

BEFORE THE DISCIPLINARY BOARD OF  
THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,:

Petitioner :

: No. 36 DB 2025

v.

: Atty. Reg. No. 60474

JOHN W. PAUCIULO,

Respondent: (Chester County)

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

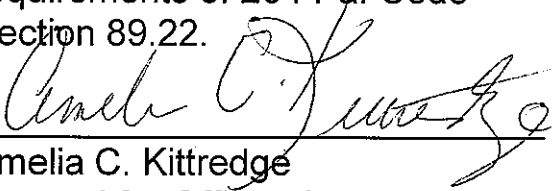
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I hereby certify that I  
have this day served by  
first class mail the within  
document upon all parties  
of record in this proceed-  
ing in accordance with the  
requirements of 204 Pa. Code  
Section 89.22.

  
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## **METHOD OF CITATION**

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

Ex. ODC-\_\_\_ represents a (numbered) Petitioner's Exhibit;

Ex. R-\_\_\_ represents a (numbered) Respondent's Exhibit;

Tr. (date) at (page) indicates a page or pages of notes of testimony of the Hearing on August 19, 20, 21, or November 17, 2015;

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## **I. Statement of the Case**

On March 31, 2025, the Office of Disciplinary Counsel (“ODC”) filed a Petition for Discipline (“Petition”) and charged Respondent with multiple violations of the Rules of Professional Conduct (“RPC”). As detailed in the Petition, Respondent played a central role in the commission of a years-long securities fraud scheme during which he concealed material information from hundreds of retail investors and some of his own clients, used his talent and experience to evade state and federal securities regulators, and gave unrepresented persons advice that he portrayed was in their best interest, but was intended to forestall lawsuits against his clients. He used his law license and his position with a respected law firm to lend legitimacy and credibility to the investment business run by his perennial client, Dean Vagnozzi, an unregistered “financial advisor,” who advertised widely that his investments were “safe,” “guaranteed” and brought in higher returns than the publicly traded “market.” Although Respondent knew of Vagnozzi’s representations to investors, he failed to conduct the proper due diligence of the investment at issue here, Par Funding, which proved to be a scam.

ODC presented the testimony of an expert witness in securities law, who testified that Respondent created a sophisticated web of investment funds that were not registered with the Securities and Exchange Commission

“SEC”), but were ineligible as private offerings, and drafted alleged “disclosure” documents that concealed obviously material information. ODC presented the testimony of investors who lost retirement funds in the offerings and testified that Respondent’s status as a lawyer was important to their belief that the investments were safe and lawful. However, had they known the information Respondent concealed, they would have never invested.

Respondent’s Answer to the Petition, filed on May 9, 2025, repeatedly stated that he was “not involved” in the events ODC described in the Petition. ODC’s case showed the polar opposite. Respondent was immersed in Vagnozzi’s business to an unprecedented extent, participating in marketing presentations and appearing in videos he allowed the client complete discretion to use for any particular investment the client offered to the public. Although Vagnozzi testified as Respondent’s witness, he was, in effect, ODC’s “best” witness. Vagnozzi confirmed that far from Respondent being uninvolved, the two were in constant contact, that Vagnozzi “didn’t make a move” without him, and needed him to make investors feel “comfortable” about dealing with Vagnozzi’s unaffiliated investment business.

As a result of the foregoing misconduct, Respondent entered into an Offer of Settlement with the SEC in which Respondent, among other things, was denied the privilege of appearing or practicing before the SEC as an

attorney for five years and ordered to pay a civil monetary penalty of \$125,000 to the Par Funding receivership. The Order memorializing the agreement provides that “findings made herein are made pursuant to Respondent’s Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.” Hence, ODC has introduced evidence in this proceeding that fully substantiates Respondent’s admissions before the SEC. However, the Order clearly recognizes that professional discipline may result based on misconduct before the Commission. As a condition of any reinstatement to practice before the Commission, Respondent must show that he has not committed any further professional offenses or is the subject of additional complaints “except to the extent that such complaints [or offense] concern the conduct that was the basis for the Order....” (ODC-4).

The charged misconduct and his conduct during these proceedings demonstrated that Respondent is unfit to practice law in this Commonwealth. He was untruthful in his testimony about his knowledge of how Vagnozzi was marketing his private offerings, expressed no remorse, and blamed others for his misconduct. He contended that the disciplinary charges were barred by “laches,” but failed to show any prejudice, a threshold requirement. There is a robust record of his misconduct in the SEC litigation on which these charges are based, so all the possible evidence is extant. Moreover, he has continued

to practice throughout these proceedings as a solo practitioner in his own firm. Nor has there been any delay on the part of ODC. The evidence showed that to the extent there was any delay in these proceedings, Respondent's failure to cooperate and to promptly produce documents that ODC sought in the DB-7 Request for Statement of Respondent's Position, was a substantial factor. On this record, disbarment is amply warranted.

This Brief is submitted pursuant to D.Bd. Rules §89.162, and the permission of the Hearing Committee to extend the time for filing of Briefs to forty days and for an increase in the word count to 18,500 words.

## **II. Proposed Findings of Fact**

The evidence, and the reasonable inferences therefrom, support the Proposed Findings of Fact:

### **A. Background**

1. Respondent, John W. Pauciulo, was born in 1965, was admitted to practice law in the Commonwealth on December 17, 1990, maintains his office at 175 Strafford Avenue, Suite One, No. 206, Chester County, Pennsylvania 19087, and is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court.

2. In 2004, Respondent began representing Dean Vagnozzi, an insurance salesman who had only briefly held a license to sell registered securities, which had long expired at all times relevant to this matter. (Tr. 8/21/25 at 34, 251; ODC- 86 at ¶ 28; ODC-7 at 11, 96).

3. Vagnozzi, a self-styled "Financial Advisor," offered investments by way of private placements which were not registered with the Securities and Exchange Commission (SEC) and consequently not traded on the public markets. (ODC-5).

4. In 2010, Respondent joined the firm of Eckert Seamans Cherin & Mellott (Eckert Seamans), where he continued to represent Vagnozzi and a Limited Liability Company Respondent had formed for Vagnozzi,

abetterfinancialplan.com (ABFP). (Tr. 8/21/25 at 252, 254).

**B. Respondent's Role in Marketing Vagnozzi's Investments**

5. Vagnozzi "aggressively market[ed]" his "alternative investments" on television and radio, at free dinners at upscale restaurants, and on his ABFP website, where he proclaimed that, "With Dean Vagnozzi, Bad Investments Don't Exist," that he aimed to offer "middle class," "average" and "mid-level" clients the same investment strategies used by "wealthy investors" that were "safe," delivered "outstanding returns," and "offer a much lower risk than investing in Wall Street." (ODC-86 at ¶30; ODC-5 at 21-24, Tr. 8/20/25 at 163-64, 262-63; ODC-7 at 60, ODC-29, ODC-77-79; ODC-66 at 38; ODC-6).

6. Vagnozzi told the SEC that he and his company hosted events where his investment offerings would be presented, including events at which individuals from Par Funding, the investment offering at issue here, was discussed, citing a November, 2019 event attended by 160 to 170 investors or potential investors. (ODC-7 at 60-62).

7. Respondent, his law license and his position with a major law firm were an integral part of Vagnozzi's business strategy, since Vagnozzi agreed that Respondent spoke to prospective investors to give them "some comfort about the legality of a structure, how the private placement would work."

(ODC-7 at 71-73).

8. The ABFP website advertised that Respondent was “pivotal” to Vagnozzi’s business because, “[w]ith the help of Dean Vagnozzi’s attorney, John Pauciulo...clients at ABFP are able to ‘invest like the big boys,’” in offerings that were “carefully vetted and facilitated by one of the nation’s largest law firms.” (ODC-5 at 8, 23-24).

9. Respondent knew that Vagnozzi referenced “a large law firm” in his radio ads, referring to his association with Eckert Seamans, but Respondent never told him to stop making such references. (ODC-12 at 290).

10. Vagnozzi testified that Respondent “would frequently come to” the dinner events, which, according to Respondent, Vagnozzi “held to solicit investors,” and Respondent made one appearance on a radio program Vagnozzi aired. (Tr. 8/21/25 at 83; ODC-66 at ¶¶ 32, 39).

11. Vagnozzi testified that, “Everything related to my, what I was doing in my business I’m pretty confident John knew about,” referring to Respondent, “I talked to John more than I talked to my wife at the time,” “Yeah, the point is I didn’t make a move without getting John involved,” and “John and I talked, we talked five, ten times a week.” (Tr. 8/21/25 at 45-46, 63, 165).

12. Respondent’s own exhibits reflect that Vagnozzi consulted with

Respondent concerning how he was marketing his business and that he used a variety of ways to reach out to members of the public to advertise his investments. (R-17; R-18, R-19).

13. Respondent characterized Vagnozzi as “a sales guy” and described him as “among [his] larger clients.” (Tr. 11/17/25 at 104; Tr. 8/21/25 at 328).

14. Unbeknownst to his firm, Respondent recorded videos for Vagnozzi that Respondent told the SEC he knew Vagnozzi “intended to use... from time to time...to show to prospective investors....” for “[a]ny investment opportunity that Dean Vagnozzi or A Better Financial Plan was involved with.” (ODC-9 at 63, 145).

15. In 2014, Respondent recorded a video for Vagnozzi, stating that he was a partner at Eckert Seamans, a law firm with “14 offices throughout the Mid-Atlantic region,” he was the “chair” of the “corporate transactions practice group,” and that when he “began working with Dean,” it was his “job” to make sure that he “created a document for an investor...knowing that [the investor] had full and fair disclosure” about the risks and benefits adding, “[w]e’ve devoted a lot of time and energy...putting together the documentation to comply with the securities laws....” (ODC-10 at 2-4).

16. Respondent made another video for Vagnozzi in 2018 , where he

explains that he acts in a “compliance role working with Dean to make sure that we’re in compliance with federal and state securities laws, that the documents are done the right way...And we work very hard to make sure things are done the correct and appropriate way.” (ODC-11 at 3; ODC-11A (video)).

17. After a screenshot of a banner that asks, “**What Is Your History with Dean?,**” Respondent states that “Dean and I have worked together now for many years...we’ve created funds to invest in [a] [p]retty wide variety of industries and businesses....What Dean has done is to identify different types of investments.... And **together Dean and I have created a model where a retail investor** can get involved in a kind of asset class that on his own [he]... may not have the financial wherewithal to do....It’s an **opportunity** to put money in a lot of alternative asset classes separate and apart from publicly traded securities....” (ODC-11 at 3-4; ODC-11A)(emphasis in the question in original; otherwise, emphasis added).

18. Respondent answers the question, “**What’s Unique About a Better Financial Plan?,**” by telling the listener that he works with clients “to identify...investment opportunities....**The first step is usually due diligence**” to determine if an investment is “worthwhile,” “**we** prepare documents” to create a fund and “**bring in investment dollars....**” (ODC-11

at 4)(emphasis in question in original; otherwise, emphasis added).

19. Respondent further explains: “We operate [under] exemptions from the registration requirements...when you look at those [SEC] rules...they’re really all about disclosure. Disclosure of risk, disclosure of the nature of the investment. So the private placement memorandum (hereinafter sometimes, “PPM”) is...**intended to provide a prospective investor with all the information that a reasonable person would want to know or information they want to have in order to make an informed investment decision.**” (emphasis added)(ODC-11 at 5).

20. After a screenshot that asks, “**Can I Be Sure This is Legal?**,” Respondent states “[f]rankly, Dean spent a lot of money with me and my law firm. This kind of legal compliance is complicated. Because it’s complicated, we spend a lot of time on it...Dean has spent and continues to spend a lot of money to **make sure things are done the right way.**” (ODC-11 at 6)(emphasis in the question in original; otherwise, emphasis added).

### **C. The Reckless Due Diligence**

21. In early 2016, Vagnozzi met Joseph LaForte, who used the aliases “Joe McElhone” and “Joe Mack,” and in 2012 founded Par Funding, a “merchant cash advance” small business lender with his wife, Lisa McElhone, when LaForte was on supervised release from federal prison. (Tr.

8/21/25 at 40-41,44; ODC-13; ODC-56; ODC-19, ODC-20; ODC-48 at 39).

22. Par Funding represented that it had provided more than \$220 million in business funding since its inception in 2012, and claimed to have a superior underwriting process, diversified mix of borrowers, and an average default rate of a little greater than 1%. (ODC-13, Tr. 8/21/25 at 325-27).

23. After meeting at the Par offices in Philadelphia with LaForte and Par Chief Financial Officer Joseph Cole Barleta (known as “Joe Cole”), Vagnozzi told them, “Before I do any business with you, I want my attorney to come down and meet you,” and directed Respondent to “Check these guys out,” “Do due diligence.” (Tr. 8/21/25 at 41-42, 46).

24. Commencing the “due diligence,” on April 19, 2016, Respondent sent an email to “Joe Cole,” attaching a letter with a lengthy list of information that he wanted to review. In response to the due diligence request, Par provided no audited financial statements, only financial documents that Par management selected, documents about the merchant cash industry, samples of promissory notes, incorporation documents, and an “Investor Presentation,” which Joe Cole commented, “should prove useful in developing materials for Dean’s pitch.” (ODC-17; ODC-25; ODC-66 at ¶8(b); ODC-86 at ¶64; ODC-8 at 169).

25. At the Hearing, Respondent admitted that Par never fulfilled his

request for certain information he sought as part of the “due diligence,” including about past or present criminal proceedings, pending or threatened bankruptcies against the Company or officers and directors, and a “[l]ist and brief description” of any threatened or pending litigation where the Company is a “claimant against any third party.” (ODC-17; Tr. 8/21/25 at 267, 277).

26. Respondent did not know how Par’s 1% default rate was calculated because Par did not “provide [Respondent] with a list of claims,” he “never asked their accountants what their allowance for bad debt methodology was,” and never saw documents that reflected what the “actual default rate was.” (Tr. 8/21/25 at 384-85, 393, 395, ODC-8 at 184-85).

27. Although he requested them in his April, 2016 “due diligence” letter, Par did not provide its tax returns, and they “never called [Respondent] and told [him] why” they didn’t give them to him. (ODC-8 at 177; Tr. 8/21/25 at 386).

28. Respondent also admitted that in 2016 he “did no Westlaw searches or any other research about litigation that Par Funding was involved in,” and did not find out until 2020 that Par had “hundreds and hundreds of actions against individuals and entities that Par claimed were in default.” (Tr. 8/21/25 at 386-87).

29. Respondent did no “background searches” on “anyone at Par,”

although Respondent went to the Par offices and met the “people who purported to be the management” of Par, so “[he] knew who they were,” including Joseph LaForte who, in a May, 2016 email to Respondent referred to Par as “my company,” and who Respondent understood to be a “decision-maker.” (Tr. 8/21/ 25 at 384, 388; ODC-8 at 176-77, 208-09;ODC-56).

30. Respondent never had a forensic accountant or any accountant review the financial information he did receive from Par, while acknowledging that he has no accounting degree, and has only “a reasonable working knowledge of financial accounting.” (Tr. 8/21/25 at 383-84).

31. After the April, 2016 due diligence, Respondent did not recall any other “due diligence” documents he obtained from Par, nor did he do any other fact-finding on Par until March or April of 2020. (Tr. 8/21/25 at 283-84; ODC-66 at ¶11)

32. Joseph LaForte is a twice-convicted felon who, in 2006, was incarcerated in New York State after pleading guilty to multiple counts of Grand Larceny, Money Laundering and Conspiracy, and being ordered to pay over \$14 million in restitution; in 2009, he pleaded guilty to federal criminal charges of conspiracy to operate an illegal gambling business, was sentenced to 10 months in federal prison with a period of three years’ supervised release, and was released on February 25, 2011, just prior to the

formation of Par by LaForte's wife, Lisa McElhone, in October, 2011. (ODC-18, 19, 20).

33. Lisa McElhone owned a nail salon in Philadelphia in 2016, but in 2012, the Oregon Department of Consumer and Business Services issued a "Final Order to Cease and Desist" for unregistered "debt management services" because she took funds from an Oregon consumer in the form of personal money orders and cashed the money orders at a Philadelphia check cashing store; McElhone settled the charges by making restitution to the consumer. (ODC-21; Tr.11/17/25 at 168).

34. Perry Abbonizio was sanctioned and suspended by the Financial Industry Regulatory Authority (FINRA) in 2015, for soliciting his brokerage firm's clients to purchase \$625,000 in private placements and receiving compensation without his firm's knowledge. (ODC-22).

35. A public docket search of the Philadelphia court system reflects that from 2013, shortly after its inception, through 2020, Par had filed at least 1,656 lawsuits against small businesses for default, and sought a total of \$240,020,697.47 in unpaid loan payments. By 2017, Par had filed lawsuits seeking over \$20 million in missed loan payments, and in 2018, that figure rose to more than \$50 million in missed payments. (ODC-23).

36. On several occasions during the first three days of the Hearing,

Respondent and his counsel tried to justify Respondent's misconduct by alleging that Par was represented by William R. Sasso, Esquire, Chair emeritus of the Stradley Ronon law firm, a highly regarded Philadelphia lawyer, who never told Respondent "of any problems with Par." (Tr. 8/19/25 at 108, Tr. 8/20/25 at 134, Tr. 8/21/25 at 260-63, 277-78).

37. Upon learning of the use of his name at the Hearing, Mr. Sasso contacted ODC "...because [he] felt that what was reported was not entirely accurate." On ODC's rebuttal case, Sasso testified that he had one meeting with the principals of Par on June 20, 2016, but he felt "very uncomfortable" after Par dismissed his advice to refrain from doing a deal proposed by Vagnozzi and Respondent. Sasso's "typical procedure" when bringing in a new client is to "do due diligence on their background," and he had Stradley Ronon's non-legal library staff research the background of Par and its principals, which raised red flags for him in that:

"...[T]he principal owner was identified as a woman who I discovered ran a nail salon, and this was a very sophisticated and troublesome financial arrangement," [referring to the proposed Vagnozzi deal]. "...[I]t immediately set off alarm bells. And then I found out several of the principals had been involved in changing their name and then later in the month of July, I received information that they had a past track record involving civil complaints and criminal complaints, several of the

principals. And that caused me to reach the decision that we would not represent the principals or the company moving forward,” which was conveyed to Par. (Tr. 11/17/25 at 161, 166-69).

**D. Par Initially Spurns Vagnozzi’s Proposal to Establish a Fund for the sale of the Par Promissory Notes, so Vagnozzi Begins an Association with Par as a “Finder” of Investors.**

38. In 2016, Vagnozzi proposed to Par establishing a fund to make a private offering of the Par promissory notes, but Par “backed out”; in the alternative, in July, 2016, Vagnozzi sought advice from Respondent on becoming a “Finder” of investors for Par-issued promissory notes, after which Vagnozzi signed a “Finder’s Agreement” with Par requiring that he introduce investors to Par and **“assist[ ] in the consummation of loans”** to Par. (Tr. 8/21/25 at 49-51, 62, 288, R-7; ODC-26)(emphasis added).

39. The Pennsylvania Securities Act of 1972 requires that the following persons be registered: (a) a “broker-dealer” or “agent”; (b) an “agent” for any broker-dealer or issuer; and (c) an “investment adviser,” but Vagnozzi had no such registration. (ODC-29 at 2; 70 P.S. §I-301(a), (b), (c)).

40. Par Funding received a subpoena dated January 4, 2018 from the Pennsylvania Department of Banking and Securities, and by Order of the Department dated November 28, 2018, Par paid a fine of \$499,000 for using “persons to represent [Par] in connection with the offer and sale of promissory

notes...who were not registered under Section 301” of the Securities Act of 1972, nor exempt from registration, and agreed to stop using finders. (ODC-30, 32; R-16).

41. The Pennsylvania Department of Banking and Securities was also conducting an investigation of Vagnozzi’s activities as a “Finder” for the period from August, 2016 to December, 2017, after which Vagnozzi, represented by Respondent, on May 30, 2019, agreed to a fine of \$490,000 for receiving compensation from Par for the sale of Par promissory notes while neither registered as an “agent” under the Commonwealth’s securities laws nor exempt from registration. (ODC-33; ODC-8 at 71-73).

42. On December 27, 2018, the New Jersey Bureau of Securities issued a Cease and Desist Order against Par Funding based on Par’s sale of unregistered securities in New Jersey and the use of unregistered agents, in violation of the state’s securities laws, which Respondent was aware of at the time the Order was issued. (ODC-8 at 68-69, 72-73; ODC-34; ODC-66 at ¶43).

**E. Respondent Creates the “Fund Model” When Vagnozzi is Prohibited by State Securities Regulators from Acting as a Finder**

43. Given that Pennsylvania and New Jersey had commenced regulatory actions, in 2018 Par became “receptive” to creating a fund to sell the Par notes, as Vagnozzi had proposed. (Tr. 8/21/25 at 76).

44. In or around January, 2018, Vagnozzi recruited individuals to establish “Agent Funds,” who were told to “Contact John Pauciulo to get your MCA [merchant cash advance] Income fund started,” and “[y]ou will need to sign an engagement letter with him and pay him \$5,000 before any work will be completed.” (ODC-35, ODC-66 at ¶19).

45. Under the arrangement, once the Agent Fund had \$200,000 in its bank account from issuing its own Agent Fund notes to investors, the Fund signed a note and security agreement with “**the MCA company we invest with,**” Par, after which Vagnozzi’s “A Better Financial Plan Management Company,” wired the investors’ money to Par from each Agent Fund’s bank account; Par, in turn, would sell the Agent Fund a Par promissory note which paid 20% interest annually in 12 equal payments; ABFP Management would pay the Funds’ investors their “cut” of 10 to 14% from the 20% in the Agent Funds’ accounts, ABFP Management would get 25% of the 20% as a management fee, and 75% would remain in the Agent Funds’ accounts. (ODC-35, ODC-7 at 29, 44, ODC-86 at ¶92)(emphasis added).

46. Respondent drafted the offering documents for the Agent Funds and Vagnozzi’s Funds without mentioning Par, stating that the proceeds from the sale of the Notes “will be used to purchase promissory notes...offered and sold by companies which provide ‘Merchant Cash Advance’ financing....”

(ODC-39 at 1).

47. The Funds, however, held only one security: the Par promissory notes, and were created with the express purpose of selling the Par notes in place of the prohibited “Finders,” as evidenced by: 1) Vagnozzi’s “Guide” for Agent Fund owners that referenced, “**the MCA company we invest with,**” and a diagram of investor money flowing only to Par; 2) the Supplemental PPM Respondent drafted for the Exchange Offer, *infra*, which recited that the investor money in the “Original Note Offering” was “**used to purchase promissory notes offered and sold by...PAR Funding**”; 3) Respondent’s exhibit R-21, which contains a diagram showing investor money flowing from Vagnozzi’s ABFP Income Fund to Par; 4) a video where Respondent tells the investors that, “ABFP...took...the cash proceeds from the sale of its notes...and they bought notes issued by [Par]....**So our fund owns promissory notes issued by Par Funding**”; 5) a Vagnozzi video advertising that, “we’d like to introduce you to one of the best merchant cash advance lenders...[w]e’ve partnered with this extremely profitable Philadelphia based lender...[t]his company has an impressive default rate of less than one percent.”; 6) a video Respondent made for investors with a diagram (reproduced in the SEC’s TRO Motion) showing three boxes with investors’ money moving from Vagnozzi’s ABFP Income Fund to Par; 7) Vagnozzi’s

testimony at the Hearing that Par offered to buy insurance for his fund, which Vagnozzi later advertised, and “if insurance is only going to be tied to... one MCA company, that...blows the idea remotely working with another company since the insurance was going to be with Par”; 8) Vagnozzi’s testimony to the SEC that he could not name any other merchant cash company that he invested in; and 9) Respondent’s SEC testimony that he had no contact with any other merchant cash company apart from Par and that he didn’t mention Par in the offering documents because he “...did not necessarily want to create an environment where those entities were deemed to be formed solely for the purpose of investing in one particular company.” (ODC-35 at 2 ¶8 & chart at bates no. 000694; ODC-46 at 5, bates no. 000879; R-21 at 11 ; ODC-43 at 21; ODC-28 at 5; ODC-43A at 31:35; ODC-48 at 18; Tr. 8/21/25 at 77, 338-39; Tr. 8/20/25 at 266; ODC-7 at 12-14; ODC-8 at 29-31)(emphasis added).

48. Respondent drafted a “Management Services Agreement” that the Agent Funds, his clients, signed with his other clients, Vagnozzi and his ABFP Management Company, which contained no waiver of conflict of interest but had a “Liquidated Damages” clause wherein the Agent Funds agreed that “a violation of any of Company’s obligations under this Agreement will cause irreparable harm to Management Co,” and a section wherein the

Agent Fund represented and “warrant[ed]” that “...counsel for [the Agent Fund] has reviewed this Agreement and that [the Agent Fund] has been informed by counsel that the terms...are enforceable.” (ODC-35, bates nos. 000667, 00069; ODC-8 at 240).

49. Respondent told the SEC that the private placement memoranda for his clients’ Funds were “substantially similar or the same,” and a review of the PPM reveals that they contained only “boilerplate” notification of risks, such as, **“Worsening economic conditions may result in decreased demand for business credit and cause default rates to increase,”** and failed to disclose material information including, *inter alia*, LaForte’s convictions, the State securities regulators’ sanctions, and the fact that from 2017 to 2020, the SEC’s New York Regional Office was investigating Vagnozzi as an unregistered broker and promoter of a private fund (unrelated to Par) which the SEC alleged, and in 2020 found, “violated the federal securities laws by offering and selling unregistered securities to over 300 retail investors” using radio ads, videos and free dinners, which marketing practices constituted a “general solicitation,” the same means by which the Par-related investment funds were marketed. (ODC-8 at 262; ODC-39 at 3, bates no. 0000713 (emphasis in original); ODC-68, ODC-70).

50. Vagnozzi raised more than \$100,000,000 from investors for Par.

(ODC-66 at ¶17(b); Tr. 8/21/25 at 94-95).

**F. Respondent and Vagnozzi Market the Par-Related Funds**

51. Perry Abbonizio of Par spoke at a “substantial number” of the free dinners Vagnozzi gave for prospective investors, LaForte came to one dinner as well, where he spoke to investors about Par; ODC introduced a video of Abbonizio telling a dinner meeting of investors and prospective investors that Par was “Number 1” in profits in the merchant cash industry with a 1.2% default rate, as opposed to the industry rate of 18%. (Tr. 8/21/25 at 137-38; ODC-79).

52. In 2019, Respondent spoke at a dinner at the ACE Country Club in Lafayette Hill, PA, where Vagnozzi told the diners that he was going to discuss “merchant cash,” and touted Respondent’s involvement by explaining, “...I want you to understand, why are we able to do what we’re doing and nobody else can? – **because I don’t have a securities license.**” All I am doing is forming corporations....John’s job is to put a document together...to make sure that you know of ...every risk associated with the investment...that complies with the securities laws.” (ODC-29 at 2-3)(emphasis added).

53. At the dinner, referring to Respondent, Vagnozzi said, “I want everybody to feel comfortable. The guy I got behind me....,” and “...I just

want you to see that...I paid a very expensive large law firm...I have a big firm behind me....” (ODC-29 at 4, 10).

54. ODC introduced a video of Respondent addressing the group, where he explains that “...the securities laws aren’t so much about substantive review of the quality of an investment...[t]hey’re about disclosing the nature of the investment” and “...it’s my job to make sure that you are informed for two reasons: [o]ne is, it’s to comply with the securities laws; but also, **that you go into this with your eyes open. You know exactly what you’re getting into,**” closing with the information that he was a partner at Eckert Seamans, a firm with about 400 lawyers in 15 cities, and was chair of the “financial transactions practice group.” (ODC-29 at 7, 9; ODC-29A) (emphasis added).

#### **G. 2020: Texas Securities Board Action**

55. On February 25, 2020, the Texas State Securities Board issued an “Emergency Cease and Desist Order” against Par, Vagnozzi’s ABFP, and Texas-based Agent Funds represented by Respondent and managed by Vagnozzi, charging that they were conducting a fraudulent “investment scheme,” the securities were not exempt from registration, and that the respondents fraudulently concealed material information such as the prior State regulatory actions and the identity and backgrounds of Par

management; Respondent reviewed Texas counsel's filings in defense of the action. (ODC-24; Tr. 8/21/25 at 360-63).

#### **H. The Investors' Testimony**

56. In early 2018, Bradford A. Beebe, who resides in Wilmington, Delaware and is employed at Capitol One, saw an advertisement on one of the major television stations for A Better Financial Plan, promoting an investment that "paid over-market rates without market risk." (Tr. 8/20/25 at 163-65).

57. Mr. Beebe called the number given in the advertisement and spoke with an ABFP representative, Andy Zuch, who told him the investment was in Par Funding, and that it would pay 10% in interest; Zuch invited him to see the Par Funding offices in Philadelphia, which he did. (Tr. 8/20/25 at 165, 169, 172-73).

58. Mr. Beebe invested twenty per cent of his retirement funds, or \$101,000 in 2018, and received a payment of \$866 monthly for a one-year term. (Tr. 8/20/25 at 189-90).

59. After one year he rolled over his initial investment, receiving payments through February, 2020, and in the first half of March 2020, he received emails and a video from Vagnozzi and Par to the effect that the company was weathering the pandemic, with Par reporting that "[w]e had our

largest funding month by deal count in February and have confidence in being able to maintain consistent funding volume in the coming months,” and they wanted investors to know that their “investment with them is solid.” (Tr. 8/20/25 at 193-94, 207-10; ODC-49A, 49B, 49C).

60. On March 26, 2020, Vagnozzi sent another email to investors and attached a Par Funding email dated March 24, in which Par stated that “...we will likely need to restructure our current loan portfolio to incorporate a temporary moratorium on payments....”; Vagnozzi stated that investors were asking about suing Par, but “my attorney John (he had earlier mentioned “John Pauciulo with Eckert Seamans”), said it will take 1-2 years to win a judgment against Par, and...along the way they definitely will not be paying us if we are in a legal fight with them, we will incur legal fees and then collect and enforce any judgment”; consequently, Vagnozzi was advising that the best course was to develop a “workout with Par.” (Tr. 8/20/25 at 211-14; ODC-49D).

61. Beebe testified that after reading the email, he understood he had three choices: “the nuclear choice with zero”; “the yeah, you can sue but it will take forever and you won’t get a damn dime”; or “take our 4 percent offer over seven years,” adding, “Notice the witness is pointing a gun, making a pantomime of a gun put at one’s temple.” (Tr. 8/20/25 at 218-19).

62. In April, 2020, Beebe received two videos with Vagnozzi and Respondent directed to investors, the second of which was sent with a note that it was, “our attorney explaining the attached paperwork requiring your signature for the MCA Exchange Offering,” and informing the investors that the payments on the restructured notes would be 4 percent interest over seven years. (Tr. 8/20/25 at 222-23; ODC-49F; ODC-45 at 7; ODC-45A)

63. When Mr. Beebe viewed the second video, he felt he was being “pressured” to submit the forms agreeing to the restructuring, and recalled that in the second video Respondent said, “Yeah, I think it’s the best chance to get the most money back.” (Tr. 8/20/25 at 225-27; ODC-45 at 2; ODC-45A).

64. Beebe identified the “Supplement to Confidential Private Placement Offering Memorandum” that he received as a result of agreeing to the Exchange Offer. (Tr. 8/20/25 at 235; ODC-49H).

65. Mr. Beebe stated that the loss of his investment has meant that he can no longer retire at age 68, and he will have to work an additional two years to make up for it. (Tr. 8/20/25 at 236).

66. In July, 2020, Mr. Beebe received an email and “Press Release” from Vagnozzi titled “A Better Financial Plan LLC., Announces Settlement With The [SEC] After Three-Year Investigation,” an investigation Beebe had not been aware of when he made the Par-related investments in 2018 and

2019. (ODC-49J; Tr. 8/20/25 at 237; ODC-69).

67. Vagnozzi's email stated that "...all [the SEC] can say is they don't like my advertising methods and the fact that I served steak dinners...as a way for people to hear about our investments," and the Press Release quoted a statement from Respondent that, "...ultimately, the SEC took issue with ABFP's process, not its products." (ODC-49J).

68. After reading this, Mr. Beebe concluded that Vagnozzi distributed it to send the message, "please, my consumers, don't take anything from it," and understood that Respondent was stating, in effect, "[n]othing to see here," which the investor understood as "[a]bsolutely" an attempt to minimize the SEC's action. (Tr. 8/20/25 at 237-39).

69. Mr. Beebe testified that if he had known that Vagnozzi had been under investigation by the SEC for the previous three years, he would not have invested "[b]ecause if you're in trouble with the Feds....There's a reason [the] Feds are looking at you." (Tr. 8/20/25 at 240).

70. If Mr. Beebe had known that Par was being run by a convicted felon, LaForte, he would never have invested, because, "A crook is a crook is a crook," and if he had known that Vagnozzi and Par had been sanctioned and fined by the Pennsylvania Department of Banking and Securities, he would have "walked away" and not invested. (Tr. 8/20/25 at 240-41).

71. He further agreed that it **“matter[ed]” to him that Respondent, “a lawyer from a big firm,” was “telling [him] that the offering of the notes in the merchant cash investment was legal,” because Respondent was “an officer of the court. He wouldn’t say anything that wasn’t legal.”** (Tr. 8/20/25 at 244)(emphasis added).

72. ODC presented the testimony of Joseph Greenberg, a retired gentleman from Doylestown, PA, who testified that in early 2019, he heard Dean Vagnozzi’s advertisements on the KYW radio station “[m]any times.” (Tr. 8/20/25 at 262).

73. Mr. Greenberg contacted A Better Financial Plan and met with a representative, Jason Zwiebel, who spoke about the Par-related investment and a fund that bought life insurance policies from elderly individuals. (Tr. 8/20/25 at 266).

74. Mr. Greenberg testified that in all his conversations and correspondence with personnel at Vagnozzi’s company, “everything was guaranteed,” including both principal and interest. (Tr. 8/20/25 at 263).

75. He testified that Zwiebel told him the Par-related investment was “fully insured,” and any time he wanted, he could “cash it in,” get his “money back,” after which he invested \$101,000. (Tr. 8/20/25 at 266, 272).

76. On April 17, 2020, he received an email from A Better Financial Plan which stated that Par was no longer financially sound, and Vagnozzi's company wanted him to exchange his note for a note with a longer payout (7 years), at a reduced rate of interest (4%), which surprised Greenberg, since Vagnozzi had recently "made a big deal" of stating, "we're going to be paying everybody back," but a week before the payout, "everything...fell apart." (Tr. 8/20/25 at 269-71; ODC-57A).

77. The email was "very forceful," "[a]bsolutely" urging him to turn the notes in, and warning that if he didn't accept the exchange offer, and pursued it on his own, it "would probably cost thousands" and he "might not end up with anything," concluding with a message from Respondent, who helped draft the email, that: **"While we expect that all investors will elect to modify their notes, those who do not will be left with limited options...[a]ny...lawsuit [against the Funds] is likely to take one to two years, at a minimum, and cost tens of thousands of dollars in legal fees."** (Tr. 8/20/25 at 272-75) (ODC-57-A)(emphasis in original)(ODC-66 at ¶70).

78. Mr. Greenberg testified that Respondent was "giving me advice," "this is what he was suggesting I do," and "I took away from this that I really had not much of a choice, that I had to go along with it or I might not see anything, and also, it would cost me a lot of money." (Tr. 8/20/25 at 273).

79. Greenberg agreed to the exchange offer, and requested a copy of the alleged insurance policy, but never received one. (Tr. 8/20/25 at 277-80).

80. Mr. Greenberg testified “Of course,” before he made the investment with Vagnozzi, he would have liked to have known that Par Funding was being run by a convicted felon, and if he had known that, he would not have invested. (Tr. 8/20/25 at 283).

81. Similarly, he would have liked to have known that Vagnozzi and Par were being investigated by the Pennsylvania Department of Banking and Securities, that Vagnozzi paid a fine to resolve the matter and was told to cease and desist as a finder of investors for Par; and if he had known that, he “would have walked away.” (Tr. 8/20/25 at 284).

82. When asked whether it “mattered” that a lawyer from a big firm was telling him that the offering of notes in the merchant cash investment was legal, Mr. Greenberg testified:

**“It mattered a lot, sure. In fact, I looked up the firm, and the firm that he belonged to, on their front page, is boasting about their ethics. So I felt, you know, he’s part of this, whatever he was telling me or suggesting, that why not believe it, you know....I felt like [Respondent] was giving me advice as to what to do...he was advising us the best thing to do. (Tr. 8/20/25 at 287, 293) (emphasis added).**

## I. The Exchange Offer

83. Although the promissory notes issued by the Funds still obligated the Funds to pay investors under the original terms, *i.e.*, high rates of interest over one year, when Par stopped paying interest to the Funds, Vagnozzi and Respondent proposed that the investors exchange their Fund notes for new notes with interest diminished to 4% over seven years. (ODC-39 at bates no. 000704, 000711; ODC-49H at p. B-1 ¶2(b)).

84. In the first video sent to the investors in April 2020, Vagnozzi explains that although many investors had already agreed to the exchange offer, others were “unclear on which direction they should go,” and “[h]ence, that’s the reason for this Zoom recording,” after which Vagnozzi prompts Respondent, “John, talk – tell everybody who you are...just give everybody an update that **you’re not some attorney that I just found in the phonebook last week.**” Respondent talks about his large firm, that he has been involved in transactions valued in the “...tens and hundreds of millions of dollars...,” and the fact that he and Vagnozzi have been “...pretty disciplined...and have sought out...business opportunities that most people...wouldn’t have an opportunity to invest in....” (ODC-43 at 2-6, 43A)(emphasis added).

85. Although Respondent only reviewed an “internally prepared

financial statement” from Par, and did not know who prepared it, he tells the investors that Par is “insolvent by a significant margin,” but he can’t share the information from Par because he has signed a non-disclosure agreement. He advises the investors that they have “three options”: first, filing a lawsuit against Par, which would be lengthy and expensive, and Par would declare bankruptcy; second, three or more creditors could force Par into an involuntary bankruptcy, also time consuming and expensive with anemic payments at the end; and third, restructuring the debt, that would allow for Par to “turn it around,” which Respondent saw as the “better choice.” (ODC-8 at 297; ODC-43 at 10, 11, 14, 17-18).

86. Respondent asks investors, “Do you want to accept” the reduced interest rate in the restructured Fund notes, “or do you want to file a lawsuit [against the Funds] and try to pursue more... **I assure you**...there is not a big chunk of money sitting in the income funds...the bank accounts have zero in them because the money was basically given to Par....”; and tells the investors they have “unsecured” notes, and if the Funds they invested with default as a result of the investors suing the Funds, “[y]our remedy is not to go grab collateral because you don’t have a lien in any of the collateral....”; Respondent further represents that Par has agreed to move the Agent Funds’ Par notes to “a secured status,” so “[w]e can skip that whole lawsuit phase

and go right to...go collect assets,” that he had done a search for liens and that Par Funding did not have any liens on its assets; thus, he represented, “[s]o, not only are we getting a lien,” the Agent Funds would have “...a first position lien...we’ll be first in line if there is a default, we’ll be first among all creditors....” (ODC-43 at 24-28) (emphasis added).

87. Vagnozzi closed with “...we need to hear from you as soon as possible. Some people said, oh, you need time. This shouldn’t take you candidly three weeks to think about. This is a, **we** feel, a pretty cut and dry (*sic*) decision. So let us know ASAP.” (ODC-43 at 33)(emphasis added).

88. Approximately one week later, Respondent and Vagnozzi recorded a second video, as Mr. Beebe testified, which was sent to investors via an email from ABFP that stated, “Dear MCA Investors: Please watch the video below with **our** attorney explaining the attached paperwork **requiring your signature** for the MCA Exchange Offering.” (ODC-44)(emphasis added).

89. The second video attached the restructured note, a Supplement to the PPM and a consent form, comprising 30 pages, which Respondent explained, and agreed with Vagnozzi that the note restructuring was “the best chance to get the most money back” among the “three options,” and “...hopefully everybody has given this a lot of thought...and is ready to close and get this done.” (ODC-45 at 2, 3, 5, 12-15).

90. Neither the Supplemental Private Placement Memoranda Respondent drafted nor the two videos included the material information which had been omitted from the original PPMs, *including information about LaForte's felony convictions, which Respondent learned of in 2017*, and Respondent did not disclose that the new Notes released Vagnozzi and the other Agent Funds from liability, and that they contained a "Waiver of Class Action" and "Waiver of Jury Trial." Respondent's statement that the Funds would have a "first position lien" was a fraud, because he searched for existing liens against "Comprehensive Business Solutions," instead of the correct corporate name, "Complete Business Solutions Group," and never did another lien search, but had he done so, he would have found that there *were* prior liens. (ODC-46 at A-4 bates no. 000890-91; ODC-8 at 143-44; ODC-9 at 57-60; ODC-66 at ¶82).

91. Contrary to Respondent's advice that filing lawsuits would be futile, investors who did not exchange their promissory notes for the restructured notes and filed suits received a monetary settlement from Vagnozzi and Par. (ODC-47; Tr. 8/21/25 at 344-45).

92. On July 27, 2020, the SEC filed an "Emergency *Ex Parte* Motion for Temporary Restraining Order and Other Relief" against Par, ABFP, Vagnozzi, Joseph LaForte and the other executives of Par, charging the

defendants with violations of federal securities laws, after which the federal District Court appointed a receiver. (ODC-48; *SEC v. CBSG, Inc., et al.*, 20-cv-81205RAR (S.D.Fla. 2020).

93. On September 11, 2024, Joseph LaForte entered pleas of guilty to RICO Conspiracy and Securities Fraud, among other crimes, and was sentenced to a prison term of 15 and one-half years. At the plea-taking, he admitted that the “principal purpose of” Par was “to generate money” for himself and his co-conspirators, and that LaForte “caused more than 100 million of Par Funding proceeds to be paid to consulting and entities he controlled” by “hiding [Par’s] financial losses.” He admitted that Par issued securities “...in the form of promissory notes to many investors, **including agent funds, and caused these agent funds to issue promissory notes on their own to additional investors....**,” and that “**promotional efforts included materially false and misleading statements concerning the state of Par Funding’s financial health,**” including a “supposed default rate of 1 percent.” (ODC-90 at 44-47).

94. The federal court which sentenced LaForte found that the actual net loss to investors because of the admitted fraudulent scheme was over \$288 million. (ODC-1).<sup>1</sup>

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<sup>1</sup> The SEC required Vagnozzi to disgorge and pay fines of over \$5 million and a penalty

## J. ODC's Expert Testimony

95. ODC presented the expert testimony of Richard A. Booth who, since 2007, has held the Martin G. McGuinn Chair in Business Law at the Villanova University-Charles Widger School of Law. He was accepted as an expert on securities regulation and his Report was admitted in evidence. Professor Booth received his Juris Doctor degree from Yale Law School, teaches corporate and securities law, and has written extensively on business topics and securities regulation. (ODC-85; Tr. 8/19/25 at 132-34).

96. Professor Booth stated that the “federal securities laws are based on a philosophy of full disclosure designed to address the abuses illustrated by the schemes described here,” and the “underlying... purpose” of the federal securities laws is to “assure that investors have available to them... *all the information that a reasonable investor would want to know.*” (ODC-85 at 4; Tr. 8/19/25 at 135-36)(emphasis added).

97. The statutes applicable to this matter, the Securities Act of 1933 ('33 Act), contains a “well-understood catalogue” of what must be disclosed, and the Securities Exchange Act of 1934 ('34 Act), includes the “anti-fraud” provision under Rule 10b-5, where “failure to disclose information” you “have

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of \$400,000. His business is in receivership, and he has been barred from ever again offering unregistered securities. (ODC-54).

a duty to disclose,” constitutes securities fraud; both statutes require the “same kind” and “same quantity” of information to be disclosed in either a public or private offering. (Tr. 8/19/25 at 144-47).

**1. The Private Offering under the “Finder” and “Fund” Structures**

98. Although the '33 Act requires that “a detailed registration statement be filed with the SEC before any public offering may proceed,” compliance is costly, and “[m]any small companies cannot afford it.” Thus, the '33 Act provides for certain exemptions from the registration requirement, including the exemption claimed by Respondent under SEC Rule 506(b), where the required disclosure is commonly made in a private placement memorandum; however, “[t]o be clear, Rule 506(b) is an exemption from formal registration,” not “an exemption from disclosure.” (ODC-85 at 5, 6; Tr. 8/19/25 at 144-45).

99. The “key” to qualifying for the Rule 506(b) private offering exemption is to “(1) “eschew any advertising” and “(2) sell only to accredited investors.”<sup>2</sup> (ODC-85 at 7).

100. Investment companies “can qualify as accredited investors...provided that such entity owns investments in excess of \$5

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<sup>2</sup> While Rule 506(b) also permits sales to 35 “sophisticated investors,” because of other provisions of the SEC Rules, it “would have been difficult for the offering of Par Notes to take advantage of this aspect of the Rule,” and the “practical implication is that the offering must be made only to accredited investors.” (ODC-85 at 7, n. 22).

[million] and is *not* formed for the specific purpose of acquiring the subject securities.” (ODC-85 at 8)(emphasis in original).

101. Addressing the prohibition against advertising, Professor Booth cited SEC Rule 502(c), incorporated by reference in 506(b), which provides that “neither the issuer nor any person acting on its behalf shall offer or sell the securities by any form of general solicitation or general advertising, including, but not limited to...[a]ny advertisement, article, notice or other communication published in any newspaper, magazine, or similar media or broadcast over television or radio...and [a]ny seminar or meeting whose attendees have been invited by any general solicitation or general advertising.” Professor Booth testified that a lawful private offering exempt from SEC registration under Rule 506(b) “cannot be public, it cannot be the subject of public advertising...solicitation is the word that tends to get used in the securities law.” The exemption is unavailable if the investment is “advertis[ed] on the web or on the radio or by print,” “certainly television,” and the issuers or promoters “just see who arrives interested in the offering,” explaining that “it’s really not the fact that they’re at the meeting that’s so crucial... as is how they got there...how they were solicited....” (ODC-85 at 6 fns. 17, 18; Tr. 8/19/25 at 147-48, 154, 159).

102. Professor Booth stated that “there is...plenty of basis for

concluding that...these [investor] meetings were the result of public solicitations, as evidenced by “pages from a website that anybody could have gone to and descriptions by investors of advertisements that they heard,” and thus the 506(b) exemption would be “unavailable.” (ODC-5; Tr. 8/20/25 at 163-69, 261-66; Tr. 8/19/25 at 156, 158-59).

103. The '34 Act “requires brokers and dealers (of securities) to register with the SEC or FINRA,” whether the securities are offered in a public or private offering. **“In other words, anyone who is in the business of selling (or buying) securities or arranging such transactions for others must...be licensed to do so.”** In the 2017 timeframe, when Vagnozzi first associated with Par, Par retained Vagnozzi as a finder, “[a]nd in essence, he was finding investors, which means he was acting as a broker...even though he didn’t have a license to do so,” which “was a violation of both” federal and state law, and was “found to be so by the state regulators in Pennsylvania and New Jersey and ultimately by the SEC.” (ODC-85 at 12; Tr. 8/19/25 at 169; ODC-33; ODC-34; ODC-70)(emphasis added).

104. Professor Booth noted that in the 2019 ACE Country Club video, Vagnozzi acknowledges that he cannot act as a broker, stating, “...I want you to understand, why are we able to do what we’re doing and nobody else can? – **because I don’t [have] a securities license. All I’m doing is forming**

**corporations,”** a reference to the Fund structure that was put in place as result of the PA Department of Banking and Securities’ cease and desist order. Thus, Vagnozzi and Par “modified the way they did business,” with a “plan to have investors form investment companies to buy Par Notes and to have investment companies find investors to buy notes issued by the investment companies.” (ODC-29 at 2; ODC-29A; Tr. 8/19/25 at 171; ODC-85 at 12).

105. For Vagnozzi, this new fund structure was “a difference without a distinction,” as he continues to broker the Par securities. As Professor Booth explained, Vagnozzi “continues...to be a conduit for the Par securities” through his ABFP Management Company. Vagnozzi was “being paid in a slightly different way, but he’s still distributing the Par securities *to the agent funds...*” Booth concluded that “...it appears that one of the reasons for forming the agent funds was that...Vagnozzi would not be selling securities to individuals but rather would be advising agent funds...to buy the Par securities.” (Tr. 8/19/25 at 180-81)(emphasis added).

106. The “problem with this supposed solution,” was that Vagnozzi and Respondent remained engaged “in the business of selling securities (Par Notes) *to the investment companies*” and “[i]t makes no difference that the buyers of the Par Notes were investment companies. Vagnozzi and now

[Respondent] were clearly involved in the business of selling securities,” and “[t]hus... Vagnozzi violated the terms of the settlements with the state regulators and did so with the active assistance of [Respondent].” (ODC-85 at 12)(emphasis in original).

107. The Agent Fund structure itself that Respondent established violated the securities laws, in that, “*the agent funds became the investors that invested in the Par securities...*,” However, as investors in the Par notes, the Agent Funds did not qualify for exemption from the registration requirement because under the exemption, “you can’t form a fund for the purpose of investing in a particular security” (*i.e.*, Par notes), and “a fund that does not have \$5 million under management to begin with cannot be classified as an accredited investor.” The Agent Funds “invested their money as soon as they got \$200,000 of investment funds in from investors,” and “the rules say that you have to have \$5 million in the fund to begin with.” “Consequently,” according to Booth, “even though [the Agent Fund structure] seems like a neat trick, the offering continues not to qualify for 506(b) treatment,” since the Agent Funds “were not accredited investors” in the Par notes. (Tr. 8/19/25 at 180-82, 190; ODC-35).

108. Professor Booth explained that Vagnozzi’s own funds, apart from the Agent Funds, were also non-exempt offerings, because he continued to

offer the notes through “a general solicitation.” (Tr. 8/19/25 at 194-95).

109. Professor Booth was asked to assume that “an experienced securities lawyer has a client and the client is a financial advisor advertising on the radio, that he has safe and guaranteed investments that have nothing to do with the stock market, and the financial advisor advertises frequently, asks investors in that advertisement to call an 800 number and he or his staff...speak with the member of the public about an investment in...an unregistered offering of promissory notes and invite them to a free dinner at a fancy restaurant,” under these circumstances, does that constitute a general solicitation which does not qualify as a private offering under Rule 506(b)? In response, Professor Booth answered in the affirmative, adding that it was not even a “close call” under the securities laws. (Tr. 8/20/25 at 6-7).

110. Professor Booth was asked, “And if the lawyer advises his client that, in these media presentations...the radio ads...where he says the investment is guaranteed and safe, to not speak specifically about particular investments, just generally say the investments are guaranteed, have nothing to do with the market, and when the public calls and the representative talks to them, they...give a sales pitch on specific offerings of unregistered promissory notes...[d]oes this hypothetical avoid or get around the prohibition

against general solicitation?” His response was, “No, it doesn’t get around the prohibition. It’s still a general solicitation.” (Tr. 8/20/25 at 7).

## **2. 10-b(5) Anti-Fraud Rule**

111. Professor Booth testified that “scienter” under the federal securities laws has been defined as, “at a minimum,” “recklessness...making a statement without any reasonable basis for making that statement, that is, indifference to the truth of the statement,” or “omitting to include material facts.” (Tr. 8/20/25 at 8).

112. Professor Booth was asked to assume that a lawyer’s client “is being investigated by the...SEC for marketing unregistered securities...through a general solicitation,” and that the lawyer “proceeds with assisting in or facilitating” another offering being marketed in the same way, “without assuring” that the investigation is disclosed. His opinion was that such non-disclosure constitutes “scienter,” failure to disclose a material fact. (Tr. 8/20/25 at 9-10,12-13).

113. Professor Booth also testified that *fraud* under Rule 10b-5 of the ’34 Act is defined as “...the misrepresentation or failure to disclose a material fact in connection with a purchaser’s sale of securities and doing so with scienter.” (Tr. 8/20/25 at 13).

114. Rule 10b-5 is violated if a lawyer knows or is reckless and fails to

disclose material information in a private placement memorandum, such as the criminal background of the management of the issuer; failure to disclose that the offering is non-exempt and should have been registered; that the issuer is operating at a loss; the regulatory history of the issuer, the broker selling the securities and the broker's business; the diversion of investor funds to consulting companies controlled by the management of the issuer; the spreads and fees paid by the issuer; non-accredited status of the agent funds; material misrepresentations by the lawyer for the issuer about the merits of bankruptcy or litigation against his client; and the fact that a lawyer has a conflict as between the issuer and another party in the offering. (Tr. 8/20/25 at 14-15, 21-25, 28-30; ODC-85 at 11).

115. Since the '34 Act "provides for liability as to any material fact that *could have been known* in the exercise of reasonable care," the fact that Respondent "undertook to investigate Par Funding and then abruptly abandoned his due diligence efforts when Vagnozzi said he did not want to pay for it, more than demonstrates the requisite state of mind for liability." (ODC-85 at 11-12)(emphasis added).

116. Professor Booth testified that if "a broker-dealer is unlicensed and he's selling securities such as Par notes and agent fund notes," and "the broker-dealer has been sanctioned for non-registration but he continues to

sell securities,” that is unlawful under the '34 Act, and “[t]o the extent the lawyer does anything to further that...to the extent the lawyer participates in those illegal acts, that is, helps the unlicensed broker in any way to continue to do that, that’s a violation, yes.” (Tr. 8/20/25 at 61-63).

117. Professor Booth also addressed R-21, an ABFP advertising piece on Par Funding, which Respondent agreed “suggests” that all the investor money went to Par and no other MCA, testifying that the document was “more evidence of the public solicitation and active participation [by Respondent] in the use of the lawyer’s name.” He added that because the piece mentions other lending companies backed by celebrities and prestigious banks, the Respondent’s Exhibit actually “makes the point” that although there were other merchant cash companies to invest in, “there was a gross failure to diversify in this instance.” (Tr. 8/20/25 at 80-82, 88; Tr. 11/17 at 76).

118. Professor Booth rejected the notion on cross-examination that whether or not an investor has invested with the agent in the past, such as in one of Vagnozzi’s other Funds, determines whether an offering constitutes a public solicitation, testifying that: “Look, a mass mailing or a radio advertisement may go to people that have already invested with whoever the advertiser is...so I don’t think that it makes - - whether it happens that you get some repeat customers doesn’t make it **not** a public solicitation.” (Tr.

8/20/25 at 114-15)(emphasis added).

119. Addressing Respondent's failure to disclose LaForte's conviction, Professor Booth stated that the 506(b) exemption from registration contains a list of convictions and administrative sanctions which must be disclosed in order to claim the exemption. Even if a client's conviction or sanction is not on that specific list, he testified:

**"My point is that you have to make sure that your client isn't disqualified by one of those items...you have to look at the public record...and lo and behold, you discover the client is a convicted felon. That's not something that disqualifies you under 506(d), but it's certainly material and now you know it...and you cannot fail to disclose it. Because what investor isn't going to want to know that? (Tr. 8/20/25 at 131)(emphasis added).**

120. It was of no consequence that LaForte was not Respondent's client because "...if you're making an offering on behalf of your client, then you need to know whether the offering is disqualified, and one of the things that disqualifies the offering is that the principals in the company are crooks...once you figure out that somebody is actually a convicted felon, which you would figure out if you bothered to look at the public record, that's a material fact that has to be disclosed, if for no other reason because not to do so would be a violation of Rule 10b-5." (Tr. 8/20/25 at 132-33)(emphasis added).

121. The Professor made clear that in the offering that Vagnozzi and

the Agent Funds were making, it was incumbent on Respondent to disclose

LaForte's convictions:

**"So we're splitting hairs here about who has to disclose something that's material. I don't think there's any doubt that a mere broker who is trying to sell some securities as part of a 506(b) offering, even though the broker wasn't involved in...putting that offering together, if the broker discovers that the person is a convicted felon, it's material...it's a material fact, and material facts have to be disclosed.**

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**As a result, anybody putting together one of these offerings must check and see whether or not the people involved in the offering, not necessarily the company offering the securities but the people involved in offering the securities to the ultimate investors, will have to check and see whether or not anyone involved is subject to a bad actor disqualification.**

***Now, if you check the public record and you see the person is a felon, even though the offense is not one that's listed [as disqualifying under the Rule 506 exemption] you now have in your possession a material fact, and the failure to disclose that, it goes beyond mere recklessness, it's knowing failure to disclose a material fact."*** (Tr. 8/20/25 at 135-37)(emphasis added).

122. Professor Booth concluded that from the outset of the Par-Vagnozzi effort to sell the Par Notes, "...there is no doubt that [Respondent] knew that Vagnozzi was engaged in an illegal public offering" in that Respondent "appeared in a video presentation that Vagnozzi used as part of

his pitch to investors....” Indeed, even if Respondent “... somehow convinced himself that Vagnozzi’s efforts were consistent with Rule 506(b),” he would have been reckless in doing so in view of the voluminous evidence that the investments were being sold by a general solicitation. Respondent also cannot “have failed to know that the Agent Funds were a ruse to avoid the accredited investor rules or that the Agent Funds themselves could not qualify as accredited investors.” (ODC-85 at 13)(emphasis in original).

123. Respondent’s “lame efforts at due diligence” and his knowledge of the rules relating to investor qualifications, as set forth in the PPMs, “showed that he was aware of the rules—as he must have been given his years of experience—and the fact that the offerings he facilitated were illegal in numerous ways.” Not only was Respondent an “active participant in the violations and frauds” in this matter, a “lawyer does have a duty at the very least to resign from representing a client who persists in illegal activity,” and the “failure to disclose violations even of professional ethics constitutes fraud in the context of a securities offering.” (ODC-85 at 13-14).

#### **K. ODC’s Rebuttal Video**

124. At the Hearing, Respondent testified that he advised Vagnozzi that to avoid securities violations, “If you’re dead set on using advertising, you can’t advertise a specific security,” “if you’re selling stock in Company ABC

for a dollar a share, that would be a problem,” “If you want to have a seminar and invite people where you’re going to talk about investments generally, personal finance generally... you can do that, but you can’t offer somebody a security when they come to your dinner seminar.” (Tr. 8/21/25 at 296-97).

125. Respondent incredibly claimed that unbeknownst to him, Vagnozzi was ignoring his advice, as he discovered when he met with the SEC regulators in New York, who informed him that Vagnozzi was discussing specific investments with potential investors the first time they came to his events. (Tr. 8/21/25 at 299; Tr. 11/17/25 at 25).

126. On the contrary,--Respondent not only knew of Vagnozzi’s marketing of the investment offerings,--*Respondent participated in such presentations*, as reflected in a 2017 video Vagnozzi and Respondent recorded to sell another private offering, this one in a Pennsylvania “litigation funding” business called “Thrivest.” In the video, Vagnozzi states that he has worked with “one of the nation’s largest law firms,” displaying screenshots of the Eckert Seamans home page, and a headline, “**Best Law Firms 2017: U.S. News— Best Lawyers again ranks Eckert Seamans among the nations top law firms**,” to “put together an infrastructure that will allow you to invest” in Thrivest, detailing specific *investment plan options*, and the *expected returns*. The video shows Respondent, Vagnozzi and the Thrivest

CEO sitting at a conference table, with Vagnozzi representing that “[w]e are excited with [Respondent’s] help to roll out an investment with Thrivest,” and explaining that “I really don’t get involved in anything today unless John blesses it, helps me vet it...helps do the due diligence around any investment that I put together.” Respondent states, *inter alia*, that litigation funding is a “big, well-established industry,” and “it’s...something with which I’ve been familiar for many, many years.” (ODC-89 at 3-6, 8,9, 18-21).

#### L. Statute of Limitations/Laches

127. Although Respondent initially raised the issues of “statute of limitations” and “laches” at the Pre-Hearing, by the time of the Hearing, he did not contest that the proceedings were timely brought under Disciplinary Board Rules and Procedures §85.10 (“Stale Matters”), stating that he was raising only “laches.” (Tr. 8/19/25 at 48).<sup>3</sup>

128. Laches is inapplicable because Respondent has suffered no legal prejudice, and any “delay” was occasioned by his own failure to produce documents ODC requested in the July 19, 2023 DB-7 Statement of

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<sup>3</sup> Respondent could not contend that ODC failed to comply with the Board Rule, since the four-year limitations period runs from the date “a complaint is lodged with [ODC], not the date Disciplinary Counsel files a Petition for Discipline with the Disciplinary Board.” *Office of Disciplinary Counsel v. Koresko, V.*, No. 119 DB 2013 at 30 (D.Bd.Rpt. 6/1/15) (S.Ct. Order 9/4/15). Since the first complaint was filed in July 2020, and the Petition alleges that the misconduct occurred from 2016 to 2020, the Petition was timely filed under Board Rule §85.10. (ODC’s “Petition was Timely Filed And...is not Barred by ...Laches,” Exhibit A).

Respondent's Position until December 16, 2024. (ODC's "Petition was Timely Filed And Is Not Barred... By Laches"; ODC-92).

### **III. Conclusions of Law**

129. By his conduct as alleged in Paragraphs 1 through 128 above, Respondent violated the following Rules of Professional Conduct which state, in pertinent part:

- a. RPC 1.1 ("Competence"), "A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation";
- b. RPC 1.3 ("Diligence"), "A lawyer shall act with reasonable diligence and promptness in representing a client";
- c. RPC 1.7(a)(1) ("Conflict of Interest: Current Clients"), "...[A] lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict exists if: 1) the representation of one client will be directly adverse to another client";
- d. RPC 1.7(a) (2) ("Conflict of Interest: Current Clients"), "...[A] lawyer shall not represent a client if the representation

involves a concurrent conflict of interest. A concurrent conflict exists if: 2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client...or by a personal interest of the lawyer";

- e. RPC 4.3(a) ("Dealing with Unrepresented Person"), "In dealing on behalf of a client with a person who is not represented by counsel, a lawyer shall not state or imply that the lawyer is disinterested";
- f. RPC 4.3(b) ("Dealing with Unrepresented Person"), "During the course of a lawyer's representation of a client, a lawyer shall not give advice to a person who is not represented by a lawyer, other than the advice to secure counsel, if the lawyer knows or reasonably should know the interests of such person are or have a reasonable possibility of being in conflict with the interests of the lawyer's client";
- g. RPC 4.3(c) ("Dealing with Unrepresented Person"), "When a lawyer knows or reasonably should know that the unrepresented person misunderstands the lawyer's role in the matter, the lawyer should make reasonable efforts to

correct the misunderstanding”;

- h. RPC 8.4(a) (“Misconduct”), “It is professional misconduct for a lawyer to: violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another”; and
- i. RPC 8.4(c) (“Misconduct”), “It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation....”

#### IV. Argument

**Respondent Engaged in a Securities Fraud Scheme, to Evade State and Federal Securities Regulators and Deceive Retail Investors and His Agent Fund Clients, Using His Privilege to Practice Law as a “Prop” to Lend Legitimacy and Credibility to his Longstanding Client’s Private Offerings While Enriching Himself With a Lucrative Practice; Given the Magnitude of the Misconduct and His Untruthful Defense of these Proceedings, Disbarment is the only Fitting Discipline.**

ODC proved, by clear and convincing evidence, that Respondent used his professional credentials and self-described “extensive” knowledge of securities law to engage in a years-long series of deceptions that harmed hundreds of innocent retail investors who trusted him *because* he was a lawyer, ensnared his fund clients in a fraudulent securities scheme, and occasioned widespread negative publicity. He evaded regulatory authorities at the state and federal level, prolonging the fraud until the very moment when the SEC stepped in and shuttered the unlawful scheme he created. He provided untruthful testimony to the Hearing Committee, blamed everyone but himself, and was utterly without remorse. While Respondent would like to make this case about Par Funding and the dishonest conduct of its principals, it is about none other than *his own* actions.

##### **A. Respondent Created and Engaged in Four Separate Frauds that Violated the Charged Rules**

In the **Due Diligence Fraud**, Respondent purportedly performed due

diligence of Par in 2016, but it was nothing more than a sham effort, since he failed to review information critical to evaluating Par's business, and undertook *no independent investigation* of the Company's management, which ODC's expert testified was required under the securities laws. This is in sharp contrast to the testimony of ODC's rebuttal witness, William R. Sasso, Esquire, who declined to represent Par after his firm's non-legal library staff discovered publicly available information about the disrepute of Par's leaders, including name changes and civil and criminal complaints. (PFOF 37).

It does not require a Warren Buffet to know that a merchant cash lender cannot be profitable if its borrowers are not paying back their loans. Respondent knew in 2016 that Par advertised a near-perfect default rate of 1%, and requested from Par information about pending lawsuits brought by the Company. (Tr. 8/21/25 at 393). He admits that he received no information from Par, did not know how the default rate was calculated, and performed no docket searches or independent investigation of Par. (PFOF 24-26). The SEC's docket search of the Philadelphia court system revealed an ever-growing volume of lawsuits filed by Par from its inception to 2020, when there were "hundreds and hundreds" of lawsuits representing tens, and eventually hundreds of millions dollars of loans in default. (ODC-23; Tr. 8/21/25 at 386-

877).

Respondent testified that he requested but “never [got] any response” to his request for “any pending or threatened criminal proceeding against the Company,” or its directors and management, and any “pending or threatened bankruptcy against the Company” or its directors or management. Consider also that Par failed to give Respondent tax returns he requested, and told Respondent that it had no audited financial statements, which should have alerted him to the need for a vigorous investigation of solid financial data. (8/21/25 at 277, 397; PFOF 27).

To be sure, this reflects Respondent’s lack of diligence and competence, but more importantly, it aided in fraud. Knowing next to nothing about Par’s claims of extraordinary financial success, Respondent gave presentations for potential investors on video and in person, describing the careful “due diligence” process he went through to give them “full disclosure” of every possible risk to comply with the securities laws, and touted his and Vagnozzi’s success working together to create “model” investments aimed at bringing opportunities to middle class investors. As ODC’s investor testimony demonstrated, investors gave great weight to Respondent’s representations because as a lawyer, they understood he was required to act ethically, *as he was*.

Respondent next engaged in the **Agent Funds Fraud**. Vagnozzi's finder role, which he took after consulting with Respondent, was plainly contrary to the Pennsylvania Securities Act of 1972, as ODC's expert testified, since Vagnozzi was not registered as a broker or investment advisor under the Act. See *Steller v. Pennsylvania Securities Commission*, 877 A.2d 518, 521 (Pa. Commw. 2005)(Steller, unregistered, argued he was not a broker because he "would have merely been a referral source" for Empire, which was offering "life settlement" investments, and received no compensation; held: Steller violated 1972 Act and should have been registered). Respondent *knew* that Vagnozzi would be acting as a broker for Par, facilitating sales, as he was aware that Vagnozzi planned an investor presentation to "market" Par as early as May, 2016. (ODC-56). A citizen's complaint about a Vagnozzi radio ad caused Pennsylvania securities regulators to commence regulatory proceedings against Par and Vagnozzi, and led to sanctions for "effect[ing] transactions in securities" as an unregistered broker. (ODC-30, PFOF 40,41).

When this occurred, Respondent replaced one unlawful vehicle for the sale of the Par notes (the "finder"), with another, the "Agent Funds." Respondent established 35 Agent Funds, which were now the *investors* purchasing the Par notes, but the Funds did not comply with the securities

laws. Respondent understood the requirement that the Funds could not be established for the purpose of investing in Par, explaining that the offering documents did not mention any particular merchant cash lender so as not to “create an environment” where the entities he established were “deemed to be formed solely for the purpose of investing in one particular company.” Nevertheless, there was a wealth of proof, including from Respondent himself, that that was precisely the case. He also knew that the Funds could not meet the \$5 million requirement because, as Respondent told investors in 2020, the Funds’ “bank accounts have zero in them because the money was basically given to Par....” (ODC-35; ODC-43 at 26; Tr. 8/21/25 at 338-39; PFOF 47, 100).

This structure also allowed Vagnozzi to continue to act as an unregistered broker funneling the investor money to Par, for which he took a fee. (ODC-35; PFOFs 105; 106). Vagnozzi’s own Funds were unlawful because they were sold by means of a general solicitation, which was Vagnozzi’s *modus operandi*, as Respondent knew from his own participation in marketing events and his long association with Vagnozzi. (PFOF 108). Accordingly, Respondent’s representations to investors and his Agent Funds clients that the investment funds he created complied with the securities laws, were knowingly false.

The Agent Funds Fraud gave rise to the **Private Placement Fraud**. Despite his representations to potential investors to the contrary, Respondent drafted a Private Placement Memorandum for the Agent Funds and Vagnozzi's Funds that concealed material information he knew or could have known, in violation of the SEC anti-fraud provisions of Rule 10b-5. As Professor Booth testified, and the investor witnesses confirmed, "what investor isn't going to want to know?" about LaForte's convictions. Respondent made much of his not investing in the Par-related funds, but this does not absolve him, if anything, it implicates him, since it shows he understood how risky the investment offering was. (Tr. 8/20/25 at 131).

Likewise, Respondent failed to disclose the Pennsylvania, New Jersey and Texas actions against Vagnozzi and Par, and the fact that Vagnozzi was under investigation by the SEC's New York Office from 2017 to 2020 for conducting an unlawful private offering, and doing so as an unregistered broker under state law (as Pennsylvania had found), as well as federal securities law. (PFOF112,114). See **United States v. Hatfield**, 724 F.Supp.2d 321, 328 (E.D.N.Y. 2010)("It is well-settled that information impugning management's integrity is material to shareholders."); **SEC v. Merchant Capital, LLC**, 483 F.3d 747, 771 (11<sup>th</sup> Cir. 2007)("The existence of a state cease and desist order against identical instruments is clearly

relevant to a reasonable investor, who is naturally interested in whether management is following the law in marketing the securities”); **SEC v. Physicians Guardian Unit Investment Trust**, 72 F.Supp.2d 1342, 1351 (M.D.Fla. 1999)(allegation that promoter failed to disclose existence of state cease and desist order supported securities fraud claim).

Nothing reflects the dishonest conduct here more emphatically than what occurred next, the **Exchange Offer Fraud**. Vagnozzi enlisted Respondent to try to convince investors to exchange their Fund notes for notes with much less favorable terms. This was solely in Vagnozzi’s interest, and entirely in conflict with the interest of the investors, since by the terms of the original notes, Vagnozzi was still obligated to return interest and principal on his Funds’ notes. (ODC-39). Vagnozzi testified that he needed Respondent to assist him in selling the proposal because, “Who do you think, of my 700 investors, *who do you think they want to take advice from on what to do? Me or a securities attorney who used to work for the SEC.*” (Tr. 8/21/25 at 99) (emphasis added). Respondent “sells” Vagnozzi’s strategy by trying to convince investors that suing Par or the Funds would be an expensive, lengthy and futile process (e.g., “The lawyers get paid first. That’s how that works...tens, if not hundreds of thousands of dollars in legal fees.”), as opposed to the Exchange Offer (“...Dean and I have come to the conclusion

that the workout gives us the best possible result” to allow Par to return to “success.”) (ODC-43 at 16, 18, 25).

Respondent touts his 30 years of experience and the successful investments he and “Dean” created, while failing to disclose that Vagnozzi had been sanctioned by state securities regulators and was soon to be sanctioned after a three-year investigation by the SEC. The video ends with Respondent explaining that Par will “move [the Funds]...to a secured status,” which “in the legal world” is a “very, very meaningful difference,” which was an utter fraud, since he told the investors they would have a “first position lien,” but never performed a competent lien search. Respondent states that he will send a new PPM with “further disclosures” (which were nothing more than a mention of the pandemic), and Vagnozzi reminds them that “we need to hear from you as soon as possible” because “[t]his is a, we feel, a pretty cut and dry (sic) decision.” (ODC-43 at 3-6, 27-28, 32- 33). Approximately one week later, the two sent out another video wherein, prompted by Vagnozzi, Respondent again affirmed that the restructured notes were the “best chance to get the most money back.” (ODC-45 at 2). Respondent walked investors through thirty pages of documents and stated that “hopefully everybody...is ready to close and to get this done,” with Vagnozzi adding, “we’ve got to get going and execute all these documents.” (ODC-45 at 15-

17).

Once again, Respondent failed to disclose in the video or Supplemental PPMs the material information he had previously concealed, including the Texas Securities Board's Emergency Order which had occurred a mere two months before. Once again, Respondent's "due diligence" was inadequate, as he concluded that Par was insolvent *because of the pandemic* by reviewing information *provided by Par*. (ODC-45, ODC-46; ODC-9 at 71-73). Remarkably, Respondent also did not disclose that the new notes released Vagnozzi and the Funds from liability, and contained waivers of class action and jury trial. (PFOF 90). Contrary to his and Vagnozzi's representations, the investors who instead filed a lawsuit against Par and Vagnozzi, received a prompt monetary settlement. (PFOF 91).

ODC's expert pointed out that Respondent had a conflict of interest by convincing the investors to exchange their notes, which "permit[ed] the fraud to continue for months more," and if Respondent had not given investors "dubious advice about the risks of litigation and bankruptcy," the fraud would have been revealed sooner, avoiding the dissipation of assets. (ODC-85 at 13). If there could be any doubt that Respondent had every intention of prolonging the fraud *ad infinitum*, one has only to consider that at the conclusion of the SEC's New York investigation of Vagnozzi and his funds in

July, 2020, Respondent was quoted in a Vagnozzi “Press Release” stating that after an extended investigation, the SEC did not fault the investment, just the “process,” which plainly minimized the Commission’s action, as one of ODC’s investor witnesses testified. (PFOF 66-68).

### **B. Respondent Violated the Charged Rules**

A *prima facie* violation of RPC 8.4(c), which prohibits a lawyer from engaging in conduct involving “dishonesty, fraud, deceit or misrepresentation,” is shown where the record establishes that the misrepresentation was knowingly made, or made with reckless ignorance of the truth or falsity of the representation. ***Office of Disciplinary Counsel v. Anonymous Attorney A***, 714 A.2d 402, 403 (Pa. 1998). Recklessness is “the deliberate closing of one’s eyes to facts that one had a duty to see or stating as fact, things of which one was ignorant.” *Id.* at 407. As demonstrated above, Respondent engaged in an array of dishonest acts, both intentional, as in the offering documents that concealed manifestly material information, and reckless, such as the due diligence, where Respondent gave Par a “pass” when its management did not produce basic information about the business.

Respondent also violated Rule 8.4(a), which provides that it is professional misconduct for a lawyer to “violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do

so through the acts of another.” He assisted in and witnessed Vagnozzi telling investors that the securities in the Funds did not need to be registered, that he could broker stocks without a securities license, and that his investments were sound, concealing that he had been sanctioned and investigated for securities fraud for years, and that Par was being run by a convicted felon. Instead of being a protective gatekeeper for his clients, Respondent provided PPMs for Vagnozzi and the 35 Agent Fund clients replete with material omissions that violated securities laws and defrauded investors.

The representation of Vagnozzi and the Agent Funds was also rife with conflicts. Respondent represented the Agent Funds and Vagnozzi, who were adverse parties to the Management Agreement Respondent drafted, as prohibited by RPC 1.7(a) (1). The Agreement contained no waiver of conflict and was tantamount to a confession of judgement in favor of Vagnozzi since, if breached, Vagnozzi was deemed to have suffered “irreparable harm,” and their counsel (Respondent) had determined the Agreement was “enforceable.” Under 1.7(a)(2), there was manifestly a “significant risk” that the representation of the Agent Funds would be materially limited by Respondent’s representation of Vagnozzi, one of his “larger clients,” whose interest was in continuing to receive management fees from the Agent Funds.

Although he discussed LaForte's convictions with Vagnozzi, Respondent admits that he did not tell all of the Agent Funds about either the LaForte convictions or the regulatory actions, and they were not disclosed in the PPMs he drafted, leaving the Fund owners vulnerable to suits for fraud, which occurred in the Texas Securities Board action against the Texas Agent Funds. (Tr. 8/21/25 at 388-401). See **Office of Disciplinary Counsel v. Cynthia A. Baldwin**, 225 A.3d 817, 840-43 (Baldwin had Rule 1.7(a) (1), (2) conflicts where concurrent representation of three Penn State officials "created a significant risk that her ability to consider, recommend or carry out an appropriate course of action for each client would be materially limited by her representation of Penn State"). **Office of Disciplinary Counsel v. Glenn D. McGogney**, 94 DB 2009 (D.Bd.Rpt. 2/25/2011 at 25)(S.Ct. Order 3/28/2012)(McGogney was disbarred when he committed "outrageous" and "very serious misconduct" -- he solicited a loan from a client to prop up his failing restaurant, using a liquor license as collateral which he did not own; respondent never advised his client of the inherent conflict.).

Respondent also violated Rules of Professional Conduct 4.3 (a-c), "Dealing with Unrepresented Person." The focus of the Rule is to protect persons unsophisticated in legal matters from assuming that a lawyer is "a disinterested authority on the law," and the Comment explains that the Rule

is intended to come into play where, as here, an unrepresented person's interests "may be adverse to those of the lawyer's client." RPC 4.3, Comments [1], [2]. The Rule was tailor-made for this case. Subsection (a) provides that in "dealing on behalf of a client with a person who is not represented by counsel, a lawyer shall not state or imply that the lawyer is disinterested." In the first 2020 video for investors, Respondent states that he is going through the process he goes through with "[his] other clients," a "careful[ ] review[ ] of all our options," appearing to give a balanced analysis, describing the disadvantage of filing suit against Par, and Par declaring bankruptcy: "The good news is you're going to get something. The bad news is it's going to take years," and "...there is no silver bullet here...but we think [the Exchange Offer] is an opportunity to get most investors the most money back," never mentioning that discouraging lawsuits would clearly benefit Vagnozzi. (ODC-43 at 14, 16,18-19).

Subsection (b) of the Rule prohibits a lawyer from giving advice, other than "advice to secure counsel" if the lawyer "knows or reasonably should know" that the interests of the unrepresented person and the lawyer's client are or have a reasonable possibility of being in conflict." Vagnozzi's interests were certainly adverse to the investors, who held a note which required Vagnozzi to return their principal. As investor Greenberg testified, the one-

year term on his note was due to expire in April, 2020, and Vagnozzi was required to return his principal, but Respondent and Vagnozzi used the excuse that Par had defaulted, to substitute the Exchange Offer for the payment due. At no time did Respondent advise the investors to consider obtaining counsel, as the Rule requires. Indeed, he discouraged or precluded it by signing a non-disclosure agreement locking up access to Par's financial information which precluded any other lawyer from assessing the financials to determine the prospects for a suit. See *Office of Disciplinary Counsel v. John J. Koresko, V.*, No. 119 DB 2013 (D.Bd.Rpt. 6/1/2015 at 35)(S.Ct. Order 9/4/2015)(Koresko's communication with unrepresented person where both were defendants in a civil suit to the effect that he could represent her and that their interests were not adverse, "provided legal advice" to her, in violation of RPC 4.3(b)).

Rule 4.3(c) provides that when "the lawyer knows or reasonably should know that the unrepresented person misunderstands the lawyer's role in the matter, the lawyer should make reasonable efforts to correct the misunderstanding." How could investors know that Respondent was not the "honest broker" he appeared to be, falsely promising them a first position lien, and carefully walking through the paperwork in the second video to persuade them to "try to work with" Par, while allowing that "[t]here are no guarantees,

obviously,” never breathing a word that the Exchange Offer was a monumental “bail out” for his client who was at risk that the hundreds of Vagnozzi investors would obtain counsel and receive a monetary settlement, as some did. (ODC-43 at 27-29; ODC-45 at 3); *In RE: Francis Malofiy*, 653 Fed. Appx. 148, 151-52; *Office of Disciplinary Counsel v. Francis Malofiy*, 158 DB 2016 (S.Ct.Order 11/22/2016)(plaintiff’s counsel contacted an unrepresented defendant, failed to tell him that he should seek counsel, that the lawyer’s client was adverse to him, and represented that he “didn’t want to point the finger at him,” after which he obtained from defendant an affidavit favorable to his client; violations of RPC 4.3 (a), (c); suspended from federal court for three months and one day, and reciprocally suspended from Pennsylvania for the same).

Finally, Respondent violated Rule 1.1 (“Competence”), and Rule 1.3 (“Diligence”). Respondent’s incompetence and negligence didn’t allow the Par scam, they made it inevitable. Had Respondent done the due diligence that he touted in the videos, he should have declined to become involved with the representation, as did Mr. Sasso. Similarly, had Respondent performed a competent analysis of Vagnozzi’s marketing methods, which manifestly constituted a general solicitation requiring registration, massive monetary harm to his clients and the public could well have been avoided. The lack of

diligence and competence in this respect is heightened by Respondent's knowledge that Vagnozzi would advertise widely and sell the Par-related investment to numerous retail investors, including retirees.

In the specific context of this case, Respondent testified that he had studied the Rule 506(b) exemption "extensively" and "practice[d] in that area of law over an extended period of time." (Tr. 8/21/25 at 255-56). Professor Booth testified that under the securities laws, lawyers like Respondent involved in a securities offering are required to "look at the public record" to determine whether management has prohibited convictions, and although the documents Respondent drafted reflected that he knew the standards to comply with, his efforts at due diligence were "lame." (PFOF 119-23); *In re Suprema Specialties, Inc.*, 438 F.3d 256, 282 (3d Cir. 2006) ("A securities professional has an obligation to investigate the securities he or she offers to customers. The investigation must be adequate to provide the professional with a reasonable basis for a belief that the key representations in the statements...provided to investors [a]re truthful and complete.") (internal quotation marks and citations omitted); see also, ODC-14 at 1 (SEC warns that "Fraudsters may use unregistered offerings to conduct investment scams.")

### C. Disbarment is Required

Cases of securities fraud by lawyers can be found in our disciplinary jurisprudence, although none of them is as serious as this, which is unique because Respondent created, orchestrated and participated in the fraud. *Cf. Office of Disciplinary Counsel v. Marc D. Manoff*, 10 DB 2011 (D.Bd. Order 9/26/13, Joint Pet at 8)(S.Ct. Order 12/16/2013)(consent to five-year suspension after plea to one count of conspiracy to commit securities fraud, where Consent Petition noted that he “had a very limited role in the conspiracy,” that the conduct did not involve the practice of law, and “[n]o investor or member of the public sustained any loss as a result of the transaction at issue...and Respondent did not reap any financial benefit as a result of the incident.”); *Office of Disciplinary Counsel v. Richard Kanoy Doty*, 226 DB 2005 (D.Bd.Rpt. 5/25/2006)(Joint Pet. at 10)(S.Ct. Order 7/31/2006)(Doty agreed to five-year suspension after pleading guilty to being an Accessory After the Fact for helping his clients flee after the clients defrauded HUD and other financial institutions; respondent did not lie to court and cooperated with prosecution).

To characterize the years-long misconduct here as isolated acts of mere “securities fraud” is an understatement. Rather, Respondent engaged

in a **scheme**, ducking, lunging and pivoting to allow Vagnozzi to maintain the Par alliance and the lucrative practice it brought Respondent. As such, this case is much like ***Office of Disciplinary Counsel v. Brett B. Weinstein***, 54 DB 2011 (D.Bd.Rpt. 3/3/14 at 1, 29)(S.Ct. Order No. 2038 DD3 7/28/2014), where the respondent was disbarred. Weinstein ran a “trust marketing scheme,” sending nonlawyer sales agents to senior citizens’ homes to sell a “living trust” to “avoid probate.” Weinstein had little or no contact with the client but drafted a form trust, giving the agent the opportunity to sell the client an annuity when she returned to the client’s home. The Board noted that Weinstein “assisted laypersons in practicing law for an extended period of time,” and “he generally engaged in conduct involving dishonesty, fraud, deceit and misrepresentation,” persisting in the conduct even after signing a Consent Decree with the Commonwealth stating that he had ceased engaging in the scheme.

Like Weinstein, Respondent here facilitated Vagnozzi’s collecting investor money of more than \$100 million for a worthless investment, never adequately assessing Par and its personnel, standing up the complex Agent Fund structure that was put in place to evade state securities regulators, drafting the PPMs omitting material information that would have obviously driven investors away, and “conning” the investors into exchanging their

notes instead of filing suits. In his disciplinary hearing, Weinstein testified that he stopped engaging in the scheme, but the claim was belied by a rebuttal witness who stated that she had recently been solicited for a Weinstein living trust. Similarly, Respondent testified that he told Vagnozzi he could avoid a general solicitation by not advertising specific securities, but ODC's rebuttal video showed Respondent participating in efforts to market a specific security, belying his testimony. (D.Bd.Rpt. at 1, 4, 14-15, 28, 30).

The Board in *Weinstein* stated that up to that time, there was "no other comparable case in Pennsylvania in terms of the gravity of the deception, the determined persistence, and the harm to enormous numbers of vulnerable clients," but the instant matter eclipses *Weinstein*. (D.Bd.Rpt. at 29). Respondent created a series of frauds to enrich himself and Vagnozzi and evade detection, actively engaged in reinforcing false narratives in promotional videos and presentations where he directly communicated with investors. As in *Weinstein*, Respondent was rewarded with a lucrative practice, bragging to investors in the 2020 video that he was "...certainly at a point now...I can kind of pick and choose what I want to work on and what I want to spend my time on." (ODC-43 at 7).

Although elaborate schemes like Respondent's are, thankfully, rare, our Court has agreed that disbarment is the appropriate outcome, without regard

to whether there has been a criminal conviction. See **Office of Disciplinary Counsel v. Stephen J. Cabot**, No. 178 DB 2006 (S.Ct. Order 8/1/2008) (Cabot and travel agency engaged in scheme whereby on 69 occasions travel agency submitted to his law firm fraudulent confirmations for alleged business-related airline flights Cabot did not take; law firm reimbursed agency, and payments were applied by agency for Cabot's personal benefit; Court approved disbarment on consent); **Office of Disciplinary Counsel v. William B. Kiesewetter, Jr.**, No. 152 DB 1999, No. 968 DD3 (S.Ct. Opinion 12/27/2005)(disbarment after civil jury verdict of fraud where respondent put funds belonging to his family into accounts of nephews that he controlled as a fiduciary; thereafter, funds were used to unjustly enrich himself); see also, **In re Petition for Disciplinary Action Against Todd Allen Duckson**, 868 N.W.2d 686, 687 (Minn. 2015)(indefinite suspension where lawyer admits to "playing a principal role in a substantial fraud," where "respondent was directly involved in a scheme to defraud hundreds of investors in a real estate investment fraud that took place over more than 1 year," including "making material misrepresentations and omissions in documents given to investors." Duckson was the lawyer for the Fund and the Fund's investment manager and "a primary drafter of the investment documents"; like Respondent here, SEC brought proceeding against Duckson).

Respondent likely appeared to investors as a well-spoken and credible professional, but he is disingenuous. He shamelessly embellished his credentials for investors, emphasizing his job with the SEC where he reported that he “[caught] some inside trading folks which was fun,” although he was only a fledgling lawyer fresh out of law school and had the job for less than two years. In investor presentations he routinely mentioned his position as the “chair” of the corporate or financial transactions practice group at his firm, although he admitted at the Hearing that being “chair” involved giving assignments to associates and had nothing to do with his practice of law. (ODC-29 at 9-10; Tr. 8/21/25 at 242, 246-47; Tr. 11/17/25 at 36; PFOF at 15).

In stark contrast to his Offer of Settlement with the SEC, during these disciplinary proceedings Respondent has engaged in denial and deflection. Respondent tried to convince the Hearing Committee that he was unaware that Vagnozzi was soliciting investors for specific investments. His own Exhibit R-19 is a mailing to “Dear Potential Investor” offering the Par investment and inviting the recipient to contact Vagnozzi’s office. Vagnozzi began his presentation at the ACE dinner by telling the group that he was going to talk about “merchant cash” and “litigation funding.” During the New York SEC investigation, in 2018, Respondent reviewed the videos on Vagnozzi’s website, and obviously knew how he was soliciting investors.

(ODC-59; 11/17/25 at 24). As Vagnozzi said in the litigation funding video in 2017, “I really don’t get involved in anything today unless John blesses it, helps me vet it, and again, helps do the due diligence around any investment I put together.” (ODC-89 at 6).

By the same token, Respondent tried to throw a “smoke screen” around the due diligence issue, alleging that he did not do a complete due diligence investigation because Vagnozzi told him to stop billing in an August, 2016 email. This was demonstrably false, as Respondent himself admits that he completed the due diligence by April, 2016 and did nothing further after that. (R-10;Tr. 8/21/25 at 283-84; ODC-66 at ¶11). He testified that he learned in 2017 that LaForte was using the alias “McElhone,” and explained that he never questioned that, giving the nonsensical answer that he just assumed that “Joe Mack” was just “short for McElhone, because ‘McElhone’ is a bit of a mouthful. And I personally am very... sensitive of that” because “...it’s very easy to mispronounce my last name, and so sort of all my life people have called me something other than John Pauciulo.” (Tr. 8/21/25 at 272-73).

Respondent is utterly without remorse and recognition of wrongdoing. He denied *any* wrongdoing, including whether he gave the investors legal advice in the 2020 videos, characterizing what he did as “lay[ing] out what I perceived to be the range of options,” and never advising them to secure

counsel, as our Rules require. (Tr. 11/17/25 at 66). He painted his role as that of selfless hero, explaining that “**If I’ve made a mistake here,**” I truly believe that that’s the mistake that I made, that I sought to zealously represent a guy who I liked (*i.e.*, Vagnozzi)...I tried to help him as a lawyer...I want to be of service, I want to be helpful....” (Tr. 11/17/25 at 83, 108). If, after the SEC’s five-year suspension and multiple civil suits filed by clients and investors, he does not question or allow that he has done anything wrong, he is unfit to practice and is bound to commit further harm. See ***Office of Disciplinary Counsel v. Richard Joseph Silverberg***, No. 172 DB 2023 (D.Bd.Rpt. 3/11/25 at 45)(S.Ct. Order 5/16/2025)(lack of remorse is an aggravating factor; “There is no evidence of record to support a finding that [respondent] bears any responsibility for his misconduct or is sorry for it.”).

Aside from painting his conduct as, at worst, an innocent mistake to help a client, Respondent attempted to deflect blame on a litany of others. For example, he testified that “[n]o one at Fox Rothschild told me that their client had stole (*sic*) hundreds of millions of dollars of investor money,” or that Joseph LaForte “was the principal of Par Funding.” (Tr. 11/17/25 at 89, 91-92). Mr. Sasso of Stradley Ronon never told him “that Joe LaForte was the principal of Par Funding,” or that his investigation “revealed mob connections,” but it “Would have been nice to know.” (Tr. 11/17/25 at 91-92).

He expressed no concern for investors or for whether he had tarnished the public's perception of the Bar, as the widespread publicity and the investors' testimony showed. (ODC-2, 3, 84).

Respondent both made excuses for himself and expressed self-pity, acknowledging that when Par suspended payments to the Funds, his "isolation, panic, concern helped to contribute" to his "trying to fix it the best [he] could with talks to the [investors]." (Tr. 11/17/25 at 102). When asked what he would have done differently, he said he would have done "a lot more questioning of my clients," and complained that, "...the business goes bad, the deal goes really bad and everybody is looking at me and says 'how did you let this happen, this is your responsibility,' and my response is, 'I'm the lawyer. I represented somebody...I gave them legal counsel. I'm not the business owner...I didn't take \$130 million of investor money...I'm just a lot more circumspect about...the matters that I take...where I get solicitations on the internet...I don't even pursue the engagement. I don't take it," although Respondent failed to explain why this would be a remedy, since he had known Vagnozzi for more than a decade when the events in this matter occurred. (Tr. 11/17/25 at 112-14). When asked by his counsel whether he had a conflict of interest representing the Agent Funds, he testified, "...I don't think it was a live conflict of interest...Was there a potential conflict of interest?"

Yes, absolutely,” although it is difficult to believe that this is a sincere explanation since he had the most fundamental type of conflict of interest, representing both parties to a management agreement without a conflicts waiver. (Tr. 11/17/25 at 117).

In sum, Respondent used his talents and skills as an attorney to concoct a series of sophisticated securities frauds to protect his client and his lucrative practice with a prestigious firm. He used the distinct privilege to practice law in this Commonwealth as a marketing tool to convince investors that Vagnozzi, who didn't even have a license to sell securities, offered enormously successful investments that were thoroughly researched and complied with federal securities laws. He bamboozled investors into believing that he could simply create corporations to invest in lawful private securities offerings so that Vagnozzi could avoid the expense and disclosure of an initial public offering under the scrutiny of the Securities and Exchange Commission. (ODC-29 at 6). His character witnesses gave him good reviews, but several professed no knowledge of securities law, and could not have understood the nature of these charges and the depth of the misconduct. Indeed, it took an expert in securities law from a top law school to dissect the complex schemes Respondent created. The Board's conclusion in *Weinstein* is equally applicable to this case:

Where, as here, the Board is faced with egregious misconduct that is harmful to the public and no sign of recognition or remorse, disbarment is warranted. Office of Disciplinary Counsel v. Rainone, 911 A.2d 920 (Pa. 2006). Respondent is the type of attorney for whom the Rules of Professional Conduct specifically seek to shelter the public, as he is unfit to act as a repository of trust in representing the concerns of the public. An attorney who chooses a financial bottom line over professional integrity cannot be allowed to practice in the Commonwealth. (D.Bd. Rpt. at 30).

#### **D. Laches Has No Application Here**

Respondent does not contest that the proceedings were timely brought under Disciplinary Board Rules and Procedures §85.10 (“Stale Matters”), stating at the Hearing that he was raising only “laches.” (Tr. 8/19/25 at 48) (PFOF 127 n. 3).

A member of the Pennsylvania Bar filed a complaint against Respondent in 2020, but it was not until **July 27, 2022**, that ODC received a letter complaint from Thomas J. Karr, the SEC’s Assistant General Counsel for Litigation and Professional Misconduct, informing ODC of a July 7, 2022 Order “announcing settled charges” against Respondent “in connection with his role in the multi-million dollar unregistered, fraudulent offering of securities issued by Complete Business Solutions Group Inc. d/b/a Par Funding,” and attaching the decision in *In the Matter of John W. Pauciulo, Esq.* (ODC-4; ODC’s “Petition was Timely Filed And Is Not Barred...By Laches,” Exhibit B) (hereinafter “Petition Was Timely Filed”).

Less than a month after receiving the SEC complaint, by letter dated August 15, 2022, ODC wrote to the SEC to request “investigative and other non-public files” related to the regulatory proceeding against Respondent. (ODC’s “Petition was Timely Filed,” Exhibit C). On July 19, 2023, ODC served its DB-7 Request for Statement of Respondent’s Position, which included a document request directed to Respondent. (ODC-66).

Although Respondent’s counsel had represented that documents would be produced in his Answer to the DB-7, none were forthcoming, prompting Disciplinary Counsel to email Respondent’s counsel on November 18, 2024 that: “In your response to the DB-7 letter, you stated that [Respondent] was working on collecting responsive documents and that they would be ‘provided under separate cover if they can be found.’ As we have not received any documents...we intend to serve [Respondent] with a subpoena to compel his production. Please advise [Respondent] to complete his review, so that he will be able to promptly comply.” (ODC-91).

It was not until **December 16, 2024**, that Respondent’s counsel made the requested document production, and ODC thereafter promptly served the Petition for Discipline on **March 31, 2025**. (ODC-92, ODC-86)

Under Pennsylvania law, and in the disciplinary context as well, laches does not involve the issue of timeliness alone, but rather, whether the

party/respondent has been prejudiced by the passage of time. The Pennsylvania Supreme Court has stated that “[l]aches is an equitable doctrine which precludes a party from pursuing a complaint when it is guilty of a lack of diligence in asserting its rights, such that the passage of time has caused prejudice to the opposing party.” *In re Iulo*, 766 A.2d 335, 338 (Pa. 2001)(disciplinary matter). The necessity for prejudice to the respondent is derived from the important mission of the disciplinary system. As the Court has put it, “If the conduct of a member of the Bar disqualifies him from the practice of law, it would not be in the public interest to dismiss the disciplinary proceedings for no reason other than the Bar’s failure to prosecute them with proper dispatch.” *In re Oxman*, 437 A.2d 1169, 1172 (Pa. 1981). Indeed, because of this important mission, there has never been a disciplinary case dismissed on the basis of laches.

The requirement that a lawyer show prejudice to establish laches was explained in *Office of Disciplinary Counsel v. H. Beatty Chadwick*, Nos. 3 DB 1997 and 72 DB 2003 (D.Bd.Rpt.2/7/2005 at 13)(S.Ct. Order 4/27/2005). Chadwick raised laches, but the Court found no prejudice where the pendency of the disciplinary proceedings did not impede his ability to practice law. Here, too, Respondent has continued to practice law at an office in Chester County, advertising his law firm online as the “Pauciulo Law Firm.”

(Tr. 8/21/25 at 234-35).

Under Pennsylvania law it is *Respondent's burden* to demonstrate “unreasonable delay and prejudice.” ***Commonwealth ex rel. Attorney General v. Griffin***, 946 A.2d 668, 676-77 (Pa. 2009). Respondent has failed to carry his burden. He testified at the Hearing that he was prejudiced by an alleged delay because one of his partners at Eckert Seamans, Gary Miller, passed away in 2021 and “Gary and I conferred from time to time particularly about questions or issues,” he would “bounce ideas off” Miller “sometimes,” and on “five, ten” occasions Miller met with Dean Vagnozzi and Respondent, and could have “confirmed meetings and what was told to Dean Vagnozzi.” (Tr. 8/21/25 at 217-19, 231, 239).

Miller’s testimony would not make one whit of difference. ODC contended at the Hearing that whatever advice was given to Vagnozzi was irrelevant, as Respondent knew he was selling his investments through a general solicitation, and Respondent himself even participated in the marketing efforts. He knew Vagnozzi had a radio program to attract investors and he even appeared on it on one occasion. Moreover, apart from his *ipse dixit*, there is no evidence that Mr. Miller had any substantial role in the representation. Respondent offered the testimony of Mr. Vagnozzi and one of his former partners, who worked with him during the three-year

investigation of Vagnozzi by the SEC. Respondent failed to use subpoena power to obtain documents from the SEC or the state regulators, or even his own law firm and, in any event, the entire public record of both the SEC civil fraud litigation (in which Respondent and the major “players” were deposed), as well as the criminal proceedings in the Eastern District of Pennsylvania, are readily available on Pacer. In sum, the matter was handled as expeditiously as possible given the magnitude of the record. In fact, the record shows that Respondent’s failure to respond to ODC’s document request in the DB-7 substantially contributed to delay in these proceedings. The disciplinary proceedings were timely brought and Respondent has not been prejudiced.

## **V. Conclusion**

Disbarment is consistent with precedent and the weighty aggravating factors, is necessary to restore the public’s confidence in the reputation of the legal profession that was severely damaged by Respondent’s misconduct, protects the public, and deters Respondent and other lawyers from engaging in future violations of our ethics rules.

Wherefore, ODC respectfully requests that the Committee recommend that Respondent be disbarred.

Respectfully submitted,

OFFICE OF DISCIPLINARY COUNSEL

Thomas J. Farrell  
Chief Disciplinary Counsel

By   
Amelia C. Kittredge  
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: ODC

Signature: 

Name: Amelia C. Kittredge

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