

discipline of a public censure with practice management and continuing legal education requirements is justified and recommends that it be imposed by the Court.

II. FINDINGS PURSUANT TO D.C. BAR R. XI, § 12.1(c)
AND BOARD RULE 17.5

The Hearing Committee, after full and careful consideration, finds that:

1. The Petition and Affidavit are full, complete, and in proper order.

2. Respondent is aware that there is currently pending against him a proceeding involving allegations of misconduct. Tr. 17-18;¹ Affidavit 1 3.

3. The allegations that were brought to the attention of Disciplinary Counsel are that Respondent violated D.C. Rules of Professional Conduct 1.7(b) (conflict of interest) and 5.1(a) (failure to ensure law firm's compliance with Rules). Petition at 6-7.

4. Respondent has freely and voluntarily acknowledged that the material facts and misconduct reflected in the Petition are true. Tr. 18-19, 22-23; Affidavit 1 2. Specifically, Respondent acknowledges that:

(1) Respondent Brian R. Gormley is a member of the Bar of the District of Columbia Court of Appeals. He was admitted on August 9, 2004, and assigned Bar Number 488494.

(2) Thomas J. Monroe, Jr., is the personal representative of the estates of his deceased father, Thomas J. Monroe, Sr., and his deceased wife, Gloria J. Monroe.

(3) Monroe Sr.'s estate was opened in 2007, Case No. 2007-ADF-001232 (D.C. Superior Court, Probate Division), and was still open in 2023. Attorney Valerie Edwards represented Monroe in connection with his father's estate.

¹ "Tr." refers to the transcript of the limited hearing held on May 8, 2024.

(4) Gormley represented Monroe in probating the estate of Monroe's deceased wife. On September 24, 2021, Gormley filed a petition for probate on Monroe's behalf. *In re Gloria J. Monroe*, 2021 ADM 001358 (D.C. Superior Court, Probate Division). The following month, the Probate Court appointed Monroe as personal representative.

(5) In mid-[2022],² Monroe initiated two separate real estate actions on behalf of his father's and wife's estates, respectively.

(6) In May 2022, Monroe (represented by Edwards) filed a complaint in the D.C. Superior Court on behalf of his father's estate to quiet title to 605 Kennedy Street, NW - property previously owned by his father and mother. Monroe named as defendants his siblings - including Bertha Jones, Emma Graves, and Elizabeth Jones - and others with a claim to the property, including the former personal representative of the estate of their deceased mother.

(7) In June 2022, Gormley filed a complaint in which Monroe (as personal representative of his wife's estate) sought possession of a separate property located at 600 Darrington Street, SE.

(8) While Gormley was representing Monroe in the probate of his wife's estate, he agreed to represent three of Monroe's siblings who were defendants in the quiet title action that Monroe filed in May 2022.

(9) Tiffany Janvier nee Yearwood, a relative of the three siblings Monroe sued who sought legal representation, contacted Gormley in January 2023 about the quiet title litigation. Janvier is the niece of defendants Bertha Jones and Emma Graves, and the granddaughter of defendant Elizabeth Jones.

(10) On January 9, 2023, Gormley discussed the quiet title litigation with Janvier and charged her a \$75 consultation fee.

(11) The following day, Janvier sent Gormley the summons that had been issued in the case showing that Gormley's own client, Thomas J. Monroe, Jr., had filed the action.

² The Petition refers to "mid-2002." Paragraphs (6) and (7) make clear that the actions were filed in mid-2022, not mid-2002.

(12) On January 11, 2023, Gormley emailed Janvier his advice based on his review of the documents. Gormley charged Janvier an additional fee of \$250 for the advice, which she paid.

(13) The following day, Bertha Jones contacted Gormley directly to say they still needed representation in the court case.

(14) On January 19, 2023, Gormley provided a fee agreement to Bertha Jones, Elizabeth Jones, and Emma Graves (the clients) stating that he would represent them in the "Real Estate Litigation" and charge them hourly fees. The agreement required the clients to pay Gormley's firm an advance of \$2,500 before he would perform any work.

(15) All three clients signed the written fee agreement and Bertha Jones advanced Gormley \$2,500 for his fees. Janvier confirmed with Gormley's office that they had received the funds, and Gormley's office manager told her that Gormley would "be in touch soon."

(16) When Gormley agreed to represent the three clients, he had received, reviewed, and provided advice about the complaint and other documents that Janvier had provided showing that his client, Thomas J. Monroe, Jr., was the plaintiff in the case and was adverse to the three clients he would represent.

(17) Gormley later represented to Disciplinary Counsel that his office manager does conflicts checks for new matters. It is unclear whether one was done. Gormley had no documents that a check was done or the results of any such check.

(18) Gormley did not tell Janvier or his clients that he currently represented Monroe. Nor did Gormley seek or obtain a waiver from them.

(19) In February and March 2023, Janvier who acted as the clients' representative, exchanged a number of emails with Gormley about the quiet title action. Janvier told Gormley about the clients' concerns about Monroe's receiving rent for the property, his failure to account, the clients' unwillingness to sell the property or accept Monroe's proposed split of the proceeds, and the clients' earlier motion to have the quiet title action dismissed.

(20) Gormley also communicated with Edwards, Monroe's counsel in the litigation. Gormley informed her that he was representing the three clients and

he and Edwards exchanged emails in which Gormley requested an accounting on behalf of his clients and they discussed the possibility of settlement.

(21) In early March 2023, Janvier notified Gormley of the March 23, 2023 hearing in the litigation.

(22) Gormley told Janvier he was not available, but did not arrange for another lawyer in his office to attend the hearing.³ On the day of the hearing, Gormley called in and listened to the proceedings remotely.

(23) At the conclusion of the hearing, the court dismissed the matter without prejudice.

(24) After the hearing, Edwards exchanged emails with Gormley and counsel for the other defendants. In one email, Edwards said she disagreed with the judge's decision to dismiss the case, indicated that she would refile the complaint, and asked if Gormley and the other counsel would accept service on behalf of their clients.

(25) Gormley also communicated with Janvier about the case after the March 2023 hearing.

(26) In mid-April 2023, the clients learned that Gormley had been simultaneously representing Monroe in other matters. On April 18, 2023, Janvier emailed Gormley stating that the clients were firing him immediately.

(27) The next day, Gormley emailed Janvier saying that he was unaware that his client Monroe was the plaintiff in the quiet title action. Gormley claimed that there was no conflict of interest because a "conflict of interest would require contrasting positions in the same matter, or other representation that would prejudice clients." Gormley claimed that that the clients were not prejudiced and he had earned most of the fees he was paid. However, he told Janvier that if the clients felt strongly [that] they had been prejudiced or did not receive legitimate legal services, he would issue a refund.

(28) On April 20, 2023, Bertha Jones filed a complaint against Gormley with the Office of Disciplinary Counsel.

³ This stipulation is discussed in the Confidential Appendix, *infra*.

(29) On April 24, 2023, Gormley refunded \$2,500 to Bertha Jones. Gormley also refunded to Janvier the consultation fees totaling \$325.

Petition at 1-6 (footnotes added).

5. Respondent is agreeing to the disposition because Respondent believes that he cannot successfully defend against discipline based on the stipulated misconduct. Tr. 16-17; Affidavit 1 5.

6. Disciplinary Counsel has made no promises to Respondent other than what is contained in the Petition. Affidavit 1 6. Specifically, Disciplinary Counsel promised not to pursue any other charges or sanction arising out of the conduct described in Section II of the Petition. Petition at 7. Respondent confirmed during the limited hearing that there have been no other promises or inducements other than those set forth in the Petition. Tr. 22.

7. Respondent is aware of his right to confer with counsel and is proceeding *pro se*. Tr. 9-10; Affidavit 1 1.

8. Respondent has freely and voluntarily acknowledged the facts and misconduct reflected in the Petition and agreed to the sanction set forth therein. Tr. 18-23; Affidavit 1 2.

9. Respondent is not being subjected to coercion or duress. Tr. 23;⁴ Affidavit 1 2.

⁴ When asked at the limited hearing whether he had been subjected to coercion or duress, Respondent initially replied "Other than the process itself, no." Tr. 23. That response appeared to be intended as a joke. In response to a follow-up question, Respondent clarified that nobody had coerced him into entering into the negotiated discipline process. *Id.*

10. Respondent is competent and was not under the influence of any substance or medication that would affect his ability to make informed decisions at the limited hearing. Tr. 10-11.

11. Respondent is fully aware of the implications of the disposition being entered into, including, but not limited to, the following:

- a) he has the right to assistance of counsel if Respondent is unable to afford counsel;
- b) he will waive his right to cross-examine adverse witnesses and to compel witnesses to appear on his behalf;
- c) he will waive his right to have Disciplinary Counsel prove each and every charge by clear and convincing evidence;
- d) he will waive his right to file exceptions to reports and recommendations filed with the Board and with the Court;
- e) the negotiated disposition, if approved, may affect his present and future ability to practice law;
- f) the negotiated disposition, if approved, may affect his bar memberships in other jurisdictions; and
- g) any sworn statement by Respondent in his affidavit or any statements made by Respondent during the proceeding may be used to impeach his testimony if there is a subsequent hearing on the merits.

Tr. 10, 13-15; Affidavit 11 7, 9, 11.

12. Respondent and Disciplinary Counsel have agreed that the sanction in this matter should be a public censure by the Court of Appeals with the following terms:

(1) within three months⁵ of the Court's order approving the negotiated discipline, Respondent will take three hours of continuing legal education courses in legal ethics; and

(2) within three months of the Court's order approving the negotiated discipline, Respondent will meet with an advisor of the D.C. Bar's Practice Management Advisory Service (PMAS) to review his firm's policies and procedures, including those for detecting and resolving conflicts of interests, and implement any changes that the PMAS advisor recommends.

Respondent understands that, if he fails to comply with either of those conditions, Disciplinary Counsel may charge him with misconduct under Rule 8.4(d) for failure to abide by agreements made with Disciplinary Counsel or failure to obey a Court order or both. Petition at 7-8; Tr. 21-22; Affidavit 11 12-13.

13. The parties have not cited any factors in aggravation of sanction. Tr. 24-25.

14. The parties have stipulated to the following factors in mitigation of sanction: (a) Respondent has no prior discipline; (b) Respondent provided a full refund to his clients; (c) the clients were not prejudiced; (d) Respondent fully cooperated in the investigation, including meeting with Disciplinary Counsel on two occasions; and (e) Respondent is accepting responsibility by entering into this

⁵ The Petition states that these two requirements must be completed within "at least" three months of the Court's order. The parties understand this to mean that Respondent will satisfy the requirements no later than three months after the order. Tr. 21-22.

petition for negotiated discipline and has agreed to take remedial measures. Petition at 9; Affidavit 1 14; Tr. 23-24.

15. The complainants were notified of the limited hearing but did not appear and did not provide any written comment. Tr. 7-8, 25.

III. DISCUSSION

The Hearing Committee shall recommend approval of a petition for negotiated discipline if it finds:

(1) The attorney has knowingly and voluntarily acknowledged the facts and misconduct reflected in the petition and agreed to the sanction set forth therein;

(2) The facts set forth in the petition or as shown at the hearing support the admission of misconduct and the agreed upon sanction; and

(3) The sanction agreed upon is justified. . . .

D.C. Bar R. XI, § 12.1(c)(1)-(3); *see also* Board Rule 17.5(a)(i)-(iii).

A. Respondent Has Knowingly and Voluntarily Acknowledged the Facts and Misconduct and Agreed to the Stipulated Sanction.

The Hearing Committee finds that Respondent has knowingly and voluntarily acknowledged the facts and misconduct reflected in the Petition and agreed to the sanction therein. Respondent, after being placed under oath, admitted the stipulated facts and charges set forth in the Petition, and denied that he is under duress or has been coerced into entering into this disposition. *See supra* Paragraphs 8-9. Respondent understands the implications and consequences of entering into this negotiated discipline. *See supra* Paragraph 11.

Respondent has acknowledged that any and all promises that have been made to him by Disciplinary Counsel as part of this negotiated discipline are set forth in writing in the Petition and that there are no other promises or inducements that have been made to him. *See supra* Paragraph 6.

B. The Stipulated Facts Support the Admissions of Misconduct and the Agreed-Upon Sanction.

The Hearing Committee has carefully reviewed the facts set forth in the Petition and established during the hearing and concludes that they support the admission of misconduct and the agreed-upon sanction. Moreover, Respondent is agreeing to this negotiated discipline because he believes that he could not successfully defend against the misconduct described in the Petition. *See supra* Paragraph 5.

With regard to the second factor, the Petition states that Respondent violated D.C. Rule of Professional Conduct 1.7(b), which provides, in relevant part, that:

[A] lawyer shall not represent a client with respect to a matter if . . . [t]hat matter involves a specific party or parties and a position to be taken by that client in that matter is adverse to a position taken or to be taken by another client in the same matter even though that client is unrepresented or represented by a different lawyer "

The evidence supports Respondent's admission that he violated Rule 1.7(b). The stipulated facts establish that Thomas Monroe Jr. ("Monroe") was designated the personal representative of the estates of Monroe's deceased wife, Gloria Monroe, and his deceased father, Thomas Monroe, Sr. ("Monroe Sr."). Monroe hired Respondent to assist him in probating Gloria Monroe's estate, and hired another attorney, Valerie Edwards, to assist him in probating Monroe Sr.'s estate. Ms.

Edwards filed a complaint in D.C. Superior Court to quiet title to a property previously owned by Monroe's parents, which named Monroe's three siblings, among others, as defendants. Respondent agreed to represent the siblings in that matter at the same time he was representing Monroe in probating Gloria Monroe's estate, without informing the siblings that he also represented Monroe. In doing so, Respondent was representing parties (the siblings) who were adverse to a current client (Monroe)⁶ without informing the parties of this conflict or obtaining their consent to continue the representation.

The Petition further states that Respondent violated D.C. Rule of Professional Conduct 5.1(a), which provides:

A partner in a law firm, and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a law firm or government agency, shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that all lawyers in the firm or agency conform to the Rules of Professional Conduct.

The evidence supports Respondent's admission that he violated Rule 5.1(a). Although Respondent stated that his office has a procedure to check for conflicts, there was no evidence that Respondent or his office manager performed such a check in this case before Respondent agreed to represent the siblings in the quiet-title matter. In any event, Respondent should have been aware of the conflict because by the time he agreed to represent Monroe's siblings, he had received, reviewed, and provided advice about the quiet-title complaint and other documents that clearly

⁶ Disciplinary Counsel clarified during the limited hearing that even if Respondent represented Monroe Jr. in his capacity as personal representative of Gloria Monroe's estate, Monroe Jr. was still considered Respondent's client. Tr. 6.

showed that his other client, Monroe, was the plaintiff in that matter. Respondent's failure to ensure that the firm had run a conflict check before taking on the conflicting representation violated Rule 5.1(a).

C. The Agreed-Upon Sanction Is Justified.

The third factor the Hearing Committee must consider is whether the sanction agreed upon is justified. *See* D.C. Bar R. XI, § 12.1(c); Board Rule 17.5(a)(iii) (explaining that hearing committees should consider "the record as a whole, including the nature of the misconduct, any charges or investigations that Disciplinary Counsel has agreed not to pursue, the strengths or weaknesses of Disciplinary Counsel's evidence, any circumstances in aggravation and mitigation (including respondent's cooperation with Disciplinary Counsel and acceptance of responsibility), and relevant precedent"); *In re Johnson*, 984 A.2d 176, 181 (D.C. 2009) (per curiam) (providing that a negotiated sanction may not be "unduly lenient").

Based on the record as a whole, including the stipulated circumstances in mitigation, the Hearing Committee Chair's *in camera* review of Disciplinary Counsel's investigative file and *ex parte* discussion with Disciplinary Counsel (*see* Confidential Appendix, *infra*), and the Committee's review of relevant precedent, the Hearing Committee concludes that the agreed-upon sanction is justified and not unduly lenient, for the following reasons:

The record, including Respondent's testimony at the limited hearing, which this Committee finds credible and genuine, establishes a single instance of

misconduct that does not appear to have been willful or intentional. Respondent has no prior discipline, and he cooperated fully in this investigation, including meeting with Disciplinary Counsel on two occasions and providing documents that were requested from him. Respondent promptly accepted responsibility and has agreed to take remedial measures. Further, Respondent fully refunded his clients' fee payments.

The sanction here is also in line with cases involving comparable misconduct. *See, e.g., In re Szymkowicz*, 195 A.3d 785 (D.C. 2018) (per curiam) (public censure for conflict of interest for representing an elderly mother and relying on the son's power of attorney rather than obtaining informed consent from the mother); *In re Butterfield*, 851 A.2d 513 (D.C. 2004) (per curiam) (thirty-day suspension for failing to perform a conflicts check before representing a new client in a matter in which his firm's interests were adverse to the interests of an existing client, where his firm routinely failed to use its conflict identification system); *In re Edwards*, Bar Docket Nos. 2012-D007 & 2012-D209 (Letter of Informal Admonition Dec. 22, 2016) (informal admonition for neglect, failure to communicate, and failure to ensure that another attorney in the firm, who had a majority of the contacts with the clients, complied with the Rules in two matters); *In re Picard*, Bar Docket No. 2004-D373 (Letter of Informal Admonition Jan. 25, 2006) (informal admonition for representing a client whose interests were in conflict with the positions of other firm clients on the same legal issue pending before the same court).

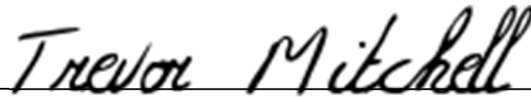
IV. CONCLUSION AND RECOMMENDATION

For the reasons stated above, it is the recommendation of this Hearing Committee that the negotiated discipline be approved and that the Court publicly censure Respondent and impose the requirements that, within three months of the Court's order, he must (1) take three hours of continuing legal education courses in legal ethics; and (2) meet with an advisor of PMAS and implement any changes that the PMAS advisor recommends.

AD HOC HEARING COMMITTEE



Philip Andonian
Chair



Trevor Mitchell
Public Member



Michele Spencer
Attorney Member