

**ATTORNEY GRIEVANCE COMMISSION  
OF MARYLAND**

**v.**

**NISHITH PATEL**

**\* IN THE**  
**\* COURT OF APPEALS**  
**\* OF MARYLAND**  
**\* Misc. Docket AG No. 75**  
**\* September Term, 2020**  
**\* (No. 484952-C, Circuit**  
**\* Court for Montgomery**  
**County)**

**ORDER**

Upon consideration of the Joint Petition for Reprimand by Consent filed by the Attorney Grievance Commission of Maryland and the Respondent, Nishith Patel, it is this 14th day of May, 2021

**ORDERED**, by the Court of Appeals of Maryland, that the Respondent, Nishith Patel, be, and he hereby is, REPRIMANDED for violating Rules 1.4, 1.7, 1.15, 8.1(b), and 8.4(d) of the Maryland Rules of Professional Conduct.

/s/ Robert N. McDonald  
Senior Judge

ATTORNEY GRIEVANCE  
COMMISSION OF MARYLAND

Petitioner

v.

NISHITH PATEL

Respondent.

\* IN THE  
\* COURT OF APPEALS  
\* OF MARYLAND

\*  
\* Misc. Docket AG No. 75

\*  
\* September Term, 2020

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**JOINT PETITION FOR REPRIMAND BY CONSENT**

The Attorney Grievance Commission of Maryland, Petitioner, by its attorneys, Lydia E. Lawless, Bar Counsel, and Erin A. Risch, Deputy Bar Counsel, and Nishith Patel, Respondent, jointly petition this Honorable Court, pursuant to Maryland Rule 19-736, to enter an order reprimanding the Respondent for violating Rules 1.4 (communication), 1.7 (conflict of interest), 1.15 (safekeeping property), 8.1(b) (bar admission and disciplinary matters), and 8.4(d) (misconduct) of the Maryland Lawyers' Rules of Professional Conduct (MLRPC) and Maryland Attorneys' Rules of Professional Conduct (MARPC) in effect at the time of the misconduct.<sup>1</sup> In support of this Joint Petition, the parties state as follows:

1. The Respondent, Nishith Patel, was admitted to the Bar of the Court of Appeals of Maryland on December 15, 2011 and the Bar of the District of Columbia on May 13, 2011.

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<sup>1</sup> Effective July 1, 2016, the MLRPC were renamed the MARPC and re-codified, without substantive changes, in Title 19 of the Maryland Rules.

2. At all times relevant hereto, the Respondent maintained an office for the practice of law in Montgomery County, Maryland.

3. On February 23, 2021, the Petitioner filed a Petition for Disciplinary or Remedial Action in this Court against the Respondent. By Order dated May 8, 2019 this Court transmitted the matter to the Circuit Court for Montgomery County to be heard and determined by the Honorable Debra L. Dwyer. By Order dated May 6, 2021, this Court reassigned this matter to the Honorable Michael J. McAuliffe.

4. The parties acknowledge that if a hearing were to be held, sufficient evidence would be produced to establish the following facts:

Between 2012 and 2017, the Respondent represented three clients in a lawsuit against Howard University styled *Dumelfort et. al., v. Howard University*, D.C. Superior Court, Case No. 2012-CA-005064. In 2015, at the request of the Respondent, Shawn C. Whittaker, Esquire agreed to serve as co-counsel in the litigation.<sup>2</sup> In March 2017, the Respondent and Mr. Whittaker, on behalf of the clients, reached a settlement with Howard University.

Upon receipt of the settlement funds, the Respondent requested that Mr. Whittaker reduce his fee, which the Respondent alleged Mr. Whittaker had previously offered to do. When Mr. Whittaker declined to reduce his fee, the Respondent told the clients that Mr. Whittaker did not do much work on their case, which the Respondent alleged Mr. Whittaker had acknowledged in a prior communication. The Respondent advised the clients that they had the option to dispute Mr. Whittaker's fee. When Mr. Whittaker threatened legal action against the clients, and after consulting with the District of Columbia Bar's ethics hotline, the Respondent initially represented the clients in connection with the dispute.

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<sup>2</sup> The Respondent had worked for Mr. Whittaker's law firm for several weeks in 2012 prior to starting his own law firm.

The Respondent also disbursed a portion of the clients' settlement funds to his law firm as a reimbursement for expenses that he had not yet paid.

On July 12, 2017, Mr. Whittaker filed a complaint against the Respondent with Bar Counsel. On February 19, 2020, following the conclusion of Bar Counsel's investigation, the Attorney Grievance Commission approved a Conditional Diversion Agreement ("Agreement") entered into by the Respondent and Bar Counsel pursuant to Maryland Rule 19-716.

The Agreement provided that the Respondent would not engage in the private practice of law in the State of Maryland unless he obtained professional liability insurance, completed two CLE courses approved by Bar Counsel, and agreed to have his law practice monitored by a Maryland attorney. The Agreement also provided that the Commission would issue a reprimand to the Respondent, pursuant to Maryland Rule 19-716(c)(3)(A)(ix), upon the successful completion of the Agreement.

After the Agreement was approved by the Commission, the Respondent failed to confirm that he was not engaged in the private practice of law and sought to rescind the Agreement. On October 22, 2020, the Commission revoked the Agreement due to the Respondent's failure to comply with its terms.

5. The Respondent acknowledges that he committed professional misconduct in violation of Rules 1.4 (communication), 1.7 (conflict of interest), 1.15 (safekeeping property), 8.1(b) (bar admission and disciplinary matters), and 8.4(d) (misconduct) of the MLRPC/MARPC in effect at the time of the misconduct.

6. Bar Counsel acknowledges that the following mitigating factors exist: (1) lack of prior disciplinary history; and (2) inexperience in the practice of law. The

litigation against Howard University was the first case that the Respondent handled as a solo practitioner.

7. The Respondent acknowledges that if a hearing were held the following aggravating factor would be established by clear and convincing evidence: (1) obstruction of the disciplinary proceeding by failing to comply with rules or orders of the disciplinary agency.

8. Bar Counsel and the Respondent have conferred on an appropriate disposition and have agreed that the appropriate disposition herein is a reprimand. *See Att’y Griev. Comm’n v. Ruddy*, 411 Md. 30, 981 A.2d 637 (2009) (reprimanding the attorney for violating Rule 1.7 when, serving as the personal representative of his aunt’s estate, he failed to obtain interest payments on a loan he has obtained from his aunt prior to her death); *Att’y Griev. Comm’n v. Weiers*, 440 Md. 292, 102 A.3d 332 (2014) (reprimanding the attorney for violating Rules 1.15(a) and 8.1(b) when he failed to withdraw an earned retainer fee from his trust account for more than a year and failed to cooperate with Bar Counsel); *Att’y Griev. Comm’n v. Webster*, 348 Md. 662 (1998) (suspending an attorney for 30 days for failing to maintain trust account records and commingling funds in violation of Rule 1.15, and for violating Rules 1.7(b) and 1.8(a) where the conflicts of interest resulted from negligence rather than intentional wrongdoing).

9. A reprimand is consistent with this Court’s jurisprudence in light of the mitigating factors set forth above which serve to reduce the likelihood that the Respondent’s conduct will be repeated. *See Att’y Griev. Comm’n v. Paul*, 423 Md. 268,

293, 31 A.3d 512, 527 (2011) (“A reprimand under the circumstances *sub judice* will protect the public and also impress upon the respondent the seriousness of the misconduct in which he engaged.”); *Att’y Griev. Comm’n v. Tolar*, 357 Md. 569, 585, 745 A.2d 1045, 1054 (2000) (holding that a public reprimand serves the purpose of protecting the public just as well as a short suspension). Additionally, for the past three years, the Respondent has worked under the supervision of other attorneys. As such, a reprimand will serve to protect the public.

10. The Respondent’s consent to a Reprimand by the Court of Appeals of Maryland is rendered freely and voluntarily, pursuant to the provisions of Maryland Rule 19-736(b)(2) and is not given subject to coercion or duress.

11. The Respondent is fully aware of the implications and effects of submitting his consent to a Reprimand.

12. The Petitioner agrees to waive all costs associated with this matter totaling \$952.85.

WHEREFORE, the parties pray this Honorable Court:

- A. Enter an Order reprimanding the Respondent for violation of Rules 1.4, 1.7, 1.15, 8.1(b), and 8.4(d) of the Maryland Rules of Professional Conduct; and
- B. Grant such other and further relief as the Court deems warranted.

Respectfully submitted,

  
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*Respondent*

/s/ Lydia E. Lawless  
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*Attorneys for Petitioner*

Affidavit

I solemnly swear under the penalties of perjury that the contents of the foregoing Joint Petition for Reprimand by Consent are true to the best of my knowledge, information and belief.

  
\_\_\_\_\_  
Nishith Patel

**5.13.21**  
\_\_\_\_\_  
Date