DISTRICT OF COLUMBIA COURT OF APPEALS
BOARD ON PROFESSIONAL RESPONSIBILITY

In the Matter of:	:	
	:	
LESLIE A. THOMPSON,	:	
	:	Board Docket No. 17-BD-008
Respondent.	:	Disc. Docket No. 2015-D201
	:	
A Suspended Member of the Bar of the District of Columbia Court of Appeals (Bar Registration No. 473388)[1]	:	

REPORT AND RECOMMENDATION OF THE BOARD ON PROFESSIONAL RESPONSIBILITY

Disciplinary Counsel charged Respondent, Leslie A. Thompson, with violating Rules 8.1(a) and 8.4(d) of the D.C. Rules of Professional Conduct and D.C. Bar R. XI, § 2(b)(3), arising out of his alleged delay in responding to Disciplinary Counsel's initial investigative inquiry and failure to respond to subpoenas or comply with a Court order. Respondent was served with the Specification of Charges pursuant to a Court of Appeals order permitting service by mail to his address of record with the D.C. Bar and by email to his three email addresses. He nonetheless failed to file an Answer or otherwise participate in these proceedings. The Hearing

[1] On December 21, 2017, the Court granted the Board's petition to temporarily suspend Respondent, pursuant to D.C. Bar R. XI, § 3(c), for his failure to respond to a Board order in a *different* disciplinary investigation (Disciplinary Docket No. 2017-D186). Rule XI, § 3(c) provides that the Court may suspend a respondent who has failed to respond to an order of the Board in a matter where Disciplinary Counsel's investigation involves allegations of "serious misconduct," which includes "fraud, dishonesty, misappropriation, commingling, overdraft of trust accounts, criminal conduct other than criminal contempt, or instances of neglect that establish a pattern of misconduct." At the time of this Report, Respondent has not sought reinstatement to the Bar.

Committee considered this matter pursuant to the default procedure of D.C. Bar R. XI, § 8(f) and Board Rule 7.8.

At the beginning of the hearing, the Hearing Committee pointed out to Disciplinary Counsel that it had identified D.C. Rule 8.1(a) as one of the three alleged violations in the Specification of Charges, but it appeared to be attempting to prove that Respondent had violated Rule 8.1(b) instead. Tr. 5-6.[2] The Chair asked Disciplinary Counsel "to state its position as to whether it intends to proceed on that," given the fact that Respondent was not present. *Id.* at 6. Disciplinary Counsel agreed that its intent was to charge a D.C. Rule 8.1(b) violation, but that it was inclined not to attempt to go forward on that charge, since the other charges "cover[] the same underl[y]ing misconduct." *Id.* at 6-7.

In its post-hearing brief to the Hearing Committee, however, Disciplinary Counsel asserted that it had actually charged a Rule 8.1(b) violation and that it was merely "miscaptioned." ODC PH Br. at 9. Disciplinary Counsel also asserted that although Respondent was not present at the hearing, he was "on notice of the nature of the Rule 8.1 charge and the facts on which it was based." *Id.* at 9 n.3. Disciplinary Counsel argued in its brief that the Hearing Committee was therefore permitted to find a violation of Rule 8.1(b). *Id.*; *see also id*. at 10. Alternatively, it argued, if "the Committee believes a formal amendment of the charges is required,"

[2] "Tr." refers to the September 25, 2017 hearing on the sufficiency of the *ex parte* proof and the appropriate sanction, pursuant to Board Rule 7.8(d). "ODC PH Br." refers to Disciplinary Counsel's Post-Hearing Brief. "H.C. Rpt." refers to the Report and Recommendation of the Ad Hoc Hearing Committee. "ODC Exception Br." refers to Disciplinary Counsel's Brief in Support of its Exceptions to the Hearing Committee's Report.

Disciplinary Counsel was moving for a post-hearing amendment, pursuant to Board Rule 7.21. *Id.* at 9 n.3.

The Committee determined that Disciplinary Counsel could not proceed on its allegations that Respondent had "knowingly fail[ed] to respond reasonably to a lawful demand for information," because it did not clearly charge a violation of Rule 8.1(b) and did not follow the mandated procedures to amend the Specification of Charges.[3]

---

[3] Disciplinary Counsel essentially argued to the Hearing Committee that it should treat its typographical error as if it did not exist, since the error was only in the "caption" of the Rule it charged. ODC PH Br. at 9. The Hearing Committee disagreed and found that a formal amendment was required, since Disciplinary Counsel had cited the wrong Rule. *See* H.C. Rpt. at 9-10.

Board Rule 7.21 provides that:

> No amendment or any petition or of any answer may be made except on leave granted by the appropriate Hearing Committee Chair. Whenever, in the course of a formal hearing, evidence shall be presented upon which another charge or charges against respondent might be made, it shall not be necessary to prepare or serve an additional petition with respect thereto, but upon motion by respondent or by Disciplinary Counsel, the Hearing Committee Chair may continue the hearing. After providing respondent reasonable notice and an opportunity to answer, the Hearing Committee may proceed to the consideration of such additional charge or charges as if they had been made and served at the time of service of the original petition.

See also H.C. Rpt. at 9-10. The Hearing Committee properly concluded that even if it were inclined to permit a late amendment, it could not do so absent notice to Respondent of a proposed amendment. Most importantly, the Committee found that Disciplinary Counsel's efforts to now proceed on the D.C. Rule 8.1(b) charge were cumulative because an "additional violation would not have changed the sanction [that the Hearing Committee] would recommend here, since it would have been based on precisely the same misconduct as the other counts and for the same rationale." H.C. Rpt. at 10 n.7.

In this case, we need not resolve this "notice" issue where Respondent has never participated, because the "missing" charge covers the same misconduct as the Rule 8.4(d) charge, and thus, the presence or absence of a Rule 8.1(b) charge does not affect our sanction recommendation. We do not believe that the Board's report to the Court should be delayed to enable the Board to make a recommendation as to whether the notice Respondent received, which cited the wrong Rule,

Ultimately, the Hearing Committee found that Disciplinary Counsel proved by clear and convincing evidence that Respondent delayed in responding to Disciplinary Counsel's inquiry letter regarding a disciplinary complaint, failed to respond to a subpoena *duces tecum* for his client file and his financial records, and failed to comply with a Court order compelling him to respond to Disciplinary Counsel's subpoena. The Hearing Committee found violations of Rule 8.4(d) and D.C. Bar R. XI, § 2(b)(3).[4]

The Hearing Committee agreed with Disciplinary Counsel's recommendation that Respondent be suspended for thirty days, but disagreed with Disciplinary Counsel that Respondent be required to prove fitness prior to reinstatement. H.C. Rpt. at 18-23. Instead, the Hearing Committee recommended that reinstatement be conditioned on Respondent:

> 1) representing to Disciplinary Counsel that his mailing address on file with the D.C. Bar reflects an address from which he collects mail at least once per week; 2) responding to Disciplinary Counsel's investigative inquiry and its subpoena *duces tecum* in the above-captioned matter; and 3) completing six (6) hours of CLE instruction,

satisfied Respondent's right to due process. We are confident that the unique facts presented here are unlikely to be repeated. Moreover, in the criminal cases relied upon by Disciplinary Counsel, *see* ODC Exception Br. at 19-20, we note that the Court of Appeals found adequate notice of the miscited statute where the defendant was present during the proceedings and presented a defense to the correct statute – two circumstances not present here.

[4] Disciplinary Counsel did not contend that it had proven a Rule 8.1(a) violation, but the Hearing Committee recognized that it was nonetheless required to make a finding. It thus made a finding that there was no clear and convincing evidence of this charge. H.C. Rpt. at 9 n.6.

> with three (3) hours devoted to law-practice management and three (3) hours devoted to professional responsibility/ethics.

Id. at 2.

Disciplinary Counsel took exception to the Hearing Committee's failure to find a Rule 8.1(b) violation and its failure to recommend a fitness requirement. Respondent did not take exception to the Hearing Committee report, did not file a brief before the Board, and did not appear at oral argument before the Board.

The Board, having reviewed the record, including Disciplinary Counsel's brief and oral argument before the Board, concurs with the Hearing Committee's factual findings as supported by substantial evidence in the record, with its conclusions of law, and with the recommended sanction of a thirty-day suspension.

However, after considering the entirety of Respondent's conduct, including his failure to respond to a Board order in a second matter (resulting in his temporary suspension, as discussed in note 1), we agree with Disciplinary Counsel that fitness is warranted in the case.

A fitness showing is a substantial undertaking. *In re Cater*, 887 A.2d 1, 22-23 (D.C. 2005). 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." *Id.* at 6. Proof of a "serious doubt" involves "more than 'no confidence that [a] Respondent will not engage in similar conduct in the future.'" *In re Guberman*, 978 A.2d 200, 213 (D.C. 2009)

(alteration and omitted citation in original). It connotes '"real skepticism, not just a lack of certainty.'" *Id.* (quoting *Cater*, 887 A.2d at 24).

In articulating this standard, the Court observed that the reason for conditioning reinstatement on proof of fitness was "conceptually different" from the basis for imposing a suspension. 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.

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 (alteration in original) (citations and internal quotation marks omitted).

The Hearing Committee properly found that Respondent failed to respond to Disciplinary Counsel in a single matter, failed to comply with a court order, and failed to provide subpoenaed documents. Disciplinary Counsel also had argued that Respondent's actions intentionally "obstructed" its investigation, but the Hearing

Committee did not find that this allegation was supported by clear and convincing evidence. *See, e.g.*, H.C. Rpt. at 22. We agree with the Hearing Committee.

Disciplinary Counsel also contends that the evidence of a respondent's failure to respond to and participate in the disciplinary proceedings alone is sufficient for a fitness requirement. Disciplinary Counsel asserts that "[t]he Court has recognized that hindering the disciplinary process warrants a fitness requirement, as well as a suspensory sanction." ODC Exception Br. at 11. We agree, but Disciplinary Counsel also argues that, "[a]s a matter of law, [mere non-compliance with the proceedings] must raise sufficient doubt to require a fitness showing before reinstatement to practice." *Id.* at 12. While the Court has imposed fitness in a number of cases in which the respondent failed to participate in the disciplinary process, the Court has never stated that failure to participate *alone* is sufficient to warrant such a requirement.[5]

[5] Disciplinary Counsel cited a number of cases in its briefs to the Hearing Committee and the Board in support of this position. However, in each of the cases cited, the Hearing Committee found – and we agree – that "the respondent did something above and beyond not participating in the discipline process [in a single case] to warrant a fitness requirement." H.C. Rpt. at 20; *see also* H.C. Rpt. at 20-22. In the future, the Court may decide that mere failure to participate in the disciplinary process in a single case is sufficient to warrant a fitness requirement, but that issue is no longer before us – given Respondent's failure to respond in a second matter.

Disciplinary Counsel also asserts that default cases should always carry a fitness requirement, arguing that this is what has occurred in every case so litigated to date. ODC Exception Br. at 13-14. We note, however, that Disciplinary Counsel has chosen to try only four other cases through the default process. Of these, two involved reckless misappropriation (*In re Deak*, 174 A.3d 867, 868 (D.C. 2017) (per curiam) (reckless misappropriation warranting disbarment) and *In re Nace*, 140 A.3d 459, 460 (D.C. 2016) (per curiam) (same)), and one involved intentional misappropriation (*In re Matisik*, Board Docket No. 13-BD-091, at 2 (BPR Feb. 2, 2018) (Board Report adopting Hearing Committee's recommendation of disbarment for intentional misappropriation)). As a result, a fitness analysis was not undertaken since disbarment was the presumptive sanction pursuant to *In re Addams*, 579 A.2d 190, 191 (D.C. 1990) (en banc). The

However, we need not determine whether such a "rule" should apply here. On December 21, 2017, the Court temporarily suspended Respondent for failing to properly respond to Disciplinary Counsel in another case.[6] Disciplinary Docket No. 2017-D186. We recognize that one of the key factors in the Hearing Committee's decision in not recommending a fitness requirement was the fact that the evidence of non-cooperation was in a single case. The Committee explained that it did not have a concern about Respondent's fitness to practice law because he failed to respond properly in one case, but that it "may well have had a different recommendation if Respondent had failed to properly respond in more than one matter or if there was otherwise evidence of a broader pattern of misconduct." H.C.

---

fourth default case, *In re Hargrove*, 155 A.3d 375 (D.C. 2017) (per curiam), involved violations of D.C. Rules 1.1(a), 1.1(b), 1.3(c), 1.16(d), and 8.4(d), and did not involve a violation of Rule 8.1(b). The Court adopted the Board's recommendation of a fitness requirement, with the Board applying its *Cater* analysis based on the serious misconduct:

> Respondent demonstrated a lack of competence. She has failed to acknowledge her neglect and the breach of her obligation not to take actions harmful to her clients, and she failed to participate in the disciplinary process. Finally, there are serious questions as to whether she has taken any steps to remedy her past wrongs or prevent future ones from occurring. She has not paid the judgments awarded against her or provided a complete file to her successor. These failings establish clear and convincing evidence of a serious doubt regarding Respondent's continuing fitness to practice law.

In re Hargrove, Board Docket No. 15-BD-060, at 23 (BPR Apr. 26, 2016), *recommendation adopted*, 155 A.3d at 375-77. Accordingly, no prior default proceeding in our jurisdiction has resulted in a fitness requirement based on the fact of default alone.

[6] Pursuant to Board Rule 13.7, the Board's review is "limited to the evidence presented to the Hearing Committee, except in extraordinary circumstances determined by the Board." Such circumstances are present here, where the Board and the Court are aware of Respondent's failure to respond to a Board order in another disciplinary matter. Thus, Respondent's failure to respond in Disciplinary Docket No. 2017-D186 is properly considered here as it relates to Respondent's fitness to practice. To ignore it would not advance any legitimate purpose of the disciplinary system.

Rpt. at 19. The facts as now known to the Board are different than what was before the Hearing Committee.

In addition, the Hearing Committee did not have evidence that "indicates that the Respondent here does not wish to continue practicing." H.C. Rpt. at 22. In the new matter in which Respondent has been suspended, his failures to cooperate with and respond to Disciplinary Counsel occurred *after* the hearing in the instant case and after Respondent was aware that Disciplinary Counsel was not only seeking suspension but was also arguing that he be required to prove fitness to be reinstated.

The premise on which the Hearing Committee based its analysis has been overcome by events; Respondent's conduct *is* repetitive. *See* H.C. Rpt. at 19, 23. Thus, we find that a fitness requirement is appropriate here. The Board finds that there is clear and convincing evidence that casts a serious doubt about Respondent's continuing fitness to practice law. *See In re Lockie*, 649 A.2d 546, 547 (D.C. 1994) (per curiam).

For the foregoing reasons, and those set forth in the attached Hearing Committee Report (which, except for its conclusion as to the fitness requirement, is adopted and incorporated herein), the Board recommends that the Court determine that Respondent violated Rule 8.4(d) and D.C. Bar R. XI, § 2(b)(3), that he be suspended for thirty days, and that he be required to prove his fitness to practice as a condition of reinstatement.

We recommend that the Court direct Respondent's attention to the requirements of D.C. Bar R. XI, § 14(g), and their effect on his eligibility for reinstatement. *See* D.C. Bar R. XI, § 16(c).

BOARD ON PROFESSIONAL RESPONSIBILITY

By: /MLS/
Mary Lou Soller

All members of the Board concur in this Report and Recommendation.

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

In the Matter of:	:	
	:	
LESLIE A. THOMPSON,	:	
	:	
Respondent.	:	Board Docket No. 17-BD-008
	:	Bar Docket No. 2015-D201
A Member of the Bar of the	:	
District of Columbia Court of Appeals	:	
(Bar Registration No. 473388)	:	

REPORT AND RECOMMENDATION OF
AD HOC HEARING COMMITTEE

Respondent, Leslie A. Thompson, Esquire, is charged with violating Rules 8.1(a) and 8.4(d) of the District of Columbia Rules of Professional Conduct (the "Rules") and D.C. Bar R. XI, § 2(b)(3), arising from his failure to respond to the Office of Disciplinary Counsel's letter of inquiry and subpoena *duces tecum* directing him to provide documents related to a former client's disciplinary complaint.

This matter proceeded under the default procedures in Board Rule 7.8 because Respondent failed to file an Answer to the Specification of Charges and did not otherwise participate.

The Ad Hoc Hearing Committee finds that Disciplinary Counsel has proven, by clear and convincing evidence, a violation of Rule 8.4(d) and D.C. Bar R. XI, § 2(b)(3), but not Rule 8.1(a). As to sanction, the Hearing Committee recommends

that Respondent be suspended from the practice of law for a period of thirty days, and that reinstatement be conditioned on Respondent: 1) representing to Disciplinary Counsel that his mailing address on file with the D.C. Bar reflects an address from which he collects mail at least once per week; 2) responding to Disciplinary Counsel's investigative inquiry and its subpoena *duces tecum* in the above-captioned matter; and 3) completing six (6) hours of CLE instruction, with three (3) hours devoted to law-practice management and three (3) hours devoted to professional responsibility/ethics.

I. PROCEDURAL HISTORY

On January 17, 2017, Disciplinary Counsel filed a Specification of Charges ("Specification") alleging that Respondent violated the following Rules:

- Rule 8.1(a)[1], by knowingly failing to respond reasonably to a lawful demand for information;
- Rule 8.4(d), by engaging in conduct that seriously interferes with the administration of justice; and
- D.C. Bar R. XI, §2(b)(3), by failing to comply with a Court order.

Specification ¶¶ 20(a)-(b), and 21.

On March 15, 2017, Disciplinary Counsel filed a motion with the D.C. Court of Appeals for an Order Directing Service by Alternative Means based on its claim of diligent, but unsuccessful, efforts to serve the Petition, the Specification, and other

[1] The citation to Rule 8.1(a), which provides that an attorney in connection with a disciplinary matter "shall not (a) knowingly make a false statement of fact . . .," was a typographical error on the part of Disciplinary Counsel. Disciplinary Counsel intended to cite Rule 8.1(b). *See* Disciplinary Counsel's Post-Hearing Brief at 9 n.3.

related documents upon Respondent. On April 26, 2017, the Court of Appeals granted the motion and ordered that Disciplinary Counsel "serve a certified copy of this order and the Petition and Specification of Charges . . . upon respondent by sending copies thereof by regular and certified mail at his address of record with the District of Columbia Bar . . . and by email" to three e-mail addresses belonging to Respondent.[2] On April 28, 2017, Disciplinary Counsel filed a letter and attachments demonstrating that it had served Respondent with the Petition in accordance with the service by alternative means, as permitted by the Court order.

On May 24, 2017, the Chair of the Ad Hoc Hearing Committee, Arlus Stephens, Esquire, issued an order scheduling a prehearing conference for June 12, 2017. A copy of the order was mailed to Respondent's address of record and e-mailed to Respondent's three e-mail addresses.

The Chair held the prehearing conference on June 12, 2017, during which the Office of Disciplinary Counsel was represented by Senior Assistant Disciplinary Counsel Julia Porter, Esquire. Respondent did not appear. Ms. Porter informed the Chair that the Office of Disciplinary Counsel would be filing a Motion for Default given that Respondent had not filed an Answer to the Petition. Preh. Tr. 6.[3] Two days later, on June 14, Disciplinary Counsel filed its motion.

[2] The identified e-mail addresses were bhldog87@aol.com, lat@thompsoniplaw.com, and info@thompsoniplaw.com.

[3] "Preh. Tr. __" refers to the transcript of the prehearing conference of June 12, 2017. "Tr. __" refers to the transcript of the hearing held on September 25, 2017.

On June 23, 2017, the Chair issued an order scheduling a telephonic prehearing conference during which Disciplinary Counsel was to be prepared to address questions concerning service of the Petition and Motion for Default. On June 29, 2017, the Chair held the telephonic prehearing conference with Disciplinary Counsel present, but Respondent did not participate. On July 20, 2017, Disciplinary Counsel filed a supplementary Status Report on Service on and Mailings to Respondent, which addressed Disciplinary Counsel's efforts to serve Respondent.

On August 18, 2017, the Chair granted Disciplinary Counsel's motion for an order of default and ordered that the allegations be deemed admitted, subject to *ex parte* proof by Disciplinary Counsel sufficient to prove the allegations by clear and convincing evidence. A copy of the order was mailed to both Respondent's address of record and an additional address in Atlanta, Georgia; and the order was also sent by e-mail to Respondent's three e-mail addresses.[4]

A hearing on the sufficiency of the *ex parte* proof, *see* Board Rule 7.8(d), was held on September 25, 2017, before the Ad Hoc Hearing Committee consisting of the Chair; Joel Kavet, public member; and Stephen Juge, Esquire. Respondent was not present, and Disciplinary Counsel was represented by Ms. Porter. Disciplinary Counsel relied on documentary evidence and affidavits, submitting exhibits DX[5] 1 through 28. All of Disciplinary Counsel's exhibits were admitted into evidence. Tr.

[4] Disciplinary Counsel notified the Chair of a second mailing address for Respondent, and, subsequently, mailings from the Office of the Executive Attorney were delivered to the Atlanta address in addition to Respondent's address of record with the D.C. Bar.

[5] "DX" Refers to Disciplinary Counsel's exhibits.

19-20. Disciplinary Counsel submitted its Post-hearing Brief in Support of its Motion for Default ("ODC Br.") on October 4, 2017.

II. FINDINGS OF FACT

The Committee has determined that the following allegations in the petition are supported by clear and convincing evidence:

1. Respondent is a member of the Bar of the District of Columbia Court of Appeals, having been admitted on August 6, 2001, and assigned Bar number 473388. DX 1 (Affidavit of Janelle Smith).

2. In July 2015, Disciplinary Counsel opened an investigation of Respondent based on a complaint from his former client. Motion for Default, Attachment A (hereinafter "Mayfield Aff.") ¶ 8; DX 3. Respondent admitted that on October 14, 2014, the complainant paid Respondent his legal fee and the filing fee to prepare and file a provisional utility patent application. DX 12 at 4-5 (March 4, 2016 letter from Respondent to ODC); DX 3 at 9-10 (Invoice). Despite the complainant's requests for confirmation of the filing, Respondent eventually stopped communicating with her. *See* DX 3.

3. On July 15, 2015, Disciplinary Counsel sent Respondent a letter of inquiry enclosing a copy of the client's complaint with the attachments and requested Respondent to respond to the allegations. Mayfield Aff. ¶ 9; DX 4. Disciplinary Counsel also enclosed with its letter of inquiry a subpoena *duces tecum* directing Respondent to provide a copy of his client file and his financial records. Mayfield Aff. ¶ 9; DX 4 at 3-4.

4. Respondent did not respond to the complaint by the deadline of July 27, 2015 or seek additional time to do so. Mayfield Aff. ¶ 10. Respondent also failed to provide any documents responsive to the subpoena. Mayfield Aff. ¶ 10.

5. On November 20, 2015, Disciplinary Counsel sent Respondent a follow-up letter, enclosing its earlier letter, the complaint and the subpoena. Mayfield Aff. ¶ 11; DX 5. Disciplinary Counsel requested Respondent to respond by November 25, 2015. DX 5.

6. Respondent again did not respond or seek additional time to do so. Mayfield Aff. ¶ 12; Motion for Default, Attachment B (hereinafter "O'Connell Aff.") ¶ 5.

7. On December 1, 2015, Disciplinary Counsel sent Respondent an e-mail requesting him to contact the office. O'Connell Aff. ¶ 6; Mayfield Aff. ¶ 13; DX 6. Respondent responded on December 4, 2015, requesting that the complaint be e-mailed to him. O'Connell Aff. ¶ 6; Mayfield Aff. ¶ 14; DX 7.

8. On December 17, 2015, Disciplinary Counsel e-mailed Respondent copies of its earlier letters, subpoena, and the complaint with attachments. Mayfield Aff. ¶ 15; DX 8. Respondent did not submit a response. Mayfield Aff. ¶ 16. It is not clear in the record why Disciplinary Counsel responded to Respondent's December 4 e-mail on December 17.

9. On February 29, 2016, Disciplinary Counsel e-mailed Respondent requesting him to respond to the allegations in the complaint. Mayfield Aff. ¶ 17; DX 9.

10. On March 4, 2016, Respondent sent an e-mail to Disciplinary Counsel attaching a letter of the same date. Mayfield Aff. ¶¶ 19-20; DX 11; DX 12. In the letter, Respondent admitted receiving $2,850 from his client—$2,400 for his legal services and $450 to cover the filing fee. DX 12 at 4. Respondent stated that he had sent the client a certified check for $3,091.78, which he described as "$2,850 + interest." DX 12 at 5. Although Respondent stated he was attaching a copy of the check to his letter, he failed to do so. Mayfield Aff. ¶ 20-21; DX 12. Respondent did not provide his client file, his financial records, or any other documents responsive to the subpoena *duces tecum*. Mayfield Aff. ¶¶ 20-21.

11. On March 7, 2016, Disciplinary Counsel served Respondent with another subpoena *duces tecum* directing him to provide the same documents requested in the earlier subpoena – *i.e.*, his client file, his financial records, and all other documents related to his representation of the client. Mayfield Aff. ¶ 22; DX 14. The subpoena directed Respondent to provide the responsive documents by March 21, 2016. DX 14.

12. Respondent did not provide any documents responsive to the subpoena or otherwise respond. Mayfield Aff. ¶ 23.

13. On approximately March 30, 2016, Disciplinary Counsel called and spoke with Respondent by telephone. *See* DX 15. Respondent stated he would respond to the subpoena. *Id.* He did not do so, even after receiving a follow-up e-mail from Disciplinary Counsel on April 6, 2016. Mayfield Aff. ¶¶ 24-25; DX 15.

14. On April 11, 2016, Disciplinary Counsel filed a motion to enforce the subpoena with the Court of Appeals. Mayfield Aff. ¶ 26; DX 16. Disciplinary Counsel served Respondent with its motion and the attachments. DX 16 at 2, 7.

15. On May 3, 2016, the Court granted Disciplinary Counsel's motion and ordered Respondent to produce all documents and files described in Disciplinary Counsel's subpoena within 15 days. Mayfield Aff. ¶ 28; DX 17.

16. On May 5, 2016, Disciplinary Counsel personally delivered a certified copy of the Court's order to Respondent's office, but Respondent's receptionist stated Respondent was not at his office. O'Connell Aff. ¶ 7; Mayfield Aff. ¶ 29; DX 18; DX 19. On May 5, 2016, Disciplinary Counsel also sent an e-mail to Respondent advising him of the Court order and attaching a copy to the e-mail. DX 18 at 4.

17. Respondent did not produce any documents as the Court ordered him to do. Mayfield Aff. ¶ 32.

18. On May 24, 2016, Disciplinary Counsel again spoke to Respondent by telephone. Respondent stated that his mother was ill and he had been traveling between Alabama, D.C. and Atlanta. Respondent stated he would comply with the Court order and respond to the subpoena. O'Connell Aff. ¶¶ 8-9. He again failed to do so. Mayfield Aff. ¶ 32.

19. Disciplinary Counsel sent further reminders to Respondent by letter and e-mail on August 2, 2016, and November 28, 2016, about the Court's order and his obligation to comply with it by providing responsive documents. Mayfield Aff. ¶¶ 30-31; DX 20; DX 21. Respondent did not respond to the letter and e-mails and

failed to provide any responsive documents. Mayfield Aff. ¶¶ 32, 38; *see also* O'Connell Aff. ¶ 9 (efforts in early 2017 also unsuccessful).

III. CONCLUSIONS OF LAW

Disciplinary Counsel charged Respondent with violating Rule 8.1(a), Rule 8.4(d), and D.C. Bar R. XI, § 2(b)(3).

A. The Rule 8.1(a) Charge in the Specification of Charges was the Result of a Typographical Error.

At the hearing, the Chair alerted Disciplinary Counsel to the fact that the Specification charged a violation of Rule 8.1(a) (knowingly making a false statement of fact in connection with a disciplinary matter) instead of the purportedly intended Rule 8.1(b) (failing to reasonably respond to a lawful demand for information in a disciplinary matter). Tr. 5-6. Instead of pursuing an amended Specification subject to approval by a Contact Member and then service of an amended Specification on Respondent, Disciplinary Counsel represented to the Committee that it might simply proceed on the other two Rule violations which addressed the same conduct—Rule 8.4(d) and D.C. Bar R. XI, §2(b)(3). *See* Tr. 7.

In its briefing to the Committee, however, Disciplinary Counsel asserts that Board Rule 7.21 permits amendment of the Specification to change the Rule 8.1(a) charge to a Rule 8.1(b) charge.[6] Board Rule 7.21 provides as follows:

[6] Disciplinary Counsel does not contend that the record supports a finding of a Rule 8.1(a) violation. Having considered the record before us, we find that Disciplinary Counsel has not proven a violation of Rule 8.1(a) by clear and convincing evidence. *See In re Reilly*, Bar Docket No. 102-94, at 4 (BPR July 17, 2003) (concluding that Disciplinary Counsel did not have the authority to dismiss charges approved by a Contact Member).

> No amendment of any petition or of any answer may be made except on leave granted by the appropriate Hearing Committee Chair. Whenever, in the course of a formal hearing, evidence shall be presented upon which another charge or charges against respondent might be made, it shall not be necessary to prepare or serve an additional petition with respect thereto, but upon motion by respondent or Disciplinary Counsel, the Hearing Committee Chair may continue the hearing. After providing respondent reasonable notice and an opportunity to answer, the Hearing Committee may proceed to the consideration of such additional charge or charges as if they had been made and served at the time of service of the original petition.

Here, even if the Chair were inclined to permit the late amendment, the Committee could not proceed in the absence of notice to Respondent. Accordingly, we rely on the remaining two charges below.[7]

B. Respondent Violated Rule 8.4(d) by Engaging in Conduct that Seriously Interfered with the Administration of Justice.

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

[7] The Hearing Committee acknowledges Disciplinary Counsel's argument that the citation to subsection (a) instead of subsection (b) in the Specification of Charges likely did not deprive Respondent of notice of the gravamen of the complaint here or otherwise prejudice him. Absent the pleading problem, the Committee would have no trouble concluding that Respondent's conduct here violated Rule 8.1(b). The Committee also states, however, that such an additional violation would not have changed the sanction it would recommend here, since it would have been based on precisely the same misconduct as the other counts and for the same rationale. Thus, proof of the additional charge would have been simply cumulative. The Hearing Committee sees no reason to prolong the proceedings or adding unnecessary legal complication to this case by entertaining a belated motion to amend. For all these reasons, the motion to amend is denied.

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). Failure to respond to Disciplinary Counsel's inquiries and orders of the Court constitutes a violation of Rule 8.4(d). Rule 8.4, cmt. [2].

Disciplinary Counsel contends that Respondent's misconduct interfered with its ability to investigate Respondent's actions, including his handling of the funds his client entrusted to him to file the patent application that allegedly was never filed. Disciplinary Counsel argues that Respondent's failure to respond to Disciplinary Counsel's inquiry letter and request for documents impaired its investigation by restricting access to information needed to determine what Respondent did to advance his client's matter and how he handled the fees advanced to him at the beginning of the representation.

The Court and the Board have repeatedly held that failure to respond to inquiries by Disciplinary Counsel and orders of the Court in connection with a disciplinary matter constitutes a violation of Rule 8.4(d). *See In re Askew*, Bar Docket No. 2011-D393, at 22-23 (BPR July 31, 2013) (appended HC report) (violation of 8.4(d) where the respondent failed to comply with a court's orders requiring her to file a brief and to turn over her client's file), *aff'd in relevant part*, 96 A.3d 52 (D.C. 2014) (per curiam); *In re Beller*, 802 A.2d 340, 340-41 (D.C. 2002) (per curiam); *In re Smith*, 649 A.2d 299, 300 (D.C. 1994) (per curiam). Respondent

did not provide any substantive response to Disciplinary Counsel's July 15, 2015 inquiry letter until March 4, 2016. In his letter response (DX 12), Respondent denied having received any notice of anything from Disciplinary Counsel until December 1, 2015 and that he did not receive a copy of "the complaint and attachments" until March 3, 2016. Respondent's March 4 letter addressed aspects of the complaint against him and revealed that he had sent what appears to be a refund to the client (and provided what appears to be evidence confirming that fact); he did not, however, directly answer the allegation of neglect. More importantly, he did not produce the documents subpoenaed from him, even though he represented that he would produce them. The Committee concludes that Disciplinary Counsel has proven a violation of Rule 8.4(d) by clear and convincing evidence.

C. Respondent Violated D.C. Bar R. XI, § 2(b)(3) by Failing to Comply with a Court Order.

D.C. Bar R. XI, § 2(b)(3) provides that "[f]ailure to comply with any order of the Court or the Board" shall be a ground for discipline.

On May 3, 2016, the Court issued an order pursuant to D.C. Bar R. XI, §§ 17(a) and 18(d) enforcing the subpoenas Disciplinary Counsel had served on Respondent in July 2015 and March 2016, and directing Respondent to produce all documents and files described in the subpoenas within 15 days. The Court sent the order to Respondent. Respondent, however, never complied with the order, despite subsequent reminders and even after charges were filed against him. Accordingly, Respondent violated D.C. Bar R. XI, § 2(b)(3).

IV. SANCTION

Disciplinary Counsel has asked the Hearing Committee to recommend the sanction of a suspension for at least 30 days and a fitness requirement as a condition of reinstatement. For the reasons described below, we recommend the sanction of a 30-day suspension, with reinstatement conditioned on the following: 1) representing to Disciplinary Counsel that his mailing address on file with the D.C. Bar reflects an address from which he collects mail at least once per week; 2) responding to Disciplinary Counsel's investigative inquiry and its subpoena *duces tecum* in the above-captioned matter; and 3) completing six (6) hours of CLE instruction, with three (3) hours devoted to law-practice management and three (3) hours devoted to professional responsibility/ethics.

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; *Martin*, 67 A.3d at 1053 (citing *In re Elgin*, 918 A.2d 362, 376 (D.C. 2007)); *In re Berryman*, 764 A.2d 760, 766 (D.C. 2000). In determining the appropriate sanction, the Court of Appeals considers a number of factors, including: (1) the seriousness of the conduct at issue; (2) the prejudice, if any, to the client which resulted from the conduct; (3) whether the conduct involved dishonesty; (4) the presence or absence of violations of other provisions of the disciplinary rules; (5) whether the attorney has a previous disciplinary history; (6) whether the attorney has acknowledged his wrongful conduct; and (7) circumstances in mitigation or aggravation. *See, e.g.*, *Martin*, 67 A.3d at 1053 (citing *Elgin*, 918 A.2d at 376). 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)) (internal quotation marks omitted).

B. Application of the Sanction Factors

1. The Seriousness of the Misconduct

The Committee considers the Respondent's misconduct to be serious. Respondent has failed and refused to comply with an investigation into alleged violations of Respondent's ethical obligations, including disobeying a subpoena and a court order enforcing that subpoena. He has offered in defense no legitimate excuse. If every lawyer were permitted to so behave, it would frustrate the entire

disciplinary system.[8]

2. Prejudice to the Client

The client filed a complaint alleging misconduct by Respondent. Respondent's failure and refusal to cooperate with that investigation has interfered with Disciplinary Counsel's ability to complete its processing of the client's complaint. The Committee has no evidence before it to suggest that the client herself incurred prejudice on account of Respondent's failure to respond to Disciplinary Counsel's investigation.

3. Dishonesty

Disciplinary Counsel's post-hearing brief asserts that Respondent "evaded service of the Petition and Specification of Charges, promised meetings that did not occur," and promised to respond to the requests for documents but failed to do so. ODC Br. at 2. To the extent that Disciplinary Counsel argues that this constitutes dishonesty, the Committee does not agree based on the record before us.

The record evidence shows that Disciplinary Counsel had difficulty serving Respondent, through no fault of its own. Disciplinary Counsel contends that this difficulty constitutes evidence of Respondent's intent to improperly avoid service, which if true would show dishonesty. It may well be true that Respondent improperly avoided service by deception, but the record evidence before us is insufficient to

[8] To be clear, in assessing the seriousness factor, the Committee views the misconduct at issue to be that charged in this Specification, *i.e.*, the failure to respond to a disciplinary complaint. The Committee does not consider the allegations of misconduct in the underlying complaint, which led to Disciplinary Counsel's requests for information at issue here. Those other allegations are not charged in this Specification.

convince us of that fact. Likewise, the record evidence does indicate that Respondent stated that he would provide materials by a particular date and that he failed to follow through. The Hearing Committee does not commend Respondent's failure to follow through but it also does not believe that this amounts to "dishonesty."

4. Violations of Other Disciplinary Rules

The Committee cannot determine whether Respondent violated any other disciplinary Rules, and Disciplinary Counsel did not charge any other Rule violations aside from Respondent's misconduct in failing to respond to Disciplinary Counsel's requests for information and records.

5. Previous Disciplinary History

Respondent has no prior disciplinary history.

6. Acknowledgement of Wrongful Conduct

The Hearing Committee does not see anything in the record that indicates Respondent has acknowledged any wrongful conduct in the matter before us, namely his failure to properly respond to Disciplinary Counsel's investigation. Accordingly, the Hearing Committee submits that this factor weighs against Respondent.

7. Other Circumstances in Aggravation and Mitigation

Disciplinary Counsel did not present any evidence in aggravation of sanction.

C. Sanctions Imposed for Comparable Misconduct

The sanctions imposed in comparable cases range from a suspension of 30 to 60 days. *See, e.g.*, *In re Pullings*, 724 A.2d 600 (D.C. 1999) (per curiam) (appended Board Report) (60-day suspension stayed for one year probation with conditions for

failing to respond to Disciplinary Counsel's inquiries and Board orders in two disciplinary matters); *In re Cooper*, 936 A.2d 832 (D.C. 2007) (per curiam) (30-day suspension with fitness requirement and proof of compliance with Disciplinary Counsel's subpoena where respondent failed to respond to inquiries and the subpoena regarding discrepancies in his IOLTA account); *In re Scanlon*, 865 A.2d 534 (D.C. 2005) (per curiam) (30-day suspension with reinstatement conditioned on filing a response to the disciplinary complaint and completion of six hours of CLE courses where respondent violated Rules 8.1(b), 8.4(d) and D.C. Bar R. XI, § 2(b)(3)); *In re Godette*, 959 A.2d 61 (D.C. 2008) (30-day suspension, 6 hours of CLE courses in legal ethics, requirement of a filed response to the disciplinary complaint within 90 days or otherwise, respondent would be subject to a fitness requirement upon any reinstatement); *In re Steinberg*, 761 A.2d 279, 284 (D.C. 2000) (per curiam) (appended Board Report) (30-day suspension where respondent had prior disciplinary history and exhibited extreme delay in responding to Disciplinary Counsel's requests in two separate matters).

Here, we find Respondent's misconduct similar to the circumstances in the above cases and accordingly recommend a suspension of thirty days. We further recommend that reinstatement be conditioned on Respondent: 1) representing to Disciplinary Counsel that his mailing address on file with the D.C. Bar reflects an address from which he collects mail at least once per week; 2) responding to Disciplinary Counsel's investigative inquiry and its subpoena *duces tecum* in the above-captioned matter; and 3) completing six (6) hours of CLE instruction, with

three (3) hours devoted to law-practice management and three (3) hours devoted to professional responsibility/ethics.

D. Fitness

Disciplinary Counsel contends that Respondent's obstruction of the disciplinary process warrants a suspensory sanction and a fitness requirement and "[i]n short, Respondent 'thumbed [his] nose at the disciplinary process.'" *See* ODC Br. at 12-13 (quoting *In re Koeck*, Board Docket No. 14-BD-061, at 33 (H.C. Rpt. Jan. 11, 2017) (fitness requirement warranted for respondent's repeated failures to comply with Hearing Committee's, the Board's, and the Court of Appeals' orders for an independent medical evaluation, respondent's failure to comply with a subpoena to appear as witness, culminating in a "blatant disregard for the disciplinary process.")). For the reasons described below, we do not recommend that Respondent be required to prove his fitness to practice law prior to reinstatement.

A fitness showing is a substantial undertaking. *Cater*, 887 A.2d at 20. 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." *Id.* at 6. Proof of a "serious doubt" involves "more than 'no confidence that a Respondent 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).

In articulating this standard, the Court observed that the reason for

conditioning reinstatement on proof of fitness was "conceptually different" from the basis for imposing a suspension. 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.

Where a respondent has not participated in disciplinary proceedings, the Court has stated three factors are relevant in determining whether a "serious doubt" exists concerning the respondent's fitness: "(1) the respondent's level of cooperation in the pending proceedings, (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.

Here, Respondent's failure of cooperation has been limited to a single matter, namely Disciplinary Counsel's investigation into the Robertson matter. Respondent's failure to properly respond to that investigation causes the Committee concern. But the Committee cannot say that it has a serious doubt concerning Respondent's fitness to practice law based on his failure to properly respond in this one matter. The Committee may well have had a different recommendation if Respondent had failed to properly respond in more than one matter or if there was otherwise evidence of a broader pattern of misconduct.

Disciplinary Counsel argues that Respondent's failure to attend the hearing or to answer the Specification warrants a fitness requirement. In support, Disciplinary Counsel cites *In re Lea*, 969 A.2d 881 (D.C. 2009), *In re Burnett*, 878 A.2d 1291 (D.C. 2005) (per curiam), *In re Steinberg*, 864 A.2d 120 (D.C. 2004) (per curiam) (appended HC), and *In re Koeck*, Board Docket No. 14-BD-061, at 37 (BPR Aug. 31, 2017).

The Hearing Committee disagrees. We do not understand that the failure to attend a hearing or to answer a Specification automatically warrants a fitness requirement. If that were so, every case that ended with a default order would carry a fitness requirement. We do not read the cited decisions as expansively as Disciplinary Counsel does. In each decision, the respondent did something above and beyond not participating in the discipline process to warrant a fitness requirement. For example, *In re Lea* concerned hearing committee findings that the respondent appeared at the hearing but her statements to the Committee lacked credibility, that she had been "repeatedly evading service," and that she "lack[ed] both contrition and an appreciation of the seriousness of her misconduct." *Lea*, 969 A.2d at 888, 891 (30-day suspension with reinstatement conditioned on a fitness requirement). The underlying charges against that respondent concerned a sanction order issued against her for wrongly seeking to increase the size of a default judgment. The respondent did not cooperate with the hearing committee, interfered with the proceedings, and showed disdain for the enterprise while participating in it. The hearing committee labeled her a "scofflaw" and wrote that it was "a truly

egregious case, in which a Respondent has managed to stonewall the disciplinary system for 3 ½ years. She evinces no sense of responsibility to account for the conduct called into question by the underlying complaint." *Id.* at 888 n.9. Aside from the length of time it has taken and the difficulty serving Respondent, the case before us bears none of the aggravating facts found in *Lea.*

The other decisions similarly contain aggravating facts tending to cast doubt on the respondent's fitness to practice law. For example, *In re Steinberg* concerned a respondent who had previously been sanctioned for failing to properly respond to a disciplinary investigation and suspended without a fitness requirement. When he did it again in a subsequent case, the Court of Appeals held that a fitness requirement was warranted:

> Given Steinberg's disciplinary history, and, in particular, his disregard of the quoted warning in *Steinberg II* [warning him to comply in the future] and his repetition of his misconduct in that case, we do not believe that a sixty-day suspension, without a requirement of proof of fitness, can reasonably be reconciled with that clear warning.

864 A.2d at 122.

Likewise, *In re Burnett* concerned a respondent charged with a "total failure to respond or cooperate with Bar Counsel in the investigation of three other disciplinary complaints that were filed against him." 878 A.2d at 1292. The Court of Appeals affirmed a fitness requirement, writing that "the attorney has demonstrated a persistent pattern of indifference toward the disciplinary procedures by which the D.C. Bar regulates itself . . . ." *Id.* Unlike the facts in those decisions, this is the only case in which Respondent has been sanctioned for this misconduct.

Should he do it again in another matter, the Court of Appeals' decisions in *Steinberg* and *Burnett* suggest a fitness requirement would be appropriate.

We also believe the facts in the *Koeck* case are markedly different than those here. In that case, the hearing committee found a "repeated failure to comply with orders of this Committee, the Board, and the D.C. Court of Appeals for an independent medical evaluation, manifest[ed] a blatant disregard for the disciplinary process." *Koeck*, Board Docket No. 14-BD-061, HC Rpt. at 33. This failure arose in the context of the respondent's interaction with the Committee, not her simple absence as is the case here. The hearing committee further noted that the respondent was already under a temporary suspension for failing to comply with orders of the Court of Appeals and had not bothered to seek to lift that suspension. We have nothing similar before us that indicates that the Respondent here does not wish to continue practicing.

We see no evidence of deception by Respondent in this case. At most, there is evidence that he promised Disciplinary Counsel that he would provide additional responses that he did not actually fulfill. He offered excuses for his failure to answer the letters and subpoena. Whatever the merit of those excuses or lack thereof, we read them as efforts to explain why he had not complied. We do not read them as evidence of any belief that he was not required to respond or as evidence of an intent to deceive Disciplinary Counsel going forward.

We find that his failure to respond to Disciplinary Counsel's investigation has not been sufficiently repetitive as to raise a serious doubt about his fitness to practice law.

The Committee believes that the underlying misconduct is serious. But rather than imposing a fitness requirement, the Committee recommends that Respondent be directed to complete CLE courses on law-practice management (three hours) and on professional responsibility/ethics (three hours) before he can be reinstated following his suspension.

Accordingly, the Committee concludes that after Respondent's thirty day suspension has passed, reinstatement shall be conditioned on Respondent: 1) representing to Disciplinary Counsel that his mailing address on file with the D.C. Bar reflects an address from which he collects mail at least once per week; 2) responding to Disciplinary Counsel's investigative inquiry and its subpoena *duces tecum* in the above-captioned matter; and 3) completing six (6) hours of CLE instruction, with three (3) hours devoted to law-practice management and three (3) hours devoted to professional responsibility/ethics.

V. CONCLUSION

For the foregoing reasons, the Committee finds that Respondent violated D.C. Rule of Professional Conduct 8.4(d) and D.C. Bar Rule XI, §2(b)(3), and should receive the sanction of a 30-day suspension with conditions on reinstatement as provided *supra*.

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

AD HOC HEARING COMMITTEE

/AS/
Arlus Stephens, Chair

/JK/
Joel Kavet, Public Member

/SJ/
Stephen Juge, Attorney Member