THIS REPORT IS NOT A FINAL ORDER OF DISCIPLINE*

DISTRICT OF COLUMBIA COURT OF APPEALS
BOARD ON PROFESSIONAL RESPONSIBILITY
AD HOC HEARING COMMITTEE

In the Matter of:	:	
	:	
MATTHEW A. LEFANDE,	:	
	:	
Respondent.	:	Board Docket No. 22-BD-024
	:	Disc. Docket Nos. 2020-D018, 2019-D050, 2019-D041, & 2018-D061
A Temporarily Suspended Member of the Bar of the District of Columbia Court of Appeals	:	
(Bar Registration No. 475995)	:	

REPORT AND RECOMMENDATION OF
AD HOC HEARING COMMITTEE

Respondent, Matthew A. LeFande, is charged with violating Rules 3.1,[1] 3.4(c), 8.4(b), and 8.4(d) of the District of Columbia Rules of Professional Conduct (the "Rules"), as well as Maryland Rules 19-301.4(a)(3), 19-301.16(d), 19-303.1, 19-303.3(a)(1), 19-308.4(c), and 19-308.4(d). The allegations arise from his conduct in two different client matters.

In the first client matter, Respondent represented Anita Warren and her son, Timothy Day. Ms. Warren had mistakenly received a large sum of money during a real estate transaction and, although she had no right to the money, refused to return it and distributed some of it to Mr. Day. During this representation, Respondent was

[1] The Specification of Charges refers to "Rule 3.1(a)"; because there are no subsections to Rule 3.1, this appears to be a typographical error.

* Consult the 'Disciplinary Decisions' tab on the Board on Professional Responsibility's website (www.dcattorneydiscipline.org) to view any subsequent decisions in this case.

convicted of criminal contempt in the United States District Court for the District of Columbia for refusing to sit for a deposition (Count I). Disciplinary Counsel asserts that this was a crime of moral turpitude. Respondent filed a bankruptcy petition on behalf of Ms. Warren in Maryland that was dismissed by the Court as frivolous (Count II). His interactions with the personal representative of Ms. Warren's estate following her death are alleged to be in bad faith (Count III).

In the second matter, Respondent's filings in his representation of Teondra Simu in a bankruptcy matter in the District of Columbia were found by the bankruptcy court to be frivolous and in bad faith (Count IV).

Disciplinary Counsel contends that Respondent committed all the charged violations, and should be disbarred, or at least suspended for three years with a requirement to prove fitness before reinstatement. Respondent has not participated in these proceedings and did not cooperate with Disciplinary Counsel's investigation.

As set forth below, the Hearing Committee finds that Disciplinary Counsel has proven violations of D.C. Rules 3.1, 8.4(b) and 8.4(d) and Md. Rules 19-303.1, 19-303.3(a)(1), 19-308.4(c) and 19-308.4(d) by clear and convincing evidence. We find that violations of D.C. Rule 3.4(c) and Md. Rules 19-301.4(a)(3) and 19-301.16(d) have not been proven and that Respondent's crime was not one of moral turpitude. The Hearing Committee recommends that Respondent be disbarred.

I. PROCEDURAL HISTORY

This matter commenced after Respondent was found guilty of criminal contempt, in violation of 28 U.S.C. § 636(e)(2), in the United States District Court for the District of Columbia for refusing to sit for a deposition. *In re Deposition of LeFande*, 297 F.Supp.3d 1 (D.D.C. 2018), *affirmed*, 919 F.3d 554 (D.C. Cir. 2019). Pursuant to D.C. Bar R. XI, § 10, Disciplinary Counsel notified the D.C. Court of Appeals of Respondent's conviction, and on May 31, 2019, the Court temporarily suspended Respondent and directed the Board to institute a formal proceeding to determine the nature of Respondent's offense and whether the crime involved moral turpitude within the meaning of D.C. Code § 11-2503(a). The Board concluded that the crime was not one of moral turpitude *per se* and referred the matter to a hearing committee, giving Disciplinary Counsel the option of filing a petition charging one or more violations of the Rules of Professional Conduct. Order, *In re LeFande*, Board Docket No. 19-BD-036 (BPR July 29, 2019).

On May 10, 2022, Disciplinary Counsel filed a Specification of Charges ("Specification") in this matter.[2] After the District of Columbia Court of Appeals, on August 2, 2022, authorized Disciplinary Counsel to serve Respondent with the

---

[2] The moral turpitude case was assigned Disciplinary Docket No. 2018-D061. That docket number was included in the Specification, which added three additional docket numbers involving the conduct described in Counts II-IV. We address the issue of moral turpitude, consistent with the Committee's pre-hearing Order (issued on Nov. 2, 2022), and the Board's Order denying Disciplinary Counsel's Motion to Consolidate as moot (issued on Jan. 13, 2023).

Specification by mail to his address on record with the Bar and by email, Disciplinary Counsel filed an affidavit of service on August 18, 2022. Respondent did not file an Answer to the Specification or otherwise appear in this proceeding. A hearing was held on January 17, 2023, at which neither Respondent nor counsel appeared. The following exhibits were received in evidence at the hearing on these charges: DX 1-84.[3] Tr. 42.

Upon conclusion of the merits phase of the hearing, the Hearing Committee made a preliminary non-binding determination that Disciplinary Counsel had proven at least one of the D.C. or Maryland charged Rule violations set forth in the Specification. Tr. 52; *see* Board Rule 11.11. In the sanctions phase of the hearing, Disciplinary Counsel submitted DX 85 and 86, which were received into evidence. Tr. 54-55.

Disciplinary Counsel submitted its Post-Hearing Brief on February 17, 2023. Respondent did not file a brief in response.

II. FINDINGS OF FACT

The following findings of fact are based on the testimony and documentary evidence admitted at the hearing, and these findings of fact are established by clear and convincing evidence. *See* Board Rule 11.6; *In re Cater*, 887 A.2d 1, 24 (D.C. 2005) ("[C]lear and convincing evidence" is more than a preponderance of the

[3] "DX" refers to Disciplinary Counsel's exhibits. "Tr." refers to the transcript of the hearing held on January 17, 2023.

evidence; it is "'evidence that will produce in the mind of the trier of fact a firm belief or conviction as to the fact sought to be established.'" (citation omitted)).

A. Background

1. Respondent is a member of the Bar of the District of Columbia Court of Appeals, having been admitted by exam on January 11, 2002, and assigned Bar number 475995. DX 1. Respondent was temporarily suspended on May 31, 2019. DX 35.

B. Count I – The District Title Litigation (2018-D061)

2. Respondent represented Anita K. Warren and her adult son, Timothy Day, in litigation brought by District Title and in other related matters. The dispute with District Title began when, in connection with the July 2014 sale of property formerly owned by Ms. Warren, the company erroneously transferred $293,514.44 to her personal bank account instead of to her mortgage lender. DX 4 at 3-4; DX 6 at 3-6; DX 11 at 2; Tr. 12 (Thompson).

3. District Title asked Ms. Warren to return the funds but she refused. DX 11 at 2; DX 6 at 4-5. Instead, she transferred the money to Mr. Day and other relatives, who spent it on real estate, vehicles, and other personal expenses. DX 6 at 4-5; DX 11 at 2; Tr. 12 (Thompson).

4. On September 2, 2014, District Title sued Ms. Warren and Mr. Day in D.C. Superior Court to recover the mistakenly transferred funds. DX 4; Tr. 12-13 (Thompson). Respondent represented Ms. Warren and Mr. Day in the case. Tr. 12; DX 5.

5. The case was removed to the United States District Court for the District of Columbia, and, on November 19, 2014, District Title sought a preliminary injunction to prevent Ms. Warren and Mr. Day from dissipating assets. DX 5; DX 7; Tr. 13 (Thompson).

6. The very next day, Respondent represented Mr. Day at the closing of a property sale in which Mr. Day was to receive $82,051.81. DX 17 at 11-12, 16-17. Respondent directed that the proceeds from the sale be wired to a bank account in New Zealand owned by a company named Escrow Hill Limited. DX 17 at 13, 18-19.

7. On December 15, 2015, the district court granted District Title's motion, enjoining Ms. Warren and Mr. Day from selling or encumbering any real property and requiring them to provide weekly statements to District Title detailing their withdrawals from any bank accounts, and to obtain the Court's authorization before withdrawing or transferring more than $500 from any such account. DX 8 at 18-19; Tr. 13-14 (Thompson). Ms. Warren and Mr. Day did not comply. Tr. 14-15 (Thompson).

8. On November 13, 2015, the district court granted summary judgment against Ms. Warren and Mr. Day for $293,514.44, plus prejudgment interest. DX 11; Tr. 15 (Thompson). The order enjoined Ms. Warren and Mr. Day from dissipating assets until the judgment was satisfied. DX 11 at 9-10. Ms. Warren and Mr. Day did not pay the judgment. DX 26 at 2; Tr. 15-16 (Thompson).

9. District Title sought to conduct post-judgment discovery in aid of execution of the judgment. DX 13. As relevant here, it requested authorization to serve a subpoena on Respondent and three other parties, seeking both documents and testimony related to an alleged fraudulent conveyance of property owned by Mr. Day. *Id.* at 3-8; Tr. 17 (Thompson). Respondent opposed the motion. DX 14. The Court granted the motion as it pertained to the three other parties but held in abeyance District Title's request to depose Respondent. *See District Title v. Warren*, No. 1:14-cv-01808, Minute Entry (D.D.C. May 4, 2016).[4]

10. On or about April 6, 2017, Mr. Day died. DX 16. Respondent filed a suggestion of death with the Court on April 12, 2017. *Id.*

11. In December 2016, during a hearing in a separate case in the Circuit Court for St. Mary's County, Maryland, District Title learned that Respondent represented Mr. Day in the November 2014 sale of property, which it alleged was a fraudulent conveyance. DX 17 at 5-6, 14-26; *see* Finding of Fact (hereafter "FF") 6, *supra*.

12. On April 21, 2017, District Title filed a motion requesting that Respondent be ordered to show cause why he should not be held in contempt for concealing or failing to reveal assets. DX 17. The motion also renewed District

---

[4] The Hearing Committee takes judicial notice of the docket in *District Title v. Warren*, which is attached as an addendum to Disciplinary Counsel's post-hearing brief.

Title's request for a subpoena to Respondent for documents and testimony in support of post-judgment discovery. *Id.*

13. Respondent opposed the motion and moved for a protective order regarding his examination, primarily based on the attorney-client privilege and his Fifth Amendment privilege against self-incrimination. DX 18.

Respondent is Ordered to Submit to Discovery.

14. The district court granted District Title's request to subpoena Respondent and denied Respondent's request for a protective order. DX 19; Tr. 17-18 (Thompson). It held that Respondent's assertions of privileges were premature, and he would need to assert them on a question-by-question basis. DX 19 at 8-9.

15. Respondent objected to the district court's order and renewed his request for a protective order, DX 20; the Court overruled the objections and rejected the renewed request for a protective order. DX 21.

16. Respondent did not respond to District Title's attempts to schedule his deposition and evaded District Title's attempts to serve him personally with a subpoena to appear at a deposition scheduled for August 10, 2017. DX 22; Tr. 18 (Thompson).

17. District Title then asked the Court for an order requiring Respondent to appear for an in-court deposition, which the Court granted. DX 22 at 2; DX 23; Tr. 18-19 (Thompson). The deposition was scheduled for September 21, 2017. DX 23; Tr. 19 (Thompson).

18. Three days before the scheduled deposition, Respondent's attorney moved to dismiss the case as to Timothy Day, alleging that because Mr. Day had died, District Title should have moved to substitute his estate as a party. DX 24; Tr. 20 (Thompson). That same day, the Court ordered District Title to respond to the Motion but emphasized that Respondent was still required to appear at the deposition scheduled for September 21, 2017, and that he could not rely on the pending motion to dismiss as a basis to refuse to answer questions. *See District Title v. Warren*, No. 1:14-cv-01808, Minute Order (D.D.C. Sept. 18, 2017).

19. Two days before the scheduled deposition, Respondent filed a Chapter 7 Voluntary Petition for Ms. Warren in the United States Bankruptcy Court for the District of Maryland. DX 25; DX 37; Tr. 20 (Thompson).

20. Under Section 362(a) of the Bankruptcy Code, the bankruptcy proceeding created an automatic stay of any attempt to enforce the judgment against Ms. Warren. DX 26 at 4; *see also* 11 U.S.C. § 362(a).

21. As the bankruptcy court later held, Respondent filed the bankruptcy proceeding for the improper purpose of shielding himself from questioning in the deposition in the D.C. lawsuit. *In re Warren*, No. 17-22544, 2019 WL 3995976, at *8 (Bankr. D. Md. Aug. 22, 2019).

22. On the day before the scheduled deposition, the district court acknowledged the effect of the bankruptcy filing and ordered that attempts to execute the judgment against Ms. Warren be stayed. DX 26 at 4, 7. Nevertheless, the Court denied Respondent's motion to dismiss Mr. Day and held that Respondent

was still required to appear before the Court for his deposition the following day. *Id.* at 7.

Respondent is Held in Criminal Contempt.

23. On September 21, 2017, Respondent appeared in court for his deposition but refused to take the stand, to be sworn in, or to be deposed. DX 28 at 1, 10-15; Tr. 19 (Thompson). The Court ordered Respondent to take the stand seven times. DX 28 at 9-15. After Respondent refused to comply with the sixth order, the Court briefly recessed to allow Respondent to confer with his counsel about whether to reconsider his refusal to take the stand. *Id.* at 12-13. The Court made clear that the consequence of refusing would be a finding of contempt. *Id.* After the recess, Respondent still refused the Court's order. *Id.* at 14. The Court found Respondent in criminal contempt and fined him $5,000. *Id.* at 15.

24. A week later, the Court supplemented its bench ruling in an order explaining that it had fined Respondent $5,000 under 28 U.S.C. § 636(e)(2) for obstructing the administration of justice. DX 27; DX 29.

25. Over the following six months, Respondent continued his "flagrant disregard" of the Court's orders, and he refused to appear when the Court afforded him yet another opportunity to appear for the deposition. DX 30 at 7.

Respondent is Held in Civil Contempt.

26. On May 30, 2018, the Court revisited District Title's still pending request for Respondent to be held in civil contempt. DX 30; *see* FF 12. The Court

ordered Respondent to show cause why he should not be held in civil contempt for failing to comply with its orders. DX 30.

27. After a hearing, the Court found Respondent in civil contempt for violating clear and unambiguous court orders. DX 31 at 1. The Court imposed a fine of $1,000 per day until Respondent complied with the orders. *Id.* at 2; Tr. 23-24 (Thompson). The Court held that, upon compliance, the fine would stop accumulating. DX 31 at 2; Tr. 23-24. The Court stated that Respondent could purge himself of the contempt by appearing and testifying under oath at a deposition and reiterated that any assertions of privilege must be made on a question-by-question basis. DX 31 at 2.

28. At the time of the hearing in this matter on January 17, 2023, Respondent had not purged the civil contempt by complying with the district court's order to sit for the deposition; the civil contempt fines continue to accrue. Tr. 24 (Thompson).

Disciplinary Proceedings Begin.

29. Disciplinary Counsel initiated an investigation of Respondent's conduct and subpoenaed his client files for Ms. Warren and Mr. Day on April 22, 2019. DX 32; Tr. 28 (Matinpour). The subpoena was delivered by certified mail to Respondent's address listed with the D.C. Bar. DX 33; Tr. 28 (Matinpour).

30. Disciplinary Counsel sought to review the client files of Ms. Warren and Mr. Day in order to determine the extent to which Respondent was involved in the hiding of assets by Ms. Warren and Mr. Day. Tr. 29 (Matinpour).

31. Respondent did not comply with, move to quash, or file any other response to Disciplinary Counsel's subpoena. Tr. 29 (Matinpour).

32. On May 15, 2019, pursuant to D.C. Bar R. XI, § 10, Disciplinary Counsel notified the D.C. Court of Appeals that Respondent had been found guilty of criminal contempt. DX 34.

33. On May 31, 2019, the Court of Appeals temporarily suspended Respondent and directed the Board on Professional Responsibility to institute a formal proceeding to determine whether his criminal conduct involved moral turpitude within the meaning of D.C. Code § 11-2503(a). DX 35.

34. The Board found that Respondent's conviction did not involve moral turpitude *per se*. DX 36. The Board referred the matter to a hearing committee to determine whether Respondent's conviction involved moral turpitude on the facts and, if not, for a recommendation of the appropriate final discipline as a result of Respondent's conviction of a serious crime. *Id.* at 2.

35. Since his temporary suspension in 2019, Respondent has refused to cooperate with Disciplinary Counsel's investigation. Due to Respondent's failure to cooperate, Disciplinary Counsel's Investigator testified that Disciplinary Counsel was unable to determine how involved Respondent was in his clients' hiding of assets. Tr. 29-30 (Matinpour). Indeed, the only communication from Respondent in this record is the letter declining to provide his clients' files referred to below in FF 62.

36. Nonetheless, from the foregoing and the FF in Section IIC below, we find clear and convincing evidence that Respondent's clients purposefully acted to retain the funds that were mistakenly given to them, knowing that in doing so they were acting in violation of the law and that Respondent knowingly acted to assist in their endeavors. The money that Ms. Warren received was, as she knew, intended to pay off her mortgage on the property she had just sold. Instead of returning the money to District Title, or paying her mortgage company herself, she took the money, knowing that it was not hers. Respondent ordered the proceeds of one real estate sale to be sent to New Zealand, effectively putting them out of the reach of District Title. In addition, as described above and in Section IIC below, Respondent took numerous steps to avoid disclosing what steps he and his clients had taken to convert District Title's funds to their own use. Because Respondent refused to cooperate with the district court, and with Disciplinary Counsel, we do not know what, if any, portion of these funds he received as a fee. But we do know that there is clear and convincing evidence that he assisted his clients in criminal activity.

C. Count II – The Warren Bankruptcy Petition (2019-D041)

37. On September 19, 2017, the day after Respondent's attorney filed a motion to dismiss Mr. Day from the District Title litigation, Respondent filed a Chapter 7 Voluntary Petition for Ms. Warren in the United States Bankruptcy Court for the District of Maryland. DX 24; DX 25; DX 37; *see* FF 18-19.

38. The bankruptcy court concluded that Respondent filed the bankruptcy proceeding for the improper purpose of shielding himself from questioning in the

District Title litigation deposition, scheduled to go forward two days later. *Warren*, 2019 WL 3995976, at *8 ("[T]his Court has little doubt that the true purpose behind this bankruptcy filing was to protect Mr. LeFande from discovery efforts in the D.C. Lawsuit."); FF 21. He received no compensation for the case, Ms. Warren had no property that the Chapter 7 Trustee could administer, she had minimal debt, and her monthly income exceeded her monthly expenses by over $900. *Id.* In other words, Ms. Warren was not bankrupt at the time of the bankruptcy filing.

39. On September 20, 2017, Respondent's motion to dismiss Mr. Day in the District Title litigation was denied. DX 26; FF 22.

40. A week later, Respondent filed a motion for contempt against District Title's attorneys in the Warren bankruptcy matter, claiming that they were in violation of the automatic stay. DX 38; Tr. 20-21 (Thompson). The motion asserted the same arguments Respondent made in the motion to dismiss Mr. Day from the District Title litigation, which the district court had denied one week earlier. *Warren*, 2019 WL 3995976, at *2.

41. Respondent's motion failed to disclose important information about the District Title litigation. DX 38. Respondent did not tell the bankruptcy court why District Title was seeking to depose him (that is, to examine his role in alleged fraudulent transfers made by Defendant Day); did not disclose his failed attempts to avoid examination; and did not reveal that the district court had denied his motion to dismiss Mr. Day from the case and had required him to appear for an in-court deposition. *Id.*; *Warren*, 2019 WL 3995976, at *5 .

42. As the bankruptcy court found, Respondent "repeatedly and falsely assert[ed] that the Debtor was 'the only party before the District Court in the District of Columbia.'" *Warren*, 2019 WL 3995976, at *6.

43. The bankruptcy court denied the contempt motion. DX 39; DX 40.

44. That court then ordered Respondent to show cause why sanctions should not be imposed for his violation of Federal Rule of Bankruptcy Procedure 9011(b). DX 41. It found that Respondent's arguments in the motion for contempt were "frivolous and were presented to harass [the District Title attorneys] and to cause unnecessary delay in [the bankruptcy] proceedings and in proceedings in other courts." *Id.* at 2.

45. Respondent's response to the show cause order "essentially reiterated the same arguments asserted in the motion for contempt for which the First Order to Show Cause was issued." *Warren*, 2019 WL 3995976, at *3.

46. Respondent failed to appear at a hearing to consider the show cause order and the parties' responses. DX 44; DX 45. The bankruptcy court ordered Respondent to show cause why he should not be held in contempt for his failure to appear. DX 45.

47. As a result of its first show-cause order, the bankruptcy court imposed monetary and nonmonetary sanctions for Respondent's misconduct. DX 46; Tr. 21-22 (Thompson). The Court ordered Respondent to attend two ethics courses within six months and ordered that the monetary sanctions would be determined after a hearing to assess Respondent's ability to pay. DX 46 at 2.

48. Respondent did not appear at the hearing to determine his ability to pay. DX 47; DX 48 at 1. The bankruptcy court ordered Respondent to pay $5,000 as a sanction for his bad-faith conduct. DX 48 at 2. Respondent was required to deliver payment to the Clerk of the Maryland bankruptcy court within 30 days. *Id.* On the same day, the Court issued a separate order granting District Title's motion for attorney's fees and requiring Respondent to pay District Title $7,609.50 within 30 days. DX 49.

49. Respondent did not appeal either of the sanctions orders and did not make any payment to District Title or the Maryland bankruptcy court in the ensuing 30 days. DX 50 at 2; Tr. 22-23 (Thompson).

50. A little over two weeks after the time to pay expired, District Title moved to enforce the sanctions orders and asked the bankruptcy court to issue a third show cause order for Respondent's failure to comply with the sanction orders. DX 50.

51. The bankruptcy court granted the motion with an enforcement order. DX 51. Once again, the Court ordered Respondent to pay District Title $7,609.50 in attorney's fees, this time within seven days of the Order. *Id.* The Court also asked District Title to submit a statement of the additional fees and expenses it incurred in briefing the motion to enforce and ordered that Respondent be taken into custody by the United States Marshals if he failed to pay all amounts ordered by the Court. *Id.* at 1-2; DX 52.

52. Respondent again failed to make any payment within the time specified by the Court. On September 17, 2020, seven months after the bankruptcy court's original order, Respondent paid District Title $7,609.50. DX 53 at 2; *see also* Tr. 22-23 (Thompson).

53. On October 5, 2020, the Court issued a third show cause order in which it ordered Respondent to show cause why he had not timely complied with the earlier sanction orders. DX 52. The Court further ordered Respondent to file proof of compliance, and also ordered Respondent to pay District Title an additional $3,603.13 in attorney's fees sanctions within 14 days. *Id.*

54. Respondent eventually paid the $3,603.13 to District Title. Tr. 22-23 (Thompson).

55. Respondent did not file the proof of compliance required by the third show cause order or a statement explaining why he had not timely complied with the sanctions orders. *See In re Warren*, No. 17-bk-22544 (Bankr. D. Md.).

D. Count III – The Warren Estate (2019-D050)

56. Ms. Warren died at the end of March 2018. DX 54.

57. In November of that year, Samuel Baldwin, Jr., Esquire, was appointed to serve as the personal representative of Ms. Warren's estate at the request of the Register of Wills for St. Mary's County, Maryland. DX 55 at 6-7; Tr. 35 (Baldwin).

58. Mr. Baldwin informed Respondent of the appointment by letter and asked Respondent to provide any information related to assets or claims Ms. Warren held at the time of her death, including copies of Respondent's files for the ongoing

bankruptcy and civil cases. DX 55 at 5; DX 84 at 2, 4; Tr. 35-36 (Baldwin). Respondent did not reply to the letter. DX 84 at 2-3; Tr. 36-38 (Baldwin).

59. Several weeks later, Mr. Baldwin again requested the information, this time by having his associate leave a voicemail for Respondent. DX 55 at 4; DX 84 at 2; *see also* Tr. 36-37 (Baldwin). Mr. Baldwin also sent Respondent a second letter requesting the information he needed to administer Ms. Warren's estate. DX 55 at 4; DX 84 at 2; *see also* Tr. 36-37 (Baldwin). Again, he received no response. Tr. 36-38 (Baldwin).

60. On January 28, 2019, Mr. Baldwin sent a third letter to Respondent, again asking for copies of Ms. Warren's files and a reply to the letter. DX 55 at 3; DX 84 at 7; Tr. 36-38 (Baldwin).

61. Respondent never turned over any information to Mr. Baldwin relating to Ms. Warren's estate. Tr. 35-38 (Baldwin).

62. Mr. Baldwin filed a complaint with the Office of Disciplinary Counsel. DX 55 at 1-2. Respondent filed a response to the complaint in which he did not deny that he intentionally refused to turn over the file. DX 56. Respondent claimed he owed a duty of confidentiality to his deceased client and asserted he had no obligation to turn over Ms. Warren's file to Mr. Baldwin. *Id.*

E. Count IV – The Carvalho Bankruptcy Matter (2020-D018)

63. Respondent represented Teodora Simu against Sharra Carvalho in a contract dispute in D.C. Superior Court. DX 79 at 2; *see also* DX 58. During the course of the litigation, that court made three rulings against Ms. Simu, which (1)

denied a motion to hold Ms. Carvalho in contempt; (2) dismissed Ms. Simu's claim for tortious interference; and (3) dismissed Ms. Simu's claim seeking to dissolve a disputed company. *See* DX 58.

64. On October 27, 2015, a jury entered a judgment for Ms. Simu totaling $90,250, plus interest. DX 79 at 2-3. Following the judgment, Ms. Simu asked the Superior Court to award her $372,583.67 in attorney's fees and $2,157.78 in costs for the litigation. DX 74 at 9; DX 78 at 73-74.

65. A month later, Ms. Carvalho filed for Chapter 7 bankruptcy in the United States Bankruptcy Court for the District of Columbia. DX 57. She listed Ms. Simu as a creditor to whom she owed unsecured debts of $90,250 for the civil judgment and $374,741.45 for Ms. Simu's claim of attorney's fees and costs. *Id.* at 22.

66. After receiving notice of the pending Chapter 7 bankruptcy case, Respondent appealed the three adverse rulings issued during the course of the Superior Court litigation. DX 58; DX 60 at 2. Ms. Carvalho's counsel notified Respondent that the appeal violated the automatic stay imposed by 11 U.S.C. § 362 as a result of the bankruptcy filing and asked Respondent to withdraw the appeal. DX 59; DX 60 at 2. Respondent refused. DX 59.

67. Ms. Carvalho's counsel filed a motion for contempt based on Respondent's refusal to withdraw the appeal in violation of the automatic stay. DX 60.

68. The bankruptcy court held a hearing, found that the appeal violated the automatic stay, and in February 2016, held Ms. Simu in contempt. DX 61 at 1.

69. In April 2017, Respondent filed three motions in the bankruptcy case. The motions sought (1) to remove the trustee of the bankruptcy estate; (2) leave to sue the trustee; and (3) to dismiss the case for bad faith. DX 62; DX 65 at 1; DX 68 at 5.

70. At a hearing on the three motions, the bankruptcy court orally denied the motion to dismiss for bad faith. DX 63; DX 67 at 2-3; DX 68 at 7. In a subsequent memorandum decision and order denying the motion, the Court repeated rulings it had previously made at the hearing, and explained the flaws in Respondent's arguments. DX 68 at 7-8.

71. Respondent then filed a fourth motion, this time seeking to convert the Chapter 7 bankruptcy to a Chapter 11 bankruptcy. DX 64. Respondent's motion repeated the same arguments that the Court had orally rejected in denying the motion to dismiss for bad faith. DX 67 at 3; DX 68 at 8-9.

72. Ms. Carvalho's counsel responded by serving Respondent with a motion for sanctions under Federal Rule of Bankruptcy Procedure 9011. DX 66 at 1, 3. Fed. R. Bankr. P. 9011(c)(1)(a) provides attorneys accused of improper filings with a safe harbor, under which the party seeking sanctions must serve the opposing party with a copy of the motion at least 21 days before filing it with the Court. *See* DX 68 at 12. Respondent therefore had 21 days from Oct. 17, 2017 (DX 66 at 4) -

when the motion was served - to withdraw the motion to convert before the motion for sanctions could be filed with the bankruptcy court. DX 68 at 12, 19.

73. Respondent did not withdraw the motion. DX 68 at 13, 20.

74. After the safe harbor expired, the bankruptcy court issued a written decision denying the two remaining motions filed earlier in the case (to remove the trustee and for leave to sue the trustee). DX 65. Those rulings formed the basis for the Court's ultimate conclusion that conversion from Chapter 7 to Chapter 11 was unwarranted. DX 68 at 13.

75. Respondent still did not withdraw the motion to convert. DX 68 at 14. The motion for sanctions was filed on November 29, 2017. *Id.* at 13.

76. The bankruptcy court held a hearing on the motion to convert at which Respondent did not present any new evidence. *Id.* at 17. Without hearing from opposing counsel, the Court denied the motion for the same reasons it had denied Respondent's motion to dismiss the case for bad faith. *Id.* at 17-18. It subsequently issued a written decision denying the motion. DX 67.

77. On October 1, 2018, the bankruptcy court found that Respondent's arguments in the motion to convert were frivolous and ordered Respondent to pay monetary sanctions to Ms. Carvalho. DX 68 at 22-35. After Ms. Carvalho submitted a statement of her attorney's fees, it ordered Respondent to pay Ms. Carvalho $11,538.75, "together with interest from the date of entry of this judgment." DX 69.

78. Shortly after the original bankruptcy petition was filed, Respondent commenced an adversary proceeding by filing an adversary complaint on behalf of

Ms. Simu alleging that Ms. Carvalho's debts to Ms. Simu were not dischargeable. DX 70.

79. Respondent asserted numerous frivolous allegations in the course of the adversary proceeding. For example, in an amended complaint, Respondent alleged that in her schedules, Ms. Carvalho had falsely omitted the existence of debts and falsely omitted the existence of accounts receivable to a company called Elite. DX 71 at 11. The bankruptcy court dismissed those allegations because the company's property was not Ms. Carvalho's property and therefore did not need to be included on her schedules. DX 72 at 19-20; DX 79 at 100. Despite that decision, Respondent repeated the same allegations in Ms. Simu's Second Amended Complaint and again in her Third Amended Complaint. DX 73 at 13; DX 74 at 13. Respondent made similar baseless allegations in his client's statement of material facts attached to a motion for summary judgment, that accounts receivable were omitted from the debtor's schedules (DX 75 at 1, 6), and he later filed that same statement of material facts as part of his client's pretrial statement. DX 79 at 97.

80. In the Amended Complaint, Respondent also characterized Ms. Carvalho's alleged failure to list $5,950 in cash on hand as a false oath and as "withh[olding] . . . recorded information" from the trustee. DX 71 at 21. The Court dismissed these claims on May 13, 2016 (DX 72 at 20-21), but Respondent re-alleged them in the Second Amended Complaint and the Third Amended Complaint. DX 73 at 26; DX 74 at 25.

81. On May 13, 2016, the Court dismissed Count VIII of the Amended Complaint, because Ms. Carvalho's allegedly false tax return had not induced Ms. Simu to part with money or property and thus could not be a basis for a § 523(a)(2) claim. DX 72 at 1-3. Respondent filed a motion to reconsider and repeated the same frivolous argument that Ms. Carvalho's debt to Ms. Simu was non-dischargeable under § 523(a)(2) based on the false tax return. DX 76 at 1, 4-6. The Court denied the motion to reconsider for the same reason: the allegedly false tax return had not induced Ms. Simu to part with money or property, and thus could not be a basis for a § 523(a)(2)(A) claim. DX 77 at 4-7.

82. As a result of Respondent's baseless allegations, Ms. Carvalho filed a motion seeking sanctions against Respondent and his client in the adversary proceeding for their pursuit of baseless allegations and vexatious multiplication of the proceedings. DX 78.

83. In a 116-page decision, Judge Teel granted the motion (in part), explaining in detail the ways in which Respondent's frivolous allegations were sanctionable. DX 79. The Court found that Respondent had "asserted a veritable kitchen sink of frivolous claims throughout the proceeding" and that he "multiplied the proceedings, and did so unreasonably, vexatiously, and in bad faith." *Id.* at 66.

84. The bankruptcy court ultimately ordered Respondent to pay Ms. Carvalho $32,250, "together with interest at 1.54% per annum" in sanctions for attorney's fees incurred in responding to Respondent's frivolous arguments. DX 81, DX 82. The record before us is silent as to whether this sanction has been paid.

F. Facts in Aggravation[5]

The Florida Bankruptcy Litigation.

85. On June 29, 2021, while he was under investigation by Disciplinary Counsel in this matter and refusing to cooperate, Respondent filed his own Chapter 7 bankruptcy proceeding in the U.S. Bankruptcy Court for the Southern District of Florida. DX 85 at 3. A year later, the Court dismissed the case, finding that Respondent's bankruptcy filing was in bad faith:

> The facts above clearly establish that, prepetition, Le Fande—for years—strategically abused the legal system to evade liability to District Title and responsibility for his actions. On their face, these facts scream bad faith and lead to the inescapable conclusion that this case is yet another of Le Fande's efforts to manipulate the legal system with no regard for how his vexatious tactics affect others, including District Title and the federal judiciary at large. The Court cannot conceive of a case that better exemplifies prepetition bad faith justifying dismissal.

Id. at 6. The Court noted that Respondent "vanished" from his own bankruptcy case once the Court's preliminary rulings indicated that Respondent could be held accountable for his actions. *Id.* Given the Court's conclusion that the facts "scream

---

[5] Disciplinary Counsel's proposed findings of fact 86-88 assert that Respondent's failed claim under 42 U.S.C. § 1983 against a former romantic partner should be considered a fact in aggravation. *See* DX 86 at 2. Respondent's claim was deemed frivolous by the Court, and he was assessed attorney's fees. *See id.* at 1-9. Respondent's alleged misconduct was not charged in the Specification although it occurred prior to the initiation of this case. Section 1983 claims are complex and, absent more, we cannot conclude that there was clear and convincing evidence of misconduct, such that this alleged misconduct should be considered in aggravation of sanction. *See Cater*, 887 A.2d at 25 (facts considered in aggravation of sanction must be proven by clear and convincing evidence).

bad faith and lead to the inescapable conclusion" that Respondent's conduct in that court was another chapter in his vexatious abuse of the legal system, we have no hesitancy in concluding that there is clear and convincing evidence of a continuing course of multiplying proceedings, as Judge Teel found, "unreasonably, vexatiously, and in bad faith." DX 79 at 66.

III. CONCLUSIONS OF LAW

A. Count I

1. D.C. Code § 11-2503(a) (Moral Turpitude)

D.C. Code § 11-2503(a) provides that any attorney convicted of a crime involving moral turpitude shall be disbarred. This Hearing Committee is charged with determining whether Respondent's conviction for criminal contempt is a crime involving moral turpitude and thus would merit automatic disbarment. The Court of Appeals has defined moral turpitude as an "act denounced by the statute [that] offends the generally accepted moral code of mankind," an act involving "baseness, vileness or depravity in the private and social duties which a man owes to his fellow men or to society in general, contrary to the accepted and customary rule of right and duty between man and man" or an act "contrary to justice, honesty, modesty, or good morals." *In re Colson*, 412 A.2d 1160, 1168 (D.C. 1979) (en banc) (citations and internal quotation marks omitted). Thus, in determining whether a given crime is one of moral turpitude, the Court of Appeals has directed us to focus "specifically on whether the attorney was acting in a manner that can be characterized as base, vile, or depraved." *In re Rohde*, 191 A.3d 1124, 1132 (D.C. 2018). Ultimately, the

question is "whether [R]espondent's conduct 'offends the generally accepted moral code.'" *In re Spiridon*, 755 A.2d 463, 468 (D.C. 2000) (quoting *Colson*, 412 A.2d at 1168).

Although misdemeanor cases "may not be denoted crimes of moral turpitude *per se*, they may constitute crimes of moral turpitude under 'the circumstances of the transgression.'" *In re Rehberger*, 891 A.2d 249, 252 (D.C. 2006) (quoting *In re Sims*, 844 A.2d 353, 360 (citing *In re McBride*, 602 A.2d 626, 635 (D.C. 1992) (en banc))). For a misdemeanor to rise to the level of moral turpitude, "the actions of the attorney must be motivated by personal gain or manifest intentional dishonesty for the purpose of personal gain, rather than be simply 'misguided' actions." *Sims*, 844 A.2d at 365 (citations omitted). The relevant "circumstances of the transgression" do not, however, include whether the crime "facilitated" more serious crimes of which the respondent had not been convicted. *See In re Downey*, 162 A.3d 162, 167-68 (D.C. 2017).

Here, Respondent was convicted of criminal contempt, a misdemeanor, under 28 U.S.C. § 636(e)(2), in the United States District Court for the District of Columbia. FF 23-24, 34; *see also* DX 27 at 4; DX 29; DX 36 at 1-2. Section 636(e)(2) provides that:

> [a] magistrate judge shall have the power to punish summarily by fine or imprisonment, or both, such contempt of the authority of such magistrate judge constituting misbehavior of any person in the magistrate judge's presence so as to obstruct the administration of justice.

At the hearing, Disciplinary Counsel represented that it was "not prepared to argue that [R]espondent's criminal contempt conviction involved moral turpitude"

due to its inability to investigate the matter fully because of Respondent's refusal to cooperate in the investigation. Tr. 53. To assist in our analysis, the Hearing Committee requested that Disciplinary Counsel expand on this conclusion. After further analysis, in its post-hearing brief, Disciplinary Counsel now contends that Respondent's criminal contempt was a crime of moral turpitude because: (1) his repeated refusal to obey court orders "intentionally disregarded our system of law and due process"; (2) he sought to "avoid questioning about his own role in his client's efforts to hide assets and thereby obstruct justice"; (3) other forms of misconduct - specifically, his filing of a frivolous Chapter 7 bankruptcy case in Maryland and his frivolous and dishonest arguments in his motions in that case - were part of the facts and circumstances surrounding his criminal contempt conviction; (4) he has made clear that he never intended to comply with the Court's order requiring him to sit for a deposition; and (5) he "went to great lengths, including engaging in additional serious ethical misconduct before an entirely different court, to obstruct proceedings in the D.C. District Court." ODC Br. at 40; *see also id.* at 41 ("The Hearing Committee should therefore find that Respondent's criminal contempt con[]viction involves moral turpitude on the facts.").

While much of what Disciplinary Counsel avers is accurate, we think that, in the end, Disciplinary Counsel's original view on this issue is the correct one. Respondent's refusal to sit for the deposition is the sole basis for his criminal conviction. *Downey* dictates that Respondent's collateral serious misconduct, while generally relevant to this proceeding, cannot be used as an aggravating factor to

enhance the level of vileness of the contempt conviction required for a crime of moral turpitude.

To be sure, Respondent's conduct might have facilitated his clients' thievery, and if he had been convicted of aiding and abetting that thievery or of sharing in its fruits, it would be a very different question. *See In re Untalan*, 619 A.2d 978, 981-82 (D.C. 1993) (per curiam) (appended Board Report) (finding moral turpitude based on a *nolo contendere* plea to "theft by deception" because the crime involved fraud for personal gain). But he was not. In light of that gap in the evidence, the Hearing Committee is of the view that this particular conviction is not akin to those crimes the Court of Appeals has deemed to be crimes of moral turpitude. Rather his crime is more akin to the tax evasion discussed in *In re Shorter*, 570 A.2d 760, 768, 771 (D.C. 1990) (per curiam) (finding no moral turpitude but ordering disbarment based on a "pattern of dishonest dealing," which similarly involved shielding unfavorable information from authorities). Notwithstanding the contumacious and abusive nature of Respondent's conduct (and even though we recommend, below, that the disbarment sanction be imposed because of Respondent's overall course of conduct), we do not think that Disciplinary Counsel has persuasively shown that the act of refusing to testify is one for which automatic disbarment is appropriate.

2. D.C. Rule 3.4(c) (Knowingly Disobeying an Obligation Under the Rules of a Tribunal)

Rule 3.4(c) provides that a lawyer shall not "[k]nowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists."

Disciplinary Counsel alleges that Respondent violated this Rule by violating multiple court orders to appear for a deposition, leading to his conviction for criminal contempt, and argues that because Respondent's assertion of attorney-client privilege was frivolous, he cannot take advantage of the "open refusal" exception. ODC Br. at 26-27. No authority is cited for this proposition nor is there discussion of Respondent's Fifth Amendment privilege, the more plausible basis for Respondent's refusal. The transcript of the deposition hearing at which his conviction took place demonstrates that Respondent was quite open about his deliberate disobedience, and to the extent the Court permitted it, he explained why he would not testify. DX 28 at 11-14. Therefore, Disciplinary Counsel failed to prove by clear and convincing evidence that Respondent violated Rule 3.4(c).

3. D.C. Rule 8.4(b) (Criminal Act)

Under Rule 8.4(b), "[i]t is professional misconduct for a lawyer to . . . [c]ommit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects." Thus, "an attorney may be disciplined for having engaged in conduct that constitutes a criminal act." *In re Slattery*, 767 A.2d 203, 207 (D.C. 2001). "[A] respondent does not have to be charged criminally or convicted to violate the rule. It is sufficient if his conduct violated a criminal statute and the crime reflects adversely on his honesty, trustworthiness, or fitness." *In re Silva*, 29 A.3d 924, 937-38 (D.C. 2011) (appended Board Report) (citing *Slattery*, 767 at 207; *In re Pierson*, 690 A.2d 941 (D.C. 1997); *In re Gil*, 656 A.2d 303 (D.C. 1995)). Not all criminal conduct violates Rule 8.4(b);

rather, "the rule is designed to professionally sanction only those criminal acts that implicate and call into question the fundamental characteristics we wish attorneys to possess." *See In re Harkins*, 899 A.2d 755, 759 (D.C. 2006). To establish a Rule 8.4(b) violation, Disciplinary Counsel must identify and establish the elements of the alleged criminal offense. *See Slattery*, 767 A.2d at 212-13; *In re Pelkey*, 962 A.2d 268, 276-78 (D.C. 2008).

Here, Disciplinary Counsel has charged Respondent with a violation of Rule 8.4(b) based on his conviction for criminal contempt, a misdemeanor, under 28 U.S.C. § 636(e)(2), in the United States District Court for the District of Columbia. *See* Specification ¶¶ 37-38, 53b.; FF 23-24, 34; DX 36 at 1-2.

There is no doubt that Respondent committed a criminal act because he has been convicted of one. The question is whether it "reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects." Respondent had knowledge of the whereabouts of at least some of the disputed funds, and his multiple efforts to frustrate the pursuit of that knowledge, particularly his refusal to take the stand at his deposition, were designed to avoid being questioned about his clients' fraudulent diversion of funds and the role he played in that. Honest lawyers do not participate in covering up their clients' dishonest conduct and thus his crime violated Rule 8.4(b).

4. D.C. Rule 8.4(d) (Serious Interference with the Administration of Justice)

D.C. Rule 8.4(d) provides that it is professional misconduct for a lawyer to "[e]ngage in conduct that seriously interferes with the administration of justice." To

establish a violation of Rule 8.4(d), Disciplinary Counsel must demonstrate by clear and convincing evidence that: (i) Respondent's conduct was improper, *i.e*., that Respondent either acted or failed to act when he should have; (ii) Respondent's conduct bore directly upon the judicial process with respect to an identifiable case or tribunal; and (iii) Respondent's conduct tainted the judicial process in more than a *de minimis* way, *i.e*., it must have at least potentially had an impact upon the process to a serious and adverse degree. *In re Hopkins*, 677 A.2d 55, 60-61 (D.C. 1996).

Disciplinary Counsel alleges that Respondent violated D.C. Rule 8.4(d) when he failed to respond to its subpoenas. Failure to respond to Disciplinary Counsel's inquiries and orders of the Court constitutes a violation of Rule 8.4(d). Rule 8.4, cmt. [2]; *see In re Bailey*, 283 A.3d 1199, 1209-1210 (D.C. 2022). As noted earlier, Respondent has utterly failed to respond to Disciplinary Counsel's inquiry - a failure that has, at least partially, frustrated the timely and comprehensive completion of this proceeding. Accordingly, Respondent's persistent failure to cooperate with Disciplinary Counsel independently violates D.C. Rule 8.4(d).

B. Count II and Count IV

We treat Counts II and IV together as they involve conduct that is essentially equivalent in nature.

1. D.C. Rule 3.1 and Maryland Rule 19-303.1 (Frivolous Arguments)[6] (Counts II and IV)

Rule 3.1 provides that "[a] lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous, which includes a good-faith argument for an extension, modification, or reversal of existing law." An objective test is used to determine whether a respondent's conduct violated Rule 3.1. A filing is frivolous if, after an "'objective appraisal of merit,'" a reasonable attorney would conclude that there was "not even a 'faint hope of success on the legal merits.'" *In re Spikes*, 881 A.2d 1118, 1125 (D.C. 2005) (quoting *Tupling v. Britton*, 411 A.2d 349, 352 (D.C. 1980); *Slater v. Biehl*, 793 A.2d 1268, 1278 (D.C. 2002)).

Maryland Rule 19-303.1 includes the same language as its D.C. counterpart (though the Maryland Rule uses "attorney" instead of "lawyer"), adding: "An attorney may nevertheless so defend the proceeding as to require that every element of the moving party's case be established."

Disciplinary Counsel alleges in Count II that Respondent violated Maryland Rule 19-303.1 by filing a bankruptcy petition in Maryland on behalf of Ms. Warren despite the lack of any basis in fact or law for doing so, and by making frivolous and repetitive arguments in his motion for contempt and responses to show-cause orders.

---

[6] The Maryland Rules apply to Respondent's conduct in connection with the bankruptcy proceeding in Maryland. *See* Rule 8.5(b)(1) ("For conduct in connection with a matter pending before a tribunal, the rules to be applied shall be the rules of the jurisdiction in which the tribunal sits, unless the rules of the tribunal provide otherwise ").

ODC Br. at 33-34. This violation is proven by clear and convincing evidence. As the bankruptcy court concluded, Ms. Warren was not bankrupt, and, therefore, there was no basis for filing a bankruptcy petition on her behalf. The sole purpose of the petition was to trigger an automatic stay of the district court litigation and thus erect a roadblock to Respondent's deposition in the D.C. case. FF 38.

Disciplinary Counsel further alleges in Count IV that Respondent violated D.C. Rule 3.1 in Ms. Carvalho's bankruptcy proceeding in D.C. by repeatedly presenting arguments that the Court had already rejected. ODC Br. at 34-35. Judge Teel's 116-page opinion imposing sanctions on Respondent details not only Respondent's improper repetition of frivolous arguments but numerous other instances of improper and disturbing conduct. FF 83. There is clear and convincing evidence of a violation of Rule 3.1.

2. Maryland Rule 19-303.3(a)(1) (Knowingly False Statement to Tribunal)(Count II)

Maryland Rule 19-303(a)(1) provides that "[a]n attorney shall not knowingly . . . make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the attorney." Comment [3] to the Rule explains that "an assertion purporting to be on the attorney's own knowledge, as in an affidavit by the attorney or in a statement in open court, may properly be made only when the attorney knows the assertion is true or believes it to be true on the basis of a reasonably diligent inquiry," and that "[t]here are circumstances where failure to make a disclosure is the equivalent of an affirmative misrepresentation."

Disciplinary Counsel correctly contends that Respondent violated this Rule by filing a motion for contempt in the Warren bankruptcy proceeding while intentionally omitting the existence of the district court's order rejecting the arguments he raised and falsely claiming that Ms. Warren was the only party in the D.C. lawsuit. ODC Br. at 29-30. Respondent's lies to the Maryland bankruptcy court were both those of omission and commission. They were part of his deliberate scheme to derail the D.C. litigation. Respondent was well aware of the status of the D.C. litigation and thus his falsehoods were deliberate and violated Maryland Rule 19-303.3(a)(1).

3. Maryland Rule 19-308.4(c) (Dishonesty, Fraud, Deceit or Misrepresentation) (Count II)

Maryland Rule 19-308.4(c) provides that "[i]t is professional misconduct for an attorney to . . . engage in conduct involving dishonesty, fraud, deceit or misrepresentation." Dishonesty must be intentional, rather than negligent or reckless, to rise to the level of a Rule violation. *See Attorney Grievance Comm'n v. Moore*, 152 A.3d 639, 657 (Md. 2017).

Disciplinary Counsel alleged that Respondent violated this Rule on the same basis as its argument that he violated Maryland Rule 19-303.3(a)(1) - namely, by filing a motion for contempt in the Warren bankruptcy proceeding while intentionally omitting the existence of the district court's order rejecting the arguments he raised and falsely claiming that Ms. Warren was the only party in the D.C. lawsuit. ODC Br. at 29-30. Likewise, the violation of Maryland Rule 19-308.4(c) has been proven.

4. D.C. Rule 8.4(d) (Serious Interference with the Administration of Justice) (Counts II and IV) and Maryland Rule 19-308.4(d) (Conduct Prejudicial to the Administration of Justice) (Count II)

As explained in Part III.A.4, *supra*, D.C. Rule 8.4(d) provides that it is professional misconduct for a lawyer to "[e]ngage in conduct that seriously interferes with the administration of justice."

Maryland Rule 19-308.4(d) provides that "[i]t is professional misconduct for an attorney to . . . engage in conduct that is prejudicial to the administration of justice." "'Generally, a lawyer violates [Maryland Rule 19-308.4(d)] where the lawyer's conduct would negatively impact the perception of the legal profession of a reasonable member of the public.'" *Attorney Grievance Comm'n v. Chanthunya*, 133 A.3d 1034, 1049 (Md. 2016) (quoting *Attorney Grievance Comm'n v. Shuler*, 117 A.3d 38, 45 (Md. 2015)).

> In determining whether a lawyer violated [Maryland Rule 19-308.4(d)] by engaging in conduct that negatively impacted the public's perception of the legal profession, "[the Maryland] Court applie[s] the 'objective' standard of whether" the lawyer's conduct would negatively impact the perception of the legal profession of "a reasonable member of the public . . . , not the subjective standard of whether the lawyer's conduct actually impacted the public and/or a particular person (*e.g.*, a complainant) who is involved with the attorney discipline proceeding." *Attorney Grievance Comm'n v. Carl Stephen Basinger*, 441 Md. 703, 716, 109 A.3d 1165 (2015) (quoting *Attorney Grievance Comm'n v. Saridakis*, 402 Md. 413, 430 n. 10, 430, 936 A.2d 886, 896 n. 10, 896 (2007)) (some brackets and internal quotation marks omitted).

Attorney Grievance Comm'n v. Marcalus, 112 A.3d 375, 379 (Md. 2015).

Disciplinary Counsel alleges that Respondent violated both the D.C. and Maryland Rules when he filed a frivolous bankruptcy petition in Maryland (Count

II) for the improper purpose of avoiding his obligation to sit for a deposition in the District of Columbia (Count I), which wasted the time and resources of both the Maryland bankruptcy court and the D.C. district court. ODC Br. at 36-37.

One need only look at the extraordinary amount of time and energy that the Maryland and D.C. bankruptcy courts and the U.S. District Court for the District of Columbia spent on the frivolous positions and other misconduct advanced by Respondent, and review the opinions they produced, to be certain that Respondent willfully interfered with the administration of justice in multiple jurisdictions. Thus, his conduct violated D.C Rule 8.4(d) and Maryland Rule 19-308.4(d).

With respect to Count IV, Disciplinary Counsel alleges that Respondent violated D.C. Rule 8.4(d) in the Carvalho bankruptcy matter by repeatedly raising arguments that the Court had already dismissed and pursuing an appeal that violated an automatic stay. ODC Br. at 36-37. As in Counts I and II, the D.C. bankruptcy court was required to spend significant time and resources dealing with Respondent's frivolous pleadings. Thus, for essentially the same reasons already discussed with respect to those other counts, we again conclude that Respondent's conduct alleged in Count IV violated Rule 8.4(d).

C. Count III

1. *Maryland Rule 19-301.4(a)(3) (Failure to Communicate)*

Maryland Rule 19-301.4(a)(3) provides that "[a]n attorney shall . . . promptly comply with reasonable requests for information." The Rule applies in the context of an attorney-client relationship. *See* Maryland Rule 19-301.4, cmt. [4]. Though

Disciplinary Counsel's brief includes Maryland Rule 19-301.4(a)(3) in the same discussion as its charge of Maryland Rule 19-301.16(d), *see* ODC Br. at 30-32; *see also* Part III.C.2, *infra*, it does not explain why Respondent's failure to turn over Ms. Warren's client file to the personal representative of her estate also violated his obligation to "promptly comply with reasonable requests for information" from a client. Disciplinary Counsel admits that Respondent's representation of Ms. Warren ended upon her death (ODC Br. at 30), and it does not contend that her personal representative automatically stepped into her shoes as Respondent's client. Accordingly, we find that Disciplinary Counsel has failed to prove a violation of Maryland Rule 19-301.4(a)(3) by clear and convincing evidence.

2. Maryland Rule 19-301.16(d) (Failure to Protect Client Interests on Termination of Representation)

Maryland Rule 19-301.16(d) provides:

> Upon termination of representation, an attorney shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of another attorney, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred. The attorney may retain papers relating to the client to the extent permitted by other law.

Disciplinary Counsel contends that Respondent violated Maryland Rule 19-301.16(d) by refusing to turn over Ms. Warren's client file to the personal representative of her estate following her death. ODC Br. at 30-32. Though he did not participate in these proceedings, Respondent previously asserted to Disciplinary Counsel that to do so would violate his duty of confidentiality to Ms. Warren. FF 62.

Disciplinary Counsel has failed to prove this Rule violation by clear and convincing evidence. Absent proof that Respondent is lying about Ms. Warren's wishes with respect to confidentiality, the strictures of D.C. Rule 1.6 protecting client confidentiality suggest that Respondent may have had a legal ground for withholding the information.

As the United States Supreme Court has made clear, the attorney-client privilege and the related obligation to maintain client confidentiality generally survive the death of a client. *Swidler & Berlin v. United States*, 524 U.S. 399, 405-06 (1998). Thus, the question is first, whether a lawyer's papers are a client's property and then if they are not, whether the client has expressly or impliedly waived their interest in the confidentiality of the attorney-client communications.

Neither premise seems to be satisfied here. To begin with, there is a clear distinction between a client's files and other writings that "qualify as property . . . because of their value, for example, cash, negotiable instruments, stock certificates and other writings." *See* Restatement (Third) of the Law Governing Lawyers § 46 cmt. a. (2000). Thus, as a general matter, statutes and rules that give a client or his legal representative access to the property "'to which the client is entitled'" do not, by their terms, require access to all client files. *See, e.g.*, *In re Estate of Rabin*, 474 P.3d 1211, 1217 (Colo. 2020) (en banc) (citation omitted) (concluding that "a personal representative does not acquire a right to take possession of a decedent's legal files . . . except for 'documents having intrinsic value or directly affecting

valuable rights, such as securities, negotiable instruments, deeds, and wills'" (quoting Colorado Rule of Professional Conduct 1.16A, cmt. [1])).

Given this characterization of the decedent's files, the question then becomes whether or not, as the D.C. Bar Ethics Committee has put it, "the attorney has reasonable grounds for believing that release of the [confidence or secret] is impliedly authorized in furthering the interests of the former client in settling her estate." *See* D.C. Bar Ethics Op. 324 (2004). It may be true that nominating a personal representative is an implicit waiver of communications as necessary to administer an estate - but here the decedent, Ms. Warren, never named a personal representative. Rather, the estate's representative was appointed by the Register of Wills for St. Mary's County, Maryland.

In these circumstances, one cannot infer with certainty how Ms. Warren would have wanted her estate resolved. Indeed, given the circumstances surrounding her estate, it is more than plausible that she would have preferred the maintenance of her confidentiality to assisting in the effective resolution of her estate. Given those circumstances, Respondent's argument that he would violate his duty of confidentiality under D.C. Rule 1.6 is within the bounds of reason.

We are, naturally, skeptical of the self-interested nature of Respondent's claim. Given his course of conduct (as outlined elsewhere in this Report), there is good reason to be wary of accepting his representations at face value. Nevertheless, we are faced with a situation where there is a complete absence of any evidence as to Ms. Warren's actual intent or from which we can infer that Respondent is

fabricating his understanding of that intent. Given this record, we cannot conclude that Disciplinary Counsel has carried its burden of proving a violation by clear and convincing evidence.

IV. RECOMMENDED SANCTION

In this case, Disciplinary Counsel has asked the Hearing Committee to recommend the sanction of disbarment or, in the alternative, a three-year suspension with a requirement to prove fitness prior to reinstatement. ODC Br. at 44. For the reasons described below, we recommend the sanction of disbarment.

A. Standard of Review

The sanction imposed in an attorney disciplinary matter is one that is necessary to protect the public and the courts, maintain the integrity of the legal profession, and deter the respondent and other attorneys from engaging in similar misconduct. *See, e.g.*, *In re Hutchinson*, 534 A.2d 919, 924 (D.C. 1987) (en banc). "In all cases, [the] purpose in imposing discipline is to serve the public and professional interests . . . rather than to visit punishment upon an attorney." *In re Reback*, 513 A.2d 226, 231 (D.C. 1986) (en banc) (citations omitted); *see also In re Goffe*, 641 A.2d 458, 464 (D.C. 1994) (per curiam).

The sanction also must not "foster a tendency toward inconsistent dispositions for comparable conduct or . . . otherwise be unwarranted." D.C. Bar R. XI, § 9(h)(1); *see, e.g.*, *Hutchinson*, 534 A.2d at 923-24; *In re Berryman*, 764 A.2d 760, 766 (D.C. 2000). In determining the appropriate sanction, the Court of Appeals considers a number of factors, including:

(1) the nature and seriousness of the conduct at issue;

(2) prior discipline;

(3) prejudice to the client;

(4) the attorney's attitude;

(5) circumstances in mitigation or aggravation; and

(6) the mandate to achieve consistency.

In re Baber, 106 A.3d 1072, 1076 (D.C. 2015) (per curiam). The Court also considers "the moral fitness of the attorney" and "the need to protect the public, the courts, and the legal profession." *Goffe*, 641 A.2d at 464.

B. Application of the Sanction Factors

1. The Nature and Seriousness of the Misconduct

Respondent's misconduct was extremely serious. As outlined at great length in the Findings of Fact above, Respondent's dishonesty was repeated and prolonged, both in the particulars of his frivolous and vexatious filings and in his overall course of conduct. Over a period of years, he defied court orders, ignored court rules, and was thoroughly dishonest in his court filings, demonstrating his utter contempt for our judiciary and the rule of law. In addition, his dishonesty extended to aiding and abetting his dishonest clients in their dishonest activities.

2. Prior Discipline

No evidence of a previous disciplinary history was submitted. Nevertheless, this matter involved a multi-year course of misconduct.

3. Prejudice to the Client

Respondent's vexatious and dishonest conduct assisted his clients in wrongfully using a third party's money. The prejudice here is not to the clients but to the judicial system and to the third-party victims, District Title and Ms. Simu.

4. The Attorney's Attitude

Respondent has never acknowledged his wrongful conduct but persisted in it over several years despite repeated judicial findings that his conduct was wrongful. He has never shown any remorse. As noted above, Respondent has demonstrated his contempt for the judicial system and the rule of law. His failure to cooperate with Disciplinary Counsel further illustrates this contempt.

5. Circumstances in Aggravation and Mitigation

Respondent's lack of a disciplinary history is a mitigating factor.

His failure to cooperate with the investigation of the current disciplinary charges is an aggravating factor. In addition, in 2021, continuing his pattern of using multiple jurisdictions in his attempts to trick the courts into aiding his efforts to escape responsibility for his misconduct, Respondent filed a personal bankruptcy petition in the Southern District of Florida. In dismissing that petition, Judge Russin summed up the situation that the Court of Appeals faces in this matter:

> The facts above clearly establish that, prepetition, Le Fande—for years—strategically abused the legal system to evade liability to District Title and responsibility for his actions. On their face, these facts scream bad faith and lead to the inescapable conclusion that this case is yet another of Le Fande's efforts to manipulate the legal system with no regard for how his vexatious tactics affect others, including District

> Title and the federal judiciary at large. The Court cannot conceive of a case that better exemplifies prepetition bad faith justifying dismissal.

DX 85; FF 84.

6. The Mandate to Achieve Consistency

The Court of Appeals has made clear that flagrant, repeated dishonesty and its accompanying misconduct merits disbarment. *See, e.g.*, *Baber*, 106 A.3d at 1077-78; *see also In re Howes*, 39 A.3d 1, 15 (D.C. 2012) ("We reserve the sanction of disbarment for the most extreme attorney misconduct . . . ."). The Court recently reiterated this view in *In re Johnson*, No. 20-BG-600, 2023 WL 4771916, at *16 (D.C. July 27, 2023) (Disbarment is appropriate where the respondent demonstrated "a consistent lack of forthrightness, a willingness to shade the truth for her own benefit, and a disregard for the obligation for honesty and candor that comes with the privilege of membership in our jurisdiction's Bar").

We are of the view that this is such a case. Respondent was on a mission to hide his knowledge about the funds stolen from District Title, and he did not care how many lies he told, how many court processes he disrupted, or how disrespectful he was of the rule of law. He should not be allowed to practice law again. No judge, opposing counsel or member of the public could ever rely on anything he wrote or said.

The facts of this case are unusual. Title companies generally do not send funds belonging to a mortgage company to the person who owes the mortgage company. And generally, counsel for the person mistakenly in receipt of funds does not send some of the funds potentially available for recovery to New Zealand.

Perhaps the most analogous case is *In re Corizzi*, 803 A.2d 438 (D.C. 2002). In that case, counsel advised his personal injury clients to lie in their depositions. 803 A.2d at 442. In agreeing with Board's recommendation of disbarment, the Court of Appeals said: "Dishonesty is at the heart of the respondent's violations, and honesty continues to be an 'indispensable component of our judicial system.'" *Id.* (quoting *In re Mason*, 736 A.2d 1019, 1024 (D.C. 1999)).

Respondent's bad conduct began in 2014 and continued for at least six years. Respondent's misconduct "fits comfortably with prior cases in which we have disbarred attorneys for engaging in a broad, prolonged, and persistent pattern of dishonesty." *In re Mazingo-Mayronne*, 276 A.3d 19, 23 (D.C. 2022); *see In re O'Neill*, 276 A.3d 492, 503 (D.C. 2022); *Baber*, 106 A.3d at 1077 ("The repeated and protracted nature of Mr. Baber's dishonesty weighs significantly in favor of disbarment.").

Thus, as we noted earlier, Respondent's acts are most akin to the tax evasion scheme discussed in *Shorter*, 570 A.2d at 771. In that matter, despite finding that there was no moral turpitude, the Court nonetheless ordered disbarment based on a "pattern of dishonest dealing" remarkably similar to the pattern here - one involving the shielding unfavorable information from authorities. *Id.* at 765, 768, 771.

Respondent had knowledge of the whereabouts of at least some of the disputed funds and made multiple efforts to frustrate the pursuit of that knowledge. Ultimately, these efforts were designed to cover up his clients' diversion of funds and his role in that diversion.

Put bluntly, honest lawyers do not do that. For these reasons, we think that the analysis supports the sanction of disbarment here.

V. CONCLUSION

For the foregoing reasons, the Committee finds that Respondent violated D.C. Rules 3.1, 8.4(b) and 8.4(d) and Maryland Rules 19-303.1, 19-303.3(a)(1), 19-308.4(c) and 19-308.4(d), and should receive the sanction of disbarment. We further recommend that Respondent's attention be directed to the requirements of D.C. Bar R. XI, § 14, and their effect on eligibility for reinstatement. *See* D.C. Bar R. XI, § 16(c).

AD HOC HEARING COMMITTEE

Sheila J. Carpenter

Sheila J. Carpenter, Chair

Billie LaVerne Smith

Billie LaVerne Smith, Public Member

Paul Rosenzweig

Paul Rosenzweig, Attorney Member