

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 2636 Disciplinary Docket No. 3
	:	
Petitioner	:	Nos. 2, 109 & 212 DB 2019
	:	
v.	:	Attorney Registration No. 206668
	:	
ERIKA ROXANNE GROVES,	:	(Lawrence County)
	:	
Respondent	:	

ORDER

PER CURIAM

AND NOW, this 6th day of February, 2020, upon consideration of the Recommendation of the Three-Member Panel of the Disciplinary Board, the Joint Petition in Support of Discipline on Consent is granted, and Erika Roxanne Groves is suspended on consent from the Bar of this Commonwealth for a period of one year and one day. The suspension is stayed in its entirety, and she is placed on probation for a period of two years, subject to the following conditions:

1. Respondent shall fully comply with the Rules of Professional Conduct and the Rules of Disciplinary Enforcement.
2. Respondent shall not engage in any further misconduct.
3. Respondent shall timely and fully complete her annual CLE requirement within her regular compliance period.
4. Respondent is currently employed by an LLC as an in-house counsel and not representing private clients or holding funds subject to Pa.R.P.C. 1.15. In the event that Respondent resumes the representation of private clients during the period of probation, she shall comply with the following additional conditions:

- a. Respondent shall notify the Office of Disciplinary Counsel, in writing within ten days of the resumption of representing private clients;
- b. Respondent shall comply, within ten days, with any requests from the Office of Disciplinary Counsel for documents or information pertaining to her representation of private clients and her compliance with the rules of Professional Conduct;
- c. Respondent shall provide the Office of Disciplinary Counsel, within ten days of the request, with verification that she has opened an IOLTA Account and established procedures to ensure her compliance with the records required to be maintained pursuant to Pa.R.P.C. 1.15;
- d. Respondent shall provide verification to the Office of Disciplinary Counsel that she has retained a CPA or other qualified professional who will conduct a quarterly review of her financial records related to entrusted funds to ensure compliance with Pa.R.P.C. 1.15;
- e. Respondent authorizes the CPA or other qualified professional to provide quarterly reports to the Office of Disciplinary Counsel regarding Respondent's compliance with Pa.R.P.C. 1.15;
- f. Respondent shall complete the "Bridge the Gap" CLE course within 90 days of resuming private practice.

Respondent shall pay costs to the Disciplinary Board pursuant to Pa.R.D.E.

208(g).

A True Copy Patricia Nicola
As Of 02/06/2020

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 2636 Disciplinary Docket
: No. 3
Petitioner :
: No. 109 DB 2019,
:
: No. 2 DB 2019, and
:
v. : File Reference #C4-19-206
:
ERIKA ROXANNE GROVES, : Attorney Registration No. 206668
:
Respondent : (Lawrence County)

JOINT PETITION IN SUPPORT OF DISCIPLINE
ON CONSENT UNDER RULE 215(d), Pa.R.D.E

OFFICE OF DISCIPLINARY COUNSEL

PAUL J. KILLION
CHIEF DISCIPLINARY COUNSEL

James M. Fox
Disciplinary Counsel-in-Charge
Suite 1300, Frick Building
437 Grant Street
Pittsburgh, PA 15219
(412) 565-3173

and

Erika Roxanne Groves, Esquire
Respondent
108 West Lincoln Avenue
New Castle, PA 16101
(724) 614-2093

FILED
12/16/2019
The Disciplinary Board of the
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 2636 Disciplinary Docket
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	:	
ERIKA ROXANNE GROVES,	:	Attorney Registration No. 206668
	:	
Respondent	:	(Lawrence County)

JOINT PETITION IN SUPPORT OF DISCIPLINE
ON CONSENT UNDER RULE 215(d), Pa.R.D.E.

Petitioner, Office of Disciplinary Counsel, by Paul J. Killion, Chief Disciplinary Counsel, and James M. Fox, Disciplinary Counsel-in-Charge, and Respondent, Erika Roxanne Groves, Esquire, file this Joint Petition In Support Of Discipline On Consent Under Rule 215(d), Pa.R.D.E. and respectfully represent as follows:

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

2. Respondent, Erika Roxanne Groves, was born in 1974. She was admitted to practice law in the Commonwealth of Pennsylvania on November 29, 2007.

3. Respondent's attorney registration mailing address is 108 West Lincoln Avenue, New Castle, PA 16101.

4. Respondent is presently on active status.

5. Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

SPECIFIC FACTUAL ADMISSIONS

#C4-18-570 (ODC Matter)

6. By Order of the Supreme Court of Pennsylvania dated November 16, 2017, Respondent was administratively suspended pursuant to Rule 111(b), Pa.R.C.L.E., effective thirty days after the date of the Order pursuant to Rule 217(d), Pa.R.D.E.

7. By certified letter to Respondent dated November 16, 2017, Attorney Registrar Suzanne E. Price informed Respondent of the following:

(a) The Prothonotary of the Supreme Court of Pennsylvania had forwarded to the Office of the Attorney Registrar a certified copy of the Order of the Supreme Court of Pennsylvania dated November 16, 2017 and that Respondent would be administratively suspended for failure to comply with Rule 111(b), of the

Pennsylvania Rules for Continuing Education, such action to be effective December 16, 2017;

(b) That if administratively suspended, Respondent would be required to comply with Pa.R.D.E. 217 and subsection 91.91 – 91.99 of the Disciplinary Board Rules; and,

(c) That in order to resume active status, Respondent must comply with the Pa.C.L.E. Board before a request for reinstatement to the Disciplinary Board would be considered.

8. Respondent failed to claim the letter dated November 16, 2017 that was sent to her attorney registration address by certified mail from Suzanne E. Price, Attorney Registrar, and the letter was returned on December 20, 2017 as "unclaimed."

9. On March 20, 2018, Respondent spoke to Disciplinary Counsel, Jana M. Palko, who informed Respondent that she was administratively suspended.

10. At that time Disciplinary Counsel Palko informed Respondent that she would have to contact the Pennsylvania Continuing Legal Education Office to determine what steps were necessary to return to active status.

11. Respondent did not comply with Rule 217 of the Pennsylvania Rules of Disciplinary Enforcement, related to "formally admitted attorneys," including failing to file a verified statement and failing to give proper notice to clients and the Court of her administrative suspension.

12. On or about June 2, 2018, Respondent met Robyn Lucas in a non-professional setting.

13. Ms. Lucas informed Respondent that she was a litigant in a pending landlord-tenant matter.

14. Respondent represented to Ms. Lucas that she was an attorney and could possibly assist Ms. Lucas with her landlord-tenant matter.

15. Respondent failed to advise Ms. Lucas that her law license was suspended and she was presently unable to practice law.

16. Approximately one week after the initial June 2 meeting, Respondent again met with Ms. Lucas and informed her that she would represent her at her landlord-tenant hearing before the Magistrate for a fee of \$600.

17. On June 13, 2018, Respondent accepted and negotiated a check in the amount of \$600 representing the legal fee on behalf of Robyn Lucas.

18. Respondent had not previously represented Ms. Lucas.

19. Respondent did not provide Ms. Lucas with a fee agreement or other writing setting forth the basis or rate of the fee either before or within a reasonable time after commencing the representation.

20. Respondent did not deposit the proceeds of the \$600 into an IOLTA or other escrow account, or any other account for the deposit of entrusted funds.

21. On June 19, 2018, Respondent appeared before Magisterial District Judge Jerry G. Cartwright, Jr., in the landlord-tenant matter on behalf of Ms. Lucas.

22. The landlord-tenant hearing before Magisterial District Judge Cartwright commenced and Respondent acted as legal counsel on behalf of Ms. Lucas, including but not limited to, examining Ms. Lucas as her witness.

23. During the pendency of the hearing, it was brought to Magisterial District Judge Cartwright's attention that Respondent was administratively suspended.

24. Magisterial District Judge Cartwright immediately recessed the case, informed Ms. Lucas that Respondent's license to practice law was administratively suspended and continued the landlord-tenant hearing to July 12, 2018.

25. Prior thereto, Respondent had not notified Ms. Lucas, nor the Court, that she was administratively suspended.

26. On various occasions between June 21, 2018, and June 28, 2018, Respondent took the CLE credits that were needed to become compliant with her CLE requirement.

27. On July 12, 2018, Respondent was restored to active status and she completed the landlord-tenant matter on Ms. Lucas' behalf.

28. As part of the investigation of this matter, Petitioner sent a letter to Respondent, dated October 22, 2018, pursuant to Rule 221(g)(1), Pa.R.D.E.

29. Pursuant to the Rule 221 letter, Petitioner requested that Respondent provide, among other things, the following:

(a) Client account ledgers which account for all funds entrusted to Respondent and disbursements made therefrom for any and all clients for the time period of December 1, 2017 through October 22, 2018;

(b) Fee agreements for all funds that Respondent received from clients for the time period of December 1, 2017 through October 22, 2018;

(c) The identification of any accounts into which Respondent deposited the \$600 check that she received on behalf of Ms. Lucas on June 13, 2018, along with the bank statements, checks, and the deposited items for any such accounts, for the period of March 1, 2018 through October 22, 2018;

(d) If the \$600 check was not deposited, Respondent was to provide any and all documentation which would evidence the disposition of the funds; and,

(e) Bank ledgers for any account into which the \$600 check was deposited.

30. Petitioner also issued a Request for Statement of Respondent's Position (Form DB-7), dated October 22, 2018.

31. Both the Rule 221 letter and the DB-7 were personally served on Respondent by Constable Dennis Marlowe on November 6, 2018.

32. Respondent failed to comply, or respond, to either the Rule 221 letter or the DB-7.

33. On January 7, 2019, Petitioner filed a Petition For Rule To Show Cause Why Respondent Should Not Be Suspended For Failure To Produce Pa.R.P.C. 1.15 Records Pursuant To Rules 208(f)(5), 221(g)(1), and 221(g)(3), Pa.R.D.E.

34. On January 8, 2019, the Disciplinary Board, by and through Chair Brian J. Cali, issued a Rule to Show Cause Why Respondent Should Not Be Placed On Temporary Suspension From The Bar Of The Commonwealth Of Pennsylvania Pursuant To Pa.R.D.E. 208(f)(5), 221(g)(1), and 221(g)(3).

35. On February 6, 2019, Respondent filed an Answer to the Rule To Show Cause.

36. On March 6, 2019, Respondent filed an Answer to the DB-7.

37. On March 6, 2019, Respondent responded to the Rule 221 letter in which she admitted that she:

- (a) Did not have client account ledgers for the requested timeframe;
- (b) Did not have fee agreements for the requested timeframe;
- (c) Did not deposit Ms. Lucas' check into any bank account;
- (d) Did not maintain a bank account for fees received from clients; and,

(e) Had no documentation that would evidence the disposition of the funds in question.

38. Respondent also provided, by way of explanation, that her "short time in private practice consisted merely of on-off discrete transactions for personal acquaintances to pay my bills until I found another job."

#C4-19-15 (Nixon Matter)

39. On July 20, 2018, Respondent met with Nicole Nixon regarding the possibility of representing Ms. Nixon in a civil action against the Rivers Casino.

40. Respondent informed Ms. Nixon that the initial retainer to represent her in the civil matter would be \$1,500.

41. On August 3, 2018, at the direction of the Respondent, Ms. Nixon deposited \$1,500 in cash into Respondent's GNC Credit Union Account representing the retainer in the civil matter.

42. At that time, Respondent was entrusted with \$1,500 on behalf of Ms. Nixon.

43. Respondent failed to identify and hold the funds entrusted to her on behalf of Ms. Nixon separate from Respondent's own property, and failed to appropriately safeguard Ms. Nixon's property.

44. By text message, on August 3, 2018, Respondent informed Ms. Nixon that:

(a) She had received the deposit of the initial retainer;

- (b) She would send her a receipt and engagement letter; and,
- (c) She would contact the Rivers Casino regarding the claim.

45. On August 7, 2018, Ms. Nixon requested by text message that Respondent obtain a copy of the surveillance video from the Rivers Casino to which Respondent stated she would do so.

46. Respondent did not contact the Rivers Casino on Ms. Nixon's behalf, nor make any attempts to secure the video surveillance.

47. By letter dated August 26, 2018, emailed to Ms. Nixon, Respondent stated, among other things, that:

- (a) The initial retainer to represent Ms. Nixon would be \$1,500;
- (b) The \$1,500 covered ten hours of legal services at the rate of \$150 per hour;
- (c) The letter served as a receipt of payment in full of the initial retainer on August 3, 2018;
- (d) Respondent's representation of Ms. Nixon in the matter would consist of drafting a demand letter to the Rivers Casino for damages, communicating and negotiating with the Rivers Casino, drafting any settlement agreement and advising Ms. Nixon regarding the terms of any proposed settlement;

(e) If Respondent was unable to negotiate an acceptable agreement for damages and litigation became necessary then, after the ten hours of legal services covered by the initial retainer was expended, Respondent and Ms. Nixon could enter into another agreement; and,

(f) Ms. Nixon should indicate her acceptance of the terms of the engagement by response to the email.

48. Ms. Nixon emailed Respondent on September 12, 2018, and September 25, 2018, to which Respondent did not reply.

49. On October 9, 2018, Ms. Nixon informed Respondent that if she did not reply Ms. Nixon would be contacting the Bar Association and would find another attorney.

50. On October 9, 2018, Respondent replied by text message to Ms. Nixon, informing her that:

(a) She should go ahead and contact whomever she liked;

(b) She never signed the engagement letter; and,

(c) She would return Ms. Nixon's deposit to her as she no longer wished to accept her representation.

51. In October and November, 2018, Ms. Nixon sent numerous text messages to Respondent requesting the refund of her retainer.

52. Respondent did not reply to Ms. Nixon's text messages.

53. Respondent did not refund the \$1,500 retainer.

54. On April 2, 2019, Petitioner issued a Request for Statement of Respondent's Position (Form DB-7).

55. On April 3, 2019, Petitioner issued a Subpoena Duces Tecum to Respondent pursuant to Rule 213(a)(2), Pa.R.D.E. requesting Respondent to provide:

(a) The client ledgers for the funds that she received and/or disbursed on behalf of Nicole Nixon;

(b) Copies of any and all documents and correspondence, including but not limited to, her entire case file, which were created or came into her possession in regard to her representation of Nicole Nixon;

(c) Client account ledgers which account for all funds entrusted to her and disbursements made therefrom for any and all clients for the time period of June 1, 2018, through April 3, 2019;

(d) Any and all documents and information pertaining to the disposition of the \$1,500 that Nicole Nixon deposited into her GNC Credit Union Account including the caption, account number and signature card for the account into which all or part of the \$1,500 was deposited; and,

(e) Documentation demonstrating the activity of the account into which the \$1,500 was deposited by Nicole Nixon for the time period beginning June 1,

2018, through April 3, 2019 to include all periodic bank statements, deposit slips, and cancelled checks.

56. Both the DB-7 and the Subpoena Duces Tecum were personally served on Respondent by Constable Joseph Nocera on April 11, 2019.

57. The Subpoena Duces Tecum directed Respondent to produce the requested documents to Petitioner's office on or before April 26, 2019.

58. Respondent's response to the DB-7 was due on May 2, 2019.

59. Respondent did not reply to the DB-7, nor produce the records requested pursuant to the Subpoena Duces Tecum.

60. On June 5, 2019, Petitioner filed a Petition for Issuance of a Rule to Show Cause Why Respondent Should Not be Suspended For Failure to Comply With A Subpoena Pursuant to Rule 208(f)(5), Pa.R.D.E.

61. On June 11, 2019, the Disciplinary Board, by and through Chair Andrew J. Trevelise, issued a Rule to Show Cause Why Respondent Should Not Be Placed On Temporary Suspension From The Bar Of The Commonwealth Of Pennsylvania Pursuant To Pa.R.D.E. 208(f)(5).

62. Respondent did not reply to the Rule to Show Cause.

63. On July 12, 2019, Petitioner filed a Petition To Make Rule Absolute And Temporarily Suspend Respondent For Failure To Comply With Subpoena Pursuant To Rule 208(f)(5), Pa.R.D.E.

64. On July 22, 2019, the Disciplinary Board, by and through Board Chair Andrew J. Trevelise, submitted the recommendation of the Disciplinary Board to the Honorable Chief Justice and Justices of the Supreme Court of Pennsylvania, recommending that the Court, pursuant to Rule 208(e), Pa.R.D.E., enter an Order placing Respondent, Erika Groves, on temporary suspension.

65. By Order of the Supreme Court, dated August 23, 2019, Respondent was placed on temporary suspension, effective thirty (30) days from entry of the Order, until further action by the Court.

66. On August 27, 2019, Respondent filed a Petition for Dissolution of Order of Temporary Suspension for Failure to Comply with Subpoena Pursuant to Rule 208(f)(5), Pa.R.D.E.

67. Respondent attached, to her Petition for Dissolution, a Statement of Respondent's Position in response to the DB-7.

68. On or about September 4, 2019, Respondent filed a Memorandum in Support of Petition for Dissolution of Order of Temporary Suspension for Failure to Comply with Subpoena Pursuant to Rule 208(f)(5), Pa.R.D.E. Respondent attached, as an Exhibit to

her Memorandum in Support of Petition for Dissolution, a response to the Subpoena Duces Tecum.

69. In response to the Subpoena Duces Tecum, Respondent admitted the following:

(a) Client ledgers for Nicole Nixon do not exist;

(b) Other than the engagement letter dated August 26, 2018, Respondent did not create any documents, nor does Respondent have any correspondence with regard to her representation of Ms. Nixon;

(c) Client account ledgers which account for funds entrusted to Respondent do not exist; and,

(d) Respondent attached the bank statements from her GNC Credit Union Account which Respondent admitted is a savings account.

70. Upon receipt of Respondent's bank records, and admissions contained in her response to the Subpoena Duces Tecum, Petitioner consented to Respondent's Petition for Dissolution of Order of Temporary Suspension for Failure to Comply with Subpoena Pursuant to Rule 208(f)(5), Pa.R.D.E.

#C4-19-206 (Perrone Matter)

71. On October 5, 2018, Respondent met with Ralph Perrone regarding transferring two properties belonging to Mr. Perrone to his three children and making changes to Mr. Perrone's Will.

72. Respondent informed Mr. Perrone that her fee for drafting and recording the deeds on his behalf would be \$600.

73. Respondent had not previously represented Mr. Perrone.

74. Respondent did not provide Mr. Perrone with any writing setting forth the basis or rate of her fee, either before or within a reasonable period of time after her representation of him in the deed matter commenced.

75. Mr. Perrone paid \$300 by check dated October 5, 2018, representing one-half of the attorney's fee.

76. Respondent did not deposit the \$300 check into an IOLTA or escrow account, or any other account for the deposit of entrusted funds.

77. On October 12, 2018, Mr. Perrone paid the remaining \$300 fee by check dated October 12, 2018.

78. Respondent did not deposit the second check for \$300 into an IOLTA or escrow account, or any other account for the deposit of entrusted funds.

79. Respondent met with Mr. Perrone on October 12, 2018, at which time:

(a) Respondent provided Mr. Perrone with a copy of his Will reflecting the changes he had requested;

(b) Mr. Perrone executed the deeds that had been prepared;

(c) Mr. Perrone issued two checks for the recording of the deeds, to wit \$70.25 to the Warren County Recorder of Deeds and \$96.75 to the Lawrence County Recorder of Deeds; and,

(d) Respondent informed Mr. Perrone that she was going to the courthouse that day to record the deeds.

80. Respondent did not record the deeds as she represented to Mr. Perrone she would do.

81. Mr. Perrone contacted Respondent in early February, 2019, at which time Respondent represented that the deeds had been recorded and would be mailed to Mr. Perrone that week.

82. Respondent's statement to Mr. Perrone was a misrepresentation as the deeds had not been recorded.

83. On March 4, 2019, Petitioner contacted Respondent at which time Respondent stated that she would take care of recording the deeds on Mr. Perrone's behalf.

84. The records of the Lawrence County Recorder of Deeds Office indicate that the Perrone deed for the property in Lawrence County was recorded on March 6, 2019.

85. The records of the Warren County Recorder of Deeds Office indicate that the Perrone deed for the property in Warren County was recorded on June 19, 2019.

SPECIFIC RULE VIOLATIONS

By her conduct as set forth in paragraphs 6 through 85, Respondent admits that she violated the following Rules of Professional Conduct:

Rule of Professional Conduct 1.3 – A lawyer shall act with reasonable diligence and promptness in representing a client.

Rule of Professional Conduct 1.4(a)(3) – A lawyer shall keep the client reasonably informed about the status of the matter.

Rule of Professional Conduct 1.5(b) – 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.

Rule of Professional Conduct 1.15(c) – 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.

Rule of Professional Conduct 1.15(i) - 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.

Rule of Professional Conduct 1.16(d) - Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred.

Rule of Professional Conduct 5.5(a) – A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction.

Rule of Professional Conduct 5.5(b)(2) – A lawyer who is not admitted to practice in this jurisdiction shall not hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction.

Rule of Professional Conduct 8.4(c) – It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

Rule of Disciplinary Enforcement 217(d)(1) – The formerly admitted attorney, after entry of the disbarment, suspension, administrative suspension or transfer to inactive status order, shall not accept any new retainer or engage as attorney for another in any new case or legal matter of any nature.

Rule of Disciplinary Enforcement 217(e)(1) – Within ten days after the effective date of the disbarment, suspension, administrative suspension or transfer to inactive status order, the formerly admitted attorney shall file with the Board a verified statement and serve a copy on Disciplinary Counsel.

SPECIFIC JOINT RECOMMENDATION FOR DISCIPLINE

86. Petitioner and Respondent jointly recommend that the appropriate discipline for Respondent's admitted misconduct is a suspension of one year and one day, stayed in its entirety, along with probation, with conditions, for a period of two years from the effective date of the stayed suspension.

87. Respondent is currently employed by an LLC as in-house counsel and does not represent private clients or hold funds subject to Pa.R.P.C. 1.15. However, in the event Respondent resumes the representation of private clients, during the period of probation, Respondent agrees, as a condition of probation, to promptly notify Petitioner, to comply with any requests for documents or information pertaining to the representation of private clients, to provide verification that Respondent has opened an IOLTA Account and established procedures to comply with the maintenance of records required by Pa.R.P.C. 1.15, retain a CPA or other qualified professional to conduct quarterly reviews of Respondent's financial records and provide quarterly reports to Petitioner.

88. Respondent hereby consents to the discipline being imposed upon her. Attached to this Petition is Respondent's executed Affidavit required by Rule 215(d),

Pa.R.D.E., stating that she consents to the recommended discipline and includes the mandatory acknowledgements contained in Rule 215(d)(i)-(iv), Pa.R.D.E.

89. In support of Petitioner's and Respondent's joint recommendation, it is submitted that the following mitigating circumstances are present:

(a) Respondent has no prior record of discipline.

(b) Respondent admits to engaging in misconduct and violating the charged Rules of Professional Conduct and Rules of Disciplinary Enforcement.

(c) In the Nixon matter, Respondent has issued a full refund of \$1,500 representing the legal fee.

(d) The underlying misconduct, and resulting disciplinary matters, caused Respondent to become overwhelmed which resulted in her neglect of the matters.

90. The following aggravating circumstances are also present:

(a) In disciplinary matter C4-18-570, Respondent was notified in March 2018, directly by Disciplinary Counsel that she was administratively suspended and yet she represented Ms. Lucas before the Magistrate in July, 2018.

(b) In disciplinary matter C4-18-570, Respondent failed to timely comply with a Request for Statement of Respondent's Position (Form DB-7) as well as a request for records pursuant to Rule 221(g)(1), Pa.R.D.E. Respondent did not

provide a response until after the Disciplinary Board issued a Rule to Show Cause Why Respondent Should Not be Placed on Temporary Suspension.

(c) In disciplinary matter C4-19-15, Respondent failed to timely comply with a Request for Statement of Respondent's Position (Form DB-7) as well as a request for records pursuant to a Subpoena Duces Tecum. Respondent did not provide a response until after the Pennsylvania Supreme Court entered an Order placing Respondent on temporary suspension.

91. Respondent's misconduct included representing Ms. Lucas at a Magistrate proceeding when her license was administratively suspended, failing to exercise diligence or appropriate communication in her representation of Ms. Nixon and Mr. Perrone and failing to provide written fee agreements, failing to hold Rule 1.15 funds in a separate and segregated account and failing to maintain the records required by Rule 1.15(c). Based on Respondent's misconduct, and prior precedent as referenced below, it is the joint recommendation of the parties that Respondent's misconduct warrants a suspension of one year and one day, stayed in its entirety, along with two years' probation with conditions.

Disciplinary matters involving lack of diligence and lack of communication often result in private discipline. In cases where public discipline is imposed it ranges from Public Reprimand to suspension of more than one year and one day. In *Office of Disciplinary Counsel v. Robert J. Dixon*, No. 162 DB 2018, Dixon received a Public Reprimand and two years' probation for failing to consult or communicate with three of his

clients whom he represented on criminal charges. Respondent received a Public Reprimand and probation despite having previously received both public and private discipline.

In *Office of Disciplinary Counsel v. Ronald Gross*, No. 174 DB 2014, Gross, who had prior private discipline, consented to a six month suspension in a Joint Petition for Discipline on Consent. Gross violated the Rules of Professional Conduct with regard to two client matters. In the first case, he failed to act diligently or communicate with his client regarding a Will contest. Gross also made misrepresentations to his client and closed the estate without notice to his client. In the second matter he engaged in *ex parte* communication with a Magisterial District Judge in seeking a sentence modification on behalf of his client.

In *Office of Disciplinary Counsel v. John Gomolchak*, No. 2 DB 2015, Gomolchak, who had a previous Public Reprimand, received a stayed suspension of one year and one day along with one year probation and the appointment of a practice monitor. Gomolchak served as trustee of a trust which named a charitable contingent beneficiary. Gomolchak failed to notify the charitable beneficiary upon the death of the primary beneficiary despite repeated requests for information from the charitable beneficiary. It was not until five years after the death of the primary beneficiary, and the Attorney General's Office, Charitable Trust Division, intervened and filed a motion to compel an accounting, that Gomolchak eventually filed the accounting and made distributions to the charitable beneficiary.

In the instant matter, Respondent's misconduct involved a lack of diligence and lack of communication with regard to her representation of Ms. Nixon and Mr. Perrone. However, the representation, or delay in acting, was not protracted over a long period of time. Respondent initially met with Ms. Nixon in July 2018 and the representation had ended by October 2018. Moreover, Respondent eventually refunded the full \$1,500 legal fee to Ms. Nixon. Likewise, with regard to the Perrone matter, Respondent initially met with Mr. Perrone in October 2018, and while it took some prompting and urging, Respondent completed the work on behalf of Mr. Perrone, and recorded the deeds on his behalf, by June 2019.

There is also a range of discipline in matters involving the unauthorized practice of law. In *Office of Disciplinary Counsel v. Jennifer L. Jackson*, No. 107 DB 2012, upon approval of a Joint Petition, Jackson was placed on a two-year stayed suspension and two years' probation for the unauthorized practice of law, having continued to practice law after having been placed on administrative suspension for failing to comply with the annual CLE requirement. She also failed to comply with the requirements of Rule of Disciplinary Enforcement 217.

In *Office of Disciplinary Counsel v. Roger V. Ashodian*, No. 178 DB 2016, Ashodian, who had engaged in the unauthorized practice of law for just under two months, received a Public Reprimand. Ashodian also neglected to negotiate a reduction in a client's medical bill, failed to promptly return client funds that the client was entitled to receive, failed to provide the client with an accounting and failed to answer the client's inquiries. Ashodian had no prior record of discipline.

In *Office of Disciplinary Counsel v. John v. Buffington*, No. 45 DB 2004, Buffington was suspended for six months for representing clients in three legal matters as well as sitting as an arbitrator several times, after having been transferred to inactive status for failing to comply with the annual CLE requirement. Buffington was engaged in the unauthorized practice of law for a period of four years. In evaluating appropriate discipline in *Buffington*, the Board noted that public discipline is required in cases of the unauthorized practice of law, but that "more serious disciplinary sanctions have been reserved for those cases aggravated by other misconduct or where the attorney was prohibited from practice due to a prior suspension."

In the instant matter Respondent was administratively suspended, from December 16, 2017 until July 12, 2018, for failure to comply with CLE requirements. Respondent has stated that her practice was very limited. The parties' recognize that Respondent's unauthorized practice of law appears blatant given that she represented Ms. Lucas after specifically having been informed by Disciplinary Counsel that she was administratively suspended. It does not appear, however, that Respondent's unauthorized practice of law involved multiple clients or took place over a protracted period of time.

It does remain of concern, however, that Respondent initially failed to respond to Petitioner's Request for Statement of Respondent's Position (Form DB-7) as well as a request for information pursuant to Rule 221(g) and a Subpoena Duces Tecum. In both instances, Respondent did not reply until after there was involvement at either the Board or Court level. Respondent, who stated that she became overwhelmed with the ongoing disciplinary matters, ultimately replied and provided the requested information that was in

her possession. She candidly admitted that she did not maintain the records required by Rule 1.15(c). Additionally, Respondent has since engaged in a cooperative manner with Petitioner in attempting to resolve the disciplinary matters.

In viewing Respondent's misconduct as a whole, and in light of discipline imposed in other cases similar to Respondent's misconduct, the parties recommend that a stayed suspension of one year and one day with two years' probation and conditions is an appropriate resolution. The purpose of the disciplinary system is "to protect the public from unfit attorneys and to maintain the integrity of the legal system." *Office of Disciplinary Counsel v. Robert Costigan*, 584 A.2d 296, 300 (Pa. 1990). The joint recommendation proposed by the parties does not undermine the seriousness of Respondent's misconduct as it includes a stayed suspension and probation with conditions, however, it allows Respondent to continue her employment as in-house counsel for an LLC. It also serves to protect the public as the conditions of probation include strict monitoring of Respondent's practice in the event she resumes the representation of private clients. Accordingly, the recommended discipline serves and satisfies the goals of the disciplinary system.

WHEREFORE, Petitioner and Respondent respectfully request that pursuant to Rules 215(e) and 215(g), Pa.R.D.E., the three-member panel of the Disciplinary Board review and approve the above Joint Petition In Support Of Discipline On Consent for the imposition of a suspension from the Bar of the Commonwealth of Pennsylvania for a period of one year and one day, stayed in its entirety, with a concurrent period of probation for two years, subject to the following:

- I. Respondent shall fully comply with the Rules of Professional Conduct and the Rules of Disciplinary Enforcement.
- II. Respondent shall not engage in any further misconduct.
- III. Respondent shall timely and fully complete her annual CLE requirement within her regular compliance period.
- IV. Respondent is currently employed by an LLC as in house counsel and not representing private clients or holding funds subject to Pa.R.P.C. 1.15. However, in the event Respondent resumes the representation of private clients during the period of probation, Respondent agrees to the following additional conditions of probation:
 - (a) Respondent shall notify the Office of Disciplinary Counsel, in writing, within ten days of Respondent's resumption of representing private clients;
 - (b) Respondent agrees to comply, within ten days, to any requests from the Office of Disciplinary Counsel for documents or information pertaining to her representation of private clients and her compliance with the Rules of Professional Conduct;
 - (c) Respondent agrees to provide the Office of Disciplinary Counsel, within ten days of the request, with verification that she has opened an IOLTA Account and established procedures to ensure her compliance with the records required to be maintained pursuant to Pa.R.P.C. 1.15;

(d) Respondent agrees, and will provide verification to Petitioner, that she will retain a CPA or other qualified professional who will conduct a quarterly review of Respondent's financial records related to entrusted funds to ensure compliance with Pa.R.P.C. 1.15; and

(e) Respondent authorizes the CPA or other qualified professional to provide quarterly reports to the Office of Disciplinary Counsel regarding Respondent's compliance with Pa.R.P.C. 1.15.

(f) Respondent agrees to complete the "Bridge the Gap" CLE course within ninety days of resuming private practice.

Respectfully submitted,

OFFICE OF DISCIPLINARY COUNSEL

PAUL J. KILLION
CHIEF DISCIPLINARY COUNSEL

By James M. Fox
James M. Fox
Disciplinary Counsel

and

By Erika R. Groves
Erika Roxanne Groves, Esquire
Respondent

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 2636 Disciplinary Docket
: No. 3
Petitioner :
: No. 109 DB 2019,
: No. 2 DB 2019, and
v. : File Reference #C4-19-206
: Attorney Registration No. 206668
ERIKA ROXANNE GROVES, :
Respondent : (Lawrence County)

VERIFICATION

The statements contained in the foregoing Joint Petition In Support Of Discipline On Consent Under Rule 215(d), Pa.R.D.E. 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. §4904, relating to unsworn falsification to authorities.

12-16-19
Date

James M. Fox
James M. Fox
Disciplinary Counsel-in-Charge

2/13/2019
Date

Erika R. Groves
Erika Roxanne Groves, Esquire
Respondent

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 2636 Disciplinary Docket
: No. 3
Petitioner :
: No. 109 DB 2019,
: :
: No. 2 DB 2019, and
: :
v. : File Reference #C4-19-206
: :
ERIKA ROXANNE GROVES, : Attorney Registration No. 206668
: :
Respondent : (Lawrence County)

AFFIDAVIT UNDER RULE 215(d), Pa.R.D.E.


Respondent, Erika Roxanne Groves, hereby states that she consents to a suspension for a period of one year and one day, stayed in its entirety, with a concurrent period of probation for two years, subject to conditions, as jointly recommended by Petitioner, Office of Disciplinary Counsel, and Respondent, in the Joint Petition In Support Of Discipline On Consent, and further states that:

1. Her consent is freely and voluntarily rendered; she is not being subjected to coercion or duress; and she is fully aware of the implications of submitting the consent; and, she has consulted with counsel in connection with the decision to consent to the imposition of discipline;

2. She is aware that there is a pending proceeding involving allegations that she has been guilty of misconduct as set forth in the Joint Petition;

3. She acknowledges that the material facts set forth in the Joint Petition are true; and,

4. She consents because she knows that if the matter pending against her is prosecuted, she could not successfully defend against the charges.


Erika Roxanne Groves, Esquire
Respondent

Sworn to and subscribed
before me this 13th
day of December, 2019.


Notary Public

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
Cheri L. Sabino, Notary Public
City of New Castle, Lawrence County
My Commission Expires Dec. 18, 2020
MEMBER, PENNSYLVANIA ASSOCIATION OF NOTARIES

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 2636 Disciplinary Docket
	:	No. 3
Petitioner	:	No. 109 DB 2019,
	:	No. 2 DB 2019, and
v.	:	File Reference #C4-19-206
ERIKA ROXANNE GROVES,	:	Attorney Registration No. 206668
	:	(Lawrence County)
Respondent	:	

ORDER

PER CURIAM:

AND NOW, this _____ day of _____, 20____, upon consideration of the Joint Petition in Support of Discipline on Consent, it is hereby recommended to the Supreme Court that the Respondent, Erika Roxanne Groves, be suspended from the Bar of the Commonwealth of Pennsylvania for a period of one year and one day, stayed in its entirety, with a concurrent period of probation for two years, subject to the following:

- I. Respondent shall fully comply with the Rules of Professional Conduct and the Rules of Disciplinary Enforcement.
- II. Respondent shall not engage in any further misconduct.
- III. Respondent shall timely and fully complete her annual CLE requirement within her regular compliance period.

IV. Respondent is currently employed by an LLC as in house counsel and not representing private clients or holding funds subject to Pa.R.P.C. 1.15. However, in the event Respondent resumes the representation of private clients during the period of probation, Respondent agrees to the following additional conditions of probation:

(a) Respondent shall notify the Office of Disciplinary Counsel, in writing, within ten days of Respondent's resumption of representing private clients;

(b) Respondent agrees to comply, within ten days, to any requests from the Office of Disciplinary Counsel for documents or information pertaining to her representation of private clients and her compliance with the Rules of Professional Conduct;

(c) Respondent agrees to provide the Office of Disciplinary Counsel, within ten days of the request, with verification that she has opened an IOLTA Account and established procedures to ensure her compliance with the records required to be maintained pursuant to Pa.R.P.C. 1.15;

(d) Respondent agrees, and will provide verification to Petitioner, that she will retain a CPA or other qualified professional who will conduct a quarterly review of Respondent's financial records related to entrusted funds to ensure compliance with Pa.R.P.C. 1.15; and

(e) Respondent authorizes the CPA or other qualified professional to

provide quarterly reports to the Office of Disciplinary Counsel regarding Respondent's compliance with Pa.R.P.C. 1.15.

(f) Respondent agrees to complete the "Bridge the Gap" CLE course within ninety days of resuming private practice.

CERTIFICATE OF COMPLIANCE

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

Submitted by: James M. Fox

Signature: 

Name: James M. Fox

Attorney No. (if applicable): 58824