THIS REPORT IS NOT A FINAL ORDER OF DISCIPLINE*

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

In the Matter of:	:	
	:	
PAULINE M. SCHWARTZ	:	
	:	
Respondent.	:	Board Docket No. 25-BD-064
	:	Disc. Docket No. 2022-D091
An Administratively Suspended	:	
Member of the Bar of the	:	
District of Columbia Court of Appeals	:	
(Bar Registration No. 457853)	:	

REPORT AND RECOMMENDATION OF
AD HOC HEARING COMMITTEE

Respondent, Pauline M. Schwartz, is charged with violating Rules 1.1(b), 1.3(a) and (c), 1.4(a) and (b), 1.15(a) and (e), 1.16(d), 8.1(b), and 8.4(b)-(d) of the District of Columbia Rules of Professional Conduct (the "Rules"), arising from her joint representation of both a client seeking an employment-based green card and the client's employer. Disciplinary Counsel contends that Respondent committed all of the charged violations except for 8.4(b), which it has abandoned[1] and contends that she should be disbarred for reckless or intentional misappropriation. Respondent has not participated in these proceedings.

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[1] Disciplinary Counsel originally charged Respondent with violating Rule 8.4(b) by committing theft under D.C. Code § 22-3211. The Hearing Committee recommends that this charge be dismissed.

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

As set forth below, the Hearing Committee finds that Disciplinary Counsel has proven violations of Rules 1.1(b), 1.3(a) and (c), 1.4(a) and (b), 1.16(d), 8.1(b), and 8.4(c) and (d) by clear and convincing evidence. And we find that Disciplinary Counsel has not met its burden to prove violations of Rules 1.15(a) and (e). We recommend that Respondent be suspended for six months with requirements that she demonstrate fitness and pay restitution prior to reinstatement.

I. PROCEDURAL HISTORY

On December 6, 2025, Disciplinary Counsel served Respondent with a Specification of Charges ("Specification"). Although Respondent had responded to some of Disciplinary Counsel's initial inquiries, she did not file an Answer and has not participated in these proceedings.

A hearing was held on February 24, 2026, before this Ad Hoc Hearing Committee. Disciplinary Counsel was represented at the hearing by Jelani Lowery, Esquire. Respondent was not present.

During the hearing, Disciplinary Counsel submitted Disciplinary Counsel's Exhibits ("DCX") 1 through 12, all of which were admitted into evidence. Hearing Transcript ("Tr.") 63. Disciplinary Counsel called as witnesses Respondent's former clients, Nicole Silver and Sara Touchard (*née* Galeano Sanchez).

Upon conclusion of the hearing, the Hearing Committee made a preliminary non-binding determination that Disciplinary Counsel had proven at least one of the ethical violations set forth in the Specification. Tr. 82; *see* Board Rule 11.11. Disciplinary Counsel did not introduce evidence in aggravation of sanction.

Disciplinary Counsel submitted its Proposed Findings of Fact, Conclusions of Law, and Recommendation as to Sanction ("ODC Br.") on March 24, 2026. Respondent did not file a post-hearing brief.

II. FINDINGS OF FACT

The following findings of fact have been established by clear and convincing evidence based on the testimony and documentary evidence admitted at the hearing. *See* Board Rule 11.6; *In re Cater*, 887 A.2d 1, 24 (D.C. 2005) ("clear and convincing evidence" is more than a preponderance of the evidence, it is "evidence that will produce in the mind of the trier of fact a firm belief or conviction as to the facts sought to be established" (citation omitted)).

1. Respondent, Pauline Schwartz, was admitted to the Bar of the District of Columbia Court of Appeals on March 9, 1998, and assigned Bar number 457853. DCX 1. She was administratively suspended for non-payment of dues on October 3, 2023. *See Member Details: Ms. Pauline M. Schwartz,* https://my.dcbar.org/directorymemberships?id=0014z00001kaVMZAA2 (last visited June 8, 2026).

2. From November 2016 through November 2017, Sara Galeano Sanchez worked for Nicole Silver as an au pair on a J-1 visa. DCX 5 at 63. Sanchez thereafter obtained an F-1 student visa that allowed her to stay in the United States while she studied English. [2] *Id.*

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[2] Sanchez is identified in the transcript by her current name, Sara Touchard.

3. In early 2019, with her student visa set to expire on December 31, 2020, Sanchez wanted to explore immigration options that would allow her to work again, as well as possibly to continue living in the United States permanently. *See* Tr. 15 (Silver); DCX 5 at 14, 63; DCX 6 at 6.

4. Silver referred Sanchez to Respondent, whom she had previously met when they both participated in one of the D.C. Bar Communities. Tr. 26-29 (Silver). Sanchez then met with Respondent on February 25, 2019, for an immigration consultation. DCX 5 at 3, 6, 14; DCX 6 at 6; Tr. 36-37 (Sanchez).

5. After the initial meeting Sanchez never again met with Respondent in person. All subsequent communications were through emails, texts, and calls. Tr. 38 (Sanchez).

6. On March 5, 2019, a week after the initial meeting, Respondent sent an email to Sanchez and Silver with several options Sanchez might wish to pursue. DCX 5 at 14-16. Respondent described one of those options as an "Employer-Sponsored Green Card/Permanent Residence" case. *Id.* With this recommendation, Respondent attached a document, the "Estimated Green Card Case Timeframe," estimating the timeline for that option in three stages, estimating that Stage One would take eight months. *See* DCX 5 at 16, 56-57; *see also* Tr. 16 (Silver); Tr. 36-38 (Sanchez).

7. Silver spoke on the telephone with Respondent in late March to discuss the potential representation. *See* DCX 6 at 8-9. Respondent followed up that call with emails to Silver, inquiring whether she and Sanchez wanted to proceed with an

engagement, and noting, "the sooner we start it, the sooner we can lock in [Sanchez's] priority date and place in 'line'." DCX 6 at 9.

8. In May 2019, Silver executed a retainer agreement with Respondent to pursue the employer-sponsored green card and permanent residence option. DCX 5 at 11-13; Tr. 15-18 (Silver). The agreement divided the representation into three stages, each with a separate flat fee:

a. Stage One required a flat fee of $5,000 for the PERM case with the Department of Labor (DOL), which included the prerequisites for and the filing of the Form 9089 Application for Labor Certification.[3]

b. Stage Two required a flat fee of $2,500 and included the preparation and filing of the Employer's Form I-140 Petition for Alien Worker (based upon the approved Form 9089 from Stage One).

c. Stage Three required a flat fee of $2,500 and included the preparation and filing of the Employee's Form I-485 and the filing of the Form I-765 if it had not already been filed in Stage Two.

DCX 5 at 11-13.

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[3] A "PERM" case is a Permanent Labor Certification application, which is filed by an employer with the U.S. Department of Labor (DOL), to demonstrate that no qualified U.S. workers are available for a specific permanent position, a requirement before hiring a foreign worker for a green card. The process involves the DOL determining a prevailing wage for the position, the employer conducting mandatory recruitment efforts to test the U.S. labor market for U.S. citizens or permanent residents who might be able to fill the position, and the DOL certifying the application. *See* 20 C.F.R. §§ 656.10, 656.17.

9. Although only Silver signed the retainer agreement, both Silver and Sanchez were clients in this matter. DCX 5 at 1 (Respondent stating "[t]his case involved dual representation of both employer and employee").

10. In the retainer agreement, Respondent stated that she "will perform the legal services called for under the agreement, keep the Client informed of progress and respond promptly to Client's communications." DCX 5 at 12.

11. On May 1, 2019, Silver paid Respondent $5,000 for Stage One of the representation. DCX 8 at 2; Tr. 18-19 (Silver).

12. The "Estimated Green Card Case Timeframe" document Respondent had provided to Sanchez and Silver on March 5, 2019, estimated that Stage One—which included the prerequisites for, and the filing of, the Form 9089 Application for Labor Certification (referred to in the document as the PERM Application)—could be completed in approximately eight months. *See* DCX 3 at 18-19. Respondent told the clients that, based on the work that was necessary to obtain a green card for Sanchez, the application for the work permit would be approved "roughly May 2020 at the earliest." *Id.* After this, while the work permit was active, Form I-485 could be filed. *Id.* This would provide for a cushion between obtaining a legal status to allow Sanchez to work and remain in the United States and when Sanchez's current visa would otherwise expire. *See id.*

13. Stage One involved three sub-steps, as laid out by Respondent. First, Respondent agreed to file the Form ETA-9141 Application for Prevailing Wage Determination with the DOL. Second, she agreed that when that was approved, she

would advise and assist Silver with the advertising and recruitment requirements. Third, Respondent agreed that when the recruitment process was complete, she would file the Form 9089 Application for Labor Certification with the DOL. *See* DCX 5 at 11, 56.

14. In her timeline estimate, Respondent told Silver and Sanchez that she would file the prevailing wage form within ten days of the signing of the retainer agreement. DCX 5 at 56. She estimated, based on then-current processing times, that it would take four to five months for the DOL to approve the prevailing wage request (i.e., for the approval of the submission in the first step of Stage One). *Id.*

15. Respondent did not file the prevailing wage application within ten days of the signing of the retainer agreement. *See* DCX 5 at 13, 48. And she did not inform either Silver or Sanchez of this failure to perform as she had told them she would do. *See* Tr. 44-46 (Sanchez). Sanchez assumed Respondent had filed the application as promised, and thus, in early September 2019, she called and emailed Respondent to inquire about the status of the case. DCX 6 at 11 (emails from Sanchez dated September 6 and 11, 2019, mentioning her efforts to reach Respondent by telephone); Tr. 44-45 (Sanchez). Respondent filed the application on September 13, 2019, after receiving Sanchez's inquiries. DCX 5 at 48.

16. A few hours after filing the prevailing wage application, Respondent emailed Sanchez and Silver that the case was pending with the DOL and that she expected a response within two to three months. *See* DCX 5 at 48; DCX 6 at 12. Respondent promised that she would notify them "[a]s soon as I get a response and

completion of the prevailing wage request." DCX 6 at 12. Respondent did not tell her clients that she had delayed filing the prevailing wage application for four months and had only filed it earlier that morning. *See* DCX 5 at 48; DCX 6 at 12; Tr. 45-46 (Sanchez).

17. Two months later, on November 12, 2019, Respondent sent an email to Sanchez and Silver. In that email she stated:

> As I explained, your green card case has three parts: (1) US Department of Labor/PERM, (2) I-140 Application at USCIS [formally, "United States Citizenship and Immigration Services"]; (3) I-485 Application at USCIS. Currently, your case is still pending at the first part of the USDOL/PERM case. I am waiting for USDOL to complete the Prevailing wage request. Once this happens, then we can begin to advertise for the position, and once the advertising is completed, file the PERM application with USDOL.

DCX 6 at 13.

18. Approximately a month later, on December 20, 2019, Respondent sent another email to Sanchez and Silver with the subject line "Case Status Update for Sara." DCX 6 at 14. In that email, she stated:

> I am writing to update both of you on the status of Sara's green card case. The first part of her case, the prevailing wage request with the Department of Labor, is still pending with DOL. The online filing system (which I just checked again today), reflects that our prevailing wage request is 'in process'. I check the filing system every week to see if there has been any progress.

Id. She blamed the delay on a "nationwide delay on prevailing wage requests with the DOL." *Id.*

19. Less than a month later, the DOL issued a Prevailing Wage Determination, approving the prevailing wage application. DCX 5 at 52 (Prevailing

Wage Application with Determination Date of 1/16/2020). The validity period was January 16, 2020, through June 30, 2020.[4] *Id.*

20. Despite her promises, Respondent did not tell her clients about the decision "as soon as" she received it, nor did she check the filing system each week. *See* DCX 6 at 12, 15-16; DCX 12 at 1, 6; *see also* Tr. 46-48 (Sanchez). Nor did she take any action on the case for two months after the decision was issued. *See* DCX 12 at 6; Tr. 21-22 (Silver).

21. Respondent told her clients about the decision only after Silver requested an update on March 5, 2020. DCX 6 at 16, DCX 12 at 6. The next day, Respondent emailed, "Good news! I checked with DOL and they finally issued the prevailing wage, so we can move ahead with the next step of the case, which is the advertising of the nanny position." DCX 6 at 15. Respondent promised: "I will be in touch with you on Monday with the details about the advertising and the next steps." *Id.*

22. This was seven weeks after her last communication with Silver and Sanchez, and Respondent did not tell her clients that the Prevailing Wage

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[4] 20 C.F.R § 656.40(c) states:

> ***Validity period.*** The National Processing Center must specify the validity period of the prevailing wage, which in no event may be less than 90 days or more than 1 year from the determination date. To use a prevailing wage rate provided by the NPC, employers must file their applications or begin the recruitment period required by §§ 656.17(e) or 656.21 of this part within the validity period specified by the NPC.

Determination had been issued two months earlier. *See* DCX 6 at 14-16. Respondent also did not explain the meaning of the validity period to her clients. Tr. 47-48 (Sanchez).

23. The second step in Stage One of the representation was to complete the pre-filing recruitment process. DCX 5 at 11, 56; Tr. 21 (Silver). For nonprofessional occupations, this involves (1) placing a job order with the State Workforce Agency (SWA) and (2) placing newspaper advertisements for the job opportunity. *See* 20 C.F.R. § 656.17(e). Respondent was supposed to assist Silver with completing the recruitment process, which she had estimated at the outset of the representation would take two to three months. DCX 5 at 11, 56; Tr. 21 (Silver).

24. On June 5, 2020—five months after the prevailing wage application was approved, and three months after Respondent finally notified Silver of the approval—Respondent placed a classified ad in *The Washington Post* that ran from June 7, 2020, through June 14, 2020. DCX 5 at 59-62.

25. The Prevailing Wage validity period expired on June 30, 2020. DCX 5 at 52; *see* FF 19.

26. The third and final step of Stage One required Respondent to file the Form 9089 Application for Labor Certification. DCX 5 at 11. A labor certification application can use a prevailing wage rate after the validity period has expired, so long as the recruitment process has begun within that period. 20 C.F.R. § 656.40(c); *see supra* note 4. The labor certification must be filed within 180 days of the earlier

of the SWA job order posting or the newspaper ad. 20 C.F.R. § 656.17(e)(2); *In re Industrial Steel Products*, 2012-PER-00542 (BALCA June 21, 2012).

27. Respondent never filed the Form 9089 Application for Labor Certification. *See* Tr. 39-40, 54-55 (Sanchez); DCX 5 (Respondent's file does not contain any Form 9089 or other documentation showing it had been filed); DCX 5 at 4 (Respondent conspicuously omitted any mention of filing a labor certification in her response to Disciplinary Counsel; instead stating: "[d]uring my representation from May 2019-December 2021, I conducted research and planned case strategy, filed requests with the Department of Labor, including prevailing wage requests, and I also prepared and submitted the required job advertisements on behalf of the employer").

28. Nonetheless, Respondent led her clients to believe that the Form 9089 had been filed. Tr. 22, 29-31 (Silver); Tr. 53-55 (Sanchez); DCX 6 at 31-34, 41-44 (emails and texts from Sanchez asking Respondent for basic information about the labor certification filing); DCX 12 at 6 (Sanchez response to Disciplinary Counsel). Respondent also told both clients that Stage One had been completed. Tr. 22-23, 29-31 (Silver).[5]

29. In December 2020, when Sanchez's F-1 student status was about to expire, Respondent convinced Sanchez to proceed with an application to change her

[5] While Silver believed Stage One had been completed, she did not remember receiving any physical evidence to corroborate Respondent's representation. Tr. 31 (Silver).

status to B-2 Tourist. Tr. 49-51 (Sanchez). At that time, Sanchez still believed her labor certification application was pending. Tr. 53-55 (Sanchez).

30. On December 30, 2020, Respondent filed an I-539 Application to Extend/Change Nonimmigrant Status on Sanchez's behalf, seeking to convert her status to B-2 Tourist, effective December 30, 2020, through June 30, 2021. DCX 5 at 71-72, 93; Tr. 50 (Sanchez).

31. On April 14, 2021, Sanchez sent an email to Respondent (referencing texts also sent by Sanchez to her) asking for the status of the case. DCX 3 at 3. On April 20, 2021, Respondent responded and falsely told Sanchez that "we are working on the Department of Labor step in the case now." DCX 3 at 3; DCX 6 at 25. In fact, nothing was pending before the DOL, because Respondent had failed to file the Application for Labor Certification, and the prevailing wage rate could no longer be used as a basis to file it. *See* FF 25-27.

32. By the end of June 2021, the first tourist visa application remained pending. On June 30, 2021, Respondent filed a second I-539 application. This application sought to extend the B-2 Tourist status for another six months, from June 30, 2021, through December 31, 2021. DCX 5 at 93-103; Tr. 50 (Sanchez). The second application was based on the assumption that the first I-539 would be granted. *See* DCX 5 at 99.

33. In late 2021, Sanchez and Silver were still under the false impression that the labor certification form had been filed and that the case was pending before the DOL. *See* Tr. 22, 29 (Silver); Tr. 53-55 (Sanchez). Indeed, Respondent

confirmed that the case was pending with the DOL in a telephone call on October 5, 2021. DCX 3 at 4.

34. On October 14, 2021, nearly a year after the labor certification application should have been filed, Sanchez emailed Respondent asking for the date her application was sent to the DOL and the case number. DCX 6 at 30. Respondent did not provide the requested information. Tr. 55 (Sanchez).

35. The following month, Sanchez discovered that the DOL was processing applications with a "priority date"[6] of June 2021. DCX 6 at 32, 41; *see* Tr. 50-52 (Sanchez). Since Respondent had told her that her application had been filed before June 2021, Sanchez repeatedly asked Respondent, through texts and emails—and attempts to speak to her on the telephone—to confirm what her priority date was for the Form 9089, and why her labor certification application had not yet been decided. DCX 6 at 41-44; Tr. 50-55 (Sanchez).

36. Respondent refused to provide Sanchez with any information about the actual priority date of her application. Tr. 53-54 (Sanchez). Instead, on November 23, 2021, Respondent emailed Sanchez and referred her to her legal assistant (who she called "Rosemary"), whom Sanchez had never heard of or spoken to. DCX 6 at 31; Tr. 53 (Sanchez). Sanchez never received the information she requested from

[6] A "priority date" "reflect[s] the month and year in which cases were filed and are currently being adjudicated." Department of Labor, *Processing Times Update Schedule*, https://flag.dol.gov/processingtimes. This date is important because it allows applicants to track when their cases are being considered and processed.

either Respondent or her assistant. Tr. 54-55 (Sanchez). Nor was she informed that the application had not been filed.

37. On December 29, 2021, Respondent submitted another application to extend Sanchez's B-2 Tourist status. *See* DCX 6 at 34; DCX 5 at 113-19. This third application was based on the assumption that the first and second applications would be granted. *See* DCX 5 at 4, 113-19; Tr. 50 (Sanchez).

38. Respondent informed the Office of Disciplinary Counsel that her representation of Silver and Sanchez terminated in December 2021 (DCX 5 at 4), but she did not inform her clients of such termination. They believed that Respondent continued to represent them. *See infra* FF 39-41, 48.

39. Thus, on February 17, 2022, Silver sent Respondent an email asking for an update on the case and to have their file transferred. DCX 6 at 34. Silver explained that Sanchez intended to hire another lawyer and emphasized the importance of figuring out where Sanchez was in the process of her green card immigration case, because "unfortunately her time is soon up and decisions need to be made." *Id*. Respondent did not respond. Tr. 26 (Silver); Tr. 55-57 (Sanchez). Respondent claims that she responded but concedes that she did not send the file. DCX 5 at 4.

40. On February 26, 2022, because Respondent did not answer their inquiries, Silver sent another email to Respondent. DCX 6 at 35. In it she wrote,

> Hello Pauline, please can you respond. Sara needs an update and to have her files transferred. She at the very least needs critical information about her forms so that she can pursue her case (what her file number is, when things were filed, etc.). Please, she needs answers

> and information.... You really need to get back to her (and I am confused about why you have not yet done so).

Id. (ellipsis in original). Respondent again did not respond. Tr. 26 (Silver); Tr. 55-57 (Sanchez).

41. By this time, Respondent had stopped communicating entirely with Sanchez and Silver, and they never received responses to their questions about the status of their case. Tr. 23-26 (Silver); Tr. 53-57 (Sanchez); *see, e.g.*, DCX 6 at 35-38 (emails and text messages that received no responses). Sanchez and Silver assumed the representation had ended after Respondent "disappeared." Tr. 55-56 (Sanchez).

42. Respondent never filed any employment petitions on behalf of Silver or Sanchez with the USCIS. DCX 10.

43. Even though Respondent had not completed the Stage One milestone she set out in her retainer agreement, she did not return any portion of the $5,000 advance fee to her clients.[7] Tr. 26 (Silver); Tr. 57 (Sanchez).

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[7] The agreement that Silver signed with Respondent provides that if the engagement terminates, Respondent "shall be entitled to payment of fees in accordance with the amount of time spent on the case, based upon a billing rate of $350.00/hour." DCX 5 at 13. However, Respondent never provided any accounting to Silver or Sanchez that would have explained her entitlement to fees under this provision of the agreement.

Silver said she did not ask for a return of the fee because she and Sanchez were focused on getting responses to their substantive questions and the return of the file. Tr. 30-31 (Silver). She also noted that there was no reason to go through Stage One

44. On March 11, 2022, Sanchez filed a complaint with the Office of Disciplinary Counsel. DCX 2; DCX 11 at 2. In that complaint, Sanchez noted that Respondent was not communicating with her and that she did not "know where I am in the process because I don't have access to my files." DCX 2 at 2.

45. On May 5, 2022, Disciplinary Counsel sent, by email to the address then on file with the D.C. Bar, a copy of the complaint to Respondent, requesting a response and including a subpoena for her office file relating to the Sanchez matter. DCX 4; DCX 11 at 2. Respondent later said she did not receive this because she had changed her email address. DCX 5 at 3.

46. On May 25, 2022, Disciplinary Counsel sent a letter and a copy of the subpoena by certified mail to Respondent at the address then on file with the D.C. Bar. DCX 5 at 3. Respondent received these documents after the response deadline. *Id.*

47. On July 10, 2022, Respondent submitted a response to the complaint and the subpoena. DCX 5; DCX 11 at 2. Her response included documents from her office file, but she did not include financial records demonstrating her handling of the fees. DCX 11 at 2. She also did not include a Form 9089 Application for Labor Certification or a receipt notice showing that Respondent had filed a Form 9089. *Id.*

(including paying the fees) if Stages Two and Three were not going to be completed. *Id.*

48. In her response, Respondent wrote that her representation of Silver and Sanchez spanned the period from May 2019 through December 2021, but she did not explain why Silver and Sanchez thought Respondent continued to represent them in February 2022. *See* DCX 5 at 4. Respondent admitted that she never turned over the file to Silver or Sanchez. *Id.* Respondent acknowledged that she should have responded to the requests for their file but blamed her failure to respond on personal and family illnesses. *Id.* at 1, 4. Beyond that, she has not acknowledged to Disciplinary Counsel or her clients any other failures or misconduct. *See* DCX 5 at 1-5.

49. On July 26, 2022, Disciplinary Counsel sent another email to Respondent (at the address Respondent had provided to Disciplinary Counsel in May 2022) requesting that she provide her complete office file with any confidential information redacted and specifically asking if Respondent filed a Form 9089 for Sanchez. DCX 7 at 4. Respondent did not respond or provide any documents. DCX 7.

50. In August and September 2022 and then again in December 2024, Disciplinary Counsel sent follow-up inquiries by email and certified mail.[8] DCX 7;

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[8] The Hearing Committee takes note of the significant gap in time between Disciplinary Counsel's letter to Respondent in September 2022 and its subsequent letter to her in December 2024 and the filing of charges in November 2025. Disciplinary Counsel did not offer a clear explanation for the delay, but contends that any such delay would have helped, not harmed, Respondent by giving her extra opportunities to respond and participate in the disciplinary proceedings. ODC Br. at 34 n.7. Absent any claim of prejudice by Respondent, we agree.

DCX 11. In the August inquiry, Disciplinary Counsel specifically asked Respondent to confirm whether she prepared or filed a Form 9089. DCX 7 at 4. The final letter, dated December 16, 2024, demanded that Respondent identify the bank account into which she deposited the $5,000 fee and provide records of her handling of those funds. *Id.* at 12. A process server delivered the December 2024 letter to Respondent's residential address on January 10, 2025, by handing it to Respondent's husband. *Id.* at 15.

51. Respondent did not respond to any of Disciplinary Counsel's follow-up inquiries. DCX 11 at 2-3.

52. Respondent never produced financial records as required by the May 5, 2022, subpoena. *See* DCX 4; DCX 11 at 2-3.

53. During its investigation, Disciplinary Counsel determined that the $5,000 fee was transferred from Silver's husband's Capital One bank account to an account Respondent held at Bank of America, but it could not determine Respondent's account number. *See* DCX 8; DCX 9 at 1. On May 21, 2025, Disciplinary Counsel issued a subpoena to Bank of America requesting records for the bank account that received the $5,000 deposit between April 2019 and March 2022. DCX 9 at 1-10. Bank of America indicated that it could not respond to the subpoena because it could not identify the accounts or records in question. *Id.* at 11. Disciplinary Counsel issued a second subpoena on July 18, 2025, requesting records for all accounts held by Respondent during the same time period but received the same response from the bank. *Id.* at 12-17.

54. Respondent was personally served with the Specification on December 6, 2025, *see* Affidavit of Service filed December 11, 2025, but did not participate in these proceedings. Tr. 5-6. She was served by email with all pleadings in this case, including Disciplinary Counsel's post-hearing brief, and the Office of the Executive Attorney also mailed the Hearing Committee's Orders to the address where Respondent had been personally served.

III. CONCLUSIONS OF LAW

A. Choice of Law

D.C. Rule 8.5(b) governs choice of law and provides[9]:

> (1) For 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, and
>
> (2) For any other conduct,
>
> > (i) If the lawyer is licensed to practice only in this jurisdiction, the rules to be applied shall be the rules of this jurisdiction, and
> >
> > (ii) If the lawyer is licensed to practice in this and another jurisdiction, the rules to be applied shall be the rules of the admitting jurisdiction in which the lawyer principally practices; provided, however, that if particular conduct clearly has its predominant effect in another jurisdiction in which the lawyer is

[9] While the Court of Appeals has declined to scrutinize choice of law in the absence of a conflict, ODC Br. at 2-3, this Hearing Committee must identify the applicable Rules, given that "any particular conduct of an attorney shall be subject to only one set of rules of professional conduct." Rule 8.5, cmt. [3].

> licensed to practice, the rules of that jurisdiction shall be applied to that conduct.

While the alleged facts include that Respondent filed applications with the DOL and USCIS—which sometime serve as tribunals—they were not clearly serving as "tribunals" in pending matters here, as contemplated by Rule 8.5(b). *See* Rule 1.0(n) (defining "tribunal" as "a court, an arbitrator in a binding arbitration proceeding, or a legislative body, administrative agency, or other body acting in an adjudicative capacity, . . . [which occurs] when a neutral official, after the presentation of evidence or legal argument by a party or parties, will render a binding legal judgment directly affecting a party's interests in a particular matter"); *see also* Jan. 26, 2026 Pre-Hearing Tr. at 12 (Disciplinary Counsel: "[T]he Department of Labor step of the immigration proceedings, as I understand it is not a tribunal."). Because Respondent is licensed only in the District of Columbia, and there was no tribunal involved, the D.C. Rules apply.

B. <u>Rule 1.1(b) (Skill and Care)</u>

Rule 1.1(b) requires a lawyer to "serve a client with skill and care commensurate with that generally afforded to clients by other lawyers in similar matters." The Rule is "better tailored [than Rule 1.1(a)] to address the situation in which a lawyer capable to handle a representation walks away from it for reasons unrelated to his competence in that area of practice." *In re Lewis*, 689 A.2d 561, 564 (D.C. 1997) (per curiam) (appended Board Report).

A Hearing Committee may find a violation of the standard of care without expert testimony when an attorney's "conduct is so obviously lacking that expert testimony showing what other lawyers generally would do is unnecessary." *In re Nwadike*, Bar Docket No. 371-00, at 28 (BPR July 30, 2004) (*inter alia*, at the time of the deadline for a plaintiff's attorney to file a D.C. Super. Ct. Civil R. 26(b)(4) expert witness statement and by the close of discovery, the attorney not only failed to fulfill the attorney's court-ordered discovery obligations regarding essential expert opinion, but also had not yet even obtained an opinion and was unaware of whether or not the attorney had proof to sustain the plaintiff's claim), *findings and recommendation adopted*, 905 A.2d 221, 227, 232-33 (D.C. 2006); *In re Schlemmer*, Bar Docket Nos. 444-99 & 66-00, at 11-13 (BPR Dec. 27, 2002) (noting, in a case where the respondent attorney failed to file an immigration appeal after the client paid the initial fee for the appeal, that Disciplinary Counsel need not "necessarily produce evidence of practices of other attorneys in order to establish a Rule 1.1(b) violation"), *recommendation adopted in relevant part*, 840 A.2d 657 (D.C. 2004) (remanding to the Board for further consideration of the appropriate sanction).

The skill and care of an attorney under Rule 1.1 (b) must be evaluated in terms of the representation required and provided in the particular matter at issue:

> Competent handling of a particular matter includes inquiry into and analysis of the factual and legal elements of the problem, and use of methods, procedures, and technology[[10]] meeting the standards of competent practitioners. It also includes adequate preparation and continuing attention to the needs of the representation to assure that there is no neglect of such needs. The required attention and

[10] The reference to competence in technology was added to Comment [5] in April 2025, after the underlying events of this case.

> preparation are determined in part by what is at stake; major litigation and complex transactions ordinarily require more elaborate treatment than matters of lesser consequence.

Rule 1.1, cmt. [5].

Disciplinary Counsel contends that Respondent violated Rule 1.1(b) because she failed to follow the steps required under 20 C.F.R. § 656.17.

We find by clear and convincing evidence that Respondent violated Rule 1.1(b). When Silver and Sanchez approached Respondent in April 2020, they laid out clearly for Respondent the goal they sought: to find an immigration option that would allow Sanchez to work, and possibly to continue to live permanently, in the United States. FF 3.

Respondent explained to her clients the options available. FF 6-7. When Silver and Sanchez selected the option of pursuing an Employer-Sponsored Green Card/Permanent Residence, Respondent outlined the steps necessary to achieve this goal and a timeline of these events. FF 8, 12, 13-14. Sanchez's visa expired in December 2020, so the timing of the efforts needed to be taken was material. FF 3, 12.

Respondent signed a retainer agreement with Silver in early May 2019, committing to complete three Stages of the engagement. FF 8. Respondent was aware that performing the work in all three stages was essential to accomplish the goal her clients sought and which Respondent committed to pursuing. *See* FF 6, 8, 10, 12.

Stage One required Respondent to complete the prerequisites for and file a Form 9089 Application for Labor Certification. FF 8, 13. According to Respondent, the three steps that comprised Stage One were: (1) filing an Application for Prevailing Wage Determination (Form ETA-9141) with the DOL; (2) when the ETA-9141 is approved, to advise and assist Silver with advertising and recruitment requirements; and (3) after that process is complete, to timely file an Application for Labor Certification (Form 9089) with the DOL. FF 13. Respondent accepted a $5,000 flat fee for pursuing and completing Stage One of the engagement. FF 8-11.

Respondent committed to filing the ETA-9141 within ten days. FF 14. She did not do so until four months later. *See* FF 15. This meant that the timeline she had provided to Silver and Sanchez could not be met because of Respondent's lack of skill and care in performing the work for which she had been retained. Immigration practice was Respondent's area of practice, and it appears that she was capable of handling this case, but she "walk[ed] away from it for reasons unrelated to [her] competence in that area of practice." *Lewis*, 689 A.2d at 564. Her representation was "obviously lacking" and thus fell below the standard of care for immigration law practitioners. *See Nwadike*, Bar Docket No. 371-00, at 28. Thus, we find by clear and convincing evidence that Respondent violated Rule 1.1(b).

C. Rules 1.3(a) and (c) (Diligence and Zeal and Reasonable Promptness)

Rule 1.3(a) states that an attorney "shall represent a client zealously and diligently within the bounds of the law." Neglect of a client constitutes a violation of this Rule. *See* Rule 1.3, cmt. [8].

"Neglect has been defined as indifference and a consistent failure to carry out the obligations that the lawyer has assumed to the client or a conscious disregard of the responsibilities owed to the client." *In re Wright*, 702 A.2d 1251, 1255 (D.C. 1997) (per curiam) (appended Board Report) (citing *In re Reback*, 487 A.2d 235, 238 (D.C. 1985), *adopted in relevant part*, 513 A.2d 226 (D.C. 1986) (en banc) ("*Reback II*")). Rule 1.3(a) "does not require proof of intent, but only that the attorney has not taken action necessary to further the client's interests, whether or not legal prejudice arises from such inaction." *In re Bradley*, Board Docket No. 10-BD-073, at 17 (BPR July 31, 2012) (citation omitted), *adopted in relevant part*, 70 A.3d 1189, 1191 (D.C. 2013) (per curiam); *see also Lewis*, 689 A.2d at 564 (appended Board Report) (Rule 1.3(a) was violated even where "[t]he failure to take action for a significant time to further a client's cause . . . [does] not [result in] prejudice to the client").

The Court has found neglect, in violation of Rule 1.3(a), where an attorney persistently and repeatedly failed to fulfill duties owed to the client over a period of time. *See, e.g.*, *In re Ukwu*, 926 A.2d 1106, 1135 (D.C. 2007) (appended Board Report) (respondent violated Rule 1.3(a) when he repeatedly failed to inform his clients about the status of their cases, prepare his clients for hearings and interviews with immigration officials, or prepare himself for court appearances); *Wright*, 702 A.2d at 1255 (appended Board Report) (respondent violated Rule 1.3(a) by failing to respond to discovery requests, a motion to compel, and a show cause order); *In re Chapman*, Bar Docket No. 055-02, at 19-20 (BPR July 30, 2007) (respondent violated Rule 1.3(a) where he did virtually no work on the client's case during the eight-month term of the representation, failed to conduct any discovery, and did not respond to discovery requests from the opposing party), *recommendation adopted in relevant part*, 962 A.2d 922, 923-24 (D.C. 2009) (per curiam).

Separately but related, Rule 1.3(c) provides that an attorney "shall act with reasonable promptness in representing a client." "Perhaps no professional shortcoming is more widely resented by clients than procrastination," and "in extreme instances, as when a lawyer overlooks a statute of limitations, the client's legal position may be destroyed." Rule 1.3, cmt. [8]. The Court has held that failure to take action for a significant time to further a client's cause, whether or not prejudice to the client results, violates Rule 1.3(c). *See, e.g.*, *In re Speights*, 173 A.3d 96, 101 (D.C. 2017) (per curiam). Comment [8] to Rule 1.3 provides that "[e]ven when the client's interests are not affected in substance . . . unreasonable delay can cause a client needless anxiety and undermine confidence in the lawyer's trustworthiness," making such delay a "serious violation."

Disciplinary Counsel contends that Respondent violated Rules 1.3(a) and (c) because she failed to take action to advance her clients' case before and after missing the eligibility window for filing the Application for Labor Certification, and then abandoned her clients without completing the first phase of the representation. We agree.

Respondent committed to filing the ETA-9141 within ten days of when she received the fee in May 2019 (FF 8, 11, 14), but she did not do so until her clients contacted her in September to inquire about the status of the application they assumed had been pending for months. FF 15-16. Respondent did not show her clients that she had performed any work for them between her engagement and when they sought an update. *See* FF 16.

Then, after filing the application later than she had committed to doing so, she failed to monitor the docket to determine when action was taken. FF 20-21. When the application was granted in January 2020, it had a validity period from January 16, 2020, through June 30, 2020 (FF 19), which limited the time period when the next activities could occur. Yet Respondent waited two months before informing her clients that the next step—advertising and recruiting—should begin. *See* FF 19-21. Indeed, Respondent only told her clients about the grant of the application *after* Silver requested an update in March 2020. FF 21.

Even with this delay, Respondent did not timely assist Silver in the advertising and recruitment process, as she had committed to do. *See* FF 23-24. Indeed, the advertisement ran three months later, from June 7 through 14, 2020—which was two weeks before the expiration of the validity period. FF 19, 24-26. Respondent could still have filed the Form 9089 within 180 days of the day the ad appeared in *The Washington Post* (i.e., by December 4, 2020), but she failed to do so. *See* FF 26.

Respondent's failure to timely file the application for a prevailing wage determination and to assist her client in advertising for the position created delay that would have put pressure on the timing to file Form 9089, even if it was timely filed. Significantly, she failed to do so, knowing that her failure was prejudicial to

Sanchez, since her visa had an expiration date in December 2020. FF 3 (citing DCX 5 at 63). Thus, taking timely actions was essential to a successful result, and her neglect deprived Sanchez of her ability to achieve the visa she sought through the plan set forth by Respondent. *See* FF 12-13, 26-27. We find by clear and convincing evidence that this conduct violated Rules 1.3(a) and (c).

D. Rules 1.4(a) and (b) (Failure to Communicate) and 8.4(c) (Dishonesty and Misrepresentation)

Rule 1.4(a) provides that "[a] lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information." Under Rule 1.4(a), an attorney must not only respond to client inquiries but must initiate contact to provide information when needed. *See, e.g.*, *In re Robbins*, 192 A.3d 558, 564-65 (D.C. 2018) (per curiam); *In re Bernstein*, 707 A.2d 371, 376 (D.C. 1998). The purpose of this Rule is to enable clients to "participate intelligently in decisions concerning the objectives of the representation and the means by which they are to be pursued." Rule 1.4, cmt. [1]. To that end, a lawyer must provide the client with "accurate information about [the] lawyer's actions on [her] behalf" throughout the representation. *See In re Brown*, 310 A.3d 1036, 1047 (D.C. 2024). In determining whether Disciplinary Counsel has established a violation of Rules 1.4(a) and (b), the question we address is whether Respondent fulfilled his client's reasonable expectations for information. *See In re Schoeneman*, 777 A.2d 259, 264 (D.C. 2001) (citing Rule 1.4, cmt. [3]). As set forth in the Rule, attorneys are obligated to respond to client requests for information even when there are no new developments to report (*see In re Lattimer*, 223 A.3d 437, 440 (D.C. 2020) (per curiam), and a lawyer must initiate communications when necessary, even if the client does not ask for information (*see In re Hallmark*, 831 A.2d 366, 374 (D.C. 2003) (citing Rule 1.4, cmt. [1])).

Rule 1.4(b) states than an attorney "shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation." This Rule provides that the attorney "must be particularly careful to ensure that decisions of the client are made only after the client has been informed of all relevant considerations." Rule 1.4, cmt. [2]. The Rule places the burden on the attorney to "initiate and maintain the consultative and decision-making process if the client does not do so and [to] ensure that the ongoing process is thorough and complete." *Id*.

Rule 8.4(c) provides that it is professional misconduct for a lawyer to "[e]ngage in conduct involving dishonesty, fraud, deceit, or misrepresentation."[11] Dishonesty is the most general of these categories. It includes "not only fraudulent, deceitful or misrepresentative conduct, but also 'conduct evincing a lack of honesty, probity or integrity in principle; a lack of fairness and straightforwardness.'" *In re Samad*, 51 A.3d 486, 496 (D.C. 2012) (per curiam) (quoting *In re Shorter*, 570 A.2d 760, 767-68 (D.C. 1990)). The Court holds lawyers to a "high standard of honesty, no matter what role the lawyer is filling," *In re Jackson*, 650 A.2d 675, 677 (D.C.

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[11] The Specification alleged that Respondent "engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation," but Disciplinary Counsel's brief focuses on dishonesty and misrepresentation. Thus, we focus on the same.

1994) (per curiam) (appended Board Report), because "[l]awyers have a greater duty than ordinary citizens to be scrupulously honest at all times, for honesty is 'basic' to the practice of law." *In re Hutchinson*, 534 A.2d 919, 924 (D.C. 1987) (en banc).

If the dishonest conduct is "obviously wrongful and intentionally done, the performing of the act itself is sufficient to show the requisite intent for a violation." *In re Romansky*, 825 A.2d 311, 315 (D.C. 2003). Conversely, "when the act itself is not of a kind that is clearly wrongful, or not intentional, [Disciplinary] Counsel has the additional burden of showing the requisite dishonest intent." *Id.*; *see also In re Uchendu*, 812 A.2d 933, 939 (D.C. 2002) (providing that "some evidence of a dishonest state of mind is necessary to prove an 8.4(c) violation").

Dishonest intent can be established by proof of recklessness. *See Romansky*, 825 A.2d at 315, 317. To prove recklessness, Disciplinary Counsel must establish by clear and convincing evidence that the respondent "consciously disregarded the risk" created by his actions. *Id.*; *see, e.g.*, *In re Boykins*, 999 A.2d 166, 171-72 (D.C. 2010) (finding reckless dishonesty where the respondent falsely represented to Disciplinary Counsel that medical provider bills had been paid, without attempting to verify his memory of events from more than four years prior, and despite the fact that he had recently received notice of non-payment from one of the providers). The entire context of the respondent's actions, including their credibility at the hearing, is relevant to a determination of intent. *See In re Ekekwe-Kauffman*, 210 A.3d 775, 796-97 (D.C. 2019) (per curiam).

Misrepresentation is a "statement . . . that a thing is in fact a particular way, when it is not so." *Shorter*, 570 A.2d at 767 n.12 (citation omitted); *see also in re Schneider*, 553 A.2d 206, 209 & n.8 (D.C. 1989) (misrepresentation can be an aspect of deceit). Misrepresentation requires active deception or a positive falsehood. *See Shorter*, 570 A.2d at 767. The failure to disclose a material fact also constitutes a misrepresentation. *In re Outlaw*, 917 A.2d 684, 688 (D.C. 2007) (per curiam) ("Concealment or suppression of a material fact is as fraudulent as a positive direct misrepresentation." (citation omitted)); *see, e.g.*, *Reback II*, 513 A.2d at 228-29 (respondents neglected a claim, failed to inform client of dismissal of the case, forged a client's signature onto second complaint, and had the complaint falsely notarized); *Lattimer*, 223 A.3d at 451 (respondent stated as fact a proposition that was contradicted by the only relevant evidence in the record); *In re Scanio*, 919 A.2d 1137, 1139-1144 (D.C. 2007) (respondent failed to disclose that he was a salaried employee when he made a claim to an insurance company for lost income measured by lost hours multiplied by billing rate).

As with dishonesty, Disciplinary Counsel does not need to establish that a misrepresentation was deliberate, only that it was made with "reckless disregard for the truth." *In re Brown*, 112 A.3d 913, 916, 918 (D.C. 2015) (per curiam); *see, e.g.*, *In re Jones-Terrell*, 712 A.2d 496, 499 (D.C. 1998) ("Even if they were, at least in part, attributable to Respondent's haste in preparing the petition, the false statement and omissions were of such significance to the issues before the court that we believe her conduct was at least reckless and sufficient to sustain a violation of the rule." (quoting Board Report)).

Disciplinary Counsel contends that Respondent violated Rules 1.4(a) and (b) and 8.4(c) by failing to initiate contact with her clients, failing to respond to their requests for information, omitting important information in her communications with them, being dishonest and engaging in misrepresentation in her communications with them, and ultimately failing to respond to her clients at all.

After Silver and Sanchez engaged her, Respondent rarely initiated any contact. *See* FF 20-22, 36. She never informed her clients that she had not filed the ETA-9141 when she had promised to do so. FF 15. Indeed, the first contact with them after Respondent was engaged was because Sanchez contacted her for an update on the filing she assumed Respondent had submitted in May 2019. *See* FF 8, 14-15. Although Respondent filed the ETA-9141 following Sanchez's inquiry, she led Sanchez and Silver to believe that it had been pending for months. *See* FF 14, 16.

Respondent did initiate contact with her clients in November and December 2019, confirming to them that their case was pending with DOL and she would monitor the filing system every week to make sure she was aware when a decision was made. FF 17-18. However, again she did not tell Silver and Sanchez that she had only filed it in September, implying that it had been filed months before. *See* FF 15, 17-18.

When the decision on the ETA-9141 was issued in early January 2020, Respondent did not tell her clients until March—and only then because Silver had asked her about the status. FF 19-21. And she did not tell them about the length or significance of the validity period, which would have allowed them to make decisions about their case. FF 21-22.

After the required advertisement ran in the newspaper, the Form 9089 had to be filed within 180 days, but Respondent never informed her clients of this fact. FF 22-23, 26. Of essential importance, Respondent never filed the Form 9089, but she affirmatively led her clients to believe that it had been filed and that Stage One was complete. FF 27-28, 31, 33-36.

When Sanchez contacted Respondent about the impending expiration of her student visa in December 2020, Respondent did not tell her that nothing was pending with the DOL or USCIS. *See* FF 29. Indeed, she told Sanchez that she was working on the DOL step in the process. FF 31. This was simply untrue. FF 27, 42-43.

In an effort to appease Sanchez, since Respondent had run out of time to file the Form 9089, Respondent instead convinced her to file a series of applications to change her status to a tourist visa. FF 29, 32. Respondent failed to provide her clients with information that would enable them to make decisions about their case.

Beginning in late 2021, Sanchez and Silver again asked for updates about the case, and Respondent falsely told them that the case was pending with DOL. *See* FF 33. When Sanchez followed up with Respondent to obtain more specific information, because other cases—that had been filed after she understood hers had been filed—were being decided, Respondent had effectively stopped communicating with her. FF 34-36. Sanchez sent Respondent texts and emails, and attempted to reach her by telephone, but Respondent refused to provide the information Sanchez sought. *See, e.g.*, FF 31, 33-36. Instead, Respondent told Sanchez to speak with her assistant—but neither of them provided Sanchez with the information she needed. FF 36.

Finally in February 2022, Silver twice sent Respondent emails again asking for an update on the case and asking to have the file transferred. FF 39-40. Silver emphasized how important this information was so that they could make decisions about Sanchez's case, but Respondent did not respond to either request. FF 39-41. By this time, Respondent had totally stopped communicating with both Silver and Sanchez; she never provided an update on the case, and she did not transfer the file. FF 40-41.

We find by clear and convincing evidence that Respondent violated Rules 1.4(a), 1.4(b), and 8.4(c) by failing to provide the information needed by her clients to make decisions, by providing false and misleading information—and finally failing to communicate at all.

E. Rules 1.15(a) and (e) (Misappropriation)

Rule 1.15(a) requires that a lawyer "hold property of clients or third persons that is in the lawyer's possession . . . separate from the lawyer's own property,"[12] and Rule 1.15(e) provides that "[a]dvances of unearned fees and unincurred costs

[12] Disciplinary Counsel does not allege that Respondent commingled client funds under Rule 1.15(a).

shall be treated as property of the client pursuant to paragraph (a) until earned or incurred unless the client gives informed consent to a different arrangement." Together, Rules 1.15(a) and (e) prohibit misappropriation of entrusted funds. *See* Rule 1.15, cmt. [1]. Misappropriation is "any unauthorized use of [a] client's funds entrusted to [the lawyer], including not only stealing but also unauthorized temporary use for the lawyer's own purpose, whether or not [the lawyer] derives any personal gain or benefit therefrom." *In re Nave*, 197 A.3d 511, 514 (D.C. 2018) (per curiam) (alterations in original) (quoting *In re Anderson*, 778 A.2d 330, 335 (D.C. 2001)). The Court has held that "when an attorney receives payment of a flat fee at the outset of a representation, the payment is an 'advance[ ] of unearned fees'" and must be held as property of the client pursuant to Rule 1.15(e). *In re Mance*, 980 A.2d 1196, 1202 (D.C. 2009) (quoting Rule 1.15).

Misappropriation occurs where (1) client funds were entrusted to the attorney; (2) the attorney used those funds for the attorney's own purposes; and (3) such use was unauthorized. *In re Harris-Lindsey*, 242 A.3d 613, 620 (D.C. 2020) (citing *In re Travers*, 764 A.2d 242, 250 (D.C. 2000)). Funds are "entrusted" when the lawyer is "imbued with authority to prevent their unauthorized use." *Id.* at 624 (applying holding prospectively).

Misappropriation is essentially a *per se* offense and does not require proof of improper intent. *Anderson*, 778 A.2d at 335. Thus, an attorney commits "unauthorized use" when either "the client did not consent to the attorney's use of the funds" or "the funds or assets were accessed without required prior approval by a court" where required. *Harris-Lindsey*, 242 A.3d at 624-26 (applying holding regarding court approval prospectively). It occurs where "the balance in the attorney's trust account falls below the amount due [to] the client [or third party]." *In re Ahaghotu*, 75 A.3d 251, 256 (D.C. 2013) (internal quotation marks and citations omitted).

Here, due to her failure to respond to Disciplinary Counsel's inquiries or to participate in these proceedings, there is no direct evidence bearing on how, or whether, Respondent used entrusted funds. Disciplinary Counsel acknowledges that it cannot show "use" based on the "traditional method" of identifying evidence in a respondent's bank records.[13] ODC Br. at 30. Disciplinary Counsel cites *In re Cloud*, 939 A.2d 653, 661 (D.C. 2007), for the proposition that "an attorney's failure to repay unearned entrusted funds constitutes reckless misappropriation." ODC Br. at 31. However, there was still proof of unauthorized use in *Cloud*—the respondent

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[13] Disciplinary Counsel argues that Respondent should not be able to evade responsibility for misappropriation by failing to answer any questions about her handling of funds, including failure to identify the bank account where she deposited her legal fees. The Committee shares Disciplinary Counsel's concern, but we do not believe this concern should relieve Disciplinary Counsel of its burden of proving "use" by clear and convincing evidence. As discussed below, the Committee recommends that Respondent be held accountable for her failure to respond to Disciplinary Counsel's inquiries through a fitness requirement, regardless of whether she is found to have engaged in misappropriation. If Respondent seeks to demonstrate fitness, she will need to account then for her handling of the clients' funds. If at that time she is unable to show that she handled these funds appropriately, we assume that she would face a high burden to prove her fitness for reinstatement, similar to that required of lawyers who have been disbarred for reckless misappropriation.

was just unaware that it was unauthorized until after he had already used the funds. *See* 939 A.2d at 656-68, 660-61.

Disciplinary Counsel also points out that a recent hearing committee in a default proceeding found unauthorized use by drawing an inference from the respondent's failure to demonstrate to his clients or to Disciplinary Counsel what he did with refunded filing fees. *In re Mills*, Board Docket No. 24-BD-063, at 1, 23-26 (HC Rpt. Mar. 12, 2026) (citing *In re Thai*, Board Docket No. 14-BD-026, at 10-11 (BPR May 13, 2016)). That case remains pending before the Board as of the date of this Report and is based on facts different than those here. In particular, the respondent in *Mills* acknowledged that he had received a refund of the application filing fees paid by his client but still did not provide a refund or account for his handling of the refund. *Id.* at 9, 23-24. Here, by contrast, Respondent has not conceded that she failed to complete the first phase of the representation or that she held entrusted funds at any point after the termination of the representation.

The Court has not explicitly held that the "unauthorized use" element of misappropriation can be satisfied absent direct evidence of "use," and it has resisted attempts to shift the burden of production on any element of misappropriation. *Cf. In re Thompson*, 579 A.2d 218, 220-23 (D.C. 1990) (providing that an attorney's explanation, or lack thereof, could be considered as one factor in determining whether Disciplinary Counsel carried its burden of proving that misappropriation was intentional). We recognize that, in *Thai*, the Board did address an analogous circumstance in which a client paid a fee in cash, and there was no evidence of how the respondent handled that cash due to his failure to participate in the disciplinary proceedings after providing an initial response to the disciplinary complaint, but there were other facts that the Board found relevant to its decision there. In finding misappropriation despite no direct evidence of "use," the Board explained:

> Respondent took a $2,000 cash fee from his client, failed to earn it, ignored his client's repeated demands to refund the money, and failed to provide any explanation (not even an implausible story about keeping the money in his office safe) in response to Disciplinary Counsel's requests for information. Additional circumstantial evidence suggests that there were other occasions when Respondent failed to deposit entrusted funds (for example his implausible story about losing Mr. Tang's tuition deposit in a briefcase in the men's room) and instead used the funds for his own purposes. Thus, we agree with the Hearing Committee's conclusion that "we find the probability that Respondent promptly deposited [Ms.] Huynh's deposit in an escrow account, where it has remained ever since, to be vanishingly small. Accordingly, Respondent must have done something else with the funds. Whatever that was, it was unauthorized."

Thai, Board Docket No. 14-BD-026, at 10-11 (footnote omitted) (quoting Hearing Committee Report), *recommendation adopted after no exceptions filed*, 157 A.3d 760 (D.C. 2017) (per curiam).

Similar circumstances are not present here. Rather, Respondent failed to complete the stage of the representation for which the client paid a fee and failed to refund unearned fees of an undetermined amount. Those facts clearly establish a violation of Rule 1.16(d) (as addressed below), but, to our knowledge, the Court has never held that they also constitute misappropriation. The Board in *Thai* noted that, "because this is an unusual case, we limit the analysis and conclusion narrowly to its facts." Board Docket No. 14-BD-026, at 8. Respondent's case is not particularly unusual; the key facts are that Respondent failed to complete a representation for which she had been paid in advance, and then failed to explain how she handled those entrusted funds. *See, e.g.*, *Samad*, 51 A.3d at 497 (finding a violation of Rule 1.16(d) (but not misappropriation, which had not been charged), where the respondent claimed that he did some work on the case, but did not "suggest that he earned the entire flat fee or that he returned any portion of the fee").

Disciplinary Counsel did not present any independent evidence. We agree that the lack of evidence is largely due to Respondent's failure to cooperate with Disciplinary Counsel (FF 47, 50-52), but this does not provide a basis for shifting or lessening the burden of proof. While Disciplinary Counsel's ability to prove misappropriation was thwarted by Respondent's failure to fully comply with its subpoena,[14] we believe that concern can be addressed, and weighed heavily, in determining the appropriate sanction. Accordingly, we find that Disciplinary Counsel has not proven a violation of Rules 1.15(a) and (e) by clear and convincing evidence.[15]

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[14] We note that Disciplinary Counsel attempted to obtain records through subpoena from Respondent's bank, but it did not do so until 2025—three years after Respondent's failure to produce financial records was evident. *See* FF 52-53.

[15] Even if we were to have found misappropriation on these facts, Disciplinary Counsel has not presented evidence of Respondent's state of mind that could lead to a conclusion that the misappropriation was reckless or intentional.

F. <u>Rule 1.16(d) (Protect Client Interests Upon Termination)</u>

Respondent has stated that her representation terminated in December 2021. FF 38. Silver and Sanchez still believed that she was their lawyer at least through February 2022. *See* FF 39-41.

Rule 1.16(d) provides:

> In connection with any termination of representation, a lawyer shall take timely steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled, and refunding any advance payment of fee or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by Rule 1.8(i).

Furthermore, "'a client should not have to ask twice' for [her] file." *In re Thai*, 987 A.2d 428, 430 (D.C. 2009) (per curiam) (quoting *In re Landesberg*, 518 A.2d 96, 102 (D.C. 1986) (per curiam) (appended Board Report)). Comment [9] to Rule 1.16 further states that even if a lawyer has been unfairly discharged, "a lawyer must take all reasonable steps to mitigate the consequences to the client."

Failure to refund any unearned portion of a fee also violates Rule 1.16(d). *See, e.g.*, *Samad*, 51 A.3d at 497 (finding a violation of Rule 1.16(d) where the respondent claimed that he did some work on the case, but did not "suggest that he earned the entire flat fee or that he returned any portion of the fee"); *In re Carter*, 11 A.3d 1219, 1222-23 (D.C. 2011) (per curiam) (finding a violation of Rule 1.16(d) where the attorney failed to pay an ACAB award for unearned fees); *In re Kanu*, Bar Docket Nos. 130-05 *et al.*, at 65-68 (BPR Oct. 2008) (finding a violation of Rule 1.16(d) where the attorney failed to abide by a clause in her retainer agreement promising a refund if she failed to meet her clients' objectives), *recommendation adopted in relevant part*, 5 A.3d 1 (D.C. 2010).

Disciplinary Counsel contends that Respondent violated Rule 1.16(d) by failing to provide notice, return unearned fees, or return the clients' file after "effectively" terminating the representation. ODC Br. at 16-17, 28. It established that Respondent did not return any portion of the fee paid to her. FF 43. Although the engagement agreement allowed Respondent to retain a *quantum meruit* portion of the fees if the engagement was terminated (*see* FF 43 n.7), there is no evidence that this was permissible in this case, particularly since the work performed was worthless to Respondent's clients. FF *passim*; *see Brown*, 310 A.3d at 1048 (finding a violation of Rule 1.16(d) where the respondent collected a flat fee and performed work to the client, but his work ultimately provided "nothing of value"). We find by clear and convincing evidence that Respondent violated Rule 1.16(d).

G. <u>Rules 8.1(b) (Knowing Failure to Respond to Disciplinary Counsel) and 8.4(d) (Serious Interference with the Administration of Justice)</u>

Rule 8.1(b) provides that "a lawyer . . . in connection with a disciplinary matter, shall not . . . knowingly fail to respond reasonably to a lawful demand for information from . . . [a] disciplinary authority." Thus, a knowing failure to respond to a request from Disciplinary Counsel regarding an ethical complaint constitutes a violation of Rule 8.1(b). *See, e.g.*, *In re Lea*, 969 A.2d 881, 888 (D.C. 2009). Note that "Rule 8.1(b) specifically addresses the requirement of responding to [Disciplinary] Counsel as opposed to the more general requirements of Rule 8.4(d)."

In re Rivlin, Bar Docket Nos. 436-96 *et al.*, at 41 n.20 (BPR Oct. 28, 2002), *recommendation adopted*, 856 A.2d 1086 (D.C. 2004) (per curiam).

Rule 8.4(d) provides that it is professional misconduct for a lawyer to "[e]ngage in conduct that seriously interferes with the administration of justice." To establish a violation of Rule 8.4(d), Disciplinary Counsel must demonstrate by clear and convincing evidence that: (i) Respondent's conduct was improper, i.e., that Respondent either acted or failed to act when he should have; (ii) Respondent's conduct bore directly upon the judicial process with respect to an identifiable case or tribunal; and (iii) Respondent's conduct tainted the judicial process in more than a *de minimis* way, i.e., it must have potentially had an impact upon the process to a serious and adverse degree. *In re Hopkins*, 677 A.2d 55, 60-61 (D.C. 1996). Rule 8.4(d) can be violated if the attorney's conduct causes the unnecessary expenditure of time and resources in a judicial proceeding. *See In re Cole*, 967 A.2d 1264, 1266 (D.C. 2009). Failure to respond to Disciplinary Counsel's inquiries constitutes a violation of Rule 8.4(d). Rule 8.4, cmt. [2]; *see, e.g.*, *In re Doman*, 314 A.3d 1219, 1231 (D.C. 2024) (per curiam).

Disciplinary Counsel contends that Respondent violated Rules 8.1(b) and 8.4(d) by failing to provide Disciplinary Counsel with subpoenaed financial records and ceasing all communication with Disciplinary Counsel.

Respondent initially responded to Disciplinary Counsel's inquiry and subpoena, but did not provide all of the information sought. FF 45-48. When Disciplinary Counsel followed up to gather all of the information it sought—

including Respondent's financial records—Respondent did not respond further. FF 49-52.[16]

We therefore find by clear and convincing evidence that Respondent violated Rules 8.1(b) and 8.4(d). *See In re LeFande*, Board Docket No. 22-BD-024, at 2, 31 (HC Rpt. Sept. 5, 2023) (finding a violation of Rule 8.4(d) where the respondent did not participate and his refusal to respond to Disciplinary Counsel's inquiry "at least partially[] frustrated the timely and comprehensive completion of th[e] proceeding"), *recommendation adopted in relevant part*, 328 A.3d 775, 779-780 (D.C. 2025).

IV. RECOMMENDED SANCTION

In this case, Disciplinary Counsel has asked the Hearing Committee to recommend the sanction of disbarment, the presumptive sanction for reckless or intentional misappropriation.[17] *See In re Addams*, 579 A.2d 190, 191 (D.C. 1990) (en banc). For the reasons described below, we recommend the sanction of a six-month suspension with fitness and restitution requirements.

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[16] After the Specification was filed and the disciplinary proceeding began, Respondent was provided notice of all proceedings but failed to participate in any way. FF 54.

[17] In the District of Columbia, an attorney who has been disbarred may apply for reinstatement five years after the effective date of the disbarment. *See* D.C. Bar R. XI, § 16.

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); *In re 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; *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 her wrongful conduct; and (7) circumstances in mitigation or aggravation. *See, e.g.*, *Martin*, 67 A.3d at 1053 (citing *In re Elgin*, 918 A.2d 362, 376 (D.C. 2007)). 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 Misconduct

Respondent's misconduct was serious. She undertook a representation for Silver and Sanchez but failed to provide the services she had agreed to perform. She failed to communicate with them so they could determine what actions to take and ultimately abandoned them, keeping the file and the fee they had paid for her services. Following the filing of a complaint with Disciplinary Counsel, Respondent initially partially cooperated but then totally failed to respond, creating harm to the disciplinary system.

2. Prejudice to the Client

Sanchez sought Respondent's services to allow her to work and to remain in the United States. Because of her neglect, Respondent failed to timely take the actions necessary to do so, and thus Sanchez lost the opportunity she and Silver had sought. Because of Respondent's ethical violations, her clients did not have the information they needed to make decisions, including whether to seek other counsel. If Sanchez had been aware of Respondent's failures when there was time to correct them, this harm could have been avoided, but Respondent's failure to communicate, and her dishonesty and misrepresentations, lulled Sanchez into trusting that Respondent would follow through. Respondent never responded to Sanchez's and

Silver's desperate pleas for information, compounding the stress her misconduct placed on her clients. *See* FF 39-41.

3. <u>Dishonesty</u>

Respondent was dishonest with her clients in the communications she had with them, which, as discussed above, resulted in additional harm to them.

4. <u>Violations of Other Disciplinary Rules</u>

Respondent violated nine disciplinary rules in her representation of her clients and in her failure to cooperate with Disciplinary Counsel in the disciplinary proceedings that followed. These violations essentially arose from a single pattern of neglect, followed by obstruction of the disciplinary investigation.

5. <u>Previous Disciplinary History</u>

Respondent does not have any history of prior discipline.

6. <u>Acknowledgement of Wrongful Conduct</u>

Because Respondent did not participate in the disciplinary proceedings, she did not acknowledge her wrongful conduct.[18]

7. <u>Other Circumstances in Aggravation and Mitigation</u>

No additional evidence was offered in aggravation or mitigation.

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[18] In the response she submitted to Disciplinary Counsel in July 2021, Respondent acknowledged that she should have responded to Sanchez's request for her file, but she blamed her failure on illness in her family and personal illness. FF 48 (citing DCX 5 at 1, 4). However, to date, Respondent has not returned the file or the fee. *See* FF 39-41, 44. Respondent also has failed to acknowledge any other performance failures or misconduct, either to Disciplinary Counsel or to her clients, Silver and Sanchez, in or outside of these proceedings. FF 48 (citing DCX 5 at 1-5).

C. Sanctions Imposed for Comparable Misconduct

Generally, the Court has imposed a suspension of up to two months for similar misconduct, without misappropriation. *See, e.g.*, *Brown*, 310 A.3d at 1048, 1051 (sixty-day suspension with fitness and restitution for violations of Rules 1.1(a), 1.3(a), 1.3(b)(1), 1.3(c), 1.4(a), 1.5(a), 1.15(e), and 1.16(d), where the respondent failed to earn and refused to refund a flat fee); *In re Jackson*, 300 A.3d 747 (D.C. 2023) (per curiam) (sixty-day suspension with fitness for violations of Rules 3.4(c), 8.1(b), and 8.4(d), as well as D.C. Bar Rule XI, §2(b)(3), where the respondent failed to respond to Disciplinary Counsel or participate in the disciplinary proceedings); *In re Matisik*, 77 A.3d 1009 (D.C. 2013) (per curiam) (sixty-day suspension with fitness and restitution for violations of Rules 1.1(a), 1.1(b), 1.3(a), 1.3(c), 1.4(a), 1.5(b), 1.16(a)(2), and 1.16(d)); *In re Fox*, 35 A.3d 441 (D.C. 2012) (per curiam) (forty-five-day suspension for violations of Rules 1.1(a) and (b), 1.3(a) and (c), and 1.4(a) and (b)); *In re Thai*, 987 A.2d 428 (D.C. 2009) (per curiam) (sixty-day suspension, with thirty days stayed in favor of probation with conditions including restitution, for violations of Rules 1.1(a) and (b), 1.3(a) and (c), 1.4(a), and 1.16(d) in an immigration matter).

Because of the significant harm to the client and obstruction of Disciplinary Counsel's investigation, a significantly longer suspension than that ordinarily imposed for similar misconduct is warranted. We recommend that Respondent be suspended for six months.

D. Fitness

The purpose of conditioning reinstatement on proof of fitness is "conceptually different" from the basis for imposing a suspension. *Cater*, 887 A.2d at 22. The Court has observed that while a suspension represents "a 'commensurate response to the attorney's past ethical misconduct,' the fitness requirement addresses the concern 'that the attorney's resumption of the practice of law will not be detrimental to the integrity and standing of the Bar, or to the administration of justice, or subversive to the public interest.'" *Brown*, 310 A.3d at 1050 (quoting *Lattimer*, 223 A.3d at 452-53).

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

As the Court explained:

> The fixed period of suspension is intended to serve as the commensurate response to the attorney's past ethical misconduct. In contrast, the open-ended fitness requirement is intended to be an appropriate response to serious concerns about whether the attorney will act ethically and competently in the future, after the period of suspension has run. . . . [P]roof of a violation of the Rules that merits

> even a substantial period of suspension is not necessarily sufficient to justify a fitness requirement . . . .

Cater, 887 A.2d at 22.

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

> (a) the nature and circumstances of the misconduct for which the attorney was disciplined;
>
> (b) whether the attorney recognizes the seriousness of the misconduct;
>
> (c) the attorney's conduct since discipline was imposed, including the steps taken to remedy past wrongs and prevent future ones;
>
> (d) the attorney's present character; and
>
> (e) the attorney's present qualifications and competence to practice law.

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

Where a respondent has not participated in disciplinary proceedings, the Court has identified the following three factors as relevant to determining whether there is a "serious doubt" about a respondent's fitness: "(1) the respondent's level of cooperation in the pending proceeding(s), (2) the repetitive nature of the respondent's lack of cooperation in disciplinary proceedings, and (3) other evidence that may reflect on fitness." *Id.* at 25-26.

Here, Respondent has not cooperated in the disciplinary proceedings since July 2022, when she submitted a single response to the disciplinary complaint and subpoena. FF 47. Also, in her brief response, she omitted key information requested by Disciplinary Counsel. *See* FF 48. Disciplinary Counsel followed up, seeking additional responses, in August and September 2022, and in December 2024. FF 50. The December 2024 inquiry, which was hand-delivered to Respondent's husband by a process server, demanded that Respondent identify the bank account to which she deposited the $5,000 fee, but she failed to respond. FF 50-52. Because Disciplinary Counsel was unable to subpoena bank records without an account number, Respondent's obstruction of Disciplinary Counsel's investigation deprived Disciplinary Counsel of the information it would need to determine whether she engaged in misappropriation, as discussed above. *See* FF 52-53. Respondent was personally served with the Specification in December 2025, but has still not participated in this proceeding or fully complied with the May 2022 subpoena, demonstrating she is continuing to withhold key financial information even after she was on notice that she was being charged with misappropriation. *See* FF 54. The nature and extent of Respondent's lack of responsiveness to disciplinary inquiries justifies a fitness requirement under *Cater*.

If Respondent seeks reinstatement, we recommend that she be required to account for her handling of the $5,000 fee, among other factors necessary to demonstrate her fitness to resume the practice of law, so that the Court may appropriately weigh the seriousness of the underlying misconduct when considering whether Respondent should be reinstated.

E. Restitution

"When imposing discipline, the Court . . . may require an attorney to make restitution either to persons financially injured by the attorney's conduct or to the Clients' Security Trust Fund (see Rule XII), or both, as a condition . . . of reinstatement." D.C. Bar R. XI, § 3(b). The Court has explained that "[r]estitution as a condition of reinstatement is consistent with prior disbarment cases involving dishonesty and attorneys taking money to which they are not entitled." *In re Johnson*, 275 A.3d 268, 282 (D.C. 2022) (per curiam) (collecting cases).

Essentially, restitution is designed to restore to the client any unearned benefit that the client has conferred on the attorney. *See In re Robertson*, 612 A.2d 1236, 1240-41 (D.C. 1992) (defining restitution as "a payment by the respondent attorney reimbursing a former client for the money, interest, or thing of value that the client has paid or entrusted to the lawyer in the course of the representation"); *see also In re Hager*, 812 A.2d 904, 923 (D.C. 2002) (stating that restitution prevents unjust enrichment). In addition to the amount being returned to the affected client(s) through restitution, a respondent must pay interest at the legal rate of six percent. *See In re Edwards*, 990 A.2d 501, 508 (D.C. 2010). In *Brown*, the Court required restitution because, after collecting a flat fee, the respondent did not complete the agreed-upon work, and the work he did perform conferred no benefit to the client. 310 A.3d at 1047-48, 1050-51.

Here, as in *Brown*, Respondent did not complete the first phase of the representation, yet she has not refunded any part of the flat fee she collected. FF 43.

Though she filed a prevailing wage application, which was approved, the prevailing wage validity period expired due to Respondent's failure timely to notify her clients that her application had been approved and to pursue the next steps. *See* FF 22-27. She never filed an Application for Labor Certification—the final step of Stage One—but led her clients to believe that she had. FF 26-28. Thus, while Respondent completed some work on behalf of her clients, that work ultimately did not provide any value to them.[19]

Accordingly, we recommend that Respondent be required to pay Silver restitution of $5,000, plus six percent interest, calculated from May 1, 2019, as a condition of reinstatement. *See Brown*, Board Docket No. 19-BD-032, at 2 (HC Rpt. Mar. 30, 2020) (ordering restitution calculated from the date of the client's final payment), *recommendation adopted*, 310 A.3d at 1049-1051 & n.3.

V. CONCLUSION

For the foregoing reasons, the Committee finds that Respondent violated Rules 1.1(b), 1.3(a) and (c), 1.4(a) and (b), 1.16(d), 8.1(b), and 8.4(c) and (d), and should receive the sanction of a six-month suspension, with a requirement to prove fitness and pay restitution before reinstatement. We further recommend that

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[19] We note that Respondent's fee agreement provided that she would be entitled to charge an hourly fee of $350 in the event of termination. FF 43 n.7 (citing DCX 5 at 13). However, Respondent did not claim she was entitled to collect that fee (*see* DCX 5 at 3-5 (response to Disciplinary Counsel)), and we find that it would have been unreasonable to do so given that her work provided no value.

Respondent's attention be directed to the requirements of D.C. Bar Rule XI, § 14, and their effect on eligibility for reinstatement. *See* D.C. Bar R. XI, § 16(c).

AD HOC HEARING COMMITTEE

Mary Lou Soller

Mary Lou Soller, Chair

David Bernstein

David Bernstein, Public Member

Stephanie L Nagel

Stephanie Nagel, Attorney Member