

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :

Petitioner :

v. :

TANCREDI WILLIAM CALABRESE, :

Respondent : (Fayette County)

Nos. 121 DB 2019 and
32 DB 2020

Attorney Registration No. 315687

PETITIONER'S BRIEF TO
HEARING COMMITTEE

OFFICE OF DISCIPLINARY COUNSEL

THOMAS J. FARRELL
CHIEF DISCIPLINARY COUNSEL

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

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METHOD OF CITATION

Letters and numbers in parentheses indicate documents and locations as follows:

“NT” followed by a number or numbers indicates a page or pages in the Notes of Testimony, or transcript, of the disciplinary hearing.

“ODC” indicates a (numbered) exhibit of the Office of Disciplinary Counsel;

“R-Exh.” indicates a (lettered) exhibit of Respondent.

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*Unreported Disciplinary Board opinions can be accessed at:
<http://www.pacourts.us/courts/supreme-court/court-opinions>. From the pull-down box for "Court Type" select Disciplinary Board, then enter the Disciplinary Board docket number (use the four-digit year for the case in the Board Docket Number field), select an appropriate Date Range according to the year of the case (e.g., 01/01/1995 and 01/01/2000 in the date range fields), and use the dropdown features to clear the month and year fields. Click search, then click on the pdf link to the opinion.

I. STATEMENT OF THE CASE

This matter is before the Hearing Committee as a result of disciplinary proceedings instituted by the Office of Disciplinary Counsel (hereinafter "ODC") by way of a Petition for Discipline filed on December 14, 2023, at Nos. 121 DB 2019 and 32 DB 2020. The Petition charged Respondent with violations of RPC 1.2(d), RPC 1.3, RPC 1.4(a)(3), RPC 1.4(a)(4), RPC 1.5(a), RPC 1.5(b), RPC 1.15(b), RPC 1.15(c), RPC 1.15(i), RPC 1.16(d) RPC 8.4(b), 8.4(c) and Pa.R.D.E. 203(b)(1) and 217(b).

Respondent, through counsel, filed an Answer to Petition for Discipline and Request to Be Heard in Mitigation on January 22, 2024. The Board Prothonotary appointed Hearing Committee Members Richard William Roda, Esquire, Gregory Reid Unatin, Esquire and Nicole Anne Daller, Esquire. A prehearing conference was conducted on March 28, 2024, before Designated Member Roda.

A Disciplinary Hearing was held on May 30, 2024. ODC introduced exhibits ODC-1 through ODC-9. N.T. p. 8. Respondent stipulated that a prima facie violation of the Rules of Professional Conduct was established, and therefore, Respondent proceeded to introduce exhibits and witnesses pursuant to Pa.D.B.R. 89.151. Respondent introduced exhibits Respondent-A through Respondent-I, testified on his own behalf and presented the testimony of Anna Deeds and Kim Chapman. The Hearing Committee

granted ODC's request to extend the word limitation set forth in Pa.D.B.R. 89.163(c) to eight thousand words. N.T. pp. 90-91.

This brief is presented in support of ODC's position that Respondent's misconduct and the aggravating and mitigating circumstances present warrant a five-year suspension from the Bar of the Commonwealth of Pennsylvania, retroactive to April 25, 2020, the effective date of his temporary suspension.

II. ABSTRACT OF EVIDENCE RELIED UPON

- ODC 1 12/14/23 Petition for Discipline
- ODC 2 1/22/24 Answer to Petition for Discipline
- ODC 3 2/13/20 Police Criminal Complaint
- ODC 4 Criminal Docket, CP-26-CR-0000678-2020 – Fayette County
- ODC 5 6/18/20 Criminal Information
- ODC 6 6/3/21 Plea and Sentence Transcript
- ODC 7 6/3/21 Sentence Order
- ODC 8 8/3/21 Notice of Criminal Conviction
- ODC 9 Client Security Fund Claims Report

III. PROPOSED FINDINGS OF FACT

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

2. Respondent, Tancredi Calabrese, was born on August 2, 1987. He was admitted to practice law in the Commonwealth of Pennsylvania on August 30, 2013.

3. Respondent's attorney registration mailing address is 106 Tyler Court, Uniontown, PA 15401.

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

5. By Order of the Supreme Court of Pennsylvania dated March 26, 2020, Respondent was placed on temporary suspension pursuant to Rule 208(f)(1), Pa.R.D.E.

THE CRIMINAL CONVICTION

6. On February 13, 2020 Respondent was charged with Knowledge that Property is Proceeds of Illegal Act (F1), 18 Pa.C.S. §5111(a)(2), Criminal Attempt-Proceeds of Unlawful Act (F1), 18 Pa.C.S. §901(a), Unsworn Falsification to Authorities (M2), 18 Pa.C.S. §4904(a)(1) and Tampering with Public Records or Information (M2), 18 Pa.C.S. §4911(a)(1).

7. The criminal charges were filed based on an extensive investigation initiated in June 2018 by the Pennsylvania State Police, Organized Crime Task Force.

8. Pursuant to the Criminal Complaint and supporting Affidavit of Probable Cause, one of Respondent's clients reported to law enforcement that during a consultation regarding a misdemeanor disorderly conduct violation Respondent initiated a conversation with the client wherein he informed the client that he can "wash" the client's money or "clean" it and not pay taxes. Respondent told the client he launders money for numerous large-scale drug dealers who are his clients.

9. In October 2019, the Pennsylvania State Police developed a confidential informant (CI) who contacted Respondent about starting a business and laundering money.

10. The CI placed a recorded call to Respondent and the two spoke about hiding money and managing money for the CI's business and Respondent agreed to meet with the CI.

11. On October 23, 2019, the CI met with Respondent at his office. The CI informed Respondent that, while he has a business, he makes a large sum of money by selling cocaine and needs to keep his money safe.

12. Respondent informed the CI that he could form a shell company for him. When asked about fees, Respondent replied, "committing a crime is \$10,000-\$20,000 for me to take the step," and requested \$10,000 from the CI to start the process.

13. On November 7, 2019, the CI met with Respondent at which time the CI provided Respondent with the personal information of an undercover officer (UC) that he wanted to be identified as the business owner.

14. At that time the CI paid Respondent \$5,000 in recorded confidential funds.

15. Respondent informed the CI that he would have a business plan ready in about a week to a week and a half.

16. Thereafter, at the request of the CI, Respondent met with the UC on several occasions.

17. On January 3, 2020, Respondent met with the UC and gave the UC papers to complete to “make this legitimate.” Respondent also completed an official contract for the UC hiring him and told the UC that a downpayment of \$2,000 was required.

18. On January 7, 2020, the UC emailed Respondent her credit card information and Respondent charged the \$2,000 fee to that account number.

19. Respondent then emailed the UC an EIN, Certificate of Organization and Bylaws for the business. He instructed the UC to open a bank account and represented to her that he filed for a Certificate of Organization with the state.

20. Throughout the investigation, the CI and the UC were consensualized pursuant to the Pennsylvania Wire Tap Act.

21. On January 28, 2020, a search warrant was obtained and executed at Respondent’s law office.

22. During the execution of the search warrant Respondent admitted that he was aware that the money the CI provided for the business formation was from a narcotics trafficker and that the business would be utilized to launder money.

23. On February 13, 2020, Respondent was arrested and charged with Knowledge that Property is Proceeds of Illegal Act (F1), 18 Pa.C.S. §5111(a)(2), Criminal Attempt-Proceeds of Unlawful Act (F1), 18 Pa.C.S. §901(a), Unsworn Falsification to Authorities (M2), 18 Pa.C.S. §4904(a)(1) and Tampering with Public Records or Information (M2), 18 Pa.C.S. §4911(a)(1), docketed at MJ-14101-CR-0000093-2020.

24. On February 21, 2020, ODC filed a Petition for Emergency Temporary Suspension Order and Related Relief Pursuant to Rule 208(f)(1) Pa.R.D.E.

25. On March 26, 2020, the Pennsylvania Supreme Court entered an Order placing Respondent on temporary suspension until further definitive action by the Court.

26. On June 3, 2021, Respondent pled guilty in the Court of Common Pleas of Fayette County, at Docket number CP-26-CR-00006768-2020, to Criminal Attempt-Dealing in Proceeds of Unlawful Activities, 18 Pa.C.S. §901(a), a felony of the first degree.

27. Respondent was sentenced on June 3, 2021, to a 48-month period of probation with nine months to be served on home electronic monitoring.

28. ODC filed a Notice of Conviction with the Pennsylvania Supreme Court on August 3, 2021.

THE PALFCS MATTER

29. Respondent maintained an IOLTA with PNC Bank, account number ending in 2304, designated as "The Law Office of Tancredi Calabrese, IOLTA Client Trust Fund" (IOLTA).

30. On or about May 16, 2018, Respondent issued check #1123 to himself, annotated "filing fee," in the amount of \$283.00, thereby disbursing funds with which he was entrusted on behalf of his client, Nicole Flage.

31. On May 16, 2018, check #1123 cleared Respondent's IOLTA and created an insufficient funds balance in that account of a negative \$165.00.

32. On May 18, 2018, a Dishonored Escrow/Trust Check Reporting Form of Financial Institutions was generated by PNC Bank.

33. By letter dated May 25, 2018, Kathryn Peifer Morgan, Executive Director of the Pennsylvania Lawyers Fund for Client Security (the Fund), requested that Respondent provide to her, within ten (10) business days of the date of her letter, a written, documented explanation as to why the negative balance occurred, monthly periodic statements of account for the

past three months and, with respect to each client matter discussed in the explanation, a copy of the client ledger(s).

34. Respondent did not respond to Ms. Peifer Morgan's letter of May 25, 2018.

35. After a second letter was sent by Ms. Peifer Morgan, Respondent provided an undated letter which was received by the Fund on June 28, 2018.

36. Respondent informed Ms. Peifer Morgan that the overdraft occurred due to the issuance of check #1123 which was mistakenly withdrawn to cover a filing fee related to the representation of Ms. Flage. Respondent did not provide Ms. Peifer Morgan with the three (3) months of bank statements, or the client ledgers as had been requested.

37. As a result of Respondent's failure to comply with the requests made by Ms. Peifer Morgan the matter was referred to ODC.

38. On September 6, 2018, ODC sent both a letter pursuant to Pa.R.D.E. 221, requesting client ledgers and reconciliations for Respondent's IOLTA, and a DB-7 Request for Statement of Position.

39. On September 25, 2018, ODC received some records from Respondent, however, the records were not responsive to the Rule 221 letter.

40. On October 17, 2018, Respondent filed a counseled Statement of Position in response to the DB-7.

41. Therein, Respondent admitted to the overdraft.

42. Respondent conceded that he did not keep ledgers or perform monthly reconciliations, but his counsel was working with him to set up those practices.

43. On November 30, 2018, ODC sent a letter to Respondent informing him that the bank records he supplied in response to the Rule 221 letter were not sufficient and that he must provide ledgers and monthly reconciliations.

44. On December 4, 2018, ODC issued a Subpoena Duces Tecum for the records Respondent was required to maintain pursuant to Pa.R.P.C. 1.15.

45. On December 4, 2018, ODC received a letter from Respondent's counsel objecting to the subpoena but admitting that Respondent does not maintain individual client ledgers. Although a subsequent motion to quash the subpoena was filed, ODC agreed to accept Respondent's representations about the matters in question and therefore both the subpoena and the motion to quash were withdrawn.

46. Respondent subsequently provided information sought by ODC, admitted that he had deposited unearned legal fees for the Flage matter into

his Business Operating Account instead of his IOLTA, and admitted that he had failed to maintain the required records pursuant to RPC 1.15.

THE HENDRICKS MATTER

47. On or about June 5, 2018, Robert Hendricks, Jr. retained Respondent to represent him in child support and adoption matters.

48. Respondent and Mr. Hendricks entered a written fee agreement which provided for an hourly rate of \$175 and an initial retainer of \$4,000.

49. Mr. Hendricks paid the \$4,000 retainer by debit card.

50. Respondent failed to deposit the \$4,000 retainer into his IOLTA or other trust account.

51. On June 21, 2018, Respondent failed to appear at a support modification hearing on behalf of Mr. Hendricks.

52. Between June 2018, when Respondent was retained, and August 2018, Mr. Hendricks made repeated attempts to communicate with Respondent; however, Respondent failed to reply.

53. In early August 2018, Mr. Hendricks terminated Respondent's services.

54. Thereafter, Respondent billed Mr. Hendricks for legal services totaling \$1,945, billed at \$300 per hour, which was contrary to the terms of their written fee agreement for an hourly rate of \$175.

55. Respondent's invoice also included fees for legal services that Respondent did not perform.

56. Mr. Hendricks contested the invoiced amount and requested a refund.

57. On August 20, 2018, Respondent caused the issuance of a cashier's check to Mr. Hendricks in the amount of \$2,055.

58. Additional refunds totaling \$1,500 were made by Respondent in bi-weekly payments between September and December 2018.

59. On March 15, 2019, ODC sent Respondent a DB-7 Request for Statement of Position, along with a Subpoena Duces Tecum.

60. The Subpoena Duces Tecum directed that Respondent provide the check register or separately maintained ledger for his IOLTA, documents demonstrating disposition of the \$4,000 debit card payment made by Mr. Hendricks, client ledgers for the funds received and disbursed on behalf of Mr. Hendricks, and monthly reconciliations for his IOLTA.

61. Respondent failed to comply with the Subpoena Duces Tecum and failed to submit his Statement of Position in response to the DB-7.

62. On June 27, 2019, ODC filed a Petition pursuant to Pa.R.D.E. 208(f)(5) and on July 12, 2019, the Disciplinary Board issued a Rule to Show Cause why Respondent should not be placed on temporary suspension.

63. On July 24, 2019, Respondent submitted his Statement of Position in response to the DB-7.

64. In answer to the DB-7, Respondent did not dispute the allegations.

65. Respondent also provided records in response to the Subpoena Duces Tecum and a Response to the Rule to Show Cause.

66. Upon review of Respondent's statement of position and the records he provided, ODC elected not to seek to make the Rule to Show Cause absolute.

THE CHESTER MATTER

67. On or about September 18, 2018, Kevin Chester retained Respondent to represent him in a civil action pending in Washington County.

68. Mr. Chester signed a fee agreement and paid Respondent a \$600 retainer.

69. Thereafter, between October 2018 and March 2019, Mr. Chester made numerous attempts to contact Respondent to discuss his case by calling Respondent's office, calling Respondent's cell phone, and appearing at Respondent's office.

70. Mr. Chester left numerous messages requesting that Respondent contact him; however, Respondent failed to reply to any of Mr. Chester's messages.

71. Respondent failed to enter his appearance on the record on behalf of Mr. Chester or take any action of record in the civil action for which he had been retained.

72. On June 7, 2019, Mr. Chester sent Respondent a letter, by certified mail, return receipt requested, terminating the lawyer-client relationship and asking Respondent for an invoice and a refund of the unearned fee if Respondent could not account for the services he had provided. The United States Postal Service returned the letter to Mr. Chester.

73. Mr. Chester re-sent the letter by first class mail on or about June 21, 2019. Respondent neither replied to Mr. Chester's letter, nor provided him with an accounting and/or a refund.

74. On or about July 3, 2019, ODC sent a DB-7 Request for Statement of Position.

75. Respondent failed to submit his Statement of Position in response to the DB-7.

THE FLAGE MATTER

76. Nicole Flage retained Respondent in June 2018 to represent her in a custody matter.

77. On June 21, 2018, Respondent entered his appearance on behalf of Ms. Flage and filed a complaint in custody in the Court of Common Pleas of Allegheny County at docket number FD-18-008260.

78. By Pre-Trial Order dated December 13, 2018, Judge Kimberly Eaton ordered the parties to file Pre-Trial Statements no later than ten (10) days prior to the scheduled hearing.

79. Respondent failed to file a Pre-Trial Statement on behalf of Ms. Flage.

80. On March 6, 2019, primary physical and legal custody of the minor child was awarded to Ms. Flage's partner.

81. In or about December 2019, Ms. Flage discussed with Respondent the filing of a Petition for Emergency Relief and Contempt in her custody matter.

82. On December 13, 2019, Ms. Flage made a credit card payment of \$1,000 to Respondent toward his fee.

83. On December 30, 2019, Ms. Flage made an additional \$500 credit card payment to Respondent representing the balance of his fee.

84. Respondent failed to file a Petition for Emergency Relief and Contempt on behalf of Ms. Flage.

85. Thereafter, Ms. Flage attempted to contact Respondent on numerous occasions; however, Respondent failed to reply to her.

86. On February 13, 2020, Respondent was arrested and subsequently placed on temporary suspension, and therefore, did not complete his representation of Ms. Flage.

87. On July 9, 2020, ODC sent Respondent a DB-7 Request for Statement of Position.

88. On September 30, 2020, Respondent submitted his Statement of Position through his counsel, wherein he admitted he had not replied to emails

from Ms. Flage in early 2020 regarding the status of her case and/or the filing of a Petition for Emergency Relief.

89. On September 30, 2020, Respondent, through his counsel, issued a refund check to Ms. Flage in the amount of \$1,500.

THE SERENE MATTER

90. On August 21, 2019, Bernice Serene was charged with Driving Under the Influence of Alcohol and related offenses which were docketed at MJ-05317-CR-0000234-2019.

91. On August 28, 2019, Ms. Serene retained Respondent to represent her on the criminal charge of Driving Under the Influence of Alcohol.

92. Respondent provided Ms. Serene with a written fee agreement and charged a total fee of \$1,500 which was paid on August 28, 2019 (\$1,000) and October 5, 2019 (\$500).

93. Ms. Serene's Preliminary Hearing was scheduled for October 7, 2019, before Magisterial District Judge Anthony Saveikis in North Fayette Township, Allegheny County.

94. Respondent requested and received a continuance of Ms. Serene's Preliminary Hearing scheduled for October 7, 2019.

95. Thereafter, although Ms. Serene's Preliminary Hearing was rescheduled, Respondent, on a number of occasions, obtained further continuances, the last of which was scheduled for February 24, 2020.

96. Respondent failed to appear at the February 24, 2020, Preliminary Hearing on behalf of Ms. Serene.

97. Ms. Serene was ultimately informed by the Magisterial District Judge that Respondent had been arrested and charged with criminal offenses.

98. Due to Respondent's resulting temporary suspension, Ms. Serene retained new counsel to represent her on her DUI charge.

99. On July 9, 2020, ODC sent Respondent a DB-7 Request for Statement of Position.

100. On September 30, 2020, Respondent submitted his Statement of Position through his counsel, wherein he admitted that he had continued Ms. Serene's Preliminary Hearing on several occasions and that he failed to appear for her hearing after he had been arrested.

101. On September 30, 2020, Respondent, through counsel, issued a refund check to Ms. Serene in the amount of \$750.

102. Ms. Serene submitted a claim to the Fund and, on December 3, 2020, she was awarded \$750 representing the balance of the fee she had paid to Respondent.

THE FLOYD MATTER

103. On December 8, 2018, Catherine Floyd retained Respondent to represent her in her divorce matter.

104. At that time, Ms. Floyd paid Respondent an initial retainer of \$650 and made additional payments totaling \$730 between April 30, 2019, and June 5, 2019.

105. On various occasions between January and April 2019, Ms. Floyd attempted to communicate with Respondent regarding the status of her divorce matter; however, Respondent was generally unresponsive.

106. On April 24, 2019, Respondent filed a complaint in divorce on behalf of Ms. Floyd but he did not serve it on her husband until August 18, 2019, which rendered service ineffective.

107. Between September 2019 and April 2020, Ms. Floyd made numerous attempts to contact Respondent regarding the status of her divorce matter.

108. Respondent failed to reply to any inquiries from Ms. Floyd.

109. By Order of the Pennsylvania Supreme Court dated March 26, 2020, Respondent was placed on temporary suspension.

110. Respondent failed to notify Ms. Floyd that he had been suspended and, therefore, that he was unable to continue representing her.

111. On July 9, 2020, ODC sent a DB-7 Request for Statement of Position.

112. On September 30, 2020, Respondent submitted his Statement of Position through counsel. Respondent admitted that he had failed to serve the divorce complaint within the time required by the Rules of Civil Procedure. He also admitted that he had failed to inform Ms. Floyd that he had been temporarily suspended and, therefore, was unable to continue to represent her.

THE GRACYK MATTER

113. In January 2019, April Gracyk retained Respondent to represent her in a custody matter regarding her grandson.

114. On January 17, 2019, Ms. Gracyk's father paid Respondent's requested retainer, in the amount of \$2,500, via his debit card.

115. On April 9, 2019, Respondent filed a complaint in custody on behalf of Ms. Gracyk in the Court of Common Pleas of Allegheny County at docket number FD-18-000114.

116. Respondent failed to file sufficient proof of service of the custody complaint.

117. As a result of Respondent's failure to file sufficient proof of service, a mediation session scheduled for July 16, 2019, was cancelled.

118. On July 22, 2019, the father of Ms. Gracyk's grandson filed a counterclaim for custody.

119. Based on the filing of the counterclaim, a subsequent mediation session was scheduled and held on September 10, 2019.

120. Thereafter, a judicial custody conciliation conference was scheduled for November 6, 2019.

121. Respondent failed to inform Ms. Gracyk of the scheduling of the custody conciliation conference and failed to appear on her behalf.

122. In February 2020 Respondent, and/or a member of his office staff, notified Ms. Gracyk that the matter was scheduled for pre-trial conciliation and trial on May 8, 2020.

123. Thereafter, Respondent had no further communication with Ms. Gracyk.

124. By Order of the Pennsylvania Supreme Court dated March 26, 2020, Respondent was placed on temporary suspension.

125. Respondent failed to notify Ms. Gracyk that he had been suspended and, therefore, he was unable to continue representing her.

126. On July 9, 2020, ODC sent Respondent a DB-7 Request for Statement of Position.

127. On September 30, 2020, Respondent submitted his Statement of Position through his counsel. Therein, Respondent admitted that he had failed to notify Ms. Gracyk of the scheduling of the custody conciliation conference and admitted that he had not appeared on her behalf. He also admitted that he had failed to notify Ms. Gracyk of his suspension.

THE BOYER MATTER

128. On September 12, 2019, Jeremy Boyer was charged with Driving under the Influence of Alcohol and related offenses (offense date June 23, 2019), which were docketed at MJ-14101-CR-0000485-2019.

129. On September 27, 2019, Mr. Boyer was charged with Driving under the Influence of Alcohol and related offenses (offense date August 18, 2019), which were docketed at MJ-14202-CR-0000438-2019.

130. Mr. Boyer met with Respondent in late September 2019 and retained him for representation in his two pending DUI charges.

131. Respondent had not previously represented Mr. Boyer.

132. Respondent failed to communicate to Mr. Boyer, in writing, the basis or rate of his fee, either before or within a reasonable time after he commenced the representation.

133. Between September 2019 and January 2020, Mr. Boyer made fee payments to Respondent totaling \$2,000.

134. At Respondent's request, the payments made by Mr. Boyer on October 11, October 25, November 8 and November 22, 2019, were made via transfers from Mr. Boyer's KeyBank checking account to Respondent's KeyBank operating account (account number ending in 4726).

135. Respondent failed to hold those fee payments in an IOLTA or other trust account until he had earned them.

136. On October 21, 2019, Respondent attended the Preliminary Hearing for Mr. Boyer's charges filed at MJ-14101-CR-0000485-2019.

137. On January 21, 2020, Respondent attended the Preliminary Hearing for Mr. Boyer's charges filed at MJ-14202-CR-0000438-2019.

138. The charges at both docket numbers were held for court in the Fayette County Court of Common Pleas.

139. By Order of the Pennsylvania Supreme Court dated March 26, 2020, Respondent was placed on temporary suspension and, therefore, he was unable to continue his representation of Mr. Boyer.

140. On April 30, 2020, Respondent informed Mr. Boyer that he had been suspended and Mr. Boyer would have to retain new counsel.

141. On July 9, 2020, ODC sent Respondent a DB-7 Request for Statement of Position.

142. On September 30, 2020, Respondent submitted his Statement of Position through counsel. Therein, Respondent admitted that, due to his suspension, he was not able to complete his representation of Mr. Boyer.

THE JAYNES MATTER

143. On March 5, 2019, Shawn Jaynes was charged with simple assault and indecent assault which were docketed at MJ-06103-CR-0000080-2019.

144. On April 29, 2019, the criminal charges were filed in the Court of Common Pleas of Erie County at docket number CP-25-CR-0001155-2019.

145. On June 18, 2019, Mr. Jaynes retained Respondent to represent him on the criminal charges.

146. Respondent quoted a fee of \$12,000 to represent Mr. Jaynes through trial but failed to timely communicate to him, in writing, the basis or rate of his fee.

147. On June 18, 2019, Mr. Jaynes made an initial payment to Respondent of \$1,500.

148. On June 24, 2019, Respondent entered his appearance on behalf of Mr. Jaynes.

149. On various dates between June 24, 2019, and December 2, 2019, Mr. Jaynes made payments to Respondent totaling \$3,350, which were credited to Respondent's PNC Bank account (account number ending in 8268).

150. Respondent's PNC Bank account number ending in 8268 was not an IOLTA or other trust account.

151. Respondent failed to hold the advance payment of fees in an IOLTA or other trust account until he had earned it.

152. As of February 5, 2020, Mr. Jaynes had paid Respondent a total of \$5,500.

153. On various occasions between July 2019 and January 2020, Mr. Jaynes inquired about the status of his criminal case.

154. On the occasions that Respondent replied, he told Mr. Jaynes “not to worry about it and that things were being handled,” or words to similar effect.

155. Respondent requested and obtained continuances of Mr. Jaynes’ trial on November 4, 2019, and January 3, 2020.

156. By Order of the Pennsylvania Supreme Court dated March 26, 2020, Respondent was placed on temporary suspension.

157. Respondent failed to notify Mr. Jaynes that he had been suspended and, therefore, was unable to continue representing him.

158. On July 9, 2020, ODC sent Respondent a DB-7 Request for Statement of Position.

159. On September 30, 2020, Respondent submitted his Statement of Position through his counsel. Therein, Respondent admitted he had failed to notify Mr. Jaynes of his suspension and that he was not able to complete the representation.

160. On September 30, 2020, Respondent, through his counsel, issued a refund check to Mr. Jaynes in the amount of \$1,500.

161. Mr. Jaynes submitted a claim to the Fund and, on June 17, 2021, was awarded the \$4,000 balance of the fee paid.

IV. PROPOSED CONCLUSIONS OF LAW

Respondent violated RPC 1.2(d), RPC 1.3, RPC 1.4(a)(3), RPC 1.4(a)(4), RPC 1.5(a), RPC 1.5(b), RPC 1.15(b), RPC 1.15(c), RPC 1.15(i), RPC 1.16(d), RPC 8.4(b), 8.4(c) and Pa.R.D.E. 203(b)(1) and 217(b).

V. ARGUMENT

A. RULE VIOLATIONS

Respondent stipulated that a prima facie violation of the Rules of Professional Conduct was established. N.T. p. 11. Moreover, Respondent admitted his misconduct in his Answer to the Petition for Discipline (ODC-2) and by his testimony during the disciplinary hearing. N.T. pp. 62-63. Accordingly, ODC submits that the only matter remaining for consideration before this Hearing Committee is the appropriate discipline to be imposed.

B. AGGRAVATING FACTORS TO BE CONSIDERED AS TO THE APPROPRIATE DISCIPLINE

In aggravation, Respondent's misconduct as charged in the Petition for Discipline and admitted by him in his Answer to the Petition for Discipline and his testimony during the disciplinary hearing involved a criminal conviction, a referral from the Fund due to an overdraft of his IOLTA, and misconduct that affected eight separate clients. Moreover, Respondent's

misconduct spanned more than two years, from May 2018 until he was placed on temporary suspension, effective April 25, 2020. Even after his temporary suspension Respondent continued to violate the Rules of Disciplinary Enforcement by failing to comply with the rules applicable to a formerly admitted attorney.

Of particular concern is Respondent's criminal conviction and the facts surrounding the origin of that criminal enterprise. Pursuant to the Criminal Complaint and supporting Affidavit of Probable Cause, one of Respondent's clients reported to law enforcement that during a consultation regarding a misdemeanor disorderly conduct violation **Respondent initiated a conversation with the client** wherein he informed the client that he can "wash" the client's money or "clean" it and not pay taxes. Respondent told the client he launders money for numerous large-scale drug dealers who are his clients. This was not a situation where Respondent was unwittingly pulled into his client's questionable activity; rather, Respondent was the person who initiated the criminal enterprise with a client. The criminal enterprise continued for approximately four months culminating in Respondent's arrest in February 2020. During this period, Respondent met with a confidential informant (CI) and discussed hiding money and managing

money for the CI's business. Respondent informed the CI that he could form a shell company for him and quite clearly understood that he was engaging in criminal activity as evidenced by his response when asked about fees - "committing a crime is \$10,000-\$20,000 for me to take the step."

Thereafter, Respondent met with an undercover officer (UC) who was brought into the ongoing enterprise by the CI. Respondent informed the UC that he would have a business plan ready in about a week or so. Thereafter, on January 3, 2020, Respondent met with the UC and gave the UC papers to complete to "make this legitimate" and ultimately emailed the UC an EIN, Certificate of Organization, and Bylaws for the business. He instructed the UC to open a bank account and represented to her that he filed for a Certificate of Organization with the state.

This was not a spur-of-the-moment crime, nor a solitary bad decision made by a respondent in the throes of withdrawal who would do anything for an immediate fix. This misconduct involved Respondent initiating and continuing to engage in ongoing criminal activity that required planning, as evidenced by his multiple conversations with both the CI and UC involved in the transaction as they worked toward the stated goal of establishing a "shell" company to launder proceeds from illegal transactions.

C. MITIGATING FACTORS TO BE CONSIDERED AS TO THE
APPROPRIATE DISCIPLINE

In mitigation, Respondent has submitted evidence pursuant to ***Office of Disciplinary Counsel v. Braun***, 553 A.2d 894 (Pa. 1989). Respondent admitted into evidence as Exhibit B a letter dated May 16, 2022, authored by Julie Krizner, LPC, with Axiom Family Counseling Services. The Hearing Committed granted ODC's objection to the offer of the opinion of Ms. Krizner contained in the second paragraph of the letter, as Ms. Krizner was not called as a witness and, therefore, not available for cross-examination regarding any opinion as to the causation of Respondent's misconduct. N.T. pp. 72-73. ODC did not object, however, to the recitation of facts contained in the first paragraph of the letter and that portion of Exhibit B was admitted. Ms. Krizner noted that Respondent began treatment with Axiom Family Counseling on January 16, 2020, related to his diagnosis of opioid dependence as well as anxiety and major depressive disorder. She also stated that Respondent's "response to treatment has been good and he is still progressing towards achievement of treatment goals. He has not had any relapse in regards to his opioid addiction since beginning treatment, as evident by consistent urine drug screens negative for opiates, including heroin." R-Exh. B.

Respondent also offered, and the Hearing Committee admitted into evidence as Exhibit A, a November 10, 2021, report authored by Anna Deeds, LPC, with Deeds Counseling, LLC. In her report Ms. Deeds confirmed that Respondent was involved in counseling with her from April 20, 2021, through October 11, 2021, for his diagnosis of Major Depressive Disorder and Moderate and Generalized Anxiety Disorder. She opined that “two years prior to counseling, [Respondent] would have met the criteria for a diagnosis of 304.40 (F15.20) Stimulant Use Disorder, Severe, amphetamine-type substance. However, he was in sustained remission by the time he began counseling with me.” Ms. Deeds also opined that “It is my professional opinion that much of [Respondent’s] legal issues stem from anxiety. Specifically, I believe [Respondent] used substances as a way to cope with Generalized Anxiety Disorder (GAD). When I completed [Respondent’s] assessment, he indicated symptoms of Generalized Anxiety Disorder (GAD) that were present prior to any use of substances.” R-Exh. A.

Ms. Deeds was also called to testify by Respondent and qualified as an expert witness. When asked to tender her professional opinion as to the cause of Respondent’s misconduct, Ms. Deeds testified “I think the cause of

his downfall was the addiction, and the cause of the addiction was his anxiety issues, and as long as he stays in recovery, then he should be fine.” N.T. pp. 22-23. On cross-examination Ms. Deeds faltered somewhat in her ability to recall the exact length of treatment or specifics regarding the circumstances surrounding Respondent’s criminal conviction or other misconduct as it related to other clients. She also testified she had not seen or reviewed the Petition for Discipline. N.T. pp. 24-26. Likewise, Ms. Deeds was unable to testify to Respondent’s anxiety level in the months leading up to his arrest. N.T. p. 27. When asked “Do you know to what degree [Respondent] was using during the height of his – of his drug addiction?” Ms. Deeds replied, “I just got the impression from him that there were a lot of drugs involved.” N.T. pp. 27-28.

While ODC has some reservations as to the persuasiveness of Ms. Deeds’ testimony, it agrees that Respondent was affected by an opioid dependency, anxiety, and depression that were causal factors in his misconduct. Respondent offered compelling testimony detailing the origins of his drug use in college and beyond, and his growing dependency on drugs to manage day-to-day life and cope with the stress and anxiety that he was under. N.T. pp. 48-50.

In further mitigation, Respondent, who has no prior disciplinary history, admitted his misconduct:

Q. ... you obviously agree that you did plead guilty to criminal attempt money laundering?

A. Yes.

Q. And you also admitted the misconduct as alleged in the petition for discipline; is that correct?

A. Yes.

Q. So that would include not only the criminal conviction, but some of the client matters where you were charged with basically not communicating, not moving matters forward diligently, taking money but then not being able to fulfill the representation because of your suspension, and you – you admitted to that – to that misconduct, as well; correct?

A. Correct.

N.T. pp. 62-63.

Finally, in mitigation, Respondent made full or partial refunds to clients in the Hendricks, Jaynes, Flage and Serene matters and committed to reimbursing the Fund for the claims it paid to Respondent's former clients.

D. RESPONDENT'S SERIOUS MISCONDUCT AND THE AGGRAVATING
AND MITIGATING CIRCUMSTANCES WARRANT A FIVE-YEAR
SUSPENSION

Given Respondent's admitted misconduct and the aggravating circumstances of record, in the absence of a finding that Respondent is entitled to mitigation pursuant to **Braun**, ODC would be arguing that Respondent should be disbarred. However, in light of the testimony and evidence submitted by Respondent in mitigation, it is ODC's position that a five-year suspension is appropriate.

In Office of Disciplinary Counsel v. J. Michael Farrell, 34 DB 2017 (2019), Farrell was found guilty of money laundering and related offenses. Farrell was convicted based on a conspiracy involving multiple defendants who were engaged in the distribution of controlled substances. As part of the conspiracy money orders were purchased and funds were transferred among multiple financial institutions to conceal that the funds were derived from drug proceeds. Moreover, Farrell deposited funds into his commercial bank accounts, recording the deposits as payments in the names of individuals who had not, in fact, retained Farrell as their attorney. He also utilized the funds to write checks and disburse cash to pay for legal representation of grand jury witnesses and individuals charged in the

conspiracy. He also structured financial transactions to evade IRS filing requirements for transactions involving more than \$10,000 in cash payments in a single transaction. Farrell was disbarred on consent.

In ***Office of Disciplinary Counsel v. Brian Arthur McCormick***, 48 DB 2018, McCormick pled guilty to two counts of Wire Fraud. McCormick formed an LLC which was purportedly a finance group involved in real estate development. McCormick represented to prospective borrowers that, in exchange for payments to the LLC, McCormick would secure permanent financing for their real estate purchases. McCormick also engaged in investment schemes with other co-conspirators. McCormick was disbarred on consent. See also, ***Office of Disciplinary Counsel v. Keith Alan Bassi***, 119 DB 2017 (Bassi pled guilty to three counts of mail fraud and was disbarred on consent); ***Office of Disciplinary Counsel v. Angelo M. Perrucci, Jr.***, 83 DB 2020 (Perrucci was convicted of five counts of wire fraud and was disbarred on consent); and ***Office of Disciplinary Counsel v. James P. Kennedy***, 82 DB 2016 (Kennedy pled guilty to two counts of Mail Fraud and was disbarred on consent).

Respondent's misconduct, however, is less egregious than many of the cases cited which resulted in disbarment because, while Respondent engaged in the *conspiracy* to launder money no funds were laundered by Respondent, nor were any client funds misappropriated or involved in the criminal scheme. Moreover, Respondent has submitted evidence in support of **Braun** mitigation. In cases where a respondent provides **Braun** mitigation and can demonstrate a commitment to recovery, a multi-year suspension short of disbarment is appropriate. See, **Office of Disciplinary Counsel v. Kathy Laurino Yeatter**, 130 DB 2014 (2015) (Yeatter pled guilty to one count of Robbery, a felony of the third degree. In mitigation she submitted evidence of **Braun** and the Board approved consent discipline for a three (3) year suspension). See also, **Office of Disciplinary Counsel v. John E. Toczydlowski**, 148 DB 2021 (2022) (Toczydlowski pled *nolo contendere* to Dissemination of Intimate Images and Harassment. In mitigation, he presented evidence that he was in treatment and addressing multiple mental illnesses that had a significant impact on his behavior and functioning throughout his life. The Board approved consent discipline for a three (3) year suspension), and **Office of Disciplinary Counsel v. John William Eddy**, 143 DB 2019 (2021) (Eddy stole approximately \$74,000 of client funds

but, in light of the Board's finding that he established ***Braun***, the Board recommended, and the Court imposed, a three (3) year suspension).

VI. CONCLUSION

ODC respectfully requests that this Honorable Hearing Committee recommend to the Disciplinary Board that Respondent be suspended from the Bar of the Commonwealth of Pennsylvania for five years, retroactive to April 25, 2020, the effective date of his temporary suspension.

Respectfully submitted,

OFFICE OF DISCIPLINARY COUNSEL

THOMAS J. FARRELL
CHIEF DISCIPLINARY COUNSEL

A handwritten signature in blue ink, appearing to read "James M. Fox".

By _____

James M. Fox

Disciplinary Counsel-in-Charge

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,:

Petitioner :

: Nos. 121 DB 2019 and
: 32 DB 2020

v.

TANCREDI WILLIAM CALABRESE,

: Attorney Registration No. 315687

Respondent : (Fayette County)

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving the foregoing documents upon all parties of record in this proceeding in accordance with the requirements of 204 Pa.C.S. §89.22 (relating to service by a participant).

By email, as follows:

Richard William Roda, Esquire
Hearing Committee Chair
MSA Safety Incorporated
1000 Cranberry Woods Drive
Cranberry Township, PA 16066
(richard.roda@msasafety.com)

Gregory Reid Unatin, Esquire
Hearing Committee Member
Meyers, Evans, Lupetin & Unatin, LLC
707 Grant Street, Ste. 3200
Pittsburgh, PA 15219
(gunatin@pamedmal.com)

Nicole Anne Daller, Esquire
Hearing Committee Member
Horne Daller, LLC
1380 Old Freeport Road, Ste. 3A
Pittsburgh, PA 15238
(ndaller@hornedaller.com)

Thomas W. Shaffer, Esquire
11 Pittsburgh Street
Uniontown, PA 15401
(tommymshaffer@hotmail.com)



Dated: 7/5/24

James M. Fox, Reg. No. 58824
Disciplinary Counsel-in-Charge
Office of Disciplinary Counsel
District IV Office
Suite 1300, Frick Building
437 Grant Street
Pittsburgh, PA 15219
(412) 565-3173

CERTIFICATE OF COMPLIANCE

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

Submitted by: James M. Fox

Signature: 

Name: James M. Fox

Attorney No. (if applicable): 58824