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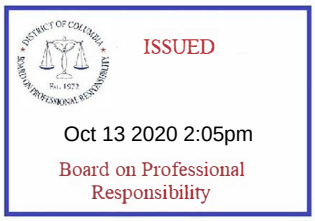


DISTRICT OF COLUMBIA COURT OF APPEALS
BOARD ON PROFESSIONAL RESPONSIBILITY

In the Matter of:	:	
	:	
DENI-ANTIONETTE MAZINGO-MAYRONNE	:	Board Docket Nos. 14-BD-060 and 15-BD-014
	:	Bar Docket Nos. 2007-D466, 2011-
Respondent.	:	D047, and 2014-D405
	:	
A Member of the Bar of the District of Columbia Court of Appeals (Bar Registration No. 479656)	:	

REPORT AND RECOMMENDATION OF
THE BOARD ON PROFESSIONAL RESPONSIBILITY

This is a consolidation of two Board matters arising from three complaints brought by the Office of Disciplinary Counsel. The Hearing Committee held a hearing on these consolidated matters and produced a detailed and comprehensive report. Neither Disciplinary Counsel nor Respondent challenges the Hearing Committee's findings. Disciplinary Counsel takes exception to the Hearing Committee's recommended sanction of six months' suspension arguing instead that Respondent's conduct warrants disbarment or at least a one-year suspension with proof of fitness before Respondent could be reinstated.

The Hearing Committee's findings of fact "are supported by substantial evidence in the record." *In re Ukwu*, 926 A.2d 1106, 1115 (D.C. 2007) (quoting *In re Cleaver-Bascombe*, 892 A.2d 396, 401 (D.C. 2006)). The Board has reviewed *de novo* the Hearing Committee's findings and conclusions as well as its

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

recommendation that Respondent be suspended for six months. *See In re Bradley*, 70 A.3d 1189, 1194 (D.C. 2013) (per curiam). However, upon consideration of the parties' briefs and oral argument, as well as the entire record in this case, we have determined that based on the Hearing Committee's factual findings and conclusions regarding Respondent's various rule violations, Respondent's conduct warrants disbarment.

I. Factual Summary

The following is a description of Respondent's conduct in the matters giving rise to the three complaints brought by Disciplinary Counsel with citations to the Hearing Committee's report for relevant details, factual findings, and conclusions.

A. Bar Docket Number 2007-D466 (Bankruptcy Matters)

Docket number 2007-D466 involved various matters arising from Respondent's practice before the federal bankruptcy court in Maryland ("Bankruptcy Court") from the time of her admission to the District of Columbia Bar in December 2002 through November 2008 when the Bankruptcy Court ruled that she had violated a consent order prohibiting her from practicing in that court. As detailed further below, despite a July 2006 consent order barring her from practicing in the Bankruptcy Court, Respondent continued to serve as counsel in a case pending before that court. *See* HC Report ¶¶ 47 – 48, 51, 93 – 94.

When she was admitted to practice in the District of Columbia in December 2002, Respondent was the principal of a business called Legal Forms Fitted & Filed LLC ("Legal Forms") which she established in October 2001 before she was

admitted to practice as an attorney in any jurisdiction. After Respondent was licensed to practice in the District of Columbia, she continued to file submissions in the Bankruptcy Court for Legal Forms clients certifying that she was as a non-attorney filer. HC Report ¶¶ 9 – 12. Respondent also certified that she was a non-attorney filer after she had been admitted to practice before the U.S. District Court for the District of Maryland. HC Report 79 ¶¶ 9, 34.

The Hearing Committee listed nine bankruptcy cases pending in 2005 in which Respondent filed at least 55 documents certifying that she was a non-attorney filer. As the Hearing Committee detailed, Respondent provided legal services such as providing legal advice to her clients through Legal Forms and charged "far more" than non-attorney filers charged in the Bankruptcy Court. HC Report ¶¶ 9 – 12. Respondent argued before the Hearing Committee that she had not understood that she was violating Bankruptcy Court rules by filing as a non-attorney filer after having been admitted to the bar. The Hearing Committee did not credit Respondent's arguments in this regard, determining that she knowingly misrepresented her status as a non-attorney filer after she had been admitted to the District of Columbia Bar *and* after she had been admitted to practice before the U.S. District Court for the District of Maryland. HC Report 80 – 81 (Conclusions of Law, I.C.2).

On December 23, 2004, Respondent filed a motion objecting to the discharge of bankruptcy for the petitioner in *In re Ezegbunam*, Case No. 04-34161-WIL on behalf of her client Tochukwu Ezukanma. Mr. Ezukanma asserted an ownership

interest in the primary asset of the Ezegbunam bankruptcy estate, a house. HC Report ¶¶ 14 – 16, 19. At the time she filed the motion, Respondent was not admitted to practice in the Bankruptcy Court. Three days later, the Bankruptcy Court notified Respondent that the filing was deficient in part because she was not admitted to practice before that court. HC Report ¶ 20.

On January 17, 2005, Respondent applied for admission to practice before the U.S. District Court for the District of Maryland. Admission to that court would have allowed her to practice before the Bankruptcy Court. Respondent signed the application under penalty of perjury. HC Report ¶ 24. The Hearing Committee found that Respondent falsely answered a question in the application asking whether she had been convicted of or pled no contest to any crime. HC Report ¶¶ 25 – 27. Although Respondent had two misdemeanor convictions, a 1999 conviction for driving under the influence and a 1993 conviction for reckless driving, she answered that she had no criminal convictions. *Id.* Respondent testified to various supposed reasons for her failure to include these convictions in her application. The Hearing Committee did not find Respondent's "explanations to be credible." HC Report ¶¶ 29 – 30. The Hearing Committee found that Respondent "knowingly and intentionally omitted her criminal convictions from her application for admission." HC Report ¶ 33.

With these knowing and intentional falsehoods as yet undiscovered, Respondent was admitted to practice in the U.S. District Court for the District of Maryland in February 2005 and resumed her representation of Mr. Ezukanma in

connection with his claims related to the *Ezegbunam* bankruptcy proceedings. HC Report ¶¶ 34 – 35. The Bankruptcy Court had discharged Ms. Ezegbunam's bankruptcy, but the bankruptcy case remained open so that the Bankruptcy Trustee could investigate claims, pay creditors, and sell the residential property which was the primary asset of the bankruptcy estate. Ms. Ezegbunam and Mr. Ezukanma had not resolved their title dispute as of the time of the bankruptcy discharge and continued to negotiate through counsel. Respondent represented Mr. Ezukanma in the adversary proceeding centered on disposition of the property through Spring or Summer of 2006 negotiating on her client's behalf toward a settlement. HC Report ¶¶ 36 – 38. Any sale of the property would have required court approval upon motion of the Bankruptcy Trustee. HC Report ¶ 36. Because of the dispute over the property, legal counsel was hired to represent the Bankruptcy Trustee in the disposition of the property. HC Report ¶ 18.

In the meantime, in January 2006, the U.S. Trustee's Office began an investigation of Respondent based on a complaint by one of her Legal Forms clients. HC Report ¶¶ 39 – 40. The Trustee's Office deposed Respondent in connection with the investigation in late March 2006. HC Report ¶ 40. The investigation led the Trustee's Office to prepare a draft civil Complaint against Respondent alleging violations of several Maryland Rules of Professional Conduct and violations of bankruptcy statutes and rules. HC Report ¶ 41. Respondent negotiated terms to resolve the matter and in July 2006 was party to a consent order barring her from practicing before the Bankruptcy Court. HC Report ¶ 47. The terms of the consent

order also required Respondent to repay $550 to the Legal Forms client who had complained about her and permanently enjoined Respondent and Legal Forms from acting as a bankruptcy petition preparer in Maryland or any other jurisdiction. *Id.* Respondent was able to negotiate terms that allowed her to appear in the U.S. District Court for the District of Maryland even though she was prohibited from practicing in the Bankruptcy Court. HC Report ¶ 44.

As noted, during the time period that included the U.S. Trustee's investigation and the resulting consent order barring Respondent from practicing before the Bankruptcy Court, Respondent continued to represent Mr. Ezukanma in connection with his interest in the residential property that was the bulk of the bankruptcy estate in *In re Ezegbunam*. In March 2006, the parties reached a settlement regarding the property in dispute between Mr. Ezukanma and Ms. Ezegbunam (referred to in the Hearing Committee Report as the Ezukanma Adversary Proceeding). HC Report ¶¶ 50, 52. Respondent did not appear in the Bankruptcy Court after March 2006. However, she did not withdraw her appearance and continued to represent Mr. Ezukanma's interests in the proceeding. HC Report ¶ 51. In March 2006, the parties to the Adversary Proceeding reached a settlement and entered into an agreement which provided that the house which was the bulk of the estate would be sold and proceeds of the sale would first go to pay creditors and administrative expenses. Any surplus after these payments would be divided between the parties. HC Report ¶ 53; *see* HC Report ¶¶ 52, 55.

In October 2006, the settlement of the Adversary Proceeding was approved and the Ezegbunam house was subsequently sold. HC Report ¶¶ 62, 70; *see* HC Report ¶¶ 55 – 69. Respondent attended the closing on the sale in May 2007 for the sole purpose of getting her legal fees of $13,835 out of the proceeds of the sale. HC Report ¶¶ 70 – 72. The Hearing Committee found that "Respondent took the $13,835.00, and promptly spent it, even though she understood that the proceeds from the sale of the house were first supposed to be used to pay all of the creditors of the bankruptcy estate and the administrative expenses of the estate." HC Report ¶ 75. However, the Hearing Committee also found that Respondent did so because she "erroneously" believed that the title company handling the closing "had already 'taken care of' the necessary payments to the bankruptcy trustee." *Id.*

In July 2007, counsel for the Bankruptcy Trustee discovered that the Ezegbunam house had been sold after searching the internet for information on the status of the property. HC Report ¶ 77. In October 2007, he filed an action against Respondent and others for violating federal bankruptcy law by selling the property without court approval. HC Report ¶ 79. Respondent was deposed in connection with that lawsuit in April 2009. The Hearing Committee found several points of Respondent's testimony during that deposition and at the disciplinary hearing not credible. HC Report ¶¶ 82, 82(d). The action resulted in a judgment adverse to Respondent who was ordered to repay the $13,835 she had received from the proceeds of the home sale, plus pre- and post-judgment interest. HC Report ¶ 84.

As of the date of the disciplinary hearing, there was no indication that Respondent had paid the total judgment against her. HC Report ¶ 87.

Meanwhile, in September 2008, the U.S. Trustee's Office filed a show cause order based on Respondent's violation of the July 2006 consent order barring her from practicing in the Bankruptcy Court. HC Report ¶ 88. After an evidentiary hearing in November 2008, the Bankruptcy Court determined that Respondent violated the consent order by continuing to represent Mr. Ezukanma in the Bankruptcy Court after she had been prohibited from continuing to practice in that court. The court fined Respondent $4,500 for violating the consent order. HC Report ¶¶ 91 – 94. As noted, the Hearing Committee concluded that Respondent knowingly violated the consent order by continuing to represent Mr. Ezukanma in the adversary proceeding; thereby rejecting Respondent's testimony to the contrary. HC Report 84 (Conclusions of Law, I.D).

B. Bar Docket Number 2014-D405 (Respondent's Personal Bankruptcy)

In May 2005, Respondent filed for Chapter 7 personal bankruptcy, a filing that required the submission of forms signed under penalty of perjury. Respondent completed and filed various forms, including the Petition, the Statement of Financial Affairs ("SOFA"), Summary of Schedules, and Schedules A-J herself. HC Report ¶¶ 102 – 103. Respondent failed to disclose financial information on the SOFA she filed with her bankruptcy petition. In response to SOFA Question 3a "Payments to Creditors," Respondent indicated that she had made no payments to creditors exceeding $600 within the previous 90 days. However, within the previous 90 days,

Respondent's husband had made three mortgage payments exceeding $1,200 each to Bank of America from her Legal Forms business account. The Hearing Committee found that "Respondent knowingly failed to list the mortgage payments" in response to Question 3a of the SOFA. HC Report ¶¶ 104 – 110.

Question No. 18a of the SOFA required Respondent to identify businesses where she was an officer, director, or partner or where she was "a self-employed professional." HC Report ¶¶ 111 – 112. Respondent answered the question by checking the box for "None," thereby stating under penalty of perjury that she was not a self-employed professional and did not serve in any of the other capacities specified in the question. However, as of the time of Respondent's personal bankruptcy submissions, she was actively engaged in her Legal Forms business collecting fees as a non-attorney filer. The Hearing Committee found that Respondent's answer to Question 18a of the SOFA was intentionally false and that she offered "no exculpatory explanation" for her false response. HC Report ¶¶ 112 – 115.

Respondent also dishonestly failed to disclose several financial accounts on Schedule B (Personal Property) of her personal bankruptcy submission. HC Report ¶¶ 118 – 122. Schedule B directed the filer to list all personal property "'of whatever kind'" and "to provide a description of the property, the location, whether there is a joint interest, and the amount." HC Report ¶ 116. Respondent answered a question regarding her bank accounts by indicating that she had a checking account and a "share account" but did not identify the financial institution, Lafayette Credit Union,

where the accounts were located. Beyond the incompleteness of the answer, this omission was significant because Respondent had three accounts at Lafayette Credit Union with balances totaling more than $900 but she failed to identify all of those accounts and never mentioned Lafayette Credit Union in Schedule B. In response to one of the items on Schedule B asking for the balance of her accounts, Respondent wrote "$25.00" when, as noted, her balance in the credit union's three accounts was over $900. HC Report ¶¶ 118 – 122. The Hearing Committee found that Respondent's assertion under penalty of perjury that she had a $25 balance in her accounts "was false." HC Report ¶ 120. The Hearing Committee further found that Respondent had failed to disclose her interest in her Legal Forms business or the value of that interest as reflected by accounts she held in the name of Legal Forms. HC Report ¶¶ 121 – 122. Given the Hearing Committee's findings, it is apparent that Respondent gained "the benefits of bankruptcy discharge" based on perjured statements. HC Report ¶ 129.

C. Bar Docket No. 2011-D047 (The Simmonds Matter)

In February 2010, Kimberly Simmonds hired Respondent to assist with formation of a limited liability company in Maryland. HC Report ¶ 131. Respondent undertook this representation in Maryland and presented Ms. Simmonds with an engagement letter bearing her Maryland address in its letterhead and signature block. HC Report ¶¶ 133 – 134. Respondent never told Ms. Simmonds that she was not admitted to practice in Maryland. HC Report ¶ 132. On March 30, 2010, Ms. Simmonds had a car accident in Maryland and retained Respondent to represent her.

Respondent represented Ms. Simmonds in settlement negotiations with the insurance company, GEICO, in Maryland. HC Report ¶¶ 138 – 140.

Respondent and Ms. Simmons entered into a representation agreement providing that Respondent would be paid a contingency fee of 25% for negotiations and related work short of litigation. HC Report ¶ 140. Respondent was not forthcoming with her client about her negotiations with GEICO. For example, she failed to communicate multiple settlement offers from GEICO and made counteroffers without informing her client. The insurance company twice rejected Respondent's $50,000 counteroffer (an amount $20,000 lower than her client had indicated was the lowest amount she would accept in settlement). HC Report ¶¶ 142 – 149. When the company went as high as a $33,000 settlement offer, Respondent did not convey the offer to her client for over two weeks. Ms. Simmonds rejected that offer. HC Report ¶¶ 148 – 150. On November 19, 2010, GEICO raised its offer to $33,200. However, in mid-November, Ms. Simmonds discovered Respondent was not barred in Maryland and ended her relationship with Respondent on November 22, 2010. HC Report ¶¶ 154 – 156.

Respondent did not acknowledge the termination notice until November 24, 2010 and in the intervening day, contacted GEICO without Ms. Simmonds' knowledge or authorization and asked for the company to offer closer to $50,000 in settlement. HC Report ¶¶ 156, 160 – 163. GEICO raised its offer to $33,500. HC Report ¶ 160. Respondent did not communicate the $33,500 offer to Ms. Simmonds. HC Report ¶ 161.

When the representation ended, based on terms in their written representation agreement, Ms. Simmonds paid Respondent for one hour of work ($250) and $30 of costs. HC Report ¶ 157. Respondent "refused to abide" by the terms of the agreement and in a November 24, 2010 letter to her former client said that she would put a 25% lien on the GEICO settlement. HC Report ¶¶ 159, 164 – 165. Respondent sent a copy of this letter to the GEICO representative with whom she had been negotiating. Respondent also sent the GEICO representative a chain of email correspondence running from September 21, 2010 until November 13, 2010 between Respondent and her client Ms. Simmonds. These emails included discussion of her client's injuries, monetary damages and strategies. HC Report ¶¶ 159 – 167.

The Hearing Committee rejected Respondent's testimony and argument that she inadvertently sent the email chain with her former client to the GEICO representative. It found instead that she "deliberately entered" the GEICO representative's name and email address in "the 'cc' box of the email and intentionally sent the emails to" the insurance company representative. The Hearing Committee cited other details indicating that the transmission of the emails was not inadvertent. HC Report ¶¶ 168 – 169. It ultimately found that "because Respondent intentionally sent the email string and termination letter to [the GEICO representative], she knowingly revealed the contents of those communications to" the insurance company. HC Report ¶ 169.

On December 6, 2010, Ms. Simmonds wrote Respondent asking her to release the lien on the settlement amount. Respondent refused and Ms. Simmonds was

forced to hire an attorney to write a demand letter to Respondent regarding release of the lien. In March 2011, Respondent released the lien. Ms. Simmonds' new counsel negotiated a settlement of $36,400 with GEICO in July 2011. HC Report ¶¶ 171 – 174.

II. Legal Conclusions

The Hearing Committee found that Respondent violated the following rules:

- With respect to Bar Docket No. 2007-D466 (Bankruptcy Matters): Maryland Rules 3.3(a)(1), 3.4(c), 5.5(a) and (b)(1), and 8.4(c).
- With respect to Bar Docket No. 2014-D405 (Personal Bankruptcy): Maryland Rules 3.3(a)(1), 8.4(c), and 8.4(d).
- With respect to Bar Docket No. 2011-D047 (The Simmonds Matter): D.C. Rules 1.4(a) and (b), 1.6(a)(1), (2), and (3), 5.5(a), and 7.1(a)(1).

Neither party objects to these findings, and we adopt them for the reasons set forth in the Hearing Committee's report.

The Hearing Committee recommended that Respondent be suspended for six months. Respondent supports that recommendation. Disciplinary Counsel disagrees, arguing that Respondent should be disbarred, or at a minimum, receive a at least a one-year suspension with a fitness requirement. For the reasons discussed below, we recommend that the Court disbar Respondent, which is consistent with the sanction imposed in other cases involving comparable misconduct.

A. Standard of Review

The sanction imposed in an attorney disciplinary matter is one that is necessary to protect the public and the courts, maintain the integrity of the legal

profession, and deter the respondent and other attorneys from engaging in similar misconduct. *See, e.g.*, *In re Hutchinson*, 534 A.2d 919, 924 (D.C. 1987) (en banc); *In re Martin*, 67 A.3d 1032, 1053 (D.C. 2013); *Cater*, 887 A.2d 1, 17 (D.C. 2005). "In all cases, [the] purpose in imposing discipline is to serve the public and professional interests . . . rather than to visit punishment upon an attorney." *In re Reback*, 513 A.2d 226, 231 (D.C. 1986) (en banc) (citations omitted); *see also In re Goffe*, 641 A.2d 458, 464 (D.C. 1994) (per curiam).

The sanction also must not "foster a tendency toward inconsistent dispositions for comparable conduct or . . . otherwise be unwarranted." D.C. Bar R. XI, § 9(h)(1); *see, e.g.*, *Hutchinson*, 534 A.2d at 923-24; *Martin*, 67 A.3d at 1053 (citing *In re Elgin*, 918 A.2d 362, 376 (D.C. 2007)); *In re Berryman*, 764 A.2d 760, 766 (D.C. 2000). In determining the appropriate sanction, the Court of Appeals considers a number of factors, including: (1) the 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; (4) the presence or absence of violations of other provisions of the disciplinary rules; (5) whether the attorney has a previous disciplinary history; (6) whether the attorney has acknowledged his or her wrongful conduct; and (7) circumstances in mitigation or aggravation. *See, e.g.*, *Martin*, 67 A.3d at 1053 (citing *Elgin*, 918 A.2d at 376); *Hutchinson*, 534 A.2d at 924. The Court also considers "'the moral fitness of the attorney' and 'the need to protect the public, the courts, and the legal profession . . . .'" *In re Rodriguez-Quesada*, 122

A.3d 913, 921 (D.C. 2015) (per curiam) (quoting *In re Howes*, 52 A.3d 1, 15 (D.C. 2012)).

B. Application of the Sanction Factors

1. The Seriousness of the Conduct at Issue

Respondent's conduct was undeniably serious. Most troubling, the record catalogs Respondent's persistent difficulty in telling the truth. For almost four years after her admission to the D.C. Bar and after she had been admitted to practice as an attorney in the U.S. District Court for the District of Maryland, she represented that she was a "non-attorney filer" on bankruptcy petitions. When she sought admission to the U.S. District Court for the District of Maryland, she intentionally failed to disclose her prior misdemeanor criminal convictions. In her own bankruptcy filing, she failed to disclose information regarding her assets and payments to creditors, despite her extensive experience preparing bankruptcy filings. The Hearing Committee concluded that this misconduct was only "somewhat serious" because Respondent's false statements and omissions were "inconsequential." HC Report 116. We disagree. Members of the Bar have a duty to be scrupulously honest at all times, not only when truthfulness is "consequential." *See In re Cleaver-Bascombe*, 986 A.2d 1191, 1200 (D.C. 2010) (per curiam) (emphasis omitted) (citations omitted).

Respondent's inexplicable penchant for deceit appeared again when she agreed to represent Ms. Simmonds in the formation of a Maryland LLC and in negotiations with GEICO arising out of a Maryland car accident, without informing

Ms. Simmonds that Respondent was not admitted to practice in Maryland, the jurisdiction in which Ms. Simmonds' personal injury claim would have to be litigated, if it was not settled. This is not a simple innocent omission. Respondent's email signature and letterhead bore Maryland addresses, creating the false impression that she was licensed to practice in Maryland. Ms. Simmonds understandably believed that Respondent was a Maryland lawyer, and would not have hired her if Respondent had told the truth. Indeed, Ms. Simmonds fired Respondent on learning the truth.[1]

Similarly, after Respondent agreed in July 2006 to the imposition of an order "permanently enjoin[ing her] from practicing law in" Bankruptcy Court, HC Report ¶ 47, she continued to represent Mr. Ezukanma through March 2007. An honest lawyer would have withdrawn from the representation. Respondent did not do so, and instead through her conduct, falsely represented to those involved in that matter that she was permitted to represent clients in Maryland bankruptcy matters.

Respondent compounded her dishonest behavior with incredible testimony during the disciplinary hearing. Although the Hearing Committee declined to characterize Respondent's hearing testimony as intentionally false; its factual findings compel that conclusion, particularly with regard to her testimony that she accidentally disclosed Ms. Simmonds' information to Ms. Shanks, the GEICO representative. The Hearing Committee found that

[1] Respondent also misled Ms. Shanks, the GEICO representative, who believed that Respondent was a Maryland lawyer, based on her letterhead and email signature.

> 168. Respondent testified at the disciplinary hearing that she sent the emails because she "pushed the wrong button instead of just emailing her, I emailed everything to Ms. Shanks." Tr. at 893:7-9. Respondent also argued in her brief that forwarding the emails to GEICO was inadvertent. R. Br. at ¶ 57.
>
> 169. Contrary to her testimony and argument, Respondent did not accidentally click a button (such as "reply all"); instead she deliberately entered Ms. Shanks's name and email address in the "cc" box of the email and intentionally sent the emails to Ms. Shanks. She also intentionally chose to attach the termination letter, which indicates a "cc" to Ms. Shanks, to the email string, further underscoring that she sent the email quite purposefully. BX F7 at 47 (email sent on November 24, 2010 to both Ms. Simmonds and Ms. Shanks, responding to an email from Ms. Simmonds, on which Ms. Shanks is not included); Tr. 902-04 (Respondent); Tr. 997-98 (Shanks). Accordingly, the Hearing Committee finds that, because Respondent intentionally sent the email string and termination letter to Ms. Shanks, she knowingly revealed the contents of those communications to Ms. Shanks.

HC Report ¶¶ 168 – 169. Whether a respondent gave sanctionable false testimony during a hearing is a matter of law that the Board reviews *de novo*. *Bradley*, 70 A.3d at 1194. Based on the clarity of the Hearing Committee's finding, we have no trouble concluding by clear and convincing evidence that Respondent's testimony that she "accidentally" emailed Ms. Shanks was intentionally false.

Respondent's testimony was not a stray remark on a surprise issue. Respondent's email to Ms. Shanks is the basis for the Rule 1.6 charge against Respondent, and the email was specifically identified in the Second Amended Specification of Charges. When Disciplinary Counsel asked Respondent to confirm that the email at issue had been sent to Ms. Shanks, she conceded that it had been sent, but asserted that she did not mean to send it. *See* Tr. 902-03. The Hearing

Committee's findings that this was not an accident compels the conclusion that Respondent attempted to defend against the charged Rule 1.6 violation by offering intentionally false testimony that she had made a mistake.

Unfortunately, Respondent's misconduct is not limited to dishonesty. After agreeing to an order permanently enjoining her from practicing law in bankruptcy matters in Maryland, she continued to represent Mr. Ezukanma in a Maryland bankruptcy proceeding.

Respondent's failure to communicate with Ms. Simmonds about the status of Ms. Simmonds' case, is not a simple failure to keep the client informed. Rather, Respondent intentionally refused Ms. Simmonds' multiple requests to know the amount Respondent demanded of GEICO on Ms. Simmonds' behalf. It is mystifying that a lawyer would refuse to provide this basic information to the client; after all, the settlement belongs to the client, not the lawyer.

Finally, at the end of her relationship with Ms. Simmonds, Respondent intentionally sent Ms. Simmonds' playbook to GEICO, Ms. Simmonds' opponent. This is an egregious and inexplicable violation of Respondent's duty to maintain her client's confidences and secrets.

2. Prejudice to Respondent's Client

Respondent's disclosure of Ms. Simmonds' playbook to GEICO could certainly be expected to prejudice Ms. Simmonds in her further settlement discussions with GEICO. However, GEICO increased its settlement offer after Respondent's disclosure and there is not clear and convincing evidence in the record

that GEICO would have offered more had Respondent not disclosed Ms. Simmonds' confidences and secrets.

3. Whether the Conduct Involved Dishonesty

As discussed above, Respondent's conduct involved extensive dishonesty.

4. The Presence or Absence of Violations of Other Provisions of the Disciplinary Rules

Respondent violated numerous Rules in a range of different matters. Her misconduct was not isolated.

5. Whether the Attorney Has a Previous Disciplinary History

Respondent has no disciplinary history. However, Respondent was the subject of an order enjoining her from practicing in the Bankruptcy Court following an investigation of her conduct that began after a client of her Legal Forms business made a complaint. She was also a party to an action brought against her and others by counsel for the Bankruptcy Trustee in *In re Ezegbunam* after she took money for her fees that should have gone to creditors. In addition, there is no evidence that Respondent has ever paid the total $13,835 (plus interest) judgment entered against her in the civil action brought by the bankruptcy estate. At the time of the disciplinary hearing, she had not. Nevertheless, because neither the agreed resolution of the Maryland bankruptcy proceeding nor the civil action involved a finding that Respondent had engaged in the alleged misconduct, we do not consider them as "prior misconduct."

6. Whether the Attorney Has Acknowledged Her Wrongful Conduct

We agree with the Hearing Committee that this factor is mixed. Respondent acknowledged that her conduct was wrongful in a few respects, but in most instances failed to acknowledge the wrongfulness of her conduct.

7. Circumstances in Mitigation or Aggravation

We note that over the first eight years of her career as an attorney, Respondent repeatedly engaged in conduct that was dishonest and disingenuous. Repeatedly, when she was faced with the potential of consequences for her actions, Respondent provided justifications or explanations that were plainly false. Respondent conducted her practice in a manner that demonstrates she could not be trusted as an officer of the court in the connection with Docket Number 2007-D466 (Bankruptcy Matters). She could not be trusted to make honest representations to the Court in connection her own personal bankruptcy filing (Docket Number 2014-D405 (Personal Bankruptcy)). Finally, in connection with Docket No. 2011-D047 (The Simmonds Matter), Respondent deliberately betrayed her client's trust by intentionally disclosing privileged communications to the opposing party. Although there may or may not have been a quantifiable monetary loss to her client, Respondent's conduct in connection with settlement negotiations showed a lack of regard for the fundamental obligations of an attorney toward her client. In these ways, Respondent demonstrates that she lacks "'moral fitness'"; we must therefore recognize "'the need to protect the public, the courts, and the legal profession . . . .'" *Rodriguez-Quesada*, 122 A.3d at 921 (quoting *Howes*, 52 A.3d at 15).

C. Sanctions and Comparability Analysis

The Board must recommend a sanction that is consistent with that imposed in cases involving comparable misconduct, and that is not otherwise unwarranted. D.C. Bar R. XI, § 9(h)(1). Respondent argues that the Board should recommend the six-month suspension recommended by the Hearing Committee. Disciplinary Counsel argues that Respondent should be disbarred, or at least receive a suspension of a year or more with the requirement to prove fitness prior to reinstatement. Respondent's conduct as documented in the Hearing Committee's report demonstrates that she lacks the moral fitness of an attorney who can be trusted by the courts or by the public. Her conduct warrants disbarment.[2]

The Court of Appeals has held that disbarment is the appropriate sanction for "flagrant dishonesty," which "'reflect[s] a continuing and pervasive indifference to the obligations of honesty in the judicial system.'" *In re Pennington*, 921 A.2d 135, 141 (D.C. 2007) (quoting *In re Corizzi*, 803 A.2d 438, 443 (D.C. 2002)); *In re Pelkey*, 962 A.2d 268, 282 (D.C. 2008) (disbarment for "persistent, protracted, and extremely serious and flagrant acts of dishonesty").

[2] The Hearing Committee's report did not include findings that would mitigate against this sanction based on the conduct described throughout the report. There was, for example, no finding that Respondent was so inexperienced that she should have been held less culpable for her conduct. On the contrary, in the case of her prolonged period of continually filing bankruptcy petitions as a non-attorney filer for years after she had been admitted to practice as an attorney, there is every reason to believe, and the Hearing Committee found, that Respondent knew exactly what she was doing. Similarly, in the case of her intentional failures to provide full and honest information in her own personal bankruptcy petition, Respondent was very experienced in such filings and acted deliberately and perjuriously.

The Court has endorsed a "fact-specific approach [that] requir[es] [consideration of a] [r]espondent's particular misconduct, and not simply the rules that he [or she] violated" to determine what constitutes flagrant dishonesty. *In re Guberman*, 978 A.2d 200, 206 n.5 (D.C. 2009) (quoting Board Report). There is no bright-line test for determining flagrant dishonesty. *Id.*

Respondent spent her entire legal career throughout the period detailed in Hearing Committee report engaged in repeated dishonesty before courts, followed by intentional falsehoods to courts and to the Hearing Committee that were designed to cover up her dishonesty. Immediately upon admission to practice as an attorney, Respondent submitted bankruptcy petitions in the Bankruptcy Court falsely certifying that she was a non-attorney filer. Respondent did this dozens of times over a period of years, including even after she was a member of the U.S. District Court for the District of Maryland.

Respondent gained admission to the U.S. District Court for the District of Maryland after dishonestly misrepresenting her criminal history on her application for admission. She then made statements that could not be considered truthful in defense of those misrepresentations. Respondent's business filing bankruptcy petitions -- involving her falsely certifying that she was a non-attorney filer -- led to an investigation by the U.S. Trustee's Office after one of her business's clients complained about her. The U.S. Trustee's investigation provided the basis for a civil complaint that was resolved through a consent order barring Respondent from practicing before the Bankruptcy Court. Respondent promptly violated the consent

order by continuing to serve as counsel in a pending case and then falsely, as the Hearing Committee found, claiming that she thought the consent order allowed her to wrap up the pending bankruptcy matter.

Respondent also hid important information during her own personal bankruptcy matter by intentionally failing to provide full and accurate information about her assets. As noted above, this allowed Respondent to gain the benefits of the discharge of her bankruptcy based on false information.

Finally, Respondent undertook to represent her client Ms. Simmonds without disclosing that she was not admitted to practice in Maryland. Her client understandably was misled by Respondent's use of letterhead and a signature block listing her Maryland address. When Ms. Simmonds found out Respondent was not admitted to practice in Maryland, she terminated her relationship with Respondent. In addition to her inattention to the client's instructions and requests for information during the months that she represented Ms. Simmonds in negotiations with GEICO, Respondent refused to abide by the terms of her engagement agreement regarding fees and costs due in the event that the representation was terminated. Indeed, she threatened the client with a lien on her recovery from GEICO, forcing the client to retain new counsel specifically to address the issue of the lien. Perhaps most disturbing with regard to Respondent's conduct in the Simmonds representation was her intentional disclosure of client confidences, including legal strategy, to the opposing side, followed again by false statements about her conduct.

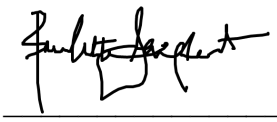
Respondent's conduct is comparable to that of others who have been disbarred for flagrant dishonesty. *See, e.g.*, *In re Anya*, Bar Docket Nos. 334-02, *et al.* at 3, 9 (BPR June 1, 2004), (respondent falsely represented to a client that he was licensed to practice law in Maryland and told "blatant lies in the practice of law over a period of time involving more than a single representation" reflecting "a pattern of dishonesty that suggests that it will recur and, in order to protect the public, warrants disbarment"), *recommendation approved where no exceptions filed*, 871 A.2d 1181 (D.C. 2005) (per curiam); *In re Kanu*, 5 A.3d 1 (D.C. 2010) (respondent made knowing misrepresentations in her clients' visa applications; held on to legal fees she had not earned and repeatedly made false promises to her clients and to Disciplinary Counsel that she would provide a refund); *In re Omwenga*, 49 A.3d 1235, 1238 (D.C. 2012) (per curiam) (intentional misappropriation justified disbarment but the Court also held that disbarment would have been warranted even absent intentional misappropriation "based on respondent's other serious and pervasive misconduct alone, particularly his flagrant dishonesty" including a series of misrepresentations before the trial court, filing of false affidavits on behalf of client and other serious misrepresentations including untruthful testimony before the Hearing Committee).[3]

[3] We note our determination that disbarment based on flagrant dishonesty is warranted in this matter is consistent with our recommendation to the Court in *In re Anitha W. Johnson*, Board Docket No. 18-BD-058, which was also issued today. In *In re Johnson*, we determine that the respondent's repeated, persistent, and pervasive dishonesty constituted flagrant dishonesty warranting disbarment where over the course of seven years and in five separate matters, the respondent lied to her clients, disclosed client confidences (in one matter) and then repeatedly lied to Disciplinary Counsel.

III. Conclusion

For the reasons set forth above, the Board recommends that Respondent be disbarred. We further recommend that Respondent's attention be directed to the requirements of D.C. Bar R. XI, § 14, and their effect on eligibility for reinstatement. *See* D.C. Bar R. XI, § 16(c).

BOARD ON PROFESSIONAL RESPONSIBILITY

By: 

Bernadette Sargeant

All Members of the Board concur in this Report and Recommendation, except Ms. Larkin, who did not participate.