

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 2677 Disciplinary Docket No 3
: :
Petitioner : No. 197 DB 2018
: :
v. : Attorney Registration No. 17300
: :
WILLIAM JAMES HELZLSOUER, : (Allegheny County)
: :
Respondent :

ORDER

PER CURIAM

AND NOW, this 23rd day of January, 2020, upon consideration of the Report and Recommendations of the Disciplinary Board, William James Helzlsouer is suspended from the Bar of this Commonwealth for a period of one year and one day, and he shall comply with all the provisions of Pa.R.D.E. 217. Respondent shall pay costs to the Disciplinary Board pursuant to Pa.R.D.E. 208(g).

A True Copy Patricia Nicola
As Of 01/23/2020

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL : No. 197 DB 2018
Petitioner :
v. : Attorney Registration No. 17300
WILLIAM JAMES HELZLSOUER :
Respondent : (Allegheny County)

REPORT AND RECOMMENDATIONS OF
THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

TO THE HONORABLE CHIEF JUSTICE AND JUSTICES
OF THE SUPREME COURT OF PENNSYLVANIA:

Pursuant to Rule 208(d)(2)(iii) of the Pennsylvania Rules of Disciplinary Enforcement, the Disciplinary Board of the Supreme Court of Pennsylvania (“Board”) herewith submits its findings and recommendations to your Honorable Court with respect to the above-captioned Petition for Discipline.

I. HISTORY OF PROCEEDINGS

By Petition for Discipline filed on October 30, 2018, Petitioner, Office of Disciplinary Counsel, charged Respondent, William James Helzlsouer, with violations of the Rules of Professional Conduct and Pennsylvania Rules of Disciplinary Enforcement arising from his conduct in handling his IOLTA account and his representation in the Dixon and Wheeler matters. Respondent failed to file an answer to the Petition¹

¹ On January 10, 2019, Respondent attempted to file a Response to the Petition for Discipline. By Order of February 7, 2019, the Hearing Committee struck the Response and found the allegations in the Petition for

Following a prehearing conference on February 7, 2019, a District IV Hearing Committee ("Committee") conducted a disciplinary hearing on March 7, 2019. Petitioner offered Exhibits 1-12 and 14-34, which were admitted into evidence. Respondent represented himself and testified on his own behalf. He offered the testimony of four witnesses at the dispositional phase of the hearing. At the conclusion of the hearing on March 7, 2019, the record in the matter was closed.

On April 24, 2019, Petitioner filed a brief to the Committee and requested that the Committee recommend to the Board that Respondent be suspended for one year and one day.

On May 21, 2019, Respondent filed a brief to the Committee and requested that the Committee recommend to the Board that he receive a public reprimand.

By Report filed on July 17, 2019, the Committee concluded that Respondent violated the rules charged in the Petition for Discipline and recommended that Respondent be suspended for one year and one day.

On August 7, 2019, Respondent filed a Brief on Exceptions and reiterated his request that the Board impose a public reprimand.

On August 22, 2019, Petitioner filed a Brief Opposing Exceptions and requested that the Board adopt the Committee's recommendation and recommend to the Court that Respondent be suspended for a period of no less than one year and one day.

The Board adjudicated this matter at the meeting on October 17, 2019.

Discipline were deemed admitted because Respondent failed to file an answer or request an extension to file within twenty days of service of the Petition.

II. FINDINGS OF FACT

The Board makes the following findings:

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

2. Respondent is William James Helzlsouer, born in 1948 and admitted to practice law in the Commonwealth of Pennsylvania in 1973. Respondent's attorney registration mailing address is 302 Euclid Avenue, Dravosburg, PA 15034-1208. Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

3. Respondent has a history of discipline:

a. On December 8, 2010, Respondent received a Private Reprimand for his lack of diligence and communication in handling an estate matter;

b. By Order dated June 5, 2012, the Supreme Court of Pennsylvania suspended Respondent for a period of three months, stayed in its entirety with probation for three months with a practice monitor. Respondent was suspended for neglect, failure to communicate, and other general

misconduct in three client matters. Respondent complied with his probation;
and

c. By Order dated September 27, 2017, the Supreme Court suspended Respondent for a period of three months. The suspension was based on Respondent's failure to diligently and competently represent one client and his failure to file necessary pleadings in a civil matter. Respondent was reinstated to active status by Supreme Court Order dated February 12, 2018.

4. On November 13, 2018, Petitioner personally served a Petition for Discipline on Respondent in connection with the instant matter.

5. Respondent failed to file a timely answer.

6. Pursuant to Rule 208(b)(30, Pa.R.D.E., the factual allegations contained in the Petition for Discipline are deemed admitted.

IOLTA ACCOUNT OVERDRAFTS

7. On August 2, 2017, the balance in Respondent's PNC Bank IOLTA Client Trust Fund Account number ending in 7182, captioned "William J. Helzlsouer IOLTA Client Trust Fund," or similarly captioned (hereinafter, IOLTA Account), was \$584.28.

8. By check number 1067, dated August 10, 2017, in the amount of \$100.00, made payable to Stephen Helzlsouer, Respondent's adult son, (hereinafter, Stephen),

and drawn on Respondent's IOLTA Account, Stephen withdrew funds from Respondent's IOLTA Account; he was not authorized to do so.

9. By check number 1068, dated August 10, 2017, in the amount of \$100.00, made payable to himself, and drawn on Respondent's IOLTA Account, Stephen withdrew funds from Respondent's IOLTA Account without Respondent's authorization.

10. By check number 1069, dated August 11, 2017, in the amount of \$100.00, made payable to himself, and drawn on Respondent's IOLTA Account, Stephen withdrew funds from Respondent's IOLTA Account without Respondent's authorization.

11. By check number 1070, dated August 11, 2017, in the amount of \$800.00, made payable to himself, and drawn on Respondent's IOLTA Account, Stephen withdrew funds from Respondent's IOLTA Account without Respondent's authorization.

12. By check number 1072, dated August 15, 2017, in the amount of \$120.00, made payable to himself, and drawn on Respondent's IOLTA Account, Stephen withdrew funds from Respondent's IOLTA Account without Respondent's authorization.

13. By check number 1073, dated August 15, 2017, in the amount of \$80.00, made payable to himself, and drawn on Respondent's IOLTA Account, Stephen withdrew funds from Respondent's IOLTA Account without Respondent's authorization.

14. By check number 1075, dated August 15, 2017, in the amount of \$40.00, made payable to himself, and drawn on Respondent's IOLTA Account, Stephen withdrew funds from Respondent's IOLTA Account without Respondent's authorization.

15. On August 23, 2017, the negotiation of checks numbered 1073 and 1075 created an insufficient balance in Respondent's IOLTA Account of a negative \$115.72.

16. On August 25, 2017, a Dishonored Escrow/Trust Check Reporting Form of Financial Institutions was generated by PNC Bank noting that Respondent's IOLTA Account was overdrawn in the amount of \$115.72 due to the payment of checks numbered 1073 and 1075 in the respective amounts of \$80.00 and \$40.00.

17. By Order of the Supreme Court of Pennsylvania dated September 27, 2017, in the matter at No. 81 DB 2016, Respondent was suspended from the Bar of this Commonwealth for a period of three months, effective October 27, 2017.

18. By email dated October 6, 2017, Respondent informed Kathryn Morgan of the Pennsylvania Lawyers Fund for Client Security, that:

- a. He was transmitting correspondence sent to Susan Dobbins of the Disciplinary Board on this date with respect to the Fund's inquiry regarding the overdraft of his IOLTA Account;
- b. He was attaching the overdraft notice from PNC Bank dated September 1, 2017;
- c. Upon his receipt of the notice, he went to the McKeesport Branch and obtained a copy of the check register from July 24, 2017 to August 31, 2017 and copies of the checks drawn on his account without his knowledge by his son, Stephen;
- d. The checks totaled \$660.00;

- e. He immediately covered the checks with his own funds;
- f. His wife and he have been dealing with their son's addiction for the past two years;
- g. He has continuously attempted to make secure the checks for the account; and,
- h. He will redouble his efforts.

19. On a previous occasion, Respondent's son had made unauthorized withdrawals from the IOLTA account. N.T. 62-63.

20. Concerning the previous incident, in previous correspondence dated May 1, 2017 to Office of Disciplinary Counsel, Respondent informed Disciplinary Counsel Susan Dobbins that he had continuously attempted to safeguard the checks for his IOLTA Account, and he would redouble his efforts. N.T. 62-63.

21. Respondent did not take sufficient steps to secure his IOLTA Account checks.

22. On November 16, 2017, a subpoena was directed to Respondent to provide to Office of Disciplinary Counsel the monthly reconciliations on his IOLTA Account, his client account ledgers, and his monthly reconciliations for the time period of June 1, 2017 through October 31, 2017.

23. By email to Office of Disciplinary Counsel dated December 12, 2017, in response to the subpoena, Respondent provided bank statements and check register pages for his IOLTA Account, but failed to produce any monthly reconciliations or client account ledgers.

LOOP ESTATE

24. On June 27, 2017, Respondent deposited \$899.00 to his IOLTA Account from his PNC Bank Business Account number ending in 5002 in regard to his representation of the Loop Estate.

25. At that time, Respondent was entrusted with \$899.00 in regard to the Loop Estate.

26. By check number 1060, dated June 27, 2017, in the amount of \$225.50, made payable to the "Dept. of Court Record," drawn on Respondent's IOLTA Account and annotated "Loop Estate," Respondent disbursed funds in regard to the Loop Estate.

27. By check number 1063, dated June 29, 2017, in the amount of \$105.00, made payable to the "Pgh Post-Gazette," drawn on Respondent's IOLTA Account and annotated "Loop Estate," Respondent made a disbursement in regard to the Loop Estate.

28. By check number 1062, dated June 29, 2017, in the amount of \$100.00, made payable to "PLJ," drawn on Respondent's IOLTA Account and annotated "Loop Estate," Respondent made a disbursement in regard to the Loop Estate.

29. After the above-referenced checks were negotiated, Respondent was still entrusted with \$468.50 (\$899.00 minus \$430.50) on behalf of the Loop Estate.

30. By email dated May 8, 2018, Respondent forwarded a proposed deed for the Loop Estate to Ange M. Meskowski but as of October 1, 2018 the deed had not been recorded.

CAWLEY ESTATE

31. By check number 1076, dated October 12, 2017, in the amount of \$99.50, made payable to the "Recorder of Deed – Fayette," drawn on Respondent's IOLTA Account and annotated "Cawley Estate," Respondent disbursed funds in regard to the Cawley Estate.

32. Respondent disbursed funds in regard to the Cawley Estate from his IOLTA Account even though he did not have any entrusted funds in his IOLTA Account from the Cawley Estate and thus used funds entrusted for other client(s).

WHEELER MATTER

33. On March 13, 2017, Respondent filed a driver's license suspension appeal on behalf of Alfred N. Wheeler in the Court of Common Pleas of Allegheny County, Pennsylvania, Civil Division, at case number SA-17-242.

34. By Order of the Supreme Court of Pennsylvania dated September 27, 2017, Respondent was suspended from the Bar of the Commonwealth for a period of three months, which was effective October 27, 2017.

35. By Order of Court dated September 28, 2017, Mr. Wheeler's driver's license suspension appeal was dismissed.

36. At that time, Respondent did not withdraw his appearance with the Court in Mr. Wheeler's civil matter.

37. In a letter to Office of Disciplinary Counsel dated February 2, 2018 Respondent alleged that, prior to his suspension, he drafted a Notice of Appeal to the Commonwealth Court of Pennsylvania on behalf of Mr. Wheeler.

38. On October 30, 2017, Respondent filed or caused to be filed the Notice of Appeal with Commonwealth Court at docket number 1637 CD 2017.

39. By check number 1077, dated October 30, 2017, in the amount of \$80.00, made payable to the "Dept. Court Record," drawn on Respondent's IOLTA Account and annotated "Wheeler Appeal," Respondent disbursed funds to the Commonwealth Court to file Mr. Wheeler's appeal.

40. By check number 1079, dated October 30, 2017, in the amount of \$76.00, made payable to "Allegheny County," drawn on Respondent's IOLTA Account and annotated "Wheeler Transcript," Respondent paid for the transcript from Mr. Wheeler's operator license suspension hearing.

41. Respondent did not have funds from Mr. Wheeler in his IOLTA Account when Respondent issued checks numbered 1077 and 1079 on behalf of Mr. Wheeler.

42. On November 2, 2017, the Honorable Lester G. Nauhaus issued an Order directing that Mr. Wheeler's Concise Statement of Errors Complained of on Appeal must be filed no later than 21 days thereafter.

43. As reflected in Respondent's Statement of Compliance dated November 6, 2017 filed with the Attorney Registration Office, Respondent did not send to Mr. Wheeler written notice that Respondent had been suspended from the practice of law in the

Commonwealth of Pennsylvania for the period of three months and could no longer represent him.

44. Additionally, Respondent did not notify the Court of Common Pleas of Allegheny County of his suspension.

45. Shortly thereafter, Respondent drafted a Statement of Matters Complained of on Appeal on behalf of Mr. Wheeler.

46. On or about November 29, 2017, Mr. Wheeler paid Respondent \$350.00 in cash to represent him in his Commonwealth appeal.

47. On November 29, 2017, Respondent filed the Statement of Matters Complained of on Appeal on behalf of Mr. Wheeler.

48. In January of 2018, Respondent drafted a Proof of Service of Notice of Appeal Upon Trial Judge and Court Reporter on behalf of Mr. Wheeler.

49. Respondent filed the Proof of Service of Notice of Appeal on behalf of Mr. Wheeler on January 18, 2018.

50. In January of 2018, Respondent drafted a Supplemental Statement of Matters Complained of on Appeal on behalf of Mr. Wheeler.

51. On January 23, 2018, Respondent filed with the Court of Common Pleas of Allegheny County the Supplemental Statement of Matters Complained of on Appeal.

52. The pleadings Respondent filed in Mr. Wheeler's appeal indicate that Mr. Wheeler had signed those pleadings and was proceeding in the matter pro se.

53. On February 12, 2018, Respondent was reinstated to active status to practice law in the Commonwealth of Pennsylvania.

DIXON MATTER

54. On August 10, 2017, Brocato Colonnade LLC (hereinafter, Brocato) filed a civil action against Michael and Amanda Dixon in the Court of Common Pleas of Allegheny County at docket number GD 17-011270.

55. On August 11, 2017, the Dixons:

- a. Gave Respondent a copy of the Civil Complaint that had been filed against them by Brocato;
- b. Requested that Respondent defend them in regard to the action; and,
- c. Provided Respondent with documents to support their position.

56. Respondent informed the Dixons that he would:

- a. Need a \$1,000.00 retainer to represent them in the civil action; and,
- b. File a response to the civil action once he was paid his retainer.

57. On August 28, 2017, the Dixons paid Respondent \$1,750.00.

58. The Dixons' \$1,750.00 payment to Respondent included the \$1,000.00 retainer to represent them in the new civil action filed against them by Brocato and \$750.00 that they previously owed to Respondent for his prior representation of them in another matter involving Brocato.

59. On or about September 13, 2017, the Dixons received a Ten Day Notice of Intention to Take Default Judgment (hereinafter, Ten Day Notice) that Brocato had filed.

60. Pursuant to the Certificate of Service, Respondent was sent a true and correct copy of the Ten Day Notice.

61. On or about September 13, 2017, Mr. Dixon called Respondent about the Ten Day Notice.

62. Respondent informed Mr. Dixon that he had filed a request for a thirty-day extension in the civil action.

63. Respondent did not file a request for a thirty-day extension or respond to the Ten Day Notice.

64. Respondent's statement to Mr. Dixon that Respondent had filed a request for a thirty-day extension on their behalf was materially false.

65. Thereafter, Mr. Dixon called Respondent on a weekly basis to inquire about the status of the civil action.

66. Respondent kept telling Mr. Dixon "not to worry," or words to similar effect.

67. By Order of the Supreme Court of Pennsylvania dated September 27, 2017, Respondent was suspended from the Bar of the Commonwealth of Pennsylvania for a period of three months effective thirty days thereafter, or October 27, 2017.

68. Respondent was listed as an attorney on the docket at case number 17-011270 and Respondent did not withdraw his appearance.

69. On October 27, 2017, Mr. Dixon called Respondent about the status of the civil action.

70. Respondent informed Mr. Dixon that Respondent had just sent him an email.

71. By email dated October 27, 2017, Respondent informed the Dixons, among other things, that he had been suspended from the practice of law for three months.

72. On October 27, 2017, Mr. Dixon called Respondent to discuss his email.

73. Respondent told Mr. Dixon that he was suspended from practicing law in the Commonwealth of Pennsylvania for three months, and he could not represent them any further until he was reinstated to active status.

74. Mr. Dixon asked Respondent to return the Dixons' \$1,000 retainer.

75. Respondent informed Mr. Dixon that he would "work out something with them," or words to similar effect.

76. As of April 2018, Respondent had not refunded to the Dixons any portion of their \$1,000.00 retainer.

77. Respondent was listed as an attorney on the docket at case number 17-011270 and Respondent did not withdraw his appearance of record.

78. On April 25, 2018 Petitioner sent a Request for Statement of Position to Respondent in the Dixon matter.

79. Respondent responded to the Request for Statement of Position in the Dixon matter on May 29, 2018 and, *inter alia*, indicated that he was reimbursing the Dixons their

\$1,000 retainer at the rate of \$100 per month, with the first payment being made on May 1, 2018. Subsequent payments were made in June, July, August and September 2018.

80. Respondent testified at the disciplinary hearing that he repaid the Dixons in full. N.T. 56.

81. As to his IOLTA Account, Respondent testified that he has secured the checks in a safe and they are no longer available to his son, although Respondent's son still lives in Respondent's home and Respondent's office is in his home. N.T. 56, 58.

82. Respondent testified that Mr. Wheeler and his wife were difficult clients and he had some fear of them, but he never called the police. N.T. 54-55.

83. Respondent testified that it was a "serious lapse" not to tell Mr. Wheeler that he could not represent him upon suspension, but Respondent claimed he was coerced into representing Mr. Wheeler. N.T. 55-56.

84. Respondent made excuses for his misconduct and did not accept full responsibility.

85. Respondent did not express remorse for his misconduct.

86. Respondent offered the testimony of two witnesses, Mary Colonna and Dr. Mark Clemente.

87. Ms. Colonna's testimony did not constitute character testimony. N.T. 45-47.

88. Dr. Clemente was unaware of Respondent's 2012 suspension but was aware of his 2017 suspension. Dr. Clemente testified that Respondent has an impeccable

reputation in the community (which he described as the social media platform he uses), with regard to honesty and proper actions and he has been very satisfied with Respondent's legal representation. N.T. 49-52.

III. CONCLUSIONS OF LAW

By his conduct as set forth above, Respondent violated the following rules:

1. RPC 1.3 – A lawyer shall act with reasonable diligence and promptness in representing a client;
2. RPC 1.5(a) – A lawyer shall not enter into an agreement for, charge, or collect an illegal or clearly excessive fee;
3. RPC 1.15(b) – A lawyer shall hold all Rule 1.15 Funds and property separate from the lawyer's own property. Such property shall be identified and appropriately safeguarded;
4. RPC 1.15(c) – *Required records.* 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 writing required by Rule 1.5(b) (relating to the requirement of a writing communicating the basis or rate of the fee) and the records identified in Rule 1.5(c) (relating to the requirements of a written fee agreement and distribution statement in a contingent fee matter). A lawyer shall also maintain the books and records for each Trust Account and for any other account in which Fiduciary Funds are held pursuant to Rule 1.15(l);

5. RPC 1.15(e) – 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;

6. RPC 1.16(d) – Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client’s interest, 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. The lawyer may retain papers relating to the client to the extent permitted by other law;

7. RPC 8.4(a) – It is professional misconduct for a lawyer to violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so or do so through the acts of another;

8. RPC 8.4(c) – It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation;

9. RPC 8.4(d) - It is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice;

10. Pa.R.D.E. 217(b) – A formerly admitted attorney shall promptly notify, or cause to be promptly notified, all clients who are involved in pending litigation or administrative proceedings, and the attorney or attorneys for each adverse party in such matter or proceeding of the disbarment, suspension, administrative suspension or transfer to inactive status and consequent inability of the formerly admitted attorney to act as an attorney after the effective date of the disbarment, suspension, administrative suspension or transfer to inactive status;

11. Pa.R.D.E. 217(d)(1) – Orders imposing suspension, disbarment, administrative suspension or transfer to inactive status shall be effective 30 days after entry. 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. However, during the period from the entry of the order and its effective date the formerly admitted attorney may wind up and complete, on behalf of any client, all matters which were pending on the entry date; and

12. Pa.R.D.E. 217(j) – (1) A formerly admitted attorney may not engage in any form of law-related activities in this Commonwealth except in accordance with the following requirements: All law-related activities of the formerly admitted attorney shall be conducted under the supervision of a member in good standing of the Bar of this Commonwealth who shall be responsible for ensuring that the formerly admitted attorney complies with the requirements of this subdivision (j). If the formerly admitted attorney is engaged by a law firm or other organization providing legal services, whether by employment or other relationship, an attorney of the firm or organization shall be designated by the firm or organization as the

supervising attorney for the purpose of this subdivision. (2) For purposes of this subdivision (j), the only law-related activities that may be conducted by a formerly admitted attorney are the following: (i) legal work of a preparatory nature such as legal research, assembly of data and other necessary information, and drafting of transactional documents, pleadings, briefs, and other similar documents; (ii) direct communication with the client or third parties to the extent permitted by paragraph (3); and (iii) accompanying a member in good standing of the Bar of this Commonwealth to a deposition or other discovery matter or to a meeting regarding a matter that is not currently in litigation, for the limited purpose of providing clerical assistance to the member in good standing who appears as the representative of the client.

IV. DISCUSSION

This matter is before the Board for review of allegations that Respondent engaged in professional misconduct in three separate matters. Respondent failed to respond to the charges filed against him. Consequently, all of the factual allegations in the Petition for Discipline are deemed admitted, pursuant to Rule 208(b)(3), Pa.R.D.E., and support the conclusion that Respondent violated the Rules of Professional Conduct and Pennsylvania Rules of Disciplinary Enforcement charged in the Petition for Discipline. Petitioner proved by clear and satisfactory evidence that Respondent engaged in ethical misconduct by virtue of the facts plead in the Petition for Discipline and related exhibits. ***Office of Disciplinary Counsel v. John Grigsby***, 425 A.2d 730, 732 (Pa. 1981).

Having concluded that Respondent violated the rules, this matter is ripe for the determination of discipline. For the following reasons, the Board recommends that Respondent be suspended for one year and one day.

The record demonstrates that for the fourth time in approximately ten years, Respondent faces discipline for his unprofessional conduct in the practice of law. The instant misconduct, consisting of neglect, mishandling of his IOLTA account by allowing his adult son unauthorized access to the account, failing to hold entrusted funds properly, failing to promptly refund unearned fees, and engaging in the unauthorized practice of law while suspended, is merely the continuation of a long pattern of misconduct that underscores Respondent's disregard for the rules and failure to comprehend the seriousness of his actions. Respondent's failure to file a timely answer is further evidence of his cavalier attitude towards his disciplinary matters, as is his failure to accept full responsibility and express remorse for his actions.

The prior misconduct, consisting of a private reprimand in 2010, a three-month stayed suspension on consent in 2012, and a three-month suspension in 2017, has afforded Respondent multiple opportunities to reflect on his practice habits and make changes in order to avoid discipline. Notwithstanding these opportunities, Respondent again is before this Board, the prior discipline having had no discernible impact on his behavior. The similarities of Respondent's misconduct in all of his disciplinary matters cannot be ignored. Respondent's explanations and excuses for his noncompliance with the conduct rules and disciplinary procedures are not compelling and offer no insight into his actions, and certainly no assurance that Respondent will cease committing professional misconduct in the future. Respondent's character testimony from one witness is not compelling. Dr. Clemente was not aware of Respondent's full history of

discipline, nor was there any evidence that Dr. Clemente understood the facts and circumstances of Respondent's misconduct in the instant matter.

While there is no *per se* discipline in Pennsylvania, the Board is mindful of precedent and the need for consistency. ***Office of Disciplinary Counsel v. Robert Lucarini***, 472 A.2d 186, 189-91 (Pa. 1983). Herein, Respondent failed to properly safeguard his IOLTA account despite being on notice that on previous occasions, his son had taken money out of the account without Respondent's authority. Additionally, Respondent mishandled entrusted funds in the Loop and Cawley estate matters. These matters dealt with small amounts of money and did not involve Respondent's misappropriation of funds. In the Wheeler matter, Respondent disregarded his 2017 suspension order and prepared and filed pleadings on behalf of Mr. Wheeler while ineligible to practice law. Respondent did not withdraw as counsel of record with the court and failed to notify his client in writing of his suspension. Respondent failed to act with diligence while representing the Dixons, and misrepresented to them that he had requested an extension in their civil matter when he had not done so. Respondent then failed to promptly refund to his clients the \$1,000 retainer paid to him, although he testified at the hearing that as of that date he had repaid the monies in full.

There is a wide range of cases involving similar misconduct. We find there is ample precedent to support a one year and one day period of suspension in the instant matter, considering the aggravating factors and the lack of mitigating circumstances.

The attorneys in the following cases involving neglect similar to Respondent's acts of neglect received suspensions for one year and one day: ***Office of Disciplinary Counsel v. Mark David Johns***, No. 95 DB 2013 (D. Bd. Rpt. 10/2/2014) (S. Ct. Order 12/30/2014), where Johns engaged in neglect of two client matters,

aggravated by his prior discipline of an informal admonition and a private reprimand; **Office of Disciplinary Counsel v. Richard Patrick Reynolds**, No. 179 DB 2011, (D. Bd. Rpt. 11/19/2013) (S. Ct. Order 3/31/2014), where Reynolds neglected a client's appeal, failed to communicate and abandoned a client after accepting representation, aggravated by his two prior informal admonitions for similar misconduct; **Office of Disciplinary Counsel v. Ann-Marie McDonald Pahides**, No. 171 DB 2009 (S. Ct. Order 12/21/2010) (consent discipline), where Pahides' misconduct involved incompetence, neglect, lack of communication and failure to refund unearned fees and documents in five client matters, aggravated by a prior informal admonition; **Office of Disciplinary Counsel v. Lawrence E. Brinkmann, Jr.**, No. 157 DB 2008 (D. Bd. Rpt. 12/15/2009) (S. Ct. Order 3/26/2010), where Brinkmann neglected his clients and failed to communicate with them, aggravated by two informal admonitions and a public censure; **Office of Disciplinary Counsel v. Richard Charles Rupp**, No. 85 DB 2007 (S. Ct. Order 10/25/2007) (consent discipline), where Rupp neglected five client matters over a three-year period, aggravated by two prior informal admonitions.

Attorneys who, like Respondent, failed to withdraw from representation of clients and engaged in the unauthorized practice of law in limited matters have been suspended from the practice of law. See, **Office of Disciplinary Counsel v. William C. Kerr, III**, No. 9 DB 2015 (D. Bd. Rpt. 9/28/2016) (S. Ct. Order 12/14/2016) (one year suspension); **Office of Disciplinary Counsel v. Theodore Q. Thompson**, No. 159 DB 2005 (D. Bd. Rpt. 12/28/2006) (S. Ct. Order 3/23/2007) (six-month suspension); **Office of Disciplinary Counsel v. Julie Ann Marzano**, No. 46 DB 2006 (D. Bd. Rpt. 5/16/2007) (S. Ct. Order 8/1/2007) (nine-month suspension).

Like the respondent-attorneys in the cited cases, Respondent, a recidivist disciplinary offender, engaged in multiple acts of misconduct that demonstrate his lack of fitness to practice law.

The primary purpose of the disciplinary system is to protect the public from unfit lawyers and to maintain the integrity of the legal system. ***Office of Disciplinary Counsel v. John Keller***, 506 A.2d 872, 875 (Pa. 1986). Because of Respondent's multiple separate matters in the instant case and his record of discipline involving similar misconduct, the Board recommends that Respondent be suspended for one year and one day. This discipline is necessary to address the misconduct, protect the public, and require Respondent to prove his fitness before he resumes practicing law in the Commonwealth.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that the Respondent, William James Helzlsouer, be Suspended for one year and one day from the practice of law in this Commonwealth.

It is further recommended that the expenses incurred in the investigation and prosecution of this matter are to be paid by the Respondent.

Respectfully submitted,

THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

By: 
Christopher M. Miller, Member

Date: 11/18/19