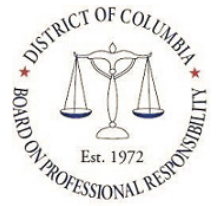


THIS REPORT IS NOT A FINAL ORDER OF DISCIPLINE*



DISTRICT OF COLUMBIA COURT OF APPEALS
BOARD ON PROFESSIONAL RESPONSIBILITY

Issued
December 26, 2023
Reissued
January 3, 2024

In the Matter of: :
: :
SONYA N. ARMFIELD :
: :
Respondent. : Board Docket No. 23-BD-043
: Disc. Docket No. 2016-D230
: :
A Member of the Bar of the :
District of Columbia Court of Appeals :
(Bar Registration No. 491717) :

REPORT AND RECOMMENDATION OF THE
BOARD ON PROFESSIONAL RESPONSIBILITY
AND REQUEST FOR EXPEDITED CONSIDERATION

The Board on Professional Responsibility recommends that the Court immediately suspend Respondent pursuant to D.C. Bar R. XI, § 13(c). Respondent has been charged in a separate proceeding, Board Docket No. 22-BD-076, with intentional/reckless misappropriation, commingling, failing to maintain complete records, and serious interference with the administration of justice.¹ In response, she asserted in her answer that she suffered from a disability at the time of the alleged misconduct.

The Board imposed conditions to protect the public while her disciplinary case is pending, including, *inter alia*, that she continue to receive treatment for her mental

¹ We take judicial notice that the hearing in Board Docket No. 22-BD-076 was completed on October 5, 2023, and is now pending issuance of the Hearing Committee report and recommendation.

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

health issues, submit monthly medical reports from her treating practitioners, permit the Office of Disciplinary Counsel to communicate with her treating practitioners about her continued mental status as it relates to her fitness to practice law, submit to random trust account/IOLTA audits, schedule a complete audit of her law practice by Daniel Mills, Esquire, of the D.C. Bar’s Practice Management Advisory Service (“PMAS”), and notify the Board and Disciplinary Counsel if she decides to resume handling probate/estate matters. Respondent has failed to comply with several of these conditions of practice. Accordingly, we ask the Court to give this matter expedited consideration to protect the public and to immediately suspend Respondent while her disciplinary matter is pending in Board Docket No. 22-BD-076.²

I. PROCEDURAL HISTORY

The Specification of Charges in Board Docket No. 22-BD-076 alleges that Respondent engaged in intentional or reckless misappropriation of funds belonging

² Board Rule 7.6(e) provides that following receipt of a hearing committee report, “[t]he Board shall consider whether to order the suspension of respondent until final disposition of the disciplinary proceeding.” The authority to order a *pendente lite* suspension is not specifically enumerated as one of the Board’s powers in D.C. Bar R. XI, § 4(e). Thus, the Board recommends to the Court that it immediately suspend Respondent pending final disposition of the disciplinary proceedings in Board Docket No. 22-BD-076. *See, e.g., In re Harris*, Board Docket No. 19-BD-059, at 6 (BPR Nov. 26, 2019), *recommendation adopted where no exception filed*, 241 A.3d 243 (D.C. 2020) (per curiam).

to two wards of the D.C. Superior Court. FF 2.³ Respondent had been appointed to protect and represent the wards. *Id.* In her answer to the charges, Respondent gave notice of her intent to assert *Kersey* mitigation, pursuant to *In re Kersey*, 520 A.2d 321, 325-27 (D.C. 1987), and Respondent self-reported that she suffered “from severe physical and mental disabilities that, [at] the time of the alleged misconduct, impacted her ability to practice law and would have contributed to the alleged misconduct.” HC Rpt. at 2; *see* FF 3. In her Notice of Intent to Raise Disability in Mitigation, she asserted that she suffered from major depressive disorder, anxiety disorder, hoarding, hypertension, sleep apnea, diabetes, and metabolic syndrome during May 2011 through May 2022. FF 3.

In a December 21, 2022, order issued pursuant to Board Rule 7.6(c), the then Board Chair imposed nine conditions under which Respondent could continue to practice law, pending resolution of the disciplinary proceeding and the outcome of the alleged *Kersey* mitigation. FF 4-7.⁴ On April 7, 2023, in response to

³ “HC Rpt.” refers to the Report and Recommendation of the Ad Hoc Hearing Committee; “FF” refers to the numbered findings of fact in the Report; “Resp. Br.” refers to Respondent’s Brief in Opposition to the Report and Recommendation of the Ad Hoc Hearing Committee for Suspension of Respondent Pending Disposition of Disciplinary Proceedings; “ODC Br.” refers to Disciplinary Counsel’s Response Brief.

⁴ Board Rule 7.6(c) provides:

Conditions of Practice. If a respondent files a notice [of intent to raise disability in mitigation] pursuant to subparagraph (a) hereof, the Board shall issue an order forthwith providing for appropriate conditions

Respondent's Motion for Clarification of Practice Conditions Issued on December 21, 2022 and Request to Extend Time to Wind Down Practice, the then Board Chair issued an order clarifying that Respondent was to submit her monthly medical reports from her treating practitioners to both the Office of the Executive Attorney and the Office of Disciplinary Counsel and granting Respondent additional time to withdraw from probate and estate matters that she was currently handling.

On September 6, 2023, Disciplinary Counsel filed a Motion for a Board Order Directing a Hearing Committee to Determine if Respondent Should Be Suspended Immediately, Pending Final Disposition of the Disciplinary Matter for Violating the Board's Orders Regarding Her Practice Conditions. The Board Chair granted the motion on September 18, 2023, and ordered that as soon as practicable the Executive Attorney was to assign a hearing committee for an expedited hearing on the issue of whether Respondent was in violation of the terms of the conditions of practice and should therefore be suspended pending final disposition of the disciplinary matter.

On September 22, 2023, the Chair of the Ad Hoc Hearing Committee issued an order for the parties to meet and confer for the purpose of selecting hearing dates in October 2023, or to appear for a prehearing conference if they could not reach an agreement on dates. On September 28, 2023, a prehearing conference was held before the Chair with the Office of Disciplinary Counsel represented by Assistant

under which respondent shall practice law. Said order may include the appointment of monitor(s) depending upon the particular circumstances of the case. The Board hereby delegates authority to the Chair of the Board to enter an order pursuant to this subparagraph.

Disciplinary Counsel Traci M. Tait and Respondent appearing *pro se*. Respondent objected to scheduling the hearing in October, so the matter was scheduled for an expedited hearing in November with Respondent requesting that the hearing be held in-person rather than by Zoom videoconference. On September 29, 2023, the Chair issued an order memorializing the agreed-upon hearing date and schedule for the filing or exchanging of witness lists, exhibits, and other prehearing filings.

On November 7, 2023, the hearing was held before the Ad Hoc Hearing Committee to determine if Respondent was complying with the conditions of practice. The Office of Disciplinary Counsel was represented by Assistant Disciplinary Counsel Tait, but Respondent did not appear, either in person or remotely. Respondent also did not file a written response to Disciplinary Counsel's motion related to the immediate suspension despite being advised of her opportunity to do so at the prehearing conference on September 28. *See* HC Rpt. at 3. However, five days prior to the scheduled hearing, Respondent filed a Request for Accommodations under the American with Disabilities Act in order to continue the proceeding until an unspecified date sometime in 2024, which the Committee denied. HC Rpt. at 3-4 & n.2.

On November 30, 2023, the Hearing Committee submitted its Report and Recommendation. After the Hearing Committee issued its Report, the Board Chair ordered an expedited briefing schedule. Respondent filed her Brief in Opposition to the Report and Recommendation of the Ad Hoc Hearing Committee for Suspension

of Respondent Pending Disposition of Disciplinary Proceedings on December 8, 2023, and Disciplinary Counsel filed its Response Brief on December 14, 2023.

II. DISCUSSION

A. The Hearing Committee's Factual Findings

Pursuant to the Parties' Joint Submission of Respondent's Proposed Practice Conditions, the Board Chair adopted the parties' proposed nine conditions, which included that Respondent

- continue treatment for major depressive disorder, generalized anxiety disorder, and hoarding from a licensed psychiatrist, psychologist, or psychotherapist (Condition 1);
- submit monthly medical reports and authorize the Office of Disciplinary Counsel and her treating practitioners to communicate regarding her mental status as it related to her fitness to practice law (Condition 2);
- submit to a complete audit of her law practice, including her trust accounts/IOLTA, "to correct inappropriate accounting and recordkeeping methods" (Condition 5);
- withdraw from any current probate/estate matters and, if electing to resume handling new probate/estate matters, to first notify Disciplinary Counsel and take continued legal education classes identified by Disciplinary Counsel (Condition 8); and

- waive confidentiality regarding her compliance with the proposed conditions (Condition 9).

FF 5-6; *see* FF 7.

During the hearing, Disciplinary Counsel presented both witness testimony and documentary evidence establishing that Respondent had violated five conditions of practice set forth above. *See* FF 7-11. Practice Auditor Dan Mills, Esquire, and Practice Monitor Kaitlin McGee, Esquire, of the D.C. Bar PMAS and Michael Robinson, a law clerk with the Office of Disciplinary Counsel, testified at the hearing. FF 7; HC Rpt. at 4-5.

Among the documentary evidence considered by the Committee were the ten reports of Mr. Mills and/or Ms. McGee, DCX 1-9; FF 12, as well as Respondent's withdrawal of her consent to release of medical records, DCX 21. On November 2, 2023, Respondent sent a single-sentence email message to Disciplinary Counsel stating: "I withdraw my consent for the release of my medical records." DCX 21; *see* FF 8.

The Committee credited the testimony of Mr. Mills and Ms. McGee that Respondent failed to schedule a complete audit of her law practice, failed to turn over complete trust/IOLTA records, and failed to produce other financial, billing, and other records requested. *See* FF 9. The Committee also cited their testimony in finding that Respondent took on new probate and estate matters without first notifying the Office of Disciplinary Counsel as required by the Board's order. FF 10.

B. Respondent's Exceptions

Respondent argues that the Report is “fallacious and summarily deficient in finding that the Office of Disciplinary Counsel (ODC) has proven by a ponderance [sic] of the evidence that Respondent failed to comply with the practice conditions ordered by the Board.” Resp. Br. at 1. At the same time, she suggests that because she is filing exceptions, Disciplinary Counsel is required to establish the violations of conditions of practice by clear and convincing evidence. *Id.* at 2-3. To a large extent, Respondent concedes the violations but blames her former counsel for the omissions. *Id.* at 3.⁵ She also argues that her due process rights were violated when the Hearing Committee held the hearing on November 7, 2023, without her being present. *Id.* at 8-9.⁶

⁵ In her brief to the Board, Respondent identifies exhibits or attachments that are not marked or numbered, and their citation does not always establish the fact Respondent suggests. For example, one document appears to be an email to her former counsel with attached medical reports for June, July, and August 2023, but we cannot open the attachments to determine what they contain. *See* Resp. Br. at 3; Exhibits to Resp. Br. Even assuming the three medical reports were attached, given the fact Respondent was proceeding *pro se* by September 2023, yet no medical reports were filed in September, October, and November of 2023, and the fact that Respondent withdrew her medical release on November 2, 2023, the record still supports the Committee’s finding that Conditions 1 and 2 were violated.

⁶ Respondent raises other arguments that do not address the issue that was before the Hearing Committee, and now the Board. For example, Respondent suggests that the practice conditions “were not violated because the practice agreement is not a valid contract or agreement” and, even if it were a valid contract, Disciplinary Counsel “materially breached the contract” or the agreement itself is not legally enforceable. Resp. Br. at 3, 5-6. Respondent argues that the Office of Disciplinary Counsel has violated D.C. Rule of Professional Conduct 3.1 (Frivolous Claim) in seeking her immediate suspension, and that Disciplinary Counsel and Ms. McGee are not

1. Burden of Proof by a Preponderance of Evidence

The Board Rules do not specify the standard of proof in a hearing on violations of conditions of practice. However, in *In re Harris*, Board Docket No. 19-BD-059, at 4, 18 (HC Rpt. Nov. 6, 2019), the Hearing Committee concluded that Disciplinary Counsel’s burden of proof should be by a “preponderance of the evidence” because that is the standard applied when a respondent is subject to a probation revocation proceeding under Board Rule 18.3(d). The *Harris* Hearing Committee’s holding was adopted by the Board and the Court of Appeals. *See Harris*, Board Docket No. 19-BD-059, at 5 n.4 (BPR Nov. 26, 2019), *recommendation adopted where no exception filed*, 241 A.3d 243 (D.C. 2020) (per curiam).

We see no reason to revisit the standard applied in *Harris*. A hearing on the violation of practice conditions, resulting from a respondent’s self-identified physical and mental disabilities, is similar in nature to probation revocation proceedings, which require that Disciplinary Counsel have the burden of proving the probation violation by a preponderance of evidence. *See* Board Rule 18.3(d).

2. Respondent’s Due Process Rights Were Not Violated

In *In re Ruffalo*, 390 U.S. 544, 550-51 (1968), the Supreme Court held that attorneys facing discipline are entitled to notice and an opportunity to be heard on the charges brought against them due to the quasi-criminal adversary nature of the

qualified to enforce or address the conditions of practice because they lack expertise in probate and estate law. *Id.* at 3-5, 7. The sole issue before the Board is whether or not Respondent failed to comply with the conditions of practice.

disciplinary proceedings. *See also In re Benjamin*, 698 A.2d 434, 439 n.8 (D.C. 1997) (attorneys in disciplinary proceedings “are not afforded all the protections which are extended to criminal defendants”).

Here, Respondent has been aware of the alleged violations of the conditions of practice as early as September 6, 2023, when Disciplinary Counsel filed its motion requesting a hearing. As noted above, at the prehearing conference, Respondent was given an additional opportunity to respond in writing to the allegations in Disciplinary Counsel’s motion, but did not do so. As the Committee explained, Respondent agreed to the hearing date and requested that it be held in-person, but did not identify witnesses or exhibits, and failed to appear for the hearing, instead filing a late request for an extended delay based on the American with Disabilities Act. HC Rpt. at 4 n.2 (citing *Slaten v. State Bar of California*, 757 P.2d 1, 7 (Cal. 1988) (en banc)). In quoting *Slaten*, the Committee emphasized its holding that an attorney’s alleged health or disability issues did not excuse an attorney’s non-appearance at his disciplinary hearing or warrant further delay: “The purpose of disciplinary proceedings is the protection of the public and the need for protection is the same whether or not the attorney is mentally impaired,” or has a disability. *Slaten*, 757 P.2d at 11; *see* HC Rpt. at 4 n.2.

The conditions of practice were put in place to protect the public while permitting Respondent to practice despite her representation that she suffered from disabilities that were related to the alleged misconduct. We find no violation of due process by the Committee’s decision not to delay the emergency hearing on the

conditions of practice until Respondent’s self-alleged medical and/or mental health issues were sufficiently abated for her to appear.

C. Disciplinary Counsel Has Met Its Burden of Proving a Violation of the Conditions of Practice.

Respondent argues the evidence was insufficient and she “did not violate any conditions of practice.” Resp. Br. at 3. We, however, agree with Disciplinary Counsel that even under a clear and convincing standard (which we do not find is required as noted above), Disciplinary Counsel would have met its burden of proof to establish the Respondent was in violation of the Board’s conditions of practice. ODC Br. at 6.

Respondent does not deny that on November 2, 2023, she withdrew her consent to the prior medical release allowing Disciplinary Counsel to communicate with her medical practitioners and to have access to her medical records. Before the Board, for the first time, Respondent asserts she did so because her medical records contained “privileged and HIPPIA [sic] protected information of other parties who did not give their consent.” Resp. Br. at 2. Respondent does not identify the other parties identified in her medical records, explain why those identities could not be redacted from her records, or otherwise explain why the protection of others required her to revoke the medical release in violation of Condition 9, thereby making it impossible for Disciplinary Counsel to be sure that Respondent continued to receive her medical and mental health treatments as required by Condition 1. The short email message to Disciplinary Counsel on November 2, 2023, *see* DCX 21 (“I withdraw

my consent for the release of my medical records.”), did not provide any qualifications or explanation. *See* FF 8.

Finally, we see no reason to discredit the testimony of Mr. Mills or Ms. McGee as suggested by Respondent. They testified to those facts concerning the violation of the conditions of practice in both the suspension hearing and the disciplinary hearing (the latter of which Respondent attended and conducted cross-examination). FF 7. In fact, the Hearing Committee also credited their testimony in Respondent’s favor. *See, e.g.*, FF 10 (citing Ms. McGee’s testimony admitting that they initially erred in believing Respondent still had open probate matters). Substantial evidence supports the Committee’s factual findings, and no reason exists to alter the Committee’s credibility findings. We accept the Hearing Committee’s evidentiary findings, including credibility findings, “if they are supported by substantial evidence in the record.” *See In re Klayman*, 228 A.3d 713, 717 (D.C. 2020) (per curiam) (quoting *In re Bradley*, 70 A.3d 1189, 1193 (D.C. 2013) (per curiam)); *see also In re Thompson*, 583 A.2d 1006, 1008 (D.C. 1990) (defining “substantial evidence” as “enough evidence for a reasonable mind to find sufficient to support the conclusion reached”).

Accordingly, for the reasons set forth in the Hearing Committee’s Report and Recommendation, which is attached hereto and adopted and incorporated by reference, we find that Respondent has violated five of the conditions of practice and that Respondent’s violations were not technical failures to comply. These violations show that Respondent has refused to comply with the practice conditions she agreed

to, which were imposed by the Board as necessary for the protection of the public.
HC Rpt. at 10-11; *see also* FF 8-11.

III. CONCLUSION

For the foregoing reasons, and for those set forth in the attached Hearing Committee Report and Recommendation, which we adopt by reference, the Board recommends that the Court conclude that Respondent is incapacitated from continuing to practice law and immediately suspend her. We further recommend that the Court's suspension order refer Respondent to the obligations of a suspended attorney set forth in D.C. Bar. R. XI, §14.

BOARD ON PROFESSIONAL RESPONSIBILITY

By: *Bernadette C. Sargeant*
Bernadette C. Sargeant
Chair

All members of the Board concur in this Report and Recommendation except Ms. Cassidy and Mr. Tigar, who are recused.

THIS REPORT IS NOT A FINAL ORDER OF DISCIPLINE*

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



FILED

Nov 30 2023 4:10pm

In the Matter of: :
: :
SONYA N. ARMFIELD :
: :
Respondent. :
: :
A Member of the Bar of the :
District of Columbia Court of Appeals :
(Bar Registration No. 491717) :

Board on Professional Responsibility

Board Docket No. 23-BD-043
Disc. Docket No. 2016-D230

REPORT AND RECOMMENDATION OF
THE AD HOC HEARING COMMITTEE

This matter is before the Ad Hoc Hearing Committee for an expedited hearing pursuant to Board Rule 7.6(e) to: (1) determine whether Respondent, Sonya N. Armfield, has complied with the conditions of practice set forth in the December 21, 2022 Board Order that allows her to continue to practice during the pendency of the disciplinary proceedings before Hearing Committee Number Four in Board Docket No. 22-BD-076; and (2) recommend to the Board whether the monitoring conditions should be lifted and Respondent suspended pending final disposition of the disciplinary proceedings.

As set forth below, the Ad Hoc Hearing Committee finds that Disciplinary Counsel has proven by a preponderance of the evidence that Respondent failed to comply with the practice conditions ordered by the Board. The Hearing Committee recommends to the Board that the monitoring conditions be suspended and that the

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

Board recommend to the Court that Respondent be immediately suspended pending final disposition of the disciplinary proceedings in Board Docket No. 22-BD-076.¹

I. PROCEDURAL HISTORY

In her Answer to the Specification of Charges in the pending disciplinary matter, Respondent had asserted that she suffered “from severe physical and mental disabilities that, in the time of the alleged misconduct, impacted her ability to practice law and would have contributed to the alleged misconduct.” In a December 21, 2022 Order issued pursuant to Board Rule 7.6(c) (Conditions of Practice), the Board Chair imposed the conditions under which Respondent could continue to practice law while under an alleged disability, pending resolution of the disciplinary proceeding. In an April 7, 2023 Order, the Board Chair gave Respondent additional time to comply with the directives in the conditions of practice order.

On September 6, 2023, Disciplinary Counsel requested that the Board direct a hearing committee to take evidence and recommend whether Respondent should be immediately suspended for violating the terms or conditions under which Respondent was permitted to practice. *See* Disciplinary Counsel’s Motion for a Board Order Directing a Hearing Committee to Determine if Respondent Should be Suspended Immediately Pending Final Disposition of the Disciplinary Matter for Violating the Board’s Orders Regarding Her Conditions of Practice. Respondent,

¹“DCX” refers to Disciplinary Counsel’s exhibits. “Preh. Tr.” refers to the transcript of the prehearing conference held on September 28, 2023. “Tr.” refers to the transcript of the hearing held on November 7, 2023. “FF” refers to Findings of Fact.

through counsel, filed a motion for additional time to respond. On September 18, 2023, the Board issued an order denying Respondent's motion for additional time and granting Disciplinary Counsel's request for an expedited hearing to determine whether Respondent violated the conditions of practice and should be suspended pending final disposition of the disciplinary proceeding.

On September 28, 2023, a prehearing conference took place before the Chair of the Ad Hoc Hearing Committee. Respondent was present and appeared *pro se*, and the Office of Disciplinary Counsel was represented by Assistant Disciplinary Counsel Traci M. Tait, Esquire. Due to the expedited nature of the proceedings, the Chair suggested setting the hearing for a date in October 2023; Respondent objected, however, and the matter was scheduled for an expedited hearing on November 7, 2023. Respondent requested that the hearing be held in person. As discussed during the prehearing conference and memorialized in the Chair's September 29, 2023 Order, Respondent was given the opportunity to file a late response or answer to Disciplinary Counsel's motion to immediately suspend for violations of conditions of practice. Respondent, however, did not file a response or answer. Instead, on November 2, Respondent filed a Request for Accommodations under the Americans with Disabilities Act which moved for a "hiatus" in this matter until 2024. Upon

consideration of Respondent’s request and Disciplinary Counsel’s opposition, the Chair denied Respondent’s request to continue the hearing until 2024.²

The hearing was held on November 7, 2023, before the Ad Hoc Hearing Committee comprised of Kathleen Wach, Esquire, Chair; Trevor Mitchell, Public Member; and Janea Hawkins, Esquire, Attorney Member. Disciplinary Counsel was represented at the hearing by Ms. Tait, but Respondent failed to appear either in person or remotely.³ At the start of the hearing, Disciplinary Counsel moved its exhibits, DCX 1-21, into evidence and they were admitted. Disciplinary Counsel

² Without citing to any authority, Respondent claimed she was entitled to a “hiatus” in the conditions of practice hearing, as well as the disciplinary proceedings, under the American with Disabilities Act. Previously, the Chair had granted Respondent a delay in the hearing based on her claim that she needed additional time to retain new counsel. Preh Tr. 4-8. In *Slaten v. State Bar of California*, 757 P.2d 1, 7 (Cal. 1988) (en banc), the Supreme Court of California held that the attorney’s alleged mental health issues or disability did not excuse his non-appearance at the hearing: “An accused attorney must assume responsibility not only for obtaining representation but also for appearing at the hearing and presenting evidence in defense” The court emphasized that “[t]he purpose of disciplinary proceedings is the protection of the public and the need for protection is the same whether or not the attorney is mentally impaired,” or has a disability. *Id.* at 63. Further, in *Florida Bar v. Clement*, 662 So.2d 690, 699-700 (Fla. 1995), the Supreme Court of Florida held that the ADA did not prevent it from disbaring a disabled attorney who suffered from bipolar disorder and had been accused of misuse and misappropriation of client funds.

³ Eleven minutes prior to the scheduled 9:30 a.m. start of the hearing, Respondent emailed the case manager of the Office of the Executive Attorney a message stating that she would not be attending “based on Doctor’s instruction.” When Respondent did not appear by 9:49 a.m., at the Chair’s direction, the case manager emailed Respondent a Zoom link to participate via videoconference. Tr. 6-7.

then called the following witnesses: Daniel Mills, Esquire; Kaitlin McGee, Esquire; and Michael Robinson.

On November 9, 2023, Disciplinary Counsel submitted its post-hearing brief. *See* Disciplinary Counsel’s Proposed Findings of Fact and Conclusions of Law in Support of Respondent’s Immediate Suspension Pending Resolution of Her Disciplinary Proceedings (hereinafter “ODC Br.”).⁴ Respondent’s brief was due on November 27, 2023. She did not file her brief, and instead filed a Motion to Enlarge Time to Submit Proposed Findings of Fact and Conclusions of Law, in which she sought an indeterminate extension of time, citing her inexperience in litigation matters, her desire to obtain counsel, doctor-ordered bed rest due to high blood pressure, and the need to procure additional evidence. Respondent’s motion was denied in a separate order. *See* Order (Nov. 29, 2023).

II. FINDINGS OF FACT

1. The Hearing Committee takes judicial notice that Respondent is a member of the Bar of the District of Columbia Court of Appeals, having been admitted on July 6, 2007, and assigned Bar admitted number 491717. *See* D.C. Bar Member Directory (Bar number).⁵

⁴ On November 8, 2023, Daniel Mills, Esquire, and Kaitlin McGee, Esquire, filed and served the Final [Tenth] Report of the Practice Monitor and Practice Auditor. Disciplinary Counsel attached the report to its post-hearing brief.

⁵ <https://my.dcbbar.org/directorymemberships?id=0014z00001ka3hnAAA>

2. Disciplinary Counsel filed a Specification of Charges in Board Docket No. 22-BD-076 alleging that Respondent had engaged in the intentional or reckless misappropriation of the funds belonging to two wards the D.C. Superior Court appointed Respondent to protect. DCX 18 at 15. The court’s Probate Division had jurisdiction over those matters. *Id.* at 45-56.

3. Respondent filed an Answer in which she gave notice, pursuant to Board Rule 7.6, of her intent to assert a disability in mitigation of sanction (commonly known as *Kersey* mitigation). DCX 19 at 38-41; *In re Kersey*, 520 A.2d 321, 325-27 (D.C. 1987). In her Notice of Intent to Raise Disability in Mitigation, Respondent asserted that she suffered from major depressive disorder, anxiety disorder, hoarding, hypertension, sleep apnea, diabetes, and metabolic syndrome during May 2011 through May 2022. DCX 16 at 1.

4. In response to Respondent’s assertions of *Kersey* mitigation, the Board directed the parties to file proposed conditions “under which Respondent shall practice law during the pendency of these proceedings.” *See* Board Order, *In re Armfield*, 22-BD-076 (Dec. 8, 2022). The conditions of practice are intended to ensure that a respondent’s self-alleged disabilities are being addressed during the course of the disciplinary case. *See* Board Rule 7.6(c).

5. Respondent and the Office of Disciplinary Counsel negotiated practice conditions and filed them with the Board. Tr. 13; *see* Parties’ Joint Submission of Respondent’s Proposed Practice Conditions, *In re Armfield*, 22-BD-076 (Dec. 20, 2022).

6. By order dated December 21, 2022, the Board adopted the parties' proposed conditions and directed Respondent, *inter alia*, to:

- continue to receive treatment for major depressive disorder, generalized anxiety disorder, and hoarding from a licensed psychiatrist, psychologist, or psychotherapist (Condition 1)
- submit, starting in January 2023, monthly medical reports from her treating practitioners and authorize the Office of Disciplinary Counsel to communicate with her treating practitioners regarding her continued mental status as it relates to her fitness to practice law (Condition 2)
- submit to a complete audit of her law practice, including her trust accounts/IOLTA by Daniel Mills, Esquire, of the D.C. Bar's Practice Management Advisory Service (PMAS) to correct inappropriate accounting and recordkeeping methods (Condition 5)
- agree to the immediate appointment of a practice monitor with sufficient expertise in probate/estate matters to assist Respondent in winding down her current matters in those areas (Condition 7)
- withdraw within 90 days from any probate/estate matters, submitting proof that she had done so and, if Respondent chose to resume handling probate/estate matters, to first notify the Board on Professional Responsibility and Office of Disciplinary Counsel, then undertake continuing legal education classes that the Office of Disciplinary Counsel identified for her (Condition 8)
- waive confidentiality regarding her compliance with the proposed conditions (Condition 9)

DCX 16; *see also* DCX 1 (First Report from Practice Auditor and Practice Monitor).

Because Practice Monitor Kaitlin McGee was appointed later than expected, the Board allowed Respondent until April 28, 2023, to withdraw from any probate or estate matter she had been handling. DCX 17 at 2-4.

7. Of a total of nine conditions by which Respondent agreed to abide, Respondent violated five: Conditions 1, 2, 5, 8, and 9. DCX 1-15, 21. Practice Auditor Dan Mills and Practice Monitor Ms. McGee testified to those facts at Respondent's suspension hearing and her disciplinary hearing. *See generally* Tr. 23-72; DCX 20 at 62-77, 82-88. Michael Robinson, a law clerk at the Office of Disciplinary Counsel, also testified to Respondent's failures to abide by her practice conditions. Tr. 73-81; DCX 10-15, 21.

8. Specifically, Respondent violated Conditions 1 and 2 because since June 2023, she has failed to provide monthly reports attesting that she has continued her required treatments for major depressive disorder, anxiety disorder, and hoarding. Tr. at 77-79; *see* DCX 10-15. Most seriously, Respondent rescinded her earlier Authorization to Release Medical Records and Files, and as a result, Disciplinary Counsel is no longer able to communicate with Respondent's treating medical practitioners regarding her fitness to practice law. *See* DCX 21 (November 2, 2023 email message from Respondent to Assistant Disciplinary Counsel Tait: "I withdraw my consent for the release of any medical records.").

9. Regarding Condition 5, Respondent has failed to schedule a complete audit of her law practice, failed to turn over complete records of her trust/IOLTA, and failed to produce financial, billing, and other records requested by her Practice Auditor Mr. Mills and Practice Monitor Ms. McGee. Tr. 23-44, 49-73; DCX 1-9; DCX 20 at 62-76, 82-85.

10. Regarding Condition 8, Ms. McGee initially reported on April 3, 2023, that Respondent was still involved in multiple probate cases, but has since corrected the record. During the hearing, Ms. McGee confirmed that Respondent was not involved in the probate cases identified in her First Report. *See* DCX 20 at 87 (Ms. McGee: “I have filed subsequent reports confirming that we don’t have any reason to believe you are still involved in those cases, so I have corrected the record ”); *see also* Tr. 36 (Mr. McGee: “[W]e’re fairly confident that there weren’t any probate cases still open.”). However, Respondent did not comply with Condition 8 when she took on new probate cases without first notifying the Board on Professional Responsibility and the Office of Disciplinary Counsel of her intent to do so. When asked about credit card payments reflected in her financial documents, Respondent told Practice Auditor Mills that “those were a couple of probate cases that I just recently took on.” Tr. 37; *see also* DCX 17 at 3. Although Respondent ended up refunding those new clients, *see* Tr. 37 (McGee: “[T]hose cases didn’t continue on, and it does appear that she’s wound down her probate cases.”), because she did not notify either the Board or Disciplinary Counsel about her intent to take on new cases, she did not comply with the requirements of Condition 8.

11. Regarding Condition 9, by withdrawing her consent to access her medical providers’ information, Respondent has eliminated any way to check if she is complying with her medical providers’ treatment plans or whether they have any concerns about her fitness to practice law. DCX 21. As noted, her November 2, 2023 email message to Disciplinary Counsel openly violates Condition 9 in which

she agreed “waive confidentiality regarding her compliance with the proposed conditions.” DCX 16 at 4.

12. The day after the hearing, on November 8, 2023, Practice Auditor Mr. Mills and Practice Monitor Ms. McGee filed a Final [Tenth] Report. *See* Final Report of the Practice Monitor and Practice Auditor, *In re Armfield*, 22-BD-076 (Nov. 8, 2023).

III. CONCLUSIONS OF LAW

Disciplinary Counsel argues that it has more than met its burden of establishing Respondent’s non-compliance with the conditions of practice. *See* ODC Br. at 8.

The Board Rules do not specify the standard of proof in a hearing on violations of conditions of practice. However, in *In re Harris*, Board Docket No. 19-BD-059, at 4, 18 (H.C. Rpt. Nov. 4, 2019), the Hearing Committee concluded that Disciplinary Counsel’s burden of proof should be by a “preponderance of the evidence” because that is the standard applied when a respondent is subject to a probation revocation proceeding under Board Rule 18.3(d). The *Harris* Hearing Committee’s holding was adopted by the Board and the Court of Appeals. *See Harris*, Board Docket No. 19-BD-059, at 5 n.4 (BPR Nov. 26, 2019), *recommendation adopted where no exception filed*, 241 A.3d 243 (D.C. 2020) (*per curiam*).

Having considered the documentary and testimonial evidence, we conclude that Disciplinary Counsel has established by a preponderance of the evidence that

Respondent did not comply with the conditions of practice imposed by the Board. Although even a single violation could show that she has not complied with the conditions of practice, here, Respondent has openly violated five conditions of practice. *See* FF 8-11. While each condition serves an important purpose, we are especially concerned about Respondent's non-compliance in filing monthly medical reports showing her continued treatment and verification from her practitioners of her continued fitness to practice law, and then her recent decision on November 2, 2023, to withdraw the authorization for medical releases from her medical providers. FF 8.

Accordingly, we recommend that the Board recommend to the Court that Respondent's license to practice law be suspended during the pendency of the underlying disciplinary matter, Board Docket No. 22-BD-076. We further recommend that the Board lift the monitoring conditions imposed in its December 21, 2022 Order.

IV. CONCLUSION

For the foregoing reasons, the Committee finds that Disciplinary Counsel has proven by a preponderance of the evidence that Respondent failed to comply with the December 21, 2022 Board Order imposing practice conditions. The Hearing Committee recommends to the Board that it lift the monitoring conditions and that it recommend to the Court that Respondent be immediately suspended, pending final disposition of the disciplinary proceedings in Board Docket No. 22-BD-076.

AD HOC HEARING COMMITTEE

Kathleen Wach

Kathleen Wach, Chair

Trevor Mitchell

Trevor Mitchell, Public Member

Janea Hawkins

Janea Hawkins, Attorney Member