DISTRICT OF COLUMBIA COURT OF APPEALS
BOARD ON PROFESSIONAL RESPONSIBILITY

In the Matter of:	:	
	:	
ABIGAIL ASKEW,	:	
	:	
Respondent.	:	Board Docket No. 14-BD-084
	:	Bar Docket No. 2013-D238
A Member of the Bar of the	:	
District of Columbia Court of Appeals	:	
(Bar Registration No. 497703)	:	

REPORT AND RECOMMENDATION OF THE
BOARD ON PROFESSIONAL RESPONSIBILITY

Respondent, Abigail Askew, was appointed by the Court under the Criminal Justice Act to represent Purnell K. Jackson on appeal. She represented Mr. Jackson from July 2009 until June 19, 2013, when the Court removed her from this case. The Ad Hoc Hearing Committee found there was clear and convincing evidence that Respondent failed to communicate with Mr. Jackson, failed to file a brief on his behalf, and failed to otherwise respond to Court orders, in violation of District of Columbia Rules of Professional Conduct (the "Rules") 1.1(a), 1.1(b), 1.3(a), 1.4(a), 1.4(b), 3.4(c), and 8.4(d).

When considering sanction, the Hearing Committee noted that the misconduct at issue here occurred before, during, and after the disciplinary proceedings in *In re Askew*, 96 A.3d 52 (D.C. 2014) (per curiam) ("*Askew I*"), which involved the same Rule violations and also involved Respondent's failure to communicate with her client, failure to file a brief on his behalf, and failure to otherwise respond to Court

orders.[1] In *Askew I*, the Court imposed a six-month suspension, with all but sixty days stayed, and a one-year probationary period with conditions. 96 A.3d at 62. The Hearing Committee in this case recommended that Respondent be suspended for an additional six months, with a requirement that she prove her fitness to practice law as a condition to reinstatement.

Disciplinary Counsel did not take exception to any part of the Hearing Committee Report. Respondent took exception to a number of the Hearing Committee's findings, to all of its conclusions of law, and to the recommended sanction.

As set forth below, the Board finds that the Hearing Committee's findings of fact are supported by substantial evidence, it agrees with the Hearing Committee's conclusions of law, and it adopts these. The Board recommends the sanction proposed by the Hearing Committee.[2]

A. Findings of Facts

The Board must accept the Hearing Committee's "'evidentiary findings, including credibility findings, if they are supported by substantial evidence in the record.'" *In re Ukwu*, 926 A.2d 1106, 1115 (D.C. 2007) (quoting *In re Cleaver-*

[1] *Askew I* also included a finding that Respondent violated Rule 1.16(d) by failing to protect her client's interests when her appointment was terminated by failing to timely provide her client's file to successor counsel. That allegation is not present in the instant case.

[2] During the hearing, Respondent moved to dismiss the case based on her assertions that there was a lack of proof of any violations alleged in the Specification of Charges. Tr. 188. The Hearing Committee recognized that there is no provision in the Rules or case law that permits a hearing committee to dismiss a case without taking evidence. Tr. 189-90. In its Report and Recommendation, the Hearing Committee recommended that the motion to dismiss be denied. In light of our findings and recommendations, we deny Respondent's motion.

Bascombe, 892 A.2d 396, 401-02 (D.C. 2006)). Respondent delineates and disputes thirteen of the Hearing Committee's numbered factual findings (Resp. Brief[3] at 1-8), and particularly disputes the Hearing Committee's findings that portions of her testimony were deliberately false (*Id.* at 3-4, 7, 9).[4] She argues that the Hearing Committee either did not understand the evidence (¶ 7), forgot portions of evidence (¶ 11), or reached its conclusions "without factual basis" (¶ 9; *see also* ¶¶ 6, 12, 13). Resp. Brief at 1-8. Disciplinary Counsel responds to each of Respondent's exceptions in detail, reiterating and supporting the findings of the Hearing

[3] "Resp. Brief" refers to Respondent's Brief filed on June 23, 2016. "ODC Brief" refers to Disciplinary Counsel's Brief filed on July 11, 2016. "HC Report" refers to the Report and Recommendation of the Ad Hoc Hearing Committee in this matter filed on May 10, 2016.

[4] One of the Hearing Committee's most important functions is to determine credibility. *See In re Sabo*, 49 A.3d 1219, 1224 (D.C. 2012). At oral argument, Respondent – through counsel – asserted that the Hearing Committee's findings should be rejected, arguing that the Hearing Committee "went too far in finding falsehoods" in this case. She claims that there is a difference between a determination that testimony is not believable and a finding that something is false. She also argues that "credibility" is "defined as the quality of being trusted and believed [and] cannot be determined on facts that can be reconciled and that are not inconsistent." Resp. Brief at 3-4. Respondent further argues that because the facts here can "reconciled," the Hearing Committee could not find that her testimony was deliberately false. *Id.* Respondent does not provide any support for this position, and the Board finds that it is incorrect.

Respondent is correct insofar as credibility and false testimony may be determined by evaluating the consistency of testimony with factual findings made by the Hearing Committee. *See, e.g.*, *In re Bradley*, 70 A.3d 1189, 1194 (D.C. 2013) (per curiam) (finding false testimony where the respondent's statements were not corroborated by any other evidence, contradicted those made by credible witnesses, and contained logical inconsistencies); *In re Cleaver-Bascombe*, 986 A.2d 1191, 1198 (D.C. 2010) (upholding the Hearing Committee's finding that the respondent's testimony, which was inconsistent with factual findings supported by clear and convincing evidence, was not credible, and further finding that it was deliberately false). Here, the Hearing Committee based its finding that some of Respondent's testimony was self-serving and deliberately false on its assessment of Respondent's demeanor, as well as inconsistencies in the documentary record and in Respondent's oral testimony.

Committee. ODC Brief at 2-12. Having reviewed the record and Respondent's exceptions, the Board adopts and incorporates the Hearing Committee's factual findings, which are supported by substantial evidence. *See* D.C. Bar R. XI, § 9(h).

B. Conclusions of Law

Respondent takes exception to all of the Hearing Committee's findings that she violated any Rules. Resp. Brief at 9-16. The Board reviews the Hearing Committee's conclusions of law *de novo*. *See In re Bradley*, 70 A.3d 1189, 1194 (D.C. 2013); *In re Anderson*, 778 A.2d 330, 339 n.5 (D.C. 2001); *In re Micheel*, 610 A.2d 231, 234 (D.C. 1992). Based on our review of the record, the Board concludes that the Hearing Committee's findings of violations are supported by clear and convincing evidence. We adopt and incorporate those findings as our own, for the reasons set forth by the Hearing Committee in its report. We summarize the Rule violations briefly below.

The Hearing Committee found that Respondent's inadequate effort to locate her client and her repeated failures to respond to Court orders violated Rules 1.1(a) and (b). Respondent failed to address the Hearing Committee's finding that her repeated failures to respond to Court orders violated Rule 1.1, and instead focused only on her attempts to locate her client. She asserts that her minimal efforts to locate and communicate with her client during her four-year representation did not violate Rules 1.1(a) or (b) because they were mere "careless errors" that did not prejudice her client. Resp. Brief at 11. Respondent's "sporadic" and "wholly inadequate" efforts to locate her client were not careless errors. HC Report at 26-

31. She did not simply make a mistake. There is no merit to Respondent's argument that prejudice to the client is necessary to Rule 1.1(a) or (b) violation. As the Hearing Committee correctly observed, a Rule 1.1 violation requires a "serious deficiency" in a lawyer's representation that prejudiced, or could have prejudiced, the lawyer's client. *Id.* at 31; *see In re Evans*, 902 A.2d 56, 69-70 (D.C. 2006) (per curiam) (appended Board Report). We agree with the Hearing Committee that Respondent violated Rules 1.1(a) and (b) because her representation was seriously deficient and could have prejudiced her client.

Similarly, Respondent contends that she did not violate Rules 1.3(a), 1.4(a), and 1.4(b), arguing that her efforts were sufficient, particularly because her client did not make efforts to contact her.[5] Resp. Brief at 12-13. We agree with – and adopt – the Hearing Committee's conclusion that Respondent violated her duty of diligence and zeal and failed to take the necessary steps to communicate with her client, and thus violated Rules 1.3(a), 1.4(a), and 1.4(b). HC Report at 31-33.

The Board also adopts the Hearing Committee's findings that Respondent violated Rules 3.4(c) and 8.4(d), by failing to respond – either timely or at all – to numerous Court orders instructing her to make required filings. HC Report at 33-

[5] Respondent's arguments attempt to shift the blame to Mr. Jackson for her failure to contact and communicate with him. Resp. Brief at 12-13. The Board finds that this is evidence of Respondent's lack of recognition of her ethical obligations, which is relevant to its sanction recommendation. We note that, in *Askew I*, the Court found that Respondent's client was incarcerated and indigent – as was Mr. Jackson – but, until the hearing there, Respondent failed to recognize how vulnerable her client was. The Court cited this as a "fundamental failure to understand her duties as court-appointed counsel." 96 A.3d at 61. Despite this observation by the Court, Respondent continues to shift blame to her vulnerable client here.

37. Respondent's argument that she could not file a brief without contact with her client does not address her repeated failure to respond to Court orders.[6] Resp. Brief at 13-14.

The Board also agrees with the Hearing Committee that Respondent's conduct violated Rule 8.4(d) because her failure to meet deadlines and comply with orders was improper, bore directly on Mr. Jackson's appeal, and tainted the judicial process in more than a *de minimis* way by requiring the Court to issue multiple orders, to remove Respondent, to appoint new counsel, and to delay the Court's consideration of Mr. Jackson's appeal for almost four years.[7] HC Report at 36-37; *see, e.g.*, *In re Murdter*, 131 A.2d 355, 357 (D.C. 2016) (per curiam); *Askew I*, 96 A.3d at 59; *In re Shepherd*, 870 A.2d 67 (D.C. 2005) (per curiam); *In re Mance*, 869 A.2d 339, 340 (D.C. 2005) (per curiam).

C. Recommended Sanction

Respondent takes exception to the sanction recommended by the Hearing Committee. She notes that discipline was imposed on her in *Askew I* and asserts that

[6] We accept the Hearing Committee's finding that Respondent failed to respond to eleven court orders and filed late responses to five others. HC Report at 14-15. We also note that although Respondent claimed that she needed to discuss a brief with her client before filing, there was no credible evidence presented that she drafted a brief or had any arguments to discuss with him.

[7] Respondent asserts that Rule 8.4(d) is violated only when the lawyer's activities "cause a tribunal to reach incorrect decision [sic] [or] which taints decision-making process [sic]." Resp. Brief at 15. This is incorrect. "[A] Rule 8.4(d) violation does not require an interference with judicial decisionmaking 'that causes the court to malfunction or make an incorrect decision.'" *In re Uchendu*, 812 A.2d 933, 941 (D.C. 2002) (quoting *In re Hopkins*, 677 A.2d 55, 60 (D.C. 1996)). As discussed in *Hopkins*, Respondent's improper conduct must only have *potentially* had an impact upon the process to a serious and adverse degree; Disciplinary Counsel does not need to show that the Court actually reached an incorrect decision. 677 A.2d at 60-61.

no additional sanction should apply here. Resp. Brief at 16. Alternatively, she argues that the sanction should be "probation concurrent with the probation imposed in Askew 1 because the period of violation overlapped, this violation was considered by the Court of Appeals and the sanction recommended in *Askew 1*was [sic] calculated to address the violations." *Id.* at 16. This is incorrect.

In *Askew I*, the Court "note[d] that [it had] vacated Ms. Askew's CJA appointment in at least one other criminal case in which she failed to file the brief or otherwise respond to court order." 96 A.3d at 61. This passing reference does not evidence a full understanding by the Court of the facts of this case – which were still under investigation by the Office of Disciplinary Counsel – in its determination of the sanction in *Askew I.*[8]

The Hearing Committee extensively and appropriately evaluated "the seriousness of [Respondent's] conduct," "the prejudice, if any, to the client which resulted from the conduct," "whether the conduct involved dishonesty and/or misrepresentation," "the presence or absence of violations of other provisions of the disciplinary rules," "whether the attorney had a previous disciplinary history," "whether or not [Respondent] acknowledged [her] wrongful conduct," and "circumstances in mitigation." *In re Fay*, 111 A.3d 1025, 1031 (D.C. 2015) (per curiam) (quoting *In re Elgin*, 918 A.2d 362, 376 (D.C. 2007)); *see also In re Hutchinson*, 534 A.2d 919, 924 (D.C. 1987) (en banc). Because the facts in *Askew I*

[8] We note that the opinion in *Askew I* was issued on July 31, 2014, and the Specification of Charges in this matter was filed two and a half months later – on October 14, 2014.

and this case overlapped, the Hearing Committee correctly concluded that it is appropriate to consider them as if they were simultaneously before the Board. *See In re Dory*, 552 A.2d 518, 521 (D.C. 1989) (per curiam) (appended Board Report) (where the misconduct in two cases occurs during the same time period, the Board must recommend a sanction as if all matters were before the Board simultaneously).

Recently, the Court in *Murdter* held that the appropriate sanction for neglect in CJA cases that occurred at the same time was a six-month suspension. 131 A.2d at 358 (all but sixty days of the suspension were stayed in favor of probation). Here, the Hearing Committee concluded that a one-year suspension was warranted for all of Respondent's misconduct because her neglect of the appointed appellate matters, which alone would have warranted a six-month suspension under *Murdter*, is aggravated by both (1) the fact that she continued her misconduct in the *Jackson* matter even while being prosecuted for similar misconduct in the *Middleton* matter and (2) her dishonest testimony before the Hearing Committee. HC Report at 43-44. Thus, the Hearing Committee recommended a six-month suspension because Respondent has already served the suspension for the *Middleton* misconduct.[9] *Id.* at 44. We agree.

We also agree with the Hearing Committee that Disciplinary Counsel has presented clear and convincing evidence of a serious doubt as to Respondent's ability to practice ethically in the future, and thus we agree that Respondent should be required to prove her fitness to practice law as a condition to her reinstatement.

[9] We note that Respondent has been reinstated to the Bar.

HC Report at 44-46. We recognize that the reason for conditioning reinstatement on proof of fitness is "conceptually different" from the basis for imposing a suspension. As the Court has explained:

> [t]he fixed period of suspension is intended to serve as the commensurate response to the attorney's past ethical misconduct. In contrast, the open-ended fitness requirement is intended to be an appropriate response to serious concerns about whether the attorney will act ethically and competently in the future, after the period of suspension has run. . . . [P]roof of a violation of the Rules that merits even a substantial period of suspension is not necessarily sufficient to justify a fitness requirement . . . .

In re Cater, 887 A.2d 1, 22 (D.C. 2005).

Respondent failed to take corrective action in Mr. Jackson's case even after she had stipulated to almost identical misconduct in Mr. Middleton's case. Most troublingly, despite her obvious neglect of Mr. Jackson's case, Respondent has never acknowledged that there is any fault with her handling of that case.[10] Instead,

[10] Respondent argues that one of the factors considered in determining the appropriate sanction – *i.e.*, whether the attorney has acknowledged wrongful conduct – is unfair because respondents have the right to undertake a vigorous defense of the charges against them, as she has done here. Resp. Brief at 19. We agree that respondents have the right to defend themselves vigorously in disciplinary proceedings. However, Respondent's assertion that her right to defend herself cannot have consequences is misguided, especially where, as here, Respondent fails to recognize the obvious deficiencies of her conduct. Respondent's inability to perceive – or unwillingness to admit – the wrongfulness of her conduct *is* a relevant factor in the Board's determination of the appropriate sanction. *See, e.g.*, *In re Silva*, 29 A.3d 924, 943 (D.C. 2011) (appended Board Report) (finding, in aggravation of sanction, that the respondent did not express "genuine remorse"); *In re Daniel*, 11 A.3d 291, 300 (D.C. 2011) (finding that, although the respondent originally expressed remorse, he withdrew his expression of remorse and failed to acknowledge his misconduct, which "reflects on his moral fitness as an attorney" and was a factor the Court considered in determining the sanction); *In re Hager*, 812 A.2d 904, 921 (D.C. 2002) (finding that the respondent's lack of remorse and failure to acknowledge his misconduct, including his arguments that he violated no Rule, were relevant factors in aggravation of sanction).

Respondent asserts that she has violated no ethics rule and that her conduct was proper and ethical.

Finally, the Hearing Committee found by clear and convincing evidence that Respondent deliberately testified falsely about her conduct.[11] We agree with this finding, which is a significant factor in the Board's determination that a fitness requirement is appropriate. Considering all of these factors together, the Board agrees with the Hearing Committee that Disciplinary Counsel has proven by clear and convincing evidence that there is a serious doubt as to Respondent's ability to practice ethically in the future, and as such, we recommend a fitness requirement.

Conclusion

For the reasons set forth in the Hearing Committee's Report and Recommendation, which is attached hereto, and adopted and incorporated by reference, we recommend that Respondent be suspended for a period of six months, with a requirement that she prove her fitness to practice law as a condition to reinstatement.

BOARD ON PROFESSIONAL RESPONSIBILITY

By: /MLS/
Mary Lou Soller

Dated: February 9, 2017

[11] We note the Court had concerns about Respondent's credibility in the proceedings in *Askew I*: "[W]e are troubled by Ms. Askew's willingness at the hearing to make representations that not only contradict prior factual assertions, but also would lack the ring of truth even if they had been made in the first instance." 96 A.3d at 60.

All members of the Board concur in this Report and Recommendation, except for Mr. Carter, who is recused.

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

In the Matter of:	:	
	:	
ABIGAIL ASKEW,	:	
	:	Board Docket No. 14-BD-084
Respondent.	:	Bar Docket No. 2013-D238
	:	
A Member of the Bar of the	:	
District of Columbia Court of Appeals	:	
(D.C. Bar Number 497703)	:	

REPORT AND RECOMMENDATION OF THE
AD HOC HEARING COMMITTEE

Disciplinary Counsel[1] charges Respondent Abigail Askew with serious violations of the District of Columbia Rules of Professional Conduct (the "Rules") arising from her representation of Purnell K. Jackson in an appeal of his felony conviction of a violation of the Bail Reform Act. Respondent was appointed by the District of Columbia Court of Appeals to represent Mr. Jackson under the Criminal Justice Act (the "CJA"). Disciplinary Counsel argues that Respondent failed to fulfill her responsibilities to the District of Columbia Court of Appeals and to Mr. Jackson, who was incarcerated in a federal institution. Respondent failed to communicate with Mr. Jackson, failed to file a brief on his behalf or otherwise respond to Court orders, and was eventually removed from the case by the Court and referred to Disciplinary Counsel for disciplinary action. This misconduct occurred from in or about July 2009 through in or about June 2013, before, during and after Respondent's adjudicated misconduct in *In re Askew*, 96 A.3d 52, 58 (D.C. 2014) (per

[1] The Petition Instituting Formal Disciplinary Proceedings and the Specification of Charges was filed by the Office of Bar Counsel. The District of Columbia Court of Appeals changed the title of Bar Counsel to Disciplinary Counsel, effective December 19, 2015. We use the current title herein.

curiam) (hereinafter referred to as "*Askew I*"), which concerned the neglect of another criminal appeal. Disciplinary Counsel alleges that Respondent's conduct violated Rules 1.1(a) and (b) (failure to provide competent representation to a client and failure to serve a client with skill and care); 1.3(a) (failure to represent a client zealously and diligently within the bounds of the law); 1.4(a) and (b) (failure to communicate with a client); 3.4(c) (knowingly disobeying an obligation under the rules of a tribunal); and 8.4(d) (engaging in conduct that seriously interfered with the administration of justice). Disciplinary Counsel recommends that Respondent be suspended for 30 days with the requirement that she prove her fitness to practice as a condition of reinstatement. Respondent, if found in violation, recommends a period of probation concurrent with the probationary period imposed in *Askew I*.

The matter is before an Ad Hoc Hearing Committee, consisting of Thomas DiLeonardo, Esquire, Chair; Dr. Janet Stern Solomon, Public Member; and, Patricia Millerioux, Esquire, Attorney Member. As described below, the Hearing Committee finds by clear and convincing evidence that Respondent committed all of the Rule violations alleged in the Specification of Charges. The Hearing Committee also finds that Respondent gave knowingly false testimony during the evidentiary hearing. Consequently, the Hearing Committee recommends that Respondent be suspended for six months with a fitness requirement.

I. Procedural History

On October 14, 2014, Disciplinary Counsel personally served Respondent with a Petition Instituting Formal Disciplinary Proceedings and the Specification of Charges. BX B.[2] Respondent timely answered the Specification of Charges on November 10, 2014.

[2] "BX" refers to Disciplinary Counsel's exhibits. "RX" refers to Respondent's exhibit. "Tr." refers to the transcript of the hearing.

Pre-hearing conferences were held on January 29, 2015 (in person) and March 19, 2015 (telephonic). Disciplinary Counsel was represented by Deputy Disciplinary Counsel Elizabeth A. Herman, Esquire, Respondent was represented by John O. Iweanoge, II, Esquire. On February 9, 2015 and March 25, 2015, the Hearing Committee Chair issued orders memorializing the pre-hearing conferences held on January 29, 2015 and March 19, 2015, respectively.

A one-day evidentiary hearing was held on June 30, 2015. Near the outset of the hearing, the Hearing Committee Chair raised a preliminary matter regarding an apparent typographical error in the Specification of Charges. Tr. 183-184. Specifically, page 3, paragraph 11 of that document indicated that "On February 28, 2012, the Court ordered Respondent to file the brief and limited appendix within 30 days of the order." Tr. 184. However, the document at issue, BX 3R, indicates that the Court ordered Respondent to file the brief and limited appendix within 40 days of the order, not 30 days. Tr. 184. Disciplinary Counsel and Respondent agreed with the correction. Tr. 185.

Disciplinary Counsel did not call any witnesses during its case-in-chief. Instead, Disciplinary Counsel introduced Bar Exhibits A, B, C, D1-D3, 3A-3EE, 4 and 5,[3] which were admitted into evidence. Tr. 179-180, 188-189. Respondent moved to dismiss the case based on a lack of proof evidencing the "violation of any of the sections charged in the Specification of Charges." Tr. 188. The Hearing Committee took Respondent's motion "under advisement" and held that the hearing must "go forward because there's no provision either in the rules or in case law that permits a hearing committee to end the case without taking evidence." Tr. 189-190.

[3] The prehearing order specified that proposed exhibits should be "in consecutive numerical order." This is not exactly what we had in mind.

Respondent testified as the only witness during her case-in-chief. Tr. 190. Respondent introduced Respondent's Exhibits 1 through 11, which were admitted into evidence. Tr. 180, 216-217, 253, 243-248, 287-288, 500.

Upon conclusion of the first phase of the hearing, the Hearing Committee made a preliminary non-binding determination that Disciplinary Counsel had proven at least one Rule violation set forth in the Specification of Charges. Tr. 467; *see* Board Rule 11.11. In the second phase, Disciplinary Counsel introduced the findings set forth in *Askew I* as evidence in aggravation of sanction. Respondent testified on her own behalf as evidence in mitigation of sanction. Tr. 467-468.

The Hearing Committee ordered post-hearing briefs. Disciplinary Counsel timely filed its brief on August 13, 2015. Respondent timely filed her responsive brief on September 21, 2015 (after the Hearing Committee granted Respondent's motion for extension of time to file her brief); however, this brief failed to respond to each of Disciplinary Counsel's proposed findings of fact, as directed in the briefing order.[4] Disciplinary Counsel timely filed its reply brief on September 28, 2015.

II. Findings of Fact

The Hearing Committee finds the facts below by clear and convincing evidence. *See* Board Rule 11.5.

A. Background – Respondent's License to Practice Law

1. Respondent was admitted to the Bar of the District of Columbia Court of Appeals on May 12, 2006, and assigned Bar number 497703. BX A. She was also admitted to practice law in Illinois in August 2000. Tr. 191.

[4] Respondent filed a compliant brief on October 9, 2015.

2. On July 31, 2014, the District of Columbia Court of Appeals (the "Court") suspended Respondent for a six-month period, with all but 60 days stayed, and imposed a one-year probationary term for violations of Rules 1.1(a) and (b) (failing to provide client with competent representation); 1.3(a) (failing to provide zealous and diligent representation); 1.4(a) (failing to keep client reasonably informed); 1.4(b) (failing to explain matter to client to enable client to make informed decisions); 1.16(d) (failing to protect client's interests on termination of representation); 3.4(c) (knowingly disobeying obligation under rules of a tribunal); and 8.4(d) (engaging in conduct that seriously interferes with the administration of justice). *Askew I*, 96 A.3d at 62; BX 5 at 1.

B. Representation of Purnell K. Jackson

3. On July 31, 2009, the District of Columbia Court of Appeals appointed Respondent to represent the interests of Purnell K. Jackson on appeal of his conviction for a felony violation of the Bail Reform Act, (*Jackson v. United States*, DCCA No. 09-CF-850, hereinafter referred to as the "*Jackson* case"). BX 3a. Respondent received the order of appointment. Tr. 198. The Notice of Appeal that Respondent received in conjunction with the order indicated that Mr. Jackson was "currently confined" and had "no fixed address"; however, as of July 21, 2009 (the date the Notice of Appeal was stamped "Received"), Mr. Jackson was incarcerated at the D.C. Jail. RX 1; RX 2; Tr. 199-200.

4. An undated letter sent to Mr. Jackson by the Court of Appeals and copied to Respondent stated that the method of communication with the client will generally be by mail and may be supplemented by telephone calls. Tr. 200; RX 2. The letter was sent to Mr. Jackson in the D.C. Jail. RX 2.

C. Court Docket Activity in the *Jackson* Case

5. The Court's July 31, 2009 order stated that Respondent "shall within 30 days from the date of this order complete and file with this court a single copy of the statement regarding transcript . . . ." BX 3a. This order was mailed to Respondent at her 1629 K St. office address (hereinafter referred to as the "K St. office address"), and received by Respondent. BX 3a; Tr. 197. Respondent did not file the statement regarding transcripts by the August 30, 2009 deadline. BX 3ee. Respondent testified that she did not file the statement on time because "[t]here was a problem locating the transcript . . . ." Tr. 206.

6. On September 15, 2009, the Court again ordered Respondent to file the statement regarding the transcript and required a response within 15 days. BX 3b. This order was mailed to Respondent at her K St. office address. *Id.*

7. On September 21, 2009, Respondent filed a motion to late-file the statement regarding the transcript. BX 3c; Tr. 207.

8. On October 21, 2010, after the complete record of Mr. Jackson's case was filed, the Court ordered Respondent to file the brief and limited appendix within 40 days of the Court's order. BX 3d. This order was mailed to Respondent at her K St. office address, and the Court's docket sheet does not show that it was returned in the mail. *Id.*; BX 3ee. *But see* BX 3ee, 6/22/2012 entry (reflecting the Court's receipt of mail sent to Respondent that was returned by the U.S. Postal Service). Respondent did not file the brief or otherwise respond to this Court order by the November 30, 2010 due date. BX 3ee.

9. On December 9, 2010, the Court, *sua sponte*, ordered Respondent to file the brief, accompanied by a motion for leave to file out of time, within 20 days of the Court's order. BX 3e. This order was mailed to Respondent at her K St. office address. *Id.*

10. On December 29, 2010, Respondent timely filed a motion to extend time to file the brief. BX 3f. In her motion, Respondent stated, among other things, that: (a) she "had not obtained the entire transcribed record necessary to prepare the Appellant's brief by the court ordered deadline"; (b) she "has since obtained the entire record which is an additional few hundred pages"; (c) "[t]he additional transcript provided additional issues and research which Appellant's counsel is not able to complete by the Court ordered deadline"; and (d) she "miscalculated the due date." *Id.* Respondent did not claim she had been having any difficulty contacting Mr. Jackson, her client. *Id.*

11. On January 5, 2011, the Court granted Respondent's motion and ordered that the brief be filed on or before February 28, 2011. BX 3g.

12. On February 28, 2011, the due date for the brief ordered by the Court on January 5, 2011, Respondent timely filed another motion to extend time. BX 3h. In this motion, for the first time since her appointment in July 2009 (approximately 20 months into her representation of Mr. Jackson), Respondent informed the Court that she was having difficulty reaching her client, who was incarcerated. Respondent also acknowledged in the motion that she "ha[d] not had contact" with Mr. Jackson and "ha[d] not discussed appellate issues with him." *Id.* Respondent requested a 30-day extension of time to file the brief. *Id.*

13. On March 7, 2011, the Court granted the motion and ordered Respondent to file the brief on or before March 30, 2011. BX 3i. This order was mailed to Respondent at her K St. office address and the Court's docket sheet does not show that it was returned in the mail. *Id.; BX* 3ee. Respondent did not file the brief or otherwise respond to this Court order by the March 30, 2011 due date. BX 3ee.

14. On April 5, 2011, the Court, *sua sponte*, ordered Respondent to file the brief, accompanied by a motion for leave to file the brief out of time, within 20 days of the date of the order. BX 3j. This order was mailed to Respondent at her K St. office address, and the Court's docket sheet does not show that it was returned in the mail. *Id.*; BX 3ee. Respondent did not file the brief or otherwise respond to this Court order by the April 25, 2011 due date. BX 3ee.

15. On May 3, 2011, the Court, *sua sponte*, ordered Respondent to file the brief, accompanied by a motion for leave to file out of time, within 15 days of the date of the order. BX 3k. This order was mailed to Respondent at her K St. office address. *Id.*

16. On May 18, 2011, Respondent timely filed another motion to extend time. BX 3L. Respondent wrote that she had not had contact with Mr. Jackson and that a computer virus had caused her to lose "the office database." *Id.* It is not clear what she meant by the reference to "the office database." Respondent requested an additional 60 days to file the brief. *Id.* Respondent's motion did not request any additional time to file the limited appendix. *Id.*

17. On June 29, 2011, the Court granted Respondent's motion, and ordered Respondent to file the brief and the limited appendix on or before July 18, 2011. BX 3m (Bates Stamp 21). Respondent received this Court order. Tr. 232-233. Respondent did not respond to the Court order by July 18, 2011. BX 3ee.

18. On July 21, 2011, Respondent late-filed a motion to extend time. BX 3n. This motion, which nearly duplicates the previous extension motions, again stated that Respondent had no contact with her client. Respondent requested a 60-day extension of time. *Id.*

19. On August 1, 2011, the Court granted the motion and ordered the brief to be filed on or before September 16, 2011. BX 3ee. Respondent did not file a brief or otherwise respond to this Court order by the September 16, 2011 due date. *Id.* Respondent testified that she did not

recall receiving this Court order. Tr. 235. The Court's docket sheet does not show that this order was returned in the mail. BX 3ee.

20. On October 5, 2011, the Court ordered Respondent to file Mr. Jackson's brief and appendix within 15 days, accompanied by a motion for leave to file out of time. BX 3o. This order was sent to Respondent's K St. office address, and the Court's docket sheet does not show that it was returned in the mail. BX 3o, 3ee. Respondent testified that she did not recall receiving this order. Tr. 239. Respondent did not file the brief or otherwise respond to this Court order by the October 20, 2011 due date. BX 3ee.

21. Whether or not Respondent actually received the Court's August 2011 and October 2011 orders, Respondent did not check the Court's docket sheet or call the Court to determine its ruling on her July 21, 2011 extension motion. Tr. 240, 340-342.

22. On November 22, 2011, the Court ordered Respondent to file the brief and appendix within 10 calendar days of the order (December 2, 2011). The Court's docket sheet does not show that the order was returned in the mail. BX 3ee. Respondent did not file the brief or otherwise respond to this Court order by the December 2, 2011 due date. BX 3ee.

23. On December 8, 2011, Respondent moved to dismiss the appeal claiming that she was unable to communicate with Mr. Jackson because she could not locate him. BX 3p. This motion states that Respondent mailed "first class letters to [an] address provided by the Bureau of Prisons" and that the "last written communication was returned with no forwarding information." *Id.* Moreover, this motion states that the "Bureaus of Prisons inmate locator indicates a release date for Purnell Jackson of June 17, 2011." Accordingly, by December 8, 2011 at the latest, Respondent was aware that her client had been released from prison approximately six months earlier.

24. On December 28, 2011, the Court denied the motion and ordered Respondent to perform a "more complete search including contacting U.S. Parole commission since appellant is subject to three years supervised release." BX 3q. Respondent testified that she received this order. Tr. 343.

25. On February 28, 2012, the Court again ordered Respondent to file the brief and limited appendix within 40 days of the order. BX 3r. Respondent did not file the brief or otherwise respond to this Court order by the April 9, 2012 due date. BX 3ee. Respondent testified that she did not recall receiving this order. Tr. 259-260. This order was sent to Respondent's K St. office address, and the Court's docket sheet does not show that it was returned in the mail. BX 3r; BX 3ee.

26. On April 17, 2012, the Court again ordered Respondent to file the brief and appendix within 20 days of the order, accompanied by a motion for leave to file out of time. BX 3s. Respondent did not timely receive this order. Tr. 260-261. Consequently, Respondent did not file the brief or otherwise respond to this Court order by the May 7, 2012 due date. BX 3ee.

27. On May 18, 2012, the Court again ordered Respondent to file the brief and appendix within 15 days of the order. BX 3t. Respondent did not timely receive this order. Tr. 267. Consequently, Respondent did not file the brief or otherwise respond to this Court order by the June 4, 2012 due date. BX 3ee.

28. The Court mailed its April 2012 and May 2012 orders to the same K Street office address that it had been using to previously communicate with Respondent. BX 3s; BX 3t. The Court's docket sheet reflects that they were stamped "return to sender insufficient address" by the U.S. Postal Service, a new address was obtained for Respondent, and on June 22, 2012, the orders were re-mailed to Respondent at her home address. Tr. 262-263; BX 3ee; RX 5. Respondent

testified that she received the Court's April 2012 and May 2012 orders after the orders' response due date had expired. Tr. 265-267.

29. Respondent did not regularly check the Court's docket sheet. Tr. 341-342. As of at least June 22, 2012, Respondent had not checked the Court's docket sheet, or otherwise contacted the Court, to find out whether there had been any updates in the case since the Court denied her motion to dismiss on December 28, 2011. Tr. 340-343.

30. On July 17, 2012, Respondent moved for an extension of time to file the brief. BX 3u. This motion, a duplicate of previous extension motions, requested a 60-day extension for the same reasons as previously stated, *i.e.*, inability to communicate with Mr. Jackson, as well as "delay and/or loss of mail" caused by her decision to have her mail forwarded from her K St. office address. *Id.* Respondent continued to use the K St. office address on this motion. BX 3u. The motion did not identify the address to which her mail had been forwarded, or why she did not receive the forwarded mail. *Id.*

31. On July 27, 2012, the Court granted the motion and ordered Respondent to file the brief on or before September 10, 2012. BX 3v. Respondent testified that she received this order. Tr. 352. The Court used Respondent's home address to send the order to Respondent, presumably because of her statement in her July 17, 2012 motion that she was not receiving, or was not receiving on a timely basis, the Court's orders at her K St. office address. *Id.*

32. On September 12, 2012, Respondent moved the Court for an extension of time to file her brief. BX 3w. Respondent's motion was similar to previous motions and stated that she had "not had contact with Appellant" although she had tried to reach him. *Id.* This motion was filed two days late. BX 3v.

33. As noted above, on September 12, 2012, the Court ordered Respondent to file the brief and appendix within 15 days of the date of the order. BX 3x. This order was mailed to Respondent's home address and was received by Respondent. BX 3x; Tr. 270-271. However, Respondent testified that she was "confused" by the order because it was not a response to her September 2012 motion. Tr. 277-278, 280. Respondent failed to file a brief or otherwise respond to this Court order by the September 27, 2012 due date. BX 3ee.

34. On October 3, 2012, the Court granted Respondent's September 12, 2012 motion and ordered Respondent to file the brief and appendix on or before December 3, 2012. BX 3y. The Court sent this order to Respondent at her home address. *Id.* Respondent received this order. Tr. 278-279. Respondent admitted during her hearing testimony that she did not timely respond to the Court's October 3, 2012 order. Tr. 370; BX 3y; BX 3z.

35. On December 6, 2012, three days after the due date, Respondent again filed a motion for an extension of time that was similar to her previous extension motions in that it lists her unsuccessful attempts to contact Mr. Jackson. BX 3z. Respondent continued to use the K St. office address on this motion. BX 3z.

36. On December 14, 2012, the Court granted the motion and ordered Respondent to file the brief and appendix on or before February 4, 2013. BX 3aa. This order was addressed to Respondent at her home address. *Id.* Respondent received the order, but did not file the brief or otherwise respond to it by the due date. BX 3ee; Tr. 286.

37. On January 16, 2013, Respondent filed a change of address notice with the Court. BX 2; Tr. 294. However, Respondent did not file this change of address notice in the *Jackson* case, with the *Jackson* case heading and case number. Tr. 336. Therefore, the notice did not

appear on the docket sheet or as part of the record for the *Jackson* case. BX 3ee. The change of address listed a P.O. Box in Bowie, Maryland. BX 2 (Bates Stamp 4).

38. On March 1, 2013, the Court ordered Respondent to file the brief and appendix within 15 days of the Court's order. BX 3ee.

39. In response, on March 18, 2013, Respondent filed a motion for an extension of time, claiming that she could not locate Mr. Jackson. BX 3bb. This was the last motion Respondent filed in this matter. BX 3ee. Respondent used the Bowie, Maryland, P.O. Box address in the motion and her K St. office address in the Certificate of Service accompanying the motion. BX 3bb. Respondent requested an additional 60 days to file the brief.

40. Starting from Respondent's appointment as counsel to Mr. Jackson through March 18, 2013, Respondent filed motions for extension of time to file a brief, and in each motion she indicated the reasons for the request. BX 3d; BX 3e; BX 3i; BX 3j; BX 3m; BX 3n; BX 3ee; BX 3o; BX 3p; BX 3r; BX 3s; BX 3t; RX 5; BX 3u; BX 3x; BX 3y; BX 3z; BX 3aa; BX 3bb; BX 3cc. The government did not oppose any of the motions for extension filed by Respondent. *Id.*

41. On March 26, 2013, the Court ordered Respondent to file the brief and appendix by April 1, 2013, or "show cause" why she should not be held in contempt for failure to comply. BX 3cc. The Order was addressed to Respondent at her K St. office address and the Court's docket sheet does not show that it was returned in the mail. BX 3cc; BX 3ee. Respondent testified that she did not receive this order, although she testified that she had provided a change of address notification to the U.S. Postal Service in January 2013, so the Order should have been forwarded to her P.O. Box in Bowie, Maryland. Tr. 293-294, 335-336. Respondent did not respond to this order.

42. Although on March 18, 2013, Respondent had requested an additional 60 days to file the brief, Respondent did not check the court docket to determine the status of her motion. Tr. 341-342. After the 60 days expired, Respondent still did not file the brief or request additional time to do so. BX 3ee.

43. On June 19, 2013, the Court vacated Respondent's appointment, appointed new counsel, and referred the matter to Disciplinary Counsel. BX 1, BX 3dd. The Court also ordered that the "Clerk reject any voucher filed by [Respondent]." *Id.*

44. Respondent admitted during her hearing testimony that she did not timely respond to the Court's October 3, 2012 order. Tr. 370; BX 3y; BX 3z.

45. Between the Court's July 31, 2009 order of appointment and its June 19, 2013 order vacating the appointment, Respondent either did not respond or filed a late response to at least 16 of the Court's orders (not counting the April 17, 2012 and May 18, 2012 orders that were returned to the Court by the U.S. Postal Service). BX 3a; BX 3d; BX 3e; BX 3i; BX 3j; BX 3m; BX 3n; BX 3ee; BX 3o; BX 3p; BX 3r; BX 3s; BX 3t; RX 5; BX 3u; BX 3x; BX 3y; BX 3z; BX 3aa; BX 3bb; BX 3cc; Appendix A attached hereto. For five of these orders, Respondent testified that she either did not receive the order, did not remember receiving the order, or received the order after its due date. Tr. 235; 239; 259-260; 265-266; 293-294; 335-336.

46. On July 15, 2015, Respondent responded to Disciplinary Counsel's inquiry saying that she "had been compliant and followed all court orders I had received on this case." BX 2; Tr. 367. However, during the hearing Respondent admitted that she had failed to timely respond to one of the orders. Tr. 370. Even excluding the Court orders Respondent claimed she did not receive, received late or does not remember receiving, Respondent failed to respond, timely or at all, to at least 11 orders. Tr. 235; 239; 259-260; 265-266; 293-294; 335-336. Respondent testified

that, even though she may respond to a court order after its due date, she believes she is still in compliance with that order because "I still responded to the order." Tr. 372-373.

47. Although Respondent testified that she reviewed the transcripts of Mr. Jackson's trial, did research and wrote a draft brief, aside from Respondent's testimony, there was no evidence provided during the hearing that this occurred. Tr. 310, 348. Respondent testified that her draft brief was destroyed by a computer virus that occurred in May 2011. Tr. 348, 424. However, between May 2011 and June 2013, when Respondent remained counsel of record for Mr. Jackson, she did not re-create the brief that purportedly disappeared nor did she produce any research notes or outlines showing work on the case. Tr. 348, 409-411, 417-420. Respondent produced no documentary evidence of work done in the almost four (4) years she represented Mr. Jackson, except for a note of a telephone call to his parole officer (RX 8), one letter to Mr. Jackson (returned in the mail) (RX 9) and one undated letter to Mr. Jackson's parole officer. RX 7; Tr. 406.

D. <u>Attempts to Communicate with Client</u>

48. At or near the end of August 2009, Respondent attempted to visit Mr. Jackson at the D.C. Jail. Tr. 202, 316. Upon arrival at the D.C. Jail, Respondent was informed that Mr. Jackson was no longer being held in that facility. Tr. 319. Because Mr. Jackson was a convicted felon, he did not remain at the D.C. Jail, but instead was transferred to a federal institution. Tr. 201, 318.

49. Shortly after her unsuccessful attempt to locate Mr. Jackson at the D.C. Jail, Respondent performed a Bureau of Prisons search, and located him in a federal facility in Virginia. Tr. 202-203. During the hearing, initially Respondent could not recall the name of the city in Virginia in which Mr. Jackson was located at that time, but she said she believed it may have been

Fredericksburg. Tr. 202. During the hearing, to refresh her memory, Respondent was shown a sealed letter stamped by the Post Office "Return to Sender" – "Not deliverable as addressed" – "Unable to Forward" containing her law office address as sender and addressed to Mr. Jackson at a federal facility in Petersburg, Virginia. RX 9. Although the letter was post marked July 9, 2011, Respondent indicated that it refreshed her memory that, at the end of August 2009, Mr. Jackson was located at the Petersburg federal facility. Tr. 203, 206, 208. However, when the letter was opened (later in the hearing), the letter itself indicates that Respondent had previously "tried to contact [Mr. Jackson] by letter at a different location" without success. (The letter does not identify the "different location.") RX 9. In other words, the letter indicates that, prior to June 29, 2011, Respondent had attempted to contact Mr. Jackson by letter at a facility other than the Petersburg facility. Consequently, although Respondent attempted to contact Mr. Jackson by letter, the record is not clear where Respondent addressed her letter to Mr. Jackson prior to June 28, 2011.

50. Respondent wrote to Mr. Jackson at a federal facility in August 2009, shortly after her unsuccessful attempt to visit him at the D.C. Jail. Tr. 203, 205-206, 208-209. Respondent had no record of this communication and she did not know where she addressed this first letter. Tr. 220, 222, 226. The August 2009 letter was not returned to her by the U.S. Postal Service. Tr. 208.

51. Respondent wrote Mr. Jackson a second letter in December 2009 or January 2010. Tr. 209. Respondent did not know where she addressed this second letter to Mr. Jackson. Tr. 222-224, 226.

52. In early 2011, at least a year after Respondent wrote a second letter to Mr. Jackson, Respondent received a telephone call from a "young lady" calling on behalf of Mr. Jackson. Tr. 210, 212-216. The caller would not provide her name, but said "Mr. Jackson wants to know why you're trying to get in touch with him." Tr. 213-214. Respondent told the caller she was appointed

by the Court to represent Mr. Jackson. Tr. 213. Respondent did not obtain the caller's name or contact information, nor did she verify where she could reach Mr. Jackson. Tr. 213-214. Respondent documented her contact with the unidentified caller in a motion to file an extension dated May 18, 2011, and a letter to Mr. Jackson dated June 28, 2011. BX3l; RX9; Tr. 214-216.

53. Respondent wrote a third letter to Mr. Jackson on June 28, 2011, which was returned by the U.S. Postal Service on July 19, 2011. Tr. 216-218; 456; RX 9. Respondent did not know if Mr. Jackson received her first or second letter, and her third letter was returned in the mail. Tr. 222. The letter was addressed to Mr. Jackson at the federal correctional institution at Petersburg. RX 9. The letter was first opened at the hearing, and the contents of the letter corroborate Respondent's testimony that it was not her first letter to Mr. Jackson. Tr. 218-220. After Respondent received the returned letter, she conducted a Bureau of Prisons website search to determine where Mr. Jackson was located, but could not find him. Tr. 220.

54. At some point between July and August 2011, Respondent talked to Roseanna Mason, an employee at the D.C. Court of Appeals about hiring an investigator to look for Mr. Jackson. Tr. 237-238. Because Respondent was told by Ms. Mason that the Court would not cover the cost to hire an investigator, she did not move the Court for permission to hire an investigator to assist her in locating Mr. Jackson. Tr. 237-238, 325-328.

55. In denying Respondent's extension motion on December 28, 2011, the Court required that she conduct a "more complete search," including contacting Mr. Jackson's parole officer. BX 3Q. Respondent attempted to call Mr. Jackson's parole officer and left her voicemail messages, but the parole officer did not respond. Tr. 252. Respondent wrote the parole officer a letter and also attempted to call the parole officer's supervisor, but received no responses. Tr. 252-255. Respondent provided a copy of an undated letter to Mr. Jackson's parole officer requesting

Mr. Jackson's "contact information." Tr. 253-254; RX 7. Respondent believed this letter was sent in July 2012. Tr. 255-256. Respondent's July 2012, September 2012, December 2012 and March 2013 motion filings reference her attempts to contact Mr. Jackson's "community supervision officer." BX 3U; BX 3W; BX 3Z; BX 3bb. Respondent's December 2012 and March 2013 extension motions reference that she had also "written to the supervision officer." BX 3Z; BX 3bb. There is no evidence Respondent attempted to personally visit the parole officer who was located at 300 Indiana Ave., NW, Washington, D.C. 20001. RX 7.

56. Although Mr. Jackson was incarcerated for at least two years during the time that Respondent represented him (July 2009 through July 2011), Respondent failed to communicate with him. BX 3q; BX 3ee; Tr. 223-225, 229.

57. Between the date on which Respondent sent Mr. Jackson a second letter (December 2009 or January 2010) and the date on which a "young lady" called on Mr. Jackson's behalf (early 2011), approximately one year had passed. Tr. 210, 212-216. There is no evidence Respondent took any steps to locate Mr. Jackson during that intervening one-year period. And, Respondent's motions in the *Jackson* case do not mention Respondent's difficulty locating Mr. Jackson until her February 2011 motion filing, approximately 19 months after she was first appointed to represent Mr. Jackson. BX 3h.

58. Between the date Respondent testified she received a telephone call from a "young lady" on Mr. Jackson's behalf (sometime around the beginning of 2011) and June 28, 2011, when Respondent wrote a letter to Mr. Jackson, there is no evidence Respondent took any steps to locate Mr. Jackson.

59. Although Mr. Jackson was released from incarceration in June 2011, Respondent did not attempt to contact him through his parole officer until ordered to do so by the Court in

December 2011 (in the order denying her extension motion), approximately six months after Mr. Jackson had been released. BX 3p; BX 3q.

60. There is no evidence Respondent talked to Mr. Jackson's trial lawyer to see if he had contact information for Mr. Jackson, his relatives or his friends.

61. Although Respondent contacted the Assistant United States Attorney representing the government on appeal in the *Jackson* case regarding whether the government would oppose her extension motions, there is no evidence that Respondent asked that attorney for assistance in locating Mr. Jackson.

62. There is no evidence that Respondent asked the Court for assistance in locating Mr. Jackson. Although successor counsel moved the Court for an investigator and the Court denied the motion, it was clear from the Court's previous order that the Court had an address for Mr. Jackson, *i.e.,* Federal Correctional Institution, Fort Dix. *See* BX 3dd (Bates Stamp 49). And, within five months of his appointment, successor counsel was able to locate Mr. Jackson, communicate with him and file a motion to dismiss the appeal. BX 3ee.

63. Despite having made only limited attempts to contact Mr. Jackson over an approximately four-year period, Respondent testified that she did everything she could to contact Mr. Jackson. Tr. 389-390.

E. Respondent's Credibility

Statements Regarding Retention of Hard Copy Documents

64. Respondent testified that she lost "all of her prior electronic information" in her computer prior to the summer of 2011 because of a computer virus. Tr. 227. Respondent further testified that she did not set up "non-electronic files until after [the] computer virus" and that she did not have hard copies of all of her letters to Mr. Jackson (including those written prior to the

computer virus). Tr. 227-228, 310-311. In her May 18, 2011 motion for an extension of time, Respondent asserted that her computer caused her to lose her brief and the research for the brief. BX 3L.

65. Respondent previously testified under oath in *Askew I* that she "used to make hard copies of everything [she] did" prior to 2011. BX 4; Tr. 315-316.

66. The Hearing Committee finds that Respondent's inconsistent testimony regarding whether she made hard copies of her documents prior to 2011 evidences a lack of credibility.

Statements Regarding Mail Issues

67. During the evidentiary hearing, Respondent testified that she did not receive the Court orders filed on the following dates: August 1, 2011 (Tr. 235-236, 438); October 5, 2011 (Tr. 239); February 28, 2012 (Tr. 259-260); and March 26, 2013 (Tr. 293-294).

68. Although the court docket does indicate that certain Court orders dated April 17, 2012 and May 18, 2012 were returned by the Post Office (and successfully re-mailed, on June 22, 2012, to Respondent at another address), the Court orders dated August 1, 2011, October 5, 2011, February 28, 2012 or March 26, 2013 were not returned by the Post Office. BX 3ee.

69. Respondent testified that she had issues receiving her mail at her K St. office address since at least 2011. Tr. 268, 330-332. Respondent further testified that, on or about June 22, 2012, she had made arrangements to have her mail forwarded from her K St. office address to a Maryland P.O. Box near her home in Bowie, Maryland. Tr. 267-268. However, Respondent continued to use the K St. office address in subsequent Court filings. BX3u (motion and certificate of service); BX 3w (certificate of service; there is no motion signature block); BX 3z (motion and certificate of service); 3bb (certificate of service). And, Respondent did not file a Change of Address with the District of Columbia Court of Appeals until January 16, 2013, at which time she

indicated a P.O. Box in Bowie, Maryland, as her new address. BX 2 (Bates Stamp 4); Tr. 330-332, 335-336.

70. Given that only two Court mailings (during an isolated timeframe) were returned by the Post Office (BX3ee), Respondent continued to use her K St. office address up to the time of her last filing (March 18, 2013) in the *Jackson* case (BX 3bb), and Respondent did not make a formal address change until January 2013 (BX 2), the Hearing Committee finds that there was, at most, an isolated issue with Respondent's mail, and that Respondent's testimony regarding significant issues receiving her mail was false.

Explanation Regarding Failure to Check the Docket Sheet

71. Respondent testified that she did not regularly check the Court's docket sheet in the *Jackson* matter because she was in communication with the Court and was unaware that she was not receiving information from the Court. Tr. 341-342. In fact, Respondent testified that the only time she checked the docket sheet in the *Jackson* matter was when "one of the orders didn't make sense." Tr. 341. However, given that Respondent was at least clearly aware she had not timely received the April and May 2012 Court orders, Respondent's explanation for why she did not check the docket sheet lacks credibility. Moreover, this statement is inconsistent with Respondent's contention that she had significant mail issues since 2011 (discussed above). Accordingly, the Hearing Committee finds that Respondent's testimony regarding why she did not check the docket sheet was false.

Claimed Attempt to Contact Mr. Jackson

72. Respondent testified that at some point before December 2009 or January 2010, she telephoned a counselor at a federal institution and requested that the counselor ask Mr. Jackson to call her. Tr. 323, 454. Respondent testified that she did not follow up with the counselor to find

out why she had not received a call from her client. Tr. 323-325. Respondent further testified that she did not schedule a date or time for a return call from Mr. Jackson. *Id.* When she testified, Respondent did not know the name of Mr. Jackson's counselor, or the telephone number of the counselor, nor did she provide any record of this information. Tr. 323-325, 454-456. Moreover, none of Respondent's motions for extension list an attempt by Respondent to contact Mr. Jackson via asking a counselor at a federal institution to have Mr. Jackson call Respondent. *See* BX 3c; BX 3f; BX 3h; BX 3l; BX 3n; BX 3p; BX 3u; BX 3w; BX 3z; BX 3bb. Accordingly, the Hearing Committee finds Respondent's testimony regarding contacting a "counselor" to be false.

Statements Regarding September 10 vs. September 12 Filing

73. In September 2012, Respondent moved the Court for an extension of time to file her brief. BX 3w. Respondent's motion was similar to previous motions and stated that she had "not had contact with Appellant" although she had tried to reach him. *Id.* During the hearing, Respondent testified that she filed this extension motion on September 10, 2012, the day her response was due to the Court pursuant to the Court's July 27, 2012 order. Tr. 273-274; BX 3v; BX 3w. The Certificate of Service was dated September 12, 2012 and was stamped as "Received" by the Court of Appeals, and "Filed" with the Court of Appeals on September 12, 2012. The motion also bears a "Received" stamp dated September 10, 2012. However, the September 10 "Received" stamp date was crossed out, and initialed by "PM." The September 12, 2012 "Filed" stamp is also initialed by "PM." Respondent testified that she "know[s]" that September 10, 2012 was the "day [she] initially filed [the motion]" because "that's the day it was due" and she "actually turned [the motion] in to the clerk's office" and the clerk "stamp[ed] it right there." Tr. 282-283; BX 3w. However, the Hearing Committee finds that Respondent's testimony was false for the following reasons:

- The September 10, 2012 "Received" stamp was crossed out.
- The Court issued an order on September 12, 2012 referring to its July 27, 2012 order's response date of September 10, 2012 and providing an additional 15 days for Respondent to respond, which indicates that the motion filed by Respondent in response to the Court's July 27, 2012 order was not filed on or before September 10, 2012. BX 3x.
- The docket sheet indicates that Respondent's motion was filed on September 12, 2012 and after the Court issued its September 12, 2012 order noted in the previous paragraph. BX 3ee.
- The Certificates of Service accompanying all but two of Respondent's motions filed in the *Jackson* case and admitted into evidence in this matter are dated on the same date as the associated motion's "Filed" and "Received" stamp. BX 3c; BX 3f; BX 3h; BX 3l; BX 3p; BX 3z; BX 3bb. For those two Certificates of Service that did not contain the same date as the "File" and "Received" stamp, one was dated one day prior, BX 3U, and the other was dated May 18, 2011, approximately two months before the motion's July 21, 2011 stamped "Filed" and "Received" dates. Because May 18, 2011 is the date Respondent filed her previous motion in the *Jackson* case and also the date of that motion's Certificate of Service, the Certificate of Service date on the subsequent motion filed on July 21, 2011 is apparently a replication error. BX 3n; BX 3l.
- For all motions filed by Respondent in the *Jackson* case, in no circumstances other than the September 2012 motion was there a Certificate of Service dated *after* the purported filing date.
- For all of Respondent's other motions admitted in evidence in the *Jackson* case, the "Filed" stamp and the "Received" stamp are always the same date. BX 3c; BX 3f; BX 3h; BX 3l; BX 3n; BX 3p; BX 3u; BX 3z; BX 3bb.

The *Middleton* Order

74. On September 27, 2011, the Court issued an order vacating Respondent's appointment in the separate appellate matter where she represented Ronald Middleton, because Respondent failed to file a brief in the *Middleton* case and "ignored th[e] court's previous orders . . ." to do so ("*Middleton* Order"). RX 10. Among other things, the *Middleton* Order removed Respondent from the court's CJA panel and required Respondent to turn over her file to successor counsel. RX10.

75. Although addressed to her K St. office address, Respondent testified that she did not receive the *Middleton* Order until January 2013 (nearly 16 months later), when it was provided

to her by Disciplinary Counsel. Tr. 288-290. Respondent further testified that she believed her appointment to represent Mr. Jackson had been vacated by the *Middleton* Order because it states she was "removed from the court's CJA panel." Tr. 287, 290; BX 2. Respondent also testified that she did not respond to the Court's December 14, 2012 order in the *Jackson* case because she had been removed from the CJA panel. Tr. 287. Respondent added that because she had been removed from the panel, she understood that she "was not to do any further work for the Court of Appeals." Tr. 287.

76. The *Middleton* Order did not vacate Respondent's appointment in the *Jackson* case. The Court did not vacate Respondent's appointment in the *Jackson* case until June 19, 2013. BX 3dd. Respondent was the only attorney of record in the *Jackson* case until successor counsel was appointed. *Id.*; Tr. 373-374. Respondent did not file a motion to withdraw in the *Jackson* case at any time. BX 3ee; Tr. 292, 380-382, 378. Respondent testified that she could not file a motion to withdraw because she did not know how to inform her client of this motion. Tr. 292-293, 380-381. If Respondent was confused about her role and her obligations to the Court in the *Jackson* case, it was her responsibility to communicate with the Court to clarify the situation. Tr. 328-330, 344-345.

77. The Hearing Committee finds Respondent's testimony regarding not receiving the *Middleton* Order until January 2013 and believing her appointment to represent Mr. Jackson had been vacated through the *Middleton* Order to be false for the following reasons:

- Despite Respondent's contention that she did not receive the *Middleton* Order until January 2013, she complied with the order to turn over the file at some point before January 2013. Tr. 288-290, 396-398. (Note: This fact also supports the Hearing Committee's finding that Respondent falsely testified to having "mail issues" resulting in her failure to receive multiple court orders in the *Jackson* case, as discussed above.)
- Even if Respondent had not received the *Middleton* Order until January 2013, she knew her appointment to represent Mr. Jackson had not been vacated because, from September 27, 2011 through January 2013, the Court had continued to order her to file

the brief in the *Jackson* case (Tr. 290), and Respondent continued to file extension motions during this timeframe. BX 3p; BX 3u; BX 3w; BX 3z. There is no evidence Respondent sought a clarification from the Court regarding the removal. And Respondent had no justifiable reason to believe that removal from the panel for CJA appointments also meant that she was no longer Mr. Jackson's counsel of record.

- Respondent testified that she filed a motion for an extension of time in March 2013, in order to preserve Mr. Jackson's rights. Tr. 291-292, 360. In that motion, Respondent did not request that the Court vacate her appointment or re-assign the case to another attorney. BX 3bb; Tr. 360. In fact, that motion is similar in substance to her prior motions and makes no mention of her alleged belief that she had been removed as Mr. Jackson's counsel. BX 3bb.

Deliberately False Testimony

In sum, the Hearing Committee finds there is clear and convincing evidence that Respondent acted deliberately when providing this false testimony, based on the implausibility of her inconsistent testimony, including:

- Respondent's testimony regarding her retention of hard copy documents prior to the summer of 2011 was inconsistent with her prior under oath testimony in *Askew I*.
- Respondent's testimony regarding "mail issues" causing her not to receive multiple Court orders over an extensive timeframe does not ring true in light of the fact that the Court's docket indicates only two orders were returned in the mail during an isolated timeframe, coupled with the fact that Respondent did not forward her mail until January 2013 and Respondent continued to use the address she claimed was problematic on her filings through the date of her last filing in the *Jackson* case.
- Respondent's "mail issues" testimony is inconsistent when compared with her explanation for not having checked the Court's docket sheet – *e.g.*, she was receiving all information from the Court.
- Respondent's testimony that she attempted to contact a counselor at Mr. Jackson's federal institution is not corroborated by her motion filings (unlike her other limited attempts at contact) and, when testifying, Respondent could not provide any identifying information regarding the purported counselor.
- Given the facts and circumstances, Respondent's testimony that she timely filed a responsive motion on September 10, 2012 is best characterized as an attempt to capitalize on a Court date-stamping error—that was corrected on the face of the motion document—in an effort to convince the Hearing Committee that she had timely filed this response, when in fact the response was filed two days late.
- Respondent's testimony that she did not receive the *Middleton* Order until January 2013 is contradicted by her actions—she turned over the *Middleton* file, as required under the *Middleton* Order, before January 2013.
- Respondent's testimony that the *Middleton* Order vacated her appointment in the

Jackson case is also inconsistent with the fact that Respondent knew she had received Court orders in the *Jackson* case through and beyond January 2013 (and, to which, Respondent, in some instances, responded).

III. Conclusions of Law

The Hearing Committee concludes that Disciplinary Counsel has proven by clear and convincing evidence that Respondent committed the following violations of the Rules of Professional Conduct.

A. Rules 1.1(a) (competent representation) and 1.1(b) (skill and care)

An attorney must represent clients with competence; specifically, the "legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation." Rule 1.1(a). Competent representation requires both the "skill and care" that other attorneys generally provide in similar matters, (Rule 1.1(b)), and "continuing attention" to the matter (Rule 1.1 cmt. 5). Rule 1.1(b) provides that, "[a] lawyer shall serve a client with skill and care commensurate with that generally afforded to clients by other lawyers in similar matters." Rule 1.1(b) does not require that Disciplinary Counsel present expert testimony as to the skill and care afforded to clients by other lawyers in similar matters. If the evidence shows that the attorney's conduct was "obviously lacking," then such testimony is unnecessary. *In re Nwadike*, Bar Docket No. 371-00 at 28 (BPR July 30, 2004), *recommendation approved*, 905 A.2d 221 (D.C. 2006); *In re Drew*, 693 A.2d 1127 (D.C. 1997).

At a minimum, Respondent's duty of thoroughness, skill, care and "continuing attention" required her to take adequate steps to locate and communicate with Mr. Jackson, and timely respond to Court orders regarding Mr. Jackson's case. Here, during the approximately four years Respondent represented Mr. Jackson, she took only sporadic action to locate and communicate with him, waiting several months (and at one point approximately a year) between action steps. Tr. 210, 212-216.

Mr. Jackson was incarcerated for at least the first two years he was represented by Respondent. Consequently, Mr. Jackson's incarceration significantly limited his ability to initiate communications with Respondent. Therefore, the onus was on Respondent to initiate and maintain communications with Mr. Jackson. Respondent failed to even mention to the Court, until approximately 19 months into her representation of Mr. Jackson, that she was having difficulty contacting him. BX 3h.

Respondent sent Mr. Jackson only three letters during the approximately four years she represented him. The first letter was mailed in or about August 2009, the second letter was mailed approximately four months later in December 2009 or January 2010, and the third letter was mailed approximately eighteen months later on June 28, 2011. Tr. 203, 205-206, 208-209, 216-218; 456; RX 9. Respondent did not know whether Mr. Jackson had received her first two letters, and she knew the third letter had not been received as it had been returned to her as undeliverable. Tr. 222. Respondent was unsure of the address used for the first two letters and did not produce copies of these letters. Tr. 220, 222-224, 226. Respondent claimed her records had been lost to a computer virus during 2011, and that she did not maintain paper copies prior thereto. Tr. 226-228, 310-311. However, in previous sworn testimony in *Askew I*, Respondent claimed to have maintained paper copies prior to 2011. BX 4; Tr. 315-316. Despite this inconsistency and other issues with Respondent's credibility, the Hearing Committee relies on the contemporaneous motions filed by Respondent in the *Jackson* case and Respondent's third letter to Mr. Jackson (opened for the first time during the hearing) in determining that Respondent did, in fact, attempt to contact Mr. Jackson via mailing him letters on three occasions during her approximately four year representation of Mr. Jackson. However, the Hearing Committee finds that Respondent's mailing of only three letters during her approximately four-year representation of Mr. Jackson was wholly inadequate.

Also, during that approximately four-year timeframe, Respondent made only one attempt to visit Mr. Jackson while he was incarcerated, in the summer of 2009. As evidence of this visit, Respondent testified that she "filled out" a "Request to Visit" document; however, Respondent did not provide that document to Disciplinary Counsel or otherwise offer it during the hearing. Tr. 321-322. Nonetheless, the Hearing Committee is satisfied based on Respondent's contemporaneous motions filed in the *Jackson* case, that she did visit Mr. Jackson while he was incarcerated during the summer of 2009. However, despite locating Mr. Jackson thereafter through Bureau of Prison inmate searches, there is no evidence Respondent attempted to visit Mr. Jackson any other time during the at least two years he was incarcerated. Tr. 202-203.

Respondent testified that at some point before she wrote her second letter to Mr. Jackson, she telephoned a counselor at a federal institution and requested that the counselor ask Mr. Jackson to call her. Tr. 323, 454. Respondent testified that she did not follow up with the counselor to find out why she had not received a call from her client. Tr. 323-325. Respondent further testified that she did not schedule a date or time for a return call from Mr. Jackson. *Id.* Respondent did not know the name of Mr. Jackson's counselor, or the telephone number of the counselor, nor did she have any record of this information. Tr. 323-325, 454-456. None of Respondent's motions for extension list this purported attempt by Respondent to contact Mr. Jackson by asking a counselor at a federal institution to have Mr. Jackson call Respondent. *See* BX 3c; BX 3f; BX 3h; BX 3l; BX 3n; BX 3p; BX 3u; BX 3w; BX 3z; BX 3bb. Consequently, the Hearing Committee finds that this testimony lacks credibility. Moreover, due to the self-serving nature of this testimony, coupled with the multiple other self-serving false testimony provided by Respondent (discussed *infra* and *supra* herein), the Hearing Committee finds that Respondent's testimony was deliberately false.

In early 2011, approximately one-year after sending her second letter to Mr. Jackson, Respondent received a telephone call from a "young lady" calling on behalf of Mr. Jackson. Tr. 210, 212-216. Respondent documented this contact in a motion to file an extension dated May 18, 2011, and in her third letter to Mr. Jackson, dated June 28, 2011. BX 3l; RX 9; Tr. 214-216. Accordingly, the Hearing Committee is satisfied that such conversation took place. However, Respondent failed to obtain Mr. Jackson's location or otherwise establish a communication link through this individual. Tr. 213-214.

Furthermore, in denying Respondent's extension motion on December 28, 2011, the Court required that she conduct a "more complete search" including contacting Mr. Jackson's parole officer. BX 3q. Respondent attempted to telephone Mr. Jackson's parole officer and left her voicemail messages, but the parole officer did not respond. Tr. 252. Respondent wrote the parole officer a letter and also attempted to call the parole officer's supervisor, but received no responses. Tr. 252-255. Respondent provided a copy of an undated letter to Mr. Jackson's parole officer requesting Mr. Jackson's "contact information." Tr. 253-254; RX 7. Respondent believed this letter was sent in July 2012, approximately six months after the Court required that she contact the parole officer. Tr. 255-256. Respondent's July 2012, September 2012, December 2012 and March 2013 motion filings reference her attempts to contact Mr. Jackson's "community supervision officer." BX 3U; BX 3W; BX 3Z; BX 3bb. Accordingly, the Hearing Committee is satisfied that Respondent did make at least some attempt to contact Mr. Jackson's parole officer. However, the Hearing Committee finds that waiting six months and mailing only one letter to the parole officer was insufficient. Additionally, there is no evidence Respondent attempted to personally visit the parole officer, who was located within the District of Columbia (at 300 Indiana Ave., NW,

Washington, D.C. 20001), a location Respondent could have easily visited after receiving no response from her phone calls or letter. RX 7.

There is no evidence Respondent talked to Mr. Jackson's trial lawyer to see if he had contact information for Mr. Jackson, his relatives or his friends. And, although Respondent contacted the Assistant United States Attorney representing the government in the *Jackson* case regarding whether the United States would oppose the numerous extension motions she had filed on Mr. Jackson's behalf, there is no evidence that Respondent asked that attorney for assistance locating Mr. Jackson.

Additionally, there is no evidence Respondent asked the Court for assistance in locating Mr. Jackson. It was clear from the Court's June 19, 2013 order that the Court knew where Mr. Jackson was located. *See* BX 3dd (Bates Stamp 49—copy of order mailed to Purnell K. Jackson at Fort Dix). And, within five months of his appointment, successor counsel was able to locate Mr. Jackson, communicate with him and file a motion to dismiss the appeal, with a waiver of the appeal signed by Mr. Jackson one day after the Court denied the motion for an investigator. BX 3ee.

Furthermore, as discussed in more detail in the Rule 3.4(c) discussion below, Respondent failed to respond to Court orders, or did not respond in a timely manner to Court orders, at least 16 times in the *Jackson* case. Even excluding the Court orders Respondent claimed she did not receive, received late or does not remember receiving, Respondent still failed to respond, timely or at all, to at least 11 orders.

Additionally, although Respondent testified that she reviewed the transcripts of Mr. Jackson's trial, did research and wrote a draft brief, aside from Respondent's testimony, there was no evidence provided during the hearing that this occurred. Tr. 310, 348. Respondent testified

that her draft brief was destroyed by a computer virus in May 2011. Tr. 348, 424. However, between May 2011 and June 2013, when Respondent remained counsel of record for Mr. Jackson, she did not re-create the brief that purportedly disappeared due to the computer virus nor did she produce any research notes or outlines showing work on the case. Tr. 348, 409-411, 417-420.

Indeed, each of the above-noted failures placed Mr. Jackson's appeal at risk. In fact, Respondent never filed a brief on Mr. Jackson's behalf and was eventually removed by the Court. BX 3dd. Respondent's conduct was "obviously lacking" constituting a "serious deficiency" in her representation that prejudiced, or could have prejudiced, Mr. Jackson. *See In re Evans*, 902 A.2d 56, 69-70 (D.C. 2006) (per curiam) (appended Board Report) (to prove violation of Rule 1.1(a), Disciplinary Counsel must not only show that attorney failed to apply skill and knowledge, but that the failure constituted a serious deficiency in the representation); *see also In re Yelverton*, 105 A.3d 413, 421-22 (D.C. 2014) ("serious deficiency" requirement applies equally to 1.1(b)). Accordingly, we conclude that Respondent violated Rules 1.1(a) and 1.1(b).

B. Rules 1.3(a) (Diligence and Zeal)

Rule 1.3(a) provides that a lawyer "shall represent a client zealously and diligently within the bounds of the law." A violation of Rule 1.3(a) requires proof of "'indifference and a consistent failure to carry out the obligations that the lawyer has assumed to the client or a conscious disregard of the responsibilities owed to the client.'" *In re Wright*, 702 A.2d 1251, 1254 (D.C. 1997) (quoting *In re Reback*, 487 A.2d 235, 238 (D.C. 1985), *adopted in relevant part*, 513 A.2d 226 (D.C. 1986) (en banc)) (respondent violated Rule 1.3(a) where he failed to respond to discovery requests, a motion to compel, a show cause order, and numerous requests from the client for a status update).

We conclude that, as set forth in the previous section, Respondent's prolonged neglect of the *Jackson* case, including her failure to take thorough and continuing action to locate Mr. Jackson along with her failure to respond, timely if at all, to Court orders, violated the duty of diligence and zeal embodied in Rule 1.3(a).

C. Rules 1.4(a) (Communication) and 1.4(b) (Failure to Explain Matter to Client)

Rule 1.4 provides:

> (a) A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.
>
> (b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

With respect to Rule 1.4(a), "The guiding principle for evaluating conduct . . . is whether the lawyer fulfilled the client's 'reasonable . . . expectations for information.'" *In re Schoeneman*, 777 A.2d 259, 264 (D.C. 2001) (citations omitted). "To meet that expectation, a lawyer not only must respond to client inquiries but also must initiate communications to provide information when needed." *In re Hallmark*, 831 A.2d 366, 374 (D.C. 2003). Comment [5] to Rule 1.4 states, "A lawyer may not withhold information to serve the lawyer's own interest or convenience."

Comment [2] to Rule 1.4 imposes an affirmative duty to "initiate and maintain the consultative and decision-making process" even in the absence of requests for information from a client, and states that a lawyer "must be particularly careful to ensure that decisions of the client are made only after the client has been informed of all relevant considerations."

Rule 1.4 recognizes that an attorney cannot competently represent a client without consultation with the client. *In re Stow*, 633 A.2d 782, 784 (D.C. 1993) (appellate representation without communication violates predecessor Code section); *In re Rosen*, 470 A.2d 292, 295 (D.C. 1983) (same); *In re Mance*, 869 A.2d 339 (D.C. 2005) (failure to communicate with client about his appeal violates Rule 1.4(a)).

We conclude that, as set forth in the previous sections of this Report, Respondent failed to take the necessary steps to initiate communication with Mr. Jackson. In fact, she never did communicate with Mr. Jackson during the approximately four years she represented him; however, successor counsel was able to locate Mr. Jackson, communicate with him, and file a pleading on his behalf in a mere five-month period. Accordingly, we conclude that Respondent violated Rules 1.4(a) and (b).

D. Rule 3.4(c) (Knowingly Disobeying 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." The "knowledge" element requires proof of "actual knowledge of the fact in question," which "may be inferred from circumstances." Rule 1.0(f).

Here, during the hearing Respondent admitted she had failed to timely comply with one of the Court orders in the *Jackson* case. Tr. 370. Moreover, the evidence produced during the hearing indicates that Respondent did not respond to Court orders, or did not respond in a timely manner to Court orders, at least 16 times in this case, not including two orders (dated April 12, 2012 and May 18, 2012) that were returned to the Court as undeliverable by the Post Office. BX 3ee; *See* Appendix A attached hereto. Both of these orders were re-issued by the Court on June 22, 2012, and were eventually received by Respondent. *Id.*; RX 5; RX 6; Tr. 265-266. These are the only orders that were returned to the Court as undeliverable. BX 3ee.

For five of the 16 orders to which Respondent either failed to respond or failed to timely respond, Respondent testified she either did not receive them or that they were received after their due date. Tr. 235, 239, 259-260, 265-266, 293-294, 335-336. However, as discussed below, we find Respondent's testimony in this regard to be deliberately false.

During the evidentiary hearing, Respondent testified that she did not receive the Court orders filed on the following dates: August 1, 2011 (Tr. 235-236, 438); October 5, 2011 (Tr. 239); February 28, 2012 (Tr. 259-260); and March 26, 2013 (Tr. 293-294). Although the court docket does indicate that certain Court orders dated April 17, 2012 and May 18, 2012 were returned by the Post Office (and successfully re-mailed, on June 22, 2012 to Respondent at another address), the Court docket does not indicate any other Court orders that were returned by the Post Office. BX 3ee. Nonetheless, Respondent testified that she had issues receiving her mail at her K St. office address since at least 2011. Tr. 268, 330-332. Respondent further testified that she made arrangements to have her mail forwarded from her K St. office address to a Maryland P.O. box; however, she did not file a Change of Address with the District of Columbia Court of Appeals until January 16, 2013, at which time she indicated a P.O. Box in Bowie, Maryland, as her new address. BX 2 (Bates Stamp 4); Tr. 330-332, 335-336. And, Respondent continued to use her K St. office address through March 18, 2013, the date of her last filing in the *Jackson* case. BX 3bb. Moreover, as a reason for why she did not periodically check the Court's docket sheet, Respondent testified that she was in communication with the Court and was unaware that she was not receiving information from the Court. Tr. 341-342. Given the self-serving nature of, and inconsistencies with, this testimony, the Hearing Committee finds this testimony to be deliberately false.

Furthermore, Respondent claims to have filed a timely response to the Court's July 27, 2012 order. During the hearing, Respondent testified that she personally filed this motion on its September 10, 2012 due date, relying on her memory and the fact that this motion contains two "Received" Court stamps, and one is dated September 10, 2012. Tr. 282-283; BX 3w. However, the Certificate of Service accompanying this motion is dated September 12, 2012, as are the "Filed" Court stamp and one of the two "Received" Court stamps. BX 3w; Tr. 274-275, 282. And,

the September 10, 2012 "Received" stamp was crossed out. BX 3w. Moreover, the docket sheet indicates this motion was filed on September 12, 2012, and the timing of the Court's subsequent order indicates that a response had not been received by September 10, 2012. BX 3ee; BX 3x.

Respondent's document dating practices also suggest this motion was actually filed and received by the Court on September 12, 2012. The Certificates of Service accompanying all but two of Respondent's motions filed in the *Jackson* case are dated on the same date as the associated motion's "Filed" and "Received" stamp. BX 3c; BX 3f; BX 3h; BX 3l; BX 3p; BX 3z; BX 3bb. For those two Certificates of Service that did not contain the same date as the "Filed" and "Received" stamp, one was dated one day earlier, BX 3U, and the other was dated May 18, 2011, approximately two months before the motion's July 21, 2011 stamped "Filed" and "Received" dates. Because May 18, 2011 is the date Respondent filed her previous motion in the *Jackson* case and also the date of that motion's Certificate of Service, the Certificate of Service date on the subsequent motion filed on July 21, 2011 is apparently an error. BX 3n; BX 3l. And, in no circumstances other than the motion filed and received stamped September 12, 2012, was there a Certificate of Service dated subsequently.

Moreover, on all Respondent's other motions admitted in evidence in this case, the "Filed" stamp and the "Received" stamp are always the same date. BX 3c; BX 3f; BX 3h; BX 3l; BX 3n; BX 3p; BX 3u; BX 3z; BX 3bb. Accordingly, the Hearing Committee finds that Respondent's self-serving testimony in this regard was deliberately false, and that Respondent filed this motion on September 12, 2012, two days late.

Respondent further testified that she did not respond to the Court's December 14, 2012 order in the *Jackson* case because she believed she had been removed from the CJA panel due to her misconduct in the *Middleton* case. Tr. 286-287. Although the *Middleton* Order was issued in

September 2011, Respondent testified she did not become aware of its existence until January 2013, yet she had complied with at least the order's requirement to turn over documents prior to January 2013. Moreover, Respondent filed a motion for an extension of time in March 2013, in order to preserve his rights. Tr. 291-292, 360. In that motion, Respondent did not request that the Court vacate her appointment or re-assign the case to another attorney. BX 3bb; Tr. 360. In fact, that motion is similar in substance to her prior motions and makes no mention of her alleged belief that she had been removed as Mr. Jackson's counsel. BX 3bb. Accordingly, the Hearing Committee finds that Respondent's self-serving testimony in this regard was deliberately false.

Indeed, through the point at which Respondent's appointment was vacated, Respondent continued to knowingly fail in her obligations under the rules of a tribunal by ignoring Court orders or responding to them late. Accordingly, we conclude that Respondent violated Rule 3.4(c).

E. Rule 8.4(d) (Serious Interference with Administration of Justice)

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 she 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 potentially had an impact upon the process to a serious and adverse degree. *See In re Hopkins*, 677 A.2d 55, 60-61 (D.C. 1996). Rule 8.4(d) is violated if the attorney's conduct causes the unnecessary expenditure of time and resources in a judicial proceeding, where the impact is more than *de minimis*. *See In re Cole*, 967 A.2d 1264, 1266 (D.C. 2009). Failure to

respond to Disciplinary Counsel's inquiries and Court orders also violates Rule 8.4(d). *See* Rule 8.4, cmt. [2].

Here, Respondent's improper conduct, as described with particularity in the preceding sections of this Report, delayed the Court's consideration of the appeal for almost four years, thereby tainting the judicial process in more than a *de minimis* way. *See In re Toppelberg*, 906 A.2d 881 (D.C. 2006). Thus, Disciplinary Counsel proved that Respondent violated Rule 8.4(d).

IV. Recommended Sanction

Disciplinary Counsel argues that Respondent should be suspended for 30 days and be required to prove fitness as a condition of reinstatement. Respondent argues that she should be placed on supervised probation, concurrent with the probation imposed in *Askew I*.

The appropriate sanction is one that is necessary to protect the public and the courts, to maintain the integrity of the profession, and to deter Respondent and other attorneys from engaging in similar misconduct. *See In re Martin*, 67 A.3d 1032, 1053 (D.C. 2013) (citing *In re Scanio*, 919 A.2d 1137, 1144 (D.C. 2007)). As the Court has stated: "The purpose of imposing discipline is to serve the public and professional interests identified and to deter similar conduct in the future rather than to punish the attorney. . . . What is the appropriate sanction necessarily turns on the nature of the respondent's misconduct." *In re Austin*, 858 A.2d 969, 975 (D.C. 2004).

The sanction imposed must also be consistent with cases involving comparable misconduct or not otherwise unwarranted. *See* D.C. Bar R. XI, § 9(h)(1); *In re Elgin*, 918 A.2d 362, 373 (D.C. 2007); *In re Berryman*, 764 A.2d 760, 766 (D.C. 2000). The determination of a disciplinary sanction takes into account: (1) the seriousness of the conduct at issue; (2) the prejudice, if any, to the client which resulted from the conduct; (3) whether the conduct involved dishonesty and/or misrepresentation; (4) the presence or absence of violations of other provisions of the disciplinary

rules; (5) whether the attorney had a previous disciplinary history; (6) whether or not the attorney acknowledged his or her wrongful conduct; and (7) circumstances in mitigation of the misconduct. *See In re Vohra*, 68 A.3d 766, 784 (D.C. 2013) (*citing In re Hutchinson*, 534 A.2d 919, 924 (D.C. 1987) (en banc)). We discuss each of these in turn below.

Seriousness of the Conduct:

The Hearing Committee agrees with Disciplinary Counsel that Respondent's conduct, including failure to communicate and failure to respond to Court orders, was serious neglect. Respondent represented Mr. Jackson for approximately four years. During that extensive timeframe, she never made contact with her client. Yes, she did take some steps to do so; however, those steps were few and far between, and there are many steps she could have and should have taken, but failed to do so. Ultimately, she allowed four years to pass without making contact. Additionally, the record is replete with examples where Respondent failed to timely respond to Court orders, and in some cases failed to respond at all. Moreover, the successor attorney found Mr. Jackson, met with him, made appropriate court filings and received a decision all within five months.

Prejudice to the Client:

The Hearing Committee also agrees with Disciplinary Counsel that Respondent's late responses and failures to respond at all to Court orders placed Mr. Jackson's right to appellate review in jeopardy, and at a minimum caused unnecessary delay (*e.g.*, approximately four years). Accordingly, we find that Respondent's conduct caused prejudice to her client. *See Mance*, 869 A.2d at 343 n.6.

Dishonesty and/or Misrepresentation:

Disciplinary Counsel has not charged Respondent with dishonesty or misrepresentation, but urges that her testimony was neither credible nor honest. Specifically, Disciplinary Counsel argues that Respondent's testimony in the case at bar conflicts with testimony she provided in an earlier proceeding (*Askew I*), and in any event, points out that there exists no documentation to support many of her claims. Disciplinary Counsel then asserts that its view of Respondent's testimony before the Hearing Committee warrants and supports sanctions.

Respondent argues that none of her conduct involved dishonesty or misrepresentations. Respondent adds that her testimony in this case is corroborated by motions she filed and the existence of the third letter sent to Mr. Jackson. On this point, the Hearing Committee partially agrees with Respondent. Indeed, some of Respondent's claimed attempts to contact Mr. Jackson are corroborated by her motion filings and the third letter, and for those the Hearing Committee has given the Respondent credit. However, the record is replete with instances of self-serving testimony that either rings false or was otherwise contradicted by the evidence, as follows:

- Respondent's testimony regarding her retention of hard copy documents prior to the summer of 2011 was inconsistent with her prior under oath testimony in *Askew I*.
- Respondent's testimony regarding "mail issues" causing her not to receive multiple Court orders over an extensive timeframe does not ring true in light of the fact that the Court's docket indicates only two orders were returned in the mail during an isolated timeframe, coupled with the fact that Respondent did not forward her mail until January 2013 and Respondent continued to use the address she claimed was problematic on her filings through the date of her last filing in the *Jackson* case.
- Respondent's "mail issues" testimony is inconsistent when compared with her explanation for not having checked the Court's docket sheet—*e.g.*, she was receiving all information from the Court.
- Respondent's testimony that she attempted to contact a counselor at Mr. Jackson's federal institution is not corroborated by her motion filings (unlike her other limited attempts at contact), and, when testifying, Respondent could not provide any identifying information regarding the purported counselor.
- Given the facts and circumstances, Respondent's testimony that she timely filed a responsive motion on September 10, 2012 is best characterized as an attempt to

capitalize on a Court date-stamping error—that was corrected on the face of the motion document—in an effort to convince the Hearing Committee that she had timely filed this response, when in fact the response was filed two days late.

- Respondent's testimony that she did not receive the *Middleton* Order until January 2013 is contradicted by her actions—she turned over the *Middleton* file, as required under the Order, before January 2013.
- Respondent's testimony that the *Middleton* Order vacated her appointment in the *Jackson* case is also inconsistent in light of the fact the Respondent knew she had received Court orders in the *Jackson* case through and beyond January 2013 (and, to which, Respondent, in some instances, responded).

Indeed, given the nature and extent of the above testimony, the Hearing Committee finds that Respondent's testimony in this regard was deliberately false.

Presence of Other Disciplinary Rule Violations:

Disciplinary Counsel further suggests that having, in its view, violated seven disciplinary Rules, Respondent failed to adhere to her ethical responsibilities to both the client and the Court. Based on the findings set forth in the Conclusions of Law section of this report, the Hearing Committee agrees with Disciplinary Counsel.

Previous Disciplinary History:

As an aggravating factor, Disciplinary Counsel notes Respondent's prior discipline in *Askew I*. Where, on July 31, 2014, the Court suspended Respondent for a six month period, with all but 60 days stayed, and a one year probationary term for violations of Rules 1.1(a) and (b) (failing to provide client with competent representation); 1.3(a) (failing to provide zealous and diligent representation); 1.4(a) (failing to keep client reasonably informed); 1.4(b) (failing to explain matter to client to enable client to make informed decisions); 1.16(d) (failing to protect client's interests on termination of representation); 3.4(c) (knowingly disobeying obligation under rules of a tribunal); and 8.4(d) (engaging in conduct that seriously interferes with the administration of justice). BX 5; RX 11. Indeed, in that earlier matter, Respondent violated the same Disciplinary Rules charged in the instant matter. However, Respondent's misconduct in the

instant matter extended over a longer period of time (four years vs. 18 months) and was ongoing during the course of *Askew I*.

Respondent argues that in *Askew I*, the Court considered the instant case as an aggravating factor when imposing a sanction. However, this conclusion is not supported by the Court's opinion. In *Askew I*, the Court merely noted that Respondent's removal as counsel was not "aberrational," based on her removal as counsel in another CJA matter. *Askew I*, 96 A.3d at 61.[5] Although it appears that the Court was referring to the instant case, at the time it had not been adjudicated and its underlying facts and circumstances where not before the Court.

Because Respondent's misconduct in this case overlapped with the misconduct in *Askew I,* we do not consider *Askew I* in aggravation of sanction in the ordinary sense. Instead, we must recommend the sanction that would have been appropriate if both matters were before this Hearing Committee. *In re Dory*, 552 A.2d 518, 521 (D.C. 1989) (per curiam) (appended Board Report).

Whether Attorney Acknowledged Wrongful Conduct:

The Hearing Committee agrees with Disciplinary Counsel regarding Respondent's failure to admit her misconduct through all phases of the instant disciplinary action. Indeed, in her Answer to the Specification of Charges, Respondent denied all charges and continued her denial through the hearing and subsequent briefing.

[5] In her Answer to the Specification of Charges, Respondent also argued that the *Askew I* Court's reference to vacating her "other criminal matter" CJA appointment was grounds to stay and then dismiss the instant matter once she successfully completed the sanction imposed in the prior matter. Again, the underlying facts and circumstances comprising the *Jackson* case where not before the *Askew I* Court. Accordingly, Respondent's argument is meritless as the two matters stand alone. Moreover, this argument was not raised in Respondent's Brief and therefore is arguably waived. The Hearing Committee recommends that Respondent's motion to dismiss be denied.

Mitigating and Aggravating Circumstances:

Disciplinary Counsel argues that Respondent's mail problems are evidence in aggravation of sanction because, even though she was aware of these problems, she took no action to compensate for them, including checking the Court docket sheet or calling the Court to keep abreast of the status of the *Jackson* case. Disciplinary Counsel also noted that while Respondent argued that she did, in fact, try to communicate with her client, those attempts were perfunctory at best. Lastly, Disciplinary Counsel suggests that the Hearing Committee consider as aggravating factors the vulnerability of an incarcerated client, the lengthy period of the violations and her prior disciplinary history. The Hearing Committee agrees with Disciplinary Counsel. If she truly was fully engaged in representing Mr. Jackson and had experienced significant issues receiving mail, it is inconceivable that Respondent would allow large spans of time to pass without checking the docket sheet or otherwise contacting the Court. It is equally inconceivable that Respondent would allow nearly four years to pass without contacting Mr. Jackson, especially considering that Mr. Jackson was incarcerated for much of that timeframe.

The Mandate to Achieve a Consistent Sanction

As discussed above, we must recommend the sanction that would have been appropriate if the *Askew I* misconduct had been before this Hearing Committee. *See Dory,* 552 A.2d at 520. The instant case involves serious neglect: Respondent allowed approximately four years to pass without communicating with Mr. Jackson or withdrawing from the representation, and she failed to obey Court orders. Here, the gravity of the misconduct is compounded by the fact that it was ongoing while *Askew I* was pending, and by Respondent's dishonest testimony before this Hearing Committee.

In *Askew I,* which involved substantially similar misconduct in the *Middleton* case, the

Court suspended Respondent for six months, with all but 60 days stayed in favor of one year of probation. *Askew I*, 96 A.3d at 62. The Court also recently decided another similar case, *In re Murdter,* 131 A.3d 355 (D.C. 2016), where the Court suspended the respondent for six months, with all but 60 days stated in favor of one year of probation for the neglect of five court-appointed criminal appeals, notwithstanding substantial mitigation evidence.

In considering the appropriate sanction for all of Respondent's misconduct, we note two important differences between the instant case and *Askew I* and *Murdter*. The first is that much of the misconduct at issue here occurred after the Court removed Respondent as Mr. Middleton's counsel (September 2011), after Disciplinary Counsel opened its investigation in the *Middleton* case (October 12, 2011), after Disciplinary Counsel filed charges in the *Middleton* case (August 1, 2012), and even after she stipulated to misconduct before the *Askew I* Hearing Committee (January 11, 2013). Thus, Respondent was clearly on notice that the conduct at issue here did not comply with her ethical obligations, yet she did nothing to bring herself into compliance, waiting instead for the inevitable order vacating her appointment. Second, unlike the *Askew I* Hearing Committee, which found much of Respondent's testimony not credible, but did not find that it was intentionally so, we have found that Respondent repeatedly gave intentionally false testimony during this disciplinary hearing. Dishonest testimony to a Hearing Committee is a significant aggravating factor. *See In re Bradley,* 70 A.3d 1189, 1195 (D.C. 2013); *In re Cleaver-Bascombe,* 892 A.2d 396, 412-13 (D.C. 2006). "Deliberately dishonest testimony receives great weight in sanctioning determinations because a respondent's truthfulness or mendacity while testifying on his own behalf, almost without exception, is probative of his attitudes toward society and prospects of rehabilitation." *In re Chapman,* 962 A.2d 922, 925 (D.C. 2009) (citations omitted); *In re Goffe,* 641 A.2d 458, 466 (D.C. 1994) (a respondent's decision to testify falsely demonstrated his failure

to appreciate the impropriety of his conduct).

Askew I and *Murdter* set the baseline of a six month suspension for the neglect of CJA cases without the aggravating factors identified above. Were all of Respondent's conduct before the Hearing Committee we would recommend a one-year suspension because her neglect of the appointed appellate matters is aggravated by (1) the fact that she continued her misconduct in the *Jackson* matter even while being prosecuted for similar misconduct in the *Middleton* matter, and (2) her dishonest testimony before this Hearing Committee. We recognize that there are similarities between the facts here and those presented in *In re Bradley,* where the respondent was suspended for two years for her intentional neglect of two guardianship matters and deliberately false testimony to the Hearing Committee. However, Bradley's neglect was of much longer duration (ten years in one case, and five years in another), and her clients were prejudiced by the neglect (one client missed an opportunity to be transferred to a nursing home closer to his family, and the other client and her estate lost hundreds of thousands of dollars). *Bradley,* 70 A.3d at 1195. Respondent's misconduct, while lengthy was not as long as Bradley's, and Respondent's client did not suffer the substantial and concrete prejudice suffered by Bradley's clients. *See* FF 67 (successor counsel filed a motion to dismiss the appeal after locating Mr. Jackson).

Because Respondent has served the six-month suspension imposed in *Askew I,* we recommend that she be suspended for another six months. *See e.g., In re Dory,* 552 A.2d at 521-22.

Fitness Requirement:

Arguing that Respondent has not resolved the issues underlying her misconduct, Disciplinary Counsel recommends imposition of a fitness requirement. Specifically, Disciplinary Counsel contends that Respondent, even after *Askew I*, failed to correct the circumstances

underlying her misconduct—mail problems, disorganization of her practice and office management issues. *Askew I*, 96 A.2d at 59.

The Court established the standard for imposing a fitness requirement in *In re Cater*, 887 A.2d 1, 22-23 (D.C. 2005). "[T]o justify requiring a suspended attorney to prove fitness as a condition of reinstatement, the record in the disciplinary proceeding must contain clear and convincing evidence that casts a serious doubt upon the attorney's continuing fitness to practice law." *Id.* at 6. Proof of a "serious doubt" involves "more than 'no confidence that a Respondent will not engage in similar conduct in the future.'" *In re Guberman*, 978 A.2d 200, 213 (D.C. 2009). It connotes "real skepticism, not just a lack of certainty." *Id.* (quoting *Cater*, 887 A.2d at 24).

In articulating this standard, the *Cater* Court observed that the reason for conditioning reinstatement on proof of fitness was "conceptually different" from the basis for imposing a suspension. As the Court explained:

> The fixed period of suspension is intended to serve as the commensurate response to the attorney's past ethical misconduct. In contrast, the open-ended fitness requirement is intended to be an appropriate response to serious concerns about whether the attorney will act ethically and competently in the future, after the period of suspension has run. . . . [P]roof of a violation of the Rules that merits even a substantial period of suspension is not necessarily sufficient to justify a fitness requirement . . . .

Cater, 887 A.2d at 22.

In addition, the *Cater* Court found that the five factors for reinstatement set forth in *In re Roundtree*, 503 A.2d 1215, 1217 (D.C. 1985), should be used in applying the *Cater* fitness standard. They include:

(a) the nature and circumstances of the misconduct for which the attorney was disciplined;

(b) whether the attorney recognizes the seriousness of the misconduct;

(c) the attorney's conduct since discipline was imposed, including the steps taken to remedy past wrongs and prevent future ones;

(d) the attorney's present character; and

(e) the attorney's present qualifications and competence to practice law.

Cater, 887 A.2d at 21, 25.

Here, Disciplinary Counsel has demonstrated by clear and convincing evidence that there are serious doubts concerning Respondent's fitness to practice law. Before the commencement of the disciplinary process in the instant matter and in the *Askew I* matter, Respondent failed to take adequate measures (*e.g.*, check the Court docket sheet or call the Court to keep abreast of the status of her cases) to make sure that she was receiving and complying with Court orders. Even after the *Askew I* hearing in January 2013, which undoubtedly highlighted the issues with her legal practice, Respondent did not take adequate corrective measures to address those issues. *See In re Jones,* 544 A.2d 695, 698-99 (D.C. 1988) (appended Board report) (failure to take corrective action following initial disciplinary case supported a fitness recommendation in a subsequent case). Moreover, it is unknown why Respondent failed in her obligations to adequately represent Mr. Jackson. And despite her obvious neglect, Respondent continues to maintain that she did everything she could to contact Mr. Jackson. Tr. 389-390. Indeed, she has not acknowledged her misconduct or expressed remorse. This factor in particular casts a serious doubt upon her present qualifications to practice law. Therefore, we agree with Disciplinary Counsel that a fitness requirement is necessary to ensure that Respondent can be "entrusted with professional and judicial matters, and to aid in the administration of justice as an attorney and an officer of the Court." *Id.* at 22 (*quoting* D.C. Bar R. XI, § 2(a)).

V. Conclusion

Rule XI, § 2(a) states that "[t]he license to practice law in the District of Columbia is a continuing proclamation by this Court that the holder is fit to be entrusted with professional and judicial matters, and to aid in the administration of justice as an attorney and an officer of the Court." Respondent's misconduct has been established by clear and convincing evidence. Accordingly, we recommend that Respondent be suspended for six months with the requirement that she prove her fitness to practice as a condition of reinstatement.

AD HOC HEARING COMMITTEE

By: /TSD/
Thomas S. DiLeonardo, Esquire
Chair

/JSS/
Janet Stern Solomon

/PM/
Patricia Millerioux, Esquire

Dated: May 10, 2016

APPENDIX A

Court Order Date	No Response Filed	Response Filed Late
July 31, 2009 (BX 3a)	x	
Oct. 21, 2010 (BX 3d)	x	
March 7, 2011 (BX 3i)	x	
April 5, 2011 (BX 3j)	x	
June 29, 2011 (BX 3m)		x
Aug. 1, 2011 (BX 3ee)	x	
Oct. 5, 2011 (BX 3o)	x	
Nov. 22, 2011 (BX 3ee)	x	
Feb. 28, 2012 (BX 3r)	x	
April 17, 2012 (BX 3s)	x (undeliverable)	
May 18, 2012 (BX 3t)	x (undeliverable)	
June 22, 2012 (RX 5)		x
July 27, 2012 (BX 3v)		x
Sept. 12, 2012 (BX 3x)	x	
Oct. 3, 2012 (BX 3y)		x
Dec. 14, 2012 (BX 3aa)	x	
March 1, 2013 (BX 3ee)		x
March 26, 2013 (BX 3cc)	x	