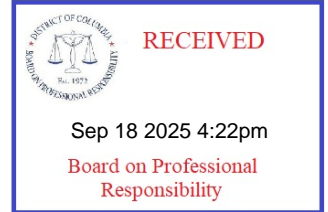


**DISTRICT OF COLUMBIA COURT OF APPEALS
BOARD ON PROFESSIONAL RESPONSIBILITY**



In the Matter of

JAMES E. TOLIVER, III, ESQUIRE

Respondent,

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

Bar Number 1619792

Date of Admission: June 11, 2019

Disciplinary Docket No.: 2024-D180

PETITION FOR NEGOTIATED DISPOSITION

Pursuant to the District of Columbia Court of Appeals Rules Governing the Bar as prescribed by Rule X and Rule XI, § 12.1 (D.C. Bar R.) and Board Rule 17.3, Disciplinary Counsel and Respondent James E. Toliver, III, submit this petition for negotiated disposition. Pursuant to D.C. Bar R. XI, §1(a), jurisdiction is found because Respondent is a member of the District of Columbia Bar.

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

Disciplinary Counsel received a disciplinary complaint from Respondent’s former employer alleging that Respondent had made false statements in connection with his efforts to obtain employment and be promoted.

II. STIPULATION OF FACTS AND RULE VIOLATIONS

Disciplinary Counsel and Respondent stipulate to the following:

The Facts

1. Pursuant to D.C. Bar R. XI, §1(a), Disciplinary Counsel has jurisdiction to proceed because Respondent is a member of the Bar of the District of Columbia Court of Appeals assigned Bar number 1619792.

2. In September 2017, Respondent joined Community Legal Aid and Services, Inc., in Youngstown, Ohio, as a volunteer and was later hired in February 2018 as a “Temporary Law Clerk.”

3. Respondent became a member of the D.C. Bar on June 11, 2019. Respondent is a member of no bar other than that of the District of Columbia Court of Appeals. Respondent continued his employment as a Temporary Law Clerk with Ohio Legal Aid after becoming a member of the D.C. bar until November 2019.

4. In November 2019, Respondent was hired by Maryland Legal Aid’s Montgomery County office as a staff attorney under a special authorization for out-of-state attorneys affiliated with programs providing legal services to low-income individuals. Pursuant to Maryland Rule 19-218, Respondent was permitted to practice in Maryland effective January 2020. This special provision did not confer a Maryland law license on Respondent and, after two years in accordance with the Rule, his Maryland Rule 19-218 status expired in January 2022.

5. Prior to the expiration of the Maryland Rule 19-218 special authorization, Respondent applied to become a member of the Maryland Bar, and an extension was sought of Respondent's Maryland Rule 19-218 status.

6. No extension was granted.

7. In January 2022, upon the expiration of Respondent's Maryland Rule 19-218 special status, Respondent's title was changed to "law graduate."¹ Although his duties did not change materially, he was not permitted to practice law as a law graduate.

8. In April 2022, Respondent applied for a supervising attorney position with Rising for Justice, a public interest legal services provider and clinical education program (formerly, D.C. Law Students in Court) with services limited to the District of Columbia. Respondent applied to supervise law students in its Housing Advocacy and Litigation Clinic.

9. In a cover letter dated April 18, 2022, Respondent stated that he was then a staff attorney with Maryland Legal Aid's Montgomery County office and had occupied that position from November 2019.

10. By the time Respondent applied to work in D.C. for Rising for Justice in 2022, his title had been changed from "staff attorney" to "law graduate" at

¹ Respondent received a Certificate of Appreciation from Maryland Legal Aid stating his position as "Staff Attorney" and reflecting dates November 2019 through June 2022.

Montgomery County's Maryland Legal Aid office due to the expiration of Respondent's Maryland Rule 19-218 special status.

11. Respondent has never become a member of the Maryland bar.

12. In the résumé Respondent submitted in connection with his application to work for Rising for Justice in April 2022, he stated that he was "Member, Maryland Bar."

13. Respondent avers that he misunderstood when he could use the title of attorney when working outside of the District of Columbia, and when his official title changed following the expiration of the Rule 19-218 status in Maryland.

14. Respondent avers that he mistook Rule 19-218 to be a type of bar membership.

15. In the résumé Respondent submitted in connection with his application to work for Rising for Justice in April 2022, he stated that, from September 2016 to November 2019, he worked as an "attorney" at Ohio Legal Aid, where he "[c]o-counseled complex litigation involving predatory consumer and residential rental practices under state and local landlord tenant laws, and federal Racketeer Influenced and Corrupt Organizations law." Respondent listed two Ohio Legal Aid supervisors as references; Rising for Justice did not contact them during the interview process.

16. Respondent has never been licensed to practice law in Ohio, and he did not hold the title attorney at Ohio Legal Aid.

17. Neither of Respondent's Ohio Legal Aid supervisors had characterized his role as that of an attorney, although Ohio Legal Aid's online promotional material erroneously identified Respondent as a "Former Staff Attorney" until later being contacted by Rising for Justice. The website now shows Respondent's correct title of "Temporary Law Clerk."

18. Respondent accepted an offer to work at Rising for Justice in May 2022 and began working there in mid-June 2022. In July 2024, the misrepresentations on Respondent's résumé were noted by Rising for Justice administrators when they were updating the organization's malpractice insurance coverage. Rising for Justice accepted his immediate resignation in August 2024.

The Rule Violation

19. Respondent violated District of Columbia Rule of Professional Conduct 8.4(c), because he engaged in dishonesty.

III. STATEMENT OF PROMISES MADE BY DISCIPLINARY COUNSEL

Disciplinary Counsel agrees not to pursue any charges arising out of the conduct described in Section II other than that set forth above, or any sanction other than that set forth below.

IV. AGREED UPON SANCTION, RELEVANT PRECEDENT AND ADDITIONAL FACTORS

The agreed-upon sanction in a negotiated discipline case must be (a) justified; and (b) not unduly lenient, taking into consideration the record as a whole, including the nature of the misconduct, any charges or investigations that Disciplinary Counsel has agreed not to pursue, the strengths or weaknesses of Disciplinary Counsel's evidence, any circumstances in aggravation and mitigation (including respondent's cooperation with Disciplinary Counsel and acceptance of responsibility), and relevant precedent. Board Rule 17.5; D.C. Bar R. XI, § 12.1(b)(1)(iv). A justified sanction does not have to comply with the comparability standard set forth in D.C. Bar R. XI, §9(h). Board Rule 17.5(a)(iii).

A. Agreed-Upon Sanction

Disciplinary Counsel and Respondent agree that the sanction to be imposed is:

1. A public censure.
2. One year's unsupervised probation beginning on the date the Court issues its order, on the condition that Respondent not be the subject of a disciplinary complaint that results in a finding that he violated the disciplinary rules of any jurisdiction in which he is licensed to practice during the probationary period.

3. Respondent will take two continuing legal education courses approved by Disciplinary Counsel: *Ethics and Lawyer Trust Accounts* and *Mandatory Course on the D.C. Rules of Professional Conduct and D.C. Practice*.

4. Respondent will provide proof of attendance at each CLE within 10 days of completion, waiving confidentiality regarding any consultations associated with training advice and materials, including the materials themselves.

5. Respondent will notify Disciplinary Counsel promptly of any ethics complaint filed against him and its disposition during his period of unsupervised probation.

6. Within 30 days of the Court's order publicly censuring Respondent, he will confirm to Disciplinary Counsel in writing that he has no pending applications to practice law in any other jurisdiction.

7. If Respondent fails to meet any of the conditions set forth above, he: (a) understands that Disciplinary Counsel may bring formal charges seeking suspension for his breach of probation, and, if proved, (b) agrees to demonstrate his fitness to practice law before he can be reinstated.

B. Relevant Precedent

Disciplinary Counsel and Respondent agree that the foregoing sanction is justified and not unduly lenient for his violation of Rule 8.4(c) involving résumé

inflation. Under our jurisprudence, a public censure for false assertions on a résumé without other aggravating factors such as falsifying school transcripts or the involvement of a client is appropriate. *In re Hadzi-Antich*, 497 A.2d 1062 (1985) (public censure for inflating class rank, grades, and law review involvement on résumé to obtain employment); *In re Hawn*, 917 A.2d 693 (2007) (30-day suspension for falsified résumé and law school transcript sent to prospective employers; unopposed sanction recommended by Board “severely limit[ed] [Court’s] scope of review”). *See also In re Muckelroy*, 609 A.2d 265, 275 (D.C. 1992) (survey of similar cases).

C. Additional Factors

1. Evidence in Aggravation to Be Considered

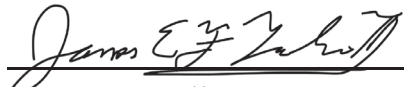
There are no aggravating factors in addition to the violation itself.

2. Evidence in Mitigation to Be Considered

In mitigation, Respondent: (a) has taken responsibility for his misconduct in that he acknowledges that he violated the Rule as set forth above; (b) has cooperated fully with Disciplinary Counsel’s investigation; (c) did not involve clients in the misconduct, and (d) has not been the subject of disciplinary inquiries, here or elsewhere.

V. RESPONDENT'S AFFIDAVIT

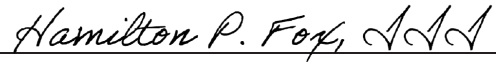
Accompanying this Petition in further support of this Petition for Negotiated Disposition, is Respondent's affidavit pursuant to D.C. Bar R. XI, § 12.1(b)(2).



James E. Toliver, III, Esquire
Respondent



William E. Zapf, Esquire
Respondent's Counsel



Hamilton P. Fox, III
Disciplinary Counsel



Traci M. Tait
Assistant Disciplinary Counsel