

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

In the Matter of	:	
	:	
Lenore D. Verra, Esquire,	:	
	:	
Respondent.	:	Bar Docket No. 299-07
	:	
A Member of the Bar of the	:	
District of Columbia Court of Appeals	:	
(Bar Registration Number: 455438)	:	
Date of Admission: July 7, 1997	:	

**REPORT AND RECOMMENDATION OF THE AD HOC HEARING COMMITTEE**

Before the Ad Hoc Hearing Committee is Bar Counsel’s charge that Respondent violated Rule 8.4(c). Having considered the exhibits and credibility of the testimony presented by Bar Counsel and Respondent, the Hearing Committee concludes that Bar Counsel failed to present clear and convincing evidence to sustain that charge. As a consequence, we recommend that the charge be dismissed.

**I. PROCEDURAL HISTORY**

1. On December 21, 2007, Bar Counsel filed a Specification of Charges alleging that Respondent violated Rule 8.4(c) when she engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation by making a false answer on a written job application. BX B (Specification of Charges).<sup>1</sup>

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<sup>1</sup> References in this report are styled as follows: Bar Counsel’s exhibits as “BX \_”; Respondent’s exhibits as “RX\_”; the Joint Exhibit as “JX\_”; Stipulated Facts as “SF\_”; and hearing transcript as “Tr\_.”

2. In response, Respondent denied any intent to deceive or defraud when she completed the job application; asserted that the question to which she responded was ambiguous; and claimed that, in any event, she supplemented and clarified her written answer minutes later during the personal interview segment of the job application process. BX C (Substituted Amended Answer); Tr. 5-6.

3. The Ad Hoc Hearing Committee convened a hearing on August 1, 2008. Tr. 3.

4. Bar Counsel's case-in-chief consisted solely of a documentary submission, including Stipulated Facts and Bar Exhibits A through D and 1 through 6. Tr. 9-10. Respondent testified on her own behalf, and submitted one exhibit (RX 1). Tr. 100-01. In rebuttal, Bar Counsel presented the testimony of two witnesses: Corrine Goldt and Julianne Jaffe. Tr. 114, 171.

5. At the conclusion of testimony, the Hearing Committee did not reach a tentative conclusion that Respondent had violated Rule 8.4(c). Tr. 188.

6. On September 2, 2008, Bar Counsel filed its Proposed Findings of Fact and Conclusions of Law. Respondent's Closing Brief was filed on September 15, 2008, and Bar Counsel's Reply Brief was filed on September 22, 2008.

## **II. FINDINGS OF FACT**

### **A. Chronological background**

1. Respondent is a member of the District of Columbia Bar. She was admitted on July 7, 1997, and assigned Bar number 455438. SF 1.

2. On or about March 9, 2007, Respondent filled out a questionnaire which she submitted in connection with a job application to Lexolution, LLC ("Lexolution"). SF 2.

3. One question on the questionnaire, at page 3, read as follows:

Have you ever been disbarred, or been the subject of any disciplinary action by any State or local bar association or committee? If yes, please specify circumstances and dates:

Respondent wrote “No” in response to the foregoing question. SF 3.

4. Respondent had been the subject of a 2002 Bar Counsel complaint, which was docketed as BDN 166-02. In July 2005, Respondent was present and testified at the evidentiary hearing in that matter. On or about October 27, 2005, Hearing Committee Number 12 issued its Report and Recommendation in the case (SF 4), and on or about July 20, 2006, the Board on Professional Responsibility issued its Report. SF 5. In August 2007, the Court of Appeals adopted the Board’s Report. SF 6. Respondent concedes that at all relevant times she knew of the issuance and content of the Hearing Committee Report, the Board Report, and the Court of Appeals Order. SF 7.

5. As a consequence of the foregoing, when she completed the written Lexolution job application in March 2007, Respondent knew that the Board on Professional Responsibility’s Recommendation was pending before the District of Columbia Court of Appeals. Tr. 68–69 (Verra). In its Recommendation, the Board “recommend[ed] that Respondent be disbarred, that the disbarment be stayed but that she be suspended for 30 days.” BX 5 p. 38.

6. The Court of Appeals rendered its decision on August 16, 2007, five months after Respondent completed the written job application. The Court adopted the Board’s recommendation: it ordered (1) that Respondent be disbarred, (2) that her disbarment be

suspended, and (3) that she be suspended from practice “effectively immediately” (i.e., as of August 16, 2007) for thirty days, followed by three years probation. BX 6 p. 505.

### **B. The Job Application**

7. Bar Counsel argues that Respondent engaged in misconduct because she intentionally lied on the Lexolution job application. Bar Counsel contends Respondent did not adequately disclose the pendency of BDN 166-02, which matter had progressed through the Hearing Committee and The Board on Professional Responsibility. BX B. We disagree.

8. The job application question at issue in this case appeared on the second page of a Lexolution “Candidate Questionnaire,” in a section captioned “Bar Standing.” The question stated “Have you ever been disbarred, or been the subject of any disciplinary action by any State or local bar or committee?” Respondent answered “No.” BX B p. 2.

9. At the time Respondent answered the Lexolution questionnaire, the disciplinary proceeding against her was still pending before the Court of Appeals, which had not yet acted on it. Not until August 16, 2007, five months after Respondent completed the job application, did the Court take disciplinary action against Respondent. BX 6 p. 505.

10. Respondent explained she answered the question the way she did because she interpreted it to call for disclosure of “disciplinary action already imposed.” Tr. 34 (Verra). At the time she applied for the temporary job, Respondent believed that Lexolution was attempting to ascertain if she was disbarred or suspended, *i.e.* whether Respondent was available to work on the project which Lexolution was seeking to staff. Tr. 75-76 (Verra). Since the Court of Appeals decision had not been yet been rendered, and since at the time of the application Respondent was “active and in good standing and available to work,” she concluded that a negative answer was appropriate. She did not believe that “disciplinary action” would be taken

against her unless and until the Court of Appeals issued its decision. Tr. at 47-49, 86-87 (Verra). If she “had thought differently,” she says, she “would have definitely written ... down” the fact that proceedings were pending against her. Tr. 47 (Verra).

11. We find, as a matter of fact, that Respondent answered the written question in subjective good faith. She did not knowingly or recklessly tender a false or misleading written answer. She had no intent to deceive Lexolution.

12. We find as well that Respondent’s rationale for answering the question as she did was true and sincerely felt, *i.e.*, was based on her good faith belief that the question sought only to ascertain disciplinary sanctions already imposed upon her, and that there were no such sanctions at the time she completed the questionnaire. Simply put, we find that Respondent’s conduct was not dishonest. We base our finding on a number of factors.

13. First, Respondent’s testimony was rendered in an entirely believable manner, and her demeanor was consistent with truth and sincerity.

14. Moreover, we find that her *subjective* interpretation of the application question was *objectively* reasonable. We conclude as a matter of fact, based upon our own review of the application, that the phrase “disciplinary action” in the question at issue can reasonably be read to seek only information about disciplinary sanctions. In its immediate context within the question itself, the phrase “disciplinary action” appears after the word “disbarred,” which suggests a final, as opposed to interim, action.

15. Our interpretation of the question is reinforced by its broader context within the entire application. It appears in a section entitled “Bar Standing,” which also suggests that the question seeks to ascertain only those disciplinary actions that would affect the applicant

attorney's good standing with the bar.<sup>2</sup> And, Respondent's interpretation appears consistent within the broader context of Lexolution's articulated business interests, *i.e.* its clients "require us to provide candidates who have D.C. Bar, D.C. pending status, or be a member in good standing of a bar." Tr. 175 (Jaffe).

16. As a consequence, because Respondent completed the application at a time when the disciplinary proceedings against her were recommendations, that had not yet been acted upon by the Court of Appeals, Respondent's answer that no "disciplinary action" had been taken against her was substantially true, and was not intended to mislead.<sup>3</sup>

17. There is more. Lexolution's supervisor testified that although she personally did not know a difference between the term "disciplinary action" and "disciplinary proceeding," Tr. 185 (Jaffe), she "would have thought that [Respondent] would have at least qualified it, not written just, you know, a flat-out no to the answer." We find, however, Respondent did in fact "qualify" her answer to the question, and her contemporaneous oral clarification of her written answer confirms our finding that she did not act dishonestly.

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<sup>2</sup> Though it is unnecessary to our decision, we note that the participants at the hearing consistently *refrained* from describing Respondent's earlier disciplinary matter as a "disciplinary *action*," except when specifically discussing the Lexolution application. Instead, it was consistently characterized as a "disciplinary *matter*" (Tr. 10, 12, 14, 15, 102), a "disciplinary *process*" (Tr. 55), a "disciplinary *case*" (Tr. 128), or "disciplinary *history*" (Tr. 72, 75, 76, 124, 137, 139-40). That linguistic pattern lends empirical support to our own interpretation of the question on the application, *i.e.*, that a disciplinary *action* did not take place within the disciplinary *matter* until the Court of Appeals acted. By way of comparison, we have no doubt that if the question sought to determine whether Respondent had a disciplinary "history" or "matter" or "proceeding" pending against her, she should – and she acknowledges that she would – have responded in the affirmative. Tr. 112 (Verra). *Cf. Matter of Rosen*, 570 A.2d 728 (1989) (failure to disclose "*charges or complaints* [that] were then pending" was dishonest) (emphases added).

<sup>3</sup> Bar Counsel did not offer either "the Hearing Committee report or the Board report as evidence of imposed discipline." Tr. 75 – 76.

18. In this regard, we find as a matter of fact that Respondent recognized the potential ambiguity of the question and took contemporaneous steps to clarify her answer to it.

19. Integral to the Lexolution application process was a personal interview which took place almost immediately after Respondent completed the written job application. Tr. 121 (Goldt). During the personal interview with Lexolution representative Corrine Goldt, Respondent disclosed the existence of her pending disciplinary case. Respondent raised the issue because she knew that the Court of Appeals could suspend her license at any time and she wanted to make sure Lexolution's client would not be "surprised" or "blindsided" if that occurred in the middle of the imminent document review project for which Respondent was being interviewed. Tr. 40, 84 (Verra). Respondent wanted to be "upfront and honest," Tr. 80 (Verra), and "let [Ms. Goldt] know" that "this court order could come out and either disbar [her,] suspend [her,] or whatever." Tr. 84 (Verra).

20. The dialogue on this topic was succinct. Respondent "informed [Goldt] that [Respondent] was defending a Bar Counsel matter. And [Goldt] asked me has there been a decision yet. I told her no. [Goldt] told me you're under obligation to let us know as soon as the decision is made if you're working on a project of ours. And I said absolutely. And that was the end of it." Tr. 40-41 (Verra).

21. During the interview, Goldt had no questions other than to seek reassurance that Respondent was still admitted to the bar, and to ensure that Respondent would notify Lexolution if that changed. Tr. 40-41. Respondent showed Ms. Goldt a certificate of good standing. Tr. 41-42 (Verra).

22. Bar Counsel's rebuttal witness, Corrine Goldt, was the Lexolution representative who interviewed Respondent during the job application process. Goldt disputed Respondent's

version of the interview, stating in effect that Respondent told her nothing about the disciplinary proceedings pending against her. Goldt asserted that Respondent did not disclose information sufficient to alert Lexolution that she had a pending disciplinary matter and failed to disclose her imminent “disbarment.” Tr. at 124-125, 132 (Goldt). However, we find Goldt’s testimony unpersuasive and unworthy of belief.

23. First, Goldt admitted that she had only a vague recollection of the interview and could not recall what Respondent told her during that session. Tr. 161-62 (Goldt). In effect, Goldt based her testimony on her self-proclaimed interview practices; she asserted that, had Respondent told her about the pending disciplinary matter, it would have raised a “red flag” in Goldt’s mind: “I know for a fact that any of those words would have raised a red flag . . . . So no, I do not recall her saying any of those terms, using any of those terms.” Tr. at 127(Goldt).

24. We find that Goldt’s testimony, which sought to recreate her conversation with Respondent, was speculative and self-serving. Respondent’s version of the conversation with Goldt rings more true. Though Respondent’s exchange with Goldt regarding this matter was limited, perhaps rendering it less than memorable to Goldt, it was honest, not misleading and adequately put Lexolution on notice of the status of Respondent’s disciplinary matter.

25. Indeed, we conclude that although Goldt tried in her testimony to demonstrate that her interview of Respondent was comprehensive and thorough, competitive pressures at the time of the interview led to the brief inquiry described by Respondent. The Lexolution project for which Goldt was interviewing Respondent was concededly a “rush job”; interviews were underway on a Thursday for a job that was to begin the following Monday. Other “temp” firms were competing to fill the desirable slots at the Steptoe & Johnson law firm. Tr. 180 (Jaffee). If Lexolution did not fill the slots immediately, its competitors would, and Lexolution would lose

out: “it’s somewhat of a first come, first serve” situation. *Id.* We conclude that with respect to the project at issue, Lexolution – and Goldt – wanted quickly to provide its client with “just an attorney licensed in the District of Columbia with document review experience.” Tr. 119 (Goldt).

26. We therefore reject any contention that Respondent failed to describe her pending disciplinary proceeding in the interview portion of her job application. Indeed, we also accept as true Respondent’s explanation that she had no motive to lie on the application, since she knew that the Board’s 2006 Report in BDN 166-02 was publicly available on the D.C. Bar website, Tr. 76 (Verra), and she also knew that Lexolution would, as part of its vetting process, check that website. Tr. 40 (Verra), 166-67 (Goldt).

27. Bar Counsel further urges that Respondent’s answer was dishonest because it was a “foregone conclusion” that the Court of Appeals would rubber stamp the Board’s recommendation to suspend her, and to that end relies on Respondent’s counsel’s stipulation to that effect. *See* Bar Counsel’s Proposed Findings of Fact and Conclusions of Law Nos. 20 – 22 at p. 8- 9.<sup>4</sup> Respondent consistently testified that she did not know what the outcome would be at the Court of Appeals level; though she believed it could be a suspension, she hoped it would not. *See, e.g.*, Tr. 79, 81-82 (Verra). Again, we credit Respondent’s testimony on this collateral issue, since her demeanor demonstrated that she remained hopeful (though perhaps unrealistic) at the time she completed the application. Moreover, we are reluctant to acquiesce in Bar

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<sup>4</sup> Respondent’s counsel stipulated that it was “a foregone conclusion” that the Court of Appeals would adopt the Board Report. Tr. 99-101 (Schumack). But experienced counsel’s *objective* assessment of the likely outcome of the proceeding does not contradict our finding that Respondent *subjectively* hoped for a more favorable result. Tr. 81 (Verra).

Counsel's argument that the Court of Appeals decision was a *fait accompli*.<sup>5</sup>

28. Finally, Respondent also contends that she did not have a “meaningful opportunity for careful thought or reflection” while completing the subject application, and that time pressure affected her written response on the job application. Respondent’s Proposed Findings of Fact 10. Respondent testified that she completed the application in a Lexolution waiting room and submitted it a few minutes later, shortly before the start of a live interview with Corrine Goldt. Tr. 30, 37, 98 (Verra). We find that Respondent’s haste, however, played no meaningful role in her answer to the question at issue in this proceeding, which she had ample time to read, to consider, and to prepare. In addition, we reject Respondent’s post hearing argument that she “did not have a meaningful opportunity for careful thought or reflection while completing the subject application,” Resp. Brf. at 5, 14, and we specifically reject the suggestion that haste in answering the question should excuse any failure to respond truthfully to it. If Respondent felt rushed, she could have – and should have – asked for more time before signing the application.

### III. CONCLUSIONS OF LAW

1. Respondent is charged with violating Rule 8.4(c), which states: “It is professional misconduct for a lawyer to . . . [e]ngage in conduct involving dishonesty, fraud, deceit, or misrepresentation . . . .”

2. “Rule 8.4(c) is not to be accorded a hyper-technical or unduly restrictive construction.” *In re Ukwu*, 926 A.2d 1106, 1113 (D.C. 2007). “Dishonesty” encompasses

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<sup>5</sup> The Court will accept Board findings if they are supported by substantial evidence in the record, and will “accord the Board even more deference when . . . no exceptions to the Board’s recommendations are filed.” *In re Verra*, 932 A.2d 503, 505 (D.C. 2007). *See In re Romansky*, 825 A.2d 311, 318 (D.C. 2003) (“great deference” shown to Board recommendations).

conduct “evinced a lack of honesty, probity, or integrity in principle; a lack of fairness and straightforwardness . . .” *Id.* (citing *In re Shorter*, 570 A.2d 760, 767-768 (D.C. 1990)) .

3. “Dishonesty” does not always depend on a finding of intent to defraud or deceive. “[W]hen Bar Counsel presents clear and convincing evidence that an action is obviously wrongful and intentionally done, the performing of the act itself is sufficient to show the requisite intent for a violation. However, when the act itself is not of a kind that is clearly wrongful, or not intentional, Bar Counsel has the additional burden of showing the requisite dishonest intent.” *Romansky*, 825 A.2d at 315.

4. In this respect, even “technically true” answers by attorneys to questions posed to them can be dishonest where the answers evince “a lack of integrity and straightforwardness, and therefore dishonesty[y].” *Shorter*, 570 A.2d at 768. If an attorney “knows what information the [questioner is] after, but for his own benefit refrains[s] from supplying that information even when asked questions that graze[] the truth,” the attorney acts in a dishonest fashion in violation of the rule. *Id.* Similarly, an attorney can act dishonestly through conduct that is “in reckless disregard of the truth rather than specifically intended to deceive.” *Ukwu*, 926 A.2d at 1113.

5. Respondent’s “no” answer on the Lexolution questionnaire, was a subjectively truthful response to her objectively reasonable interpretation of the question to which she responded. Respondent acted in good faith. She did not mislead Lexolution and had no intent to do so. She contemporaneously clarified her answer and did not recklessly or purposefully “graze the truth.”

6. Bar Counsel has failed to demonstrate, by clear and convincing evidence, that Respondent’s conduct met any standard of dishonesty and has failed to prove a violation of Rule 8.4 (c).

**IV. RECOMMENDATION**

For the reasons stated herein, the Hearing Committee recommends that the charge against Respondent be dismissed.

AD HOC HEARING COMMITTEE

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/S/  
Eileen Sobeck, Esq., Chair

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/S/  
La Verne Fletcher, Member

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/S/  
Robert C. Bernius, Esq., Member

Dated: December 18, 2008

This Report and Recommendation was prepared by Mr. Bernius.