BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL Petitioner	:	No. 138 DB 2019
v.	:	Attorney Registration No. 23268
JOHN E. QUINN Respondent	:	(Allegheny County)

O R D E R

AND NOW, this 2nd day of August, 2019, in accordance with Rule 215(g), Pa.R.D.E., the three-member Panel of the Disciplinary Board having reviewed and approved the Joint Petition in Support of Discipline on Consent filed in the above captioned matter; it is

ORDERED that the said JOHN E. QUINN be subjected to a **PUBLIC REPRIMAND** by the Disciplinary Board of the Supreme Court of Pennsylvania as provided in Rule 204(a) and Rule 205(c)(9) of the Pennsylvania Rules of Disciplinary Enforcement.

BY THE BOARD:

Board Chair

TRUE COPY FROM RECORD
Attest:

Marcee D. Sloan
Board Prothonotary
The Disciplinary Board of the
Supreme Court of Pennsylvania

138 DB 2019

BEFORE THE DISCIPLINARY BOARD OF THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	No. DB 2019
Petitioner	:	File Nos. C4-16-920, C4-17-649,
	:	C4-18-683, C4-18-1130, and
	:	C4-19-196
v.	:	
	:	Attorney Registration No. 23268
JOHN E. QUINN	:	
Respondent	:	(Allegheny County)

JOINT PETITION IN SUPPORT OF DISCIPLINE ON CONSENT PURSUANT TO Pa.R.D.E. 215(d)

Petitioner, the Office of Disciplinary Counsel (hereinafter, "ODC") by Paul J. Killion, Chief Disciplinary Counsel, and Harold E. Ciampoli, Jr., Disciplinary Counsel and John E. Quinn, Esquire (hereinafter "Respondent"), by and through his counsel, Craig E. Simpson, Esquire, respectfully petition the Disciplinary Board in support of discipline on consent, pursuant to Pennsylvania Rule of Disciplinary Enforcement ("Pa.R.D.E.") 215(d), and in support thereof state:

1. ODC, whose principal office is situated at Office of Chief Disciplinary Counsel, Pennsylvania Judicial Center, Suite 2700, 601 Commonwealth Avenue, P.O. Box 62485, Harrisburg, Pennsylvania 17106, is invested, pursuant to Pa.R.D.E. 207, with the power and duty to investigate all matters involving

alleged misconduct of an attorney admitted to practice law in the Commonwealth of Pennsylvania and to prosecute all disciplinary proceedings brought in accordance with the various provisions of the aforesaid Enforcement Rules.

2. Respondent was born on October 28, 1950, and was admitted to practice law in the Commonwealth on October 26, 1976. Respondent is on active status and his last registered address is Quinn Logue LLC, 200 First Avenue, Floor 3, Pittsburgh, Pennsylvania 15222-1512.

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

SPECIFIC FACTUAL ALLEGATIONS ADMITTED

I. (FILE NO. C2-16-920 Complaint of ODC-CSF)

BACKGROUND

4. In October 2016, the Pennsylvania Lawyers Fund for Client Security ("Client Security") received reports from PNC Bank of an overdraft in Respondent's PNC IOLTA account.

5. After sending an inquiry letter to Respondent, Client Security received a letter from Respondent's counsel, attorney Craig Simpson, advising that the negative balances were not due to bank errors and that Respondent was authorizing the referral of the matter to ODC.

6. As a result of the referral, ODC commenced an extensive investigation and audit of Respondent's PNC IOLTA that included subpoenaing Respondent and his financial institution for financial records, as well as multiple and extensive requests for additional explanations and documentation from Mr. Simpson.

7. Respondent admits that he did not handle the PNC IOLTA properly and thus violated RPC 1.15(b).

8. With respect to the IOLTA account issues, Respondent offers the following explanation and background, and if this matter were to proceed to hearing, would testify as set forth in paragraphs 9 through 20, *infra*.

9. Respondent has had a successful career, and had no need to misuse entrusted funds.

10. Respondent, himself a former Disciplinary Counsel, upon completing his employment with the Office of Disciplinary Counsel at the end of 1978, joined a well-known and respected Pittsburgh law firm. In 1983, part of the firm, including Respondent, broke off and formed a new firm. This firm is the same entity in which Respondent practiced law up until the end 2016, although the firm went through several iterations as various attorneys/partners left and joined the firm over 34

years. The firm changed names several times between 1983 and 2006, at which time the firm became known as Portnoy & Quinn.

11. The firm remained Portnoy & Quinn from 2006 through the next ten years or so, until the end of October 2016, when the firm ceased to exist, and Respondent began a new firm with Attorney Matthew Logue, known as Quinn Logue, LLC, as of January 1, 2017. Despite going through many different iterations over the years as different attorneys joined and left the firm, it was the same firm/entity that was formed in 1983, with Respondent then being a young partner therein. When Respondent first practiced as a young attorney with the firm in 1983, he did not exercise control over or handle the IOLTA account. Respondent did not take control over the IOLTA account until 2011.

12. The IOLTA (or escrow) account that Respondent's prior firm had in 1983 is essentially the very same account that was in existence as of October 2016, and is the account that is the subject of this complaint. The IOLTA account essentially stayed the same since at least 1983 except for being transferred from one bank to another for business reasons.

13. As stated above, the firm with which Respondent practiced law from 1983 through the end of October 2016 was a highly-regarded and successful firm, and over the years,

millions, if not tens of millions, of dollars passed through the IOLTA account on an *annual* basis. Over the course of the firm's existence, *hundreds* of millions of dollars passed through the IOLTA account. Respondent had no part of the handling of the IOLTA account, or the recordkeeping with regard thereto, over the first 28 years of its existence. When Respondent obtained a settlement in a case, he would simply give the settlement check to the firm's bookkeeper, and let the bookkeeper know how to distribute the proceeds thereof, generally by giving the bookkeeper a copy of the settlement statement for the case.

14. By 2011, the two remaining partners in the firm were Respondent and Mr. Portnoy. Mr. Portnoy was then already into his 70's, and it was at that time (2011) that Respondent first took control of the IOLTA account. Upon taking control and responsibility for the account, Respondent learned that the ledger for the IOLTA account did not balance with the account balance reflected on the monthly statements, and had not balanced for many years. The older partners in the firm had apparently entrusted the keeping of the ledger to the bookkeeper, and to Respondent's chagrin, it had been somewhat carelessly maintained. By this time, however, the account had been in existence for at least 28 years, hundreds of millions of dollars had passed through the account, records for the account

going back five or ten years, let alone 28 years, no longer existed, and it was simply impossible to reconstruct a ledger at that point in time that would balance with the actual account balance. Thus, the problem with the IOLTA account is one that Respondent "inherited," although he did not even know there was any problem (other than the inadequately-maintained ledger) with the account until he received the overdraft notifications from Client Security in October 2016.

15. In addition to having no reason to suspect that the balance in the IOLTA account was anything less than it should have been, approximately four or five years ago Respondent learned (secondhand) of events that occurred with the account about ten (10) years ago, which caused him to believe that the account probably had an *excess* balance of about $40,000 over what was then entrusted to the firm. Over the next few years, Respondent struggled with what to do about the account, since there was no way to determine by that time the exact amount that should be in the IOLTA account, and therefore, no way to determine the exact amount of the surplus (or what he then believed to be a surplus) in the account.

16. The Rules of Professional Conduct, particularly Rule 1.15, and the Pennsylvania Rules of Disciplinary Enforcement, were amended, effective in January 2015. Respondent was, of

course, aware of what he considered to be the more stringent recordkeeping requirements concerning IOLTA accounts that went into effect in January 2015. However, Respondent had "inherited" an apparently unsolvable problem, in that, as explained above, he believed that there was absolutely no possible way to go back 33 years and reconstruct a ledger that would properly balance with the actual IOLTA account balance. Therefore, Respondent did arrive at what he believed to be a reasonable course of action.

17. In 2015, Respondent knew that his firm's office lease was due to expire at the end of October 2016. Respondent intended to dissolve the firm at that time and begin a new entity, which in fact is what happened. Therefore, because Respondent would be opening a new IOLTA account for his new entity, he determined to simply phase out the old IOLTA account when he opened his new IOLTA account by allowing all outstanding checks to be paid on the old account, after which he would then terminate the use of that account. He would then maintain all proper records for his new IOLTA account going forward, which he has in fact done.

18. Respondent now knows that what he believed to be a surplus in the PNC IOLTA was a mixture of earned fees and undistributed client funds. In October 2016, when the PNC IOLTA

balance was dwindling down, and Respondent began withdrawing portions of the perceived surplus, the withdrawals resulted in the two overdrafts which precipitated the referral from Client Security to ODC. It was then that Respondent, in consultation with Mr. Simpson, determined that there was a deficiency in the IOLTA account. Respondent was surprised and mortified to learn that there was a deficiency in the account balance.

19. Since opening his new IOLTA account at the beginning of 2017, Respondent has properly maintained all IOLTA account records and has done the required monthly reconciliations on the account.

20. Respondent admits that at times he improperly advanced fees to the firm from the PNC IOLTA before receipt of settlement funds on cases he had settled, or knew he would settle. Respondent did so on the mistaken belief that the PNC IOLTA had an excess of more than $40,000.00 and therefore Respondent believed that the distribution of earned fees was coming from that excess.

21. Respondent knows that this caused temporary deficiencies in the PNC IOLTA. However, Respondent never intentionally disbursed to the firm any funds in excess of duly-earned fees.

A) FEES TAKEN PRIOR TO DEPOSITS OF CORRESPONDING CLIENT SETTLEMENTS

22. The following chart depicts fees that Respondent withdrew from the PNC IOLTA prior to deposits of corresponding client funds:

	CLIENT SETTLEMENT DEPOSIT			P&Q IOLTA CHECK FOR FEE			
Client #	Check Date	Date Check Deposited	Deposit Amt	Check Date	Check #	Check Amt	Days Early (> 5 Days)
1	12/27/13	12/30/13	$ 235,000.00	12/22/13	2927	$ 20,000.00	8
2	10/22/14	10/29/14	$ 90,000.00	09/24/14	3158	$ 12,000.00	35
3	10/22/14	10/29/14	$ 90,000.00	10/10/14	3170	$ 5,000.00	19
4	11/10/14	11/25/14	$ 47,500.00	11/06/14	3195	$ 15,000.00	19
5	01/14/15	01/16/15	$ 245,000.00	11/13/14	3201	$ 10,000.00	64
6	01/14/15	01/16/15	$ 245,000.00	11/18/14	3206	$ 10,000.00	59
7	01/14/15	01/16/15	$ 245,000.00	12/24/14	3240	$ 20,000.00	23
8	01/16/15	01/28/15	$ 60,000.00	01/12/15	3260	$ 15,000.00	16
9	03/16/15	03/26/15	$ 50,000.00	02/26/15	3295	$ 10,000.00	28
10	04/02/15	04/13/15	$ 22,500.00	03/13/15	3305	$ 4,000.00	31
11	04/22/15	04/30/15	$ 7,500.00	03/26/15	3317	$ 2,500.00	35
12	04/21/15	04/27/15	$ 15,000.00	04/13/15	3324	$ 8,000.00	14
13	10/27/15	10/30/15	$ 50,000.00	10/20/15	3413	$ 10,000.00	10
14	02/22/16	03/20/16	$ 90,000.00	11/09/15	3432	$ 20,000.00	132
15	06/24/16	07/01/16	$ 34,647.65	06/09/16	3541	$ 8,000.00	22
16	07/11/16	07/18/16	$ 180,000.00	06/28/16	3547	$ 20,000.00	20
17	09/20/16	10/13/16	$ 36,500.00	09/01/16	3576	$ 12,000.00	42
18	10/19/16	10/25/16	$ 50,000.00	09/08/16	3577	$ 12,500.00	47
19	10/26/16	11/03/16	$ 15,000.00	09/27/16	3583	$ 3,000.00	37
20	12/01/16	12/08/16	$ 24,000.00	10/26/16	4208	$ 3,000.00	43
						$ 220,000.00	

23. By way of illustration, on October 22, 2014, Respondent deposited a $90,000.00 settlement check into his IOLTA in connection with his representation of client #2. However, Respondent had taken his fee of $12,000.00 for client #2 on September 24, 2014, 35 days prior to depositing client #2's settlement check into his IOLTA.

24. ODC conducted an entrusted funds analysis of Respondent's PNC IOLTA and determined that Respondent's taking of advanced fees and improper withdrawals caused the account to be out of trust as set forth below:

Out-of Trust		
From	***To***	***Maximum Amt***
07/28/14	07/28/14	$ 4,846.00
12/09/14	12/10/14	$ 2,323.39
12/22/14	12/28/14	$ 11,144.92
01/02/15	01/15/15	$ 26,980.20
01/23/15	01/27/15	$ 2,980.20
03/13/15	03/15/15	$ 1,928.54
09/16/15	09/20/15	$ 7,371.40
11/09/15	12/07/15	$ 7,498.00
12/10/15	12/27/15	$ 4,498.00
12/29/15	01/18/16	$ 14,498.00
01/22/16	01/31/16	$ 8,399.20
07/12/16	07/17/16	$ 11,231.33
08/25/16	08/25/16	$ 8,030.33
09/01/16	10/27/16	$ 43,957.15
11/14/16	12/30/16	$ 6,207.08

25. A comprehensive audit and investigation revealed no evidence that Respondent purposely converted funds from any clients or third parties or purposefully misappropriated funds resulting in losses to any clients or third persons. All out-of-trust situations resulted from Respondent's erroneous belief that his IOLTA held a $40,000.00 surplus and from poor bookkeeping practices.

II. (FILE No. C4-18-683 COMPLAINT OF GEORGE FEDOR)

26. On June 30, 2014, attorney James F. Donohue filed a *Praecipe To Issue A Writ of Summons* in the matter captioned *George Fedor et al vs. Advance Waste Services, Inc. et al*, Court of Common Pleas of Lawrence County, AD No. 10661-14 CA (hereinafter Lawrence County Action).

27. By letter dated August 5, 2015, Mr. Donohue advised George Fedor and the other plaintiffs in the Lawrence County Action that:

a) Mr. Donohue was closing his office because he had been suspended;

b) He was referring the case to Respondent; and

c) Respondent would be contacting the plaintiffs directly to discuss the matter.

28. On October 13, 2015, Respondent:

a) met with Mr. Fedor and Dennis Lewis, another plaintiff, at Mr. Fedor's house;

b) advised Mr. Fedor and Mr. Lewis that Respondent was taking over the Lawrence County Action from Mr. Donohue;

c) represented that he would file a complaint in the Lawrence County Action by the first of the year; and

d) filed his entry of appearance in the Lawrence County Action.

29. Between October 13, 2015 and September 12, 2017, Mr. Fedor called Respondent's office numerous times and left messages requesting Respondent to contact him regarding the Lawrence County Action.

30. Respondent claims he did talk with both Mr. Fedor and Mr. Lewis and told them that the complaint would be filed; Respondent did not file it.

31. By letter to Respondent dated September 12, 2017, sent by certified mail, Mr. Fedor referenced the Lawrence County Action and:

a) stated Respondent had not returned his numerous calls;

b) reminded Respondent of Respondent's representation to Mr. Fedor at their meeting that Respondent was going to file a complaint in the Lawrence County Action by the first of the year; and

c) inquired whether Respondent was going to proceed with the case.

32. Respondent received Mr. Fedor's September 12, 2017 letter.

33. Respondent did not respond in writing to Mr. Fedor's September 12, 2017 letter.

34. By letter to Respondent dated August 24, 2018, sent by certified mail, Mr. Fedor:

a) enclosed his September 12, 2017 letter;

b) stated that Respondent had not responded to the letter;

c) advised that he had difficulty communicating with Respondent from the very beginning of Respondent's representation; and

d) requested Respondent provide him with a written summary of Respondent's plan to proceed with the Lawrence County Action.

35. Respondent received Mr. Fedor's August 24, 2018 letter.

36. Respondent did not respond in any manner to Mr. Fedor's August 24, 2018 letter.

37. On July 9, 2018 a Notice of Proposed Termination of Court Cases (Notice) was filed in the Lawrence County Action.

38. The Notice:

a) advised the Court intended to terminate the Lawrence County Action without further notice because the docket showed no activity for at least two years, pursuant to Pa.R.J.A. 1901;

b) informed that the Plaintiff could stop the Court from terminating the Lawrence County Action by filing a Statement of Intention to Proceed;

c) warned that failure to file the required Statement of Intention to Proceed would result in the case being terminated; and

d) instructed the Prothonotary to serve the Notice upon Respondent and any unrepresented parties.

39. Respondent was served with the Notice.

40. After being served with the Notice, Respondent:

a) did not file a Statement of Intention to Proceed;

b) took no action to preserve the Lawrence County Action; and

c) did not communicate with Mr. Fedor in any manner.

41. On November 27, 2018, a Termination was filed terminating the Lawrence County Action with prejudice.

42. Respondent acknowledges that his conduct violated Rules of Professional Conduct 1.1, 1.3, 1.4(a)(3) and RPC 1.4(a)(4). He admits to "dropping the ball" in this matter and claims that he had ill-advisedly taken this case as a favor to Mr. Donohue, whom Respondent had represented in Mr. Donohue's disciplinary matter. Respondent claims he should not have taken the case, and would not have taken the case if the client came to him initially.

III. (FILE No. C4-18-1130 COMPLAINT OF VERNON RIDDELL)

43. On December 15, 2017, Vernon A. Riddell retained Respondent to prosecute a claim arising from a mislabeled prescription filled by Rite-Aid pharmacy and provided Respondent with evidence consisting of a pill bottle and two pills.

44. Between February 2018 and April 2018, Respondent was not responsive to Mr. Riddell's numerous phone messages.

45. By letter to Respondent dated April 15, 2018, Mr. Riddell:

a) recounted his difficulty in communicating with Respondent;

b) requested a status update; and

c) asked for copies of documents and correspondence relating to his case.

46. Respondent received Mr. Riddell's April 15, 2018 letter but did not respond.

47. Between May and August 2018, Mr. Riddell called Respondent's office and left multiple messages but received no response.

48. On September 26, 2018, Mr. Riddell called Respondent's office, and spoke with Lisa Rulong, Respondent's paralegal, who promised to talk to Respondent and call Mr. Riddell back the next week.

49. Ms. Rulong never called Mr. Riddell back.

50. In both October and November 2018, Mr. Riddell called and left two messages for Ms. Rulong, but did not receive a return call.

51. On November 5, 2018, Mr. Riddell called Respondent's office twice and:

a) left a message on Respondent's answering machine; and

b) left a message with Respondent's receptionist for Respondent and Ms. Rulong.

52. Neither Respondent nor Ms. Rulong responded to Mr. Riddell's messages.

53. On November 27, 2018, Mr. Riddell called and spoke with Ms. Rulong, at which time:

a) Ms. Rulong informed Mr. Riddell that Respondent had decided not to pursue Mr. Riddell's case;

b) Mr. Riddell advised that he had no choice but to file a complaint against Respondent with the Disciplinary Board; and

c) Ms. Rulong promised to talk to Respondent and stated that either Respondent or she would get back to Mr. Riddell.

54. By letter to Respondent dated January 7, 2019, Mr. Riddell advised Respondent he had filed a disciplinary complaint against Respondent and requested a copy of his file and the return of the evidence (pill bottle and two pills) he had provided Respondent.

55. Respondent received Mr. Riddell's January 7, 2019 letter but did not respond.

56. By letter dated January 17, 2019, Mr. Riddell requested a detailed status of Respondent's representation,

copies of his documents and the return of the evidence he had provided Respondent at their initial meeting.

57. Respondent received Mr. Riddell's January 17, 2019 letter but did not respond.

58. Respondent was apprised of the foregoing allegations by DB-7 dated February 4, 2019.

59. Respondent submitted a Statement of Position dated April 30, 2019 admitting violating Rules of Professional Conduct RPC 1.4(a)(3), RPC 1.4 (a)(4) and RPC 1.16(d). Respondent admitted that he failed to send a letter to Mr. Riddell explaining that Respondent did not believe Mr. Riddell had a cause of action.

60. In response to the DB-7 letter, Respondent provided Mr. Riddell his file and the evidence that Respondent possessed.

IV. (File No. C4-19-196 Complaint of James Hoey)

61. On April 15, 2017, James J. Hoey retained Respondent to make a claim, prosecute, or if necessary, file suit or actions against any and all responsible parties for damages arising from medical care provided on or about July 1, 2016, to Mr. Hoey's late wife, Donna Hoey.

62. Donna Hoey died on February 15, 2017.

63. On July 29, 2017, October 28, 2017 and January 27, 2018, Mr. Hoey or Mr. Hoey's son, on behalf of Mr. Hoey, called Respondent's office and was advised that Respondent was still waiting to receive records.

64. On February 11, 2018, March 19, 2018, May 4, 2018, September 12, 2018, November 20, 2018, December 13, 2018, January 28, 2019, February 6, 2019, February 13, 2019 and February 26, 2019 Mr. Hoey or Mr. Hoey's son called Respondent's office and left messages for Respondent to return his calls.

65. Respondent never responded in any manner to Mr. Hoey's or Mr. Hoey's son's phone calls as described in the preceding paragraph.

66. In connection with his representation of Mr. Hoey, Respondent copied Mr. Hoey on the following:

a) a letter dated April 18, 2018, to Commonwealth of Pennsylvania Department of Revenue stating, among other things, that Respondent had not received all of Ms. Hoey's medical records;

b) a letter dated August 14, 2018, to Ms. Mary Olsen/dcm services; and

c) a letter dated September 23, 2018, to dcm services.

67. On February 26, 2019, Mr. Hoey received a February 19, 2019 letter from Respondent.

68. Respondent's February 19, 2019 letter stated, *inter alia*,:

a) About two weeks earlier Respondent had completed his review of the medical records in connection with Mrs. Hoey's potential case;

b) Respondent had reached the conclusion that "this would be a most difficult case to prove any medical negligence";

c) Respondent believed that "Dr. Weaver's decision to take the lesion on Donna's nose was called for"; and

d) Respondent was "sorry there's nothing further that [Respondent could] do for [Mr. Hoey]."

69. As of February 19, 2019, the statute of limitations on any potential claim arising from the medical care to Mrs. Hoey had expired.

70. Prior to the expiration of the applicable statute of limitations for Mr. Hoey's claim, Respondent failed to protect Mr. Hoey's interest by not giving reasonable notice to Mr. Hoey of his termination of the representation.

71. Respondent failed to take any action on behalf of Mr. Hoey to preserve any potential claim arising from the medical care provided to Mrs. Hoey.

72. Other than the April 18, 2018, August 14, 2018, September 13, 2018 and February 19, 2019 letters previously referenced, Respondent provided no correspondence to Mr. Hoey in connection with Respondent's representation.

V. (File No. C4-17-649 Complaint of Janet L. Wilson)

73. Janet L. Wilson was married to Samuel Wilson until his death on November 22, 2017.

74. On December 10, 2014, surgeons at UPMC Hamot performed a procedure on Mr. Wilson to remove a benign tumor.

75. Immediately after surgery, Mr. Wilson developed major complications, including a stroke.

76. Mrs. Wilson believed her husband received poor medical treatment and consulted with attorney Michael A. Joanow.

77. Mr. Joanow referred Mrs. Wilson to Respondent.

78. On May 7, 2015, Respondent met with Mrs. Wilson and Mr. Joarow and Mrs. Wilson retained Respondent to institute and maintain an action against applicable parties to recover damages for personal injuries Mr. Wilson sustained in connection with his surgery and treatment.

79. The initial records Respondent received from the local eye surgeon indicated that treatment had been delayed because of Mr. Wilson's decision. Respondent claims he spoke with Mrs. Wilson and advised her of this.

80. By letter to Mrs. Wilson dated July 14, 2016, Respondent advised, *inter alia*, that he was awaiting additional hospital records before he could finish his analysis and that after he had an opportunity to review these records, he would sit down with Mrs. Wilson at Mr. Joanow's office.

81. By letter to Mrs. Wilson dated August 5, 2016, Respondent, *inter alia*,:

a) advised that he had secured "some records from UPMC Hamot";

b) claimed that he did not see any indication of delay in obtaining a certain CT scan, however, he did "not have every page of the chart"; and

c) advised that if Mrs. Wilson could be more specific on what she believed went wrong, he would "see if [Respondent] could find any supporting paperwork."

82. By letter to Respondent dated November 20, 2016, Mrs. Wilson provided a detailed description of what she believed were

mistakes made during critical periods throughout her husband's treatment.

83. The receipt by Respondent of the November 20, 2016 letter was delayed because it had been addressed to Respondent's old address.

84. After receiving the November 20, 2016 letter, Respondent claims he had a telephone conversation with Mrs. Wilson at which time he advised her that the records did not match her description of events and that he did not believe there was any merit to a malpractice claim.

85. On or about August 11, 2017, Mr. Joanow spoke with Respondent, at which time:

a) Mr. Joanow advised Respondent that Mrs. Wilson was trying to get in touch with Respondent;

b) Mr. Joanow requested Respondent to contact Mrs. Wilson because she was becoming anxious and upset; and

c) Respondent advised Mr. Joanow that Respondent would look into the matter.

86. By letter to Respondent dated October 28, 2017, Mrs. Wilson stated she had been experiencing difficulty over the past two years communicating with Respondent and requested Respondent

provide her a detailed letter regarding the status of her husband's case.

87. Respondent received Mrs. Wilson's October 28, 2017 letter on December 12, 2017. Respondent claims that by that time he was aware that Mrs. Wilson had filed a disciplinary complaint against him and did not feel comfortable communicating with her. Respondent believed that Mrs. Wilson was aware that no action was going to be filed because he had told her previously on more than one occasion that he would not be pursing the matter.

88. Respondent admits that in connection with his representation of Mrs. Wilson, he violated RPC 1.4(a)(4) and RPC 1.4(b) because he did not communicate with Mrs. Wilson as frequently as he should have. Additionally, although Respondent contends he verbally advised Mrs. Wilson there was no meritorious case, he admits he should have sent a final "rejection" letter to her once he had determined that the records did not support a malpractice case.

SPECIFIC RULES OF PROFESSIONAL CONDUCT VIOLATED

89. With respect to file C4-16-920, Respondent violated Rule of Professional Conduct 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 properly safeguarded.

90. With respect to file C4-18-683 (Complaint of George Fedor) and file C4-18-1130 (Complaint of Vernon Riddell), Respondent violated RPC 1.3, which states that a lawyer shall act with reasonable diligence and promptness in representing a client; RPC 1.4(a)(3), which states that a lawyer shall keep the client reasonably informed about the status of the matter and RPC 1.4 (a)(4), which states that a lawyer shall promptly comply with reasonable requests for information.

91. With respect to his representation of Mr. Fedor, Respondent also violated RPC 1.1, which provides that a lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

92. With respect to his representation of Mr. Riddell, Respondent also violated RPC 1.16(d), which states that 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 and surrendering papers and property to which the client is entitled.

93. With respect to file C4-19-196, (Complaint of James Hoey), Respondent violated RPC 1.4(a)(3), RPC 1.4(a)(4) and RPC 1.16(d).

94. With respect to file C4-17-649, (Complaint of Janet L. Wilson), Respondent violated RPC 1.4(a)(4) and RPC 1.4(b).

SPECIFIC RECOMMENDATION FOR DISCIPLINE

95. Petitioner and Respondent jointly recommend that the appropriate discipline for Respondent's admitted misconduct is a public reprimand.

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

97. In support of the joint recommendation, it is respectfully submitted that the following mitigating circumstances are present:

a) Respondent has admitted engaging in misconduct and violating the charged Rules of Professional Conduct;

b) Respondent has fully cooperated with ODC throughout ODC's extensive audit of Respondent's IOLTA and has further cooperated in connection with this Petition, as evidenced by Respondent's

admissions herein and his consent to receiving a public reprimand;

c) After an extensive investigation and audit of Respondent's IOLTA, Respondent did not purposely convert funds from any client or third parties. Although ODC's entrusted funds analysis determined that Respondent's practice of taking fees early placed him out of trust for short periods of time, ODC uncovered no purposeful misappropriations resulting in losses to clients. In every case reviewed, Respondent paid his clients their funds owed, sometimes reduced his fee for clients who needed the money and paid every referral fee.

d) Respondent is remorseful for his misconduct and understands he should be disciplined, as evidenced by his consent to receiving a public reprimand.

e) No client, referring party, or third party ever had to wait to receive their funds. Respondent promptly delivered all Rule 1.15 Funds to the party to whom they belonged.

98. Respondent also claims the following mitigation:

a) As to the complaints that primarily involve inadequate communications with clients and some dilatory action, Respondent wishes to point out that he has presented numerous CLE programs over the years on attorney ethics and has advised numerous attorneys concerning their ethical responsibilities. He has also represented numerous respondent-attorneys before the Disciplinary Board, and in the course of doing so, has assisted them in taking curative action and become better and more ethical attorneys. Therefore, the sudden onset of the handful of cases in which Respondent engaged in dilatory actions and/or a failure of communication is explained by the following.

1) Respondent has been suffering from depression since about 2006. Respondent's depression is <u>not</u> such that he is claiming *Braun* mitigation, but it has nonetheless certainly been a contributing factor to his handling of a handful of cases.

2) Respondent's depression appears to be partly clinical and partly situational. Respondent's depression seems to have its genesis in certain physical ailments he has been experiencing since at least 2003. Beginning in 2003, and continuing up through the present time, Respondent has undergone no less than eight (8) surgeries, most of them major, invasive surgeries. Respondent was in his early 50's when these surgeries began and were for conditions that usually have their onset in much older individuals. The cumulative effect of these surgeries over the years, the knowledge that Respondent had to submit to these surgeries at such a young age, the resultant recoveries and in some cases, the longterm effects of the surgery, and the fact that many of Respondent's health issues continue, all led to and contributed, on an ongoing basis, to his depression.

3) Respondent has been treating with his doctor for his depression since 2007 and has been taking anti-depressant medications since that

time. Finding the right medication, and the right dosages, for depression varies greatly from individual to individual, and Respondent reports that, until recently, he and his doctor had difficulty finding the right medicine(s) and dosages to adequately treat his depression. 4) Respondent and his wife also face a somewhat difficult family situation. He and his wife are raising his wife's 7½ year old grandson. While Respondent is happy on the one hand that he and his wife are able to provide a much-needed stable home life to the grandson, Respondent nonetheless did not envision spending his "golden years" being a parent again, and he knows that he will continue being a parent until he is almost 80 years old. This has caused some stress, and adds to his depression, as Respondent and his wife are unable to travel and do many of the other things that couples in their late 60's and throughout their 70's typically do. Obviously, having to raise a young child also places an additional and unexpected financial burden on

Respondent at this later stage of his life, in addition to being a drain on his diminishing energies.

5) The outstanding disciplinary complaint involving the IOLTA account, which for the most part deals with a problem that Respondent "inherited," has also weighed heavily on Respondent since 2016, and has contributed to his depression.

6) Respondent also admits to having difficulty in recent years saying "no" to potential clients, especially ones who were referred to him by previous clients or other attorneys, even if the cases have dubious merit.

7) All of these factors have contributed to Respondent's uncharacteristic inattention to or lack of communication in a handful of his cases. He has taken and is continuing to take curative action. First and foremost, he is continuing treating with his doctor for his depression and intends to do so indefinitely. Moreover, Respondent and his doctor seem to have finally found the right combination and

dosage of medications to treat his depression, as his depression has seemingly significantly improved recently.

8) Moreover, Respondent is now being much more selective in the cases he accepts. Respondent, at almost 69 years old and with his ongoing physical ailments and unexpected parental duties, now realizes that he simply cannot carry the kind of caseload that he did in his younger years.

99. In support of Petitioner and Respondent's joint recommendation, the following aggravating circumstance is present:

a) Respondent has a history of discipline, having received on May 6, 2015, an informal admonition for violations of RPC 1.1, 1.3, 1.4 and 1.16(d) in connection with files C4-13-730 and C4-14-454.

100. Respondent's misconduct involves Respondent's mismanagement of his IOLTA account and his lack of communication in connection with several client matters.

101. The parties agree that in totality, Respondent's misconduct warrants public discipline. Nevertheless, the lack of client harm and dishonest or deceitful conduct in combination

with the other mitigating factors present here militates against a suspension. Additionally, as will be described more fully, precedent supports the imposition of public discipline without suspension for attorneys who engage in neglect and failure to communicate and have a record of private discipline.

102. Precedent supports the imposition of a public reprimand for an attorney's mismanagement of an IOLTA account resulting from poor record-keeping, as opposed to dishonest or deceitful conduct.

In **ODC v. Gordon D. Fisher**, 21 DB 2016 (D.Bd. Order 1/19/2017), Fisher, who similar to Respondent, had a previous informal admonition, was out of trust for as much as $35,838.89 over a year and a half period with regard to a client's estate. The cause of the deficiency was Fisher's 67 wire transfers of funds to himself. The wire transfers were as small as $250.00 and as large as $5,400.00.

After the hearing, the Hearing Committee found credible Mr. Fisher's testimony that his excessive fee taking was due to his inattention to proper record-keeping and that he did not realize that he had been paid all the fees to which he was entitled. The Committee found that Fisher's actions did not constitute dishonest or deceitful conduct and recommended a public reprimand. On April 7, 2017, the Disciplinary Board administered

a public reprimand. *See also,* **Office of Disciplinary Counsel v. Jack M. Bernard,** No. 52 DB 2015 (D.Bd. Order 4/27/2015) (Disciplinary Board imposed a consent public reprimand where respondent's IOLTA accounts were out-of-trust in amounts ranging from $518.55 to $22,858.55 due to his lack of attention and bookkeeping errors); and **Office of Disciplinary Counsel v. Michael Paul Petro,** No. 195 DB 2014 (D.Bd. Order 2/2/2016) (Disciplinary Board imposed a public reprimand where evidence established that Petro's mishandling of his firm's IOLTA account resulting in his being out of trust on behalf of four clients in amounts as high as $22,296.98 over five months was caused by his lack of proper record handling but not dishonest behavior).

103. The instant case is similar to **Fisher, Bernard** and **Petro** in that there is insufficient evidence to establish dishonest or deceitful misconduct, nor harm to clients.

104. With respect to Respondent's misconduct relating to his neglect and failure to communicate with his clients in several matters, case law supports the imposition of public discipline short of suspension for attorneys who neglect and fail to communicate and have a record of private discipline. *See* **Office of Disciplinary Counsel v. Joseph A. Canuso,** No. 176 DB 2007 (S.Ct. Order 6/29/2008) (Consent public censure

administered where Canuso neglected two client matters and had previously received an informal admonition and a private reprimand for similar misconduct); **Office of Disciplinary Counsel v. Edward C. Meehan, Jr.**, No. 26 DB 2006 (S.Ct. Order 9/18/2006) (Consent public censure administered where Meehan neglected two appellate matters and had previously received an informal admonition and a private reprimand for similar misconduct) and **Office of Disciplinary Counsel v. Donald V. Chisholm, II**, No. 87 DB 2007 (S.Ct. Order 3/20/2008) (public censure administered to Chisolm who neglected two client matters and had previously received a private reprimand with one-year probation).

WHEREFORE, Petitioner and Respondent respectfully request that, pursuant to Pennsylvania Rules of Disciplinary Enforcement 215(e), 215(g) and 215(i), a three member panel of the Disciplinary Board review and approve the Joint Petition in Support of Discipline on Consent.

Respectfully submitted,

OFFICE OF DISCIPLINARY COUNSEL
PAUL J. KILLION,
Attorney Registration No. 20955,
Chief Disciplinary Counsel

7/24/19
DATE

HAROLD E. CIAMPOLI, JR., ESQUIRE
Disciplinary Counsel

Attorney Registration Number 51159
Office of Disciplinary Counsel
Suite 170, 820 Adams Avenue
Trooper, PA 19403
(610) 650-8210

7/23/19
DATE

JOHN E. QUINN, ESQUIRE
Attorney Registration Number 23268
Respondent

July 23, 2019
DATE

CRAIG E. SIMPSON, ESQUIRE
Attorney Registration Number 26485
Counsel for Respondent

VERIFICATION

The statements contained in the foregoing *Joint Petition In Support of Discipline on Consent* are true and correct to the best of my knowledge or information and belief and are made subject to the penalties of 18 Pa.C.S.A. §4904, relating to unsworn falsification to authorities.

7/24/19
DATE

HAROLD E. CIAMPOLI, JR., ESQUIRE
Disciplinary Counsel

7/23/19
DATE

JOHN E. QUINN, ESQUIRE
Respondent

July 23, 2019
DATE

CRAIG E. SIMPSON, ESQUIRE
Counsel for Respondent

BEFORE THE DISCIPLINARY BOARD OF THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	
Petitioner	:	File Nos. C4-16-920, C4-17-649,
	:	C4-18-683, C4-18-1130, and
	:	C4-19-196
v.	:	
	:	Attorney Registration No. 23268
JOHN E. QUINN	:	
Respondent	:	(Allegheny County)

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

COMMONWEALTH OF PENNSYLVANIA:
COUNTY OF ALLEGHENY:

John E. Quinn, being duly sworn according to law, deposes and hereby submits this affidavit consenting to the recommendation of a public reprimand in conformity with Pa.R.D.E. 215(d) and further states as follows:

1. He is an attorney admitted in the Commonwealth of Pennsylvania, having been admitted to the bar on or about October 26, 1976.

2. He desires to submit a Joint Petition in Support of Discipline on Consent Pursuant to Pa.R.D.E. 215(d).

3. His consent is freely and voluntarily rendered; he is not being subjected to coercion or duress, and he is fully aware of the implications of submitting this affidavit.

4. He is aware that there is presently pending a proceeding

into allegations that he has been guilty of misconduct as set forth in the Joint Petition in Support of Discipline on Consent Pursuant to Pa.R.D.E. 215(d) to which this affidavit is attached.

5. He acknowledges that the material facts set forth in the Joint Petition are true.

6. He submits the within affidavit because he knows that if charges predicated upon the matter under investigation were filed, or continued to be prosecuted in the pending proceeding, he could not successfully defend against them.

7. He acknowledges that he is fully aware of his right to consult and employ counsel to represent him in the instant proceeding. He has retained, consulted and acted upon the advice of counsel, in connection with his decision to execute the within Joint Petition.

It is understood that the statements made herein are subject to the penalties of 18 Pa.C.S.A. §4904 (relating to unsworn falsification to authorities).

Signed this 23 day of July, 2019.

Commonwealth of Pennsylvania
County of ALLEGHENY

John E. Quinn

Sworn to and subscribed before me this 23RD day of JULY, 2019.

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
Ashley H. Oster, Notary Public
Whitehall Boro, Allegheny County
My Commission Expires April 18, 2020
MEMBER, PENNSYLVANIA ASSOCIATION OF NOTARIES

Notary Public

BEFORE THE DISCIPLINARY BOARD OF THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	
Petitioner	:	File Nos. C4-16-920, C4-17-649,
	:	C4-18-683, C4-18-1130, and
	:	C4-19-196
v.	:	
	:	Attorney Registration No. 23268
JOHN E. QUINN	:	
Respondent	:	(Allegheny County)

CERTIFICATE OF SERVICE

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

First Class and Overnight Mail, as follows:

Craig E. Simpson, Esquire
Law Office of Craig E. Simpson
1500 Ardmore Blvd. Suite 207
Pittsburgh, Pennsylvania 15221-4468
Counsel for Respondent

Dated: 7/24/19

HAROLD E. CIAMPOLY, JR., ESQUIRE
Disciplinary Counsel
Attorney Registration No. 51159
Office of Disciplinary Counsel
820 Adams Avenue, Suite 170
Trooper, PA 19403
(610) 650- 8210

BEFORE THE DISCIPLINARY BOARD OF THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL Petitioner	:	No. 138 DB 2019
v.	:	
JOHN E. QUINN Respondent	:	Attorney Registration No. 23268 (Allegheny County)

PUBLIC REPRIMAND

John E. Quinn, you stand before the Disciplinary Board, your professional peers and members of the public for the imposition of a Public Reprimand. It is an unpleasant task to publicly reprimand one who has been granted the privilege of membership in the bar of this Commonwealth. Yet as repugnant as this task may be, it has been deemed necessary that you receive this public discipline.

Mr. Quinn, you are being reprimanded today for your misconduct involving your mismanagement of your IOLTA account and your lack of communication in connection with several client matters.

In October 2016, the Pennsylvania Lawyers Fund for Client Security received a report from PNC Bank of an overdraft in your PNC IOLTA account. After receiving an inquiry letter from the Fund, you advised the Fund, through your counsel, that the negative balances were not due to bank errors and that you were authorizing the referral of the matter to Office of Disciplinary Counsel. As a result of the referral, Office of Disciplinary Counsel began an extensive investigation and audit of your PNC IOLTA account.

By way of background, between 1983 and 2016, although the law firm with which you practiced law went through several iterations of attorneys/partners and changed names several times, the IOLTA account which is the subject of this matter remained essentially the same. In or about 2011, you were one of the two remaining partners at the firm. It was at that time that you first took control of the IOLTA account. You learned that the ledger for the IOLTA did not balance with the account balance reflected on the monthly statements, and had not been balanced for many years. Prior to you taking over the IOLTA account, the older partners in the firm had entrusted the keeping of the ledger to the bookkeeper, and it had been carelessly maintained. By the time you took over, the account had been in existence for at least 28 years, many millions of dollars had passed through the account, and records going far back did not exist, making it impossible to reconstruct a ledger in 2011. At the time you took over the account, you had no reason to suspect that the balance in the IOLTA was anything less than it should have been. However, you did learn in approximately 2015 of events that occurred with the account which caused you to believe that the account probably had an excess of about $40,000 over what was entrusted to the firm.

In light of this problem of not being able to reconstruct the ledger, you arrived at what you believed to be a reasonable course of action. Your firm's office lease was due to expire in October 2016. You intended to dissolve the firm and begin a new entity, which is what happened. Therefore, because you would be opening a new IOLTA account for the new entity, you determined to phase out the old IOLTA and terminate use of that old account. Unfortunately, what you believed to be a surplus in the PNC IOLTA was a mixture of earned fees and undistributed client funds. In October 2016, when the PNC IOLTA balance was dwindling down and you began withdrawing portions of the

perceived surplus, the withdrawal resulted in two overdrafts which precipitated the Fund's inquiry.

You admitted that at times you improperly advanced fees to the firm from the PNC IOLTA before receipt of settlement funds on cases you had settled, or knew would settle. You did so on the mistaken belief that the PNC IOLTA had an excess of more than $40,000.00 and therefore you believed that the distribution of earned fees was coming from that excess. There is no evidence that you intentionally disbursed to the firm any funds in excess of duly-earned fees. You did not purposely convert funds from any client or third party, and in every case reviewed by Office of Disciplinary Counsel, you promptly delivered all funds to the party to whom they belonged.

Since opening the new IOLTA account at the beginning of 2017, you have properly maintained all IOLTA account records and have performed the required monthly reconciliations on the account.

In four separate matters, you failed to adequately communicate with clients and were dilatory in addressing client matters.

Your conduct in this matter has violated the following Rules of Professional Conduct:

1. RPC 1.1 – A lawyer shall provide competent representation to a client;
2. RPC 1.3 – A lawyer shall act with reasonable diligence and promptness in representing a client;
3. RPC 1.4(a)(3) and 1.4(a)(4) – A lawyer shall keep the client reasonably informed about the status of the matter and promptly comply with reasonable requests for information;

4. RPC 1.4(b) – A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation;
5. 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 properly safeguarded; and
6. 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.

We note that you were admitted to practice law in the Commonwealth in 1976 and have a history of professional discipline consisting of an Informal Admonition imposed in 2015.

Mr. Quinn, your conduct in this matter is now fully public. This Public Reprimand is a matter of public record.

As you stand before the Board today, we remind you that you have a continuing obligation to abide by the Rules of Professional Conduct and Rules of Disciplinary Enforcement. This Public Reprimand is proof that Pennsylvania lawyers will not be permitted to engage in conduct that falls below professional standards. Be mindful that any future dereliction will subject you to more severe disciplinary action.

This Public Reprimand shall be posted on the Disciplinary Board's website at www.padisciplinaryboard.org.

Designated Member
The Disciplinary Board of the
Supreme Court of Pennsylvania

Administered by a designated panel of three Members of The Disciplinary Board of the Supreme Court of Pennsylvania, at Pittsburgh, Pennsylvania, on September 9, 2019.

ACKNOWLEDGMENT

The undersigned, Respondent in the above proceeding, herewith acknowledges that the above Public Reprimand was administered in his presence and in the presence of the designated panel of The Disciplinary Board at Frick Building, 437 Grant Street, Suite 1300, Pittsburgh, Pennsylvania, on September 9, 2019.

John E. Quinn