DISTRICT OF COLUMBIA COURT OF APPEALS
BOARD ON PROFESSIONAL RESPONSIBILITY

In the matter of:	§	
	§	
	§	**Board Docket No. 20-BD-003**
John E. Rosenbaum, Esq.,	§	**Disciplinary Docket No. 2015-D090**
	§	
Respondent.	§	
	§	
	§	
Bar Registration No. 457617	§	
	§	

ANSWER TO THE SPECIFICATION OF CHARGES

Undersigned counsel hereby answers the Specification of Charges as follows. Except as otherwise stated, Respondent denies every allegation, including any allegations contained in the preamble, unnumbered paragraphs, numbered paragraphs, titles, headings, subheadings, and footnotes.

PRELIMINARY STATEMENT

By way of background, Respondent attended college at the Wharton School of the University of Pennsylvania where he graduated with honors. He then worked at American Express for nearly ten years, performing corporate work as an Assistant Division Chief Financial Officer and Director. Afterwards, he attended law school at the University of San Francisco where he graduated *cum laude* and served as an Editor of the Law Review. Following graduation, he served as a law clerk to then Chief Judge Robert E. Coyle on the United States District Court for the Eastern District of California. Respondent then entered private practice in the Corporate Department of White & Case LLP. After nearly eight years at the firm, Respondent moved in-house to a specialty finance company, and he has also been Of Counsel at a New York-based law firm. Respondent has never been disciplined as an attorney over his twenty-five-year career.

Nearly ten years ago, a friend of Respondent's named Richard Denman asked Respondent to assist him with a Pennsylvania estate matter, which involved several French heirs. The Estate's Administrator called it "without a doubt the most complicated estate that [she had] ever been involved with." Because of the complexity of the issues facing the Estate, Mr. Denman served as Special Counsel to the Estate to advise it on a variety of legal issues. At Mr. Denman's request, Respondent, in turn, served as a fiduciary to the Estate. Respondent reported to Mr. Denman in accordance with the Estate's Escrow Agreement, which provided that the "Fiduciary will act under the sole direction of [Mr. Denman][.]" Respondent had no attorney-client relationship with anyone, including the Estate's heirs. Rather, under the Estate Escrow Agreement, Respondent's role was to disburse the Estate's funds pursuant to Mr. Denman's direction.

Both a Pennsylvania court and federal prosecutors have examined Respondent's handling of the Estate's funds; the court did not enter any money judgment against Respondent and prosecutors did not charge him with any crime. In 2013, several of the Estate's heirs alleged in the Pennsylvania court that Mr. Denman and Respondent mishandled the Estate's funds. The Pennsylvania court entered a judgment against Mr. Denman, referred Mr. Denman to the local District Attorney's office, and referred Mr. Denman to the New York and D.C. disciplinary boards. The Court did not enter a money judgment against Respondent or refer him for investigation. Later, the F.B.I and the United States Attorney's Office for the Southern District of New York investigated Respondent's work for the Estate, interviewing him and several others. Prosecutors indicted Mr. Denman for wire fraud (and he pleaded guilty to larceny) before he died. No charges were brought against Respondent. Although Respondent now recognizes that Mr. Denman took advantage of the heirs and stole money from them, Respondent did not know this at the time. Mr.

Denman misled both the Estate's heirs and Respondent. Respondent, of course, sympathizes with the Estate's heirs who lost significant sums of money.

ANSWER TO SPECIFIC ALLEGATIONS

Allegation 1. Respondent is a member of the Bar of the District of Columbia Court of Appeals, having been admitted on February 6, 1998, and assigned Bar number 457617.

1. Respondent admits the allegations in paragraph 1.

Allegation 2. Respondent is also a member of the California Bar. For all relevant time periods, Respondent resided in California.

2. Respondent admits that he is a member of the California Bar, and that he has been a resident of California from 1989 to present.

Allegation 3. On March 4, 2005, Gerard Petit, a U.S. citizen of French ancestry, died in Northampton County, Pennsylvania. Mr. Petit died intestate with no known heirs and principal assets over $1.8 million.

3. Respondent admits that documents reflect that Gerard Petit was a resident of Northampton County, Pennsylvania, and that he died on March 4, 2005 without a will. Respondent further admits that documents reflect that the Estate had principal assets of over $1.8 million. Respondent further admits that documents reflect that the Administrator wrote letters reflecting that Mr. Petit had no immediate known relatives. To the extent a further response is required, Respondent lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 3.

Allegation 4. The Northampton Orphan's Court in Pennsylvania appointed Annette Landes, Esq., a local attorney, as the Estate Administrator. She performed various functions to close the estate, including paying state and federal taxes, paying the Estate's debts, and identifying potential heirs, all of whom lived in France.

4. Respondent admits that Annette Landes served as the Estate Administrator. Respondent otherwise lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 4.

Allegation 5. During the administration of the Estate, a French genealogical company, Archives Genealogiques Andriveau ("Andriveau"), claimed it had performed genealogical research in France that entitled it to a percentage of the estate assets and threatened litigation.

5. Respondent, based on information and belief, admits the allegations in paragraph 5.

Allegation 6. On September 23, 2011, the Administrator retained Richard Denman, Esq. as "Special Counsel" to the Estate to address Andriveau's claims and advise about administering the Estate.

6. Respondent admits that Mr. Denman served as Special Counsel to the Estate. Respondent otherwise lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 5.

Allegation 7. Mr. Denman opined that Andriveau had no viable claim, but he nonetheless recommended that the Estate should establish a "reserve" of funds, to be held and maintained by a "fiduciary," which could be used, if necessary, to respond to future potential claims.

7. Respondent lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 7.

Allegation 8. In October 2011, Mr. Denman contacted Respondent, who agreed to serve as a fiduciary to the Estate to assist with maintaining and disbursing the Estate funds to the heirs.

8. Respondent admits that in about October 2011, Mr. Denman contacted him about the Estate of Gerard Petit, and that Respondent agreed to accept a role as a fiduciary to the Estate.

Allegation 9. Mr. Denman and Respondent had known each other since college, and Respondent had served as the best man at Mr. Denman's wedding. At the time he agreed to serve as the fiduciary, Respondent did not have a full-time job.

9. Respondent admits the allegations in paragraph 9, but denies that he did not have a full-time job.

Allegation 10. On October 25, 2011, Mr. Denman emailed the Administrator with a copy to Philippe Farcy, who was one of the heirs' grandsons. Mr. Farcy lived in the United States, spoke English, and was coordinating with the Administrator on behalf of the family members in France. Mr. Denman confirmed with Mr. Farcy and the Administrator that Respondent would serve as the "private fiduciary and temporary custodian of [Estate] funds."

10. Respondent lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 10, except that he admits Mr. Farcy purported to coordinate on behalf of the Estate's heirs.

Allegation 11. At all relevant times, Respondent identified himself to the Administrator, the heirs, and related parties as "John E. Rosenbaum, Attorney at Law and Fiduciary to the Estate."

11. Respondent admits that at certain times he identified himself as "John E. Rosenbaum, Attorney at Law and Fiduciary to the Estate."

Allegation 12. In November 2011, with the Administrator's consent, Mr. Denman traveled to France as "Special Counsel" to the Estate to meet personally with each of the five heirs, who were all between the ages of 62 and 102.

12. Respondent admits that Mr. Denman told him that he travelled to France and met with the heirs. Respondent otherwise lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 12.

Allegation 13. Mr. Denman confirmed the identity of the heirs and had each heir sign a release to receive disbursements from the Estate.

13. Respondent admits that documents reflect that each of the heirs referenced above signed Indemnification Agreements related to the Estate of Gerard Petit. Respondent otherwise lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 13.

Allegation 14. On November 23, 2011, Mr. Denman emailed Mr. Farcy and copied Respondent. Mr. Denman told Mr. Farcy that he would "transfer [the Estate funds] immediately to private fiduciary Rosenbaum" to maintain a $450,000 "reserve" and disburse around $800,000 to the heirs. Mr. Denman assured Mr. Farcy, "I never worry about reserves, especially when they are under Fiduciary control."

14. Respondent admits that Mr. Denman emailed Mr. Farcy and Mr. Rosenbaum on November 23, 2011, and that the email states, among other things: "I will receive personally in my lawyer client trust, the $1.5 million then transfer immediately to private fiduciary Rosenbaum for creation of 7 accounts for the $450k reserve, Administrative reserve, and $200,000 minimum per full share in 3 full share accounts and 2 half share accounts . . . I never worry about reserves especially when they are under Fiduciary control."

Allegation 15. On December 2, 2011, the Administrator and Mr. Denman signed an "Estate Escrow Agreement" drafted by Mr. Denman. The Agreement provided that the parties would establish a $450,000 "Reserve" from the Estate funds, which would be maintained by a private "Fiduciary."

15. Respondent admits that there is a document titled Estate Escrow Agreement dated December 2, 2011. The Estate Escrow Agreement indicates that "Any Fiduciary will act under the sole direction of the Special Counsel [Mr. Denman]" and that the "Special Counsel shall direct the Fiduciary, on behalf of Heirs, to pay all costs, debts and future claims[.]" It also refers to the fiduciary as the Special Counsel's "controlled Fiduciary." The document otherwise speaks for itself.

Allegation 16. On December 27, 2011, the Administrator filed the First and Final Formal Account for the Estate. After settling all debts and paying attorneys' fees and expenses, including federal taxes and Pennsylvania inheritance taxes, approximately $1.3 million remained to be disbursed to the heirs.

16. Respondent admits that documents reflect that on December 27, 2011, the Administrator filed the First and Final Formal Account for the Estate of Gerard Petit, and further avers that the document speaks for itself.

Allegation 17. On January 12, 2012, the Administrator filed a "Petition for Adjudication / Statement of Proposed Distribution" and a proposed Schedule of Distribution with the court. The Petition proposed disbursing $919,515.52 to the heirs and holding $450,000 of Estate principal in "reserve" in an escrow account. The Petition explained that the $450,000 "reserve" would be held by an escrow agent for three years, so it could be used to defend against any later claims against the Estate. After three years, the reserve "funds [would] be released to the heirs, less any expenses required in defense of the claims presented."

17. Respondent lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 17.

Allegation 18. On January 27, 2012, the Northampton County Court issued a Decree of Confirmation and Distribution, approving the proposed Schedule of Distribution and ordering that the Petit Estate's $1.3 million of remaining assets be disbursed as follows:

ORDERED DISBURSEMENT	AMOUNT
Principal to Marie Louise Lions, (Aunt)	$180,845.47
Income to Marie Louise Lions, (Aunt)	$49,033.41
Principal to Colette Veran (Cousin)	$180,845.47
Income to Colette Veran (Cousin)	$49,033.41
Principal to Etiennette Gardey (Cousin)	$180,845.47
Income to Etiennette Gardey (Cousin)	$49,033.41
Principal to Raoul Jean Lions (Cousin)	$90,422.74
Income to Raoul Jean Lions (Cousin)	$24,516.70
Principal to Nicole Lions Bezier (Cousin's Widow)	$90,422.74
Income to Nicole Lions Bezier (Cousin's Widow)	$24,516.70
Amount from Principal to Reserve / Escrow	$450,000.00
TOTAL:	**$1,369,515.52**

Total Principal to Heirs:	$723,381.89
Total Income to Heirs:	$196,133.62
Total Principal to Reserve / Escrow:	$450,000.00

18. Respondent admits that documents reflect that on January 27, 2012 the Northampton County Court issued a Decree of Confirmation, and further avers that the document speaks for itself.

Allegation 19. In February 2012, Mr. Denman had each French heir sign a general power of attorney, written only in English, that specifically authorized him to (1) "receive funds on [the heir's] behalf in a Washington, D.C., USA Bank of America Trust Account, then distribute them and maintain them," (2) "maintain financial, litigation and administrative reserves per agreements," and (3) "delegate John E. Rosenbaum [Respondent] as Fiduciary...to effect certain instructions from Mr. Denman under this document or other agreements."

19. Respondent admits, on information and belief, that each of the heirs signed a document titled "USA Statutory Power of Attorney" and further avers that the documents speak for themselves. Respondent did not prepare the power of attorney form and never communicated with any heir concerning the signing of the form.

Allegation 20. Mr. Denman presented the powers of attorney to the Administrator and claimed that the heirs had signed the powers of attorney so that Mr. Denman could facilitate the transfer of funds to them in France. Mr. Denman also said that each heir had waived any conflict that existed by his serving as special counsel to the Estate and as an attorney-in-fact for the heirs.

20. Respondent lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 20.

Allegation 21. Respondent knew that the heirs had signed powers of attorney with Mr. Denman.

21. Respondent admits that at some point he learned that the heirs had signed power of attorney forms. Respondent did not prepare the power of attorney form and never communicated with any heir concerning the signing of the form.

Allegation 22. On February 6, 2012, Respondent opened a "Client Funds Account" with JP Morgan Chase, Account Number -9829, titled "John Rosenbaum Attorney at Law Disbursement Account."

22. Respondent admits the allegations in paragraph 22.

Allegation 23. On February 10, 2012, the Administrator caused the Estate's assets ($1,369,151.51) to be wired to Mr. Denman's IOLTA account.

23. Respondent lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 23.

Allegation 24. On February 13, 2012, Mr. Denman transferred $858,000 from his IOLTA account to Respondent's 9829 Disbursement Account, leaving $511,151.51 of the Estate funds in Mr. Denman's IOLTA account.

24. Respondent admits that on February 13, 2012 his 9829 Disbursement Account received $858,000 from Mr. Denman's DC IOLTA Trust Account. Respondent otherwise lacks

knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 24.

Allegation 25. Respondent created five Chase savings accounts—one for each heir. On February 27, 2012, Respondent funded each heir sub-account with transfers from the main 9829 Disbursement Account, as follows:

Heir Sub Account and Account No.	Amount
Etienette Gardey; By John Rosenbaum Attorney at Law Agent; Acct # 6911	$200,000
Marie Lions; By John Rosenbaum Attorney at Law Agent; Acct # 6515	$200,000
Raoul Lions; By Rosenbaum Attorney at Law Agent; Acct # 6507	$200,000
Nicole Bezier; By Rosenbaum Attorney at Law Agent; Acct # 6903	$100,000
Colette Veran; By Rosenbaum Attorney at Law Agent; Acct, # 6432	$100,000

Respondent left $58,000 in the 9829 Disbursement Account.

25. Respondent admits that he transferred funds in the stated amounts from his 9829 Disbursement Account to sub-accounts designated for each of the five heirs, except that he transferred $100,000 to the account for Raoul Lions and $200,000 to the account for Colette Veran.

Allegation 26. Between February 2012 and May 2013, Respondent disbursed $124,000 to the heirs in a series of 13 wire transfers for $9,500 and one wire transfer for $500. Respondent told the heirs that the wire transfers were "advances" or "loans."

26. Respondent admits that he made certain disbursements to the heirs during his work related to the Estate of Petit, and that he referred to those transfers as advances or loans against their final disbursements.

Allegation 27. In the same time period, between February 2012 and May 2013, Respondent disbursed $405,374.40 to Mr. Denman, to himself, and to pay expenses—mostly Respondent's and Mr. Denman's hotel, airfare, and dining charges for travel to France and New York. Respondent also disbursed $75,000 to Mr. Farcy as a "special custodial benefitter fee."

27. Respondent admits that he disbursed certain funds to Mr. Denman and to himself to pay for services and expenses incurred in connection with work performed by each of them related to the Estate of Petit. Respondent further admits that, at Mr. Denman's direction, Mr. Farcy was paid $75,000 for services and expenses related to the Estate of Petit.

Allegation 28. During this period, Respondent sent periodic invoices to Mr. Denman for "Fiduciary Services," which he charged at $400 per hour and were approved by Mr.

Denman. His charges included time he spent driving to the bank to get cashier's checks, driving to the post office to send cashier's checks, legal research, drafting settlement agreements, and conferring with Mr. Denman on legal issues. During the same period, Mr. Denman sent requests to Respondent to disburse Estate funds to pay Denman's fees, which Respondent paid. Respondent did not provide the heirs or the Estate Administrator with copies of his invoices or Mr. Denman's requests for fee disbursements, nor did he provide an accounting to show what he disbursed to himself and Mr. Denman. Respondent's withholding of funds from the heirs and disbursements to himself and Mr. Denman were not authorized by the heirs or the Estate Administrator and violated the January 27, 2012 Decree of Confirmation and Distribution.

28. Respondent admits that he sent invoices to Mr. Denman for the services he rendered to the Estate of Petit, and for which Respondent charged a rate of $400 per hour and further admits that Mr. Denman approved certain invoices. Respondent further admits that he disbursed certain funds to Mr. Denman to pay for Mr. Denman's services and expenses incurred in connection with his work related to the Estate of Petit. Respondent otherwise denies the allegations in paragraph 28, denies Disciplinary Counsel's characterization of certain events, and denies that he committed any misconduct. Furthermore, Respondent asserts that the statement "the disbursements . . . were not authorized by the heirs" is a mischaracterization since the documents do not show that any such right of pre-authorization or approval existed and neither the heirs nor the Estate Administrator ever asserted such a right.

Allegation 29. Respondent made false and misleading statements to the heirs about disbursing the Estate funds. By way of example, Mr. Denman and Respondent told the heirs that if they demanded direct payment of the Estate funds, "the French fiscal authorities will be alerted to a 'situation,'" and Mr. Denman would be "obligated, BY INTERNATIONAL TREATY, to give the French government 70%." Respondent further told the heirs that disbursing the funds directly to them "[wa]s not legally sustainable conduct . . . [and] may even be criminally sanctionable in the USA and France." He told the heirs that he needed to hold their funds in the U.S. to avoid the 70% "special French Tax" and that the funds needed to remain in the USA while he worked to minimize "the confiscatory French tax exposure." In fact, under the relevant U.S. — France tax treaty, the heirs were not subject to French inheritance taxes on distributions from the Petit Estate.

29. Respondent denies that he made false and misleading statements to the heirs about disbursing the Estate funds. Respondent admits that Mr. Denman emailed Mr. Rosenbaum, Evelyne Benjamin, and Phillippe Farcy on February 29, 2012 and stated: "By taking the money now, the French fiscal authorities will be alerted to a 'situation.' I will have to tell the truth that IRS (American Fisque) has not resolved issues. Ms. Gardey will have to pay a 70% payment because of the distance of consanguinity. I do remain devoted to my obligations. Fiduciary Rosenbaum is similarly aggrieved. We will do whatever stupidity Gardey signs on to. It is her money. She can throw it away as she likes. I will be obligated, BY INTERNATIONAL TREATY, to give the French government 70% in advance." Respondent further admits that on May 25, 2012 he sent a letter to Etiennette Gardy, which stated: "Andriveau wants their money. They have lawyers, too. Just sending you their money is not legally sustainable conduct. It may even be criminally sanctionable in the USA and France." Respondent further admits that an email from him to Phillippe Farcy on August 14, 2012 states: "Please be assured that we work in the heirs'

best interest, always and in an expeditious but laboring and exhaustive fashion, to minimize the modest US tax exposure and the confiscatory French tax exposure of the Estate of Petit and the heirs' interest in the Estate, within the boundaries of the law."

Allegation 30. Respondent concealed and suppressed information about how he was disbursing the Estate funds. By way of example, he withheld accountings of his disbursements, including the "fees" he paid to himself and Mr. Denman. After an heir asked Respondent to account for disbursements from the heirs' account, he cited "administrative expenses" (without further explanation), and he said that her inquiry constituted an "inappropriate comment on the administration and distribution of the estate;" he was required to "charge [her] account specially;" and additional inquiries would "serve[] only to incur costs directly allocable to [her] . . . thereby reducing [he]r ultimate distribution from the Estate."

30. Respondent denies that he concealed and suppressed information about how he was disbursing the Estate funds. Respondent admits that a May 25, 2012 letter from him to Etiennette Gardey states: "There have been administrative expenses" and that it also states: "I respectfully request that you stop any further non-professional, inappropriate comment on the administration and distribution of the estate and resolution of these matters. Furthermore, we request that you stop contacting Mr. Denman and me through Mr. Farcy. Do not contact Mr. Farcy on these matters. His role is helpful but limited. I regret to inform you that such continued contact that requires our attention and professional services serves only to incur costs directly allocable to you. These are costs that cannot be shared with the other satisfied and confident heirs. You will have to bear such costs directly, thereby reducing your ultimate distribution from the Estate of Petit. We have already had to charge your account specially for the unique contacts you have initiated."

Allegation 31. On May 20, 2013—after Respondent had disbursed more than $400,000 to himself and Mr. Denman—attorneys for four of the five heirs filed a motion with the Northampton County, Pennsylvania Court of Common Pleas for a preliminary injunction to freeze the accounts in Respondent's control. The motion alleged that there had been an "unexplained disappearance and dissipation of [the beneficiaries' funds]" and that Respondent and Mr. Denman had made "unauthorized withdrawals from Petitioners' inheritances and/or wasteful and unnecessary expenditures."

31. Respondent admits that four of the five beneficiaries of the Estate of Gerard Petit filed a Motion for Preliminary Injunction—on an ex parte basis without notice to Respondent—naming Respondent, Mr. Denman and the court-appointed Administrator, Ms. Landes, as parties, and further avers that the court filing speaks for itself.

Allegation 32. The court granted the motion the same day, freezing the accounts in Respondent's control.

32. Respondent admits that on May 20, 2013 the Court of Common Pleas, Northampton County, Orphans Court granted the Motion for Preliminary Injunction, avers that the action taken by the Court was made on an ex parte basis, without notice to Respondent, and without opportunity for Respondent to be heard, and further avers that the injunction entered by the Court speaks for itself.

Allegation 33. On May 20, 2013, the heirs' attorneys also filed a Petition for Review, asking the court to disgorge the funds in Respondent's control, to terminate him and Mr. Denman as Estate fiduciaries, and to assess a "surcharge" against them and the Administrator for funds that were improperly diverted. The Petition alleged that "Mr. Denman and [Respondent] have breached and are breaching their fiduciary duties owed to the Estate and Petitioners and are fraudulently committing waste with Petitioners' inheritances and the Escrow account."

33. Respondent admits that on May 20, 2013, four of the five beneficiaries of the Estate filed a Petition for Review, and further avers that the Petition speaks for itself.

Allegation 34. On June 28, 2013, the court ordered JP Morgan Chase Bank to "unfreeze" a single heir sub-account, the -6432 account Respondent held for Colette Veran, who had not joined the other heirs' motion for an injunction.

34. Respondent admits the allegations in paragraph 34.

Allegation 35. On July 3, 2013, Respondent transferred $88,789.01 from the Veran -6432 account to his personal checking account at Chase Bank, Account No. -4038, which held personal, non-client funds.

35. Respondent admits that on July 3, 2013 he transferred $88,789.01 from the Collette Veran Chase Bank sub-account to a personal Checking Account ending in 4038.

Allegation 36. The same day, on July 3, 2013, Respondent sent $7,500 to Colette Veran by wire transfer and paid a $45.00 wire transfer fee.

36. Respondent admits that on July 3, 2013, he sent $7,500 to Colette Veran by wire transfer and paid a $45.00 wire transfer fee.

Allegation 37. Respondent disbursed no other funds to Ms. Veran. He disbursed the remaining $81,244.01 of Ms. Veran's funds from his personal checking account to himself or to Mr. Denman.

37. Respondent admits that after July 3, 2013 he did not disburse any funds to Ms. Veran from the Veran Chase account, but at the direction of Denman, he disbursed $81,244.01 from this account to himself or to Mr. Denman and others specified by Mr. Denman, and that Denman made withdrawals from this account.

Allegation 38. On February 6, 2019, Disciplinary Counsel sent Respondent a letter listing all the disbursements he made from the Petit Estate funds based on his bank records and asking him to explain and provide his complete accounting records related to the disbursements. The opening sentence of the letter informed Respondent that the "matter remain[ed] under investigation."

38. Respondent admits that Disciplinary Counsel sent him a letter dated February 6, 2019, and further avers that the letter speaks for itself.

Allegation 39. On February 18, 2019, Respondent asked Disciplinary Counsel for an extension of time to respond, which was granted until April 8, 2019.

39. Respondent admits the allegations in paragraph 39.

Allegation 40. On March 18, 2019—while his response to Disciplinary Counsel was still pending—Respondent sent a letter to the Client Security Fund Commission for the State Bar of California wherein he falsely represented that Disciplinary Counsel had "after extensive review, determined that there was no evidence of misconduct."

40. Respondent admits that he sent the Client Security Fund Commission for the State Bar of California a letter dated March 18, 2019, in which Respondent stated: "both the California Bar and the Washington DC Bar, each after extensive review, determined that there was no evidence of misconduct on my part." Respondent avers that his letter to the Client Security Fund Commission was referring to earlier charges of professional misconduct that had been filed against him by Mr. Denman, and that Respondent's statement that Mr. Denman's charges had been reviewed and were determined to be lacking in merit was true. Respondent denies that he made any false representation to the Client Security Fund Commission. Respondent's assertion was based, in good faith, upon a July 22, 2014 letter from the District of Columbia's Office of Bar Counsel to Mr. Denman, which concluded: "This office has completed its investigation of your allegations of misconduct against John E. Rosenbaum . . . We have not found evidence of misconduct on Mr. Rosenbaum's part, therefore, we are dismissing your complaint and closing the file on the matter."

Allegation 41. Respondent's actions, as described above, satisfy the elements of Wire Fraud in violation of 18 U.S.C. § 1343 (individual commits wire fraud if he, "having devised...any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings...for the purpose of executing such scheme or artifice....").

41. Respondent denies the allegations in paragraph 41.

Allegation 42. Respondent's conduct violated the following Pennsylvania Rules of Professional Conduct:[1]

a. Rule 1.5(a), in that Respondent charged and collected an unreasonable and/or clearly excessive fee;

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[1] Under D.C. Rule 8.5(b)(1) (Choice of Law), the rules to be applied for "conduct in connection with a matter pending before a tribunal" are "the rules of the jurisdiction in which the tribunal sits." Here, the Estate was in Pennsylvania, and Respondent acted as a "Fiduciary" to the Estate. He controlled the Estate funds, which a Pennsylvania court had ordered disbursed to administer the Pennsylvania Estate. Accordingly, his conduct was "in connection" with a matter pending before a Pennsylvania tribunal, and Pennsylvania Rules apply. In the alternative, should the Board or Court conclude that D.C. Rules apply, Disciplinary Counsel charges Respondent with violating the corresponding D.C. Rules, which are substantively comparable to the Pennsylvania Rules.

b. Rule 1.15(b) (Misappropriation), in that Respondent failed to appropriately safeguard the funds he received as the "Fiduciary" to the Petit Estate and in so doing recklessly or intentionally misappropriated the funds;

c. Rule 1.15(b) (Commingling), in that Respondent failed to hold Rule 1.15 funds separate from the lawyer's own property;

d. Rule 1.15(e) in that Respondent, acting as a fiduciary, failed to promptly deliver estate funds that the beneficiaries were entitled to and failed to render a full accounting upon request;

e. Rule 8.4(a), in that Respondent knowingly assisted another to violate and/or attempt to violate the Rules of Professional Conduct;

f. Rule 8.4(b), in that Respondent committed a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects, namely Wire Fraud (18 U.S.C. § 1343);

g. Rule 8.4(c), in that Respondent engaged in conduct involving dishonesty, fraud, deceit, and misrepresentation: and

h. Rule 8.4(d), in that Respondent engaged in conduct that was prejudicial to the administration of justice.

42. Respondent denies the allegations in paragraph 42, except to admit that the Pennsylvania Rules of Professional Conduct are applicable to this matter.

Dated: March 9, 2020

Respectfully submitted,

William Murphy /IKAC

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Attorneys for Respondent John E. Rosenbaum

CERTIFICATE OF SERVICE

I hereby certify that on March 9, 2020, I caused four copies of the foregoing to be served by federal express to:

James T. Phalen
Executive Attorney
Board on Professional Responsibility
430 E Street NW, Suite 138
Washington, D.C. 20001

And to be served by electronic mail to:

Sean P. O'Brien, Assistant Disciplinary Counsel
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