See also, generally*, ODC-3.

28. By Order dated July 26, 2022, the Superior Court, *inter alia*:

- (a) noted that no response had been received to the rule to show cause set forth in paragraph 25(c) *supra*; and
- (b) again directed Respondent to show cause within ten (10) days why Mr. Walker's appeal should not be quashed as untimely.

Pet. for Disc. at ¶ 23; ODC-8.

29. By letter to the Superior Court dated August 2, 2022, Respondent said:

I was retained by David Lee Walker to represent him in his case in Indiana County. Mr. Walker, Jr. was sentenced on April 25, 2022 to a period of incarceration of not less than 2, nor more than 4 years. Defendant was given credit for time served as allowed by law. This sentence was beneath the guideline range based on the plea agreement entered into between myself and the Assistant District Attorney in Indiana County.

Several days after the sentencing, I was contacted by the defendant's mother and she, not he, indicated that Mr. Walker, Jr. wanted to appeal. I informed her of the substantial break that her son received and I informed her that I am not an appellate lawyer, nor do I believe it was wisdom *[sic]* to appeal. I have never heard from Mr. Walker directly in regards to filing an appeal. At the sentencing, the Court informed my client after the imposition of sentence of his appeal rights, as per custom. I considered then and consider now my representation for Mr. Walker, Jr. completed.

Nevertheless I, by this letter in response to the Order from the Superior Court filed July 26, 2022, do affirm the truth that I have not been retained to represent Mr. Walker, Jr. on appeal and was not appointed to represent Mr. Walker on appeal and would not have accepted said appointment had it been offered; so I see no reason why the instant appeal should not be quashed as untimely.

Pet. for Disc. at ¶ 24; ODC-9. See *also* N.T. at 87 (“Q. But your response to her, when she asked you about the appeal was not ‘I’m not authorized to speak with you about his legal matters.’ Your response was -- A. I talked to his mother about a lot of things, as I indicated earlier”).

30. On August 15, 2022, the Superior Court remanded the Criminal Proceedings to the Court of Common Pleas of Indiana County to, *inter alia*, determine if Respondent had abandoned Mr. Walker. Pet. for Disc. at ¶ 25; ODC-3 at 000037 (“On August 3, 2022, Counsel filed a response wherein Counsel stated that he believed that his representation ended when judgment of sentence was entered against Appellant and that he was no longer

Appellant's attorney. **But see Pa.R.Crim.P. 120(A)(4) (An attorney who has been retained or appointed by the court shall continue such representation through direct appeal or until granted leave to withdraw by the court).**") (emphasis supplied); ODC-10 at 000050 (¶ 1).

31. On August 29, 2022, the Court of Common Pleas of Indiana County conducted a hearing at which time, *inter alia*:

- (a) Respondent made an oral motion to withdraw as counsel; and
- (b) the Court advised that, due to Mr. Walker's pending appeal, it lacked jurisdiction to rule upon such motion.

Pet. for Disc. at ¶ 26; ODC-10 at 000051 (¶ 3).

32. By Order in the Criminal Proceedings dated August 31, 2022, the Court of Common Pleas of Indiana County, *inter alia*, noted that, "Milton E. Raiford clearly expressed that he does not intend to remain as counsel for Appellant. Therefore, the Court finds that **Attorney Raiford has abandoned Appellant.**" Pet. for Disc. at ¶ 27; ODC-10 at 000051 (¶ 4) (emphasis supplied).

33. By Order dated August 31, 2022, attorney Mark D. Bolkovac was appointed to represent Mr. Walker. Pet. for Disc. at ¶ 28; ODC-10 at 000051.

34. On September 20, 2022, Mr. Bolkovac, on Mr. Walker's behalf, filed a Praecipe to Discontinue Appeal. Pet. for Disc. at ¶ 29; ODC-3 at 000039.

35. By letter dated December 7, 2022, Disciplinary Counsel requested Respondent's Statement of Position regarding, *inter alia*, the allegations set forth in paragraphs 4-29 of the Petition for Discipline in this matter. Pet. for Disc. at ¶ 30; ODC-11.

36. By letter dated February 6, 2023, Respondent, through counsel, provided his Statement of Position. Pet. for Disc. at ¶ 31; ODC-12.

37. This Statement of Position failed to address each allegation of misconduct contained in the letter set forth in paragraph 35 *supra*. Specifically, this Statement of Position failed to address Respondent's disregard of the Superior Court's June 28, 2022 Order or the August 2022 finding that Respondent had "abandoned" Mr. Walker. Pet. for Disc. at ¶ 32. *See also, generally*, ODC-12.

38. Respondent failed to provide with this Statement of Position the verification required by D. Bd. Rules § 85.13. Pet. for Disc. at ¶ 33; ODC-12.

39. By letter dated March 20, 2023, Disciplinary Counsel requested that Respondent, *inter alia*:

- (a) address each allegation of misconduct contained in the letter set forth in paragraph 35 *supra*; and
- (b) provide the verification required by D. Bd. Rules § 85.13.

Pet. for Disc. at ¶ 34; ODC-13.

40. Respondent failed to comply with these requests. Pet. for Disc. at ¶ 35; ODC-14.

41. By letter dated June 1, 2023, Disciplinary Counsel:

- (a) enclosed a copy of the letter set forth in paragraph 39 *supra*; and
- (b) advised that Respondent's failure to comply with the requests therein violated RPC 8.1(b).

Pet. for Disc. at ¶ 36; ODC-14.

42. Respondent failed to comply with the requests set forth in paragraph 39 *supra*. Pet. for Disc. at ¶ 37.

43. Respondent's sworn testimony at the disciplinary hearing was deliberately misleading. See Section IV(C)(2) *infra*.

III. PROPOSED CONCLUSIONS OF LAW

Respondent violated RPC 1.2(a), RPC 1.3, RPC 1.4(a)(2), RPC 1.4(b), RPC 1.15(b), RPC 1.15(i), RPC 8.1(b) and RPC 8.4(d).

IV. ARGUMENT

A. RESPONDENT'S ABANDONMENT OF DAVID WALKER COMPELLED AN UNNECESSARY CONSUMPTION OF LIMITED JUDICIAL RESOURCES.

Respondent failed to file a timely appeal on Mr. Walker's behalf, in violation of RPC 1.3, and failed to consult with Mr. Walker regarding the possibility of pursuing such an appeal, in violation of RPC 1.2(a), RPC 1.4(a)(2) and RPC 1.4(b). Pet. for Disc. at ¶¶ 17-18; N.T. at 85. Respondent's claim to have advised Mr. Walker that "he did not do appeals" is unavailing. *Compare* ODC-12 at 000063 *with* Pa.R.Crim.P. 120(A)(4) ("An attorney who has been retained or appointed by the court shall continue such representation ***through direct appeal*** or until granted leave to withdraw by the court pursuant to paragraph (B)"). Even assuming *arguendo* the veracity of this contention, this does not relieve Respondent of his obligation to *consult* with Mr. Walker about the possibility of pursuing an appeal. RPC 1.3, Comment 4 ("if a lawyer has handled a judicial or administrative proceeding that produced a result adverse to the client and the lawyer and the client have not agreed that the lawyer will handle the matter on appeal, the lawyer must consult with the client about the possibility of appeal before relinquishing responsibility for the matter. See Rule 1.4(a)(2).") (emphasis supplied). Similarly unavailing is Respondent's claim to have "heard from Mr. Walker's family, but

never...from the client directly.” ODC-12 at 000063; N.T. at 71 (“I don’t talk to girlfriends and all that”). As an initial matter, Mr. Walker’s May 25, 2022 letter indicates that he had attempted to discuss a potential appeal with Respondent, but Respondent flouted his professional obligation to consult with Mr. Walker regarding such an appeal. ODC-5. Moreover, Respondent’s contention that he was not authorized to discuss any such appeal with anyone other than Mr. Walker is belied by both Respondent’s May 2022 text to Ms. Miller that any such appeal would be unsuccessful and Respondent’s August 2022 letter to the Superior Court advising that he had told Mr. Walker’s mother that he did not “believe it was wisdom *[sic]* to appeal.” ODC-4 at 000041; ODC-9. See *also* N.T. at 85-86.

Respondent’s conduct, including most notably his disregard of the Superior Court’s June 28, 2022 Order, violated RPC 8.4(d) in that it prompted the Superior Court to remand the Criminal Proceedings to the Court of Common Pleas of Indiana County where, at the Superior Court’s direction, an evidentiary hearing was conducted to determine whether Respondent had abandoned Mr. Walker. Pet. for Disc. at ¶¶ 25-26; ODC-10. This senseless consumption of limited judicial resources could have been avoided if Respondent had simply sought leave to withdraw his appearance after Mr.

Walker's sentencing, as the Rules of Criminal Procedure required if Respondent had no intention of representing Mr. Walker on appeal, Pa.R.Crim.P. 120(A)(4). *Office of Disciplinary Counsel v. Robert G. Young*, 115 DB 2019 (D. Bd. Rpt. 11/30/2020) (S. Ct. Order 3/16/2021) at 31 ("Respondent's neglect and inaction wasted time and resources and prejudiced the administration of justice").

**B. RESPONDENT FAILED TO MAINTAIN MR. WALKER'S
ADVANCED PAYMENTS IN A TRUST ACCOUNT OR
IOLTA.**

Respondent failed to maintain Mr. Walker's advanced payments of his legal fee in a trust account or IOLTA, in violation of RPC 1.15(b) and RPC 1.15(i). Respondent's contention that these payments represented earned fees because his agreement to represent Mr. Walker precluded him from accepting other engagements is simply incorrect. ODC-12 at 000062. While this circumstance *could have* legitimately motivated Respondent to have characterized his legal fee as nonrefundable or "earned upon receipt," there is no evidence whatsoever—such as, for example, a fee agreement or other writing—to suggest that Respondent *actually* did so. More to the point, there is no written document confirming Mr. Walker's informed consent to this arrangement, as required by RPC 1.15(i). See RPC 1.0(e) (defining "Informed consent").

C. RESPONDENT IS NOT FIT TO PRACTICE LAW.

“[D]isciplinary sanctions are not designed for their punitive effects, but rather are intended to protect the public from unfit attorneys and to maintain the integrity of the legal system.” *Office of Disciplinary Counsel v. Brian J. Preski*, 134 A.3d 1027, 1031 (Pa. 2016) (citing *Office of Disciplinary Counsel v. John Rodes Christie*, 639 A.2d 782, 782 (Pa. 1994)). Respondent’s inability or unwillingness to comply with professional obligations that he has previously been **publicly** disciplined for violating, particularly when combined with the contempt he now exhibits for these very professional obligations, presents an unacceptable risk that Respondent will, once again, violate such professional obligations. Accordingly, the only disposition that would “protect the public” is a suspension of sufficient length that Respondent would be required to demonstrate his fitness before regaining the privilege of practicing law. Rule 218(a)(3), Pa.R.D.E. (“An attorney may not resume practice until reinstated by order of the Supreme Court after petition pursuant to this rule if the attorney was suspended for a period exceeding one year”).

The fairly recent prior discipline imposed...for nearly identical misconduct afforded Respondent the opportunity to remediate his practice habits and conform his conduct to the ethical standards required of the legal profession in this Commonwealth. **Considering the timing of these events**, Respondent should have been attuned to the problems in his practice and more con-

scious of the importance of cooperation with the disciplinary authorities. Notwithstanding this opportunity, Respondent is before the Board once again, **the prior discipline having had no appreciable beneficial impact on his conduct.** Respondent's failure to remediate his practice procedures after his prior disciplinary encounter signifies the need for a lengthy suspension, as the instant matter demonstrates that Respondent has not heeded the warning of the private discipline and his continued practice poses a danger to the public.

Office of Disciplinary Counsel v. Clarence E. Allen, 190 DB 2020 at 32 (D. Bd. Rpt. 1/31/2022) (S. Ct. Order 4/14/2022) (emphasis supplied). See also, e.g., *Office of Disciplinary Counsel v. Antoinette M. J. Bentivegna*, 156 DB 2002 (D. Bd. Rpt. 4/16/2004) (S. Ct. Order 7/15/2004) at 20 ("the Board recommends that Respondent be suspended for a period of one year and one day. Respondent is currently unfit to practice law without a future show of fitness.").

1. RESPONDENT HAS AN EXTENSIVE DISCIPLINARY HISTORY FOR MISCONDUCT THAT IS REMARKABLY SIMILAR TO THE MISCONDUCT HEREIN.

"This proceeding marks the third time that Respondent has come before the disciplinary authorities." *Office of Disciplinary Counsel v. Richard Patrick Reynolds*, 179 DB 2011 (D. Bd. Rpt. 11/19/2013) (S. Ct. Order 3/31/2014) at 8. Notably, the misconduct that compelled Respondent's most recent professional discipline—a public reprimand imposed on June 17,

2022, a mere eleven days before the Superior Court's June 28, 2022 Order, Compare ODC-16 at 000080 ("Administered by a designated panel of three Members of The Disciplinary Board of the Supreme Court of Pennsylvania **on June 17, 2022**") (emphasis supplied) with ODC-7 ("Filed 06/28/2022")—resembles much of the misconduct at issue herein. Respondent was publicly reprimanded for his misconduct in connection with two criminal matters. ODC-16. In one of these matters, much like Respondent's abandonment of Mr. Walker, Respondent appeared for a non-jury trial and informed the Court that he would not represent his client at such trial. *Id.* at 000079 ("you appeared with your client before Judge Mariani, at which time **you informed the Court that you would not represent Ms. Williams or otherwise act on her behalf.** The Judge attempted to persuade you to honor your obligation as counsel of record, **but you refused**") (emphasis supplied). In the other matter, much like Respondent's August 2, 2022 letter to the Superior Court advising that he "see[s] no reason why [Mr. Walker's] appeal should not be quashed as untimely," Respondent filed a Motion to Withdraw as Counsel and thereafter made statements in open court that were adverse to his client's interests. *Id.* at 000078 ("you appeared before the Honorable Anthony M. Mariani of the Court of Common Pleas of Allegheny County in connection with the Means proceeding and had an exchange with Judge

Mariani during which you expressed your personal opinion regarding Mr. Means' guilt and credibility, **which was prejudicial to Mr. Means and did not advance his interests**") (emphasis supplied). Respondent's "continued inability to practice within the confines of the ethical rules"—specifically, ethical rules that *he has been previously publicly disciplined for violating*—compels his suspension. *Allen*, 190 DB 2020 at 35. See also, e.g., *Office of Disciplinary Counsel v. Nicholas E. Fick*, 132 DB 2012 (D. Bd. Rpt. 11/4/2013) (S. Ct. Order 3/31/2014) at 18 ("Respondent must be removed from the practice of law for a long enough period of time to make an impression upon him, as it is clear that the prior private discipline has not motivated Respondent to remedy the underlying problems.").

This recent public reprimand, of course, is not the only discipline that has been imposed upon Respondent. Respondent was also disbarred after being criminally convicted of obstructing the administration of law or other governmental function, unsworn falsification to authorities and tampering with public records or other information. ODC-15. These convictions resulted from "a fraud which Raiford perpetrated upon the judicial system in Allegheny County," during which Respondent enlisted someone to misrepresent herself as being one of his clients **and then enter a guilty plea and be sentenced**, all while Respondent misrepresented the status of this matter

to the actual defendant. *Id.* at 000073-000074 (“Raiford engaged in a series of flagrant deceptions that were designed to undermine the proper functioning of the criminal justice system”). Respondent’s subsequent determination to use his reinstatement to the Bar of this Commonwealth to engage in even more conduct that prejudices the administration of justice—both in the matter now pending before this Honorable Hearing Committee and in the matters that prompted his recent public reprimand—demonstrates that he is simply not fit to practice law.

2. RESPONDENT’S SWORN TESTIMONY AT THE DISCIPLINARY HEARING WAS DELIBERATELY MISLEADING.

Much of Respondent’s sworn testimony at the disciplinary hearing was devoted to indulging his own delusions of grandeur. Among other things, Respondent claimed to have brought “peace between the Crips and the Bloods,” *Id.* at 40, and that, at the time of his criminal convictions set forth in Section IV(C)(1) *supra*, he “was on [his] way to becoming a U.S. Senator,” *Id.* at 34. *Compare also, e.g., Id.* at 38 (“Being a constitutional law expert, I used to wake up at night and cry reading the constitution, memorized it.”) *with Id.* at 97-98 (Respondent’s testimony that he does not know what a “direct appeal” is). Many of these embellishments are immaterial to the matter pending before this Honorable Hearing Committee; however, Respondent’s

testimony also included multiple misrepresentations regarding his prior disbarment. Respondent first claimed that this disbarment resulted from him “handing in his license.” *Id.* at 34 (“so I didn’t make anybody go through a trial or anything. I handed in my license to practice law”); *Id.* at 77 (“I voluntarily handed it in”). When confronted with the opinion issued by the Supreme Court of Pennsylvania in this disbarment matter, Respondent conceded that he “didn’t agree to be disbarred.” *Id.* at 78. *See also, generally,* ODC-15. After his cozenage in this regard was revealed, he incredibly claimed that by “handing in his license,” he had meant that he “pled guilty to the underlying criminal offenses in front of Judge Cercone.” N.T. at 93. Respondent also attempted to mislead this Honorable Hearing Committee regarding the circumstances that led to his disbarment, claiming that he had been “[o]verzealous, trying to help a client out.” *Id.* at 30. In reality, as the Supreme Court of Pennsylvania explained, Respondent had “engaged in a carefully planned and extensive series of deceptions **that...worked to the detriment of his client,**” ODC-15 at 000074-000076 (emphasis supplied), all while “misrepresenting [to this client] the status of the charges against her so that she would remain unaware of his deeds,” *Id.* at 000074. Respondent’s false testimony regarding his disbarment aggravates the discipline to be imposed herein. *See, e.g., Office of Disciplinary Counsel v. Paula C.*

Scharff, 53 DB 2006 (D. Bd. Rpt. 11/5/2007) (S. Ct. Order 3/31/2008) at 16 (“[Scharff] aggravated her misconduct by rejecting her fundamental responsibility to be truthful in disciplinary proceedings, thus elevating her sanction...”).

**3. RESPONDENT FAILED TO ACCEPT
RESPONSIBILITY OR EXPRESS REMORSE FOR
HIS MISCONDUCT.**

Respondent’s testimony at the disciplinary hearing “expressed little understanding of the scope and nature of his misconduct and was devoid of acceptance of responsibility.” *Allen*, 190 DB 2020 at 32. Respondent instead displayed contempt for his professional obligations and, indeed, for his own clients:

Q. You never asked him if he wanted to appeal? You never discussed the possibility of appeal with him, the merits of the appeal, anything like that?

A. That’s like asking your 10-year-old kid, “Would you like to drive the car down the street,” even though you know he doesn’t have a license and it wouldn’t be in his best interests to do so.

N.T. at 99-100. *But see* RPC 1.3, Comment 4 (“the lawyer must consult with the client about the possibility of appeal before relinquishing responsibility for the matter. See Rule 1.4(a)(2).”) (emphasis supplied).

And then, you know, clients are kind of like -- you know, they are who they are. They’re criminal defendants, so they are who they are, so they’re not going to stick up for you, and there’s

no honor in that, you know, many times. It's like Moses killing the Egyptian. The next day, he goes out there and breaks up two Jews fighting, and the one guy says, "What are you going to do, kill us like you did the Egyptian," so he's got to run off, you know, so it's like you can't -- that's what it is being a lawyer in the Black community, but that's okay. You do what you're supposed to do. You can't expect other people to be you. You got to stay in your lane, so I stayed in my lane.

N.T. at 36.

"There is no question that the refusal to acknowledge one's guilt and a lack of remorse are aggravating factors that must be taken into account." *Office of Disciplinary Counsel v. Samuel Foley, Jr.*, 201 DB 2011 (D. Bd. Rpt. 4/22/2014) (S. Ct. Order 8/14/2014) at 10 (citing *Office of Disciplinary Counsel v. Michael Radbill*, 899 A.2d 1099 (Pa. 2006) and *Office of Disciplinary Counsel v. John L. Chaffo, Jr.*, 8 DB 2011 (D. Bd. Rpt. 7/30/2013) (S. Ct. Order 11/15/2013)). Respondent's lack of remorse—particularly when juxtaposed with the remarkable similarities between the instant misconduct and the misconduct that prompted Respondent's two prior instances of public discipline—"raises a red flag that he will continue his unprofessional practice if his license is not removed." *Allen*, 190 DB 2020 at 32-33. This unacceptable risk that Respondent will "continue his unprofessional practice" compels a sanction herein that would require Respondent to establish his fitness to

practice law before regaining the privilege to do so. Rule 218(a)(3), Pa.R.D.E.

4. RESPONDENT FAILED TO COOPERATE WITH ODC'S INVESTIGATION.

Respondent disregarded lawful demands made by ODC in connection with its investigation of this matter, and thereby violated RPC 8.1(b). *Office of Disciplinary Counsel v. Tami Lea Fees*, 123 DB 2018 (D. Bd. Order 8/8/2018). Specifically, ODC advised Respondent that his Statement of Position was "insufficient" in that it failed to provide the verification required by the Disciplinary Board Rules or address all of the allegations of misconduct contained in Disciplinary Counsel's December 7, 2022 letter. Pet. for Disc. at ¶ 34; ODC-13. When this letter did not prompt Respondent to resolve these deficiencies, ODC advised Respondent that his failure to do so violated RPC 8.1(b). Pet. for Disc. at ¶ 36; ODC-14. Respondent still failed to resolve these deficiencies. Pet. for Disc. at ¶ 37.

V. CONCLUSION

ODC respectfully requests that this Honorable Hearing Committee recommend to the Disciplinary Board that Respondent be suspended from the Bar of the Commonwealth of Pennsylvania for a year and a day.

Respectfully submitted,

OFFICE OF DISCIPLINARY COUNSEL

Thomas J. Farrell
Chief Disciplinary Counsel

A handwritten signature in black ink, appearing to read 'D. White', with a stylized flourish at the end.

By

Daniel S. White
Disciplinary Counsel

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 112 DB 2023

Petitioner :

:

v. :

: Attorney Registration No. 49055

:

MILTON E. RAIFORD,

:

Respondent : (Allegheny County)

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving the foregoing documents upon all parties of record in this proceeding in accordance with the requirements of 204 Pa.C.S. § 89.22 (relating to service by a participant).

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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: 

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