

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



Nov 7 2025 11:45am

A Member of the Bar of the
District of Columbia Court of Appeals
(Bar Registration No. 978639)

•
•

•
•

•
•

•
•

•
•

•
•

•
•

Disciplinary Docket No. 2019-D148

I. PROCEDURAL HISTORY

This matter came before this Ad Hoc Hearing Committee on June 18, 2025, for a limited hearing on an Amended Petition for Negotiated Discipline (the “Petition”). The members of the Hearing Committee are Evelyn S. Tang, Esquire (Chair), Cecilia Carter Monahan (Public Member), and Suzanne Grealy Curt, Esquire (Attorney Member). The Office of Disciplinary Counsel was represented by Assistant Disciplinary Counsel, Carroll G. Donayre, Esquire. Respondent, Nury Turkel, was represented by Daniel S. Schumack, Esquire.

The Hearing Committee has carefully considered the Petition signed by Disciplinary Counsel, Respondent, and Respondent’s counsel, the supporting affidavit submitted by Respondent (the “Affidavit”), and the representations during the limited hearing made by Respondent, Respondent’s counsel, and Disciplinary

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

Counsel. The Hearing Committee also has fully considered the Chair’s *in camera* review of Disciplinary Counsel’s files and records and the Chair’s *ex parte* communications with Disciplinary Counsel. For the reasons set forth below, the Hearing Committee finds that the negotiated discipline of a 30-day suspension, fully stayed in favor of one year of probation with conditions, 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 an investigation into allegations of misconduct. Tr. 20-22;¹ Petition at 1 (Respondent acknowledging that he “is the subject of the above-referenced investigation by Disciplinary Counsel pursuant to D.C. Bar Rule XI §§ 6(a)(2), 8(a), and Board Rule 2.1”).
3. The allegations that were brought to the attention of Disciplinary Counsel are that Respondent violated the following District of Columbia Rules of Professional Conduct (“D.C. Rules” or “Rules”): 1.1(a) and 1.1(b) (competence, skill and care), 1.3(a) and 1.3(c) (diligence, reasonable promptness), 1.4(a) and 1.4(b) (communication, informed decisions), 1.15(a) (recordkeeping), and 1.16(d) (timely refunding advance fee not earned), or the parallel violations under 8 C.F.R.

¹ “Tr.” refers to the transcript of the limited hearing held on June 18, 2025.

§ 1003.102 (Executive Office for Immigration Review (“EOIR”) grounds of discipline). Petition at 7-8.

4. Respondent has freely and voluntarily acknowledged that the material facts and misconduct reflected in the Petition are true. Tr. 30; Affidavit ¶ 5. Specifically, Respondent acknowledges that:

(1) On or about August 16, 2013, A.S. entered the United States on a B[-]2 visitor visa, he was 14 years old.

(2) On July 24, 2014, the legal guardian of A.S. retained Respondent to represent A.S. in an affirmative asylum application. Respondent provided A.S. and his legal guardian with a retainer agreement to represent A.S. regarding his I-589 asylum petition based on status as a Uyghur. Respondent charged a flat fee of \$4,000. The scope of the representation was to represent the client in preparing and filing an I-589 asylum application and then appearing at the interview before an officer of the U.S. Citizenship and Immigration Services (“USCIS”) who would make the initial determination of the application.

(3) A.S.’s family paid Respondent the legal fee of \$4,000.

(4) On May 5, 2015, Respondent filed A.S.’s asylum application (I-589) with USCIS.

(5) On May 19, 2016, A.S. attended his asylum interview with Respondent at the Boston Asylum office.

(6) On July 28, 2016, A.S. moved. A.S. alleged that his family notified Respondent of the new address, but the parties differ on when Respondent became aware of the move.

(7) A.S.'s sister alleged that she became concerned that Respondent did not file a change of address for A.S., so she decided to update their address with USPS. A.S.'s sister did not file a change of address form with USCIS.

(8) On September 21, 2016, A.S.'s asylum officer issued a letter indicating the application interview did not result in approval of the application, referring [] the matter for a de novo hearing before the Immigration Court at a date to be scheduled.

(9) Respondent did not file a Notice of Entry of Appearance as [an] attorney with the Immigration Court.

(10) On December 11, 2016, A.S.'s guardian retained Respondent to handle the removal proceedings before the Immigration Court.

(11) The parties agreed to a fee of \$4,000 to handle the Motion to Reopen the case.

(12) On December 30, 2016, A.S.'s legal guardian paid Respondent \$2,000 by check. She deposited the funds directly into Respondent's trust account.

(13) Respondent did not check with the Court about the scheduling of the Master Calendar hearing.

(14) On January 10, 2017, Respondent filed a change of address for A.S. with USCIS.

(15) Neither Respondent nor A.S. received notice [of] the Master Calendar hearing, which the Court had scheduled for June 14, 2017.

(16) As neither Respondent nor A.S.'s family received the notice of the June 14, 2017, hearing, no one attended the hearing, and the judge issued an in-absentia removal order.

(17) In September 2017, Respondent learned of the in-absentia order when he checked with the clerk of the court about the status of the case.

(18) Respondent did not explain to A.S. or his family that an in-absentia order meant A.S. could be removed from the United States.

(19) A.S.'s legal guardian retained Respondent to contest the in-absentia order against him and file a Motion to Reopen.

(20) On September 6, 2017, Respondent filed an Entry of Appearance with the Immigration Court, which restated the proper address for A.S. as had been filed with USCIS on January 10, 2017.

(21) On December 21, 2017, the Immigration Judge issued the Order of Removal in A.S.'s case due to his failure to appear on June 14, 2017.

(22) By statute, A.S. was required to file a Motion to Reopen within 180-days of the December 21, 2017, order.

(23) In March 2018, Respondent enlisted the assistance of another attorney, to help draft A.S.'s Motion to Reopen.

(24) In April 2018, the Guardian asked Respondent about the progress of the case. Respondent told her he and the other attorney intended to file the motion within the next few days.

(25) Respondent and the other attorney missed the 180-day deadline for filing the Motion to Reopen.

(26) Respondent did not tell his client or the client's family that he had missed the deadline. Respondent also did not respond to requests for status updates by the client and his family. Respondent believed his co-counsel was handling these communications.

(27) In January 2019, A.S.'s legal guardian hired successor counsel to assist A.S. in reopening his immigration case.

(28) On April 1, 2019, A.S., through his new counsel, filed a disciplinary complaint.

(29) A.S. as part of the bar complaint requested a refund of the legal fees paid to Respondent.

(30) Respondent refunded \$2,000 of the legal fees paid to him for the December 2016 engagement.

(31) When Disciplinary Counsel asked Respondent to produce records accounting for the legal fees Respondent received from A.S.'s family, Respondent produced only a copy of his trust account bank statement for January 2017 and a trust deposit receipt for the client's above-referenced \$2,000 payment.

(32) There is no evidence of misappropriation based on Disciplinary Counsel's review of the bank records produced pursuant to a bank subpoena.

5. Respondent is agreeing to the disposition because Respondent believes that he cannot successfully defend against discipline based on the stipulated misconduct. Tr. 20; Affidavit ¶ 4.

6. Disciplinary Counsel has made no promises to Respondent other than what is contained in the Petition. Affidavit ¶ 6. That promise is to recommend the sanction set forth in this negotiated disposition. Petition at 8. Respondent confirmed during the limited hearing that there have been no other promises or inducements other than those set forth in the Petition. Tr. 30.

7. Respondent has conferred with his counsel. Tr. 9; Affidavit ¶ 1.

8. Respondent has freely and voluntarily acknowledged the facts and misconduct reflected in the Petition and has agreed to the sanction set forth therein. Tr. 23-28; Affidavit ¶¶ 3, 5.

9. Respondent is not being subjected to coercion or duress. Tr. 30; Affidavit ¶ 5.

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. 9-11.

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 consult with counsel (and has done so) prior to entering this negotiated disposition;
- 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. 9, 11-15, 17-19; Affidavit ¶¶ 1, 8-9, 11.

12. Respondent and Disciplinary Counsel have agreed that the sanction in this matter should be a 30-day suspension, fully stayed in favor of one-year of unsupervised probation² with the following conditions:

- Respondent must take three hours of pre-approved continuing legal education related to the maintenance of trust accounts, record keeping, and/or safekeeping client property. Respondent must take three hours

² Under D.C. Bar Rule XI, section 3(a)(7), an order imposing probation shall state “whether, and to what extent, the attorney shall be required to notify clients of the probation.” It appears the Petition does not address whether Respondent is required to notify his clients of the (potential) probation. Without clear language otherwise, we recommend that Respondent not be required to do so.

of pre-approved continuing legal education in Immigration Law. Respondent must certify and provide documentary proof that he has met this requirement to the Office of Disciplinary Counsel at any time before the Court issues an Order and no later than six months of the Court's final Order;

- From the date on which the amended negotiated discipline agreement was signed by Respondent (and continuing during his one year of probation),³ he shall not engage in any misconduct in this or any other jurisdiction.
- If Disciplinary Counsel has probable cause to believe that Respondent has failed to satisfy any of these conditions, Disciplinary Counsel may request that Respondent be required to serve the suspension previously stayed herein.

Petition at 8-9; Affidavit ¶ 12; Tr. 5-6, 29-30.⁴

³ During the limited hearing, Respondent's counsel clarified without objection from Disciplinary Counsel that the condition that Respondent "not engage in any misconduct from the date of signature" is intended to expire as a condition one year from the date the court enters its order in this case." Tr. 6.

⁴ Also during the limited hearing, the Chair asked Respondent if he agreed that a violation of *any of these* conditions would establish a basis to revoke probation. Tr. 29-30. Respondent agreed, and neither Disciplinary Counsel nor Respondent's counsel objected. Tr. 30; *see also* Affidavit ¶ 12 (Respondent understanding that his "failure to comply with the conditions set forth in the Court's order imposing a 30-day suspension, subject to conditions, could result in a finding of contempt."). The understanding of the parties as stated at the limited hearing regarding the consequences of violating any of the conditions differs slightly from the language in the Petition and from how Disciplinary Counsel characterized the conditions at the

14. Respondent has provided the following circumstances in mitigation, which the Hearing Committee has taken into consideration: Respondent has no prior discipline, Respondent has taken full responsibility for his misconduct and has demonstrated remorse, Respondent has fully cooperated with Disciplinary Counsel and has volunteered for an interview, and Respondent has fully refunded the sum received in the December 2016 engagement (\$2,000). Petition at 11-12; Affidavit ¶¶ 13; *see also* Tr. 27. During the limited hearing, Respondent asked the Committee to consider his community service and public service—first serving with the United States government on a voluntary basis, then representing clients who suffered “some of the worst forms of human rights abuses,” while charging a low fee.⁵ Tr. 32-34. Disciplinary Counsel took no position on these additional mitigating facts.

15. The complainant was notified of the limited hearing but did not appear and did not provide any written comment. Tr. 6-7.

beginning of the hearing, which referred only to violation of the *second* condition (regarding misconduct) triggering a basis to revoke probation. Petition at 9; Tr. 5-6. We recommend that the “any of these conditions” phrasing apply, because Respondent agreed, and neither Disciplinary Counsel nor Respondent’s counsel voiced an objection. However, even if the Court were to determine that the probation condition should be as it is written in the Petition, we would still recommend approval.

⁵ At the hearing, both parties also noted that client A.S. was granted asylum with the assistance of successor counsel in 2024. Tr. 34-35.

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. Rules 1.1(a) (competence), 1.1(b) (skill and care), 1.3(a) (diligence), 1.3(c) (reasonable promptness), 1.4(a) (communication), 1.4(b) (informed decisions), 1.15(a) (recordkeeping), and 1.16(d) (timely refunding advance fees not earned), or the parallel violations under 8 C.F.R § 1003.102 (EOIR grounds for discipline).

Choice of Law. Respondent is subject to only one set of rules for each charged violation. *See* Rule 8.5, cmt. [3]. In assessing which rules to apply, Rule 8.5(b)(1) provides that “[f]or conduct in connection with a matter pending before a tribunal, the rules to be applied shall be the rules of the jurisdiction in which the tribunal sits, unless the rules of the tribunal provide otherwise.” Citing *Jenkins*, another negotiated case, the parties assert that the Committee need not determine whether this matter is governed by the D.C. Rules or parallel rules under 8 C.F.R. § 1003.102 (EOIR grounds of discipline) because “choice of law issues need not be resolved in a Negotiated Petition.” Petition at 7, n.1 (citing *In re Jenkins*, 298 A.3d 293 (D.C. 2023) (per curiam)). We agree that we need not conclusively resolve this issue for

charges under D.C. Rules 1.1(a) (competence), 1.1(b) (skill and care), 1.3(a) (diligence), 1.3(c) (reasonable promptness), 1.4(a) (communication), and 1.4(b) (informed decisions), because their EOIR counterparts are substantively identical. *See* 8 C.F.R. §§ 1003.102(o), (q), & (r) (discussing competence, diligence, promptness, and different aspects of communication); *In re Jenkins*, Board Docket No. 23-ND-002, at 7-8 (Hearing Committee Report June 29, 2023), *recommendation adopted*, 298 A.3d 293; *In re Flower*, 328 A.3d 415, 416 (D.C. 2024) (per curiam). But because the EOIR Rules do not have a counterpart to D.C. Rules 1.15(a) (recordkeeping) or 1.16(d) (timely refunding advance fees not earned), we apply the D.C. Rules to those charges. *See In re Osemene*, Board Docket No. 18-BD-105 (BPR May 31, 2022), appended Hearing Committee Report at 34-36 (the Board of Immigration Appeals (“BIA”) intends that state disciplinary rules apply to violations of state rules that are not covered by the BIA’s own disciplinary rules), *recommendation adopted where no exceptions filed*, 277 A.3d 1271 (D.C. 2022) (per curiam); *see also In re Alexei*, Board Docket No. 21-BD-050, at 9 (BPR May 8, 2024) (ordering informal admonition issued June 27, 2024), appended Hearing Committee Report at 17-19; Petition at 1 (noting Respondent’s membership in the D.C. Bar).

The Merits. The evidence supports Respondent’s admission that he violated D.C. Rules 1.1(a) (competence), 1.1(b) (skill and care), 1.3(a) (diligence), 1.3(c) (reasonable promptness), 1.4(a) (communication), and 1.4(b) (informed decisions), or parallel violations under 8 C.F.R. §§ 1003.102(o), (q), and (r). After the client’s

asylum application was rejected, Respondent was hired “to handle the Motion to Reopen the case.” Though Respondent filed a change of address for A.S. with the USCIS, he did not initially enter his appearance or check with the Immigration Court about the scheduling of the hearing. When neither Respondent nor A.S. appeared for the hearing, the judge issued an in-absentia removal order. And when Respondent learned of it, he did not explain the consequences to A.S., who then had 180 days to file a Motion to Reopen. Respondent was hired to contest the removal order (and file a Motion to Reopen). He entered his appearance and enlisted co-counsel to help. Though he told A.S.’s family that the motion would be filed in the next few days, Respondent (and co-counsel) missed the deadline and did not inform A.S. (or A.S.’s family) of this fact. Nor did he respond to their requests for status updates, as he believed his co-counsel was doing so. Through Respondent’s failures to pursue and advance A.S.’s case, and through his failures to communicate and provide updates to A.S., Respondent violated D.C. Rules 1.1(a) (competence), 1.1(b) (skill and care), 1.3(a) (diligence), 1.3(c) (reasonable promptness), 1.4(a) (communication), and 1.4(b) (informed decisions), or parallel violations under 8 C.F.R. §§ 1003.102(o), (q), and (r).

Respondent and Disciplinary Counsel agree that Respondent violated Rule 1.16(d) by failing to timely refund the \$2,000 belonging to his client, in connection with Respondent’s termination of the representation. Petition at 8; Affidavit ¶ 3; Tr. 23, 27-28. But the Petition does not clearly state when Respondent’s representation of A.S. ended; nor does it quantify Respondent’s delay in refunding the \$2,000.

Rather, in support, the Petition explains that Respondent did not file A.S.’s Motion to Reopen within 180 days of the Immigration Judge’s December 21, 2017 order; that A.S.’s legal guardian hired successor counsel in January 2019; that A.S., through his new counsel, filed a disciplinary complaint on April 1, 2019, which also requested a refund of the legal fees; and that Respondent refunded A.S. the \$2,000 sometime thereafter. *See supra* Paragraph 4, ¶¶ 21-22, 25-30.

Though we lack clarity about when Respondent was specifically required to refund the \$2,000, we note that Respondent, who is represented by counsel, stipulated to violating this Rule both in his Affidavit and during the hearing. We see no reason to question the parties’ agreement, and we thus decline to reach a conclusion other than Respondent violated this Rule.

The stipulated facts support Respondent’s admission that he violated D.C. Rule 1.15(a)’s recordkeeping requirement. A respondent’s documentary record is complete when it “tells the full story of how the attorney handled client or third-party funds’ and whether, for example, the attorney misappropriated or commingled a client’s funds.” *In re Edwards*, 990 A.2d 501, 522 (D.C. 2010) (appended Board Report) (quoting *In re Clower*, 831 A.2d 1030, 1034 (D.C. 2003) (per curiam)) (citing *In re Pels*, 653 A.2d 388, 396 (D.C. 1995) (finding Rule 1.15(a) violation when attorney showed a “pervasive failure” to maintain contemporaneous records accounting for the flow of client funds within various bank accounts)). Thus, “[t]he records themselves should allow for a complete audit even if the attorney or client is not available.” *Edwards*, 990 A.2d at 522 (appended Board Report).

Respondent provided only his January 2017 bank statement and the trust deposit receipt for the client's \$2,000 payment. These were insufficient to tell the full story of how he handled client funds, and thus, Respondent violated 1.15(a)'s recordkeeping requirement. *See Confidential Appendix.*

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* discussions with Disciplinary Counsel, and the Committee’s review of relevant precedent, the Hearing Committee concludes that the agreed-upon sanction is justified and not unduly lenient. *See Confidential Appendix* (discussing charges not pursued in this Petition).

Non-suspensory sanctions. Cases resulting in non-suspensory sanctions are comparable to Respondent’s case here. For example, the respondents in *In re Payne*

and *In re Oswald* also represented clients in immigration matters and, like here, violated Rules involving competence, diligence, communication, and conduct during termination of representation. See *In re Payne*, Bar Docket No. 2005-D174 (Letter of Informal Admonition, Sept. 1, 2005) (informal admonition for violating Rules 1.1(a), 1.1(b), 1.3(a), 1.4(a), and 1.16(a)(1)); *In re Oswald*, Bar Docket No. 2008-D272 (Letter of Informal Admonition, July 8, 2009) (informal admonition for violating Rules 1.1(a), 1.1(b), 1.3(a), 1.3(c), 1.4(a), 1.4(b), and 1.16(a)). Coupled with mitigating circumstances (no prior discipline, cooperation with Disciplinary Counsel, and acceptance of responsibility), the respondents each received the *lowest* non-suspensory sanction—an informal admonition.⁶

The Petition points to other respondents who have received informal admonitions for missing a statute of limitations, which we have also considered. See Petition at 10 (summarizing *In re Katz*, Bar Docket No. 2008-D484 (Letter of Informal Admonition, July 8, 2009), where the respondent violated Rules 1.1(a), 1.1(b), 1.3(a), and 1.3(c), by “failing to file malpractice claim before [the] statute of limitations expired”); see also Petition at 10 (describing *In re Devarajan*, Bar Docket No. 2006-D113 (Letter of Informal Admonition, May 24, 2007), where the respondent violated Rules 1.1(a), 1.1(b), and 1.3(a) for “failing to file personal injury lawsuit”).

⁶ With respect to non-suspensory sanctions, an informal admonition is the least serious sanction, followed by a Board reprimand, and a public censure from the Court of Appeals. See *In re Schlemmer*, 870 A.2d 76, 80 (D.C. 2005).

The respondents who received Board reprimands or public censures also involve similar, or arguably more serious conduct. “Generally, absent aggravating factors, a first instance of neglect of a single client matter warrants a reprimand or public censure.” *In re Chapman*, 962 A.2d 922, 926 (D.C. 2009) (per curiam) (citing, e.g., *Schlemmer*, 870 A.2d at 82 (Board reprimand); *In re Bland*, 714 A.2d 787, 788 (D.C. 1998) (per curiam) (public censure)).

For example, the respondent in *Kaufman* was publicly censured for violations similar to Respondent’s. But unlike here, the respondent *intentionally* prejudiced and *intentionally* neglected his client. *In re Kaufman*, 14 A.3d 1136, 1136 (D.C. 2011) (per curiam) (public censure for intentional prejudice and intentional neglect of a client’s personal injury lawsuit, along with aggravating and mitigating factors (including non-*Kersey* mitigation), in violation of Rules 1.1(a), 1.3(a), 1.3(b)(1), 1.3(b)(2), 1.4(a), and 1.16(d)). *Avery* and *Bingham* also display similar, or even less serious circumstances. *In re Avery*, 926 A.2d 719, 720 (D.C. 2007) (per curiam) (public censure, with continuing legal education, for violating Rules 1.1(a), 1.3(a), 1.3(c), 1.4(a), 1.4(b), 1.5(c), 1.5(e), and 1.16(d)); *In re Bingham*, 881 A.2d 619, 620-21, 623 (D.C. 2005) (per curiam) (public censure, with three years of probation and with condition of restitution for violating Rules 1.1(a), 1.1(b), 1.3(a), 1.3(c), and 1.16(a)(2), where the Court also noted the respondent’s health problems and lack of prior discipline in mitigation, but also the duration of the neglect in aggravation).

Suspensory cases. “[I]n cases where there are aggravating factors or the respondent has a prior disciplinary history, a 30-day suspension has . . . been

imposed.” *Chapman*, 962 A.2d at 926 (citing, e.g., *In re Mance*, 869 A.2d 339, 341 (D.C. 2005) (30-day suspension stayed in favor of probation for neglect stemming from systematic case disorganization); *In re Ontell*, 593 A.2d 1038 (D.C. 1991) (30-day suspension for neglect in two client matters although candid with Board and clients));⁷ *see* Petition at 11.

The respondent in *McGann* received a 30-day suspension—non-identical reciprocal discipline—for commingling and failing to maintain adequate records. *In re McGann*, 666 A.2d 489 (D.C. 1995) (per curiam) (appended Board Report). Though the respondent committed fewer Rule violations than Respondent, the Court did not note any mitigating circumstances. *See id.*

Cole and *Sumner* are also instructive—the respondent in *Cole* received a 30-day suspension for similar Rule violations and aggravating factors not present here. *In re Cole*, Bar Docket No. 268-05, at 19 (BPR Dec. 20, 2007) (recommending 30-day suspension for violating Rules 1.1(a), 1.1(b), 1.3(a), 1.3(b), 1.3(c), 1.4(a), 1.4(b), 8.4(c), and 8.4(d)), *recommendation adopted*, 967 A.2d 1264, 1267-1270 (D.C. 2009) (adopting recommended 30-day suspension for Rule violations, coupled with mitigation and aggravation based on “dissembling or lying to a client” and “causing parties and judicial tribunals to engage in unnecessary work because of [his] failures”). Similarly, the respondent in *Sumner* received a 30-day suspension

⁷ Though the respondent in *Ontell* committed fewer violations, he neglected two client matters—compared to one here—and made two misrepresentations—compared to none here. *See* 593 A.2d at 1041.

for parallel violations, but also for a misrepresentation “specifically designed to lull a client while [the respondent] was in the process of abandoning his efforts on the client’s behalf.” *In re Sumner*, 665 A.2d 986, 987, 991 (D.C. 1995) (appended Board Report) (30-day suspension—which the Board concluded was the “outer range of an appropriate sanction here”—for violating Rules 1.1(a), 1.1(b), 1.4(a), 1.5(b), 1.16(d), and 4.1(a), in part because of the respondent’s “abandonment of [his] client,” his “episode of depression,” and the “violations of other [non-neglect] rules”).

Finally, the Court has imposed “greater punishment in neglect cases where there were significant aggravating factors—such as deliberate dishonesty, a pattern of neglect, or an extensive disciplinary history.” *Chapman*, 962 A.2d at 926 (citing, e.g., *In re Steinberg*, 878 A.2d 496, 497 (D.C. 2005) (per curiam) (60-day suspension for neglect where attorney had three prior 30-day suspensions); *In re Drew*, 693 A.2d 1127, 1128 (D.C. 1997) (per curiam) (appended Board Report) (60-day suspension for neglecting two cases with a disciplinary record of three informal admonitions)). This is not the case here—there is no dishonesty, no prior discipline, and no pattern of neglect. *Cf. In re Outlaw*, 917 A.2d 684, 687-89 (D.C. 2007) (per curiam) (60-day suspension for violating Rules 1.1(a), 1.1(b), 1.3(a), 1.4(a), 1.4(b), and 8.4(c), and where the respondent’s “misleading conduct was protracted and occurred over an extended period of time”); *In re Thai*, Bar Docket No. 154-03, at 19 (BPR July 31, 2008) (recommending 60-day suspension with 30 days stayed in favor of one year of probation for representing a client before an immigration court without

competence, diligence, and zeal, in violation of Rules 1.1(a), 1.1(b), 1.3(a), 1.3(c), and 1.4(a), and where respondent “did not present [a ground for relief] to the Immigration Court, ostensibly to keep his own culpability out of the record and thus protect his own self-interest”), *recommended sanction adopted*, 987 A.2d 428, 430 (D.C. 2009) (Court finding an additional violation of Rule 1.16(d)).

Because Respondent’s misconduct and circumstances more closely track those in which respondents received non-suspensory sanctions to 30-day suspensions, Respondent’s 30-day stayed suspension would not be unduly lenient.

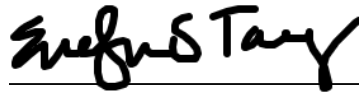
IV. CONCLUSION AND RECOMMENDATION

For the reasons stated above, it is the recommendation of this Hearing Committee that the negotiated discipline be approved and that the Court issue a 30-day suspension, stayed in favor of one year of unsupervised probation, and subject to the following conditions:

- Respondent must take three hours of pre-approved continuing legal education related to the maintenance of trust accounts, record keeping, and/or safekeeping client property. Respondent must take three hours of pre-approved continuing legal education in Immigration Law. Respondent must certify and provide documentary proof that he has met this requirement to the Office of Disciplinary Counsel at any time before the Court issues an Order and no later than six months of the Court’s final Order.

- From the date on which Respondent signed the amended negotiated discipline agreement (and continuing during his one year of probation), he shall not engage in any misconduct in this or any other jurisdiction.
- If Disciplinary Counsel has probable cause to believe that Respondent has failed to satisfy any of these conditions,⁸ Disciplinary Counsel may request that Respondent be required to serve the suspension previously stayed herein.

AD HOC HEARING COMMITTEE



Evelyn S. Tang
Chair



Cecilia Carter Monahan
Public Member



Suzanne Grealy Curt
Attorney Member

⁸ As previously mentioned, we recommend that the Court adopt the language that a violation of any of the probation conditions would establish a basis to revoke probation. However, we would still recommend approval of the negotiated discipline if the Court determines the probation condition should be as written in the Petition and apply only to the second condition (not engage in any misconduct). Also as previously discussed, we recommend that Respondent not be required to notify his clients of the probation. *See* D.C. Bar Rule XI, § 3(a)(7).