IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 2708 Disciplinary Docket No. 3
	:	
Petitioner	:	No. 42 DB 2019
	:	
v.	:	Attorney Registration No. 94543
	:	
PETER JUDE CAROFF,	:	(Allegheny County)
	:	
Respondent	:	

ORDER

PER CURIAM

AND NOW, this 5th day of June, 2020, upon consideration of the Report and Recommendations of the Disciplinary Board, Peter Jude Caroff is suspended from the Bar of this Commonwealth for a period of one year and one day. Respondent shall comply with all the provisions of Pa.R.D.E. 217 and pay costs to the Disciplinary Board pursuant to Pa.R.D.E. 208(g).

A True Copy Patricia Nicola
As Of 06/05/2020

Attest: Patricia Nicola
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL Petitioner	:	No. 42 DB 2019
v.	:	Attorney Registration No. 94543
PETER JUDE CAROFF 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 March 6, 2019, Petitioner, Office of Disciplinary Counsel, charged Respondent, Peter Jude Caroff, with engaging in professional conduct in violation of the Rules of Professional Conduct and Pennsylvania Rules of Disciplinary Enforcement, during his representation of Melanie Flournoy a/k/a Melanie Apollo ("Ms. Apollo"). On March 8, 2019, the Petition was personally served on Respondent. Thereafter, Respondent failed to file an Answer to Petition for Discipline.

Following a prehearing conference on May 21, 2019, a District IV Hearing Committee ("Committee") conducted a disciplinary hearing on July 10, 2019. Petitioner offered Administrative Exhibits 1-3 and Petitioner's Exhibits 1-13 and 15, all of which were admitted without objection. Respondent appeared pro se and testified on his own behalf. He did not call any other witnesses or present any exhibits.

On August 22, 2019, Petitioner filed a brief to the Committee and recommended that Respondent be suspended for a period of not less than one year and one day.

Respondent did not file a brief to the Committee.

By Report filed on October 23, 2019, the Committee concluded that Respondent violated the rules charged in the Petition for Discipline and recommended that Respondent be suspended for a period of one year and one day.

The parties did not take exception to the Committee's Report and recommendation.

The Board adjudicated this matter at the meeting on January 16, 2020.

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 Peter Jude Caroff, born in 1973 and admitted to practice law in the Commonwealth of Pennsylvania in 2005. Respondent's attorney registration mailing address is P.O. Box 99392, Pittsburgh, PA 15233.

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

4. Respondent failed to respond to the Petition for Discipline personally served on him on March 8, 2019. The factual allegations contained therein are deemed admitted, pursuant to Rule 208(b)(3), Pa.R.D.E., and are set forth below in Findings of Fact #s 5-48.

5. In 2013, Melanie Apollo lost her home due to a fire. Disaster Restoration Services ("DRS") provided the demolition of the property and charged her a total of $8,600. Her insurance coverage paid $5,600, leaving Ms. Apollo a balance due and owing to DRS in the amount of $3,000.

6. Thereafter, Ms. Apollo represented herself in a Chapter 7 Bankruptcy filed in the United States Bankruptcy Court for the Western District of Pennsylvania at case docket number 14-24123.

7. Ms. Apollo did not list DRS as a creditor on her pro se Chapter 7 Bankruptcy Schedules.

8. At the Section 341 meeting of creditors, Ms. Apollo's case was determined to be a "no asset" bankruptcy, which led to the Bankruptcy Court entering an Order for discharge on April 29, 2015.

9. On January 26, 2017, DRS filed a civil action against Ms. Apollo in Allegheny County Magisterial District Court 05-2-11.

10. On February 28, 2017, DRS obtained a judgment against Ms. Apollo in the amount of $3,126.64.

11. On March 24, 2017, Ms. Apollo filed a pro se appeal of the DRS judgment entered against her to the Court of Common Pleas of Allegheny County, where the case was docketed at AR-17-001486.

12. On April 18, 2017, Ms. Apollo and her husband, Phoebus Apollo, met with Respondent to discuss his representation of Ms. Apollo in her appeal against DRS.

13. After the meeting, Respondent agreed to represent Ms. Apollo and told the Apollos that his retainer for the case was $500.

14. By Citizens Bank check number 174, dated April 18, 2017 and made payable to Respondent, Mr. Apollo paid the quoted $500 retainer fee.

15. Although Ms. Apollo was a new client, Respondent did not communicate to her the basis or rate of his fee in writing, before or within a reasonable time after commencing the representation.

16. On June 5, 2017, in the case at AR-17-001486 Respondent filed a Praecipe to Enter Appearance, and on behalf of Ms. Apollo, an Answer to the Complaint filed by DRS.

17. In response to Mr. Apollo's July 9, 2017 email request for information about his wife's appeal, by reply email to Mr. Apollo dated August 2, 2017, Respondent told Mr. Apollo that because he had filed a Motion for Summary Judgment, the Arbitration scheduled for September 6, 2017 might be "off."

18. Respondent's statement to Mr. Apollo about a summary judgment motion being filed was false as the civil docket entries for Allegheny County case AR-17-001486 reflect that no motion for summary judgment was filed.

19. Because Ms. Apollo was expecting a baby on or around the September 6, 2017 arbitration hearing date:

a. Respondent and Mr. Apollo discussed via emails the possibility of seeking a postponement; and,

b. Respondent and the Apollos mutually agreed to proceed with the September 6, 2017 hearing.

20. On September 6, 2017, Respondent and Mr. Apollo appeared before a panel of Allegheny County Arbitrators who heard the arbitration case.

21. Ms. Apollo did not attend the arbitration as she had given birth to her son the morning of September 5, 2017.

22. After the hearing, the panel entered an award for DRS, against Ms. Apollo in the amount of $3,000.

23. By emails dated September 13, and 19, 2017, Respondent again discussed with the Apollos the option that they bypass further appeal of the arbitration award through state court and pursue the matter in Bankruptcy Court by filing a pleading to reopen Ms. Apollo's closed bankruptcy and having the judgment owed to DRS added to the bankruptcy case filed at 14-24123-CMB.

24. Respondent told the Apollos that he would charge them $760 to represent Ms. Apollo in Bankruptcy Court to have the debt owed to DRS included as an Amendment to her Chapter 7 Bankruptcy schedules, and if the Court agreed, discharged.

25. By an email to Mr. Apollo dated September 19, 2017, Respondent explained that the quoted $760 was a flat fee with $260 of that amount being the filing fee to file a petition to reopen.

26. By responsive email to Respondent dated September 19, 2017, Mr. Apollo, on behalf of his wife, agreed to Respondent's representation of Ms. Apollo in Bankruptcy Court.

27. In addition to DRS, the Apollos also requested that Respondent include the Pittsburgh Furniture Company as a creditor.

28. By emails dated September 25, 2017 between Respondent and Mr. Apollo, Respondent agreed, for no additional cost, to add Pittsburgh Furniture Company as an additional creditor to the filing.

29. On or about September 26, 2017, by Citizens Bank check number 121, in the amount of $760 and made payable to Respondent, with the annotation "for amendment of bankruptcy for Melanie Flournoy [Apollo]," Respondent was paid the quoted $760.

30. Shortly thereafter, Respondent negotiated this check but did not deposit the proceeds, which included the filing fee, into his IOLTA Account or any other separate and segregated account used for safeguarding client funds and prepaid costs.

31. After Respondent negotiated this check, Respondent failed to respond to several emails and telephone calls from the Apollos, in which they inquired about the status of Ms. Apollo's bankruptcy matter.

32. By email sent to Mr. Apollo dated October 30, 2017, Respondent explained that:

a. The judge had ordered him to send a notice out to all creditors and not just the two creditors who were a part of the amendment; and,

b. No hearing date had yet been set.

33. Respondent's email to Mr. Apollo was a misrepresentation as there was nothing pending before the Bankruptcy Court as Respondent had not filed a motion to reopen.

34. On November 13, 2017, DRS filed a Praecipe for Writ of Execution in the Court of Common Pleas of Allegheny County to initiate collection of the judgment against Ms. Apollo.

35. After receiving notice of the Writ having been filed, the Apollos attempted to communicate with Respondent by email and by telephone, requesting information on the status of the reopening of the bankruptcy.

36. The emails went unanswered and although the Apollos left messages when they could, Respondent did not return the telephone calls.

37. On November 27, 2017, Ms. Apollo filed a pro se Motion to Reopen the Chapter 7 bankruptcy case file at 14-24123-CMB.

38. By email from Mr. Apollo dated December 5, 2017, sent to Respondent at the following email addresses pcaroff@yahoo.com and pcaroff@carofflaw.com, Mr. Apollo:

a. Stated that they had attempted to contact Respondent multiple times to inquire about the status of the bankruptcy appeal [reopening] and had not heard back from him;

b. Because the creditor [DRS] was pursuing collection they were forced to act on the matter themselves; and,

c. They were terminating Respondent's representation and wanted the $760 previously paid to Respondent, refunded.

39. The email to pcaroff@carofflaw.com was returned as message not delivered, but the email to pcaroff@yahoo.com was received by Respondent.

40. On or about December 12, 2017, from his email address pcaroff@yahoo.com, Respondent replied to Mr. Apollo, therein:

a. Stating that he was sincerely apologetic as he was out for a couple of weeks with some health problems; and,

b. Asking Mr. Apollo to confirm how he would like the refund made out and the mailing address of where to send the refund.

41. By email dated December 12, 2017, sent to Respondent at pcaroff@yahoo.com, Mr. Apollo provided Respondent with the address to send the refund to him.

42. Respondent failed to refund any portion of the $760.

43. On December 15, 2017, the Bankruptcy Court granted Ms. Apollo's Motion to Reopen.

44. By follow-up email to pcaroff@yahoo.com, dated January 15, 2018, Mr. Apollo again:

a. Requested the refund of the entire $760; and,

b. Provided Respondent with the mailing address to send the refund check.

45. As of February 12, 2018, Respondent had not refunded any portion of the $760 to the Apollos.

46. On May 25, 2018, Respondent was personally served with:

a. A letter from Disciplinary Counsel dated May 24, 2018 pursuant to Rule 221(g)(1), Pa.R.D.E., requesting documentation and information; and,

b. A DB-7 Request for Statement of Respondent's Position dated May 24, 2018.

47. On June 11, 2018, Respondent replied to the Rule 221 letter and he:

a. Admitted he did not maintain a separate ledger for the funds deposited;

b. Admitted he does not maintain separate monthly reconciliations;

c. Explained that he "accidentally" deposited the $760 received from Mr. Apollo into the general household account he shares with his wife; and,

d. Included a copy of a PNC Bank Cashier's Check numbered 7655338 dated June 11, 2018, payable to Melanie and Phoebus Apollo, purportedly refunding the $760 he was previously paid.

48. The Apollos never received that check from Respondent.

49. Respondent never responded to the May 24, 2018 DB-7 Request for Statement of Respondent's Position.

50. On July 6, 2019, four days before the disciplinary hearing, Respondent reimbursed the Apollos in full. N.T. 40-41.

51. Respondent testified on his own behalf.

52. Respondent revealed he has mental health problems, for which he has been attempting, with varying degrees of success, to get medical help for some time. N.T. 23-27, 41-42.

53. Respondent did not present any medical records, expert report, expert testimony, or other evidence that would entitle him to mitigation pursuant to ***Office of Disciplinary Counsel v. Seymour Braun***, 553 A.2d 894 (Pa. 1989).

54. Respondent admitted that he should have sought treatment for his mental health concerns years ago and that he should have shut down his practice "a long time ago." Respondent admitted that he has not been capable of properly representing his clients. N.T. 23-25.

55. Respondent failed to express remorse and did not apologize for his actions towards his clients.

56. Respondent has prior discipline consisting of an Informal Admonition imposed on April 21, 2016. The admonition concerned Respondent's failure to act with reasonable diligence, failure to communicate and keep clients reasonably informed, and failure to refund unearned fees. N.T. 33-34; PE 9.

57. At the time of Respondent's hearing in the instant matter, an unrelated disciplinary action was pending against him at 43 DB 2019. Therein, the Court placed Respondent on temporary suspension by order dated June 7, 2019. AE 3; N.T. 35.

58. Following the temporary suspension, the United States District Court for the Western District of Pennsylvania and the United States Bankruptcy Court issued rules to show cause why Respondent should not be placed on temporary suspension. PE 10, 11; N.T. 36-37.

59. Respondent certified on his annual attorney registration forms for the years 2016-2019 that he maintained the required financial records. Respondent admitted under oath that he in fact did not keep those records, and when asked why he filed the forms stating that he did, Respondent replied that he did not have many clients during those years and keeping the records seemed "pointless." PE 12; N.T. 36-37.

III. CONCLUSIONS OF LAW

By his conduct as set forth above, Respondent violated the following Rules of Professional Conduct ("RPC") and Pennsylvania Rules of Disciplinary Enforcement ("Pa.R.D.E."):

1. RPC 1.3 – A lawyer shall act with reasonable diligence and promptness in representing a client;

2. RPC 1.4(a)(3) – A lawyer shall keep the client reasonably informed about the status of the matter;

3. RPC 1.4(a)(4) – A lawyer shall promptly comply with reasonable requests for information;

4. RPC 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;

5. 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;

6. 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 1.15(b) (relating to the requirements 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... books and records for each Trust Account and for any other account in which Fiduciary Funds are held pursuant to Rule 1.15(l);

7. 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;

8. RPC 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;

9. RPC 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. The lawyer may retain papers relating to the client to the extent permitted by other law;

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

11. Pa.R.D.E. 203(b)(7) – The following shall also be grounds for discipline: Failure by a respondent-attorney without good cause to respond to Disciplinary Counsel's request or supplemental request under Disciplinary Board Rule, § 87.7(b) for a statement of the respondent-attorney's position.

IV. DISCUSSION

This matter is before the Board for consideration of the charges of professional misconduct against Respondent in one client matter that he failed to act with reasonable diligence and promptness in representing his client, failed to keep his client reasonably informed about the status of a case, failed to promptly comply with reasonable requests for information, failed to communicate his fee, failed to hold client funds separate, failed to maintain records of client funds, failed to deposit funds into a trust account, failed to return an unearned fee, engaged in misrepresentations, and failed to respond to Petitioner's requests for information.

Petitioner bears the burden of proving ethical misconduct by a preponderance of clear and satisfactory evidence. ***Office of Disciplinary Counsel v. John T. Grigsby, III***, 425 A.2d 730, 732 (Pa. 1981). Petitioner personally served Respondent with the Petition for Discipline; however, Respondent failed to respond. Factual allegations in the Petition are deemed admitted if an answer is not timely filed,

pursuant to Pa.R.D.E. 208(b)(3). Furthermore, Respondent admitted during his testimony at the disciplinary hearing that the Petition was factually accurate, and he admitted that he engaged in the conduct described therein. The factual allegations, Petitioner's exhibits, and Respondent's testimony support the conclusion that Respondent violated the rules as charged in the Petition for Discipline.

Respondent engaged in a series of unprofessional actions in a single client matter. His representation of Ms. Apollo began in April 2017, in regard to an arbitration case filed against Ms. Apollo by a creditor. Respondent agreed to represent Ms. Apollo and accepted a retainer of $500, but never provided his client with a written fee agreement. Over the next few months, Respondent failed to communicate appropriately with his client, and made false representations to Ms. Apollo and her husband about the status of the matter by telling Mr. Apollo that he filed a motion for summary judgment, when in fact the docket entries demonstrate he never filed such a motion.

The arbitration panel found against Ms. Apollo, and Respondent then offered to represent her in Bankruptcy Court to attempt to add the arbitration award to a previous bankruptcy filed by Ms. Apollo. Respondent charged the Apollos $760, of which $260 was to pay a filing fee with the court. Respondent did not deposit this money into an IOLTA or other trust account. Respondent again failed to communicate with his clients and made false representations about the status of the bankruptcy proceeding by leading his clients to believe that the matter had been reopened, when in fact Respondent had never filed a Petition to Reopen. After being served with a Writ for Execution on the arbitration award, Ms. Apollo filed a pro se motion to reopen her bankruptcy. In December 2017 and January 2018, Mr. Apollo attempted to contact Respondent for a refund of the fee, as Respondent had failed to perform the work for which he had been retained.

Respondent failed to respond to these requests and failed refund any portion of the fee at that time.

Petitioner sent a DB-7 request letter to Respondent for a statement of his position in the matter, but Respondent failed to respond. He answered Petitioner's Rule 221 letter and admitted that he did not maintain a separate ledger for funds deposited, did not maintain separate monthly reconciliations, and in fact deposited the $760 from the Apollos into his general household account that he shared with his wife. Respondent attached to the Rule 221 response a copy of a cashier's check he claimed he sent to the Apollos; the Apollos never received that check. Four days prior to the disciplinary hearing, which was approximately 18 months after the Apollos first requested a refund, Respondent refunded the fees to his clients.

For the reasons set forth below, the Board recommends that Respondent be suspended from the practice of law for a period of one year and one day.

Disciplinary sanctions serve the dual role of protecting the interests of the public while maintaining the integrity of the bar. ***Office of Disciplinary Counsel v. John Keller***, 506 A.2d 872, 875 (Pa. 1986). Each disciplinary matter is considered on its own unique facts and circumstances, and there is no per se discipline for attorney misconduct in the Commonwealth of Pennsylvania. ***Office of Disciplinary Counsel v. Robert Lucarini***, 472 A.2d 186, 190 (Pa. 1983). It follows that the Board must review evidence of aggravating and mitigating factors when determining the appropriate level of discipline. ***Office of Disciplinary Counsel v. Brian Preski***, 134 A.3d 1027, 1031 (Pa. 2016).

Respondent has practiced law in the Commonwealth since his admission in 2005. Unfortunately, the instant matter is not Respondent's first encounter with the disciplinary system. He received an Informal Admonition in April 2016 for his misconduct

in two client matters by failing to communicate, failing to refund unearned fees and documents, failing to act diligently, and engaging in conduct prejudicial to the administration of justice. This misconduct is notably similar to the instant misconduct. The timing of the misconduct in the instant matter suggests that Respondent's admonition in 2016 had little or no impact upon him, as his deficient representation of the Apollos began approximately one year after the imposition of the prior discipline. Respondent's prior discipline is an aggravating factor. We also take note of Respondent's temporary suspension from the practice of law in an unrelated matter, ordered by the Court on June 7, 2019.

Another aggravating factor is Respondent's failure to demonstrate remorse for his actions. Respondent admitted that he was derelict in his professional responsibilities to his clients, eventually refunded his clients' monies on the eve of the disciplinary hearing, but failed to apologize for how he treated his clients.

Respondent candidly testified at the hearing concerning his mental health issues and admitted that due to these problems he cannot satisfactorily and properly represent his clients. Respondent testified that his health issues are such that he has "barely been able to live, frankly, let alone perform the work independently." N.T. 25. Respondent further admitted that he should have ceased practicing law some time ago, although he did not and continued to accept clients.

Certainly these are difficult admissions for a practitioner to make, and we have sympathy for Respondent's situation. However, this testimony, in and of itself, does not meet the mitigation standard required by ***Office of Disciplinary Counsel v. Seymour Braun***, 553 A.2d 894 (Pa. 1989), that a respondent must prove by clear and convincing evidence that a psychiatric disorder caused the misconduct. Respondent did not put forth

the expert evidence necessary to make this determination. While it is commendable that Respondent has initiated steps necessary to obtain assistance for his problems, we agree with the Committee's and Petitioner's assessments that Respondent is unfit to practice at this time and his continued practice of law puts any future client at risk.

Case precedent supports Respondent's suspension for one year and one day, which will require him to petition for reinstatement and prove his fitness to resume the practice of law. In this way, the public is protected from substandard representation by an attorney not able to meet the requirements of the profession.

In two recent matters, the Court imposed suspensions of one year and one day on attorneys who neglected client matters and failed to refund unearned fees. In ***Office of Disciplinary Counsel v. Tangie Marie Boston***, No. 99 DB 2018 (D. Bd. Rpt. 12/10/2019) (S. Ct. Order 2/12/2020), Boston committed misconduct in four matters comprising incompetence, neglect, lack of communication, failure to refund unearned fees, and conduct prejudicial to the administration of justice. Boston answered the charges against her, stipulated to many of the facts and rule violations, subsequently admitted her derelictions, and accepted responsibility for her misconduct. Boston had no prior discipline.

In ***Office of Disciplinary Counsel v. Adam Luke Brent***, No. 225 DB 2018 (D. Bd. Rpt. 12/20/2019) (S. Ct. Order 2/13/2020), Brent committed misconduct in three matters by neglecting a client's case, engaging in the unauthorized practice of law in a separate client matter following his transfer to administrative suspension, and failing to respond to Office of Disciplinary Counsel's DB-7 inquiries. In the client neglect matter, Brent accepted a $5,000 retainer and failed to refund the unearned portion after he failed to perform the services for which he had been retained. The Board found that Brent failed

to recognize and accept responsibility for his actions, and failed to apologize. The Board recognized Brent's lack of prior discipline as a mitigating factor.

The cited matters concern respondents who engaged in a pattern of misconduct in three or four matters, as opposed to a single matter, as is the case herein. Respondent, unlike the attorneys in ***Boston*** and ***Brent***, has the additional aggravating factor of prior discipline for similar misconduct, but in essence his prior discipline forms a pattern of misconduct on par with the respondent-attorneys in the cited matters. Like the attorney in ***Brent***, the instant Respondent did not apologize for his actions, which indicates a lack of sincere remorse. However, Respondent reimbursed his clients, albeit more than a year later, for the unearned portion of the fee he charged, unlike the attorneys in the cited cases.

Attorneys who committed misconduct similar to the instant misconduct in a single client matter have been disciplined with a one year and one day suspension. In the matter of ***Office of Disciplinary Counsel v. Bret Keisling***, No. 65 DB 2017 (D. Bd. Rpt. 6/19/2018) (S. Ct. Order 8/30/2018), Keisling, like the instant Respondent, failed to act with reasonable diligence and promptness in representing one client, failed to communicate with his client during the matter, did not properly handle client funds, failed to promptly refund the unearned portion of the fee, engaged in misrepresentations, and failed to respond to Office of Disciplinary Counsel's request for information. Also similar to the instant Respondent, Keisling did not answer the Petition for Discipline and testified to personal struggles with mental health, but did not provide any expert evidence to support ***Braun*** mitigation.

The attorney in ***Office of Disciplinary Counsel v. Perry Lynn Flaugh***, No. 112 DB 2015 (D. Bd. Rpt. 6/15/2016) (S. Ct. Order 8/12/2016), failed to communicate,

failed to act with diligence, failed to comply with rules safeguarding client money, failed to refund the unearned portion of the client's fee, and failed to respond to the Petition for Discipline. Flaugh, who had no history of discipline, did not apologize for his conduct or express remorse, and appeared not to recognize the significance of his actions.

In the case of ***Office of Disciplinary Counsel v. Richard Patrick Reynolds***, No. 179 DB 2011 (D. Bd. Rpt. 11/19/2013) (S. Ct. Order 3/31/2014), Reynolds neglected a client's appeal, failed to communicate, and abandoned the client. Similar to the instant Respondent, Reynolds testified to personal health issues, but did not offer expert testimony. Like the instant Respondent, Reynolds had a prior history of discipline, although Reynolds' history was more serious, consisting of two prior informal admonitions.

The imposition of a disciplinary sanction on a particular set of facts is an important and difficult undertaking and not to be taken lightly, particularly when the Board contemplates removing an attorney's privilege to practice law and earn a living as a lawyer. Viewing Respondent's conduct and the aggravating factors in the context of the case precedent, we conclude that suspending Respondent's license is warranted by the circumstances. A one year and one day period of suspension is consistent and appropriate discipline to address the misconduct and to protect the public.

Respondent admitted that he failed to competently and diligently represent the Apollos, and further admitted that he should have closed his practice some time ago due to ongoing mental health issues, for which he is seeking treatment. Upon this record, we conclude that Respondent is not fit to practice law. A one year and one day suspension removes Respondent from practice and protects the public, thereby fulfilling the predominant mission of the disciplinary system.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that Respondent, Peter Jude Caroff, 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: _____
John P. Goodrich, Member

Date: 2/25/2020