

IN THE SUPREME COURT OF PENNSYLVANIA


OFFICE OF DISCIPLINARY COUNSEL,	:	No. 1090 Disciplinary Docket No. 3
	:	
Petitioner	:	
	:	
	:	No. 195 DB 2005
	:	
v.	:	
	:	
	:	
MICHAEL D. KASPRENSKI,	:	Attorney Registration No. 52370
Respondent	:	(Lehigh County)

ORDER

PER CURIAM:

AND NOW, this 22nd day of March, 2007, there having been filed with this Court by Michael D. Kasprenski his verified Statement of Resignation dated February 19, 2007, stating that he desires to resign from the Bar of the Commonwealth of Pennsylvania in accordance with the provisions of Rule 215, Pa.R.D.E., it is

ORDERED that the resignation of Michael D. Kasprenski is accepted; he is disbarred on consent from the Bar of the Commonwealth of Pennsylvania; and he shall comply with the provisions of Rule 217, Pa.R.D.E. Respondent shall pay costs, if any, to the Disciplinary Board pursuant to Rule 208(g), Pa.R.D.E.

A True Copy Patricia Nicola
As of: March 22, 2007
Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF
THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, No. 1090 Disciplinary Docket No. 3 -
Petitioner: Supreme Court
:
v. : No. 195 DB 2005
:
: Attorney Registration No. 52370
MICHAEL D. KASPRENSKI, :
Respondent: (Lehigh County)

RESIGNATION
UNDER Pa.R.D.E. 215

Michael D. Kasprenski, Esquire, hereby tenders his unconditional resignation from the practice of law in the Commonwealth of Pennsylvania in conformity with Pa.R.D.E. 215 ("Enforcement Rules") and further states as follows:

1. He is an attorney admitted in the Commonwealth of Pennsylvania, having been admitted to the bar on or about June 6, 1988, and having been temporality suspended by Order of the Supreme Court of Pennsylvania dated December 8, 2005. His attorney registration number is 52370.
2. He desires to submit his resignation as a member of said bar.
3. His resignation is freely and voluntarily rendered; he is not being subjected to coercion or duress and he is fully aware of the implications of submitting this resignation.
4. He is aware that there are presently pending investigations into allegations that he has been guilty of misconduct, the nature of which allegations have been made known to him by service of a Petition for Discipline, a true and correct copy of which is attached hereto, made a part hereof and marked Exhibit "A."

5. He acknowledges that the material facts upon which the allegations of misconduct contained in Exhibit "A" are based are true.

6. He submits the within resignation because he knows that he could not successfully defend himself against the charges of professional misconduct set forth in the attached exhibit.

7. He is fully aware that the submission of this Resignation Statement is irrevocable and that he can only apply for reinstatement to the practice of law pursuant to the provisions of Enforcement Rule 218(b).

8. He acknowledges that he is fully aware of his right to consult and employ counsel to represent him in the instant proceeding. He has retained, consulted with and acted upon the advice of counsel, Samuel D. Miller, III, Esquire, in connection with his decision to execute the within resignation.

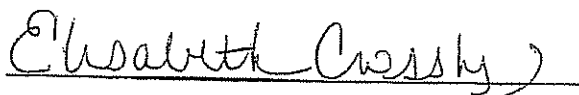
It is understood that the statements made herein are subject to the penalties of 18 Pa.C.S., Section 4904 (relating to unsworn falsification to authorities).

Signed this 19 day of Feb, 2007.



Michael D. Kasprenski

WITNESS:



Elizabeth Crossky

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 1090 Disciplinary Docket No. 3 -
Petitioner: Supreme Court

v.

:
: No. 195 DB 2005
: and sur ODC File Nos.
: C2-05-1019, C2-06-100, C2-06-361,
: C2-06-410, C2-06-472, and C2-06-583
:
: Atty. Registration No. 52370

MICHAEL D. KASPRENSKI,

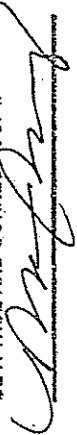
Respondent : (Lehigh County)

PETITION FOR DISCIPLINE

Petitioner, the Office of Disciplinary Counsel, by Paul J. Killion, Chief Disciplinary Counsel, and Barbara S. Rosenberg, Disciplinary Counsel, files the within Petition for Discipline and charges Respondent, Michael D. Kasprenski, with professional misconduct in violation of the Rules of Professional Conduct and the Pennsylvania Rules of Disciplinary Enforcement, as follows:

1. Petitioner, whose principal office is situated at Suite 1400, 200 North Third Street, Harrisburg, Pennsylvania 17101, is invested, pursuant to Rule 207 of the Pennsylvania Rules of Disciplinary Enforcement (hereinafter "Pa.R.D.E."), with the power and duty to investigate all matters involving alleged misconduct of any attorney admitted to practice law in the Commonwealth of Pennsylvania and to prosecute all disciplinary proceedings brought in accordance with the various provisions of said Rules.

WE HEREBY CERTIFY THE WITHIN TO
BE A TRUE AND CORRECT COPY.



—  —

Exhibit A

FILED

NOV 07 2006

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

2. Respondent, Michael D. Kasprenski, was born in 1962 and was admitted to practice law in the Commonwealth of Pennsylvania on or about June 6, 1988. Respondent was temporarily suspended from the practice of law by Order of the Supreme Court of Pennsylvania entered on December 8, 2005.

3. Respondent's office was formerly located at 2310 Walbert Avenue, Suite 103, Allentown, Lehigh County, PA 18104. Respondent resides at 1597 Wethersfield Drive, Allentown, PA 18104.

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

CHARGE I: THE PATTERN

5. During a period commencing no later than January 1999, and continuing through January 2006, Respondent engaged in a pattern of conduct with respect to funds of clients and third persons received by him in connection with a representation (hereinafter, "Rule 1.15 funds"), including but not limited to the transactions set forth hereinbelow, in which he:

- a. represented clients, including personal representatives of estates, trustees of trusts, and sellers of real estate, and operated a title insurance agency, Turtle Abstract Company, an agent of Lawyers Title Insurance Company;
- b. maintained two accounts at PNC Bank, captioned, respectively, "Michael D. Kasprenski IOLTA Account" and "Turtle Abstract Company IOLTA Account";

- c. obtained estate and trust funds and real estate financing funds, often without the knowledge and consent of clients and by use of forged authorizations or instruments;
- d. failed to advise clients and third parties, including beneficiaries of estates and trusts, of his receipt of funds in which they had an interest;
- e. forged endorsements on checks payable to others;
- f. commingled such funds with his own in the IOLTA accounts;
- g. directed financial institutions holding accounts maintained for individual estates and trusts to send periodic statements to his address;
- h. failed to maintain accurate contemporaneous records of transactions involving Rule 1.15 funds;
- i. utilized Rule 1.15 funds for his own benefit, without the knowledge or authorization of the persons or entities on behalf of which he held such funds;
- j. failed to hold sufficient funds to support required entrustments on behalf of such persons or entities;
- k. failed to account to such persons or entities upon proper request from those entitled to an accounting; and
- l. failed to promptly remit funds due to such persons or entities.

CHARGE II: THE CRUZ ESTATE AND TRUST
AND THE LAGVANEC ESTATE

A. ESTATE OF EDGARDO S.G. CRUZ, DECEASED

(1) ESTATE ADMINISTRATION

6. Edgardo S.G. Cruz, a resident of Lehigh County, died on November 6, 1998, survived by his wife Susan Cruz and minor children, having executed the following estate planning documents:

- a. a revocable Trust created in 1973, in which the beneficiaries are Dr. Cruz's parents and sisters and the trustee is Industrial Valley Bank (later First Fidelity Bank of Pennsylvania, later First Union Bank, now Wachovia Bank, "Wachovia"), which was the beneficiary of two National Life Insurance Company ("National Life") policies valued at \$830,000;
- b. a Will dated February 20, 1992, of which Mrs. Cruz is executrix and the residuary beneficiaries are two Trusts; and
- c. an Irrevocable Trust, created in 1993, of which the beneficiaries are Mrs. Cruz and the Cruz children, the trustee is Wachovia, and the assets include the proceeds of various life insurance policies.

7. Dr. Cruz's assets also included bank accounts, brokerage accounts, pension and profit-sharing plans, interest in a closely-held corporation and entireties real estate in New Jersey and Pennsylvania.

8. Shortly after Dr. Cruz's death, Mrs. Cruz retained Respondent to pursue claims to the National Life benefits and to assist her in administering the estate.
9. On November 17, 1998, Respondent obtained a Grant of Letters Testamentary to Mrs. Cruz from the Lehigh County Register of Wills.
10. In or about November 1998, at Respondent's direction, Mrs. Cruz opened an estate checking account at Wachovia ("the estate account"), for which he maintained the checkbook and directed that the statements and cancelled checks be sent to his office.
11. In December 1998, Respondent advised Mrs. Cruz that his fee for estate administration would be \$46,625.00, plus \$37,900.00 for the trust matters.
12. In January 1999, Mrs. Cruz paid those fees by checks drawn on the estate account.
13. Respondent deposited the checks into the IOLTA account and immediately withdrew the funds.
14. In April 1999, Respondent filed a New Jersey ("NJ") inheritance tax return.
15. In May 1999, Respondent issued a check on the estate account in the amount of \$9,000.00 to the Pennsylvania ("PA") Department of Revenue on account of inheritance tax.
16. On June 15, 1999, Respondent filed a Certification of Notice of Beneficial Interest Under Orphans' Court ("OC") Rule 5.6(a) ("Rule 5.6(a) Notice" and "Rule 5.6(a) Certification").

17. On or about July 21, 1999, Respondent filed an Inventory and a PA inheritance tax return, in which, *inter alia*, he reported \$837,460.00 in gross assets, including \$261,039.86 in taxable assets, deducted counsel fees for estate administration of \$46,625.00, and additional amounts of \$37,900.00 and \$18,500.00, calculated tax at the rate of 6%, for total tax due in the amount of \$15,662.39; and he forwarded a check drawn on the IOLTA account in the amount of \$6,662.00.

18. The payment of tax was erroneous, in that Respondent included the proceeds of Dr. Cruz's life insurance policies and pension plan as taxable assets, there was no net taxable estate, and the 6% tax rate is not applicable to bequests to a spouse.

19. On July 28, 1999, Respondent filed with the Register of Wills a Status Report of Personal Representative Under OC Rule 6.12 ("Rule 6.12 Report"), in which he falsely stated that the administration of the estate was complete and that the personal representative had stated an account informally to the parties in interest.

20. Respondent failed to timely file an Inventory and federal and Pennsylvania estate tax returns and to pay estate tax, as a result of which the estate incurred interest and penalties.

21. On November 22, 1999, the PA Department of Revenue issued a Notice of Appraisement, in which it showed the entire \$15,662.39 paid for inheritance tax as an overpayment.

22. Respondent failed to file for a refund of the tax, which was later credited against estate tax due.

23. Respondent failed to prepare a Final Account and Statement of Distribution.

(2) THE 1973 TRUST

24. Dr. Cruz's 1992 Will and 1993 Trust were prepared by Edward Lentz, Esquire, who, along with insurance agent Richard Smith, failed to change the beneficiaries of the 1973 Trust and the National Life policies to Mrs. Cruz and the Cruz children as Dr. Cruz had intended and directed.

25. In November 1998, Respondent and Mrs. Cruz met with Mr. Smith and Mr. Lentz, who admitted that they had erroneously failed to change the beneficiaries.

26. In 1998, Respondent corresponded with counsel for First Union and National Life concerning this claim.

27. National Life filed an interpleader action, in which Respondent entered his appearance but took no other action.

28. Respondent failed to pursue professional liability or other claims against Mr. Lentz, Mr. Smith, and/or any other responsible entities for their negligence relating to the insurance policies, and the statute of limitations expired on those claims.

29. In August 2000, the court discharged National Life of liability.

(3) MISAPPROPRIATIONS

30. Commencing in or about January 1999, Respondent obtained control of an additional \$657,054.47 by transactions including the following:

- a. Between April 1999 and August 2001, Respondent issued on the estate account twelve checks totaling \$197,062.39, payable to his escrow account or to himself, by either forging Mrs. Cruz's signature or directing her to issue such checks for either claimed fees or estate expense.
- b. Between February 2000 and March 2002, Respondent obtained proceeds of various insurance policies, bank accounts, and sale of real estate, totaling \$18,333.46.
- c. Between August 2000 and November 2002, at Respondent's direction and advice that the transactions were for estate purposes, Mrs. Cruz issued on her American Bank account twelve checks totaling \$243,782.42, payable to Respondent.
- d. Between October 2002 and June 2003, in response to instructions in letters sent by Respondent over the name and forged signature of Mrs. Cruz, Wachovia issued on an estate account four checks totaling \$126,876.20, payable to Mrs. Cruz, and sent them to Respondent.
- e. In February and March 2003, Respondent sent to Morgan Stanley Dean Witter (now "Morgan Stanley") a letter signed in

Mrs. Cruz's name but in Respondent's handwriting, requesting that Morgan Stanley deliver to him a check drawn on Mrs. Cruz's IRA Account in the amount of \$71,000.00, payable to Mrs. Cruz.

31. Respondent negotiated the checks listed in ¶30 by forging the endorsement of Mrs. Cruz and deposited the proceeds to the IOLTA account, from which he withdrew the funds by checks issued to himself or for his benefit.

32. Mrs. Cruz did not authorize Respondent to request, endorse, deposit, or use the proceeds of the checks described in ¶30.

33. Respondent failed to reveal to Mrs. Cruz that he had issued and received the foregoing checks and to account to her for the disposition of the funds or that as a result of the IRA withdrawals she would incur \$23,000.00 in income tax liability, which was paid by a check drawn at Respondent's direction over a forged signature of Mrs. Cruz.

34. Between July 1999 and October 2002, Respondent issued on the IOLTA account sixteen checks, totaling \$50,595.39, for taxes and accountant's fees relating to the estate.

35. Between October 2002 and July 2003, Respondent issued on the IOLTA account six checks, totaling \$171,913.14, payable to Mrs. Cruz.

36. As of February 2003, Respondent had misappropriated a total of \$550,445.94 from the estate, exclusive of the fee for estate administration, reduced to \$472,445.94 as of July 2003.

B. ESTATE OF ANNA LAGVANEC, DECEASED

37. Anna Lagvanec, a resident of Lehigh County, died, testate, on January 18, 2002.

38. Mrs. Cruz is the executrix and sole beneficiary of the Lagvanec Estate, and held joint accounts with Ms. Lagvanec at American Bank, which were the sole assets of the estate.

39. Mrs. Cruz retained Respondent to represent her in administering the estate.

40. Respondent did not advise Mrs. Cruz orally or in writing of the fee which he intended to charge her for the representation.

41. On February 4, 2002, Respondent obtained a Grant of Letters Testamentary to Mrs. Cruz from the Register of Wills of Lehigh County.

42. Respondent failed to issue Rule 5.6(a) Notices and to file a Rule 5.6(a) Certification.

43. Between November 2001 and May 2002, at Respondent's request or direction, Mrs. Cruz issued on the American Bank joint accounts four checks totaling \$75,576.55, payable to Respondent, which he deposited to the IOLTA account.

44. Between February and May 2002, Respondent issued on the IOLTA account nine checks, totaling \$9,547.81, for the benefit of the estate.

45. Respondent misappropriated the remaining \$66,028.74.

46. Respondent failed to timely file an inheritance tax return and Inventory and a Rule 6.12 Report.

47. On September 3, 2003, Respondent filed an inheritance tax return, which he signed on behalf of the estate, in which he did not claim a deduction for counsel fees, and an Inventory, each of which showed the estate value as \$33,043.26; and a Rule 6.12 Report in which he falsely stated that the administration of the estate was complete and an account had been stated informally.

C. ACCOUNTING AND RESTITUTION

48. In or about September 2003, Bruce E. Davis, Esquire, advised Respondent that he represented Mrs. Cruz concerning the Cruz and Lagvanec estate and trust matters.

49. At that time and thereafter, Mr. Davis repeatedly directed Respondent not to communicate with Mrs. Cruz, requested that Respondent meet with him to review and account for transactions involving Cruz funds, demanded that Respondent make restitution, and threatened criminal prosecution and disciplinary reporting should he fail to comply.

50. On various occasions thereafter and continuing through early 2005, Respondent continued to contact Mrs. Cruz directly, provided incomplete documentation and inaccurate accountings to Mr. Davis, and attempted to avoid full restitution to Mrs. Cruz.

51. Respondent made the restitution to the Cruz estate of the \$472,445.94 balance due as of December 2003, plus \$36,756.23 towards interest and counsel and accountant's fees, for a total of \$509,202.17, using funds of other clients, including

the Ruiz, Maiser, Shiner, Pesanchik and Wascoe estates, Charges IIII – VII *infra*, which Respondent was required to hold inviolate, as follows:

- a. Between December 2003 and March 2004, Respondent issued four checks on the IOLTA account, payable to Mrs. Cruz, totaling \$401,002.17;
 - b. In or about December 2004, Respondent entered into an agreement to pay an additional \$216,000.00, by an initial payment and five additional installments of \$36,000.00 each, and he executed a Note and Confession of Judgment.
 - c. Between December 2004 and June 2005, Respondent issued on the IOLTA account checks totaling \$108,000.00, payable to Mrs. Cruz or Mr. Davis.
52. Respondent did not make payments due after June 2005.
53. Respondent failed account for and remit to Mrs. Cruz \$66,028.74 misappropriated from the Lagvanec estate.

CHARGE III: THE RUIZ ESTATE AND TRUST

54. On December 28, 2002, Karleen M. Ruiz (“Mrs. Ruiz”), a resident of Berks County, died, leaving a will, drafted by Respondent, which named as executrices her daughters, Holly Ruiz and Heidi Tobash, and her friend Wendy Musselman (“the executrices”); devised her real estate to Ms. Tobash, in trust; bequeathed \$10,000 apiece to Cheryl Wiltrout and Ms. Musselman, \$5,000 to the Salvation Army, and the residue in trust, 50% to her four grandchildren, *per stirpes*, and 50%

to Ms. Ruiz; named Morgan Stanley as Trustee; and directed the executrices to retain Respondent as counsel to the estate.

55. In or about January 2003, the executrices retained Respondent.

56. Respondent failed to advise the executrices of the basis or rate of the fee either orally or in writing.

57. Mrs. Ruiz's assets included approximately \$1,200,000.00 held by Morgan Stanley, a residence valued at \$287,000.00, and personal property.

58. On January 21, 2003, Respondent secured a Grant of Letters Testamentary to the executrices from the Register of Wills of Berks County.

59. In February 2003, Respondent sent to the executrices a Rule 5.6(a) Notice and filed a Rule 5.6(a) Certification, but he failed to provide them with a copy of the will.

60. Respondent failed to advertise the Grant of Letters.

61. In or about February 2003, at Respondent's direction, the executrices opened an estate checking account at Morgan Stanley ("the estate account"), for which he maintained the checkbook and had the statements and cancelled checks sent to his office.

62. Respondent failed to establish the trusts as required by the will, to promptly sell Mrs. Ruiz's real estate, and to communicate with his clients.

63. Respondent failed to file an Inventory and inheritance tax return, to pay inheritance taxes, and to timely file a Rule 6.12 Report.

64. Respondent failed to file state and federal income tax returns for the estate, as a result of which the estate incurred penalties and interest.

65. Between February 2003 and May 2004, Respondent deposited to the IOLTA account a total of \$923,710.65 of estate assets, by transactions including:

- a. Between February 2003 and March 2004, Respondent sent letters or made telephone calls to Morgan Stanley by which he obtained eight checks drawn on the estate account, totaling \$633,000.00, payable to the estate, by falsely representing that the beneficiaries had authorized the transactions.
- b. In May 2003 and May 2004, Respondent obtained proceeds of Mrs. Ruiz's insurance policies in the amounts of \$43,575.15 and \$1,956.33, respectively.
- c. On May 19, 2005, Respondent attended settlement of Mrs. Ruiz's real estate, at which time he received a proceeds check in the amount of \$241,145.53, payable to the estate.

66. Respondent negotiated the checks listed in ¶65 by forging the endorsement of the payee(s), deposited the proceeds to the IOLTA account, and utilized those funds for his own benefit.

67. The executrices did not authorize Respondent to request, endorse, deposit or utilize the proceeds of the checks described in ¶65.

68. Respondent failed to reveal to the executrices that he had issued and received the foregoing checks and to account to the executrices for the funds.

69. Between February 2003 and April 2004, Respondent issued on the IOLTA account eighteen checks totaling \$18,281.89 on account of estate obligations and notified the executrices of certain of these payments.

70. Between April 2003 and October 2004, Respondent issued on the IOLTA account four checks to beneficiaries totaling \$89,228.48: \$66,000.00 to Ms. Tobash, \$3,000.00 to Ms. Ruiz, \$10,110.40 to Ms. Wiltrout, and \$10,118.08 to Ms. Musselman (the latter two payments including interest).

71. As of May 2005, Respondent had misappropriated funds of the Ruiz estate totaling not less than \$815,428.76.

72. On April 5, 2005, Respondent filed a Rule 6.12 Report in which he falsely stated that the personal representatives had stated an account informally to the parties in interest and that he anticipated that the administration would be complete in October 2005.

73. In June 2005, Petitioner made inquiry into Respondent's transactions in the estate, and between that time and October 2005, Respondent issued on the IOLTA account six checks totaling \$29,300.00, payable to Ms. Ruiz, and one check in the amount of \$45,000.00, payable to Ms. Tobash.

74. Respondent failed to account for and remit to the estate \$711,203.76 in misappropriated funds.

CHARGE IV: THE SHINER ESTATE

75. In or about July 2002, Roberta Kollar, a resident of Lehigh County, contacted Respondent on behalf of her father, William N. Shiner.

76. Respondent met with Mr. Shiner, and agreed to prepare a codicil to Mr. Shiner's will and a power of attorney to Ms. Kollar.

77. Respondent advised Ms. Kollar that his fee to prepare the documents would be \$700.00, which she paid, by a check which was later returned.

78. Respondent failed to prepare the codicil, although he provided to Mr. Shiner a durable power of attorney.

79. On June 18, 2003, Mr. Shiner, died, leaving a will and a revocable living trust, under which Ms. Kollar is, respectively, executrix and trustee, and she, Gerald Shiner and William F. Shiner are equal beneficiaries.

80. Mr. Shiner's trust held \$29,193.59 in a Wachovia Securities account and an AIG Annuity Insurance Company ("AIG") deferred annuity valued at approximately \$117,341.25, and his estate had personal property valued at \$1,500.00.

81. Ms. Kollar retained Respondent to assist her in administering the estate.

82. Respondent advised Ms. Kollar that his fee would be \$3,000.00, which she paid.

83. Respondent failed to advise Ms. Kollar of the basis or rate of the fee for either representation in writing.

84. On July 30, 2003, Respondent obtained a Grant of Letters Testamentary to Ms. Kollar from the Register of Wills of Lehigh County.

85. Respondent failed to advertise the Grant of Letters.

86. On October 12, 2003, Respondent filed a Rule 5.6(a) Certification.

87. Between July and December 2003, Respondent obtained a total of \$136,399.32 in estate funds by transactions including the following:

- a. In July 2003, Respondent secured a check from Wachovia drawn on trust account funds, in the amount of \$19,626.24, payable to the estate, and endorsed it over to himself "for Estate of William Shiner."
- b. In September 2003, Respondent filed with AIG a request to liquidate the annuity.
- c. In September and December 2003, Respondent issued checks on the AIG account, payable to the estate, in the amounts of \$30,000.00 and \$86,773.08, respectively, by forging Ms. Kollar's signature on the checks.

88. Respondent negotiated the checks described in ¶87 by forging the endorsement of the payee, deposited the proceeds to the IOLTA account, and utilized those funds for his own benefit.

89. Ms. Kollar did not authorize Respondent to request, endorse, deposit or utilize the proceeds of the checks described in ¶87.

90. Respondent failed to reveal to Ms. Kollar that he had issued and received the foregoing checks and to account to her for the disposition of the funds.

91. As of April 2004, Respondent was out of trust to the Shiner Estate in the amount of \$119,703.72, exclusive of fees.

92. Respondent failed to timely file an Inventory and inheritance tax return and to pay inheritance tax.

93. During the administration of the estate, Ms. Kollar repeatedly asked Respondent to advise of the location of, and amount of interest generated by, the estate funds and demanded that he remit the funds to her.

94. Respondent failed to respond to Ms. Kollar or gave her various false excuses for his failure to account for and remit the funds.

95. On or about October 10, 2005, after Petitioner made inquiry into the matter, Respondent provided to Ms. Kollar a check drawn on his IOLTA account in the amount of \$114,098.37 and advised that he had taken an \$8,951.75 fee from the estate funds that he was holding.

96. Ms. Kollar reminded Respondent that she had already paid him \$3,000.00, and he made a refund in that amount.

97. On or about October 10, 2005, Respondent filed an inheritance tax return, using an outdated form, in which he inaccurately calculated a 6% tax on lineal heirs as opposed to the correct rate of 4.5% and failed to claim the family exemption and thereby overpaid tax, claimed a counsel fee in the amount of \$8,951.75, and showed tax due in the amount of \$7,643.85.

98. On October 12, 2005, Respondent paid inheritance tax by check issued on the IOLTA account in the amount of \$7,643.85, but failed to calculate and pay interest on the late payment.

99. Respondent failed to prepare a Final Account and Statement of Distribution.

100. Respondent failed to account for and remit to the estate \$1,080.15 in misappropriated funds.

CHARGE V: THE PESANCHIK ESTATE

101. On December 29, 2003, Theresa Pesanchik, a resident of Lehigh County, died, leaving a will prepared by Respondent which names Ms. Pesanchik's niece, Rosemary Towne, as executrix, bequeaths specific assets and the residuary estate to various beneficiaries, including Ms. Towne, and directs that the executor [*sic*] retain Respondent as counsel for the estate.

102. In or about January 2004, Ms. Towne retained Respondent to represent her as executrix.

103. Respondent failed to advise Ms. Towne of the basis or rate of his fee in writing.

104. The assets of the estate included stocks valued at \$152,126.32, held in a brokerage account, and real estate valued at \$80,000.00, as well as a 50% interest in joint accounts at First Commonwealth Bank ("Commonwealth") held with Ms. Pesanchik's sister, Olga Haas.

105. In January 2004, Mrs. Haas, who was a signatory to Ms. Pesanchik's safe deposit box, accompanied Respondent to Commonwealth to search the box for records of Ms. Pesanchik's assets and the original will, at which time Respondent obtained Mrs. Haas's signature on a document on which he concealed the text,

which was ostensibly to permit him to withdraw approximately \$2,000.00 from a joint account to pay estate bills.

106. On January 20, 2004, Respondent used that document to withdraw \$92,486.91 from a joint account by a cashier's check payable to Mrs. Haas.

107. On March 1, 2004, Respondent obtained a Grant of Letters Testamentary to Ms. Towne from the Lehigh County Register of Wills.

108. Respondent failed to advertise the Grant of Letters, to timely send Rule 5.6(a) Notices, and to file a Rule 5.6(a) Certification.

109. In or prior to August 2004, at Respondent's direction, Ms. Towne opened an estate checking account at Merrill Lynch ("the estate account"), for which he maintained the checkbook and had the statements and cancelled checks sent to his office.

110. The proceeds of the brokerage account were transferred to the estate account.

111. Between January 2004 and August 2005, Respondent obtained a total of \$335,728.54 of estate funds, as follows:

- a. Between January and June 2004, at Respondent's direction, Merrill Lynch sent to him sixteen dividend checks, totaling \$4,082.50, payable to Ms. Pesanchik or the estate.
- b. Between September 2004 and March 2005, Respondent issued on the estate account eight checks totaling \$147,000.00, payable to the estate, by forging Ms. Towne's signature on the checks.

- c. In December 2004, Respondent received a check in the amount of \$5,190.00, the proceeds of liquidation of stock, payable to the estate.
- d. On August 11, 2005, Respondent attended the settlement of sale of the estate's real estate, at which time he obtained a check in the amount of \$73,737.82, payable to the estate.

112. Respondent negotiated the checks listed in ¶¶106 and 111 by forging the endorsement of the payee, deposited the proceeds into the IOLTA account, and utilized the funds for his own benefit.

113. Ms. Haas did not authorize Respondent to obtain, endorse, deposit or utilize the proceeds of the check described in ¶106.

114. Ms. Towne did not authorize Respondent to obtain, endorse, deposit or utilize the proceeds of the checks described in ¶111.

115. Respondent failed to reveal to Ms. Towne or to Ms. Haas that he had issued and received the foregoing checks and to account to them for the disposition of the funds.

116. Between March 2004 and June 2005, Respondent issued on the IOLTA account twenty-five checks, totaling \$34,778.26, for estate expenses.

117. As of August 2005, Respondent was out of trust to the estate and Mrs. Haas in the amount of \$287,718.97.

118. Respondent failed to timely file an Inventory and inheritance tax return, to pay tax, and to file a Rule 6.12 Report.

119. In or about October 2005, after Petitioner made inquiry into the matter, Respondent prepared and filed an inheritance tax return, which was signed by Ms. Towne, in which he claimed a counsel fee of \$13,231.31, and he paid inheritance tax by check drawn on the IOLTA account in the amount of \$30,116.75.

120. In October 2005, Mrs. Haas learned that \$92,486.91 had been withdrawn from the joint account, confronted Respondent, demanded that he reimburse her, and accompanied him to PNC Bank, where he obtained and provided to her a cashier's check drawn on the IOLTA account in the amount of \$95,555.93.

121. In November 2005, Respondent issued on the IOLTA account eleven checks totaling \$204,228.48, payable to beneficiaries, utilizing funds received from a third party's real estate transaction, discussed *infra*, §VIII.

122. In transmitting payments to the beneficiaries, Respondent falsely advised them that he had withheld a portion of the proceeds of sale of their securities for payment of taxes.

123. In or about November 2005, Respondent falsely advised Ms. Towne that the inheritance tax return had been approved and requested that she pay a fee based upon the "fee scale" for estates.

124. On or about December 1, 2005, Ms. Towne issued a check in the amount of \$13,231.31 to Respondent for his fees.

125. Respondent failed to prepare a Final Account and Statement of Distribution.

126. On March 13, 2006, the Department of Revenue issued a Notice of Inheritance Tax Appraisal in which it assessed interest and penalties for late payment in the amount of \$1,545.89.

127. Respondent failed to account for and remit to the estate \$8,996.42 in misappropriated funds.

CHARGE VI: THE WASCOE ESTATE

128. On March 31, 2004, Margaret B. Wascoe, a resident of Lehigh County, died, leaving a will which named her niece, Sharon M. Kasprenski, who is Respondent's wife, as executrix, and Ms. Wascoe's brother, James Wascoe, as sole beneficiary.

129. Respondent handled all matters with respect to the estate.

130. On May 26, 2004, Respondent obtained a Grant of Letters Testamentary to Mrs. Kasprenski from the Lehigh County Register of Wills.

131. Respondent failed to advertise the Grant of Letters, to send Rule 5.6(a) Notices, and to file a Rule 5.6(a) Certification.

132. Respondent opened an estate account at Merrill Lynch and transferred to it the assets in Ms. Wascoe's brokerage account.

133. Between May 2004 and April 2005, Respondent obtained a total of \$128,122.29 of funds from the estate and Mr. Wascoe, as follows:

- a. In June 2004, at Respondent's request, Mr. Wascoe issued a check in the amount of \$6,516.83, payable to the estate;

- b. Between June 2004 and January 2005, Respondent received dividends on and proceeds of sale of Ms. Wascoe's stocks, sold stocks held in the estate account and issued checks on the estate account payable to himself or to the estate, for a total of \$114,005.46; and
- c. In April 2005, at Respondent's request, Mr. Wascoe issued a check in the amount of \$7,500.00, payable to Respondent, ostensibly for estate obligations.

134. Respondent negotiated the checks described in ¶¶133a. and b. by forging the endorsement of the payee, deposited the proceeds of the checks described in ¶¶133a. - 133c. to the IOLTA account, and utilized those funds for his own benefit.

135. Mr. Wascoe did not authorize Respondent to endorse or deposit the proceeds of the checks described in ¶¶133a. and b. or to utilize any of the funds received for his own benefit.

136. Respondent failed to reveal to Mr. Wascoe that he had issued and received the checks described in ¶133b. and to account to him for the disposition of any of the funds he received.

137. Between May and September 2004, Respondent issued checks on the IOLTA account totaling \$9,855.90 for estate obligations.

138. As of April 2005, Respondent was out of trust to Mr. Wascoe and the estate in the amount of \$101,517.59.

139. On numerous occasions, Mr. Wascoe asked that Respondent advise him of the status of the estate and account for estate funds.

140. Respondent failed to provide that information.

141. Respondent failed to timely file an Inventory and inheritance tax return, to pay inheritance tax, and to file a Rule 6.12 Report.

142. On November 17, 2005, after Petitioner made inquiry into the matter, Respondent provided to Mr. Wascoe a check drawn against the Turtle Abstract IOLTA account, in the amount of \$59,482.57.

143. Respondent failed to account for and remit to Mr. Wascoe \$42,035.02 in misappropriated funds.

CHARGE VII: THE MAISER ESTATE

144. On December 9, 2004, Margaret A. Maiser, a resident of Lehigh County, died, leaving a will which names her daughter, Elizabeth Stevenson, as executrix, and Ms. Stevenson and Theodore Russell Maiser as residuary beneficiaries.

145. In or about December 2004, Ms. Stevenson retained Respondent to represent her in settling the estate.

146. By letter dated December 15, 2004, Respondent advised Ms. Stevenson that his fee would be based upon the Lehigh County Court of Common Pleas, Orphans' Court Division, Legal Fee Guidelines, but did not provide the guidelines.

147. On December 22, 2004, Respondent obtained a Grant of Letters Testamentary to Ms. Stevenson from the Lehigh County Register of Wills.

148. Respondent failed to advertise the Grant of Letters, to send Rule 5.6(a) Notices and to timely file a Rule 5.6(a) Certification.

149. At Respondent's direction, Ms. Stevenson opened an estate checking account at Merrill Lynch.

150. Ms. Stevenson took all other necessary action to administer the estate, including garnering of assets and paying bills.

151. At Respondent's direction, Ms. Stevenson issued on the estate account checks in the amounts of \$20,000.00 on December 22, 2004, and \$15,000.00 on March 30, 2005, payable to Respondent, which he advised her would be used for payment of inheritance taxes.

152. Respondent deposited each of the checks into the IOLTA account and utilized the funds for his own benefit, without the knowledge or authorization of Ms. Stevenson.

153. Respondent failed to timely file an inheritance tax return and an Inventory and to pay inheritance tax.

154. In early September 2005, Respondent falsely advised Ms. Stevenson that he had filed the inheritance tax return and paid taxes and that he was waiting to hear back from the state before completing distribution.

155. By letter dated September 19, 2005, Ms. Stevenson asked that Respondent provide complete records relating to the estate, the inheritance tax return, and an accounting of her funds.

156. On or about September 22, 2005, after Petitioner made inquiry into the matter, Respondent filed a Rule 5.6(a) Certification, an Inventory, an inheritance tax return in which he claimed an attorney fee of \$16,748.80, and a Rule 6.12 Report, in which he falsely stated that the administration of the estate was complete, and he paid inheritance tax in the amount of \$12,931.17 by check issued on the IOLTA account.

157. Ms. Stevenson did not authorize Respondent to claim or receive a fee in that amount.

158. Respondent failed to obtain Ms. Stevenson's signature on the return and provide her with a copy.

159. On October 11, 2005, Respondent gave Ms. Stevenson a check drawn on the IOLTA account in the amount of \$18,043.83, payable to her.

160. Respondent failed to account for and remit to the estate \$12,935.80 in misappropriated funds.

CHARGE VIII: THE LAWYERS TITLE MATTER

161. On or about October 5, 2005, in his capacity as agent for seller, and as title agent through Turtle Abstract, Respondent handled a real estate settlement for the sale of real property from ISIS International to Richard L. Frankel and Todd G. Sussman, for \$650,000.00.

162. On that date, Greenpoint Mortgage Funding wired to Respondent's IOLTA account a total of \$584,811.72.

163. Respondent issued a HUD-1 settlement statement, in which he:

- a. credited borrowers with a total of \$696,472.82;
- b. charged to borrowers a counsel fee in the amount of \$929.61, part of settlement costs of \$46,472.82, and to the seller counsel fees of \$195.39; and
- c. showed payoff of a mortgage held by Eastern Savings Bank ("Eastern") in the amount of \$641,304.61 and payment for "Sales Consul. Emerald Coast" in the amount of \$8,500.00.

164. Respondent utilized the funds due to Eastern and Emerald Coast to repay some of the funds of clients and others which he had misappropriated.

165. Respondent failed to satisfy the obligations to Eastern and Emerald Coast.

166. On or about November 7, 2005, Lawyers Title contacted Respondent and requested that he account for and distribute the funds due on account of the October 5 transaction.

167. Respondent gave Lawyers Title false excuses for his failure to disburse the funds and misrepresented that the funds remained in his IOLTA account and were available to fund the payment to Eastern, agreed to remit the funds, but subsequently reneged on that agreement.

168. Lawyers Title brought suit against Respondent in the Lehigh County Court of Common Pleas, as a result of which, *inter alia*, the court issued a Temporary Restraining Order on November 15, 2005, which, *inter alia*, required that Respondent release to Lawyers Title books and records relating to Lawyers Title business, en-

joined Respondent from engaging in further Lawyers Title business, and froze certain bank accounts.

CHARGE IX: DISCIPLINARY INVESTIGATION

169. By Letter Request for Statement of Respondent's Position dated June 8, 2005, Petitioner notified Respondent of its concerns relating to an overdraft in the IOLTA account and requested that he provide records relating to transactions in the account.

- a. Respondent did not respond to that letter or to subsequent Supplemental Letter Requests detailing Petitioner's concerns about the matters set forth in Charges I - VIII, *supra*.
- b. Petitioner issued to Respondent and to PNC Bank subpoenas for production of records in the IOLTA account, and subsequently for documents relating to various estate matters, returnable on five occasions between August 3 and October 11, 2005.
- c. On those occasions, Respondent appeared in Petitioner's office and responded incompletely to the subpoenas, agreed to provide the missing records on a subsequent date, failed to produce the records, and ultimately asserted his Fifth Amendment privilege not to testify.
- d. At a subpoena return on August 3, 2005, Respondent falsely testified under oath that, *inter alia*, Ms. Wascoe was his aunt,

he was the personal representative of Ms. Wascoe's estate, he and his wife were beneficiaries of the estate, and an \$8,000.00 disbursement from the estate which was deposited to his IOLTA account was a bequest.

e. At a subpoena return on August 16, 2005, Respondent falsely testified to various matters, including that his wife is a beneficiary, "partially a beneficiary," or an "alternate beneficiary" of the Wascoe estate, he had not testified that he was a beneficiary, he had filed various documents with the Register of Wills but had not maintained file copies, he had made payments to or on behalf of Mr. Wascoe for Mr. Wascoe's personal expenses, Mr. Wascoe had the only records of liquidation of estate stocks and payments made on his own behalf by Respondent, and the estate funds withdrawn from his IOLTA account were attributable to fees; the funds of the Stevenson estate that were deposited to and withdrawn from the IOLTA account were his fees; and he had a fee agreement in the Pesanchik estate.

f. At a subpoena return on September 23, 2005, Respondent claimed that he based his withdrawal of \$16,748.80 in fees in the Stevenson estate on "accounting guidelines" but that the "final calculations" would result in a refund; falsely testified

that the \$93,486.91 he had received from the Haas/Pesanchik joint account was received from the executrix to open the estate and that the \$73,737.82 in Pesanchik estate real estate proceeds was still in his IOLTA account; and claimed that he had earned over \$35,000.00 in fees in the Pesanchik estate as of March 2004.

**CHARGE X: UNAUTHORIZED PRACTICE AND
ADDITIONAL MISAPPROPRIATIONS**

170. By Order dated July 26, 2005, the Supreme Court of Pennsylvania transferred Respondent to inactive status for failure to comply with Continuing Legal Education requirements.

171. By letter dated July 26, 2005, the Disciplinary Board advised Respondent of the entry of the Order and provided him with applicable Pa.R.D.E. and Disciplinary Board Rules and forms and information for compliance with those Rules.

172. On or prior to October 11, 2005, Respondent was reinstated to active status.

173. By letter dated December 9, 2005, the Disciplinary Board advised Respondent of the entry of the December 8, 2005 Order of the Supreme Court, suspending him from practice and the requirements for compliance therewith.

174. Upon the entry of the transfer to inactive status and suspension Orders, Respondent failed to comply with Pa.R.D.E. 217, in that, after the effective date of each of the Orders, Respondent failed to notify clients, courts, opposing counsel, and others with whom he dealt in his professional capacity of his transfer to inactive

status and his suspension and his consequent inability to practice law, continued to represent clients and to hold himself out as an attorney, and failed to file proof of compliance with the Disciplinary Board.

A. ROSEMARY GROW

175. On January 6, 2006, Respondent met with Ms. Grow, whom he had represented for approximately ten years in a divorce and related matters.

176. Respondent requested that Ms. Grow pay him \$1,000.00 for additional legal services in the matter.

177. Respondent failed to advise Ms. Grow that he was prohibited from practicing law and accepting fees.

178. Ms. Grow paid Respondent \$1,000.00 by check dated January 10, 2006, which he negotiated.

B. MARCELLA AND DANIEL RAUSCHER

179. On January 13, 2006, Mr. and Mrs. Rauscher met with Respondent to discuss preparation of estate planning documents.

180. Respondent advised the Rauschers that he would prepare their documents for a fee of \$750.00, and that he required payment in advance.

181. Mrs. Rauscher gave Respondent a check in the amount of \$500.00 and advised him that she would give him the remaining funds at a later time.

182. Respondent failed to advise the Rauschers of the basis or rate of the fee in writing.

183. Respondent negotiated the check for cash.

184. Respondent failed to communicate with the Rauschers and to provide them with any documentation relating to the representation.

185. Thereafter, Mrs. Rauscher called Respondent's office on several occasions and wrote to him by certified mail requesting a return of her retainer.

186. Respondent failed to respond.

C. ELAINE ROACH

187. On or about January 14, 2006, John Brelsford, the son-in-law of Elaine Roach, contacted Respondent concerning the sale of Mrs. Roach's property to Barbara and Neil Kurz.

188. Respondent advised Mr. Brelsford that he would provide an agreement of sale, which Mr. Brelsford was to fill in with the buyers, Respondent would hold the settlement, and his fee for these services would be \$250.00.

189. On or about January 21, 2006, Carole Brelsford, Mrs. Roach's daughter, gave Respondent Mrs. Roach's check in the amount of \$250.00, payable to "Turtle Abstract Co or Mr. Kasprenski."

190. Respondent negotiated the check for cash.

191. Respondent failed to communicate with the Brelsford's and Mrs. Roach and to promptly prepare an agreement of sale.

192. After several weeks, Respondent provided to Mr. Brelsford an agreement, scheduled the settlement for February 15, 2006, and advised him to tell Mrs. Kurz to bring to settlement a check in the amount of \$55,000.00, payable to Mrs. Roach.

193. On or about February 13, 2006, Mrs. Brelsford and Mrs. Roach delivered an agreement of sale to Respondent's office, at which time he obtained the Kurzes' contact information.

194. Respondent subsequently contacted the Kurzes and advised them to make the \$55,000.00 check payable to Respondent rather than to Mrs. Roach.

195. On February 15, 2006, the parties attended settlement, at which time Respondent met with each party separately, took the executed deed from Mrs. Roach and the check from the Kurzes, and advised Mrs. Roach that he had to hold the check until the title search for the property was completed.

196. Respondent used the Kurzes' check to open a new checking account at Susquehanna Patriot Bank, from which he withdrew funds for his own benefit.

197. After the settlement, Mrs. Roach and the Brelsford called Respondent on numerous occasions to inquire about the funds.

198. Respondent failed to accept or to return their calls or gave them various false excuses as to why he had not sent the funds.

199. On or about March 16, 2006, Respondent provided to the Brelsford his file, including the deed, which had not been recorded.

200. By certified letter dated April 27, 2006, Mrs. Roach asked that Respondent remit the \$55,550.00.

201. Respondent failed to respond and to remit the \$55,550.00.

202. By his conduct as alleged in paragraphs 5 through 201 above, Respondent violated the following Rules of Professional Conduct and Pa.R.D.E.:

- a. RPC 1.1, which states: A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation necessary for the representation;
- b. RPC 1.3, which states: A lawyer shall act with reasonable diligence and promptness in representing a client;
- c. RPC 1.4(a) [before 1/1/05], which states: A lawyer shall keep a client informed about the status of a matter and promptly comply with reasonable requests for information;
- d. RPC 1.4(a) [after 12/31/04], which states: A lawyer shall:
 - (1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in Rule 1.0(e), is required by these Rules;
 - (2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;
 - (3) keep the client reasonably informed about the status of the matter; and
 - (4) promptly comply with reasonable requests for information;
- e. RPC 1.5(a), which states, in pertinent part: A lawyer shall not enter into an agreement for, charge, or collect an illegal or

clearly excessive fee;

- f. RPC 1.5(b), which states: 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;
- g. RPC 1.15(a), which states: A lawyer shall hold property of clients or third persons that is in a lawyer's possession in connection with a client-lawyer relationship separate from the lawyer's own property. Such property shall be identified and appropriately safeguarded. Complete records of the receipt, maintenance and disposition of such property shall be preserved for a period of five years after termination of the client-lawyer relationship or after distribution or disposition of the property, whichever is later;
- h. RPC 1.15(b) [before 1/1/2005], which states: Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. Except as stated in this Rule or otherwise permitted by law or by agreement with the client or third person, a lawyer shall promptly deliver to the client or third person any property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly ren-

der a full accounting regarding such property;

- i. RPC 1.15 (b) [after 12/31/2004], which states: Upon receiving property of a client or third person in connection with a client-lawyer relationship, a lawyer shall promptly notify the client or third person. Except as stated in this Rule or otherwise permitted by law or by agreement with the client or third person, a lawyer shall promptly deliver to the client or third person any property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such property;
- j. RPC 1.15(c), which states: When in connection with a client-lawyer relationship a lawyer is in possession of property in which two or more persons, one of whom may be the lawyer, claim an interest, the property shall be kept separate by the lawyer until the dispute is resolved. The lawyer shall promptly distribute all portions of the property as to which the interests are not in dispute;
- k. RPC 1.16(d), which states: 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;

- l. RPC 3.3(a)(1), which states: A lawyer shall not knowingly make a false statement of material fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer;
- m. RPC 5.5(a), which states: A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so;
- n. RPC 8.1(a) and (b)(after 12/31/04), which states, in pertinent part: A lawyer in connection with ... a disciplinary matter, shall not knowingly make a false statement of material fact; or fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter, or knowingly fail to respond to a lawful demand for information from a disciplinary authority;
- o. RPC 8.4, which states: It is professional misconduct for a lawyer to:
 - (a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;

- (b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;
- (c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation; and
- (d) engage in conduct that is prejudicial to the administration of justice;

and

p. Pa.R.D.E. 203(b)(3), which states: wilful violation of any other provision of the Enforcement Rules shall be grounds for discipline,

via:

q. Pa.R.D.E. 217(a), which states: A formerly admitted attorney shall promptly notify, or cause to be notified, by registered or certified mail, return receipt requested, all clients being represented in pending matters, other than litigation or administrative proceedings, of the disbarment, suspension or transfer to inactive status and the consequent inability of the formerly admitted attorney to act as an attorney after the effective date of the disbarment, suspension or transfer to inactive status and shall advise said client to seek legal advice elsewhere;

r. Pa.R.D.E. 217(b), which states, in pertinent part: A formerly admitted attorney shall promptly notify, or cause to be notified by registered or certified mail, return receipt requested, all clients who are involved in pending litigation and the attorney or attorneys for each adverse party in such matter or proceeding of the disbarment, suspension or transfer to inactive status and the consequent inability of the formerly admitted attorney to act as an attorney after the effective date of the transfer to inactive status.

s. Pa.R.D.E. 217(c), which states: A formerly admitted attorney shall promptly notify, or cause to be notified, of the disbarment, suspension or to inactive status, by registered or certified mail, return receipt requested:

- (1) all persons, their agents or guardians to whom a fiduciary duty is or may be owed at any time after the disbarment, suspension or transfer to inactive status, and
- (2) all other persons with whom the formerly admitted attorney may at any time expect to have professional contacts under circumstances where they may infer that he or she continues as an attorney in good standing.

The responsibility of the formerly admitted attorney to provide the notice required by this subdivision shall continue for as long as the formerly admitted attorney is disbarred, suspended or on inactive status;

- t. Pa.R.D.E. 217(d), which states: Orders imposing suspension, disbarment or transfer to inactive status shall be effective 30 days after entry. The formerly admitted attorney, after entry of the disbarment, suspension or transfer to inactive status order, shall not accept any new retainer or engage as attorney for another case in any new case or legal matter of any nature. However, during the period from the entry date of the order and its effective date, the formerly admitted attorney may wind up and complete, on behalf of any client, all matters which were pending on the entry date;
- u. Pa.R.D.E. 217(e), which states: Within ten days after the effective date of the disbarment, suspension or transfer to inactive status order, the formerly admitted attorney shall file with the Board a verified statement showing:
 - (1) That the provisions of the order and these rules have been fully complied with; and
 - (2) All other state, federal and administrative jurisdictions to which such person is admitted to practice. Such statement shall also set forth the residence or other address of the formerly admitted attorney where communications to such person may thereafter be directed;
- v. Pa.R.D.E. 217(i), which states: A formerly admitted attorney shall keep and maintain records of the various steps taken by such person under these rules so that, upon any subsequent

proceeding instituted by or against such person, proof of compliance with these rules and with the disbarment, suspension or transfer to inactive status order will be available. Proof of compliance with these rules shall be a condition precedent to any petition for reinstatement;

- w. Pa.R.D.E. 217(j), which provides: A formerly admitted attorney may not engage in any form of law-related activities in this Commonwealth except in accordance with the requirements set forth in the Rule.

WHEREFORE, Petitioner prays that your Honorable Board appoint, pursuant to Rule 205, Pa. R.D.E., a Hearing Committee to hear testimony and receive evidence in support of the foregoing charges and upon completion of said hearing to make such findings of fact, conclusions of law, and recommendations for disciplinary action as it may deem appropriate.

Respectfully submitted,

OFFICE OF DISCIPLINARY COUNSEL

PAUL J. KILLION,
Chief Disciplinary Counsel

BY:



Barbara S. Rosenberg
Attorney Registration No. 18522
Disciplinary Counsel
Office of Disciplinary Counsel
820 Adams Avenue, Suite 170
Trooper, PA 19403

VERIFIED STATEMENT

I, Barbara S. Rosenberg, Disciplinary Counsel, state under the penalties provided in 18 Pa.C.S. §4904 (unsworn falsification to authorities) that:

I am a Disciplinary Counsel of the Disciplinary Board of the Supreme Court of Pennsylvania assigned to prosecute this matter pursuant to the Pennsylvania Rules of Disciplinary Enforcement;

I am authorized to make this verified statement; and

The facts contained in the attached Petition for Discipline are true and correct to the best of my knowledge, information and belief.

11/3/06

Date



Barbara S. Rosenberg
Disciplinary Counsel