THIS REPORT IS NOT A FINAL ORDER OF DISCIPLINE*

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

In the Matter of:	:	
	:	
STEVEN KREISS	:	
	:	
Respondent.	:	Board Docket No. 23-BD-008
	:	Disc. Docket No. 2020-D073
A Member of the Bar of the	:	
District of Columbia Court of Appeals	:	
(Bar Registration No. 58297)	:	

REPORT AND RECOMMENDATION OF THE AD HOC HEARING COMMITTEE

Respondent, Steven Kreiss, is charged with violating Rules 1.1(a) (competence) and (b) (skill and care), 1.3(a) (zealous and diligent representation), 1.3(b) (intentional prejudice or damage to client), 1.4(a) (communication) and (b) (failing to keep client informed and failing to explain), 1.5(a) (unreasonable fee), 1.15(a) (record-keeping), 1.16(d) (failing to timely surrender client's papers and property), and 8.4(c) (dishonesty, fraud, deceit, or misrepresentation) of the District of Columbia Rules of Professional Conduct (the "Rules"), arising from his representation of a client, John Andoh, who sought to become a permanent resident and to avoid deportation. Disciplinary Counsel contends that because Respondent committed all the charged violations and has prior discipline, he should be suspended for one year with a fitness requirement as a sanction for his misconduct. Respondent contends that he did a good job representing Mr. Andoh and should not

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

be sanctioned. As set forth below, the Hearing Committee finds that Disciplinary Counsel has proven the violations of Rules 1.1(a) (competence) and (b) (skill and care), 1.3(a) (zealous and diligent representation), 1.3(b) (intentional prejudice or damage to client), 1.4(a) (communication) and (b) (failing to keep client informed and failing to explain), 1.5(a) (unreasonable fee), 1.15(a) (record-keeping), and 1.16(d) (failing to timely surrender client's papers and property) by clear and convincing evidence, but not the Rule 8.4(c) charge. We recommend that Respondent be suspended for a period of six months, with thirty-days stayed in favor of a one-year period of probation with specified conditions.

I. PROCEDURAL HISTORY

On February 14, 2023, Disciplinary Counsel personally served Respondent with a Specification of Charges ("Specification"). Respondent did not file an Answer.

The Specification alleges that Respondent, in connection with his representation of John Andoh, violated the following rules:

- Rule 1.1(a) and (b), by failing to provide competent representation and failing to represent his client with skill and care;
- Rule 1.3(a), by failing to represent his client with diligence and zeal;

- Rule 1.3(b)[(2)][1], by intentionally prejudicing the client during the course of the professional relationship;
- Rule 1.4(a) and (b), by failing to keep his client informed and failing to promptly comply with reasonable requests for information and failing to explain matters to the extent reasonably necessary to permit his client to make informed decisions regarding the representation;
- Rule 1.5(a), by charging an unreasonable fee;
- Rule 1.15(a), by failing to maintain complete financial records;
- Rule 1.16(d), by failing to take timely steps to protect his client's interests by surrendering papers and property to which the client was entitled; and
- Rule 8.4(c), by engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation.

Specification ¶ 38.

A prehearing conference was held on April 27, 2023, before the Chair of the Ad Hoc Hearing Committee, Rebecca C. Smith, Esquire. Despite having notice of

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[1] Rule 1.3(b) includes a subdivision (1) and (2), and, here, the Specification of Charges only alleges a violation of 1.3(b)(2) in that "Respondent intentionally prejudiced the client during the course of the professional relationship." Specification ¶ 38(b).

the prehearing conference, Respondent did not appear. Assistant Disciplinary Counsel Caroll Donayre appeared on behalf of the Office of Disciplinary Counsel.

During the prehearing conference, the Chair noted that Respondent had not filed an Answer to the Specification of Charges, but that Respondent could request permission under Board Rule 7.5 to file a late Answer. *See* Preh. Tr. 4.[2] The Chair added that if Respondent did not file an Answer, he would be limited to cross-examination of Disciplinary Counsel's witnesses and would not be able to present witness or documentary evidence. *Id.* at 5. A transcript of the prehearing conference proceedings was emailed to Respondent on May 5, 2023. Respondent did not subsequently file an Answer or request permission to file a late Answer.

On May 2, 2023, the Chair issued a scheduling order which was emailed to Respondent. The scheduling order memorialized the schedule set at the prehearing conference, including the dates of June 16 and 20, 2023 for the hearing and the deadlines for filing exhibit and witness lists and for exchanging proposed exhibits. On June 10, 2023, six days before the hearing, Respondent filed a motion to continue the hearing and for an extension of time to file his preliminary exhibit and witness list and additional time to exchange proposed exhibits. Disciplinary Counsel opposed the motion to continue the hearing, noting that Respondent had known about the proposed charges since September 2022 and had not alleged good cause for a continuance of the hearing. Disciplinary Counsel also opposed the request for

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[2] "Preh. Tr." refers to the transcript of the prehearing conference held on April 27, 2023. "Tr." refers to the transcript of the hearing held on June 16 and 20, 2023.

an extension of time for the exchange of proposed exhibits and for Respondent's filing of a preliminary exhibit and witness list because Respondent had not filed an Answer, and, pursuant to Board Rule 7.7, was limited to cross-examination of Disciplinary Counsel's witnesses and testifying on his own behalf at the hearing. The Committee denied Respondent's motion to continue the hearing and to extend time for the filing of a preliminary exhibit and witness list and exchanging of proposed exhibits.

At the hearing held on June 16 and 20, 2023, Disciplinary Counsel was represented by Assistant Disciplinary Counsel Donayre and Respondent was present, appearing *pro se*. Disciplinary Counsel's exhibits ("DX") 1-23 were admitted into evidence. Tr. 375, 384.[3] During the hearing, Disciplinary Counsel called as witnesses: John Andoh, Colleen Normile, Thomas Tousley, Esquire, and Respondent. Respondent testified on his own behalf.

Upon conclusion of the hearing, the Hearing Committee made a preliminary non-binding determination that Disciplinary Counsel had proven at least one of the ethical violations set forth in the Specification of Charges. Tr. 383; *see* Board Rule 11.11. In the sanctions phase of the hearing, Disciplinary Counsel submitted DX 22 and 23 (prior discipline of an informal admonition and a public censure) as

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[3] On June 27, 2023, Disciplinary Counsel filed a Motion to File Exhibit List, requesting that it be permitted to file its exhibit list and exhibits without Respondent's signature on the Board's Exhibit List Form. That motion is granted.

aggravating evidence. In mitigation of sanction, Respondent testified on his own behalf. *See* Tr. 385-389.

Disciplinary Counsel submitted its Proposed Findings of Fact, Conclusions of Law, and Recommendation as to Sanction ("ODC Br.") on July 17, 2023. On August 8, 2023, Respondent filed a three-page Post Hearing Brief in Opposition to Disciplinary Counsel's Post-Hearing Brief ("Resp. Br.").[4] Disciplinary Counsel filed its Reply on August 11, 2023 ("ODC Reply").

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) (citations omitted) ("clear and convincing evidence" is more than a preponderance of the evidence, it is "evidence that will produce in the mind of the trier of fact a firm belief or conviction as to the facts sought to be established").

1. Respondent is a member of the Bar of the District of Columbia Court of Appeals, having been admitted on April 24, 1970, and assigned Bar number 58297. DX 1; Tr. 110-113 (Respondent).

2. Respondent maintains an immigration practice in the District of Columbia and handles various types of immigration cases including court cases.

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[4] Respondent's brief only addressed a single factual issue. It did not include any legal conclusions and did not address any aggravating or mitigating factors as to sanction or propose a sanction recommendation.

Tr. 117. Respondent has been a solo practitioner for forty years. Tr. 114 (Respondent).

3. In 2006, Denise Johnson filed an I-130 petition seeking authorization for her husband, John Andoh, to remain in the U.S. and adjust his status to permanent resident. Tr. 16-17 (Andoh).

4. The United States Citizenship and Immigration Services ("USCIS") denied the I-130 petition. DX 18 at 28; Tr. 17-18 (Andoh), Tr. 237-238 (Tousley).

5. Two months later, Mr. Andoh was placed in removal proceedings. Tr. 18 (Andoh), Tr. 238-239 (Tousley).

6. Ms. Johnson then filed a second I-130 petition. Tr. 18 (Andoh), Tr. 238-239 (Tousley).

7. USCIS issued a Notice of Intent to Deny the second petition on December 16, 2011. DX 18 at 30; Tr. 18-21 (Andoh), Tr. 239 (Tousley).

8. Mr. Andoh paid Respondent to respond to the USCIS Notice of Intent to Deny the second I-130 petition. DX 13 at 4. On January 13, 2012, Respondent submitted a substantive response to the Notice of Intent to Deny. DX 18 at 37-39; Tr. 21-23 (Andoh), Tr. 134-135 (Respondent), Tr. 239-240 (Tousley).

9. Mr. Andoh trusted Respondent fully and expected him to handle his matter appropriately. Tr. 20-22, 40, 50-51, 54, 62, 66, 69, 71, 75, 89 (Andoh).

10. On March 26, 2012, USCIS denied the second I-130 petition. DX 18 at 124-130; Tr. 24 (Andoh), Tr. 240 (Tousley).

11. Several days later, Mr. Andoh retained Respondent to represent him in an appeal of the denial before the Board on Immigration Appeals ("BIA"). Respondent charged Mr. Andoh a flat fee of $3,500 for the engagement. DX 4 at 9. The retainer agreement states that Mr. Andoh paid monies as a retainer for work to be performed for "appeal to Board of Appeals. $2110.00 paid this date ($110 for government fee) balance of $1500 to be paid in three (3) monthly installments of $500 each beginning April 15, 2012." DX 4 at 9-11; Tr. 25-26, 58 (Andoh), Tr. 138-140 (Respondent), Tr. 242 (Tousley).

12. Respondent told Mr. Andoh that his "case was a straight shot" (Tr. 21) and that he would take it "all the way to the Supreme Court" (*id.*) to ensure that he prevailed. Tr. 21, 40, 58, 65-66, 89 (Andoh). Respondent told Mr. Andoh that it might take time, but he would win his case. Tr. 21-22, 65 (Andoh).

13. On April 24, 2012, Respondent mailed a letter and attached a Notice of Appeal to the Board of Immigration Appeals from a Decision of an INS Officer (Form EOIR-29) to the USCIS office in Baltimore. DX 18 at 120 (Letter to USCIS in Baltimore, MD, copy of USCIS's March 26, 2012 decision, and check payment of $110.00 for filing fee of appeal); Tr. 141-142 (Respondent). The Notice of Appeal Form EOIR-29 includes the statement: "*Warning: If the factual or legal basis for the appeal is not sufficiently described, the appeal may be summarily dismissed*." DX 18 at 121 (emphasis in original). In handwritten text on the Notice of Appeal Form, Respondent stated the basis for the appeal as:

> The marriage entered into by I-130 petitioner Denise Johnson and her husband John Andoh was not for the purpose of conferring immigration benefits and evading immigration laws. In essence, the couple did not enter into a sham marriage. The documentation submitted by the couple to prove a bona fide marriage complied with the controlling regulation, 8 CFR 204.2(a)(1)(i)(B), and the I-130 petition instructions as to the documents to submit to establish a bona fide marriage.

Id. Respondent checked a box indicating that he did not want to appear for oral argument before the BIA. *Id.* Respondent, however, checked a box noting that a separate brief would be filed. *See* DX 18 at 121; Tr. 141-143 (Respondent), Tr. 243-244 (Tousley). Both Respondent's letter and the filled-in Notice of Appeal Form indicated that Denise Johnson was the "Petitioner" and John Andoh was the "Beneficiary." *See* DX 18 at 120-121. Respondent signed the Notice of Appeal Form as the "attorney or representative" of "Appellant." DX 18 at 121.

14. In his April 24, 2012 letter accompanying the Notice of Appeal Form, Respondent also stated that a "legal brief will follow the filing of this appeal." *See* DX 18 at 120.

15. Ms. Johnson was the I-130 Petitioner, and as such was the only party with standing to appeal the USCIS denial, but Respondent did not attach a Notice of Appearance on her behalf with his April 24 letter and Notice of Appeal Form. DX 18 at 121-123; Tr. 245 (Tousley). The attached Notice of Entry of Appearance as Attorney or Representative Before the Board of Immigration Appeals (Form EOIR-27) instead indicated that Respondent was entering his appearance at the request of "John Y. Andow [sic]." DX 18 at 122. On or about May 8, 2012, USCIS sent Respondent a Notice of Action (Form I-797C) which confirmed the receipt of

the Notice of Appeal and the fee for the appeal. DX 18 at 130. The receipt notice identified the Petitioner as "John Y. Andoh" and the Beneficiary as "John Y. Andoh." DX 18 at 130-131.[5]

16. On May 21, 2012, one month after filing the Notice of Appeal, Respondent requested a sixty-day extension to file his brief. DX 18 at 134. He stated that he was having hip surgery and would be out of the office for four to six weeks. DX 18 at 134; Tr. 144-146 (Respondent), Tr. 245-246 (Tousley).

17. On May 25, 2012, Respondent underwent hip surgery. Tr. 340 (Respondent).

18. About three weeks later—while still recovering from surgery, Respondent agreed to represent Mr. Andoh in deportation proceedings. Respondent charged a fee of $3,500 for the deportation proceedings and an additional $1,500 for a trial if the I-130 appeal was successful. DX 4 at 25-27.

19. On June 20, 2012, Respondent entered his appearance to represent Mr. Andoh before the Baltimore Immigration Court deportation proceedings. DX 4 at 25-27; Tr. 27-29 (Andoh), Tr. 251-52 (Tousley).

20. On July 13, 2012, Respondent requested an additional fifteen-day extension to file the brief with the BIA, stating that he had been out of the office for six weeks following surgery, was working half days and the extension of time "will

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[5] The record does not include any efforts by Respondent to correct the identity of the Petitioner upon receiving this notice or to supplement his Notice of Appearance prior to the appeal being dismissed.

permit counsel to prepare and file the required brief." DX 18 at 137. The additional fifteen days would extend the filing deadline to August 8, 2012. *Id.*; *see also* Tr. 146-147 (Respondent), Tr. 247 (Tousley).[6]

21. Despite seeking two extensions of the time to file a brief supporting the appeal of the I-130 denial, Respondent did not submit a brief or any supplemental materials to the BIA. Tr. 148, 158-159 (Respondent), Tr. 96 (Normile), Tr. 248-250, 298-299 (Tousley).

22. Even after the August 8 deadline passed, Respondent could have submitted a brief with a motion to file it out of time, but he did not do so. Tr. 298, 317 (Tousley).

23. On November 23, 2012, the BIA dismissed the appeal of the USCIS's denial of the second I-130 petition. DX 9 at 34-35. The BIA decision described Ms. Johnson as appearing *pro se* because the Notice of Appeal (Form EOIR-29) was not signed by the Form I-130 Petitioner (Johnson) but by Respondent, and was not accompanied by a Notice of Entry of Appearance (Form EOIR-27) for Ms. Johnson. *Id.* at 35. Because Respondent failed to include a Notice of Appearance as an attorney or representative of Ms. Johnson, the BIA did not have jurisdiction. *Id.* Only the Form I-130 Petitioner, *i.e.*, Ms. Johnson, was entitled to appeal to the Board, and the record was not clear that the appeal was initiated by either Ms.

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[6] The BIA did not send a response to Respondent's requests for extension of time. It is not unusual for the local office to not respond to such requests. *See* Tr. 247 (Tousley).

Johnson or an authorized representative. The BIA added, in the alternative, that even if the appeal was properly filed, the Petitioner did not meaningfully identify the reasons for the appeal on the Notice of Appeal or any other paper filed with the Board: "Although the petitioner indicated on the Notice of Appeal that she intended to file a separate written brief or statement, no such submission was received." *Id.* Because of Respondent's failure to properly file the Notice of Appeal and to brief the reasons for the appeal, the BIA summarily dismissed the appeal and did not consider the I-130 on the merits. DX 18 at 306, DX 21 at 11; Tr. 151-154 (Respondent), Tr. 31-32 (Andoh), Tr. 249-251 (Tousley). It was not until December 20, 2012, that Respondent properly filed a Notice of Entry of Appearance as Attorney or Representative Before the Board of Immigration Appeal (Form EOIR-27) on behalf of Ms. Johnson. DX 18 at 132.

24. In the three and a half months from when the appeals brief was due to when the BIA dismissed the appeal, Respondent did not take any action in regard to the BIA appeal or in filing a correct Notice of Appearance. Tr. 354-355 (Respondent).

25. On November 27, 2012, Respondent filed a motion to continue the deportation proceedings with the Baltimore Immigration Court. DX 18 at 494. The following day, the Baltimore Immigration Court denied the request on the basis that it was not persuaded that any further continuances were warranted given the age of the case. DX 18 at 495; Tr. 157-159 (Respondent).

26. On November 29, 2012, the Baltimore Immigration Court found Mr. Andoh subject to removal but granted him a voluntary departure. DX 18 at 435-442, Tr. 32 (Andoh).

27. Mr. Andoh received in the mail the notice and decision from the BIA denying his appeal. DX 18 at 305-306. Mr. Andoh, however, credibly testified that Respondent did not tell him that the BIA appeal had been denied or explain why the appeal was denied. Tr. 30-31 (Andoh). Respondent did not provide him any written explanation as to the status of the case, and no other documentation reflects any communications with Mr. Andoh about the BIA decision. Tr. 30-32 (Andoh).

28. Respondent's testimony about his discussions with Mr. Andoh about the BIA dismissal was vague, conjectural, and varying. When asked if he told Mr. Andoh that the appeal was denied because of Respondent's failure to file the brief, Respondent testified, "I think I did discuss it with him, and I may have indicated to him that we were probably better off anyway by going to the District Court of Maryland. . . . I had discussions with Mr. Andoh all the time." Tr. 355-356 (Respondent). When asked again if he explained to Mr. Andoh that he had missed the filing deadline for the brief, Respondent could not recall. "I most certainly probably did, but I do not recall." *See* Tr. 355-357 (Respondent). Respondent does not have any time records or other documentation reflecting discussions with Mr. Andoh. Tr. 364-366 (Respondent). Respondent did tell Mr. Andoh, that he would move to reopen or file a federal court case. *See* Tr. 148-151 (Respondent).

29. The Committee credits Mr. Andoh's testimony that Respondent never told him that he had failed to file a timely appeals brief. Mr. Andoh understood that Respondent was going to file another brief in a court of appeal or the district court, but did not understand that the BIA's dismissal was due to Respondent's failure to file a correct Notice of Appearance and his failure to file a timely brief. Tr. 30-32 (Andoh).

30. Approximately a month after the BIA dismissal, Respondent filed with the BIA a Motion to Reopen and/or for Reconsideration. DX 18 at 101-118. Respondent filed a new Notice of Appearance Form (in the name of Denise Johnson), *see* DX 18 at 99-100, and a brief that included substantive arguments in the appeal of the USCIS denial of the I-130 petition. DX 18 at 105-118. Respondent argued that reopening the case was justified because he underwent surgery during the briefing period and "[t]his is petitioner's last opportunity to have her case heard before an impartial adjudicator." DX 18 at 103-104; Tr. 148, 159, 163 (Respondent).

31. As Respondent admitted, the Motion to Reopen and/or for Reconsideration was necessary because Respondent had failed to file the appeals brief on time and he needed to correct the Notice of Appearance. Tr. 150-151, 172 (Respondent). In the motion, Respondent argued that the matter should be reopened due to his surgery, and he attached the substantive brief to the motion. DX 18 at 101-118.

32. On September 6, 2013, the BIA summarily denied the Motion to Reopen and/or for Reconsideration because Respondent had failed to specify an

error of fact or law and failed to submit previously unavailable evidence. DX 12 at 9-10. The BIA concluded that "reopening to consider the untimely brief was not warranted." DX 12 at 10, DX 4 at 54. As a result, the BIA did not ever consider the merits of Mr. Andoh's appeal of the USCIS's denial. DX 21 at 11; Tr. 263-268 (Tousley).

33. Over the next six years, Mr. Andoh retained Respondent to represent him in one effort after another to overturn the USCIS denial of the I-130 petition and the BIA's dismissal, with Respondent charging him additional fees at every step. As detailed below, Respondent charged Mr. Andoh more than $20,000 for these matters. Tr. 32-40, 44 (Andoh).

34. On September 26, 2013, Mr. Andoh retained Respondent to appeal the BIA denial to the United States Court of Appeals for the Fourth Circuit—for a fee of $7,500. DX 4 at 32-34; Tr. 34-36 (Andoh).

35. On October 3, 2013, Respondent filed a Petition for Review with the Fourth Circuit. DX 21 at 8, DX 9 at 59. In October 2015, the Fourth Circuit denied the appeal on the grounds that it lacked jurisdiction to review the BIA's decision in an I-130 petition case and "in the interest of justice" transferred the case to the District Court. DX 21 at 9; Tr. 258-261 (Tousley). Under section 242 of the Immigration and Nationality Act, the Circuit Courts of Appeals have jurisdiction over a non-citizen's appeal of an Immigration Judge's decision. DX 21 at 11. The argument that a Circuit Court of Appeals has jurisdiction over a USCIS denial of an I-130 petition is much weaker. *Id.*

36. In November 2015 and after the Fourth Circuit had transferred the case, Mr. Andoh retained Respondent to pursue the case before the U.S. District Court for the District of Maryland, for an additional charge of $7,500. DX 4 at 36-38; Tr. 37-38 (Andoh). This action, brought under the Administrative Procedures Act, sought review of the I-130 petition denial under the arbitrary and capricious and abuse of discretion standards. The deferential standard of review for this Administrative Procedures Act action, particularly given the fact-intensive nature of Mr. Andoh's case, further reduced the likelihood of success. DX 21 at 11-12; Tr. 263-269, 285-286, 291 (Tousley).

37. In February 2016, Respondent charged Mr. Andoh another $1,600 to file a reply brief in the U.S. District Court for the District of Maryland. DX 4 at 40-42; Tr. 38-39 (Andoh).

38. In June 2018, the U.S. District Court for the District of Maryland granted summary judgment to the government. *See* DX 20 at 47 ("It is not the role of this Court to conduct a *de novo* review of whether substantial and probative evidence exists in the record or to substitute its own judgment for that of USCIS.").

39. The Court specifically addressed Respondent's failure to file an appeals brief with the BIA: "[S]ummary dismissal is appropriate when a petitioner fails to file a brief as indicated and the notice of appeal does not contain a sufficient statement of reasons for the appeal." DX 20 at 49 (citing *Bonovo v. Ashcroft*, No. 03-1645, 120 Fed. App'x 936, 939 (4th Cir. Dec. 17, 2004)). As to the denial of the Motion to Reopen and/or for Reconsideration, the Court noted that the BIA had

granted Respondent two extensions to file a brief and further waited an additional few months before issuing a decision. DX 20 at 51; Tr. 266-67 (Tousley).

40. In July 2018, Respondent appealed the U.S. District Court for the District of Maryland's decision to the Fourth Circuit. DX 21 at 10, 12; Tr. 262 (Tousley).

41. In November 2018, Respondent charged Mr. Andoh an additional $2,500 to file a second brief involving the Administrative Procedures Action for the appeal to Fourth Circuit. DX 4 at 44-46; Tr. 39-40 (Andoh).

42. In March 2019, the Fourth Circuit affirmed the Court's order granting summary judgment to the government in an unpublished per curiam opinion, "indicating the weakness of this litigation." DX 21 at 12; *see also* DX 4 at 69-72.

43. In April 2019, Respondent filed a petition for a rehearing in the Fourth Circuit. One month later, the Fourth Circuit summarily denied the motion. DX 21 at 10.

44. Despite the numerous appeals and petitions for review filed, none of the courts considered the merits of Mr. Andoh's claim on a *de novo* basis. The BIA was the only opportunity for *de novo* review of the USCIS decision, and Respondent lost that opportunity when he identified the wrong party in the Notice of Appearance and also failed to file a brief. Tr. 263-270, 289-291 (Tousley).

45. Respondent's failure to properly file the appeal and brief greatly prejudiced Mr. Andoh. The Committee finds that Respondent's conduct in representing Mr. Andoh fell below the standard of care for a reasonable immigration

attorney. *See also* Tr. 268-269 (Tousley). Respondent made a critical mistake in not filing a brief with the BIA, which allowed the BIA to summarily dismiss the appeal, and no subsequent court ever reviewed USCIS's decision *de novo*. Tr. 269-70 (Tousley). Mr. Andoh was charged a significant amount of money for his attorney's multiple attempts to remedy the prejudice in not filing a brief, none of which succeeded. Tr. 268-270, 289 (Tousley); DX 21 at 12. "There was a significant amount of litigation for little -- for -- to no advantage of Mr. Andoh." Tr. 270 (Tousley).

46. In 2019, AYUDA (a legal services provider for low-income immigrants) procured a Nonimmigrant U Visa for Mr. Andoh, possibly leading to lawful permanent residence without the cost and time expended in Respondent's litigation. DX 21 at 12-13; Tr. 270-271 (Tousley). A U Visa is a type of nonimmigrant visa set aside for victims of certain crimes who provide assistance to law enforcement. Typically, the U Visa is for four years but it is possible for a U Visa holder to apply for lawful permanent residence. Tr. 270-272; DX 21 at 12-13.

47. During the hearing, Respondent denied that his failure to file the brief with the BIA prejudiced Mr. Andoh's case. Tr. 360-364, 378-381 (Respondent). Respondent claimed that he presented all the evidence to the U.S. District Court for the District of Maryland and that his client got due process, even though the Court did not conduct a *de novo* review of the USCIS's denial of the I-130 petition. Tr. 166 (Respondent). While acknowledging the less favorable standard of review involving the Administrative Procedures Act, Respondent insisted that he favored the U.S.

District Court: "I would much rather be in federal district court than the BIA." Tr. 360 (Respondent). We credit Respondent's testimony concerning his sincere belief, even if mistaken, that Mr. Andoh had a basis to proceed in the U.S. District Court.

48. Respondent did not explain to Mr. Andoh the details of his initial failure to identify the correct party in the Notice of Appearance Form and his failure to file a timely brief, but Mr. Andoh recalled that Respondent stated he was going to litigate the issue in the "court of appeal or the district court." Tr. 31 (Andoh). During the hearing, Respondent seemed not to understand the legal significance of proceeding under the Administrative Procedures Act, stating, "[t]he reason was that the courts denied the motions as the District Court in Maryland and the Fourth Circuit denied it on the merits." Tr. 171-173 (Respondent),

49. Mr. Andoh only learned that the appeals brief to the BIA was not timely filed when he went to the AYUDA attorneys. Tr. 48 (Andoh).

50. According to Mr. Andoh, early on in the representation Respondent communicated regularly. Tr. 51, 54 (Andoh). Mr. Andoh had confidence in Respondent and trusted him. Tr. 40, 66-67, 89 (Andoh). Later on, Respondent did not explain things or give him details but only contacted him when he needed additional retainers. Tr. 83 (Andoh to Respondent: "[Y]ou told me the Fourth Circuit court have referred the case back to the District Court, so you have to send an appeal, you have to . . . sign another retainer. But as to the details, you quit telling me.").

51. Respondent did not provide Mr. Andoh with copies of all pleadings submitted on his behalf. Mr. Andoh requested copies of the several appeals briefs but did not receive them. Tr. 23, 40, 74, 84(Andoh). When Mr. Andoh asked to see copies of the briefs, Respondent told him the briefs were filed electronically. Tr. 82-84 (Andoh); *see also* Tr. 188-189 (Respondent); Tr. 84 (Respondent to Andoh: "As a matter of fact, I don't even remember if I gave you or not gave you.").

52. Mr. Andoh eventually became suspicious because Respondent had asked him to sign multiple successive retainer agreements and because Respondent was filing multiple briefs. Tr. 40 (Andoh: I began to have suspicion, so I asked him, why so many briefs . . . [but] I said fine, because I had confidence in him.").

53. Mr. Andoh paid Respondent in full for the legal representations. Tr. 26-30 (Andoh). Toward the end of the representation, Respondent told Mr. Andoh that he had to pay an additional $400 to close the case. Tr. 42-43 (Andoh).

54. Respondent did not refund any of the legal fees paid by Mr. Andoh. Tr. 48 (Andoh). Respondent claimed that he credited the $3,500 paid for the BIA appeal to subsequent representations but was not able to identify any documentation reflecting that credit: "It's not documented. That's just done." Tr. 361; *see also* Tr. 370-373 (Respondent). The Committee finds Respondent did not "refund" the $3,500 BIA appeal fee and no suggestion of a refund of the BIA appeal was ever communicated to Mr. Andoh.

55. At the conclusion of the representation, Mr. Andoh asked Respondent for his client file, but Respondent did not provide it. Tr. 48 (Andoh), Tr. 189 (Respondent).

56. Respondent did not maintain complete financial records for the legal fees he received from Mr. Andoh. Respondent maintained retainer agreements, which specified the fee for services, noted payments received and payments due, and made notes on client files. Tr. 120, 124-125 (Respondent). Respondent testified that he gave his clients receipts for any payments received. Tr. 120, 128 (Respondent). Mr. Andoh testified that initially Respondent provided receipts for payments, but as time went on Respondent gave him receipts only sometimes. Tr. 29-30, 51, 88 (Andoh). Respondent produced receipts for only some of the payments made by Mr. Andoh. Despite Disciplinary Counsel's subpoena for the production of documents, Respondent did not produce the client folder for Mr. Andoh. Respondent had no other records as to how the fees were maintained or handled. Tr. 120, 181, 185-187, 373 (Respondent).

57. Respondent did not keep any time records to support the legal fees he charged Mr. Andoh. Tr. 119-121, 126-127 (Respondent).

58. We find that Respondent's testimony about his method of communicating with clients was contradictory and not credible. On the first day of the disciplinary hearing, Respondent claimed he never dealt with clients by email because he did not check his email. Tr. 174-75 (Respondent). Yet he later admitted that he had received an email from Disciplinary Counsel and responded by email.

Tr. 182-183 (Respondent). Respondent claimed further that he communicated with his clients "on paper." *Id.* Yet on the second day of the hearing, Respondent testified that he does *not* contact his clients by mail, claiming that he always contacts them by telephone. Tr. 345 (Respondent). He admittedly does not maintain any record of phone calls and could not identify any other documentation of his communications with Mr. Andoh. Tr. 344-345, 364-365 (Respondent).

59. We also do not credit Respondent's assertion that he notified his clients about the extent of his absence from the office following surgery. He testified that he "[p]robably [did] not [advise them] in writing" "[m]aybe by telephone." Tr. 341 (Respondent). He claimed that he spoke to clients who had "a deadline or a brief that had to be filed or prepared" during that period, and that he would "get things done . . . even if I had to do them at home." Tr. 362-363 (Respondent). When asked about failing to file the BIA brief for Mr. Andoh during this period, Respondent responded, "I think that's mitigated by the fact that I did everything right in federal court . . . which is really where I wanted to go." Tr. 363 (Respondent). Respondent added that in light of the reasons USCIS gave in denying the I-130 petition—*i.e.*, "the [Department of Homeland Security] officers going to the Andoh's residence and finding another woman there"—he thought Mr. Andoh's chance of success would be greater in federal court than the BIA. Tr. 363-364 (Respondent).

60. Respondent gave vague and confusing testimony about his strategy in handling the Andoh matter. Respondent never explained to Mr. Andoh about the

difficulties of prevailing under the Administrative Procedures Act in the District Court, but, instead, told Mr. Andoh only about his perceived advantages of appearing in federal court: "I told him that I had very little faith in BIA, because I . . . know that they are very, very strict, whereas the federal district court has more of a heart. And you might be able to win there as compared to the BIA." Tr. 358 (Respondent). Even though Respondent initially was retained to file an appeal with the BIA, he claimed that he preferred appearing before a federal district court judge: "I would much rather be in the District Court than the BIA." Tr. 360 (Respondent); *see also* Tr. 364 (Respondent: "So I really wanted to take this case to federal court rather than BIA, because I knew we had very little chance at BIA."); Tr. 380 (Respondent: "Mr. Andoh had received full judiciary decision[-]making in connection with this from a federal district court, rather than the BIA, which is where I did not want to go on a marriage fraud issue of this nature.").

III. CONCLUSIONS OF LAW

Disciplinary Counsel contends that Respondent violated all the Rules charged in the Specification of Charges. Most significantly, Disciplinary Counsel contends that Respondent did not properly file an appeal to the BIA and then missed a critical deadline. Despite requesting two extensions of time, Respondent did not file the appeals brief with the BIA until after the appeal had been dismissed. The substantive brief was filed only in connection with a Motion to Reopen and/or for Reconsideration which the BIA denied. Respondent did not explain his failure to file a timely brief or the consequences of this failure to Mr. Andoh. Respondent

proceeded to present Mr. Andoh one retainer agreement after another and pursue futile litigation at significant expense to Mr. Andoh. Disciplinary Counsel also contends that Respondent failed to maintain adequate financial records and was dishonest with Mr. Andoh when he failed to "come clean" with his client about his predicament. ODC Br. at 22.

Respondent contends that he did a good job representing Mr. Andoh and disputes all of the charges. Respondent contends that he fully briefed and presented evidence to the U.S. District Court, rather than the BIA, and that Mr. Andoh received a review on the merits. In his post-hearing brief, Respondent challenges the basic premise of Disciplinary Counsel's charges: that he failed to file an appeals brief with the BIA. Respondent contends that he filed a substantive brief with the BIA in support of a Motion to Reopen and/or for Reconsideration, thus undermining Disciplinary Counsel's charges. Resp. Br.at 1-2.

The Hearing Committee finds clear and convincing evidence that Respondent failed to represent his client with competence and skill and care, failed to act diligently during the representation, and intentionally prejudiced Mr. Andoh during the course of the professional relationship in the initial appeal to the BIA and his ongoing representation of Mr. Andoh, in violation of Rules 1.1(a) and (b), 1.3(a) and (b)(2). The Committee also finds clear and convincing evidence that Respondent failed to keep Mr. Andoh informed and failed to promptly comply with reasonable requests for information or to explain matters to the extent reasonably necessary to permit Mr. Andoh to make informed decisions regarding the representation, charged

an unreasonable fee, failed to keep records of entrusted funds, and failed to return his file and papers in violation of Rules 1.4 (a) and (b), 1.5(a), 1.15(a), and 1.16(d). The Committee, however, concludes that Disciplinary Counsel did not establish clear and convincing evidence of Respondent's dishonesty in violation of Rule 8.4(c).

A. Disciplinary Counsel Proved that Respondent Violated Rules 1.1(a) and (b) in that He Failed to Represent his Client with Competence and the Skill and Care Provided by Other Lawyers in Similar Matters.

Rule 1.1(a) requires a lawyer to "provide competent representation to a client." The Court has determined that competent representation requires the "legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation." *See In re Drew*, 693 A.2d 1127, 1132 (D.C. 1997) (per curiam) (appended Board Report) (lawyer who has requisite skill and knowledge, but who does not apply it for particular client, violates obligations under Rule 1.1(a)).

Rule 1.1(b) mandates that "a lawyer shall serve a client with skill and care commensurate with that generally afforded to clients by other lawyers in similar matters." The comments to Rule 1.1 state that competent representation includes "adequate preparation, and continuing attention to the needs of the representation to assure that there is no neglect of such needs." Rule 1.1, cmt. [5]. Mere careless errors do not arise to the level of incompetence required to find violations of Rule 1.1(a) or (b). *In re Evans*, 902 A.2d 56, 70 (D.C. 2006) (per curiam) (appended Board Report). Rules 1.1(a) and (b) address failures that amount to a "serious deficiency" in an attorney's representation of a client. *In re Yelverton*, 105 A.3d

413, 421-422 (D.C. 2014). To prove a serious deficiency, Disciplinary Counsel must prove that the conduct "prejudices or could have prejudiced the client." *Id.* at 422. Actual prejudice is not required to prove a serious deficiency in violation of Rules 1.1(a) or (b). *In re Askew*, 225 A.3d 388, 395 (D.C. 2020) (per curiam).

The competency, skill, and care of an attorney under Rules 1.1(a) and (b) must be evaluated in terms of the representation required and provided in the particular matter at issue:

> Competent handling of a particular matter includes inquiry into and analysis of the factual and legal elements of the problem, and use of methods and procedures meeting the standards of competent practitioners. It also includes adequate preparation and continuing attention to the needs of the representation to assure that there is no neglect of such needs. The required attention and preparation are determined in part by what is at stake; major litigation and complex transactions ordinarily require more elaborate treatment than matters of lesser consequence.

Rule 1.1, cmt. [5].

Here, Respondent failed to competently represent his client, Mr. Andoh, when he mistakenly filed his Notice of Entry of Appearance only on behalf of Mr. Andoh and not Ms. Johnson. Because Ms. Johnson was the I-130 Petitioner, she was the only party with standing to appeal the denial by USCIS. FF 15. Mr. Andoh was prejudiced by this error in filing the appeal because he was the "Beneficiary" husband of Ms. Johnson and Respondent only belatedly filed a Notice of Appearance on behalf of Ms. Johnson, after the BIA's dismissal. If Respondent had been paying attention to the matter, he would have realized the mistake earlier when the BIA sent him the notice of receipt which identified both the Petitioner and the Beneficiary as

Mr. Andoh. *See* FF 15. Without the appropriate Notice of Appearance Form, the BIA lacked jurisdiction to consider the appeal.

Respondent also failed to competently represent Mr. Andoh by failing to file an appeals brief with the BIA. FF 16-24. Respondent was retained to pursue an appeal from the I-130 denial to the BIA. FF 11. Respondent expressly stated that he would file a written brief. He submitted two requests for extensions of time seeking additional time to file "the required brief." The Notice of Appeal Form he completed included a warning that failure to specify the basis for appeal may result in summary dismissal. *See* FF 13. Despite this, Respondent did not file a brief with the BIA. FF 21. The BIA issued a summary dismissal of the appeal in part because of Respondent failing to file a timely brief. FF 23.

The appeal with the BIA was the only opportunity for a *de novo* review of the I-130 determination. As Disciplinary Counsel's expert witness Mr. Tousley explained,

> [I-130 cases] can be very fact-intensive. . . . [I]f you're going to have any shot . . . you want to do a de novo review. . . . [W]ithout that de novo review . . . [you are] left to review under the Administrative Procedures Act . . . [with a] very deferential standard of review. . . . [Y]ou're pushing an uphill battle under an APA [Administrative Procedures Action] action. . . . [Respondent] made a critical mistake in not filing the appeal before the Board. . . . [T]hat put Mr. Andoh in a situation where it was going to be very difficult.

Tr. 264-269. Respondent did not serve his client with the skill and care commensurate with that generally afforded by other lawyers in similar matters. *See* FF 45.

Disciplinary Counsel has proven the violations of Rules 1.1(a) and (b) by clear and convincing evidence.

B. Disciplinary Counsel Proved that Respondent Violated Rule 1.3(a) by Failing to Represent Mr. Andoh with Diligence and Zeal.

Rule 1.3(a) states that an attorney "shall represent a client zealously and diligently within the bounds of the law." "Neglect has been defined as indifference and a consistent failure to carry out the obligations that the lawyer has assumed to the client or a conscious disregard of the responsibilities owed to the client." *In re Wright*, 702 A.2d 1251, 1255 (D.C. 1997) (per curiam) (appended Board Report) (citing *In re Reback*, 487 A.2d 235, 238 (D.C. 1985), *adopted in relevant part*, 513 A.2d 226 (D.C. 1986) (en banc) ("*Reback II*")). Rule 1.3(a) "does not require proof of intent, but only that the attorney has not taken action necessary to further the client's interests, whether or not legal prejudice arises from such inaction." *In re Bradley*, Board Docket No. 10-BD-073, at 17 (BPR Jul. 31, 2012), *adopted in relevant part*, 70 A.3d 1189, 1191 (D.C. 2013) (per curiam); *see also In re Lewis*, 689 A.2d 561, 564 (D.C. 1997) (per curiam) (appended Board Report) (Rule 1.3(a) violated even where "[t]he failure to take action for a significant time to further a client's cause . . . [does] not [result in] prejudice to the client").

Here, Respondent failed to work diligently and zealously in representing Mr. Andoh in handling the appeal to the BIA. He simply failed to do the job he was retained to do – to prepare and submit an appeals brief to the BIA. He cites his health issues as an excuse, not recognizing that he nonetheless had a duty to diligently represent Mr. Andoh. In the many months between his surgery in May 2012 and the

BIA decision in November 2012, he took no steps to protect Mr. Andoh's interests other than filing two requests for extensions of time. FF 16, 21, 24. Even after the August deadline, he could have submitted a brief with a motion for leave to file. If he truly was unable to complete the brief in a timely manner, he could have advised his client of such, with a full explanation of the consequences of not filing the brief and given Mr. Andoh an opportunity to seek other counsel. Respondent took no action until a month after the BIA issued its decision in November 2012. FF 22, 24, 30.

The U.S. District Court for the District of Maryland's opinion highlights the consequences of Respondent's failures: "[S]ummary dismissal is appropriate when a petitioner fails to file a brief as indicated and the notice of appeal does not contain a sufficient statement of reasons for the appeal." DX 20 at 49 (citing *Bonovo v. Ashcroft*, No. 03-1645, 120 Fed. App'x 936, 939 (4th Cir. Dec. 17, 2004)). As to the denial of the Motion to Reopen and/or for Reconsideration, the Court concluded that the BIA did not abuse its discretion when it refused to consider the Plaintiff's appeal brief because the BIA had granted Respondent two extensions and further waited an additional few months before issuing a decision. FF 39.

Accordingly, Disciplinary Counsel has proven a violation of Rule 1.3(a) by clear and convincing evidence.

C. Disciplinary Counsel Proved that Respondent Violated Rule 1.3(b)(2) by Intentionally Prejudicing His Client.[7]

Rule 1.3(b) provides that:

> A lawyer shall not intentionally:
>
> (1) fail to seek the lawful objectives of a client through reasonably available means permitted by law and the disciplinary rules; or
>
> (2) prejudice or damage a client during the course of the professional relationship.

A negligent failure to pursue a client's interest is deemed intentional when "the neglect is so pervasive that the lawyer must have been aware of it" or "when a lawyer's inaction coexists with an awareness of his obligations to his client." *In re Ukwu*, 926 A.2d 1106, 1116 (D.C. 2007) (citations omitted). "Neglect of a client's matter, often through procrastination, can 'ripen into . . . intentional' neglect in violation of Rule 1.3(b) 'when the lawyer is aware of his neglect' but nonetheless continues to neglect the client's matter." *In re Vohra*, 68 A.3d 766, 781 (D.C. 2013) (appended Board Report) (quoting *In re Mance*, 869 A.2d 339, 341 n.2 (D.C. 2005) (per curiam)).

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[7] Although Disciplinary Counsel additionally addresses violations of Rule 1.3(b)(1) (failing to seek the lawful objectives of a client) in its post-hearing briefing, we limit our discussion to Respondent's intentional prejudice or damage, Rule 1.3(b)(2), as alleged in the Specification of Charges. A violation of Rule 1.3(b) can be proven by clear and convincing evidence of either a respondent's intentional failure to seek the lawful objectives of a client *or* by a respondent's intentional prejudice or damage to a client—both are not required. *See* Rule 1.3(b).

"Proof of actual intent to harm . . . is not necessary to establish a violation of Rule 1.3(b)(2); but [Disciplinary] Counsel must establish that the attorney 'knowingly created a grave risk' that the client would be financially harmed and understood that financial damage was 'substantially certain to follow from his conduct.'" *In re Wright*, Bar Docket Nos. 377-99 *et al.*, at 24-25 (BPR Apr. 14, 2004) (quoting *In re Robertson*, 612 A.2d 1236, 1250 (D.C. 1992) (appended Board Report)), *findings and recommendation adopted*, 885 A.2d 315, 316 (D.C. 2005) (per curiam). A violation of Rule 1.3(b)(2) cannot be sustained "unless there is actual prejudice or damage to the client." *In re Cohen*, 847 A.2d 1162, 1165 n.1 (D.C. 2004) (per curiam); *see, e.g.*, *In re Robertson*, 612 A.2d 1236, 1250 (D.C. 1992) (appended Board Report) (finding intentional damage to a client where the respondent failed to file a client's tax returns before the deadline, thus forfeiting the client's requests for tax refunds).

Intent can be found when lawyer is aware of his neglect, or when the neglect is "so pervasive that the lawyer must be aware of it." *Lewis*, 689 A.2d at 564. In determining whether Rule 1.3(b)(2) has been violated, a hearing committee may consider the "entire mosaic." *Ukwu*, 926 A.2d at 1117; *see, e.g.*, *In re Owusu*, 886 A.2d 536, 538 (D.C. 2005) (immigration attorney who filed an application for adjustment in the wrong place, resulting in its rejection, and then failed to keep in contact with his client violated Rule 1.3(b)(2)).

Here, Respondent intentionally prejudiced or damaged Mr. Andoh's BIA appeal when he failed to file the BIA brief despite two extensions. Respondent was

aware of the significance of the brief—that the absence of the brief could result in summary dismissal, that this was the only opportunity for a *de novo* review—and he knew that the I-130 cases were highly fact-specific. FF 13, 14, 20. Disciplinary Counsel's expert, Mr. Tousley, established that an immigration practitioner can file and submit a brief even after the deadline along with a motion to accept late filing. Mr. Tousley also testified that a practitioner can contact the Board's office to determine where the Record of Proceedings is and ask that the brief be attached. Between August 12, 2012, and November 23, 2012, when the BIA issued its determination, Respondent—whether due to procrastination or rationalization—took no action. FF 21, 22, 24. This lack of action was egregious because Respondent admittedly knew that the failure to file a brief would damage Mr. Andoh's case. *See* FF 30. As Respondent explained in his Motion to Reopen and/or for Reconsideration: "[t]his is petitioner's last opportunity to have her case heard before an impartial adjudicator." *Id.* (citing DX 18 at 103-104 and Respondent's testimony).

Respondent led Mr. Andoh to pursue six years of litigation trying to vindicate his critical error. He did not explain to Mr. Andoh that the merits of his case would not be reviewed. He assured Mr. Andoh that he would take his case all the way to the Supreme Court, without explaining the diminishing likelihood of success. FF 12, 33, 51. Respondent caused financial prejudice in pursuing various appeals with virtually no chance of success at considerable expense to Mr. Andoh. FF 44-45. In

the six years of litigation, Mr. Andoh spent more than that $20,000, and the merits of his case were never considered *de novo*. FF 33, 44.

Respondent's failure to file the appeals brief with the BIA, while knowing the consequences that would follow, established that he violated Rule 1.3(b)(2). *See In re Jouner*, 670 A.2d 1367, 1368 (D.C. 1996) (Rule 1.3(b)(2) intentional prejudice or damage to client found when attorney's inaction caused client to miss statutory deadline for filing a claim against the District of Columbia). As explained in *Robertson*, evidence of the respondent's failure to timely file a tax refund claim was sufficient to establish the intent to cause damage when the respondent understood he was creating a grave risk that his client would lose his claim, "even though it may not have been Respondent's purpose or motive to cause damage or prejudice to [his client]." 612 A.2d at 1250; *see also In re Frison*, Board Docket No. 11-BD-083 (BPR May 24, 2013), appended Hearing Committee Report at 154 (respondent's repeated filings attacking judge's integrity harmed his client by substantially delaying resolution of the lawsuit and increasing client's expenses in the litigation).

Accordingly, Disciplinary Counsel has proven a violation of Rule 1.3(b)(2) by clear and convincing evidence.

D. Disciplinary Counsel Proved that Respondent Violated Rule 1.4(a) and (b) by Failing to Communicate with His Client.

Rule 1.4(a) provides that "[a] lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information." Under Rule 1.4(a), an attorney must not only respond to client inquiries, but must also initiate contact to provide information when needed. *See,*

e.g., *In re Robbins*, 192 A.3d 558, 564-565 (D.C. 2018) (per curiam); *In re Bernstein*, 707 A.2d 371, 376 (D.C. 1998). The purpose of this Rule is to enable clients to "participate intelligently in decisions concerning the objectives of the representation and the means by which they are to be pursued." Rule 1.4, cmt. [1]. In determining whether Disciplinary Counsel has established a violation of Rules 1.4(a) and (b), the question is whether Respondent fulfilled his client's reasonable expectations for information. *See In re Schoeneman*, 777 A.2d 259, 264 (D.C. 2001) (citing Rule 1.4, cmt. [3]). In addition to responding to client inquiries, a lawyer must initiate communications when necessary. *See In re Hallmark*, 831 A.2d 366, 374 (D.C. 2003) (citing Rule 1.4, cmt. [1]).

Similarly, Rule 1.4(b) states than an attorney "shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation." This Rule provides that the attorney "must be particularly careful to ensure that decisions of the client are made only after the client has been informed of all relevant considerations." Rule 1.4, cmt. [2]. The Rule places the burden on the attorney to "initiate and maintain the consultative and decision-making process if the client does not do so and [to] ensure that the ongoing process is thorough and complete." *Id.*

In his testimony, Respondent was vague as to his discussions with Mr. Andoh. He was not sure what he explained to him about the BIA dismissal but " [he] believes [he] discussed things with [Mr. Andoh] all the time about this, as well as other things. And [Mr. Andoh] knew [he] was in the hospital . . . [he] said [they] would move to

reopen most likely . . . ." Tr. 154-155 (Respondent). He did not make it clear to Mr. Andoh that the appeal was dismissed because of his failures. FF 28, 48. He did not inform his clients of his extended absence from the office following hip surgery, but contended it was not necessary because he did what he needed to do—and yet he did not. FF 59. Respondent claimed that he discussed everything with Mr. Andoh but none of his testimony reflected any communication of the relevant considerations in deciding to pursue repeated appeals.

Here, Respondent violated Rule 1.4(b) because Mr. Andoh did not understand that the BIA denied the appeal because of Respondent's errors and did not know the consequences of those failures. FF 29. Mr. Andoh lacked the information he needed to make informed decisions about how to proceed. Respondent's failure to explain the consequences of his failures prevented Mr. Andoh from participating intelligently in decisions about whether to pursue additional litigation. Mr. Andoh took comfort in the fact that Respondent said he would take the case all the way to the Supreme Court.

Respondent also violated 1.4(a) by failing to respond to Mr. Andoh's requests for copies of filings. Mr. Andoh asked Respondent for copies of filings and briefs but Respondent did not provide them. FF 51.

Accordingly, Disciplinary Counsel has proven a violation of Rules 1.4(a) and (b) by clear and convincing evidence.

E. Disciplinary Counsel Proved that Respondent Violated Rule 1.5(a) by Charging an Unreasonable Fee.

Rule 1.5(a) provides that: "A lawyer's fee shall be reasonable."

The Court of Appeals has held that "Rule 1.5(a) can be violated by the act of charging an unreasonable fee without regard to whether the fee is collected." *In re Cleaver-Bascombe*, 892 A.2d 396, 403 (D.C. 2006) (citation omitted). "The prototypical circumstance of charging an unreasonable fee is undoubtedly one in which an attorney did the work that he or she claimed to have done, but charged the client too much for doing it." *Id.* However, "[i]t cannot be reasonable to demand payment for work that an attorney has not in fact done." *Id.*

Respondent violated Rule 1.5(a) by charging for work that he did not complete (*e.g.*, the brief to the BIA). Respondent accepted $3,500 for the BIA appeal but did not file the appellate brief, the bulk of the work to be performed and essential to that appeal. Respondent claimed that he credited those funds to other work for Mr. Andoh but could not identify any documentation of that credit. FF 54, 56.

Accordingly, Disciplinary Counsel has proven a violation of Rule 1.5(a) by clear and convincing evidence.

F. Disciplinary Counsel Proved that Respondent Violated Rule 1.15(a) by Failing to Keep Complete Records of Entrusted Funds.

Rule 1.15(a) requires lawyers to keep "complete records of . . . account funds and other property" and preserve them "for a period of five years after termination of the representation." *See In re Edwards*, 990 A.2d 501, 522 (D.C. 2010) (per curiam) (appended Board Report).

The *Edwards* decision explained that "[f]inancial records are complete only when an attorney's documents are 'sufficient to demonstrate [the attorney's] compliance with his ethical duties.'" 990 A.2d at 522 (quoting *In re Clower*, 831

A.2d 1030, 1034 (D.C. 2003) (finding Rule 1.15(a) and D.C. Bar R. XI, § 19(f) violations)). The purpose of the requirement of "complete records is so that 'the documentary record itself tells the full story of how the attorney handled client or third-party funds' and whether, for example, the attorney misappropriated or commingled a client's funds." *Edwards*, 990 A.2d at 522; *see also In re Pels*, 653 A.2d 388, 396 (D.C. 1995) (finding Rule 1.15(a) violation when attorney showed a "pervasive failure" to maintain contemporaneous records accounting for the flow of client funds within various bank accounts). Thus, "[t]he records themselves should allow for a complete audit even if the attorney or client is not available." *Edwards*, 990 A.2d at 522.

Here, Respondent maintained no records showing the deposit and handling of legal fees received from Mr. Andoh. Respondent produced copies of receipts he gave Mr. Andoh for some of the payments. Respondent produced copies of some retention agreements, which referenced payments received. Respondent testified that sometimes he made notes on client folders relating to payments. Despite being under subpoena, Respondent did not provide the client folder for Mr. Andoh. Respondent did not provide records to show how he handled entrusted funds.[8] FF 56. While Respondent claimed that he credited Mr. Andoh with $3,500 paid for the BIA appeal he could not identify any documentation of that credit. FF 54.

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[8] Respondent also did not maintain any time records to support the legal fees he charged. FF 57.

Respondent's failure to keep records showing how he handled client funds violated Rule 1.15(a). *See Clower*, 831 A.2d at 1034.

Accordingly, Disciplinary Counsel has proven a violation of Rule 1.15(a) (record-keeping) by clear and convincing evidence.

G. Disciplinary Counsel Proved that Respondent Violated Rule 1.16(d) by Failing to Provide Mr. Andoh with a Copy of His File and Failing to Refund Unearned Advance Fees upon the Termination of the Representation.

Rule 1.16(d) provides:

> In connection with any termination of representation, a lawyer shall take timely steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled, and refunding any advance payment of fee or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by Rule 1.8(i).

Furthermore, "'a client should not have to ask twice' for [her] file." *In re Thai*, 987 A.2d 428, 430 (D.C. 2009) (per curiam) (quoting *In re Landesberg*, 518 A.2d 96, 102 (D.C. 1986)).

Failure to refund any unearned portion of a fee violates Rule 1.16(d). *See, e.g.*, *In re Samad*, 51 A.3d 486, 497 (D.C. 2012) (per curiam) (finding a violation where the respondent claimed that he did some work on the case, but did not "suggest that he earned the entire flat fee or that he returned any portion of the fee"); *In re Carter*, 11 A.3d 1219, 1223 (D.C. 2011) (per curiam) (finding a violation of Rule 1.16(d) where the attorney failed to pay an ACAB award for unearned fees); *In re Kanu*, 5 A.3d 1, 10 (D.C. 2010) (finding a violation of Rule 1.16(d) where the

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

Here, Mr. Andoh paid Respondent a flat fee of $3,500 for an appeal that Respondent did not complete. Respondent did not make any refund to Mr. Andoh. FF 54. Respondent also violated Rule 1.16(d) by failing to provide Mr. Andoh a copy of his file after Mr. Andoh requested it. FF 55.

Accordingly, Disciplinary Counsel has proven a violation of Rule 1.16(d) by clear and convincing evidence.

H. Disciplinary Counsel Did Not Prove that Respondent Violated Rule 8.4 (c) by Withholding the Truth About His Failure to File the BIA Brief.

Disciplinary Counsel charges Respondent with a violation of Rule 8.4(c), specifically that he engaged in dishonesty, fraud, deceit, or misrepresentation. Dishonesty is defined as:

> fraudulent, deceitful, or misrepresentative behavior [and] conduct evincing a lack of honesty, probity or integrity in principle; [a] lack of fairness and straightforwardness . . . Thus, what may not legally be characterized as an act of fraud, deceit or misrepresentation may still evince dishonesty.

In re Shorter, 570 A.2d 760, 767-68 (D.C. 1990) (per curiam) (internal quotation marks and citation omitted); *see also In re Scanio*, 919 A.2d 1137, 1142-43 (D.C. 2007). Dishonesty in violation of Rule 8.4(c) does not require proof of deceptive or fraudulent intent. *See In re Romansky*, 825 A.2d 311, 315 (D.C. 2003). Thus, when 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." *Id.* at 315.

Conversely, "when the act itself is not of a kind that is clearly wrongful, or not intentional, [Disciplinary] Counsel has the additional burden of showing the requisite dishonest intent." *Id.* A violation of Rule 8.4(c) may also be established by sufficient proof of recklessness. *See id.* at 317. To prove recklessness, Disciplinary Counsel must prove by clear and convincing evidence that the respondent "consciously disregarded the risk" created by his actions. *Id.*

Disciplinary Counsel contends that Respondent violated Rule 8.4(c) when he failed to "come clean" to his client regarding his failure to file the appeal brief with the BIA, and by pursuing multiple appeals at additional expense while continuing to withhold that information. We agree that Mr. Andoh did not understand that the BIA's dismissal was because of Respondent's failures and did not understand the difficulty of prevailing under the Administrative Procedures Act in U.S. District Court. But it is not clear this was the result of intentional or reckless dishonesty by the Respondent. The testimony of Respondent and that of Mr. Andoh as to their communications is vague and confusing. It may be that the Respondent's communications with Mr. Andoh, in fact, were just as vague and confusing as was his testimony. Further, we find that Respondent may have convinced himself of the likelihood of success, much as he proclaimed the beauty of his briefs. FF 28, 60. While this conduct constitutes a lack of competence and a failure to communicate, more is required to find that Respondent was acting dishonestly or in a manner establishing fraud, deceit, or misrepresentation. Here, the limited and sometimes confusing communication between Mr. Andoh and Respondent and Respondent's

mistaken expectation of success does not establish, by clear and convincing evidence, a violation of Rule 8.4(c).

IV. RECOMMENDED SANCTION

In this case, Disciplinary Counsel has asked the Hearing Committee to recommend the sanction of a one-year suspension with a fitness requirement. Respondent has not addressed the question of sanction in his post-hearing brief. At the hearing, Respondent denied that he violated any disciplinary rules and but if a sanction were to be imposed, he asked that it be as lenient as possible: "I would like to have the [sanction] that's the least effective on my career and on my job and – because I help people. And they need me and actually I need them because it stimulates my mind." Tr. 389 (Respondent). For the reasons described below, we recommend the sanction of a six-month suspension, with thirty days stayed in favor of one year of probation requiring the satisfaction of specified conditions.

A. Standard of Review

The sanction imposed in an attorney disciplinary matter is one that is necessary to protect the public and the courts, maintain the integrity of the legal profession, and deter the respondent and other attorneys from engaging in similar misconduct. *See, e.g.*, *In re Hutchinson*, 534 A.2d 919, 924 (D.C. 1987) (en banc); *In re Martin*, 67 A.3d 1032, 1053 (D.C. 2013); *In re Cater*, 887 A.2d 1, 17 (D.C. 2005). "In all cases, [the] purpose in imposing discipline is to serve the public and professional interests . . . rather than to visit punishment upon an attorney." *Reback*

II, 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

Respondent's misconduct was serious, involving multiple rule violations over an extended period of time. He failed to provide his client with competent representation and failed to act with diligence and zeal. He charged an unreasonable fee and failed to communicate with his client and failed to protect his client interests at the conclusion of the representation. These violations caused prejudice to Mr.

Andoh, resulting in the dismissal of the appeal that was ultimately never considered on the merits. Mr. Andoh paid Respondent $3,500 for an appeals brief that he never filed, as well as over $20,000 in fees that ultimately did not advance his case. As to whether the conduct involved dishonesty, we did not find that Respondent recklessly or intentionally engaged in dishonesty, fraud, deceit or misrepresentation.

As a circumstance in aggravation, Respondent has prior discipline. In 2005, he received an informal admonition for misconduct involving Rules 1.1(a) and (b), 1.3(a) and (c), and 1.4(a) and (b). *In re Kreiss*, Bar Docket No. 2004-D204 (Letter of Informal Admonition Jan. 6, 2005); *see* DX 22. The misconduct was similar to that in this case. Respondent failed to file a brief with the BIA in 2003, resulting in the dismissal of the appeal, and Respondent failed to adequately communicate with his client. He disputed the charges but agreed to refund $2,500 of the $3,000 fee. *See* DX 22 at 4.[9] In 2019, Respondent was publicly censured for misconduct involving Rules 1.8(i) (imposing a lien on former client's file) and similarly 1.16(d) and was required to complete an ethics course. *In re Kreiss*, 219 A.3d 525 (D.C. 2019); *see* DX 23. In that matter, Respondent improperly imposed a lien on a former client's file, and failed to timely return the file, similar to this case. *Id.*

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[9] In deciding to issue an informal admonition rather than file disciplinary charges, the Office of Bar Counsel (now identified as "Disciplinary Counsel") noted the following mitigating factors: no record of prior misconduct; during the time at issue, Respondent was devoting significant time to caring for his ill father; and Respondent agreed to refund $2,500 of the $3,000 fee. DX 22 at 4.

Throughout the disciplinary proceedings, Respondent failed to acknowledge any wrongful conduct on his part and showed a lack of remorse. He justified missing the filing deadline for the BIA appeal on the basis that he had health issues. He never acknowledged any prejudice or harm suffered by Mr. Andoh and continued to claim that he represented Mr. Andoh well. He minimized his mishandling of the BIA appeal, concluding that he never wanted to pursue the appeal at the BIA and that Mr. Andoh had full due process of law. He showed no remorse for his handling of the Andoh matter. Respondent appeared to be ignorant of his responsibilities to maintaining complete financial records and his affirmative obligations to communicate effectively with his clients.

Further, we observe that Respondent's conduct in the disciplinary proceeding echoed some of the issues of delay, indifference, and obfuscation raised in this matter. He did not file an Answer to the Specification of Charges; did not participate in the prehearing conference; sought a delay of scheduled hearing on baseless grounds; was ignorant of the procedural rules; and despite written and oral guidance on Board Rule 7.7, Respondent repeatedly attempted to introduce documents, without knowing if the documents were in evidence. His testimony at the hearing was vague, confusing, and inconsistent and he never directly addressed the fundamental questions about his conduct.

A circumstance in mitigation is Respondent's surgery and rehabilitation in 2012. It was incumbent upon Respondent, however, to take measures to ensure that Mr. Andoh's interests were protected during the period of Respondent's

incapacitation. Respondent's lack of communication with Mr. Andoh during subsequent critical periods was inexcusable.

C. Sanctions Imposed for Comparable Misconduct

Sanctions in analogous cases involving violations of Rules 1.1 and 1.3 have ranged from short suspensions for first time violations involving a single client (*see, e.g., In re Fox,* 35 A.3d 441 (D.C. 2012) (per curiam)) to several months to suspensions of one year or more (*see, e.g.*, *In re Grimes*, 687 A.2d 198 (D.C. 1996)). The court has imposed more lenient sanctions where the court viewed counsel's conduct as a deviation from a regular course of responsible legal practice. *In re Askew*, 96 A.3d 52, 61 (D.C. 2014) (per curiam). Courts have stayed suspensions or some part of the suspension where there were substantial mitigating factors. *In re Baron*, 808 A.2d 497, 498 (D.C. 2002) (per curiam).

While we did not find any cases to present exactly the situation in this disciplinary case, we found three cases particularly instructive.

In *Askew*, the Court imposed a six-month suspension with all but sixty days stayed in favor of one year of probation with conditions for violations of Rules 1.1(a) & (b), 1.3(a), 1.4(a), 1.4(b), 1.16(d), 3.4(c), and 8.4(d). Askew was charged with eight violations in connection with her representation of a convicted defendant under the Criminal Justice Act. The Court found "intentional and virtually complete neglect" of her court-appointed client. *Askew*, 96 A.3d at 54. The Court concluded

that the violations were serious, substantial and intentional. *Id.* at 59. Askew gave no mitigating explanation for her neglect.[10]

The Court imposed a six-month suspension, with all but sixty days stayed, with a period of one-year supervised probation subject to certain conditions, commencing concurrently with the suspension. *Id.* at 62. The conditions included that she undergo an assessment by the D.C. Bar's Assistant Director for Practice Management Advisory Services and implement any recommendations. *Id.* at n.15.

In *In re Murdter*, 131 A.3d 355 (D.C. 2016) (per curiam) (Board Report appended) the Court imposed a six-month suspension with all but sixty days stayed in favor of one year probation with conditions for violations of Rules 1.1(a), 1.1(b), 1.3(a), 1.3(b)(1), 1.3(c), 3.4(c) and 8.4(d). In *Murdter*, Respondent was charged with violations arising from his failure to file appellate briefs for five indigent clients. The Court found compelling mitigating evidence—that Respondent was genuinely remorseful, cooperated with Disciplinary Counsel and otherwise had a commendable legal career. *Murdter*, 131 A.3d at 357-58. The Court imposed, in addition to suspension, a period of probation with conditions, including an assessment by the D.C. Bar's Director for Practice Management Advisory Service,

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[10] The Court noted that Askew presented her failure to adequately organize her practice or secure a consistent and reliable method of receiving mail as mitigating factors. *Askew*, 96 A.3d at 59. The Court viewed her testimony differently. "[S]etting up organizational and communication systems is a fundamental element of legal practice. Thus, we perceive these facts not as mitigation but rather as a source of ongoing concern as to Ms. Askew's ability to adequately fulfill her duties as a lawyer." *Id.*

to guard against future neglect. *Id.* at 362-64. The Court concluded that, absent the mitigating factors, the sanction might well have been harsher than the suspension in *Askew*. *Id.* at 357.

In *In re Ryan*, 670 A.2d 375 (D.C. 1996), the Court imposed a sanction of a four-month suspension, restitution and proof of fitness. Ryan was charged with several violations relating to her representation of five alien clients over a two-year period. The misconduct included missed filing deadlines and failure to return client files when requested to do so. The Court noted that the hearing committee found that Ryan deliberately neglected client matters, ignored agency deadlines and failed to return client files after they had terminated her services. *Ryan*, 670 A.2d at 378. The Court also noted several aggravating factors identified by the committee:

> her defiant attitude toward the disciplinary system, her lack of understanding and appreciation of her ethical and professional obligations to her clients, and the fact that the clients of whom she took advantage were particularly vulnerable persons who spoke minimal English, were unaware of their legal rights, and were unfamiliar with the American legal system.

Id. Noting that Ryan did not have a prior disciplinary record, the Court imposed a four-month suspension along with restitution and a fitness requirement. *Id.* at 381.

Here, Respondent's misconduct involves a single client over a period of six years. While less pervasive than *Murdter* and *Ryan*, the misconduct caused serious prejudice to Mr. Andoh. Respondent utterly failed to acknowledge, much less, take responsibility for any of his misconduct. In contrast to *Murdter*, but similar to *Ryan*, Respondent in the disciplinary hearing had a defiant attitude and a lack of

understanding of his ethical responsibilities. He appeared oblivious to his responsibility to *effectively* communicate with his client—a vulnerable person who was unaware of his legal rights and unfamiliar with the U.S. legal system. *See, e.g.*, *Ryan*, 670 A.2d at 378. He seemed to be ignorant of the requirement to maintain complete financial records, cavalierly responding that a credit of funds was made to Mr. Andoh, and yet he had no documents tracking the receipt and use of funds. Significantly, and in contrast to *Askew*, *Murdter* and *Ryan*, Respondent's misconduct involved the same type of misconduct for which Respondent has previously been sanctioned.

Given that he denied any failings, the Committee believes a lengthy suspension and a one-year period of probation is appropriate to prevent any repetition of misconduct. The Committee recommends a suspension of six months with thirty days stayed in favor of a one-year period of probation with conditions. During the period of probation, which will begin after the suspension, Respondent: (1) shall not commit any other disciplinary rule violations; (2) shall attend ten hours of Continuing Legal Educations classes offered by the D.C. Bar, pre-approved by Disciplinary Counsel, and provide Disciplinary Counsel with proof of attendance at such classes within thirty days of attendance, but no later than thirty days before expiration of probation; and (3) shall undergo an assessment by the D.C. Bar's Director for the Practice Management Advisory Service, or designee, implement any recommendations he or she shall make. We further recommend that, while

Respondent will need to notify clients of his suspension, he not be required to report his probation to clients. *See* D.C. Bar R. XI, § 3(a)(7).

D. Fitness

A fitness showing is a substantial undertaking. *In re Cater*, 887 A.2d 1, 20 (D.C. 2005). 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.

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. *Id.* at 22. 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.

In addition, the Court found that the five factors for reinstatement set forth in *In re Roundtree*, 503 A.2d 1215, 1217 (D.C. 1985), should be used in applying the *Cater* fitness standard. They include:

> (a) the nature and circumstances of the misconduct for which the attorney was disciplined;
>
> (b) whether the attorney recognizes the seriousness of the misconduct;

(c) the attorney's conduct since discipline was imposed, including the steps taken to remedy past wrongs and prevent future ones;

(d) the attorney's present character; and

(e) the attorney's present qualifications and competence to practice law.

Cater, 887 A.2d at 21, 25.

While we have concerns about Respondent's misconduct, we conclude that the evidence is not sufficient to impose a fitness requirement. Respondent's misconduct was serious and involved multiple Rule violations. Respondent's conduct in the disciplinary proceeding raises concern as to his present competence. We recognize, however, that attorney discipline is not his area of practice, and, thus, his conduct in the disciplinary proceeding does not necessarily reflect his present competence in his area of practice. The standard for imposing a fitness requirement requires more than concern. It "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). We conclude that the evidence is not sufficiently clear and convincing to impose a fitness requirement. The evidence before us did not establish a serious doubt in our minds of Respondent's continuing fitness to practice law.

V. CONCLUSION

For the foregoing reasons, the Committee finds that Respondent violated Rules 1.1(a) and (b), 1.3(a) and (b), 1.4(a) and (b), 1.5(a), 1.15(a), and 1.16(d) and should receive the sanction of a suspension of six months, with thirty days stayed in lieu of a one-year probation subject to specified conditions as set forth above.

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

Rebecca Smith

Rebecca Smith, Chair

Trevor Mitchell

Trevor Mitchell, Public Member

Christopher J. Keeven

Christopher Jeffrey Keeven, Attorney Member