

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



In the Matter of

Jehan A. Carter, Esquire

Respondent,

**A Member of the Bar of the
District of Columbia Court of Appeals.**

Bar Number: 1018067

Date of Admission: January 10, 2014

**Disciplinary Docket Nos. 2018-D215
and 2019-D112**

PETITION FOR NEGOTIATED DISPOSITION

Pursuant to D.C. Bar R. XI, § 12.1 and Board Rule 17.3, Disciplinary Counsel and Respondent Jehan A. Carter, Esquire (“Respondent”) respectfully submit this Petition for Negotiated Disposition in the above-captioned matter. Jurisdiction for this disciplinary proceeding is prescribed by D.C. Bar R. XI. Pursuant to D.C. Bar R. XI, § 1(a), jurisdiction is found because Respondent is a member of the Bar of the District of Columbia Court of Appeals.

**I. STATEMENT OF THE NATURE OF THE MATTER BROUGHT TO
DISCIPLINARY COUNSEL’S ATTENTION**

The specification of charges originally included two counts. In the first matter, Disciplinary Counsel received a complaint alleging a conflict-of-interest

violation. Disciplinary Counsel will not be pursuing Count I in this negotiated disposition.

In the second matter, Disciplinary Counsel received a complaint from Dominique Collier, whom Respondent represented in a defamation matter. Ms. Collier alleged that Respondent mishandled her case.

II. STIPULATION OF FACTS AND RULE VIOLATIONS

1. In 2016, Respondent began to represent Dominique Collier for the purpose of bringing claims against The Steve Harvey Show, on which Ms. Collier had appeared. While appearing on the show, Ms. Collier signed a release that provided that state or federal courts located in Los Angeles County, California were the exclusive forum for any dispute related to Ms. Collier's appearance.

2. On April 12, 2018, Ms. Collier filed *pro se* a complaint in Los Angeles Superior Court for a variety of claims against the Steve Harvey Show and its producers. The law firm Kelly, Drye & Warren LLP represented the defendants.

3. On August 24, 2018, Candace Bryner, whom Ms. Collier had hired as local counsel, entered her appearance in the case on Ms. Collier's behalf. On the same day, Respondent filed an application to be admitted *pro hac vice* in the case. In the application, verified under penalty of perjury, Respondent stated that she was not a resident of California, nor had she regularly practiced in California.

4. On September 7, 2018, Kelly Drye filed motions to strike Ms. Collier's complaint on behalf of the defendants, arguing, among other things, that the lawsuit violated California's anti-SLAPP statute and seeking an award of attorney's fees based on that statute.

5. Kelly Drye attempted to serve the motion to strike on Respondent by mailing it to the Washington, D.C. address that she provided in her *pro hac vice* application. When the motion was returned as undeliverable, a Kelly Drye employee emailed Respondent asking for her current address. Respondent responded with her "California address" and asked that future mail be sent there.

6. Upon learning that Respondent had a California address, Cary Finkelstein, a Kelly Drye associate working on the case, investigated Respondent and discovered that she held herself out as a Los Angeles or Hollywood attorney on her website and on social media because many of her clients had Hollywood or Los Angeles connections. Respondent previously did supervised work in California. Respondent's website included a profile for an attorney named Michael Smith, listed as Of Counsel for Respondent's firm. The associate investigated Michael Smith and could not find a member of the State Bar of California who matched the profile.

7. On September 14, 2018, the defendants filed an opposition to Respondent's application for admission *pro hac vice* arguing that she was ineligible for *pro hac vice* status because she had held herself out as a Los Angeles attorney. In an accompanying declaration, the associate set forth the results of his investigation, including his investigation of the Michael Smith profile.

8. Less than two hours after the defendants sent Respondent a copy of the opposition, Respondent altered her website to remove the reference to Michael Smith. Mr. Finkelstein noticed that the website had been altered and investigated the issue further. He learned that the image purporting to show Michael Smith was used on other websites, including several collections of corporate headshots on the website Pinterest. That same day, the defendants filed a supplement to their opposition adding that information.

9. On September 17, 2018, Ms. Bryner filed a response to the opposition and included a declaration from Respondent. In the declaration, Respondent, under penalty of perjury, provided the following explanation for the Michael Smith reference: "Approximately 9 months ago, I purchased a law firm website template through Word Press. The website included sample bios and photos as content for adapting and building the website. I included language relating to my profile and my paralegal on the website. However, I neglected to delete the sample attorney

profile and picture of “Michael Smith” that was included with the template. I was not aware of the error until I received defense counsel’s Response to my Pro Hac Vice Application. When this was brought to my attention, I took immediate action to remove the profile from my website.”

10. In fact, neither the language of the Michael Smith profile, nor the photograph was included in a WordPress template.

11. Upon receiving the response, Andreas Becker, another Kelly Drye associate, undertook further investigation of the Michael Smith profile. He learned that the information set forth in Michael Smith’s bio, except for one sentence, was copied verbatim from the website of a California lawyer named Michael Kernan of the Kernan Law Firm. On September 19, 2018, the defendants filed an additional pleading setting forth that information.

12. Mr. Kernan had previously served as Ms. Collier’s local counsel in the case before being terminated. Respondent had communicated with Mr. Kernan during that period.

13. On November 5, 2018, Ms. Bryner filed a supplemental response to the opposition to the *pro hac vice* application, including declarations from Respondent and Ms. Collier. Respondent’s declaration did not address the fact that the Michael Smith profile had been copied from the Kernan Law Firm website.

14. November 27, 2018, the court held a hearing on the *pro hac vice* application. During the hearing, the judge voiced concerns about Respondent's credibility and honesty with respect to the biography of Michael Smith on her website. The court denied Respondent's application for admission.

15. Ms. Collier eventually settled the lawsuit against The Steve Harvey Show.

16. On May 3, 2019, Ms. Collier filed a complaint against Respondent with the Office of Disciplinary Counsel.

17. On November 25, 2019, the Office of Disciplinary Counsel sent a letter to Respondent asking for an explanation as to how the "Michael Smith" profile had come to appear on her website.

18. On December 5, 2019, Respondent responded to the inquiry, falsely stating that "the website at issue was a draft website that was being built to include the bio information of Attorney Kernan who at the time was being listed on my website as counsel in the Collier case. From 2016-2017 my graphic designer who was in charge of the new website passed away suddenly, so the bio page he was updating to include Kernan info was left incomplete. The website template About Us section came with a stock photo from google and sample name and bio of a Michael Smith which of course is not a real person but was provided again as a

sample. This bio was in the process of being edited to state Kernan bio info as you read instead and ultimately the photo and name would have been changed as well but remained unfinished. Kernan title would have also been stated at the lead counsel in the Collier case not 'Of Counsel' as the sample bio stated for the Michael Smith template."

19. Respondent's conduct violated the following Rules and Standards:¹

a. California Business and Professions Code § 6106 in that Respondent committed an act involving moral turpitude and dishonesty.

¹ Rule 8.5(b) provides:

Choice of Law. In any exercise of the disciplinary authority of this jurisdiction, the Rules of Professional Conduct to be applied shall be as follows:

(1) For conduct in connection with a matter pending before a tribunal, the rules to be applied shall be the rules of the jurisdiction in which the tribunal sits, unless the rules of the tribunal provide otherwise, and

(2) For any other conduct:

(i) If the lawyer is licensed to practice only in this jurisdiction, the rules to be applied shall be the rules of this jurisdiction, and

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

a. District of Columbia Rule of Professional Conduct 8.1(a) in that Respondent, in connection with a disciplinary matter, knowingly made a false statement of fact; and

b. District of Columbia Rule of Professional Conduct 8.4(c) in that Respondent engaged in conduct involving dishonesty.

III. STATEMENT OF PROMISES MADE BY DISCIPLINARY COUNSEL

In connection with this Petition for Negotiated Disposition, Disciplinary Counsel agrees not to pursue any charges arising out of the conduct described in Section II, *supra*, other than those set forth above, or any sanction other than that set forth below. Disciplinary Counsel has agreed not to pursue Count I in the original Specification of Charges.

IV. AGREED UPON SANCTION

Disciplinary Counsel and Respondent agree that the sanction to be imposed in this matter is a six-month suspension, with 90-day stayed. During the year following the actual 90-day suspension, Respondent shall not engage in any misconduct in this or any other jurisdiction.

Respondent and Disciplinary Counsel have agreed that there are no additional conditions attached to this negotiated disposition that are not expressly agreed to in writing in this Petition.

Relevant Precedent

Under Board Rule 17.5(a)(iii), the agreed-upon sanction in a negotiated discipline case must be “justified, and not unduly lenient, taking into consideration the record as a whole.” However, a justified sanction “does not have to comply with the sanction appropriate under the comparability standard set forth in D.C. Bar Rule XI, § 9(h).” Bd. R. 17.5(a)(iii).

Sanctions for dishonesty and misrepresentations in a *pro hac vice* application or dishonesty to the court range from informal admonition to lengthy suspensions. *See, e.g., In re Balsamo* (D.C. Office of Bar Counsel, Informal Admonition, 2011), Respondent received an admonition for "a misrepresentation by omission by

failing to state the full circumstances underlying his prior discipline. Rules 3.3(a)(1) and 8.4(c)."; *In re Rohde* (D.C. Board on Professional Responsibility, Board Report, 2020) Respondent received a public censure for violating Virginia Rule 8.4(c) by failing to disclose prior disciplinary matter and criminal conviction in his *pro hac vice* application.; *See In re Reback*, 513 A.2d 226 (D.C. 1986)(*en banc*)(six-month suspension for neglecting divorce matter, then filing divorce complaint by forging clients' signature and having it falsely notarized); *In re Corizzi*, 803 A.2d 438 (D.C. 2002) (disbarment for misconduct in three client matters, advising including two clients to lie during depositions and lying to court regarding representation of third client); *In re Cleaver- Bascombe*, 986 A.2d 1191 (D.C. 2010) (disbarment for submitting fraudulent CJA voucher to Superior Court and presenting perjured testimony at resulting disciplinary hearing).

Sanctions for dishonesty run from 30-day suspensions to disbarment, depending on the level of dishonesty. *See, e.g., In re Cole*, 967 A.2d 1264 (D.C. 2009) (30-day suspension where respondent, falsely assured his client that the application had been filed, and falsely explained that the delay was attributable to the court); *See, e.g., In re Rosen*, 481 A.2d 451 (D.C.1984) (30-day suspension for three misrepresentations to the court); *In re Schoeneman*, 891 A.2d 279 (D.C. 2006),

Respondent violated Rules 1.1(a), 1.3(a), 1.3(b)(1) & (2), 1.4(a), 8.4(c), and 8.4(d). Respondent was given a 4-month suspension, without fitness; *In re Kanu*, 5 A.3d 1 (D.C. 2010) (disbarment where respondent engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation. With regard to one of the clients, Kanu made false or misleading statements about her services. In addition, the court found that Kanu seriously interfered with the administration of justice. Rules 1.16(d), 7.1, 8.4(c), and 8.4(d).), *In re Rodriguez- Quesada*, 122 A.3d 913 (D.C. 2015) (2-year suspension with fitness and restitution for violating Rules 1.1(a), 1.1(b), 1.3(a), 1.3(b)(2), 1.3(c), 1.4(a), 1.4(b), 1.16(d), 3.3(a)(1), 8.4(c) and 8.4(d) in representing multiple vulnerable immigrant clients); *In re Ukwu*, 926 A.2d 1106 (D.C. 2007) (One year suspension with fitness and restitution for violating Rules 1.1(a), 1.1(b), 1.3(a), 1.3(b), 1.3(c), 1.4(a), 1.4(b), 3.3(a)(1), and 8.4(d) in five immigration law representations lawyer gave knowing false testimony at the hearing); *In re Vohra*, 68 A.3d 766, 786, 789 (D.C. 2013) (three year suspension with fitness for violating several rules along with 8.1, and 8.4 in an immigration matter. *In re Gil*, 656 A.2d 303 (D.C.1995) (disbarment for "extremely serious acts of dishonesty" and criminal conduct amounting to theft); *In re Goffe*, 641 A.2d 458 (D.C.1994) (per curiam) (disbarment for "egregious misconduct" including a pattern of dishonesty and lying and blatant fabrication of evidence).

Mitigating Factors

Mitigating circumstances include that Respondent: 1) acknowledges her misconduct; 2) has cooperated with Disciplinary Counsel; 3) and has expressed remorse.

Aggravating Factors

There are no aggravating factors.

Justification of Recommended Sanction

A six-month suspension all stayed but for 90 days is justified because Respondent has acknowledged her misconduct, cooperated with Disciplinary Counsel and expressed remorse.

Disciplinary Counsel has considered the resources required to prosecute the case and the likelihood of prevailing on the merits if this case went to hearing and believes that a negotiated disposition is warranted. Respondent has considered the resources necessary to defend the case and the possibility of a greater sanction if the matter were to go to hearing.

Considering the misconduct along with the mitigating factors, the parties submit that the agreed-upon sanction is appropriate.

V. RESPONDENT'S AFFIDAVIT

In further support of this Petition for Negotiated Discipline, attached is Respondent's Affidavit pursuant to D.C. Bar R. XI, § 12.1(b)(2).


CONCLUSION

Wherefore, Respondent and Disciplinary Counsel request that the Executive Attorney assign a Hearing Committee to review the Petition for Negotiated Discipline pursuant to D.C. Bar R. XI § 12.1(c).

Dated: February 25, 2022

Hamilton P. Fox, III

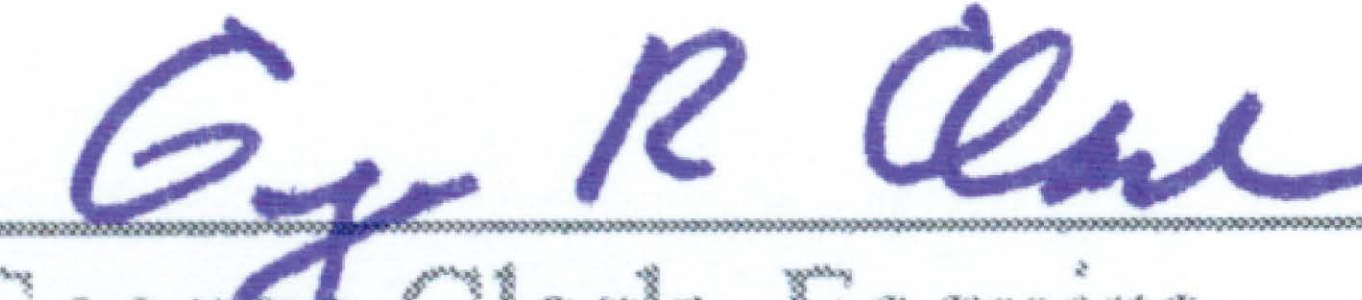
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