

**DISTRICT OF COLUMBIA COURT OF APPEALS
BOARD ON PROFESSIONAL RESPONSIBILITY**

	:	
In the Matter of	:	
	:	
HARRY TUN	:	
	:	
Respondent	:	Disciplinary Docket No. 2017-D215
	:	
A Suspended Member of the Bar of the	:	
District of Columbia Court of Appeals	:	
Bar Number: 416262	:	
Date of Admission: November 14, 1988	:	
	:	

SPECIFICATION OF CHARGES

The disciplinary proceedings instituted by this petition are based upon conduct that violates the standards governing the practice of law in the District of Columbia as prescribed by D.C. Bar Rule X and D.C. Bar Rule XI, § 2(b).

1. Respondent is a member of the District of Columbia Bar, having been admitted on November 14, 1988, and subsequently assigned Bar number 416262.

The conduct and standards that Respondent has violated are as follows:

2. On March 26, 1993, Respondent was admitted to practice before the United States District Court for the District of Maryland.

3. On November 8, 1993, the Office of Disciplinary Counsel¹ issued an informal admonition to Respondent for misconduct in violation of Rules 1.4(a) and 1.5(b).

4. On February 28, 1995, the Office of Disciplinary Counsel issued an informal admonition to Respondent for misconduct in violation of Rule 1.15(b).

5. On May 10, 1997, Respondent filed a renewal application with the U.S. District Court of Maryland. The application included the question: "Have you ever been denied admission to practice, disbarred, suspended from practice, or disciplined by any court or bar authority?" to which Respondent falsely answered, "No." Respondent signed the application, certifying under the penalties of perjury that his answer to the question was true and correct.

6. On March 14, 1999, Respondent filed a renewal application with the U.S. District Court of Maryland. The application included the question: "Have you ever been denied admission to practice, disbarred, suspended from practice, or disciplined by any court or bar authority?" to which Respondent falsely answered, "No." Respondent signed the application, certifying under the penalties of perjury that his answer to the question was true and correct.

¹ The Office of Disciplinary Counsel was previously known as the Office of Bar Counsel.

7. On March 19, 2002, Respondent filed a renewal application with the U.S. District Court of Maryland. The application included the question: “Have you ever been denied admission to practice, disbarred, suspended from practice, or disciplined by any court or bar authority?” to which Respondent falsely answered “NO.” Respondent signed the application, certifying under the penalties of perjury that his answer to the question was true and correct.

8. On February 24, 2004, the Office of Disciplinary Counsel issued an informal admonition to Respondent for misconduct in violation of Rules 1.15(a) and 1.16(d).

9. On March 2, 2005, Respondent filed a renewal application with the U.S. District Court of Maryland. The application included the question: “Have you ever been denied admission to practice, disbarred, suspended from practice, or disciplined by any court or bar authority?” to which Respondent falsely answered “NO.” Respondent signed the application, certifying under the penalties of perjury that his answer to the question was true and correct.

10. On July 26, 2006, Respondent self-reported to the Office of Disciplinary Counsel that he had been investigated by the United States Attorney’s Office for filing false vouchers with the District of Columbia Superior Court and had repaid \$16,034 in overpayments as a result.

11. On March 27, 2009, to resolve the vouchers investigation, Respondent and the Office of Disciplinary Counsel filed a Petition for Negotiated Discipline with the Board of Professional Responsibility in which Respondent admitted to misconduct in violation of Rules 1.5, 3.3(a)(1), 8.4(c) and 8.4(d).

12. On October 16, 2009, while disciplinary proceedings adjudicating the Petition for Negotiated Discipline were on-going, Respondent filed a motion to recuse in District of Columbia Superior Court wherein he falsely stated that Disciplinary Counsel's vouchers investigation had been dismissed without any disciplinary action being instituted against him.

13. On March 9, 2011, Respondent filed a renewal application with the U.S. District Court of Maryland. The application included the question: "Have you ever been denied admission to practice, disbarred, suspended from practice, or disciplined by any court or bar authority?" to which Respondent falsely answered "NO." Respondent signed the application, certifying under the penalties of perjury that his answers to the questions were true and correct.

14. On March 10, 2011, Respondent and the Office of Disciplinary Counsel filed an Amended Petition for Negotiated Discipline with the Board of Professional Responsibility with the same rule violations.

15. On August 11, 2011, the District of Columbia Court of Appeals issued an order accepting the Amended Petition for Negotiated Discipline and imposing on Respondent an eighteen-month suspension, with six months stayed in favor of probation.

16. On October 3, 2011, the Office of Disciplinary Counsel issued an informal admonition to Respondent for misconduct in violation of Rule 1.6.

17. On October 21, 2011, the US District Court of Maryland issued an order imposing reciprocal discipline on Respondent based on the August 11, 2011 order of the District of Columbia Court of Appeals.

18. On October 10, 2013, the Office of Disciplinary Counsel issued an informal admonition to Respondent for misconduct in violation of Rule 4.3(a)(1).

19. On November 13, 2014, Disciplinary Counsel filed charges against Respondent based on his false statement in the October 16, 2009, motion to recuse, alleging violations of Rules 3.3(a)(1), 8.4(c), and 8.4(d).

20. On May 5, 2015, a hearing was held before a hearing committee of the Board, where Respondent testified about the circumstances of the motion to recuse. Although he admitted that the statement in the motion to recuse was false, Respondent claimed that it was a “typographical error” caused by the fact that he had rushed to file the motion after a heated argument with Judge Canan.

21. On August 30, 2016, the hearing committee issued a report and recommendation to the Board. A majority of the hearing committee found Respondent's statement in the motion to be deliberately false in violation of Rules 3.3(a)(1), 8.4(c) and 8.4(d). A majority of the hearing committee also found that Respondent gave intentionally false testimony at the hearing when he claimed his false statement to the court was made mistakenly. A majority of the hearing committee recommended a sanction of a one-year suspension.

22. On July 14, 2017, the Board unanimously adopted the findings of rule violations and false testimony by the hearing committee and recommended a sanction of a one-year suspension with a requirement to prove fitness prior to reinstatement.

23. On July 31, 2017, Respondent filed an Attorney Renewal Application with the U.S. District Court of Maryland. The application included the question: "Have you ever been denied admission to practice, disbarred, suspended from practice, or disciplined by any court or bar authority?" to which Respondent answered "YES" and indicated that his discipline had been previously disclosed in 2011. Respondent did not disclose any of his informal admonitions, including those he had received since his previous renewal application in 2011.

24. The application also included the question: "Are there any disciplinary proceedings pending against you?" to which Respondent falsely answered "NO."

Respondent did not disclose the Board Report issued approximately two weeks prior. Respondent signed the application, declaring under penalty of perjury that his answers to the questions were true and correct.

25. On August 9, 2017, an employee of the U.S. District Court of Maryland contacted the Office of Disciplinary Counsel and disclosed the false application. On August 14, 2017, the Office of Disciplinary Counsel notified Respondent that it was opening an investigation into the false application.

26. On August 28, 2017, Respondent wrote a letter to the U.S. District Court of Maryland stating that his previously filed application was incorrect and providing a copy of the Board's July 14, 2017 report. Respondent falsely claimed that he mistakenly thought the question pertained only to disciplinary actions against him before the U.S. District Court of Maryland.

27. On November 16, 2017, the D.C. Court of Appeals suspended Respondent pending the final disposition of the disciplinary proceeding.

28. On October 18, 2018, the Court issued a decision adopting the Board's findings of violations of Rules 3.3(a)(1), 8.4(c), and 8.4(d), as well as intentionally false testimony to the hearing committee. The D.C. Court of Appeals suspended Respondent for one-year but did not impose a requirement to prove fitness upon reinstatement.

29. Respondent's conduct violated the following Maryland Rules of Professional Conduct²:

- a. Rule 19-303.3(a)(1), by knowingly making a false statement of fact or law to a tribunal;
- b. Rule 308.4(b), by committing perjury in violation of 18 U.S.C. § 1621 and MD. Code, Criminal Law, § 9-101, a criminal act that reflects adversely on his honesty, trustworthiness, and fitness as a lawyer.
- c. Rule 19-308.4(c), by engaging in conduct involving dishonesty; and
- d. Rule 19-308.4(d), by engaging in conduct that seriously interfered with the administration of justice.

² The professional misconduct at issue began prior to July 1, 2016, when the Maryland Lawyers' Rules of Professional Conduct were in effect. Effective July 1, 2016, the Maryland Rules of Professional Conduct were incorporated within new Title 19, Chapter 300 of the Maryland Rules as the "Maryland Attorneys' Rules of Professional Conduct." Because the Respondent's misconduct continued after July 1, 2016, Disciplinary Counsel charges violations of both the former and the current Rules. Title 19, Chapter 300 applies to all misconduct in which the Respondent engaged after July 1, 2016. The Maryland Rules of Professional Conduct are identical except that the new Rules substitute the word "attorney" for the word "lawyer." For simplicity, the charges in Count I refer solely to the post-July 1, 2016 Rules.

Respectfully submitted,



Julia L. Porter
Deputy Disciplinary Counsel



Hendrik R. deBoer
Assistant Disciplinary Counsel

OFFICE OF DISCIPLINARY COUNSEL
515 5th Street, N.W.
Building A, Room 117
Washington, D.C. 20001
(202)638-1501

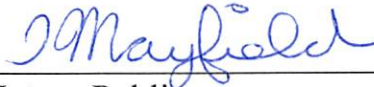
VERIFICATION

I do affirm that I verily believe the facts stated in the Specification of Charges to be true.



Hendrik deBoer
Assistant Disciplinary Counsel

Subscribed and affirmed before me in the District of Columbia this 1st day of
February 2019.



Notary Public