No. 26-

IN THE

Supreme Court of the United States

GARY PISNER,

Petitioner,

v

ATTORNEY GRIEVANCE COMMISSION OF MARYLAND

Respondent.

On Petition for a Writ of Certiorari to the Maryland Supreme Court

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APPENDIX

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APPENDIX TO THE PETITION FOR A WRIT OF CERTIORARI

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EXHIBIT A

Attorney Grievance Commission of Maryland v. Gary Pisner, AG No. 23, September Term, 2023. Opinion by Killough, J.

ATTORNEY MISCONDUCT – DISCIPLINE – DISBARMENT – Respondent Gary Pisner violated Maryland Attorneys' Rules of Professional Conduct 1.1 (Competence), 1.15 (Safekeeping Property), 3.1 (Meritorious Claims and Contentions), 3.4 (Fairness to Opposing Party and Attorney), and 8.4(a) and (d) (Misconduct). These violations arose from Respondent's representation of himself in various matters relating to the Marion E. Pisner Revocable Trust in which he engaged in the intentional misappropriation of trust assets, failed to comply with court orders, and engaged in a persistent pattern of vexatious and frivolous litigation, causing harm to others, and burdening the judicial system.

The Supreme Court of Maryland ordered that Respondent be disbarred.

IN THE SUPREME COURT

OF MARYLAND

AG No. 23

September Term, 2023

ATTORNEY GRIEVANCE COMMISSION
OF MARYLAND

v.

GARY PISNER

Fader, C.J.
Watts
Booth
Biran
Gould
Eaves
Killough,

JJ.

Opinion by Killough, J.

Filed: July 14, 2025

The Attorney Grievance Commission of Maryland (the "Commission"), through Bar Counsel (hereinafter referred to collectively as "Petitioner"), filed a Petition for Disciplinary or Remedial Action (the "Petition") against Respondent, Gary Pisner. Petitioner charged Mr. Pisner with violating several provisions of the Maryland Attorneys' Rules of Professional Conduct,[1] specifically: Rule 1.1 (Competence), Rule 1.15 (Safekeeping Property), Rule 3.1 (Meritorious Claims and Contentions), Rule 3.4 (Fairness to Opposing Party and Attorney), and Rule 8.4(a) and (d) (Misconduct).

The misconduct that is the focus of this disciplinary proceeding stems from Respondent's conduct in connection with a series of legal disputes involving the Marion E. Pisner Revocable Trust, a trust he shares with his sister, Marla Pisner Rubinstein. By order dated December 14, 2023, this Court designated the Honorable Louis M. Leibowitz (the "Hearing Judge") of the Circuit Court for Montgomery County to consider the matter against Respondent and render findings of fact and conclusions of law. A two-day evidentiary hearing was held on June 10 and 14, 2024, and upon consideration of the evidence presented, the Hearing Judge found, by clear and convincing evidence, that Respondent violated each rule of professional conduct as alleged by Petitioner: Rules 1.1, 1.15, 3.1, 3.4, and 8.4(a) and (d). Petitioner did not file any exceptions and recommends

[1] Effective July 1, 2016, the Maryland Lawyers' Rules of Professional Conduct were ("MLRPC") renamed the Maryland Attorneys' Rules of Professional Conduct ("MARPC") and recodified without substantive changes in Title 19 of the Maryland Rules. The conduct in this case spans both before and after the recodification. For ease of reference, we use the shorter MLRPC-style citations (e.g., Rule 1.1 rather than Maryland Rule 19-301.1).

that the Respondent be disbarred. Respondent filed exceptions on September 18, 2024. After oral argument, on March 5, 2025, we ordered Respondent disbarred.

We explain the reasons for that sanction here, agree with the facts and conclusions reached by the Hearing Judge, and overrule the exceptions filed by Respondent.

I.

FINDINGS OF FACT

We summarize below the Hearing Judge's findings of fact.

Respondent was admitted to the Maryland Bar on June 14, 1989, and, at all times, was an attorney in good standing in the State. Respondent also holds law licenses from the Commonwealth of Pennsylvania, the Commonwealth of Virginia, and the District of Columbia.

The Marion E. Pisner Revocable Trust (the "Trust" or the "Pisner Trust") was established on December 12, 2008, in Montgomery County, Maryland. Upon the death of the settlor, Marion E. Pisner, on January 2, 2009, her children—Respondent and Marla Pisner Rubinstein—became the beneficiaries and co-trustees of the Pisner Trust. Pisner Trust assets included several residential properties located in Maryland and Washington, D.C., as well as funds held in accounts at BB&T,[2] TD Bank, and SunBank.

In the fall of 2010, Respondent and Ms. Rubinstein met in Bel Air, Maryland, to conduct an audit of the Pisner Trust's finances (the "Bel Air Meeting"). Although they

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[2] In 2019, BB&T merged with SunTrust Banks. The merged company officially became known as Truist Financial Corporation. The Truist account (formerly BB&T account) was opened by Marion Pisner before her death in 2009.

disagreed on certain details of the meeting, both agreed that Ms. Rubinstein confronted Respondent about his use of Trust funds for personal expenses, and that Respondent promised to provide documentation regarding those expenditures. They also agreed that Ms. Rubinstein would assume day-to-day management of the Trust going forward. However, according to Ms. Rubinstein, Respondent never provided the documentation or financial information necessary for her to fulfill that role.

The Hearing Judge found Respondent's testimony regarding the Bel Air Meeting to be inconsistent. Respondent initially testified that he had provided Ms. Rubinstein with all relevant Trust documents, stating that she "walked out of the meeting with all the documents. Everything." Later, however, he acknowledged—and Ms. Rubinstein confirmed—that he had brought only a ledger to the meeting. Based on these inconsistencies, the Hearing Judge concluded that Respondent did not, in fact, relinquish control of the Pisner Trust to Ms. Rubinstein following the Bel Air meeting.

The ledger maintained by Respondent reflects approximately 70 personal transactions between November 2009 and August 2013. These include tens of thousands of dollars in payments related to Respondent's divorce, personal credit card charges, and self-designated "loans" from the Trust. Ms. Rubinstein had no access to the Trust's bank accounts and was unaware of these transactions until she obtained the relevant bank statements from BB&T during the litigation described below.

A.

Marion E. Pisner Trust v. Rubinstein Case No. 427983V in the Circuit Court for Montgomery County

On December 13, 2016, Respondent, identifying himself as "Attorney for & Co-Trustee of the Marion E. Pisner Trust," filed a Petition for a Declaration of Rights under Md. Code Ann., Cts. & Jud. Proc. § 3-408 in the Circuit Court for Montgomery County. He asserted that, in his view, the Pisner Trust had "ceased to function" in accordance with its terms and requested that the court provide "binding guidance" on its administration. Respondent signed the petition both as counsel and co-trustee.

In response, on May 24, 2017, Judge Sharon Burrell issued a Show Cause Order to Ms. Rubinstein. On July 31, 2017, Ms. Rubinstein filed a substantive response requesting an independent audit of the Pisner Trust from its inception. She cited Respondent's failure to cooperate with an accounting and his refusal to provide personal credit card statements. She further alleged that Respondent had used Trust funds for personal expenses, including attorney's fees related to his divorce.

On cross-examination in this disciplinary matter, Respondent admitted to using Pisner Trust assets for personal obligations but testified that he had previously loaned the Trust money, suggesting that some of the withdrawn funds were owed to him. However, he presented no documentation to support this claim, and the Hearing Judge did not find it credible.

On August 24, 2017, Judge Anne K. Albright issued a second Show Cause Order, directing both parties to explain why the court should not assume judicial control of the

Pisner Trust and remove them as co-trustees. Ms. Rubinstein responded substantively; Respondent, by contrast, did not respond on the merits, and instead filed a motion to strike Ms. Rubinstein's response.

At the Show Cause hearing on September 28, 2017, Judge Albright removed both parties as co-trustees and appointed Robert McCarthy, Esq., as successor trustee. Mr. McCarthy had no prior relationship with either party.

On November 13, 2017, Respondent filed an interlocutory appeal of Judge Albright's order and moved for reconsideration and a stay. Both motions were denied on January 16, 2018. The Appellate Court of Maryland dismissed the appeal on February 21, 2018, and this Court subsequently denied *certiorari*.

Judge Albright also granted Mr. McCarthy's request to hire an accountant and expand the scope of the audit. A status hearing was set for January 25, 2018. On the eve of the hearing, Respondent filed another interlocutory appeal and sought a stay. The Appellate Court assumed jurisdiction, halting the hearing.

On January 26, 2018, Mr. McCarthy mailed a letter to Respondent at his residence in Fairfax, Virginia, again requesting Trust documentation and advising that his conduct potentially violated the Maryland Attorneys' Rules of Professional Conduct. Respondent replied with documents that Mr. McCarthy deemed unresponsive. Mr. McCarthy thereafter filed a suggestion of contempt on February 1, 2018.

On February 9, 2018, the court issued a Show Cause Order requiring Respondent to appear on March 15, 2018, to explain why he should not be held in contempt. Instead of responding on the merits, Respondent filed a three-part motion seeking a more definite statement, a continuance, and access to trustee records. Judge Ronald Rubin denied the motion in full on April 13, 2018.

On March 5, 2018, Respondent filed an Answer to the contempt petition, asserting that he had produced 81 documents and was under no obligation to produce more. Mr. McCarthy responded by reiterating his request for full compliance with the October 2, 2017 order. Two days before the contempt hearing, on April 2, 2018, Respondent submitted an affidavit in support of his motions and in opposition to the contempt petition, affirming under penalty of perjury that the documents provided in January 2018 were the only documents in his possession dating back to January 2015.

The contempt hearing was held on April 4, 2018, before Judge Harry C. Storm. Judge Storm denied the contempt petition on the ground that the court's October 2, 2017, order lacked specificity. Judge Storm ordered Respondent and Ms. Rubinstein to produce, "in paper format or electronically, [certain] documents within Gary Pisner or Marla Rubinstein's possession, custody, control or access related to the [Pisner Trust] for the period January 1, 2009 – October 2, 2017," by April 27, 2018.

Before the April 27 deadline, on April 24, 2018, Respondent moved to remove Mr. McCarthy as substitute trustee, alleging a "breach of trust" based on Mr. McCarthy's interpretation of his fiduciary duties. Judge Jill R. Cummins denied Respondent's motion on May 21, 2018.

Respondent failed to meet the court's deadline to produce documents, and on April 30, Mr. McCarthy filed a renewed contempt petition seeking incarceration. The court issued another Show Cause Order on May 4, 2018, requiring Respondent to respond and appear on June 7, 2018. Again, rather than substantively responding, Respondent filed a motion for a more definite statement, asserting that he had produced everything he "deemed" responsive. In total, he provided Mr. McCarthy with 944 pages of documents. The court denied the motion on June 6, 2018.

Judge Michael D. Mason presided over the June 7, 2018, hearing. After taking testimony from Respondent, Judge Mason found him in contempt, noting that Respondent had failed to provide source documents or ledgers and stating that it was "inconceivable" that, as an attorney and fiduciary of the estate, he would not retain documentation supporting Trust expenditures. Judge Mason imposed a 60-day sentence but stayed execution until July 20, 2018, to allow Respondent another opportunity to comply.

On July 11, 2018, Respondent filed a notice of appeal and a motion for reconsideration of Judge Mason's June 7 contempt finding, asserting that he had fully complied with the court's orders and alleging that Mr. McCarthy's accountant, Dana Evans, made false statements during the contempt hearing. At a follow-up hearing on July 20, 2018, Judge Mason reaffirmed the contempt finding and denied Respondent's motion for reconsideration but, at Mr. McCarthy's request, declined to impose the 60-day incarceration sentence.

On November 19, 2018, Respondent filed a notice of appeal challenging eleven separate orders. While those appeals were pending, Mr. McCarthy moved for approval of the final Pisner Trust distribution. Mr. McCarthy argued that Respondent's failure to maintain records violated his duties under Md. Code Ann., Est. & Trusts ("ET") § 14.5-802(b).[3]

Mr. McCarthy proposed distributing the Pisner Trust's remaining net balance—minus $50,000—to Ms. Rubinstein, with the withheld amount to be released to Respondent upon execution of a general release and cessation of further litigation.

On February 19, 2019, Respondent filed a notice of opposition to the proposed distribution, asserting that it was based on "false" facts. He again accused Mr. McCarthy and Ms. Evans of ethical violations and of improperly dissipating approximately $500,000 in Trust funds.

On March 11, 2019, the circuit court mailed notice of the distribution hearing to all parties, including to Respondent at his long-standing address in Fairfax, Virginia—the

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[3] Section 14.5-802 of the Maryland Trust Act states, in pertinent part:

> (b) Subject to the rights of persons dealing with or assisting the trustee as provided in § 14.5-909 of this title, a sale, an encumbrance, or any other transaction involving the investment or management of trust property entered into by the trustee for the personal account of the trustee or which is otherwise affected by a conflict between the fiduciary and personal interests of the trustee is voidable by a beneficiary affected by the transaction unless:
> (1) The transaction was authorized by the terms of the trust;
> (2) The transaction was approved by the court;
> (3) The beneficiary did not commence a judicial proceeding within the time allowed by law;
> (4) The beneficiary consented to the conduct of the trustee, ratified the transaction, or released the trustee in compliance with § 14.5-907 of this title; or
> (5) The transaction involves a contract entered into or claim acquired by the trustee before the person became or contemplated becoming the trustee.

Md. Code Ann., Est. & Trusts § 14.5-802(b).

same address he had consistently used throughout the proceedings. Despite having received notice, Respondent did not attend the hearing.

At the hearing, both Mr. McCarthy and Ms. Rubinstein testified. Relying on their testimony and noting Respondent's prior contempt findings, Judge James A. Bonifant concluded that an inference could be drawn that Respondent had wrongfully distributed excess funds to himself. The court found that Mr. McCarthy's proposed distribution was appropriate and long overdue, stating: "10 years while this has been pending . . . that is just totally inappropriate. It's time for this matter to come to a close." Accordingly, Judge Bonifant granted the motion to approve the Pisner Trust distribution and memorialized his findings in an order signed on April 9, 2019.

On April 11, 2019, Mr. McCarthy filed a response to Respondent's previously filed notice of appeal (dated November 19, 2018), moving to strike it from the record. In response, Respondent filed a 15-page pleading titled "Answer to Robert McCarthy's Motion to Strike Notice of Appeal, Request for Reconsideration of this Court's Order of April 9, 2019, with a Request for a Stay, If Necessary." In that filing, Respondent renewed claims previously rejected by the court, reasserted his authority as the Trust's attorney, and alleged that both Mr. McCarthy and Ms. Rubinstein had perjured themselves at the June 7 contempt hearing. Judge Bonifant denied Respondent's motion for reconsideration without a hearing on May 21, 2019.

In the interim, on May 13, 2019, Respondent filed another notice of appeal to the Appellate Court, incorporating the April 9, 2019 order along with the eleven previously challenged orders. The Appellate Court later consolidated the pending appeals into a single case.

On June 11, 2019, Judge Robert A. Greenberg issued a Show Cause Order requiring Respondent to explain in writing why the appeal should not be dismissed for failure to comply with the rules. On June 24, 2019, Respondent filed a response that largely reiterated the same arguments presented in his April 29, 2019 Answer. He also moved to recuse Judge Greenberg, citing his role as administrative judge of the Montgomery County Circuit Court and his history of appointing Mr. McCarthy in other estates and trusts cases. On August 9, 2019, Judge Greenberg denied Respondent's motion to recuse and set a hearing on the motion to strike.

B.

Proceedings Before the Appellate Court of Maryland

On March 18, 2020, the Appellate Court issued an unreported opinion thoroughly reviewing and affirming each of the challenged rulings, including the contempt finding against Respondent. *Pisner v. McCarthy*, Nos. 1037 and 3041, Sept. Term, 2018, 2020 WL 1303623 (Mar. 18, 2020). Respondent filed a motion for reconsideration and a petition for writ of *certiorari* to this Court, which we denied on July 20, 2020. *Pisner v. McCarthy*, 469 Md. 670 (2020).

Following these denials, Respondent sent a letter to the Clerk of the Appellate Court of Maryland criticizing the opinion's structure and alleging "procedural failure." The Clerk responded that the Appellate Court would not comment further and noted Respondent's failure to copy opposing counsel.

C.

Proceedings Before the Superior Court of the District of Columbia

While the trust litigation remained pending in the Maryland state courts, Respondent, in his personal capacity, initiated a separate lawsuit against Ms. Rubinstein in the Superior Court for the District of Columbia on January 14, 2019. *Pisner v. Rubinstein*, No. 2019 CA 000229 B (D.C. Super. Ct.). The complaint asserted claims for breach of contract, fraud, abuse of process, defamation, and breach of fiduciary duty. The abuse of process claim was based entirely on Ms. Rubinstein's filings in the Montgomery County Circuit Court—filings made in response to Respondent's own earlier suit.

As a result, Ms. Rubinstein retained counsel and, on April 18, 2019, moved to dismiss the case, arguing that the District of Columbia was an improper forum in light of the still-active litigation in Maryland. Judge Florence Y. Pan granted the motion to dismiss at a hearing held on June 14, 2019. Respondent sought reconsideration on July 12, 2019, and filed a notice of appeal three days later. On August 7, 2019, Judge Pan denied the motion for reconsideration, noting that Respondent had failed to articulate any procedural or legal basis for relief. The District of Columbia Court of Appeals affirmed the dismissal in an unpublished per curiam opinion issued on February 25, 2021. *Pisner v. Rubinstein*, 246 A.3d 156 (D.C. 2021).

D.

Pisner v. Rubinstein in the U.S. District Court for the District of Maryland

On January 4, 2021—approximately six weeks before the D.C. Court of Appeals issued its opinion—Respondent filed a second lawsuit against Ms. Rubinstein, this time in the U.S. District Court for the District of Maryland. *See Pisner v. Rubinstein*, No. CV TDC-21-0020, 2022 WL 294826 (D. Md. Jan. 31, 2022), *aff'd*, No. 22-1294, 2022 WL 3681660 (4th Cir. Aug. 25, 2022). The allegations were nearly identical to those asserted in the earlier D.C. case. This time, Respondent sought $3.7 million in compensatory damages and $2 million in punitive damages.

Ms. Rubinstein again retained counsel and moved to dismiss, arguing that the claims were either resolved or precluded by the ongoing Montgomery County litigation. Rather than substantively responding, Respondent filed a motion to strike the motion to dismiss.

On January 31, 2022, Judge Theodore D. Chuang granted Ms. Rubinstein's motion to dismiss, holding that the breach of contract and fiduciary duty claims were barred by *res judicata*, and that the remaining claims failed to state a plausible basis for relief.

In response, Respondent filed a notice of appeal to the U.S. Court of Appeals for the Fourth Circuit on March 16, 2022. The following day, he filed a 37-page submission styled as "objections" to Judge Chuang's ruling, accusing the court of "judicial lethargy" and misapplication of the law. The Fourth Circuit affirmed the dismissal in a one-paragraph per curiam opinion, finding "no reversible error." *Pisner v. Rubinstein*, No. 22-1294, 2022 WL 3681660, at *1 (4th Cir. Aug. 25, 2022).

E.

Pisner v. McCarthy et al. in the U.S. District Court for the District of Maryland

On January 5, 2022, Respondent initiated another lawsuit in the U.S. District Court for the District of Maryland, this time naming Mr. McCarthy, Kevin McCarthy (Mr. McCarthy's law partner and son), and Ms. Evans as defendants.[4]

The complaint largely recycled claims Respondent had previously raised in the Montgomery County proceedings. All three defendants moved to dismiss, arguing that the claims were barred by *res judicata* and collateral estoppel and otherwise failed to state a claim upon which relief could be granted.

On September 26, 2022, Judge George Hazel issued a memorandum opinion granting the motions to dismiss. *Pisner v. McCarthy*, 630 F. Supp. 3d 690 (D. Md. 2022), *aff'd*, No. 23-1655, 2024 WL 1615012 (4th Cir. Apr. 15, 2024). The court concluded that Respondent's claims were both legally barred and substantively deficient.

Following the dismissal, on December 27, 2022, Respondent filed a "motion for relief" pursuant to Rule 60(b) of the Federal Rules of Civil Procedure. Judge Stephanie A. Gallagher denied the motion in a written opinion issued on March 27, 2023. Respondent then filed a motion to alter or amend that ruling, which the court also denied on May 17, 2023. On June 16, 2023, Respondent noted an appeal to the Fourth Circuit. An

[4] The Hearing Judge specifically noted that Kevin McCarthy had no meaningful involvement in the underlying Montgomery County litigation but was nonetheless named as a defendant.

unpublished per curiam opinion was filed on April 15, 2024, affirming Judge Gallagher's decision.

II.

HEARING JUDGE'S CONCLUSIONS OF LAW

The Hearing Judge concluded that Respondent violated MARPC 1.1, 1.15, 3.1, 3.4, and 8.4(a) and (d). Petitioner did not file exceptions. Respondent noted several exceptions to both the Hearing Judge's findings of fact and conclusions of law.

III.

STANDARD OF REVIEW

"This Court has original and complete jurisdiction in an attorney disciplinary proceeding and conducts an independent review of the record." *Attorney Grievance Commission v. Portillo*, 473 Md. 584, 598-99 (2021) (quoting *Attorney Grievance Commission v. Hoerauf*, 469 Md. 179, 207-08 (2020)). Pursuant to Md. Rule 19-728(b), Respondent filed exceptions to the Hearing Judge's factual findings and conclusions of law, however, we leave undisturbed the Hearing Judge's findings of fact "unless those findings are clearly erroneous." *See id.* Md. Rule 19-740(b)(2)(B) provides:

> [This Court] shall determine whether the findings of fact have been proved by the requisite standard of proof set out in [Md.] Rule 19-727(c). Th[is] Court may confine its review to the findings of fact challenged by the exceptions. Th[is] Court shall give due regard to the opportunity of the Hearing Judge to assess the credibility of witnesses.

We assess the Hearing Judge's legal conclusions under a *de novo* standard of review. *Attorney Grievance Commission v. Moody*, 457 Md. 90, 110 (2017); Md. Rule 19-

740(b)(1) ("The [Supreme Court of Maryland] shall review [*de novo*] the circuit court judge's conclusions of law."). We retain "the ultimate authority to decide whether a lawyer has violated the professional rules." *Attorney Grievance Commission v. Harrington*, 367 Md. 36, 49 (2001) (citation modified). Respondent's exceptions are addressed below.

IV.

EXCEPTIONS

Pursuant to Maryland Rule 19-728(b), "each party may (1) file exceptions to the findings and conclusions of the hearing judge, (2) recommendations concerning the appropriate disposition under Rule 19-740 (c), and (3) a statement of costs to which the party may be entitled under Rule 19-709." Here, Respondent filed a 70-page document titled "Exceptions." Respondent's Exceptions primarily challenge the Hearing Judge's factual findings and procedural rulings but do not meaningfully address the merits of the misconduct or the appropriate sanction. He disputes the sufficiency of the disciplinary petition, alleges investigatory and discovery misconduct, and contests the credibility of witnesses, yet he offers no evidence to support these claims. Respondent's contentions in the Exceptions fall into four broad categories: (1) the sufficiency of the Petition for disciplinary charges; (2) alleged misconduct by Petitioner during its investigation; (3) alleged discovery deficiencies; and (4) challenges to the Hearing Judge's factual findings. Each exception lacks merit and is overruled.[5]

[5] As noted herein, Respondent's contentions in the Exceptions primarily challenge the Hearing Judge's factual findings and procedural rulings. As we discuss herein, we overrule the Respondent's exceptions to the Hearing Judge's findings of fact and

1. Sufficiency of the Petition

Respondent first argues that the Petition failed to provide sufficient notice of the charges against him.

A disciplinary petition is a notice pleading and is "deemed sufficient [s]o long as the petition informs the attorney of the misconduct charged in language which is clear and sufficiently specific to enable the attorney to prepare a defense." *Attorney Grievance Commission v. McDonald*, 437 Md. 1, 43 (2014) (quoting *Attorney Grievance Commission v. Tanko*, 408 Md. 404, 420-21 (2009)). This Court requires no particular form or detail beyond this threshold. *Id.* A review of the Petition in this case reveals that the charges were clearly and sufficiently pleaded.

The Petition states, in relevant part:

> 58. Between January 2009 and 2017, the Respondent disbursed $1,383,486.83 to Ms. Rubinstein and disbursed an additional $1,976,750.72. Of the $1,976,750.72, $1,158,217.05 was disbursed to the Respondent or for the Respondent's benefit and the remaining $818,533.67 was unaccounted for – the Respondent claimed that the funds were disbursed for the benefit of the Trust. Because the Respondent failed to provide any proof to substantiate his claims, the entire $1,976,750.72 was charged toward the Respondent's share.
>
> 59. While acting as attorney and co-trustee of the Trust, the Respondent failed to properly account for the funds disbursed from the Trust, including failing to maintain appropriate records to substantiate the purpose of disbursements made from the Trust and disbursing funds to himself in excess to those distributed to Ms. Rubinstein.

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procedural rulings. To the extent that Respondent's 70 pages of exceptions are directed to any conclusions of law, they are also overruled.

We have held that even where a petition is not the "model of clarity," if the allegations make clear the alleged wrongdoing, then the petition will be deemed sufficient. *See Tanko*, 408 Md. at 422. These paragraphs more than clear this threshold. These paragraphs alone make clear the alleged misconduct and describe how said conduct violates professional standards. We overrule this exception.

2. Allegations of Investigative Misconduct

Respondent next asserts that Petitioner engaged in misconduct during its investigation, including the claim that the substitute trustee, Mr. McCarthy, drafted the Petition. This allegation is unsupported by the record. Bar Counsel represented in the Commission's reply that Bar Counsel "drafted, signed and filed" the Petition in December 2023.

Respondent also alleges an improper relationship between Mr. McCarthy and former Bar Counsel. However, he offers no evidentiary support, and the record contains none. These allegations were raised before the Hearing Judge and explored during Respondent's cross-examination of Mr. McCarthy. In response, Mr. McCarthy testified that Bar Counsel had previously prosecuted a disciplinary matter in which he was reprimanded: "I do not consider [Bar Counsel] a dear friend of mine in any stretch of the imagination. Then she became Bar Counsel, and I've had no relationship with her since that hearing 11 years ago."

The Hearing Judge considered and rejected these allegations, finding Respondent's testimony to be "incredible":

> This Court notes that Respondent testified and argued that Mr. McCarthy had it out for him, alternately because Mr. McCarthy was conspiring with Ms. Rubinstein or because Mr. McCarthy assisted the Attorney Grievance Commission in consideration of more lenient treatment in his own unspecified Attorney Grievance Commission investigations. Respondent did not produce any evidence of any of these things. Accordingly, this Court finds that Respondent's allegations on this front were meritless. However, none of this Court's findings rely on Mr. McCarthy's credibility. His testimony was largely duplicative of the court records in the various cases filed by Respondent. Other evidence of the Commissions' allegations was corroborated throughout the case, including by Respondent's own admissions.

We likewise find Respondent's allegations to be without merit and overrule this exception.

3. Alleged Discovery Deficiencies

Respondent contends that Bar Counsel failed to comply with discovery obligations and withheld exculpatory evidence. He further alleges that Mr. McCarthy conspired with the Commission and Bar Counsel to conceal such evidence. These allegations are unsupported by the record. Respondent offers no documentary or testimonial evidence to substantiate claims of misconduct or collusion.

In contrast, Petitioner affirms that every allegation set forth in the Petition was supported by documentary evidence, and the Hearing Judge found that all relevant materials were disclosed to Respondent during discovery and introduced at the hearing. Respondent was also afforded ample opportunity to cross-examine both Bar Counsel and Mr. McCarthy and did so extensively. The Hearing Judge explicitly rejected Respondent's misconduct allegations, finding his testimony not credible.

We have also explained that "[w]e will not substitute our judgment for the judgment of the hearing judge with regard to credibility determinations." *Attorney Grievance Commission v. Bonner*, 477 Md. 576, 613-14 (2022). Considering the absence of corroborating evidence and the Hearing Judge's credibility determinations, we overrule this exception.

4. Exceptions to the Hearing Judge's Factual Findings

Respondent's remaining exceptions to the Hearing Judge's factual findings are similarly unavailing. "If the hearing judge's factual findings are not clearly erroneous and the conclusions drawn from them are supported by the facts found, exceptions to conclusions of law will be overruled." *Tanko*, 408 Md. at 419.

Respondent's exceptions span over 40 pages but do not identify any clear error. Instead, he offers alternative interpretations of the evidence or reiterates arguments already rejected by the lower courts.

Respondent challenges the Hearing Judge's conclusion that he intentionally misappropriated Pisner Trust assets, arguing that there is no evidence that he intended to permanently deprive his sister of funds or that he acted secretly for personal gain. He contends that the Hearing Judge failed to consider relevant testimony and alternative explanations for disputed expenditures, including his belief that the payments were permissible distributions or reimbursements.

Respondent also contests the Hearing Judge's credibility determinations, particularly his reliance on the testimony of Ms. Rubinstein and Mr. McCarthy. He claims that their statements were conclusory and self-serving, and that Mr. McCarthy lacked personal knowledge of the transactions at issue. He further contends that the court failed to explain why it did not credit certain evidence, including bank records and his own testimony.

Finally, Respondent takes exception to the Hearing Judge's findings that he failed to maintain Trust records and knowingly disobeyed court orders. He asserts that he produced all documents in his possession and made reasonable efforts to obtain others from third parties, including a former accountant. He denies willful disobedience, maintaining that any noncompliance was due to circumstances beyond his control.

These arguments do not render the Hearing Judge's findings clearly erroneous. As we have consistently held, challenges that merely offer alternative interpretations of the record or reiterate arguments previously rejected do not suffice to disturb findings supported by clear and convincing evidence. *See Attorney Grievance Commission v. Vanderlinde*, 364 Md. 376, 384 (2001). "[T]he hearing judge is entitled to 'pick and choose which evidence to rely upon' from a conflicting array when determining findings of fact." *Attorney Grievance Commission v. Kane*, 465 Md. 667, 676 n.4 (2019) (quoting *Attorney Grievance Commission v. Guida*, 391 Md. 33, 50 (2006)). The Hearing Judge was similarly entitled to credit Ms. Rubinstein's and Mr. McCarthy's testimony over Respondent's testimony, *see Bonner*, 477 Md. at 613. We therefore overrule these exceptions.

V.

CONCLUSIONS OF LAW

Based on our independent review of the record, we agree with the Hearing Judge's legal conclusions that Respondent violated MARPC 1.1, 1.15, 3.1, 3.4, and 8.4(a) and (d).

Rule 1.1 - Competence

The Hearing Judge found by clear and convincing evidence that Respondent violated Rule 1.1 by (1) failing to maintain financial records during his tenure as attorney for the Pisner Trust, and (2) refusing to produce those records when ordered by the court.

Rule 1.1 provides: "An attorney shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation." This Court has recognized that "sound record-keeping is an essential part of competent representation, and [that] an attorney's failure to keep or produce records can itself lead to a violation of the M[A]RPC." *Attorney Grievance Commission v. London*, 427 Md. 328, 345 (2012).

Following the death of Marion Pisner in 2009, Respondent assumed responsibility for the administration of the Pisner Trust and served as its attorney. He retained exclusive control over the Trust's records and operations. Respondent managed the Pisner Trust's accounting software, received bank statements, prepared and filed tax returns, and oversaw the management of Trust-owned properties. He alone had access to the Pisner Trust's financial documentation.

Despite holding himself out as the Pisner Trust's legal representative and fiduciary, Respondent failed to maintain adequate records of Pisner Trust transactions and refused to produce the required documentation when ordered by the court. His refusal significantly impeded the efforts of the court-appointed substitute trustee, Mr. McCarthy, to complete a fiduciary accounting of the Trust and fulfill the duties assigned by the court.

The Hearing Judge appropriately analogized the Respondent's conduct to that of the attorney in *Attorney Grievance Commission v. Woolery*, where we held that an attorney violated Rule 1.1 by failing to disclose material information about estate assets in his possession. 462 Md. 209, 232-33 (2018). We emphasized that the attorney's withholding of information obstructed the special administrator's ability to perform a fiduciary accounting—an additional violation of Rule 1.1. *Id.* at 232.

Respondent's misconduct here was similarly obstructive. By his own admission, Respondent actively concealed Pisner Trust records to avoid disclosing them during his divorce proceedings. Respondent also testified that he transferred the records to an accountant for "safekeeping" during the litigation so that his former spouse could not obtain them. Even after the divorce concluded in 2010, Respondent never attempted to retrieve those records. Despite multiple opportunities—including informal requests and three separate court orders—Respondent failed to produce sufficient documentation to permit an accounting of the Pisner Trust.

The Hearing Judge further concluded that Respondent's fiduciary obligations as a trustee, governed by ET §§ 14-405(e)(1) and (i), imposed a separate and continuing duty to maintain complete records of all Pisner Trust property and transactions. We agree with the Hearing Judge that Respondent violated of Rule 1.1. At bottom, Respondent had an obligation to preserve and organize the Pisner Trust's financial records in a manner that would ensure accessibility and his decision to withhold, obscure, or destroy these records constituted a clear violation of the duty of competent representation.

Rule 1.15 - Safekeeping Property

The Hearing Judge concluded that Respondent violated Rule 1.15(a) by failing to maintain adequate records and by disbursing Trust funds to himself for personal use without authorization or consent from his co-trustee, Ms. Rubinstein.

Rule 1.15(a) requires attorneys to properly safeguard client or third-party property in their possession. To comply with the rule, such property must be kept separate from the attorney's personal property, complete and accurate records of all funds and other assets must be created and maintained, and those records must be preserved for at least five years.

In *Woolery*, we held that an attorney violates Rule 1.15 by depositing estate funds into a personal attorney trust account and later using those funds for litigation expenses and self-reimbursement, without authorization. 462 Md. at 241. We explained in *Woolery* that an attorney misappropriates funds when he disburses funds to himself that he was not authorized to collect or retain. *Id.* at 243.

In the instant matter, Pisner Trust records, once obtained, revealed that Respondent received distributions in excess of his share: in 2009, he distributed approximately \$1.19 million to himself while Ms. Rubinstein received \$1.06 million, and in 2010, he received \$136,410.93 despite a lack of supporting source documentation, while Ms. Rubinstein received \$54,894.78. The record further demonstrated that many of these unauthorized distributions were used for personal expenses, including legal fees, credit card payments, and educational costs, none of which were justified or approved. We agree with the Hearing Judge's conclusion that Respondent violated Rule 1.15.

Rule 3.1 - Meritorious Claims and Contentions

The Hearing Judge found, by clear and convincing evidence, that Respondent violated Rule 3.1, which provides:

> An attorney shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis for doing so that is not frivolous, which includes, for example, a good faith argument for an extension, modification or reversal of existing law. An attorney may nevertheless so defend the proceeding as to require that every element of the moving party's case be established.

Comment 1 to Rule 3.1 explains: "The advocate has a duty to use legal procedure for the fullest benefit of the client's cause, but also a duty not to abuse legal procedure." Here, Respondent repeatedly misused the judicial system by initiating four separate lawsuits, filing more than eighteen motions and appeals across three jurisdictions, and advancing legal theories that lacked merit. In nearly every instance, his filings were denied, and he demonstrated a pattern of continuing litigation after adverse rulings, often accompanied by accusations that the courts had engaged in "improper" legal work.

The Hearing Judge compared Respondent's conduct to that which we held sanctionable in *Attorney Grievance Commission v. Mixter*, where we held that Rule 3.1 is violated where an attorney continued to litigate a matter after the absence of a good faith basis for the matter became apparent. 441 Md. 416, 511 (2015). Respondent's behavior here is analogous. He persisted in litigation despite repeated adverse rulings, and frequently reasserted claims that had already been adjudicated.

Similarly, in *Attorney Grievance Commission v. Sloane,* we sustained a Rule 3.1 violation where the respondent raised baseless issues that had already been ruled upon. 483 Md. 131, 157 (2023). Similar conduct is reflected in Respondent's filings in this case.

The Hearing Judge identified a specific pattern in Respondent's litigation: when unsuccessful in Maryland state court, Respondent filed a nearly identical suit in the District of Columbia Superior Court. When that was unsuccessful, Respondent filed the same claims again in the U.S. District Court for the District of Maryland.

Respondent pursued identical claims in multiple forums without curing a plainly fatal legal defect, indicating an absence of any good faith basis for relief and no effort to seek a legitimate change in the law.

These violations were not without consequence. The Hearing Judge found that Respondent's frivolous filings caused actual harm to others. Ms. Rubinstein incurred substantial legal expenses in defending multiple actions.[6] Mr. McCarthy and Ms. Evans both experienced increased liability insurance premiums as a result of being named in the litigation. While Respondent failed in every action, he imposed significant financial and

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[6] Ms. Rubinstein testified that she spent approximately $130,000 in legal fees. However, the Hearing Judge explained that she provided no corroboration of that amount. Consequently, the court made no findings as to the amount of fees Ms. Rubinstein incurred or paid. The Hearing Judge made clear, however, that "[t]he amount is hardly the point. That she had to pay anything to defend multiple frivolous lawsuits and appeals is an aggravating factor."

emotional burdens on the other parties and expended judicial resources in multiple jurisdictions.

Accordingly, based on these findings, the Hearing Judge concluded that Respondent violated Rule 3.1 by initiating and maintaining multiple meritless proceedings in bad faith, and by continuing to litigate matters long after he had lost on the merits. We agree that Respondent's conduct constituted an abuse of the judicial process and caused concrete harm to opposing parties and the courts in violation of Rule 3.1.

Rule 3.4 - Fairness to Opposing Party and Attorney

The Hearing Judge found, by clear and convincing evidence, that Respondent violated Rule 3.4(c), which prohibits attorneys from knowingly disobeying a tribunal's directives unless they make an open refusal based on a good faith belief that no valid obligation exists. In this case, Respondent was ordered by multiple judges—Judge Albright, Judge Storm, and Judge Mason—to produce specific documents relating to the Pisner Trust, in a matter that Respondent himself had initiated. Despite these orders, Respondent failed to provide the required documentation and was ultimately held in contempt of court by Judge Mason.

In *Attorney Grievance Commission v. Storch*, the attorney failed to produce estate property at a court hearing, left the hearing without permission, and was held in contempt by the court. 445 Md. 82, 86-87 (2015). Despite multiple opportunities, the attorney never turned over the estate property. We held that her repeated failure to follow explicit court orders demonstrated a knowing disobedience toward court orders and rules and constituted a clear violation of Rule 3.4(c). *Id.* at 89-90.

In the instant matter, Judge Mason emphasized the gravity of Respondent's misconduct, stating it was "inconceivable" that an attorney and fiduciary would not retain the source documents related to trust disbursements. Judge Mason also found it implausible that Respondent, as both a trustee and attorney, did not maintain documentation to demonstrate that expenditures were made on behalf of the Pisner Trust, rather than for personal use.

Throughout more than eighteen months of litigation, Respondent made no meaningful attempt to comply with the court's discovery orders. He testified that he believed he had already turned over the appropriate documents and made no effort—even in the face of potential incarceration—to retrieve responsive documents. The Hearing Judge found that Respondent never seriously attempted to obtain or produce the required documents, and that this prolonged noncompliance constituted a knowing violation of a tribunal's order in contravention of Rule 3.4(c). *See Attorney Grievance Commission v. Edwards*, 462 Md. 642, 704 (2019) (holding that an attorney violates Rule 3.4(c) by repeatedly failing to produce documents as directed by court order).

Rule 8.4 - Misconduct

The Hearing Judge concluded that Respondent's conduct also violated Rule 8.4, which governs attorney misconduct. Pursuant to Rule 8.4 (a) and (d), it is professional misconduct to violate the Rules of Professional Conduct and to engage in conduct prejudicial to the administration of justice. Respondent violated both subsections by breaching multiple ethics rules, including Rule 1.1 (competence), Rule 1.15 (safekeeping property), Rule 3.1 (meritorious claims), and Rule 3.4 (fairness to opposing party and attorney). Based upon our *de novo* review, we agree with the Hearing Judge's conclusion that Respondent's failure to comply with multiple discovery orders violated Rule 3.4(c).

Respondent repeatedly made baseless accusations and pursued frivolous litigation against Ms. Rubinstein, Mr. McCarthy, Ms. Evans, and even Mr. McCarthy's son (Kevin McCarthy)—which the Hearing Judge noted had nothing to do with Respondent's alleged grievances against Mr. McCarthy. Respondent's claims lacked any factual or legal foundation and were often resubmitted after being rejected by trial and appellate courts. The Hearing Judge also found that Respondent misappropriated Pisner Trust assets for personal use, failed to maintain proper records, and concealed assets in a divorce proceeding in Virginia by evading a discovery order. By engaging in this pattern of conduct, the court concluded that Respondent not only violated specific ethical rules but also committed serious acts of professional misconduct that undermined the integrity of the legal system. Based upon our independent review of the record, we agree with the Hearing Judge's assessment that Respondent's conduct was prejudicial to the administration of justice in violation of Rule 8.4(d).

VI.

SANCTION

The primary purpose of attorney discipline in Maryland is to protect the public, not to punish the attorney. *Attorney Grievance Commission v. Rheinstein*, 466 Md. 648, 720 (2020) (quoting *Attorney Grievance Commission v. Hodes*, 441 Md. 136, 205 (2014)). Sanctions serve this purpose by deterring similar misconduct and by removing attorneys who are unfit to practice law. *Attorney Grievance Commission v. Framm*, 449 Md. 620, 665 (2016). In determining the appropriate sanction, this Court considers the nature and severity of the misconduct, the attorney's mental state, the actual or potential harm caused, and any relevant aggravating or mitigating factors. *Attorney Grievance Commission v. Taniform*, 482 Md. 272, 316 (2022).

Aggravating and Mitigating Factors

During an attorney grievance matter, the circuit court may consider the existence of aggravating and mitigating factors. In *Attorney Grievance Commission v. Shuler*, we articulated the following aggravating factors that should be considered in an attorney disciplinary proceeding:

> (1) prior attorney discipline; (2) a dishonest or selfish motive; (3) a pattern of misconduct; (4) multiple violations of the M[A]RPC; (5) bad faith obstruction of the attorney discipline proceeding by intentionally failing to comply with the Maryland Rules or orders of this Court []; (6) submission of false evidence, false statements, or other deceptive practices during the attorney discipline proceeding; (7) a refusal to acknowledge the misconduct's wrongful nature; (8) the victim's vulnerability; (9) substantial experience in the practice of law; (10) indifference to making restitution or rectifying the misconduct's consequences; (11) illegal conduct, including that involving the use of controlled substances; and (12) likelihood of repetition of the misconduct.

443 Md. 494, 506-07 (2015) (alterations in original omitted). Petitioner has the burden of proving aggravating factors by clear and convincing evidence. Md. Rule 19-727(c).

Petitioner alleged the existence of the following aggravating factors, as articulated and numbered by this Court in *Shuler*: (2) a dishonest or selfish motive; (3) a pattern of misconduct; (4) multiple violations; (7) refusal to acknowledge the wrongful nature of the conduct; and (9) substantial experience in the practice of law.

The Hearing Judge found clear and convincing evidence to establish each of the alleged aggravating factors. Respondent displayed a selfish motive since the death of Marion Pisner in 2009 by misappropriating trust funds for his personal expenses. Between February 2009 and July 2010, "when it is undisputed that Respondent was managing the day-to-day activities of the Trust," there was a pattern of misconduct and multiple offenses evidenced by Respondent's repeated misappropriation of trust funds, frivolous litigation and motion practice to prevent the appointment of a successor trustee and, when one was appointed, to prevent that trustee "from gaining access to the Trust records or outright retaliating against Ms. Rubinstein, Mr. McCarthy, and/or Ms. Evans for attempting to enforce valid court orders against Respondent and obtain access to the financial records for the Trust." The consequences of Respondent's actions were severe. Ms. Rubinstein incurred substantial legal fees as a result of Respondent's frivolous litigation and Mr. McCarthy's and Ms. Evans's liability insurance premiums rose. Respondent demonstrated a pattern of misconduct through his multitude of civil suits against Ms. Rubinstein in both state and federal court in both Maryland and the District of Columbia. Respondent repeatedly made frivolous claims in multiple jurisdictions that were not supported by any facts and not sustained by the law. Respondent's misconduct violated Rule 3.1 (Meritorious Claims and Contentions) and Rule 3.4. (Fairness to Opposing Party and Attorney). The Hearing Judge found that the Respondent did not demonstrate any remorse for either his personal use of funds contained in the Pisner Trust or for his frivolous filings.

Finally, the Hearing Judge found that Respondent has substantial experience in the practice of law, having been a member of the Maryland bar since June 14, 1989, and having obtained bar membership in the Commonwealths of Pennsylvania and Virginia and the District of Columbia.

This Court "always consider[s]" mitigating factors "in deciding a disposition in an Attorney Grievance case." *Attorney Grievance Commission v. Coppola*, 419 Md. 370, 401 (2011). In *Hodes*, we provided a list of possible mitigating factors:

> absence of a prior disciplinary record; absence of a dishonest or selfish motive; personal or emotional problems; timely good faith efforts to make restitution or to rectify consequences of misconduct; full and free disclosure to disciplinary board or cooperative attitude toward proceedings; inexperience in the practice of law; character or reputation; physical or mental disability or impairment; delay in disciplinary proceedings; interim rehabilitation; imposition of other penalties or sanctions; remorse; and finally, remoteness of prior offenses.

441 Md. at 209 (citation omitted). Respondent has the burden of proving mitigating factors by a preponderance of evidence. Md. Rule 19-727(c).

We find that Respondent established the mitigating factor of absence of prior attorney disciplinary history.

Turning to the sanction, Respondent committed numerous and serious violations of the MARPC, including intentional misappropriation of Trust assets, failure to safeguard client property, frivolous and vexatious litigation, disobedience of court orders, and conduct prejudicial to the administration of justice. These violations, considered both individually and in the aggregate, demonstrate that Respondent is unfit to continue practicing law in this State.

The Hearing Judge found, by clear and convincing evidence, that Respondent used his position as a trustee to exert exclusive control over the Pisner Trust, failed to maintain adequate financial records, and misappropriated Trust assets for personal use. These findings were supported by testimony, accounting records, and judicial inferences drawn by multiple judges who reviewed the matter. Respondent's failure to provide documentation—particularly source records for substantial distributions to himself—violated both his fiduciary duties under trust law and his ethical obligations under Rule 1.15. The misappropriation included the use of Trust funds for personal expenses, including credit card payments, tuition, and legal fees.

We further credit the Hearing Judge's finding that Respondent failed to comply with multiple court orders directing him to produce Pisner Trust documents, resulting in a contempt finding by the circuit court. Respondent admitted under oath that he made no meaningful attempt to retrieve the requested documents and did not undertake reasonable efforts to comply with discovery obligations. This conduct supports a violation of Rule 3.4(c). *See Edwards*, 462 Md. at 704 (holding that failure to comply with court orders constitutes a violation of Rule 3.4(c)).

In addition to his financial misconduct, Respondent engaged in a sustained pattern of litigation conduct that the Hearing Judge concluded was frivolous and intended to obstruct or delay resolution of the underlying trust dispute. Respondent filed actions and appeals in Maryland, the District of Columbia, and federal court, asserting claims that had already been adjudicated or were barred by *res judicata* or collateral estoppel. The Hearing Judge found that Respondent's filings lacked a good faith basis in law or fact and violated Rule 3.1. The record reflects that Respondent did not prevail on a single substantive claim across these proceedings, despite the expenditure of significant judicial and party resources.

We also agree with the Hearing Judge's findings that Respondent's conduct caused tangible harm to multiple parties, including his co-trustee, who incurred substantial legal fees, and two professionals whose liability insurance premiums increased due to the ongoing litigation. Moreover, Respondent's actions taxed judicial resources across multiple forums and delayed resolution of the trust proceedings for more than a decade.

The Hearing Judge identified five aggravating factors supported by the record and one mitigating factor—the absence of prior disciplinary history. In this case, the aggravating factors compel the conclusion that disbarment is warranted. This Court has consistently held that intentional misappropriation of client or fiduciary funds is among the most serious professional violations and typically warrants disbarment. *Woolery*, 462 Md. at 254-55. Likewise, attorneys who persist in vexatious litigation or misuse the judicial process in violation of Rule 3.1 may also face disbarment, particularly when such conduct is compounded by other serious violations. *See Rheinstein*, 466 Md. at 722-23; *Attorney Grievance Commission v. Smith-Scott*, 469 Md. 281, 324 (2020). Respondent's misuse of the legal process did not occur in a single case or over a brief period; rather, it spanned nearly a decade, involved two jurisdictions, and extended across multiple state and federal courts.

Nowhere in his Exceptions did Respondent address what the appropriate sanction should be or explain why his admitted misconduct—use of Trust funds for personal expenses, failure to produce trust records, non-compliance with the October 2, 2017 court order culminating in contempt, and repeated filings barred by *res judicata* or collateral estoppel—falls outside the scope of sanctionable conduct under the MARPC. As reflected in the Respondent's 70-page Exceptions, and as the Hearing Judge expressly found at the hearing, Respondent neither acknowledged any wrongdoing nor demonstrated remorse at any point during these proceedings. The absence of remorse weighs heavily against mitigation. We have long recognized that a lack of contrition is a significant aggravating factor, for it allays nothing as to "the likelihood of a repetition of the conduct." *Attorney Grievance Commission v. Kovacic*, 389 Md. 233, 240 (2005); *cf. Attorney Grievance Commission v. McClain*, 373 Md. 196, 212 (2003) ("[A]n attorney's voluntary termination of the charged misconduct, when accompanied by an appreciation of the serious impropriety of that past conduct and remorse for it, may be evidence that the attorney will not again engage in such misconduct.").

Although indefinite suspension has been imposed in some cases involving frivolous litigation, those cases did not involve intentional misappropriation of client or fiduciary funds. *See Attorney Grievance Commission v. Whitted*, 487 Md. 501 (2024).[7] Considering the totality of his conduct, the serious harm inflicted, the presence of multiple aggravating factors, and a dearth of mitigating factors, we conclude that disbarment is the only sanction adequate to protect the public and preserve confidence in the profession. Respondent's actions are fundamentally incompatible with the responsibilities of an

[7] Unlike the attorney in *Whitted*, who engaged in abusive litigation conduct but did not misuse entrusted funds, Respondent here committed one of the most egregious violations of professional responsibility—knowingly converting trust property for personal use. That fundamental breach of fiduciary duty, when combined with repeated misuse of the courts, compels disbarment.

attorney licensed to practice law in this State.

VII.

CONCLUSION

For the reasons discussed above, we concluded in a March 5, 2025 order that Respondent violated Rules of Professional Conduct 1.1 (Competence), 1.15 (Safekeeping Property), 3.1 (Meritorious Claims and Contentions), 3.4 (Fairness to Opposing Party and Attorney), and 8.4(a) and (d) (Misconduct), and ordered that Respondent be disbarred.

EXHIBIT C

ATTORNEY GRIEVANCE COMMISSION OF MARYLAND	*	IN THE
	*	SUPREME COURT
v.	*	OF MARYLAND
	*	AG No. 23
GARY PISNER	*	September Term, 2023
	*	

ORDER

Upon consideration of Respondent's motion for reconsideration of the Court's opinion and disposition in this matter, it is this 20th day of August 2025, by the Supreme Court of Maryland

ORDERED that the motion for reconsideration is denied.

/s/ Matthew J. Fader
Chief Justice

EXHIBIT A1

EXHIBIT B

ATTORNEY GREVEINCE COMISSION OF MARYLAND Petitioner vs. GARY STEVEN PISNER Respondent	IN THE SUPREME COURT OF MARYLAND SCM-AG-0023-2023 IN THE CIRCUIT COURT OF MONTGOMERY COUNTY Case No. C-15-CV-23-004631

MOTION FOR RECONSIDERATION OFTHIS COURT'S OPINION OF JULY 14, 2025, PURSUANT TO MD RULE 8-605

COMES NOW Respondent Pisner, (hereinafter "Pisner") Pro Se, hereby respectfully moves this Court to reconsider its Opinion of July 14, 2025. This Motion is timely under Md Rule 8-605 because it has been filed within the 30 days post-opinion and falls under (see Md. Rule 8-605(b)(1), 605(b)(2)) and 8-605(b)(3).

I. Concurrent Proceedings

This court declined to hear the constitutional due process issues that existed in this case (see Pisner's Motion to establish a Briefing Schedule of August 8, 2024, which was denied and remanded to federal court, those due process issues are being addressed by the Federal 4th Circuit and the issue of this court's order of March 5, 2025, where Pisner was improperly disbarred before the outstanding due process issues were addressed: A petition for Certiorari has been filed with the U.S. Supreme Court.

So those constitutional issues are before the Federal Courts, but, as will be shown, the July 13, opinion has its own problems, i.e., the stated facts in the opinion, which appear to be largely taken from Bar Counsel's draft finding of facts and conclusions of law, which were accepted at the Circuit Court level, and which was used by this court. The record does not support the alleged gross factual errors.

II. Correcting the Facts

1. The ledger

In exhibit 1, the "Marion E. Pisner Revokable Trust Agreement "paragraph 2(a) in 2008 named two beneficiaries unless they violated. Rubinstein and Pisner paragraph 6(e) of exhibit1, in which case that person would no longer be a beneficiary. For the Trustees there were Pisner and Marla Rubinstein (hereinafter "Rubinstein." See paragraph 3(b).

Each CoTrustee has a duty to maintain the documents in charge. There has never been any caselaw presented that requires each CoTrustee to maintain duplicates of the entire trust file and as such the maintenance of the documentation was divided between Rubinstein, Pisner and the Trust Accountant, who needed to prepare tax payments and fulfil the requirements of 6(a)(1). That included paying the $132, 000 estate tax and paying off outstanding debts.

1. The BB&T ledger

The BB&T account ledger was maintained by Pisner and that was simply a response to overdrafts occurring every month for the first year because two people were writing checks. That was not an encumbrance because the bank statements went to Rubinstein. One can see that for the Belair meeting, it was Rubinstein that brought the bank statements and that was because statements were sent to the granter's house as was every other correspondence, in addition, the personal property of the granter was controlled by Rubinstein because she owned the house that the Granter lived in; in addition, Rubinstein controlled personal property of the trust because that property was in the Granter's house which had been transferred to

Rubinstein via paragraph 6(1)(c) of the Trust agreement; moreover, the stock certificates and bonds were in the Granter's house so Rubinstein held those too (the Granter's house was 10718 Douglas Avenue, Silver Spring MD and that is the reason why Pisner had so few documents, especially after the Belair meeting because the new account that became the default TD Bank account seeded with the entire contents of the BB&T account, which was $28,000. The BB&T account after the TD account became vestigial, mainly used for collecting rent in the houses that were owned in the Baltimore Metro area and paying for maintenance in those houses. The Baltimore houses lost money. The Maryland and Virginia houses were distributed equally, and they ceased to be money makers for the trust.

1. **Court findings regarding the BB&T account is misleading**. The court states that:

> The ledger maintained by Respondent reflects approximately 70 personal transactions between November 2009 and August 2013. These include tens of thousands of dollars in payments related to Respondent's divorce, personal credit card charges, and self-designated "loans" from the Trust.

Given that Pisner was a beneficiary, it should not surprise anyone that there were these distributions to Pisner.

> The Hearing Judge found Respondent's testimony regarding the Bel Air Meeting to be inconsistent. Respondent initially testified that he had provided Ms. Rubinstein with all relevant Trust documents, stating that she "walked out of the meeting with all the documents. Everything." Later, however, he acknowledged—and Ms. Rubinstein confirmed—that he had brought only a ledger to the meeting.

On page 3 of this court states the following:

> The Hearing Judge found Respondent's testimony regarding the Bel Air Meeting to be inconsistent. Respondent initially testified that he had provided Ms. Rubinstein with all relevant Trust documents, stating that she "walked out of the meeting with all the documents. Everything." Later, however, he acknowledged—and Ms. Rubinstein confirmed—that he had brought only a ledger to the meeting. Based on these inconsistencies, the Hearing Judge concluded that Respondent did not, in fact, relinquish control of the Pisner Trust to Ms. Rubinstein following the Bel Air meeting.

Reviewing the Circuit Court Transcript, 14 -24 P 73 19) the problem is clear. In the transcript Pisner said:

> I brought to that meeting a printout of the ledger, and that was it. Marla Rubenstein had every other document in her possession. She had everything. She had the bank statements. She had everything. I had nothing. I had sent her my credit card statements, she had them. She

had been working on them for about a week. That's why we set it up a week -- a week after the settlement. She had to write up on a

One can see that the Author simply failed to check the

transcript.

In the opinion we have a second mistake, where the court

states:

The ledger maintained by Respondent reflects approximately 70 personal transactions between November 2009 and August 2013. These include tens of thousands of dollars in payments related to Respondent's divorce, personal credit card charges, and self-designated "loans" from the Trust. Ms. Rubinstein had no access to the Trust's bank accounts and was unaware of these transactions until she obtained the relevant bank statements from BB&T during the litigation described below.

First thing to note, during the Circuit Court trial (this is in the Transcript and in the opinion, there were three Trust accounts- the BB&T account, the TD account after the Belair audit, and the SunTrust bank account, which used to pay the taxes, like the $132, 000 estate tax and those debts. Pisner has no access to the TD bank account, nor did he receive statements: This was consistent with the Belair Agreement that Rubinstein would run the trust. Ironically, during discovery, there were no statements, no tax payments, no checks from tenants- nothing and given that Rubinstein was a CoTrustee, she had a duty to maintain her records; one would also expect that the stock documents were be available- but nothing; appraisals of personal property -nothing.

The Circuit Court looked at the actual number of distributions using McCarthy's accountant's numbers from their exhibit:

> BY THE COURT:
> Q Okay. I'm looking at Petitioner's Exhibit 47, bates number 403, reimbursement for educational expenses, or what?
> A Yeah.
> $3,600?
> A Distributions to Marla Pisner Rubinstein. This is from the BB&T account adding --
> I see.
> A -- 10,138 comes out to 54,000.
> Q Right, almost 55,000.
> A Right.
> Okay. What else do you want to tell me?
> So, that was being done back and forth. If you, if you look at the, in fact, the Sun Trust on account of transaction, it says 16-723.
> What page are we talking about?
> The same one.
> Q I'm sorry, $49,000 is what?
> A Is, is my, the amount of money I took out for education, for legal fees and for loans was 49,000 something,
> like 800, and Marla took out 54,894; and based on the 2010
> audit that we did, we were about $2,300 off between the two of us.
> Q Your number 49,800 is as of 2010?
> A This was pre, this was, this was what came out during the audit in 2010.
> Q Right.
> A So, it didn't include anything after the audit.
> Q Meaning after the Belair meeting is --
> A After the Belair meeting, remember, Marla told me I couldn't do anything.

So the alleged 92 transactions that Pisner took (don't know what was included) are not particularly useful given that both beneficiaries were taking distributions from the trust before the Belair audit- that was in distributions and loans. Under the trust agreement that was proper. As you can see using the accountant's own numbers show that Pisner received $$49,000 and Rubinstein received $54,000.

Please Note: transcript 14-24 p 192, the court states:

> Mr. Pisner put on some, I don't know if I can find evidence that perhaps $133,000 of it was not mishandled or that was actually paid in taxes. Let's assume for a moment that at least as to that money, I think maybe the, the Commission didn't meet its burden of clear and convincing evidence.

The Court opinion appears the have mistakenly failed to deduct the $133,000 in estate taxes. Treating that as a distribution is to much, even for the Circuit court.

First, the court indicated that on July 31, 2017, Rubinstein filed a "response.": The "response" had not been served so Pisner had no idea what had been filed. What the court does not acknowledge is that on September 25, 2017, that July 31, 2017, was recanted and Rubinstein's request for the appointed trusted was withdrawn. (see Exhibit 2)

As you can see, she claimed that she had not received credit card statement, which she had before the Belair meeting, but at the next hearing all the credit cards were presented to Rubinstein and to the court, also with correspondences which proved that Rubinstein had receive the credit card statements shortly before the Belair audit:

09/28/2077 #:S MOTTON, APPROPRTATE RELTEF
TYPE: MOTION STATUS: DENIED
PI,AINTIFF'S ORAL MOTTON TO SEAL PLAINTIFF'S
(ALBRIGHT, J.)
Judge: A ALBRIGHT
og/28/2ott #35 MOTION, WITHDRAW (CASE NOT CLOSED)
TYPE: MOTION STATUS: GRANTED
PLAINTIFF'S ORAL MOTION TO WITHDRAW PLAINTIFF'S
WITH LEAVE OF THE COURT. (ALBRIGHT, J.)
Judge: A ALBRTGHT
oe/28/20L7 #37 EXHrBrr SHEET FrLED
TYPE: DOCKET
EXHIBIT SHEET, FILED.
,Judge: A ALBRIGHT
os / 28 / 2017 #3 B COURT SETS 684 Rl
TYPE: DOCKET
couRT (ALBRIGFIT, J.) SETS A STATUS HEARTNG ON NOVEMBER
22,
1 : 3 O P. M. F'OR 1 HOUR BEFORE THIS MEMBER OF THE BENCH.
,Judge: A ALBRIGHT

The 9/28/ Motion to Withdraw, allowed Pisner to withdraw his credid card related exhibits because of the extensive confidential information and because of Rubinstein's documented failure to comply with confidential agreements: Rubinstein's claims about credit cards were debunked.

One should also note that given that after Exhibit 2 was filed by Rubinstein, no beneficiary wanted a new trustee appointed, so both Pisner and

Rubinstein waited for a response from the court and that response was not issued until 1/18/2025: Those filings has not been delt with by the court for months.

1/18/2018 c #60 ORDER, STRTKE 481, DH
TYPE: RULING STATUS: DENTED MOTION: 23
MODIFICATION ORDER OF COURT (ALBRIGHT, J.) THAT PLAINTIFF'S MOTION TO
STRIKE THE RUBINSTEIN RESPONSE TO THE TRUST'S PETTTION FOR A
DECLARATION RIGHTS PURSUANT TO SECTTON 3-408 (DOCKET ENTRY NO. 23) IS
DENIED, ENTERED. (COPIES MAILED)
Judge: A ALBRIGHT
Why0t/1-8/zorc #60 oRDER, STRTKE 481, DH
TYPE: RULING STATUS: DENTED MOTION: 23
MODIFICATION ORDER OF COURT (ALBRIGHT, J.) THAT PLAINTIFF'S MOTION TO
STRIKE THE RUBINSTEIN RESPONSE TO THE TRUST'S PETTTION FOR A
DECLARATION RIGHTS PURSUANT TO SECTTON 3-408 (DOCKET ENTRY NO. 23) IS
DENIED, ENTERED. (COPIES MAILED)
Judge: A ALBRIGHT

0t/tB/201-B #51 ORDER, LEAVE TO 802 DH

TYPE: RULING STATUS: GRANTED MOTION: 27

MODIFICATTON ORDER OF COURT (ALBRTGHT, ,J.) THAT DEFENDANT'S MOTTON FOR

LEAVE TO ACCEPT LATE FILING OF MOTION TO STRTKE FOR DOCKET 25 (DOCKET

ENTRY NO. 27) IS GRANTED, ENTERED. (COPIES MAILED)

Judge: A ALBRIGHT
0t/18/zota #52 Order, RECONSTDERATTON t7s4 DH

TYPE: RULING STATUS: DENIED MOTTON: 44
MODTFICATION ORDER OF COURT (ALBRIGHT, .].) THAT
PLATNTIFF'S REQUEST
FOR RECONSIDERATION OF THE COURT'S OCTOBER 2, AND A9,
2077 ORDERS AND
NOTTCE OF OBJECTIONS FOR APPEALS TO THE MARYLA.}TD
COURT OF SPECIAL
APPEALS (DOCKET ENTRY NO. 44) IS DENTED, ENTERED.
(COPIES MAILED)
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TYPE: RULTNG STATUS: DENIED MOTION: 45
MODIFICATION ORDER OF COURT (ALBRIGHT, J.) TIIAT
PLAINTfFF'S MOTION FOR
STAY (DOCKET ENTRY NO. 45) IS DENIED, ENTERED. (COPTES
MAILED) were we waiting:

1. **The Trust**

The Trust assets vanish.

On January 14, 2019 Pisner filed a complaint because of evidence that McCarthy was disposing of assets and that the properties all in the District of Columbia were being transferred to Rubinstein or the proceeds of the sales were being paid to Rubinstein: Rubinstein had put out for rent signs and the real estate agent indicated that the owner was Marla Pisner's personal trust and that had been the case since late 2017.

In late 2017

McCarthy, the trustee, refused to communicate with Pisner, the beneficiary

1. **The contempt issues.**

Pisner had supplied three years of as required of records as required in Judge Albright's order required Pisner to supply trust documents back to January 2015, this was what Judge Albright had ordered.

McCarthy had a fiduciary duty to communicate with the trust's beneficiary. The order coming from April 8, 2018, hearing required Pisner and Rubinstein to supply trust documents back 10 years rather than just 3 as was required by the court.

Pisner served every document that he had in compliance with Judge Storm's order.

Along with the documents Pisner requested that McCarthy notify him of any deficiencies so he could correct those deficiencies, Pisner was never contacted before 11 AM the next business day, without reviewing the thousands of pages of documents, McCarthy filed a suggestion of contempt contrary to his fiduciary duty. Pisner had no idea what was missing.

On June 7, 2018, there was a hearing before Judge Mason, but there was a problem, the accountant claimed that she had not received documents that she had received. Her false statement under oath regarding Pisner, the beneficiary of the trust, resulted in Pisner being found in contempt. That order finding Pisner in contempt contained a paragraph requiring McCarthy to serve Pisner by email any document that Pisner had supplied by a deadline. Once Pisner received those documents, it was clear that the accountant's claim that Pisner had failed to supply documents was false because the documents that McCarthy had returned to Pisner contained every document that the Accountant had testified, under oath, that they had not received. Based on the Pisner filed a Motion for reconsideration with irrefutable evidence, including documents that McCarthy's accountant had committed perjury (See Exhibit 3).

Judge Masion, on July 20, 2028, indicated that he was leaving the matter to the appellate court.

So, the Accountant's perjured testimony, which McCarthy now knew to be false, rather than disclose this to the court. That is why the Petitioner's attempt to conceal the source of the numbers that they used was so improper. Moreover, Petitioner was aware of this, and it did nothing,

1. **The Maryland Appellate Court**

The opinion miscarriages what happened in the appellate court. Pisner was faced with a problem, i.e. McCarthy practiced in three jurisdictions: Baltimore City, Baltimore County, and Montgomery County. There were certain odd characteristics in the proceeding that were unusual. First, there was no real appeal because McCarthy, in his reply brief in the appeal had made alternative questions for review that were unrelated to the appeal and the court used his- so the appeal issues were not addressed at all. Next, even stranger was the fact that the judge had complained about Pisner not having an opening brief, but the court had barred the filling of the opening brief via order, finally the court praised McCarthy's expertise in Trust and Estate law in its opinions. Finally, the judge that was allegedly writing the opinion was from Baltimore County, and researching the matter, I had to determine if Pisner had a recusal problem or a law clerk/contractor problem. It was reasonable to ask for information from the clerk's office: perfectly reasonable.

1. **The D.C. Superior Cour**t

The opinion is confusing in the Rubinstein filed a Motion to Dismiss after long delays. There were multiple grounds for dismissal raised and all were rejected, but Rubinstein was facing a Motion to Compel and Rubinstein and McCarthy's approach was to secretly clean up the record of the Maryland Circuit Court, by getting an order issued by a circuit court judge, while the court had no jurisdiction to sanitize the Maryland Circuit Court record and maybe get the D.C. Superior Court Case settled for $50,000 of Pisner's money. The problem was that it was on the record that the trust has no assets in late 2017; this is how McCarthy and Rubinstein delt with the problem with documentation being acquired through discovery. The Court received a copy of the distribution order months after the case was filed. Judge Pan assumed that there were still ongoing proceedings in Maryland and that is why the court ordered the case refiled in Maryland.

1. The Federal Courts

It was the D.C. Superior Court and the D.C. Court of Appeals that encouraged Pisner to refile in Maryland. In fact, the Court of Appeals retained jurisdiction over the case, to protect Pisner from statutory bars.

The Maryland Federal District Court

What happened with Rubinstein is simple. A scheduling order was issued by the court, which required approval for motions. Rubinstein submitted a motion to dismiss with hundreds of pages of attachments, including the contempt order, which was acquired through perjury and the distribution order from the circuit court, which was done ex parte, based on the perjured testimony contempt order, while an appeal was underway, so the court lacked jurisdiction. Pisner requested a Fed. Rul. Evid. 201 (e) hearing – it was denied. The Motion to Dismiss that had been heard in D.C., which had ruled on every ground for dismissal alleged in Rubinstein's new Motion to Dismiss had already been ruled on, so there was collateral estoppel, but the court would not let Pisner use the D, C, court's opinion- inexplicable.

The 4th Circuit's opinion was terse- "it's a trust matter." Not very informative.

As for the District Court case against McCarthy, that case is before the U.S. Supreme Court, so it is non final, despite what is alleged in the opinion.

CONCLUSION

So for these matters, disregarding the Due Process issues, which are now in the Federal 4th Circuit Court of Appeals, there are numerous factual errors that need correction, please consider correcting those errors.

Given the word limits Pisner could not address the legal argument, which also has numerous errors.

August 11, 2025

Gary Pisner

Gary Pisner, Esq.
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Fairfax, VA 22030
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Fax: 1-866-268-1771
Email: gpisner@outlook.com

CERTIFICATE OF SERVICE

I certify that I have served a copy of this notice on Counsel for Petitioner today, on August 11, 2025, electronically and I certify that this filling has 3,264 words.

Gary Pisner

Exhibit 1

EXHIBIT A

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND

ATTORNEY GRIEVANCE COMISSION OF MARYLAND, Petitioner, v. GARY PISNER, Respondent.	Case No.: ____________ **NOTICE OF REMOVAL** Removed from: Maryland Supreme Court, CN: SCM-AG-0023-2023

TO: Clerk of the U.S. District Court for The District of Maryland Southern Division:

PLEASE TAKE NOTICE THAT Respondent Gary Pisner (hereinafter, "Pisner") hereby removes to this Court the State court action described herein, pursuant to 28 U.S.C. §§ 1332, 1441, 1446, and 1447. Pursuant to 28 U.S.C. § 1446(d) and this Court's Local Rules, copies of this Notice of Removal are being served on all parties at the electronic addresses listed in Petition of Petitioner' state court electronic filing system and are being filed in the Supreme Court of Maryland.

I. STATEMENT OF THE CASE

A. How the Constitutional due process errors accumulated.

A formal disciplinary proceeding, by the Maryland Attorney Grievance Commission (hereinafter "Bar Counsel") against Pisner was initiated, by Bar Counsel, in 2023 (the complaint had been filed by Pisner sister approximately in 2020 while Pisner was suing her in the District of Columbia to recover missing assets, which were in her possession). Pisner had been a beneficiary of a trust managed by a court appointee a Robert McCarthy, Esq., (hereinafter "McCarthy") who has been a court appointee for over a decade in Montgomery, Baltimore, and Anne Arundel Counties and Baltimore City: It appears that he has been the default court appointee for trustee and guardianships, with 500 plus court appointments over a ten-year period. Under McCarthy's management the trust assets disappeared.

Pisner filed ethics complaints against McCarthy and his accountant. Pisner also filed a lawsuit against

APPENDIX C

McCarthy and his accountant[1].

The constitutional deficiencies that had been raised in the circuit court investigative stage were:

- Bar Counsel engaged in behavior that is unconstitutional (according to the caselaw, this is a form of prosecutorial misconduct) in that Bar Counsel, after a discussion with McCarthy, exonerated McCarthy and permitted him to be the main source for an investigation into Pisner and made him the main author of the issued Petition.

- This means that the person who had been accused of numerous ethical violations and was sued, was put in charge of an investigation against the person who had sued him and who had filed an ethics complaint against him. Not surprisingly, this has led to numerous procedural and constitutional failures.

- The Petition gave inadequate notice: What appears to have happened is the petition is a "flow of consciousness" diatribe of McCarthy containing some real and some unreal statements. Pisner objected to the petition in his answer because of a lack of notice.

- Although Marla Rubinstein (hereinafter "Rubinstein") had filed the complaint and had participated in the panel review hearing, it was McCarthy's related "flow of consciousness" complaints that predominated: This led to even more confusion.

- Bar Counsel had been served with discovery and apparently, because McCarthy had prepared the material for the petition, Bar Counsel's ability to respond to discovery was limited, so bar counsel had a limited response to discovery.

- The listed exculpatory evidence identified was non-existent; even Md. Disciplinary R. 19-726(c), the equivalent of the Brady Rule, was ignored by Bar Counsel.

- The Complainant, Rubinstein totally failed to respond to a subpoena Duces Tecum, but was allowed to testify at the investigative hearing, although a Motion for the Court to Issue a Rule to Show Cause had been filed against her.

---

[1] The same accountant that was sued for embezzling trusts funds and who a ethics complaint was filed because the accountant committed perjury; the same accountant that bar counsel relied on in the investigation and petition.

- McCarthy failed to respond to a subpoena Duces Tecum but was allowed to testify although a Motion for the Court to Issue a Rule to Show Cause had been filed against him.
- Pisner could not raise McCarthy unethical behavior because McCarthy had been exonerated by Bar Counsel; therefore, Rule 19-707(b) applied, and the evidence was deemed to be confidential.
- There was evidence that McCarthy had concealed exculpatory documents during the investigation.

II. BASIS FOR REMOVAL

A. The District Court proceeding.

Clearly- there are several overt due process errors and procedural errors that, normally would be addressed prior to any evidentiary proceeding. The above deficiencies were raised repeatedly but there were two cited impediments to correcting the procedural deficiencies at the investigative level: First, Rule 19-727(d) requires that "[T]he hearing shall be completed within 120 days after service on the Attorney. The Second Rule 19-725(c), which states that ...Motions to dismiss the proceeding and motion for summary judgement are not permitted." The conclusion of the court was that it lacked the authority to act because the court lacked the time and/or the authority, but the Maryland Supreme Court did.

Pisner preserved all is objections, for the Maryland Supreme Court through notices of objections, request for reconsideration, and motions.

Because the circuit court believed it could not fix the procedural and evidentiary errors, the product of the circuit court, i.e., its Finding of Facts and Conclusions of Law contain so many factual and legal errors -- seemingly an obvious migration of McCarthy's errors to the final product, it is legally useless. [2]

B. **The Maryland Supreme Court takes Control.**

The case was transferred to the Maryland Supreme Court on July 30, 2024. On August 8, 2024, Pisner filed a Motion to Establish a Briefing Schedule (Exhibit 1), to address the procedural and due process errors, that the circuit court had failed to remedy.

The Maryland Supreme Court responded to the above Motion on August 28, 2024 (see Exhibit 2), with a response "Denied."

The message is clear- the Court will move forward without addressing the constitutional issues that permeate this proceeding: That is simply constitutionally improper.

THEREFORE- Removal is Proper Because This Court Has Subject Matter Jurisdiction Pursuant to U.S. Code sec 1441(1) (c)(A), because the above issues constitute a claim arising under the U.S. Constitution of the United States; moreover, it appears the above referenced Maryland rules related to Maryland disciplinary proceedings act as a unconstitutional constitutional impediment, and this Court intervention can remove that impediment.

Finally, any bias found in present proceeding, which has largely been commandeered by a court appointee-McCarthy, will be mitigated.

"

III. Respondent Has Satisfied the Procedural Requirements for Removal.

1. Respondent filed his motion that would have permitted the review of the constitutional deficiencies on August 8, 2024 (see Exhibit 1). The Court refused to hear those constitutional issues, pursuant to its order on August 28 (see Exhibit 2). Accordingly, this Notice of Removal is timely filed within 30 days [(September 28)] after the receipt through service, a copy of the

[2] Pisner discovered that the trial judge has used McCarthy's services but failed to disclose it.

initial pleading/order setting forth the claim for relief upon which such action or proceeding is based.

2. This action is being removed "to the district court of the United States for the District and division embracing the place where such action is pending," pursuant to 28 U.S.C. § 1441(a).
3. Additionally, both parties are subject to personal jurisdiction in this court. As set forth above, Respondent is a citizen of Virginia and Petitioner is in Maryland.
4. No previous application has been made for the removal requested herein.

IV. Preservation of Rights and Defenses

- All rights are reserved, including, but not limited to, defenses and objections as to venue and personal jurisdiction and the right to move for dismissal of the Petition for, *e.g.*, failure to state a claim for relief and failure to sue the appropriate parties. The filing of this Notice of Removal is subject to, and without waiver of, any such defenses and objections.
- Pisner also reserves the right to amend or supplement this Notice of Removal.

WHEREFORE, Respondent Pisner respectfully gives notice that the above-captioned civil action pending in the Maryland Supreme Court is removed to this Court, pursuant to 28 U.S.C. §§ 1332, 1441, 1446, and 1447.

Dated: 9/26/2024

By: ______________________________

Gary Pisner, Esq. Pro Se
10561 Assembly Drive
Fairfax, Virginia 22030
Tel: 703-597-6447
Fax; 1-866-68-1771
Email: gpisner@outlook.com

CERTIFICATE OF SERVICE

I hereby certify that on September 27, 2024, the foregoing Notice of Removal, and all exhibits thereto, were paper filed and that copies of same were served upon the Maryland Court and the Petitioner electronically, through their court system.

____

ATTORNEY GRIEVANCE COMMISSION OF MARYLAND

v.

GARY STEVEN PISNER

* IN THE

* SUPREME COURT

* OF MARYLAND

* AG No. 23

* September Term, 2023

ORDER

Upon consideration of respondent's motion to establish briefing schedule, motion to recuse, "Expedited Motion for Extension of Time to File His Exceptions or Brief," and "Expedited Rule 1-204 Motion to Extend Time Requirements to File His Exceptions or Brief," it is this 28th day of August 2024,

ORDERED by the Supreme Court of Maryland that the motion to establish briefing schedule is denied; and it is further

ORDERED that the motion to recuse is denied as each Justice has determined that their disqualification under Maryland Rule 18-102.11 is not warranted; and it is further

ORDERED that the respondent's "Expedited Rule 1-204 Motion to Extend Time Requirements to File His Exceptions or Brief" is granted and the date for filing of exceptions is extended from August 30, 2024 to September 16, 2024; and it is further

ORDERED that the respondent's "Expedited Motion for Extension of Time to File His Exceptions or Brief" is denied as moot.

SUPREME COURT OF MARYLAND

/s/ Matthew J. Fader
Chief Justice

Gary Pisner, Esq.
10561 Assembly Drive
Fairfax, VA 22030
703-597-6447 | Fax: 1-866-268-1771

ATTORNEY GREVEINCE COMISSION OF MARYLAND	IN THE SUPREME COURT OF MARYLAND SCM-AG-0023-2023
Petitioner vs.	IN THE CIRCUIT COURT OF MONTGOMERY COUNTY
GARY STEVEN PISNER	Case No. C-15-CV-23-004631
Respondent	

MOTION TO ESTABLISH BRIEFING SCHEDULE

The Respondent respectfully requests that this Court enter an order setting a briefing schedule to address those objections raised and referenced in Pisner's, Notice to Preserve Objections filed on Jul 15, 2024 (see Exhibit 1 and pages 8104 to 8107 of the record).

I. Why this Briefing Schedule is Necessary

Respondent proposes a schedule that would permit briefing, relating to cited errors, to be completed and oral arguments to be permitted on the matters, prior to the filing deadline, for the parties to file their exceptions to the Circuit Court's Finding of Facts and Conclusions of Law, which was submitted on July 30, 2024.

This should be done because those numerous cited due process deficiencies, rule compliance failures, and the legal defects may make further proceedings moot. Moreover, this Court will have a clearer understanding of the facts in this matter and how the alleged facts proffered by Bar Counsel and apparently adapted by the Circuit Court, in its Finding of Facts and Conclusions of Law, came into existence and how the record was created.

On the 31st of July (last week) this Court proffered a schedule that, Respondent proposes that this Court modify to permit a briefing schedule and, if necessary, a hearing to review those errors on the record.[1]

II. Conclusion

For the foregoing reasons, the Respondent proposes that the date now scheduled for filing the exceptions to the Circuit Court's Finding of Facts and Conclusions of Law, now scheduled for August 30. 2024, be, instead, the date for filing the Respondent's brief to address those errors cited, that a brief in opposition would be permitted within two weeks thereafter, by Petitioner, a reply brief should be permitted two weeks thereafter, a hearing, if necessary, should be scheduled on the matter and the exceptions, if necessary, should be filed thereafter. The date for oral arguments, for the matter, now set for October 1, 2024, should be rescheduled to accommodate the revised briefing schedule.

[1] It is also noteworthy that, given the number of errors of record, 30 minutes for oral arguments would be insufficient, unless the errors have been already addressed and disposed of, by this Court, prior to a final hearing.

August 8, 2024

Gary Pisner, Esq.

10561 Assembly Drive

Fairfax, VA 22030

Tel: 703-597-6447 Fax: 1-866-268-1771

Email: gpisner@outlook.com

CERTIFICATE OF SERVICE

I certify that I have served a copy of this Motion with Exhibit on Counsel for Petitioner today, August 8, 2024, and August 9, 2024, electronically.

Gary Pisner, Esq.
10561 Assembly Drive
Fairfax, VA 22030
703-597-6447 | Fax: 1-866-268-1771

EXHIBIT 1

ATTORNEY GREVEINCE COMISSION OF MARYLAND Petitioner vs. GARY STEVEN PISNER Respondent	IN THE SUPREME COURT OF MARYLAND SCM-AG-0023-2023 IN THE CIRCUIT COURT OF MONTGOMERY COUNTY Case No. C-15-CV-23-004631

NOTICE TO PRESERVE OBJECTIONS [1]

Defects in the Petition form and process.

The Respondent, Gary Pisner, hereinafter, "Pisner" notes, to preserve his objections, for potential review by the Maryland Supreme Court; said alleged errors disclosed in Pisner's Motion to Dismiss and Answer, supported by or disregarded by the court are objected to and may be presented to the Maryland Supreme Court for review.

Respondent incorporates by reference the following documents in support of his objections:

- Answer
- Motion to Dismiss of 5/16/2024 and

[1] Please note that this is a listing of objections; therefore, there is no requirement for this court to file a response. This is simply informational.

- Motion for Reconsideration of the Court's May 22 Order.
- Comments of this Court during the hearing (see 14 Tr 198).

As an ancillary problem, given that Robert McCarthy, Esq. ("McCarthy") a person who was sued by Pisner and, who had an ethics complaint filed against him by Pisner, the use of the confidentiality rule to restrict the boundaries of the proceedings was improper and are objected to. The Court noted this tension between the confidentiality rule as it is applied to McCarthy and that the underlying driving force in this matter, could be equivalent to the "snitch" problem in criminal cases, yet the matter was not resolved, still the proceedings were encumbered.

Defects in the Discovery Process.

The Respondent Gary Pisner, hereinafter, "Pisner" notes, to preserve his objections, for potential review by the Maryland Supreme Court; said alleged errors disclosed in Pisner's Motion to Compel, supported by or disregarded by the court are objected to and may be presented to the Maryland Supreme Court for review.

Respondent incorporates by reference the following documents in support of his objections:

- Motion to Compel 5/2/2024
- Reply Brief 5/13/2024
- Motion for reconsideration 5/19/2024

Especially of note is the failure of Petitioner to supply exculpatory documents, narratives of exculpatory communications, and to comply with Rule 19-726(b).

Failure to Comply with Discovery by the two principal witnesses.

The Respondent Gary Pisner, hereinafter, "Pisner" notes, to preserve his objections, for potential review by the Maryland Supreme Court; said alleged errors disclosed in Pisner's Motion for Clarification relating to witnesses' failure to comply with Subpoena Duces Tecums, supported by or disregarded by the court are objected to and may be presented to the Maryland Supreme Court for review.

During the prehearing on June 10, 2024, in its response to Pisner's Motion for Clarification, the court cited to scheduling restrictions as limiting its ability to cure two of the witnesses' failure to comply with discovery requests. Regardless of the schedule in the rules, due process should have been the driving force behind the process rather than schedule, nevertheless, though there were issues related to the failure of two of the witnesses to comply with discovery, the court improperly permitted the two witnesses to testify in violation of Rule 19-726(a)(5). Said actions were highly prejudicial and are objected to.

Respondent incorporates by reference the following documents in support of his objections:

Motion for Clarifications 6/6/2024.

Transcript excerpt of the pretrial hearing.

Gary Pisner

Gary Pisner, Esq.

CERTIFICATE OF SERVICE

I certify that I have served a copy of this notice on Counsel for Petitioner today, July 15, 2024, electronically.

Gary Pisner

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

MARION E. PISNER TRUST, Plaintiff, v. MARLA RUBENSTEIN, Defendant.	:	Civil No 427983

HEARING

APPENDIX C1

FILED

DEC 26 2017

Clerk of the Circuit Court
Montgomery County, Md.

Rockville, Maryland

September 28, 2017

DEPOSITION SERVICES, INC.
12321 Middlebrook Road, Suite 210
Germantown, Maryland 20874
(301) 881-3344

A-070

ORIGIN

relevant to the matters before me today. In other words, whether or not Ms. Rubenstein received those documents. I don't think that's relevant to the issue of the propriety of an audit at this time. So I am going to sustain the objection but the record is made with regards to those exhibits. What is -- did you have want to have the next exhibit marked?

MR. PISNER: Yes.

THE COURT: Okay. Why don't you please hand it to the clerk. And ma'am, do you have the exhibits that we handed you or your brother handed you earlier?

MS. RUBENSTEIN: I do. I have these.

THE COURT: We need to retain those for the record, please.

MS. RUBENSTEIN: All right.

THE COURT: Even though I have declined to admit them, they are part of the record.

MS. RUBENSTEIN: Thank you, Your Honor.

MR. PISNER: Your Honor, please note my objection. I believe they are appropriate.

THE COURT: I'm sorry. You are the moving party and your sister was the one who objected. So I'm not clear why you are objecting.

MR. PISNER: Objecting to the Court not moving it into evidence.

THE COURT: Me not accepting it into evidence?

going back eight years is deemed necessary.

That's a lot of money and you run into statute of limitations issues. Forgive me, Your Honor. Benning v. Reese says for a situation like this where Rubenstein is actually asking for damages, it's a three-year statute of limitations. Why am I raising this point? we need to basically preserve cash for the trust. We have no money. I am putting in $10 a month to keep the account the trust account from bouncing. And now we are going back to an issue where we have to pay an accountant for eight years of review.

And the reason why we have to do this and why during the last hearing it appeared that this is necessary was because of the very statements that were made by Ms. Rubenstein. She did not receive the credit card statements. It was not a full audit in 2010. She had been requesting audits for years. She is incapable of reviewing things as a trustee herself. She is incapable of doing her own review and audit because she doesn't have access to the documentation and to the websites, the bank websites. The problem here is it's a simple, simple review. If you look at it and I think to summarize where this whole thing was back in July of 2016 I have another exhibit which contradicts everything she says.

THE COURT: Okay. Sir, I'm going to rule on the admissibility of the last exhibit. Based on your proffer of what is in that exhibit, I'm not clear as to how that's

MR. PISNER: No. She was given a copy.

MS. RUBENSTEIN: I was given a copy of that. That is marked 2 now and not B?

THE COURT: It's 2.

MS. RUBENSTEIN: Thank you.

THE COURT: Okay. Could you step back, sir?

MR. PISNER: Yes, Your Honor.

THE COURT: Ma'am, look at that and tell me if you have an objection to that being admitted as part of this hearing.

MS. RUBENSTEIN: Your Honor, I object. Its pages and I would need time to review this. Its pages, Your Honor. And I object to this being admitted as evidence at this time considering it is the first time I am seeing it.

THE COURT: Tell me generally what these documents are. No. I'm asking Mr. Pisner that question.

MR. PISNER: This -- basically this document lays out the status of the audit that was ongoing as of July 2016. And there was an ongoing audit being done by Marla Rubenstein. She had documents. She was working on at that point in time. She had she claims in this document. She had --

THE COURT: Sir, what kind of a document is it? is it bank statements? is it an e-mail? Tell me what it is.

MR. PISNER: This is an e-mail, Your Honor.

THE COURT: From who to who?

MR. PISNER: Not accepting it.

THE COURT: Okay. I understand, sir.

MR. PISNER: Okay.

THE COURT: If you could step back.

MR. PISNER: Yes, Your Honor.

THE COURT: What is -- I'm sorry, sir. Could you step back?

MR. PISNER: Yes.

THE COURT: What is the document that you have in your hands? is that something that you handed to Mr. Clerk?

MR. PISNER: Yes.

THE COURT: Has it been marked?

MR. PISNER: Yes. It has.

THE COURT: So it is.

THE CLERK: This is (unintelligible) so you have to mark this one 2.

MR. PISNER: This is just my copy.

THE CLERK: Oh. Okay.

THE COURT: But what is the -- I think we are now on Exhibit No. 2.

THE CLERK: Yes, Your Honor.

THE COURT: Is that the Petitioner's No. 2.

THE CLERK: That is Petitioner's No. 2

THE COURT: Okay. Could you please hand Petitioner's No. 2 to Ms. Rubenstein so she can see it.

Okay. Thank you, sir. You may continue addressing the issues that are in the show cause order.

MR. PISNER: I think you can see from this exhibit that Marla Rubenstein had full access to all the accounts. She was in the process of doing her own audit. She had all the documentation available. Contrary to what she claimed in all her pleadings before this Court, her basic premise is that she was deprived of documentation to review. This communication indicates unambiguously that that was untrue. I understand that she wants to have a review of things.

I understand that she wants to go back all the way to the beginning because she has in her mind come up with these ideas that there were things missing in the original audit, that it was in some way defective, and that she was deprived of information to make things correct. I know I submitted to this Court the credit card statements. That was one of them. But she had total access to everything and, in fact, ironically she claims that the only thing that she was really missing was 2011, 2012, 2013 BB&T statements.

Well, I can tell you in my in my pleadings I point out that during that period -- this was after the original audit -- she took over everything. She indicated that when that audit was over that she was going to take charge. And the reason for that is because she did not want any reimbursement for trust expenses. She did not want me to bill the trust for

MR. PISNER: These are communications between Marla Rubenstein and me.

THE COURT: And the date on them you said is July of 2016?

MR. PISNER: Well, you have July 6 and you have a running narrative here going all the way back to June. It started on June and then went all the way to July 3rd.

THE COURT: Okay. Ma'am, would you please take a look at those. Are there discovery request pending in this case?

MR. PISNER: No.

THE COURT: I'm asking your sister that. Were their discovery requests that you had directed to your brother such that the production of this kind of document would have been required prior to today?

MS. RUBENSTEIN: No. There was no discovery request, Your Honor, but if I could just state that my brother and I are both in agreement that --

THE COURT: Now we're talking about the admissibility of this document.

MS. RUBENSTEIN: No. There were no discovery requests, Your Honor.

THE COURT: Okay. I am going to admit this document as it is communication between the parties from last summer as to the issue of the audit. May I see it please? thank you.

depriving the other trustee of access to the system, to the books. She has just as much of the requirement to review the documentation as I do.

And what I'm telling the Court is that was not true. It was not true from the very beginning. And, Your Honor, I understand. Again, you have wide discretion. But the basic underlying facts that resulted in that rule to show cause order were untrue. It was based on her statements to you. I believe that an audit would be appropriate. And I believe one year, two years, three years. But going back all the way back eight years is a little extreme. Given the fact that there was an audit done in 2010 and it was a complete audit. And it would be even extreme given the fact that during 2011, 2012, 2013 Rubenstein was in charge of the books basically --

THE COURT: Do you mean Ms. Rubenstein?

MR. PISNER: Ms. Rubenstein.

THE COURT: Thank you. Please refer to people by their formal name.

MR. PISNER: Sorry, Your Honor. So, again, we are dealing with a couple of years one would hope because that would limit the cost of the audit. Now, as far as all these defects that she claims that were in the original audit again there wasn't any.

THE COURT: That's not the subject of the show cause order at this time. If you could please, address who you think my expenses and she said she would do it all by herself. So she walked out saying I'm taking over. So between 2011, 2012, and 2013 until I was contacted by holders of liens on properties in Baltimore, she was basically taking care of things.

She has all those documents. You know, it's very interesting. She talks about my duty as a trustee to keep documents, to keep records. She has lost just about everything she has been given. She lost the credit card statements. Where are they?

THE COURT: Sir, could you please confine your comments to the issues that are before the Court.

MR. PISNER: Again, I'm going back to the necessity of the audit itself. You look at this document. She has on all the documentation that she required. Her assertion that she was deprived of documentation is false. That is why this Court was interested in requiring an audit because of the statements that she made that she lacked documentation to do things herself. This document says that she didn't lack any information at all. She had the documentation to review all along. She had access to the online accounts all along.

I understand that this Court has the right to require an audit. You have wide discretion. One needs to keep one's eyes open as to why we're doing this we are doing this because there is a perceived defect that basically was one trustee was

THE COURT: No, ma'am. I have given each of you an opportunity to be heard in regard to the show cause order and I'm prepared to make a decision.

MS. RUBENSTEIN: Thank you.

JUDGE'S RULING

Okay. Thank you, everybody. The parties are here today and they represent themselves. And they are here today pursuant to a show cause order that the Court issued back on -- it was signed on the 24th of August. I believe it was not docketed until the 30th of August at Docket Entry 20. The Court issued that show cause order after having had or started a hearing in regard to the petition for declaration of rights pursuant to 3-408 of Courts and Judicial Proceedings. That was filed by Mr. Pisner. That was back on December 13, 2016. Both parties were afforded an opportunity to be heard in regard to the matters listed in the show cause order and they were heard today.

I have now considered their arguments in regard to the show cause order and what I'm going to do now is make some preliminary factual findings and then move forward. So the parties are brother and sister. They are also trustees under the Marion E. Pisner revocable trust, a copy of which I believe is attached as an exhibit to the original petition to declare rights. And it seems to me from everybody's comments the grantor, Ms. Pisner, who is the parties' mother, has died. And

I should appoint as a trustee, if anybody?

MR. PISNER: I have no suggestion, Your Honor.

THE COURT: Okay. Thank you, sir. Is there anything else you would like to say about the issues that are within the scope of the Court's show cause order?

MR. PISNER: Your Honor, I would like to know for the record that what was before this Court originally was a requirement that the Court review the trust documents and make determination as to interpretation. That has been totally disregarded. And it's unclear when that ever will be dealt with. Those questions that were raised are pertinent to what we will do here as far as an audit is concerned.

And I would respectfully request that this Court respond to those. Respond to what is actually before it. What initiated this entire process. I understand we have this audit issue but that's a sidetrack. There were questions that were raised from the very beginning. Ms. Rubenstein has asked for a property. She has asked for the Court to give her property for a certain amount of money. That was not before the Court. That has nothing to do an audit. So that issue was posed in the questions that were raised. Can she have a house? is there self-dealing here? Can the Court hand over a house to her? That's what it is.

THE COURT: Thank you, sir.

MS. RUBENSTEIN: Your Honor, may I respond?

parties. And those disputes are spelled out or some of them are spelled out not only in the declaration of rights but they have been discussed by the parties before me both today and on our prior occasion in our prior hearing. So it also appears based on the parties' representations that, while the trust does not have substantial liquid assets, it does have some non-liquid assets. And it also appears that there may be some claims against the trust or at least the trust assets and those seem to me to be issues that are also the subject of dispute.

So based on all of that, it seems to me that, first of all, that these parties at this juncture are unable to work together to manage the trust. That inability in my judgment is in part what motivated Mr. Pisner to start this case and ask the Court to declare that he had the right to act unilaterally. Beyond that, it seems that there are a number issues that require resolution. I have just outlined those. So it seems to me that, without the Court's administration of this trust, that these issues will not get resolved.

And because these issues will not get resolved, the beneficiaries, who are the parties themselves, will not be able to move forward. So it seems to me that both beneficiaries -- that it is in the interest of them and the trust itself to fashion a remedy which would allow this matter to move forward and in my judgment that remedy will be the removal of these trustees for the time being and the appointment of a substitute so under the trust the parties are the trustees or at least appear to be at this time.

And looking at paragraph 2, the beneficiaries of the trust are as follows. The primary beneficiary was Ms. Pisner herself, Marion E. Pisner. And then following her death, the beneficiaries were to be Ms. Pisner's children, Gary Pisner and Marla Pisner Rubenstein, who are, in fact, the parties today. So the parties today essentially stand as trustees and as beneficiaries at this time, given the fact that Ms. Pisner herself has passed. So in listening to everybody not only today but over the course of the case so far it seems to me that the parties have broad disputes.

They dispute a number of things, not only the construction of the trust document itself but also how particular trust assets should be disposed of. These assets -- these disputes touch a property known as the Gorman Street property and another property known as the Georgia Avenue property. They are disputes about how these assets should be disposed of. There are disputes about whether accountings are necessary. There are disputes about whether Ms. Rubenstein has received documents that Mr. Pisner claims to have sent her. There are disputes about whether Ms. Rubenstein should have been more active in looking at the trustee's bank -- the trust bank accounts herself.

These are just some of the disputes between the because of course accountings are expensive. So what I am going to do at this point is I am going to direct Mr. McCarthy to retain an accountant. I'm going to direct Mr. McCarthy and the accountant to make a report to the Court as to the breadth of the accounting that they think is appropriate once they have made their preliminary review.

And so I will rely on them to tell the Court what they think is in order given what they see and I'm going to order them to report back to the Court on those matters in 60 days. And I will issue an order to that effect. With regard to payment of the trustee fees and the accountant's fees, I am going to defer that matter at this point. They will be paid, of course. The question is who will pay them. And it seems to me that that issue is something that wants further investigation based on what they find.

Finally, I understand that there are pending matters before the Court, particularly the petition to declare rights. I am going to defer a decision on that because it seems that, by removal of both of these trustees, that many of the issues that are raised in the petition for declaration of rights may, in fact, be moot. In fact, I am going to defer disposition of all of the outstanding motions at this time until we have that next hearing in 60 days. Could we find a court date in 60 days please at one hour please. I think that's adequate.

THE CLERK: Wednesday the 22nd.

trustee.

I have afforded both parties an opportunity to identify individuals who they think would be good for serving as a substitute trustee. Neither of them have identified anybody. And so I will for that reason select someone myself. And the person that I will select is Robert McCarthy. He is a lawyer who practices in our legal community. His offices are in Bethesda. I know from other kinds of cases that he has broad experience in matters such as these.

And I also know that he frequently is appointed to be a guardian of the property of individuals whose assets are meager and while of course he is not being appointed as the guardian of a property in this case, the skills that adhere in that role are very similar for this. I know that when he serves as guardian of the property, he is frequently in situations where they are disputes among the family members and so he is well skilled at handling those matters as well. And so it seems to me that he is well skilled to handle matters of this kind.

With regard to an accounting, it seems to me that, for all of the reasons that I have just outlined, that an accounting is also in order. At this time, however, I am not going to make a decision as to the full breadth of that accounting because it seems to me that some review needs to occur prior to making that decision as a final matter. And include provisions ordering both of you to cooperate with and communicate with Mr. McCarthy so that he may do the work that is required in this case efficiently. If there are other provisions of the order that Mr. McCarthy thinks that he needs in order to carry out his work in this case specifics, then I imagine that he will propose an additional order to supplement what I have just said. And we will take that up as it comes. Does anybody have any additional questions about what will be ordered as of today?

MS. RUBENSTEIN: Do you have on -- I'm sorry, Your Honor. Do you have a phone number for Mr. McCarthy? will that be ----

THE COURT: His contact information is all going to be in the order.

MS. RUBENSTEIN: Thank you. Thanks

THE COURT: If you want to wait for a moment, I can give you both his telephone number.

MS. RUBENSTEIN: Thank you.

THE COURT: Would you look for Robert McCarthy on East-West Highway? I think it's 301-654-something.

THE CLERK: What kind of hearing is it going to be in 60 days?

THE COURT: We're going to call it a status hearing. What I expect is that Mr. McCarthy will be able to tell us at that time whether he thinks that the breath of the accounting

THE COURT: Of December?

THE CLERK: Of November

THE COURT: Of November.

THE CLERK: At 8:30.

THE COURT: Is that acceptable, Mr. Pisner?

MR. PISNER: Yes. I believe it is, Your Honor.

THE COURT: Is that acceptable, ma'am?

MS. RUBENSTEIN: Your Honor, as you know, I have to spend the night because I live in Cherry Hill. Is there any later time possibly on that date?

THE CLERK: 1:30.

MS. RUBENSTEIN: 130. Better. Thank you so much.

THE COURT: Is that acceptable, sir?

MR. PISNER: That's a little difficult for me. I will try to arrange my schedule on that date to fit that in.

THE COURT: Okay.

MR. PISNER: That's cutting my day in half. May I address the issue of the declaration of rights just for a moment?

THE COURT: You may, sir, but I am not ruling on it today

MR. PISNER: I understand, Your Honor.

THE COURT: Okay. Thank you, sir. All right. I will issue an order to this effect. I will direct the order to Mr. McCarthy as well. You may expect that the order will also forever. It could go 10 years. It could go 15 years.

This preliminary review that's going to be done by this attorney and perhaps accounting is going to cost money. We only have one property. There is not very much money there. We owe property taxes. We are being fined for having a vacant house by DCRA. I have brought in copies of the assessments by the city of the District of Columbia because --

THE COURT: Sir, if you can address those questions to Mr. McCarthy, I'm sure he will be able to take care of them.

MR. PISNER: I understand, Your Honor, but we have immediate needs and Your Honor is saying that he will be the one to make the decision about the disposition of the Gorman Street property?

THE COURT: He is the trustee. Yes.

MR. PISNER: Okay. And as far as the cost, is there any way that we can get a determination as to how much this is going to cost?

THE COURT: You need to discuss that with him. It depends on how much he has to do.

MR. PISNER: Will he be charging for this preliminary review?

THE COURT: Yes, sir. You about given an opportunity to try to resolve the matters among yourselves. You are unable to do so. So I have determined that this is, quite frankly, it seems to be not a lot of other options here. Thank you, sir.

that he thinks is appropriate and that's really what we're going to be talking about.

THE CLERK: 301-654-3780.

THE COURT: His office is I believe about half a block from the Bethesda Metro station.

MS. RUBENSTEIN: Okay. Thank you.

THE COURT: On the corner of Old Georgetown Road and Route 355 in Bethesda.

MS. RUBENSTEIN: Thank you.

MR. PISNER: Your Honor, you asked if we had any questions?

THE COURT: Yes, sir.

MR. PISNER: I want to address the -- my petition briefly but I am somewhat concerned about the cost of this whole matter. And I am trying to get a grip on how we're going to keep the cost in containment. And get this out of hand. There are not that many assets to basically pull money from. Marla Rubenstein has indicated that there is a tenant in the Georgia Avenue property.

However, in response to Marla Rubenstein's concern and her instruction, I gave him 30 days' notice to pay or quit. That's what you do in the District of Columbia. He has indicated that he is going to pay. So that means that, you know, we have -- it's not -- it's not going to be as simple as one would expect. It's a five year lease. This could go on designate.

THE CLERK: Yes, Your Honor.

THE COURT: Okay. By way of proposal only, would it make sense then to seal that only for general -- seal them which means prevent general inspection except as to Mr. Pisner, Ms. Rubenstein, and Mr. McCarthy.

MR. PISNER: Your Honor, I would like there to be put a limit on the distribution of those credit card statements. 99 percent of those credit card statements are not relevant when we --

THE COURT: Hold on a second. When you say distribution, what are you talking about?

MR. PISNER: Copying. Things like that. Taking them out of the courthouse. Distributing. The problem is when those credit card statements were originally turned over to Marla Rubenstein, there was a confidentiality agreement. And what happened was she started distributing irregardless of what was in those confidentiality agreements. She started distributing my credit card statements to various people. She is shaking her head but that is not what happened. And I am --

THE COURT: Okay. This is --

MR. PISNER: -- concerned that she is going to walk out me copies of the credit card statements. Walk out with irrelevant stuff and distribute it. That's what concerns me.

THE COURT: Okay. The state of the record is as

MR. PISNER: Yes. May I address -- may I address the one issue of the declaration of rights?

THE COURT: No, sir. I have already determined that I am not ruling on it today. It is not before the Court at this time.

MR. PISNER: Thank you, Your Honor.

THE COURT: Thank you. We will be in recess.

(Recess)

THE COURT: Let's go back on the record.

THE CLERK: We are back on the record, Your Honor.

THE COURT: For the oral motion to seal, do you have any objection to the oral motion to seal?

MS. RUBENSTEIN: Will have access to that, Your Honor? because I'm not an attorney.

THE COURT: You are a party to the case though. Once we seal them, the only way anybody can get them is if they file a motion. So that becomes more difficult. Can we seal them except for the parties themselves? is that possible?

THE CLERK: I would have to check, Your Honor.

THE COURT: The parties --

MR. PISNER: Your Honor --

THE COURT: Excuse me, sir.

MR. PISNER: Yes.

THE COURT: The parties and Mr. McCarthy? and any accountant that Mr. McCarthy may designate or the Court may

MR. PISNER: I will withdraw it.

THE COURT: Do you have any objection to Mr. Pisner's withdrawing Plaintiff's Exhibit No. 1? it was not admitted into evidence. This is the first exhibit.

MS. RUBENSTEIN: Your Honor, those are relevant for the accounting. So will the -- will the --

THE COURT: I have already ruled that they are not. They are not.

MS. RUBENSTEIN: They are not --

THE COURT: I'm sorry. I have already ruled that they were not relevant to the decision before me today. In terms of relevance to the accounting later on, they may or may not be relevant to the accounting later on. I mean just because they are withdrawn today does not mean that they cannot come into evidence later.

MS. RUBENSTEIN: I have no objection. Thank you.

THE COURT: Okay. We are going to let Mr. -- Mr. Clerk can we do that can we allow Mr. Pisner to withdraw Exhibit No. 1 since it was not admitted?

THE CLERK: Withdraw with would leave of the Court?

THE COURT: I'm sorry?

THE CLERK: Withdraw with leave of the Court?

THE COURT: With leave of the Court.

THE CLERK: Yes, Your Honor.

THE COURT: Okay Plaintiff's Exhibit No. 1 will be follows. We're talking about Petitioner's No. 1. Correct? Exhibit No. 1?

MR. PISNER: Yes.

THE COURT: Okay. That was an exhibit that you moved into evidence, sir. And so to the extent that there is confidential information in that, it was incumbent upon you to redact that information prior to moving it into evidence. And so, quite frankly, the fact that we are taking up an oral motion to seal an exhibit that you propounded is unusual. So I am not inclined to take up an oral motion to essentially restrict anybody's behavior based on what they had done in the past on this. If you want to file a motion in writing, I'm happy to take it up.

MR. PISNER: Very good.

THE COURT: But your choices at this point are as follows. You can either withdraw the exhibit because it is not been admitted. You may do that if you wish.

MR. PISNER: I --

THE COURT: Excuse me. I'm still speaking. Or if you wish we can seal it along the lines that I have proposed. I imagine that you would not object to that.

MS. RUBENSTEIN: I would not object.

THE COURT: But, beyond that, I am not going to take up the matter further because it is not before me. So what would be you like for me to do, sir?

√ Digitally signed by E. Prettyman-Guay

DIGITALLY SIGNED CERTIFICATE

DEPOSITION SERVICES, INC. hereby certifies that the attached pages represent an accurate transcript of the electronic sound recording of the proceedings in the Circuit Court for Montgomery County in the matter of:

Civil No. 427983

MARION E. PISNER TRUST

v.

MARLA RUBENSTEIN

By:

Elizabeth Prettyman-Guay

E. PRETTYMAN-GUAY
Transcriber

withdrawn. In the future, if anybody wants to submit exhibits then please make sure that the contents of the exhibits comply with the court rules regarding confidential information, identifying information. The court rules are available to everybody. I believe they are in volume 2 of our court rules. Thank you.

MS. RUBENSTEIN: Thank you, Your Honor.

THE COURT: We will be in recess.

MS. RUBENSTEIN: Thank you.

THE BAILIFF: All rise.

(The proceedings were concluded.)

EXHIBIT A

Gary Pisner

From:	marla pisner <marlapisner@hotmail.com>
Sent:	Monday, August 22, 2016 2:52 PM
To:	gpisner@aptcs.com
Subject:	Re: Documents that you requested

Gary,
You continue to reference evidence that you have once not produced. If you continue to insist that I am lying then you need to provide me with documentation that speaks to your claims. You reference something from 2010- which I have no record of, but what about the requests I have been making for the past six years? You keep asking me for proof and documentation of things I never received. Therefore I am demanding that you produce both all of your credit card and bank statements since the inception of this trust and provide me with all the "proof" you insist you have but have not sent me.
I have been asking for this information for years and instead of simply providing me the requested information you insist that I have the documents. We both know this is not true. You cannot continue to withhold documents from me.
We both want this whole ordeal to end and the only way for that to happen is if you actively participate in this accounting and produce the documentation I do not have.
Marla

Sent from my iPhone

On Aug 22, 2016, at 11:00 AM, Gary Pisner <gpisner@aptcs.com> wrote:

> You asked me to forward the agreement to you RE my credit card statements (see communications below from July 2010.
>
> **From:** marla pisner [mailto:marlapisner@hotmail.com]
> **Sent:** Thursday, July 15, 2010 11:28 AM
> **To:** gary pisner
> **Subject:**
>
> I would rather not have to wait a few weeks, so please send all the bank statements an credit card statements to me in the next few days so I can review them before our meeting.
>
> I agree to keep your credit card documents confidential , not share them with anyone, and destroy them when you request me to do so.
>
> I don't want any delays.
>
> ---
>
> From: Gary Pisner [mailto:gpisner@aptcs.com]
>
> Sent: Wednesday, July 14, 2010 10:14 AM
>
> To: marlapisner@hotmail.com
>
> Subject: Documents that you requested

Marla,

I am putting together the documents related to the expenditures of the trust, for your review, as you requested.

There is, however, a problem in my turning over my credit card documents: Most of the information that they contains has nothing to do with this trust audit that you requested.

I can either take a few weeks of redact most of the irrelevant entries, from around 200 pages, or you can agree to keep my credit card documents confidential, not share them with anyone, and destroy them when I request you to do so.

Most of the content of my credit card statements are none of your business and that concerns me.

You can understand my concern.

Gary

ReadNotify.com E-mail Posting-Time Digital Certificate. The above e-mail arrived from gpisner@aptcs.com, was assigned sequence number #30788464 and ReadNotify reference **68ee86eec1898658932036797e9edf73**, digitally signed, and subsequently relayed. NB: This certificate irrevocably links the body and headers of this email to the date and time they were sent. The following signature is now published online; to view it, verify it, or for more information, please visit www.ReadNotify.com.

-----BEGIN PGP SIGNATURE-----
Version: GnuPG v1.0.6 (ReadNotify.com TimeStamp Server v2.2)
Comment: Certificate #30788464, created Mon, 22 Aug 2016 15:00:36 GMT

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UOGTj2gNE9t2WHXcgfUZhu5b
=BAu9
-----END PGP SIGNATURE-----

$280.76

EXHIBIT B

Sort ▾ Filter: Bank of America credit card payment for trust, 1/9/2011-11/8/2017

Number	Date	Payee/Memo/Category/Transfer	Status	Payment	Deposit	Balance
CHK 640 Printed	2/15/2011	Bank of America credit card payment for trust CC Pmt for [illegible] [illegible]		330.00		330.00

Sort Filter Bank of America credit card Visa, 1/8/2011-11/8/2017

Number	Date	Payee/Memo/Category/Transfer	Status	Payment	Deposit	Balance
[illegible]	[illegible]	[illegible]		[illegible]		[illegible]
CHK 719 Printed	8/15/2013	Bank of America credit card Visa acc # 4264 2948 2878 5794 Bills		78.80		-215.08
CHK 718 Printed	8/15/2013	Bank of America credit card Visa acc # 4264 2948 2878 5794 Bills	R	72.80		*VOID*
CHK 712 Printed	6/14/2013	Bank of America credit card Visa acc # 4264 2948 2878 5794 Bills		36.52		-251.60
CHK 699 Printed	5/15/2013	Bank of America credit card Visa acc # 4264 2948 2878 5794 Bills		86.29		-337.89
CHK 654 Printed	3/15/2013	Bank of America credit card Visa credit card payment for lowes reimbursement 4264294828785794 Bills		289.23		-627.12
CHK 652 Printed	2/15/2013	Bank of America credit card Visa credit card payment for Gorman repairs 4264 2948 2878 5794 Bills		137.36		-764.48
CHK 646 Printed	4/15/2011	Bank of America credit card Visa credit card payment for 4264 2948 2815 5956 Gorman St pest control Bills		450.50		-1,214.98

A-098

Sort Filter: Bank of America mastercard trust, 1/8/2011-11/8/2017

Number	Date	Payee/Memo/Category/Transfer	Status	Payment	Deposit	Balance
[illegible]	[illegible]	[illegible]		[illegible]		[illegible]
CHK 695 Printed	3/1/2012	Bank of America mastercard trust Mastercard acc 5466322245716553 for Tax Software Bills		250.49		-306.73
CHK 647 Printed	4/29/2011	Bank of America mastercard trust Mastercard acc 5466322248716553 for Tax Software Bills		100.00		-406.73
CHK 645 Printed	4/1/2011	Bank of America mastercard trust Mastercard acc 5466322246716553 for German Repair Bills		1,034.00		-4,5[illegible]73

Sort Filter: Bank of America Mastercard, 1/8/2011-11/8/2017

Number	Date	Payee/Memo/Category/Transfer	Status	Payment	Deposit	Balance
CHK [illegible] Printed	[illegible]	Bank of America Mastercard [illegible] Bills		[illegible]		[illegible]
CHK 671 Printed	6/1/2012	Bank of America Mastercard Mastercard acc: 5466 3222 4646 7561 Bills		54.55		-152.55
CHK 661 Printed	2/1/2012	Bank of Americia Mastercard Mastercard acc 5466 3222 4671 6553 Bills		24.20		-217.15
CHK 636 Printed	2/1/2011	Bank of America Mastercard Mastercard acc 5490351305559174 reimburse for baltimore work Bills		89.00		-306.15

EXHIBIT C

Gary Pisner

From:	marla pisner <marlapisner@hotmail.com>
Sent:	Monday, August 22, 2016 12:41 PM
To:	gpisner@aptcs.com
Subject:	Re: Documents that you requested

Gary,
This email relates to credit card statements, and in no way limits my ability to share any information about other aspects of the trust. It is also not a signed letter as you indicated, but that's neither here nor there. Finally, I never received any credit card statements, however I have continued to ask for them. I am requesting again you send them to me in order to finish the accounting.
Thank you,
Marla
Sent from my iPhone

On Aug 22, 2016, at 11:00 AM, Gary Pisner <gpisner@aptcs.com> wrote:

> You asked me to forward the agreement to you RE my credit card statements (see communications below from July 2010.
>
> **From:** marla pisner [mailto:marlapisner@hotmail.com]
> **Sent:** Thursday, July 15, 2010 11:28 AM
> **To:** gary pisner
> **Subject:**
>
> I would rather not have to wait a few weeks, so please send all the bank statements an credit card statements to me in the next few days so I can review them before our meeting.
>
> I agree to keep your credit card documents confidential , not share them with anyone, and destroy them when you request me to do so.
>
> I don't want any delays.
>
> ---
>
> From: Gary Pisner [mailto:gpisner@aptcs.com]
>
> Sent: Wednesday, July 14, 2010 10:14 AM
>
> To: marlapisner@hotmail.com
>
> Subject: Documents that you requested
>
> Marla,
>
> I am putting together the documents related to the expenditures of the trust, for your review, as you requested.

- There is, however, a problem in my turning over my credit card documents: Most of the information that they contains has nothing to do with this trust audit that you requested.

  I can either take a few weeks of redact most of the irrelevant entries, from around 200 pages, or you can agree to keep my credit card documents confidential, not share them with anyone, and destroy them when I request you to do so.

  Most of the content of my credit card statements are none of your business and that concerns me.

  You can understand my concern.

Gary

ReadNotify.com **E-mail Posting-Time Digital Certificate.** The above e-mail arrived from gpisner@aptcs.com, was assigned sequence number #30788464 and ReadNotify reference **68ee86eec1898658932036797e9edf73**, digitally signed, and subsequently relayed. NB: This certificate irrevocably links the body and headers of this email to the date and time they were sent. The following signature is now published online; to view it, verify it, or for more information, please visit www.ReadNotify.com.

-----BEGIN PGP SIGNATURE-----
Version: GnuPG v1.0.6 (ReadNotify.com TimeStamp Server v2.2)
Comment: Certificate #30788464, created Mon, 22 Aug 2016 15:00:36 GMT

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UOGTj2gNE9t2WHXcgfUZhu5b
=BAu9
-----END PGP SIGNATURE-----

EXHIBIT D

Gary Pisner

From: marla pisner <marlapisner@hotmail.com>
Sent: Tuesday, November 05, 2013 8:04 PM
To: <gpisner@aptcs.com>
Subject: Re: [1] BB & T Checks

I contacted the heating company they only work in Va., they do not work in dc or baltimore . Why was a check written to them , gary don't write any checks out this account without consulting me. By you not sending the credit card statements it raises suspicious behavior., The so called mistakes makes me think that the trust account was grossly mishandled, every cent must be trust related!

Sent from my iPhone

On Nov 5, 2013, at 7:46 PM, "Gary Pisner" <checked@aptcs.com> wrote:

> Hi Marla,
>
> I checked --the check that was a reimbursement check had nothing to do with Derek.
>
> The software will migrate the memo text from the prior use of the Payee. That is what happened. To change the memo line one has to delete the existing memo line and place a new memo line. I know that this had nothing to do with Derek because there were no deposits in Derek's account during that period of time and there were no amounts deposited in Derek's account in February, March or April. There were no other anomalies in the checks in the trust account. The small amounts of cash withdrawals were payments to Baltimore neighbors to take care of the properties. The large sums of cash withdrawals coincide with payments to the City of Baltimore made necessary by the fact that, because of the tax lean, we could only pay utility bills in cash and of course at times I had to withdraw very large sums to pay tax liens.
>
> Please review the highlighted language in the trust document (see attachment) for reimbursement for expenses. I get the feeling that you have forgotten the language in Paragraph 9 of the Trust document.
>
> I have to take time to redact irrelevant entries. As I also told you, that exercise is a low priority: my to-do list is massive. Moreover, I had to, unnecessarily, divert my attention and time for the taxes, at your insistence.
>
> ---
>
> **From:** marla pisner [mailto:marlapisner@hotmail.com]
> **Sent:** Tuesday, November 05, 2013 3:31 PM
> **To:** gary pisner
> **Subject:** FW: BB & T Checks
>
> Hi Gary.
> I scanned the canceled checks from the the trust account, as you can see there is a payment for Derricks books. and credit card payments every month. There is a check written out to A&T heating out of Chantilly Va they have not worked on our DC properties., Please send the credit card statements that were paid out of the trust. account , Please tell me what the $360 check was written for on 1/10/2013. BB&T are sending all pass statements to me with canceled checks for my review

EXHIBIT E

Gary Pisner

From: marla pisner <marlapisner@hotmail.com>
Sent: Friday, July 15, 2016 10:30 PM
To: gpisner@aptcs.com
Subject: Re: Email from yesterday morning to you 7th request READ THESE E-MAILS!

Check your email email I responded!!!!!
A while ago!!!!!!!

Sent from my iPhone

On Jul 15, 2016, at 8:17 PM, Gary Pisner <gpisner@aptcs.com> wrote:

> I am on my 7th attempt to get a written response from you.
>
> **From:** Gary Pisner [mailto:gpisner@aptcs.com]
> **Sent:** Sunday, July 10, 2016 7:24 PM
> **To:** 'marlapisner@hotmail.com.readnotify.com'
> **Subject:** FW: Email from yesterday morning to you 6th request READ THESE E-MAILS!!
>
> I am on my 6th attempt to get a written response from you.
>
> **From:** Gary Pisner [mailto:gpisner@aptcs.com]
> **Sent:** Friday, July 08, 2016 8:16 AM
> **To:** 'marlapisner@hotmail.com.readnotify.com'
> **Subject:** FW: Email from yesterday morning to you 5th request READ THESE E-MAILS!!
>
> Read your E-mails!!
>
> Also read below from my E-mail re your calls to Skype.
>
> **From:** Gary Pisner [mailto:gpisner@aptcs.com]
> **Sent:** Wednesday, July 06, 2016 5:36 PM
> **To:** 'marlapisner@hotmail.com.readnotify.com'
> **Subject:** FW: Email from yesterday morning to you 3rd request
>
> Please respond.
>
> **From:** Gary Pisner [mailto:gpisner@aptcs.com]
> **Sent:** Tuesday, July 05, 2016 6:57 PM
> **To:** 'marlapisner@hotmail.com.readnotify.com'
> **Subject:** FW: Email from yesterday morning to you
>
> I see that you tried to contact me on my Skype number multiple times, but what I have told you multiple times, for almost a year, is that Skype only works when I am on the internet; therefore, I have told you not to use my Skype number, if you are in a hurry.
>
> if you want to get in touch with me, given that I will be in court much of the week, please respond to my E-mail.
>
> I repeat – Skype only works when I am on the internet!

Respond to my E-mail.

From: Gary Pisner [mailto:gpisner@aptcs.com]
Sent: Sunday, July 03, 2016 7:06 PM
To: 'marla pisner'
Subject: RE: Email from yesterday morning to you

From: marla pisner [mailto:marlapisner@hotmail.com]
Sent: Thursday, June 30, 2016 11:12 PM
To: <gpisner@aptcs.com>
Subject: Fwd: Email from yesterday morning to you

Sent from my iPhone

Begin forwarded message:

> **From:** marla pisner <marlapisner@hotmail.com>
> **Date:** June 24, 2016 at 8:27:29 PM EDT
> **To:** "gpisner@aptcs.com" <gpisner@aptcs.com>
> **Subject: Re: Email from yesterday morning to you**
>
> Hi Gary,
>
> I think, at the time we were attempting to have Oliver move, we generally were thinking we would be selling the property at some point.
>
> ***[Gary Pisner]***
>
> ***Absolutely not, I have written communications between the two of us were we agreed to put Gorman on the market immediately after we got Oliver out -- communications that I absolutely relied on in my decisions.***
>
> ***The bottom line here is that we agreed to put the property on the market immediately after we got Oliver out. Even more, this was part of a written agreement, to end our bickering, that we had before we even approached Oliver to get her out so that we could sell Gorman ASAP, set up an arrangement for Georgia Avenue and Mt Pleasant where the property was split up 50/50 in new deeds, and to setup a system where the proceeds of the rent of Georgia Ave would be distributed 50/50 to each of us.***
>
> ***You said it and I said it, we cannot work together under the present trust agreement. I see a trust and I follow that trust agreement and you see everything in terms 50/50 ownership of some assets: I have example after example of how this has come up over and over again and your position is***

incompatible with the present legal reality, which you have complained about – again and again; therefore thing needed to change.

As for the Gorman offer that was sent to you and your attempt to hold up the sale of the property, which is, as we have established, contrary to the wishes of the trust, i.e., there was a unanimous agreement by both trustees and I do not approve of resending that agreement. Based in this, any losses due to your holdup could make you personally liable for the losses to the trust: Do you actually want to be put in that situation?

Let me address you holding up of the sale because you want to use the property, in what you believe is a way of forcing a new accounting of the trust assets past and present.

Ignoring your potential personal liability for blocking things, let's look at the facts:

- *First, we have an offer on the table that a real-estate agent, Dion, who you have refused to talk to and who knows the area, has indicated is a great deal.*
- *Next, we have a property that is loaded with peeling lead paint, which, as you know, is a read negative for appraisers. Anyone attempting to get a loan to purchase the property, with all that peeling lead paint, will result in a fire sale appraisal: We all know this. Dion knows, I know it, the potential buyer knows it, and unless you are living in an alternative universe, you know this. What we have is a onetime way to deal with this issue. The person who put in the proposal, is a general contractor that wants to live in the Gorman house. What he will do is fix up the place, including the peeling lead paint and clean up the place so the property will appraise to the $170,000 rather than the 130,000, without the trust paying for the cleanup. We are not going to get that $170,000, unless we take the offer that is on the table or if we put $10,000 into fixing up the place: We are talking about $40,000 potential loss due to your actions, which you could personally liable for. The bottom line is that, if we lose this offer, the trust is going to lose a great deal of money: That is stupid!*
- *Next, let's address this whole concept that you have to buck the wishes of the trust to get your accounting. What is so inexplicable about this is that, simple reasoning will tell you that the property is irrelevant to you're the accounting issue, because if we take the offer, the distribution of the proceeds of the sale can be held until issues are resolved. In this way we will not be losing money in property tax payments, which we already have; losing money in utility payments, which we already have; and risking treble penalties, in property tax when the city finds out that Gorman is Vacant. In summary, because of your actions, the trust is having its money flushed down to toilet.*

- *On the other hand, if the property is sold, no more property taxes, no more utilities, and we may even get some interest, in a deposit account, while we sort through the distribution issues and the payback of the loan that I made to the trust and that is why you behavior is difficult to comprehend: Even if you ignore your breach of your fiduciary duty as a Trustee, if there is a distribution issue, it is financially irrational to the point where one could conclude that you are acting in bad faith and in breach of your fiduciary duty as a trustee, in holding up the sale.*

As for the accounting, let's review a history of the trust's accounting:

- *First, prior to our accounting in Belair Maryland, contrary to latest erroneous assertions that you did not receive any statements, bank material and my credit card statements, I have E-mails that support what I have repeated to you over and over again, i.e., you got and we reviewed everything at our Belair meeting.*
- *Next, at the Belair meeting, you indicated that you were taking over the management of the trust and pursuant to your volunteering (demand)to do the management of the trust, all statements of the banks were, thereafter, mailed to you and not me, so for a long period, you received the statements, not me.*
- *Next, as for the Belair material, in exchange for turning over my credit card statements, we entered into a confidentiality agreement where you agreed to not distribute the credit card documents to anyone. Regrettably, you later informed me that you sent all the material to Bob Lyons (without my permission and in breach of our agreement), which I confirmed that you did (I called his office) and complained to you. Moreover, you also claimed that you turned over the documents to your children and to Gerry, which is also a breach of our agreement. So we know where the Belair documents, which you now claim that you never got, went to. One would presume that you were smart enough to make copies, before you sent everything to Bob, so those documents should be somewhere in your house. As for Bob's copy, when you asked for the new accounting, I called Bob and he told me that all the trust records had been purged, because of the lapse of time and because Bob had sold the accounting firm. You can call Bob to confirm this. Given that you had copies and you walked away with both your copy, with notes and my copy, with notes I do not have copies and because of the lapse of time, I don't have any economical and comprehensive way of recreating those Belair documents; as I told you before, you need to find your copies.*

- *Next, as I said, everything from the banks were sent to your Cherry Hill address immediately after your request, in Belair. So post Belair, anything from the bank went to you, until I received calls from a lawyers and agents representing the companies that had put a statuary leans on one of our Baltimore properties. Since you were supposedly running things, I contacted you and you told me that you had failed to renew the mail forwarding for Douglas Ave., that, although you had said that you had changed the mailing addresses for the Baltimore properties, you had not, and that you were having problems with your Cherry Hill mail, we agreed that everything (except stocks) would, in the future, be sent to me, but as for the statements from the bank, I choose to use the online system to follow the accounts, rather than paper statements and your also indicated that you would do the same: I even have written communications from you questioning certain entries on the statements, which I explained to you. So, as I have told you over and over again in many E-mails, <u>I do not have a single statement or a single cancelled check</u>; everything that I have access to you have access to and based on your E-mails you have the same access; therefore, holding up things to get me to turn over cancelled check, which I have told you, over and over again, that I don't have, is, if you are actually listening, a little crazy to me. You have been a trustee with full access to the banks from the start. You could and still can go online and do your own accounting and, as I said, if there are questions, I would be more than happy to answer them.*

In summary:

- *We need to take the offer that is on the table before this guy throws in the towel (he is almost there) and the trust is fucked and you are liable.*
- *Since December, the trust has paid around $2,000 because of your 6 month stalling; don't you think that is enough waste?*
- *You need to go online and do the audit using the online resources: You are mature enough to do this without me spoon-feeding thing to you.*
- *You need to find your copy of the Belair Panera material that you walked away with (assuming that you made a copy before you sent the stuff to Lyons) along with the paper statements that you received after: Demanding documents that I do not have is, obviously, not going to produce any results, no matter what kind of arm twisting that you do. You have had 6 months to do the audit and I will bet you that you have not done anything.*

I don't think I've either misrepresented my conversations to Oliver or have necessarily changed my mind. I am not opposed to ever selling Gorman street. I instead logically assumed that prior to us taking any action to sell the property that any discrepancies in the trust would be cleared up and we would have a up to date accounting. Since no accounting has been completed and there remains discrepancies, I think it would be harmful to the trust to sell a trust asset.

I also do no recall having to convince you of anything nor having a "questionable position". It was my understanding that we were both on the same page and that if we ever wanted to move the property to sale, it needed to be vacated as a first step. I was unaware would you be resistant to clearing up the numerous discrepancies in the trust and therefore could not have foreseen that this would take an extended period of time.

In regard to the accounting of the trust, I am not asking you to perform the accounting for me, I have no issue taking lead on it. The issue, which I have expressed to you before, is that my files are incomplete. I have had access to aprox. the first 2 and 1/2 years of an accounting of the trust, including canceled checks, I also have the information for the 2014, 2015, 2016. However do not have the complete file on BB&T for 2011, 2012, and 2013. You are correct, I did have access to the online system, however the online statements did not reflected canceled checks, which is necessary information to complete an accounting. I went over to the bank, hopeful they could provide clarity to this and they told me that,unfortunately, your address was the only one listed between the years of 2009 to present. The only way I am able to see the canceled checks now is that technology has updated to allow me to see canceled checks for the past 6 months. Therefore the accounting can't actually be completed until I have the documents from those years which are in your possession and not mine. The bank wants to charge the Trust $3,700 for all canceled checks, however I think it would be preferable to spare the expense to the Trust if you can simply provide it to me. Furthermore my current accounting information reflects that distributions were not equal, which is a breach of the trust agreement. This is one of the reasons an accounting is necessary, if such a breach did occur, it should be remedied as quickly as possible. I feel that such an accounting is an important aspect of trust management and believe it should be completed before there is liquidation of assets of the trust. I look forward to us resolving this together.

Thank you for asking about Jeremy, it was a malignant melanoma. The prognosis seems good, as they caught it early. We are hopeful they removed it all.

Marla

On Jun 23, 2016, at 10:30 AM, Gary Pisner <gpisner@aptcs.com> wrote:

. Record Extract (r Rec. Extract 000094 □• (\)6.) RE: [1]
Property tax Gorman rule 408 communication

F)(A, □ r-1 11d ,.

Gary Pisner <gpisner@aptcs.com>

Thu 6/15/2017 9:01 AM

To:'marla pisner' <marlapisner@hotmail.com>;

Marla,

Let me address your comments

From: marla pisner [mailto:marlapisner@hotmail.com]
Sent: Thursday, June 15, 2017 8:01 AM
To: gary pisner
Subject: Property tax Gorman

Gary,
I believe in order to avoid the tax sale list the deadline to pay a portion of the property tax was May 31,
[Gary Pisner]
That was In the tax document that I sent you. As usual, you did absolutely nothing to fix the mess you created. I have to *do it.* I Contacted the tax office upon your initial refusal to pay the tax..
[Gary Pisner]
Nothing in the trust documents or In trust law forces me to give loans to the trust or to prop up the trust with my own money and I am not required to cover your debts, nor and I required to payfor your maleficence.

You made up this alleged duty. Where were you when I had to lend my own money to bail out the Baltimore properties - you did not pay a cent? What a hypocrite.

I will make a phone call today,
[Gary Pisner]
I made those phone calls before May 31, because knowing you, you don't payfor your mistakes and maleficence, in the end, I usually do.
This is what they told me:
The list for the tax sale is compiled on the June 15-and the and the sale itself takes place on July 15.
Yesterday I dumped over $1, 400.00 In the account of my own money, Just In case Howard the Georgia Avenue tenant didn't come through with thefull amount. He paid me part of ~~his rent at midn~~ight -yes - I met him at a parking lot last night at midnight He paid me in cash, but he is short. Why do I have to do this? You violated your fiduciary duty, you engaging in self-dealing for your own enrichment.
If I received accurate info from the De Property tax office, I am requesting that no distributions be taken until all tax obligations have been paid.
[Gary Pisner]
You do not have that option. You have a major conflict of Interest at this point and, if my recollection is correct, you don't have a vote on the matter.

Once I pay the $2,200 today the property will not be subject to a tax sale.

As for what comes next, I will sort out this mess that you have created, and, if necessary take legal action against you regarding the Gorman Street property. That appears to be the only way to deal with you.

From: Gary Pisner [mailto:gpisner@aptcs.com]
Sent: Wednesday, June 22, 2016 11:19 AM
To: 'marla pisner'
Subject: RE: Offer for sale (2nd request)

Let us for the moment, ignore the fact that in selling your payoff of Oliver, without repairing the property (this resulted in the Trust being sanctioned by the court), you stated both verbally and in writing that the object of your position was to get the Gorman Street property on the market immediately and sell it and largely because of this I finally backed what I considered to be your questionable position, it is clear that the you and I had a clear agreement that Gorman Street would be put on the market after Oliver moved out. Indeed I relied on your statement that you (we) would put Gorman on the market after Oliver moved out. Now, it appears that one of two things have happened, either the whole pitch that you made was false or that you changed your mind. Can I assume that you changed your mind after we approved the Oliver agreement? I am not certain that I understand when and why you reversed your original position. Could you please explain because I definitely do not understand your reversal on the sale of Gorman?

Next, I am sorry to hear about Jeremy.
I am not quite certain how much I should be concerned about your statement that he was having surgery for melanoma. Are you saying that someone is removing a colored blemish on his skin, which will be biopsied or are saying that a colored blemish was already biopsied and was found to be cancerous? Of course I and many people have had colored blemishes removed, but there was no cancer: There is a big difference between the two possible interpretations.

Next, I have been concerned about your health for quite some time. Are you having any health problems?

Finally, as I have stated repeatedly , I have no problem with you reviewing the account of the trust, but as I stated in my text to you in May 11, " As for an accounting, you have access to the same accounts that I have" "As for helping you ... As I told you before, I am available to answer any questions that you have." What I will not do is do all the work that you are perfectly capable of doing yourself, especially because this is your thing and not mine; moreover, you have told me on numerous occasions that you were regularly reviewing the BB&T account online, so you obviously know how to use it. Given how much time has passed, I assume that you are close to completion – is this correct and do you have any questions?

From: marla pisner [mailto:marlapisner@hotmail.com]
Sent: Tuesday, June 21, 2016 5:03 PM
To: gpisner@aptcs.com
Subject: Re: Offer for sale (2nd request)

Hi Gary, thank you for sending me this proposal. As we have discussed previously, I am not currently interested in selling the property. Prior to us moving forward with any transactions regarding the trust I am continuing to request that you assist with an accounting of the trust, which I am legally entitled to. I believe it is not in the best interest of the trust to sell any property until such an accounting is completed. I am again requesting you provide the Bank of America restatements and canceled checks.

Sent from my iPhone

On Jun 21, 2016, at 2:50 PM, Gary Pisner <gpisner@aptcs.com> wrote:

> I have attached the latest iteration of the Georgia Avenue lease.
>
> Please review the changes (see comments and highlighted text).
>
> Any ideas?
>
> **ReadNotify.com E-mail Posting-Time Digital Certificate.** The above e-mail arrived from gpisn
> assigned sequence number #30447434 and ReadNotify reference **bd612fdf061a96323db4c6bcd**
> signed, and subsequently relayed. NB: This certificate irrevocably links the body and headers of th
> time they were sent. The following signature is now published online; to view it, verify it, or for mor
> visit www.ReadNotify.com.
> -----BEGIN PGP SIGNATURE-----
> Version: GnuPG v1.0.6 (ReadNotify.com TimeStamp Server v2.2)
> Comment: Certificate #30447434, created Tue, 21 Jun 2016 18:50:10 GMT
>
> iQBvAwUBV2mMYjanThAdit3tAQH0RwLPUdfYJ4AFCFAjvcamL6q7vtBykAcNZ+0t
> n++IKMoM7qOsQkPj+/uSbSzFNtKsIOLANTUJAruXPtXzlenTO4P/9cgXIDA9mUJ+
> Lz+tHL/nl6D1f1ipNme+7oZ+
> =kjhm
> -----END PGP SIGNATURE-----
>
> <Comercial lease Georgia Ave revised 2016 4th Marla copy.pdf>

ReadNotify.com E-mail Posting-Time Digital Certificate. The above e-mail arrived from gpisner@aptc
assigned sequence number #30459984 and ReadNotify reference **b636e0eb221654ff91c66ab50668046a**
signed, and subsequently relayed. NB: This certificate irrevocably links the body and headers of this email
time they were sent. The following signature is now published online; to view it, verify it, or for more inform
visit www.ReadNotify.com.
-----BEGIN PGP SIGNATURE-----
Version: GnuPG v1.0.6 (ReadNotify.com TimeStamp Server v2.2)
Comment: Certificate #30459984, created Thu, 23 Jun 2016 14:30:17 GMT

iQBvAwUBV2vyeTanThAdit3tAQGlwgLMCfmSZyuA9AmbNnBZo3Y2q/1uLUHNTz5t
M3wUGHZj+xIi2ygiGsmTy4YXW0iMCIY3YJSF3esTjmSniG9UZNNJj39SrjaPz/T
P7ebNr+6TdJpCrb4TfBK+cNe
=H+k7

-----END PGP SIGNATURE-----

ReadNotify.com **E-mail Posting-Time Digital Certificate.** The above e-mail arrived from gpisner@aptcs.com, was assigned sequence number #30588795 and ReadNotify reference **b2c4a1511bb820b91b2a2004fef6b33f**, digitally signed, and subsequently relayed. NB: This certificate irrevocably links the body and headers of this email to the date and time they were sent. The following signature is now published online; to view it, verify it, or for more information, please visit www.ReadNotify.com.

-----BEGIN PGP SIGNATURE-----
Version: GnuPG v1.0.6 (ReadNotify.com TimeStamp Server v2.2)
Comment: Certificate #30588795, created Sat, 16 Jul 2016 00:11:26 GMT

iQBvAwUBV4I7rjanThAdit3tAQEzCwLOPPFmcFdYts1HX3gVxtu/03SzRP2Sme1c
Cc1zbkkgBFMZHUiqtV1wmDFgAWkDM6i0pLA8tvVUGf4WrVr1XetD/NtpssPv4TSk
FuqQAgbK6g0k9b6ZtbPqm3Qv
=h70S
-----END PGP SIGNATURE-----

Marla
Please do not pay anything out of this account without informing me.

> From: scanner@prufoxroach.com
> Subject: PFR BARCLAY SCAN
> To: marlapisner@hotmail.com
> Date: Tue, 5 Nov 2013 13:46:17 -0500
>
> This E-mail was sent from "RNP43B668" (Aficio MP C6501).
>
> Scan Date: 11.05.2013 13:46:16 (-0500)
> Queries to: scanner@prufoxroach.com

<Marion Trust Agreement compensation paragraph.pdf>

Record Extract Rec. Extract 000128

TD Bank
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EXHIBIT F

STATEMENT OF ACCOUNT

MARION E PISNER TRUST
MARLA PISNER-RUBINSTEIN TRUSTEE
GARY S PISNER TRUSTEE
25 ST MORITZ LN
CHERRY HILL NJ 08003-5123

Page: 1 of 2
Statement Period: Sep 24 2010-Sep 30 2010
Cust Ref #: [redacted]
Primary Account #: [redacted]

Business Convenience Checking
MARION E PISNER TRUST
MARLA PISNER-RUBINSTEIN TRUSTEE
GARY S PISNER TRUSTEE

Account # [redacted]

ACCOUNT SUMMARY

Beginning Balance	0.00	Average Collected Balance	2,947.14
Deposits	20,115.00	Annual Percentage Yield Earned	0.00%
		Days in Period	7
Other Withdrawals	20,000.00		
Ending Balance	115.00		

DAILY ACCOUNT ACTIVITY

Deposits

POSTING DATE	DESCRIPTION	SERIAL NO.	AMOUNT
9/24	DEPOSIT		20,000.00
9/28	DEPOSIT		115.00
		Subtotal:	20,115.00

Other Withdrawals

POSTING DATE	DESCRIPTION	SERIAL NO.	AMOUNT
9/28	DEBIT		20,000.00
		Subtotal:	20,000.00

DAILY BALANCE SUMMARY

DATE	BALANCE	DATE	BALANCE
9/24	0.00	9/28	115.00
9/24	20,000.00		

Call 1-800-YES-2000 for 24-hour Direct Banking service

EXHIBIT G

Gary Pisner

From: Gary Pisner <gpisner@aptcs.com>
Sent: Tuesday, September 12, 2017 10:57 PM
To: 'marla pisner'
Subject: RE: [1] delinquent rent 3308 Georgia Ave

Marla,

You did not ask me for the tenant's number recently. I checked my emails and text messages -- nothing but a text message on July 21 where you claimed that you had requested his number multiple times. Then I directed your attention to your copy of the signed addendum, which I sent you about two months (11/17) after the lease was entered. There is a telephone number on it. Can I assume that you have lost that document. That is fine -- I don't care.

I will add this to the list. I am use to it.

That aside, Frampton does not answer my calls and he has failed to give me a mailing address. Once he knows your caller id, he is not going to pick up.

Moreover, the problem is exacerbated in that the tenant has not paid any of the property taxes and as an aside, he is more than 2 and 1/2 months in arrears.

Things that you don't know -- Frampton's restaurant is almost ready to open. He has put around $75,000 in improvements. An eviction notice would be more effective, once the restaurant opens: A fully operational restaurant is much easier to rent and he is more likely to get a loan and pay up, given his investment.

I get the impression that Howard is throwing his money into getting the restaurant open. Not the smartest thing, but again a complete functional restaurant is much easier to rent. His latest problem is the location of the bathroom: It had to be moved away from the food preparation area. This is a requirement of the revised code and a problem for any future renter. It would be better if he paid for this deficiency rather than us.

If this is mishandled, we could lose quite a bit of money.

I assume that you did your normal routine of making a series of threats, so he is probably freaking out. I just hope your threats do not results in his abandonment of his restaurant, before it opens -- that would be a loss to us, especially if he begins to pull out his very expensive equipment.

-----Original Message-----
From: marla pisner [mailto:marlapisner@hotmail.com]
Sent: Tuesday, September 12, 2017 12:34 PM
To: gpisner@aptcs.com
Subject: delinquent rent 3308 Georgia Ave

Gary,
I did not appreciate your refusal to share the Mr Frampton"s phone number, I reached out to Mr Dixon who did eventually supply the phone Number for the tenant.
I contacted Mr Frampton who is now 2 and 1/2 months behind, in the rent We need start eviction proceedings immediately, By a real estate attorney.

EXHIBIT H

Gary Pisner

From:	Gary Pisner <gpisner@aptcs.com>
Sent:	Wednesday, March 24, 2010 6:34 AM
To:	marla pisner
Cc:	gpisner@aptcs.com
Subject:	Re: college tution
Attachments:	marla tuition check.pdf

> Marla,
I have attached the two tuition checks
The other check, I need more info to understand how to classify it on the books.
Gary
> Rutgers tution = $8711
>
>
>
> I
>
> Lehigh = $9,870.78
>
>
>
>
>
> personal money $2500
>
>
>
>
>
> Thanks
>
> Marla
>
> ____
> The New Busy is not the old busy. Search, chat and e-mail from your Inbox.
> http://www.windowslive.com/campaign/thenewbusy?ocid=PID27925::T:WLMTAG
> L:ON:WL:en-US:WM_HMP:032010_3

Gary Pisner **EXHIBIT I**

From: marla pisner <marlapisner@hotmail.com>
Sent: Monday, August 09, 2010 5:23 PM
To: gary pisner
Subject: FW: Please replace this email with the one I sent Saturday

From: bleins@goldleins.com
To: marlapisner@hotmail.com
Subject: Please replace this email with the one I sent Saturday
Date: Mon, 9 Aug 2010 13:55:47 -0400

Marla,

Sorry but I sent the email Saturday without getting Jim's comments.

Thanks

Bob.

From: Bob Leins [mailto:bleins@goldleins.com]
Sent: Saturday, August 07, 2010 12:46 PM
To: 'marlapisner@hotmail.com'
Subject: Information please

Hi Marla,

Nice talking with you Thursday. As you and I discussed the information that was delivered was not meant to be all the information necessary to prepare the tax returns but an informative start.

With regards to the real estate holdings and rentals we need a profit and loss for year 2009 in total and individually by property. We need the breakdown by property for a couple of reasons. One is that potentially there could be passive loss carryovers which will eventually be transferred to beneficiaries. Secondly in the event of an audit, we will need to document income and expense by state and property.

We now have two hard copy reports which appear to be reports of computerized check book. There is also a handwritten report. This data needs to be categorized by expense type and where appropriate by property. This may have been done in the software that Gary is using but if we work from the hard copy reports we would need would need to re-key each transaction into our software such as quickbooks or excel. In summary, wWe are in receipt of three reports as follows:

1. 27 page report entitled " The Marion E. Pisner Trust – Transactions"
2. 20 page report entitled "Marion E. Pisner new trust account – Transactions"
3. A hand printed list of transactions – which I believe are bank withdrawals but want to be certain.

As I understand it Gary has expressed concern about our billings exceeding the fee quote per the engagement. We are doing our best to contain the fees. However, to date there has been a problems with the timing and the quality of the data. There will be charges in excess of the fee quote which reflect the conditions under which the returns are being prepared. This can not be avoided.

Record Extract Rec. Extract

So that you and Gary can get a focus on cash flow requirements ASAP would you contact Gary and provide us the following data and/or responses:

- Last fall I understand that there would be reports of income and expense both for the real estate and non real estate activity. If is a report or reports that reflects categorized income and expense by property as mentioned above as well as non real estate activity please provide. If the reports currently do not have transactions grouped by property please change future bookkeeping so that year 2010 reflects property by property income and expanse – please let us know if we need to compile the data for 2009 on a property by property basis.
- We sent a tax "organizer" for the estate – please complete any this information request and return the completed organizer
- In order to prepare the 2009 fiduciary income tax returns, we need to obtain copies of the 2009 tax reporting forms including Form 1099s etc .Please send these along to us as soon as possible.
- If there were any sales or redemptions of securities or savings bonds, we need to know the details, ie what was sold, proceeds amount etc etc
- What is the status of the 2007 Toyota Corolla – if sold or otherwise transferred – please note details of disposition
- Were tax return extension payments made when the extension requests were filed in April? Please send us copies of your extensions and please confirm that amounts paid if any.
- I believe I understand item #3 above but want to be certain that it is a duplicate of the information contained in items #1 and #2 above.

The extended due date for filing Form 1041 is September 15th. We need the above requested data by August 20th. Interest and penalty will continue to accrue if tax is unpaid to date. We need the information by the end of next week or we can not guarantee delivery by 9/15.

We appreciate yours and Gary's cooperation and assistance in getting to the "finish line".

Very truly,

Bob Leins and Jim Magno

Gold, Leins & Adoff LLP
51 Monroe Place, Suite 1900
Rockville, MD 20850
www.goldleins.com
301.340.6300, ext 23 (Jim's)
301.340.7168 (fax)

EXHIBIT J

Gary Pisner

From:	marla pisner <marlapisner@hotmail.com>
Sent:	Saturday, July 31, 2010 11:54 AM
To:	gary pisner
Subject:	FW: AutoAppraise Summary For marla Pisner

Hi I found the car apprasil I did not realize that they emailed it to me

---

From: noreply@acumailer.com
To: marlapisner@hotmail.com
CC:
Subject: AutoAppraise Summary For marla Pisner
Date: Tue, 16 Jun 2009 14:12:05 -0400

[TradeImage] 2007 TOYOTA COROLLA CE
4 DOOR SEDAN 1.8L 4 CYL

Base Range (Excellent)	$7,725.00 to $8,750.00
Optional Equipment	$250.00
ADD: POWER WINDOWS$250.00	
Regional Adjustment for Zip Code 20902	-$39.00
Mileage Adjustment 5906 miles	$1,075.00
Total	$9,011.00 to $10,036.00

Mobile Car Buyer
866-266-7700 OR 1-212-337-1111

info@mobilecarbuyer.com

[SOImage]

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****

In Re the Marion E. Pisner Trust		
"The Marion E. Pisner Trust"	)	Case #
Petition-	)	
	)	Judge Michael D. MASON
V.	)	
	)	exibit
"Marla Rubin-	)	
Interested Par-		

Gary Pisner, Respondent and beneficiary of the Marion E. Pisner Trust (hereinafter "Pisner"), herein files his Request for Reconsideration of this Court's order of June 7, 2018 and in support of his Request for Reconsideration, based on the following legal arguments, the included documents, supplied by McCarthy pursuant to this Court's June 7, 2018 order, and the supported facts will contradict the arguments and allegations of Robert McCarthy "Substitute Trustee" (hereinafter "McCarthy") the testimony of McCarthy's Accountant Dana Evans (hereinafter "McCarthy'sAccountant"), who was appointed by McCarthy pursuant to MD Code, Estates and Trusts, § 14.5-807, and Marla Rubinstein (hereinafter

"Rubinstein").

I. What the evidence will

The transcript of the June 7 hearing, along with the emails, containing the documents, supplied to Pisner, by McCarthy, pursuant this Court's June 7, 2018 order, supports Pisner, rather than McCarthy and McCarthy's Accountant and that documents, allegedly withheld from McCarthy had, actually been supplied.

II. Standard of Review.

For civil contempt, a petitioner must present "Clear and Convincing" evidence of the alleged contempt.

III. The Source of the Proof.

On June 26, 2018 Pisner received the transcript of the June 7, 2018 hearing, attached hereto.

Rubinstein testified under oath that she had no tax documents and she retracted her earlier statement, upon cross- examination. Rubinstein testified that the bank account under her control initially had $10,000 in it and upon cross-examination, after being shown evidence that contradicted her testimony agreed that the account had $20, 000. Rubinstein testified that all dividend check were deposited in the Trust's BB&T account, but the ledger contradicts this. Rubinstein testified that she did not sign checks for the trust but could not account for checks issued under the account under her control. Rubinstein testified under oath that stocks were sold, but under cross examination retracted her testimony – admitting that there has been no sale of stock.

On June 18, 2018, pursuant to this Court's June 7, 2018 order, which stated that "Robert M. McCarthy, Esq. shall produce (electronically or otherwise) a copy of the documents previously e-mailed from Gary Pisner to Robert M. McCarthy in regard to this matter, on or before June 17, 2018": Those documents, supplied by McCarthy, contain documents, which McCarthy's Accountant falsely testified under oath, had not been supplied to McCarthy.

ARGUMENT

IV. **As will be proven herein, Pisner had fully complied with the Court's October 2, 2017 order of Judge Albright and the April 4th order of Judge Storm; he had supplied those documents covered by the court orders, and that McCarthy's Accountant made false statements, under oath, which were the source of much of the language, in this Court's June 7th order.**

A. The tax returns.

1. The relevant language in the Court's order.

In this Court's order of June 7, 2018 the Court stated that "Gary Pisner has willfully failed and refused to supply tax returns relating to the Marion E. Pisner Trust ("Trust") from 2013 to the present;"

2. The source of the Court's

Disregarding the obvious fact that the Court order of Judges Albright and Judge Storm only required documents to September 30, 2017, not to "the present," , examining the transcript, it is obvious that the source of the Court's ruling is the testimony of McCarthy's Accountant for the Trust. During her testimony she stated that:

> Q Okay. I Have also handed In front of you a copy of the order of April the 4th , 2018 entered on April the 5th and ask you to look at page one at the bottom.
>
> A
>
> Q Okay. The all fiduciary tax returns for the relevant period including supporting documents, did Gary Pisner send over copies or all the fiduciary tax
>
> A No, not all of the tax returns.
>
> Q Okay. What did he send you with regard to the tax returns?

[2] Page 8 of transcript of June 7,

A 2009 through 2013, I believe.

Upon cross examination of McCarthy's Accountant by Pisner:

Q Yes. Let's go through these fiduciary tax returns. You were pointing. How many tax returns were there during that, during this period? A Well, It would have been 2009 through 2017, and I didn't receive
Q You didn't
THE COURT: I think he's asking, which ones did you receive?

By Mr. Pisner:
Q Which ones —
A Oh.
Q — did you receive?
A I believe 2009 through
Q Now, there was a prior submission of documents to you under the earlier order, the October 2nd order? How many of those tax returns did you get?
By Mr.
Q How many of those tax returns did you get?
A From you
[Pisner]?
A None. All the tax returns I received I believe came from Marla.

---

[3] Transcript Page

3. What Pisner actually submitted to McCarthy, based on McCarthy's Accountant's testimony and based on the documents supplied to Pisner, pursuant to the Court's June 7, 2018 order, on June 18.

a) **Tax years 2009 – 2013 were supplied.**In her testimony (see above) the McCarthy's Accountant has admitted that tax returns were supplied for tax years "2009-2013."

b) **The documentary evidence shows that the Tax year 2014 had been supplied.**

The 2014 Tax year return had been supplied to McCarthy-- As Exhibit A, clearly indicates, that contrary to the testimony, made under oath, of McCarthy's Accountant, the return for 2014 was supplied (it was in the E-mail copies of the submissions that was supplied to Pisner, by McCarthy, pursuant to this court's June 7, 2018

c) The documentary evidence shows that Tax year 2015 had been supplied.

The 2015 Tax year return had been supplied to McCarthy-- As Exhibit B, clearly indicates, that contrary to the testimony, made under oath, of McCarthy's Accountant, the return for 2015 was supplied (it was in the E-mail copies of the submissions that was supplied to Pisner, by McCarthy, pursuant to this Court's June 7, 2018

d) Tax year 2016 was filed in October 2017 and was not subject to either Judge Albright's or Judge Storm's orders.

The 2016 tax return was not covered by the orders of Judge Albright and Storm -- The 2016 tax year return, with the extension, was due on "October 2, 2017" (see Exhibit C), which was the date that Judge Albright's order was signed, but not recorded. The orders requested documents up to September 30, 2017 (The end date on Judge Albright's order. Judge Albright's order was signed on October 2, 2017, butPisner did not know this and there was an October 2, 2017 tax filing deadline. It is not even clear what Pisner's status was on October 2, 2017. Pisner's interpretation of Judge Albright's and Judge Storm's orders were perfectly reasonable and if McCarthy had a different interpretation, he should have contacted Pisner, who is a beneficiary and therefore a client, he should have contacted Pisner, pursuant to Pisner's request (See Exhibit D), rather than filing a Petition for Contempt the next business day after he received the documents from Pisner.

e) Pisner supplying a return for Tax Year 2017, due to Judge Albright's October 2, 2017 order would be impossible.

It would be impossible for Pisner to supply a 2017 tax return --As the transcript excerpt indicates, McCarthy's Accountant asserted that Pisner failed to supply the Trust's "2017" return.

Consider how impossible it would be for Pisner to produce a 2017 tax return for the Trust: Pisner

Regardless of the language of the earlier orders of Judges Albright and Storm, Pisner has already emailed a copy of the October 2, 2017 tax return filing for the Tax year of was nolonger a Trustee as of October 2, 2017 (October 14 if you use the day of the recording of the court's order). The 2017 taxes were either due in April 2018 or would be due in September or October of 2018; therefore, Pisner would not have had the legal capacity to file a 2017 return on behalf of the trust: McCarthy and McCarthy's Accountant are well aware

4. What we can conclude from the

We can conclude from the evidence submitted herein, McCarthy's Accountant, unambiguously made false statements under oath related to Pisner's submissions. Moreover, both McCarthy, and McCarthy's Accountant, given that they are acting on behalf of the trust, violated

B. The Tax Return Supporting Documents.

1. The limited nature of the Trust.

The first thing that you notice, when you review the ledgers of the Trust (Exhibits F, G, and H) is that the Trust, contrary to the statements made by McCarthy to this Court, is quite small. If one looks at the assets in the tax returns, over time, most of the value of the trust was in real property and most of that real property was either sold or distributed before 2014. It was not unusual for the trust to have less

[5] MD Code, Estates and Trusts, § 14.5-

than 100 transactions a year, including receiving limited rent payments and paying for utilities on the few properties remaining.

2. **How the Taxes were prepared each year.**

In 2010, the software TurboTax was used for the first time for the Trust's 2009 tax return. What was unusual about that first use of TurboTax that year, was that the numbers were reviewed and verified by the senior partner of the Accounting Firm Gold, Leins and Adolph-Robert Leins. He verified the correctness of the initial depreciation schedules for each property and the basis of each property. TurboTax would each year migrate the information from the earlier year to the latest year and because of this there were only five entries that would change each year:

c) The date and the amount of any sale of trust property: This information would come from the ledger: The ledger information would simply be entered into TurboTax.

d) The interest income: This was a nonissue after the interest bearing accounts were distributed to both beneficiaries, such, as was the case with the interest bearing SunTrust account around 2012. There are no support documents of these interest bearing accounts because those documents for the tax returns were destroyed after a few years and the interest was quite limited.

e) The Trust income, which consisted, for the most part,

a) The Trust expenses, which normally included items, like repairs, legal fees from various law firms (no legal fees from Pisner), used, as the source document, the ledger, which as will be shown in the next section, Pisner has completely supplied or, if there is some ambiguity in the ledger, clarification was had by going online and reviewing bank transactions, which is, pursuant to the Court's order, prohibited.

e) The dividends amounts, for the stocks, were entered each year and Rubinstein would either supply copies of the 1099s each year (this was not the norm and those that were supplied by Rubinstein were included in the submittal). As one can also see that the 1099s for the Trust, were sent, to Rubinstein (see Exhibit E). The norm was for Rubinstein to make calls to the various companies, which the Trust held stock in, each year, close to the due date for the taxes and supply numbers over the phone for each stock. It was never clear why Rubinstein did not have the 1099s to begin with, but this happened just about every year and when Rubinstein had control of the TD Trust bank account (closed in 2012), one would presume that the dividend checks went into the TD Bank account, but when that account was closed, the dividend amounts,

The Court order states that "Gary Pisner has willfully failed and refused to supply the source documents for the tax returns previously provided or those not provide[d]."

Again, disregarding the obvious fact that the Court orders of Judges Albright and Judge Storm only required documents to September 30, 2017, not to "the present," the source of the court's ruling is the testimony of McCarthy's Accountant. During her testimony she stated that:

[6] Page 8 of transcript of June 7,

[7] Transcript page

[8] Contrary to Rubinstein's testimony, she claims that she deposited checks in the Trust's BB&T bank account: This was only true after the Trust's TD bank account was closed in the summer of 2012. This is reflected in the Trust ledgers, with the exception of McCormack dividends, which was not a stock owned by the Trust.

C. The Ledger.

In this Court's order of June 7, 2018 the court stated that "Gary Pisner has willfully failed and refused to supply all ledgers from 2013 to 2018, when he was co-trustee of the Trust."

Again, disregarding the obvious fact that the Court orders of Judges Albright and Judge Storm only required documents to September 30, 2017, not to "the present," the source of this Court's ruling is the testimony of McCarthy's Accountant.

During her testimony she stated that:

1 All ledgers maintained during the relevant period **relevant to the trust.** A A ledger from 2009 to, I believe, 2012, but no supporting documentation.

The accountant has testified under oath that the ledger was supplied for the period between "2008 and 2012." Actually there were three ledger files supplied to McCarthy, one for the period between 2008 through 2010 (this was the ledger for the 2010 audit; (see Exhibit F), then there was the period between the 2010 audit and through 2014 (see Exhibit G), which obviously, based on her testimony, the accountant

What is odd is that McCarthy's Accountant failed to review and/or concealed from the Court the fact that in the January 28 submissions to McCarthy, a ledger was included that covered the period from January 1, 2015 to September30, 2017, which was the period, which, pursuant to the order of Judge Albright and pursuant to the instructions of Judge Storm, was the period, from which the audit would be taken from. That ledger's presence in the E-mails,

[9] Page 8 of transcript of June 7,

which were received from McCarthy (see above) prove that the testimony,under oath, of McCarthy's accountant was false (see Exhibit H). So the evidence and the testimony of McCarthy's Accountant proves that the ledgers, in three parts, covered, the entire period requested in Judge Albright's and Judge Storm's orders and that the problem, was not with

What Pisner actually submitted to McCarthy, based on McCarthy's Accountant's testimony and based on the documents supplied to Pisner, pursuant to the Court's June 7, 2018 order, on June 18, by McCarthy, was every trust ledger between 2008 and October 2017; therefore, from the evidence, McCarthy's Accountant misled the Court and Pisner had complied with Judge Albright's and Judge Storm's orders.

D. **The Ledger supporting documents and the check supporting documents.**1. **The relevant language in the Court's order.**The Court order, of this Court, states that "Gary Pisner has willfully failed and refused to supply the source documents for either the ledgers already produced or those not produced;" yet it also states that "Gary Pisner issued checks electronically and does not have copies of the canceled checks."Again, disregarding the obvious fact that neither the Court orders of Judges Albright's and Judge Storm's only required documents to September 30, 2017, not to "the present," the source of this Court's ruling is the testimony of McCarthy's Accountant.During her testimony she stated that:

> 4 All ledgers maintained during the relevant period relevant to the trust.
> D. A A ledger from 2009 to, I believe, 2012, but no supporting documentation.

D. [10]

[10] Page 8 of transcript of June 7,

3. The problem with the implementation of the order due to the conflict between the findings of the court and the deliverables.

Due to the above findings, by the Court, and the fact that Pisner has not had access to the Trust Bank Account since October 2, 2017, to comply with the order of the Court, Pisner will have to interpret the Court's requirement to supply source documents for the ledgers for the entire period in which Gary Pisner was CoTrustee of the Trust and given that, unless there was an error in the entry of the ledger, which would be difficult to detect, without access to the Trust bank account; therefore, given that the Court has found that Pisner does not have checks and that the Court has acknowledged that Pisner has not had access to the Trust bank account, the Court's requirement for Pisner to supply "Source documents for all checks issued on behalf of the Trust, while Gary Pisner was CoTrustees" must, given the constraints of Pisner, the findings of the Court, and McCarthy's refusal to comply with Maryland Trust and Estates § 14.5-813, must be treated the same as the request for ledger support documents, so to a large extent the two requirements, given the findings of theCourt and the lack of access to the Trust account, can only be treated as the same request: There is no other

4. General problems related to the supporting

As indicated above, McCarthy's Accountant incorrectly stated that she had "A ledger from 2009 to, I believe, 2012, but no supporting documentation." The testimony of McCarthy's accountant was obviously false about the ledger supporting documentation, on its face, given that McCarthy's accountant, apparently only reviewed a portion of the total ledger, and she did not review the portion of the ledger that would have been the basis of the audit ordered by the Court, which was between January 2015 and September 30, 2017; without the ledger for that period of time, which McCarthy's accountant falsely claimed had not been supplied (see Exhibit H) it would be impossible to do an audit and had McCarthy's accountant actually reviewed the supplied documentation, she would have found an abundance of supporting documentation (see Exhibit J) for the period of the audit; moreover sampling those documents supplied to McCarthy, there are, contrary to McCarthy's

88 (1998), where the Court decision clearly indicated that there was a three(3) year statutory bar for audits and the IRS also has a three(3) year statutory bar and Rubinstein, clearly was aware of the numbers that came from the late 2010 audit.

That is not to say that this Court does not have the authority to request documents that would statutorily be unusable in an audit within the three year statutorily permitted audit period, but as with most jurisdictions, a person should not be punished, in this instance incarcerated for 60 days, for not retaining documents that existed before that legislatively determined statutory bar period. Moreover, rightly or wrongly given that both CoTrustees had access to the Trust accounts, if there was any ambiguity, Rubinstein would be very vocal about that ambiguity.

One can see this in Pisner's Motion to Strike and Request for Reconsideration, where Pisner had to address specific accusations of Rubinstein, related to some charges before 2013 and for the most part, those accusations, had already been reviewed in

August2010 and responding was more difficult because most of the accusations were more than six years old and supporting documents had been discarded: That is why there are statutory bars. Regardless --given how small the Trust is and given how few transactions exist most ledger entries are selfexplanatory.

The bottom line here is that, to incarcerate someone for not being able to supply documents discarded more than three (3) years ago would be improper. If the supporting documents existed, they were included; moreover, to not include such documents would, even without a court order, be irrational, given that Pisner would, unless the appellate Courts decide otherwise, be paying McCarthy for his legal services. That is why, along with the supplied documents, Pisner asked McCarthy to contact Pisner, if he believed that

b. The additional problem with supporting documents for the ledger that was used for

Pisner had virtually no supporting documents assembled during the period of time prior to the 2010 audit and there was a very good reason for that. Pisner was going through a divorce and until that divorce was final, he was subject to discovery requests from the spouse, so Pisner Rubinstein and Pisner collectively agreed that any discoverable documentation, not protected by the Trust's protective order, would be retained by Rubinstein or the Accountant for the Trust (The Accountant was successful in fending off subpoenas by arguing that there was an Accountant/Client confidentiality in Maryland). The timing of the 2010 audit was no coincidence, it coincided with the end of the continuing duty to respond to discovery requests, so all of the support documents were at the 2010 audit and at the end of the audit Rubinstein walked out with every document and, as Pisner would shortly discover, she delivered those documents to the Trust

Those documents were discarded, by the accountant, after four years of disuse.

Although Rubinstein indicated that she had made a copy for herself, the only thing that Pisner ever received from Rubinstein was the copy of the Trust ledger Exhibit F) years later after she admitted that she could not find the documents from the audit (she had forgotten that she had delivered to documents to the Trust Accountant).

E. The Settlement

1. The relevant language in the Court's

The Court order, of this Court, states that "Of the five (5) Trust properties sold while Gary Pisner was trustee, Gary Pisner has willfully failed and refused to supply settlement statements for four (4) of the properties."

Again, disregarding the obvious fact that the Court orders of Judges Albright and Judge Storm required documents to September 30, 2017, not to "the present," the source of the Court's ruling is the testimony of McCarthy's Accountant. During

[11] See Page 13 of the Tran-

What was the settlement statement, you
said there was one?
A
Q For what
A I'd have to look* at my notes hut it
was a property in Baltimore.

3. Problems related to the settlement documents.

a. Rubinstein retained the settlement documents.

It is correct to say that the only settlement document that was supplied was for a Baltimore property, Saratoga, sold in 2012 (the first trust property sold), but it is also true that Pisner stated, under oath that he did not have any other settlement document. Pisner stated that and herein states again that Rubinstein, who was a CoTrustees and a real-estate agent, retained all of the settlement documents. Given that there were two CoTrustees, it was agreed, after the sale of Saratoga, that the Trust only needed one copy and Rubinstein, given her profession, would be the one to retain it. Yes- everyone received a copy during the settlement itself, but Pisner never left a settlement after the Saratoga, with a settlement document.

For tax purposes, the only thing that Pisner required acquired from the

4. The settlement documents for the Trust's Baltimore properties were old and are no longer available from the settlement companies.

Pisner testified under oath that he had supplied all documents in his possession and that includes settlement documents.

Given that the settlement for the Baltimore properties occurred approximately more than five years ago, from preliminary enquiries, it is likely that those documents were destroyed, so Pisner cannot get the settlement documents from the settlement companies, so he cannot supply those documents and given that Rubinstein agreed to maintain those settlement documents, unless she has lost those documents, McCarthy already has those documents.

As for the 2015 transfer of the 1/6 share of Norman Pisner's stake in the Florida Avenue property, Pisner has requested a copy of the settlement document from the settlement company and, if those documents have not been destroyed, they will be supplied to McCarthy when they are available and if they are available: Pisnerwas told that the documents could still exist in off-site storage.

3. **The settlement document issue was swept up, by the environment in the courtroom created by the false testimony of McCarthy's accountant.**

From the evidence included herein, it is clear that McCarthy's Accountant gave false testimony, under oath, about tax returns, about ledgers, about supporting documents.

Based on the accountant's false statements, the Court, rightfully assumed that it had been "had" by Pisner, but, as the evidence indicates, that was never the case. Pisner was the one who was consistently telling the truth, i.e., he had supplied everything that he had, including the settlement documents.

Again – given that Pisner, as a beneficiary, will be paying for any filing or any expense of McCarthy, holding out on supplying documents, if available, would be stupid: When Pisner testified that he turned over every settlement document in his possession, he was

V. Statutory considerations.McCarthy's statutorily mandated duty to Pisner. 1. Maryland Code Trust & Estates §14.5-801 states that: On acceptance of a trusteeship, the trustee shall administer the trust reasonably under the circumstances, in accordance with the terms and purpose of the trust and the interests of the beneficiaries, and in accordance with this title.Obviously – attempting to have who, pursuant to the "terms" of the trust is the beneficiary of the Trust incarcerated would not be in compliance with Maryland law and a breach of McCarthy's fiduciary duty and McCarthy's Accountant's duty (As has been shown, her false testimony was the source of the findings of the Court, in its order).**2. MD Code, Estates and Trusts, § 14.5-807(a) states that:**

> (a)(1) A trustee may delegate duties and powers that a prudent trustee of comparable skills could properly delegate under the circumstances to an agent, even if the agent is associated with the trustee.
> (2) A trustee shall exercise reasonable care, skill, and caution in:
> (i)Selecting an agent;
> (ii) Establishing the scope and terms of the delegation, consistent with the purposes and terms of the trust; and
> (iii) Periodically reviewing the actions of the agent in order to monitor the performance of the agent and compliance with the terms of the delegation by the agent.As is obvious from the facts and argument presented here McCarthy failed in his oversight duty under § 14.5-807 because, McCarthy's Accountant, either failed to adequately review Pisner submissions, which resulted in her giving false testimony under oath or in the alternative she knowingly gave false testimony, with the support of McCarthy, to incarcerate a Trust beneficiary, who had, days before the Petition for Contempt and Incarceration, was filed, moved for McCarthy's removal as Trustee for McCarthy's breach of trust.

3. **MD Code, Estates and Trusts, § 14.5-807(b) states that:**

(b) In performing a delegated function, an agent owes a duty to the trust to exercise reasonable care to comply with the terms of the delegation.

McCarthy's Accountant made numerous false statements under oath, which could only have occurred through a grossly inadequate review of Pisner's submissions to McCarthy or perjured testimony.

The order appears to require Pisner, to avoid Jail, to produce documents that are not in his possession and that he would be unable to acquire: Pisner asks the Court to clarify thelanguage in the order, if the Court does not reverse its order. The order appears to, unlike earlier orders, for Pisner to supply documents when Pisner was no longer a trustee, such as the trust's 2017 tax return. Based on the case law, Pisner believes that such an interpretation would not be supported by Maryland case law and that it would be clear error; therefore, Pisner, asks this Court, if it does not, based on the false testimony, under oath, of McCarthy's accountant reverse its June 7, 2018 order, to modify the language of this Court's June 7, 2018 order, to comport with what is possible, what was requested in earlier orders, and what is considered to be appropriate under Maryland law.

VII. What Pisner supplied before McCarthy filed his Petition for Contempt.

The evidence, herein, shows that, contrary to McCarthy and the testimony of McCarthy's accountant, the following documents were submitted to McCarthy before he filed his Petition for Contempt:

- Pisner supplied, to the best of his knowledge, all Trust ledgers while Pisner was CoTrustee (see Exhibits F, G, and H).

- Pisner supplied, to the best of his knowledge, all Trust Tax Returns, including those for 2014 and 2015 (see Exhibits A, B, and C).
- Pisner supplied all tax support documents that he had available, including Ledgers F,G, and H) and Dividend statements and tax forms (see Exhibit E), the remainder of the tax support documents would, if she had retained them, in the possession of Rubinstein).
- Pisner supplied all available leger supporting documents that he has in his possession, including checks for services related the eviction and a suit against a Tennent, during the Court order audit period; also included was the lease of the tenant established during the Court ordered audit period.
- Every existing support document that Pisner has, including items like tax bills, bond issuance documents, stock transfer fees, leases, utility bills, law firm fees, eviction fees, judgement awards, etc. all supplied before McCarthy's Petition for Contempt (see a selection of supporting documents Exhibit J).

- Pisner has submitted only one settlement document; Pisner does not have any additional settlementdocuments, especially because Rubinstein was tasked to retain them and all of the Trust properties that were wholly owned by

VIII. What has been supplied to McCarthy since this Court's June 7, 2018 order.

- The Trust Tax return, which was filed in October of 2017, which was not within the production range of either the orders of Judge Albright or Judge Storm (see Exhibit D): McCarthy has now received a copy of this tax return.

IX. What cannot be supplied.

- Pisner cannot supply a 2017 Trust tax return (see comments above).
- Pisner cannot supply Trust documents created after he was replaced as trustee.
- Pisner cannot supply any supporting document that has been discarded, years ago, because of their age.
- Because there were two CoTrustees and there was no expectation that each CoTrustee would

retain every document (Rubinstein would exclusively have certain documents) -- Pisner cannot force Rubinstein to turn over documents; moreover, due to McCarthy's refusal to permit Pisner to review the Trust file, in violation of Maryland law, Pisner has no idea what documents Rubinstein supplied.

- Pisner cannot supply supporting documents for checks

WHEREFORE, given that the documentary evidence clearly indicates that due to the false testimony of McCarthy's Accountant's, it appears that Pisner did comply with the court orders of Judge Storm, this court should reverse it ruling in its June 7, 2018 order and that it should find that Pisner was not in contempt and that McCarthy should be required to certify under oath, this time, that he has reviewed the files supplied by Pisner (not his Accountant) and that he should, if he deems that there are documents that he believes are missing he should list those missing documents and he should describe how those alleged missing documents are necessary for the audit for the period between January 2015 to September 30, 2017.

Finally, given that McCarthy has breached his fiduciary duty, as the evidence shows, as a Trustee (Pisner is a beneficiary of the Trust) in not reviewing Pisner's submittals before he filed his Petition for contempt and that he failed to review the submittals before the June 7th hearing and thus permitted his accountant to give false testimony under oath, which, could have resulted in Pisner's improper incarceration a beneficiary who , the interests of, he must consider under Maryland Code Trust & Estates §14.5-801, the Court should require compensation to Pisner and any other relief that it deems necessary and that this Court should consider further actions to address the false testimony of McCarthy's Accountant, McCarthy's lack of oversight and his failure to make a proper enquiry into the

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[1]The 30 day deadline for filing an appeal, of this Court's order is on July 13, 2018. Unless there is some action reversing this court's June order, Pisner, will file a Notice of Appeal. Because of this, Pisner, in addition to those implied objections in his Request for Reconsideration, states his objections to preserve for appeal: The Court errored in denying Pisner's Motion for a More Definite Statement. The Court errored in not requiring McCarthy to attest to his petition, under oath. The Court permitted the proceeding, although it was unclear what documents were omitted: this undermined Pisner's ability to present evidence to the court that countered McCarthy's accountant false testimony.

The Court shifted to burden of proof to Pisner on a number of issues.
The Court did not use a Clear and Convincing standard.