

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 133 DB 202` 1
Petitioner	:	
	:	
v.	:	Attorney Registration No. 47701
	:	
WILLIAM J. WEISS,	:	
Respondent	:	(Philadelphia County)

**REPORT AND RECOMMENDATION OF THE HEARING COMMITTEE**

**I. SUMMARY OF THE CASE**

This matter was commenced by the filing of a Petition for Discipline ("Petition") by the Office of Disciplinary Counsel ("ODC") against William J. Weiss ("Respondent") on September 8, 2022. The Petition contains allegations that Respondent violated the Pennsylvania Rules of Professional Conduct ("RPC") and the Pennsylvania Rules of Disciplinary Enforcement ("RDE") - specifically, that he engaged in the unauthorized practice of law and prohibited law-related activities - while he was suspended from the practice of law and that he inaccurately completed required forms. The Petition was served on Respondent, but he failed to file an Answer and never requested leave to file an Answer nunc pro tunc. Therefore, pursuant to RDE 208(b)(3), all factual allegations in the Petition are deemed admitted.

ODC is represented by Harriet R. Brumberg, Esquire and Respondent is representing himself. The Hearing Committee is comprised of Chair Catherine N. Harrington, Esquire and Members Harris T. Bock, Esquire, and Robert B. Mulhern, Jr., Esquire.

A prehearing conference was conducted on February 28, 2023 by Hearing Committee Chair Harrington, and Ms. Brumberg and Respondent attended. Ms. Harrington established a schedule for the exchange of all exhibits, objections to all exhibits,

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

identification of witnesses, and motions in limine. ODC timely provided Respondent with copies of its exhibits (ODC-1 through ODC-24 and D-1 through D-12) and notice of a proposed witness. Respondent did not object to ODC's exhibits and did not provide ODC with any proposed exhibits or witnesses.

On May 4, 2023, pursuant to Disciplinary Board Rule ("DBR") 93.82, Respondent's disciplinary hearing commenced before Mr. Mulhern, presiding, and Mr. Bock (NT – 5/4/23, page 9); Ms. Harrington was unable to attend. (Id.) ODC relied on the admissions of the unanswered Petition and Exhibits ODC-1 through ODC-24. Respondent testified on his own behalf. The Hearing Committee took a short recess, after which the Hearing Committee stated that ODC had met its burden of proof that Respondent violated at least one RPC. (NT – 5/4/23, page 54) The hearing proceeded to the DBR 89.151(b) portion of the hearing for evidence relevant to the consideration of discipline to be imposed. ODC introduced Exhibits D-1 through D-12 and Respondent introduced Exhibits 1 through 7, and all of these exhibits were admitted into evidence. Respondent testified on his own behalf in this portion of the hearing.

The Hearing Committee established a briefing schedule, in which ODC was given 30 days from the date of its receipt of the transcript to file its brief and Respondent was given 30 days after receipt of ODC's brief to file his brief. (NT – 5/4/23, page 107) After being granted an extension, ODC submitted its brief on July 11, 2023 and requested no less than a five-year suspension. Respondent has not submitted a brief.

For the reasons set forth below, a majority of the Hearing Committee recommends that Respondent be suspended for three years.

## **II. STATEMENT OF THE CASE**

On March 6, 2019, Respondent was suspended on consent from the Bar of the Commonwealth of Pennsylvania for one year and one day. (Exhibit D-3) In the Petition at issue now, ODC asserts that, while on suspended status, Respondent engaged in the unauthorized practice of law and prohibited law-related activities and that he failed to submit certain required forms with fully accurate information in violation of the following RPC: 3.3(a)(1), 5.5(a), 8.1(a), 8.4(a), 8.4(c) and 8.4(d) and the following RDE: 203(b)(3), 217(c)(2), 217(c)(3), 217(j)(2), 217(j)(4) and 217(j)(5).

## **III. RULINGS ON ADMISSION OF EVIDENCE**

Respondent did not object to the introduction of ODC's Exhibits ODC-1 through ODC-24 (NT – 5/4/23, pages 32-33) and D-1 through D-12 (NT – 5/4/23, pages 55-57), and they were admitted into evidence. (NT – 5/4/23, pages 32-33 and 55-57)

ODC objected to the introduction of Respondent's Exhibits 1 through 7 during his initial defense, and the objection was sustained. (NT 5/4/23, pages 42-43) In the DBR 89.151(b) portion of the hearing, Respondent again introduced Exhibits 1 through 7 into evidence. ODC objected to Respondent's Exhibits 5 and 6. The Hearing Committee overruled the objection and admitted into evidence Respondent's Exhibits 1 through 7. (NT – 5/4/23, pages 75-78)

## **IV. FINDINGS OF FACT**

The Hearing Committee makes the following findings of fact.

1. Petitioner, whose principal office is located at PA Judicial Center, 601 Commonwealth Avenue, Suite 2700, P.O. Box 62625, Harrisburg, PA 17106-2625, is

invested pursuant to RDE 207, with the power and duty to investigate all matters involving alleged misconduct of an attorney admitted to practice law in Pennsylvania and to prosecute all disciplinary proceedings brought in accordance with the various provisions of said RDE. (Petition, ¶1)

2. Respondent was born in 1961 and admitted to practice law in the Commonwealth on December 9, 1986. (Petition, ¶2)

3. By Supreme Court Order dated March 6, 2019, Respondent was suspended on consent from the practice of law for a period of one year and one day (Exhibit D-3) and remains suspended at this time. (Petition, ¶3)

4. Respondent's address is 1170 Surrey Road, Apt. 5, Philadelphia, PA 19115. (Petition, ¶4)

5. Pursuant to RDE 201(a)(3), Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania. (Petition, ¶5)

#### **Respondent's Disciplinary History**

6. By Supreme Court Order dated October 27, 2005, effective November 26, 2005, Respondent was transferred to inactive status pursuant to RDE 219. See Office of Disciplinary Counsel v. William J. Weiss, No. 42 DB 2007 (D.Bd. Rpt. 5/23/2008) (S.Ct. Order 10/6/2008).

7. By Supreme Court Order dated October 6, 2008, Respondent was suspended from the practice of law for two years. (Exhibit D-1) Respondent was found to have violated RPC 1.15(a); RPC 1.15(b); RPC 5.5(a); RPC 7.1; RPC 8.1(b); RPC 8.4(b); RPC 8.4(c); and via RDE 203(b)(3): 217(e); 217(j)(1); 217(j)(2); 217(j)(3); 217(j)(4); 217(j)(5); 203(b)(4); and

221(g). Office of Disciplinary Counsel v. William J. Weiss, No. 42 DB 2007 (D.Bd. Rpt. 5/23/2008) (S.Ct. Order 10/6/2008).

8. By Order of the Honorable Harvey Bartle III, Chief Judge of the United States District Court for the Eastern District of Pennsylvania ("EDPA"), dated November 20, 2008, Respondent was suspended for the practice of law in that court for a period of two years or until further Order of the court. (Exhibit D-6)

9. By Supreme Court Order dated April 24, 2013, Respondent's Petition for Reinstatement was granted. (Exhibit D-2)

10. On November 1, 2016, a panel of judges in the EDPA issued a Report and Recommendation that Respondent's Petition for Reinstatement in that court be dismissed without prejudice to his right to seek reinstatement after one year. (Exhibit D-7)

11. By Order of the Honorable Petrese B. Tucker, Chief Judge of the EDPA, dated November 21, 2016, Respondent's Petition for Reinstatement was dismissed without prejudice to his right to seek reinstatement after one year. (Exhibit ODC-21)

12. By Supreme Court Order dated March 6, 2019, Respondent was suspended on consent from the practice of law for a period of one year and one day. (Exhibit ODC-3) Respondent was found to have violated RPC 1.1; 1.2(a); 1.3; 1.4(a)(2); 1.4(a)(3); 1.4(a)(4); 1.4(c); 1.5(b); 8.4(c); and 8.4(d). Office of Disciplinary Counsel v. William J. Weiss, No. 161 DB 2018 (S.Ct. Order 3/6/2019).

13. By letter dated March 6, 2019, sent to Respondent at Respondent's attorney registration address, Marcee D. Sloan, Disciplinary Board Prothonotary, advised Respondent that he was required to comply with the RDE and the DBR and enclosed a

certified copy of the Supreme Court's Order suspending Respondent from the practice of law; the Standard Guidance of the Disciplinary Board for Lawyers Who Have Been Suspended For Over One Year; a copy of RDE 217, Formerly Admitted Attorneys; Form DB-23, Non-Litigation Notice of Disbarment, Suspension, or Transfer to Inactive Status; Form DB-24, Litigation Notice of Disbarment, Suspension, or Transfer to Inactive Status; and Form DB-25, Certificate of Compliance. (Petition, ¶9; Exhibit ODC-5)

14. Respondent received Ms. Sloan's letter with enclosures explaining the requirements and restrictions placed on formerly admitted attorneys. (Petition, ¶10)

15. By Order of the Honorable Juan R. Sanchez, Chief Judge of the EDPA, dated April 25, 2019, Respondent was suspended on consent for the practice of law in that court for a period of one year and one day. (Exhibit D-8)

**Matter of City of Philadelphia v. Historic Qingdao**

16. In or around the fall of 2018, Respondent commenced employment at Levy Law, PC, 1515 Market Street, Suite 950, Philadelphia, PA 19102. (Petition, ¶6)

17. On January 24, 2019, the City of Philadelphia filed a Complaint against Historic Qingdao and Michael G. Naessens in the Court of Common Pleas of Philadelphia County. City of Philadelphia v. Historic Qingdao, Inc., et al., CP No. 190102251. (Petition, ¶7)

18. In March, 2019, Bart Levy, Esquire filed Entries of Appearance on behalf of the two defendants. (Petition, ¶¶11, 12)

19. On April 23, 2019, Respondent filed a Withdrawal of Appearance on behalf of Historic Qingdao. (Petition, ¶13) The docket entries do not indicate that Respondent had previously filed an Entry of Appearance. (Exhibit ODC-4)

20. On June 27, 2019, Andrew J. Barron, Esquire, Assistant City Solicitor in the City of Philadelphia Law Department, sent an email message to Mr. Levy in which he wrote the following:

. . . I wanted to express my concern about the Case Management Conference for Historic Qingdao held on May 30, 2019. Your colleague William Weiss appeared on behalf of your client Michael Naessens and actively participated in the meeting. As we both know, Mr. Weiss was suspended from the practice of law last March. I expect to not see Mr. Weiss at any future hearing or conference. . . .

(Exhibit ODC-10; see also Petition, ¶16)

21. Respondent appeared at this Case Management Conference when he was suspended from the practice of law.

**Matter of City of Philadelphia v. Revella Coles**

22. On May 15, 2019, the City of Philadelphia filed a Complaint against Revella Coles in the Court of Common Pleas of Philadelphia County. *City of Philadelphia v. Revella Coles*, CP No. 190501553. (Petition, ¶19)

23. On August 19, 2019, a Case Management Conference was held in this case, during which Respondent appeared in court on behalf of Ms. Coles, informed the case manager that he was present to deliver the case management memorandum, and actively participated in the case management conference, including asking the case manager and the Assistant City Solicitor about the case. (Petition, ¶21)

24. Respondent appeared at this Case Management Conference when he was suspended from the practice of law.

**Matter of Hakim Scott v. David On, Inc. D/B/A/ Murano Deli**

25. On November 3, 2014, Hakim Scott filed a personal injury action against David On, Inc., D/B/A Murano Deli et al., in the Court of Common Pleas of Philadelphia County. Case No. 141100107. (Petition, ¶29)

26. On April 13, 2015, Respondent filed an entry of appearance on behalf of David On, Inc., D/B/A Murano Deli. (Petition, ¶30)

27. On April 24, 2019, following the effective date of Respondent's suspension, Respondent filed a Withdrawal of Appearance on behalf of David On, Inc. D/B/A/ Murano Deli. (Petition, ¶35, Exhibit ODC-23)

28. On March 2, 2020, a settlement conference in this case was held before a Judge Pro Tem, during which Respondent and Mark D. Schaeffer, Esquire appeared on behalf of David On, Mr. Schaeffer introduced Respondent as his “assistant” and Respondent remained with Mr. Schaeffer during the settlement conference. (Petition, ¶41)

29. Respondent appeared at this settlement conference when he was suspended from the practice of law.

**Miscellaneous Other Matters**

30. Respondent did not file with the Disciplinary Board a notice of engagement identifying anyone as his supervising attorney and certifying that his activities will be monitored for compliance with RDE 217(j). (Petition, ¶¶23 and 43)

31. Respondent's explanation for this is that he was not practicing law or working for an attorney after his March 6, 2019 suspension. (Exhibit 6)

32. Respondent was admitted to the EDPA since December 10, 1987 (Petition ¶25), although he remained suspended in that court since Judge Bartle's Order of November 20, 2008.

33. Respondent made material omissions of fact when he failed to list his admission to the EDPA on his Annual Attorney Registration Statements for 2016-2017, 2017-2018 and 2018-2019. (Petition, ¶26; Exhibits ODC-17 and ODC-18)

34. On June 28, 2021, Respondent filed with the Disciplinary Board a Form DB-25 Statement of Compliance, dated April 26, 2019, in which he answered "N/A" when directed to list all other state, federal and administrative jurisdictions to which he had been admitted. (Petition, ¶24; Exhibit ODC-13)

35 Respondent failed to comply with RDE 217(c)(3) and notify the EDPA that he had been suspended from the practice of law in Pennsylvania effective April 5, 2019 and was no longer an attorney in good standing in Pennsylvania. (Petition, ¶27)

### **Mitigating Factors**

36. On April 24, 2020 and May 7, 2020, Respondent sent letters to Ms. Brumberg explaining his conduct (Exhibit 6), indicating a level of cooperation with the investigation of ODC at that time.

### **Aggravating Factors**

37. Respondent has a history of prior discipline, with an administrative suspension on October 25, 2005 and suspensions on October 6, 2008 and March 6, 2019.

38. Respondent was uncooperative concerning service of the Petition. (Exhibit ODC-2)

39. Respondent did not file an Answer to the Petition.

40. Respondent testified that he does not remember attending the prehearing conference before Ms. Harrington in this matter. (NT – 5/4/23, pages 35-38)

41. Respondent did not comply with the Prehearing Order concerning the exchange of exhibits, as he did not provide copies of his exhibits to ODC before the hearing on May 4, 2023 as was required by the Order.

42. During the hearing, Respondent was combative, rude, and disrespectful and he made disparaging comments about others, including Ms. Brumberg (NT – 5/4/23, pages 66, 68-69, 72, 74, 82, 84 and 86-87), Mr. Levy (NT – 5/4/23, page 70), and Samuel Stretton, his prior attorney (NT – 5/4/23, page 88).

43. Respondent has not recognized any wrongdoing by attending two Case Management Conferences while he was suspended, and instead has sought to minimize and excuse his conduct. (NT – 5/4/23, pages 29-30, 34, 41, 53, 63, 69; Exhibit 6)

44. Respondent has expressed no remorse.

45. Respondent maintains a LinkedIn social media posting listing himself as "William Weiss, Esquire" and describing himself as a "General Practitioner Attorney possessing over 20 years of legal experience." (Exhibit D-12) The Hearing Committee takes judicial notice that Respondent's LinkedIn profile continues to be published.

## V. CONCLUSIONS OF LAW

ODC has asserted that Respondent violated several RPC and RDE involving the matters described above. The Hearing Committee makes the following Conclusions of Law.

1. By his conduct in attending two Case Management Conferences in the matters of City of Philadelphia v. Historic Qingdao and City of Philadelphia v. Revella Coles,

Respondent violated the following RPC and RDE:

- RPC 5.5(a) - A lawyer shall not practice law violation of the profession in that in a jurisdiction in regulation of the legal jurisdiction, or assist another in doing so;
- RPC 8.4(a) - 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;
- RPC 8.4(c) - It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation;
- RPC 8.4(d) - It is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice;
- RDE 203(b)(3) - Willful violation of any other provision of the Enforcement Rules, shall be grounds for discipline;
- RDE 217(c)(2) - A formerly admitted attorney shall promptly notify, or cause to be promptly notified, of the disbarment, suspension, administrative suspension or transfer to inactive status, all other persons with whom the formerly admitted attorney may at any time expect to have professional contacts under circumstances where there is a reasonable probability that they may infer that he or she continues as an attorney in good standing;
- RDE 217(c)(3) - A formerly admitted attorney shall promptly notify, or cause to be promptly notified, of the disbarment, suspension, administrative suspension or transfer to inactive status, any other

tribunal, court, agency or jurisdiction in which the attorney is admitted to practice

- RDE 217(j)(2) – For purposes of this subdivision (j), the only law-related activities that may be conducted by a formerly admitted attorney are the following:
  - (i) Legal work nature, such assembly of a preparatory nature such as legal research, assembly of data and other necessary information, and drafting of transactional documents, pleadings, briefs, and other similar documents;
  - (ii) direct communication with the client or third parties to the extent permitted by paragraph (3); and
  - (iii) accompanying a member in good standing of the Bar of this Commonwealth to a deposition or other discovery matter or to a meeting regarding a matter that is not currently in litigation, for the limited purpose of providing clerical assistance to the member in good standing who appears as the representative of the client; and
- RDE 217(j)(4) - A formerly admitted attorney may not engage in any form of law-related activities in this Commonwealth except in accordance with the following requirements: Without limiting the other restrictions in this subdivision, a formerly admitted attorney is specifically prohibited from engaging in any of the following activities:
  - (i) performing any law-related activity for a law firm, organization, or lawyer if the formerly admitted attorney was associated with that law firm, organization, or lawyer on or after the date on which the acts which resulted in the disbarment or suspension occurred, through and including the effective date of disbarment or suspension;
  - (iv) representing himself or herself as a lawyer or person of similar status;

(vii) appearing on behalf of a client in any hearing or proceeding or before any judicial officer, arbitrator, mediator, court, public agency, referee, magistrate, hearing officer or any other adjudicative person or body; and

- RDE 217(j)(5) - A formerly admitted attorney may not engage in any form of law-related activities in this Commonwealth except in accordance with the following requirements: The supervising attorney and the formerly admitted attorney shall file with the Disciplinary Board a notice of engagement, identifying the supervising attorney and certifying that the formerly admitted attorney's activities will be monitored for compliance with this subdivision (j). The supervising attorney and the formerly admitted attorney shall file a notice with the Disciplinary Board immediately upon the termination of the engagement between the formerly admitted attorney and the supervising attorney.

2. By his conduct is failing to file with the Disciplinary Board a notice of engagement identifying a supervising attorney and certifying that his activities will be monitored for compliance with RDE 217(j), Respondent violated RDE 203(b)(3) and 217(j)(5).

3. By his conduct in failing to identify the Eastern District of Pennsylvania on his Annual Attorney Registration Statements for 2016-2017, 2017-2018 and 2018-2019 as a bar in which he was admitted, Respondent violated the following RPC 8.4(a) and 8.4(c).

4. By his conduct in failing to identify the Eastern District of Pennsylvania on Form DB-25 Statement of Compliance dated April 26, 2019 as a bar in which he was admitted, Respondent violated the following RPC 8.4(a) and 8.4(c).

5. By his conduct in failing to notify the Eastern District of Pennsylvania of his suspension pursuant to the Supreme Court Order dated March 6, 2019, Respondent violated DRE 203(b)(3) and 217(c)(3).

6. ODC has not met its burden of proving that Respondent violated any RPC or RDE by his conduct in the matter of Hakim Scott v. David On, Inc. D/B/A/Murano Deli.

7. ODC has not met its burden of proving that Respondent violated RPD 3.3(a)(1) and 8.1(a).

## **VI. DISCUSSION**

ODC has the burden of proving a lawyer's professional misconduct by a preponderance of the evidence that is established by clear and satisfactory evidence. Office of Disciplinary Counsel v. Duffield, 537 Pa. 485, 644 A.2d 1186 (1994); Office of Disciplinary Counsel v. Keller, 509 Pa. 573, 506 A.2d 872 (1986). The Hearing Committee has determined that the ODC has met its burden of proof with respect to certain allegations of violation of the RPC and DRE and has not met its burden of proof with respect to other allegations. The bases for the Hearing Committee's determinations are set forth in this section of the Report. We will address the allegations of violations, and we will then address the recommended discipline.

### **Matters of City of Philadelphia v. Historic Qingdao and Revella Coles**

Despite Respondent's efforts to minimize and excuse his role in attending two Case Management Conferences in the Historic Qingdao and Revella Coles matters, the reality is that he participated in the conferences on behalf of clients at a time when he was suspended from the practice of law. It is common sense that an appearance by an attorney before a Court officer in a litigated case involves the practice of law, even where the conferences are administrative in nature for scheduling purposes before a Court officer and not a judge. In addition, in effect at the time of the conferences in May and August, 2019

was an Advice to Counsel Memorandum that had been issued by the Court. Not only was this specifically identified as advice to “counsel” with directions that can only be understood to be directed to attorneys, but it expressly provides in bold print that **“the Case Management Conference is a Court proceeding.”** RDE 217(j)(4) prohibits engagement in law-related activities, and specifically references in subsections (i), (iv) and (vii) performing any such activity for a law firm or attorney with whom he/she had been associated, representing himself/herself as a lawyer, and appearing on behalf of a client before any judicial officer or other adjudicative person. This is exactly what Respondent did in these two matters. By participating in these two conferences, Respondent violated this RDE. In addition, Respondent’s conduct violates the following rules:

- (1) RPC 5.5(a) for practicing law in violation of the regulation of the legal profession;
- (2) RPC 8.4(a) for violating the RPC;
- (3) RPC 8.4(c) for engaging in conduct involving dishonesty and misrepresentation;
- (4) RPC 8.4(d) for engaging in conduct that is prejudicial to the administration of justice;
- (5) RDE 203(b)(3) for willful violations of other provisions of the RDE;
- (6) RDE 217(c)(2) for not notifying the Court officer conducting the Case Management Conferences of his suspension where there was a reasonable probability that they may infer that he was in good standing;
- (7) RDE 217(c)(3) for not notifying the Court officer conducting the Case Management Conferences of his suspension; and
- (8) RDE 217(j)(2) for engaging in law-related activity beyond the limited scope described in this Rule

- (9) RDE 217(j)(4)(i, iv and vii) for engaging in prohibited law-related activities ; and
- (10) RDE 217(j)(5) for engaging in law-related activity without filing a notice of engagement with the Disciplinary Board and without making sure that a supervising attorney also filed a notice of engagement.

**Matter of Hakim Scott v. David On, Inc. D/B/A/ Murano Deli**

The Hearing Committee views Respondent's conduct in the matter of Hakim Scott v. David On, Inc. D/B/A/Murano Deli in a different light. Respondent had entered his appearance on behalf of David On, Inc. D/B/A/ Murano Deli on April 13, 2015 and filed a Withdrawal of Appearance on April 24, 2019 after his suspension. While it would have been preferable that the Withdrawal of Appearance be filed earlier, there is no evidence that Respondent engaged in any law-related activities or had any contact with the client between the time of the suspension Order and the time of the withdrawal of appearance. The Hearing Committee therefore concludes that ODC did not meet its burden of proof that the timing of the filing of the Withdrawal of Appearance violated any RPD or RDE.

With respect to Respondent's attendance at a settlement conference on March 2, 2020 in this matter, the only evidence is that respondent and Mark D. Schaffer, Esquire (the attorney of record) attended the conference, that Mr. Schaffer identified Respondent as his assistant, and that Respondent remained with Mr. Schaffer during the conference. There is no evidence that Respondent said anything at the conference or made any representation to the person presiding at the conference about being a lawyer in good standing. Non-lawyers are free to attend such conferences, and the evidence indicates that Respondent was nothing more than an observer. Under these circumstances, the Hearing Committee

concludes that ODC did not meet its burden of proof that Respondent violated any RPC or DRE by attending the settlement conference.

### **Omissions in Annual Attorney Registration Statements and DB25 Statement of Compliance**

Respondent obviously failed to provide fully accurate information on his Annual Attorney Registration Statements and on the DB-25 Statement of Compliance Form submitted on June 28, 2021 because he did not identify the EDPA as a jurisdiction in which he was admitted. The Hearing Committee concludes that these failures are violations of RPC 8.4(a) and 8.4(c).

### **Failure to Notify EDPA of Suspension**

Again, here it is obvious that Respondent failed to notify the EDPA that he had been suspended from the practice of law in Pennsylvania effective April 5, 2019 and was no longer an attorney in good standing in Pennsylvania. The Hearing Committee concludes that this failure is a violation of DRE 203(b)(3) and 217(c)(3).

### **Recommended Discipline**

There are several cases where attorneys have been disciplined for engaging in the unauthorized practice of law while already suspended for other misconduct. Respondent falls into this category, as he was on suspended status when he attended Case Management Conferences in the Philadelphia Court of Common Pleas in two cases in May and August, 2019. ODC has cited a number of these cases which the Hearing Committee believes involves greater misconduct than that exhibited by Respondent.

Office of Disciplinary Counsel v. Malcolm P. Rosenberg, No. 156 DB 2014 (D.Bd. Rpt. 1/19/2016) (S.Ct. Order 3/17/2016) involved an attorney who had been suspended

for one year and one day for failing to promptly distribute client funds. While suspended, Rosenberg represented a client over the course of four months concerning a dispute with her ex-fiancé over the net proceeds of a property settlement. The Disciplinary Board found that the aggravating factors of Rosenberg's failure to accept responsibility for his misconduct and show remorse and noted that the unauthorized practice of law was a single representation over a short period of time. The Disciplinary Board concluded that a suspension for three years was appropriate.

In Office of Disciplinary Counsel v. Louis S. Criden, 42 Pa. D. & C. 4th 254 (1999) Criden was suspended for three years for converting trust funds. Following his suspension, Criden continued to practice law over the course of twelve months in direct violation of the Supreme Court's order suspending him. Criden admitted his misconduct and expressed remorse, and the Disciplinary Board recommended a four-year suspension which was imposed.

In Office of Disciplinary Counsel v. Ronald I. Kaplan, No. 217 DB 2010 (D.Bd. Rpt. 1/24/2012, p. 11) (S.Ct. Order 6/5/2012). Kaplan worked as a law clerk at a law firm after he was suspended from the practice of law for one year and one day. While on suspension, Kaplan appeared in Family Court on behalf of a long-time client, misrepresented his identity, and participated in his client's support hearing. Kaplan answered the Petition for Discipline and testified at his disciplinary hearing that he was aware that appearing at the support hearing and representing a client was wrong. The Disciplinary Board rejected the Hearing Committee's recommendation of disbarment for Kaplan's knowing unauthorized

practice of law and recommended that he receive an additional five-year term of suspension.

ODC cites two cases where the attorney was disbarred for the unauthorized practice of law. Office of Disciplinary Counsel v. Glenn D. Desantis, No. 149 DB 2018 (D.Bd. Order 9/6/2019) (S.Ct. Order 11/15/2019) (While suspended in Pennsylvania, Desantis accepted a retainer for a Pennsylvania real estate matter that was never completed, and he failed to participate in the disciplinary proceedings); Office of Disciplinary Counsel v. Thomas J. Turner, III, No. 136 DB 2008 (D.Bd. Rpt. 9/28/2009) (S.Ct. Order 12/16/2009) (Turner failed to file a notice of engagement, had direct contact with clients, handled client funds, and misrepresented his identity, and he was unapologetic and unrepentant regarding his conduct).

The Hearing Committee also considers the decision in Office of Disciplinary Counsel v. Carl B. Williamson, No. 36 DB 2019 (D.Bd Order 2/21/2020) (S.Ct. Order 5/29/2020). Williamson was administratively suspended because of his failure to meet his Continuing Legal Education requirements. He eventually met the requirements but did not take the proper steps for reinstatement. While suspended, Williamson was counsel of record in ten cases in the Lehigh County Court of Common Pleas but failed to withdraw in nine of them, and he practiced law in one of them. Williamson admitted his misconduct and was remorseful but failed to participate in all aspects of the disciplinary proceedings. He was suspended for one year and one day.

In the pending matter, Respondent attended and participated in two Case Management Conferences in the Philadelphia Court of Common Pleas. There is no

evidence that the clients were aware of this, and there is no evidence of further involvement in representing them. Clearly, this was improper and amounts to the unauthorized practice of law, but the Hearing Committee sees this as somewhat limited activity.

Related to this is that, where this is the practice of law, no notice of engagement was submitted to the Disciplinary Board. Respondent's excuse that this was not really the practice of law is unavailing, and this results in a violation of RDE 217(j)(5).

Added to this misconduct is Respondent's failure to provide fully accurate information in three Annual Attorney Registration Statements and a Form DB-25 Statement of Compliance to the Disciplinary Board because Respondent did not disclose his admission to the bar of the EDPA. And, finally, Respondent did not provide notice to the EDPA of his 2018 suspension as he was required to do.

Most troubling about Respondent's misconduct are the lack of mitigating factors and the multiplicity of aggravating factors. The only mitigating factor is that Respondent sent letters in April and May 2020 to ODC in which he explained his position, indicating a level of cooperation in ODC's investigation at that time. This is outweighed by the aggravating factors. Respondent has a history of prior discipline including an administrative suspension and two other suspensions. He failed to fully participate in the current disciplinary proceedings, as he did not file an Answer to the Petition for Discipline and did not submit his exhibits timely pursuant to the Pretrial Order. Respondent attending the hearing where he was combative, rude, and disrespectful and he made disparaging comments about others. He has not only demonstrated no remorse and refused to accept responsibility, but he has sought to excuse his misconduct and blame others.

On balance, given the limited unauthorized practice of law and the other misconduct related to the accuracy of forms Respondent completed and his failure to notify the EDPA of his suspension, a majority of the Hearing Committee concludes that a three-year suspension that will be added to the existing suspension is warranted.

## **VII. RECOMMENDATION**

A majority of the Hearing Committee recommends that Respondent be suspended for three years. Committee Member Bock dissents from the length of the recommended suspension and would recommend a one-year suspension.

Respectfully submitted,

/s/ Catherine N. Harrington  
Catherine N. Harrington, Esquire, Chair

/s/ Harris T. Bock  
Harris T. Bock, Esquire, Member

/s/ Robert B. Mulhern, Jr.  
Robert B. Mulhern, Jr., Esquire, Member

Date: 10/10/2023