



greater or lesser discipline should be imposed as reciprocal discipline, or (2) determine whether the Board should proceed *de novo*. Order, *In re Avendano*, No. 07-BG-435 (D.C. Jan. 25, 2008).

Respondent filed a D.C. Bar R. XI, § 14(g) affidavit with the Board on February 12, 2008. On February 25, 2008, Bar Counsel filed a statement with the Board recommending the imposition of identical reciprocal discipline of a 90-day suspension. Respondent has not filed a response to Bar Counsel's statement or otherwise participated in this proceeding.<sup>1</sup>

## II. THE MARYLAND PROCEEDINGS

On November 1, 2007, Respondent and Maryland Bar Counsel executed the Joint Petition for Ninety-Day Suspension by Consent (the "Joint Petition"). In the Joint Petition, Respondent stipulated to the following facts.

In 2002, Respondent agreed, through a non-lawyer assistant acting as her agent, to prepare and file paperwork with the Immigration and Naturalization Service ("INS") seeking a green card for Hemalatha Samuel's husband, a citizen of India, to join his wife in the United States. Respondent assigned this matter to her non-lawyer assistant, but did not provide appropriate supervision. Respondent acknowledged receipt of three checks, totaling \$1,200 from Ms. Samuel during the Fall of 2002. Ms. Samuel also gave Respondent a separate check for \$130 made payable to the INS, to be used as a filing fee for her Form I-130 (Petition for an Alien Relative).

In 2003, Respondent closed her law office. She did not tell Ms. Samuel that she was terminating her representation and did not return Ms. Samuel's papers, or her legal and filing

---

<sup>1</sup> Bar Counsel provided written notice of the pending reciprocal discipline proceeding to Respondent at both her primary and secondary addresses listed with the District of Columbia Bar. Notices sent to both addresses were returned as undeliverable. Notices sent to these addresses by the Office of the Executive Attorney were also returned as undeliverable. Subsequently, Bar Counsel spoke with Respondent and she provided a current address to which to direct correspondence in this matter. Letters mailed by Bar Counsel and the Office of the Executive Attorney to this address have not been returned. We thus find notice to Respondent of these proceedings sufficient. *See In re Powell*, 860 A.2d 836 (D.C. 2004) (per curiam).

fees. From 2003 to 2006, Ms. Samuel continued to believe that Respondent was handling her immigration matter. Respondent did not keep Ms. Samuel reasonably informed about the status of the matter and was not responsive to Ms. Samuel's efforts to communicate with her. Ms. Samuel filed a complaint with the Attorney Grievance Commission of Maryland in April 2006, and Respondent knowingly failed to respond to Maryland Bar Counsel's lawful demands for information.

In the Joint Petition, Respondent agreed that if a hearing were to be held, sufficient evidence could be produced to sustain the allegations of misconduct, which included violations of Maryland Rules of Professional Conduct ("MRPC") 1.3 (diligence); 1.4 (communication); 1.15(a) (safekeeping property); 1.16(d) (declining or terminating representation); 5.3(b)-(c) (responsibilities regarding non-lawyer assistants); and 8.1(b) (Bar admission and disciplinary matters).<sup>2</sup> Respondent further stipulated to the imposition of a 90-day suspension. Respondent made restitution in the amount of \$1,330.00 as a refund of the legal fees and the INS filing fee paid by Ms. Samuel.

### III. RECIPROCAL DISCIPLINE

There is a presumption in favor of imposing identical reciprocal discipline that may be rebutted by the establishment, through clear and convincing evidence, of one or more of the five exceptions set forth in D.C. Bar R. XI, § 11(c).<sup>3</sup> D.C. Bar R. XI, § 11(f); *see In re Zilberberg*,

---

<sup>2</sup>These provisions of the MRPC correspond to the parallel District of Columbia Rules of Professional Conduct.

<sup>3</sup>The five exceptions under D.C. Bar R. XI, § 11(c) are as follows:

- (1) The procedure elsewhere was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or
- (2) There was such infirmity of proof establishing the misconduct as to give rise to the clear conviction that the Court could not, consistently with its duty, accept as final the conclusion on that subject; or
- (3) The imposition of the same discipline by the Court would result in grave injustice; or
- (4) The misconduct established warrants substantially different

612 A.2d 832, 834 (D.C. 1992). When, as here, a respondent does not contest reciprocal discipline, the Board’s role is limited to reviewing the foreign proceeding “sufficiently to satisfy itself that no obvious miscarriage of justice would result in the imposition of identical discipline . . . .” *In re Childress*, 811 A.2d 805, 807 (D.C. 2002) (quoting *In re Spann*, 711 A.2d 1262, 1265 (D.C. 1998)). The imposition of identical discipline when the respondent fails to object “should be close to automatic, with minimum review by both the Board and this court.” *In re Cole*, 809 A.2d 1226, 1227 n.3 (D.C. 2002) (per curiam).

Bar Counsel recommends the identical reciprocal discipline of a 90-day suspension, and Respondent has filed nothing with the Board in response. “Where there has been no objection from the attorney to the imposition of reciprocal discipline . . . we find it *virtually* impossible to imagine a situation where the imposition of identical reciprocal discipline would constitute the ‘grave injustice’ which our Rule XI, § 11(c)(3) permits us to avoid.” *In re Sumner*, 762 A.2d 528, 530 (D.C. 2000).

In accordance with our limited role, we have examined the record and find nothing that rises to the level of an obvious miscarriage of justice. Respondent was accorded due process in Maryland and there was no infirmity of proof. Respondent participated in the Maryland proceedings, stipulated to the misconduct, and consented to a 90-day suspension. Respondent’s misconduct in Maryland would also be misconduct in the District of Columbia under our parallel disciplinary rules. The imposition of reciprocal discipline is therefore appropriate.

We further find that a 90-day suspension is within the range of sanctions that would be imposed in an original discipline proceeding for Respondent’s misconduct. *See In re Douglass*,

---

discipline in the District of Columbia; or (5) The misconduct elsewhere does not constitute misconduct in the District of Columbia.

859 A.2d 1069 (D.C. 2004) (90-day suspension for failing to prosecute client's claim and failing to file or prepare the case for two years); *In re Dietz*, 633 A.2d 850 (D.C. 1993) (per curiam) (30-day suspension with restitution for attorney who neglected client, failed to return unearned fee, and failed to cooperate with Bar Counsel).

On February 12, 2008, Respondent filed with the Board a D.C. Bar R. XI, § 14(g) affidavit. We find that it fully complies with the requirements of the rule.

IV. CONCLUSION

We recommend that the Court impose a 90-day suspension as identical reciprocal discipline. We recommend that for purposes of reinstatement, Respondent's suspension be deemed to run from February 13, 2008, the date she filed with the Board the affidavit required by D.C. Bar R. XI, § 14(g). See *In re Slosberg*, 650 A.2d 1329, 1331-33 (D.C. 1994).

BOARD ON PROFESSIONAL RESPONSIBILITY

By:



Ernestine Coghill-Howard

Dated: **SEP 23 2008**

All members of the Board concur in this Report and Recommendation.