DISTRICT OF COLUMBIA COURT OF APPEALS
BOARD ON PROFESSIONAL RESPONSIBILITY
AD HOC HEARING COMMITTEE

| | | |
|---|---|---|
| In the Matter of: | : | |
| | : | |
| AHMED M. ELHILLALI, | : | |
| | : | Board Docket No. 16-BD-030 |
| Respondent. | : | Bar Docket Nos. 2012-D330 |
| | : | & 2014-D029 |
| Special Legal Consultant licensed by the District of Columbia Court of Appeals (Registration No. 446927) | : | |

REPORT AND RECOMMENDATION
OF THE AD HOC HEARING COMMITTEE

Respondent, Ahmed M. Elhillali ("Respondent"), is charged by Disciplinary Counsel in a three-count Specification of Charges with violating Rules 1.4(b) (failure to explain matter), 1.16(d) (termination of representation), 5.5(a) (unauthorized practice), 8.1(b) (failure to respond), 8.4(b) (theft in violation of D.C. Code § 22-3211), 8.4(c) (dishonesty), and 8.4(d) (serious interference with the administration of justice) of the District of Columbia Rules of Professional Conduct.[1]

[1] Unless identified otherwise, "Rules" refer to the District of Columbia Rules of Professional Conduct. The 2008 version of D.C. App. R. 46 (amended Mar. 1, 2007) provided that persons licensed as Special Legal Consultants were subject to the "Code of Professional Responsibility of the American Bar Association, as amended by the court . . . ," *see* D.C. App. R. 46(c)(4)(E)(1)(a) (2008), but the parties agree that "as amended" means the District of Columbia Rules of Professional Conduct, which is consistent with the current D.C. App. R. 46(f)(7)(A) (effective March 1, 2016). In this Report, we refer to the older version of D.C. App. R. 46 since it was in effect at the time of Respondent's conduct.

These claims arise from Respondent's conduct while allegedly engaging in the unauthorized practice of law by holding himself out as a licensed attorney when, in fact, he is licensed as a "Special Legal Consultant" pursuant to Rule 46 of the D.C. Court of Appeals Rules. *See* D.C. App. R. 46(c)(4)(D)(5)-(7) (2008). Disciplinary Counsel contends that Respondent committed all of the charged violations and, as a sanction for his misconduct, Respondent's Special Legal Consultant license should be revoked and he should be required to pay restitution to those clients who paid him after falsely being led to believe he was a licensed attorney. Respondent, on the other hand, contends that Disciplinary Counsel has not proven any of the charges by clear and convincing evidence, and that no sanction should be applied.

As set forth below, the Ad Hoc Hearing Committee ("Hearing Committee") finds clear and convincing evidence that Respondent violated Rules 1.4(b), 1.16(d) 5.5(a), 8.4(b) (theft in violation of D.C Code § 22-3211), and 8.4(c). The Hearing Committee, however, finds that the evidence is insufficient to find that Respondent violated Rules 8.1(b) and 8.4(d). Additionally, as a factor in aggravation of sanction, the Hearing Committee finds that Respondent knowingly gave false testimony during the evidentiary hearing.

The Hearing Committee recommends revocation of Respondent's designation as a Special Legal Consultant, without any right to reapply for the license for a five-year period. Upon any reapplication after the five-year period has expired,

Respondent must pay restitution and prove his fitness to practice as a Special Legal Consultant.[2]

## I. PROCEDURAL HISTORY

On June 7, 2016, Disciplinary Counsel served Respondent with a Specification of Charges ("Specification"). The three-count Specification alleges:

- Respondent failed to explain the matter to the extent reasonably necessary to permit his client to make informed decisions regarding the representation, *i.e.*, that Respondent was not licensed to represent clients in immigration matters, in violation of Rule 1.4(b);

- In connection with the termination of representation, Respondent failed to take timely steps to the extent reasonably practicable to protect his clients' interests, by failing to refund any advance payment of fee or expense Respondent had not earned or incurred, in violation of Rule 1.16(d);

[2] D.C. App. R. 46(c)(4)(E)(1)(a) (2008) provides that a Special Legal Consultant "shall be subject to censure, suspension, or revocation of his or her license to practice as a Special Legal Consultant by the court." *See also* D.C. Bar R. XI, § 3(a)(6) (revocation or suspension of Special Legal Consultant license). We note that it does not address whether the revocation of a Special Legal Consultant license is permanent, or whether a respondent can reapply for a Special Legal Consultant license following revocation. D.C. App. R. 46(c)(4)(E)(3) provides that "[t]o the extent feasible, the court shall proceed in a manner consistent with its Rules Governing the Bar of the District of Columbia." We interpret this to mean that a Special Legal Consultant should receive a similar sanction as what would be imposed if Respondent was an attorney. *See* D.C. Bar R. XI, § 9(h)(1) (sanction imposed cannot "foster a tendency toward inconsistent dispositions for comparable conduct"). Thus, we recommend a five-year revocation with fitness as the functional equivalent of disbarment, the sanction that we would have recommended if Respondent was an attorney. *See* D.C. Bar R. XI, § 16(a) (a disbarred attorney "may not apply for reinstatement until the expiration of at least five years from the effective date of the disbarment" and must "furnish proof of rehabilitation under section 3(a)(2) of this rule"); *see also In re Wechsler*, 719 A.2d 100, 102 (D.C. 1998) (per curiam) (appended Board Report) (noting in a reciprocal case that disbarment is the functional equivalent of a five-year suspension with fitness). We emphasize that but for our interpretation of the application of D.C. App. R. 46(c)(4)(E)(3), we would have recommended that Respondent's Special Legal Consultant license be permanently revoked, without the opportunity to reapply. However, absent additional guidance from the Court on whether "revocation" can be permanent, we recommend the sanction most analogous to disbarment.

- Respondent engaged in the practice of law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction, in violation of Rule 5.5(a);

- In connection with a disciplinary matter, Respondent knowingly failed to respond reasonably to a lawful demand for information from [Disciplinary] Counsel (including turning over whatever he produced in his client's case for the fee paid), in violation of Rule 8.1(b);

- Respondent committed a criminal act (theft under D.C. Code § 22-3211), that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects, in violation of Rule 8.4(b);

- Respondent engaged in dishonest conduct, in violation of Rule 8.4(c); and

- Respondent seriously interfered with the administration of justice, in violation of Rule 8.4(d).

Specification ¶¶ 5, 19(A)-(G), 30(A)-(G).

Respondent timely filed an answer on June 27, 2016. A telephonic pre-hearing was held on August 10, 2016 before the Chair of the Hearing Committee, Thomas S. DiLeonardo, Esquire. Disciplinary Counsel was represented by Assistant Disciplinary Counsel Traci M. Tait, Esquire, and Respondent was represented by Timothy J. Battle, Esquire. Respondent filed a Response to Disciplinary Counsel's Statement Regarding Stipulations on October 11, 2016 and an Amended Response on November 2, 2016. On October 17, 2016, the Chair issued an order for the parties to be prepared to address at the hearing which disciplinary rules apply (the Code of Professional Responsibility of the American Bar Association or the D.C. Rules of Professional Conduct) to the alleged misconduct in the Specification.

A hearing was held on October 19, 2016 before this Hearing Committee, comprised of Mr. DiLeonardo, the Chair; James Kidney, Esquire, attorney member;

and Carol Ido, public member (the "Hearing Committee"). Disciplinary Counsel was represented at the hearing by Ms. Tait, and Respondent was present and represented by Mr. Battle.

Prior to the hearing, Disciplinary Counsel submitted DX[3] A through D and DX 1, 2(A)-(I), and 3(A)-(F). During the hearing, Disciplinary Counsel submitted DX 4, 4(A), 4(B), and 5. All of Disciplinary Counsel's exhibits were received into evidence without objection. Tr. 44, 52, 55-57, 59-63, 66, 70, 72, 80, 81, 83-84, 269-270, 273, 360. During the hearing, Disciplinary Counsel called as witnesses: Charles Anderson, an investigator on Disciplinary Counsel's staff, and two former clients of Respondent, Jamal Jubara Ragab Kabu and Omer Elsadig Abbas Ali. Tr. 38, 109, 200.

During the hearing, Respondent submitted RX 1 through 3. RX 1 and 2 were received into evidence without objection. Tr. 283, 309. RX 3 was moved into evidence, Tr. 287, but was not admitted.[4] Respondent testified on his own behalf and called no additional witnesses. Tr. 274.

Upon conclusion of the hearing, the Hearing Committee made a preliminary non-binding determination that Disciplinary Counsel had proven at least one of the disciplinary violations set forth in the Specification of Charges. Tr. 406; *see* Board Rule 11.11. No additional evidence was presented during the sanctions phase of the

[3] "DX" refers to Disciplinary Counsel's exhibits. "RX" refers to Respondent's exhibits. "Tr." refers to the transcript of the hearing held on October 19 and 20, 2016. "FF" refers to the numbered Findings of Fact made in this Report and Recommendation.

[4] Disciplinary Counsel objected to the admission of RX 3. Tr. 287. We note that Respondent does not rely on RX 3 in his Proposed Findings of Fact, Conclusions of Law, and Recommendation of No Sanction.

hearing. On December 5, 2016, Respondent filed a Post-Hearing Statement in which he claimed that he took down his website (elhillalilegalconsult.com) on October 24, 2016, did not pass the D.C. Bar exam of July 2016, and intended to retake the exam in February 2017.[5]

Disciplinary Counsel submitted its Proposed Findings of Fact, Conclusions of Law, and Recommendation as to Sanction on December 7, 2016. Respondent filed his Proposed Findings of Fact, Conclusions of Law, and Recommendation of No Sanction on December 30, 2016. Pursuant to an order of the Hearing Committee, Respondent filed Amended Proposed Findings of Fact, Conclusions of Law, and Recommendation of No Sanction on January 9, 2017. Disciplinary Counsel's Reply was filed on January 18, 2017.

## II. FINDINGS OF FACT

The following findings of fact are based on the testimony and documentary evidence admitted at the hearing, and these findings of facts are established by clear and convincing evidence, except where otherwise noted. *See* Board Rule 11.6.

1. Respondent was admitted as a Special Legal Consultant by the District of Columbia Court of Appeals on May 31, 1995 and assigned Special Legal Consultant number 446927. DX A.

2. Respondent is not licensed to practice law in any jurisdiction in the United States. He has applied for admission in other jurisdictions multiple times but

[5] Respondent did not pass the February 2017 exam for admission to the D.C. Bar. *See* Notice of the February 2017 Bar Examination Results (Committee on Admissions for the D.C. Bar, May 12, 2017).

has failed the examinations. Tr. 322-23 (five times in Virginia, three times in Pennsylvania); DX 2H: Bates 63. Respondent's only attempt to qualify for a law license in the District of Columbia occurred in 2016. He was unsuccessful. *See* Post Hearing Statement of Respondent (filed Dec. 5, 2016).

3. For eighteen years (from 1978 until 1996), Respondent had no license to practice law anywhere in the world, including his country of origin, Sudan. Tr. 280, 318-19, 321. Accordingly, during that period, Respondent had no authority to render legal advice in any jurisdiction. Tr. 319.

4. A Special Legal Consultant license is conditioned on the applicant's swearing that he is licensed by a foreign nation. D.C. App. R. 46(c)(4)(A)(l); Tr. 324. Respondent passed the Sudanese Bar examination in 1978. RX 2, unnumbered page (Mar 27, 1979). However, Respondent thereafter spent most of his time in the United States and did not obtain a Sudanese law license until 1996, *after* he was granted Special Legal Consultant status. Tr. 318-20; 323-24. Respondent used his Special Legal Consultant status in the District of Columbia to obtain some form of qualified licensure in Sudan in 1996. Tr. 320 ("I sent [the Special Legal Consultant license] to them, and they gave me a license to work in Sudan through a partnership, a law firm partnership in Khartoum").[6]

[6] Respondent testified that when he applied for his Sudanese license, he sent to the Sudanese judiciary his "credentials, my PhDs, my master's, and also I had this Special Legal Consultant license." Tr. 320. The record is unclear to what extent the grant of his Sudanese law license depended on his Special Legal Consultant license. In any event, Respondent clearly misrepresented to the Committee on Admissions that he was licensed to practice law in Sudan at the time he submitted his application for his Special Legal Consultant license.

5. As a Special Legal Consultant, Respondent was not permitted to render professional legal advice on or under the laws of the District of Columbia or the United States, or hold himself out as a member of the D.C. Bar. D.C. App. R. 46(c)(4)(D)(1)-(7) (2008). *See* Respondent Amended Response to Statement Regarding Stipulations, ¶ 3.

6. Respondent maintained a business website that remained online and unchanged, from 2005 or 2006 through at least July 2012 ("Initial Website"). DX 1: Bates 1; Tr. 370-72. Respondent testified that his daughter created the Initial Website and that he did not look at it for the six or seven years it existed in the form of DX 1. Tr. 371-73, 399-400. Respondent claimed it was not until he was the subject of an investigation by the Virginia State Bar that he first saw the Initial Website. Tr. 400-01.

7. The Initial Website identified Respondent's business as "The Law Office of Ahmed Elhillali" with locations in Washington, D.C. and Virginia. DX 1: Bates 1. It reflected the following:

- "The Law Office provides legal services to clients throughout the United States and overseas." *Id.* The website identified "Immigration, Visas, Political Asylum," *inter alia*, as areas of practice. *Id*.
- Respondent possessed a "J.D.," *id*. at 2, below which appeared:

> Certificate of Equivalent law
> degree George Mason University

- Respondent's "Licenses" included: "District of Columbia Government, 2002- Present." *Id.* at Bates 3.
- Respondent's "Professional Organization Memberships" were "District of Columbia Bar Association," "American Immigration Lawyers Association," "George Washington University Law Association," and "Howard University Law Association." *Id.* at Bates 1.

8. In August 2012, the Virginia State Bar investigated whether Respondent was falsely holding himself out as properly licensed to practice law. DX 2C: Bates 44-46. Respondent admitted to the Virginia State Bar's factual findings under oath and in writing which included that he had illegally held himself out "to provide immigration legal services in Virginia and maintained an office in Virginia identified as the 'The Law Offices of Ahmed Elhillali'" and "also maintained a website identifying himself as an attorney and as authorized to provide immigration legal services." *Id.*; *see* Tr. 373-78. At the same time, however, he equivocated when testifying before this Committee in that he claimed that he did not agree with the Virginia State Bar's findings, but only signed the statement as a compromise. *See* Tr. 377. In exchange for the Virginia State Bar's decision not to prosecute him criminally, Respondent agreed to discontinue holding himself out as a U.S.-licensed attorney and to take down the Initial Website. DX 2C: Bates 44-46.

9. Respondent either failed to take down his Initial Website or he created (or caused to be created) a similar website. During the October 19, 2016, hearing before this Hearing Committee, Disciplinary Counsel displayed on a laptop an active

website for "the Law Office of Ahmed M. Elhillali (Ph.D.)" (the "Current Website"), and provided copies of screenshots taken the day before. DX 4. Additionally, although prohibited from using any title other than (a) "Special Legal Consultant," (b) an "authorized title in the foreign country of his . . .admission to practice," or (c) the name of his firm in Sudan, *see* D.C. App. R. 46(c)(4)(D)(7)(a)-(c), the Current Website reflected the following:

- "The Law Office of Ahmed Elhillali" located in Washington, D.C. and identified "international contracts," "business law," and "immigration regulations," *inter alia*, as an area of "our practice," and extolled the viewer to "trust your law case" to Respondent's "experienced team." DX 4: Bates 1-5.
- Respondent's website listed multiple law degrees from two local law schools, without disclosing that he was not licensed to practice anywhere in the United States. *Id.* at Bates 3.

10. Respondent initially testified that he had not authorized the Initial or Current Websites to be created to look like a law practice. Tr. 368-69 ("The Yahoo! Company designed this way [sic], to characterize it that expectation to be a lawyer [sic]. They design it this way."). He also testified that he had never seen the Initial Website. Tr. 396-97. Respondent later admitted that in early 2016, he commissioned the Current Website. Tr. 397-98. He testified that he did not, however, authorize the specific contents of either the Initial or Current Website. Tr. 368-371. We find his testimony concerning the Current Website not credible,

especially because Respondent had been warned by the Virginia State Bar about his earlier improper website activity for which he claimed to have abdicated any supervisory responsibility. DX 2C: Bates 44-46; Tr. 373-78.

11. Respondent is aware that he is responsible for the content of his business website. *See* Tr. 401. Respondent admitted that he had provided the information used for the creation of both the Initial and Current Websites. Tr. 372.

12. Respondent has used business cards for himself with the words "Law Office" in type larger than his name and an image of balancing scales. DX 2A: Bates 38.

13. Respondent has used letterhead for himself which includes the following: "Legal Consultant," "D.C. Bar," and an image of balancing scales. DX 2: Bates 1.

14. While representing clients, Respondent has referred to himself variously as:

- "Attorney of Records [sic]," DX 2: Bates 3;
- "counselor for petitioner," *id.* at Bates 2; and
- "an attorney and a member in good standing of the bar of . . . the highest court of the . . . District of Columbia" each time he formally entered his appearance before immigration authorities (with his having typed in the words "District of Columbia Court of Appeals" to identify the court of his membership). DX 5: Bates 7-16.

15. Respondent falsely testified that he had not handled immigration matters before United States immigration authorities:

> Q: You have in the past for years filed official entries of appearance as counsel in immigration cases; isn't that correct?
>
> A: No.
>
> Q: You have not filed G-28 forms and similar forms in immigration court and before immigration authorities on behalf of clients?
>
> A: I did one time.
>
> Q: Just one time? . . .
>
> Q: You indicated that you were a special legal consultant?
>
> A: Yes.

Tr. 353-54. Records of the United States Immigration and Naturalization Service and Department of Homeland Security, however, show that on at least ten occasions from 2005 through 2012, Respondent formally entered his appearance as an "attorney and a member in good standing of the bar of the . . . District of Columbia Court of Appeals" and in most instances an "Active member of the Immigration Lawyers Association." *See* DX 5 (Respondent's Notice of Entry of Appearance forms). These same forms provided clear alternatives for the purpose of indicating they were filled out with the assistance of someone who was not a licensed attorney. Respondent did not take advantage of this self-identification option. *Id*.

Jamal Jubara Ragab Kabu
Bar Docket No. 2012-D330

16. In 2010, Respondent agreed to file an immigration petition on behalf of Jamal Jubara Ragab Kabu, an American citizen, to bring his wife Muna Eltayeb

H. Adam, a Sudanese national, to live legally in the United States, Tr. 110, 113-15, 149, 173-74; DX 2.

17. Mr. Kabu was initially introduced to Respondent through a friend. Tr. 111-12.[7] When discussing Respondent with Mr. Kabu, the friend identified Respondent as a lawyer. Tr. 115. In addition, according to Mr. Kabu, "He [Respondent] said he lawyer [sic]." *Id*. Mr. Kabu testified that Respondent never told him that he was only a translator and never advised him that he should go see an immigration lawyer. *Id*. Mr. Kabu explained that Respondent never told him that he was *not* a lawyer, and, in fact, according to Mr. Kabu, Respondent, "he tell me[, ']I'm a lawyer.[']" Tr. 157. Mr. Kabu's testimony is consistent with his statement filed with the Virginia State Bar in which Mr. Kabu reported he "went to the Law Office of Ahmed Elhillali and he told me that he was a lawyer and that he could help me to bring my wife." *See* DX 2: Bates 33 (Complaint, June 29, 2012).

18. Mr. Kabu met with Respondent in Respondent's Virginia office and hired him. Tr. 111-14. Respondent told Mr. Kabu that they could meet in his D.C. office, but Mr. Kabu preferred to meet in Virginia. Tr. 117. In exchange for a fee paid by Mr. Kabu, Respondent was to explain and complete forms for Mr. Kabu's wife to immigrate to the United States from the Republic of Sudan. Tr. 112-115, 117 (Kabu); Tr. 353 (Respondent); *see also* DX 2C: Bates 43 and DX 2H: Bates 61-

[7] The record does not reveal whether Mr. Kabu ever saw either of the websites identified above with respect to Count I of the Specification.

62 (Respondent's counsel admitting in correspondence with Disciplinary Counsel that Respondent accepted a legal fee for completion of immigration forms).

19. Respondent signed a cover letter transmitting a petition to the United States Citizenship and Immigration Service ("CIS") on June 26, 2010 as "Counselor for Petitioner." DX 2A: Bates 35-36. He also signed emails to the U.S. consular office in Cairo on behalf of Mr. Kabu or his wife as "Attorney of Records." DX 2A: Bates 37. Accordingly, Respondent misrepresented himself as an attorney in Mr. Kabu's immigration matter.

20. When asked by his counsel if he is a member of the D.C. Bar or a lawyer in Washington, D.C., Respondent conceded he was not. Tr. 290-91. Respondent added that he does not identify himself as an American lawyer if asked. Tr. 294. Respondent claimed that his business card identifying the "LAW OFFICE, Ahmed M. Elhillali (PhD), LEGAL CONSULTANT (D.C. BAR)" was a permissible description of his business. *See* DX 2A: Bates 38 (business card); Tr. 336 (Respondent). According to Respondent:

> It is a law office, actually. It does something related to forms, related to consultation.

Tr. 336 (Respondent). Additionally, Respondent testified that he believes the term "law office" identifies him as a "legal consultant" and not necessarily "an attorney at law." Tr. 336-37.

21. Mr. Kabu claimed that he paid Respondent $1,200, over the course of four meetings, to prepare and file the necessary papers for his wife, whom he married in Sudan, to immigrate to the United States. Tr. 123-26. Mr. Kabu explained that

he obtained a receipt each of the four times he paid Respondent, but Mr. Kabu could not produce any of the receipts because he had moved twice since hiring Respondent and lost the receipts. Tr. 129, 189. As a result, the Hearing Committee has determined that the evidence is inconclusive as to whether Mr. Kabu paid Respondent $1,200 for his work. *See* Tr. 125-26 (Kabu); 299-301 (Respondent). Respondent testified that $250 was the only amount he ever received from Mr. Kabu, and Respondent produced a single receipt from his files showing that he received $250 from Mr. Kabu. *See* DX 2H: Bates 73; Tr. 314-15 (Respondent). Respondent testified that he always gave clients a receipt for payment; this was undisputed. Tr. 299.[8] Disciplinary Counsel did not introduce evidence of Respondent's bank records to establish whether the alleged fees paid by Mr. Kabu were deposited into Respondent's personal bank accounts. Because Mr. Kabu paid in cash and he did not save his receipts, the record contains no evidence to corroborate Mr. Kabu's recollection that he paid Respondent a total of $1,200. Thus, clear and convincing evidence was introduced only to support the $250 payment. Irrespective of the amount paid, Respondent concedes that he never provided a refund to Mr. Kabu. DX 2H: Bates 62.

22. Mr. Kabu also testified that Respondent charged him $100 to return his file after being discharged. Tr. 130-38 (Kabu). Respondent denies this allegation. According to Mr Kabu, Respondent asked for $100 to pay for the

[8] On October 2, 2012, Disciplinary Counsel served Respondent with a subpoena *duces tecum* for his office file relating to the Kabu representation, including "any retainer agreement(s) . . . bills, invoices, accountings, [and] financial records . . . ." DX 2B: Bates 40-41.

copying costs related to the return of the contents of his file. Tr. 137 (Kabu). There is no further proof. This is not clear and convincing evidence.

23. Respondent did, in fact, prepare and file an immigration application. *See* DX 2: Bates 1-3. However, the application was denied.

24. Mr. Kabu eventually discovered, through successor counsel, that Respondent was not licensed to practice law in Washington, D.C. or Virginia. Tr. 156-57 (Kabu); DX 2A: Bates 34. Successor counsel was successful in filing an application for Mr. Kabu's wife to immigrate to the United States. Tr. 150.

25. In July 2012, with the help of successor counsel, Mr. Kabu filed a disciplinary complaint in Virginia against Respondent for the unauthorized practice of law, which was forwarded to the District of Columbia Office of Disciplinary Counsel. Tr. 154-57 (Kabu); DX 2A: Bates 32-38.

Disciplinary Counsel's Investigation of the *Kabu* Matter

26. By letter dated September 20, 2012, Disciplinary Counsel informed Respondent that the office had initiated an investigation into Mr. Kabu's allegations of misconduct (received from the Virginia State Bar), and enclosed the disciplinary complaint and other documents. DX 2A. Respondent retained counsel. DX 2C. On October 2, 2012, Disciplinary Counsel issued a subpoena *duces tecum* for Respondent's client file in the Kabu representation and asked Respondent, through his first counsel, to respond substantively to the allegations in Mr. Kabu's complaint. DX 2B.

27. By letter dated October 15, 2012, Respondent replied through counsel (with a copy to Respondent). DX 2C. Respondent denied that he had been paid more than $250 by Mr. Kabu. DX 2C: Bates 42-43. Respondent stated that he "has no file or other items in his possession which would be in any way responsive to [Disciplinary Counsel's] subpoena." *Id.* He continued, "Mr. Kabu only gave [Respondent] copies of a few items, including his tax papers and a birth certificate, which he returned to Mr. Kabu." *Id.*

28. Although Respondent had prepared and submitted to immigration authorities a petition to bring Mr. Kabu's alien fiancée to the United States, *see* Tr. 66-68, 353; DX 2I, he did not produce to Disciplinary Counsel a copy of that petition or any other part of the immigration package he had prepared, nor did he inform Disciplinary Counsel of this filing. Tr. 345-46. Indeed, Respondent initially produced no records (including financial records) from his representation of Mr. Kabu. Tr. 68. *See generally* DX 2-2I.

29. By letter dated August 21, 2015, Disciplinary Counsel wrote Respondent in an effort to conclude the Kabu investigation. DX 2F.

30. In his response, through different counsel, dated September 21, 2015, in contrast to the prior document production, Respondent produced two additional documents in connection with Mr. Kabu's case: an affidavit Respondent prepared for Mr. Kabu's signature and a partially illegible receipt reflecting payment by Mr. Kabu of $250. Tr. 64; DX 2H: Bates 73-75.

31. Mr. Kabu testified at length that after charging him a copying fee of $100, Respondent provided him with the files Respondent had in his possession related to the immigration application. Tr. 130-138. Respondent admitted that he had a copy of the documents he filed for Mr. Kabu at one point, but he had no explanation of their location except that he could not find them when the Office of Disciplinary Counsel sent him its letter. Tr. 345-46. The Office of Disciplinary Counsel did not prove by clear and convincing evidence that the Respondent intentionally withheld documents. Discovery of the receipt would, in fact, have assisted the Respondent in defending himself in this investigation.[9]

Omer Elsadig Abbas Ali
Bar Docket No. 2014-D029

32. In 2011, Omer Elsadig Abbas Ali, a Sudanese national, traveled from New Jersey with his uncle to meet with Respondent in his Virginia office. Tr. 202-07. Respondent was hired to represent Mr. Ali. Tr. 203. Based solely on statements by his uncle to Mr. Ali, Mr. Ali believed that Respondent was a lawyer. Tr. 202-03, 206-07, 231, 235-37.[10] The uncle did not testify, and there is no evidence as to why the uncle believed Respondent was a lawyer. Mr. Ali was in deportation proceedings when he met with Respondent. DX 4: Bates 2 (removal proceedings notice). Mr.

[9] Disciplinary Counsel elicited testimony from witnesses Kabu and Ali that they found errors in the translation work done by Respondent in preparation of materials for the Immigration Court and otherwise provided unsatisfactory services. *See, e.g.*, Disciplinary Counsel's Proposed Findings of Fact, Conclusions of Law, and Recommended Sanction, ¶¶ 17, 33. We do not find it necessary to resolve the question of the accuracy of the translation since Respondent's competency as a translator is not at issue in this case.

[10] Neither Disciplinary Counsel nor Respondent called Mr. Ali's uncle as a witness.

Ali sought an attorney to correct his asylum petition and accompany him to Immigration Court. Tr. 207-08, 212-15. Respondent did not disclose to Mr. Ali until the third of three meetings that he was not licensed to practice law in D.C. or Virginia, and that he could not legally prepare a corrected asylum petition or accompany Mr. Ali to Immigration Court. Tr. 206-08 . Mr. Ali was frightened when he had to go to Immigration Court alone. Tr. 214-15.

33. Mr. Ali testified that Respondent asked his uncle for money on the occasions they met and that Respondent later directed Mr. Ali to demand more funds from his uncle. Tr. 239-40. Mr. Ali does not have receipts for the payments his uncle made, does not know how much Respondent was paid, and does not recall if any receipt was prepared for his uncle. Tr. 211-12. Mr. Ali testified that he saw his uncle pay Respondent with a check on at least one occasion, but otherwise has no evidence of those payments. 239-40. Disciplinary Counsel did not introduce evidence of Respondent's bank records to establish whether alleged fees paid by Mr. Ali's uncle were deposited into Respondent's personal bank accounts.[11]

34. Respondent denied that he received any funds from Mr. Ali or his uncle, although he acknowledges he asked for payment. Tr. 305; DX 2H: Bates 62-63. While Mr. Ali testified that he saw his uncle making payments to Respondent, the actual amount was not verified. As a result, evidence of the actual amount paid is not clear and convincing.

[11] The Immigration Judge granted Mr. Ali a long continuance and urged him to retain counsel. Tr. 213, 233. Mr. Ali retained successor counsel who helped him obtain asylum. Tr. 226-29.

Disciplinary Counsel's Investigation of the *Ali* Matter

35. By letter dated February 4, 2014 (but mailed the next day), Disciplinary Counsel informed Respondent it had initiated an investigation into Mr. Ali's allegations and enclosed a subpoena *duces tecum* for Respondent's office file. DX 3A. Respondent initially claimed that he had just four documents responsive to Disciplinary Counsel's subpoena, none of which was a copy of the I-589 or accompanying documents that he had prepared on Mr. Ali's behalf. *Compare* DX 3B: Bates 91-96, *with* DX 3: Bates 1-73.

36. By letters dated February 10, 2014 and September 15, 2015, Respondent denied, *inter alia*, holding himself out as a lawyer. DX 3B: Bates 81; DX 2H: Bates 62-63. Respondent falsely claimed that he merely met with Mr. Ali to:

> translate a University identification card and to explain to him the contents of a referral letter, dated May 24, 2011 (a copy is attached) concerning a rejected asylum application that he had previously submitted to US citizenship Immigration Services [sic].

DX 3B: Bates 81. *But see* DX 3: Bates 1-73. Respondent failed to inform Disciplinary Counsel that, after consulting with Mr. Ali about his persecution in Sudan, Respondent had constructed the narrative portion of Mr. Ali's asylum petition based on Mr. Ali's oral story and written notes. *Compare* DX 3B: Bates 81, *with* Tr. 347-49, 350-52.

37. By letter dated August 21, 2015, Disciplinary Counsel wrote Respondent in an effort to conclude the *Ali* investigation. DX 2F. Disciplinary Counsel requested that Respondent provide a chronology of his representation of

Mr. Ali. *Id.* In his September 21, 2015 response, Respondent still did not disclose to the Office of Disciplinary Counsel that he had prepared an immigration petition and related documents for Mr. Ali. DX 2H: Bates 62. Further, Respondent disclosed at the hearing that he had maintained some of the petition package, but did not turn it over to Disciplinary Counsel. Tr. 346-47 (Respondent); *see* DX 3: Bates 1.

38. Respondent falsely claimed he (a) had not held himself out as a lawyer to Mr. Ali but had, instead, specifically informed him that Respondent was not an attorney, (b) had not performed any services other than translating two documents for Mr. Ali: a University identification card and "a referral letter, dated May 24, 2011 . . . concerning a rejected asylum application . . . ." *See* DX 3B: Bates 81 (February 10, 2014 letter from Respondent to Office of Disciplinary Counsel); DX 3B: Bates 91-92 (Referral Notice dated May 24, 2011). In fact, the record shows that Respondent signed and prepared Mr. Ali's I-589 Application for Asylum. DX 3D: Bates 99-107 (Mr. Ali's I-589 Application with handwritten notation "This is the application Elhillali mad[e] for me he sign [sic] on the Back also my uncle paid him"). Respondent also incorrectly asserted in his February 10, 2014 letter to Disciplinary Counsel that he had "no any [sic] documents in my office or stocked in my computer or any other items in my possession which would be in response to your subpoena . . . ." DX 3B: Bates 81. Respondent was untruthful with Disciplinary Counsel about his representation of Mr. Ali even after he had acknowledged, under oath, to Virginia disciplinary authorities that he had, in fact, been falsely holding himself out as a licensed attorney. *See* DX 2C: Bates 44-46.

Evidence in Aggravation

39. Respondent has never practiced law in Sudan. For twenty-three years, he worked in the United States at the Royal Embassy of Saudi Arabia. Tr. 284-86, 288. In 2010, the year Respondent left the embassy, Mr. Kabu retained him. DX 2: Bates 1 (Respondent's cover letter to USCIS dated June 26, 2010); DX 2I: Bates 96 (immigration petition signed by Respondent and dated June 9, 2010). And in 2011, the year after Respondent left the embassy, Mr. Ali retained him. DX 3: Bates 1 (Respondent's "10/10/2011" cover letter referencing Immigration Court hearing scheduled for October 11, 2011), Bates 6 ("10/3/2011" affidavit Respondent prepared for client's signature).

40. Respondent deliberately set up his business to appear as a law office, and he did so on the internet, on his letterhead, in email, and on business cards, and in his conversations with potential clients. *See* DX 4; DX 2: Bates 1-3; DX 2A: Bates 38; *see also* Tr. 157 (Mr. Kabu testifying that Respondent told him "I'm a lawyer"). Respondent then falsely denied that he had not done so. Tr. 326-344; 360-62.

41. Respondent intentionally misrepresented himself as a lawyer, licensed by the D.C. Court of Appeals, to the CIS on at least ten occasions from 2005 through 2012. Respondent formally entered his appearance as counsel and claimed he was an attorney in good standing. DX 5. These same forms provided clear alternatives for the purpose of indicating they were filled out with the assistance of someone who was not a licensed attorney. *Id*.

42. In 2012, in lieu of receiving a penalty by the Virginia State Bar, Respondent agreed to take down his office website; however, he either failed to do so or, thereafter, created (or caused to be created) another office website containing similar information inappropriately identifying himself as an attorney. The website included in bold capital letters, "THE LAW OFFICE" and claimed that Dr. Elhillali had "significant expertise in most U.S. corporate, commercial, and immigration regulations," that the office "is affiliated and well connected with reputable law firms in the United States, the Middle East, Sudan, and Uganda." DX 4: Bates 1-3. For practice areas, the website claimed that Respondent's practice areas included "International Contracts & Business Law" and "International Law." *Id.* On the website page including his contact information, the following was highlighted in large, bold, capital letters: "TRUST YOUR LAW CASE TO OUR EXPERIENCED TEAM. CONTACT US FOR A CASE EVALUATION." DX 4: Bates 5.

43. Even after consenting to a finding of the Virginia State Bar that he had engaged in the unauthorized practice of law, Respondent denied doing so in correspondence, directly and through counsel, to the Office of Disciplinary Counsel during its investigation. When testifying about the Virginia State Bar agreement, Respondent denied his prior sworn admissions. *See* Tr. 376 (Respondent testifying: "I did not agree to that because this is what the Committee come up with this . . . . I had to sign it"); Tr. 377 ("This is what I signed as a compromise . . . ."). Respondent failed to produce documents related to the *Ali* case that he had in his possession at the time the documents were requested. Tr. 346-47. He falsely claimed he only

translated documents for Mr. Ali, *see* DX 2H: Bates 62, when, in fact, he prepared an application for asylum for Mr. Ali. *See* DX 3D: Bates 99-107.

44. Respondent falsely testified that he had not handled immigration matters before United States immigration authorities and, when confronted, falsely claimed he did so just one time. Tr. 353-54; *see* FF 15. Records of INS and DHS show he acted "as counsel" at least ten times before U.S. immigration authorities. FF 15. He also misrepresented his limited license in correspondence with the Consulate in Cairo (identifying himself as "Attorney of Records"). DX 2A: Bates 37. The Committee also finds that Respondent falsely testified that he was unaware of the substance and contents of his "law office's" Initial or the Current Websites. FF 6, 10.

## III. CONCLUSIONS OF LAW

### Special Legal Consultant Licenses and Disciplinary Jurisdiction

This matter is one of first impression in that it is the first disciplinary proceeding brought by the Office of Disciplinary Counsel against a person designated under the rules of the D.C. Court of Appeals as a "Special Legal Consultant." The authority of this Hearing Committee to consider this action is unquestionable, and Respondent has not contested otherwise. Nevertheless, the Committee believes it necessary to evaluate the issue briefly.

A Special Legal Consultant is not a member of the District of Columbia Bar but is considered an affiliate of the Bar. *See* D.C. App. R. 46(c)(4)(F)(1) (2008). A Special Legal Consultant "may render legal services in the District of Columbia,

notwithstanding the prohibitions of Rule 49(b) [unauthorized practice of law]" subject to the limitations described in D.C. App. R. 46(c)(4)(D) (2008).[12]

[12] D.C. App. R. 46(c)(4) (2008) provides that:

(D) **Scope of practice**. A person licensed to practice as a Special Legal Consultant may render legal services in the District of Columbia, notwithstanding the prohibitions of Rule 49(b), subject, however, to the limitations that any person or so licensed shall not:

(1) appear for a person other than himself or herself as attorney in any court, before any magistrate or other judicial officer, or before any administrative agency, in the District of Columbia (other than upon admission pro hac vice in accordance with Rule 49(b) or any applicable agency rule) or prepare pleadings or any other papers or issue subpoenas in an action or proceeding brought in any such court or agency or before any such judicial officer;

(2) prepare any deed, mortgage, assignment, discharge, lease, or any other instrument affecting title to real estate located in the United States;

(3) prepare:

(a) any will or trust instrument effecting the disposition on death of any property located in the United States and owned, in whole or in part, by a resident thereof, or

(b) any instrument relating to the administration of a decedent's estate in the United States;

(4) prepare any instrument in respect of the marital relations, rights, or duties of a resident of the United States or the custody of care of one or more children of any such resident;

(5) render professional legal advice on or under the law of the District of Columbia or of the United States or of any state, territory, or possession thereof (whether rendered incident to the preparation of legal instruments or otherwise) except on the basis of advice from a person acting as counsel to such Special Legal Consultant (and not in his or her official capacity as a public employee) duly qualified and entitled (other than by virtue of having been licensed as a Special Legal Consultant under this paragraph (4)) to render professional legal advice in the District of Columbia on such law who has been consulted in the particular matter at hand and has been identified to the client by name;

(6) in any way hold himself or herself out as a member of the Bar of this court; or

Pursuant to D.C. Bar Rule XI, § 1(a), persons licensed as Special Legal Consultants under D.C. App. R. 46(c)(4) (2008) are subject to the disciplinary jurisdiction of the D.C. Court of Appeals and its Board on Professional Responsibility. In addition, the D.C. Court of Appeals Rules provides that they "shall be subject to the Code of Professional Responsibility of the American Bar Association, as amended by the court, to the extent applicable to the legal services authorized under this paragraph (4), and shall be subject to censure, suspension, or revocation of his or her license to practice as a Special Legal Consultant by the court . . . ." *See* D.C. App. R. 46(c)(4)(E)(1)(a) (2008). In reply to the Chair's order issued prior to the hearing, Disciplinary Counsel submitted a written statement, to which Respondent agreed (Tr. 20), that "as amended by the court" means that the Special Legal Consultants must follow the D.C. Rules of Professional Conduct, which are an "amended" version of the American Bar Association Model Rules. *See* Disciplinary Counsel's Response to the Ad Hoc Hearing Committee's October 17, 2016 Order at 1. Moreover, Disciplinary Counsel noted that the "current version of Rule 46 specifically provides that the D.C. Rules govern Special Legal Consultants." *Id*. (citing D.C. App. R. 46(f)(7)(A) (as amended, effective March 1, 2016)).

---

(7) use any title other than one or more of the following, in each case only in conjunction with the name of the person's country of admission:

(a) "Special Legal Consultant";
(b) such Special Legal Consultant's authorized title in foreign country of his or her admission to practice;
(c) the name of such Special Legal Consultant's firm in that country.

Standard of Review

Disciplinary Counsel bears the burden of establishing by clear and convincing evidence that Respondent violated the District of Columbia Rules of Professional Conduct. *See In re Anderson*, 778 A.2d 330, 335 (D.C. 2001) (*Anderson I*); *see also* Board Rule 11.6. As the Court has explained, "[t]his more stringent standard expresses a preference for the attorney's interests by allocating more of the risk of error to [Disciplinary] Counsel, who bears the burden of proof." *In re Allen*, 27 A.3d 1178, 1184 (D.C. 2011) (citation and internal quotation marks omitted). Clear and convincing evidence is more than a preponderance of the evidence; it is "evidence that will produce in the mind of the trier of fact a firm belief or conviction as to the facts sought to be established." *In re Cater*, 887 A.2d 1, 24 (D.C. 2005) (citation and internal quotation marks omitted).

Here, Disciplinary Counsel has sustained its burden of proving, with clear and convincing evidence, that Respondent violated Rules 1.4(b), 1.16(d), 5.5(a), 8.4(b), and 8.4(c). We find that the evidence was insufficient to prove that Respondent also violated Rules 8.1(b) and 8.4(d).

A. Respondent Violated Rule 1.4(b) (Failure to Explain a Matter).

Rule 1.4(b) requires that a Special Legal Consultant "shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation." This Rule provides that a Special Legal Consultant "must be particularly careful to ensure that decisions of the client are made only after the client has been informed of all relevant considerations." Rule 1.4, cmt. [2].

Disciplinary Counsel's charge is based on the allegation that Respondent failed to inform clients in Counts II (Kabu) and III (Ali) that he was not an attorney licensed to practice law in D.C., Virginia, or the United States. Specification ¶¶ 10, 21, 23.

As we describe further in addressing Respondent's violation of Rule 5.5(a), Respondent maintained websites, used business cards, adopted a business name, and otherwise identified himself in a manner that would cause a reasonable person to believe that he was engaged in the practice of law as a member of at least one Bar. This conduct caused his clients to believe he could represent them in courts and administrative proceedings. FF 7, 9, 12-14.

Respondent testified that he either was unaware of the content of the websites advertising his office or believed that as a Special Legal Consultant he was not overstepping the rule against representing himself as a lawyer. FF 6, 10, 20. We do not find Respondent's testimony on this point credible. Indeed, Respondent acknowledged he was responsible for the advertising and other practices relevant to his one-person enterprise. FF 8, 11. Moreover, Respondent was certainly aware of the professional identity he used in submissions to immigration authorities, the name of his office, the information on his business cards, and other indications he used which would cause a reasonable person to believe he was in the practice of law. *See* FF 9, 11-14. Given the several ways respondent identified himself as a lawyer, or implied he was a lawyer, in both his websites and the operation of his business, we conclude that Respondent offered false testimony when he claimed he did not

believe he was violating the Rules of Professional Conduct or D.C. App. R. 46(c)(4)(D) (2008) by his representations.

A violation of this rule does not require a finding that Respondent was asked by his clients whether he was a lawyer and then lied about it. There is no burden of inquiry on the part of a client who reasonably believes he or she is being counseled by a licensed attorney. The burden is on the Special Legal Consultant to correct a likely misimpression. By analogy, Rule 1.4(b) requires that a Special Legal Consultant who assists immigrants, many of whom do not speak or read English, take special care to explain that he or she cannot appear in court and act as their lawyer so that the immigrants can make "informed decisions." "The obligation, imposed by Rule l.4(b), that the lawyer [and by extension, Special Legal Consultant] 'explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation' has special importance in immigration law cases." *In re Ukwu*, 926 A.2d 1106, 1139-40 (D.C. 2007) (appended Board report) (noting the special care required for immigrants who lack experience with U.S. legal culture and English language proficiency).

In this case, the misimpression was intentional. The record discloses only one instance in which the Respondent volunteered that he was not a lawyer. He did so only when it became clear he would have to represent his client, Mr. Ali, in person in an immigration proceeding, well after he had performed services for Mr. Ali. FF 32. Respondent never volunteered that he was not a lawyer to Mr. Kabu, but rather misrepresented himself as "counselor for petitioner" and "attorney of records"

in correspondence on Mr. Kabu's behalf with CIS and the U.S. consular office in Cairo. FF 19.

Based on the circumstances above, there is clear and convincing evidence that Respondent violated Rule 1.4(b) in Counts II and III by failing to inform his clients that he was *not* an attorney and that he only had a Special Legal Consultant license. As explained *infra*, this failure to inform was prejudicial because Respondent allowed his clients to falsely believe he was an attorney based on his advertising, signed legal submissions, and the manner in which he identified himself in the marketplace.

B. Respondent Violated Rule 1.16(d) (Termination of Representation).

Rule 1.16(d) requires that a lawyer, in connection with the termination of a representation, "take timely steps to the extent reasonably practicable to protect a client's interests, such as . . . surrendering papers and property to which the client is entitled." Failure to refund any unearned portion of a fee also violates Rule 1.16(d). *See, e.g.*, *In re Samad*, 51 A.3d 486, 497 (D.C. 2012) (per curiam) (finding a violation where the respondent claimed that he did some work on the case, but did not "suggest that he earned the entire flat fee or that he returned any portion of the fee"); *In re Carter*, 11 A.3d 1219, 1223 (D.C. 2011) (per curiam) (finding a violation of Rule 1.16(d) where the attorney failed to pay an ACAB award for unearned fees); *In re Kanu*, 5 A.3d 1, 4-5 (D.C. 2010) (finding a violation of Rule 1.16(d) where the

attorney failed to abide by a clause in her retainer agreement promising a refund if she failed to meet her clients' objectives).

Disciplinary Counsel charges that in Counts II and III that Respondent failed to protect his client's interests by failing to refund unearned advanced fees or unincurred expenses. Specification ¶¶ 8, 11-12, 14 and 19(G) (*Kabu* representation); *id.* ¶¶ 23, 25, 30(G) (*Ali* representation).

Respondent was paid at least $250 by Mr. Kabu, although the record is unclear regarding any additional payment by Mr. Kabu. FF 21. Mr. Kabu testified that he paid Respondent $1,200, which was not returned to him. *Id.* He also testified that Respondent gave him a receipt for each payment, but that Mr. Kabu lost the receipts when he changed residences. *Id.* Mr. Kabu also testified that he was required to pay Respondent $100 for return of his files, but there is no further proof in the form of a receipt or other documentation. FF 22.

The evidence of payments to Respondent by Mr. Ali's uncle is less convincing than the evidence with respect to Mr. Kabu. Mr. Ali did not make any payments to Respondent directly. He saw his uncle give Respondent a check on one occasion. However, the uncle was not called to testify. Mr. Ali does not have receipts for the alleged payments his uncle made, does not know how much Respondent was allegedly paid, and does not recall if any receipt was prepared for his uncle. FF 33. Respondent denies that he was paid anything on behalf of Mr. Ali. FF 34. There are no bank records in evidence which might support this payment. *See* FF 33.

Despite the lack of proof regarding fees paid by or on behalf of Mr. Ali, the record provides clear and convincing evidence that Respondent was paid at least $250 by Mr. Kabu to explain and complete immigration forms to immigrate Mr. Kabu's wife from the Republic of Sudan. Respondent performed the services, and when he submitted the applicable documents to the CIS, he held himself out a "Counselor for Petitioner." FF 19. He also held himself out as "Attorney of Records" when emailing the U.S. consular office in Cairo on behalf of Mr. Kabu or his wife. FF 19. Clearly, Respondent received fees from Mr. Kabu for services associated with improperly holding himself out as an attorney. FF 18-22, 24. And those fees were not returned to Mr. Kabu. FF 21.

Accordingly, we find that Disciplinary Counsel has proved by clear and convincing evidence that Respondent violated Rule 1.16(d) in Count II by failing to return unearned fees or return payments made in advance of expenses.

C. Respondent Violated Rule 5.5(a) (Unauthorized Practice).

The evidence in this case proves, clearly and convincingly, that Respondent intentionally violated the rules against the unauthorized practice of law.

Rule 5.5(a) provides that a lawyer shall not "[p]ractice law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction." "This rule concerns the unauthorized practice of law by District of Columbia Bar members in other jurisdictions . . . ." Rule 5.5, cmt. [1]. However, Special Legal Consultants are not members of the D.C. Bar but are "affiliates" of the Bar. D.C. App. R. 46(c)(4)(F)(1).

Special Legal Consultants are restricted in their practice by D.C. App. R. 46(c)(4)(D)(1)-(7) (2008). Respondent was *not* allowed to render professional legal advice on D.C. or U.S. law, or to hold himself out as a member of the D.C. Bar. *See* D.C. App. R. 46(c)(4)(D)(5)-(7) (2008).

The evidence makes clear that Respondent violated this rule and did so with intent to deceive his clients into believing he was a licensed attorney. FF 5-15. He maintained a website for multiple years identifying his business as "The Law office of Ahmed Elhillali," which "provides legal services to clients throughout the United States and overseas." FF 7. He falsely claimed to be a member of the D.C. Bar and to have a "J.D." by virtue of a "Certificate of Equivalent Law degree George Mason University." *Id.*

In 2012, Respondent agreed to take down his inappropriate website to conclude, without penalty, an investigation of his conduct by the Virginia State Bar. FF 8. Thereafter, he either failed to take the website down or created (or allowed to be created) another website including many of the same misleading statements about his professional status. FF 9. The website also continued to identify Respondent's business as "The Law Office of Ahmed Elhillali" and described his "practice" to include "international contracts," "business law" and "immigration regulations." *Id.* Respondent's website remained online until at least the day before the evidentiary hearing in this matter. *Id.*

The Hearing Committee finds Respondent not credible when he testified that he never saw his first office website, even though it was available online for at least

six years. The Committee finds his same testimony with respect to a second website, published after the Virginia State Bar investigation, to be false. The Hearing Committee also discredits Respondent's testimony that, although he provided the information used in the websites, he did not authorize its use. Despite Respondent's false statements in this regard, when pressed, Respondent admitted he was ultimately responsible for the information contained on his professional websites. FF 10-11.

The evidence also makes clear Respondent was aware he was holding himself out as an attorney when he used the terms "Law Office" on his business cards and "D.C. Bar" on his stationery. FF 12-13. His denials under oath on this subject are knowingly false.

Perhaps the most damaging evidence against Respondent is the documentary evidence of his correspondence and filings in the course of handling immigration matters for clients. On at least ten occasions, from 2005 through 2012, Respondent formally entered his appearance as counsel before CIS and claimed that he was an attorney in good standing.[13] FF 15. These same forms provided clear alternatives for identifying the filer as one who was not an attorney, but Respondent did not use this alternative in the ten filings. *Id.*

Based on the above, we find there is clear and convincing evidence that Respondent violated Rule 5.5(a) in Counts II and III.

[13] The federal regulation governing Respondent's qualification to practice before the CIS defines "attorney" as one "who is a member in good standing of the bar . . . and is not under any order of any court . . . otherwise restricting him in the practice of law." 8 C.F.R. § 1.1(f).

D. Respondent Violated Rule 8.4(b) (Theft in Violation of D.C. Code § 22-3211).

Rule 8.4(b) provides that "[i]t is professional misconduct for a lawyer to . . . commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects." Thus, "an attorney may be disciplined for having engaged in conduct that constitutes a criminal act." *In re Slattery*, 767 A.2d 203, 207 (D.C. 2001). "[A] respondent does not have to be charged criminally or convicted to violate the rule . . . . It is sufficient if his conduct violated a criminal statute and the crime reflects adversely on his honesty, trustworthiness, or fitness." *In re Silva*, 29 A.3d 924, 937-38 (D.C. 2011) (appended Board Report) (citing *Slattery*, 767 A.2d at 207; *In re Pierson*, 690 A.2d 941 (D.C. 1997); *In re Gil*, 656 A.2d 303 (D.C. 1995)). To establish a Rule 8.4(b) violation, Disciplinary Counsel must identify and establish the elements of the alleged criminal offense. *See Slattery*, 767 A.2d at 212-13.

Disciplinary Counsel has alleged that Respondent committed a theft in violation of D.C. Code § 22-3211. Under the decision in *Gil*, the Committee may look to the law of any jurisdiction that could have prosecuted Respondent to determine whether the lawyer's conduct is a "criminal act" under Rule 8.4(b). *Gil*, 656 A.2d at 305. The D.C. theft statute, D.C. Code § 22-3211(b), provides that a person commits the crime of theft "if that person wrongfully obtains or uses the property of another with the intent: (1) to deprive the other of a right to the property or a benefit of the property; or (2) to appropriate the property to his or her own use or to the use of a third person." D.C. Code § 22-3211(a) states that "the term

'wrongfully obtains or uses' means: (1) taking or exercising control over property; (2) making an unauthorized use, disposition, or transfer of an interest in or possession of property; or (3) obtaining property by trick, false pretense, false token, tampering, or deception." The term also "includes conduct previously known as larceny, larceny by trick, larceny by trust, embezzlement, and false pretenses." D.C. Code § 22-3211(a). Whether Respondent violated Rule 8.4(b) by theft turns on whether there is clear and convincing evidence that Respondent committed an act which violates the elements of the statute.

Essentially, Disciplinary Counsel contends that Respondent committed theft or larceny by trick, *i.e.*, deceiving clients into paying him for legal counsel in the belief that Respondent was a lawyer.

D.C. Code § 23-322 also is relevant here, where the "theft" is in the nature of fraud and misrepresentation. The provision states that it is not necessary to prove an intent to defraud a particular person, but that "it shall be sufficient to prove a general intent to defraud." Thus, regardless of whether Respondent provided any compensable services to a client, such as translation and other activities permissible for a non-lawyer, or whether Respondent believes he was fairly compensated for services actually provided, the evidence clearly establishes a general intent to

defraud clients by causing them to believe Respondent was a lawyer and member of the D.C. Bar, making him liable for theft as alleged by Disciplinary Counsel.

As we noted, *supra*, there is undisputed evidence of fee payments received by Respondent of at least $250, paid by Mr. Kabu. Evidence regarding payments by or on behalf of Mr. Ali is less convincing, however.

Regarding the $250 Respondent received from Mr. Kabu under the guise that Respondent was a licensed attorney, we find that the elements of taking control over property through misrepresentation or deceit is satisfied, and that the evidence is clear and convincing that Respondent unlawfully retained or received funds as a result of that misrepresentation or deceit. Accordingly, we find that Disciplinary Counsel has proven by clear and convincing evidence that Respondent violated Rule 8.4(b) in Count II.

E. Respondent Violated Rule 8.4(c) (Dishonesty).

Rule 8.4(c) provides that it is professional misconduct for a lawyer to "[e]ngage in conduct involving dishonesty, fraud, deceit, or misrepresentation." The Court has held that each of these terms encompassed within Rule 8.4(c) "should be understood as separate categories, denoting differences in meaning or degree." *In re Shorter*, 570 A.2d 760, 767 (D.C. 1990) (per curiam). Each category requires proof of different elements. *See In re Romansky*, 825 A.2d 311, 315 (D.C. 2003).

Dishonesty is the most general category in Rule 8.4(c), and is defined as:

> fraudulent, deceitful, or misrepresentative behavior [and] conduct evincing a lack of honesty, probity or integrity in principle; [a] lack of fairness and straightforwardness . . . . Thus, what may not legally be

> characterized as an act of fraud, deceit or misrepresentation may still evince dishonesty.

*Shorter*, 570 A.2d at 767-68 (internal quotation marks and citation omitted); *see also In re Scanio*, 919 A.2d 1137, 1142-43 (D.C. 2007). Dishonesty in violation of Rule 8.4(c) does not require proof of deceptive or fraudulent intent. *Romansky*, 825 A.2d at 315 (performance of the act itself is sufficient). Conversely, "when the act itself is not of a kind that is clearly wrongful, or not intentional, [Disciplinary] Counsel has the additional burden of showing the requisite dishonest intent." *Id*. A violation of Rule 8.4(c) may also be established by sufficient proof of recklessness. *See id*. at 317. To prove recklessness, Disciplinary Counsel must prove by clear and convincing evidence that the respondent "consciously disregarded the risk" created by his actions. *Id.*

Disciplinary Counsel charges dishonesty in each count of the Specification. Count I relates to Respondent's advertisement of titles, licenses, and membership in professional organizations on his website which were improper under D.C. App. R. 46 and/or false. Specification. ¶¶ 4 (A)-(C), 5. Counts II and III relate to Respondent's dishonest representations to clients about his ability to represent them in immigration matters and Respondent's dishonesty in his responses to the disciplinary investigation. Specification ¶¶ 19(E), 30(E).

The evidence establishing that Respondent held himself out as an attorney in violation of Rule 5.5(a) is also sufficient to establish that he engaged in dishonest conduct in violation of Rule 8.4(c). *See* FF 5-15. Both Mr. Kabu and Mr. Ali testified that they believed Respondent was a licensed attorney. FF 17-20; 32. They

relied on this misimpression, intentionally generated by Respondent, and Respondent provided services in return for payment, at least regarding Mr. Kabu, in the guise of a lawyer. Either implicitly or explicitly, Respondent represented that he could assist the clients with immigration matters as an attorney when he, in fact, could not and knew that he could not.

As the *Shorter* court observed, dishonesty under Rule 8.4(c) requires only a lack of "fairness and straightforwardness." 570 A.2d at 768. The evidence that Respondent was not fair or straightforward with his clients is clear and convincing. Accordingly, we find that Respondent has violated Rule 8.4(c) in all three counts.

F. Respondent Did Not Violate Rule 8.1(b) (Failure to Respond).

Rule 8.1(b) provides that "a lawyer . . . in connection with a disciplinary matter, shall not . . . [f]ail to disclose a fact necessary to correct a misapprehension known by the lawyer . . . to have arisen in the matter, or knowingly fail to respond reasonably to a lawful demand for information from . . . [a] disciplinary authority . . . ." Thus, a knowing failure to respond to a request from Disciplinary Counsel regarding a disciplinary complaint constitutes a violation of Rule 8.1(b). *See, e.g.*, *In re Beller*, 802 A.2d 340 (D.C. 2002) (per curiam).

In Counts II and III, Disciplinary Counsel alleges that Respondent failed to produce documents that he had prepared and financial records of fees he charged to his clients, Mr. Kabu and Mr. Ali. Specification ¶¶ 19(C), 30(C). In addition, Disciplinary Counsel alleges that he made "misleading or incomplete" statements in

the responses that he did provide. *See* Disciplinary Counsel's Proposed Findings of Fact and Recommendations at 26.

Disciplinary Counsel's claim is based on Respondent's alleged incomplete production of documents in response to letters and subpoenas requesting documents related to the Kabu and Ali matters. On receipt of the first request for information and an explanation of his conduct, Respondent retained counsel, yet his response was inadequate and incomplete. He denied that he received more than $250 from Mr. Kabu and represented that he had no other files responsive to the subpoena. FF 27. In response to a second document request, Respondent produced two documents, one of which, a payment receipt, was useful to his defense. FF 28, 30.

Disciplinary Counsel claims other documents in Respondent's files should have been provided, such as the paperwork submitted to CIS on Mr. Kabu's behalf. But other than copies of those files obtained in the course of Disciplinary Counsel's investigative efforts, Disciplinary Counsel has offered no evidence that these documents were in the files of Respondent at the time of the requests or that Respondent destroyed them intending to avoid production.

Mr. Kabu testified at length that Respondent provided him with the files Respondent had in his possession related to the immigration application. FF 31. It should not be surprising that he did not have them in his possession when Disciplinary Counsel demanded them by subpoena two years later. The later production of an affidavit and a partially legible receipt from two years prior could reasonably have been overlooked in response to the 2012 subpoena, but found three

years later when they were produced. There is no evidence, let alone clear and convincing evidence, that the Respondent intentionally withheld documents. The Committee cannot determine why the documents belatedly produced would have been withheld intentionally. Discovery of the $250 receipt would, in fact, have assisted the Respondent in defending himself in this investigation.

We find that Disciplinary Counsel has failed to prove by clear and convincing evidence that Respondent violated Rule 8.1(b).

G. Respondent Did Not Violate Rule 8.4(d) (Serious Interference with the Administration of Justice).

Rule 8.4(d) provides that it is professional misconduct for a lawyer to "[e]ngage in conduct that seriously interferes with the administration of justice." To establish a violation of Rule 8.4(d), Disciplinary Counsel must demonstrate by clear and convincing evidence that: (i) Respondent's conduct was improper, *i.e.*, that Respondent either acted or failed to act when he should have; (ii) Respondent's conduct bore directly upon the judicial process with respect to an identifiable case or tribunal; and (iii) Respondent's conduct tainted the judicial process in more than a de minimis way, i.e., it must have potentially had an impact upon the process to a serious and adverse degree. *In re Hopkins*, 677 A.2d 55, 60-61 (D.C. 1996).

Disciplinary Counsel charges that Respondent seriously interfered with the administration of justice in Counts II and III by failing to respond adequately to the disciplinary inquiries. Specification ¶¶ 19(F), 30(F). Comment [2] to Rule 8.4 includes relevant examples of what conduct constitutes interference with the administration of justice in the context of a disciplinary investigation. They include

"failure to respond to Disciplinary Counsel's inquiries or subpoenas; failure to abide by agreements made with Disciplinary Counsel, [and] . . . failure to keep the Bar advised of respondent's changes of address, after being warned to do so . . . ." Rule 8.4, cmt. [2].

Disciplinary Counsel failed to provide clear and convincing evidence establishing this violation. Respondent responded to each inquiry from Disciplinary Counsel through his own lawyer and did not fail to abide by any agreements. Further, it is not clear if he had substantial additional documents that he did not eventually produce as the investigation proceeded. His actions may not have been a model of compliance, but they also did not impact the process "to a serious and adverse degree." *See Hopkins*, 677 A.2d at 61.

For these, and the additional reasons stated in Section F, *supra*, we find that Disciplinary Counsel has not proven by clear and convincing evidence that Respondent violated Rule 8.4(d).

## IV. RECOMMENDED SANCTION

In this case, Disciplinary Counsel has asked the Hearing Committee to recommend the sanction of revocation of his Special Legal Consultant license and restitution of fees to Mr. Kabu and to Mr. Ali's uncle. Respondent has requested that the Hearing Committee recommend no sanction, noting that, after the disciplinary hearing, Respondent took down his offending website and has no further presence on the internet. For the reasons described below, we recommend the sanction of revocation of Respondent's Special Legal Consultant license for a period

of five years. Upon any reapplication by Respondent after the five-year period expires, the Committee recommends that Respondent be required to make restitution and prove his fitness for the limited practice of a Special Legal Consultant.

A. Standard of Review

The sanction imposed in an attorney disciplinary matter is one that is necessary to protect the public and the courts, maintain the integrity of the legal profession, and deter the respondent and other attorneys from engaging in similar misconduct. *See, e.g.*, *In re Hutchinson*, 534 A.2d 919, 924 (D.C. 1987) (en banc); *In re Martin*, 67 A.3d 1032, 1053 (D.C. 2013); *In re Cater*, 887 A.2d 1, 17 (D.C. 2005). "In all cases, [the] purpose in imposing discipline is to serve the public and professional interests . . . rather than to visit punishment upon an attorney." *In re Reback*, 513 A.2d 226, 231 (D.C. 1986) (en banc) (citations omitted); *see also In re Goffe*, 641 A.2d 458, 464 (D.C. 1994) (per curiam). The Committee concludes that these same standards should apply when disciplining a Special Legal Consultant.

The sanction also must not "foster a tendency toward inconsistent dispositions for comparable conduct or . . . otherwise be unwarranted." D.C. Bar R. XI, § 9(h)(1); *see, e.g.*, *Hutchinson*, 534 A.2d at 923-24; *In re Berryman*, 764 A.2d 760, 766 (D.C. 2000). In determining the appropriate sanction, the Court of Appeals considers a number of factors, including: (1) the seriousness of the conduct at issue; (2) the prejudice, if any, to the client which resulted from the conduct; (3) whether the conduct involved dishonesty; (4) the presence or absence of violations of other provisions of the disciplinary rules; (5) whether the attorney has a previous

disciplinary history; (6) whether the attorney has acknowledged his wrongful conduct; and (7) circumstances in mitigation or aggravation. *See, e.g.*, *Martin*, 67 A.3d at 1053 (citing *In re Elgin*, 918 A.2d 362, 376 (D.C. 2007)). The Court also considers "'the moral fitness of the attorney'" and the "'need to protect the public, the courts, and the legal profession . . . .'" *In re Rodriguez-Quesada*, 122 A.3d 913, 921 (D.C. 2015) (per curiam) (quoting *In re Howes*, 52 A.3d 1, 15 (D.C. 2012) (internal quotation marks omitted)). By analogy, we apply the same factors in determining an appropriate sanction for Respondent's misconduct in this case.

B. Application of the Sanction Factors

1. The Seriousness of the Misconduct

We conclude that the misrepresentation of Respondent's business as a law office, with the reasonable implication that he is a licensed attorney, on his business card, his stationery, on the internet, and in correspondence with others, to be serious misconduct which plainly misled at least the two "clients" (more appropriately, "customers") of Respondent who appeared at the disciplinary hearing.

This misrepresentation is especially serious given the nature of Respondent's clientele—immigrants in this country with limited English and experience with the U.S. legal system. As was observed in *In re Ukwu*, 926 A.2d 1106, 1139-1140 (D.C. 2007) (appended Board Report), such clients are especially susceptible to spurious counsel. We can also observe that to the newly arrived immigrant, immigration matters are a vital concern to them.

We have no doubt that Respondent's misrepresentation was intentional. He knew what his business card said. He knew what his stationery said. And, on Immigration Court forms, where applicable he could have used another designation distinguishing himself from licensed counsel, but did not do so. It strains credulity to believe that over the course of his practice he was unaware of the contents of his websites, but if his statement is true, then he was reckless in failing to oversee that part of his practice to a degree suggesting conscious avoidance of the obvious. The evidence that Respondent intentionally misrepresented his status is overwhelming.

Respondent counters that as a native Arabic speaker also fluent in English he performs a useful service to Arabic-speaking immigrants by translating and otherwise assisting clients in their dealings with immigration. But that was not the service advertised by Respondent. He advertised himself, and held himself out in his office practices and conduct, as a lawyer, although he repeatedly failed admission to the Bars in Virginia, Pennsylvania, and the District of Columbia.

Respondent also contends that he should not be sanctioned because he has no prior disciplinary history; however, that is not quite accurate. He was the subject of an investigation by the Virginia State Bar which was terminated *only* after he consented to take down his office website. But once the Virginia investigation was concluded, Respondent either failed to take down his website or he created (or caused to be created) another website containing misrepresentations similar to those on his first website. Indeed, Respondent's conduct is that of a recidivist.

2. Prejudice to the Client[14]

Respondent's conduct caused prejudice to Mr. Ali, who had to appear before immigration authorities without counsel after Respondent informed him shortly before the hearing that he could not represent him. Mr. Ali was fortunate to obtain a postponement of the hearing so that he could retain new counsel.

Mr. Kabu also was prejudiced by the time and effort he expended with Respondent in the belief Respondent was a licensed attorney. We do not need to consider the quality of representation provided Mr. Kabu or Mr. Ali, since it is clear that Respondent is not a lawyer; however, both gentlemen were required to obtain new counsel—their first real counsel—and received little or nothing for the time expended with Respondent.

3. Dishonesty

The Hearing Committee has found that Respondent is dishonest. Indeed, Respondent intentionally misrepresented himself for the purpose of doing business as a lawyer. He aggravated his dishonesty by closing, or merely agreeing to close, his office website containing misrepresentations in order to conclude an investigation, without penalty, by the Virginia State Bar, but then either keeping the website active or soon thereafter posting another website containing similar inappropriate information identifying himself as an attorney. FF 42. And, even after

[14] From the immigration filings introduced by Disciplinary Counsel, Respondent appears to have completed at least ten immigration forms in a manner that falsely suggested he was a D.C. Bar licensed attorney; however, because Disciplinary Counsel did not introduce evidence concerning how those ten individuals relied on respondent's possible misrepresentations, we are unable to assess any additional prejudice related to these individuals.

the Virginia State Bar investigation, Respondent continued to use deceptive practices off-line, such as misleading business cards, stationery, and filings with immigration authorities. FF 9, 12, 19.

Even after consenting to a finding of the Virginia State Bar that he had engaged in the unauthorized practice of law, Respondent denied doing so in correspondence to the Office of Disciplinary Counsel during its investigation. FF 43. When testifying about the Virginia State Bar agreement, Respondent denied his prior sworn admissions. *Id.* Respondent testified that he only signed the admission, under oath, with the Virginia State Bar because he sought to avoid a criminal prosecution, Tr. 376 ("What do you want me to say? I had to sign it."). Before the Committee, he defied the findings to which he had admitted. Tr. 375-76 ("I did not agree to that [holding oneself out as providing immigration legal services] because this is what the Committee come [sic] up with . . . based on this Web site.").

Further evidence of Respondent's dishonesty is that fact that he testified that he generally did not inform clients that he was not a lawyer unless they asked. FF 20. After first establishing the means to misrepresent himself as a lawyer, Respondent then took advantage of his unlawful endeavors by putting the burden on clients to suspect his deception. In addition, as Mr. Kabu explained, Respondent in fact did tell him that he was lawyer. FF 17.

Further, Respondent falsely testified that he had not handled immigration matters before United States immigration authorities and, when confronted, falsely claimed he did so just one time. FF 44. Indeed, records of INS and DHS show that

Respondent acted "as counsel" at least ten times before U.S. immigration authorities. *Id.* He also misrepresented his limited license in correspondence with the U.S. Consulate in Cairo (identifying himself as "Attorney of Records"). *Id.*

The Committee also finds that Respondent falsely testified that he was unaware of the substance and contents of his "law office's" Initial or the Current Websites, and he testified that he only translated documents for Mr. Ali, when, in fact, the documentary evidence clearly showed that he prepared an application for asylum for Mr. Ali. FF 10, 43.

4. Violations of Other Disciplinary Rules

In addition to a finding of the violation of Rule 5.5(a), for engaging in the practice of law when not a licensed lawyer, Respondent also failed to explain his deception to his clients in violation of Rule 1.4(b) and engaged in dishonest conduct in violation of Rule 8.4(c). Respondent admitted in his testimony that he did not volunteer to clients that he was not an attorney, requiring them to instead ask if he were. Respondent also violated Rule 8.4(b) by his theft, in unlawfully receiving funds from Mr. Kabu through misrepresentation or deceit, and Rule 1.16(d), by failing to return them, while improperly holding himself out as an attorney.

5. Previous Disciplinary History

As noted above, Respondent contends he is a first offender, but the Virginia State Bar investigated his misrepresentations and unauthorized practice of law and concluded their proceedings only after Respondent agreed to take down his office website. Thereafter, despite his signed agreement with the Virginia State Bar,

Respondent either failed to take down the website or he created (or caused to be created) another website with the same misleading characteristics.

6. Acknowledgement of Wrongful Conduct

Respondent has not acknowledged his wrongful conduct, other than offering to take down offending websites to conclude misconduct investigations by the Virginia State Bar (which, as noted above, even if taken down, he thereafter put the same or similar website back up). Respondent testified that he viewed use of the term "law office" as permissible to describe his business. FF 20. He lied under oath in this hearing about whether he handled immigration matters for his clients, other than once. FF 15. He denied to Disciplinary Counsel that he engaged in misconduct on the website identified in the Virginia State Bar investigation. FF 43. There is no reason to believe that Respondent genuinely believes that he engaged in misconduct and no reason to believe that he finds his conduct regrettable.

7. Additional Aggravating or Mitigating Circumstances

The record indicates no circumstances in mitigation. In aggravation, Respondent testified falsely before the Committee, *see* FF 43-44, and was deliberately false in his representations of being "counsel" in "good standing" in documents he filed in immigration court. FF 41.

C. Sanctions Imposed for Comparable Misconduct

There are no previous disciplinary cases in the District of Columbia involving sanctions against a Special Legal Consultant. The Committee concludes that the same sanction standard should apply for those licensed as Special Legal Consultants.

Incontestably, it is in the public interest—and a significant role for the discipline system—and the courts to protect the public, safeguard the integrity of the legal profession, and deter similar misconduct by those whom it designates for special titles, be they lawyers or Special Legal Consultants. In the context of an immigration "lawyer" counseling newly arrived foreign residents who may have poor English skills and be unfamiliar with American ways, the need to protect the public and the client is especially important.

We note that sanctions have been imposed for the unauthorized practice of law of an *attorney* who practices law while under suspension, *see, e.g.*, *In re Soininen*, 853 A.2d 712, 732 (D.C. 2004) (six-month suspension for practicing law while suspended by Order of the Court), and we view the violation here as much more serious as Respondent never *had* a license to practice law itself. In addition, Respondent's dishonesty, false testimony, and conduct which amounts to theft would warrant the sanction of disbarment if he were an attorney. *See In re Pelkey*, 962 A.2d 268, 282 (D.C. 2008) (disbarment for violations of Rules 8.4(b) and (c), including theft and his "'continuing and pervasive indifference to the obligations of honesty in the judicial system' as well as the disciplinary system" (citations omitted)). Respondent's theft, flagrant violation of the limitations of a Special Legal Consultant license, open disregard for his signed agreement with Virginia State Bar,

and false testimony at the hearing compel the Committee to recommend the most severe sanction: revocation of his license.[15]

Respondent admitted to the Virginia State Bar's factual findings *under oath* and promised to take down his website and to stop engaging in the unauthorized practice of law, in exchange for the Virginia State Bar's decision not to prosecute him criminally. However, at the hearing before this Committee, he denied the Virginia State Bar findings. He has made intentionally false statements to the Office of Disciplinary Counsel and to this Committee. He falsely identified himself in court filings as an "attorney and a member in good standing of the bar of the . . . District of Columbia Court of Appeals" on more than one occasion. FF 14-15. As a result, we find his conduct comparable, by analogy, to the attorney discipline cases involving flagrant dishonesty where the Court has ordered disbarment. *See Pelkey*, 962 A.2d at 282 (disbarment for "persistent, protracted, and extremely serious and flagrant acts of dishonesty"); *Goffe*, 641 A.2d at 465 (disbarment for false statements to IRS and Tax Court and blatant fabrication). Accordingly, revocation of his Special Legal Consultant license would be appropriate here for the flagrant dishonesty alone, but a theft and unauthorized practice of law have also been proven.

## V. CONCLUSION

For the foregoing reasons, the Committee finds that Disciplinary Counsel established by clear and convincing evidence that Respondent violated Rules 1.4(b),

[15] D.C. App. R. 46(c)(4)(E)(1)(a) (2008) provides that Special Legal Consultants "shall be subject to censure, suspension, or revocation of his or her license to practice as a Special Legal Consultant by the court . . . ."

1.16(d), 5.5(a), 8.4(b), and 8.4(c). For his sanction, we recommend revocation of his designation as a Special Legal Consultant, without any right to reapply for the Special Legal Consultant license for a five-year period. Upon any reapplication after the five-year period has expired, Respondent must pay restitution and prove his fitness to practice as a Special Legal Consultant. We further recommend that for purposes of reapplication, Respondent's period of revocation shall not begin until Respondent has filed with the Court and the Board an affidavit demonstrating, with supporting proof, that he has notified clients and adverse parties by registered or certified mail, return receipt requested, of the revocation of his Special Legal Consultant license, and certifying that a copy of the affidavit has been served on Disciplinary Counsel.

AD HOC HEARING COMMITTEE

/TSD/
Thomas S. DiLeonardo, Chair

/CI/
Carol Ido, Public Member

/JK/
James Kidney, Attorney Member

Dated: August 28, 2017