THIS REPORT IS NOT A FINAL ORDER OF DISCIPLINE*

DISTRICT OF COLUMBIA COURT OF APPEALS
BOARD ON PROFESSIONAL RESPONSIBILITY
HEARING COMMITTEE NUMBER TEN

In the Matter of:	:	
	:	
GEORGE A. TEITELBAUM,	:	
	:	Board Docket No. 21-ND-002
Respondent.	:	Disciplinary Docket No. 2019-D161
	:	
A Member of the Bar of the	:	
District of Columbia Court of Appeals	:	
(Bar Registration No. 370926)	:	

REPORT AND RECOMMENDATION OF
HEARING COMMITTEE NUMBER TEN
APPROVING AMENDED PETITION FOR NEGOTIATED DISCIPLINE

I. PROCEDURAL HISTORY

This matter came before Hearing Committee Number Ten on June 7, 2022, for a limited hearing on an Amended Petition for Negotiated Discipline (the "Petition"). The members of the Hearing Committee are John R. Gerstein, Esquire (Chair), Trevor Mitchell (Public Member), and Kathleen Wach, Esquire (Attorney Member). The Office of Disciplinary Counsel was represented by Assistant Disciplinary Counsel Traci M. Tait, Esquire. Respondent George A. Teitelbaum, Esquire, appeared *pro se*.

The Hearing Committee has carefully considered the Amended Petition for Negotiated Discipline signed by the parties, the supporting affidavit submitted by Respondent (the "Affidavit"), and the representations during the limited hearing made by Respondent and Disciplinary Counsel. The Hearing Committee also has

---

* Consult the 'Disciplinary Decisions' tab on the Board on Professional Responsibility's website (www.dcattorneydiscipline.org) to view any subsequent decisions in this case.

fully considered the written statement submitted by the complainant, the Hearing Committee's *in camera* review of Disciplinary Counsel's files and records, and *ex parte* communications with Disciplinary Counsel. Although this presents a close question for the reasons set forth below, and in the Confidential Appendix, *infra*, we find the negotiated discipline of a 30-day suspension, stayed in favor of one year of unsupervised probation with conditions is justified, and we recommend that it be imposed by the Court.

II. FINDINGS PURSUANT TO D.C. BAR R. XI, § 12.1(c) AND BOARD RULE 17.5

The Hearing Committee, after full and careful consideration, finds that:

1. The Petition and Affidavit are full, complete, and in proper order.

2. Respondent is aware that there is currently pending against him an investigation into allegations of misconduct. Tr. 23[1]; Affidavit ¶ 5.

3. The allegation that was brought to the attention of Disciplinary Counsel by Respondent's former client was that Respondent failed to handle a probate matter appropriately. Petition at 1-2.

4. Respondent has freely and voluntarily acknowledged that the material facts and misconduct reflected in the Petition are true. Tr. 24-26; Affidavit ¶¶ 4, 6. Specifically, Respondent acknowledges that:

> (1) José Morgan was one of multiple legatees of the *Estate of Ora Lee Workman*. He initially served as the sole personal representative until the D.C. Superior Court also appointed Respondent. Respondent and Mr. Morgan served as co-personal representatives and shared administrative duties.

[1] "Tr." refers to the transcript of the limited hearing held on June 7, 2022.

(2) Administering the estate was not a straightforward process. There was discord among the legatees, including landlord-tenant litigation involving one legatee, as well as the need to undertake the usual probate process.

(3) Respondent prepared all Probate Division accountings based on information provided by Mr. Morgan, and submitted them for Mr. Morgan's review and approval, relying on Mr. Morgan to provide the information necessary to reconcile the estate account.

(4) Mr. Morgan approved all Respondent's accountings, relying on Respondent's expertise.

(5) Respondent admits that he never received monthly bank statements, other than the occasional statement that Mr. Morgan provided at Respondent's request, despite having been added as a signatory to the estate's bank account after his (Respondent's) Superior Court appointment. As co-personal representative, Respondent was responsible for the estate funds.

(6) Mr. Morgan and Respondent were both present at the meeting during which Respondent was added to the estate account, and the bank officer confirmed that both Mr. Morgan and Respondent would be receiving monthly statements.

(7) Mr. Morgan provided Respondent whatever information and documents Respondent asked for, but directed Respondent more than once to contact the bank and arrange to obtain monthly statements in order to properly track and manage the estate's assets.

(8) Respondent states that he made an effort to do so but was unsuccessful and stopped trying. He was principally focused on ensuring that he knew what funds were being spent from the estate account and retained control of the check book. As a result, Respondent was unconcerned that funds might be improperly disbursed. However, he failed to account for the bank fees because he was not receiving the monthly statements.

(9) After Respondent filed a final accounting approved by the Superior Court, and after Respondent disbursed the last check to the final legatee, Mr. Morgan received notice from the bank that the estate account was overdrawn by $256.81.

(10) Mr. Morgan notified Respondent and inquired what had happened.

(11) Respondent was unable to explain why the overdraft had occurred at the time. He advised Mr. Morgan to ignore the overdraft because all the interested

parties had received their disbursements, including the legatee whose check had caused the overdraft, and the bank had paid the check and closed the account.

(12) Respondent was contemporaneously unable to explain and made no effort to investigate what had caused the overdraft. He did not review all the bank statements and other relevant financial records or take other steps to get to the bottom of the problematic closure of the estate account until Disciplinary Counsel obtained and forwarded the records to Respondent for his explanation.

(13) Respondent eventually explained that he believed the bank had agreed not to charge the estate monthly fees or fees to order checks but did so anyway. Because Respondent had not been receiving bank statements, he was unaware of the charges and therefore, did not account for these charges when he wrote checks against the account, causing the overdraft. The bank wrote off the overdraft.

(14) Disciplinary Counsel's investigation does not reveal evidence that the overdraft involved misappropriation.[2]

Petition at 2-4.

5. Respondent is agreeing to the disposition because Respondent believes that he cannot successfully defend against discipline based on the stipulated misconduct. Tr. 22; Affidavit ¶ 7.

6. Disciplinary Counsel has made no promises to Respondent other than what is contained in the Petition. Affidavit ¶ 4. Those promises and inducements

[2] We recognize that whether Respondent's overdraft from the estate account involved misappropriation depends on the application of the law to these facts, and that our consideration of this Petition would be different if Respondent engaged in misappropriation. *See, e.g.*, Order, *In re Burke*, D.C. App. No. 22-BG-495 (Sept. 8, 2022) (rejecting negotiated disposition because it appeared that Disciplinary Counsel did not investigate evidence of possible misappropriation, and thus, the Hearing Committee did not consider it when recommending that the negotiated disposition be approved); *In re Harris-Lindsey*, 19 A.3d 784, 784-85 (D.C. 2011) (per curiam) (rejecting petition for negotiated discipline where "a serious question exists on the face of the record whether respondent" engaged in negligent or reckless misappropriation.). The parties' agreement that Disciplinary Counsel did not uncover evidence of misappropriation is discussed in the Confidential Appendix, *infra*.

are that Disciplinary Counsel agrees not to pursue any charges arising out of the conduct described in Section II of the Petition other than those set forth in the Petition, or any sanction other than the sanction set forth in Section IV of the Petition. Petition at 5. Respondent confirmed during the limited hearing that there have been no other promises or inducements other than those set forth in the Petition. Tr. 25.

7. Respondent is aware of his right to confer with counsel and is proceeding *pro se*. Tr. 15; Affidavit ¶ 2.

8. Respondent has freely and voluntarily acknowledged the facts and misconduct reflected in the Petition and agreed to the sanction set forth therein. Tr. 24-26; Affidavit ¶¶ 4, 6, 7

9. Respondent is not being subjected to coercion or duress. Tr. 26; Affidavit ¶ 4.

10. Respondent is competent and was not under the influence of any substance or medication that would affect his ability to make informed decisions at the limited hearing. Tr. 15-16.

11. Respondent is fully aware of the implications of the disposition being entered into, including, but not limited to, the following:

a) he has the right to assistance of counsel if Respondent is unable to afford counsel;

b) he will waive his right to cross-examine adverse witnesses and to compel witnesses to appear on his behalf;

c) he will waive his right to have Disciplinary Counsel prove each and every charge by clear and convincing evidence;

d) he will waive his right to file exceptions to reports and recommendations filed with the Board and with the Court;

e) the negotiated disposition, if approved, may affect his present and future ability to practice law;

f) the negotiated disposition, if approved, may affect his bar memberships in other jurisdictions; and

g) any sworn statement by Respondent in his affidavit or any statements made by Respondent during the proceeding may be used to impeach his testimony if there is a subsequent hearing on the merits.

Tr. 15, 18-20; Affidavit ¶¶ 2, 10-11, 13.

12. Respondent and Disciplinary Counsel have agreed that the sanction in this matter should be a 30-day suspension, stayed in favor of one year of unsupervised probation with conditions. Petition at 5-6; Tr. 24-25, 29-30. Respondent understands that the conditions of this negotiated disposition are:

(1) that Respondent will not be the subject of a disciplinary complaint that results in a finding that he violated the ethics rules of any jurisdiction in which he is licensed to practice during the probationary period;

(2) that Respondent will notify Disciplinary Counsel promptly of any disciplinary complaint filed against him and its disposition;

(3) that Respondent will consult with the D.C. Bar's Practice Management Advisory Service to conduct a review of his practices around the handling of entrusted funds, and waive confidentiality regarding all aspects of the review and any follow-up, including measurement of the success of corrective measures taken;

(4) that Respondent will submit to Disciplinary Counsel the results of his successful completion of corrective measures at least 90 days before his probation expires, including descriptions of steps implemented and training materials used; and

(5) that Respondent need not show fitness, provided that he successfully completes probation.[3]

Petition at 5-6; Tr. 24-25, 29-30.

13. Disciplinary Counsel has provided a statement demonstrating circumstances in aggravation, which the Hearing Committee has taken into consideration. Disciplinary Counsel cited two aggravating factors: Respondent's misconduct involved the handling of entrusted funds, and he has significant prior discipline.[4] Petition at 8; Tr. 27-28.

14. In mitigation of this sanction, the parties agree and stipulate that (i) Respondent understands the seriousness of his misconduct and has taken responsibility for it by acknowledging that he violated his ethical obligations as set forth in the Petition, (ii) Respondent has cooperated fully with Disciplinary Counsel's investigation, (iii) no legatees lost money due to Respondent's actions, and (iv) Respondent has agreed to undertake the specified corrective measures to

[3] Because Respondent's suspension is stayed, he would not be required to file a Rule XI, §14(g) affidavit.

[4] *See In re Teitelbaum*, Disciplinary Docket Nos. 1990-D206, and 2013-D262 (informal admonitions respectively issued January 3, 1991 for incompetence in a Title VII matter and July 1, 2016 for incompetence, excessive fees, and conduct seriously interfering with administration of justice in probate matter); *In re Teitelbaum*, 686 A.2d 1037 (D.C. 1996) (public censure for commingling).

ensure that he does not continue to make such errors in the future. Petition at 8; Affidavit ¶ 14(h)(2); Tr. 26-27.

15. The complainant was notified of the limited hearing and submitted written comments to this Hearing Committee but did not appear. Tr. 32.

III. DISCUSSION

The Hearing Committee shall recommend approval of a petition for negotiated discipline if it finds:

> (1) The attorney has knowingly and voluntarily acknowledged the facts and misconduct reflected in the petition and agreed to the sanction set forth therein;
>
> (2) The facts set forth in the petition or as shown at the hearing support the admission of misconduct and the agreed upon sanction; and
>
> (3) The sanction agreed upon is justified. . . .

D.C. Bar R. XI, § 12.1(c)(1)-(3); *see also* Board Rule 17.5(a)(i)-(iii).

A. Respondent Has Knowingly and Voluntarily Acknowledged the Facts and Misconduct and Agreed to the Stipulated Sanction.

The Hearing Committee finds that Respondent has knowingly and voluntarily acknowledged the facts and misconduct reflected in the Petition and agreed to the sanction therein. Respondent, after being placed under oath, admitted the stipulated facts and charges set forth in the Petition and denied that he is under duress or has been coerced into entering into this disposition. *See supra* Paragraphs 8-9. Respondent understands the implications and consequences of entering into this negotiated discipline. *See supra* Paragraph 11.

Respondent has acknowledged that any and all promises that have been made to him by Disciplinary Counsel as part of this negotiated discipline are set forth in writing in the Petition and that there are no other promises or inducements that have been made to him. *See supra* Paragraph 6.

B. The Stipulated Facts Support the Admissions of Misconduct and the Agreed-Upon Sanction.

The Hearing Committee has carefully reviewed the facts set forth in the Petition and established during the hearing, and we conclude that they support the admission of misconduct and the agreed-upon sanction. Respondent's stipulated conduct, as discussed above, supports his admission that he violated the record-keeping provision in Rule 1.15(a).[5] He did not maintain complete records of his handling of entrusted funds and could not explain what caused an overdraft in the estate account he was administering.

C. The Agreed-Upon Sanction Is Justified.

The third and most complicated factor the Hearing Committee must consider is whether the sanction agreed upon is justified. *See* D.C. Bar R. XI, § 12.1(c); Board Rule 17.5(a)(iii) (explaining that hearing committees should consider "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

[5] Rule 1.15(a) provides that "[a] lawyer shall hold property of clients or third persons that is in the lawyer's possession in connection with a representation separate from the lawyer's own property. Funds of clients or third persons that are in the lawyer's possession (trust funds) shall be kept in one or more trust accounts maintained in accordance with paragraph (b). Other property shall be identified as such and appropriately safeguarded. Complete records of such account funds and other property shall be kept by the lawyer and shall be preserved for a period of five years after termination of the representation."

Disciplinary Counsel's evidence, any circumstances in aggravation and mitigation (including respondent's cooperation with Disciplinary Counsel and acceptance of responsibility), and relevant precedent"); *In re Johnson*, 984 A.2d 176, 181 (D.C. 2009) (per curiam) (providing that a negotiated sanction may not be "unduly lenient"). Based on the record as a whole, including the stipulated circumstances in aggravation and mitigation, the Hearing Committee Chair's *in camera* review of Disciplinary Counsel's investigative file and *ex parte* discussion with Disciplinary Counsel, and our review of relevant precedent, we conclude that the agreed-upon sanction is justified and not unduly lenient.

The range of sanctions for prosecutions involving a failure to maintain complete financial records of entrusted funds is from public censure to a short period of suspension. *See, e.g.*, *In re Millstein*, 855 A. 2d 1137 (D.C. 2004) (public censure); *In re Toppelberg*, 906 A.2d 881 (D.C. 2006) (60-day suspension, 30 days stayed in favor of training); *In re Ukwu*, 712 A.2d 502 (D.C. 1998) (30-day stayed suspension plus training for failure to maintain records). Respondent's misconduct was isolated to this single instance of failure to maintain complete financial records, which Respondent acknowledges, and which resulted in no harm to any of the legatees. Most importantly, the probation conditions will help to ensure that Respondent does not repeat the conduct again in the future.[6] We recognize that

[6] Per the parties' agreement, Respondent's failure to satisfy the probation conditions could result in imposition of a 30-day suspension, with the requirement to prove fitness prior to reinstatement.

Respondent has received discipline in the past, but the misconduct here appears to be isolated to this single matter, and unrelated to Respondent's prior misconduct.

IV. CONCLUSION AND RECOMMENDATION

It is the conclusion of the Hearing Committee that the discipline negotiated in this matter is appropriate.

For the reasons stated above, it is the recommendation of this Hearing Committee that the negotiated discipline be approved and that the Court impose a 30-day suspension, stayed in favor of probation with the conditions set forth above.

HEARING COMMITTEE NUMBER TEN

John R. Gerstein, Esquire
Chair

Trevor Mitchell
Public Member

Kathleen T. Wach, Esquire
Attorney Member