

NOTEWORTHY DISCIPLINARY DECISIONS
January 2017 – December 2017

SUSPENSION

IMO S. Harold Lankenau
Supreme Court No. 61, 2017, Effective date: March 9, 2017

By order dated March 9, 2017, the Supreme Court of Delaware (“Court”) suspended S. Harold Lankenau from the practice of law in Delaware for an additional six months to his current eighteen-month suspension for violations of the Delaware Lawyers’ Rules of Professional Conduct. The Court approved the findings of the Board on Professional Responsibility (“Board”) finding Mr. Lankenau knowingly concealed unrelated ethical violations in his testimony during his prior disciplinary hearing (**Rules 3.3(a)(1), and 8.4(c)**). The Board also found Mr. Lankenau did not have a bona fide office when he filed pleadings in the Superior Court on two separate occasions. (**Rules 3.4(c) and 8.4(d)**).

INTERIM SUSPENSION

IMO WHEELER K. NEFF
Supreme Court No. 533, 2017, Effective date: December 19, 2017

On December 19, 2017, the Delaware Supreme Court ordered the interim suspension of Delaware lawyer, Wheeler K. Neff, based upon Mr. Neff’s felony criminal convictions.

DISBARMENT

IMO of Leo J. Ramunno,
Supreme Court No. 42, 2017. Effective Date: January 25, 2017.

On January 25, 2017, the Delaware Supreme Court ordered the disbarment of Delaware lawyer, Leo J. Ramunno, based upon his misappropriation of client trust funds.

In December 2016, the Office of Disciplinary Counsel (“ODC”) opened an investigation into Ramunno’s handling of his client trust funds after receiving a complaint from a client regarding Ramunno’s failure to disburse funds due to the client. During the course of its investigation the ODC found several irregularities in Ramunno’s client trust account. Pursuant to the ODC’s request Ramunno produced a copy of his general ledger

for his client trust account which reflected receipts, disbursements and balances for three years. Although not requested by the ODC, Ramunno also produced copies of the bank statements for trust account for the same time period. A comparison of the bank statements produced by Ramunno to the original bank statements revealed they were altered prior to Ramunno producing the records to the ODC. The monthly ending balances on Respondent's bank statements were altered to reflect higher ending balances than indicated on the original bank statements. Additionally, during each month, several electronic transfers from the trust account to the operating account were missing from Ramunno's bank statements.

Ramunno and the ODC signed and submitted for the Court's approval a stipulation seeking Ramunno's disbarment without further proceedings. In the Stipulation Ramunno admitted to the Delaware Supreme Court that he misappropriated Delaware client trust funds.

Donna L. Culver, Esquire has been appointed by the Court of Chancery as receiver for Mr. Ramunno's law practice.

IMO Daniel J. McCarthy

Supreme Court No. 229, 2017. Effective Date: October 23, 2017

On October 23, 2017, the Supreme Court of Delaware ordered the disbarment of a Pennsylvania attorney, Daniel J. McCarthy, based upon multiple professional misconduct violations involving dishonesty, deceit and lack of good moral character. In the disbarment Order, the Court affirmed findings made by the Board on Professional Responsibility that Mr. McCarthy committed six ethical violations. These arose out of Mr. McCarthy's representation of a medical doctor in Superior Court in defense of a medical negligence claim.

The medical doctor and staff altered medical records. After responding to a discovery request, Mr. McCarthy received two pages of the patient's medical chart that had been altered. Mr. McCarthy chose not to supplement the discovery response as he believed the altered records would adversely affect his client's credibility. Thereafter, Mr. McCarthy's client committed perjury at a deposition and at trial.

The Supreme Court approved the Board's finding that Respondent violated Rules 3.3(b), 3.4(a), 3.4(c), 4.1(b), 8.4(c) and 8.4(d) by failing to take reasonable remedial measures by disclosing to the trial court his client's criminal and/or fraudulent conduct; by unlawfully concealing a document having potential evidentiary value; by knowingly disobeying an obligation to supplement discovery pursuant to Superior Court Rule 26; by failing to disclose a material fact when disclosure was necessary to avoid assisting a fraudulent act by his client; by engaging in conduct involving dishonesty and deceit by

failing to provide the altered records to the plaintiff, plaintiff's attorney or the trial court; and by engaging in conduct that was prejudicial to the administration of justice.

In determining the appropriate sanction, the Board concluded Mr. McCarthy's actions in the litigation "were at best dishonest and at worse criminal and resulted in actual and potential harm to the litigants, the judicial process and the public." The Board found Mr. McCarthy violated his fundamental duties to the Court.

The Court ordered Mr. McCarthy disbarred and "unconditionally excluded from the admission to or the exercise of any privilege to practice law in this State."

PUBLIC REPRIMAND

IMO Tabatha L. Castro

Supreme Court No. 5, 2017, Effective Date: April 12, 2017

A Delaware lawyer was publicly reprimanded and placed on probation for two years in connection with the lawyer's failure to maintain books and records. The Court approved a Report and Recommendation of Sanctions that was submitted by a panel of the Board on Professional Responsibility. The Board's Report concluded Ms. Castro had violated the Delaware Lawyers' Rules of Professional Conduct by: (1) failing to provide clients with a fee agreement that stated "the fee is refundable if not earned;" (2) failing to safeguard client trust funds; (3) failing to properly maintain her law practice's financial books and records; and (4) misrepresenting to the Delaware Supreme Court in 2013, 2014, and 2015 the status of her law practice's financial books and records. As a condition of the public probation, Ms. Castro shall submit to the Office of Disciplinary Counsel with her 2018 and 2019 Certificates of Compliance, an affidavit by a licensed certified public accountant certifying her law practice financial books, records and bank accounts were being maintained in full compliance with the Delaware Lawyers' Rules of Professional Conduct.

PUBLIC REPRIMAND WITH TWO-YEAR PROBATION

IMO John S. Malik, Supreme Court No. 260, 2017. Effective date: July 7, 2017

On July 7, 2017, the Delaware Supreme Court ordered John S. Malik, Esquire, of Wilmington, Delaware be publicly reprimanded and subject to a two-year period of probation with conditions. The Court approved a Report and Recommendation of Sanctions that was submitted by a panel of the Board on Professional Responsibility. The Board's Report concluded Mr. Malik had violated the Delaware Lawyers' Rules of Professional Conduct by: (1) failing to provide clients with a fee agreement and/or a statement of earned fees in violation of Rule 1.5(f); (2) failing to safeguard client trust funds in violation of Rule 1.15(a); (3) failing to properly maintain his law practice's books

and records in violation of Rule 1.15(d); (4) failing to adequately supervise non-lawyer assistants in violation of Rule 5.3; and (5) misrepresenting to the Delaware Supreme Court in 2016 the status of his law practice's financial books and record keeping and certain tax obligations in violation of Rules 8.4(c) and 8.4(d). As conditions of the probation, Mr. Malik shall submit to the Office of Disciplinary Counsel with his 2017 and 2018 Certificates of Compliance, an affidavit by a licensed certified public accountant certifying his law practice financial books, records and bank accounts were being maintained in full compliance with the Delaware Lawyer's Rules of Professional Conduct and notify ODC within fifteen days of the filing of his return and payment for City of Wilmington Net Profits taxes for tax years 2016 and 2017.

IMO Timothy A. Dillon, Supreme Court NO. 463, 2017, Effective date: December 14, 2017

On December 14, 2017, the Delaware Supreme Court ordered Timothy A. Dillon, Esquire, of Wilmington, Delaware be publicly reprimanded and subject to a two-year period of probation with conditions. The Court approved a Report and Recommendation of Sanctions that was submitted by a panel of the Board on Professional Responsibility. The Board's Report concluded Mr. Dillon violated the Delaware Lawyers' Rules of Professional Conduct ("Rules") by: (1) failing to make reasonable efforts to locate and/or serve defendants within the time prescribed by Superior Court Rule 4(j) and/or failing to file timely motions to extend the time for service in seventeen cases in violation of Rules 1.1 and 1.3; (2) knowingly disobeying an obligation under Superior Court Rule 4(j) in violation of Rule 3.4(c); (3) failing to properly maintain his law practice's books and records in violation of Rule 1.15(d); (4) failing to adequately supervise non-lawyer assistants in violation of Rule 5.3; (5) misrepresenting the status of his law practice's financial books and record keeping on his 2015 and 2016 Certificates of Compliance in violation of Rule 8.4(c); and (6) engaging in conduct prejudicial to the administration of justice in violation of Rule 8.4(d). As a condition of the probation, Mr. Dillon shall submit to the Office of Disciplinary Counsel with his 2018 and 2019 Certificates of Compliance, an affidavit by a licensed certified public accountant certifying his law practice financial books, records and bank accounts were being maintained in full compliance with the Delaware Lawyer's Rules of Professional Conduct.

DISABILITY INACTIVE

**IMO John M. Willard
Supreme Court No. 137, 2017**

On March 29, 2017, the Delaware Supreme Court transferred John M. Willard to disability inactive status, pursuant to Rule 19(b) of the Delaware Lawyers' Rules of Disciplinary Procedure.

PRIVATE ADMONITION

PRIVATE ADMONITION. ODC File No. 113047-B. Effective Date: – July 17, 2017

A Pennsylvania attorney was privately admonished for violations of the Delaware Lawyers' Rules of Professional Conduct ("Rules") in connection with lack of candor toward the tribunal and engaging in conduct prejudicial to the administration of justice. A panel of the Preliminary Review Committee ("PRC") offered a sanction of a private admonition which was imposed with the consent of the attorney. The attorney admitted he knowingly made a false statement to the Court of Chancery regarding his involvement in the drafting of a release. As a condition of the private admonition, the attorney must disclose the facts supporting the private admonition to any Delaware tribunal in which he seeks *pro hac vice* admission for five (5) years.

The PRC considered the following mitigating factors: the absence of a prior disciplinary record and the attorney's acknowledgment of his misconduct, cooperative attitude toward the disciplinary proceeding and remorse for the misconduct.

PRIVATE ADMONITION. ODC File No. 113053-B. Effective Date – October 25, 2017

A Delaware lawyer was privately admonished for violation of Rule 1.4(a)(1) and (2) of the Delaware Lawyers' Rules of Professional Conduct (communication). The lawyer represented a client charged with criminal offenses. The client wrote a letter to the lawyer explaining the client's version of events on the date of the alleged incident. The lawyer forwarded the client's original letter to the prosecutor without discussing with the client the decision to send the letter directly to the State by failing to consult with the client and obtain the client's informed consent prior to disclosing the client's original letter to the State, the lawyer violated Rule 1.4(a)(1) and (2).

PRIVATE PROBATION

PRIVATE PROBATION. ODC File No. 113306-B. Effective Date: July 26, 2017.

A Delaware lawyer was placed on private probation for two years for violations of the Delaware Lawyers' Rules of Professional Conduct ("Rules") in connection with his failure to maintain his law practice's books and records. The private sanction was offered by a Panel of the Preliminary Review Committee and imposed with the consent of the lawyer. The Lawyers' Fund for Client Protection conducted an audit in 2016 which

revealed deficiencies in the books and records. The lawyer also made misrepresentations as to the status of the firm's books and records to the Supreme Court on the 2016 Certificate of Compliance.

PRIVATE PROBATION. ODC File No. 113274-B. Effective Date: July 31, 2017.

A Delaware lawyer was placed on private probation for two years for violations of the Delaware Lawyers' Rules of Professional Conduct ("Rules") in connection with his failure to maintain his law practice's books and records. The private sanction was offered by a Panel of the Preliminary Review Committee and imposed with the consent of the lawyer. The Lawyers' Fund for Client Protection conducted an audit in 2016 which revealed deficiencies in the books and records. The lawyer also made misrepresentations as to the status of the firm's books and records to the Supreme Court on the 2016 Certificate of Compliance.

REINSTATEMENT

**IMO Stephen L. Nowak
Supreme Court No. 265, 2017**

By Order of the Delaware Supreme Court dated July 13, 2017, Stephen L. Nowak has been reinstated to the Delaware Bar. The Court imposed a two-year public probation with specified terms and conditions on Mr. Nowak's reinstatement.

**IMO Timothy P. Cairns
Supreme Court No. 291, 2017**

By Order of the Delaware Supreme Court dated July 21, 2017, Timothy P. Cairns has been reinstated to the Delaware Bar. The Court imposed a one-year period of monitoring with DE-LAP.

CONDITIONAL DIVERSION

ODC File No. 112916-B. Effective Date: March 8, 2017

The Preliminary Review Committee ("PRC") offered and the Pennsylvania lawyer accepted a conditional diversion for violations of the Delaware Lawyers' Rules of Professional Conduct ("Rules") in connection with their failure to provide their client with

diligent representation and failing to return communications from the client. As a condition the lawyer is required to execute a one-year Agreement of Understanding with the Delaware Lawyer's Assistance Program.