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

In the Matter of:	:	
	:	
MEHAK NAVEED,	:	
	:	Board Docket No. 22-BD-022
Respondent.	:	Disciplinary Docket No. 2019-D191
	:	
A Member of the Bar of the District of Columbia Court of Appeals (Bar Registration No. 1032942)	:	

REPORT AND RECOMMENDATION OF THE AD HOC HEARING COMMITTEE

Disciplinary Counsel charged Respondent, Mehak Naveed, with violating District of Columbia Rules of Professional Conduct ("Rules") **3.3(a)(1)** (knowingly making false statements of fact to a tribunal; **3.4(a)** (obstructing Disciplinary Counsel's access to evidence); **3.4(c)** (knowingly violating her obligations under the rules of a tribunal); **8.1(a)** (knowingly making false statements of fact to Disciplinary Counsel and the court in connection with a disciplinary matter); **8.1(b)** (failing to disclose facts necessary to correct a misapprehension known by the lawyer to have arisen, and failing to respond reasonably to Disciplinary Counsel's lawful demands for information); **8.4(c)** (engaging in dishonesty, fraud, deceit, or misrepresentation); and **8.4(d)** (engaging in conduct that seriously interferes with the administration of justice). Disciplinary Counsel contends that it proved all of the charged Rule violations, and that Respondent should be suspended for six months, and required to prove her fitness to practice prior to reinstatement. Respondent argues that this

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

matter should be dismissed, that the Hearing Committee should not consider any evidence from a contempt proceeding in D.C. Superior Court, that she violated none of the charged Rules, and should not be sanctioned; but if a sanction is imposed, it should be no more than a thirty-day suspension, with reinstatement conditioned on successful completion of certain courses.

The Hearing Committee finds that the issue in this case is not complicated. It began from an overdrawn escrow account in June 2019, precipitating an inquiry from Disciplinary Counsel. The overdraft, however, has not been charged. At issue here is the failure of Respondent to provide to Disciplinary Counsel the required financial documents—approximately 200 pages in total—for an investigation of the overdraft. For more than thirty months, Respondent sought extensions of deadlines and offered excuses for the non-production of the required financial documents. In the end, after six contempt hearings in Superior Court, Respondent produced all but one of the required financial documents. Even after the Specification of Charges had been served in April 2022, Respondent's course of conduct continued. She failed to file an Answer, to file her exhibits timely, or to appear for the hearing's first day. On the second day, appearing *pro se* as both attorney and witness, she was often incoherent—and openly at a loss how to present her case. On cross examination, however, in a display of belligerence and refusal to respond, she showed herself to be acutely aware of the issues in her case. The Hearing Committee finds the Respondent was intentionally dishonest in some statements to the court and to the Hearing Committee.

As set forth below, the Hearing Committee concludes that Disciplinary Counsel has proven violations of Rules 3.3(a)(1), 3.4(a), 3.4(c), 8.1(a), 8.1(b), 8.4(c), and 8.4(d) by clear and convincing evidence, and we recommend that Respondent be suspended for six months and be required to prove her fitness to practice as a condition of reinstatement.

I. PROCEDURAL HISTORY

On April 8, 2022, Disciplinary Counsel personally served Respondent with a Specification of Charges ("Specification"). Respondent did not file an Answer by April 28, 2022, the due date under Board Rule 7.5 (Answer due within twenty days after service of the Petition and Specification of Charges).

A telephonic pre-hearing conference was held on May 19, 2022. Respondent and Disciplinary Counsel appeared. The Chair scheduled the evidentiary hearing for August 5, 8, 10, and 12, 2022, and set pre-hearing deadlines, including deadlines for the submission of witness and exhibit lists. Respondent was given until June 16, 2022, to file a motion for leave to late-file her Answer. Respondent did not file such a motion by that deadline, nor did she file an Answer.

On July 29, 2022, Respondent filed a motion for a continuance of the August hearing dates, asserting that the Board on Professional Responsibility ("Board") had granted her motion for compensation of counsel on July 13, 2022, and arguing that she needed additional time to retain counsel. Disciplinary Counsel opposed Respondent's motion. The Hearing Committee granted the motion on August 1,

2022, and converted the previously scheduled August 5 hearing day to a pre-hearing conference.

At the August 5, 2022, pre-hearing conference, the evidentiary hearing was rescheduled for October 14, 17, 18, and 20, 2022. The Hearing Committee also set the following deadlines:

> **August 26, 2022:** Respondent's Answer; Notice of Intent to Raise Disability in Mitigation of Sanction, pursuant to Board Rule 7.6(a); any motion for a protective order under D.C. Bar R. XI, § 17(d) and Board Rule 11.1.
>
> **September 30, 2022:** Proposed exhibits, exhibit list and witness list.
>
> **October 7, 2022:** Stipulations; objections to exhibits and witnesses.

Respondent did not file her Answer on August 26, 2022. Instead, she filed a motion to late-file her Answer on August 31, 2022, which the Hearing Committee granted on September 1, 2022. Respondent's Answer was accepted for filing as of August 31, 2022. Respondent did not give notice pursuant to Board Rule 7.6(a) and did not seek a protective order by August 26, 2022, or at any time thereafter.

On Friday, September 30, 2022, after 5:00 p.m., Respondent lodged a motion for a one-day extension of time to file her proposed exhibits, an exhibit list, and a witness list. [1] In that motion, she excerpted an email that she sent to Disciplinary Counsel in which she explained that,

> [She] will not be able to submit her proposed exhibits by 5PM EST on September 30, 2022. In organizing and preparing [her] proposed

[1] Because Respondent did not submit the motion until after 5:00 p.m., the motion was officially received by the Board's Office of the Executive Attorney on the next business day, October 3, 2022.

> exhibits, [she] was once again forced to relive the traumatic experiences that occurred during the pendency of [Mr. Kalantar's] investigation, thus making it difficult for [her] to finish by 5PM EST today. So [she] implore[s] [Mr. Kalantar] to allow [her] to submit it a bit later today without resistance as it will not be prejudicial to [him].

Motion at 2-3 (alterations in original). On Monday, October 3, 2022 (the next business day), the Hearing Committee granted Respondent's motion to file a day late her witness list, exhibit list, and exhibits. Respondent nevertheless did not file her witness list, exhibit list, or exhibits on October 3, 2022, as requested in her motion and as permitted in the order granting the motion.

The hearing in this matter was scheduled to begin at 9:30 a.m. on October 14, 2022. On October 13, 2022, at 5:01 p.m., Respondent sent a "sendthisfile" link to the Board's Case Manager by email. HX 1.[2] At 5:19 p.m., the Board's Case Manager informed Respondent that she appeared not to have included a motion to late-file her exhibits, and that she had not sent the password necessary to open the sendthisfile link. *Id.* Without the password, the exhibits could not be made available to Disciplinary Counsel for review and to prepare possible objections.

On October 14, 2022, Disciplinary Counsel appeared by Zoom at 9:30 a.m., as scheduled, but Respondent did not appear. When contacted by the Board's Case Manager, Respondent represented that she was having difficulty connecting to the

[2] Email communication between Respondent and the Board's Case Manager have been admitted in evidence as Hearing Committee Exhibits ("HX") 1-14. *See* Hearing Committee's List of Exhibits. "DX" refers to Disciplinary Counsel's exhibits, and "RX" refers to Respondent's Exhibits.

Zoom hearing. Tr. 6-8. The Board's Case Manager spoke to Respondent by phone and provided Respondent by email with a phone number that would permit Respondent to join the hearing by phone. *Id.*; *see also* HX 2-5. At 10:02 a.m. on October 14, 2022, Respondent sent an email to the Board's Case Manager, requesting that the hearing be continued until Monday, October 17, 2022, because Respondent was experiencing "massive technical issues" and was about to have a panic attack. HX 6. The Board's Case Manager informed Respondent by email that the hearing would begin at 10:15 a.m., and again provided a phone number that would permit Respondent to join the hearing by phone. HX 7.

The hearing convened shortly after 10:15 a.m. Disciplinary Counsel was present; Respondent was not present. The Hearing Committee informed Disciplinary Counsel that it would treat Respondent's email as an oral motion for continuance. Disciplinary Counsel argued against the motion. Tr. 9-12. The Hearing Committee, after consideration, orally denied the motion to continue the hearing until Monday, October 17, 2022, but delayed the hearing start time until 1:00 p.m. on Friday, October 14, to allow time for Respondent to address her technical issues. Tr. 12-13. The Board's Case Manager informed Respondent by email that the hearing would begin at 1 p.m. and offered assistance to help Respondent get connected to Zoom by computer or phone. HX 8. The Hearing Committee issued an order at 11:47 a.m. on October 14, memorializing its oral order and ordering Respondent to "forthwith" provide Disciplinary Counsel and the Board's Case

Manager with the password to the sendthisfile link to Respondent's proposed exhibits. HX 9.

The Hearing resumed, as ordered, at 1:00 p.m. on October 14, 2022. Respondent did not appear. Disciplinary Counsel began his case, calling one witness. At the conclusion of the October 14 hearing day, the hearing was set to resume at 12:00 p.m. on Monday, October 17, 2022. The Board's Case Manager notified Respondent by email of the new start time and provided an updated Zoom link. HX 10.

The hearing resumed by Zoom at 12:00 p.m. on Monday, October 17, 2022. Disciplinary Counsel and Respondent appeared at that time. At 12:01 p.m., just after the start of the second day of the hearing, Respondent emailed the password for the sendthisfile link to the Board's Case Manager. HX 11. Respondent joined the hearing by Zoom and made an oral motion to late-file her exhibits. Disciplinary Counsel opposed. *See* Tr. 138-151, 159-167.[3] The Committee found the Respondent's explanation for delaying to provide the file of exhibits until the evening before the scheduled hearing and for delaying to provide the password

[3] After the parties filed their briefs, they informed the Hearing Committee about an error in the October 17, 2022, hearing transcript, specifically that the testimony reflected on page 151, line 10, to page 159, line 5, was given after the testimony reflected on page 159, line 7, to page 193, line 9. Because the parties do not identify a substantive error in the transcription of the testimony, and because their post-hearing briefs cited the hearing transcript with the foregoing error, the Hearing Committee will likewise cite to the October 17 transcript without requiring the court reporter to renumber the transcript pages to accurately reflect the order in which these two segments of testimony were given.

allowing access to the exhibits until after the start of the second day of the hearing lacked credibility and further found the failure to respond timely to the order of the Hearing Committee closely resembled the conduct at issue before the Hearing Committee. For these reasons and others discussed more completely below (*see* below § III(B)), the Hearing Committee unanimously agreed to deny Respondent's motion to late-file her exhibits. *See* Tr. 230.

During the Hearing, Disciplinary Counsel's Exhibits 1-95, 99-100, and 102-03 were admitted into evidence. Disciplinary Counsel also used Respondent's Exhibit 64 as impeachment evidence. As discussed above and in more detail below (below *infra* Section § III(B)), Respondent's Exhibits were not admitted. They are included in the case record as exhibits not admitted into evidence.

Upon conclusion of the evidentiary portion of the hearing, the Hearing Committee made a preliminary non-binding determination that Disciplinary Counsel had proven at least one of the Rule violations set forth in the Specification. Tr. 537-38; *see* Board Rule 11.11. In the sanctions phase of the hearing, Disciplinary Counsel offered no additional evidence in aggravation of sanction. Tr. 538. Respondent suggested that she would file a written motion to seek mitigation of sanction due to disability; however, Respondent did not file such a motion at that time as required by Board Rule 11.13, and she acknowledged that she had not given the notice required by Board Rule 7.6. Tr. 539-540.

Disciplinary Counsel submitted its Proposed Findings of Fact, Conclusions of Law, and Recommendation as to Sanction on November 14, 2022. On November

21, 2022, William Pittard, Esquire, and Noah Brozinsky, Esquire, entered their appearance as Respondent's counsel. Respondent sought and received an extension of time to file her post-hearing brief, which was filed on December 12, 2022. Disciplinary Counsel filed its Reply Brief on December 19, 2022.

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. *See* Board Rule 11.6; *In re Cater*, 887 A.2d 1, 24 (D.C. 2005) ("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 fact sought to be established").

1. Respondent was admitted to the Bar of the District of Columbia Court of Appeals on July 8, 2016, and assigned Bar number 1032942. DX 1.

2. From 2016 through February 3, 2020, Respondent was one of two lawyers at Meehan & Naveed, LLP, a now-defunct law firm. Tr. 171, 184 (Meehan); DX 95 at 3; DX 30 at 3. Her partner was James P. Meehan. Tr. 172 (Meehan). The law offices of Meehan & Naveed, LLP were located in Houston, Texas. Tr. 171-72; *see, e.g.*, DX 5.

3. Since approximately June 1, 2017, Respondent maintained a D.C. IOLTA (ending -6746) at Bank of America. DX 60 at 15. Respondent received notices from the bank through her email address. Tr. 409; DX 6 at 8. Since June

13, 2018, Respondent and Mr. Meehan were the only two signatories on the account. DX 95 at 3.

4. On May 1, 2019, Respondent's IOLTA had a balance of $1,100. DX 6 at 40. On May 29, 2019, a check drawn on the account in the amount of $535 was negotiated by the U.S. Citizenship and Immigration Services ("USCIS"). DX 6 at 42, 53. This reduced the account balance to $565. *Id.* at 46.

5. On June 6, 2019, a check for $1,677.71 was presented for payment. DX 4. Because there were insufficient funds in the account, the check caused an overdraft of -$1,112.71. *Id.*; *see* DX 6 at 5.

A. Initial Investigation of Respondent's Overdraft and Records

6. By letter dated June 10, 2019, Bank of America notified Disciplinary Counsel of the overdraft. DX 4.

7. On August 12, 2019, Disciplinary Counsel informed Respondent that it was conducting a routine inquiry and requested an explanation for the overdraft. DX 5. Disciplinary Counsel also requested records from May 2019 through August 2019, "reflecting the deposit and disbursement of all funds into the escrow account, including your financial records showing the transfer and disbursement of funds as required by Rule 1.15 of the D.C. Rules of Professional Conduct." *Id.* at 2. Additionally, Disciplinary Counsel asked for any fee agreements. *Id.* Respondent's answer to the August 12 letter was due on August 22, 2019. DX 5. The August 12, 2019, letter warned that failure to comply could result in a violation of Rule 8.4(d). DX 5 at 2.

8. On September 1, 2019, after obtaining an extension of time, Respondent responded by email and FedEx. DX 6, 7. She explained that a check was mistakenly written from the IOLTA instead of the firm's operating account. DX 6 at 8. She claimed that when she learned of the overdraft, "recognizing the paramount obligation of protecting clients' funds, without a moment's delay, [she] sprinted to [her] partner's office and advised him of [it]." *Id.*

9. Respondent stated that she maintained financial records that included a "master" IOLTA ledger, individual client ledgers, and reconciliations. *Id.* at 11. Although Respondent acknowledged that Disciplinary Counsel requested "all records reflecting . . . disbursement of all funds into the escrow account[,]" and that there had been a disbursement from the account during the relevant period, Respondent did not provide financial records for the disbursement because the "firm did not receive any of the disbursed funds." *Id.* at 10.

10. Respondent's September 1, 2019, letter in response to ODC, explained how her firm had inadvertently paid its rent using a check from the wrong checkbook and the steps the firm took to correct that mistake within minutes of learning of it. She included with this letter documentary evidence of a twenty-eight-minute phone call with Bank of America. DX 6 at 6-10, 36.

11. In addition, Respondent produced some monthly bank statements and other records from Bank of America, but the documents provided did not fully explain the handling and ownership of funds in Respondent's IOLTA. *Compare* DX 6 at 40-53, *with, e.g.*, DX 60 at 7-60.

B. Disciplinary Counsel Issues Subpoena for Financial Documents.

12. On November 27, 2019, Disciplinary Counsel advised Respondent that her response was not sufficient because the documents provided did not allow him to independently verify the transactions in Respondent's IOLTA. DX 8. Her response had not explained whose funds were in the account in the time leading up to the overdraft, and she provided no financial records beyond the bank statements for the months of May, June, and July of 2019 for the IOLTA account. DX 6 (bank statements DX 6 at 40-53).

13. Disciplinary Counsel reminded Respondent that Rule 1.15 requires complete financial records. DX 8. Disciplinary Counsel again asked Respondent for all financial records that fully explained (1) her handling of the $535 disbursement, and (2) the ownership of the $565 remaining in the IOLTA following the disbursement. DX 8 at 2.

14. Enclosed with Disciplinary Counsel's November 27, 2019, letter was a subpoena directing Respondent to produce copies of financial records from July 1, 2018, through June 30, 2019. *Id.* at 6. The records Respondent had provided showed a balance of $1,600 as of January 1, 2019, and Disciplinary Counsel could not determine what portions of those funds were client funds, funds owed to Respondent, or funds later paid to USCIS or third parties. *Id.* at 2.

15. In its November 27, 2019, letter, Disciplinary Counsel advised Respondent that to explain the ownership of funds held in the account, she might need to provide documents predating July 2018. DX 8 at 2.

16. Respondent's subpoena response was due on December 11, 2019. *Id.* at 3.

17. On December 6, 2019, Respondent asked for an extension to respond to the subpoena until March 2020, explaining that her partner was absent for a family funeral, their law clerk was occupied with bar exam preparations, the firm was moving, Respondent needed time to gather the documents, and Respondent was struggling to keep up with her obligations to her clients' schedules. DX 10. Disciplinary Counsel agreed to an extension until December 27, 2019. *Id.*

18. Respondent failed to provide a timely response, but on December 28, 2019, Respondent requested an extension of time until December 30, because she had suffered an injury to her toe involving "extreme swelling and bruising, and discoloration." DX 11. Her emailed request contained an email from an urgent care clinic confirming the injury to her toe. *Id.* Disciplinary Counsel provided a new deadline of December 31. *Id.*

19. Respondent did not respond by the December 31, 2019, deadline. Tr. 50-51 (de la Torre).

20. On January 10, 2020, Mr. Meehan, through counsel, wrote to Disciplinary Counsel and advised that he had relocated to California, that he was largely dependent upon Respondent regarding production of the financial records, and that he was attempting to work with Respondent to produce the ledgers and related paperwork. DX 12.

21. On January 23, 2020, Disciplinary Counsel wrote to Respondent by certified mail and email requesting that she promptly submit the financial records. DX 13. The letter noted two extensions of the deadline to submit documents had been granted in December 2019; nevertheless, Respondent had provided no documents. *Id.* Enclosed with this letter was a copy of the November 27, 2019, letter and the subpoena *duces tecum* with a list of required documents. DX 13 at 2-7 (list of documents required, DX 13 at 7). The letter and enclosures were sent by certified mail and signed for on February 12, 2020. DX 14.

22. On January 24, 2020, Mr. Meehan, through counsel, wrote to Disciplinary Counsel and advised that he had no financial records because the records were in the firm's office in Texas, and Respondent "control[led]" the Texas office. DX 15. Mr. Meehan said that he tried to get the documents from Respondent but was unsuccessful. *Id.*

23. On January 31, 2020, Respondent asked for more time to respond due to "a series of serious health setbacks." DX 16. Respondent said, "[s]hould you require proof from the healthcare providers, I will be happy to oblige." *Id.* That day, Disciplinary Counsel asked Respondent to provide the proof of injury from her healthcare providers. *Id.*

24. On February 3, 2020, Mr. Meehan, through counsel, wrote to Respondent. DX 17. He stated that he did "not want to be responsible for what [Respondent] does in Texas." DX 17. Mr. Meehan emphasized that "[t]o the extent any court might determine that [his] prior statements and actions did not clearly

convey his intentions," the letter would serve as "supplemental formal notice" that his withdrawal and disassociation from the firm were effective immediately. DX 17.

25. On February 4, 2020, Respondent emailed Disciplinary Counsel that she was requesting "proof" of her health issues from health care providers (DX 18); nevertheless, she did not provide the promised evidence from health care providers. Tr. 53 (de la Torre).

26. On February 12, 2020, Disciplinary Counsel sent Respondent a copy of the subpoena and requested that she submit financial and medical records by February 14, 2020. DX 19. Disciplinary Counsel also reminded Respondent of her obligations under Rules 8.1(b) and 8.4(d) and advised that she might wish to retain counsel. *Id.*

27. On February 14, 2020, Respondent stated she underwent an emergency procedure but was now capable of writing back to Disciplinary Counsel. DX 20 at 2. Respondent promised to provide Disciplinary Counsel with her doctors' notes by February 17, 2020. *Id.* Nevertheless, she did not provide the promised doctors' notes. Tr. 55-56 (de la Torre). In further communications on February 18 and February 24, 2020, Respondent expressed her wish to produce "less intrusive" medical documentation, and listed without evidence, medical treatment she had sought since December of 2019. DX 20. Nevertheless, she did not produce <u>any</u> medical evidence in support of her requests for extensions of time by February 24. *Id.* On February 24, Respondent notified Disciplinary Counsel that she was back at work and promised, "You will receiving [sic] the response shortly." DX 21.

C. Disciplinary Counsel Files Motion to Enforce Subpoena.

28. On February 26, 2020, Disciplinary Counsel filed a motion to enforce the subpoena. DX 22. Respondent did not file a response. Tr. 442-43 (Naveed).

29. On March 9, 2020, Respondent confirmed receiving the motion to enforce. DX 23 at 1-2. She announced that in response to the motion she was coming to Washington the next day to "hand deliver the comprehensive response to the subpoena." *Id.* at 2.

30. Disciplinary Counsel on the same day offered Respondent several options to submit the records, including mail or uploading documents through a link, that would not require a long-distance visit to Washington D.C. Disciplinary Counsel also asked whether Respondent had a meeting scheduled. *Id.*; *see, e.g.*, DX 27, 29. Respondent did not answer immediately.

31. Respondent at the hearing stated that she had traveled to D.C. and "stayed in hotels for a month." Tr. 535 (Naveed). She provided no evidence in support of this assertion—no receipts for plane or train fare, no receipts for lodging or for restaurants. Moreover, Respondent never delivered her promised "comprehensive response." Tr. 57-58 (de la Torre). During the month she claimed she was in Washington D.C. to deliver the response required by the subpoena, she did not contact Disciplinary Counsel, attempt to meet, drop off a response, or make any effort to provide the documents required by the subpoena. Tr. 57-58.

32. On March 11, 2020, the Court of Appeals granted Disciplinary Counsel's motion to enforce and ordered Respondent to produce all documents and

files within ten days. DX 24 at 3. The Court sent the Order to Respondent via email and regular mail. DX 24 at 1-2.

33. On March 20, 2020, Respondent wrote to Disciplinary Counsel that due to the COVID-19 outbreak, she thought it was best to submit her "extensive and comprehensive" documents via electronic file transfer link. *See* HX 14 at 2. Ms. Naveed described the file of documents as "more or less 200 pages." DX 25 at 1.

34. That same day, Disciplinary Counsel emailed Respondent a link to sendthisfile.com, a service to send and receive confidential records electronically. DX 26 at 2-3; Tr. 60 (de la Torre).

35. On March 24, 2020, Ms. Naveed expressed confusion about using the sendthisfile.com link. DX 26 at 1. On March 26, 2020, Ms. Naveed promised, "One way or another, the response will be sent to you at the latest by tomorrow. Even if it requires FedEx to deliver it within the same city. It is being prolonged for no reason." DX 26 at 1. On March 31, 2020, Disciplinary Counsel confirmed with Ms. Naveed by email that no documents had been received electronically. DX 27 at 1. That same day, Ms. Naveed explained to Disciplinary Counsel that her efforts to use FedEx for same-day same-city service had failed. *Id.*

36. Between March 24 and April 28, 2020, Respondent did not provide the required financial records, nor did she submit the promised medical records. *See* DX 27-28; Tr. 63-64 (de la Torre). On April 28, 2020, Disciplinary Counsel confirmed that no documents had been received. He explained that, in addition to electronic transmission by email, documents could also be sent using USPS, but that

the Office of Disciplinary Counsel was not receiving deliveries from FedEx and other private carriers. DX 28 at 1

37. On December 8, 2020, Disciplinary Counsel reminded Respondent that no response had been received. DX 29. He asked that Respondent supply the documents required by the subpoena as well as "support for your explanations for the delay." *Id.* Respondent's December 9 reply claimed that "COVID-19 related mailing limitations" had interfered with delivery of the required documents. *Id.* She further asserted that she had faced "unprecedented challenges (especially with [her] health)." *Id.* In response, Disciplinary Counsel denied the factual basis of Respondent's explanation of "COVID-19 related restrictions on sending mail to [Disciplinary Counsel] via USPS," and requested Respondent to provide "all information (including any medical records) to support the 'unprecedented challenges.'" *Id.* Disciplinary counsel asked Respondent to submit all documentation no later than December 18, 2020. *Id.* No documents were provided. Tr. 67 (de la Torre).

38. On February 24, 2021, Disciplinary Counsel filed a Motion for Order to Show Cause regarding Respondent's violation of the Court's March 11, 2020, Order. DX 31.

39. On March 6, 2021, Respondent filed a Motion for Extension of Time asking for an additional 60 days to respond to Disciplinary Counsel's Motion to Show Cause and produce the subpoenaed records. DX 32. Respondent claimed that she had experienced a number of medical problems beginning in December 2020,

and she needed time to rest and recover. *Id.* at 3. Respondent also stated she needed time to secure counsel. *Id.* at 4.

40. In support, Respondent attached to the motion a sworn affidavit attesting to her contracting symptomatic COVID-19 in December 2020 and the symptoms "escalating" in January 2021 (*id.* at 10-11) as well as an "After Visit Summary" from a February 22, 2021, emergency room visit. DX 32 at 13-23.

41. Disciplinary Counsel did not oppose Respondent's request for a sixty-day extension of time to respond to the Office of Disciplinary Counsel's Motion to Show Cause. DX 34. Nevertheless, Respondent did not file a response to Disciplinary Counsel's motion or supply the subpoenaed financial records. Tr. 70-71 (de la Torre).

42. On June 8, 2021, Disciplinary Counsel filed a Request for Action on Disciplinary Counsel's Motion for Order to Show Cause. DX 35.

43. On June 11, 2021, Respondent filed a motion requesting seven more days to respond. DX 36. Respondent then failed to respond. Tr. 72 (de la Torre).

44. On June 29, 2021, the Court of Appeals directed Respondent to show cause, within ten days, why she should not be held in civil and/or criminal contempt, for failing to comply with the March 11, 2020 Order. DX 39. The Court emailed a copy to Respondent. DX 39 at 2.

45. Respondent failed to respond and did not produce financial or medical records. Tr. 73 (de la Torre); Tr. 458-59 (Naveed).

46. Throughout Disciplinary Counsel's investigation, Respondent maintained her law practice. DX 86-94. Respondent entered her appearance as counsel for immigration clients (DX 86-94), prepared and filed pleadings (Tr. 484-85), traveled out of state for a hearing (Tr. 435-36, 484), communicated with clients (Tr. 485), collected fees (Tr. 489), collaborated with legal assistants and others (Tr. 491), and continued an immigration practice despite any personal or medical limitations. The immigration applications Respondent prepared for her clients contained many pages and required extensive information to complete. *See* DX 86-94 (referencing forms/applications filed).

D. Contempt Proceedings

47. On August 16, 2021, the Court of Appeals assigned Superior Court Judge Laura A. Cordero to conduct a contempt hearing regarding Respondent's violation of its March 11, 2020, Order. DX 40; *In re Confidential (MN)*, D.C. Ct. App. No. 20-BS-216. Judge Cordero scheduled a remote hearing for October 8, 2021, at 2:00 p.m. DX 41.

48. On September 30, 2021, Disciplinary Counsel requested that Respondent submit the records promptly. DX 42. He reiterated that if Respondent provided the documents ahead of the hearing, "that will likely resolve our request and we may be able to move for a dismissal of this action." DX 42. Respondent did not respond. Tr. 76 (de la Torre).

49. At the October 8, 2021, hearing, Judge Cordero reviewed the prior efforts made by Disciplinary Counsel to obtain the financial documents from

Respondent, beginning in August 2019 and continuing until the matter was referred to her in August 2021. DX 79 at 7-9 (and see DX 79 at 9-12 (Disciplinary Counsel explaining efforts to obtain the documents as recent as a week prior to the hearing)); *see* DX 41.

50. Judge Cordero then asked Respondent whether she was going to provide the documents. DX 79 at 12. Respondent responded that "the package has been . . . physically mailed to opposing counsel as of today." *Id.* In response to Judge Cordero's next question, "When did you mail it?" Ms. Naveed responded without hesitation, "Today. And I can provide the tracking." *Id.* at 12-13. However, immediately following this, Respondent qualified her claim that the documents had been sent "today" and instead explained that, "it's done, it's waiting for USPS to come . . . by 3:00 or 4:00 p.m. they come around to pick up." *Id.* at 13. Pressed by Judge Cordero to produce a tracking number, Respondent explained she could not during the hearing; Judge Cordero then ordered her to email a photo of the receipt to Disciplinary Counsel immediately following the hearing. *Id.* at 20; DX 45 at 2. Based on her statements during the October 8 hearing, Judge Cordero believed that Respondent had mailed the package, specifically at a U.S. Post Office, and received a physical receipt. DX 79 at 13, 16, 20. Respondent would admit at the October 18, 2021, hearing that, on October 8, she only knew that she "had the documentation ready." DX 80 at 10-11.

51. Judge Cordero scheduled a second hearing for October 18, 2021. DX 45. The October 8 scheduling order noted that Respondent had "represented

that she had sent documents responsive to the subpoena" and ordered her to "email a picture of the priority mail receipt" to Disciplinary Counsel by the end of the day. *Id.* at 2-3.

52. Soon after the hearing, Respondent created and emailed Disciplinary Counsel a shipping label via the USPS's website. DX 43 at 1-2. The email notified Disciplinary Counsel that a package was "scheduled to be shipped" that day. *Id.* No receipt was provided showing a mailing had been completed prior to the hearing, as Respondent had claimed. *Id.*

53. Shortly thereafter, Disciplinary Counsel forwarded the USPS notice to Respondent and questioned her representation during the hearing that she "had already sent the documents." DX 43. Disciplinary Counsel asked Respondent to provide a photo of the receipt, as Judge Cordero ordered. *Id.* In response, Respondent stated: "We indeed created the label and [my assistant] was reached out [to] because I did not have access to that information when asked by the judge in our conference room." DX 44. Respondent, however, later admitted that she did not have the tracking label created until *after* the first hearing. DX 80 at 16-17.

54. Later in the day on October 8, Disciplinary Counsel emailed Respondent and asked again for a picture of the receipt as ordered by the Judge. DX 46. In response, Respondent stated that the "packet is in the USPS drop box," and offered "to provide an actual picture of [her] dropping off the packet in the mailbox." DX 47. On October 12, having not received the package of documents from Respondent, Disciplinary Counsel requested a picture of the receipt and asked for

the picture Respondent had offered to provide of her dropping off the package. DX 48. Disciplinary Counsel again asked whether she "actually sent the packet containing the responsive documents *before* the [October 8 hearing]." *Id.* (emphasis in original). Respondent did not respond. Tr. 82 (de la Torre).

55. Respondent took no steps to provide documents before the October 18, 2021, hearing. *See* DX 80 at 13 (Respondent suggesting to Judge Cordero that she had "struggled" for a week regarding Disciplinary Counsel getting the package).

56. At the second hearing, on October 18, 2021, Judge Cordero asked Respondent whether she sent a copy of the receipt, and Respondent answered, "Yes." DX 80 at 5. In fact, Respondent had sent a shipping label with a tracking number, which indicated that the USPS was still "awaiting the item"; she had not sent a photo of a priority mail receipt for items already mailed. DX 80 at 6-7; *see also id.* at 5 (Judge Cordero distinguishing "label" from "receipt.").

57. Referencing the transcript of the hearing, Judge Cordero recounted from the October 8 hearing, "what you said was you had already mailed the documents . . . they had already been mailed," and the Judge asked: "can you explain to us what actually happened?" DX 80 at 10. Respondent asserted that: "I didn't say . . . that I had already mailed it" (DX 80 at 11), but the record shows that she had repeatedly said just that. DX 79 at 12-13 ("[T]he package has been . . . mailed to opposing counsel as of today. [I]t's done."). *See also* DX 80 at 11 (THE COURT: So when you were speaking to me, and you told us that you had already mailed it . . . you actually hadn't mailed anything. MS. NAVEED: No.)

58. Based on Respondent's "convoluted" explanations, Judge Cordero concluded that Respondent had not produced the documents to Disciplinary Counsel. *Id.* at 30. Respondent told Judge Cordero that she had the documents in electronic form and, although she "wanted to avoid" emailing the documents, she would do that. *Id.* at 19. Judge Cordero reminded Respondent that this was "two years in the making," and that she could have mailed them a "long time ago." *Id.* at 20, 22. Respondent agreed to start sending documents to Disciplinary Counsel "within the hour," and promised to email Disciplinary Counsel every day to confirm the receipt of the documents. *Id.* at 20-21, 23. Respondent, however, did not provide the records to Disciplinary Counsel or send confirming emails. *See* DX 81 at 4-5.

59. On October 18, 2021, the court scheduled a third hearing for November 1, directed Respondent to email the records by October 29, and required her to upload copies to the court via Box.com. DX 50 at 2-3.

60. On October 21, 2021, Disciplinary Counsel asked Respondent to provide the records. DX 54. Respondent did not respond or provide the records before November 1. Tr. 83-84 (de la Torre). Nor did she upload any documents to the court. DX 81 at 6.

61. On November 1, 2021, the court held a third hearing. DX 81. Respondent claimed she was trying to send the records by email "right now." *Id.* at 5. She did not. *Id.* at 6-7. She explained her failing to upload the records to the Box.com account, saying that she had concerns they would "become public record." *Id.* at 6. In fact, it was clear that the Box.com account was not public. *See* DX 55

at 7 (Superior Court instructions for using Box.com: "The only people who have access to evidence in the BOX are the parties, their lawyers and witnesses in the case. The evidence is not accessible to anyone not involved in the case."); DX 80 at 33. At a later hearing, held on November 18, 2021, Respondent admitted she had not even attempted to access the link. DX 82 at 11-12. Judge Cordero admonished Respondent for her excuses. DX 81 at 8-10. When asked how much time she would need for her contempt defense, Respondent would not give a straight answer, raised technical difficulties, and asked to continue the hearing. *Id.* at 9-10. Judge Cordero explained the court's heavy caseload and observed that this was the third hearing held on this issue. *Id.* at 10. Respondent only gave more excuses and blamed Disciplinary Counsel for not accepting deliveries by Federal Express. *Id.* at 19. She claimed "some kind of block" prevented her from producing the documents. *Id.* at 19. Judge Cordero expressed frustration with Respondent's alleged technical difficulties, which Respondent raised throughout the contempt proceedings. *Id.* at 14-15.

62. The court scheduled a civil contempt hearing for November 18 and directed Respondent to upload the records to the court or mail them by November 17. DX 55. On November 2 and 17, Disciplinary Counsel asked Respondent to submit the records. DX 56, 58. She did not. *See* DX 82 at 3-4.

63. On November 18, 2021, the court held a fourth hearing. DX 82. Respondent claimed she was trying to courier the records. *Id.* at 3-4. She excused her delay by reminding the court that it was not just her involved in the case, that

she had a partner, and she had to get his approval before she could do anything. *Id.* at 4. In fact, Mr. Meehan disassociated from their firm in February 2020, as Respondent knew. DX 17; Tr. 495-96 (admitting that Mr. Meehan disassociated himself from the firm in February 2020). She did not need Mr. Meehan's approval to produce the records and Mr. Meehan never prevented or delayed their production. Tr. 188-190 (Meehan).

64. When Judge Cordero pressed Respondent about her delay, Respondent again blamed Disciplinary Counsel and purported mailing restrictions and made other excuses. DX 82 at 4-8, 11-12. While doing so, however, Respondent displayed a stack of papers she claimed were the records. DX 82 at 9. Judge Cordero asked her to upload them to Box.com immediately. *Id.*

65. Over approximately three hours, the court and Disciplinary Counsel watched Respondent painstakingly upload file-by-file the long-sought financial records to the court's Box.com account. DX 82 at 13-91; DX 61. Respondent ultimately produced most, but not all, of the required records. *Id.* at 13-91. Three items were still missing: two signature pages for specific client agreements and one full, signed agreement for a third client. *Id.*; *see* DX 69.

66. The court scheduled a fifth hearing for December 10 (DX 62) and directed Respondent to submit, by November 19, 2021, the missing three records, ship her originals via FedEx, and submit a FedEx receipt. DX 82 at 83-86. Respondent failed to submit any documents. Tr. 92 (de la Torre).

67. On December 2, 2021, Disciplinary Counsel asked Respondent to provide the records immediately to avoid another hearing. DX 63 at 2. Respondent promised to do so that day but provided nothing. *Id.* at 1; Tr. 92 (de la Torre).

68. On December 10, 2021, an hour before the court's fifth hearing, Respondent filed an Emergency Motion for Continuance for sixty days due to an "assault." DX 64-65. Respondent attached a redacted medical note, which stated that her visit was for "Altered Mental Status." DX 65 at 6. Respondent failed to appear at the hearing, and the court continued it to December 16. DX 66.

69. On December 16, 2021, the court held its sixth hearing. DX 84. Respondent appeared but provided no additional documents. *Id.* at 4; DX 67. When Judge Cordero asked Respondent what was going on, Respondent stated that she was "assaulted." DX 84 at 5. She stated to the court that she was in no condition to participate in the hearing that day, explaining that she had eye, head, and neck injuries stemming from the recent assault. *Id.* at 4-7. Respondent refused to provide medical documents in support, claiming her records were protected. *Id.* at 5-6. She challenged the judge: "Hold me in contempt. I'm done." *Id.* at 7.

70. During this same December 16, 2021, exchange, Disciplinary Counsel suggested he might be willing to move to vacate the contempt proceedings if Respondent provided the missing signature pages and testified concerning the single missing fee agreement. *Id.* at 14-15. Respondent claimed that she did not have access to the three missing financial records. *Id.* at 8-9. When Disciplinary Counsel later asked about one of them, Respondent stated: "I really don't have nothing [sic]

to explain to you (indiscernible) give me another week. I don't know, I'm not even going to ask for it." DX 84 at 18.

71. The court scheduled a hearing for January 27, 2022, and directed Respondent to send hard copies of the missing items to the court, or to send them to the court by email or by uploading them to Box.com. DX 67.

72. On January 18, 2022, Disciplinary Counsel asked Respondent to promptly provide the missing items to avoid another hearing. DX 68. On January 25, Respondent provided Disciplinary Counsel the two missing signature pages by email. DX 69. Due to Respondent's incomplete and last-minute response, Disciplinary Counsel explained to Respondent that the hearing scheduled for the next day would go forward and he would seek to get on the record her representation as to the completeness of her production of documents responsive to the subpoena. DX 70.

73. On January 27, 2022, the court held its seventh hearing. DX 85. Judge Cordero asked Respondent what happened to the "package of documents" that Respondent had shown to the Judge at the November 18 hearing. *Id.* at 26. Judge Cordero recalled Respondent's testimony about the documents, "that you told me had tags on them, that they were in hard copy. That they were ready to be sent out and that you had every intention of sending out without any discussion about what was received. Just what was in your hand. Where are those documents?" *Id.* Respondent admitted that she had never sent the promised documents. *Id.* at 27. Respondent admitted that she "totally forgot about the FedEx thing." *Id.*

74. Disciplinary Counsel asked that Ms. Naveed testify, adding, "We'd still be willing to move to vacate these proceedings, if we could have Ms. Naveed perhaps placed under oath and we'd be permitted to just ask her for some representations about what her remains of her [sic] financial records, if this is it, essentially." DX 85 at 5. Respondent testified that she had produced all the financial records. *Id.* at 16-17. Disciplinary Counsel stated his intention to move to vacate (*id.* at 27) and the court vacated the proceedings. DX 71.

75. Disciplinary Counsel never received the copies of the records Respondent claimed she mailed, via USPS, or the originals via FedEx (with a receipt). Tr. 88-91 (de la Torre); DX 102.

E. Conclusion of Investigation

76. On March 11, 2022, Disciplinary Counsel wrote to Respondent and requested native (electronic original) versions of Respondent's financial records. DX 72. Respondent admitted that she had electronic records but did not provide them because she contended that they would not be helpful. DX 73. On March 21, 2022, Disciplinary Counsel requested them again. Respondent never responded. DX 74; Tr. 98-99.

77. In her post-hearing brief, Respondent indicated that she suffered a series of devastating personal and health crises from December 2019 until September 2022. *See* Resp. Br. at 5, ¶ 37.

78. On March 22, 2022, Disciplinary Counsel provided Respondent a final opportunity to submit her medical records, which she had offered in support of her

claimed reasons for failing to produce the financial documents since December 2019. DX 75. Respondent provided redacted records for the period January through May 2020. DX 76. She promised more medical records, but never provided them. *Id.*; Tr. 101 (de la Torre). No explanation was provided, and the documents themselves did not explain Respondent's persistent lack of cooperation during the investigation and failure over more than two years to comply with Disciplinary Counsel's subpoena. DX 76.

F. Respondent's Conduct During Disciplinary Proceedings

79. Respondent received the Specification on April 8, 2022, and was required to answer the charges within twenty days. DX 3; DX 2 at 22. Respondent provided no answer. During the May 19, 2022, pre-hearing conference, Respondent requested leave to late-file her Answer and was permitted to file a motion for leave to late-file, together with her Answer, by June 16, 2022. May 19, 2022, Pre-hearing Tr. at 4-5; Order, *In re Naveed*, Board Dkt. No. 2019-191 (H.C. May 24, 2022). Respondent did not file a motion, or her Answer, by June 16, 2022.

80. During the May 19, 2022, pre-hearing conference and in the May 24, 2022, order that followed, the Committee set August 5, 8, 10, and 12, 2022, as the hearing dates, ordered Respondent to file her proposed exhibits by July 22, and to confer and file any stipulations by July 29. The Committee also advised Respondent of the deadline for filing a notice of intent to offer evidence of disability in mitigation of sanction. *Id.*; *see* May 19, 2022, Pre-hearing Tr. at 11, 14-15; Order, *In re Naveed*, Board Dkt. No. 2019-191 (H.C. May 24, 2022).

81. Respondent did not file her exhibits by the deadline or ask for more time. She also failed to respond to Disciplinary Counsel's proposed stipulations. *See* Disciplinary Counsel's Notice Regarding Stipulations, filed July 29, 2022.

82. Respondent requested a continuance one week before the first disciplinary hearing date, which the Committee granted. Order, *In re Naveed*, Board Dkt. No. 2019-191 (H.C. Aug. 1, 2022).

83. On August 8, the Committee rescheduled the hearings for October 14, 17, 18, and 20, beginning at 9:30 a.m. via Zoom. Respondent was given until August 26 to file an Answer, give notice of her intent to raise disability in mitigation (if she intended to do so), and file any motion for a protective order regarding testimony or evidence containing confidential or privileged information. Her exhibits were to be submitted by September 30. Order, *In re Naveed*, Board Dkt. No. 2019-191 (H.C. Aug. 8, 2022).

84. On August 31, Respondent late-filed her Answer with a motion for leave to late-file it. Respondent blamed the delay on her miscalendaring and "revers[ing]" the deadlines for the August 26 Answer and September 30 exhibits. *See* Respondent's Answer and Motion to Late File an Answer, filed August 31, 2022. Respondent's motion to late-file her Answer was granted. However, Respondent did not file her proposed exhibits by August 26 (when she claimed to believe they were due), or by September 30, as the August 8, 2022, scheduling order required.

85. On Friday, September 30, 2022, after 5:00 p.m., Respondent filed a motion for a one-day extension of time to file her proposed exhibits, an exhibit list,

and a witness list. On Monday, October 3, 2022 (the next business day), the Hearing Committee granted Respondent's motion to file a day late her witness list, exhibit list, and exhibits. Order, *In re Naveed*, Board Dkt. No. 2019-191 (H.C. Oct. 3, 2022). Respondent nevertheless did not file her witness list, exhibit list, or exhibits on October 3, 2022, as requested in her motion and as permitted in the order granting the motion.

86. On October 13, at 5:01 p.m., the evening before the start of the scheduled hearing, Respondent attempted to late-file her proposed exhibits and exhibit list via sendthisfile.com. HX 1. Respondent did not provide the password to the exhibits nor did she supply a motion to late-file the exhibits. *Id.*

87. On October 14, Respondent failed to timely log onto the Zoom conference, which was scheduled to begin at 9:30 a.m. Tr. 6 (Borazzas) (Respondent sent an email at 9:31 saying that she was having technical difficulties); HX 2 (email from Respondent referring to technical difficulties). At 10:02 a.m., she emailed the Board and claimed that she was "about to have a panic attack." HX 6. She claimed that "it" kept freezing or "won't open the app altogether." *Id.* She offered to "forgo" one of her hearing days and to begin on October 17. *Id.* She stated that she would follow up with a written motion later that day when things were a "bit under control both electronically and [with her] physically." *Id.*

88. When the hearing convened, Respondent did not appear. Tr. 5. The Chair asked the Board's Case Manager, Meghan Borazzas, to testify about her

efforts to resolve Respondent's technical difficulties. Tr. 6. When Respondent emailed the Board at 9:31 a.m., Ms. Borazzas called her and proposed that Respondent join the Zoom conference using her phone. *Id.* Respondent claimed that her Internet was not letting her do that. Tr. 6-7. When Ms. Borazzas suggested dialing in, the phone went "dead." Tr. 7. Ms. Borazzas called back, suggested again that she dial in, but Respondent claimed that she had bad service. *Id.* Ms. Borazzas sent Respondent another Zoom link and asked her to try it, but Respondent did not join. Tr. 7-8. Ms. Borazzas called Respondent back three times. Tr. 8. The first call rang once and went to voice mail. *Id.* Ms. Borazzas's other calls went straight to voice mail. *Id.* Respondent's claims of technical difficulties resembled claims made in the contempt proceedings. *See* DX 81 at 14-15.

89. The Committee treated Respondent's email as an oral motion for a continuance and ordered that Respondent's emails from the morning of October 14th be included in the record. Disciplinary Counsel opposed the motion. The Committee orally denied a continuance of the hearing to October 17, but ordered a brief delay, until 1:00 p.m. that day, to allow time for Respondent to resolve her technical difficulties. Tr. 12-14. The Hearing Committee issued an order at 11:43 a.m. on October 14, memorializing its oral order and also addressing Respondent's late-filed exhibits, ordering that Respondent provide, forthwith, the password required to access her documents and to file a motion seeking leave to late-file her exhibits. Order, *In re Naveed*, Board Dkt. No. 2019-191 (H.C. Oct. 14, 2022).

Respondent did not appear at the October 14 hearing when it reconvened at 1:00 p.m. Tr. 1-17. At the conclusion of the October 14 hearing day, the hearing was set to resume at 12:00 p.m. on Monday, October 17, 2022. Tr. 114. The Board's Case Manager notified Respondent by email of the new start time and provided an updated Zoom link. HX 10.

90. The hearing resumed by Zoom at 12:00 p.m. on Monday, October 17, 2022. Disciplinary Counsel and Respondent appeared at that time. Tr. 135. At 12:01 p.m., Respondent emailed the password for the sendthisfile link to the Board's Case Manager. HX 11. Respondent made an oral motion to late-file her exhibits. Tr. 142-47. Respondent asserted that she did not file her exhibits by Monday October 3, 2022, as she had previously requested, because her mother was in the hospital undergoing medical treatment. Tr. 143-45; HX 12. In support of her motion to late-file her exhibits, Respondent submitted "discharge instructions" that seem to indicate the Respondent's mother may have been hospitalized from September 28-October 7, 2022. *Id.*

91. Respondent also represented that she had not seen the Hearing Committee's October 14, 2022, order requiring her to provide the password to the sendthisfile link until approximately 1:00 p.m. on Saturday, October 15, 2022. Tr. 140-41. Respondent did not explain why she did not provide the password on October 15, but instead delayed an additional two days, until just after the hearing resumed on the 17th, to provide the sendthisfile password. Disciplinary Counsel opposed Respondent's motion to late-file her exhibits, pleading unfair surprise and

the long history of Respondent failing to supply required documents. Tr. 164. The Hearing Committee unanimously decided to exclude the exhibits. Tr. 230; *see* below § III(B)),

92. Among the exhibits Respondent attempted to offer into evidence was a document that purportedly corroborated her claim that she had mailed her financial documents before the first contempt hearing. *See* RX 64; *see supra* FF 49-53. Respondent titled the document "Email from the USPS with proof of label created at 12:29 pm CDT, on October 8, 2022, received on February 5, 2022 [sic]." *See* Respondent's Exhibit List, offered into evidence October 17, 2022. Respondent testified that she intended to offer this exhibit to "clearly show" that she did not lie about mailing the financial records before the October 8, 2021, hearing, and that it was "held by an agent somewhere in McAllen, Texas." Tr. 318. Under cross examination, Respondent maintained that she created the label before the October 8th hearing. Tr. 395-98. However, RX 64 relates to an entirely different package (tracking number ending *0810 82*) than the receipt given to Disciplinary Counsel on October 8, DX 44 (tracking number ending *0913 64*). Tr. 398-400. *Compare* RX 64, *with* DX 44. After being confronted with this discrepancy on cross-examination, Respondent argued during her closing that "[Disciplinary Counsel] says I'm lying about the fact that it was created pre-hand [*sic*]. Now that I provide him with what USPS had provided, then that's not enough." Tr. 526.

93. During the mitigation phase, Respondent attempted to raise disability mitigation, notwithstanding her failure to provide the required notice by the August 26 deadline or at any time. Tr. 539.

G. Respondent's Testimony

94. Respondent appeared at the hearing *pro se*, retaining counsel only after the hearing. Disciplinary Counsel agreed not to call her as a witness as part of his own case, but to allow her to testify in Respondent's own case and then cross-examine her. Tr. 226. After some discussion, Respondent presented an opening statement acting as her own attorney (Tr. 235-251), was sworn in, and testified as her own witness. Tr. 251-52.

95. Respondent's testimony was at times unintelligible and rambling. *See, e.g.*, Tr. 524. Respondent presented an opening that purported to outline five points she would make in her defense. Tr. 248. However, Respondent never clearly articulated the five points. She appears to argue that she did not lie in her communications with Disciplinary Counsel or during the contempt proceeding (Tr. 235-36); that her delays in responding were *de minimis* (Tr. 236); that some of her delays resulted from Disciplinary Counsel's request for privileged communications, and intrusive requests for her personal medical information (Tr. 237-38); that Disciplinary Counsel issued a document subpoena (Tr. 238-39); and that Disciplinary Counsel failed to inform her of the ability to object to its requests for information. Tr. 239-240. Respondent's sworn testimony began with Respondent musing out loud and on the record that she did not know "how to defend

and testify to certain matters, given that I do not know . . . what facts help." She admitted, "I don't even know what I'm defending here." Tr. 252. She wondered out-loud, on the record, whether she should, "take it bottom up or up/down." *Id.* After several minutes of Respondent's testimony, the Hearing Committee announced its intention to adjourn the hearing until the following morning and instructed Respondent to return the next day prepared to present her case. Tr. 256-57.

96. The hearing on October 18 opened with Respondent requesting the Chair to re-swear her, explaining that the previous day had been "very, very difficult [] emotionally." Tr. 280. Concerned that she may have "misspoke or misstated" anything, Respondent sought to strike her own testimony from October 17. Tr. 280. The Hearing Committee Chair declined to re-swear the Respondent or strike her testimony from the previous day and encouraged her to continue with her testimony. Tr. 280-81. Respondent's presentation was initially less rambling and emotional than on the previous day, but Respondent appeared unable or unwilling to provide specifics, and her testimony devolved into lengthy and often emotional digressions (e.g., the breed of the dog that bit her in December 2019, Tr. 360-61). Respondent's testimony as to her medical issues was emotional and specific. Tr. 386-390.

97. Under cross-examination, Respondent's demeanor changed dramatically. She was focused, aggressive, and, at times, belligerent. She resisted answering certain questions. *See, e.g.*, Tr. 402, 404. She was argumentative. *See, e.g.*, Tr. 414, 416-17, 418, 428, 447-49, 486. Her disputes with Disciplinary Counsel

reflected a clear understanding of her vulnerabilities in this matter and an astute calculation of where it was important to disrupt the disciplinary case against her.

III. CONCLUSIONS OF LAW

A. Respondent's Preliminary Arguments

1. Respondent's Due Process Argument

Respondent argues that she was denied due process during the contempt proceeding before Judge Cordero because "***no United States Attorney or disinterested party was ever assigned to prosecute the contempt, nor did any prosecuting body file an information or complaint***." Resp. Br at 18-19 (emphases in original). Respondent further argues that the Hearing Committee should not consider any evidence from the contempt proceeding because this evidence was obtained in violation of Respondent's due process right discussed above.

Disciplinary Counsel argues that it followed the standard procedures following non-compliance with a disciplinary subpoena, and that the contempt proceeding against Respondent was a civil contempt proceeding, not a criminal contempt proceeding.

We begin by noting the difference between civil and criminal contempt: "[u]nlike criminal contempt, which is designed to punish the contemnor and to vindicate the court, civil contempt serves one of two purposes, either to enforce compliance with a court order or to compensate for losses sustained by reason of a party's non-compliance." *In re T.S.*, 829 A.2d 937, 940 (D.C. 2003). A court may impose a fine or imprisonment to coerce compliance with a court order. *D.D. v.*

M.T., 550 A.2d 37, 43 (D.C. 1988). Thus, Disciplinary Counsel's statement that Respondent might receive "jail time," does not mean that this was a criminal contempt proceeding.

Our review of the record shows that the contempt proceeding was civil in nature. At the beginning of the first hearing in this matter, Judge Cordero clearly explained that she was presiding over a civil contempt proceeding:

> So, Ms. Naveed, what we're looking at, and what was referred to me is for a civil contempt proceeding involving the enforcement of the court order of March 11, 2020, where the Court directed you to provide documents within 10 days or by March 21, 2020. So that is the order that is the subject of the referral for a contempt proceeding.

DX 74 at 18 (Oct. 8, 2021, hearing transcript). The record is replete with additional descriptions of the matter as a civil contempt proceeding. *See, e.g.*, DX 54 at 6 (Judge Cordero's October 18, 2021 order: "If the responsive documents have not been provided to [Disciplinary Counsel] by the deadline set forth, a civil contempt hearing will be scheduled."); DX 55 at 1 ("Order Setting Civil Contempt Hearing"); *id.* at 3 ("A remote civil contempt hearing is scheduled for two days."); *id.* at 4 (same); DX 62 at 1 ("Order Continuing Civil Contempt Hearing"); *id.* ("On November 18, 2021, the Court held a Civil Contempt hearing."); *id.* at 2 (continuing the civil contempt hearing until December 10, 2021); *id.* at 3 (same); DX 71 at 2 ("Order Vacating Civil Contempt Proceeding").

As noted above, Respondent argues that we should not consider evidence from the contempt proceeding because that evidence was obtained in violation of Respondent's due process rights. That argument rests on Respondent's contention

that the contempt proceeding was criminal in nature. Because the contempt proceedings were clearly civil in nature, Respondent's argument fails, and we will consider the record developed during the contempt proceedings and admitted as evidence in this case.

2. Respondent's Argument That Judge Cordero Nullified the Contempt Proceedings When She Granted Disciplinary Counsel's Motion to Vacate

Respondent argues that because Judge Cordero "vacated" the contempt proceedings—rather than dismissing them—they should be treated as "never having happened." Resp. Br at 21-22. Although not entirely clear in Respondent's brief, she appears to ask this Hearing Committee to disregard the record of the contempt proceeding.[4]

Disciplinary Counsel argues that there is no difference between "vacating" and "dismissing" a contempt proceeding, as both have the same effect: "ending the threat of Court coercion to force Respondent to comply with Disciplinary Counsel's subpoena." ODC Br. at 17.

We need not explore any possible differences between "dismissing" and "vacating" contempt proceedings because Respondent cites no authority that would

[4] Respondent cites DX 71 as factual support for the contention that Judge Cordero "vacated" the contempt proceedings. The Order supports that contention. However, we note that this exhibit itself contradicts Respondent's prior argument that Judge Cordero presided over a criminal contempt proceeding, not a civil contempt proceeding. The Order is entitled "ORDER VACATING CIVIL CONTEMPT PROCEEDING," and the very first line of the Order recounts that on "January 27, 2022, the Court held a continued Civil Contempt hearing in this matter."

support her argument that the record developed in a vacated proceeding is treated as never having happened. Respondent's primary authority, *United States v. Williams*, 904 F.2d 7, 8 (7th Cir. 1990), says only that a vacated judgment is of no force and effect. It says nothing about ignoring the record developed in the vacated proceeding. Respondent's reliance on *United States v. Munsingwear, Inc.*, 340 U.S. 36, 40 (1950) is misplaced because that case involved appellate review of multiple litigations. It is not at all germane to any issue here.

We reject Respondent's argument that we should treat the contempt proceeding as if it had never happened, and we will consider those portions of the record of that proceeding that have been admitted into evidence here.

3. Respondent's *Res Judicata* Argument

Respondent argues that Disciplinary Counsel cannot prosecute Respondent because Judge Cordero has already resolved the matter "and there was no call for further litigation as to whether Ms. Naveed had complied with the ODC's subpoena or should be held in contempt." Resp. Br. at 23. Respondent also argues that Disciplinary Counsel is precluded from bringing charges that could have been raised before Judge Cordero.

Disciplinary Counsel argues that the two proceedings presented entirely different issues. The issue in the contempt proceeding was whether Respondent should be compelled to respond to Disciplinary Counsel's investigative subpoena. The issue in this disciplinary prosecution is whether Respondent's conduct violated the D.C. Rules of Professional Conduct, as charged in the Specification.

Because of the relief requested, we treat Respondent's argument as a motion to dismiss. *See* Board Rule 7.16 (requiring that the Hearing Committee report contain a recommended disposition of such motions).

In determining whether *res judicata* applies in disciplinary proceedings, the Court of Appeals considers:

> (1) whether the claim was adjudicated finally in the first action; (2) whether the present claim is the same as the claim which was raised or which might have been raised in the prior proceeding; and (3) whether the party against whom the plea is asserted was a party or in privity with a party in the prior case.

In re Lee, 95 A.3d 66, 73-74 (D.C. 2014). The second factor is dispositive of Respondent's argument.

We agree with Disciplinary Counsel that the contempt proceeding and the instant matter presented entirely different issues. Judge Cordero was not asked to determine the question before this Hearing Committee (whether Respondent violated D.C. Rules of Professional Conduct), and we are not asked to determine the question before Judge Cordero (whether Respondent should be held in contempt). D.C. Bar R. XI provides that Hearing Committees hold evidentiary hearings on charges of alleged misconduct (§ 5(c)), and the court considered requests for enforcement of investigative subpoenas (§ 18(d)). As these two matters involved different issues, principles of *res judicata* do not apply, and we recommend that the Board deny Respondent's motion to dismiss the charges.

B. The Decision Not to Admit Respondent's Exhibits

The parties' proposed exhibits, exhibit list, and witness list were due on September 30, 2022, in anticipation of an October 14-18 hearing. Order, *In re Naveed*, Board Dkt. No. 2019-191 (H.C. Aug. 8, 2022). On that day, after 5:00 p.m., Respondent filed a consent motion for a one-day extension of time to file her proposed exhibits, exhibit list, and witness list. In that motion, she excerpted an email that she sent to Disciplinary Counsel in which she explained that,

> [She] will not be able to submit her proposed exhibits by 5PM EST on September 30, 2022. In organizing and preparing [her] proposed exhibits, [she] was once again forced to relive the traumatic experiences that occurred during the pendency of [Mr. Kalantar's] investigation, thus making it difficult for [her] to finish by 5PM EST today. So [she] implore[s] [Mr. Kalantar] to allow [her] to submit it a bit later today without resistance as it will not be prejudicial to [him].

Motion at 2-3 (alterations in original). The Hearing Committee granted Respondent's motion; Respondent, however, did not file her witness list, exhibit list, or exhibits on Monday, October 3, 2022 (the next business day), as permitted in the order granting the motion. Instead, on October 13, 2022, at 5:01 p.m., the evening before the first day of the hearing, Respondent sent a sendthisfile link to the Board's Case Manager by email, which appeared to link to her exhibits. At 5:19 p.m., the Board's Case Manager informed Respondent that she appeared not to have included a motion to late-file her exhibits, and that she had not sent the password necessary to open the sendthisfile link.

Respondent did not appear on Friday, October 14, the hearing's first day. She was ordered to produce the password for her exhibits immediately (Order, *In re*

Naveed, Board Dkt. No. 2019-191 (H.C. Oct. 14, 2022)), but did not do so until 12:01 p.m. the following Monday, October 17, 2022, immediately after the start of the second day of the hearing. Respondent made an oral motion to late-file her exhibits. Disciplinary Counsel opposed.

After hearing argument from both Respondent and Disciplinary Counsel, the Hearing Committee considered two issues: why Respondent had not filed her exhibits on October 3, 2022, as she had moved the Hearing Committee to be allowed to do, and why, having apparently provided the exhibits by sendthisfile, she had not provided the password allowing access to those exhibits until the second day of the hearing at 12:01 p.m.—despite having been asked and ordered to do so repeatedly since the evening of Thursday, October 13.

Respondent had asserted in oral argument that she did not file her exhibits by Monday, October 3, 2022, as she had previously requested, because her mother was in the hospital undergoing medical treatment. Tr. 143-45; HX 12. In support, Respondent submitted "discharge instructions" that seem to indicate the Respondent's mother may have been hospitalized from September 28-October 7, 2022. *Id.* Respondent also represented that she had not seen the Hearing Committee's October 14, 2022, order, requiring her to provide "forthwith" the password to the sendthisfile link, until approximately 1:00 p.m. on Saturday, October 15, 2022. Respondent did not explain why she did not provide the password on October 15, but rather delayed an additional two days, until the hearing resumed on the 17th, to provide the sendthisfile password. Disciplinary Counsel opposed the

motion pleading unfair surprise and the long history of Respondent failing to supply required documents.

The Hearing Committee voted unanimously to deny Respondent's motion. The Committee was well aware that the exhibits could be crucial to Respondent's case: Respondent asserted multiple medical issues in defense of her lengthy delay in producing the documents. This defense might be supported by the exhibits she sought now to have admitted. However, members of the Committee agreed that a number of factors weighed against allowing Respondent to file her exhibits on the second day of the hearing:

1. Unfair Surprise: Disciplinary Counsel had had no opportunity to review the exhibits before the second day of what was expected to be a three-day hearing.

2. Gaps in Respondent's justification for delaying supplying the password to the file of exhibits until one minute after the start of the hearing on Day 2 cast doubt on its truthfulness. In particular, the Board's Case Manager made multiple efforts to obtain from Respondent the password to the sendthisfile link, beginning on the evening of October 13 and continuing until the password was finally supplied after noon on October 17. Even setting these efforts aside, Respondent admitted to receiving the Order requiring her to supply the password immediately on Saturday, October 15 at approximately 1:00 p.m. She did not explain why she did not immediately supply the password as ordered. Even supposing she thought she should wait until the next workday, she did not explain why she did not supply the password first thing Monday morning, which would have allowed a few hours before

the start of the hearing for review of the proposed exhibits and possible objections. Instead, Respondent waited until just after Day 2 of the hearing had begun at noon on Monday, October 17. The Hearing Committee concludes that the delay in sending the password to the file of exhibits was a deliberate effort to deny Disciplinary Counsel an opportunity to review the exhibits before questioning Respondent as part of the hearing.

3. Respondent's inconsistent justification for delaying supplying the link to her proposed exhibits until the evening before the start of the hearing (albeit without the password necessary for access), was not fully truthful. Hearing exhibits were due on September 30, 2022. Respondent filed on that date a consent motion seeking leave to file her exhibits a day late. She explained the missed deadline by being "forced to relive the traumatic experiences that occurred during the pendency of [Mr. Kalantar's] investigation." The September 30 motion to late-file exhibits was granted, but no exhibits were filed. During oral argument on October 17, seeking to be allowed to late-file exhibits, Respondent offered a different explanation, stating that she had failed to file exhibits on October 3 because her mother was in the hospital. Tr. 143-45; HX 12. In support, she supplied what appeared to be discharge papers for her mother which seemed to indicate the Respondent's mother may have been hospitalized from September 28-October 7, 2022. *Id.* The discharge papers, while confirming that her mother had been hospitalized during the period that the exhibits were due, did not support a conclusion that the hospitalization was an emergency excusing Respondent's late

filing of exhibits or failure to provide the password. Respondent's explanation was put in doubt when she provided different explanations for her failure to file her exhibits or provide the password and provided explanations that, while perhaps factually true, did not explain the failure to file or provide the password.

4. Respondent had missed several deadlines to supply exhibits in the course of this case. Respondent never filed exhibits by the deadline set for the August 5 hearing; did not file exhibits by the September 30 deadline (filing a motion on the evening of September 30 to extend the time to file instead); did not file exhibits by the deadline requested in her motion; and did not provide the exhibit password to Disciplinary Counsel until the second day of the hearing, two days after she read the Hearing Committee's order directing her to provide the password "forthwith."

For all of these reasons, the Committee unanimously voted to deny Respondent's motion to file her exhibits at the start of the second day of the Hearing on October 17, 2022.

C. The Committee Was Unanimous in Finding the Respondent Not Credible.

In addition to the circumstances leading to the denial of Respondent's motion to late-file her exhibits, Committee members found significant in evaluating Respondent's credibility: (1) the circumstances surrounding Respondent's non-appearance at the hearing's first day and (2) the contrast between Respondent's testimony on direct and on cross.

1. Respondent's Actions on October 14, 2022

On the morning of October 14, 2022, the hearing in this matter was set to begin, by Zoom, at 9:30 a.m. Respondent did not log in to the hearing at that time. At 10:02 a.m., she emailed the Board and claiming technical difficulties and also that she was "about to have a panic attack." HX 6. She stated that "it" kept freezing or "won't open the app altogether." *Id.* She wanted to delay the start of the hearing until the following Monday, October 17, and offered to forgo one of her hearing days. *Id.*

The Board's case manager, Meghan Borazzas, testified on the record that she had made multiple efforts to assist Respondent in resolving any technical issues keeping her from joining the hearing. FF 87-88. When Respondent claimed that her computer could not connect to Zoom, Ms. Borazzas had proposed, while talking with Respondent on the phone, that Respondent join the Zoom conference using her phone. The phone line went dead, Ms. Borazzas testified. A second effort to convince the Respondent to join the hearing by phone was met with the claim that Respondent had bad service. Subsequent efforts to contact Respondent by phone were unsuccessful. Respondent did not join the first day of the hearing, appearing for the first time on Monday, October 17. *Id.*

The Committee considered the evidence that Respondent conversed successfully by phone with Ms. Borazzas until Ms. Borazzas suggested Respondent use her phone to connect with the hearing. Subsequent to this suggestion, Respondent was unreachable by phone and did not connect to the hearing by phone

or computer. The Committee concluded that, while technical problems were always possible, Respondent's ability to use her phone to talk with the Board's Case Manager but not to join the hearing showed she was being untruthful as to the reasons for her failure to appear on the first day of the hearing. Further, because Respondent's claims of technical difficulties resembled claims Respondent made in the contempt proceedings to excuse her failure to produce required documents, the Committee unanimously concluded that Respondent's excuses for not attending the first day of the hearing—at the very least, not attending by phone—were pretextual and intentionally false.

Despite the Hearing Committee's unanimous conclusion as to the Respondent's credibility, the Committee takes no position on the cause of Respondent's erratic conduct at the hearing and in proceedings and filings leading up to the hearing. We note that, while the Respondent did not file the necessary document under Board Rule 7.6(a) to assert that she had a disability in mitigation of any sanctionable misconduct, she spoke openly at least twice of her intent to do so. *See* August 5, 2022, Pre-hearing Tr. at 18; Tr. 539. In the absence of any such filing, the Committee will not speculate on the presence of any underlying disability that would justify sanction mitigation.

2. Respondent's Testimony at the Hearing

Respondent represented herself at the hearing. Disciplinary Counsel agreed not to call her as a witness in his case, but simply to cross-examine her after she testified in her own case. FF 94. After Disciplinary Counsel rested his case in the

afternoon of the second day of the hearing, Respondent opened and testified in her own case.

Respondent's testimony was emotional, often disjointed, and very difficult to follow. The Committee, finding it so difficult to understand her testimony or how it was germane to the issues before it, asked her to take some time to organize her testimony. Tr. 256. The hearing resumed after a break with no change in the content or manner of testimony. The Chair announced that the hearing would adjourn for the day, after advising Respondent to prepare to testify regarding the charges before the Committee when the hearing resumed on the third day of the hearing. FF 95. On the third day of the hearing (two days later), Respondent began her testimony by requesting to strike all that she had said previously. FF 96. The Committee Chair denied this request and Respondent proceeded to ponder out loud where and how she should begin. *Id.* The testimony that followed was as disjointed and emotional as on the previous day.

On cross, however, the distraught Respondent became surprisingly focused and resistant—at times, belligerent—to Disciplinary Counsel's lines of questions. Members of the Committee agreed that her resistance appeared to reflect a keen awareness of her vulnerabilities and a deliberate strategy to thwart efforts on the part of Disciplinary Counsel to force admissions of specific culpability.

When the evidence of Respondent's demeanor on cross-examination was coupled with the evidence of Respondent's multiple reasons for failing to provide exhibits and her exhibits' password, as well as her failure to even appear on the first

day of the hearing, the Committee was unanimous in concluding that Respondent could not be judged credible and was intentionally dishonest.

D. The Charged Rule Violations

1. Disciplinary Counsel Proved by Clear and Convincing Evidence That Respondent Violated Rule 3.3(a)(1).

Rule 3.3(a)(1) provides that a lawyer shall not knowingly "[m]ake a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer" The obligation under Rule 3.3 to speak truthfully to a tribunal is one of a lawyer's "fundamental obligations." *In re Ukwu*, 926 A.2d 1106, 1140 (D.C. 2007) (appended Board Report). Rule 3.3(a)(1) is not limited to a lawyer's statements made in connection with a representation. *See In re Cleaver-Bascombe*, 986 A.2d 1191, 1208 (D.C. 2010) (the respondent violated Rule 3.3(a)(1) when she submitted vouchers seeking compensation under the Criminal Justice Act, even though she knew that she had not rendered all of the services identified).

Rule 3.3 prohibits "knowing" false statements. The term "knowing" "denotes actual knowledge of the fact in question" and this knowledge may be inferred from the circumstances. *See* Rule 1.0(f); *see also In re Spitzer*, 845 A.2d 1137, 1138 n.3 (D.C. 2004) (Respondent could not "knowingly" violate Rule 8.1(b) without actual knowledge of a Disciplinary Counsel investigation). Thus, the Hearing Committee must determine whether Disciplinary Counsel has proven that (1) Respondent's statements or evidence were false, and (2) Respondent knew that they were false. *Spitzer*, 845 A.2d at 1140.

Disciplinary Counsel argues that Respondent violated Rule 3.3(a)(1) when she made false statements (1) regarding her efforts to transmit her financial records to Disciplinary Counsel, made as to whether her financial records had been mailed to Disciplinary Counsel; (2) to cover up prior false statements; and (3) blaming her delays on her former partner, Mr. Meehan, claiming she needed his "approval on a lot of these things before [going] forward." DX 82 at 4.

Respondent argues that she "spoke at times quickly, nervously, and imprecisely before Judge Cordero," and that she ultimately answered Disciplinary Counsel's questions. Resp. Br. at 25.

Disciplinary Counsel replies that the alleged lack of candor was not the result of a slip of the tongue, and that Respondent's eventual production of her records does not excuse her lack of candor. ODC Reply at 20-21.

As discussed above, the Hearing Committee does not judge Respondent credible and unanimously concluded that Disciplinary Counsel had proven that Respondent had made knowing false statements to Judge Cordero in Superior Court, on four separate occasions: At the first contempt hearing on October 8, 2021 (FF 49-50), Respondent assured the Judge that she had already mailed the documents—and then walked that statement back to an assertion that the documents were all but mailed, neither of which statements proved to be truthful. At the second contempt hearing on October 18, 2021, Respondent falsely asserted she had not, at the previous hearing, claimed to have mailed the documents and also promised that she would transmit the documents electronically the next day; neither statement was

true. FF 56-58. At the third contempt hearing before Judge Cordero on November 1, 2021, Respondent delivered a series of excuses for not sending the documents, all of which she knew were false and which were generally offered to cover up her prior false statements. FF 61. At the fourth hearing on November 18, 2021, Respondent falsely based her failure to produce the documents on the need to get the approval of her partner, although she knew well that her partner had severed the partnership nearly a year earlier. FF 63-64. The Committee concludes that Disciplinary Counsel has proven by clear and convincing evidence that Respondent violated Rule 3.3(a)(1) on four separate occasions.

2. Disciplinary Counsel Proved by Clear and Convincing Evidence That Respondent Violated Rule 3.4(a).

Rule 3.4(a) provides that a lawyer cannot obstruct another party's access to evidence or alter, destroy, or conceal evidence, if they reasonably should know that the evidence is the subject of a subpoena in any pending or imminent proceeding.

Disciplinary Counsel argues Respondent obstructed its access to her subpoenaed financial records for more than two years.

Respondent argues that she never concealed information from Disciplinary Counsel, and ultimately provided documents.

Disciplinary Counsel replies that Respondent's response to Disciplinary Counsel does not preclude the conclusion that she obstructed its access to evidence over the previous two years.

The Hearing Committee agrees that Respondent's eventual production of the required documents, after nearly thirty months of wrangling with Disciplinary

Counsel, cannot serve to wipe away the Rule 3.4(a) violation, which the Committee concludes Disciplinary Counsel has proven by clear and convincing evidence.

3. Disciplinary Counsel Proved by Clear and Convincing Evidence That Respondent Violated Rule 3.4(c).

Rule 3.4(c) provides that a lawyer shall not "knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists." The "knowledge" element requires proof of "actual knowledge of the fact in question," which "may be inferred from circumstances." Rule 1.0(f).

Disciplinary Counsel argues that Respondent knowingly and repeatedly disobeyed her obligations to produce records to Disciplinary Counsel pursuant to the rules of the Court of Appeals and numerous court orders. Specifically, Disciplinary Counsel argues that Respondent ignored the Court of Appeals' order to show cause; disobeyed its March 11, 2020 order enforcing the subpoena; and failed to comply with the subpoena until January 25, 2022. Disciplinary Counsel further argues that, during the contempt proceedings, Respondent failed to obey the Superior Court's orders, including the:

1. October 8, 2021 order to supply a picture of her USPS receipt (FF 54-56);
2. October 18, 2021 order to email the records and upload copies to Box.com (FF 61);
3. November 2, 2021 order to use Box.com to upload documents or mail them (FF 62-64);
4. November 19, 2021 order to submit the outstanding documents, mail the originals, and provide a receipt of mailing (FF 66); and

5. December 16, 2021 order to provide the remaining financial documents via Box.com. FF 71

Respondent argues that Disciplinary Counsel has not proven that Respondent intentionally violated her obligations to a tribunal, citing her attempts to deliver the subpoenaed records. Respondent also notes that these efforts coincided with her "immense personal and medical struggles." Resp. Br. at 25-26.

Disciplinary Counsel replies that Respondent did not make multiple attempts to deliver the records, and that any that any efforts at compliance during the contempt proceeding were long overdue and in violation of the Court of Appeals' prior enforcement order. Disciplinary Counsel further argues that Respondent's claim of disability is outside the record and does not explain her prolonged non-compliance. ODC Reply at 23.

At issue in this case is the thirty-month delay in delivering approximately 200 pages of financial documents to Disciplinary Counsel's office in Washington D.C. Respondent claimed to Disciplinary Counsel, to Judge Cordero, and to this Committee to have made multiple efforts throughout the thirty-month period to deliver the required documents, but never once provided receipts to support her claims. Whether medical issues delayed Respondent's timely response to any particular order is irrelevant: none of the claimed medical issues account for a thirty-month delay in supplying the required documents. The Committee is without supporting evidence and cannot conclude that Respondent obeyed the orders of the Court of Appeals, or Judge Cordero to supply the required documents and therefore

concludes that Disciplinary Counsel proved by clear and convincing evidence that Respondent violated Rule 3.4(c) on multiple occasions.

4. Disciplinary Counsel Proved by Clear and Convincing Evidence That Respondent Violated Rule 8.1(a).

Rule 8.1(a) provides that "a lawyer . . . in connection with a disciplinary matter, shall not . . . knowingly make a false statement of fact[.]"

Disciplinary Counsel argues that Respondent's alleged knowing false statements in the contempt proceeding that support the Rule 3.3(a)(1) charge also violate Rule 8.1(a) because contempt proceeding was part of a disciplinary investigation. Disciplinary Counsel further argues that, after the first contempt hearing, Respondent falsely represented to Disciplinary Counsel that she had created a mailing label for her documents prior to the hearing, when she knew that she had created it after the hearing.

Respondent argues that Disciplinary Counsel failed to prove that Respondent made deliberately false statements, citing the fact that Respondent made multiple statements regarding her efforts at compliance.

The Hearing Committee concludes that the misconduct discussed above underlying the Rule 3.3(a)(1) charge similarly constitutes clear and convincing evidence that Respondent violated Rule 8.1(a) because the contempt proceeding was part of a disciplinary investigation.

5. Disciplinary Counsel Proved by Clear and Convincing Evidence That Respondent Violated Rule 8.1(b).

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."

Disciplinary Counsel argues that Respondent violated Rule 8.1(b) in that she failed to correct a misapprehension that arose during the first contempt hearing regarding whether Respondent had already mailed a package of documents from a U. S. Post Office. Disciplinary Counsel also argues that, at the second contempt hearing, Respondent made dishonest statements to cover up her prior misrepresentations. FF 61

Disciplinary Counsel argues that Respondent violated Rule 8.1(b) in that she failed to timely respond (or respond at all in some instances) to Disciplinary Counsel's requests for records. Disciplinary Counsel also argues that her multi-year delay in producing the requested records violated Rule 8.1(b).

Respondent argues that Judge Cordero was not under any specific impression that needed to be corrected and was not relying on any specific statement from Respondent.

Disciplinary Counsel replies that Respondent does not dispute that she failed to correct Judge Cordero's misapprehension at the October 8, 2021 hearing, but only that by the end of the second hearing, Judge Cordero did not know what to believe, and Respondent failed to fully correct her prior misrepresentations.

The Hearing Committee finds that the transcript of the second contempt hearing on October 18, 2021, makes clear that based on Respondent's statements at the first hearing, Judge Cordero had understood that Respondent had mailed the documents already. DX 80 at 9-11; DX 80 at 10 (Judge Cordero to Respondent: "Fortunately, everything you're saying is being recorded, and we have a transcript of everything that everybody says. So what you said was you had already mailed the documents. They were being Federally Expressed."). The transcript shows the Judge trying to get clarity from Respondent (Judge Cordero to Respondent: "I totally disagree with your representations that you were very clear, but I am trying to figure out what actually happened." *Id.* at 11) but being left with no clear understanding of whether or not the package of documents had been shipped—or would be shipped. *Id.* (Judge Cordero to Respondent: "So the bottom line is you hadn't mailed it." Respondent: "No, we did [mail it]." DX80 at 11-12). The evidence of the transcript is that Respondent failed, despite the Court's persistent and patient questions, to clarify the status of the promised mailing. In the end, Respondent was ordered to email the documents to Disciplinary Counsel and upload them to Box.com. *Id.* at 34-36. The Hearing Committee concludes that Respondent failed to correct Judge Cordero's misapprehension at the October 8, 2021, hearing.

6. Disciplinary Counsel Proved by Clear and Convincing Evidence That Respondent Violated Rule 8.4(c).

Rule 8.4(c) provides that it is professional misconduct for a lawyer to "[e]ngage in conduct involving dishonesty." Dishonesty includes "not only fraudulent, deceitful or misrepresentative conduct, but also 'conduct evincing a lack

of honesty, probity or integrity in principle; a lack of fairness and straightforwardness.'" *In re Samad*, 51 A.3d 486, 496 (D.C. 2012) (quoting *In re Shorter*, 570 A.2d 760, 767-68 (D.C. 1990)). "Lawyers have a greater duty than ordinary citizens to be scrupulously honest at all times, for honesty is 'basic' to the practice of law." *In re Hutchinson*, 534 A.2d 919, 924 (D.C. 1987) (en banc).

If the dishonest conduct is "obviously wrongful and intentionally done, the performing of the act itself is sufficient to show the requisite intent for a violation." *In re Romansky*, 825 A.2d 311, 315 (D.C. 2003). 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," which can be established by proof of recklessness. *See id.* at 315, 317. To prove recklessness, Disciplinary Counsel must establish by clear and convincing evidence that the respondent "consciously disregarded the risk" created by her actions. *Id.*; *see, e.g.*, *In re Boykins*, 999 A.2d 166, 171-72 (D.C. 2010) (finding reckless dishonesty where the respondent falsely represented to Disciplinary Counsel that medical provider bills had been paid, without attempting to verify his memory of events from more than four years prior, and despite the fact that he had recently received notice of non-payment from one of the providers). The entire context of the respondent's actions, including her credibility at the hearing, is relevant to a determination of intent. *See In re Ekekwe-Kauffman*, 210 A.3d 775, 796-97 (D.C. 2019) (per curiam).

Disciplinary Counsel argues that Respondent's false statements to the court and Disciplinary Counsel violated Rule 8.4(c), for the same reasons that they violated Rules 3.3(a)(1) and 8.1(a).

Respondent argues that Disciplinary Counsel has not proven a Rule 8.4(c) violation for the same reasons it did not prove violation of Rules 3.3(a)(1) and 8.1(a).

The Hearing Committee has found that Respondent made knowing false statements to Disciplinary Counsel prior to the hearing, and to Judge Cordero during the hearing, as discussed in detail above. The Hearing Committee finds that Respondent's knowing false statements, already outlined, to the court and to Disciplinary Counsel are clear and convincing proof that Respondent violated Rule 8.4(c), for the same reasons that they violated Rules 3.3(a)(1) and 8.1(a).

7. Disciplinary Counsel Proved by Clear and Convincing Evidence That Respondent Violated Rule 8.4(d).

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). Rule 8.4(d) can be violated if the attorney's conduct causes the unnecessary expenditure

of time and resources in a judicial proceeding. *See In re Cole*, 967 A.2d 1264, 1266 (D.C. 2009). Failure to respond to Disciplinary Counsel's inquiries and orders of the court also constitutes a violation of Rule 8.4(d). Rule 8.4, cmt. [2]; *see In re Bailey*, 283 A.3d 1199, 1210 (D.C. 2022); *see also, e.g.*, *In re Edwards*, 990 A.2d 501, 524 (D.C. 2010) (failure to respond to Disciplinary Counsel's inquiry).

Disciplinary Counsel argues that Respondent's conduct was improper because she failed to comply with Disciplinary Counsel's subpoena, repeatedly ignored court orders, engaged in years of delay, and was dishonest to the court and Disciplinary Counsel about the circumstances of her failure to comply. Disciplinary Counsel further argues that her improper conduct bore directly on the judicial process because it occurred in connection with Disciplinary Counsel's investigation and with judicial proceedings, and that it tainted the judicial process in more than a *de minimis* way because Respondent's delay caused Disciplinary Counsel and the courts to expend considerable time and resources to get Respondent to provide the documents she was required to produce.

Respondent argues that,

> Rule 8.4(d) is "generally meant to encompass derelictions of attorney conduct considered reprehensible to the practice of law." *In re Owusu*, 886 A.2d 536, 541 (D.C. 2005) (citation omitted). It is "not so broad as to encompass any and all misconduct by an attorney." *Id.*

Resp. Br. at 29. Respondent further argues that she did not evade Disciplinary Counsel's inquiry, that she "was in near constant contact with [Disciplinary Counsel] through emails and motions," and that Disciplinary Counsel was able to proceed

with its investigation without her and completed its investigation following the contempt proceeding. *Id.*

Disciplinary Counsel replies that *Owusu* is distinguishable because that respondent did not deliberately evade Disciplinary Counsel's inquiry, and because his failure to respond resulted from a lack of notice. ODC Reply at 26 (citing *Owusu*, 886 A.2d at 541). Disciplinary Counsel argues that here, Respondent deliberately failed to timely respond even though she knew about Disciplinary Counsel's investigation and the document subpoena. Disciplinary Counsel disputes the assertion that Respondent was in "near constant contact," arguing that her messages contained excuses for non-compliance, or promises that she would later break. Finally, Disciplinary Counsel argues that it could not complete its investigation without Respondent's financial records, and that Respondent's refusal to produce them for more than two years caused the needless expenditure of time by the courts and Disciplinary Counsel.

The Hearing Committee finds the wasteful expenditure of judicial and Disciplinary Counsel resources in this case appalling. Respondent's repeated and ongoing failure, over more than two years, to provide some 200 pages of financial documents needed to complete the original investigation alone demonstrates Respondent's violation of Rule 8.4(d). The Committee further finds that Respondent's conduct violated Rule 8.4(d) because she failed to comply with Disciplinary Counsel's subpoena, repeatedly ignored court orders, engaged in years of delay, and was dishonest to the court and Disciplinary Counsel about the

circumstances of her failure to comply. Her willingness to engage with Disciplinary Counsel, to provide him with repeated excuses for not supplying the documents or promises that they would soon be produced, does not obviate this violation. Indeed, it served only to needlessly extend the time that Disciplinary Counsel and the court gave to what was, in fact, a simple matter of providing the required financial documents. The Hearing Committee concludes that Disciplinary Counsel proved by clear and convincing evidence that Respondent violated Rule 8.4(d).

IV. RECOMMENDED SANCTION

Disciplinary Counsel has asked the Hearing Committee to recommend that Respondent be suspended for six months and required to prove her fitness to practice prior to reinstatement. Respondent argues that she should not be sanctioned because she has already suffered enough (citing her personal struggles during the relevant time period). If any sanction is imposed, Respondent argues that it should be no more than a thirty-day suspension, with the requirement that she complete workflow management CLEs, a course on public speaking, and a course on law firm management.

For the reasons described below, we recommend that Respondent be suspended from the practice of law for six months and required to prove her fitness to practice prior to reinstatement.

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.*, *Hutchinson*, 534 A.2d at 924; *In re Martin*, 67 A.3d 1032, 1053 (D.C. 2013); *Cater*, 887 A.2d at 17. "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 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)).

B. Application of the Sanction Factors

1. The Seriousness of the Misconduct

Respondent's misconduct arose out of a routine inquiry resulting from Disciplinary Counsel's investigation into an overdraft in Respondent's firm's escrow account. It is Respondent's failure to supply financial documents to resolve this minor and routine matter for more than two years, her inexplicable delays, excuses, and dishonesty to Disciplinary Counsel, and Superior Court Judge Cordero, which constitute substantially more serious violations of the Rules.

For more than two years, Respondent repeatedly failed to provide Disciplinary Counsel with the required documents by any of the variety of means suggested and allowed. Still more, she repeatedly disobeyed the court's orders that she produce the documents to Disciplinary Counsel and document that she had done so. And she made deliberate misrepresentations of fact in her communications with the court and with Disciplinary Counsel.

Respondent accepts no responsibility for her long failure to produce the documents required by Disciplinary Counsel. She insists that her conduct is excused, for the entire period, by a series of largely medical emergencies—beginning with an injured toe in December 2019 and ending with injuries due to an assault in December 2021.

Most seriously, Respondent was intentionally dishonest in her representations to the court and to Disciplinary Counsel. She said she had mailed the documents

when she had not. She provided a tracking receipt for the mailing that was demonstrably unconnected with the mailing in question.

The protracted, unnecessary, and inexplicable conduct wasted the resources of the Superior Court, Disciplinary Counsel, and the Committee.

2. Prejudice to the Client

No client has been prejudiced.

3. Dishonesty

As detailed above, the Hearing Committee did not find credible Respondent's explanations for the ongoing delay in providing the required financial documents. In several specifics, detailed above, the Hearing Committee concluded that the Respondent had been intentionally dishonest, repeatedly, to Disciplinary Counsel, Superior Court Judge Cordero, and to this Committee.

4. Violations of Other Disciplinary Rules

Respondent, by her ongoing, willful, and dishonest failure to produce some 200 pages of financial documents, violated several Rules, as detailed above.

5. Previous Disciplinary History

Respondent has no disciplinary history.

6. Acknowledgement of Wrongful Conduct

Respondent persists in arguing that her failure to provide the required financial documents to Disciplinary Counsel is entirely cured by her eventual provision of the documents more than two years late. She does not acknowledge

wrongful conduct in her long delay which forced the unnecessary expenditure of enormous resources by the court and Disciplinary Counsel.

7. Other Circumstances in Aggravation and Mitigation

Neither Disciplinary Counsel nor Respondent presented any facts in mitigation, and this Committee finds none beyond the facts already stated, that no client was harmed and that Respondent has no record of prior discipline.

In aggravation, we note that Respondent forced Disciplinary Counsel and the Superior Court to expend enormous amounts of time addressing her continued excuses and lies. Judge Cordero held seven hearings in this matter. During the proceedings before this Committee, Respondent was late in filing her exhibits and failed to provide a convincing or coherent reason for the late filing. At the hearing, she was unprepared to argue her case, exclaiming more than once, out loud, that she did not know what to argue. Given more time to gather her thoughts, her arguments did not improve. Her request on the third day that she be re-sworn before continuing her testimony appeared to rest on a misapprehension—unexpected in an attorney who represents clients in administrative hearings—that by being re-sworn she would somehow undo all of her testimony from the previous day. And her purported emotional inability to argue her own case was decisively shown to be pretense by her calculated efforts to obfuscate Disciplinary Counsel's case on cross. Respondent did not competently represent herself in this proceeding, thus raising questions about her ability to represent her clients.

B. Sanctions Imposed for Comparable Misconduct

In *In re Padharia*, 235 A.3d 747 (D.C. 2020), cited by Disciplinary Counsel in support of its proposed sanction, the respondent was found to have failed to follow court orders and interfered with the administration of justice when he filed thirty separate cases, failed to withdraw them when the clients did not wish to proceed, and ignored filing deadlines, causing the court to have to act to dismiss the cases for failure to prosecute. *Id.* at 748. The Board found the Respondent to have violated Rules 3.4(c) and 8.4(d). The respondent's failure to acknowledge his violations of the Rules was an aggravating factor; his honesty throughout mitigated, as did his lack of prior discipline and the fact that no client was harmed. The Board proposed the Court of Appeals impose a sanction of a six-month suspension with fitness. Neither party took an exception, and the Court imposed the recommended sanction. *Id.* at 748-49.

Respondent's conduct is more serious than that sanctioned in *In re Padharia*. There, Padharia's thirty cases interfered with court administration to the extent that the clerk's office had to dismiss each case not prosecuted, thus burdening the administration of justice. In the present case, however, Respondent's failure to produce some 200 pages of documents in response to Disciplinary Counsel's repeated requests necessitated the appointment of a judge and her calling seven hearings over four months. More serious still is the repeated intentional dishonesty in Respondent's responses to the court and to Disciplinary Counsel in the underlying matter, and her intentionally false testimony to this Committee.

Respondents' veracity is regularly a factor in the assessment of disciplinary sanctions. *In re Chapman*, 962 A.2d 922, 925 (D.C. 2008). In *Chapman* the Court of Appeals considered "whether Chapman's dishonesty to [Disciplinary] Counsel during its investigation and to the Committee during the hearing justifies imposing a greater sanction than that proposed by the Board." 962 A.2d at 924. The Court noted that,

> Deliberately dishonest testimony receives great weight in sanctioning determinations because a respondent's "truthfulness or mendacity while testifying on his own behalf, almost without exception, [is] probative of his attitudes toward society and prospects of rehabilitation[.]"

Chapman, 962 A.2d at 925 (quoting *In re Cleaver-Bascombe*, 892 A.2d 396, 402 (D.C. 2006). In consequence of the dishonesty Chapman was judged to have displayed to Disciplinary Counsel and in his testimony before the Hearing Committee, as well as a lack of remorse, the Court of Appeals increased the sanction from the Board recommendation of thirty-day suspension stayed in favor of a one-year period of probation to a sixty-day suspension, with thirty days stayed in favor of a one-year period of probation with conditions.

Thus, Respondent's deliberate lack of candor to Judge Cordero, deliberate misrepresentations to Disciplinary Counsel, and deliberate dishonesty to the Committee may well warrant a more serious sanction than the six-month suspension imposed in *Padharia*. However, we are mindful that the Court of Appeals has observed that "although the court is not precluded from imposing a more severe

sanction than that proposed by the prosecuting authority, that is and surely should be the exception, not the norm." *Cleaver-Bascombe*, 892 A.2d at 412 n.14.

C. Fitness

Disciplinary Counsel has requested that Respondent be required to prove her fitness to practice after completing her period of suspension. A fitness showing is a substantial undertaking. *Cater*, 887 A.2d at 20. Thus, in *Cater*, the Court held that "to justify requiring a suspended attorney to prove fitness as a condition of reinstatement, the record in the disciplinary proceeding must contain clear and convincing evidence that casts a serious doubt upon the attorney's continuing fitness to practice law." *Id.* at 6. Proof of a "serious doubt" involves "more than 'no confidence that a Respondent will not engage in similar conduct in the future.'" *In re Guberman*, 978 A.2d 200, 213 (D.C. 2009). It connotes "real skepticism, not just a lack of certainty." *Id.* (quoting *Cater*, 887 A.2d at 24).

In articulating this standard, the Court observed that the reason for conditioning reinstatement on proof of fitness was "conceptually different" from the basis for imposing a suspension. As the Court explained:

> The fixed period of suspension is intended to serve as the commensurate response to the attorney's past ethical misconduct. In contrast, the open-ended fitness requirement is intended to be an appropriate response to serious concerns about whether the attorney will act ethically and competently in the future, after the period of suspension has run. . . . [P]roof of a violation of the Rules that merits even a substantial period of suspension is not necessarily sufficient to justify a fitness requirement

Cater, 887 A.2d at 22.

The Court found that the following factors should be considered in the fitness analysis where a respondent fails to participate in the disciplinary inquiry: (1) the respondent's level of cooperation in the pending proceeding(s), (2) the repetitive nature of the respondent's lack of cooperation in disciplinary proceedings, and (3) other evidence that may reflect on fitness. *Id.* at 25-26.

We find that Respondent should be required to demonstrate fitness to practice law prior to reinstatement.

1. Respondent Actively Opposed Disciplinary Proceedings.

For more than two years Respondent delayed providing approximately 200 pages of required financial documents to Disciplinary Counsel. She sought extensions, made excuses, and finally lied about having already—or almost—sent or uploaded the documents. She repeated this conduct before Superior Court Judge Cordero in seven separate contempt hearings. Thus, she opposed, by failing to provide the required documents for more than two years, Disciplinary Counsel's investigation of the initial overdraft.

Before this Committee, Respondent demonstrated a similar unwillingness to do more than delay and interfere with the proceedings. She was late filing documents. She sought and then ignored extensions. She did not appear at the first day of the Zoom hearing, claiming technical difficulties and inexplicably declaring, by phone, that she was unable to connect to the hearing by phone. She filed her exhibits late and without a password allowing access. She appeared *pro se* and

testified on Day 2 of the hearing, but on Day 3 repudiated her first day of testimony and requested that it be stricken from the record.

Respondent's lack of cooperation with the disciplinary investigation, the related contempt proceedings in Superior Court, and before this Hearing Committee raises serious questions about her fitness to practice law.

2. Respondent Repeatedly Delayed Responding, First to Disciplinary Counsel, Then to the Court, and Finally to the Hearing Committee.

Respondent's conduct over the thirty months she refused Disciplinary Counsel the financial documents was repetitious in the extreme as the facts, above, catalogue. Deadlines for provision of the documents were ignored or acknowledged only by a request that they be extended. Respondent did engage with Disciplinary Counsel and, eventually, the court, but she did so in order to offer, again and again, excuses and misrepresentations about her purported efforts to supply the documents. The documents, in substantial part, were eventually supplied to Disciplinary Counsel only when Judge Cordero forced Respondent, during a hearing, to upload them while the Judge and Disciplinary Counsel looked on.

The conduct evident in Respondent's dealings with the court and with Disciplinary Counsel with respect to the missing financial documents was repeated in Respondent's dealings with the Hearing Committee. Respondent evinced little interest in resolving this case. Instead, her efforts, as in her earlier dealing with Disciplinary Counsel and the court, went to delay. She delayed answering the Specification, providing witness or exhibit lists, and even appearing at the hearing

itself. Her inexplicably near-endless delay raises questions about her fitness to practice law.

3. Respondent's Inability to Represent Herself in the Disciplinary Hearing Casts Doubts on Her Fitness to Represent Clients.

Respondent represented herself in the disciplinary proceedings (after the hearing counsel appeared on her behalf and filed her post-hearing brief). Respondent's conduct during this disciplinary proceeding reflected a lack of competence and diligence. Respondent filed her Answer late, filed her exhibit list late, and failed to appear at Day 1 of the hearing. At the hearing she was incoherent, repudiated her own testimony and, more than once, deliberated out loud how she should argue her case. The Hearing Committee suspended her testimony on Day 2 because of its incoherence and advised Respondent to return for the final day of the hearing prepared to argue her case. On Day 3 of the hearing, Respondent began by expressing her desire to have the prior hearing day's testimony stricken. Denied this, she further failed to provide a coherent defense of her conduct or any evidence in support of mitigation. Respondent's representation of herself at the disciplinary hearing leaves the Hearing Committee in serious doubt as to Respondent's competence in representing clients in adversarial proceedings—and in serious doubt, as well, as to her fitness to practice law.

V. CONCLUSION

For the foregoing reasons, the Committee finds that Respondent violated Rules 3.3(a)(1), 3.4(a), 3.4(c), 8.1(a), 8.1(b), 8.4(c), and 8.4(d) and should be suspended for six months and required to prove her fitness to practice prior to

reinstatement. We further recommend that Respondent's attention be directed to the requirements of D.C. Bar R. XI, § 14, and their effect on eligibility for reinstatement. *See* D.C. Bar R. XI, § 16(c).

AD HOC HEARING COMMITTEE

Mary Kuntz, Chair

Patricia Mathews, Public Member

Christina Biebesheimer, Attorney Member