

**IN THE SUPREME COURT OF PENNSYLVANIA**

OFFICE OF DISCIPLINARY COUNSEL, : No. 2873 Disciplinary Docket No. 3  
: :  
Petitioner : No. 133 DB 2021  
v. : :  
: Attorney Registration No. 47701  
WILLIAM J. WEISS, : :  
: (Philadelphia)  
Respondent :

**ORDER**

**PER CURIAM**

**AND NOW**, this 2<sup>nd</sup> day of May, 2024, upon consideration of the Report and Recommendations of the Disciplinary Board, William J. Weiss is suspended from the Bar of this Commonwealth for a period of five years. Respondent shall comply with the provisions of Pa.R.D.E. 217 and pay costs to the Disciplinary Board. See Pa.R.D.E. 208(g).

A True Copy Nicole Traini  
As Of 05/02/2024

Attest: Nicole Traini  
Chief Clerk  
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 2873 Disciplinary Docket No. 3
Petitioner	:	
	:	No. 133 DB 2021
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	:	Attorney Registration No. 47701
	:	
WILLIAM J. WEISS,	:	
Respondent	:	(Philadelphia)

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

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

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

I. HISTORY OF PROCEEDINGS

By Petition for Discipline filed on September 8, 2022, Office of Disciplinary Counsel, Petitioner, charged William J. Weiss, Respondent, with violations of the Rules of Professional Conduct (“RPC”) and Pennsylvania Rules of Disciplinary Enforcement (“Pa.R.D.E.”) arising out of allegations that he engaged in the unauthorized practice of law and related misconduct. On October 25, 2022, Petitioner personally served Respondent with the Petition for Discipline. Respondent did not file an Answer.

A prehearing conference was conducted before the Committee Chair on February 28, 2023, with Petitioner and Respondent attending. The prehearing order established a schedule for the exchange of exhibits, objections to exhibits, identification of witnesses, and motions in limine. Petitioner timely provided Respondent with copies of its exhibits and notice of a proposed witness. Respondent did not object and did not provide Petitioner with any proposed exhibits or witnesses. A disciplinary hearing was held on May 4, 2023, before a District I Hearing Committee ("Committee"). Petitioner relied on the factual allegations set forth in the Petition for Discipline, as such were deemed admitted under Pa.R.D.E. 208(b)(3) due to Respondent's failure to file an Answer. Petitioner moved its exhibits ODC-1 through ODC-24 into evidence and rested its case. Respondent appeared pro se and testified on his own behalf. After the Committee found that Petitioner had met its burden of proof that Respondent violated at least one of the charged rules, the hearing proceeded on the evidence relevant to the appropriate discipline. Petitioner introduced Exhibits D-1 through D-12 and Respondent introduced Exhibits 1 through 7, all of which were admitted into evidence. Respondent also testified on his own behalf during this portion of the hearing.

On July 11, 2023, Petitioner submitted a post-hearing brief to the Committee and requested that the Committee recommend no less than a five year period of suspension. Respondent did not submit a post-hearing brief. By Report filed on October 10, 2023, the Committee concluded that Petitioner met its burden of proof as to the matters contained in Charge I of the Petition but failed to meet its burden as to the matter contained in Charge II of the Petition. A majority of the Committee recommended that Respondent be suspended for a period of three years and the dissenting member recommended a one year suspension.

On October 26, 2023, Petitioner filed a Brief on Exceptions to the Committee's Report and recommendation. Respondent did not take exceptions. The Board adjudicated this matter at the meeting on January 23, 2024.

II. FINDINGS OF FACT

The Board makes the following findings:

1. Petitioner, whose principal office is located at Pennsylvania Judicial Center, 601 Commonwealth Avenue, Suite 2700, P.O. Box 62625, Harrisburg, PA 17106-2625, is invested pursuant to Pa.R.D.E. 207, with the power and duty to investigate all matters involving alleged misconduct of an attorney admitted to practice law in Pennsylvania and to prosecute all disciplinary proceedings brought in accordance with the various provisions of said Pa.R.D.E. Petition, ¶1.
2. Respondent is William J. Weiss, born in 1961 and admitted to practice law in the Commonwealth on December 9, 1986. Petition, ¶2.
3. Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania. Petition, ¶5.

Respondent's Disciplinary History

4. By Supreme Court Order dated October 27, 2005, effective November 26, 2005, Respondent was transferred to inactive status pursuant to Pa.R.D.E. 219, for failure to comply with annual attorney registration and continuing legal education requirements.

5. By Supreme Court Order dated October 6, 2008, Respondent was suspended from the practice of law for two years. The suspension was based on Respondent's violation of the rules relating to commingling and conversion of client funds, engaging in the unauthorized practice of law after his 2005 transfer to inactive status, and failing to respond to lawful demands for information from Office of Disciplinary Counsel, including twice failing to appear at subpoena return hearings. Respondent was reinstated by Court Order dated April 24, 2013. Exhibits D-1, D-2; *Office of Disciplinary Counsel v. William J. Weiss*, No. 42 DB 2007 (D. Bd. Rpt. 5/23/2008) (S. Ct. Order 10/6/2008); *Office of Disciplinary Counsel v. William J. Weiss*, No. 42 DB 2007 (D. Bd. Rpt. 2/12/2013) (S. Ct. Order 4/24/2013).
6. Following his 2008 suspension by the Supreme Court of Pennsylvania, Respondent was suspended from the practice of law in the United States District Court for the Eastern District of Pennsylvania (EDPA) on November 20, 2008, for a period of two years or until further order of the court. Exhibit D-6.
7. Respondent sought reinstatement in the EDPA from his two year suspension and by Order dated November 21, 2016, the EDPA dismissed his petition without prejudice to his right to seek reinstatement after one year. Exhibit D-7, ODC-21.
8. By Order dated March 6, 2019, the Supreme Court granted a Joint Petition for consent discipline and ordered that Respondent be suspended for a period of one year and one day. The suspension was based on Respondent's violations of the rules relating to failure to provide a written fee agreement, failure to

competently and diligently handle an appeal, failure to communicate, and failure to file a complaint on behalf of a client and making knowing and intentional misrepresentations concerning that failure. Respondent remains suspended. See, *Office of Disciplinary Counsel v. William J. Weiss*, No 161 DB 2018 (S. Ct. Order 3/5/2019).

9. Upon issuance of the Supreme Court's Order dated March 6, 2019, by letter of that same date, sent to Respondent at his attorney registration address, Marcee D. Sloan, Disciplinary Board Prothonotary, advised Respondent that he was required to comply with the Pa.R.D.E. and enclosed a certified copy of the Supreme Court's Order suspending Respondent from the practice of law; the Standard Guidance of the Disciplinary Board for Lawyers Who Have Been Suspended For Over One Year; a copy of Pa.R.D.E. 217, Formerly Admitted Attorneys; Form DB-23, Non-Litigation Notice of Disbarment, Suspension, or Transfer to Inactive Status; Form DB-24, Litigation Notice of Disbarment, Suspension, or Transfer to Inactive Status; and Form DB-25, Certificate of Compliance. Petition, ¶9; Exhibit ODC-5.
10. Respondent received Ms. Sloan's letter with enclosures explaining the requirements and restrictions placed on formerly admitted attorneys. Petition, ¶10.
11. Following his 2019 suspension by the Supreme Court of Pennsylvania, Respondent was suspended in the EDPA on April 25, 2019, for a period of one year and one day. Exhibit D-8.

Matter of City of Philadelphia v. Historic Qingdao

12. In or around the fall of 2018, Respondent commenced employment at Levy Law, PC, 1515 Market Street, Suite 950, Philadelphia, PA 19102. (Petition, ¶6)
13. On January 24, 2019, the City of Philadelphia filed a Complaint against Historic Qingdao and Michael G. Naessens in the Court of Common Pleas of Philadelphia County. *City of Philadelphia v. Historic Qingdao, Inc., et al.*, CP No. 190102251. Petition, ¶7.
14. In March 2019, Bart Levy, Esquire filed Entries of Appearance on behalf of the two defendants. Petition, ¶¶11, 12.
15. On April 23, 2019, Respondent filed a Withdrawal of Appearance on behalf of Historic Qingdao. Petition, ¶13. The docket entries do not indicate that Respondent had previously filed an Entry of Appearance. Exhibit ODC-4.
16. On May 30, 2019, a case management conference was held in the Historic Qingdao matter, during which time Mr. Levy was unavailable to appear to represent his client. In lieu of Mr. Levy, Respondent appeared on behalf of Historic Qingdao, Inc., and Mr. Naessens, actively participating in the conference on behalf of both defendants. Respondent failed to notify Andrew J. Barron, Esquire, the Assistant City Solicitor in the City of Philadelphia Law Department, and the case manager that Respondent had been suspended from the practice of law effective April 5, 2019. Petition, ¶ 14.
17. On June 27, 2019, Mr. Barron sent an email message to Mr. Levy in which he wrote the following:

I wanted to express my concern about the Case Management Conference for Historic Qingdao held on May 30, 2019. Your

colleague William Weiss appeared on behalf of your client Michael Naessens and actively participated in the meeting. As we both know, Mr. Weiss was suspended from the practice of law last March. I expect to not see Mr. Weiss at any future hearing or conference.

Exhibit ODC-10; see also Petition, ¶16.

18. Respondent appeared at and actively participated in this Case Management Conference when he was suspended from the practice of law.

Matter of City of Philadelphia v. Revella Coles

19. On May 15, 2019, the City of Philadelphia filed a Complaint against Revella Coles in the Court of Common Pleas of Philadelphia County. *City of Philadelphia v. Revella Coles*, CP No. 190501553. Petition, ¶19.

20. On June 25, 2019, Mr. Levy filed an Answer on behalf of Ms. Coles. Petition, ¶ 20.

21. On August 19, 2019, a Case Management Conference was held during which Respondent appeared in court on behalf of Ms. Coles, informed the case manager that he was present to deliver the case management memorandum, and actively participated in the case management conference, including asking the case manager and the Assistant City Solicitor about the case. Petition, ¶21.

22. Respondent appeared at and actively participated in this Case Management Conference when he was suspended from the practice of law.

Matter of Hakim Scott v. David On, Inc. D/B/A/ Murano Deli



23. On November 3, 2014, Hakim Scott filed a personal injury action against David On, Inc., D/B/A Murano Deli et al., in the Court of Common Pleas of Philadelphia County, Case No. 141100107. Petition, ¶¶29.
24. On April 13, 2015, Respondent filed an entry of appearance on behalf of David On, Inc., D/B/A Murano Deli. Petition, ¶¶30.
25. On April 22, 2015, Mark D. Schaffer, Esquire, also filed an entry of appearance on behalf of David On. Petition, ¶¶ 32.
26. On April 24, 2019, following the effective date of Respondent's suspension ordered by the Supreme Court on March 6, 2019, Respondent filed a Withdrawal of Appearance on behalf of David On, Inc. D/B/A/ Murano Deli. Petition, ¶¶¶ 34, 35, Exhibit ODC-23.
27. On March 2, 2020, a settlement conference was held before a Judge Pro Tem, during which Respondent and Mr. Schaffer appeared on behalf of David On. Mr. Schaffer introduced Respondent as his "assistant" and Respondent remained with Mr. Schaffer during the settlement conference. Petition, ¶¶41.
28. Respondent appeared at the settlement conference when he was suspended from the practice of law.

#### Miscellaneous Other Matters

29. Respondent failed to file with the Board a notice of engagement identifying anyone as his supervising attorney and certifying that his activities would be monitored for compliance with Pa.R.D.E. 217(j). Petition, ¶¶¶23 and 43.
30. Respondent's explanation for this failure is that he was not practicing law or working for an attorney after his March 6, 2019 suspension. Exhibit 6.

31. Respondent was admitted to the EDPA on December 10, 1987 (Petition ¶25), and has been suspended in that jurisdiction since November 20, 2008.
32. Respondent failed to list his admission to the EDPA on his Annual Attorney Registration Statements for 2016-2017, 2017-2018, and 2018-2019. Petition, ¶26; Exhibits ODC-17 and ODC-18.
33. On June 28, 2021, Respondent filed with the Disciplinary Board a Form DB-25 Statement of Compliance, dated April 26, 2019, in which he answered “N/A” when directed to list all other state, federal, and administrative jurisdictions to which he had been admitted. Petition, ¶24; Exhibit ODC-13.
34. Respondent failed to comply with Pa.R.D.E. 217(c)(3) and notify the EDPA that he had been suspended from the practice of law in Pennsylvania effective April 5, 2019 and was no longer an attorney in good standing in Pennsylvania. Petition, ¶27.

#### Aggravating Factors

35. Respondent has a history of prior discipline in Pennsylvania, as set forth above at ¶¶ 5 and 6.
36. Respondent was uncooperative concerning service of the Petition for Discipline, as he evaded service, refused to identify himself to the Office of Disciplinary Counsel investigator, and refused to sign an Acknowledgement of Service. Exhibit ODC-2.
37. Respondent testified that he did not remember attending the February 28, 2023 prehearing conference in this matter. N.T. 35-38.

38. Respondent did not comply with the Prehearing Order concerning the exchange of exhibits, as he did not provide copies of his exhibits to ODC before the hearing on May 4, 2023 as was required by the Order.
39. During the hearing, Respondent was combative, rude, and disrespectful and made disparaging comments about Disciplinary Counsel Harriet Brumberg. N.T. 66, 68-69, 72, 74, 82, 84 and 86-87.
40. Respondent failed to recognize any wrongdoing and instead minimized and excused his conduct. N.T. 29-30, 34, 41, 53, 63, 69-71; Exhibit 6.
41. Respondent failed to demonstrate remorse.
42. Respondent maintains a LinkedIn social media posting listing himself as "William Weiss, Esquire" and describing himself as a "General Practitioner Attorney possessing over 20 years of legal experience." Exhibit D-12.

### III. CONCLUSIONS OF LAW

1. By his conduct in as set forth above, Respondent violated the following Rules of Professional Conduct and Pennsylvania Rules of Disciplinary Enforcement:

- a. RPC 5.5(a) (Historic Qingdao, Coles) - 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;
- b. RPC 8.4(a) (Historic Qingdao, Coles) - It is professional misconduct for a lawyer to violate or attempt to violate the Rules of Professional Conduct, knowingly assist, or induce another to do so, or do so through the acts of another;
- c. RPC 8.4(c) (Historic Qingdao, Coles, David On, Eastern District matter) - It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation;

- d. RPC 8.4(d) (Historic Qingdao, Coles, David On) - It is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice;
- e. Pa.R.D.E. 203(b)(3) (Historic Qingdao, Coles, David On, Eastern District matter) - Willful violation of any other provision of the Enforcement Rules shall be grounds for discipline;
- f. Pa.R.D.E. 217(c)(2) (Historic Qingdao, Coles, David On) - A formerly admitted attorney shall promptly notify, or cause to be promptly notified, of the disbarment, suspension, administrative suspension or transfer to inactive status, all other persons with whom the formerly admitted attorney may at any time expect to have professional contacts under circumstances where there is a reasonable probability that they may infer that he or she continues as an attorney in good standing;
- g. Pa.R.D.E. 217(c)(3) (Historic Qingdao, Coles, David On, Eastern District matter) - A formerly admitted attorney shall promptly notify, or cause to be promptly notified, of the disbarment, suspension, administrative suspension or transfer to inactive status, any other tribunal, court, agency or jurisdiction in which the attorney is admitted to practice;
- h. Pa.R.D.E. 217(j)(2) (Historic Qingdao, Coles, David On) – For purposes of this subdivision (j), the only law-related activities that may be conducted by a formerly admitted attorney are the following:
  - (i) Legal work of a preparatory nature such as legal research, assembly of data and other necessary information, and drafting of transactional documents, pleadings, briefs, and other similar documents;
  - (ii) direct communication with the client or third parties to the extent permitted by paragraph (3); and
  - (iii) accompanying a member in good standing of the Bar of this Commonwealth to a deposition or other discovery matter or to a meeting regarding a matter that is not currently in litigation, for the limited purpose of providing clerical assistance to the member in good standing who appears as the representative of the client;

- i. Pa.R.D.E. 217(j)(4) (Historic Qingdao, Coles, David On) - A formerly admitted attorney may not engage in any form of law-related activities in this Commonwealth except in accordance with the following requirements: Without limiting the other restrictions in this subdivision, a formerly admitted attorney is specifically prohibited from engaging in any of the following activities:
  - (i) performing any law-related activity for a law firm, organization, or lawyer if the formerly admitted attorney was associated with that law firm, organization, or lawyer on or after the date on which the acts which resulted in the disbarment or suspension occurred, through and including the effective date of disbarment or suspension;
  - (iii) performing any law-related services for any client who in the past was represented by the formerly admitted attorney;
  - (iv) representing himself or herself as a lawyer or person of similar status;
  - (vii) appearing on behalf of a client in any hearing or proceeding or before any judicial officer, arbitrator, mediator, court, public agency, referee, magistrate, hearing officer or any other adjudicative person or body; and
  
- j. RDE 217(j)(5) (Historic Qingdao, Coles, David On) - A formerly admitted attorney may not engage in any form of law-related activities in this Commonwealth except in accordance with the following requirements: The supervising attorney and the formerly admitted attorney shall file with the Disciplinary Board a notice of engagement, identifying the supervising attorney and certifying that the formerly admitted attorney's activities will be monitored for compliance with this subdivision (j). The supervising attorney and the formerly admitted attorney shall file a notice with the Disciplinary Board immediately upon the termination of the engagement between the formerly admitted attorney and the supervising attorney.

2. Petitioner did not meet its burden of proof by a preponderance of the evidence that is clear and satisfactory that Respondent violated RPC 3.3(a)(1).

3. Petitioner did not meet its burden of proof by a preponderance of the evidence that is clear and satisfactory that Respondent violated RPC 8.1(a).

#### IV. DISCUSSION

In this matter, the Board considers the recommendation by a majority of the Committee to suspend Respondent for a period of three years for his misconduct related to the unauthorized practice of law.<sup>1</sup> Petitioner takes exception to the Committee's recommendation and contends that the Committee erred in concluding that Petitioner failed to meet its burden of proof in the David On matter, and erred in recommending a three year suspension, as the facts and established precedent support a prospective five year suspension.<sup>2</sup>

Petitioner bears the burden of proving ethical misconduct by a preponderance of the evidence that is clear and satisfactory. *Office of Disciplinary Counsel v. Lawrence J. DiAngelus*, 907 A.2d 452, 456 (Pa. 2006). Based on the deemed admitted facts in the Petition for Discipline, Petitioner's exhibits, Respondent's exhibits, and Respondent's testimony, sufficient factual support exists to establish by clear and satisfactory evidence that Respondent engaged in misconduct in the matters contained in Charge I of the Petition (Coles, Historic Qingdao, Eastern District) and in Charge II (David On). Upon this record and for the following reasons, we recommend that Respondent be suspended for a period of five years prospective to the date of the Court's order.

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<sup>1</sup> The dissenting member recommends a suspension for one year but did not provide any analysis to support this recommendation.

<sup>2</sup> Respondent did not make a recommendation for discipline at the hearing, did not submit a post-hearing brief to the Committee, and did not file a brief following the issuance of the Committee's Report.

The record established that following Respondent's suspension on March 6, 2019, effective April 5, 2019, and after receiving notice, a copy of the applicable Rules of Disciplinary Enforcement, and detailed standard guidance from the Board Prothonotary as to his suspended status and prohibited activities, Respondent appeared at case management conferences in two client matters and a settlement conference in another client matter. After Respondent appeared at the Historic Qingdao matter on May 30, 2019, a Philadelphia Assistant City Solicitor who attended the conference warned Respondent not to appear at any more conferences as Respondent was a suspended attorney. Nevertheless, Respondent appeared at the Coles case management conference on August 19, 2019, and at the David On settlement conference on March 2, 2020. The clients in the Historic Qingdao and Coles matters were represented by Bart Levy, Esquire. Respondent appeared on behalf of the clients in lieu of Mr. Levy and actively participated in the conferences. As a suspended attorney, Respondent engaged in the unauthorized practice of law in violation of RPC 5.5 and prohibited law-related activities under Pa.R.D.E. 217 by performing law-related activities for Mr. Levy, holding himself out as a lawyer or person of similar status, and appearing on behalf of clients before the case manager. Respondent did not notify persons with whom he had professional contacts that he was a suspended attorney. In these matters, Respondent never filed with the Board a notice of engagement regarding employment with Mr. Levy.

In the David On matter, Respondent filed an entry of appearance on behalf of his client in 2015. Around the same time, Mark Schaffer, Esquire, also filed an appearance on behalf of David On. Following the effective date of Respondent's suspension on April 5, 2019, and after receiving information from the Board Prothonotary concerning guidance for lawyers suspended for one year and a day, Respondent filed a

withdrawal of appearance. On March 2, 2020, a settlement conference in the David On case was held before a Judge Pro Tem. Respondent attended the conference with Mr. Schaffer, who introduced Respondent as his “assistant” with no further explanation. Respondent remained with Mr. Schaffer for the duration of the conference. The Committee concluded that on these facts, Petitioner did not prove that Respondent violated any rules, as there was no evidence that Respondent said anything at the conference or made any representation to the Judge Pro Tem about being a lawyer in good standing. The Committee stated that “[n]onlawyers are free to attend such conferences, and the evidence indicated that Respondent was nothing more than an observer.” HC Report p. 16.

Upon review, we disagree with the Committee’s conclusion and find that Petitioner met its burden of proof that Respondent engaged in prohibited law-related activities. As Petitioner points out in its exceptions, Respondent was not merely a “non-lawyer.” Respondent is a formerly admitted attorney as defined in Pa.R.D.E. 102(a),<sup>3</sup> and is subject to the prohibitions and duties set forth in Pa.R.D.E. 217, applicable to formerly admitted attorneys. Pa.R.D.E. 217(j)(4) states that “a formerly admitted attorney is specifically prohibited from engaging in any of the following activities: (iii) performing any law-related services for any client who in the past was represented by the formerly admitted attorney, and (iv) representing himself or herself as a lawyer or person of similar status.” Pa.R.D.E. 217(j)(2)(iii) sets forth certain limitations on law-related conduct by a formerly admitted attorney, with subparagraph (iii) limiting the formerly admitted attorney to “accompanying a member in good standing of the Bar of the Commonwealth to a

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<sup>3</sup> Pa.R.D.E. 102(a) defines “formerly admitted attorney” as “[a] disbarred, suspended, administratively suspended, permanently resigned, retired, inactive, or disability inactive attorney.”



...matter that is not currently in litigation.” In the instant matter, Respondent impermissibly accompanied Mr. Schaffer to a settlement conference on a matter in litigation on behalf of a client who Respondent previously represented. While Respondent may not have said anything or otherwise participated, his very presence ran afoul of the rules. And at no point did Respondent file with the Board a notice of engagement of employment with Mr. Schaffer.

The record further established that Respondent failed to provide accurate information on his annual attorney registration statement for three registration periods and on the Statement of Compliance he submitted on June 28, 2021, more than two years after the effective date of his suspension, because he did not identify the EDPA as a jurisdiction in which he was admitted. As well, Respondent failed to notify the EDPA that he had been suspended from the practice of law in Pennsylvania, effective April 5, 2019.

Having concluded that Respondent engaged in professional misconduct, this matter is ripe for the determination of discipline. In reviewing the general considerations governing the imposition of final discipline, it is well-established that disciplinary sanctions serve the role of protecting the interests of the public while maintaining the integrity of the bar. *Office of Disciplinary Counsel v. John Keller*, 506 A.2d 872, 875 (Pa. 1986). Disciplinary sanctions also serve to deter unethical conduct. *In the Matter of Dennis J. Iulo*, 766 A.2d 335, 338-339 (Pa. 2001). There is no per se discipline for attorney misconduct in the Commonwealth of Pennsylvania; each disciplinary matter is considered on its own facts and circumstances. *Office of Disciplinary Counsel v. Robert Lucarini*, 472 A.2d 186, 190 (Pa. 1983). In assessing appropriate discipline, the Board must weigh any aggravating and mitigating circumstances. *Office of Disciplinary Counsel v. Brian J. Preski*, 134 A.3d 1027, 1031 (Pa. 2016).

Here, we consider several substantial aggravating factors that support the imposition of a lengthy suspension. Chief among these factors is Respondent's record of discipline consisting of a two year suspension imposed in 2008 and a one year and one day suspension imposed in 2019. Significantly, Respondent's 2008 suspension involved, *inter alia*, violations of the rules stemming from his unauthorized practice of law while he was on inactive status for failing to comply with annual attorney registration and continuing legal education. Respondent's misconduct in the instant matter is similar to his previous disregard of his ineligibility to practice law and demonstrates that Respondent is a recidivist who has not learned from his prior experiences. Respondent's reinstatement to active status in 2013 was short-lived, as he engaged in misconduct starting in 2015 that ultimately resulted in his suspension in 2019.

It is well-established that a lengthy prior record of discipline constitutes a weighty aggravating factor. *See, Office of Disciplinary Counsel v. William D. Hobson*, No. 154 DB 2019 & 31 DB 2020 (D. Bd. Rpt. 11/24/2021) (S. Ct. Order 2/11/2022) (Hobson's prior record of informal admonition, private reprimand, and disbarment given great weight in aggravation); *Office of Disciplinary Counsel v. Alexander Z. Talmadge*, No. 240 DB 2018 (D. Bd. Rpt. 12/17/2019) (S. Ct. 3/24/2020) (Talmadge's prior record of two informal admonitions, a private reprimand, and a public censure with one year of probation accorded substantial weight as an aggravating factor). Here, we accord significant weight to Respondent's prior record of discipline consisting of two suspensions as an aggravating factor in our determination that Respondent's instant misconduct warrants a lengthy suspension.

We also consider in aggravation that Respondent demonstrated no remorse, refused to accept responsibility for his actions, and sought to excuse his

misconduct and blame others. Respondent did not apologize for his actions nor did he recognize his wrongdoing. See, *Office of Disciplinary Counsel v. Joseph Q. Mirarchi*, No. 56 DB 2016 (D. Bd. Rpt. 5/21/2018 at p. 67) (S. Ct. Order 3/18/2019). Respondent's disdainful view of these disciplinary proceedings was amply demonstrated by his lack of cooperation for service of the Petition for Discipline, failure to answer the Petition for Discipline, failure to timely submit exhibits, and particularly by his combative, rude, and disrespectful conduct at the disciplinary hearing, all of which serve as aggravating factors. See, *Office of Disciplinary Counsel v. Eric Benjamin Cherdak*, No. 50 DB 2021 (D. Bd. Rpt. 8/29/2022) (S. Ct. Order 10/28/2022); *Office of Disciplinary Counsel v. Allan K. Marshall*, No. 138 DB 2019 (D. Bd. Rpt. 10/16/2020) (S. Ct. Order 2/12/2021).

We find no evidence of mitigation. We note that the Committee gave weight in mitigation to letters Respondent wrote to Disciplinary Counsel Brumberg in April 2020 in response to Ms. Brumberg's inquiries, which the Committee described as demonstrating "a level of cooperation" with Office of Disciplinary Counsel's investigation at that time. HC Report at p. 9, ¶ 36. Ms. Brumberg's correspondence that prompted Respondent's responses is not in the record and we are unable to discern the exact nature of that correspondence. However, in general, respondents are required to respond to inquiries from Office of Disciplinary Counsel during its investigation.<sup>4</sup> We find no case precedent to establish that the act of providing a response to Disciplinary Counsel's inquiries serves as a basis for mitigation.

Turning to the case precedent, where an attorney has engaged in the unauthorized practice of law while serving a disciplinary suspension, the Court has

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<sup>4</sup> See, Board Rule § 87.7(a) and (b).

imposed discipline ranging from a lengthier suspension up to disbarment. In the matter of *Office of Disciplinary Counsel v. Malcom P. Rosenberg*, No. 156 DB 2014 (D. Bd. Rpt. 1/19/2016) (S. Ct. Order 3/17/2016), Rosenberg had been suspended for one year and one day and thereafter, over the course of four months, represented a client involved in a property settlement dispute. The Board accorded weight in aggravation to Rosenberg's failure to accept responsibility for his misconduct and show remorse. The Board recommended a three year suspension based on its analysis that Respondent's unauthorized practice was "a single incident over short period of time." D. Bd. Rpt. at p. 16. Rosenberg had no other prior discipline. The Court accepted the Board's recommendation and suspended Rosenberg for three years. When comparing Rosenberg with the instant matter, we find that Respondent's prior record is more significant, as he has been suspended on two occasions, one of which involved the unauthorized practice of law.

The Court imposed a four year period of suspension in the matter of *Office of Disciplinary Counsel v. Louis S. Criden*, 42 Pa. D. & C. 4<sup>th</sup> 254, 274-275 (1999). Following Criden's suspension for three years, he continued to practice law over the course of twelve months. Although the Board recognized in mitigation that Criden admitted his misconduct and expressed remorse at his disciplinary hearing, the Board recommended a four year suspension "to emphasize the seriousness of practicing law while suspended." Here, Respondent has a lengthier record of discipline, in that he has two prior suspensions, and failed to express any remorse or recognition of responsibility for his actions, which factors weigh in favor of a longer suspension than four years.

In the matter of *Office of Disciplinary Counsel v. Ronald I. Kaplan*, No. 217 DB 2010 (D. Bd. Rpt. 1/24/2012) (S. Ct. Order 6/5/2012), Kaplan had been suspended

for a year and a day and while suspended appeared in Family Court on behalf of a long-time client, misrepresented his identity, and participated in his client's support hearing. The client was aware that Kaplan was a suspended attorney and paid no money for his services. The Board found that Kaplan committed serious ethical breaches deserving of harsh discipline, but nevertheless concluded that the single appearance on behalf of the client, who was aware of the circumstances, did not warrant disbarment. The Court accepted the Board's recommendation and imposed a five year period of suspension.

Other matters have resulted in disbarment due to the egregious nature of the misconduct. See, *Office of Disciplinary Counsel v. Glenn D. DeSantis*, No. 149 DB 2018 (D. Bd. Order 9/6/2019) (S. Ct. Order 11/15/2019) (disbarment imposed on DeSantis for engaging in the unauthorized practice of law while serving a three year suspension in a previous matter; DeSantis failed to participate in any aspect of the disciplinary proceedings, including failing to file an Answer to the Petition for Discipline and failing to attend the disciplinary hearing); *Office of Disciplinary Counsel v. Allan G. Gallimore*, No. 155 DB 2014 (D. Bd. Rpt. 8/11/2015) (S. Ct. Order 10/22/2015) (disbarment imposed on Gallimore for practicing law while serving a suspension of one year and one day; Gallimore had an additional prior suspension of three months with a six month period of probation; pled guilty to the unauthorized practice of law, forgery and failure to make required disposition of funds; failed to answer the Petition for Discipline; failed to appear at the prehearing conference and disciplinary hearing); *Office of Disciplinary Counsel v. Thomas J. Turner, III*, No. 136 DB 2008 (D. Bd. Rpt. 9/28/2009) (S. Ct. Order 12/16/2009) (disbarment imposed on Turner for practicing law while serving a two year suspension; Turner had direct communications with clients; solicited new clients; received fees from clients; engaged in misconduct before the Bankruptcy Court).

The record demonstrates that Respondent committed serious misconduct. He is a suspended attorney who was aware that he was not permitted to practice law while suspended and that certain law-related activities were prohibited due to his suspended status. Nevertheless, Respondent's suspended status did not deter him, and he defied the Supreme Court's March 6, 2019 Order by his conduct in the Historic Qingdao, Coles, and David On matters. Respondent displayed his unwillingness to acknowledge or abide by his suspension order when he failed to file with the Board a timely statement averring his compliance with the provisions of the order (the statement was due within ten days of the effective date of the order; Respondent filed it more than two years later), failed to list on his untimely filed compliance statement that he was admitted in the EDPA, failed to file a notice of engagement identifying a supervisor over his law-related activities, and failed to notify the EDPA that he was suspended effective April 5, 2019. We also note Respondent's inaccurate attorney registration forms filed for three separate annual registration periods, in which he failed to disclose his admission to the EDPA.

Considering the applicable precedent, we conclude that a lengthy suspension, rather than disbarment, is appropriate under the facts and circumstances of the instant matter. The attorneys in *Gallimore* and *DeSantis* failed to appear for their disciplinary hearings, a substantial aggravating factor that is not present in the instant matter. *Gallimore* also pled guilty to the unauthorized practice of law, forgery, and failure to make required disposition of funds, serious facts supporting disbarment that are not present here. The lawyer in *Turner* solicited new clients and received fees from clients, and also engaged in misconduct in the Bankruptcy Court, facts which elevated the

seriousness of Turner's matter and established the necessity for the severe sanction of disbarment.

Upon this record, after considering the nature and gravity of Respondent's prohibited law-related activities while suspended, and after weighing the substantial aggravating factors and lack of mitigation, we recommend to the Court that a five year prospective suspension be imposed. This suspension is consistent with the guiding decisional law and serves to protect the public, preserve the integrity of the courts and the legal profession, and deter future misconduct.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that the Respondent, William J. Weiss, be Suspended for five years from the practice of law in this Commonwealth, prospective to the date of the Court's Order.

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

Respectfully submitted,

THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

By:   
Christopher M. Miller, Member

Date: March 11, 2024

Members Mundorff and Mongeluzzi recused.