

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY	:	No. 2766 Disciplinary Docket No. 3
COUNSEL,	:	
	:	No. 185 DB 2020
Petitioner	:	
	:	Attorney Registration No. 58106
v.	:	
	:	(Allegheny County)
	:	
RICHARD J. MCCAGUE,	:	
	:	
Respondent	:	

ORDER

PER CURIAM

AND NOW, this this 20th day of April, 2026, upon consideration of the Report and Recommendations of the Disciplinary Board, Richard J. McCague is suspended from the Bar of this Commonwealth for a period of five years, retroactive to January 15, 2021. 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 04/20/2026

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 2766 Disciplinary Docket No. 3
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 : No. 185 DB 2020
 Petitioner :
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 v. : Attorney Registration No. 58106
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 RICHARD J. McCAGUE, :
 Respondent : (Allegheny County)

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

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

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

I. FINDINGS OF FACT

The Board makes the following factual findings:

1. Petitioner, whose principal office is located at Pennsylvania Judicial Center, Suite 2700, 601 Commonwealth Avenue, P.O. Box 62485, Harrisburg, Pennsylvania 17106-2485, is invested, pursuant to Rule 207 of the Pennsylvania Rules of Disciplinary Enforcement, with the power and the duty to investigate all matters involving alleged misconduct of an attorney admitted to practice law in the Commonwealth of Pennsylvania

and to prosecute all disciplinary proceedings brought in accordance with the various provisions of the aforesaid Rules.

2. Respondent, Richard J. McCague, was born in 1954 and was admitted to practice law in the Commonwealth of Pennsylvania in 1990. He is subject to the jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

3. By Order dated December 1, 2005, the Court directed that Respondent receive a public censure for his conviction of disorderly conduct in connection with smuggling tobacco and marijuana into the Allegheny County Jail for his client who was detained in that facility. ODC-18.

4. By Order of November 30, 2006, the Court suspended Respondent for a period of two years for Respondent's ethical violations related to client neglect and failure to communicate.¹ ODC-19.

5. On June 2, 2011, Respondent filed a Petition for Reinstatement.

6. By Order of October 22, 2012, the Court reinstated Respondent to the practice of law. ODC-20.

7. Following reinstatement to active status, Respondent operated a solo practice based almost exclusively on criminal law. N.T. 56.

Respondent's Direct Criminal Contempt Conviction

8. In September 2018, Respondent entered his appearance as counsel for criminal defendant Richard Desabetino shortly before the scheduled trial in that matter.

¹ We take judicial notice that the Board's July 18, 2006 Report found that Respondent received an informal admonition in December 2002. See *Office of Disciplinary Counsel v. Richard J. McCague*, Nos. 64 DB 2005 and 107 DB 2005 (D. Bd. Rpt. 7/18/2006, pp. 13-14, 18) (S. Ct. Order 11/30/2006).

Mr. Desabetino had been previously represented in his case by five other counsel. ODC-7; N.T. 29.

9. Allegheny County Court of Common Pleas Judge Beth A. Lazzara made it clear that no continuances would be granted as the case was four years old and trial would proceed as scheduled at the end of October 2018. N.T. 29.

10. The underlying criminal matter involved a police chase that took place after the police attempted to arrest Mr. Desabetino on an open warrant. ODC-5.

11. At the trial on October 23, 2018, during his opening, Respondent focused the jury on the chase and the police conduct leading to the chase. *Id.*

12. There were two eyewitnesses to the chase. One was Amy Calabrese, who was dating and living with the defendant at the time of the police chase and arrest. *Id.*

13. Ms. Calabrese was called and testified as the Commonwealth's first witness. *Id.*

14. After Ms. Calabrese's testimony, Respondent informed the court: "I do represent Amy on another case." The court inquired if Respondent had "learned of Ms. Calabrese's involvement in this case through discovery." Respondent said: "It's how I got to this client..." *Id.*

15. After some additional back and forth, the court declared a mistrial and recused itself from the Desabetino matter. *Id.*

16. On that day, at no time did "Respondent object to the characterization that he actively represented Ms. Calabrese." *Id.*

17. On October 31, 2018, the trial court entered a Rule to Show Cause directing Respondent to "show just cause why he should not be found in Direct Criminal Contempt of Court pursuant to 42 Pa. C.S.A. §4132(3)" for "his actions of simultaneously

representing a criminal defendant and a central Commonwealth witness during a criminal trial that began on October 23, 2018, at CC# 2014-13014.” *Id.*

18. A hearing was held on November 15, 2018. *Id.*

19. At the hearing, and for the first time, Respondent claimed Ms. Calabrese was only a prospective client and asserted he had never actually represented her. *Id.*

20. Respondent presented a discontinuation letter dated July 13, 2018, but the court discounted the provenance of the letter since it was printed from Respondent’s computer and bore no indications of being mailed. *Id.*

21. Additionally, the text of the letter itself stated that Respondent would “be filing to remove my name from your case[]” because Ms. Calabrese was unable to pay for his services. *Id.*

22. By definition, lawyers do not enter appearances for prospective clients.

23. Ms. Calabrese was a client or former client of Respondent at the time of the Desabetino trial.

24. At the hearing, the trial court explained the issue as follows:

When this kind of behavior happened, Mr. DeSab[e]tino wasn't going to be given a fair shot. You have knowledge of Ms. Calabrese that makes it hard to cross-examine her at that point in time. Is Ms. Calabrese going to be given a fair shot? Are you going to use things that she told you in order to get a leg up for Mr. DeSab[e]tino? That's why we never proceed this way, so that those people who come in here can believe that the court system is fair and is working to the best of its ability on their behalf[]. And that is not what you did. It is not what you did.

ODC-5.

25. Judge Lazzara made the below specific findings on the record at the hearing:

And I make that specific finding, that you are in criminal contempt. That you have committed misconduct before this Court in how you handled this entire matter. That it was done with the intent to obstruct the proceedings, which I base in part on the fact that you knew all this and you never bothered to say

anything until after the direct, the timing is very suspect. And I believe that it was your intent to obstruct the proceedings. You had certainly mentioned off the record in the morning that more time could be appreciated because your client had mental illness, he had issues, which made me believe you might be seeking a continuance, which you weren't going to be granted. What better way to get a continuance. Also, your misconduct certainly obstructed the administration of justice and this [mis]trial had to be declared after a jury was selected, after 15 witnesses had to be subpoenaed, after enumerable costs were incurred by the court. Therefore, sir, I do find you in criminal contempt.

Id.

26. Judge Lazzara sentenced Respondent to a fine of \$4,847.02 “which reflects the court costs that were incurred as a result of his misconduct. The fine shall be paid to the Department of Court Records - Criminal Division, Room 114 of the Allegheny County Courthouse (412-350-5323). Respondent shall pay the fine in equal monthly installments over the course of three (3) months.” ODC-4.

27. Respondent appealed his conviction to the Superior Court, which affirmed both his conviction and his sentence. ODC-7.

28. As part of his appeal, Respondent argued that the statute cited by the trial court could only support conviction for a “summary” offense with a maximum fine of \$300.

Id.

29. The Superior Court considered and rejected this argument as contrary to the plain statutory text. *Id.*

30. Respondent did not appeal his conviction to the Pennsylvania Supreme Court. ODC-6.

31. Respondent failed to report his conviction to Office of Disciplinary Counsel (“ODC”) under Pa.R.D.E. 214(a).

32. On November 4, 2020, ODC filed a Notice of Criminal Conviction with the Supreme Court and attached a certified copy of Respondent's conviction. ODC-8.

33. On December 1, 2020, the Court issued a Rule to Show Cause why Respondent should not be placed on temporary suspension, based on his conviction for direct criminal contempt and failure to report the conviction. ODC-9. Respondent failed to respond to the Court's Rule to Show Cause.

34. By Order dated January 15, 2021, the Court placed Respondent on temporary suspension, ordered him to comply with Pa.R.D.E. 217 requiring suspended lawyers to notify clients and tribunals of their status, and further directed him to file a verified statement with the Board attesting, among other things, to completing the required notifications.

35. Respondent failed to file the required verified statement. ODC-11.

36. On February 19, 2020, Respondent paid \$1,000 toward his fine, leaving a balance of \$3,847.02. ODC-3. As of the date of the disciplinary hearing on November 19, 2024, Respondent had failed to pay his fine in full, explaining that he was "broke." N.T. 67-68.

37. Mr. Desabetino was eventually re-tried in 2019, convicted, and sentenced to a minimum of 7 years in prison. ODC-2.

Natalie Dawson Matter

38. The facts of this matter are deemed admitted due to Respondent's failure to answer the Petition for Discipline related to this matter.

39. In September 2020, Natalie L. Dawson was charged with various criminal offenses in Beaver County, Pennsylvania.

40. On October 15, 2020, the criminal charges filed against Ms. Dawson were docketed in the Court of Common Pleas of Beaver County at case docket numbers CP-04-CR-0001664-2020 and CP-04-CR-0001666-2020.

41. On October 15, 2020, Respondent entered his appearance on behalf of Ms. Dawson at docket numbers CR-0001664-2020 and CR-0001666-2020.

42. On December 1, 2020, Respondent filed a Motion to Continue Ms. Dawson's Plea Hearing that had been scheduled before the court on December 2, 2020, for entry of a guilty plea.

43. By Order dated December 1, 2020, the court granted the Motion and continued Ms. Dawson's cases until February 3, 2021.

44. Respondent did not inform Ms. Dawson that the December 2, 2020, court date was rescheduled to February 3, 2021.

45. After Respondent was placed on temporary suspension, he did not inform Ms. Dawson that he had been suspended and that after February 14, 2021, he would no longer be able to represent her in her criminal matters and that she would need to obtain new counsel.

46. On February 3, 2021, neither Respondent, nor his client, appeared before Judge Dale Fouse in Beaver County for the plea hearing that had been continued at Respondent's request from December 2, 2020.

47. On February 3, 2021, Judge Fouse, with the Commonwealth present, telephoned Respondent regarding his non-appearance.

48. During his conversation with the court, Respondent:

(a) failed to inform Judge Fouse that the Supreme Court had entered an Order on January 15, 2021, placing him on temporary suspension and that as of February 14, 2021 he would be prohibited from representing Ms. Dawson;

(b) told Judge Fouse that he did not appear because he had forgotten about Ms. Dawson's cases and had overscheduled himself; and

(c) requested another continuance.

49. Prior to deciding whether to grant Respondent's request for a continuance, the court directed Respondent to have Ms. Dawson call the court that morning.

50. On February 3, 2021, at approximately 10:46 a.m., Judge Fouse called Ms. Dawson about her non-appearance that morning.

51. Ms. Dawson informed the court that just prior to the Judge calling, Respondent had telephoned her and told her "he's in court right now" and to "make sure I gave you guys a call."

52. Ms. Dawson confirmed she was not aware that she had a court date that morning to enter her plea, and that she was only aware of a court date for March 2021.

53. Judge Fouse confirmed that the March court date was actually March 8, 2021, and that date was the trial date.

54. As Respondent had not notified his client of his temporary suspension, ADA Reed Stratham informed Ms. Dawson that Respondent was facing a suspension from the practice of law and that she may be eligible for representation by the Office of the Public Defender.

55. The court informed Ms. Dawson that a pre-trial conference was scheduled for February 23, 2021.

56. On February 22, 2021, after the effective date of Respondent's suspension, Respondent called ADA Chad Parks, with whom he had previously discussed Ms. Dawson's case, to seek a postponement of the pre-trial conference and to request that the cases be scheduled for a non-jury trial in March.

57. In the course of the telephone call, ADA Parks questioned Respondent about the status of his temporary suspension.

58. Respondent told ADA Parks that his suspension was a "mistake," and that he felt the suspension would be lifted in the near future.

59. At the conclusion of the telephone call, ADA Parks told Respondent that Ms. Dawson should appear at the February 23, 2021 conference and indicate her intentions for obtaining counsel going forward.

60. On March 30, 2021, Petitioner sent Respondent a DB-7 Request for Statement of Respondent's Position related to his representation of Ms. Dawson.

61. Respondent failed to respond to the DB-7.

Zackary Woznichak Matter

62. The facts of this matter are deemed admitted due to Respondent's failure to answer the Petition for Discipline related to this matter.

63. On September 3, 2020, Zackary Woznichak was arrested in Allegheny County and charged with numerous drug offenses, which were graded in a range from misdemeanors through felonies of the 2nd degree.

64. On September 4, 2020, Respondent met Mr. Woznichak and his mother, Collette Woznichak, at a local restaurant to discuss Mr. Woznichak's arrest and Respondent's representation of Mr. Woznichak.

65. Respondent informed Mr. Woznichak and Ms. Woznichak that:

(a) his fee to represent Mr. Woznichak through trial would be a flat fee of \$12,000.00;

(b) there was an initial retainer due of \$2,500.00; and

(c) they would not have to pay him any other money, other than the \$2,500.00, until after the preliminary hearing.

66. Although Respondent had previously represented Mr. Woznichak, it was several years prior to the instant representation, and despite the client's request, Respondent did not provide Mr. Woznichak with a writing confirming the basis or rate of his fee for the matter, either before or within a reasonable period of time after commencing the representation.

67. On September 4, 2020, Ms. Woznichak paid Respondent \$1,000 in cash and \$1,500 by credit card for a total of \$2,500.

68. Respondent did not deposit any portion of the \$2,500 into an IOLTA or escrow account, or any other account for the deposit of entrusted funds.

69. Mr. Woznichak's preliminary hearing was originally scheduled for September 15, 2020, but was postponed on several occasions.

70. By cashier's check dated December 2, 2020, in the amount of \$6,000.00, and made payable to Respondent, Ms. Woznichak paid Respondent additional moneys towards Respondent's representation of Mr. Woznichak.

71. On December 3, 2020, during a meeting with Mr. Woznichak and Ms. Woznichak at a local restaurant, the Woznichaks requested a receipt for the moneys and a copy of the fee agreement for Respondent's representation of Mr. Woznichak.

72. Respondent indicated that he had forgotten the fee agreement for Mr. Woznichak to sign but would drop it off to Mr. Woznichak for a signature.

73. Thereafter, Respondent failed to provide Mr. Woznichak with a written fee agreement in regard to his representation.

74. On December 3, 2020, Respondent negotiated or caused to be negotiated the \$6,000 cashier's check.

75. Respondent did not deposit any portion of the proceeds of the \$6,000 cashier's check into an IOLTA or escrow account, or any other account for the deposit of entrusted funds.

76. The preliminary hearing for Mr. Woznichak scheduled for January 5, 2021, was continued until February 23, 2021.

77. Respondent informed Mr. Woznichak and Ms. Woznichak that he had been temporarily suspended but hoped that the suspension would be "lifted" before the new date for the preliminary hearing.

78. A few days before the February 23, 2021 preliminary hearing Ms. Woznichak called Respondent, who informed her that Mr. Woznichak would have to get the preliminary hearing continued and that Respondent's suspension should be lifted by that time.

79. Mr. Woznichak's preliminary hearing was continued until March 23, 2021.

80. Prior to the March 23, 2021 hearing, Respondent told Mr. Woznichak that he had broken his arm, and Mr. Woznichak should ask the district magistrate to continue the preliminary hearing.

81. On March 23, 2021, the district magistrate continued Mr. Woznichak's preliminary hearing until May 4, 2021.

82. At no time did Respondent inform Mr. Woznichak that he might need to seek new counsel to represent him.

83. On May 3, 2021, Mr. Woznichak and Ms. Woznichak called Respondent about the preliminary hearing scheduled for May 4, 2021.

84. Respondent once again advised Mr. Woznichak that he should request another continuance as Respondent was hopeful he could get his license back.

85. In a letter to Respondent dated July 12, 2021, and sent by certified mail, Mr. Woznichak:

(a) requested a refund of the \$8,500 that his family and he had paid for Respondent's representation in his criminal case;

(b) told Respondent that he had contacted the Disciplinary Board about this matter; and

(c) asked for a response within 14 days.

86. Thereafter, Respondent contacted Ms. Woznichak, informed her that he had earned the money that he had been paid to represent Mr. Woznichak and that he would not be issuing any refund.

87. Respondent did not refund any portion of the fee he received nor did he provide an accounting as requested by the Woznichaks.

88. On July 26, 2021, Petitioner sent to Respondent a DB-7 Request for Statement of Respondent's Position concerning the Woznichaks' allegations. Concurrently, Respondent was served with a subpoena duces tecum requesting records related to the payment and retention of the money the Woznichaks had paid to him.

89. On August 23, 2021, in response to the subpoena, Respondent appeared at Petitioner's District IV office and met with Investigator/Auditor Brian Kline and disciplinary counsel at which time:

(a) Respondent provided a typed statement, but failed to provide the documentation requested in the subpoena and the attachment;

(b) Respondent provided an invoice dated November 22, 2020, that purportedly had been provided to the Woznichaks;

(c) Respondent confirmed that he had no written fee agreement with either Mr. Woznichak or Ms. Woznichak;

(d) Respondent admitted that he did not deposit the funds he was paid into an IOLTA, but rather he cashed the \$6,000 cashier's check and used the proceeds for personal items unrelated to his representation of Mr. Woznichak and for payment of office bills and expenses; and

(e) Respondent admitted that he had no client ledger regarding his representation of Mr. Woznichak and the only documents he had were from Mr. Woznichak's prior 2017 case.

90. In March 2022, the Pennsylvania Lawyers Fund for Client Security (the "Fund") approved a claim in the amount of \$6,000 made by Mr. Woznichak against Respondent.

91. Respondent has made no payment towards the balance owed to the Fund.

The Disciplinary Proceeding at No. 185 DB 2020

92. On June 6, 2024, Petitioner filed a Petition for Discipline against Respondent based on the direct criminal contempt conviction and the Dawson and Woznichak matters.

93. On July 17, 2024, Respondent filed an Answer in letter form with exhibits attached. The Answer failed to admit or deny each material allegation of the petition as required by Disciplinary Board Rule § 89.54(b).

94. On October 8, 2024, Petitioner filed with the appointed Hearing Committee (“Committee”) a Motion that Charges 2 and 3 (Dawson and Woznichak matters) of the Petition for Discipline be Deemed Admitted Pursuant to Pa.R.D.E. 208(b)(3) for Respondent’s Failure to Answer the Allegations and a Motion in Limine to Preclude Respondent From Attempting to Re-litigate His Conviction for Direct Criminal Contempt and Strike Respondent’s Answer to Charge 1 (criminal conviction matter) of the Petition for Discipline.

95. The Committee Chair held a pre-hearing conference on October 10, 2024.

96. Respondent filed a reply to the motions on October 16, 2024.

97. On October 23, 2024, the Committee granted Petitioner’s Motion for Deemed Admissions. With respect to the Motion in Limine, the Committee precluded Respondent from attempting to re-litigate or collaterally attack the direct criminal contempt conviction, and struck statements in Respondent’s Answer to the Petition for Discipline that attempted to re-litigate or collaterally attack the conviction. The Committee denied Petitioner’s request to fully strike the Answer to Charge 1 and directed that any statements in the Answer that addressed the discipline to be imposed would be allowed.

98. The Committee held a disciplinary hearing on November 19, 2024. Petitioner admitted into evidence exhibits ODC-1 through ODC-17. Petitioner called no witnesses in its case-in-chief. Respondent appeared pro se, testified briefly, offered no exhibits and called no witnesses. During the dispositional phase, Petitioner called Judge Beth A. Lazzara and Collette Woznichak and admitted into evidence exhibits ODC-18 through ODC-20.

99. During the disciplinary process, Respondent attempted to collaterally attack his conviction and sentence. He eventually testified that as to his conduct that led to his

criminal contempt conviction, “I am not saying that I operated perfectly here; I did not.” He further testified, “I agree that I should have acted better.” N.T. 17-21, 50-51.

100. Respondent testified he has not been held in contempt at any other time during his legal career. N.T. 22, 52.

101. Respondent testified that as to the Woznichak matter, he had “no intent to defraud” or “harm” his client and Ms. Woznichak. N.T. 49. He further testified that he “will be happy to pay back the Fund, in full, with interest” but the record shows that he has not done so. *Id.*

102. Respondent described the Dawson matter as a “technical violation” and testified that he “should have notified” individuals of his temporary suspension, but he also attempted to shift blame to his client, testifying that “[Dawson] kept not getting successor counsel.” N.T. 49, 52.

103. Respondent ultimately conceded that as to all three charges in the Petition for Discipline, “I should have done better” but offered excuses why he did not, such as the fact that he was temporarily suspended. N.T. 51-52.

104. Respondent testified regarding his prior discipline. When asked to provide a brief summary of the circumstances of his two year suspension imposed by the Court in 2006, he stated, “I would be guessing at this point. I don’t want to mislead you. I actually have forgotten.” N.T. 60-61.

105. Judge Lazzara testified concerning the disruption to the court proceedings on account of Respondent’s misconduct and how the criminal matter, which was an old case, had to be rescheduled with another jurist. N.T. 28-32.

106. Ms. Woznichak testified to her efforts to obtain a refund of the moneys paid to Respondent for her son's representation in a criminal matter and how she eventually filed a claim with the Fund as Respondent did not refund the moneys to her. N.T. 37-42.

107. On January 21, 2025, Petitioner submitted a post-hearing brief to the Committee and requested that the Committee recommend to the Board that Respondent be suspended for a period of no less than three years.

108. Respondent did not submit a post-hearing brief to the Committee.

109. By Report filed on July 1, 2025, the Committee concluded that Respondent violated the ethical rules charged in the Petition for Discipline and recommended that he be suspended for a period of five years with credit for time spent on temporary suspension.

110. On July 22, 2025, Respondent filed a letter brief on exceptions to the Committee's Report and recommendation. Respondent took exception to the Committee's² finding that there was no mitigation and contends that the Board should consider in his favor that he admitted his misconduct, acted civilly during the hearing, and did not fight his temporary suspension. He again attacked the basis of his criminal conviction and sentencing as faulty and suggested that the Superior Court's Order should not be followed. Respondent recommended that a four or four and a half year suspension be imposed, instead of a five year suspension.

111. On August 11, 2025, Petitioner filed a Brief Opposing Respondent's Exceptions. Petitioner urged the Board to dismiss Respondent's exceptions and recommend that Respondent be suspended for five years.

² Respondent erroneously addressed his exceptions to the Court and referred to the "recommendation of the Board" throughout his letter brief, instead of the Committee.

112. The Board adjudicated this matter at the meeting on October 24, 2025.

II. CONCLUSIONS OF LAW

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

1. RPC 1.3 – A lawyer shall act with reasonable diligence and promptness in representing a client.
2. RPC 1.4(a)(3) – A lawyer shall keep the client reasonably informed about the status of the matter.
3. RPC 1.4(a)(4) – A lawyer shall promptly comply with reasonable requests for information.
4. RPC 1.5(a) – A lawyer shall not enter into an agreement for, charge, or collect an illegal or clearly excessive fee.
5. RPC 1.5(b) – When the lawyer has not regularly represented the client, the basis or rate of the fee shall be communicated to the client, in writing, before or within a reasonable time after commencing the representation.
6. RPC 1.15(b) – A lawyer shall hold all Rule 1.15 Funds and property separate from the lawyer’s own property. Such property shall be identified and appropriately safeguarded.
7. RPC 1.15(e) – Except as stated in this Rule or otherwise permitted by law or by agreement with the client or third person, a lawyer shall promptly deliver to the client or third person any property, including but not limited to Rule 1.15 Funds, that the client or third person is entitled

to receive and, upon request by the client or third person, shall promptly render a full accounting regarding the property; Provided, however, that the delivery, accounting and disclosure of Fiduciary Funds or property shall continue to be governed by the law, procedure and rules governing the requirements of Fiduciary administration, confidentiality, notice and accounting applicable to the Fiduciary entrustment.

8. RPC 1.15(i) – A lawyer shall deposit into a Trust Account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred, unless the client gives informed consent, conformed in writing, to the handling of fees and expenses in a different manner.
9. RPC 1.16(a)(1) – Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if the representation will result in violation of the Rules of Professional Conduct or other law.
10. RPC 1.16(d) – Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by other law.

11. RPC 3.3(a)(1) – 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.
12. RPC 8.4(b) – It is professional misconduct for a lawyer to commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects.
13. RPC 8.4(c) – It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.
14. RPC 8.4(d) – It is professional misconduct for a lawyer to engage in conduct prejudicial to the administration of justice.
15. Pa.R.D.E. 203(a) – Acts or omission by a person subject to these Rules, which violate the Disciplinary Rules, shall constitute misconduct and shall be grounds for discipline.
16. Pa.R.D.E. 203(b)(1) – Conviction of a crime shall be grounds for discipline.
17. Pa.R.D.E. 203(b)(3) – Willful violation of a provision of the Enforcement Rules shall be grounds for discipline.
18. Pa.R.D.E. 203(b)(4) – Failure by a respondent-attorney without good cause to comply with any order under the Enforcement Rules of the Supreme Court, the Board, a hearing committee or special master shall be grounds for discipline.
19. Pa.R.D.E. 203(b)(7) – Failure by a respondent-attorney without good cause to respond to Disciplinary Counsel's request or supplemental

request under Disciplinary Board Rules, § 87.7(b) for a statement of the respondent-attorney's position shall be grounds for discipline.

20. Pa.R.D.E. 214(a) – Failure to report a criminal conviction to the Office of Disciplinary Counsel.

21. Pa.R.D.E. 217(b) – A formerly admitted attorney shall promptly notify, or cause to be promptly notified, all clients who are involved in pending litigation or administrative proceedings, and the attorney or attorneys for each adverse party in such matter or proceeding, of the disbarment, suspension, temporary suspension, administrative suspension or transfer to disability inactive status and consequent inability of the formerly admitted attorney to act as an attorney after the effective date of the disbarment, suspension, temporary suspension, administrative suspension or transfer to disability inactive status. The notice to be given to the client shall advise the prompt substitution of another attorney or attorneys in place of the formerly admitted attorney. In the event the client does not obtain substitute counsel before the effective date of the disbarment, suspension, temporary suspension, administrative suspension or transfer to disability inactive status, it shall be the responsibility of the formerly admitted attorney to move in the court or agency in which the proceeding is pending for leave to withdraw. The notice to be given to the attorney or attorneys for an adverse party shall state the place of residence of the client of the formerly admitted attorney. The notice required by this subdivision (b) may be delivered by the most efficient method possible as long as the chosen method is

successful and provides proof of receipt. See Note after subdivision (a), *supra*. At the time of the filing of the verified statement of compliance required by subdivision (e)(1) of this Rule, the formerly admitted attorney shall file copies of the notices required by this subdivision and proofs of receipt with the Board and shall serve a conforming copy on Disciplinary Counsel. See D.Bd. Rules § 91.92(b) (relating to filing of copies of notices).

22. Pa.R.D.E. 217(c)(2) - 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.

23. Pa.R.D.E. 217(c)(3) - A formerly admitted attorney shall promptly notify, or cause to be promptly notified, of the disbarment, suspension, temporary suspension, administrative suspension or transfer to disability inactive status, any other tribunal, court, agency or jurisdiction in which the attorney is admitted to practice.

24. Pa.R.D.E. 217(e)(1) - Within ten days after the effective date of the disbarment, suspension, temporary suspension, administrative suspension or transfer to disability inactive status order, the formerly admitted attorney shall file with the Board a verified statement and serve

a copy on Disciplinary Counsel.

III. DISCUSSION

This matter is before the Board on Respondent's exceptions to the Committee's Report concluding that Respondent violated the Rules of Professional Conduct and Pennsylvania Rules of Disciplinary Enforcement in three matters and unanimously recommending that he be suspended for a period of five years with credit for Respondent's time on temporary suspension. For the reasons set forth below, we find no merit to Respondent's exceptions and conclude that a five year suspension retroactive to the date of Respondent's temporary suspension on January 15, 2021, is warranted.

Petitioner bears the burden of proving professional misconduct by clear and convincing evidence. *Office of Disciplinary Counsel v. Anonymous Attorney*, 331 A.3d 523 (Pa. 2025). Respondent's Answer to the charges against him was deficient in that he only responded to the charge concerning his direct criminal contempt conviction; the factual averments relevant to charges two and three related to the Dawson and Woznichak matters were deemed admitted due to his failure to respond to them. As to Respondent's criminal conviction, a certificate of conviction of an attorney for a crime shall be conclusive evidence of the commission of that crime in any disciplinary proceeding instituted against the attorney based upon the conviction. See Pa.R.D.E. 214(e). Upon our independent review,³ we conclude that Petitioner met its burden in each of the

³ Pursuant to Pa.R.D.E. 208(d)(2), the Board may change the Committee's recommendation.

charged matters to establish that Respondent violated the Rules of Professional Conduct and Pennsylvania Rules of Disciplinary Enforcement.

The record evidence demonstrates that this matter began with a direct criminal contempt conviction entered against Respondent on November 15, 2018, for conduct as counsel during trial of a client's criminal case. The facts are undisputed. Respondent represented Richard Desabetino. When Respondent entered his appearance in the matter in September 2018, Judge Lazzara pointedly stated that no continuances of the scheduled trial would be granted. Trial commenced on October 23, 2018. After the Commonwealth finished its direct examination of its first witness, an individual who was dating and living with the defendant and who was an eyewitness, Respondent informed Judge Lazzara that he represented the witness. Following discussion, Judge Lazzara declared a mistrial and recused herself from the case. Judge Lazzara then scheduled a hearing on a rule to show cause why Respondent should not be found in direct criminal contempt for "his actions of simultaneously representing a criminal defendant and a central Commonwealth witness during a criminal trial that began on October 23, 2018, at CC# 2014-13014."

At the November 15, 2018 show cause hearing, Respondent for the first time claimed that the witness was only a prospective client and claimed he never represented her. Judge Lazzara rejected Respondent's assertions and specifically found that he intended to obstruct the proceedings, called Respondent's timing "suspect" as to when he alerted the court of his representation of the witness, and found he was attempting to have the case continued. Judge Lazzara sentenced Respondent to a fine of \$4,847.02 and directed him to pay the fine in equal monthly installments over the course of three months. Respondent appealed to the Superior Court, which affirmed both

his conviction and sentence. He did not appeal to the Supreme Court. Respondent failed to report his conviction to Office of Disciplinary Counsel. Respondent made an initial \$1,000 payment on his fine more than one year later, on February 19, 2020, and has failed to pay the balance, claiming he is “broke.”

On January 15, 2021, the Court placed Respondent on temporary suspension based on his criminal conviction, which suspension was effective February 14, 2021. Thereafter, Respondent substantively disregarded the Court’s order and the Pennsylvania Rules of Disciplinary Enforcement. He failed to promptly notify clients, adverse attorneys, tribunals and others of his new suspended status, and failed to submit a verified statement to the Board within ten days of the effective date of the suspension demonstrating he complied with the provisions of Pa.R.D.E. 217.

Despite being notified on January 15, 2021, of his temporary suspension and the requirement to wind down his practice by the effective date, Respondent simultaneously strung along two criminal defendant clients while failing to accurately inform them or the courts presiding over their cases that he would not be eligible to represent them due to his temporary suspension. Instead, Respondent deceitfully advised his clients and others without basis that the temporary suspension was a “mistake” and would be lifted in the near future. Respondent did not withdraw from the representations and requested multiple continuances of his clients’ court dates.

Respondent offhandedly described his misconduct in Dawson and Woznichak as a “technical violation” of the rules. It was not. Respondent was specifically provided with ample notice of his temporary suspension and his obligations as a formerly admitted attorney under the Enforcement Rules. Respondent failed to comply with these rules. Not only did Respondent fail to promptly advise his clients of his temporary

suspension so they could secure other counsel and move forward with their criminal matters, he failed to refund unearned moneys to the Woznichaks despite doing little in the matter but seek continuances. The Woznichaks were dissatisfied with the many continuances requested by Respondent, terminated his representation, and sought a refund of their moneys so they could obtain new counsel. Respondent did not refund any portion of the moneys he received, forcing Ms. Woznichak to seek recompense from the Fund. The record reflects that Respondent has not reimbursed the Fund for the award made on his behalf to Ms. Woznichak, although he testified that he “would be happy to do so.”

Additionally, and as deemed admitted by his failure to answer the charges related to Ms. Dawson and Mr. Woznichak in the Petition for Discipline, Respondent neglected to inform Ms. Dawson about scheduled court dates, failed to appear on her behalf, failed to respond to Petitioner’s inquiries concerning Ms. Dawson’s matter, failed to provide a written fee agreement to Mr. Woznichak, failed to deposit funds entrusted on behalf of Mr. Woznichak into an IOLTA, and used the proceeds for personal items.

Having concluded that Respondent engaged in professional misconduct, this matter is ripe for the determination of discipline. Disciplinary sanctions serve the dual role of protecting the interests of the public while maintaining the integrity of the bar. *Office of Disciplinary Counsel v. John Keller*, 506 A.2d 872, 875 (Pa. 1986). In assessing the appropriate quantum of 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).

On this record, we find significant aggravating factors and no countervailing mitigation. Respondent is a recidivist with a substantial disciplinary history. On December

1, 2005, the Court directed that Respondent receive a public censure based on his criminal conviction for attempting to smuggle contraband into the Allegheny County Jail. Less than one year later, on November 30, 2006, Respondent was suspended for two years for misconduct involving a lack of competence, diligence and communication, failing to return files and conduct prejudicial to the administration of justice. Notably, when asked by the Committee Chair to summarize the underlying facts of his two year suspension, Respondent stated, "I actually have forgotten." Respondent remained suspended until his reinstatement in 2012. The instant misconduct commenced approximately six years later.

Precedent establishes that recidivist offenders receive more severe discipline. See *Office of Disciplinary Counsel v. William D. Hobson*, Nos. 152 DB 2019 & 31 DB 2020 (D. Bd. Rpt. 11/24/2021 (S. Ct. Order 2/11/2022)); *Office of Disciplinary Counsel v. Joshua M. Briskin*, No. 72 DB 2021 (D. Bd. Rpt. 6/13/2023) (S. Ct. Order 8/4/2023). Respondent's history of discipline is relevant because it demonstrates a record of escalating misconduct which accentuates his specific current misconduct and raises alarms as to his current fitness to practice law. It is extremely troubling that yet again Respondent is facing serious charges as a result of his misconduct involving another criminal conviction, failure to comply with disciplinary enforcement rules related to his temporary suspension, and client misconduct in two matters. We conclude from this abysmal record that the earlier disciplinary sanctions did not have the intended deterrent effect on Respondent.

Next, we consider Respondent's expressions of remorse and find that he failed to offer genuine and sincere acknowledgement of his wrongdoing and any real apology. Respondent continued his fruitless and procedurally improper efforts to attack

his criminal conviction as faulty and unfair, notwithstanding that the Superior Court affirmed Respondent's conviction and sentence and he did not exercise his right to appeal that decision to the Supreme Court. And while Respondent stated that he "should have done better" with the Woznichak and Dawson matters, he had ready excuses for his behavior which weakened the sincerity of his statements. We also observe that Respondent has yet to pay his 2018 contempt fine in full and has yet to reimburse the Fund for the \$6,000 award made to the Woznichaks. These factors cumulatively demonstrate Respondent's lack of remorse and acceptance of responsibility and serve to aggravate discipline. *See Office of Disciplinary Counsel v. Joseph M. Yablonski*, No. 128 DB 2022 (D. Bd. Rpt. 11/30/2023, p. 19) (S. Ct. Order 2/14/2024) (the Board found that "respondents who lack remorse or are unwilling to acknowledge or comprehend their misconduct heighten the risk of harm to the public and deserve more serious discipline").

Precedent supports the imposition of a lengthy suspension in this matter. To be convicted of direct criminal contempt is a very serious matter. The facts show Respondent tried to force a mistrial. On its own, Respondent's conviction would warrant a suspension of one year and one day. *See Office of Disciplinary Counsel v. Joseph P. Maher*, No. 4 DB 2018 (D. Bd. Rpt. 12/14/2018) (S. Ct. Order 2/25/2019); *Office of Disciplinary Counsel v. Benjamin Gerjoy Perez*, No. 15 DB 2017 (D. Bd. Rpt. 3/1/2019) (S. Ct. Order 5/8/2019). Respondent's failure to comply with the Enforcement Rules following his temporary suspension for his conviction and his additional misconduct in the Dawson and Woznichak matters further illustrate his unfitness to practice and serve as bases for severe discipline. The weighty aggravating factors crystallize the need for significant discipline to protect the public and preserve the integrity of the legal profession. Respondent's substantial history of public discipline demonstrates he has not absorbed

the lessons of his past experiences with the disciplinary system; the fact that Respondent was not able to recall the circumstances of his two year suspension highlights how little an impression his past discipline has had upon him. Respondent's lack of remorse and failure to accept full responsibility for his actions further establish that he fails to grasp the extent and consequences of his misbehavior.

For these reasons, we recommend that Respondent be suspended for a period of five years. See *Hobson, supra* (recidivist offender with a prior record of a disbarment on consent and an informal admonition and a private reprimand following reinstatement from the disbarment received a five year suspension); *Office of Disciplinary Counsel v. Alexander Z. Talmadge, Jr.*, No. 240 DB 2018 (D. Bd. Rpt. 12/17/2019) (S. Ct. Order 3/24/2020) (recidivist offender with a prior record of two informal admonitions, a private reprimand, and a public censure over a nine year period; the Board recommended a two year suspension; after issuing a rule to show cause, the Court imposed a five year suspension); *Office of Disciplinary Counsel v. William J. Weiss*, No. 133 DB 2021 (D. Bd. Rpt. 3/11/2024) (S. Ct. Order 5/2/2024) (recidivist offender with a prior record of a suspension for two years and a suspension for one year and one day on consent following reinstatement from the earlier suspension was suspended for five years). We further recommend that the suspension be made retroactive to January 15, 2021, the date of Respondent's temporary suspension.

IV. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that the Respondent, Richard J. McCague, be Suspended for five years from the practice of law in this Commonwealth.

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

Respectfully submitted,

THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

By: /s/ Robert J. Mongeluzzi
Robert J. Mongeluzzi, Member

Date: 12/8/2025

Members Bloom, Dee and Ellsworth recused.