

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 2706 Disciplinary Docket No. 3
: :
Petitioner : Nos. 121 DB 2019 and 32 DB 2020
: :
v. : Attorney Registration No. 315687
: :
: (Fayette County)
TANCREDI WILLIAM CALABRESE, :
: :
Respondent :

ORDER

PER CURIAM

AND NOW, this 5th day of February, 2025, upon consideration of the Report and Recommendations of the Disciplinary Board, Tancredi William Calabrese is suspended from the Bar of this Commonwealth for a period of five years, retroactive to April 25, 2020. 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 02/05/2025

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, Petitioner	:	No. 121 DB 2019 & 32 DB 2020
	:	
v.	:	Attorney Registration No. 315687
	:	
TANCREDI WILLIAM CALABRESE, Respondent	:	(Fayette 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. HISTORY OF PROCEEDINGS

On February 20, 2020, Office of Disciplinary Counsel (“Petitioner” or “ODC”) filed a Petition for Emergency Temporary Suspension Order and Related Relief seeking the temporary suspension of Tancredi William Calabrese, Respondent herein. By Order dated March 26, 2020, the Supreme Court of Pennsylvania placed Respondent on temporary suspension from the practice of law. By Petition for Discipline filed on December 14, 2023, Petitioner charged Respondent with violations of the Rules of Professional Conduct and Pennsylvania Rules of Disciplinary Enforcement related to

Respondent's criminal conviction and alleged misconduct in nine matters. On January 22, 2024, Respondent filed an Answer to Petition and Request to be Heard in Mitigation.

Following a prehearing conference conducted on March 28, 2024, a District IV Hearing Committee held a disciplinary hearing on May 30, 2024. Respondent admitted the factual allegations in the Petition for Discipline and stipulated that a prima facie violation of the Rules of Professional Conduct was established. Petitioner introduced exhibits ODC-1 through ODC-9, which were admitted without objection. Petitioner did not call any witnesses. The Committee received evidence as to mitigation and aggravation, pursuant to Disciplinary Board Rule § 89.151. Respondent introduced exhibits Respondent-A through Respondent-I. Petitioner objected to a portion of Respondent-B, which was sustained. Respondent's other exhibits were admitted without objection. Respondent testified on his own behalf and presented the expert testimony of Anna Deeds, L.P.C., and Kim Chapman, his employer.

Petitioner filed a post-hearing brief on July 5, 2024, and requested that the Committee recommend to the Board that Respondent be suspended for a period of five years, retroactive to April 25, 2020, the effective date of Respondent's temporary suspension. By letter dated July 23, 2024, Respondent advised the Committee that he was not filing a post-hearing brief.

The Committee filed a Report on September 23, 2024, concluding that Respondent violated the rules as charged in the Petition for Discipline and recommending that he be suspended for a period of five years, retroactive to April 25, 2020. The parties did not take exception to the Committee's Report and recommendation. The Board adjudicated this matter at the meeting on October 25, 2024.

II. FINDINGS OF FACT

The Board makes the following findings:

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

2. Respondent was born in 1987 and was admitted to practice law in the Commonwealth of Pennsylvania in 2013. Respondent's attorney registration mailing address is in Uniontown, Fayette County, PA 15401.

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

4. At the disciplinary hearing on May 30, 2024, Respondent admitted his misconduct as charged in the Petition for Discipline, and as set forth below.

THE CRIMINAL CONVICTION

5. In June 2018, the Pennsylvania State Police, Organized Crime Task Force initiated an extensive investigation involving Respondent.

6. Pursuant to the Criminal Complaint and supporting Affidavit of Probable Cause, one of Respondent's clients reported to law enforcement that during a consultation regarding a misdemeanor disorderly conduct charge, Respondent initiated a conversation with the client wherein he informed the client that he can "wash" the client's

money or "clean" it and not pay taxes. Respondent told the client he launders money for numerous large-scale drug dealers who are his clients.

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

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

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

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

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

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

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

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

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

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

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

18. Throughout the investigation, consent was obtained pursuant to the Pennsylvania Wire Tap Act.

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

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

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

22. On February 20, 2020, ODC filed with the Court a Petition for Emergency Temporary Suspension Order and Related Relief Pursuant to Rule 208(f)(1) Pa.R.D.E.

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

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

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

26. On August 3, 2021, ODC filed a Notice of Conviction with the Court.

THE PENNSYLVANIA LAWYERS FUND FOR CLIENT SECURITY MATTER

27. Respondent maintained an IOLTA with PNC Bank designated as "The Law Office of Tancredi Calabrese, IOLTA Client Trust Fund" (IOLTA).

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

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

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

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

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

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

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

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

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

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

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

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

39. Therein, Respondent admitted to the overdraft.

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

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

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

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

44. Respondent subsequently provided information sought by ODC, admitted that he had deposited unearned legal fees for the Flage matter into his Business Operating Account instead of his IOLTA, and admitted that he failed to maintain the records required pursuant to RPC 1.15.

THE HENDRICKS MATTER

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

THE CHESTER MATTER

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

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

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

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

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

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

the letter to Mr. Chester.

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

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

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

THE FLAGE MATTER

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

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

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

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

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

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

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

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

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

83. Thereafter, Ms. Flage attempted to contact Respondent on numerous occasions; Respondent failed to reply.

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

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

86. On September 30, 2020, Respondent submitted his Statement of Position through his counsel, wherein he admitted he had not replied to emails from Ms. Flage in early 2020 regarding the status of her case and/or the filing of a Petition for Emergency Relief.

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

THE SERENE MATTER

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

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

90. Respondent provided Ms. Serene with a written fee agreement and charged

a total fee of \$1,500, which fee was paid on August 28, 2019 (\$1,000) and October 5, 2019 (\$500).

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

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

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

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

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

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

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

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

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

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

THE FLOYD MATTER

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

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

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

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

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

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

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

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

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

110. On September 30, 2020, Respondent submitted his Statement of Position through counsel. Respondent admitted that he had failed to serve the

divorce complaint within the time required by the Rules of Civil Procedure. He also admitted that he had failed to inform Ms. Floyd that he had been temporarily suspended and, therefore, was unable to continue to represent her.

THE GRACYK MATTER

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

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

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

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

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

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

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

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

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

120. In February 2020 Respondent, and/or a member of his office staff,

notified Ms. Gracyk that the matter was scheduled for pre-trial conciliation and trial on May 8, 2020.

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

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

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

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

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

THE BOYER MATTER

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

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

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

129. Respondent had not previously represented Mr. Boyer.

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

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

132. At Respondent's request, the payments made by Mr. Boyer on October 11, October 25, November 8 and November 22, 2019, were made via transfers from Mr. Boyer's KeyBank checking account to Respondent's KeyBank operating account.

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

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

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

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

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

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

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

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

THE JAYNES MATTER

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

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

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

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

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

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

147. On various dates between June 24, 2019, and December 2, 2019, Mr. Jaynes made payments to Respondent totaling \$3,350, which were credited to Respondent's PNC Bank account that was not a trust account or IOLTA.

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

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

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

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

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

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

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

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

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

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

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

THE DISCIPLINARY PROCEEDINGS BELOW

Testimony of Respondent

159. Respondent admitted his criminal misconduct as well as the misconduct related to the Fund matter and to client neglect in eight separate matters, whereby he

accepted money from his clients, sometimes did not properly handle those monies, failed to communicate, failed to diligently move the matters forward, failed to promptly refund unearned fees, and in some matters failed to notify his clients that he was on temporary suspension. N.T. 62-63.

160. Respondent does not dispute that he misappropriated money from several clients. N.T. 51. Respondent made full or partial refunds to clients in the Hendricks, Flage, Serene and Jaynes matters. He still owes approximately \$7,848.63 to make other clients whole. N.T. 51-52.

161. Respondent committed to making all clients whole. He acknowledged that initially he could not afford to do so, but plans to do so now. N.T. 52, 64.

162. Respondent detailed his history of drug use starting when he was in college, when he began using amphetamines to stay up late in order to study. Respondent also used alcohol and cocaine. Respondent's substance use progressed in law school to using opiates and barbiturates. N.T. 48-49.

163. After his admission to practice in 2013 and during his law practice as a sole practitioner in Uniontown, Respondent used a combination of amphetamines and opiates, which led to heroin and fentanyl use. N.T. 51.

164. In about 2016, it became apparent to Respondent that he could not stop using drugs. Respondent noticed that he began having a harder time managing his day-to-day life, such as being on time and showing responsibility. Respondent's family members, including his father, discussed these problems with him. These factors contributed to his realization that he was an addict, but even so, he did not stop using drugs. N.T. 50.

165. Respondent described his recovery efforts starting in July 2018. At that time, he entered a 30-day rehabilitation at Clarity Way in Hanover, Pennsylvania. He acknowledged it was not very effective as he quickly relapsed. In December 2019, Respondent overdosed, and it was at that point that he sought immediate help. On January 16, 2020, Respondent enrolled in Axiom Family Counseling for clinical counseling and suboxone treatment, which lasted until July 2020. Respondent did not experience any relapses during treatment. N.T. 54-55; Respondent-B.

166. Shortly after completing treatment at Axiom, Respondent began regularly attending Narcotics Anonymous (NA) and Alcoholics Anonymous (AA) meetings. Initially, Respondent attended every day for 90 days. He continues to attend meetings several times per week. N.T. 55, 56, 60.

167. Respondent's engagement at NA and AA with similarly situated individuals has helped him grasp what is important and lean on other people to move in a forward direction. N.T. 56.

168. In April 2021, Respondent began treatment with Anna Deeds, a licensed professional counselor. This treatment addressed his underlying addiction and mental health issues. Respondent's treatment ended in October 2021. N.T. 55-56.

169. As of the date of the disciplinary hearing, Respondent had been sober for four years. N.T. 58.

170. Since his sentencing on the criminal charges, Respondent maintained employment by working at a deli, as a traffic control specialist operating a flag, and performing landscaping. N.T. 58.

171. In 2022, Respondent began working for Frontier Clinical Research, a company that conducts clinical trials for medication and medical devices for

pharmaceutical companies hoping to get FDA approval. He is currently employed as the finance manager. N.T. 33, 34.

172. Respondent plans to continue his employment at Frontier. N.T. 65.

173. Respondent volunteers at a boys' club in his community, doing everything from mopping floors to teaching boxing classes and counseling youths. N.T. 56-58.

174. Respondent's family is very involved in his recovery efforts. N.T. 57.

175. Respondent acknowledged the gravity of his misconduct, took accountability for his actions, and expressed sincere remorse and regret. He acknowledged that a severe disciplinary sanction is appropriate. N.T. 58-59, 60.

176. Respondent apologized to the Board, his colleagues and peers, and the profession as a whole, as well as his family, and explained that he "let everybody down and hurt a lot of people, did a lot of damage." He credibly testified that he is doing his best to try and rectify what he did. N.T. 59.

177. Respondent explained, "Addiction took ahold of me 100 percent for a long period of time, and took me down a path that's [sic] uncharacteristic behavior and dishonesty, and I lost sight of kind of the values that I was raised on, which, you know, are – are integrity." N.T. 59.

178. Respondent's testimony is credible.

Testimony of Anna Deeds, L.P.C.

179. Respondent presented the expert testimony of Anna Deeds, L.P.C. Ms. Deeds treated Respondent on a weekly basis from April 20, 2021 through October 11, 2021 for a diagnosis of Major Depressive Disorder and Moderate and Generalized Anxiety Disorder. Respondent-A; N.T. 14, 17.

180. In her report, Ms. Deeds confirmed her treatment of Respondent and opined that “two years prior to counseling, [Respondent] would have met the criteria for a diagnosis of 304.40 (F 15.20) Stimulant Use Disorder, Severe, amphetamine-type substance. However, he was in sustained remission by the time he began counseling with me.” Respondent-A. Despite not having treated Respondent until he was in remission from his substance use, Ms. Deeds credibly opined that Respondent’s Generalized Anxiety Disorder was present prior to his substance use. N.T. 14. Ms. Deeds credibly linked that diagnosis as the cause of Respondent’s professional misconduct by opining that the anxiety brought about the substance addiction and the addiction brought about the professional misconduct. N.T. 23.

181. Ms. Deeds’ treatment plan was formulated to reduce Respondent’s depression and anxiety symptoms and involved cognitive behavioral therapy and workbook exercises. N.T. 17-18.

182. Based on assessments she performed on Respondent, Ms. Deeds determined that Respondent’s anxiety dropped significantly from severe anxiety at the start of treatment to mild anxiety at the end of treatment. N.T. 18-19.

183. The counseling ended in October 2021, as Ms. Deeds felt that Respondent had completed the necessary treatment and his anxiety was reduced. N.T. 19-20.

184. Ms. Deeds opined that Respondent has “come along way” and as he is in recovery from addiction, she further opined “it’s not likely that he would do anything like that [the misconduct] again.” N.T. 20. As long as Respondent uses the tools he learned in counseling and continues attending NA and AA meetings, Ms. Deeds believes he should be fine. N.T. 21, 23.

185. Ms. Deeds’ testimony is credible.

Testimony of Kim Chapman

186. Respondent offered the testimony of his employer, Kim Chapman. Ms. Chapman is the owner and research director at Frontier Clinical Research. Her partner in the business is Dr. Marcy Gousse. N.T. 32.

187. Ms. Chapman hired Respondent in August 2022 and has known him since that time in a professional capacity as his employer. Respondent is the finance manager for Frontier and manages the bank accounts, transfers funds, writes checks in the company name, pays invoices, and manages two employees. N.T. 33- 34, 39. Ms. Chapman has come to know Respondent very well as she initially worked with him on a daily basis to train him for the work specific to clinical trials, and interacts with him regularly either in person or remotely. N.T. 41.

188. Ms. Chapman personally checks the bank accounts and invoices on a regular basis to ensure they are accurate. N.T. 44.

189. Respondent interacts with medical professionals and pharmaceutical executives on a regular basis, but has no access to any of the substances being tested in the clinical trials. N.T. 43.

190. Ms. Chapman is very satisfied with Respondent's job performance and has full trust in him to execute his job duties. N.T. 34, 35.

191. Ms. Chapman is aware of Respondent's criminal conviction and past struggles with drug addiction because he personally shared the information with her, as well as the details of his recovery efforts. N.T. 37, 38, 40. She testified that she still hired Respondent for the position because she feels that everybody deserves a second chance. *Id.*

192. Ms. Chapman's testimony is credible.

III. CONCLUSIONS OF LAW

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

1. RPC 1.2(d) – A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent, but a lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel a client to make a good faith effort to determine the validity, scope, meaning or application of the law.

2. RPC 1.3 – A lawyer shall act with reasonable diligence and promptness in representing a client.

3. RPC 1.4(a)(3) – A lawyer shall keep the client reasonably informed about the status of the matter.

4. RPC 1.4(a)(4) – A lawyer shall promptly comply with reasonable requests for information.

5. RPC 1.5(a) – A lawyer shall not enter into an agreement for, charge or collect an illegal or clearly excessive fee.

6. 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.

7. 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.

8. RPC 1.15(c) (required records) – 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 requirements 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 required books and records for each Trust Account and for any other account in which Fiduciary Funds are held pursuant to Rule 1.15(l).

9. 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, confirmed in writing, to the handling of fees and expenses in a different manner.

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 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.

12. RPC 8.4(c) – It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

13. 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 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.

14. Respondent established by clear and convincing evidence that his psychiatric disorder caused his misconduct. *Office of Disciplinary Counsel v. Seymour Braun*, 553 A.2d 894 (Pa. 1989).

IV. DISCUSSION

This matter comes to the Board upon the Committee's Report and unanimous recommendation that Respondent be suspended for a period of five years, retroactive to April 25, 2020, the effective date of his temporary suspension from the practice of law. The parties did not take exception to the Committee's recommendation.

Petitioner bears the burden of proving ethical misconduct by a preponderance of clear and satisfactory evidence. *Office of Disciplinary Counsel v. Lawrence J. DiAngelus*, 907 A.2d 452, 456 (Pa. 2006). The record established that Respondent pled guilty to one count of Criminal Attempt-Dealing in Proceeds of Unlawful Activities, in violation of 18 Pa.C.S. § 901(a), a felony of the first degree. Respondent's

conviction is conclusive evidence of the commission of a crime and provides a clear basis for discipline. Pa.R.D.E. 214(e); *Office of Disciplinary Counsel v. John Rodes Christie*, 639 A.2d 782 (Pa. 1994). In addition, the record established that Respondent engaged in misconduct in eight separate client matters and one matter involving an overdraft of his IOLTA account. Respondent admitted his misconduct in all of the matters charged in the Petition for Discipline.

Respondent is currently 37 years of age. During his college years Respondent began using amphetamines, cocaine, and alcohol and his drug use progressed in law school to include opiates and barbiturates. After his admission to practice in 2013, Respondent was a sole practitioner in his hometown of Uniontown, Fayette County. Respondent's drug use continued during his law practice, this time escalating to drugs such as heroin and fentanyl. By 2016, Respondent recognized that his drug use was a problem and he was an addict, as he was having difficulty managing daily tasks and family members were expressing concern. Still, Respondent continued to use drugs. In July 2018, Respondent attempted to get sober by entering a 30-day rehabilitation at Clarity Way but relapsed shortly after completing the program.

In 2018, the misconduct detailed in the above factual findings began. Pursuant to a tip received in June 2018 from one of Respondent's clients that during a consultation with Respondent on a criminal matter, Respondent initiated a conversation with the client regarding money laundering for drug dealers, the Pennsylvania State Police began investigating Respondent. The police developed a confidential informant (CI) who contacted Respondent and over the course of four months, from October 2019 through January 2020, Respondent engaged in a criminal enterprise whereby he met with the CI and discussed hiding money and managing money for the CI's business.

Respondent informed the CI that he could form a shell company for him. Respondent understood that he was engaging in criminal activity, because when the CI asked about fees, Respondent responded, “committing a crime is \$10,000 - \$20,000 for me to take the step.” The CI paid Respondent \$5,000.

Thereafter, in furtherance of the stated goal of establishing a “shell” company to launder proceeds from illegal transactions, Respondent met with an undercover officer (UC) and informed the UC that he would have a business plan ready in about a week. Respondent then prepared papers and gave them to the UC to complete to “make this legitimate” and instructed the UC to open a bank account. The UC emailed Respondent credit card information and Respondent charged \$2,000 to that account number. Ultimately, the scheme did not come to fruition, as a search warrant was executed at Respondent’s law office on January 28, 2020. At that time, Respondent admitted he was aware that the money the CI provided for the business formation was from a narcotics trafficker and the business would be used to launder money. Respondent was arrested on February 13, 2020.

Simultaneous to the events surrounding Respondent’s criminal activity, between 2018 and 2020, Respondent engaged in misconduct in eight separate client matters and a matter involving an overdraft of his IOLTA account. The misconduct in the client matters formed a general pattern of neglectful behavior whereby Respondent accepted money to represent his clients, sometimes failed to properly handle the fees, failed to provide adequate representation and perform the services for which he was retained, which included failing to appear for scheduled hearings in certain matters, failed to communicate with his clients, and failed to promptly refund unearned fees. In some matters, Respondent failed to notify clients that he was temporarily suspended from

practice. In the IOLTA matter, Respondent issued a check to himself which created an insufficient funds balance in that account of a negative \$165.00. The Pennsylvania Lawyers Fund for Client Security requested Respondent provide a written explanation of what had occurred, but Respondent failed to provide a satisfactory response and the Fund referred the matter to ODC. The subsequent investigation revealed that Respondent had deposited unearned legal fees into his business operating account and failed to maintain required RPC 1.15 records.

On February 20, 2020, ODC filed with the Court a Petition for Emergency Temporary Suspension Order and Related Relief based on the Fund referral, open files concerning the above described client misconduct, and Respondent's arrest related to the above described criminal conduct. The Court placed Respondent on temporary suspension by order dated March 26, 2020, effective April 25, 2020. Respondent pled guilty to Criminal Attempt – Dealing in Proceeds of Unlawful Activities on June 3, 2021, and was sentenced that date to a forty-eight month period of probation with nine months to be served on home electronic monitoring. There is no evidence of record to suggest that Respondent has not complied with the terms and conditions of his criminal sentence. And, there is no evidence that Respondent has violated his temporary suspension by engaging in the unauthorized practice of law.

Respondent's efforts to treat his addiction began in earnest after he suffered a drug overdose in December 2019. Respondent commenced treatment in January 2020 at Axiom Family Counseling, where he received therapy and medication management services associated with his diagnoses of opioid dependence as well as anxiety and major depressive disorder. Respondent completed therapy at Axiom in July 2020 without a relapse and at that point began attending NA and AA meetings on a daily

basis. Respondent currently attends several meetings per week. Respondent finds that his engagement with individuals who are going through the same thing he is has helped him focus on what is important. At the time of the disciplinary hearing, Respondent had been sober since 2020, a period of four years.

In April 2021, shortly before his guilty plea and sentencing, Respondent began weekly sessions of cognitive behavioral therapy with Anna Deeds, L.P.C. At that point in time, Respondent's substance use disorder was in remission. Ms. Deeds treated Respondent's depression and anxiety symptoms and determined in October 2021 that treatment was completed, as Respondent's anxiety level dropped significantly from severe to mild. Ms. Deeds offered her expert opinion that Respondent's anxiety disorder was present prior to his substance use disorder and she linked the addiction as the cause of Respondent's misconduct by opining that the anxiety brought about the substance addiction and the addiction caused the misconduct. Ms. Deeds credibly opined that with Respondent actively engaged in his addiction recovery by participating in regular NA and AA meetings, and using the tools learned in therapy, it is not likely that he will engage in misconduct in the future.

Following his criminal sentencing in June 2021, Respondent maintained steady employment at a variety of jobs and since August 2022, has been employed as the finance manager at Frontier Clinical Research. In that capacity, Respondent manages bank accounts, writes checks, pays invoices, and manages two employees. Respondent's employer, Kim Chapman, supervises his work and checks the accounts and financial details on a regular basis. Ms. Chapman described Respondent as a trustworthy employee and confirmed that he has no access to any of the pharmaceutical substances being tested for the clinical trials.

Respondent fully acknowledged his misconduct and accepted accountability for his egregious actions, both as to the crime he committed and the harm he inflicted on his clients by his neglect of their matters and failure to refund unearned fees. Respondent credibly apologized to the legal profession and his family for the “damage” and “hurt” he inflicted. Respondent has reimbursed some clients while acknowledging that others have not been made whole; at the time of the disciplinary hearing he owed approximately \$7,800. Respondent credibly expressed his commitment to refund the monies and testified candidly that his finances prevented him from doing so earlier on but he plans to rectify that situation.

Having concluded that Respondent violated the ethical rules charged in the Petition for Discipline, we turn to the appropriate sanction to address his misconduct. In reviewing the general considerations governing the imposition of final discipline, it is well-established that there is no formulistic approach or per se discipline in Pennsylvania, which allows the Court to retain its discretion to apply fact-specific considerations to the analysis of appropriate discipline. *Office of Disciplinary Counsel v. Robert Lucarini*, 472 A.2d 186 (Pa. 1983). The recommended discipline must be tailored to reflect facts and circumstances unique to the case, including circumstances that are aggravating or mitigating. *Office of Disciplinary Counsel v. Anthony C. Cappuccio*, 48 A.3d 1231, 1238 (Pa. 2012). The Board is mindful of precedent and the need for consistency in discipline. *Lucarini*, 472 A.2d at 189-91.

Upon the Board’s independent review of this record,¹ and after weighing the aggravating and mitigating factors, considering the case precedent and recognizing that

¹ See Pa.R.D.E. 208(d)(2).

there is a range of sanctions for misconduct, we conclude that a five year suspension made retroactive to the temporary suspension is commensurate with the totality of the facts and circumstances in this matter and is consistent with sanctions imposed under similar circumstances.

The egregious facts of Respondent's cumulative misconduct, standing on their own, could well result in disbarment. Conviction of felonies, neglect of multiple client matters, and misappropriation of unearned fees are serious offenses that in the past have resulted in the imposition of disbarment to address the egregious breach of trust occasioned by such misconduct. *See Office of Disciplinary Counsel v. Anthony Jerome McKnight*, No. 154 DB 2001 & 11 DB 2003 (D. Bd. Rpt. 10/28/2011) (S. Ct. Order 3/1/2012) (neglect in seven client matters whereby McKnight was retained to perform services, failed to communicate with clients, failed to perform the services, and failed to refund unearned fees; McKnight was separately convicted of drug offenses); *Office of Disciplinary Counsel v. Robert S. Fisher*, No. 52 DB 2005 (D. Bd. Rpt. 5/18/2006) (S. Ct. Order 9/19/2006) (Fisher neglected 12 client matters); *Office of Disciplinary Counsel v. Samuel Foley, Jr.*, No. 201 DB 2014 (D. Bd. Rpt. 4/22/2014) (S. Ct. Order 8/4/2014) (Foley convicted of felony and misdemeanor drug offenses related to his involvement in delivery of a large quantity of marijuana); *Office of Disciplinary Counsel v. Scott Lawrence Kramer*, No. 127 DB 2017 (D. Bd. Rpt. 3/15/2019) (S. Ct. Order 7/30/2019) (Lawrence committed misconduct in six client matters and misappropriated client funds).

Here, we conclude that the mitigating factors of record compel a less severe sanction than disbarment. In mitigation of discipline, we accord weight to the following factors. Respondent presented evidence in support of his claim that his mental health disorders and substance addiction caused his misconduct. *See Office of Disciplinary*

Counsel v. Seymour Braun, 553 A.2d 894 (Pa. 1989). Upon review of the expert testimony and report of Ms. Deeds, the letter from Axiom Family Counseling, and Respondent's testimony, we conclude that Respondent established by clear and convincing evidence that he suffered from psychiatric disorders which caused his misconduct, which evidence constitutes an appropriate consideration for mitigation of discipline. Ms. Deeds' testimony was credible, established a causal link between Respondent's mental health disorders and his criminal and professional misconduct, and was not refuted by any evidence to the contrary.

Specifically, Respondent suffered from opioid dependence, anxiety and depression, which were causal factors in his misconduct. Ms. Deeds treated Respondent for depression and anxiety, and despite having not treated him until he was already in remission for substance use, Ms. Deeds credibly made the link between Respondent's diagnoses and his misconduct. The foundation of Ms. Deeds' opinions is corroborated by the Axiom Family Counseling report and by Respondent's own testimony. The record compellingly depicts the origins of Respondent's drug use in college and escalation of substance abuse in the years that followed, to the point where he was dependent on drugs, was addicted, and lost control over the ability to manage his life. The record further details Respondent's efforts to gain sobriety, which were initially unsuccessful but in the end achieved through counseling and participation in recovery programs. Respondent has maintained sobriety since 2020 and his prognosis is good that he will not commit misconduct in the future. We are satisfied on this record that Respondent met the *Braun* standard and is entitled to mitigation.

In addition to the evidence of Respondent's psychiatric disorders, the record demonstrates other recognized factors for mitigation. Respondent expressed genuine

remorse and accepted full responsibility for his misconduct. At the hearing, Respondent stipulated to a prima facie violation of the rules and Petitioner's exhibits, which obviated the need for Petitioner to call fact witnesses. Respondent admitted on the record that he engaged in misconduct related to his criminal conviction as well as the nine other matters charged in the Petition for Discipline. Respondent understands the grave nature of his misconduct and the need for strict discipline. Respondent frankly acknowledged the damage his wrongful actions inflicted on the profession and apologized. Respondent's credible expressions of remorse and accountability for his offenses are factors that weigh in favor of mitigation. See *Office of Disciplinary Counsel v. Patrick O'Hare Regan*, No. 191 DB 2017 (D. Bd. Rpt. 10/21/2019, p. 10) (S. Ct. Order 1/2/2020) (Regan accorded mitigation for his sincere repentance and acceptance of responsibility for his criminal misconduct).

We also accord some weight in mitigation to Respondent's efforts to rectify the harm he caused his clients by reimbursing monies owed to some of them and acknowledging the debt he owes to others. See *Office of Disciplinary Counsel v. Michael Eric Adler*, No. 88 DB 2022 (D. Bd. Rpt. 11/6/2023) (S. Ct. Order 1/23/2024) (Board gave limited mitigation to Adler's reimbursement to the Fund for claims paid to his former clients, concluding that there is a difference between voluntarily refunding unearned fees and waiting until a client goes through the process of making a claim with the Fund and obtaining an award). Respondent has no prior record of professional discipline, however, this factor does not merit considerable weight in mitigation, as Respondent was admitted to the bar in 2013 and his misconduct commenced a mere five years later. See *Office of Disciplinary Counsel v. Marianne Sawicki*, No. 107 DB 2021 (D. Bd. Rpt. 9/15/2023) (S. Ct. Order 12/22/2023) (Board accorded little weight in mitigation to Sawicki's lack of prior

discipline, as her misconduct began only seven years after her admission to the bar).

On our review of this record, we find no aggravating factors. Although the Committee considered in aggravation that two of the client matters neglected by Respondent involved custody actions (Flage and Gracyk), we find no evidence of record that the minors suffered harm due to Respondent's misconduct, and therefore decline to accord weight in aggravation to this factor.

On this record, we recommend a five year suspension, retroactive to the effective date of Respondent's temporary suspension. Case precedent establishes that in matters involving very serious misconduct, the Court has imposed a sanction less than disbarment where the record demonstrates compelling mitigation. See *Office of Disciplinary Counsel v. Joseph James O'Neill*, No. 187 DB 2016 (D. Bd. Rpt. 8/5/2019) (S. Ct. Order 10/1/2019) (O'Neill convicted of two counts of making false statements to the FBI while serving as a Philadelphia Municipal Court judge; the Board found mitigating evidence that supported a five year suspension rather than disbarment: no history of discipline, sincere remorse, acceptance of responsibility, compelling character evidence, and cooperation with ODC; the Court imposed a five year suspension, retroactive to O'Neill's temporary suspension); *Office of Disciplinary Counsel v. Robert Vincent Mitchell*, No. 73 DB 2009 (D. Bd. Rpt. 3/23/2012) (S. Ct. Order 8/1/2012) (Mitchell convicted of one felony count of possession of material depicting the sexual exploitation of a minor after he downloaded and viewed 600 images depicting child pornography; the Board recommended a five year suspension based on mitigating factors that included compelling evidence of psychological treatment, compelling character evidence, sincere remorse, cooperation with ODC and no prior discipline; the Court imposed a five year

retroactive suspension²); *Office of Disciplinary Counsel v. Andrew F. Malone*, No. 131 DB 2004 (D. Bd. Rpt. 2/10/2006) (S. Ct. Order 4/25/2006) (Malone convicted of criminal attempt to commit involuntary deviate sexual intercourse with minor children; in mitigation, the Board found that Malone met the *Braun* standard by proving he suffered from a psychiatric disorder that caused his misconduct; the Board also considered that Malone had an unblemished disciplinary record, expressed remorse, and cooperated with ODC; the Board recommended a five year suspension, which the Court imposed, retroactive to Malone's temporary suspension); *Office of Disciplinary Counsel v. Michael W. McCarrin*, No. 164 DB 2000 (D. Bd. Rpt. 3/8/2006) (S. Ct. Order 5/25/2006) (McCarrin was convicted of nine counts of mail fraud and two counts of money laundering; mitigating factors that persuaded the Board that a five year suspension was appropriate included McCarrin's acknowledgement of the serious nature of his crimes, remorse, restitution, and evidence of good character; the Court adopted the Board's recommendation and imposed a five year suspension, retroactive to McCarrin's temporary suspension).

As to retroactivity, this piece of our recommendation is consistent with sanctions imposed in prior matters where respondents are initially placed on temporary suspension, and recognizes that the attorney has already been removed from practice for a period of time. See *Office of Disciplinary Counsel v. Jimmie Moore*, No. 87 DB 2019 (D. Bd. Rpt. 6/18/2021) (S. Ct. Order 3/16/2022); *Office of Disciplinary Counsel v. Ivan Stewart DeVoren*, No. 103 DB 2019 (D. Bd. Rpt. 1/27/2021) (S. Ct. Order 4/1/2021). Here, Respondent has been suspended and unable to practice law since April 25, 2020.

² The Board recommended a prospective period of suspension.

The primary goals of the attorney disciplinary system are to protect the public from unfit attorneys, maintain the integrity of the legal system, and preserve public confidence in the legal system. *Office of Disciplinary Counsel v. John Keller*, 506 A.2d 872 (Pa. 1986). The recommended discipline fulfills the stated goals of our system, in that it accounts for the egregious nature of Respondent's breach of trust, balanced against the mitigation of Respondent's mental disorders and substance addiction, acceptance of responsibility and acknowledgement that his conduct warrants severe discipline, and his sincere remorse and attempts to rectify his wrongdoing through reimbursement of clients.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that the Respondent, Tancredi William Calabrese, be Suspended for five years from the practice of law in this Commonwealth, retroactive to April 25, 2020, the effective date of Respondent's temporary suspension.

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/ Celeste L. Dee*
Celeste L. Dee, Member

Date: 12/19/2024

Chair Rafferty and Member Ellsworth recused.