

**IN THE SUPREME COURT OF PENNSYLVANIA**

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 3113 Disciplinary Docket No. 3
	:	
	:	No. 27 DB 2025
Petitioner	:	
	:	Attorney Registration No. 65272
v.	:	
	:	(Philadelphia)
MARC D. VITALE,	:	
	:	
Respondent	:	

**ORDER**

**PER CURIAM**

**AND NOW**, this 30<sup>th</sup> day of May, 2025, upon consideration of the Recommendation of the Three-Member Panel of the Disciplinary Board, the Joint Petition in Support of Discipline on Consent is granted, and Marc D. Vitale is suspended from the Bar of this Commonwealth for a period of two years, the suspension is stayed in its entirety, and Respondent is placed on probation for two years, subject to the following conditions:

1. Respondent shall continue treatment with Dr. Brian Frankel or another similarly qualified mental healthcare professional.
2. Respondent shall cooperate with the directions of the mental healthcare professional supervising his treatment, take medications as prescribed, and engage in therapy sessions as directed.
3. Respondent shall not violate the Rules of Professional Conduct.
4. Respondent shall file quarterly reports with the Board Prothonotary and provide Office of Disciplinary Counsel with a copy of a report from his treating mental healthcare professional that verifies the above counseling and treatment.

5. Respondent shall, within three months of being placed on probation, submit documented proof to the Board Prothonotary and Office of Disciplinary Counsel that he has taken two CLE courses on handling fiduciary funds and managing a trust/IOLTA account.
6. Respondent shall file quarterly with the Board Prothonotary and provide Office of Disciplinary Counsel with a copy of Respondent's monthly reconciliation of his IOLTA account, including the regular balances of the individual client ledgers.

Respondent shall pay the expenses incurred in the investigation and processing of this matter. See Pa.R.D.E. 208(g).

A True Copy Nicole Traini  
As Of 05/30/2025

Attest:   
Chief Clerk  
Supreme Court of Pennsylvania

**REDACTED**

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :  
Petitioner :  
: ODC File Nos.  
: C1-22-723, C1-22-836,  
: C1-22-878, and C1-22-920  
:  
v. :  
: Atty. Reg. No. 65272  
MARC D. VITALE, :  
Respondent : (Philadelphia)

**JOINT PETITION IN SUPPORT OF DISCIPLINE**  
**ON CONSENT UNDER RULE 215(d), Pa.R.D.E.**

Petitioner, Office of Disciplinary Counsel ("ODC"), by Thomas J. Farrell, Esquire, Chief Disciplinary Counsel, and by Richard Hernandez, Esquire, Disciplinary Counsel, and Respondent, Marc D. Vitale, who is represented by Brian J. Grady, Esquire, file this Joint Petition In Support of Discipline On Consent Under Rule 215(d) of the Pennsylvania Rules of Disciplinary Enforcement ("the Joint Petition"), and respectfully represent that:

1. Petitioner, whose principal office is located at Pennsylvania Judicial Center, Suite 2700, 601 Commonwealth Avenue, P.O. Box 62485, Harrisburg, Pennsylvania, is invested, pursuant to Pennsylvania Rule of Disciplinary Enforcement ("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 the Commonwealth of

Pennsylvania and to prosecute all disciplinary proceedings brought in accordance with the various provisions of said Rules of Disciplinary Enforcement.

2. Respondent, Marc D. Vitale, was born in 1966, was admitted to practice law in the Commonwealth of Pennsylvania on November 19, 1992, and has a public access address at 925 Harvest Drive, Suite 300, Blue Bell, PA 19422.

3. Pursuant to Pa.R.D.E. 201(a)(1) and (3), Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court.

4. Respondent is aware that there are four open complaint files that are under investigation by Petitioner: File No. C1-22-723, File No. C1-22-836, File No. C1-22-878, and File No. C1-22-920.

5. In connection with File No. C1-22-723, Respondent received a Request for Statement of Respondent's Position (Form DB-7 letter) dated January 17, 2023; by letter dated June 22, 2023, Respondent submitted a counseled response to the DB-7 letter.

6. In connection with File No. C1-22-836, Respondent received a Form DB-7 letter dated January 17, 2023; by letter dated June 22, 2023, Respondent submitted a counseled response to the DB-7 letter.

7. In connection with File No. C1-22-878, Respondent received a Form DB-7 letter dated January 23, 2023; by letter dated June 22, 2023, Respondent submitted a counseled response to the DB-7 letter.

8. In connection with File No. C1-22-920, Respondent received a Form DB-7 letter dated January 17, 2023; by letter dated June 22, 2023, Respondent submitted a counseled response to the DB-7 letter.

9. Respondent has agreed to enter into a joint recommendation for consent discipline that encompasses the allegations of misconduct raised in File Nos. C1-22-723, C1-22-836, C1-22-878, and C1-22-920.

#### **SPECIFIC FACTUAL ADMISSIONS**

10. Respondent hereby stipulates that the following factual allegations are true and correct and that he violated the Rules of Professional Conduct and Pennsylvania Rules of Disciplinary Enforcement as set forth herein.

#### **CHARGE I**

##### **ODC Complaint Involving Unauthorized Practice of Law and Neglect of Client Matters; File No. C1-22-723**

11. On May 5, 2021, Respondent filed a 2021-2022 Pennsylvania Attorney Annual Fee Form ("the 2021 Annual Fee Form").



12. On the 2021 Annual Fee Form, Respondent, *inter alia*:

- a. listed his mailing address as 1500 JFK Blvd., Suite 1020, Philadelphia, PA 19102-1741 ("the Philadelphia mailing address");
- b. listed [vitalaw33@cs.com](mailto:vitalaw33@cs.com) as his email ("primary email address");
- c. listed [Marcvitale.law@gmail.com](mailto:Marcvitale.law@gmail.com) as his secondary email ("secondary email address");
- d. checked off that he did not have any accounts within or outside Pennsylvania in which he or his employer/law firm held client or third-party funds subject to Pa.R.P.C. 1.15, that he did not have any accounts in which he held client or third-party funds (whether or not subject to Pa.R.P.C. 1.15) over which he had sole or shared signature authority or authorization to transfer funds to or from the account, and that he did not have a business/operating account maintained or used by him in the practice of law; and
- e. certified that the information he provided in connection with the 2021 Annual Fee Form was

complete and accurate.

13. Pa.R.D.E. 219(a) requires that every attorney admitted in the Commonwealth of Pennsylvania shall pay an annual assessment and file the appropriate annual fee form by July 1 of each year.

14. Pa.R.D.E. 219(f) provides that the failure of an attorney to complete the annual registration by August 1 "shall be deemed a request to be administratively suspended."

15. On May 1, 2022, May 22, 2022, June 4, 2022, and June 18, 2022, the Attorney Registration Office sent emails to Respondent at Respondent's primary email address that, *inter alia*, notified Respondent that he had to complete and submit the 2022-2023 Pennsylvania Attorney Annual Fee Form ("2022 Annual Fee Form") and the required payment.

16. Respondent received these emails.

17. On July 3 and 12, 2022, the Attorney Registration Office sent emails to Respondent at Respondent's primary email address that, *inter alia*:

- a. notified Respondent that he had yet to complete and submit the 2022 Annual Fee Form and the required payment; and
- b. advised that a \$200 late fee would be assessed after July 16, 2022.

18. Respondent received these emails.

19. On July 20 and 26, 2022, the Attorney Registration Office sent emails to Respondent at Respondent's primary email address that, *inter alia*:

- a. notified Respondent that he had yet to complete and submit the 2022 Annual Fee Form and the required payment;
- b. stated that a \$200 late fee had been assessed; and
- c. advised that a second \$200 late fee would be assessed after August 1, 2022.

20. Respondent received these emails.

21. Respondent failed to pay the annual assessment and late payment penalties, and to file the 2022 Annual Fee Form, by August 1, 2022.

22. By Order of the Supreme Court of Pennsylvania dated August 10, 2022, effective September 9, 2022 ("the Order"), Respondent was placed on administrative suspension pursuant to Pa.R.D.E. 219 for having failed to complete the annual registration requirements.

23. By letter dated August 10, 2022, sent to Respondent at the Philadelphia mailing address by certified mail, return receipt requested, Suzanne E. Price, Attorney Registrar:



- a. enclosed a copy of the Order and the relevant page containing Respondent's name;
- b. advised that he was to be administratively suspended effective September 9, 2022, for having failed to comply with Pa.R.D.E. 219;
- c. enclosed an Attorney Registration Form;
- d. advised that the Attorney Registration Form must be submitted to the Attorney Registration Office with full payment on or before September 8, 2022;
- e. stated that if he was administratively suspended, he was required to comply with Pa.R.D.E. 217 and Disciplinary Board Rules §§91.91-91.99; and
- f. advised that information concerning compliance may be obtained at [www.padisciplinaryboard.org/for-attorneys/forms](http://www.padisciplinaryboard.org/for-attorneys/forms).

24. On August 12, 2022, this letter was delivered to the Philadelphia mailing address and signed for by Respondent's authorized agent.

25. Respondent received this letter.

26. On August 24, 2022 and September 6, 2022, the Attorney Registration Office sent emails to Respondent at Respondent's primary email address that, *inter alia*:

- a. notified Respondent that he had yet to complete and submit the 2022 Annual Fee Form and the required payment;
- b. stated that Respondent's name had been "certified to the Supreme Court for Administrative Suspension" to be effective September 9, 2022; and
- c. instructed Respondent on two ways he could submit the 2022 Annual Fee Form and the required payment.

27. Sometime over the summer of 2022 Respondent ceased using his primary email address and switched to using his secondary email address; however, Respondent eventually became aware of the information contained in the aforementioned emails.

28. Respondent acknowledges that he was obligated to update his contact information with the Attorney Registration Office.

29. Respondent knew by no later than September 16, 2022, he was administratively suspended.

30. On September 16, 2022, Respondent called the Executive Office for the Disciplinary Board of the Supreme Court of Pennsylvania ("Executive Office") and spoke to Dana Belella, Assistant Director for the Executive Office.

31. Assistant Director Belella told Respondent that:

- a. to resume active status, Respondent had to complete an attorney registration form, pay the required fees and late penalties, and submit a Statement of Compliance, along with the paperwork that had to accompany the Statement of Compliance; and
- b. on the Disciplinary Board's website information was available regarding the steps he had to take to resume active status.

32. On September 22 and 23, 2022, Respondent exchanged email messages with Jesse G. Hereda, Executive Director for the Executive Office.

33. In an email to Respondent dated September 22, 2022, Executive Director Hereda, *inter alia*:

- a. advised that to resume active status, Respondent had to complete and submit a Statement of Compliance (along with all required attachments), a 2022-2023 Attorney

Registration Form, and a Credit Card Authorization Form if he wanted to pay the required fee and late penalties by credit card; and

- b. provided a link for Respondent to access the Standard Guidance To Lawyers Who Have Been Administratively Suspended that was available on the Disciplinary Board's website.

34. Respondent received this email.

35. Respondent violated Pa.R.D.E. 217(e)(1) by failing to file a verified Statement of Compliance (Form DB-25(a)) with the Disciplinary Board Prothonotary.

36. When the Order became effective, Respondent was counsel of record for the plaintiffs in the following open civil cases that were filed in the Philadelphia Court of Common Pleas:

- a. **Mable Witherspoon vs. Benjamin Ward, III**, docket number 210301741 ("the Witherspoon case");
- b. **Feras Hajmohammed vs. Pride Group Logistics et al.**, docket number 210302545 ("the Hajmohammed case");



- c. **Sean Flynn vs. Three 12 LP et al.**, docket number 210600191 ("the Flynn case");
- d. **Ronald Dixon vs. City of Philadelphia et al.**, docket number 210700115 ("the Dixon case");
- e. **Kristen Rose-Palazzo et al. vs. Motorist Insurance Company et al.**, docket number 210702239 (the Rose-Palazzo case");
- f. **C. Rogers et al. vs. Jamil Montgomery**, docket number 210702348 ("the Rogers case");
- g. **Kenia Isaac vs. Anna Ippolito**, docket number 210802928 ("the Isaac case");
- h. **Raafat Alhayek vs. Valerie D. Lewis**, docket number 210802930 ("the Alhayek case");
- i. **Thomas Ford vs. Southeastern Pennsylvania Transportation Authority**, docket number 210901575 ("the Ford case");
- j. **Claire Williamson vs. Tyrone Nelson, et al.**, docket number 211002168 ("the Williamson case");
- k. **Jamil White et al. vs. Jill E. Scott**, docket number 211002238 ("the White case");
- l. **Diane Lee et al. vs. Two Nuts, LP et al.**, docket number 211101310 ("the Lee case");

- m. **Leo Edward vs. Southeastern Pennsylvania Transportation Authority**, docket number 211201274 ("the Edward case");
- n. **Javier Cortez vs. Charles McBride**, docket number 220100862 ("the Cortez case");
- o. **Carinn Dockery vs. Mohamed Mansaray**, docket number 220100895 ("the Dockery case");
- p. **Thomas MacDonald vs. Wells Fargo Center et al.**, docket number 220101485 ("the MacDonald case");
- q. **Michael Grassia vs. Darrell Sterling et al.**, docket number 220301741 ("the Grassia case");
- r. **Nancy Blau vs. Pauls Run individually et al.**, docket number 220602578 ("the Blau case");
- s. **Lewis Fields vs. Fortune Mayard**, docket number 100602204 ("the Fields case");
- t. **Jonathan Doyle vs. BJP Chestnut Owner, LLC et al.**, docket number 190401364 ("the Doyle case");
- u. **Eileen Blaha vs. Jionna Clark**, docket number 190509008 ("the Blaha case");
- v. **J. Blaylock et al. vs. Robert Blue**, docket number 190901246 ("the Blaylock case");

- w. **Courtney Miller vs. Jhon A. Ung**, docket number 191003994 ("the Miller case");
- x. **Krystal Jordan et al. vs. Charisse R. McGill**, docket number 201000919 ("the Jordan case");
- y. **Joan Azarva et al. vs. The Dorchester Owners' Association et al.**, docket number 201001939 ("the Azarva case");
- z. **Harrell Hall et al. vs. Dontae Martin**, docket number 201001964 ("the Hall case");
- aa. **Robert McGinnis vs. 100 Independence Mall West et al.**, docket number 201102722 ("the McGinnis case");
- bb. **Phillip Rutledge vs. Dennis E. Simpson individually and d/b/a/ Simpson Trucking et al.**, docket number 201200703 ("the Rutledge case"); and
- cc. **Asenta Carlton vs. Revazi Aptsiauri et al.**, docket number 201201793 ("the Carlton case").

37. Respondent failed to promptly notify his clients, in writing, that:

- a. he was administratively suspended;
- b. he could not represent them in their civil cases and would have to withdraw his

representation; and

c. his clients had to obtain substitute counsel.

38. On or about December 19, 2022, Respondent mailed certified letters to his clients advising that he was administratively suspended.

39. Respondent failed to promptly notify the courts and opposing counsel that he was administratively suspended for those civil cases pending in the Philadelphia Court of Common Pleas that listed him as counsel of record (see paragraph 36).

40. On or about February 8, 2023, Respondent sent letters that notified the courts that he was administratively suspended.

41. Respondent failed to move to withdraw his appearance in those civil cases pending in the Philadelphia Court of Common Pleas that listed him as counsel of record (see paragraph 36) when the Order became effective.

a. On October 6, 2022, Respondent withdrew his appearance in the Williamson case after Tyler J. Therriault, Esquire, entered his appearance on October 4, 2022.

42. While administratively suspended, Respondent engaged in the unauthorized practice of law in the following



cases:

- a. ***Milton Brickhouse vs. Thomas Varghese***, docket number 221100881 ("the Brickhouse case"), in that Respondent commenced the Brickhouse case by filing a Complaint on November 7, 2022;
- b. the Azarva case, in that Respondent negotiated a settlement of that lawsuit, which settlement was docketed by the court on December 6, 2022; and
- c. the Rutledge case, in that in November 2022, Respondent had email communications with opposing counsel about scheduling the deposition of Respondent's client, Mr. Phillip Rutledge.

43. After Respondent was administratively suspended, a judgment of non-pros was entered against Mr. Feras Hajmohammed in the Hajmohammed case because Respondent and Mr. Hajmohammed failed to appear for the October 3, 2022 arbitration hearing.

44. Respondent failed to notify Mr. Hajmohammed of the judgment of non-pros that had been entered by the court in the Hajmohammed case.

- a. Respondent reinstated the Hajmohammed case by filing Plaintiff's Motion to Vacate Nunc Pro Tunc, which was granted by Order dated April 2, 2024.
- b. Respondent notified Mr. Hajmohammed that the Hajmohammed case was reinstated.

45. Shortly after Respondent was administratively suspended, adverse discovery Orders were entered against Respondent's clients by the courts because Respondent failed to submit discovery responses and/or notify his clients to appear for depositions in the following cases:

- a. the Dixon case, in that by Order docketed on November 7, 2022, the court precluded Mr. Ronald Dixon from offering any witness testimony (including his own) and documents at the time of arbitration and/or trial for having failed to comply with prior court Orders requiring responses to Interrogatories and Requests for Production of Documents and directing Mr. Dixon to appear for a deposition; and
- b. the Alhayek case, in that by Order docketed on December 2, 2022, the court precluded Mr.

Alhayek from offering any testimony or evidence at arbitration and/or trial for having failed to comply with prior court Orders requiring responses to Interrogatories and Requests for Production of Documents and directing Mr. Alhayek to appear for a deposition.

46. Respondent failed to notify Mr. Dixon and Mr. Alhayek about the adverse discovery Orders that were entered in their civil cases.

a. After Respondent received the DB-7 letter, he notified Mr. Dixon by letter dated January 17, 2024, of the entry of the Order precluding the introduction of any evidence by Mr. Dixon, advised Mr. Dixon to consult with an attorney about any claims Mr. Dixon might have against Respondent and his firm, and identified Respondent's malpractice carrier.

47. On May 3, 2023, a judgment of non-pros was entered against Mr. Alhayek in the Alhayek case because Respondent and Mr. Alhayek failed to appear for a May 2, 2023 arbitration hearing.

48. Respondent failed to notify Mr. Alhayek of the judgment of non-pros that had been entered by the court in the Alhayek case.

a. Respondent reinstated the Alhayek case by filing Plaintiff's Motion to Vacate Nunc Pro Tunc, which was granted by Order dated April 2, 2024.

b. In April and May 2024, Respondent attempted to notify Mr. Alhayek that the Alhayek case was reinstated, but Respondent was unable to reach Mr. Alhayek.

49. While Respondent was administratively suspended, he used forms of communication that expressly or implicitly conveyed that he was eligible to practice law in the state courts of Pennsylvania.

50. Respondent was reinstated to active status on February 13, 2023.

#### **CHARGE II**

**ODC Complaint Involving Mishandling of Fiduciary Funds and Failure to Report IOLTA and Operating Accounts, to Maintain Required Records, and to Conduct Monthly Reconciliations; File No. C1-22-836**

51. On May 5, 2021, Respondent filed the 2021 Annual Fee Form.



52. On the 2021 Annual Fee Form, under the category "FINANCIAL DATA," Respondent placed a checkmark beside the box that stated the following: "I DO NOT HAVE ANY ACCOUNTS REQUIRED TO BE REPORTED."

53. Under the "FINANCIAL DATA" category on the 2021 Annual Fee Form, Respondent was asked from May 1, 2020, to the date of filing of the 2021 Annual Fee Form, to name each financial institution, account number, and location of, *inter alia*:

- a. "every account within or outside Pennsylvania in which [Respondent] or [Respondent's] employer/law firm held [Respondent's] client or third-party funds subject to Pa.R.P.C. 1.15;"
- b. "every account holding funds of a client or third party (whether or not subject to Pa.R.P.C. 1.15) over which [Respondent] had sole or shared signature authority or authorization to transfer funds to or from the account;" and
- c. "every business/operating account maintained or used by [Respondent] in the practice of law. See Pa.R.D.E. 219(d)(1)(iii)-(v)."

54. When Respondent completed the 2021 Annual Fee Form, he certified that he was "familiar and in compliance with Rule 1.15 of the Pennsylvania Rules of Professional Conduct" and that "all information provided in connection with [the 2021 Annual Fee Form] is complete and accurate."

55. When Respondent completed the 2021 Annual Fee Form, he:

- a. maintained a private practice of law that focused on representing individuals in personal injury matters whose causes of action arose in Pennsylvania;
- b. received checks in payment of settlements and awards on behalf of clients he represented in personal injury matters;
- c. used an account to deposit checks he received in payment of settlements and awards for personal injury matters involving his clients;
- d. issued checks drawn on a trust or IOLTA account payable to clients and third-parties, which checks represented the shares that clients and third parties were entitled to receive from settlement proceeds or awards;

e. had sole or shared signature authority and authorization to transfer funds for the trust or IOLTA account he used to deposit checks he received in payment of settlements and awards for personal injury matters involving his clients; and

f. maintained a business/operating account that he used for the private practice of law.

56. Respondent failed to disclose on the 2021 Annual Fee Form the accounts he maintained to hold funds he received on behalf of clients and third parties and the business/operating account he used for the private practice of law.

57. By no later than June 1, 2022, Respondent opened a new IOLTA account for holding fiduciary funds with TD Bank titled "VITALE LAW GROUP PC PA IOLTA TRUST ACCOUNT" ("the IOLTA account").

a. Respondent had sole signature authority for the IOLTA account.

58. Sometime before June 1, 2022, Respondent maintained an operating account for the private practice of law with TD Bank titled "VITALE LAW GROUP OPERATING" ("the operating account").

- a. Respondent had sole signature authority for the operating account.

59. Based on the Order of the Supreme Court of Pennsylvania dated August 10, 2022, Respondent was placed on administrative suspension status as of September 9, 2022.

60. After Respondent was administratively suspended, he continued to receive, disburse or otherwise handle client funds.

61. On September 26, 2022, Respondent issued check number 115, drawn on the IOLTA account, in the amount of \$6,284.50, made payable to "Medicare CMS."

- a. In or around July 2022, Respondent settled a lawsuit that he had filed on behalf of Mr. Dennis Maguire in the Philadelphia Court of Common Pleas captioned **Dennis Maguire vs. Keesha Allen**, docket number 210900025 ("the Maguire lawsuit").
- b. After Respondent received a settlement check in connection with the Maguire lawsuit, he issued check number 115 to satisfy a lien that Medicare had for payment of medical services rendered to Mr. Maguire.



62. On October 20, 2022, TD Bank transacted check number 115.

63. As a result of insufficient funds in the IOLTA account, the IOLTA account was overdrawn by \$5,384.82.

64. On October 21, 2022, TD Bank sent a "Dishonored IOLTA/Trust check reporting form of Financial Institutions" ("the Dishonored Check Notice") to the Pennsylvania Lawyers Fund for Client Security ("the Fund") concerning the overdraft in the IOLTA account.

65. By letter dated October 31, 2022, sent to Respondent by regular mail at the Philadelphia mailing address, Kathryn Peifer Morgan, Esquire, Executive Director and Counsel to the Fund:

- a. enclosed a copy of the Dishonored Check Notice, which indicated that a negative balance had been created in the IOLTA account;
- b. requested from Respondent, within ten business days from the date of the letter, a written, documented explanation as to why the negative balance occurred;
- c. stated that in the event the negative balance was caused solely by bank error, Respondent submit a written acknowledgement from the bank

- specifying the exact nature of the error;
- d. requested, in the event the negative balance was not caused solely by bank error, that Respondent's documented explanation include, but not be limited to, the payee, the client name, the maker of each check and a copy of the client ledger sheet for each client matter discussed in the explanation;
  - e. requested copies of monthly bank statements for the IOLTA account for the most recent three months;
  - f. requested, in the event that funds had been deposited or transferred to cover the negative balance, that Respondent provide a copy of the dated deposit slip, credit memo or bank statement, together with a full description of the funds comprising that deposit;
  - g. stated that if funds had not been deposited or transferred to cover the negative balance, an explanation would be necessary; and
  - h. informed Respondent that if there was a failure to timely respond to her letter or the Fund determined the explanation to be

unsatisfactory, the matter would be referred to the Office of Disciplinary Counsel.

66. By email sent by Respondent to the Fund on November 7, 2022, at 9:25 a.m., addressed to Ms. Peifer Morgan, Respondent, *inter alia*:

- a. acknowledged receipt that morning of Ms. Peifer Morgan's October 31, 2022 letter;
- b. stated that he was currently on administrative suspension status;
- c. advised that he had "exited two (2) partners in April 2022," sold his Villanova residence, relocated to Corning and Canandaigua, NY, where he was in the "process of starting a New York Trial Practice and retail shop operations," and resided in a home in Bristol, NY;
- d. claimed that the IOLTA account had a current balance of \$66,284.50 and that the operating account had a positive balance;
- e. stated that his "Pennsylvania, New Jersey and pending NY practices are now all 100% rock solid"; and

f. represented that by "close of business today, [she would] receive by email, [Respondent's] bank statements from April through the present" and that he would also attach in an email "the Ledgers from [Respondent's] soon to be defunct prior firm, which [Respondent] disbanded, Brownstein Vitale & Weiss, PC, as of 12.31.22."

67. The email Respondent sent to the Fund had the following closing:

Marc D. Vitale, Esquire  
Trial Attorney  
Vitale Law Group  
2 Penn Center  
1500 JFK Blvd., Suite 1020  
Philadelphia, PA 19102  
[marcvitale.law@gmail.com](mailto:marcvitale.law@gmail.com)  
Phone: 484.557.7684

112 Water Street  
Penn Yan, NY 14527

68. By email sent by Respondent to the Fund on November 7, 2022, at 9:34 a.m., he attached copies of:

- a. the June 2022 monthly bank statement for the IOLTA account, which included images of the transacted checks drawn on that account;
- b. the June 2022 monthly bank statement for the operating account; and

- c. the June 2022 and September 2022 monthly bank statements for a business credit card account he had with TD Bank.

69. By email sent by Respondent to the Fund on November 7, 2022, at 1:24 p.m., he attached copies of:

- a. a November 1, 2022 letter he received from the Centers for Medicare & Medicaid Services ("CMS"), which stated that Medicare had received a \$6,284.50 payment on behalf of Mr. Dennis Maguire and that TD Bank had returned check number 115 as unpaid to the Benefits Coordination & Recovery Center ("BCRC") for CMS because of insufficient funds; and
- b. check number 115, which was enclosed to the November 1, 2022 letter.

70. By email sent by Respondent to the Fund on November 7, 2022, at 1:37 p.m., he stated, *inter alia*, that he believed he would have "TD bank statements for September and October 2022 by close of business but it could go into tomorrow."

71. On November 8, 2022, Respondent provided to the Fund a pdf file that consisted of client ledgers, totaling 153 pages.

72. Among the client ledgers Respondent sent to the Fund was a client ledger for Mr. Maguire.

73. The client ledger Respondent provided for Mr. Maguire was incomplete, in that the ledger did not list: the amount of settlement proceeds Respondent received on behalf of Mr. Maguire; and the portions of the settlement proceeds Respondent distributed to Mr. Maguire, third parties (such as CMS), and himself as payment of Respondent's fee and reimbursement of costs.

74. Respondent failed to provide to Ms. Peifer Morgan:

- a. a documented explanation as to why the negative balance had occurred in the IOLTA account or a written acknowledgement from TD Bank specifying the exact nature of the error that resulted in the negative balance;
- b. copies of monthly bank statements for the IOLTA account for the most recent three months; and
- c. documentation showing that funds had been deposited/transferred to cover the negative balance, along with a full description of the funds comprising that deposit/transfer.

75. Respondent did not maintain client ledgers that fully complied with the requirements set forth in RPC 1.15(c)(2).

76. Respondent failed to perform on a monthly basis a reconciliation of the IOLTA account, as required by RPC 1.15(c)(4).

77. As a result of the negative balance Respondent caused in the IOLTA account, he failed to hold inviolate fiduciary funds that he was holding in that account on behalf of clients and/or third parties.

78. Based on the November 7, 2022 emails Respondent sent to Ms. Peifer Morgan and the Fund while administratively suspended, Respondent had engaged in the unauthorized practice of law by continuing to represent individuals in personal injury matters whose causes of action arose in Pennsylvania.

79. Based on the November 7, 2022 emails Respondent sent to Ms. Peifer Morgan and the Fund while administratively suspended, Respondent used forms of communication that expressly or implicitly conveyed that he was eligible to practice law in the state courts of Pennsylvania.

80. ODC's Auditor examined financial records, statements of distribution, fee agreements, and other

information related to the IOLTA account provided by Respondent that encompassed the period April 28, 2022, through April 27, 2023. The Auditor's analysis of the documents and information related to the IOLTA account show that:

- a. the IOLTA account had a negative balance on a single day, October 20, 2022;
- b. Respondent failed to hold sufficient funds on behalf of clients and third parties for the period September 26, 2022, through October 2, 2022, and October 6, 2022, through October 23, 2022;
- c. the amount Respondent was out of trust ranged from a low of \$12,348.25 (on October 11, 2022) and a high of \$23,982.07 (October 19, 2022, through October 23, 2022);
- d. on two occasions Respondent deposited his own funds into the IOLTA account, thereby commingling his funds with fiduciary funds;
- e. Respondent satisfied Mr. Maguire's lien obligation on February 24, 2023, by making an electronic payment to CMS that was drawn on Respondent's operating account;



- f. Respondent did not maintain adequate records for two withdrawals he made from the IOLTA account;
- g. Respondent had not been maintaining client ledgers that fully complied with the requirements set forth in RPC 1.15(c)(2); and
- h. Respondent had not been conducting on a monthly basis a reconciliation of the IOLTA account, as required by RPC 1.15(c)(4).

### CHARGE III

**Complaint of Annette L. Fraser Involving Lack of Communication and Delay in Distributing Settlement Proceeds; File No. C1-22-878**

81. On December 3, 2020, Respondent commenced a lawsuit on behalf of Ms. Annette L. Fraser a/k/a Annette Johnson Fraser by filing a Complaint in the Philadelphia Court of Common Pleas, the case captioned **Annette Johnson Fraser vs. Doany Hernandez**, docket number 201102725 ("the Fraser lawsuit")

82. On September 21, 2021, Respondent and Ms. Fraser appeared for an arbitration hearing that was held in the Fraser lawsuit.

- a. On that day, the arbitration panel entered a \$30,000 award in favor of Ms. Fraser.

83. By letter dated September 22, 2021, sent by Respondent to Ms. Fraser, Respondent, *inter alia*, advised Ms. Fraser that the arbitration panel awarded her \$30,000 and that the defendant had thirty days to appeal the award.

84. On October 13, 2021, Sabrina Ann Peterman, Esquire, counsel for Doany Hernandez, filed an appeal from the award issued by the arbitration panel.

85. By letter dated November 9, 2021, sent by Respondent to Ms. Fraser, Respondent, *inter alia*, advised Ms. Fraser that the Fraser lawsuit had been placed in the "April 2022 Trial Pool" and that she had to be available to appear for a trial of the Fraser lawsuit throughout April.

86. On March 14, 2022, Respondent and Ms. Peterman appeared for a settlement conference before Rebecca J. Grausam-Charamella, Esquire.

- a. At the settlement conference, Ms. Grausam-Charamella recommended that the parties agree to settle the Fraser lawsuit for \$15,000, the automobile insurance policy limit.

87. Between March 14 and March 21, 2022, Ms. Peterman, Ms. Grausam-Charamella, Respondent, and Respondent's legal assistant, Ms. Suzanne Wolfinger, exchanged a series of emails concerning the settlement of the Fraser lawsuit.

88. By email dated March 24, 2022, sent by Ms. Peterman to Respondent, and copied to Ms. Grausam-Charamella and Ms. Wolfinger, Ms. Peterman advised that she had authority to settle the Fraser lawsuit for \$15,000 and inquired if Respondent had authority to settle the Fraser lawsuit for that amount.

89. By email dated March 24, 2022, sent by Ms. Grausam-Charamella to Respondent and Ms. Peterman, and copied to Ms. Wolfinger and two other individuals affiliated with the Philadelphia Court of Common Pleas, Ms. Grausam-Charamella stated that the Fraser lawsuit would be marked settled on the docket.

90. By email dated March 24, 2022, sent by Respondent to Ms. Grausam-Charamella, and copied to Ms. Peterman, Ms. Wolfinger, and two other individuals affiliated with the Philadelphia Court of Common Pleas, Respondent stated that he had to obtain Ms. Fraser's authority to settle the Fraser lawsuit and that he had to secure the "consent to settle from the UIM carrier."

91. By email dated June 7, 2022, sent by Ms. Wolfinger to Ms. Peterman, and copied to Respondent, Ms. Wolfinger, *inter alia*, requested that Ms. Peterman provide the automobile insurance declarations page for Doany Hernandez.

- a. The close of the email stated that Respondent's law firm's name had changed to "VITALE LAW GROUP," although the address remained the same.

92. By email dated June 10, 2022, sent by Ms. Peterman to Ms. Wolfinger, and copied to Respondent, Ms. Peterman attached the requested automobile insurance declarations page for Doany Hernandez.

93. On June 11, 2022, Ms. Fraser signed a "General Release in Full Settlement of All Claims" ("the General Release") that settled all claims that Ms. Fraser had arising from the May 13, 2019 automobile accident involving Doany Hernandez.

- a. Ms. Wolfinger notarized the General Release.

94. Respondent or Ms. Wolfinger forwarded the General Release to Ms. Peterman.

95. On June 11, 2022, Ms. Wolfinger and Ms. Fraser exchanged text messages.

96. In the two text messages:

- a. Ms. Wolfinger told Ms. Fraser that Respondent was on vacation, that she had obtained "the tortfeasor's Dec page," that she had "immediately" forwarded that document to the

UIM insurance carrier, and that "should speed up" obtaining the consent to settle from the UIM insurance carrier; and

- b. Ms. Fraser thanked Ms. Wolfinger for the update.

97. On June 14, 2022, Ms. Wolfinger and Ms. Fraser exchanged text messages.

98. In the six text messages:

- a. Ms. Wolfinger said that the UIM insurance carrier had consented to the settlement;
- b. Ms. Fraser inquired "about going after [her] uninsured underinsured [sic] to make up the full amount that [she] was originally awarded";
- c. Ms. Wolfinger advised that "the next step" would be to pursue a UIM claim;
- d. Ms. Fraser inquired how much she would receive from the \$15,000 settlement after Respondent received his fee and the doctor was paid;
- e. Ms. Wolfinger stated that Respondent had to "pull that information from the ledger book," that Respondent might collect certain fees from Ms. Fraser's "UIM" portion, and that she

would ask Respondent; and

f. Ms. Fraser thanked Ms. Wolfinger.

99. Under cover of letter dated June 22, 2022, which was hand-delivered to Ms. Wolfinger at Respondent's law office at 1500 JFK Blvd., Suite 1020, Philadelphia, PA 19102-1741 ("Philadelphia law office"), Ms. Peterman enclosed a \$15,000 check made payable to "ANNETTE JOHNSON & BROWNSTEIN VITALE & WEISS PC, HER ATTORNEY."

100. Respondent received the \$15,000 check.

101. On June 23, 2022, Respondent deposited the \$15,000 check into the IOLTA account that he maintained with TD Bank,

102. On June 29, 2022, Ms. Peterman filed in the Fraser lawsuit a Praecipe to Mark Award of Arbitrators Satisfied, a Praecipe for Withdrawal of Appeal from Award of Board of Arbitrators, and an Order to Settle, Discontinue and End.

103. By email dated July 6, 2022, sent by Ms. Wolfinger to Ms. Fraser, and copied to Respondent, Ms. Wolfinger attached a Schedule of Distribution that he had approved.

104. The Schedule of Distribution stated that:

- a. the gross recovery was \$15,000;
- b. the attorney's fee was \$5,000; and
- c. Ms. Fraser would receive \$10,000.

105. By text message dated July 7, 2022, Ms. Wolfinger told Ms. Fraser to check her email for the Schedule of Distribution.

106. By text message dated July 7, 2022, Ms. Fraser told Ms. Wolfinger that she was not sure how to sign the Schedule of Distribution and she wanted to speak with Respondent before signing that document.

107. By text message dated July 8, 2022, Ms. Wolfinger told Ms. Fraser that Ms. Wolfinger would:

- a. send the Schedule of Distribution "in a different way" so that Ms. Fraser could electronically sign that document; and
- b. tell Respondent to call Ms. Fraser.

108. That day Ms. Fraser sent Ms. Wolfinger a reply text message that thanked Ms. Wolfinger.

109. By email dated July 8, 2022, sent by Ms. Wolfinger to Ms. Fraser, Ms. Wolfinger sent the Schedule of Distribution to Ms. Fraser using Adobe Acrobat software.

110. Ms. Wolfinger communicated to Respondent that Ms. Fraser wanted to speak to him before signing the Schedule of Distribution.

111. Respondent failed to contact Ms. Fraser.

112. Sometime after July 8, 2022, Ms. Wolfinger ceased working for Respondent.

- a. Ms. Wolfinger informed Ms. Fraser that Ms. Wolfinger was no longer working for Respondent.

113. Sometime after July 8, 2022, Ms. Fraser called Respondent.

114. Ms. Fraser received a message stating that the telephone number she had for Respondent was no longer in service.

115. Thereafter, Ms. Fraser asked Mr. Kyle P. Johnson, the co-worker who introduced her to Respondent, to contact Respondent.

116. By email dated August 11, 2022, sent by Mr. Johnson to Respondent at 9:25 a.m., Mr. Johnson, *inter alia*:

- a. introduced himself;
- b. stated that he tried to contact Respondent using the telephone numbers for Respondent's Philadelphia and New Jersey offices, as well as the toll-free number, but all three telephone numbers were not in service; and
- c. requested that Respondent provide updated contact information.



117. By email dated August 11, 2022, sent by Respondent to Mr. Johnson at 9:26 a.m., Respondent asked the reason for Mr. Johnson wanting Respondent's contact information.

118. By email dated August 11, 2022, sent by Mr. Johnson to Respondent at 9:31 a.m., Mr. Johnson, *inter alia*:

- a. stated that Ms. Fraser had been trying to contact Respondent;
- b. listed Respondent's Philadelphia telephone number that is no longer in service; and
- c. provided Ms. Fraser's cell phone number.

119. By email dated August 11, 2022, sent by Respondent to Mr. Johnson at 9:32 a.m., Respondent provided a telephone number at which he could be reached.

120. Sometime thereafter, Mr. Johnson called Respondent on behalf of Ms. Fraser and requested that Respondent contact Ms. Fraser.

121. During this telephone conversation, Respondent told Mr. Johnson to tell Ms. Fraser to be patient.

122. Sometime in August 2022, Ms. Fraser twice called Respondent using the telephone number Respondent provided to Mr. Johnson.

123. On both occasions that Ms. Fraser called, Respondent answered and after Ms. Fraser identified herself,

Respondent told Ms. Fraser that he could not speak to her and terminated the calls.

124. On August 25, 2022, Ms. Fraser, accompanied by her sister, made an unscheduled visit to Respondent's Philadelphia law office.

125. While at Respondent's Philadelphia law office:

- a. Ms. Fraser saw that Respondent's name appeared on the front door that opened to his office;
- b. an unidentified young woman came from the back and asked Ms. Fraser if she needed assistance;
- c. Ms. Fraser told the young woman that she wanted to see Respondent;
- d. the young woman asked Ms. Fraser if she had an appointment, Ms. Fraser answered no, and Ms. Fraser explained why she made the unscheduled visit to see Respondent;
- e. the young woman told Ms. Fraser that Respondent was not in the office, but she would call Respondent;
- f. the young woman called Respondent using her cell phone, but she was unable to reach Respondent;

- g. a few seconds passed and Respondent called the young woman;
- h. the young woman answered, placed the cell phone on the speaker setting, explained why she had called Respondent, and stated that Ms. Fraser was at the Philadelphia law office and wanted to speak to Respondent about Ms. Fraser's legal matter;
- i. Respondent told the young woman that he was trying to rid himself of "toxicity";
- j. the young woman took the cell phone off the speaker setting, walked to the back of the office, and continued to converse with Respondent; and
- k. the young woman did not return to speak with Ms. Fraser.

126. After Respondent's telephone conversation with the young woman, Respondent failed to promptly contact Ms. Fraser and answer any questions she had about her legal matter.

127. Based on the Order of the Supreme Court of Pennsylvania dated August 10, 2022, Respondent was placed on administrative suspension status as of September 9, 2022.

128. Respondent failed to promptly notify Ms. Fraser, in writing, that he was administratively suspended.

129. On September 26, 2022, Respondent issued check number 115, drawn on the IOLTA account, in the amount of \$6,284.50, made payable to "Medicare CMS."

a. In or around July 2022, Respondent settled the Maguire lawsuit on behalf of Mr. Dennis Maguire.

b. After Respondent received a settlement check in connection with the Maguire lawsuit, he issued check number 115 to satisfy a lien that Medicare had for payment of medical services rendered to Mr. Maguire.

130. On October 20, 2022, TD Bank transacted check number 115.

131. As a result of insufficient funds in the IOLTA account, the IOLTA account was overdrawn by \$5,384.82.

132. On October 20, 2022, among the fiduciary funds Respondent held on behalf of clients in the IOLTA account, Respondent was holding Ms. Fraser's share of the settlement proceeds, which was \$10,000 from the \$15,000 settlement of the Fraser lawsuit.

133. As a result of the negative balance that occurred in the IOLTA account when TD Bank transacted check number 115 on October 20, 2022, Respondent failed to hold Ms. Fraser's funds inviolate.

134. Respondent failed to promptly distribute to Ms. Fraser the \$10,000 she was entitled to receive from the \$15,000 settlement of the Fraser lawsuit.

135. After Respondent received the DB-7 letter for the matter involving Ms. Fraser, Respondent provided documented proof to Petitioner that Ms. Fraser received her share of the settlement proceeds by a \$10,000 check dated June 15, 2023, drawn on the IOLTA account.

#### CHARGE IV

##### **Complaint of Donna Clyburn Involving Lack of Communication and Delay in Distributing Settlement Proceeds to Third Parties; File No. C1-22-920**

136. On December 10, 2018, William E. Averona, Esquire, commenced a lawsuit on behalf of Ms. Donna Clyburn by filing a Praecipe to Issue Writ of Summons in the Philadelphia Court of Common Pleas, the case captioned ***Donna Clyburn vs. City of Philadelphia***, docket number 181201032 ("the Clyburn lawsuit")

137. Sometime prior to September 8, 2020, Respondent and Mr. Averona entered into an agreement, with the knowledge of Ms. Clyburn, that Respondent would represent Ms. Clyburn

in the Clyburn lawsuit and Mr. Averona would receive from Respondent a referral fee equal to one-third of Respondent's fee.

138. On September 8, 2020, Respondent entered his appearance in the Clyburn lawsuit.

139. On March 24, 2021, Mr. Averona withdrew his appearance in the Clyburn lawsuit.

140. In March 2022, Respondent and Amanda J. Bender, Esquire, Deputy City Solicitor for the City of Philadelphia Law Department, exchanged emails that discussed settlement of the Clyburn lawsuit.

141. By email dated March 30, 2022, sent to Ms. Bender, Ms. Wolfinger, Respondent's legal assistant, confirmed that the Clyburn lawsuit had settled for \$70,000 and requested that Ms. Bender forward a release.

142. Ms. Bender forwarded to Respondent a General Release, the terms of which provided that in exchange for \$70,000, Ms. Clyburn would release all claims that she had against the City of Philadelphia for injuries she sustained during a trip and fall accident that occurred on December 23, 2016.

143. Under cover of letter dated April 4, 2022, Respondent mailed the General Release to Ms. Clyburn and

requested that she sign and return the General Release to him.

144. On April 6, 2022, Ms. Clyburn went to Respondent's office and she:

- a. provided Respondent with the General Release, which she executed before a notary public; and
- b. signed and dated a Schedule of Distribution Respondent presented to her that stated that she was to receive \$45,452.40 from the \$70,000 settlement.

145. Respondent forwarded the General Release to Ms. Bender.

146. Sometime in late May 2022, Respondent received a \$70,000 check from the City of Philadelphia.

147. On June 2, 2022, Respondent deposited the \$70,000 check into the IOLTA account that he maintained with TD Bank.

148. On June 13, 2022, Ms. Clyburn appeared at Respondent's office and Respondent presented to her a Schedule of Distribution that differed from the one he presented to her on April 6, 2022, in that this Schedule of Distribution also listed the costs incurred and financial obligations Ms. Clyburn owed to third parties.

149. The Schedule of Distribution stated that:

- a. the gross recovery was \$70,000;
- b. the attorney's fee was \$23,333.33;
- c. Mr. Averona incurred litigation costs totaling \$3,450.79;
- d. Respondent was withholding \$3,555 to satisfy a "Case Funding Loan" obligation owed by Ms. Clyburn (the obligation was owed to Covered Bridge Capital);
- e. Respondent was withholding \$2,500 as a "Medicare Escrow" to satisfy an obligation Ms. Clyburn owed to Medicare; and
- f. Ms. Clyburn would receive \$37,160.88.

150. On June 13, 2022, Ms. Clyburn signed and dated the Schedule of Distribution.

151. On June 13, 2022, Respondent gave Ms. Clyburn check number 101, drawn on the IOLTA account, in the amount of \$37,160.88, made payable to Ms. Clyburn.

152. On June 13, 2022, Respondent issued the following checks that were drawn on the IOLTA account:

- a. check number 102, in the amount of \$11,228.56, made payable to Mr. Averona, which check satisfied Mr. Averona's one-third referral fee



and reimbursed the expenses he incurred in the Clyburn lawsuit; and

- b. check number 103, in the amount of \$15,555.56, made payable to Respondent, in satisfaction of Respondent's contingent fee (after Respondent deducted the \$7,777.77 referral fee owed to Mr. Averona).

153. Based on the Order of the Supreme Court of Pennsylvania dated August 10, 2022, Respondent was placed on administrative suspension status as of September 9, 2022.

154. Respondent failed to promptly notify Ms. Clyburn, in writing, that he was administratively suspended.

155. Sometime in the summer of 2022, Ms. Clyburn called Respondent.

156. Ms. Clyburn received a message stating that the telephone number she had for Respondent was no longer in service.

157. Ms. Clyburn called Mr. Averona and received from him another telephone number to use to contact Respondent.

158. Thereafter, Ms. Clyburn called Respondent twice and left messages requesting that he call her back.

159. Two days later Ms. Clyburn called Respondent again and he answered the call.

160. During this telephone conversation:

- a. Ms. Clyburn stated that she had not been presented with the original \$70,000 check that Respondent received from the City of Philadelphia and that she wanted to discuss with him the paperwork related to her personal injury matter; and
- b. Respondent told Ms. Clyburn to come to Respondent's office that Monday.

161. On the following Monday Ms. Clyburn called Respondent and he told her that he was unavailable to meet because he was out of town.

162. Sometime in September 2022, Ms. Clyburn received a telephone call from a representative with Covered Bridge Capital.

163. During that telephone conversation:

- a. Ms. Clyburn told the representative that the Clyburn lawsuit had settled; and
- b. the representative told Ms. Clyburn that Covered Bridge Capital had not received any payment from Respondent.

164. Thereafter, Ms. Clyburn called Respondent.

165. During this telephone conversation:

- a. Ms. Clyburn conveyed to Respondent the information she received from the representative with Covered Bridge Capital; and
- b. Respondent apologized to Ms. Clyburn and said that he had forgotten to pay Covered Bridge Capital.

166. On or about December 14, 2022, Ms. Clyburn received a December 8, 2022 letter from the Department of the Treasury ("the Department") advising her that the Centers for Medicare & Medicaid Services referred her unpaid debt obligation to the Department and the amount owed was \$6,179.07, inclusive of interest, administrative costs, and penalties.

167. On December 14, 2022, Ms. Clyburn called Respondent about the letter she received from the Department.

168. Respondent told Ms. Clyburn:

- a. to text a photo of the letter to Respondent; and
- b. he would address the matter with the Department.

169. Ms. Clyburn sent Respondent a text of the letter.

170. After Respondent received the DB-7 letter for the matter involving Ms. Clyburn, Respondent provided documentation to Petitioner showing that:

- a. on September 21, 2022, Covered Bridge Capital received a \$3,560 wire transfer from an account Respondent maintained with Community Bank, NA; and
- b. on December 19, 2022, Respondent issued a \$6,179.07 check drawn on his operating account with TD Bank, made payable to the U.S. Department of the Treasury, in satisfaction of Ms. Clyburn's obligation owed to Medicare; Respondent's check exceeded the amount he withheld from Ms. Clyburn's settlement proceeds to satisfy her obligation to Medicare.

**ETHICS RULES VIOLATED**

171. By his conduct as alleged in Paragraphs 11 through 170 above, Respondent violated the following Pennsylvania Rules of Professional Conduct and Pennsylvania Rules of Disciplinary Enforcement:

- a. RPC 1.3, which states that a lawyer shall act with reasonable diligence and promptness in

representing a client (Charge I);

- b. RPC 1.4(a)(3), which states that a lawyer shall keep the client reasonably informed about the status of the matter (2 counts; Charges I and III);
- c. RPC 1.4(a)(4), which states that a lawyer shall promptly comply with reasonable requests for information (2 counts; Charges I and III);
- d. RPC 1.15(b), which states that a lawyer shall hold all Rule 1.15 Funds and property separate from the lawyer's own property. Such property shall be identified and appropriately safeguarded (2 counts; Charges II and III);
- e. RPC 1.15(c)(2), which states that complete records of the receipt, maintenance and disposition of Rule 1.15 Funds and property shall be preserved for a period of five years after termination of the client-lawyer or Fiduciary relationship or after distribution or disposition of the property, whichever is later. A lawyer shall maintain the writing required by Rule 1.5(b) (relating to the requirement of a writing communicating the

basis or rate of the fee) and the records identified in Rule 1.5(c) (relating to the requirement of a written fee agreement and distribution statement in a contingent fee matter). A lawyer shall also maintain the following books and records for each Trust Account and for any other account in which Fiduciary Funds are held pursuant to Rule 1.15(1):

...

(2) check register or separately maintained ledger, which shall include the payee, date, purpose and amount of each check, withdrawal and transfer, the payor, date, and amount of each deposit, and the matter involved for each transaction; provided, however, that where an account is used to hold funds of more than one client, a lawyer shall also maintain an individual ledger for each trust client, showing the source, amount and nature of all funds received from or on behalf of the client, the description and amounts of charges or withdrawals, the names of all

persons or entities to whom such funds were disbursed, and the dates of all deposits, transfers, withdrawals and disbursements (Charge II);

- f. RPC 1.15(c)(4), which states that a regular trial balance of the individual client trust ledgers shall be maintained. The total of the trial balance must agree with the control figure computed by taking the beginning balance, adding the total of moneys received in trust for the client, and deducting the total of all moneys disbursed. On a monthly basis, a lawyer shall conduct a reconciliation for each fiduciary account. The reconciliation is not complete if the reconciled total cash balance does not agree with the total of the client balance listing. A lawyer shall preserve for a period of five years copies of all records and computations sufficient to prove compliance with this requirement (Charge II);
- g. RPC 1.15(e), which states that 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 (Charge III);

- h. RPC 5.5(a), which states that 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 (3 counts; Charges I, II, and IV);
- i. RPC 8.4(d), which states that it is professional misconduct for a lawyer to engage



in conduct that is prejudicial to the administration of justice (4 counts; Charges, I, II, III, and IV); and

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

- (1) Pa.R.D.E. 217(b), which states that 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, administrative suspension or transfer to inactive status and consequent inability of the formerly admitted attorney to act as an attorney after the effective date of the disbarment, suspension, administrative suspension or transfer to 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, administrative suspension or transfer to 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 so 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 notice)(3 counts; Charges I, III, and IV);

- (2) Pa.R.D.E. 217(c)(2), which states that a formerly admitted attorney shall promptly notify, or cause to be 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 (3 counts; Charges I, III, and IV);
- (3) Pa.R.D.E. 217(d)(1), which states that Orders imposing suspension, disbarment, administrative suspension or transfer to inactive status shall be effective 30 days after entry. The formerly admitted attorney, after entry of the disbarment, suspension, administrative suspension or transfer to inactive status order, shall not accept any new retainer or engage as attorney for another in any new case or legal matter of any nature. However, during the period from the entry date of the order and its effective date the formerly admitted attorney may wind up

and complete, on behalf of any client, all matters which were pending on the entry date (Charge I);

- (4) Pa.R.D.E. 217(d)(2), which states that in addition to the steps that a formerly admitted attorney must promptly take under other provisions of this Rule to disengage from the practice of law, a formerly admitted attorney shall promptly cease and desist from using all forms of communication that expressly or implicitly convey eligibility to practice law in the state courts of Pennsylvania, including but not limited to professional titles, letterhead, business cards, signage, websites, and references to admission to the Pennsylvania Bar (Charges I and II);
- (5) Pa.R.D.E. 217(e)(1), which states that within ten days after the effective date of the disbarment, suspension, administrative suspension or transfer to inactive status order, the formerly admitted attorney shall file with the Board a verified statement and serve a copy on Disciplinary Counsel. In the verified statement, the formerly admitted attorney shall: (i) aver that the provisions of the order and these rules have been fully complied with; (ii) list all other state, federal and administrative jurisdictions to which the formerly admitted attorney is admitted to practice, aver that he or she has fully complied with the notice requirements of paragraph (3) of subdivision (c) of this Rule, and aver that he or she has attached copies of the notices and proofs of receipt required by (c)(3); or, in the alternative, aver that he or she was not admitted to practice in any other tribunal, court, agency or jurisdiction; (iii) aver that he or she

has attached copies of the notices required by subdivisions (a), (b), and (c)(1) and (c)(2) of this Rule and proofs of receipt, or, in the alternative, aver that he or she has no clients, third persons to whom a fiduciary duty is owed, or persons with whom the formerly admitted attorney has professional contacts, to so notify; (iv) in cases of disbarment or suspension for a period exceeding one year, aver that he or she has attached his or her attorney registration certificate for the current year, certificate of admission, any certificate of good standing issued by the Court Prothonotary, and any other certificate required by subdivision (h) of this Rule to be surrendered; or, in the alternative, aver that he or she has attached all such documents within his or her possession, or that he or she is not in possession of any of the certificates required to be surrendered; (v) aver that he or she has complied with the requirements of paragraph (2) of subdivision (d) of this Rule, and aver that he or she has, to the extent practicable, attached proof of compliance, including evidence of the destruction, removal, or abandonment of indicia of Pennsylvania practice; or, in the alternative, aver that he or she neither had nor employed any indicia of Pennsylvania practice; (vi) in cases of disbarment, suspension for a period exceeding one year, temporary suspension under Enforcement Rule 208(f) or 213(g), or disability inactive status under Enforcement Rule 216 or 301, aver that he or she has complied with the requirements of paragraph (3) of subdivision (d) of this Rule, and aver that he or she has attached proof of compliance, including resignation notices, evidence of the closing of

accounts, copies of cancelled checks and other instruments demonstrating the proper distribution of client and fiduciary funds, and requests to cancel advertisements and telecommunication listings; or, in the alternative, aver that he or she has no applicable appointments, accounts, funds. advertisements, or telecommunication listings; (vii) aver that he or she has served a copy of the verified statement and its attachments on Disciplinary Counsel; (viii) set forth the residence or other address where communications to such person may thereafter be directed; and (ix) sign the statement. The statement shall contain an averment that all statements contained therein are true and correct to the best of the formerly admitted attorney's knowledge, information and belief, and are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities (Charge I);

- (6) Pa.R.D.E. 217(j)(4)(ii), which states that a formerly admitted attorney may not perform any law-related services from an office that is not staffed by a supervising attorney on a full time basis (Charge I);
- (7) Pa.R.D.E. 217(j)(4)(iv), which states that a formerly admitted attorney is specifically prohibited from representing himself or herself as a lawyer or person of similar status (3 counts; Charges I, II, and IV);
- (8) Pa.R.D.E. 217(j)(4)(v), which states that a formerly admitted attorney is specifically prohibited from having any contact with clients either in person, by telephone, or in writing, except as provided in paragraph (3) (2 counts;

Charges I and IV);

- (9) Pa.R.D.E. 217(j)(4)(vi), which states that a formerly admitted attorney is specifically prohibited from rendering legal consultation or advice to a client (Charge I);
- (10) Pa.R.D.E. 217(j)(4)(ix), which states that a formerly admitted attorney is specifically prohibited from negotiating or transacting any matter for or on behalf of a client with third parties or having any contact with third parties regarding such a negotiation or transaction (Charge I);
- (11) Pa.R.D.E. 217(j)(4)(x), which states that a formerly admitted attorney is specifically prohibited from receiving, disbursing or otherwise handling client funds (Charge II);
- (12) former Pa.R.D.E. 219(d)(1)(iii), which stated, in relevant part, that on or before July 1 of each year, all persons required by this rule to pay an annual fee shall file with the Attorney Registration Office a signed form prescribed by the Attorney Registration Office in accordance with the following procedures: (1) The form shall set forth: (iii) The name of each financial institution, as defined in Pa.R.C.P. 1.15(a)(4), within or outside this Commonwealth in which the attorney, from May 1 of the previous year to the date of the filing of the annual fee form, held funds of a client or a third person subject to Rule 1.15 of the Pennsylvania Rules of Professional Conduct. The form shall include the name and account number for each account in which the lawyer held such funds, and each IOLTA Account shall be identified as such. The form provided

to a person holding a Limited In-House Corporate Counsel License or a Foreign Legal Consultant License need not request the information required by this subparagraph (Charge II); and

- (13) former Pa.R.D.E. 219(d)(1)(v), which stated that on or before July 1 of each year, all persons required by this rule to pay an annual fee shall file with the Attorney Registration Office a signed form prescribed by the Attorney Registration Office in accordance with the following procedures: (1) The form shall set forth: (v) Every business operating account maintained or utilized by the attorney in the practice of law during the same time period specified in subparagraph (iii). For each account, the attorney shall provide the name of the financial institution, location and account number (Charge II).

**SPECIFIC JOINT RECOMMENDATION FOR DISCIPLINE**

172. Petitioner and Respondent jointly recommend that the appropriate discipline for Respondent's admitted misconduct is a suspension for a period of two years, to be stayed in its entirety, and to place Respondent on probation for two years subject to the following conditions:

- a. Respondent shall continue to treat with Dr. Brian Frankel or another similarly qualified mental healthcare professional;
- b. Respondent shall cooperate with the directions of the mental healthcare professional

supervising his treatment, take medications as prescribed, and engage in therapy sessions as directed;

- c. Respondent shall not violate the Rules of Professional Conduct;
- d. Respondent shall file quarterly with the Board Prothonotary, and provide Office of Disciplinary Counsel with a copy of, a report from his treating mental healthcare professional that verifies Respondent is continuing in treatment and is complying with all treatment recommendations;
- e. Respondent shall within three months of being placed on probation, submit documented proof to the Board Prothonotary and Office of Disciplinary Counsel that he has taken two CLE courses on handling fiduciary funds and managing a trust/IOLTA account; and
- f. Respondent shall file quarterly with the Board Prothonotary, and provide Office of Disciplinary Counsel with a copy of, Respondent's monthly reconciliations of his IOLTA account, including the regular trial



balances of the individual client ledgers.

173. Respondent hereby consents to that discipline being imposed upon him by the Supreme Court of Pennsylvania. Attached to this Petition is Respondent's executed Affidavit required by Rule 215(d), Pa.R.D.E., stating that he consents to the recommended discipline, including the mandatory acknowledgements contained in Rule 215(d)(1) through (4), Pa.R.D.E.

174. In support of Petitioner and Respondent's joint recommendation, it is respectfully submitted that there are several mitigating circumstances:

- a. Respondent has been diagnosed with Bipolar Disorder and has submitted the attached undated psychiatric report prepared by Dr. Frankel (Dr. Frankel's report is Attachment A and his CV is Attachment B), which discussed Respondent's diagnosis, treatment, and prognosis;
- b. Dr. Frankel found a causal connection between Respondent's misconduct described in the DB-7 letters related to the four complaints discussed above and Respondent's untreated Bipolar Disorder;

- c. Respondent's untreated Bipolar Disorder had been so severe Respondent required a period of hospitalization, as indicated in Dr. Frankel's report and an email that Respondent's counsel sent to Petitioner (Attachment C);
- d. According to Dr. Frankel, Respondent is compliant with the treatment plan, he has "improved significantly," he has a "favorable prognosis" and he can manage "his professional life and practice";
- e. Petitioner and Respondent submit that if the four complaints were the subject of a disciplinary hearing, Respondent would prove there is a causal connection between his misconduct in those matters and his Bipolar Disorder so as to constitute mitigation under ***Office of Disciplinary Counsel v. Braun***, 553 A.2d 894 (Pa. 1989);
- f. Respondent prevented further harm to his clients by obtaining a temporary stay of those civil cases pending in the Philadelphia Court of Common Pleas in which he was listed as counsel of record while he was convalescing

(Attachment C);

- g. Respondent remediated the dismissal of the Hajmohammed case and the Alhayek case by having the judgments of non-pros entered in both matters vacated;
- h. Respondent has admitted engaging in misconduct and violating the charged Rules of Professional Conduct and Pennsylvania Rules of Disciplinary Enforcement;
- i. Respondent has cooperated with Petitioner, as is evidenced by Respondent's admissions herein and his consent to receiving a suspension for a period of two years, to be stayed in its entirety, and to place him on probation for two years with conditions;
- j. Respondent is remorseful for his misconduct and understands he should be disciplined, as is evidenced by his consent to receiving a suspension for a period of two years, to be stayed in its entirety, and to place him on probation for two years with conditions; and
- k. Respondent has no prior record of discipline.

175. There is precedent that supports the disciplinary sanction recommended by Petitioner and Respondent.

Previously, our Court has suspended attorneys, stayed the suspensions, and imposed a period of probation with conditions when Braun mitigation evidence was presented and the misconduct involved neglect and lack of communication. See, e.g., **Office of Disciplinary Counsel v. Christopher Roulhac Booth, Jr.**, No. 106 DB 2013 (S.Ct. Order 11/13/2014) (consent discipline; two-year period of suspension, stayed in its entirety, and two years of probation with mental health conditions); **Office of Disciplinary Counsel v. Michael D. Rentschler**, Nos. 33 & 127 DB 2009 (D.Bd. Rpt. 6/30/2010) (S.Ct. Order 8/27/2010) (one-year-and-one-day suspension, stayed in its entirety, and two years of probation with substance abuse conditions); and **Office of Disciplinary Counsel v. Gina Yvonne Mosley**, No. 181 DB 2014 (D.Bd. Rpt. 3/17/2016) (S.Ct. Order 5/18/2016) (one-year suspension, stayed in its entirety, and two years of probation with mental health conditions) (Respondent Mosley is now known as Gina Yvonne Toppin).

**Booth** involved neglect, lack of communication, and mishandling of funds. Over a two-year period, Respondent Booth neglected an unspecified number of client cases by

failing to provide discovery to opposing counsel and to appear for hearings, failed to communicate with clients the status of their cases, failed to advise his partner that he neglected cases, and misrepresented the reason for using firm funds drawn from the operating account. Respondent Booth's failure to appear for hearings on discovery motions resulted in clients being assessed an aggregate of \$65,000 in sanctions and default judgments being entered against the firm. Respondent Booth satisfied the sanctions and default judgments by using approximately \$65,000 of firm funds held in the operating account. Respondent Booth also misused over \$117,000 of firm funds held in the operating account during his nine-year tenure with the firm. Respondent Booth made partial restitution to the firm (\$40,000) and agreed that any future contingent fees he was entitled to receive would be used to repay any claims against him or the firm. Respondent Booth, a former Hearing Committee Member, self-reported his misconduct, demonstrated that he suffered from depression and was being treated, and was given credit for community activities. An aggravating factor was a prior record of a private reprimand.

**Rentschler** primarily involved neglect and lack of communication in an immigration matter, a harassment claim,

and a criminal appellate case. Respondent Rentschler also failed to deposit an advance payment of his fee into an IOLTA account and to refund a portion of a \$1,500 retainer. Respondent Rentschler established **Braun** mitigation by showing that a cause of his misconduct was depression and alcohol abuse. Respondent Rentschler also expressed remorse, cooperated with Petitioner, and accepted responsibility for his misconduct. An aggravating factor was a prior record of an informal admonition and a private reprimand.

**Mosley** concerned the failure to diligently represent a client in a breach of contract matter and to communicate with the client, along with the failure to appear for an informal admonition (for neglect and lack of communication in a different client matter) and to show compliance with a condition attached to the informal admonition. Respondent Mosley proved that she suffered from Generalized Anxiety Disorder, which was a cause of her misconduct. In addition to **Braun** mitigation, Respondent Mosley had no record of discipline, acknowledged her wrongdoing, exhibited genuine remorse, was experiencing financial and personal difficulties, and made efforts to strengthen her legal practice.

The Supreme Court of Pennsylvania has also imposed a stayed suspension with probation for misconduct involving the unauthorized practice of law even though **Braun** mitigation was not one of the mitigating factors. See **Office of Disciplinary Counsel v. Jennifer Lynch Jackson**, No. 107 DB 2012 (S.Ct. Order 1/30/2013) (consent discipline; two-year period of suspension, stayed in its entirety, and two years of probation with the condition that Respondent Jackson comply with the CLE requirements by her Compliance Group's deadline). Over a one-month period, Respondent Jackson engaged in the unauthorized practice of law in four client matters and failed to advise her clients, the courts, and opposing counsel she had been administratively suspended. An aggravating factor was Respondent Jackson's informal admonition for practicing law while on inactive status. Mitigating factors were Respondent Jackson's admission of misconduct, cooperation with Petitioner, expression of remorse, acceptance of responsibility, periodic handling of pro bono cases, and the limited acts of unauthorized practice of law.

With respect to Respondent's prior mishandling of fiduciary funds and continued non-compliance with several subsections of RPC 1.15, the Disciplinary Board has previously imposed a public reprimand with a condition that

required an attorney to submit reconciliations and regular trial balances of the individual client ledgers. See **Office of Disciplinary Counsel v. Robert M. Tobia**, No. 55 DB 2022 (D.Bd. Order 5/3/2022). Respondent Tobia: transferred funds from his IOLTA account to his firm's business account on several occasions, causing his IOLTA account to be out of trust; borrowed funds from the IOLTA account to make payroll, resulting in a dishonored check drawn on the IOLTA account; commingled his own funds with fiduciary funds held in his IOLTA account on several occasions; failed to maintain a regular trial balance or client ledgers, and to perform monthly reconciliations.

176. Petitioner's and Respondent's joint recommendation for Respondent to be suspended for two years, to stay the suspension in its entirety, and to place him on probation for two years with conditions, accounts for relevant precedent, acknowledges the link between Respondent's misconduct and his mental health condition, and ensures that Respondent continues his treatment regimen and handles fiduciary funds in accordance with our ethics rules.

Moreover, Petitioner's and Respondent's joint recommendation advances the goals of attorney discipline. Those goals are protecting the public, maintaining the



integrity of the courts and the legal profession, and specific and general deterrence. See **Office of Disciplinary Counsel v. Keller**, 506 A.2d 872, 875 (Pa. 1986); **In re Iulo**, 766 A.2d 335, 338-339 (Pa. 2001).

WHEREFORE, Petitioner and Respondent respectfully request that:

1. Pursuant to Rule 215(e) and 215(g), Pa.R.D.E., the three-member panel of the Disciplinary Board review and approve the above Joint Petition In Support Of Discipline On Consent and file its recommendation with the Supreme Court of Pennsylvania in which it is recommended that the Supreme Court enter an Order that Respondent receive a two-year suspension, to be stayed in its entirety, and that he be placed on probation for two years, subject to the following conditions:
  - a. Respondent shall continue to treat with Dr. Brian Frankel or another similarly qualified mental healthcare professional.
  - b. Respondent shall cooperate with the directions of the mental healthcare

professional supervising his treatment, take medications as prescribed, and engage in therapy sessions as directed.

- c. Respondent shall not violate the Rules of Professional Conduct.
- d. Respondent shall file quarterly reports with the Board Prothonotary, and provide Office of Disciplinary Counsel with a copy of, a report from his treating mental healthcare professional that verifies Respondent is continuing in treatment and is complying with all treatment recommendations.
- e. Respondent shall within three months of being placed on probation, submit documented proof to the Board Prothonotary and Office of Disciplinary Counsel that he has taken two CLE courses on handling fiduciary funds and managing a trust/IOLTA account.
- f. Respondent shall file quarterly with the Board Prothonotary, and provide Office of Disciplinary Counsel with a copy of,

Respondent's monthly reconciliation of his IOLTA account, including the regular trial balances of the individual client ledgers.

2. Pursuant to Pa.R.D.E. 215(i), the three-member panel of the Disciplinary Board enter an order for Respondent to pay the necessary expenses incurred in the investigation and prosecution of this matter as a condition to the grant of the Petition, and that all expenses be paid by Respondent before the imposition of discipline under Pa.R.D.E. 215(g).

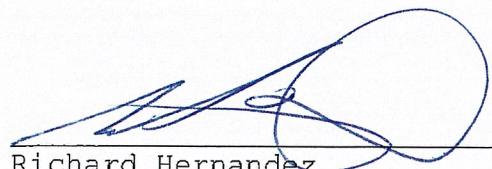
Respectfully and jointly submitted,

OFFICE OF DISCIPLINARY COUNSEL

THOMAS J. FARRELL  
CHIEF DISCIPLINARY COUNSEL

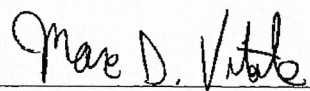
March 19, 2025  
Date

By

  
Richard Hernandez  
Disciplinary Counsel

3-17-25  
Date

By

  
Marc D. Vitale  
Respondent

3/17/25  
Date

By Brian J. Grady  
Brian J. Grady, Esquire  
Respondent's Counsel

**ATTACHMENT A**  
**UNAVAILABLE -**  
**CONFIDENTIAL DOCUMENT**

# **ATTACHMENT B**

**BRIAN A. FRANKEL**

Office Address:  
1518 Walnut St #502  
Philadelphia, PA 19102

e-mail: [brianfrankelpsychiatry@gmail.com](mailto:brianfrankelpsychiatry@gmail.com)  
phone: 215-278-9514

**EDUCATION**

Yale University – New Haven, CT. 2016-2017. Addiction Psychiatry Fellowship

Yale University – New Haven, CT. 2013-2016. Psychiatry Residency.

Medical University of South Carolina – Charleston, SC. 2012-2013. Psychiatry Internship

Baylor College of Medicine – Houston, Tx. 2008-2012. Degree: M.D.

Rice University – Houston, Tx. 2004-2008. Degrees: B.S. (Biochemistry and Cell Biology), B.A. (Psychology); magna cum laude.

**CERTIFICATIONS**

Board Certified in Addiction Psychiatry (2018)

Board Certified in General Psychiatry (2016)

Buprenorphine X-license Waivered (100 patient limit; 2017)

**EMPLOYMENT**

Private Practice – Philadelphia, PA. January 2020-present

Springfield Psychological Associates – Philadelphia PA. September 2019-November 2021

Central Behavioral Health – Norristown, PA. December 2018 – September 2019

*Locum tenens psychiatrist at a community outpatient clinic serving primarily Medicaid-insured patients. Performed psychiatric evaluations and medication management.*

The Keystone Center – Chester, PA. June 2018 – Nov 2018

*Locum tenens psychiatrist at a residential detoxification and rehabilitation center. Managed medically supervised withdrawal from opioids, benzodiazepines, and alcohol. Performed psychiatric evaluations and provided psychopharmacological interventions along with medication assisted therapy (MAT). Spearheaded medication education group. Additional tasks included evaluation and management of patients at the 'Extended Care Unit' a specialized site for the care of patients with problematic sexual behaviors.*

Hawaii Permanente Medical Group (Kaiser Permanente) – Honolulu, HI. Sept 2017 – May 2018  
*Locum tenens psychiatrist. Provided general psychiatry medication management for patients at the primary Kaiser behavioral health clinic in Oahu. Additionally, performed role as a member of a multidisciplinary team within the Pain Management department, assisting in the management of patients with problematic opioid use.*

## **MOONLIGHTING**

Shoreline Wellness Center – West Haven, CT. Mar 2017 – June 2017  
*Provided medication management services in an outpatient setting that primarily served publicly-insured patients. Workload consisted of initial evaluations and follow up appointments.*

Eastern Connecticut Healthcare Network – Manchester, CT. Aug 2015 – January 2017  
*Provided weekend moonlighting services at Manchester Memorial Hospital and Rockville General Hospital. Responsibilities included inpatient rounding and coverage of a 25 bed adult unit and a 6-10 bed adolescent unit, ER consultation and supervision, and inpatient consults.*

## **LEADERSHIP POSITIONS**

Member, Buprenorphine Workgroup of Hawaii Permanente Medical Group – 2017-2018  
*Collaborated with members of the Pain Management department to develop protocols regarding the evaluation and treatment of Opioid Use Disorder. Topics, amongst others, included risk stratification of chronic pain patients at risk for Opioid Use Disorder and inpatient management of patients on buprenorphine.*

Member, Opioid Steering Committee of VA Connecticut – 2016-2017  
*Attended and contributed to monthly meetings aimed at quality improvement of providing care for patients with opioid use disorders within the Connecticut Veterans Affairs hospital. Focused primarily on the logistics and best practices of buprenorphine prescribing.*

Chief Fellow, Yale University Health Service Department of Mental Health – 2015-2016  
*Conducted outpatient care in a college counseling center, consisting of new patient evaluations, individual psychotherapy, group psychotherapy, medication management, and acute stabilization. Mentored junior PGY-3 fellows. Presented psychodynamic case material and formulation to staff and community psychoanalysts.*

Supervisor, PGY-1 Roundtable – 2015-2016  
*Facilitated monthly discussion group among psychiatry interns. Discussed education, systems issues, and general adjustment to residency*

Liaison, Yale Psychoanalytic Gatherings – 2015-2017  
*Coordinated monthly case presentations at a local analyst's house. Events hosted through both Yale Psychiatry and Western New England Psychoanalytic Society*

Treasurer, Yale Psychiatry Residents Association – 2014-2015  
*Managed financial accounting and expenses for the Yale Psychiatry Residents Association*



## **ELECTIVES/WORKSHOPS**

West Haven Buprenorphine Clinic – 2016

*Supervisors: Drs. Isabel Rathbone and Bachaar Arnaout*

Introduction to Psychoanalytic Theory – 2016-2017

*Instructors: Drs. Lawrence Levenson, Lorraine Siggins, Stanley Possick*

Supervised Reading (Contemporary Psychoanalytic Theory) – 2016-2017

*Supervisor: Dr. Sidney Phillips*

Motivational Interviewing – 2016-2017

*Instructor: Dr. Steve Martino. Supervisor: Dr. Matthew Steinfeld*

Auricular Acupuncture – 2016-2017

*Certification: National Acupuncture Detoxification Association*

Cognitive Processing Therapy – 2014-2015

*Supervisor: Dr. Elbert Greer Richardson*

Transcranial Magnetic Stimulation – 2014-2015

*Certification: Neuronetics*

## **HONORS/AWARDS**

Resident Teacher of the Month (Medical University of South Carolina) – October 2012

Gold Humanism Honor Society – 2012

Phi Beta Kappa – 2008

Baker College Service Award (Baker College Fellow) – 2008

Psi Chi (Psychology Honor Society) – 2007

McIntosh award (Baker College Community Involvement) – 2007

## **BOOK CHAPTERS**

Frankel B, Singh H. Mood Disorders. In: Psychiatry: A Comprehensive Board Review. Ed: Tampi R, Zdanys K, Oldham M. Oxford University Press. 2017.

## **PUBLICATIONS**

Ballester J., Frankel B. (2015) Pharmacological Advancements in the Treatment of Schizophrenia. *American Journal of Psychiatry Residents Journal* 11 (1): 5-8.

Frazier T.W., Younstrom E.A., Frankel B.A., Zunta-Soares G.B., Sanches M., Escamilla M.,

Nielsen D.A. & Soares J.C. (2014) Candidate gene associations with mood disorder, cognitive vulnerability, and fronto-limbic volumes. *Brain and Behavior* 4 (3): 418-430.

McDaniel M.J., Beier M.E., Perkins A.W., Goggin S., Frankel B. (2009) An assessment of the fakeability of self-report and implicit personality measures. *Journal of Research in Personality* 43: 682-685.

## **ABSTRACTS**

Kolodny E., Frankel B., Torres P., Alroy J., Raghavan S. (2008) GM1-gangliosidosis in an American Black Bear. *Molecular Genetics & Metabolism* 93(2): S28.

## **POSTER PRESENTATIONS**

Frankel B.A., Pelz H.-J., Kohn H.M. (2008, March). The genetic hitchhiking of a regulatory mutation in the *Sult1a1* gene with warfarin resistance in a Norway rat (*Rattus norvegicus*) strain from Germany. Poster presentation at the annual meeting of the Rice Undergraduate Research Symposium, Houston, Tx.

Frankel B.A., Torres, R., Raghavan, S., Kolodny, E. (2007, July). A characterization of ursine GM1 gangliosidosis. Poster presentation at the annual Leadership Alliance National Symposium, Stamford, CT.

Frankel B., Goggin S., Krakower O., Nguyen T., Schwartz M. (2007, April) Can you fake it?: An assessment of implicit and explicit personality measures. Poster presentation at the Biannual Rice Undergraduate Psychology Research Symposium, Houston, Tx.

**ATTACHMENT C**  
**UNAVAILABLE -**  
**CONFIDENTIAL DOCUMENT**


BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :  
Petitioner :  
: ODC File Nos.  
: C1-22-723, C1-22-836,  
: C1-22-878, and C1-22-920  
:  
v. :  
: Atty. Reg. No. 65272  
MARC D. VITALE, :  
Respondent : (Philadelphia)

VERIFICATION

The statements contained in the foregoing Joint Petition  
In Support Of Discipline On Consent Under Pa.R.D.E. 215(d)  
are true and correct to the best of our knowledge or  
information and belief and are made subject to the penalties  
of 18 Pa.C.S. § 4904, relating to unsworn falsification to  
authorities.

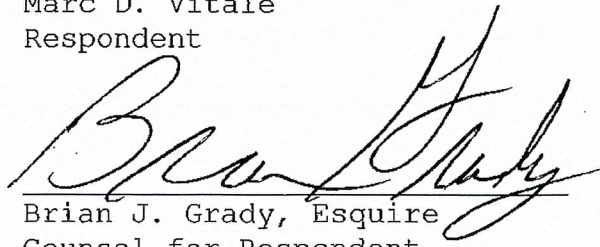
March 19, 2005  
Date

  
Richard Hernandez  
Disciplinary Counsel

3-11-25  
Date

Marc D. Vitale  
Marc D. Vitale  
Respondent

3-11-25  
Date

  
Brian J. Grady, Esquire  
Counsel for Respondent

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :  
Petitioner :  
: ODC File Nos.  
: C1-22-723, C1-22-836,  
: C1-22-878, and C1-22-920  
:  
v. :  
: Atty. Reg. No. 65272  
MARC D. VITALE, :  
Respondent : (Philadelphia)

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

Respondent, Marc D. Vitale, hereby states that he consents to the imposition of a suspension of two years, to be stayed in its entirety, and that he be placed on probation for two years with conditions, as jointly recommended by Petitioner, Office of Disciplinary Counsel, and Respondent in the Joint Petition in Support of Discipline on Consent and further states that:

1. His consent is freely and voluntarily rendered; he is not being subjected to coercion or duress; he is fully aware of the implications of submitting the consent; and he has consulted with counsel in connection with the decision to consent to discipline;

2. He is aware that there is presently pending investigations related to File Nos. C1-22-723, C1-22-836, C1-22-878, and C1-22-920, involving allegations that he has been guilty of misconduct as set forth in the Joint Petition;

3. He acknowledges that the material facts set forth in the Joint Petition are true; and

4. He consents because he knows that if charges predicated upon the matters under investigation (as identified in ¶ 2, *supra*) were filed, he could not successfully defend against them.

*Marc D. Vitale*

Marc D. Vitale  
Respondent

Sworn to and subscribed

before me this 14<sup>th</sup>  
day of March, 2025.

*Kathleen Anne Croll*

Notary Public

