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

In the Matter of:	:	
	:	
TERRI Y. LEA,	:	
	:	D.C. App. No. 08-BG-964
Respondent.	:	Bar Docket No. 323-07
	:	
A Member of the Bar of the	:	
District of Columbia Court of Appeals	:	
(Bar Registration No. 422762)	:	

REPORT AND RECOMMENDATION
OF THE AD HOC HEARING COMMITTEE

Introduction

This case involves Respondent's second encounter with the Bar's disciplinary system. In the first case, a panel of the District of Columbia Court of Appeals ordered Respondent to be suspended from the practice of law for 30 days, and further ordered that Respondent's reinstatement shall be conditioned, *inter alia*, on Respondent's demonstrating fitness to resume the practice of law pursuant to D.C. Bar R. XI, § 3(a)(2). *See In re Lea*, No. 06-BG-188, slip op. at 3 (D.C. Apr. 23, 2009) ("*Lea I*"). That case stemmed from Respondent's failure to respond to Bar Counsel's requests for information in its investigation of sanctions imposed on Respondent pursuant to Sup. Ct. Civ. R. 11. As a result of her failure to respond, Bar Counsel charged Respondent with violating Rules 8.1(b) and 8.4(d) of the Rules of Professional Conduct, and also charged Respondent with violating D.C. Bar R. XI, § 2(b)(3) due to Respondent's failure to comply with an Order of the Board on Professional Responsibility ("Board") compelling Respondent to comply with Bar Counsel's requests for information.

In the present matter, Count I of Bar Counsel's Specification of Charges alleges that Respondent engaged in the unauthorized practice of law in violation of Rule 5.5(a) of the Rules of Professional Conduct, and in doing so also violated Rules 7.1, 7.5, and 8.4(c).

Rule 5.5(a) states, "A lawyer shall not: (a) Practice law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction." Rule 7.1 insofar as it pertains to the instant matter states, "(a) A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services. A communication is false or misleading if it: (1) Contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading; or (2) Contains an assertion about the lawyer or the lawyer's services that cannot be substantiated." Rule 7.5 insofar as it pertains to the instant matter states, "(a) A lawyer shall not use a firm name, letterhead, or other professional designation that violates Rule 7.1." Rule 8.4(c), in pertinent part, states, "It is professional misconduct for a lawyer to: * * * (c) Engage in conduct involving dishonesty, fraud, deceit, or misrepresentation."

All of these charges stem from a demand letter and related conversations between an insurer and Respondent while she was representing a client in a personal injury matter. At the time of this representation, Respondent's District of Columbia Bar membership had been suspended because of her failure to pay District of Columbia Bar dues.

Count II of Bar Counsel's Specification of Charges alleges that Respondent once again has violated Rules 8.1(b) and 8.4(d) by failing to respond to Bar Counsel's requests for information in connection with its investigation of the violations alleged in Count I,

and has again violated D.C. Bar R. XI, § 2(b)(3) by failing to comply with an Order of the Board directing Respondent to respond to Bar Counsel's inquiries concerning the unauthorized practice complaint.

Rule 8.1(b), in pertinent part, states, ". . . a lawyer in connection with . . . a disciplinary matter, shall not: * * * (b) . . . knowingly fail to respond reasonably to a lawful demand for information from an admissions or disciplinary authority . . . ." Rule 8.4(d) states, "It is professional misconduct for a lawyer to: * * * (d) Engage in conduct that seriously interferes with the administration of justice." D.C. Bar R. XI, § 2(b)(3) lists as one ground for discipline, "Failure to comply with any Order of the Court or the Board issued pursuant to this Rule."

Bar Counsel's proposed sanction includes a six-month suspension and a requirement that Respondent demonstrate fitness to practice law pursuant to D.C. Bar R. XI, § 3(a)(2) as a condition of reinstatement. (Brief of Bar Counsel, at p. 23). It is not clear (*id*.) whether Bar Counsel also seeks to require Respondent to answer the complaints against Respondent in the Specification of Charges as a condition of reinstatement. Furthermore, it is not clear from Bar Counsel's brief whether the proposed period of suspension would run concurrently with or consecutively to the period of suspension imposed by the Court in *Lea I*. *See In re Beller*, 841 A.2d 768, 769 n.4 (D.C. 2004) (per curiam) ("*Beller II*").

In addition, with regard to Bar Counsel's proposal that the sanction in this case should include a fitness requirement, the Court has already imposed a fitness requirement in *Lea I*, which was decided after Bar Counsel's brief was submitted in this matter. The Hearing Committee wishes to make it clear that even if the Court had not taken this

action, the Hearing Committee would have recommended a fitness requirement in this case in light of the factors discussed in Part IV(D) of this Report and Recommendation.

Respondent has not participated in any way in responding to the disciplinary charges in this matter, or in connection with the Hearing Committee's consideration of them.

For the reasons set forth below, the Hearing Committee finds that Respondent has violated all of the disciplinary rules referred to above, and recommends that the sanction in this matter should be as follows:

> Respondent shall be suspended for one hundred eighty (180) days in addition and consecutive to the period of suspension imposed by the District of Columbia Court of Appeals in *Lea I*. In addition, before resuming the practice of law Respondent shall be required to show that Respondent has fully and promptly responded to the ethical complaints in the instant matter.

I. PROCEDURAL HISTORY

In this Report and Recommendation, Bar Counsel Exhibits are identified by the prefix "BX." Hearing Committee Exhibits are identified by the prefix "HCX." References to the transcript of the hearing on February 9, 2009, are identified with the prefix "Tr."

The Petition Instituting Formal Disciplinary Proceedings and the Specification of Charges were served on Respondent pursuant to a District of Columbia Court of Appeals Order dated August 27, 2008, in No. 08-BG-964, which granted a request by Bar Counsel to serve Respondent with the Petition and the Specification by "alternative means." A copy of the Court's Order is provided at BX C, at p. 1, and a copy of Bar Counsel's Request to the Court is also included in BX C after the Order. (For ease of reference, the

"Request of Bar Counsel for Order Directing Service By Alternative Means" was also designated by the Hearing Committee as HCX 3.) The Order authorized service to be made on Respondent by publication in the Washington Post and in the Daily Washington Law Reporter, and by regular and certified mail directed to Respondent's address last-known to Bar Counsel, *i.e.,* 1435 Graham Avenue, Monessen, Pennsylvania, 15062. No Answer to the Specification of Charges has been filed by Respondent.

A Pre-Hearing Conference was held on January 23, 2009. Respondent was not present, and did not attempt to participate in any manner. Accordingly, the Pre-Hearing Conference proceeded in Respondent's absence. The Committee Chair raised with Bar Counsel the issue of notice to Respondent of this proceeding, and asked Bar Counsel to undertake additional efforts – beyond those specified in the Court of Appeals' Order – to try to locate Respondent and provide Respondent with additional notice. Bar Counsel was directed to report on these efforts at the plenary hearing on the Specification of Charges scheduled for February 9, 2009.

The plenary hearing was held on February 9, 2009. Respondent was not present and did not attempt to participate in the hearing in any manner. Accordingly, the hearing proceeded in Respondent's absence. Tr. p. 4.

In addition to HCX 3 discussed above, at the outset of the hearing the Hearing Committee designated as HCX 1: (a) a cover letter dated January 23, 2009, mailed by the administrative staff of the Board to Respondent at the address in Pennsylvania specified by the Court of Appeals; and (b) the Committee Chair's Pre-Hearing Order dated January 23, 2009, that accompanied the cover letter, which provided additional notice to Respondent of the pendency of the Specification of Charges and the scheduled hearing

date of February 9, 2009. The administrative staff of the Board has advised that the January 23, 2009, mailing to Respondent at the Pennsylvania address was not returned.

The Hearing Committee also designated as HCX 2: (a) a cover letter from Bar Counsel to the Executive Attorney of the Board dated January 27, 2009; and (b) an additional cover letter dated January 26, 2009, mailed by Bar Counsel to Respondent at the address in Pennsylvania specified by the Court of Appeals, providing Respondent with copies of the exhibits that Bar Counsel intended to offer into evidence at the plenary hearing on February 9, 2009 (including, *inter alia*, the Petition and the Specification of Charges). Bar Counsel's January 26, 2009, letter also notified Respondent of the date, time, and place of the hearing, as well as the identity of the witness that Bar Counsel intended to call (Delores Dorsainvil, a staff attorney with the Office of Bar Counsel). At the hearing on February 9, 2009, Bar Counsel advised the Hearing Committee that Bar Counsel's January 26, 2009, mailing to Respondent at the Pennsylvania address had not been returned. Tr. p. 11.

Bar Counsel's proposed exhibits were received into evidence, and the Hearing Committee received testimony from one Bar Counsel witness. After Bar Counsel rested its case (Tr. p. 26), the Hearing Committee met in executive session to consider whether it could make a tentative finding that Bar Counsel's evidence presented grounds for finding a violation of any of the Rules enumerated in the Specification of Charges. Such a finding was made (Tr. pp. 31-32), and Bar Counsel was asked to present evidence, if any, regarding aggravating factors. In response, Bar Counsel tendered copies of the Board's Report and Recommendation in Bar Docket No. 197-01 (*i.e.*, *Lea I*) and several related documents, which were admitted into evidence as BX 11.

The record was thereupon closed, subject to the submission of briefs after receipt of the transcript of the hearing. Tr. pp. 39-41. A copy of Bar Counsel's brief was served by mail on Respondent at the address for service in Pennsylvania designated by the District of Columbia Court of Appeals. No brief was filed by Respondent.

II. FINDINGS OF FACT

A. General

1. Respondent is a member of the District of Columbia Bar, having been admitted on February 14, 1990. (BX A). The latest annual registration filed by Respondent with the District of Columbia Bar was in June of 1998. (*See* BX 2, at p. 7; and Affidavit of Karen W. Wiggins, Manager, Member Service Center, District of Columbia Bar ("Wiggins Affidavit"), contained in BX 2, at ¶ 3(d)). On November 1, 1999, Respondent was administratively suspended from the District of Columbia Bar for nonpayment of dues. (Wiggins Affidavit, BX 2, at ¶ 3(g)). Effective February 26, 2003, Respondent was administratively reinstated pursuant to her own request upon payment of all unpaid dues and fees (BX 2, at p. 11, and Wiggins Affidavit, BX 2, at ¶ 3(g)), but apparently without filing any retroactive registration statements. However, six months later, on September 30, 2003, Respondent was once again administratively suspended from the District of Columbia Bar for nonpayment of dues. (Wiggins Affidavit, BX 2, at ¶ 3(h)). Respondent's District of Columbia Bar membership number is 422762. (Wiggins Affidavit, BX 2, at ¶ 2(a)).

2. Extensive efforts have been made to notify Respondent of this disciplinary proceeding, despite her failure to keep the District of Columbia Bar, and Bar Counsel, informed of her locational information.

a. Unsuccessful attempts to serve Respondent personally with the Petition and Specification in this matter were attempted at three places: (i) 4607 Connecticut Avenue, N.W., Washington, D.C. (the address Respondent used in the 2007 letter that led to the allegations which are the subject of Count I of the Specification); (ii) 1435 Graham Avenue, Monessen, Pennsylvania 15062 (an alternative address for service on Respondent used in this matter by the Board, BX 11, at p. 1, which is also the address authorized for mail service on Respondent by the Court of Appeals, BX C, at p. 1); and (iii) 829 Whittier Place, N.W., Washington, D.C. (another possible address for Respondent discovered by a process server engaged by the Board).[1] *See* Affidavit of Scott Kucik, provided as the last attachment to HCX 3, and as Attachment B to Bar Counsel's Request for Order Directing Service By Alternative Means, contained in BX C.

b. Service on Respondent by publication in accordance with the Court of Appeals' Order of August 27, 2008 (BX C, at p. 1) has been accomplished. Publication of notice to Respondent was made in the Washington Post on September 6 and September 7, 2008, and publication of notice to Respondent was made in the Daily Washington Law Reporter on October 8 and October 9, 2008. Copies of the proofs of publication from the Daily Washington Law Reporter and from the Washington Post are provided as part of BX C, along with a copy of Bar Counsel's letter dated October 15, 2008, providing copies of the proofs of publication to the Executive Attorney of the

[1] As to the Pennsylvania address, Respondent testified in her prior disciplinary matter, Bar Docket No. 197-01 (*Lea I*), "It's my mother's address." Respondent also testified that Respondent regarded it as Respondent's "home" and "permanent address." Respondent further testified she "would receive mail from Bar Counsel there," even though Respondent did not always live there. *See* n.6, pp. 10-11 in Attachment I

Board.

c. The regular and certified mailings to Respondent of the Petition and the Specification of Charges mailed to 1435 Graham Avenue, Monessen, Pennsylvania 15062 in accordance with the Court of Appeals' Order of August 27, 2008 (BX C, at p. 1) were returned. (Statement of Bar Counsel to the Hearing Committee, Tr. p. 9). However, all other mailings by Bar Counsel to Respondent at that address in this matter have *not* been returned (Statement of Bar Counsel to the Hearing Committee, Tr. p. 11), *e.g.*, HCX 2, the cover letter to Respondent from Bar Counsel dated January 26, 2009, which provides Bar Counsel's proposed exhibits — including the Petition and the Specification of Charges — as well as notification of the date, place, and time of the hearing.

d. Bar Counsel's motion filed with the Board to compel Respondent to respond to the ethical complaint and Bar Counsel's letters of inquiry in this matter were mailed to Respondent at 1435 Graham Avenue, Monessen, Pennsylvania 15062, and were not returned. (BX 10, Affidavit of Delores Dorsainvil, at ¶ 8; BX 9, Affidavit of Nicole Bozeman, at ¶ 6). Respondent did not file an opposition to the motion to compel. (BX 10, Affidavit of Delores Dorsainvil, at ¶ 8).

e. The Court of Appeals mailed its own Order of August 27, 2008, authorizing service on Respondent by alternative means to "1435 Graham Avenue, Monessen, PA 15062." BX C, at p. 1.

f. An investigator from the Office of Bar Counsel who spoke by telephone with Respondent on September 11, 2007, concerning the instant matter was told by

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to brief of Bar Counsel herein (*i.e.*, the Brief of Bar Counsel in D.C. App. No. 06-BG-188) (*Lea I*)).

Respondent that she had previously provided accurate addresses to Bar Counsel, and that she received correspondence from Bar Counsel at a Pennsylvania address she had provided to Bar Counsel. (BX 4, at p. 19 (Interview Report of Charles M. Anderson)).

g. Paragraph 2 of Bar Counsel's "Request by Bar Counsel for Order Directing Service by Alternative Means" (HCX 3) advised the Court of Appeals that:

> 1435 Graham Avenue, Monessen, Pennsylvania, 15062 is the address of Respondent's mother. Respondent had informed Bar Counsel in her other matter, *In re Lea*, [D.C. App.] No. 06-BG-188, that she reliably receives mail at her mother's residence. Although Respondent's mother denies that Respondent lives with her, she did not deny that Respondent receives mail there.

As noted in the Board's Report and Recommendation in *Lea I* (Bar Docket No. 197-01) (BX 11, at ¶ 3, n.2, ¶ 11, and discussion at p. 24 n.20), Respondent was receiving mail at her mother's address in Pennsylvania.

h. The staff attorney from the Office of Bar Counsel assigned to investigate the instant matter, Delores Dorsainvil, Esquire, mailed Respondent a request for information addressed to 1435 Graham Avenue, Monessen, Pennsylvania 15062, which has not been returned. (BX 10, Affidavit of Dolores Dorsainvil, at ¶ 6).

i. Shortly after the mailing of Bar Counsel's letters to Respondent (BX 5, at pp. 21 and 23) requesting information concerning the allegations of misconduct that constitute Count I of the Specification of Charges, Ms. Dorsainvil had a telephone discussion with Respondent on October 22, 2007. Respondent acknowledged receiving the letters, and told Ms. Dorsainvil that Respondent was moving from her address at 4607 Connecticut Avenue, N.W., at the end of October, 2007.[2] Ms. Dorsainvil asked

[2] Bar Counsel represented to the Hearing Committee (Tr. p. 36) that a check of Landlord & Tenant records

Respondent for an address at which Respondent could be reached. Respondent declined to provide such an address. (Tr. pp. 22-23 (testimony in person by Ms. Dorsainvil at the hearing in this matter); *see also* Affidavit of Delores Dorsainvil, BX 10, at ¶ 7).

j. Pursuant to the direction of the Committee Chair in the Pre-Hearing Order dated January 23, 2009, Bar Counsel undertook additional efforts to try to locate Respondent using various online data base searches, which proved to be unavailing, as did an inquiry to the Pennsylvania Bar where Respondent had previously been registered. (Statements of Bar Counsel to the Hearing Committee, Tr. pp. 10-11 and 34).

B. Findings of Fact on Count I (Unauthorized Practice of Law, and False or Misleading Communications)

3. On September 30, 2003, Respondent's District of Columbia Bar membership was administratively suspended for nonpayment of dues. (BX 2, Wiggins Affidavit, at ¶ 3(h)).

4. The September 30, 2003, suspension was not the first time Respondent's District of Columbia Bar membership had been suspended for nonpayment of dues. She was first suspended on November 30, 1993, a little less than four years after her admission to the Bar, and she was not reinstated until April 16, 1997. (BX 2, Wiggins Affidavit, at ¶ 3(c)). On November 1, 1999, Respondent's District of Columbia Bar membership was again suspended for nonpayment of dues, and she was not reinstated until February 26, 2003. (BX 2, Wiggins Affidavit, at ¶ 3(g)).

5. By letter dated May 29, 2007 (BX 3, at pp. 16-17), Respondent sent a claims representative at the GEICO insurance company, Mr. John "Kopsack" [*sic*] a demand

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indicated that in October of 2007 Respondent apparently was being evicted.

letter on behalf of an individual explicitly referred to in the letter as Respondent's "client," seeking payment of $23,788.71 in damages suffered by the client as a result of a motor vehicle incident. (The typed date of the letter, "March 15, 2007," is crossed out, and a date of May 29, 2007, is written in by hand with initials beside it; similarly, the expiration date of the demand is changed by hand notation from March 29, 2007, to June 12, 2007.) The heading of the letter identifies Respondent as "Terri Y. Lea, Esquire," identifies her address as "4607 Connecticut Avenue, Suite 805, Northwest, Washington, The District of Columbia, 20008," and provides a telephone number of (202) 248-6479 (*i.e.*, a Washington, D.C., area code). The signature block at the end of the letter is for "Terri Y. Lea, Esq." The letter contains references to the type of work an attorney would normally perform in handling a personal injury case, such as discussing the client's having undergone medical and rehabilitative therapy, and providing GEICO with copies of medical information about the client and the costs thereof obtained by Respondent. No individual other than Respondent is identified in the letter as representing the client in question.

6. Prior to the letter described in the preceding paragraph, Respondent had dealt with a GEICO claims representative named John Kopcak (not "Kopsack"). (BX 3, at pp. 13-14 (Affidavit of John Kopcak dated March 6, 2008) ("Kopcak Affidavit"). The claim of Respondent's client was first brought to the attention of GEICO in a telephone message from Respondent on or about October 13, 2006. (Kopcak Affidavit, BX 3, at ¶ 3). The motor vehicle incident in which Respondent's client was involved occurred in the District of Columbia, and Respondent's client also resided in the District of Columbia. *Ibid.* Mr. Kopcak had eleven different telephone conversations with

Respondent concerning the client's claim, ranging from February 20, 2007, through July 10, 2007. (Kopcak Affidavit, BX 3, at ¶ 4).

7. Respondent's telephone conversations with Mr. Kopcak gave him the impression that Respondent was an attorney licensed to practice law, and during one or more of the telephone conversations Respondent referred to the amount she believed a District of Columbia jury would authorize if Respondent were to file a suit on behalf of her client. (Kopcak Affidavit, BX 3, at ¶ 5).

8. By letter to Respondent dated June 11, 2007 (BX3, p. 18), Mr. Kopcak made a counteroffer to "your [Respondent's] client" of $8,000.

9. On an unspecified date, Mr. Kopcak obtained information that Respondent was suspended from the practice of law. (Kopcak Affidavit, BX 3, at ¶ 8). A different GEICO employee informed Respondent of this fact in a telephone conversation on August 29, 2007, in response to which Respondent stated she would refer the case to an attorney named "Ilene Oliver." *Ibid.* As of the date of this Report and Recommendation, the public online records of the District of Columbia Bar indicate no filings for an individual of that name, or any similar name such as "Eileen" or "Olivier."

10. By letter dated August 30, 2007, to the Office of Bar Counsel (BX 1, at p. 1), the GEICO employee who had spoken on the telephone with Respondent on August 29, 2007, filed a complaint with Bar Counsel alleging that Respondent was "an unauthorized/unlicensed individual who is practicing law in the District of Columbia."

C. Findings of Fact on Count II (Failure to Respond to Bar Counsel's Requests for Information, and Failure to Comply With Board Order)

11. On September 11, 2007, an investigator from the Office of Bar Counsel spoke by telephone with Respondent regarding the complaint by GEICO. (BX 4 (Interview Report of Charles M. Anderson)). Mr. Anderson told Respondent he was contacting her regarding the instant matter. Respondent told Mr. Anderson "she is 'settling the case'," and again referred to the person identified in Paragraph 9, above, as the attorney handling the case. Mr. Anderson also told Respondent that he was trying to confirm her current address. Respondent told him she was moving from her *apartment*, not "suite" (*see* Paragraph 5, *supra*), at 4607 Connecticut Avenue, N.W., around the end of October, 2007, and that she had received correspondence from the Office of Bar Counsel in another matter at an address in Pennsylvania previously provided to Bar Counsel.

12. By letter dated September 12, 2007 (BX 5, at pp. 21-22), the Office of Bar Counsel wrote to Respondent at 4607 Connecticut Avenue, N.W., Washington, D.C. (*i.e*., the address used in Respondent's demand letter to GEICO), advising Respondent of the complaint by GEICO, designated as "Bar Docket No. 323-07," and asking for her response by September 26, 2007. The September 12, 2007, letter to Respondent was not returned to the Office of Bar Counsel. (BX 10, Affidavit of Delores Dorsainvil, at ¶ 6).

13. By letter dated October 3, 2007 (BX 5, at pp. 23-24), the Office of Bar Counsel again wrote to Respondent at 4607 Connecticut Avenue, N.W., Washington, D.C., regarding "Bar Docket No. 323-07," advising Respondent that no response to the prior September 12, 2007, letter from Bar Counsel to Respondent had been received, and further advising Respondent that failure to respond to an investigative inquiry from Bar Counsel might independently form a basis for disciplinary action under Rules 8.1(b) and 8.4(d) of the Rules of Professional Conduct. A response to this second letter was

requested by October 17, 2007. A "cc" of the letter to Respondent was also addressed to Respondent at "1435 Graham Avenue, Monessen, PA 15062", which was not returned to the Office of Bar Counsel. (BX 10, Affidavit of Delores Dorsainvil, at ¶ 6).

14. On October 22, 2007, Ms. Dorsainvil personally spoke on the telephone with Respondent about the letters Bar Counsel had sent to Respondent. (BX 10, Affidavit of Delores Dorsainvil, at ¶ 7; Tr. pp. 10-11). Respondent told Ms. Dorsainvil that Respondent had received the letters, had not yet had time to respond, and requested an extension of time until November 15, 2007, within which to respond. Ms. Dorsainvil agreed to the extension of time. (BX 10, Affidavit of Delores Dorsainvil, at ¶ 7; Tr. p. 22). However, Respondent did not thereafter submit any response to Bar Counsel's letters. (BX 10, Affidavit of Delores Dorsainvil, at ¶ 7; Tr. p. 23).

15. On November 20, 2007, the Board on Professional Responsibility received a "Motion of Bar Counsel to Compel Response to Complaint," BX 6, summarizing the facts described above in Paragraphs 11-14. Paragraph 5 of the motion states that: (a) the investigating staff attorney from the Office of Bar Counsel who signed the motion personally spoke by telephone with Respondent at the telephone number listed in the letterhead described above in Finding of Fact 5; (b) Respondent stated that she had received the September 12, 2007, and October 3, 2007, letters from the Office of Bar Counsel; (c) Respondent requested an extension of time until November 15, 2007, within which to respond to the letters, to which the staff attorney from the Office of Bar Counsel agreed; and (d) as of the date of the filing of the motion, no response had been received from Respondent. The Certificate of Service for the motion states that copies of the motion were mailed to Respondent at 4607 Connecticut Avenue, N.W., Suite 805,

Washington, D.C. 20008, and at 1435 Graham Avenue, Monessen, PA 15062. Neither of the service copies of the motion directed to Respondent was returned to the Office of Bar Counsel. (BX 10, Affidavit of Delores Dorsainvil, at ¶ 8).

16. By Order dated December 5, 2007, BX 7, at pp. 40-41, the Chair of the Board granted Bar Counsel's motion to compel, and directed Respondent to provide a response within ten (10) calendar days of the date of the Order. On the same day, staff of the Board wrote to Respondent at 4607 Connecticut Avenue, N.W., Suite 805, Washington, D.C. 20008, and at 1435 Graham Avenue, Monessen, PA 15062, enclosing copies of the Order granting Bar Counsel's motion to compel. BX 7, at p. 39. The administrative staff of the Board has advised that no mail sent by Board staff to Respondent at the Pennsylvania address has been returned to the Board.

17. Respondent has not submitted anything in reply to the December 5, 2007, Order of the Board granting Bar Counsel's motion to compel. (BX 10, Affidavit of Delores Dorsainvil, at ¶10).

III. CONCLUSIONS OF LAW

A. Adequacy of Notice to Respondent

1. Respondent has received proper notice of this disciplinary proceeding. D.C. Code § 11-2503(b) states that in disciplinary proceedings:

> . . . a certified copy of the charges . . . shall be served upon the member personally, or if it is established to the satisfaction of the court that personal service cannot be had, a certified copy of the charges . . . shall be served upon the member by mail, publication, or otherwise as the court directs.

In the present case, upon application by Bar Counsel for service of the Petition Instituting Formal Disciplinary Proceedings and the Specification of Charges by "alternative means"

(*i.e.*, other than by personal service as specified in D.C. Code § 11-2503(b)), the Court authorized service of the Petition and Specification of Charges on Respondent by publication, and by regular and certified mail at 1435 Graham Avenue, Monessen, Pennsylvania 15062 (BX C, at p. 1). Service by publication has been accomplished, and the proofs of publication are provided in BX C. However, the regular and certified mailings by Bar Counsel to Respondent in Pennsylvania were returned.

As stated in *In re Washington*, 513 A.2d 245, 248 n.8 (D.C. 1986) in its analysis of D.C. Code § 11-2503, "This entire history reflects a consistent concern that the attorney receive actual notice of the charges, with a strong emphasis on personal service." *Washington*, however, draws a distinction, 513 A.2d at 249, between the situation in that case, where

> "[t]here [was] no evidence to show that Washington left the District, deliberately refused to pick up certified mail, or otherwise attempted to evade service. In fact, he contacted the Board at the beginning of December 1984 and provided a new office address where he could be reached . . . "

and the situations in *In re Dorsey*, 469 A.2d 1246, 1247 (D.C. 1983) (Board made ample efforts to serve attorney, who left town and provided no forwarding address at either his home or office), and *In re Williams*, 464 A.2d 115, 117 n.2 (D.C. 1983) (Bar Counsel made numerous attempts to notify respondent of the charges). *See Washington*, 543 A.2d at 247 n.15.

In the present case, Respondent *has* in effect "left town." (S*ee* BX 7, Affidavit of Delores Dorsainvil, at ¶ 7, regarding her telephone conversation with Respondent in which Respondent stated she was moving from her address at the end of October, 2007, but declined to provide any new mailing address; at the hearing, Bar Counsel represented

to the Hearing Committee (Tr. p. 36) that a check of Landlord & Tenant records indicated that in October of 2007 Respondent apparently was being evicted). Respondent has pointedly refused to provide Bar Counsel (and the Bar) with any information indicating a local or current residential address (*see* Findings of Fact, at ¶¶ 2(a) and 2(i)), although Respondent did tell an investigator from the Office of Bar Counsel on September 11, 2007, that Respondent was receiving mail from the Office of Bar Counsel at an address in Pennsylvania. (*See* Finding of Fact 11). The latest annual registration filed by Respondent with the District of Columbia Bar was in June of 1998. (BX 2, at p. 7, and Wiggins Affidavit BX 2, at ¶ 3(d)) (*see* Finding of Fact 1). As the Court of Appeals stated in *Lea I*, attorneys have an independent duty under D.C. Bar R. XI, § 2(1), to keep the Bar apprised each year of their current address, and to file a supplement within 30 days if the attorney's contact information changes. *Lea I*, slip op. at 26-27. Bar Counsel and the Board have undertaken repeated efforts to contact Respondent in this matter and to provide her with notice of the Specification of Charges and the Petition Instituting Formal Disciplinary Proceedings. (*See, e.g.*, Findings of Fact 2, 14, and 15, and HCX 1 and 2). Furthermore, based on her telephone discussion with Ms. Dorsainvil on October 22, 2007, Respondent clearly knew that the instant disciplinary investigation was pending. (*See* Finding of Fact 14).

This case, therefore, is analogous to *In re Regent*, 741 A.2d 40, 41 n.2 (D.C. 1999), where, after attempts at personal service had failed, the Court directed service by first-class and certified mail to the attorney's last known address, and notices sent by certified mail were returned, but other notices sent by regular mail were not. The

Court sustained the imposition of discipline in *Regent*, noting, "we think little else could have been done to locate respondent."[3]

B. Conclusions of Law Relating to Count I (Unauthorized Practice of Law, and False or Misleading Communications)

2. Count I of the Specification of Charges alleges that Respondent violated Rule 5.5(a) of the District of Columbia Rules of Professional Conduct, stating, "A lawyer shall not: (a) Practice law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction." In the present case, Respondent's District of Columbia Bar membership was suspended as of September 30, 2003. Finding of Fact 3. D. C. App. R. II, § 6 bars an attorney who is suspended because of failure to pay Bar dues from practicing law in the District of Columbia during the period of the suspension. Nevertheless, in 2007 Respondent presented a demand letter to the GEICO insurance company in order to settle a legal claim for damages to her "client" using a letterhead that designated herself as "Terri Y. Lea, Esquire." Finding of Fact 5. D. C. App. R. 49(b)(4) designates "Esq." as a characterization used in holding oneself out as authorized to

[3] As to notice of the Pre-Hearing Conference on January 23, 2009, and notice of subsequent proceedings, the Court in *Washington* concluded that the personal service requirements of D.C. Code § 11-2503(b) do not extend to notice as to time of the disciplinary hearing, stating, "notice of the time of hearing can be given in whatever manner an implementing rule may provide." 513 A.2d at 248 n.14. Board Rule 7.3 states, "Once Bar Counsel has filed proof of service of the petition with the Office of the Executive Attorney [*see* Findings of Fact at ¶ 2(b)], the Executive Attorney shall set a date and place for the hearing on the petition and assign the matter to a hearing committee as soon as practicable; the Executive Attorney shall send written notice of same to respondent and Bar Counsel." The Committee Chair stated, Tr. p. 5, that a notice dated December 4, 2008, regarding scheduling of the Pre-Hearing Conference and the hearing had been sent by the Board to Respondent (and the Committee Chair). The staff of the Board has advised

practice law; *see also Brookens v. Committee on Unauthorized Practice of Law*, 538 A.2d 1120, 1122 n. 6 (D.C. 1988); and *In re Soininen*, 853 A.2d 712, 717 (D.C. 2004). Respondent also engaged in settlement discussions with GEICO from February through July of 2007. (Finding of Fact 6). The primary locus of Respondent's actions was clearly in the District of Columbia, inasmuch as her letterhead indicated her legal office was there (Finding of Fact 5); the automobile incident in question took place in the District of Columbia, and Respondent's client lived there (Finding of Fact 6); and the intended venue of suit, if one had been brought, would have been the District of Columbia (Finding of Fact 7). The foregoing facts and cited authorities clearly establish that Respondent was engaged in the unauthorized practice of law in the District of Columbia, in violation of Rule 5.5(a). Respondent's conduct is similar to that in *In re Gonzalez-Perez*, 917 A.2d 689 (D.C. 2007), where an attorney who was administratively suspended from the District of Columbia Bar for non-payment of dues was sanctioned for the unauthorized practice of law because the attorney entered appearances in several immigration matters, falsely stating that he was a member in good standing of the District of Columbia Bar.

3. Count I of the Specification of Charges contains three additional charges, *i.e.*, that Respondent violated Rule 7.1 (false or misleading communications about a lawyer's services), 7.5 (use of firm names and letterheads), and 8.4(c) (conduct involving dishonesty, fraud, deceit, or misrepresentation). (The relevant text of these rules is quoted on p. 2, *supra*.) All of these charges arise out of Respondent's holding herself out as an attorney by using letterhead and otherwise communicating with GEICO on behalf

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that the December 4, 2008, notice mailed to Respondent at the Pennsylvania address was not returned.

of a client when her District of Columbia Bar membership was suspended. Once again, *Gonzalez-Perez, supra,* is instructive. In that case, the Court affirmed a finding by the Board that the attorney had violated Rule 8.4(c) when he filed appearances in immigration matters asserting that he was an attorney in good standing while the attorney was under administrative suspension for failure to pay Bar dues. The Board in that matter had little trouble in finding that the attorney's conduct there was a "misrepresentation" in violation of Rule 8.4(c). (*See* Board Report and Recommendation in Bar Docket No. 057-05, at p. 7). Respondent's holding herself out to GEICO and to her own client as an attorney authorized to practice law in the District of Columbia notwithstanding her suspension was similar misconduct. The related violations of Rules 7.1 and 7.5 flow from the same conduct. *See In re Banks*, 561 A.2d 158, 168 (D.C. 1987) (enjoining use of the term "Esquire" by an unlicensed law school graduate as a misleading communication that the graduate was authorized to practice law), and *In re Soininen, supra* (holding that using the term "Esq." constitutes a false representation when done by an attorney during an interim suspension). Accordingly, the Hearing Committee concludes that Respondent's use of letterhead and otherwise acting in a manner indicating that she was an attorney in good standing violated Rules 7.1 (false or misleading communications about a lawyer's services), 7.5 (use of firm names and letterheads), and 8.4(c) (conduct involving dishonesty, fraud, deceit, or misrepresentation).

C. Conclusions of Law Relating to Count II (Failure to Respond to Bar Counsel's Requests for Information, and Failure to Comply with Board Order)

4. Count II of the Specification of Charges alleges that Respondent violated Rules

8.1(b) and 8.4(d) in not responding to Bar Counsel's requests for information in this matter, and that Respondent violated D.C. Bar R. XI, § 2(b)(3) by not complying with an Order of the Board dated December 5, 2007, directing Respondent to respond within ten (10) days to each allegation of the substantive complaint against her by the Office of Bar Counsel. (The relevant text of Rules 8.1(b) and 8.4(d), and D.C. Bar R. XI, § (b)(3) are quoted on p. 3, *supra*.) The record contains clear and convincing documentary evidence that Respondent did absolutely nothing in response to the repeated requests of Bar Counsel and the Order of the Board. (*See* Findings of Fact 11-17). In particular, with respect to the alleged violation of Rule 8.1(b), it is clear that Respondent *knowingly* failed to respond to Bar Counsel's requests, inasmuch as Respondent acknowledged receiving Bar Counsel's letters and even asked for an extension of time within which to respond. Finding of Fact 14. Such conduct has repeatedly been held to constitute a violation of Rules 8.1(b) and 8.4(d). *See, e.g, Lea I*, slip op. at 23; *In re Artis*, 883 A.2d 85, 91 (D.C. 2005); and *In re Cater*, 887 A.2d 1, 17 (D.C. 2005). Nothing in the record here justifies a different outcome, and the Board reached the same conclusion with respect to Respondent's similar conduct in Respondent's prior disciplinary case (*see* Board Report and Recommendation in *Lea I*, Bar Docket No. 197-01, BX 11, at pp. 13-17). The Hearing Committee accordingly concludes that Respondent violated Rules 8.1(b) and 8.4(d) of the District of Columbia Rules of Professional Conduct. In addition, Respondent has clearly violated D.C. Bar R. XI, § 2(b)(3) because Respondent has failed to comply with the Order of the Board dated December 5, 2007 (BX 7) directing Respondent to provide responses to each allegation of the substantive complaint against her. (*See* BX 10, Affidavit of Delores Dorsainvil, at ¶10; *In re Artis*, *supra*; and Board

Report and Recommendation in *Lea I*, Bar Docket No. 197-01, BX 11, at p. 14).

IV. RECOMMENDED SANCTION

A. Sanction Recommendations of Bar Counsel and the Hearing Committee

Bar Counsel has recommended a sanction of a six-month suspension, and a requirement that Respondent demonstrate fitness to practice law as a condition of reinstatement (Brief of Bar Counsel, at p. 23). (*Lea I*, which was decided after Bar Counsel's brief in this matter was submitted, has already imposed a fitness requirement on Respondent.)

For the reasons hereinafter set forth, the Hearing Committee recommends that the sanction in this matter should be as follows:

> Respondent shall be suspended for one hundred eighty (180) days in addition and consecutive to the period of suspension imposed by the District of Columbia Court of Appeals in *Lea I*. In addition, before resuming the practice of law Respondent shall be required to show that Respondent has fully and promptly responded to the ethical complaints in the instant matter.

B. Applicable Standards

In considering an appropriate sanction, as a general matter the Hearing Committee should review various factors such as (1) the nature and seriousness of Respondent's misconduct; (2) the prejudice, if any, to the client resulting from the misconduct; (3) whether the conduct involved dishonesty or misrepresentation; (4) the presence or absence of other ethical violations; (5) whether the lawyer has prior discipline; (6) the need to protect the public, the courts, and the legal profession; (7) the moral fitness of the attorney; (8) whether the lawyer has acknowledged the existence of wrongful conduct; and (9) any other aggravating or mitigating factors. *In re Jackson*, 650 A.2d 675, 678-79

(D.C. 1994) (per curiam); *In re Hutchinson*, 534 A.2d 919, 924 (D.C. 1987) (en banc). There should also be consistency of disciplinary dispositions for comparable conduct. *In re McLean*, 671 A.2d 951, 954 (D.C. 1996); D.C. Bar R. XI, § 9(h)(1).

C. Discussion of Applicable Standards.

1. General Considerations

a. Nature and seriousness of misconduct

Respondent's misconduct is serious. Even though practicing law during a period of administrative suspension for non-payment of Bar dues, standing alone, might warrant only an informal admonition, censure, or reprimand, *In re Kennedy*, 542 A.2d 1225, 1229 (D.C. 1988), it is not entirely without consequences, *Sitcov v. District of Columbia Bar*, 885 A.2d 289 (D.C. 2005). The seriousness of such misconduct, however, is compounded by Respondent's total failure to come to grips with the instant disciplinary proceeding. An attorney's complete failure to respond to Bar Counsel and a Board Order directing a response constitutes a serious violation of the Rules of Professional Conduct. *In re Lockie*, 649 A.2d 546, 547 (D.C. 1994). The evidence adduced by Bar Counsel on Counts I and II of the Specification of Charges is clear, convincing, and amply documented.

b. Prejudice, if any, to the client resulting from the misconduct

Bar Counsel introduced no evidence bearing directly on prejudice to Respondent's client from Respondent's actions in the instant matter. Therefore, there is no basis on which the Hearing Committee can conclude by clear and convincing evidence

that there has been any prejudice to Respondent's client.

c. Whether the conduct involved dishonesty or misrepresentation

Respondent's holding herself out to her client and to third parties such as GEICO as an attorney entitled to practice law constitutes misrepresentation. *In re Soininen*, *supra*; *see also In re Gonzalez-Perez*, *supra*. The Court has also held that any act of misrepresentation is dishonest. *See In Re Shorter*, 570 A.2d 760, 767-68 (D.C. 1990) (per curiam) (the Court defined "dishonesty" as the most general term that encompasses fraudulent, deceitful, or misrepresentative behavior, and held that even if an act may not be legally characterized as a misrepresentation, it may still evince dishonesty).

d. The presence or absence of other ethical violations

The present case involves two distinct violations, although both flow from a single attorney/client relationship. Similarly, as to each Count of the Specification, the violations alleged in the Specification of Charges flow from a unitary stream of conduct.

e. Whether the lawyer has prior discipline

As stated at the outset of this Report and Recommendation, in *Lea I* Respondent was suspended for 30 days, and her misconduct was found to be so serious as to support the imposition of a fitness requirement before Respondent resumes the practice of law.

f. Protecting the public, the courts, and the legal profession

Protecting the public, the courts, and the legal professional is the single most important function of the disciplinary system. *In re Steele*, 630 A.2d 196, 200 (D.C. 1993) (citing *In re Hutchinson*, 534 A.2d at 924). In the instant case, the facts lead the Hearing Committee to the settled conclusion that action is needed to vindicate that protection. Some of those facts are outlined in *Lea I*. In addition, Respondent's conduct

appears erratic. She has been on administrative suspension for nonpayment of Bar dues more often than she has been a member of the Bar in good standing. (BX 2, Wiggins Affidavit, at ¶ 3). Respondent has engaged in representing at least one client while she was not authorized to practice law in the District of Columbia. She has twice *knowingly* failed to respond to Bar Counsel's investigative inquiries and to Board orders compelling a response. In *Lea I* (Bar Docket No. 197-01), Respondent's interactions with the Bar's disciplinary system were episodic and unpredictable (BX 11, at ¶¶ 19-20, at pp. 8-10). In the present matter, Respondent's statement to a Bar Counsel investigator that some other attorney was representing her client when Respondent was the only attorney who had dealt with GEICO was a deliberate and transparent attempt to deflect blame from herself. (*See* Finding of Fact 11). Respondent, at least in the past, has suffered from financial, medical, and emotional problems that interfered with her functioning effectively. (BX 11, at ¶ 21, at pp. 10-11). In the present case, Respondent has been totally unresponsive, even though she knew that this second disciplinary proceeding had been initiated against her. Finding of Fact 14. She has proved to be difficult to contact and to find (Finding of Fact 2), and she has purposely declined to provide Bar Counsel with locational information (Findings of Fact at ¶ 2(i)).

g. <u>The moral fitness of the attorney</u>

Bar Counsel introduced no evidence bearing directly on Respondent's moral fitness. Therefore, there is no basis on which the Hearing Committee can conclude by clear and convincing evidence that Respondent is morally unfit.

h. <u>Acknowledging the existence of wrongful conduct</u>

As established in Findings of Fact 11 through 17, Respondent has done nothing to

evince any acknowledgement of wrongful conduct, other than telling a representative of the Office of Bar Counsel that Respondent would answer the two letters Bar Counsel had sent to Respondent, and then not doing so. Finding of Fact 14.

i. Other aggravating or mitigating factors

Bar Counsel presented no aggravating factors to the Hearing Committee other than Respondent's prior disciplinary involvement, *i.e.*, *Lea I*. *See* Tr. pp. 32-33.

2. Consistency of Disciplinary Dispositions

In *Lea I* (Bar Docket No. 197-01), which involved a single instance of failure to respond to inquiries from Bar Counsel and failure to comply with an Order of the Board, the Court imposed a 30-day suspension. As stated in *In Re Cater*, 887 A.2d at 22, suspension is intended to serve as the commensurate response to the attorney's past ethical misconduct.

The heart of Count I of the Specification of Charges in the present matter is the unauthorized practice of law in violation of Rule 5.5. In a similar case where there were no aggravating circumstances, *In re Brown*, Bar Docket No. 218-02 (BPR Oct. 31, 2002), only an informal admonition was issued. However, in another similar case, *In re Outlaw*, Bar Docket No. 101-01 (BPR Dec. 23, 2005), even where there were substantial mitigating circumstances and the Board did not find a violation of Rule 5.5 because the attorney's conduct (presenting the client's facts and conclusions in a "complaint" filed with a Virginia state administrative agency) did not constitute the "practice of law" in Virginia, the Board ordered a 60-day suspension. In the present case, where there is a

record of serious prior disciplinary involvement, a somewhat longer period of suspension than in *Outlaw* appears warranted. Accordingly, with respect to Count I, the Hearing Committee recommends that Respondent be suspended from the practice of law for a period of ninety (90) days.

With regard to Count II, this is the second time that Respondent has failed to respond to with Bar Counsel's inquiries and has failed to obey an Order of the Board compelling a response. A case similar to the present one is *Beller II*, *supra*, 841 A.2d 768, which imposed a 120-day suspension for failure to respond to Bar Counsel investigations and to respond to Board orders in three separate matters. The aggravating factors there were (as here) that the attorney had a prior 30-day suspension (*In re Beller*, 802 A.2d 340 (D.C. 2002) (per curiam) ("*Beller I*")) for failure to respond and had never complied with Bar Counsel's requests for information. However, a mitigating factor was that the attorney had participated in the disciplinary proceedings. Because we are dealing here with two instances of failure to respond (not three, as in *Beller II*), but the mitigating factor of participation is not present here, an additional suspension period of ninety (90) days appears appropriate, and the Hearing Committee so recommends.

In summary, the Hearing Committee recommends a total suspension period of one hundred eighty (180) days. This suspension period should be consecutive to the period of suspension imposed in *Lea I*.

D. Imposition of a Fitness Requirement

The case law is sparse on whether it is appropriate to recommend imposing a fitness requirement on an attorney who is already subject to one. In *In re Smith*, 655

A.2d 315 (D.C. 1995) ("*Smith II*"), the Court, without much discussion of the matter, ordered the attorney there to show fitness as a condition of reinstatement, even though in a prior decision involving the same attorney, *In re Smith*, 649 A.2d 299 (D.C. 1994) (per curiam) ("*Smith I*"), the Court had already approved a sanction of a 30-day suspension coupled with a fitness requirement. The same is true of *In re Siegel*, 666 A.2d 62 (D.C. 1995) (per curiam) ("*Siegel II*"), although it is somewhat clearer that the Court there was merely carrying over the fitness requirement already imposed in *In re Siegel*, 635 A.2d 345 (D.C. 1993) (per curiam) ("*Siegel I*"). In *In re Roxborough*, 707 A.2d 57, 59 (D.C. 1998) ("*Roxborough III*"), the Court literally imposed a fitness requirement even though as the Court noted, *ibid*., at n. 3, under *In re Roxborough*, 692 A.2d 1379 (D.C. 1997) ("*Roxborough II*") a 60-day suspension and a fitness requirement were already in effect. In *Roxborough III*, however, the Court seemed more focused on whether a showing of fitness under D.C. Bar R. XI, § 16(d) could operate in tandem with a requirement that the attorney show medical rehabilitation pursuant to D.C. Bar R. XI, § 13(g), rather than focusing solely on the issue of imposing successive fitness requirements.

The Board itself appears to have provided the most thoughtful and pertinent consideration of this issue in *In re Steinberg* ("*Steinberg IV*"), Bar Docket No. 423-01 at 29, n. 13 (BPR May 2, 2005), where the Board stated:

> In light of the fitness requirement imposed by the Court in *Steinberg III* [*In re Steinberg*, 864 A.2d 120 (D.C. 2004) (per curiam)], the Board has not included a recommendation that its proposed suspensory sanction include such a condition. [Citations omitted.] Nonetheless, the Board notes that but for *Steinbrg III*, a fitness condition would be warranted here . . .. * * * There is simply nothing to suggest that [respondent Siegel] has taken any steps to correct the practices which have led to the imposition of the prior discipline. As a result, the Board must conclude that

> misconduct by Respondent is likely to recur. Although we do not recommend the imposition of a fitness requirement for the foregoing reasons, the Board puts Respondent on notice that he must address the misconduct involved in this case in seeking reinstatement.

The Board's sanction recommendation was adopted by the Court in *In re Steinberg*, 878 A.2d 496 (D.C. 2005) (per curiam).

Similarly, in the present case there is nothing to suggest that Respondent here has taken or will take any steps to correct the practices which have led to the imposition of prior discipline for failing to respond to Bar Counsel's inquiries and to Board orders compelling a response. Bar Counsel's substantive investigation here has been ignored by Respondent, as has Bar Counsel's warning that not responding to the substantive charge of unauthorized practice of law would again be grounds for further disciplinary action. The Board's order compelling Respondent to comply with Bar Counsel's requests for information has similarly been ignored by Respondent. *See In re Cater*, 887 A.2d 1, 25 (D.C. 2005). As to the criterion of "other evidence that may reflect of fitness" referred to in *Cater*, *ibid.*, the Hearing Committee in particular calls attention to the considerations outlined above in Parts IV(C)(1)(f) and (i). In the words of the Board, Respondent appears to have so "reordered [her] life" (*In re Godette*, Bar Docket No. 398-01, at 10 (BPR, June 29, 2007) that Respondent is no longer in a position to represent clients effectively.[4] Respondent has in fact stated that the circumstances described in footnote 4

[4] As described by the Court of Appeals in *Lea I*, slip op. at 3-4, "[Respondent] first came to the attention of the disciplinary authorities on April 20, 2001, when the Office of Bar Counsel received a copy of an order from the Civil Division of the Superior Court imposing Rule 11 Sanctions on her. *See* Super. Ct. Civ. R. 11. The order directed [Respondent] and the attorney who represented her in a legal action in which [Respondent] was the plaintiff to pay certain attorney's fees in the amount of $7,472.02. According to the order, the sanctions were imposed after [Respondent] and her attorney, upon receiving a default judgment in the case, filed a motion to amend the amount of the judgment from $13,500 to $50,000, claiming that the

have "called for me to reassess my career choice." *Lea I*, slip op. at 13.

For the foregoing reasons, therefore, even if a fitness requirement had not been imposed in *Lea I*, the Hearing Committee would have recommended such a requirement in this matter. In addition, as the Board stated in *Steinberg IV*, quoted above, Respondent should be on notice that she must address the misconduct involved in this case if she seeks reinstatement.

V. CONCLUSION

For the reasons set forth above, the Hearing Committee finds that Bar Counsel has proved by clear and convincing evidence, and recommends that the Board find, that Respondent's conduct in the instant matter violated Rules 5.5(a), 7.1, 7.5, and 8.4(c) as to Count I of the Specification of Charges, and violated Rules 8.1(b) and 8.4(d), and D.C. Bar R. XI, § 2(b)(3) as to Count II of the Specification of Charges. For the reasons and based on the evidence and considerations discussed in section IV(C), above, the Hearing Committee respectfully recommends that the Board should adopt the following sanction as appropriate in this matter:

> Respondent shall be suspended for one hundred eighty (180) days in addition and consecutive to the period of suspension imposed by the District of Columbia Court of Appeals in *Lea I*. In addition, before resuming the practice of law Respondent shall be required to show that Respondent has fully and promptly responded to the ethical complaints in the instant matter.

/MS/
Martin Shulman, Attorney
Ad Hoc Committee Chair

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previous amount had been a typographical error. The trial court found that there had been no typographical error and that [Respondent] provided no credible evidence that she was entitled to any fees from the defendant in excess of $13,350." To any reasonable attorney, this series of events should have constituted a "shot across the bow" that would cause the attorney to be hyper-cautious in his or her future conduct, but Respondent has veered in the opposite direction.

/CS/
Carolyn Slenska
Ad Hoc Committee Member

/BLK/
Beverly Lewis-Koch, Attorney
Ad Hoc Committee Member

Date: June 11, 2009