

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 2172 Disciplinary Docket No. 3
Petitioner :
 : No. 182 DB 2014
v. :
 : Attorney Registration No. 7851
DONALD B. CORRIERE, :
Respondent : (Northampton County)


ORDER

PER CURIAM

AND NOW, this 18th day of June, 2015, upon consideration of the Recommendation of the Three-Member Panel of the Disciplinary Board dated May 26, 2015, the Joint Petition in Support of Discipline on Consent is hereby granted pursuant to Pa.R.D.E. 215(g), and it is

ORDERED that Donald B. Corriere is suspended on consent from the Bar of this Commonwealth for a period of five years, and he shall comply with all the provisions of Pa.R.D.E. 217. Respondent shall pay costs incurred by the Disciplinary Board in the investigation and prosecution of this matter.

A True Copy Patricia Nicola
As Of 6/18/2015

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

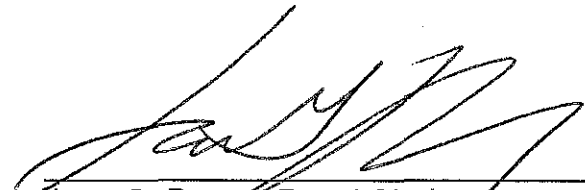
OFFICE OF DISCIPLINARY COUNSEL : No. 182 DB 2014
Petitioner :
v. : Attorney Registration No. 7851
DONALD B. CORRIERE :
Respondent : (Northampton County)

RECOMMENDATION OF THREE-MEMBER PANEL
OF THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

The Three-Member Panel of the Disciplinary Board of the Supreme Court of Pennsylvania, consisting of Board Members Jane G. Penny, P. Brennan Hart, and Andrew J. Trevelise, has reviewed the Joint Petition in Support of Discipline on Consent filed in the above-captioned matter on March 30, 2015.

The Panel approves the Joint Petition consenting to a five year suspension and recommends to the Supreme Court of Pennsylvania that the attached Petition be Granted.

The Panel further recommends that any necessary expenses incurred in the investigation and prosecution of this matter shall be paid by the respondent-attorney as a condition to the grant of the Petition.


Jane G. Penny, Panel Chair
The Disciplinary Board of the
Supreme Court of Pennsylvania

Date: 5/26/2015

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 182 DB 2014
Petitioner :
:
v. :
: Attorney Reg. No. 7851
:
DONALD B. CORRIERE, :
Respondent : (Northampton County)

JOINT PETITION IN SUPPORT
OF DISCIPLINE ON CONSENT
PURSUANT TO Pa.R.D.E. 215(d)

Petitioner, the Office of Disciplinary Counsel (hereinafter, "ODC") by Paul J. Killion, Chief Disciplinary Counsel, and Ramona Mariani, Disciplinary Counsel and Respondent, Donald B. Corriere, Esquire (hereinafter "Respondent"), respectfully petition the Disciplinary Board in support of discipline on consent, pursuant to Pennsylvania Rule of Disciplinary Enforcement ("Pa.R.D.E.") 215(d), and in support thereof state:

1. ODC, whose principal office is situated at Office of Chief Disciplinary Counsel, Pennsylvania Judicial Center, Suite 2700, 601 Commonwealth Avenue, P.O. Box 62485, Harrisburg, Pennsylvania 17106, is invested, pursuant to Pa.R.D.E. 207, with the power and duty to investigate all matters involving alleged misconduct of an attorney admitted to practice law in

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Office of the Secretary
The Disciplinary Board of the
Supreme Court of Pennsylvania

the Commonwealth of Pennsylvania and to prosecute all disciplinary proceedings brought in accordance with the various provisions of the aforesaid Enforcement Rules.

2. Respondent, Donald B. Corriere, was born on June 1, 1939, is 75 years old and was admitted to practice law in the Commonwealth on November 15, 1965. Respondent is on retired status and his last registered address is 433 E. Broad Street, Bethlehem, PA 18016. Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court.

SPECIFIC FACTUAL ALLEGATIONS ADMITTED

3. Respondent's affidavit stating, *inter alia*, his consent to the recommended discipline is attached hereto as Exhibit A.

4. During the time period relevant to the facts as related in this Petition, Respondent practiced as a partner at the firm Haber, Corriere & Backenstoe ("HC&B") through approximately December of 2009. Thereafter, Respondent practiced as "of counsel" with the firm Corriere & Andres and also operated his own law firm, the Law Offices of Donald B. Corriere.

I. Ratushny/Thomas

5. Kathryne A. Kile ("Ms. Kile") died on July 3, 2008.

6. Ms. Kile died testate, with a Will naming Respondent and his partner at that time, Richard Haber, Esquire ("Haber") as co-executors.

7. As Respondent acknowledges, in or around 2004, Haber scaled back his workload and rarely came to the office.

8. Further, as Respondent has admitted, thereafter Respondent was "the only officer and director who was actively practicing law for Haber, Corriere and Backenstoe."

9. On July 8, 2008, Respondent submitted Haber's renunciation as co-executor of the Kile estate to the Northampton County Register of Wills.

10. On July 16, 2008, the Northampton County Register of Wills appointed Respondent the Executor of Ms. Kile's estate.

11. Ms. Kile had two daughters: Robin Thomas ("Ms. Thomas") and Randi Ratushny ("Ms. Ratushny").

12. Ms. Ratushny, who lived with Ms. Kile, suffered from both addiction and mental health issues.

13. Several years prior to her death, Ms. Kile had retitled several bank accounts as joint tenant with right of survivorship with Ms. Thomas.

14. By codicil, Ms. Kile's will left the balance of her estate to Ms. Ratushny.

15. Respondent began estate administration by liquidating various estate assets and depositing them into the Haber Corriere & Backenstoe IOLTA, Keystone Nazareth Bank & Trust (now National Penn Bank), account No. 9006128 (hereinafter "HC&B IOLTA").

16. Respondent failed to open any separate estate account for the Kile Estate funds, although the estate funds were neither nominal in amount nor qualified funds within the meaning of RPC 1.15(a)(9).

17. On July 16, 2008, a staff member acting on Respondent's behalf and pursuant to his direction, deposited \$26,329.26, representing the liquidated value of Ms. Kile's and Ms. Thomas's shared bank account at KNBT Bank, into the HC&B IOLTA.

18. Also on July 16, 2008, Respondent drew check No. 11943 for \$2,500.00 from the HC&B IOLTA, made the check payable to HC&B, and Catherine Mackes, a member of the administrative staff at HC&B, wrote on the memorandum line "Legal Fees Robin Thomas."

19. Ms. Thomas had not engaged either Respondent or HC&B to perform any legal services on her behalf at that time, and had not authorized Respondent to pay himself or HC&B any legal fees.

20. On July 23, 2008, Respondent wrote letters to Wachovia Bank and Keystone Nazareth Bank advising the banks that he had been appointed Executor of the estate of Kathryne Kile and that he was seeking information about the date of death valuations for Ms. Kile's accounts at those two institutions.

21. If the case went to hearing, Ms. Thomas would testify that on July 23, 2008, Michael Corriere, Respondent's son, a lawyer and a member of HC&B, called Ms. Thomas and suggested that she relinquish all joint accounts she had held with her mother to HC&B for HC&B to use for Ms. Ratushny's care.

22. Ms. Thomas knew that Ms. Ratushny suffered from addiction and mental health issues, and as a result, Ms. Thomas agreed to relinquish the joint bank accounts.

23. On or around July 24, 2008, Ms. Thomas went to Wachovia Bank and liquidated the following accounts: Certificate of Deposit account No. 247402302398697 with an approximate value of \$67,569.47; checking account No. 1010126362624 with an approximate value of \$725.93; and money market account No. 1010126362747 with an approximate value of \$19,969.29.

24. Ms. Thomas used the liquidated funds to purchase Wachovia Bank Official Check # 1402071635 for \$88,356.94 payable to herself.

25. On that same date, July 24, 2008, Ms. Thomas went to the HC&B offices in Bethlehem and met with Respondent and Michael Corriere.

26. Ms. Thomas signed a "Designation of Custodian of Funds and Authorization to Make Disbursement" (the "Designation") which was prepared by Respondent.

27. Ms. Thomas gave the check for \$88,356.94 to Respondent and Michael Corriere for the "support and maintenance" of her sister, Ms. Ratushny. While Respondent contends that the checks were given to HC&B, the "Designation" does not reference the firm anywhere, but instead references only Michael Corriere.

28. Ms. Thomas also authorized Michael Corriere to use, for Ms. Ratushny's welfare, the \$26,329.26 Respondent had already deposited into the HC&B IOLTA.

29. The Designation gave Michael Corriere "sole and absolute discretion" to disburse the funds for Ms. Ratushny's benefit and also authorized Michael Corriere to receive "reasonable compensation" for his efforts.

30. Despite the direction in the Designation, Respondent took primary responsibility for the payment of bills and the management of the Kile Estate funds and the money received from Ms. Thomas.

31. Respondent would testify that he informed Ms. Thomas that since Respondent and Sharon, an administrative employee of HC&B, were administering her mother's estate, and since Respondent and Sharon handled estate matters for the firm, it would be more efficient if Respondent and Sharon handled the custodial account.

32. In addition to the amounts enumerated in Paragraphs 17 and 24, by October 14, 2008, Respondent had deposited other Kile Estate assets amounting to \$27,591.66 for a total of \$142,277.86 into the HC&B IOLTA on behalf of the Kile Estate or Ratushny.

33. On October 17, 2008, Respondent filed the PA Rev-1500 Inheritance Tax Return and drew check No. 12162 from the HC&B IOLTA for \$3,241.70 to pay inheritance tax for the Kile Estate.

34. On Schedule H of the return, Respondent claimed attorney's fees of \$8,859.00.

35. On March 17, 2009, Respondent filed a Status Report under Rule 6.12 with the Register of Wills stating that the Kile Estate administration was complete.

36. Respondent and, to a lesser extent, Michael Corriere regularly signed checks directly from the HC&B IOLTA for Ms. Ratushny's bills, including, but not limited to, bills related to her health care, utilities, telephone and taxes.

37. Despite the fact that he failed to set up any separate escrow account in which to hold either Kile Estate funds or the funds given to him by Ms. Thomas for Ms. Ratushny's care, Respondent has admitted that he charged a fee of \$2,500.00 for the purpose of "setting up and administering" Ms. Ratushny's "custodial account." Respondent would testify that the fee of \$2,500.00 included the first six months of administering the "custodial account."

38. In addition, Respondent removed fees during 2008 and 2009 from the HC&B IOLTA which he attributed to the Kile Estate/Ratushny account totaling \$15,906.36.

39. Respondent claims that Ms. Ratushny orally authorized him to take \$100.00 per week in fees.

40. Respondent did not have any written fee agreement with Ms. Ratushny authorizing the payment of fees.

41. On January 13, 2009, Respondent drew HC&B IOLTA check No. 12343 for \$75,000.00 payable to HC&B. Respondent would testify that Catharine Mackes prepared the memo line identifying the monies as belonging to the "Kile estate." Those funds were deposited into savings account No. 1771101 in the name of HC&B at Embassy Bank, to which only Respondent and Catherine Mackes were authorized signers.

42. The HC&B Embassy account is not an IOLTA Account.

43. The HC&B Embassy account is not an escrow account.

44. By depositing the Kile Estate and/or Ratushny funds into the HC&B Embassy account, Respondent co-mingled fiduciary funds with non-fiduciary funds in violation of RPC 1.15(b), as he has acknowledged that the HC&B Embassy account was used to hold legal fees of Haber, Corriere and Backenstoe and "non-client custodial fees." Respondent takes the position that the funds deposited were solely from the Ratushny custodial account as the Kile estate had, by then, been closed.

45. Respondent failed to hold the \$75,000.00 in trust, as the balance in the HC&B Embassy account dropped below \$75,000.00 by July 7, 2009, without transactions pertaining to either the Kile Estate or Ms. Ratushny occurring in the HC&B Embassy account.

46. On November 2, 2009, Respondent purchased an Embassy Treasurer's check for \$76,892.46, which represented the previously withdrawn funds labelled as "Kile Estate" plus interest, and deposited those funds back into the HC&B IOLTA.

47. Despite returning the Kile Estate/Ratushny funds to the HC&B IOLTA, Respondent used only \$1,446.26 for the benefit of Kile Estate/Ratushny before closing the HC&B IOLTA with a zero balance on October 12, 2010.

48. As of that date, ODC calculates that Respondent was required to be holding at least \$40,105.82 attributable to the estate of Kathryn Kile, and at least \$32,922.00 attributable to Ms. Ratushny's custodial account.

49. In an Answer Respondent filed to a lawsuit pending in the Northampton County Court of Common Pleas captioned **Haber v. Corriere**, Respondent claimed that Ms. Ratushny's funds "were transferred to the Haber Corriere and Backenstoe escrow account at Embassy Bank. In further answer thereto, the funds were later redeposited into the Haber Corriere and Backenstoe escrow and trustee account and the remaining balance of the funds were thereafter transferred to the IOLTA Account of Donald B. Corriere, Esquire."

50. That claim is and was false as none of the Kile Estate or Ratushny funds were ever transferred from the HC&B IOLTA to the Donald B. Corriere, Esquire, IOLTA account.

51. Further, the HC&B Embassy Bank Account was not an escrow account.

52. Respondent continued to make small periodic disbursements of funds to pay bills for Ms. Ratushny through February 14, 2011, with later disbursements being made from the Donald B. Corriere IOLTA, despite the fact that none of Ms.

Ratushny's funds had ever been transferred to or deposited to the Donald B. Corriere IOLTA.

53. In or around February of 2011, Respondent, or an administrative staff person acting on his behalf, telephoned Ms. Ratushny and told her that only \$5,000.00 remained in the "custodial account." Respondent would testify that he has no recollection of this event.

54. Ms. Thomas would testify that after speaking with Ms. Ratushny, Ms. Thomas telephoned the office and spoke with "Sharon" who advised her that an accounting of funds would cost \$500.00.

55. Ms. Thomas would further testify that Sharon subsequently called Ms. Thomas back and told her that some additional monies had been located.

56. By letter dated February 14, 2011, Respondent wrote to Ms. Thomas and stated, among other things, that Ms. Thomas had agreed that he could close the account and disburse the remaining funds to Ms. Ratushny.

57. Respondent sent a similar letter to Ms. Ratushny dated February 24, 2011, enclosing a check for \$13,111.77, paid from the Donald B. Corriere, IOLTA, as well as a list of disbursements made on her behalf.

58. Respondent wrote to Ms. Ratushny that "since the monies in the fund were Robin's and not yours it is not ethically appropriate for me to meet with and/or discuss the matter with you."

59. Respondent's statements to Ms. Ratushny are inconsistent with his later claim to ODC that Ms. Ratushny authorized his fees.

60. The amount Respondent refunded to Ms. Ratushny fell well short of the amount he should have been holding on her behalf.

61. Further, the monies paid to Ms. Ratushny consisted of the funds of other clients, as Respondent had spent and converted all of the Kile Estate and Ratushny funds at the time he closed the HC&B IOLTA account.

62. After crediting Respondent for the amounts he claims he spent on Ms. Ratushny's behalf, as partially confirmed by Respondent's bank records, as well as his fees, Respondent converted and spent **at least** \$50,622.73 of Ms. Ratushny's funds.

63. The list of expenditures Respondent provided to Ms. Ratushny was incorrect, as it and a subsequent accounting Respondent provided to ODC, contain multiple errors including, but not limited to, inflated and incorrect amounts for certain bills, as listed below:

From Randi Ratushny's custodial accounting:

Date	Check #	Payee	Account Entry	Actual check amt
a. 07/16/08	11943	HC&B	\$ 2,600.00	\$ 2,500.00
b. 09/16/08	12089	The Oil Man	\$ 1,162.35	\$ 162.35
c. 09/22/08	12095	Bucks Cty Clerk of Cts	\$ 857.51	\$ 357.51
d. 09/30/08	12115	Northampton Co Crim Div	\$ 1,230.00	\$ 230.00
e. 10/21/08	12162	Register of Wills, Agt	\$ 3,240.00	\$ 3,241.70
f. 11/17/08	12223	Capital One	\$ 2,871.75	\$ 2,471.75
g. 12/19/08	12286	Gary Peters, DDS	\$ 220.00	\$ 222.00
h. 01/13/08	12296	Bethlehem Sewage	\$ 840.00	\$ 470.00
i. 01/12/09	12330	The Oil Man	\$ 207.42	\$ 107.42
j. 02/04/09	12397	The Oil Man	\$ 521.83	\$ 321.83
k. 02/04/09	12398	St. Luke's Hospital	\$ 121.65	\$ 12.65
l. 03/04/09	12446	Bank of America	\$ 2,987.00	\$ 1,987.00
m. 07/13/09	12767	HC&B	\$ 2,600.00	\$ 1,200.00
n. 10/02/09	12933	Pa Dept of Rev - Cig Tax	\$ 2,803.94	\$ 2,403.94
o. 12/01/09	13124	St. Luke's Phys Grp	\$ 33.55	\$ 32.55
TOTAL			\$22,297.00	\$15,720.70

64. Respondent provided ODC with separate accountings purportedly reflecting how funds were spent from both the Kile Estate and the Ratushny Funds that reflected the same bills being charged against both, as follows:

Date	Check #	Payee	Kile Estate Amt	Ratushny Amt
a. 08/18/08	12008	Service Electric Cable	\$ 131.63	\$ 131.63
b. 08/22/08	12016	Berks Credit & Coll.,	\$ 93.67	\$ 93.67
c. 08/25/08	12019	Health Network Lab.	\$ 33.35	\$ 33.35
d. 09/15/08	12062	PP&L	\$ 42.88	\$ 42.88
e. 09/15/08	12063	Verizon	\$ 108.67	\$ 108.67
f. 09/15/08	12064	Service Electric Cable	\$ 115.46	\$ 115.46
g. 09/15/08	12087	St. Luke's Phys Grp	\$ 216.54	\$ 216.54
h. 09/16/08	12088	St. Luke's Health Netwk	\$ 183.70	\$ 183.70
i. 09/16/08	12089	The Oil Man	\$ 162.35	\$1,162.35
j. 09/17/08	12085	Penn Credit (for LV Phys)	\$ 30.85	\$ 30.85
k. 09/19/08	12083	Hellertown Family FootCare	\$ 53.78	\$ 53.78
l. 09/19/08	12090	Tammy Keller (Transp)	\$ 75.00	\$ 75.00
m. 09/15/08	12084	Progressive Phys Assoc	\$ 29.71	\$ 29.71
n. 09/22/08	12086	Saucon Valley Sch Dist	\$2,597.83	\$2,597.83
o. 09/22/08	12095	Bucks County Clerk of Cts	\$ 357.51	\$ 857.51
p. 09/25/08	12099	Verizon	\$ 69.92	\$ 69.92
q. 09/25/08	12110	Chris Rimmel, Optician	\$ 545.00	\$ 545.00
r. 09/26/08	12097	St. Luke's Phys Grp	\$ 93.67	\$ 93.67
s. 09/26/08	12096	World Fin'l Network Bank	\$ 124.72	\$ 124.72
t. 09/30/08	12115	Northampton Co Crim Div	\$ 230.00	\$1,230.00
u. 10/10/08	12145	HC&B	\$ 436.00	\$ 436.00
v. 10/14/08	12122	James Emlen	\$ 115.00	\$ 115.00
w. 10/14/08	12131	PPL	\$ 65.93	\$ 65.93
x. 10/14/08	12133	St. Luke's Health Network	\$ 183.70	\$ 183.70
y. 10/14/08	12134	St. Luke's Health Network	\$ 100.18	\$ 100.18

z.	10/14/08	12136	Smale T/A The Good Guys	\$ 78.50	\$ 78.58
aa.	10/15/08	12130	Verizon	\$ 70.08	\$ 70.08
bb.	10/15/08	12132	Service Electric Cable	\$ 113.76	\$ 113.76
cc.	10/15/08	12135	Progressive Phys Assoc	\$ 130.29	\$ 130.29
dd.	10/21/08	12162	Register of Wills, Agent	\$3,241.70	\$3,240.00
ee.	11/06/08	12185	Gary Peters, DDS	\$ 124.00	\$ 124.00
ff.	11/14/08	12219	The Oil Man	\$ 448.58	\$ 448.58
gg.	11/17/08	12216	Allstate Insurance	\$ 522.82	\$ 522.82
hh.	11/17/08	12217	Capital Blue Cross	\$ 83.92	\$ 83.92
ii.	11/17/08	12218	Verizon	\$ 75.75	\$ 75.75
jj.	12/09/08	12138	Cressman's Lawn Care	\$1,095.00	\$1,095.00
			TOTAL	\$12,181.45	\$14,679.83

65. Respondent's accounting for the Kile Estate was erroneous as Respondent neglected to include at least three deposits of Kile Estate funds, consisting of a deposit of:

- a. \$26,329.26 on July 16, 2008, which represented the proceeds from Ms. Kile's checking account at National Penn Bank, and which was made payable to the "Estate of Kathryn Kile," endorsed to Donald Corriere, Executor, and deposited into the HC&B IOLTA;
- b. \$6,120.61 on October 9, 2008, from Met Life for a life insurance payment, payable to "Donald B. Corriere, Ex UW Kathryn A. Kile," endorsed by Respondent and deposited into the HC&B IOLTA; and
- c. \$128.24 on October 9, 2008, from St. Luke's Hospital payable to Kathryn A. Kile, endorsed to Donald Corriere, Executor, Estate of Kathryn Kile, and deposited into the HC&B IOLTA.

66. Considering the multiple errors in accounting which grossly reduced the value of the Kile Estate and Ms. Ratushny's "custodial account" as well as the unauthorized conversions from each, the failure to safeguard funds, and the comingling of funds, Respondent charged excessive fees for the work performed.

67. Ms. Ratushny died on September 18, 2012, after she filed a disciplinary complaint but before the ODC audit had been completed and Respondent had been placed on notice of the Complaint by the first Letter Seeking a Statement of Respondent's Position (hereinafter "DB-7 letter") dated June 6, 2013.

68. Ms. Ratushny's Will named James G. Emlen her Executor.

69. Ms. Ratushny's sister, Ms. Thomas, is also a named beneficiary under Ms. Ratushny's Will.

70. On February 6, 2013, Ms. Thomas filed a Petition to Appoint and Disqualify Executor for the Estate of Randi Ratushny (the "Petition").

71. In the Petition, Ms. Thomas alleged, among other things, that Mr. Emlen was not qualified to serve as Executor of Ms. Ratushny's estate.

72. Respondent represented James G. Emlen in his capacity as Executor and beneficiary under Ms. Ratushny's Will.

73. On behalf of Mr. Emlen, Respondent denied those allegations.

74. Further, Respondent sought a declaratory judgment pursuant to 42 Pa.C.S.A. §7535 on the basis that his son, Michael Corriere, committed a drafting error in Ms. Ratushny's Will when Ms. Ratushny named Ms. Thomas as a beneficiary.

75. A conflict of interest existed between Respondent and Mr. Emlen.

76. At the end of October of 2013, local attorney Christopher Spadoni, Esquire, received a "referral" with respect to Mr. Emlen. If called at a hearing, Mr. Spadoni would testify that Respondent referred Mr. Emlen to Mr. Spadoni with the explanation that a conflict existed because of "mismanagement of a custodial account" that had occurred with respect to Ms. Ratushny's funds.

77. Further, Mr. Spadoni would testify that Respondent orally informed Mr. Spadoni that the amount of the claim was \$37,790.98.

78. Respondent never formally withdrew on the record from the representation of Mr. Emlen in the litigation brought by Ms. Thomas in the Northampton County Court of Common Pleas, although Respondent contends that he ceased to represent Mr. Emlen following receipt of the first Letter Seeking a Statement of Respondent's Position ("DB-7 letter") dated June 6, 2013. Respondent would testify that the Court was informed of his withdrawal during the call of the list, despite the fact that the docket continues to reflect Respondent as one of Mr. Emlen's counsel.

II. Martin & Virginia Jandris

79. On July 16, 2004, Martin J. Jandris died intestate in Hellertown, Pa.

80. Mr. Jandris was survived by his wife, Virginia Jandris and two daughters, Annette J. Skibo and C. Christine Rosati.

81. Mrs. Jandris initially hired Attorney Bradford D. Wagner to represent her in connection with her husband's estate.

82. Mr. Wagner filed the PA Rev-1500 Inheritance Tax on May 27, 2005.

83. However, the estate remained open as a result of outstanding asbestos lawsuits which were being pursued by the Peter G. Angelos Law Firm.

84. Between January 14, 2009 and October 26, 2009, Respondent deposited into the HC&B IOLTA twelve checks totaling \$22,034.90 from the Peter G. Angelos Law Firm, payable to Virginia L. Jandris, Personal Representative of the Estate of Martin J. Jandris, c/o Donald B. Corriere, Esquire.

85. During the same period, Respondent took fees on five occasions totaling \$5,600.00.

86. It is ODC's position that the fees Respondent took were clearly excessive as the only demonstrable legal work Respondent performed was martialing estate assets.

87. On December 9, 2009, Respondent opened the Corriere IOLTA at KNBT Bank and began depositing newly received Jandris funds into that account.

88. On October 12, 2010, Respondent closed the HC&B IOLTA with a zero balance, although at that time \$6,945.21 of funds attributable to the estate of Martin Jandris remained undistributed and should have been held inviolate in the HC&B IOLTA.

89. Virginia Jandris died testate on February 22, 2013.

90. At the time of her death, Respondent still held undistributed Martin Jandris estate funds.

91. Respondent never informed the Angelos Law firm of Mrs. Jandris's death.

92. Mrs. Jandris's Executor, Steven Rosati, engaged Respondent to act as the estate attorney.

93. In the DB-7 letter sent on June 6, 2013, ODC charged Respondent with failing to distribute \$13,045.21 in funds attributable to the Martin Jandris Estate.

94. That figure was based on an audit of the HC&B IOLTA, but not the Corriere IOLTA, as ODC did not have any Corriere IOLTA bank records at that time.

95. In addition, ODC requested Respondent to produce an accounting for the "Jandris Estate."

96. On August 1, 2013, Respondent provided ODC an accounting which consisted *only* of the Jandris funds deposited to the HC&B IOLTA, and not the funds Respondent received and subsequently deposited to the Corriere IOLTA. Respondent takes the position that it was his belief that the subsequently received funds were exempt from taxation and were not probate assets and therefore, the asbestos funds were the personal property of Mrs. Jandris.

97. Respondent did not disclose in the accounting or in his response to ODC that the Jandris accounting represented only a partial accounting of funds received.

98. With respect to the undistributed funds, Respondent claimed that he "contacted the personal representative for the Virginia Jandris Estate and advised him of the accounting error and made immediate payment of the amount due."

99. That payment was made *after* receipt of the DB-7 letter dated June 6, 2013.

100. The check was not drawn from the Corriere IOLTA, but from a separate Corriere Attorney Account.

101. Respondent wrote the check in the amount of \$10,100.30.

102. The check Respondent wrote was undated, but the letter enclosing the check is dated June 27, 2013.

103. Subsequently obtained bank records demonstrated that additional Jandris estate funds were received and deposited to the Corriere IOLTA beginning in January of 2010.

104. Between January of 2010 and September of 2010, Respondent received \$22,980.90 from the Angelos Law firm.

105. From that amount, Respondent took an additional \$5,905.30 in "fees."

106. As of September of 2010, the month the last check from the Angelos firm was received, Respondent was holding over \$16,000.00 of Virginia Jandris's money, none of which was distributed until ODC raised questions in June of 2013.

107. After Respondent made payment of the \$10,100.30, ODC calculated that an additional \$6,490.21 remained undistributed.

108. In response to that specific allegation, made in the DB-7AAA letter sent on July 22, 2014, Respondent claimed that he made payment of taxes, fees and legal fees for work performed in connection with the Virginia Jandris estate and that there were no further undistributed funds. Respondent produced no records to demonstrate the veracity of that claim.

109. Further, Mrs. Jandris died in February of 2013, years after the funds had been received in connection with Martin Jandris's estate, and years after those funds should have been distributed to her.

110. Despite the fact that Respondent acknowledges receipt of the Jandris funds, he failed to list them anywhere on the Inheritance Tax Return he prepared for the Virginia Jandris Estate on May 20, 2013.

111. Instead, it was only after receipt of ODC's first DB-7 letter questioning the disposition of Jandris funds that Respondent filed a Supplemental Return dated July 8, 2013.

112. In the supplemental return Respondent reported a sum total of \$27,121.54 additional dollars, describing those funds as: "(1) cash funds of decedent distributed to Estate after death \$19,618.14; (2) funds received by Estate from settlement of wrongful death claim after death by decedent \$7,503.40."

113. The \$19,618.14 consists of the \$10,100.30 Respondent paid to the estate after being contacted by ODC, as well as an additional \$9,517.84 he subsequently admitted that he held.

114. The fees Respondent charged the Jandris estate were excessive considering the work performed and the ordinary and customary charges for estate work, which is generally a percentage of the estate assets assessed on a sliding scale depending upon the total amount of assets collected.

115. In summary, Respondent deposited \$45,015.80 in Jandris funds from Peter G. Angelos into the HC&B IOLTA or the Corriere IOLTA. He distributed \$25,980.60 to beneficiaries, paid costs

of \$414.69 and paid himself fees of \$12,130.30. As set forth in Paragraph 107 above, ODC calculates that Respondent failed to distribute \$6,490.21.

116. The fees to which Respondent would have been entitled as an estate attorney for the monies collected in connection with the Jandris estate based on the schedule in use in Lehigh County amount to \$3,051.03.

117. In contrast, Respondent took a total of \$12,130.30 in fees, for an excess of \$9,079.27.

118. Therefore Respondent owes the Jandris estate \$6,490.21 undistributed and \$9,079.27 in excess fees for a total of \$15,569.48.

III. The Snyder Estates

119. In 1995 Respondent drafted Richard E. Snyder's will.

120. The will nominated Respondent and Haber as co-executors, and also specifically stated that they could be compensated as executors or attorneys, but not both.

121. Mr. Snyder's will left the residue of his estate to Ann Wegener.

122. Mr. Snyder died on March 27, 2007, with an estate valued at about \$152,000.00.

123. On April 10, 2007, Mr. Snyder's will was admitted to probate in Northampton County and Respondent and Haber were appointed co-executors.

124. On April 25, 2007, Marie E. Snyder, Mr. Snyder's wife, represented by Christopher Spadoni, Esquire, filed an "Election to Take Against Will and Conveyances" seeking an elective share of Mr. Snyder's estate.

125. The parties agreed to a settlement that gave Ms. Snyder one-third of the estate.

126. In 2007, Respondent filed the REV-1500 Inheritance Tax Return and paid taxes of \$10,339.30.

127. Respondent claimed attorney's fees at that time of \$9,571.00.

128. Mr. Snyder's estate also consisted of contingent litigation claims, both for himself and his mother, Erma Snyder, who had predeceased Mr. Snyder.

129. Michael Lalli, Esquire, of Silverman Trotman and Schneider represented Erma Snyder in a Vioxx action filed in federal court in 2002.

130. In addition to her son, Erma Snyder was survived by a daughter Barbara J. Thomas.

131. By letter dated October 5, 2007, Respondent wrote to Michael Lalli and told Mr. Lalli that Mr. Snyder had died and

that Respondent and Haber had been appointed co-executors of Mr. Snyder's estate.

132. On April 15, 2008, Respondent filed a Status Report under Rule 6.12 stating that administration of Richard Snyder's Estate was complete.

133. Thereafter, Respondent received two checks from the US Treasury payable to Haber & Corriere, Exec., Richard Snyder, Dec'd, the first received on May 28, 2008, in the amount of \$1,000.00 and the second on July 1, 2008, in the amount of \$300.00.

134. Respondent converted those checks by depositing them directly into the Haber Corriere & Backenstoe operating account.

135. In addition, Respondent began to receive periodic asbestos settlement payments from the Law offices of Peter G. Angelos, payable to "Donald B. Corriere & Richard J. Haber, Personal Representatives, Estate of Richard Snyder."

136. Respondent converted the first three checks received by depositing them directly into the Haber Corriere & Backenstoe operating account.

137. Those checks consisted of \$325.61, deposited on November 13, 2008; \$750.00 deposited on December 15, 2008 and \$63.75 deposited on October 19, 2009.

138. On April 22, 2009, Respondent withdrew \$3,200.00 from the HC&B IOLTA Account by way of check No. 12589, labelled "Legal Fees - Snyder Estate" and deposited that check into the Haber Corriere & Backenstoe operating account.

139. By doing so, Respondent converted funds of other clients, as the HC&B IOLTA account contained no funds attributable to Mr. Snyder.

140. Respondent never deposited additional funds attributable to Mr. Snyder's estate into the HC&B IOLTA to cover the fee taken.

141. Further, the fee taken was clearly excessive, as all Respondent had to do at that time as the estate attorney was collect estate assets.

142. Neither Respondent nor his firm were involved in the underlying personal injury litigations filed by Mr. Lalli's firm.

143. During the course of 2010, Respondent received four additional checks from the Angelos Law Firm which he deposited to the Corriere IOLTA: \$396.67 deposited on February 16, 2010, \$118.33 deposited on March 8, 2010, \$2,183.27 deposited on March 8, 2010 and \$777.71 deposited on December 16, 2010.

144. In the fall of 2010, Mr. Lalli negotiated a Vioxx settlement for Erma Snyder worth \$298,556.73, allocated as follows:

Wrongful Death Action:

\$ 876.94 to Silverman & Fodera, P.C. for costs;
\$39,389.01 to Silverman & Fodera, P.C. for legal fees;
\$54,506.21 to Barbara Thomas; and
\$54,506.21 to Haber & Corriere, as co-executors of Richard Snyder Estate.

Survival Action:

\$ 876.95 to Silverman & Fodera, P.C., costs;
\$ 39,389.01 to Silverman & Fodera, P.C., legal fees;
\$109,012.41 to Barbara Thomas, as executrix of Erma Snyder Estate.

145. On November 1, 2010, Respondent deposited the check from Silverman & Fedora in the amount of \$54,506.21, payable to "Richard J. Haber & Donald Corriere, Co-Executors Estate of Richard Snyder" to the Corriere IOLTA account.

146. Several days prior to that deposit, on October 27, 2010, Respondent withdrew \$10,000.00 made payable to Haber Corriere & Backenstoe as "legal fees Snyder Estate."

147. On October 27, 2010, Respondent did not have \$10,000.00 in funds attributable to the Snyder Estate(s) in the Corriere IOLTA account.

148. Respondent failed to distribute the funds received from Silverman & Fedora to Ms. Wegener and/or Marie Snyder.

149. Instead, on November 15, 2010, Respondent drew check no. 412 from the Corriere IOLTA payable to the Corriere & Andres IOLTA account for \$65,411.26.

150. Respondent subsequently informed ODC that the funds in that check belonged to clients "Kunsman" and "Snyder."

151. On November 11, 2010, Barbara Thomas made a distribution from the Estate of Erma Snyder to the Estate of Richard Snyder in the amount of \$33,498.47.

152. Respondent claims to have deposited that check into the Corriere & Andres LLC trustee account, but supplied no records to demonstrate that he actually did so.

153. On December 28, 2010, Corriere & Andres drew a check payable to Respondent for \$18,000.00 which he deposited to the Corriere IOLTA.

154. From that check, Respondent distributed \$15,000.00 to himself marked "Legal fees for Snyder Estate and Litigation" and \$2,846.85 to the Northampton County Register of Wills, Agent, to pay inheritance taxes.

155. On January 11, 2011, Respondent prepared a Rev-1500 Inheritance Tax Return for the Richard Snyder Estate declaring the \$33,498.47 received from the Erma Snyder Estate.

156. On that return Respondent declared only a \$5,000.00 attorney fee, and paid taxes of \$2,846.85.

157. On January 13, 2011, Corriere & Andres drew a check made payable to Respondent for \$10,000.00.

158. Respondent used those funds to draw a check in the amount of \$9,489.49 to Marie Snyder.

159. Respondent failed to make any distribution to Ms. Wegener at that time, despite the fact that she was entitled to two-thirds of the residual Snyder estate and Ms. Snyder was only entitled to receive one-third. Respondent would testify that Ms. Wegener had moved to Germany and he was unable to locate her whereabouts at that time.

160. Respondent did not complete estate administration or make any final distribution until July of 2013, **after** receiving ODC's first DB-7 letter.

161. On or around July 11, 2013, Respondent prepared a REV-1500 Inheritance Tax Return and declared \$24,506.20, as well as a \$5,000.00 attorney fee, and paid taxes on the declared distribution in the amount of \$2,450.62, and subsequently \$579.70 on October 1, 2013, both paid from the Corriere IOLTA.

162. The amount Respondent declared does not correlate with any distribution he received; as the amount Respondent received in November 2010 for the wrongful death action was \$54,506.21.

163. To the extent that the amount Respondent declared consists of a portion of wrongful death proceeds, he failed to

report the total amount of attorney fees he took to either beneficiary through any separate accounting.

164. On July 9, 2013, Respondent distributed \$8,168.74 to Ms. Snyder.

165. At or around that time, Respondent provided Ms. Snyder's attorney, Mr. Spadoni, with a copy of the Inheritance Tax Return that declared only \$24,506.20.

166. Mr. Spadoni would testify that receipt of the Inheritance Tax Return led him to believe that all Respondent had received was \$24,506.20, and not \$54,506.21.

167. Mr. Spadoni would further testify that Respondent failed to disclose to Mr. Spadoni the fact that he had held funds for over two and one half years before making any distribution to Ms. Snyder.

168. Finally, Mr. Spadoni would testify that Respondent also failed to disclose to him the full amount in fees Respondent had taken from the funds.

169. On July 10, 2013, Respondent distributed \$16,132.13 to Ann Wegener; and on August 6, 2013, Respondent distributed \$13,861.84 to Ann Wegener.

170. Respondent's bank records reveal that he deposited \$93,920.02 in funds attributable to the Snyder Estate.

171. From those funds, Respondent took fees totaling \$32,139.36.

172. Using the Lehigh County Orphans' Court fee schedule for estate work as a guideline, Respondent took clearly excessive fees totaling \$25,909.56 from the Snyder estate.

173. In summary, Respondent deposited \$93,920.02 in Snyder funds. He distributed \$47,652.20 to beneficiaries, paid costs of \$5,932.17 and took fees totaling \$32,139.36. He failed to distribute \$8,196.29.

174. ODC calculates that Respondent owes the Snyder Estate \$8,196.29 in undistributed funds and \$25,909.56 in excess fees for a total of \$34,105.85.

175. On May 13, 2014, in response to a subpoena from ODC, Respondent produced a "ledger statement" for the Snyder estate which included only the funds he reported on the inheritance tax returns, \$58,004.67, described as "Net Proceeds Received from Decedent's Mother."

176. In response to a subsequent DB-7AAA letter sent on July 22, 2014, Respondent produced a type-written document labelled "Account of the Funds Received By the Estate of Richard E. Snyder From the Claims of Erma Snyder and Other Funds Received by the Estate After Completion of the Initial Account"

which contained different figures than those previously provided to ODC.

177. For example, in the later account, Respondent accurately listed the full amount of proceeds received from Ms. Snyder's death, although Respondent left out other funds received.

178. Respondent also claimed that the amounts received in 2008 and 2009, as described in paragraphs Nos. 140 and 144 *supra*, were "reimbursement for costs" made by deposits directly to the HC&B Operating Account, although Respondent supplied no itemization or proof that he actually paid any costs.

179. In his first account to ODC Respondent claimed \$30,000.00 in legal fees.

180. In his second account Respondent claimed \$35,000.00 in legal fees, \$2,439.36 in costs, and an additional \$2,000.00 legal fee he describes as "undisbursed."

181. By providing conflicting, inaccurate and misleading "accounts," obviously prepared well after the Snyder estate had closed and all funds were or should have been disbursed, Respondent both made false statements of material fact and failed to disclose material facts to ODC during the course of ODC's investigation.

IV. Early Fees and Improper Distributions

182. Respondent regularly deducted legal fees from his IOLTA account prior to their receipt.

183. By doing so, Respondent regularly converted other clients' funds and was out of trust.

184. For example, Respondent represented Arthur Bangor in connection with divorce proceedings in Northampton County.

185. On April 29, 2008, Respondent withdrew \$3,123.15 from the HC&B IOLTA by check payable to HC&B and deposited the check into the HC&B operating account, noting "Art Bangor" on the deposit slip. At the time, there were no Bangor funds on deposit in the HC&B IOLTA.

186. In his defense, Respondent claims that Mr. Bangor delivered a check to Respondent's secretary that was not honored. Therefore, Respondent states that at the time he drew the fee from his IOLTA account he believed he had the Bangor funds on deposit. Respondent states he learned "much later" that there was a problem with Mr. Bangor's payment, and subsequently, sought repayment. Nonetheless, Respondent did not return the Bangor funds he had taken from his IOLTA account.

187. It was not until nearly one year later, on March 12, 2009, that Mr. Bangor wrote a check to Respondent in the amount of \$3,123.15, with the memo section stating "Divorce C. Bangor v. A. Bangor."

188. Council Reid Cowan died on January 12, 2009.

189. On March 12, 2009, before any Cowan deposits were made, Respondent drew check No. 12498 from the HC&B IOLTA for \$6,875.00, noted it as "Legal Fees Cowan Estate" and deposited it to the HC&B operating account.

190. Five days later, on March 17, 2009, Respondent deposited into the HC&B IOLTA a check drawn on the estate of Council Reid Cowan, Mark R. Cowan Executor, in the amount of \$46,875.00 with the memo section of the check stating "Taxes & Legal Fees."

191. On April 3, 2009, Respondent drew check No. 12518 payable to the Register of Wills, Agent, for \$39,376.00 to pay the Cowan Estate Taxes.

192. Without any further deposits from the Cowan Estate, and having already distributed all Cowan Estate funds, on April 13, 2009, Respondent withdrew a second check No. 12566 for \$6,875.00 in fees attributable to the Cowan Estate, and deposited it to the HC&B Operating Account.

193. There were no subsequent deposits to the HC&B IOLTA account for the Cowan Estate; therefore, Respondent converted other clients' money when he took the second Cowan fee.

194. Respondent states that the Executor, Mark Cowan, maintained a separate estate account for the Cowan Estate.

According to Respondent, the second fee he took was legitimately due and owing from the estate, although Respondent acknowledges that he "mistakenly" took the second fee from the IOLTA. Respondent states that he raised the issue with Mark Cowan who paid the balance of the owed fees. Respondent also claims to have subsequently deposited that fee to the IOLTA account, but he supplied no proof of the same and the records that ODC has do not substantiate that claim.

195. Respondent and/or David Backenstoe represented the Estate of Dennis A. Stout.

196. The primary estate asset was Mr. Stout's residence, but an ejectment action needed to first be undertaken before the residence could be sold.

197. On September 30, 2009, the residence was sold for \$60,000.00, with the proceeds of \$62,134.99, including refunded taxes, being deposited into the HC&B IOLTA.

198. On October 2, 2009, Respondent filed an Inventory with the Register of Wills reflecting total estate assets of \$75,176.96, and filed a Supplemental Rev-1500 Inheritance Tax Return and paid the tax due of \$1,565.53.

199. On or about October 8, 2009, Respondent made a partial distribution of \$10,000.00 each to the two Stout beneficiaries.

200. At that time, \$18,500.00 of funds attributable to the Stout estate, deposited to the HC&B IOLTA, remained undistributed.

201. Respondent spent or otherwise converted those funds.

202. On or about April 21, 2010, because there were no longer sufficient funds in the HC&B IOLTA to make distribution, Respondent made distribution to each of the two Stout beneficiaries totaling \$18,500.00 from the Corriere IOLTA.

203. By making distribution from the Corriere IOLTA without any corresponding deposits attributable to the Stout estate, Respondent converted other clients' funds.

204. In addition to the specific instances noted above, Respondent removed fees or costs from the HC&B IOLTA prior to their receipt in 107 instances during 2008-2009, as reflected on Exhibit "A" to this Petition.

205. The number of days in which fees were taken prematurely range from as little as 1 day before receipt to 362 days early.

206. In at least five instances, Respondent never deposited sufficient funds to cover the premature fees.

207. Respondent regularly made payments to credit cards directly from HC&B IOLTA Account No. 9006128 as follows:

- a. On June 24, 2009, check no. 12721 for \$5,000.00, on July 22, 2009, check no. 12791 for \$5,000.00, on

August 24, 2009, check 12871 for \$5,000.00, and on September 28, 2009, check No. 12950 for \$5,902.79, for a total of \$20,902.79, to AAA Financial Services #4264-2962-8000-8126;

- b. On October 16, 2009, check no. 13009 for \$4,309.86 to Bank of America, #4313-0705-0852-1710;
- c. On June 17, 2009, check no. 12703 for \$5,000.00, on July 20, 2009, check no. 12772 for \$5,000.00, and on August 20, 2009 check no. 12862 for \$5,000.00, for a total of \$15,000.00, to Bank of America, #4888-9302-7871-5559;
- d. On July 23, 2009, check no. 12790 for \$1,521.30, to Chase Cardmember Services, #4640-1820-4585-9729;
- e. On December 9, 2008, check no. 12271 for \$300.00 to Credit Card Services (account not listed);
- f. On January 7, 2009, check no. 12305 for \$405.00; on February 17, 2009, check no. 12430 for \$425.00; on March 16, 2009, check no. 12478 for \$150.00; on April 20, 2009, check no. 12575 for \$380.00; on May 19, 2009, check no. 12635 for \$260.00; and on June 16, 2009, check no. 12694 for \$375.00; for a total of \$1,995.00, to Discover Card ending in No. 0573 issued to Respondent personally;
- g. On July 3, 2009, check no. 12748 for \$3,000.00; on July 31, 2009, check no. 12811 for \$3,000.00; and on September 1, 2009, check no. 12887 for \$3,003.30, for a total of \$9,003.30, to RBS Card Services No. 5545-1401-0990-2473;
- h. On April 10, 2009, check no. 12549 for \$5,000; on July 10, 2009 check no. 12754 for \$7,157.02, and on August 4, 2009, check no. 12827 for \$2,000.00; for a total of \$14,157.02 to State Farm Acct. No. 4707-8815-0504-5352;
- i. On March 20, 2009, check no. 12509 for \$5,000.00 for State Farm Acct. No. 4707-8872-2494-6176.

208. Respondent has acknowledged that the Discover Card discussed in subparagraph (f), above, was issued to him personally, but otherwise claimed to ODC that the payments were made for client expenses. Respondent would testify that the

charges made to the Discover card were to cover medical expenses for his disabled child.

209. Respondent has not furnished any proof that would demonstrate the validity of his claim that payments made to the other credit cards were made for client expenses.

210. Consequently, ODC issued subpoenas in an effort to determine to whom the cards were issued, and was able to obtain the identity of the cardholder for the accounts identified in subparagraphs (b), (c), (d) and (g).

211. Contrary to Respondent's claims, those cards were issued to an employee of Respondent's, Catherine Mackes, and to Ms. Mackes' spouse, Eugene Mackes. If called to testify, Ms. Mackes would testify that the payments made to her credit cards were not made on behalf of any client of HC&B.

212. ODC's audit revealed that at the time those payments were made the HC&B IOLTA was already out-of-trust for client funds.

213. In addition, Respondent regularly paid personal/medical bills for himself, his relatives, his associates and his associates' relatives, from the HCB IOLTA account, as follows:

- i. St Luke's Hospital or affiliates (\$327.98 for Edward Andres);

- ii. St Luke's Hospital or affiliates (\$1,112.24 for Christina Andres);
- ii. St Luke's Hospital or affiliates (\$728.07 for David Backenstoe);
- iii. Lehigh Valley Bone Muscle & Joint (\$19.73 for Edward Andres);
- iv. Lehigh Valley Pediatric Associates (\$18.96 for Edward Andres);
- v. Aesthetica Cosmetic and Laser Surgery Center (\$48.00 for Carol Corriere);
- vi. General Surgical Care (\$22.94 for Carol Corriere);
- vii. Lehigh Valley Eye Center (\$196.49 for Respondent);
- viii. Construction Design Source (\$1,400.00 spent for personal construction services which are not attributable to any client);
- ix. Progressive Physicians Associates (\$210.73 for David Backenstoe);
- x. Northgate Urology (\$19.43 for David Backenstoe); and
- xi. Peter T. Davis, DDS (\$124.00 for Respondent).

214. Respondent has explained that in December of 2007, HC&B changed its health insurance in an effort to reduce costs. Accordingly, the firm opted for a deductible increase, and opened a Medical Reimbursement Savings Account from which payments could be made to cover unreimbursed health and hospital expenses. ODC's audit, however, did not uncover deposits from the Medical Reimbursement Savings Account to the HC&B IOLTA that totalled the health care payments made from the IOLTA account. Further, even had Respondent first made a deposit to the IOLTA account to cover all of the payments, such payments should never

have been made through the IOLTA account which is an account intended solely to hold RPC 1.15 funds.

215. As a result of the above and other actions, Respondent caused the HC&B IOLTA and the Corriere IOLTA to be out-of-trust and to remain so for sustained periods of time. For example, Respondent went out-of-trust on January 13, 2009 and remained out-of-trust until at least February 28, 2011. The maximum out-of-trust amount was \$185,767.97 on October 7, 2009.

V. The Payroll System

216. HC&B had a number of bank accounts for which ODC has records, generally spanning the time frame from 2008 to approximately 2010.

217. Those accounts include:

- a. HC&B IOLTA at National Penn Bank (formerly KNBT Bank) No. 9006128 through October 12, 2010;
- b. HC&B Operating Acct at National Penn Bank (formerly KNBT Bank No. 9006157 through October 12, 2010;
- c. HC&B Savings Account at Embassy Bank No. 1771101 through February 1, 2010;
- d. H&C Attorney Account at First Star Savings Bank No. 531109495 through December 18, 2009;
- e. HC&B Corporate Payroll Account at National Penn Bank (formerly KNBT Bank) No. 9006160 through at least October 30, 2009; and
- f. American Abstract Account No. 530153817 at First Star Savings Bank through October 29, 2008.

218. Beginning as early as December, 2007 and continuing until November, 2009, in order to make payroll for his law firm,

Respondent developed a system for moving earned client fees (not entrusted funds from clients) in approximately \$5,000.00 increments through several of the above accounts, into the HC&B payroll account, without ever depositing those funds into the HC&B operating account.

219. In order to facilitate this system, Respondent regularly deposited earned client fees into the HC&B IOLTA, thus, comingling firm funds with client funds.

220. Respondent has failed to provide any rational reason or purpose for this convoluted system of moving money.

**VI. Failure to Keep and Maintain
Appropriate Books and Records**

220. Respondent regularly failed to set up separate, interest-bearing escrow or trust accounts for non-qualified fiduciary funds as required by RPC 1.15(j) and (k), and Pa.R.D.E. 221(c), and instead deposited such funds into his non-segregated IOLTA accounts.

221. Further, Respondent failed to maintain appropriate books and records for fiduciary funds he held, including contemporaneously maintained ledgers including the payee, date, and amount of each check, withdrawal and transfer, the payor, date and amount of each deposit, and the matter involved for each transaction.

222. Respondent was unable to accurately identify whose funds he held in the HC&B IOLTA at any specific point in time.

223. Respondent failed to maintain, either electronically or in hard copy, records for the HC&B IOLTA. Instead Respondent took the position with ODC that he "gave" the records to Richard Haber in January 2010, and as a result, Respondent repeatedly professed ignorance with respect to the transactions that occurred in the HC&B IOLTA during the years the audit covered.

224. Respondent violated the following Rules of Professional Conduct and Pa.R.D.E.:

- A. RPC 1.1, which states that 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, which states that a lawyer shall act with reasonable diligence and promptness in representing a client;
- C. RPC 1.5(a), which states that a lawyer shall not enter into an agreement for, charge, or collect an illegal or clearly excessive fee. The factors to be considered in determining the propriety of a fee include the following: (1) whether the fee

is fixed or contingent; (2) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly; (3) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer; (4) the fee customarily charged in the locality for similar legal services; (5) the amount involved and the results obtained; (6) the time limitations imposed by the client or by the circumstances; (7) the nature and length of the professional relationship with the client; and (8) the experience, reputation, and ability of the lawyer or lawyers performing the services;

- D. RPC 1.5(b), which states that when the lawyer has not regularly represented the client, the basis or rate of the fee shall be communicated to the client, in writing, before or within a reasonable time after commencing the representation;
- E. RPC 1.15(b), which states that upon receiving property of a client or third person in connection with a client-lawyer relationship, a

lawyer shall promptly notify the client or third person. Except as stated in this Rule or otherwise permitted by law or by agreement with the client or third person, a lawyer shall promptly deliver to the client or third person any property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such property;

- F. RPC 1.15(c), which states that complete records of the receipt, maintenance and disposition of Rule 1.15 Funds and property shall be preserved for a period of five years after termination of the client-lawyer or Fiduciary relationship or after distribution or disposition of the property, whichever is later. A lawyer shall maintain the following books and records for each Trust Account and for any other account in which Fiduciary Funds are held pursuant to Rule 1.15(1): (1) all transaction records provided to the lawyer by the Financial Institution or other investment entity, such as periodic statements, cancelled checks, deposited items and records of

electronic transactions; and (2) check register or separately maintained ledger, which shall include the payee, date and amount of each check, withdrawal and transfer, the payor, date, and amount of each deposit, and the matter involved for each transaction. (3) The records required by this rule may be maintained in electronic or hard copy form. If records are kept only in electronic form, then such records shall be backed up at least monthly on a separate electronic storage device;

G. RPC 1.15(d), which states that upon receiving Rule 1.15 Funds or property which are not Fiduciary Funds or property, a lawyer shall promptly notify the client or third person, consistent with the requirements of applicable law. Notification of receipt of Fiduciary Funds or property to clients or other persons with a beneficial interest in such Fiduciary Funds or property shall continue to be governed by the law, procedure and rules governing the requirements of confidentiality and notice applicable to the Fiduciary entrustment;

- H. RPC 1.15(e), which states that except as stated in this Rule or otherwise permitted by law or by agreement with the client or third person, a lawyer shall promptly deliver to the client or third person any property, including but not limited to Rule 1.15 Funds, that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding the property; Provided, however, that the delivery, accounting and disclosure of Fiduciary Funds or property shall continue to be governed by the law, procedure and rules governing the requirements of Fiduciary administration, confidentiality, notice and accounting applicable to the Fiduciary entrustment;
- I. RPC 1.15(g), which states that the responsibility for identifying an account as a Trust Account shall be that of the lawyer in whose name the account is held.
- J. RPC 1.15(h), which states that a lawyer shall not deposit the lawyer's own funds in a Trust Account except for the sole purpose of paying service

charges on that account, and only in an amount necessary for that purpose.

- K. RPC 1.15(i), which states that a lawyer shall deposit into a Trust Account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred, unless the client gives informed consent, confirmed in writing, to the handling of fees and expenses in a different manner;
- L. RPC 1.15(k), which states that all Nonqualified Funds which are not Fiduciary Funds shall be placed in a Non-IOLTA Account or in another investment vehicle specifically agreed upon by the lawyer and the client or third person which owns the funds;
- M. RPC 1.16(a)(1), which states that except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if the representation will result in violation of the rules of professional conduct or other law;

- N. RPC 8.1(a), which states that an applicant for admission to the bar, or a lawyer in connection with a bar admission application or in connection with a disciplinary matter, shall not knowingly make a false statement of material fact;
- O. RPC 8.1(b), which states that an applicant for admission to the bar, or a lawyer in connection with a bar admission application or in connection with a disciplinary matter, shall not fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter, or knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6;
- P. RPC 8.4(a), which states 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;
- Q. RPC 8.4(c), which states that it is professional misconduct for a lawyer to engage in conduct

involving dishonesty, fraud, deceit or misrepresentation;

- R. Pa.R.D.E. 219(d)(1)(iii), which states that on or before July 1 of each year all persons required by this rule to pay an annual fee shall file with the Attorney Registration Office a signed form prescribed by the Attorney Registration Office in accordance with the following procedures: (1) The form shall set forth: (iii) The name of each financial institution in this Commonwealth in which the attorney on May 1 of the current year or at any time during the preceding 12 months held funds of a client or a third person subject to Rule 1.15 of the Pennsylvania Rules of Professional Conduct. The form shall include the name and account number for each account in which the lawyer holds such funds, and each IOLTA Account shall be identified as such. The form provided to a person holding a Limited In-House Corporate Counsel License or a Foreign Legal Consultant License need not request the information required by this subparagraph;

S. Pa.R.D.E. 221(e)(1), which states that an attorney shall maintain the following books and records for each Trust Account and for any other account in which Rule 1.15 Funds are held: (1) all transaction records provided to the attorney by the Financial Institution, such as periodic statements, canceled checks in whatever form, deposited items and records of electronic transactions; and

T. Pa.R.D.E. 221(e)(2) which states that an attorney shall maintain the following books and records for each Trust Account and for any other account in which Rule 1.15 Funds are held: (2) check register or separately maintained ledger, which shall include the payee, date and amount of each check, withdrawal and transfer, the payor, date, and amount of each deposit, and the matter involved for each transaction.

**SPECIFIC RECOMMENDATION FOR DISCIPLINE OF A FIVE-YEAR LICENSE
SUSPENSION**

A five-year license suspension is appropriate considering both precedent and the specific facts of this case. Respondent denies knowingly converting client funds, and instead attributes

the conversion to poor record keeping. That explanation, even if accepted, does not excuse Respondent's misconduct. A fundamental part of the lawyer's job is acting as a fiduciary and appropriately handling client funds. The Rules recognize that ignorance is no excuse, as RPC 1.15 is a strict liability rule without any scienter requirement. Further, the audit revealed numerous disturbing practices, most of which cannot be excused as a result of mere ignorance. These included taking fees early, paying employee medical expenses directly from the IOLTA account, moving earned funds into the IOLTA account, significantly overcharging for estate work, failing to maintain appropriate books and records (unnecessarily complicating the audit of this case) and a complete failure to perform any type of regular reconciliation that would have revealed that the IOLTA account was significantly out of trust for years.

Respondent has acknowledged that money was not handled or accounted for appropriately in connection with Ms. Ratushny's "custodial account." As a result, Respondent has repaid \$42,500.00, which is less than \$50,622.73 - the minimum amount that ODC calculates is due and owing. Respondent has also acknowledged that he should have set up separate estate accounts rather than placing those funds into his IOLTA account.

Finally, Respondent acknowledges an overall failure to properly maintain books and records and account for client funds.

With respect to the Jandris and Snyder estates, Respondent has insisted that his fees were earned. In Jandris, Respondent claimed to have performed other work for Mrs. Jandris, but has produced no documentation to support that claim. In Snyder, Respondent claims he was entitled to a referral fee for "referring" Richard Snyder to the firm that prosecuted the Vioxx claim. There is no evidence to substantiate that position. Mr. Lalli, who performed most of the work in connection with the Snyder Vioxx matter would testify that the firm never had a referral fee arrangement or agreement with Respondent. In fact, the firm dealt directly with Richard Snyder up until Mr. Snyder's death. The first communication the firm ever had with Respondent was a letter from Respondent in October of 2007, advising the firm of Richard's death and that Respondent acted as the Executor of Richard Snyder's estate. Mr. Lalli would further testify that Respondent played no role in the Vioxx litigation. Respondent failed to disclose, either to Mr. Lalli or to the Snyder beneficiaries to whom he owed a fiduciary duty, his claimed entitlement to referral fees. In fact, Respondent failed to accurately account for the monies received in connection with the Snyder Estate, misleading Ms. Snyder's

attorney, Mr. Spadoni, into believing that Respondent had received appreciably less money than he actually had in connection with the estate. Finally, Respondent failed to make final distributions in either the Snyder or Jandris estates until **after** ODC commenced the audit. As of this date, ODC calculates that Respondent still owes both estates money that has not been repaid.

There is ample precedent to support a five year license suspension in this case. *See Office of Disciplinary Counsel v. DiOrio*, 123 DB 2014 (2014) (approving a joint petition for discipline on consent for a five-year license suspension where Respondent-Attorney engaged in conversion, neglect and conduct prejudicial to the administration of justice); *Office of Disciplinary Counsel v. Landis*, 27 DB 2012 (2012) (approving a joint petition for discipline on consent where Respondent engaged in neglect and conversion in two estate matters); *Office of Disciplinary Counsel v. Quinn*, 33 DB 2010 (2012) (approving a joint petition for discipline on consent where Respondent had a criminal conviction for driving under the influence and engaged in conversion in one estate matter). In contrast, similar matters that are litigated because of a respondent's failure or refusal to admit misconduct tend to result in disbarment. *See,*

e.g., *Office of Disciplinary Counsel v. Nattiel*, 125 DB 2012 (2015).

In mitigation, Respondent has practiced law for almost 50 years with no history of discipline. Respondent had a long and distinguished career in Northampton County, including serving as the District Attorney during the years 1980-1992. The firm of HC&B ran into financial difficulties in or around 2008-2009, after the firm's real estate practice essentially folded. At the same time, Respondent's partner, Haber, had scaled back his practice and rarely came into the office. As a result, Respondent would testify that he felt extreme pressure to make payroll for his administrative employees and the other lawyers. In turn, Respondent acknowledges that this "pressure" resulted in "fee checks [being] issued when the client's fee payment had been expected to be delivered." As noted, the firm HC&B effectively disbanded in or around December of 2009. Respondent is currently retired and does not plan to resume the practice of law. By entering into this joint consent petition and admitting the factual allegations contained herein, Respondent is acknowledging his misconduct.

WHEREFORE, Joint Petitioners respectfully pray that your Honorable Board:

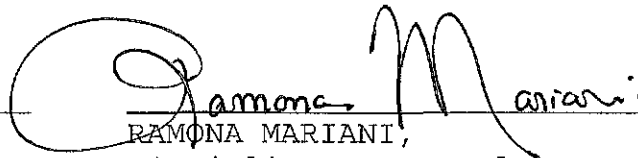
- a. Approve this Petition; and

- b. File a recommendation for and this Petition with the Supreme Court of Pennsylvania.

Respectfully submitted,

OFFICE OF DISCIPLINARY COUNSEL
PAUL J. KILLION,
Attorney Registration No. 20955,
Chief Disciplinary Counsel


3/24/15
DATE


RAMONA MARIANI,
Disciplinary Counsel
Attorney Registration Number 78466
Office of Disciplinary Counsel
Suite 170, 820 Adams Avenue
Trooper, PA 19403
(610) 650-8210

3/19/15
DATE


DONALD B. CORRIERE
Respondent


3/20/2015
DATE


JAMES C. SCHWARTZMAN
Counsel for Respondent

VERIFICATION

The statements contained in the foregoing *Joint Petition In Support of Discipline on Consent Discipline* are true and correct to the best of my knowledge or information and belief and are made subject to the penalties of 18 Pa.C.S.A. §4904, relating to unsworn falsification to authorities.

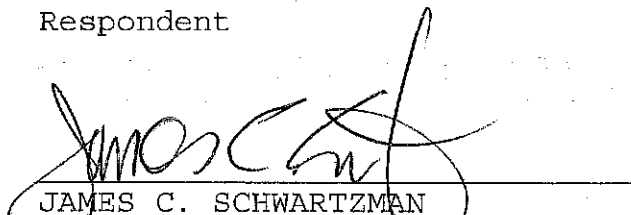
3/24/15
DATE


RAMONA MARIANI,
Disciplinary Counsel

3/19/15
DATE


DONALD B. CORRIERE
Respondent

3/20/2015
DATE


JAMES C. SCHWARTZMAN
Counsel for Respondent

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 182 DB 2014
Petitioner :
 :
v. :
 : Attorney Reg. No. 7851
 :
DONALD B. CORRIERE, :
Respondent : (Northampton County)

CERTIFICATE OF SERVICE

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

First Class and Overnight Mail, as follows:

James C. Schwartzman, Esquire
Stevens & Lee
1818 Market Street, 29th Floor
Philadelphia, PA 19103

(Counsel for Donald B. Corriere, Esquire)

Dated:

3/24/15


RAMONA MARIANI

Disciplinary Counsel
Attorney Registration No. 78466
Office of Disciplinary Counsel
Suite 170, 820 Adams Avenue
Trooper, PA 19403
(610) 650- 8210

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 182 DB 2014
Petitioner :
 :
v. :
 : Attorney Reg. No. 7851
DONALD B. CORRIERE, :
Respondent : (Northampton County)

AFFIDAVIT

Donald B. Corriere, hereby tenders this affidavit in support of the Joint Petition in Support of Discipline on Consent Pursuant to Pa.R.D.E. 215(d), and further states as follows:

1. He freely and voluntarily consents to the proposed discipline; he is not being subjected to coercion or duress; he is fully aware of the implications of submitting the consent; and he has consulted with counsel in connection with the decision to consent to discipline.

2. He is aware that there is presently pending a proceeding involving allegations that he has been guilty of misconduct as set forth in the Consent Petition.

3. He acknowledges that the material facts set forth in the Petition are true.

4. He consents because he knows that if charges continued to be prosecuted in the pending proceeding, he could not successfully defend against them.

Signed this 19th day of March, 2015.

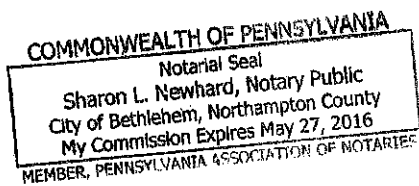
Donald B. Corriere

DONALD B. CORRIERE

Attorney Registration No. 7851

Sworn to and subscribed
Before me this 19th day
of March, 2015.

Sharon L. Newhard
Notary Public



Paul J. Killion
Chief Disciplinary Counsel

Paul J. Burgoyne
Deputy Chief Disciplinary Counsel

District II Office
820 Adams Avenue
Suite 170
Trooper, PA 19403

(610) 660-8210
FAX (610) 660-8213

THE DISCIPLINARY BOARD
OF THE
SUPREME COURT OF PENNSYLVANIA



Disciplinary Counsel-in-Charge
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Disciplinary Counsel
Alan J. Davis
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Ramona M. Mariani
Barbara Brigham Denys
Dana Pirone Carosella

OFFICE OF DISCIPLINARY COUNSEL
www.padisciplinaryboard.org

June 8, 2015

Prothonotary
Supreme Court of Pennsylvania
Western District Office
801 City-County Building
414 Grant Street
Pittsburgh, PA 15219

ATTN: John A. Vaskov, Esquire
Deputy Prothonotary

RE: Office of Disciplinary Counsel
v. DONALD B. CORRIERE,
No. 2172 Disciplinary Docket No. 3
No. 182 DB 2014
Attorney Registration No. 7851
(Northampton County)

Dear Mr. Vaskov:

I am writing with respect to the Joint Petition in Support of Discipline on Consent filed in the above-captioned matter. Shortly after the filing, Respondent learned of additional information with respect to certain allegations contained in the Joint Petition. The information does not change any allegation in the Joint Petition, nor does it affect the degree of discipline agreed to or the Rule violations. Nonetheless, the parties respectfully request that the record be supplemented with this letter as an attachment or addendum to the Joint Petition.

The parties agree that Paragraph 211 should contain the following information:


Ms. Mackes recently acknowledged that the payments to her personal credit cards were made without Respondent's authorization, and further, that when Respondent questioned her about "payments made from the IOLTA account, I diverted his attention from any such payments." In addition, she has confessed that other cards identified in Paragraph 207 were also personal credit cards belonging to her for which other unauthorized payments were made. Nonetheless, as noted in Par-

John A. Vaskov, Esquire
June 8, 2015
Page 2

agraph 212, these payments were made at a time when the IOLTA account was already out of trust. They do not account for the full shortfall in the IOLTA account, nor do they absolve Respondent of his fiduciary duty to properly safeguard and account for client funds.

Thank you for your assistance in this matter.

Very truly yours,


Ramona Mariani
Disciplinary Counsel
District II Office

RM;jl

cc: James C. Schwartzman, Esquire, Counsel for Respondent
Elaine M. Bixler, Secretary to the Disciplinary Board
Paul J. Killion, Chief Disciplinary Counsel
Paul J. Burgoyne, Deputy Chief Disciplinary Counsel
Raymond S. Wierciszewski, Disciplinary Counsel-in-Charge, District II