

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



In the Matter of :
 :
JAMES A. MOODY, :
 :
 :
Respondent. :
 :
 :
An Administratively Suspended :
Member of the District of Columbia: :
Court of Appeals :
 :
 :
(Bar Registration No. 294504) :
 :

Disciplinary Docket No. 2022-D222

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 R. X and XI, § 2(b).

Pursuant to D.C. Bar R. XI, § 1(a), there is jurisdiction over Respondent because:

1. Respondent James A. Moody was admitted to the Bar of the District of Columbia Court of Appeals on December 7, 1979, and assigned Bar number 294504.¹

The facts giving rise to the charges of misconduct are as follows:

¹ On October 7, 2022, Respondent was suspended administratively because he failed to pay his annual bar dues, and he remains suspended.

2. Lion Farms, LLC, is a California limited liability company that produces raisins in Fresno and Madera Counties in the San Joaquin Valley, California.

3. Respondent lives and maintains a law office in Washington, D.C.

Respondent's Representation of Lion Farms, LLC

4. Beginning in approximately 2000, Respondent consulted with Lion about legal matters, including litigation. In 2004 and 2005, Respondent was lead counsel for Lion in litigation against the federal government before the Court of Federal Claims and the United States Court of Appeals for the Federal Circuit. In the years that followed, Respondent continued to consult with Lion about legal matters.

5. Respondent did not charge Lion legal fees in connection with the 2004-05 litigation and his consultations.

6. In 2015, the Supreme Court decided *Horne v. Department of Agriculture*, 576 U.S. 350, 135 S. Ct. 2419 (2015), ruling that the reserve requirement imposed by the Raisin Administrative Committee, which was established and overseen by the Department of Agriculture, constituted a taking under the Fifth Amendment's Taking Clause requiring the government to pay just compensation.

7. Shortly after the ruling, Respondent contacted Lion and urged it to

seek just compensation based on the government's requirement that Lion turn over a portion of its raisins to the Raisin Administrative Committee as part of the reserve pool. Lion agreed and authorized Respondent to file a lawsuit against the government.

8. Respondent did not provide Lion a written statement about what, if any, fees he would charge to represent Lion in the litigation, the scope of the representation, or the expenses that Lion would be responsible for paying.

9. On August 21, 2015, Respondent filed a Fifth Amendment Takings Case against the government on behalf of Lion in the United States Court of Federal Claims in Washington, D.C. *Lion Farms, LLC v. United States*, Case No. 1:15-cv-00915.

10. Other raisin growers filed similar claims in the same court and one of those cases proceeded as a class action. Lion Farm's case was not consolidated with the class action matter, but the cases were all assigned to the same judge and treated as related matters.

11. During the pendency of Lion's Takings Case, there was no discovery and Respondent made relatively few substantive filings. In responding to the government's motion to dismiss, Respondent relied on the factual summary and legal arguments of counsel representing the class action plaintiffs.

12. In May 2018, the court stayed Lion's Takings Case and the cases filed

by the other raisin producers, so that the parties could discuss settlement.

13. Prior to and after May 2018, Respondent did not send Lion any bills for his time or seek reimbursement for any expenses he may have incurred.

14. In or around November 2019, the government agreed to settle Lion's claims for \$7,633,273.79.

15. On November 22, 2019, the government transferred \$7,633,273.79 to a trust account that Respondent had opened at SunTrust (now Truist), account no. 4461, labeled "Moody-Lion Trust Account."

16. Respondent did not tell Lion that he had received the settlement funds.

17. On November 26, 2019, Respondent emailed a representative of Lion asking for wiring instruction for its bank. Respondent did not tell Lion that he already had received the settlement funds. Instead, he asked Lion for wiring instructions for its bank so that the government could send the settlement funds to Lion. Lion provided the wiring instructions that same day.

18. On November 27, 2019, Respondent sent Lion representatives another email about the settlement asking Lion to send one-third of the settlement funds to Respondent's account – the 4461 account – as "the contingency fee of 1/3." Respondent attached to his email an invoice that listed an "unbilled" amount of \$2,500,000 that Respondent described as "1/3 Contingency Fee from settlement."

19. Lion did not respond to the November 27, 2019 email and believed it

could negotiate a fee with Respondent after it received the settlement funds. Lion had no knowledge that Respondent already had received the settlement funds when it received Respondent's emails. Based on Respondent's representations, Lion believed the government would send the settlement funds to its account.

20. On December 9, 2019, Respondent opened another account at SunTrust, account no. 5962 labeled "James A. Moody Attorney Trust Account for Lion Farms." That same day, Respondent transferred all the settlement funds plus interest in the 4461 account to the newly opened 5962 account – the Lion trust account.

21. In December 2019, without the knowledge or consent of Lion, Respondent took \$150,000 of the Lion settlement funds for himself. Respondent transferred \$100,000 from the Lion trust account to his personal account (account no. 8836) at the same bank (SunTrust) on December 18, 2019, and transferred another \$50,000 to his personal account on December 30, 2019. Respondent used the funds in his personal account to pay his personal expenses. By January 10, 2020, the balance in Respondent's personal account was less than \$50,000.

22. During the first half of 2020, Lion asked Respondent about the status of the settlement funds. Respondent did not respond to Lion's inquiries.

23. Respondent continued to take funds from the settlement for himself. On June 5, 2020, without Lion's knowledge or consent, Respondent took another

\$50,000 from its settlement funds. He did so by transferring \$50,000 from the Lion trust account to his personal account.

24. By July 2020, Lion had learned that the other raisin producers had received their settlement funds. Lion, on its own, contacted the government to ask about the status of its settlement funds. The government informed Lion that it already had sent the funds to Respondent's account.

25. On July 13 and 14, 2020, Lion emailed Respondent stating that it had learned that he had the settlement funds and asked Respondent, "What happens next?"

26. Respondent did not respond to the emails. However, on or about July 20, 2020, Respondent sent Lion a check for \$5,039,821.47 drawn on the Lion trust account. Respondent did not provide any explanation or records about when he had received the settlement funds and how he had calculated the amount he finally sent to Lion.

27. After receiving the check, Lion sent Respondent emails stating that it would pay him legal fees of \$1,000,000 and asked him to send Lion the balance of the settlement funds. Respondent did not respond to Lion, nor did he provide Lion any additional funds from the settlement.

28. Respondent continued to pay himself from the settlement funds without informing Lion that he was doing so, and without Lion's consent.

Respondent made the following transfers from the Lion trust account to his personal account between October 2020 and December 2021:

- a. \$10,000 on October 8, 2020
- b. \$10,000 on November 9, 2020;
- c. \$90,000 on November 19, 2020;
- d. \$10,000 on January 19, 2021;
- e. \$10,000 on February 16, 2021;
- f. \$10,000 on March 31, 2021;
- g. \$10,000 on April 29, 2021;
- h. \$10,000 on May 10, 2021;
- i. \$10,000 on June 30, 2021;
- j. \$10,000 on July 6, 2021;
- k. \$10,000 on August 4, 2021;
- l. \$10,000 on September 9, 2021;
- m. \$10,000 on October 18, 2021;
- n. \$10,000 on November 17, 2021; and
- o. \$10,000 on December 9, 2021.

29. By December 2021, Lion had retained counsel to represent it in seeking a refund from Respondent. On December 3, 2021, counsel for Lion sent Respondent a letter describing Lion's dealings with Respondent from November

2019, and telling Respondent that if he returned \$1,600,000 to Lion before the end of 2021, Lion would agree to a mutual release. Counsel for Lion sent the letter to Respondent by overnight delivery to both his office address and his residence.

30. Respondent did not respond to the letter.

The ACAB Proceedings and Superior Court Action to Enforce the ACAB Award

31. On January 3, 2022, Lion filed a petition for arbitration and a statement of claim with the D.C. Bar's Attorney Client Arbitration Board. In the petition, Lion outlined the "relatively little work" that Respondent had done in the Takings Case and said it would agree to pay Respondent \$250,000 as "the fair and reasonable (quantum meruit) value" of his services. Lion demanded that Respondent turn over or refund the balance of the settlement funds, minus the \$250,000 it agreed he could keep as his fee.

32. On February 18, 2022, the ACAB sent Respondent the notice of arbitration and requested his response. The ACAB sent the package to Respondent by email and Federal Express. The ACAB later sent Respondent other emails about the panel appointment and the ACAB hearing date, and another package of documents by Federal Express.

33. Counsel for Lion also wrote Respondent about the ACAB proceedings and Lion's claims and arranged for a process server to personally serve Respondent with the ACAB fee petition and other documents. On or about July 5,

2022, the process server personally served Respondent with the ACAB petition and other documents.

34. On July 15, 2022, Lion's counsel emailed Respondent the witness list, exhibit list, and proposed exhibits for the ACAB hearing.

35. Respondent never filed a response to Lion's petition and did not attend the ACAB hearing on July 27, 2022.

36. On July 27, 2022, after receiving testimony and documentary evidence, the ACAB issued a decision and award ruling in favor of Lion and against Respondent. The ACAB awarded Lion \$2,343,452.32, plus pre-award interest of \$351,751, and directed Respondent to reimburse Lion the \$1,000 ACAB filing fee. The ACAB directed Respondent to pay Lion these amounts by August 26, 2022.

37. Respondent did not make any payment to Lion, and he did not respond to inquiries by Lion's counsel.

38. Despite knowing of the ACAB proceedings and the award in favor of Lion, Respondent continued to take Lion's settlement funds for himself. In 2022, Respondent made transfers of \$10,000 each from the Lion trust account to his personal account on March 8, June 17, August 9, August 29, September 7, September 12, October 13, November 1, and December 8. Respondent did not tell Lion or Lion's counsel that he was taking additional funds from the settlement for

himself, and Lion had never consented to Respondent's doing so.

39. On August 30, 2022, Lion filed a civil action against Respondent in the D.C. Superior Court to enforce the ACAB award. *Lion Farms, LLC v. Moody*, Case No. 2022-CA-00393 B.

40. On September 12, 2022, a process server personally served Respondent with the summons, the motion to confirm the ACAB award with exhibits, the proposed order, and the court's standard scheduling order.

41. Respondent did not file an answer or otherwise respond to the Superior Court action.

42. On November 22, 2022, Lion filed a Motion for Entry of Judgment by Default. Respondent did not respond to the motion.

43. On December 12, 2022, the court entered an order confirming the ACAB award, and ordering that judgment be entered in favor of Lion and against Respondent for \$2,696,203.32 (the ACAB award of \$2,343,452.32, interest of \$351,751, and arbitration costs of \$1,000), plus interest at 9% from the date of the judgment, and the court's filing fee of \$120.

44. On December 19, 2022, the court issued a judgment order against Respondent consistent with its December 12, 2022 order – *i.e.*, it ruled in favor of Lion and against Respondent in the amount of \$2,696,203.32, plus interest at 9% from December 12, 2022, and the court's filing fee of \$120.

45. Respondent has not paid Lion anything to satisfy the court judgment.

Disciplinary Counsel's Investigation of Respondent

46. On December 28, 2022, Lion, through its counsel, filed a complaint against Respondent with Disciplinary Counsel.

47. On December 29, 2022, Disciplinary Counsel sent Respondent a letter enclosing a copy of the complaint with enclosures and asked him to respond to the allegations in Lion's complaint by January 13, 2023. Disciplinary Counsel sent its letter and the enclosures to Respondent at the email address that he lists with the D.C. Bar, which was the same email address that Respondent used in correspondence with Lion and in court filings in the underlying litigation – moodyjim@aol.com. Disciplinary Counsel's email to Respondent did not bounce back.

48. Respondent did not provide a response or seek additional time to do so.

49. On January 19, 2023 Disciplinary Counsel sent another letter to Respondent, enclosing the December 29, 2022 letter, the complaint, and a subpoena *duces tecum*. Disciplinary Counsel sent the January 19, 2023 letter and enclosures including the subpoena, to Respondent by email and by regular and certified mail to the office and home addresses he lists with the D.C. Bar. The letters sent by regular mail were not returned, and the email did not bounce back.

Respondent did not claim the letter with enclosures sent by certified mail to his home address. Someone signed for the letter with enclosures sent to Respondent at his business address.

50. Respondent did not file a response to the complaint or produce the documents requested in the subpoena.

51. On February 1, 2023, Disciplinary Counsel filed with the Board a motion for an order to compel Respondent to respond. Respondent did not respond to the motion.

52. On February 1, 2023, Respondent transferred \$10,000 from the Lion trust account to his personal account, increasing to \$530,000 the funds he paid to himself from the settlement. As of February 28, 2023, the balance in the Lion trust account was \$2,104,255.93, which included the interest paid over the three years plus that Respondent held the funds.

53. On February 23, 2023, the Board granted Disciplinary Counsel's motion and directed Respondent to provide a written response within 10 days.

54. That same day, Disciplinary Counsel sent another letter to Respondent asking him to respond to the allegations in the complaint and provide the documents described in the subpoena. Disciplinary Counsel's letter enclosed the Board's order together with the previous correspondence sent to Respondent. Disciplinary Counsel emailed the February 23, 2023 letter with the Board order

and other enclosures to Respondent and mailed the documents to his office and home addresses.

55. To date, Respondent has not provided a response to Disciplinary Counsel's inquiries.

56. On February 7, 2023, Disciplinary Counsel filed a motion with the Court for an order enforcing the subpoena. Respondent did not respond to the motion.

57. On March 17, 2023, the Court granted the motion and directed Respondent to provide the requested documents within 10 days.

58. That same day, Disciplinary Counsel wrote Respondent asking him to produce his documents responsive to the subpoena. Disciplinary Counsel's letter enclosed the Court's order and another copy of the subpoena. Disciplinary Counsel emailed the March 17, 2023 letter with the Court order and subpoena to Respondent and mailed the documents to his office and home addresses.

59. To date, Respondent has not provided any responsive documents.

The Charges Against Respondent

60. Respondent's conduct violated the following Rules of the District of Columbia Rules of Professional Conduct:

a. Rule 1.5(b), in that Respondent failed to communicate in writing to his client the basis or rate of his fee, the scope of the representation, and the expenses for which the client would be responsible;

b. Rule 1.15(c), in that Respondent failed to promptly notify his client that he had received funds in which the client had an interest;

c. Rules 1.15(a) and 1.15(d), in that Respondent intentionally misappropriated funds from the client's settlement without the client's knowledge and consent, and continued to take funds from the client's settlement knowing that the client disputed his entitlement to the funds;

d. Rule 8.1(b), in that Respondent knowingly failed to respond to lawful demands for information from Disciplinary Counsel;

e. Rule 8.4(c), in that Respondent engaged in conduct involving dishonesty, fraud deceit, and/or misrepresentation; and

f. Rule 8.4(d), in that Respondent engaged in conduct that seriously interfered with the administration of justice.

61. Respondent's conduct also violated D.C. Bar Rule XI, § 2(b)(3), in that Respondent failed to comply with orders of the Board and Court.

Respectfully submitted,

Hamilton P. Fox, III

Hamilton P. Fox, III
Disciplinary Counsel



Julia Porter
Deputy Disciplinary Counsel

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

VERIFICATION

I verify under penalty of perjury that the foregoing is true and correct.

Executed on March 27, 2023.



Julia L. Porter
Deputy Disciplinary Counsel

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



In the Matter of :
 :
JAMES A. MOODY, :
 :
 :
Respondent. :
 :
 :
An Administratively Suspended :
Member of the District of Columbia: :
Court of Appeals :
 :
 :
(Bar Registration No. 294504) :
 :
 :

Disciplinary Docket No. 2022-D222

PETITION INSTITUTING FORMAL DISCIPLINARY PROCEEDINGS

A. This Petition (including the attached Specification of Charges which is made part of this Petition) notifies Respondent that disciplinary proceedings are hereby instituted pursuant to Rule XI, § 8(c), of the District of Columbia Court of Appeals’ Rules Governing the Bar (D.C. Bar R.).

B. Respondent is an attorney admitted to practice before the District of Columbia Court of Appeals on the date stated in the caption of the Specification of Charges.

C. A lawyer member of a Hearing Committee assigned by the Board on Professional Responsibility (Board) pursuant to D.C. Bar R. XI, § 4(e)(5), has approved the institution of these disciplinary proceedings.

D. Procedures

(1) **Referral to Hearing Committee** -- When the Board receives the Petition Instituting Formal Disciplinary Proceedings, the Board shall refer it to a Hearing Committee.

(2) **Filing Answer** -- Respondent must respond to the Specification of Charges by filing an answer with the Board and by serving a copy on the Office of Disciplinary Counsel within 20 days of the date of service of this Petition, unless the time is extended by the Chair of the Hearing Committee. Permission to file an answer after the 20-day period may be granted by the Chair of the Hearing Committee if the failure to file an answer was attributable to mistake, inadvertence, surprise, or excusable neglect. If a limiting date occurs on a Saturday, Sunday, or official holiday in the District of Columbia, the time for submission will be extended to the next business day. Any motion to extend the time to file an answer, and/or any other motion filed with the Board or Hearing Committee Chair, must be served on the Office of Disciplinary Counsel at the address shown on the last page of this petition.

(3) **Content of Answer** -- The answer may be a denial, a statement in exculpation, or a statement in mitigation of the alleged misconduct. Any charges not answered by Respondent may be deemed established as provided in Board Rule 7.7.

(4) **Mitigation** -- Respondent has the right to present evidence in mitigation to the Hearing Committee regardless of whether the substantive allegations of the Specification of Charges are admitted or denied.

(5) **Process** -- Respondent is entitled to fifteen days' notice of the time and place of hearing, to be represented by counsel, to cross-examine witnesses, and to present evidence.

E. In addition to the procedures contained in D.C. Bar R. XI, the Board has promulgated Board Rules relating to procedures and the admission of evidence which are applicable to these procedures. A copy of these rules is being provided to Respondent with a copy of this Petition.

WHEREFORE, the Office of Disciplinary Counsel requests that the Board consider whether the conduct of Respondent violated the District of Columbia Rules of Professional Conduct, and, if so, that it impose/recommend appropriate discipline.

OFFICE OF DISCIPLINARY COUNSEL

BY: *Hamilton P. Fox, III*
Hamilton P. Fox, III
Disciplinary Counsel

OFFICE OF DISCIPLINARY COUNSEL
515 Fifth Street, N.W.
Building A, Room 117
Washington, D.C. 20001
TELEPHONE: (202) 638-1501
FAX: (202) 638-0862