

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL	:	No. 2773 Disciplinary Docket No. 3
	:	
Petitioner	:	Nos. 195 DB 2020 & 145 DB 2021
	:	
v.	:	Attorney Registration No. 52425
	:	
	:	(Lehigh County)
ELISSA GRIFFITH WALDRON,	:	
	:	
Respondent	:	

ORDER

PER CURIAM:

AND NOW, this 15th day of December, 2021, 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 Elissa Griffith Waldron is suspended on consent from the Bar of this Commonwealth for a period of four years, retroactive to February 10, 2021. Respondent shall comply with all the provisions of Pa.R.D.E. 217 and pay costs to the Disciplinary Board. See Pa.R.D.E. 208(g).

A True Copy Nicole Traini
As Of 12/15/2021

Attest: *Nicole Traini*
Chief Clerk
Supreme Court of Pennsylvania

**BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA**

OFFICE OF DISCIPLINARY COUNSEL, :	No. 2773 DD No. 3
Petitioner :	
	:
	No. 195 DB 2020 and 145 DB 2021
	:
v. :	
	:
	ODC File Nos. C2-19-137
	C2-19-377
	C2-19-1123
	C2-19-1138
	C2-21-249
	C2-21-285
	:
	:
	Attorney Reg. No. 52425
	:
ELISSA GRIFFITH WALDRON, :	
Respondent :	(Lehigh County)

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

Petitioner, the Office of Disciplinary Counsel (“ODC”), by Thomas J. Farrell, Chief Disciplinary Counsel, and Elizabeth A. Livingston, Disciplinary Counsel, and Respondent, Elissa Griffith Waldron (“Respondent”), by her counsel, Robert A. Graci, Esquire and Morgan S. Hays, Esquire, respectfully petition the Disciplinary Board in support of discipline on consent, pursuant to Pennsylvania Rule of Disciplinary Enforcement (“Pa.R.D.E.”) 215(d), and in support thereof state:

1. Pursuant to Pa.R.D.E. 207, ODC, whose principal office is

FILED 10/29/2021 The Disciplinary Board of the Supreme Court of Pennsylvania
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situated at Office of Chief Disciplinary Counsel, Pennsylvania Judicial Center, 601 Commonwealth Avenue, Suite 2700, P.O. Box 62485, Harrisburg, Pennsylvania, 17106, is invested with the power and 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 provisions of the Enforcement Rules.

2. Respondent was born in 1959 and was admitted to the Bar of the Commonwealth of Pennsylvania on June 10, 1988. By Order dated February 10, 2021 (the "Order of Temporary Suspension"), the Supreme Court of Pennsylvania placed Respondent on Temporary Suspension pursuant to Pennsylvania Rule of Disciplinary Enforcement (Pa.R.D.E.) 208(f)(1). Respondent promptly notified her clients of the temporary suspension. Respondent maintains an address of record at 526 North 27th Street, Allentown, Lehigh County, Pennsylvania, 18104.

3. Until the temporary suspension of her law license, Respondent was a sole practitioner at The Law Offices of Elissa Griffith Waldron, where she primarily handled family law matters.

4. Respondent has no prior record of discipline in Pennsylvania.

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

SPECIFIC FACTUAL ALLEGATIONS

6. Two disciplinary complaint matters led to Respondent's temporary suspension – File No. C2-19-377 initiated by complaint of Stephanie Budick, and File No. C2-19-1138 initiated by complaint of Caitlin Miller. Regarding these matters, ODC issued a DB-7 Letter dated January 29, 2020 (the "January 29, 2020 DB-7 Letter"). The January 29, 2020 DB-7 Letter required that Respondent provide all bank records for any bank accounts into which Respondent deposited funds received from or on behalf of Ms. Budick and Ms. Miller, and certain records relating to those funds that Respondent was required to prepare and keep pursuant to RPC 1.15.

7. At the time, Respondent was proceeding *pro se* in her disciplinary complaint matters. Respondent provided two Statements of Respondent's Position dated March 9, 2020 – one relating to Ms. Budick, and one relating to Ms. Miller – but failed to produce the requested financial documents or otherwise address ODC's document requests in any way, a topic that will be addressed *infra*, beginning with Paragraph 51.

The Budick Divorce

8. Respondent represented Stephanie Budick in *Stephanie Budick v. Andrew Budick*, No. 2016-FC-1246 (the “Budick Divorce”) in the Court of Common Pleas of Lehigh County. On or about August 8, 2018, Respondent received on behalf of Ms. Budick an escrow check in the amount of \$64,010.57, constituting Ms. Budick’s portion of the proceeds from the sale of her marital home.

9. On August 8, 2018, Respondent improperly deposited the \$64,010.57 in a personal checking account.

10. By emails dated August 8, 2018, Respondent acknowledged receipt of the escrow check and requested written permission from Ms. Budick to apply \$10,000.00 of the \$64,010.57 to satisfy an outstanding balance of accrued legal fees and to pay for future legal fees in the Budick Divorce. Respondent wrote: “Steph- upon further consideration and review of the file and upcoming work, I am proposing counsel fees in the amount of \$10,000.00, **therefore I would not need you to supplement your retainer at a later time**” (emphasis added).

11. By email dated August 9, 2018, Ms. Budick replied: “Please consider this email written permission to deduct \$10,000 from the escrow check delivered to you in the amount of \$10,000.00 for past and upcoming

counsel fees. **It is my understanding that you will not need further supplementation of a retainer after this payment**" (emphasis added).

12. As a result of Respondent and Ms. Budick's agreement, Respondent should have held \$54,010.57 of Ms. Budick's funds in escrow, consistent with any related court orders and/or instructions from the Divorce Master concerning escrow of those funds.¹

13. From August 9, 2018 through September 26, 2018, Respondent did not transfer any of Ms. Budick's \$64,010.57 from her personal checking account to any other bank account, such as an operating account, IOLTA, or attorney trust or escrow account. She also did not make any disbursements to Ms. Budick.

14. From August 9, 2018 through September 26, 2018, Respondent assured Ms. Budick that the \$64,010.57 was being held in escrow. For instance, by email dated September 4, 2018, Respondent stated: "No money has been disbursed from your escrow account, and therefore I did not move the credit onto your bill, [sic] I can give you a credit but technically no money

¹ For the remaining \$10,000.00, after applying \$5,392.45 to satisfy accrued legal fees, Respondent should have placed \$4,607.55 in an IOLTA to pay for future legal fees and expenses as they were earned and incurred.

has been moved because we are waiting for the upcoming settlement conference and final disposition on all funds before any gets move.d [sic].”

15. Additionally, by email dated September 4, 2018, Respondent’s paralegal advised Ms. Budick: “Just keep in mind no funds have been transferred. You [sic] fill [sic] escrow amount is in the bank.”

16. A review of the monthly bank statements for the personal checking account into which Respondent deposited Ms. Budick’s \$64,010.57 revealed that, as of September 4, 2018, Respondent had spent \$13,709.68 of Ms. Budick’s funds that she should have been holding in escrow. Respondent used the \$13,709.68 to pay her own personal expenses, such as personal credit card bills, car payments, grocery bills, and payments to stores.

17. On September 26, 2018, Respondent transferred \$30,000.00 from her personal checking account to a personal money market account.²

18. After the September 26, 2018 transfer, the balance in Respondent’s personal checking account fell to \$2,435.82. At this time, Respondent should have had \$24,010.57 of Ms. Budick’s escrow funds in that account.

² Respondent later disbursed these funds to Ms. Budick in two installments of \$15,000.00 – one in October 2018, and one in November 2018.

19. According to an invoice provided by Respondent to Ms. Budick, as of October 1, 2018, after application of the \$10,000.00 Ms. Budick authorized Respondent to withdraw from her escrow funds, Ms. Budick had a credit with Respondent of \$1,720.05.

20. Upon receipt of the October 31, 2018 invoice, Ms. Budick advised Respondent that she disputed the charges, because they had an agreement that Respondent would finish the Budick Divorce for the flat fee of \$10,000.00. Ms. Budick also began requesting an accounting from Respondent concerning the money Respondent was holding in escrow for Ms. Budick.

21. At the same time, through October 2018 and November 2018, Respondent continued to spend Ms. Budick's money, which was in her personal checking account, to pay personal expenses.

22. By November 20, 2018, the balance in the personal checking account fell to \$1,081.36.

23. By text message dated November 21, 2018, Respondent assured Ms. Budick that, aside from the \$30,000.00 that had been distributed to her, the rest of the money from the sale of Ms. Budick's marital home was safely in an escrow account. Specifically, Respondent texted: "I also wanted to let you know that I dropped in the mail to you yesterday a \$15,000 cashiers

[sic] check out of the escrow account. The remainder is still there because the divorce is not over” Respondent’s assurance was false, as Respondent had spent all but \$1,081.36 of the funds she was required to hold in escrow for Ms. Budick.

24. Despite Ms. Budick’s repeated requests for an accounting, Respondent did not provide Ms. Budick with a new invoice for four (4) months. On her next invoice, dated February 21, 2019, Respondent raised her rate from \$385.00 per hour to \$395.00 per hour retroactive to September 1, 2018 and added charges for legal services rendered in September 2018 that previously had not been included on the October 31, 2018 invoice. The new charges reduced the October 1, 2018 credit balance that Respondent reported for Ms. Budick to \$1,158.80.

25. Respondent also added to the February 21, 2019 invoice an October 26, 2018 time entry that previously had not been included on the October 31, 2018 invoice, and she increased the time reported for five (5) existing October 2018 time entries, some without explanation.

26. Most notably, Respondent added time to two (2) existing October 2018 time entries that involved a court event or telephone conference with another attorney, as follows:

a. On the October 31, 2018 invoice, Respondent reported five (5) hours on October 2, 2018 for “[p]rep and attend Master’s Settlement Conference”. On the February 21, 2019 invoice, Respondent reported six (6) hours for this same work – an October 2, 2018 time entry of one (1) hours for “[p]rep for Master’s Settlement Conference” and an October 3, 2018 time entry of five (5) hours to “[a]ttend Master’s Conference”.

b. On the October 31, 2018 invoice, Respondent reported an October 9, 2018 time entry of 0.4 hours for a “Telephone Conference with Attorney Wiener RE Domestic Relations; follow up call to client”. On the February 21, 2019 invoice, Respondent reported 0.75 hours for this same work.

27. In early April 2019, Respondent issued to Ms. Budick a check in the amount of \$2,500.00 as a “partial Escrow retainer refund check.” Ms. Budick did not negotiate the check because it did not represent the full amount due to her.

28. On April 12, 2019, Ms. Budick submitted an online complaint to ODC.

29. By letter dated May 13, 2019, Respondent sent to Ms. Budick Check No. 7861 in the amount of \$6,377.62 drawn against her IOLTA, which

she described as a “retainer refund check” that accorded “with the itemized billings previously sent” to Ms. Budick.

30. By certified letter dated May 22, 2019, Ms. Budick returned Check No. 7861 to Respondent, advised it was “incorrectly labelled a retainer refund”, and reiterated Ms. Budick disputed Respondent’s fees and still had not received requested “bank statements to verify that [her] account was handled correctly while it was held in trust”

31. In response to a letter dated September 1, 2020 and issued by ODC pursuant to Pa.R.D.E. 221(g), Respondent prepared a new invoice generated on September 16, 2020³ that increased certain charges for legal services rendered to Ms. Budick that Respondent previously had reported on the October 31, 2018 and February 21, 2019 invoices.

32. Again, as with the examples presented in Paragraph 26, Respondent added time to existing October 2018 time entries that involved a court event or telephone conference with another attorney – events for which the time should not have changed.

33. The September 16, 2020 invoice also adjusted Ms. Budick’s account to reflect a **balance due** of \$26.20 as of October 1, 2018, instead of

³ Respondent represents that, whenever she produced an invoice in response to an ODC request for documents, the invoice would bear the date that it was generated.

a credit balance, as previously had been reported on the October 31, 2018 and February 21, 2019 invoices.

34. Respondent misappropriated \$24,010.57 belonging to Ms. Budick from the sale of her marital home in the Budick Divorce.

35. It is ODC's position that Respondent inflated time entries on invoices for the Budick Divorce in an attempt to justify her misappropriation of Ms. Budick's escrow funds. If called to testify at a disciplinary hearing, Respondent would state her records were accurate, but disorganized, and at times, incomplete, leading to issuance of invoices like the October 31, 2018 and February 21, 2019 invoices in the Budick Divorce that did not reflect all of the legal work she performed for the client.

36. In December 2020, the Pennsylvania Lawyers Fund for Client Security ("PA CSF") awarded to Ms. Budick \$24,010.57. Respondent quickly repaid PA CSF with interest.

The Miller Divorce

37. Respondent represented Caitlin Miller in *Caitlin Lapinski n/k/a Caitlin Jane Miller v. Edward Lapinski, III*, No. 2019-FC-729 (the "Miller Divorce") in the Court of Common Pleas of Lehigh County.

38. Respondent provided Ms. Miller with a fee agreement that stated, in pertinent part:

You agree to pay this office and we agree to accept a retainer of Five Thousand Five Hundred (\$5,500.00) Dollars. Fifty (50%) of this retainer shall be set aside as a non-refundable fee. It is our policy not to refund this portion of your retainer as it represents our minimum charge for services rendered regardless of the amount of time actually spent on your case . . . This non-refundable portion of your retainer will be credited to your billings as we spend time on your behalf.

39. Ms. Miller paid Respondent a \$5,500.00 retainer.

40. On September 26, 2019, the Court executed a final Decree and Order in the Miller Divorce.

41. According to Respondent's invoices, at the end of September 2019, Ms. Miller had incurred \$3,778.50 in legal fees and other costs and expenses in the Miller Divorce. The unused portion of her retainer was \$1,721.50.

42. By email dated October 1, 2019, Ms. Miller asked Respondent: "I received the decree in the mail from the courthouse yesterday. Can I stop in sometime this week to pick up the notarized change of name form and collect the balance on the account?"

43. By email dated October 2, 2019, Respondent stated: "The name change forms have been submitted to the courthouse to be filed and certified, with a check for the filing fee and certification fee . . . As for the balance, per

the retainer agreement, there is a 50% nonrefundable portion of the retainer that is set aside. This also allows for a small balance to be kept on your account for any subsequent issues that may arise later in the cases [sic].”

44. On or about October 18, 2019, Respondent told Ms. Miller that she was keeping a small balance on hand for future services because it was Respondent’s customary practice to, *inter alia*, file a Petition to Withdraw and advise the Court that Ms. Miller would be proceeding *pro se* in the Miller Divorce.

45. By email dated October 21, 2019, Ms. Miller again requested “the remaining balance on [her] account of \$1,721.50” because “[n]owhere in [Respondent’s] engagement letter or in [her] conversations did [she] indicate that 100% of [her] retainer would be non-refundable or that any portion would be retained for future services.” Ms. Miller further asked Respondent to “[p]lease send [her] a check for the unused portion of [her] retainer in the amount of \$1,721.50 within five (5) days of [her] email.”

46. On November 13, 2019, Ms. Miller submitted an online complaint to ODC.

47. By letter dated November 20, 2019, Respondent advised Ms. Miller that she would be “removing [herself] from the docket as [Ms. Miller’s] counsel of record” in the Miller Divorce because “the divorce has been

resolved and the Decree entered, [and] the need for [her] services was no longer there.” Respondent provided Ms. Miller with a final invoice and a reimbursement check in the amount of \$1,000.00.

48. The November 20, 2019 invoice included:

- a. a new charge for \$231.00 to prepare a Praeceptum to Transmit Divorce Decree that was not previously included on the September 2019 invoice; and,
- b. a \$490.50 charge to prepare Respondent’s Petition to Withdraw and related correspondence.

49. Regarding the discrepancy between the September 2019 and November 2019 invoices, Respondent claimed her billing manager advised her that the Praeceptum to Transmit Divorce Decree had not been properly charged, and **the November 2019 charges** relating to the Petition to Withdraw accurately reflected time to prepare the Petition and attend a **December 4, 2019 court hearing** in which The Honorable Anna-Kristie M. Marks granted Respondent’s Petition. Respondent further claimed the invoice dated November 20, 2019 could include time for a future event because “hearings on petitions to withdraw must be prearranged and the December 4, 2019 hearing was billed in anticipation of the timeframe for

attendance because Ms. Miller's representation would cease at the conclusion of the hearing."

50. After Ms. Miller advised that the \$1,000.00 reimbursement check was insufficient, in December 2019, Respondent sent Ms. Miller a second check in the amount of \$721.50.

Respondent's Document Production Problems

51. As stated *supra*, Respondent's Statements of Respondent's Position dated March 9, 2020 failed to produce requested financial documents or otherwise address ODC's document requests in the January 29, 2020 DB-7 Letter in any way.

52. By letter dated March 31, 2020, ODC again asked Respondent to provide the requested documents – this time, by April 20, 2020. Respondent requested an extension of the April 20, 2020 deadline. It should be noted that these events occurred during the beginning of the COVID-19 pandemic.

53. By letter dated May 15, 2020, Respondent produced approximately 275 pages of records. Respondent provided monthly or other periodic bank statements for four bank accounts held at Fulton Bank. Respondent's document production was not fully responsive to ODC's requests, as Respondent failed to provide, *inter alia*, certain monthly bank

statements, separately maintained ledgers accounting for Ms. Budick and Ms. Miller's funds, general accounts ledgers, and a separately maintained ledger for each client whose funds Respondent deposited into her accounts.

54. By letter dated September 1, 2020 and issued pursuant to Pa.R.D.E. 221(g), ODC advised Respondent that its initial review of her financial records raised serious concerns about her law firm accounting and management of client funds, and requested additional financial records and information. All documents were to be provided to ODC within ten (10) business days of personal service of the September 1, 2020 letter – on or before September 18, 2020.

55. Respondent submitted a response dated September 17, 2020 (the "September 17, 2020 Response") that was received by ODC on September 18, 2020. The September 17, 2020 Response indicated Respondent may have committed several, serious Rule violations, and it provided insufficient responses to ODC's enumerated records requests.

56. The September 17, 2020 Response admitted that Respondent did not prepare and keep check registers and general ledgers for personal accounts into which she had deposited client funds, and admitted that she did not have individual client trust ledgers and monthly three-way

reconciliations for her personal and law firm bank accounts into which she had deposited client funds, as required by RPC 1.15.

57. Among other problems, the check registers that Respondent produced for her IOLTA and law firm operating account, which Respondent called “proofing ledgers,” failed to identify: (a) the payee, date, purpose and amount of each check, withdrawal, and transfer; (b) the payor, date, and amount of each deposit; and (c) the matter involved for each transaction.

58. Additionally, Respondent failed to provide to ODC fee agreements and complete accountings for any matter in which she maintained, received, or distributed client or fiduciary funds, and claimed “[f]rom 8/1/2018 through 7/1/2020 [sic], the only client matter in which [she] maintained, received, or distributed client funds was Ms. Budick.”

59. As a result, on October 27, 2020, ODC served a subpoena *duces tecum* on Fulton Bank for the production of documents relating to Respondent’s bank accounts. By letter dated October 27, 2020, ODC identified to Respondent deficiencies with the September 17, 2020 Response and provided yet another list of records for Respondent to produce on or before November 6, 2020. The October 27, 2020 letter warned Respondent that failure to produce the requested records by November 6,

2020 deadline might result in ODC seeking the temporary suspension of her law license.

60. By letter dated November 2, 2020, which was received by ODC on November 4, 2020 (the "November 2, 2020 Response"), Respondent provided, *inter alia*, a list of sixty-nine (69) "active clients during the period of August 1, 2018 through July 31, 2020" and advised "the majority of the retainer agreements [that she was sending were] the unsigned computer copies that [had been] saved on the computer system . . . [and that she] did provide as many signed agreements as possible that were readily available." Respondent also provided a Transaction Report from May 1, 2019 through July 31, 2020 relating to credit card payments made to Respondent's law firm during the identified time period.

61. A review of the Transaction Report from May 1, 2019 through July 31, 2020 revealed nearly forty (40) names of individuals from whom Respondent had received credit card payments relating to legal matters in which Respondent appeared to have been involved as counsel. Many of the transactions relating to these individuals included the notation of "Invoice Payment," and some listed a specific event, such as "DRS Conference" or "Additional Custody Conference." However, Respondent did not include these individuals on her client list, did not provide the relevant fee

agreements, and did not provide invoices that would explain her charges and the payments. Respondent did not explain, nor did the documents that she produced contain sufficient information to establish, whether these individual were paying: (a) for legal services rendered; (b) for a filing fee or other court cost; or (c) for a flat fee, retainer, or supplement to a retainer relating to one or more legal matter(s). Respondent claimed “the additional client names [were] clients from a period of time pre-dating the timeframe applicable to ODC’s request for documents.”

62. Additionally, a review of Respondent’s “proofing ledgers” revealed ninety-six (96) client names on whose behalf Respondent received retainers or other payments during the time period examined – August 1, 2018 through July 31, 2020; Respondent’s sixty-nine (69) person client list, provided in the November 2, 2020 Response, was incomplete. Again, Respondent claimed “the additional client names [were] clients from a period of time pre-dating the timeframe applicable to ODC’s request for documents.”

63. By letter dated November 10, 2020, which was received by ODC on November 12, 2020, Respondent provided enlarged copies of checks and deposit slips for a personal checking account and her law firm operating account and represented she was “still awaiting [a Fulton Bank

representative's] request for Fulton Bank to produce the enlarged checks and deposits for certain other accounts.

64. By letter dated November 13, 2020, which was received by ODC on November 16, 2020, Respondent provided enlarged copies of check and deposit slips for her IOLTA and represented "[t]o date [she had] not received [those same documents for] the last account requested," which was her personal money market account.

65. Respondent also claimed she "erroneously failed to provide fee agreements when initially requested" because she was "confused about which documentation was being requested." Respondent acknowledged that she failed to keep certain documentation and records required by RPC 1.15.

66. Respondent's piecemeal production of documents delayed ODC's investigation and made it impossible for ODC's auditor, Auditor-Investigator Roehre, to conduct a full and complete audit of Respondent's bank accounts. A partial audit of Respondent's bank accounts revealed her IOLTA largely had been out of trust for a period of two and a half years.⁴

⁴ ODC opened on its own motion File No. C2-19-1123, a disciplinary matter generated by a referral from the PA CFS because of a September 2019 overdraft in Respondent's IOLTA and her use of the IOLTA to pay business and personal expenses. File No. C2-19-1123 will be closed upon entry of final discipline as a result of this Joint Petition for Discipline on Consent.

Petition for Temporary Suspension

67. On December 29, 2020, ODC filed a Petition for Temporary Suspension and Related Relief Pursuant to Pa.R.D.E. 208(f)(1) (the “Petition for Temporary Suspension”). In its Petition for Temporary Suspension, ODC noted that Respondent’s misconduct warranted seeking relief pursuant to either Pa.R.D.E. 208(f)(1) or 208(f)(5), and that ODC sought to follow the procedure set forth in Pa.R.D.E. 208(f)(1), which provides for more expeditious relief.

68. By Order and Rule to Show Cause dated January 8, 2021 (the “January 8, 2021 Order”, the Supreme Court of Pennsylvania directed Respondent to show cause why she should not be placed on temporary suspension within ten (10) days of the date of the Order. The January 8, 2021 Order further directed Respondent, within ten (10) days, to prepare and deliver a list of the names and addresses of all clients and other entities she was currently representing in which she was a fiduciary, showing the dates, amounts and circumstances of the entrustment and current balance thereof, as well as the banks and account numbers in which such funds were maintained from August 1, 2018 through the date of the Order, and to produce the records required to be maintained by RPC 1.15(c), from August 1, 2018 through the date of the Order.

69. Thereafter, Respondent hired counsel and undertook efforts to retroactively create required documentation to become compliant with RPC 1.15. Respondent did not produce to ODC all of the records required by the January 8, 2021 Order within ten (10) days of the date of the Order; however, Respondent produced records to ODC on a rolling basis. Respondent also completed a Continuing Legal Education course entitled "Keeping Client Funds Safe and Keeping You Out of Trouble 2020" to better understand her compliance obligations pursuant to RPC 1.15.

70. After the filing of various pleadings relating to the January 8, 2021 Order, on February 10, 2021, the Supreme Court of Pennsylvania issued the Order of Temporary Suspension, which, *inter alia*, directed that all financial institutions in which Respondent was holding fiduciary funds were required to freeze such accounts pending further action by a court of appropriate jurisdiction.⁵

Events Subsequent to Temporary Suspension

71. By letter dated February 18, 2021, ODC reminded Respondent that she was under an obligation to promptly close her fiduciary and trust

⁵ As explained to Respondent in the cover letter enclosing the Order of Temporary Suspension, her suspension was effective thirty (30) days **after** February 10, 2021, to provide a winding down period.

accounts and transfer all client and fiduciary funds in her possession, custody, and control to the individuals to whom those funds belonged, pursuant to Pa.R.D.E. 217(d)(3)(ii) and (iii).

72. Respondent submitted to ODC an Unsworn Declaration, dated February 24, 2021 and made under penalty of perjury, in which she identified the bank accounts in which she was holding fiduciary funds – her IOLTA and law firm operating account held at Fulton Bank – and in which she certified she held fiduciary funds in no other bank accounts.

73. Four (4) days before the effective date of her temporary suspension, Respondent mailed six (6) checks dated March 8, 2021, which were to be drawn on her IOLTA. Respondent represented that she sent the checks to return funds she was holding as a fiduciary for her former clients. The cover letters by which Respondent sent the checks requested that the recipients present the checks for immediate payment. Respondent provided copies of the cover letters and checks to ODC.

74. On March 9, 2021, ODC served by overnight delivery the Order of Temporary Suspension on Fulton Bank, with a cover letter listing the six (6) checks dated March 8, 2021, which were to be drawn on Respondent's IOLTA, as it was unclear whether Respondent's former clients would be able

to negotiate the checks before Fulton Bank froze the IOLTA and Respondent's law firm operating account.

75. Fulton Bank strictly complied with the Order of Temporary Suspension and froze the IOLTA and Respondent's law firm operating account as of March 12, 2021, the effective date of Respondent's temporary suspension.

76. Certain of Respondent's former clients presented checks dated March 8, 2021 which were to be drawn on the IOLTA and which were dishonored. Respondent later represented to ODC and to President Judge Brian Johnson of the Lehigh County Court of Common Pleas that these clients were charged bank fees because they presented checks which were dishonored.

77. As part of winding up her affairs, Respondent was unable to accomplish refunds to clients and third parties for whom she served as a fiduciary before the effective date of her temporary suspension and freeze on the bank accounts in which she was holding fiduciary funds.

78. On March 24, 2021, Respondent filed in the Lehigh County Court of Common Pleas a Petition for Temporary Relief from the Order Freezing Fiduciary Accounts (the "Petition for Temporary Relief").

79. President Judge Johnson set an in-person hearing for April 15, 2021 in the Lehigh County Court of Common Pleas concerning the Petition for Temporary Relief.

80. On April 13, 2021, ODC filed a Response of the Office of Disciplinary Counsel to Petition for Temporary Relief from the Order Freezing Fiduciary Accounts (the "Response"). In its Response, *inter alia*, ODC advised President Judge Johnson that ODC's analysis of Respondent's financial documents, client invoices, and client fee agreements indicated certain former clients were entitled to **more money** than the funds Ms. Waldron attempted to return to them by checks dated March 8, 2021. Additionally, the Response stated ODC did not oppose a release of funds rightfully belonging to Respondent's former clients; however, Respondent had not established with accurate accounting records: (a) an exhaustive list of former clients to whom refunds were due; and (b) the amount that should be refunded to each former client. The Response also represented ODC could not confirm the accuracy of the refunds Respondent attempted to issue to former clients on March 8, 2021 and could not confirm those former clients were the only former clients to whom Respondent owed money. Instead, the Response stated that, as of the date of its filing, ODC's analysis of Respondent's financial documents, client invoices, and client fee

agreements indicated there were **more** than eleven (11) former clients to whom Respondent may owe money and to whom Respondent had not yet attempted to provide a refund. ODC's analysis was performed in an effort to respond to the Petition for Temporary Relief and was not a complete forensic review of Respondent's financial records relating to her ongoing disciplinary matters, as certain time limitations existed.

81. Respondent withdrew the Petition for Temporary Relief after ODC filed its Response. President Judge Johnson cancelled the hearing set for April 15, 2021.

Partial Audit of Respondent's Financial Records

82. Auditor-Investigator Roehre performed an audit of Respondent's financial records to the best of her ability, given the state of Respondent's records, and in such a way that gave Respondent every benefit of doubt. Auditor-Investigator Roehre determined Respondent owes money to more than thirty (30) former clients.

83. Auditor-Investigator Roehre calculated Respondent owes money to twenty (20) former clients because Respondent failed to follow the terms

of her fee agreements by billing hourly against her full retainer, for a total of \$34,074.51, as follows:⁶

a.	M. B.	\$2,500.00
b.	T. C.	\$1,500.00*
c.	C. F.	\$1,056.25
d.	F. F.	\$1,922.75
e.	D. G.	\$995.50
f.	A. H.	\$2,500.00
g.	H. H.	\$625.75
h.	K. H.	\$1,500.00*
i.	A. H.	\$504.25
j.	A. M.	\$267.63
k.	J. M.	\$1,924.25
l.	N. M.	\$3,250.00
m.	R. M.	\$703.25
n.	F. M.	\$1,600.00
o.	R. M.	\$1,623.88

⁶ “*” indicates the amount reported in this Paragraph 83 is in addition to the attempted refund sent to the former client in March 2021, in the form of a check drawn against Respondent’s IOLTA that could not be negotiated because the IOLTA was frozen in compliance with the Order of Temporary Suspension.

p.	E. M.	\$4,644.00
q.	W. P.	\$3,786.75
r.	A. S.	\$930.15
s.	R. S.	\$45.00
t.	L. T.	\$2,195.10

84. Auditor-Investigator Roehre calculated Respondent owes money to six (6) former clients because Respondent's own records provided to ODC reflect client balances, for a total of \$7,790.25, as follows:

a.	K. C.	\$69.25
b.	N. G.	\$1,330.00
c.	J. H.	\$3,250.00
d.	L. M.	\$63.00
e.	P. M.	\$106.50
f.	D. P.	\$2,971.50

85. Auditor-Investigator Roehre calculated Respondent owes money to four (4) former clients because Respondent failed to provide all necessary client documentation, e.g. a fee agreement or final invoice, for a total of \$10,917.70, as follows:

a.	J. B.	\$3,924.50
b.	M. M.	\$2,438.75

c.	D. R.	\$1,838.75
d.	C. S.	\$2,715.70

Absent compliance with RPC 1.15(i), all retainers are treated as refundable.

86. Auditor-Investigator Roehre calculated Respondent overbilled three (3) former clients, for a total amount overbilled of \$8,030.00.⁷ Outstanding balances due Respondent from these former clients need to be adjusted to the following amounts:

a.	S. D.	\$1,586.60
b.	R. E. M.	\$259.75
c.	A. P.	\$293.50

87. The refunds Respondent attempted to issue by checks dated March 8, 2021 to be drawn on the IOLTA are as follows:⁸

a.	D. A.	\$261.21
b.	T. C.	\$731.75*
c.	M. D.	\$396.33
d.	M. E.	\$113.75
e.	L. G.	\$901.00

⁷ Respondent represented that these former clients have not made any payments toward their outstanding balances since the effective date of Respondent's temporary suspension.

⁸ "*" indicates the attempted refund listed in this Paragraph 87 could not be reconciled with Respondent's records produced to ODC. See Paragraph 83, above.

f. K. H.

\$762.25 or \$1,762.25*

88. Respondent agreed to provide a refund to Paul Hartley in the amount of \$1,625.00 by the beginning of the week of March 15, 2021. Respondent failed to provide that refund before the effective date of the Order of Temporary Suspension and related freeze on Respondent's bank accounts in which she was holding fiduciary funds. As a result, Mr. Hartley is requesting an increased refund of \$3,298.50. Respondent does not challenge Mr. Hartley's request for a refund of \$3,298.50. On March 23, 2021, Mr. Hartley submitted an online complaint to ODC – File No. C2-21-249.

89. Respondent has expressed an intent to make all former clients whole. To date, except for the checks written on March 8, 2021 as reflected in paragraph 87 above, which were not negotiated by her former clients before Respondent's accounts were frozen pursuant to the Supreme Court's Order of Temporary Suspension, Respondent has not taken steps to repay the clients listed in Paragraphs 83 through 86 and has represented to ODC, by and through her counsel, that she does not have the wherewithal to repay these clients.

The Lowell Matter

90. ODC received a complaint from Seth Lowell concerning Respondent's conduct in a divorce matter, opened File No. C2-19-137, and issued to Respondent a DB-7 Letter dated February 4, 2020. Respondent submitted to ODC a Statement of Respondent's Position dated February 28, 2020, which was received by ODC on March 2, 2020 (the "March 2, 2020 Position Statement").

91. Respondent represented Tierany Lowell in *Seth Lowell v. Tierany A. Lowell*, No. 2018-FC-917 (the "Lowell Divorce") in the Court of Common Pleas of Lehigh County. Cassandra A. Colombo, Esquire represented Mr. Lowell in the Lowell Divorce.

92. By letter dated December 6, 2018, Respondent proposed a custody schedule in the Lowell Divorce. Respondent's December 6, 2018 letter stated the "offer [was] contingent upon [Mr. Lowell's] agreeing by Court Order during [a] conference call with Judge Reibman on Tuesday to withdraw his Complaint [concerning Respondent] with the Office of Disciplinary Counsel."

93. Respondent's December 6, 2018 letter further threatened:

If there is no agreement based upon this offer, it will be deemed withdrawn and I will be instituting an action against Mr. Lowell in the Court of Common

Pleas of Lehigh County for false representation to the Office of Disciplinary Counsel and will unfortunately have to name you as a party defendant to that action as you represent Mr. Lowell.

I will then seek Court intervention to join the Office of Disciplinary Counsel in addition to seeking sanctions and counsel fees for any litigation costs I incur as a result of my suit against your client.

Respondent's threatened court action would have violated Pa.R.D.E. 209(a).

94. By letter dated December 6, 2018, Ms. Colombo responded:

Finally, as you well know Mr. Lowell has his rights to file whatever he may choose and neither you nor I can demand our clients do anything regarding withdrawing their freedom of speech and expression. I have explained your position to him and he is taking it under advisement at this time. I am optimistic that this can be separate from the custody matter for as you know custody and the disciplinary action are two separate actions and should not be intermingled in order to reach an agreement regarding custody.

95. With her December 6, 2018 letter, Respondent improperly demanded that Mr. Lowell agree not to file or to withdraw a complaint to ODC, and she tried to insert a condition in her client's settlement and custody agreement that would require Mr. Lowell to do so.

The Koch Matter

96. Respondent represented Lisa Koch in *Lisa C. Koch v. Todd M. Koch*, No. 2019-FC-0397 (the “Koch Divorce”) and *Lisa C. Koch v. Justin Hetler, et al.*, No. 2019-FC-0728 (the “Koch Custody Matter”).

97. Respondent provided Ms. Koch with a fee agreement that stated, in pertinent parts:

5. Additional advance fees may be required prior to preparation for lengthy and complicated litigation, such as custody hearings, petitions for special relief and equitable distribution hearings. Further, additional advance fees will be required if the balance of your initial retainer is exhausted prior to the completion of your case. As in the case of your initial retainer, additional advance fee payments will be credited to your billings as we spend time on your behalf. It is impossible to determine in advance the amount of time that will be needed to complete your case. Appeals will be discussed and billed separately.

* * *

11. We reserve the right to withdraw from your case if you have misrepresented or failed to disclose material facts to us, failed to follow our advice, failed to cooperate with us or for any other valid reason, including without limitation, the failure to pay our fees in a timely manner. Likewise, you may discharge us at any time for any reason. You will be required to pay for the time expended to turn over the file(s) and other information to you or a substitute counsel and for the time and costs if we must proceed to court to obtain permission to withdraw. We reserve the right to exercise any retaining and/or charging liens as allowed by law.

98. Respondent charged Ms. Koch \$360.00 per hour for legal work she performed in the Koch Divorce and Koch Custody Matter.

99. In the Koch Custody Matter, the Custody Hearing Officer, Richard P. Focht, Esquire, scheduled a full-day Custody Hearing for August 18, 2020.

100. On or about August 17, 2020, Respondent left the following voicemail for Ms. Koch:

“Hey Lisa, it’s Elissa. I just got through your email this morning, and I just want to give you my answer and position on this. Um, you’re correct, in certain situations, I do bill by the hour, okay, and as you know, I require a retainer in advance for the events that we do. You and I have had this relationship, ah, for a long time now. You understand how it works. I’m not gonna get into any back-and-forth emails with you, okay. To prepare and have a hearing that’s booked out on the court books for six hours, okay, with my bill rate, it’s \$3,500.00, payable in advance, it’s a flat fee, that’s what I do. And if you’re gonna ask me, do I refund it if we get there and we settle it, um, after two and a half hours, I’m gonna refund part of it, but not all of it. So, it’s up to you. You can either pay it by today, or I’m gonna get a continuance, and you’re gonna get a new attorney. And if that’s what you want, that’s okay with me. I wish you only the best in this pursuit, and you know that, but I’m not gonna do this game playing any longer. Okay? So, that’s it. End of story. End of discussion.

101. The requested \$3,500.00 advance fee did not correspond to six (6) hours of Respondent's time at the rate of \$360.00 per hour.

102. On the eve of a scheduled hearing, Respondent threatened to request a continuance, without Ms. Koch's consent, if Ms. Koch failed to make an immediate payment of \$3,500.00.

103. The Custody Hearing did not occur on August 18, 2020.

104. Respondent did not submit a Petition to Withdraw as counsel for Ms. Koch and obtain court approval for withdrawal of her representation in the Koch Divorce and the Koch Custody Matter.

105. On April 1, 2021, Ms. Koch submitted an online complaint to ODC – File No. C2-21-285.

Character References

106. Respondent submitted to ODC thirty-four (34) character letters from attorneys, former clients, and local businesspersons, each of which explained how the author had come to know Respondent, and all of which included, with minor variations, the following paragraph:

I am aware that [Respondent] is facing disciplinary charges and nevertheless hold these views and am willing to so testify on her behalf. She has told me of the charges against her. She has been forthright in doing so and has expressed extreme remorse for her conduct. Even with this knowledge, I would still use [Respondent's] services and would recommend her

services to others who might need them as she has always been a true advocate.

107. Respondent confirmed, by and through her counsel, that the authors of each letter were "**generally aware of the conduct** [Respondent was] alleged to have engaged in related to the Budick and Miller matters (**not the specifics** and certainly not the identifies of the former clients, but the conduct)" (emphasis added). The letters were secured before Respondent was aware of the Hartley and Koch complaints.

**SPECIFIC RULES OF PROFESSIONAL CONDUCT AND
RULES OF DISCIPLINARY ENFORCEMENT VIOLATED**

108. Respondent violated the following Rules of Professional Conduct and Rules of Disciplinary Enforcement:

- a. RPC 1.15(b), which provides that 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;
- b. RPC 1.15(c), which provides that complete records of the receipt, maintenance, and disposition for 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, and the lawyer shall maintain:

- (1) all transaction records provided to the lawyer by the Financial Institution or other investment entity, such as periodic statements, cancelled checks in whatever form, deposited items, and records of electronic transactions; and
- (2) check register or separately maintained ledger, which shall include the payee, date, purpose and amount of each check, withdrawal and transfer, the payor, date and amount of each deposit, and the matters involved for each transaction; provided, however, that where an account is used to hold funds of more than one client, a lawyer shall also maintain an individual ledger for each trust client, showing the source, amount and nature of all funds received from or on behalf of the client, the description and amounts of charges or withdrawals, the names of all persons or entities to whom such funds were disbursed, and the dates of all deposits, transfers, withdrawals and disbursements.
- (3) The records required by this Rule may be maintained in hard copy or by electronic, photographic, or other media provided that the records otherwise comply with this Rule and that printed copies can be produced. Whatever method is used to maintain required records must have a backup so that the records are secure and always available. If records are kept only in electronic form, then such records shall be backed up on a separate electronic storage device at least at the end of any day on which entries have been entered into the records. These records shall be readily accessible to the lawyer and available for production to the Pennsylvania Lawyers Fund for Client Security or the Office of Disciplinary

Counsel in a timely manner upon a request or demand by either agency made pursuant to the Pennsylvania Rules of Disciplinary Enforcement, the Disciplinary Board Rules, the Pennsylvania Lawyers Fund for Client Security Board Rules and Regulations, agency practice, or subpoena.

- (4) A regular trial balance of the individual client trust ledgers shall be maintained. The total of the trial balance must agree with the control figure computed by taking the beginning balance, adding the total of monies received in trust for the client, and deducting the total of all moneys disbursed. On a monthly basis, a lawyer shall conduct a reconciliation for each fiduciary account. The reconciliation is not complete if the reconciled total cash balance does not agree with the total of the client balance listing. A lawyer shall preserve for a period of five years copies of all records and computations sufficient to provide compliance with this requirement.

c. RPC 1.15(e), which provides that, 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;

d. RPC 1.15(f), which provides that, when in possession of funds or property in which two or more persons, one of whom may be the lawyer, claim an interest, the funds or property shall

be kept separate by the lawyer until the dispute is resolved. The lawyer shall promptly distribute all portions of the funds or property, including Rule 1.15 Funds, as to which the interests are not in dispute;

e. RPC1.15(h), which provides that, a lawyer shall not deposit the lawyer's own funds in a Trust Account except for the sole purpose of paying service charges on that account, and only in an amount necessary for that purpose;

f. RPC 1.15(i), which provides that, a lawyer shall deposit into a Trust Account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned and expenses incurred, unless the client gives informed consent, confirmed in writing, to the handling of fees and expenses in a different manner;

g. RPC 1.15(j), which provides that, at all times while a lawyer holds Rule 1.15 Funds, the lawyer shall also maintain another account that is not used to hold such funds;

h. RPC 1.15(l), which provides that, all Fiduciary Funds shall be placed in a Trust Account (which, if the Fiduciary Funds are also Qualified Funds, must be an IOLTA Account), or in another

investment or account which is authorized by the law applicable to the entrustment or the terms of the instrument governing Fiduciary Funds;

i. RPC 1.15(m), which provides that, all Qualified Funds which are not Fiduciary Funds shall be placed in an IOLTA Account;

j. RPC 1.16(c), which provides that, a lawyer must comply with applicable law requiring notice to or permission of a tribunal when terminating a representation. When ordered to do so by a tribunal, a lawyer shall continue representation notwithstanding good cause for terminating the representation;

k. RPC 1.16(d), which provides that, 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;

l. RPC 8.4(c), which provides that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation;

m. RPC 8.4(d), which provides that it is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice;

n. Pa.R.D.E. 221(e) which provides that a lawyer shall maintain and preserve 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, the writing required by Pa.R.P.C. 1.5 (relating to the requirement of a writing communicating the basis or rate of the fee) . . . and the following books and records for each Trust Account and for any other account in which Rule 1.15 Funds are held:

1. all transaction records provided to the attorney by the Financial Institution, such as periodic statements, canceled checks in whatever form, deposited items and records of electronic transactions; and
2. check register or separately maintained ledger, which shall include the payee, date, purpose and amount of each check, withdrawal and transfer, the payor, date, and amount of each deposit, and the matter involved for each transaction; provided, however, that where an account is used to hold funds

of more than one client, a lawyer shall also maintain an individual ledger for each trust client, showing the source, amount and nature of all funds received from or on behalf of the client, the description and amounts of charges or withdrawals, the names of all persons or entities to whom such funds were disbursed, and the dates of all deposits, transfers, withdrawals and disbursements.

3. A regular trial balance of the individual client trust ledgers shall be maintained. The total of the trial balance must agree with the control figure computed by taking the beginning balance, adding the total of moneys received in trust of the client, and deducting the total of all moneys disbursed. On a monthly basis, a lawyer shall conduct a reconciliation for each fiduciary account. The reconciliation is not complete if the reconciled total cash balance does not agree with the total of the client balance listing. A lawyer shall preserve for a period of five years copies of all records and computations sufficient to prove compliance with this requirement; and,
 - o. Pa.R.D.E. 221(g), which provides that the records required to be maintained by Pa.R.P.C. 1.15 shall be readily accessible to the lawyer and available for production to the Pennsylvania Lawyers Fund for Client Security and the Office of Disciplinary Counsel in a timely manner upon request or demand by either agency made pursuant to these Enforcement Rules, the Rules of the Board, the Pennsylvania Lawyers Fund for Client Security Board Rules and Regulations, agency practice, or subpoena.

SPECIFIC RECOMMENDATION FOR DISCIPLINE

109. ODC and Respondent jointly recommend that an appropriate discipline for Respondent's admitted misconduct is a four-year suspension from the practice of law, retroactive to Respondent's temporary suspension by the Order of Temporary Suspension in 195 DB 2020 and 2773 DD No. 3.

110. Respondent is a good candidate for discipline on consent in the form of a four-year suspension as set forth above, for the following reasons:

- a. her acceptance of responsibility and remorse for her misconduct;
- b. her reimbursement to PA CSF after its award to Ms. Budick and after Ms. Budick filed a complaint with ODC;
- c. her refunds to Ms. Miller after Ms. Miller filed a complaint with ODC;
- d. in or about January 2021, her hiring of a bookkeeper to help her become compliant with RPC 1.15;
- e. her completion of a Continuing Legal Education course concerning her RPC 1.15 obligations and responsibilities;
- f. her character references;

- g. her willingness to resolve all disciplinary complaint matters by agreement, including willingness to waive DB-7s for matters related to Paul Hartley and Lisa Koch; and,
- h. her intent to make all former clients whole.

This resolution will protect the public and maintain the interests of the legal profession and the Bar of the Commonwealth of Pennsylvania because, before she can regain her law license, Respondent will be required to demonstrate by clear and convincing evidence that she has met all of the requirements of Pa.R.D.E. 218(c)(3), including but not limited to, establishing that she has taken remedial action to address client harm and is fit to practice.

111. There is no formulistic approach or *per se* discipline for attorney misconduct. *ODC v. Lucarini*, 472 A.2d 186 (Pa. 1983). The Supreme Court of Pennsylvania has explained that discipline is not intended as punishment, but rather to protect the public from unfit attorneys. *ODC v. Keller*, 506 A.2d 872 (Pa. 1986). The discipline to be imposed must be determined on a totality of the facts of each individual matter. *Lucarini*, 472 A.2d at 190.

112. Specifically regarding RPC 1.15 compliance, the Court has noted there is no *per se* rule on disbarment when an attorney commingles client and personal funds, but the Court has emphasized that: (a) misappropriation

is a serious offense that may warrant disbarment, and (b) a client must be able to rest assured that any financial transactions carried out on his behalf will be scrupulously honest and will involve immediate payment of funds that are due and owing to the client. See *ODC v. Quigley*, 161 A.3d 800, 808 (Pa. 2017) (quoting *ODC v. Monsour*, 701 A.2d 556, 558 (Pa. 1997) (quotations omitted)). Substantial discipline is required whenever an attorney misappropriates client funds, even in the absence of a history of discipline, because the “proper handling of client money goes to the heart of a lawyer’s obligations to a client and to mishandle such funds abuses the trust between the lawyer and the client.” *ODC v. Olshock*, 29 DB 2002 at 10 (D. Bd. Rpt. 7/30/03) (S. Ct. Order 10/24/03).

113. Two recent decisions support at least a three-year suspension in this matter. In *ODC v. Eddy*, the respondent was temporarily suspended pursuant to Pa.R.D.E. 208(f)(1) and charged with RPC 1.15 and RPC 8.4 violations for misappropriation of client funds. 143 DB 2019 (D. Bd. Rpt. 3/24/21) (S. Ct. Order 6/4/21) (imposing three-year suspension retroactive to temporary suspension). ODC filed a Petition for Discipline and the matter went to a disciplinary hearing, at which time Eddy presented extensive, credible evidence of psychiatric disorders, drug addiction, and related and continuing treatment that met the standard for *Braun* mitigation. Eddy did not

maintain proper bookkeeping records or monthly reconciliations for individual clients. In its Report & Recommendation, the Board noted: "It was discovered that over a two year period of time, there were several times the account was out of trust with regard to eight different clients, and, as of July 9, 2019, Respondent was entrusted with \$74,113.58 on behalf of these clients." 143 DB 2019 at 4. Eddy acknowledged he used those entrusted funds for his own purposes and made full restitution to the clients.

114. Additionally, the Court recently approved a three-year suspension of a respondent who did not hold Rule 1.15 Funds separately from his own funds, took retainers from three clients for criminal and civil matters, was supposed to bill against the retainers at an hourly rate for his time, deposited the retainer funds and other client funds into his personal checking account, spent some of the retainer funds before he had earned them, and could not return unearned retainer funds promptly upon request. See *ODC v. Agresti*, 68 DB 2020 (D. Bd. Rpt. 05/21/21) (S. Ct. Order 07/21/21). In its Report & Recommendation, the Board concluded: "The record established that during the time frame in question, Respondent engaged in the private practice of law and failed to properly safeguard the property of three separate clients, which resulted in the misappropriation of approximately \$46,722" (emphasis added). *ODC v. Agresti*, 68 DB 2020 at

22. The Board also noted that Respondent “failed to demonstrate that he [had] remediated his practice problems by establishing proper accounts and showing he under[stood] how to safeguard client funds in compliance with the rules.” *ODC v. Agresti*, 68 DB 2020 at 24.

115. Here, Respondent’s misappropriation of \$24,010.57 of Ms. Budick’s funds, and her misuse of her IOLTA and failure to safeguard client funds for more than two and a half years, warrant a four-year suspension. Like the respondent in *Eddy*, for a substantial period of time (i.e. more than two years), Respondent failed to maintain proper bookkeeping records and monthly reconciliations for individual clients, and her IOLTA largely was out of trust – a minor example of which is the September 2019 overdraft in her IOLTA that generated File No. C2-19-1123. Like the respondent in *Agresti*, Respondent’s fee agreements for certain clients indicated she would bill against her full retainers at an hourly rate, but her treatment of those retainers was inconsistent with the terms in her fee agreements. Specifically, with approximately twenty (20) clients, Respondent’s invoices showed she billed a portion of the retainer as a one-time, lump sum fee rather than drawing down upon those funds at an hourly rate. Regarding this discrepancy, if called to testify at a disciplinary hearing, Respondent would state: (1) these invoices showed “inadvertent bookkeeping errors”; and, (2)

she did not intentionally convert client funds. Regardless, *Agresti* shows that the Board and the Court will hold a respondent to the terms of his/her fee agreements.

116. Also like the respondent in *Agresti*, Respondent spent retainer funds before she had earned them. She failed to promptly return unearned portions of her retainer upon request, as shown in File No. C2-19-1138. Respondent failed to demonstrate that she had remediated her practice problems by bringing her law firm accounting into compliance with RPC 1.15 and showing she understood how to safeguard client funds, even as the possibility of temporary suspension of her law license loomed. Despite having received more than adequate notice that certain of her bank accounts would be frozen, Respondent was unable to refund client money before the effective date of her temporary suspension and freeze on accounts in which she held fiduciary funds – causing certain of her clients to incur bank fees for the presentation of dishonored checks. Thereafter, despite enlisting the help of a bookkeeper and privately-retained counsel, Respondent could not establish with accurate accounting records: (a) an exhaustive list of former clients to whom refunds were due; and, (b) the amount that should be refunded to each former client. ODC has never been able to conduct a full and complete audit of Respondent's bank accounts because Respondent's

financial records were in such disarray. ODC has produced a list of former clients to whom refunds are due and/or account adjustments are to be made, and Respondent has agreed to rely on ODC's calculations.

117. Unlike the respondent in *Eddy*, Respondent does not have credible evidence of psychiatric disorders and related and continuing treatment that meets the standard for *Braun* mitigation. Moreover, she has made partial – not full – restitution to former clients, in that she has reimbursed PA CSF for its award to Ms. Budick and issued two refunds to Ms. Miller.

118. As noted above, Respondent attempted to refund monies to several former clients as she was winding down her practice in anticipation of the effective date of the temporary suspension. However, the accounts were frozen pursuant to the Supreme Court's Order of Temporary Suspension before the checks representing those refunds were negotiated by those former clients.

119. Respondent intends to reissue refunds to those former clients and issue refunds to other former clients once her accounts are unfrozen. However, the funds within Respondent's frozen accounts are insufficient to accomplish all refunds due to former clients as set forth *supra* in Paragraphs 83-85 and 87-88.

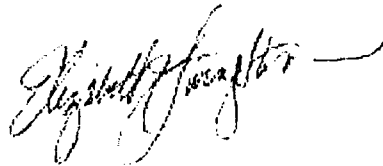
120. In the Lowell Matter, Respondent attempted to coerce Mr. Lowell into not filing and/or withdrawing a complaint to ODC in violation of RPC 8.4(d).

121. In the Koch Matter, Respondent threatened to continue a court conference and withdraw from a representation in violation of RPC 1.16(c) and (d).

122. Considering all of the circumstances, ODC and Respondent recommend a four-year suspension from the practice of law retroactive to the Order of Temporary Suspension.

WHEREFORE, Petitioner and Respondent respectfully request, pursuant to Pennsylvania Rules of Disciplinary Enforcement 215(e) and 215(g), that a three-member panel of the Disciplinary Board review and approve this Joint Petition in Support of Discipline on Consent and file a recommendation with the Supreme Court of Pennsylvania that Respondent receive a four-year suspension from the practice of law retroactive to the date of the Order of Temporary Suspension.

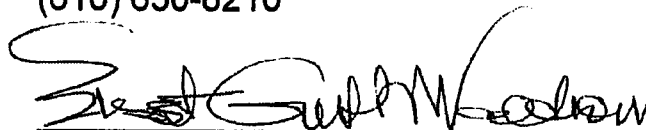
Respectfully submitted,
OFFICE OF DISCIPLINARY COUNSEL
THOMAS J. FARRELL
Attorney Registration No. 48976
Chief Disciplinary Counsel




October 22, 2021
DATE

Elizabeth A. Livingston, Disciplinary Counsel
Attorney Registration Number 208126
Office of Disciplinary Counsel, District II Office
820 Adams Avenue, Suite 170
Trooper, PA 19403
(610) 650-8210

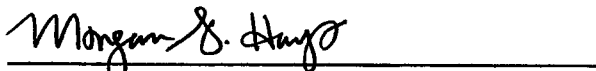
10/25/2021
DATE


Elissa Griffith Waldron
Respondent
Attorney Registration Number 52425

10-27-2021
DATE

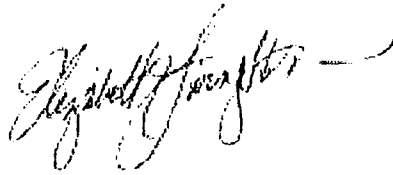

Robert A. Graci, Esquire
Counsel for Respondent

10/27/2021
DATE


Morgan S. Hays, Esquire
Counsel for Respondent

VERIFICATION

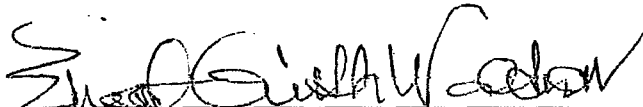
The statements contained in the foregoing *Joint Petition In Support of Discipline on Consent* are true and correct to the best of my knowledge or information and belief and are made subject to the penalties of 18 Pa.C.S.A. §4904, relating to unsworn falsification to authorities.



October 22, 2021
DATE

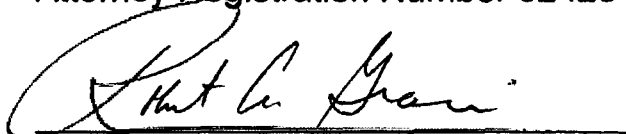
Elizabeth A. Livingston, Esquire
Disciplinary Counsel

10/25/2021
DATE




Elissa Griffith Waldron
Respondent
Attorney Registration Number 52425

10-27-2021
DATE



Robert A. Graci, Esquire
Counsel for Respondent

10/27/2021
DATE



Morgan S. Hays, Esquire
Counsel for Respondent

**BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA**

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 2773 DD No. 3
Petitioner	:	
	:	No. 195 DB 2020
v.	:	
	:	ODC File Nos. C2-19-137
	:	C2-19-377
	:	C2-19-1123
	:	C2-19-1138
	:	C2-21-249
	:	C2-21-285
	:	
	:	Attorney Reg. No. 52425
ELISSA GRIFFITH WALDRON,	:	
Respondent	:	(Lehigh County)

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving the foregoing document upon all parties of record in this proceeding in accordance with the requirements of Administrative Order of the Disciplinary Board of the Supreme Court of Pennsylvania dated April 7, 2020 (relating to electronic service upon a respondent-attorney).

Via First Class Mail and E-Mail, as follows:
Elissa Griffith Waldron
c/o Robert A. Graci, Esquire & Morgan S. Hays, Esquire
SAXTON & STUMP
4250 Crums Mill Road, Suite 201
Harrisburg, PA 17112
rag@saxtonstump.com and msh@saxtonstump.com

Dated: October 29, 2021



ELIZABETH A. LIVINGSTON
Disciplinary Counsel
Office of Disciplinary Counsel
District II Office
820 Adams Avenue, Suite 170
Trooper, PA 19403
(610) 650-8210

EXHIBIT A

BEFORE THE DISCIPLINARY BOARD OF THE

OFFICE OF DISCIPLINARY COUNSEL, Petitioner	:	No. 2773 DD No. 3
	:	
v.	:	No. 195 DB 2020
	:	
	:	ODC File Nos. C2-19-137
	:	C2-19-377
	:	C2-19-1123
	:	C2-19-1138
	:	C2-21-249
	:	C2-21-285
	:	
	:	Attorney Reg. No. 52425
ELISSA GRIFFITH WALDRON, Respondent	:	(Lehigh County)

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

ELISSA GRIFFITH WALDRON, being duly sworn according to law, deposes and submits this affidavit consenting to the recommendation of a four-year suspension from the practice of law retroactive to her temporary suspension by Order dated February 10, 2021, in conformity with Pa.R.D.E. 215(d), and further states as follows:

1. She is an attorney admitted to the Bar of the Commonwealth of Pennsylvania on June 10, 1988.
2. She desires to submit a Joint Petition in Support of Discipline on Consent Pursuant to Pa.R.D.E. 215(d).

3. 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 this affidavit.

4. She is aware that there are presently pending proceedings regarding allegations that she has been guilty of misconduct as set forth in the Joint Petition in Support of Discipline on Consent Pursuant to Pa.R.D.E. 215(d) to which this affidavit is attached.

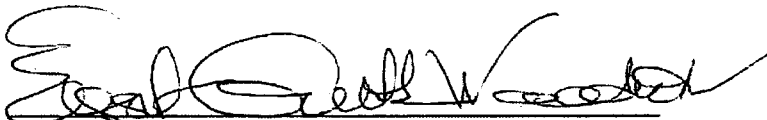
5. She acknowledges that the material facts set forth in the Joint Petition are true.

6. She submits this affidavit because she knows that if charges predicated upon the matter under investigation were filed, or continued to be prosecuted in the pending proceeding, she could not successfully defend against them.

7. She acknowledges that she is fully aware of her right to consult and employ counsel to represent her in the instant proceedings. She has retained, consulted, and acted upon the advice of Robert A. Graci, Esquire, and Morgan S. Hays, Esquire, in connection with her decision to execute the Joint Petition.

It is understood that the statements made herein are subject to the penalties of 18 Pa.C.S.A. §4904 (relating to unsworn falsification to authorities).

Signed this 27 day of October, 2021.


Elissa Griffith Waldron

Sworn to and subscribed
Before me on this 27
day of October, 2021


Notary Public

Commonwealth of Pennsylvania - Notary Seal
Angela Dumbleton, Notary Public
Lehigh County
My commission expires March 9, 2024
Commission number 1366359
Member, Pennsylvania Association of Notaries

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: Office of Disciplinary Counsel



Signature: _____

Dated: October 29, 2021

Name: Elizabeth A. Livingston, Esq.

Attorney No. (if applicable): 208126