THIS REPORT IS NOT A FINAL ORDER OF DISCIPLINE*

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

In the Matter of:	:	
	:	
ALISHA E. GORDON,	:	
	:	Board Docket No. 24-ND-003
Respondent.	:	Disciplinary Docket No. 2022-D091
	:	
A Member of the Bar of the	:	
District of Columbia Court of Appeals	:	
(Bar Registration No. 1010943)	:	

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

I. PROCEDURAL HISTORY

This matter came before Hearing Committee Number Four ("Hearing Committee") on June 4, 2024, for a limited hearing on an Amended Petition for Negotiated Discipline (the "Petition"). The members of the Hearing Committee are Aaron Pease, Esquire, Chair; Carolyn Haynesworth-Murrell, Public Member; and Candice Will, Esquire, Attorney Member. The Office of Disciplinary Counsel was represented by Assistant Disciplinary Counsel Dru Foster, Esquire. Respondent was present and represented by Justin M. Flint, Esquire, and Kennedy Davis, Esquire.

The Hearing Committee has carefully considered the Petition signed by Disciplinary Counsel, Respondent, and Respondent's counsel, the supporting amended affidavit submitted by Respondent (the "Affidavit"), and the

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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.

representations during the limited hearing made by Respondent, Respondent's counsel, and Disciplinary Counsel. The Hearing Committee also has fully considered the Chair's *in camera* review of Disciplinary Counsel's files and records, the Chair's *ex parte* communications with Disciplinary Counsel, and the Confidential Memo by Disciplinary Counsel (*see* Confidential Appendix). For the reasons set forth below, the Hearing Committee finds that the negotiated discipline of a public censure with a six-hour CLE requirement is justified and recommends that it be imposed by the Court.

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

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

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

2. Respondent is aware that there is currently pending against Respondent an investigation into allegations of misconduct. Tr. 19-20[1]; Affidavit ¶ 2.

3. The allegations that were brought to the attention of Disciplinary Counsel are that Respondent violated D.C. Rules of Professional Conduct 3.3(a) (knowingly making a false statement of fact to a tribunal and failing to correct a false statement of material fact previously made to the tribunal), 8.4(c) (engaging in conduct involving dishonesty or misrepresentation), and 8.4(d) (serious interference with the administration of justice). Petition at 7.

[1] "Tr." refers to the transcript of the limited hearing held on June 4, 2024.

4. Respondent has freely and voluntarily acknowledged that the material facts and misconduct reflected in the Petition are true. Tr. 20-22; Affidavit ¶ 4. Specifically, Respondent acknowledges that:

> 1. Respondent is a member of the District of Columbia Bar, having been admitted on July 12, 2013, and subsequently assigned Bar number 1010943. Respondent is also an active member of the Florida State Bar.
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> The facts giving rise to the charges of misconduct are as follows:
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> 2. At all relevant times herein, Respondent was a solo practitioner who maintained her law office in the District of Columbia.
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> 3. In early 2022, Respondent represented The Celeste Group LLC in connection with Chapter 11 bankruptcy proceedings in the United States Bankruptcy Court for the District of Columbia. *See In re The Celeste Group LLC*, Case No. 22-11-ELG (D.C. 2022). Kim Cherry Burnett was the principal of The Celeste Group LLC. Respondent continues to represent Mrs. Burnett in the Superior Court for the District of Columbia matters.
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> 4. Washington Capital Partners ("WCP") was a creditor in the bankruptcy case, specifically for two adjacent real properties located at 1705 and 1707 D Street SE, Washington, DC ("1705 D St." and "1707 D St." respectively). WCP was represented by Maurice VerStandig in the bankruptcy proceedings. Russell Drazin also represented WCP in matters related to 1705 D St. and 1707 D St. The bankruptcy proceedings were voluntarily dismissed in June 2022.
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> 5. Although Mr. VerStandig and Mr. Drazin are not directly connected nor appearing in the underlying ongoing litigation, Mr. VerStandig and Mr. Drazin were witnesses to Respondent's conduct.
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> 6. Mrs. Burnett has been living in, and has occasionally rented, 1707 D St. since September 1998.

7. Mrs. Burnett's company, The Celeste Group LLC, purchased 1705 D St. by way of WCP financing, in December 2019. Since then, Mrs. Burnett's family has been occupying 1705 D St.

8. In September 2022, WCP foreclosed on 1707 D St. and 1705 D St. WCP recorded the transaction in April 2023. Various members of Mrs. Burnett's family and her husband, Gerry Burnett, continued to live in both properties, and have remained there even after the foreclosure, paying rent to WCP.

9. On May 2, 2023, Jarrid Williams, a WCP employee, went to the properties to secure them on behalf of WCP. Mr. Williams believed the properties were vacant and hired a contractor to change the locks. However, Mrs. Burnett and her family were still living in 1705 D St. When the contractor began changing the locks, Mrs. Burnett came out of the residence, and confronted the contractor. The contractor called Mr. Williams to address the situation, and Mr. Williams returned to the property to try to settle the dispute. Mrs. Burnett provided Mr. Williams with Respondent's phone number and he called Respondent to discuss the issue. During their phone conversation, Respondent told Mr. Williams that Mrs. Burnett would be filing a Temporary Restraining Order the next day.

10. The next day, Mrs. Burnett filed a *pro se* complaint and motion for injunctive relief against Mr. Williams and WCP. *See Kim Burnett v. Jarrid Williams, et. al.*, Case No. 2023 CAB 2594. Respondent entered her appearance in the case later the same day, and a hearing on the motion for injunctive relief was set for the following day, May 4, 2023.

11. At the hearing, Respondent and Mrs. Burnett both appeared; neither defendant appeared. The court asked Respondent if the defendants had been served with notice of the hearing and Respondent said they had. She stated: "Yes, Your Honor. And the Defendant has been put on notice, and the Defendants — we were hoping that someone that he knew could help represent him, but, yes, they are on notice. There has also been certified mail and phone calls, and I have spoke (sic) with the Defendant." The court asked Respondent what type of notification she gave the defendant and when. Respondent stated: "Verbal notification on the telephone yesterday, and

the certified mail, your Honor, from the complaint — or the motion that was filed by my client."

12. In fact, Respondent had not spoken to Mr. Williams since the initial call when she stated Mrs. Burnett would be seeking a preliminary injunction. Nor had Respondent spoken to counsel or a representative of WCP.

13. Based in part on Respondent's representations, the court concluded that Mr. Williams had notice of the hearing. In the oral ruling to grant the temporary restraining order, the judge stated: "[Respondent] stated that she had talk[ed] to [Mr. Williams] and notified him that there would be a hearing today." The court reiterated these findings in the written ruling and added: "[Respondent] provided USPS mailing receipts showing that she attempted to serve Defendants via certified mail return receipts; however, the mail has not been delivered."

14. A copy of the order granting the TRO was emailed to Respondent on May 4, 2023. On May 8, 2023, Respondent forwarded the TRO to Mr. Williams and Mr. Drazin.

15. Mr. Drazin responded by pointing out to Respondent that she had not provided Mr. Williams notice of the hearing because she had only spoken to him on May 2, before the case was filed. Mr. Drazin requested that Respondent correct her misstatement with the court.

16. Respondent failed to correct her representations to the court.

17. The TRO expired on May 18, 2023, and the court did not grant any further injunctive relief in the case.

18. Respondent violated the following Rules of the D.C. Rules of Professional Conduct:

A. Rule 3.3(a) in that Respondent knowingly made a false statement of fact to a tribunal and failed to correct a false statement of material fact previously made to the tribunal;

B. Rule 8.4(c) in that Respondent engaged in conduct involving dishonesty or misrepresentation; and

C. Rule 8.4(d), in that Respondent engaged in conduct that seriously interferes with the administration of justice.

5. Respondent is agreeing to the disposition because Respondent believes that she cannot successfully defend against discipline based on the stipulated misconduct. Tr. 19; Affidavit ¶ 5.

6. Disciplinary Counsel has made no promises to Respondent other than what is contained in the Petition. Affidavit ¶ 7. Those promises are that Disciplinary Counsel agrees not to pursue any charges arising from the conduct described in the Stipulations of Fact, other than those agreed upon, or any sanction other than a public censure and Respondent's agreement to complete 6 hours of CLE course pre-approved by Disciplinary Counsel. Petition at 7-8. Respondent confirmed during the limited hearing that there have been no other promises or inducements other than those set forth in the Petition. Tr. 22-23.

7. Respondent has conferred with counsel. Tr. 12.

8. Respondent has freely and voluntarily acknowledged the facts and misconduct reflected in the Petition and agreed to the sanction set forth therein. Tr. 11-12, 23; Affidavit ¶ 6.

9. Respondent is not being subjected to coercion or duress. Tr. 11-12, 23; Affidavit ¶ 6.

10. Respondent is competent and was not under the influence of any substance or medication that would affect the ability to make informed decisions at the limited hearing. Tr. 12-14.

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

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

b) Respondent will waive the right to cross-examine adverse witnesses and to compel witnesses to appear on Respondent's behalf;

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

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

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

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

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

Tr. 14-18; Affidavit ¶¶ 1, 9, 10, 12.

12. Respondent and Disciplinary Counsel have agreed that the sanction in this matter should be a public censure issued by the Court of Appeals with the condition that Respondent complete six hours of CLE. Petition at 7-8; Tr. 8-9, 22.

13. Respondent has provided the following circumstances in mitigation: (1) Respondent has no prior disciplinary history, (2) Respondent has cooperated with

Disciplinary Counsel, and (3) Respondent has expressed remorse. Petition at 9; Affidavit ¶ 14.

14. The complainant was notified of the limited hearing but did not appear and did not provide any written comment. Tr. 9.

III. DISCUSSION

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

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

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

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

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

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

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

The Hearing Committee has carefully reviewed the facts set forth in the Petition and established during the hearing and concludes that they support the admission of misconduct and the agreed-upon sanction. Moreover, Respondent is agreeing to this negotiated discipline because Respondent believes that she could not successfully defend against the misconduct described in the Petition. *See supra* Paragraph 5.

With regard to the second factor, the Petition states that Respondent violated Rule of Professional Conduct 3.3(a) (knowingly making a false statement of fact to a tribunal and failing to correct a false statement of material fact), 8.4(c) (dishonesty or misrepresentation), and 8.4(d) (serious interference with the administration of justice). The evidence supports Respondent's admission that Respondent violated Rule 3.3(a) in that the stipulated facts describe Respondent knowingly stating to the court that Mr. Williams had been put on notice of the hearing by verbal verification on the telephone the prior day, when, in fact, Respondent had only told him that her client would be filing a temporary restraining order and had spoken to him two days prior, before any case had been filed. *See supra* Paragraph 4 (Stipulated Facts 9, 11-12). The evidence also supports Respondent's admission that Respondent violated

Rule 8.4(c) by making that misrepresentation to the court. Finally, the evidence supports the admission of a violation of Rule 8.4(d) in that the stipulated facts describe Respondent making the misstatement, the court relying, in part, on the false assertion that Mr. Williams had received verbal notice when issuing the temporary restraining order, and Respondent not correcting the misstatement even after Mr. Drazin pointed out that the telephone conversation occurred on May 2, before the case was filed. *See supra* Paragraph 4 (Stipulated Facts 14-16); *see, e.g.*, *In re Uchendu*, 812 A.2d 933, 941 (D.C. 2002) ("[C]onduct that 'taints' the process or 'potentially impact[s] upon the process to a serious and adverse degree'" is sufficient to establish a Rule 8.4(d) violation.).

C. The Agreed-Upon Sanction Is Justified.

The third factor the Hearing Committee must consider is whether the sanction agreed upon is justified. *See* D.C. Bar R. XI, § 12.1(c); Board Rule 17.5(a)(iii) (explaining that hearing committees should consider "the record as a whole, including the nature of the misconduct, any charges or investigations that Disciplinary Counsel has agreed not to pursue, the strengths or weaknesses of Disciplinary Counsel's evidence, any circumstances in aggravation and mitigation (including respondent's cooperation with Disciplinary Counsel and acceptance of responsibility), and relevant precedent"); *In re Johnson*, 984 A.2d 176, 181 (D.C. 2009) (per curiam) (providing that a negotiated sanction may not be "unduly lenient"). Based on the record as a whole, including the stipulated circumstances in mitigation; the Hearing Committee Chair's *in camera* review of Disciplinary

Counsel's investigative file, *ex parte* discussion with Disciplinary Counsel, and Disciplinary Counsel's submission of a Confidential Memorandum, and the Committee's review of relevant precedent, the Hearing Committee concludes that the agreed-upon sanction is justified and not unduly lenient.

The parties stipulated that, in addition to having no prior discipline, Respondent has cooperated with Disciplinary Counsel and expressed remorse for the misconduct. During the limited hearing, Respondent also expressed remorse for her failure to take advantage of the opportunity to correct the record, when it was offered by Mr. Drazin. *See* Tr. 26-27 (acknowledging personal issues at the time and her erroneous belief that the misstatement would resolve itself when the temporary restraining order expired). We also recognize that the three Rule violations are dependent on the same misconduct; as a result, the stipulated facts do not indicate a pattern of misconduct.

As explained by the parties, when misappropriation or prejudice to the client is not present, the typical sanction for a false statement to a tribunal ranges from an informal admonition to a suspension. *See* Petition at 8-9 (citing *In re Pitt*, Disciplinary Docket No. 2003-D036 (Aug. 15, 2003) (informal admonition for making a false statement of material fact to a tribunal); *In re Vanegas*, Disciplinary Docket No. 2005-D056 (July 28, 2005) (informal admonition for failure to respond accurately to a court inquiry); *In re Snyder*, Disciplinary Docket No. 2010-D238 (June 24, 2013) (informal admonition for making a false statement of material fact to a tribunal); *In re Owens*, 806 A.2d 1230, 1231 (D.C. 2002) (per curiam) (thirty-

day suspension for making false statements, one of them under oath, to an administrative law judge to "cover up the fact that she had attempted to eavesdrop on testimony in violation of the judge's sequestration order"); *In re Uchendu*, 812 A.3d at 934, 942 (D.C. 2002) (thirty-day suspension and six hour CLE requirement for signing his clients' names on documents filed with the probate court and falsely notarizing some of his own signatures)).

We agree with the parties that the sanction appears to be in the range of cases involving comparable misconduct.

IV. CONCLUSION AND RECOMMENDATION

For the reasons stated above, it is the recommendation of this Hearing Committee that the negotiated discipline be approved and that the Court issue a public censure and require Respondent to complete six hours of CLE preapproved by Disciplinary Counsel.

HEARING COMMITTEE NUMBER FOUR

Aaron Pease
Chair

Carolyn Haynesworth-Murrell
Public Member

Candice Will
Attorney Member