THIS REPORT IS NOT A FINAL ORDER OF DISCIPLINE*

DISTRICT OF COLUMBIA COURT OF APPEALS
BOARD ON PROFESSIONAL RESPONSIBILITY

Issued
December 10, 2024

In the Matter of:	:	
	:	
SONYA N. ARMFIELD,	:	
	:	
Respondent.	:	Board Docket No. 22-BD-076
	:	Disc. Docket No. 2016-D230
A Temporarily Suspended[1]	:	
Member of the Bar of the	:	
District of Columbia Court of Appeals	:	
(Bar Registration No. 491717)	:	

REPORT AND RECOMMENDATION OF THE BOARD ON PROFESSIONAL RESPONSIBILITY

Respondent, Sonya N. Armfield, is charged with violating Rules 1.15(a) (intentional or reckless misappropriation, commingling, and failing to maintain complete records of entrusted funds) and 8.4(d) (serious interference with the administration of justice) of the District of Columbia Rules of Professional Conduct (the "Rules"), arising from her conduct following appointments in the Superior Court of the District of Columbia as guardian and conservator for Elease Brown and as a temporary healthcare guardian for Christopher Maillet. After a three-day hearing, Hearing Committee Number Four determined that Disciplinary Counsel had proven each of the charged Rule violations by clear and convincing evidence. Finding no extraordinary circumstances in mitigation nor evidence to warrant *Kersey*

[1] Respondent's license to practice law was suspended by the D.C. Court of Appeals on March 21, 2024, *see* Order, No. 23-BG-1072 (interim suspension pursuant to D.C. Bar R. XI, § 13(c) for violation of the conditions of practice).

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

mitigation, the Committee recommended the presumptive sanction of disbarment for the intentional (or in the alternative, reckless) misappropriation which was proven by clear and convincing evidence in both the Brown and Maillet matters.

For the reasons set forth in the Hearing Committee's Report and Recommendation, which is attached hereto and adopted and incorporated by reference, the Board finds that Respondent violated Rule 1.15(a) (intentional or reckless misappropriation, commingling, and failing to maintain complete records of entrusted funds) in both court-appointed matters and Rule 8.4(d) (serious interference with the administration of justice) in the Brown matter. Additionally, the Board agrees that Respondent has not met her burden of establishing *Kersey* mitigation based on a disability or addiction. *See In re Kersey*, 520 A.2d 321 (D.C. 1987).

The Board recommends that Respondent be disbarred for intentionally or recklessly misappropriating client funds in two court-appointed matters. *See In re Addams*, 579 A.2d 190, 191 (D.C. 1990) (en banc). We further recommend that the Court direct Respondent's attention to the requirements of D.C. Bar R. XI, § 14(g), and their effect on her eligibility for reinstatement. *See* D.C. Bar R. XI, § 16(c).

BOARD ON PROFESSIONAL RESPONSIBILITY

By: Sharon R. Rice-Hicks
Sharon Rice-Hicks

All members of the Board concur in this Report and Recommendation, except Ms. Cassidy and Mr. Tigar who are recused and Dr. Hindle who did not participate.

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:	:	
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SONYA N. ARMFIELD,	:	
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Respondent.	:	Board Docket No. 22-BD-076
	:	Disc. Docket No. 2016-D230
A Temporarily Suspended Member[1] of the Bar of the District of Columbia Court of Appeals (Bar Registration No. 491717)	:	

REPORT AND RECOMMENDATION OF
HEARING COMMITTEE NUMBER FOUR

Respondent, Sonya N. Armfield, is charged with violating Rules 1.15(a) (intentional or reckless misappropriation, commingling, and failing to maintain complete records of entrusted funds) and 8.4(d) (serious interference with the administration of justice) of the District of Columbia Rules of Professional Conduct (the "Rules"), arising from her conduct following appointments in the Superior Court of the District of Columbia as guardian and conservator for Elease Brown and as a temporary healthcare guardian for Christopher Maillet.

The Hearing Committee finds clear and convincing evidence of each violation charged by Disciplinary Counsel, including a finding of intentional or reckless

[1] *See* Order, *In re* Armfield, D.C. App. No. 23-BG-1072 (Mar. 21, 2024) (Respondent suspended pursuant to D.C. Bar Rule XI, § 13(c)).

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

misappropriation. The Hearing Committee recommends that Respondent be disbarred pursuant to *In re Addams*, 579 A.2d 190, 191 (D.C. 1990) (en banc).

I. PROCEDURAL HISTORY

Origin of Disciplinary Complaint

After her appointment as guardian and conservator of Elease Brown in January of 2014, Respondent failed to timely file accountings with the Probate Division of the D.C. Superior Court. *See infra* FF 49-50.[2] Respondent's out of time or missing accounting reports prompted the court to refer the matter to the Superior Court's Office of the Auditor-Master for further review. *See infra* FF 54. Despite Respondent's incomplete records, on July 6, 2016, the Auditor-Master produced a combined First and Second Accounting for the *Estate of Elease Brown*. *See infra* FF 86. In its report, the Auditor-Master recommended to the court that Respondent be removed as conservator, that the final accounting be referred to the Office of the Auditor-Master, and that judgment in the amount of $12,535.77 plus post judgment interest be issued against Respondent. *See* FF 87-88. On July 7, 2016, the Office of the Auditor-Master referred Respondent to the Office of Disciplinary Counsel for investigation. *See* FF 91.

During its investigation of the *Brown* matter, Disciplinary Counsel discovered that at least three checks belonging to Christopher Maillet, for whom Respondent

[2] "FF" refers to the Committee's Findings of Fact. "DCX" refers to Disciplinary Counsel's exhibits. "RX" refers to Respondent's exhibits. "Tr." refers to the transcript of the hearing held on October 3-5, 2023.

had been appointed to act as a temporary healthcare guardian, had been improperly deposited into Respondent's personal checking account. *See* FF 108-109, 115.

Pre-Hearing Procedures

Disciplinary Counsel investigated these matters for over six years during which it collected Respondent's various files, bank records, and court filings. On October 17, 2022, Respondent was personally served with the Specification of Charges ("Specification") alleging that Respondent's conduct in connection with court-ordered representations of Ms. Brown and Mr. Maillet, violated the following Rules:

- Rule 1.15(a), by engaging in intentional or reckless misappropriation;
- Rule 1.15(a), by commingling through failing to keep entrusted funds separate from her own property;
- Rule 1.15(a), by failing to maintain complete records of entrusted funds; and,
- Rule 8.4(d), by seriously interfering with the administration of justice.

Specification at 5 ¶ 17 (A)-(B).

Throughout the period leading up to the disciplinary hearing, Respondent sought to defer these proceedings by filing more than ten (10)[3] separate written motions to stay, enlarge time, delay, or extend proceedings.

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[3] In addition to the ten motions filed on November 3, 2022; February 17, 2023; March 8, 2023; March 14, 2023; March 28, 2023; May 1, 2023; September 27, 2023; October 16, 2023; November 9, 2023; and November 27, 2023, discussed *infra*, Respondent *pro se* or through counsel filed additional, similar requests on September 10, 2023 (motion to modify schedule filed through counsel); September 13, 2023

On November 3, 2022, Respondent, through her counsel McGavock D. Reed, Jr., Esquire, filed a motion to extend time citing the need for additional time to prepare Respondent's Answer. Disciplinary Counsel did not object, and Respondent's time to answer was extended to November 23, 2022. *See* Order Granting Extension, Nov. 7, 2022. On November 23, 2022, Respondent filed her Answer, which disclosed her intent to raise a defense based on disability pursuant to *In re Kersey*, 520 A.2d 321, 325-27 (D.C. 1987). *See* Answer at 5 ("Respondent hereby gives notice of her intent to put on evidence that she suffered from severe physical and mental disabilities that, at the time of the alleged misconduct, impacted her ability to practice law and would have contributed to the alleged misconduct."). The parties agreed to schedule the hearing for February 28 to March 3, 2023. Order, Dec. 12, 2022. Following Respondent's filing of her Notice of Intent to Raise Disability in Mitigation,[4] the Board ordered Respondent to comply with conditions of practice while this matter was pending, including that Respondent submit monthly medical reports from her treating physicians and authorize Disciplinary Counsel to communicate with her treating practitioners "regarding her continued mental status

(motion to extend time filed through counsel); and October 2, 2023 (motion to reconsider denial of extension).

[4] Respondent asserted in her *Kersey* notice that she has suffered from major depressive disorder, anxiety disorder, hoarding, hypertension, sleep apnea, diabetes and metabolic syndrome for a ten-year period (May 2011 to May 2022). Notice of Intent to Raise Disability in Mitigation at 1, 7, Nov. 23, 2022.

as it relates to her fitness to practice law." Board Order at 2, Dec. 21, 2022; *see id.* at 2-4.

On February 17, 2023, Disciplinary Counsel exchanged and filed its exhibits and witness list pursuant to the parties' agreed-upon deadline. However, Respondent's counsel failed to timely exchange and file Respondent's exhibits and witness list, but instead filed a motion that same day to continue the hearing citing witness scheduling conflicts.

Four days later, on February 21, 2023, Respondent's counsel filed a motion to remove himself as counsel of record. The motion cited irreconcilable differences regarding the representation and noted that both Respondent and Disciplinary Counsel had consented to the withdrawal. The Committee granted the motion to remove counsel and the motion to continue the hearing was granted, in part, with the Committee ordering Respondent to appear for a pre-hearing conference on March 15, 2023, and to be prepared to schedule new hearing dates. *See* Order, Feb. 22, 2023.

On March 8, two weeks after discharging her counsel, Respondent filed a motion to suspend time for the hearing claiming that she needed additional time to retain successor counsel, for successor counsel to review the record, and to locate additional documentation and witnesses. On March 14, Disciplinary Counsel opposed the motion to suspend the hearing, and that same day, Respondent again moved the Hearing Committee to suspend time—including a request to reschedule the pre-hearing conference already set for March 15, 2023, and to postpone any

scheduling of the hearing itself. Respondent's motion to suspend time for the hearing was denied, but the pre-hearing conference was continued to March 28, 2023. *See* Order, Mar. 14, 2023. Respondent was ordered to appear on March 28, whether represented by counsel or not, and to be prepared to set hearing dates in June or early July. *Id.*

One day[5] prior to the scheduled pre-hearing conference, Respondent again filed a motion to continue disciplinary proceedings, citing as grounds that: she had contracted Covid, her physician ordered her to bed rest, and she still needed additional time to retain counsel.

The next day, the March 28, 2023 pre-hearing conference proceeded as scheduled and Respondent appeared *pro se*. Respondent's motion to continue was taken up, and after hearing oral argument, the Committee denied the motion. *See* Order at 1, Mar. 29, 2023. During the pre-hearing conference, the parties agreed to schedule the hearing for June 12-16, 2023. *See id.* Further, Respondent was ordered to exchange proposed exhibits with Disciplinary Counsel on or before June 2, 2023.[6]

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[5] The motion was stamped as received at 8:34 AM on March 28, 2023, the morning of the scheduled pre-hearing conference date, because Respondent submitted it outside of normal hours the night before. *See* Pre-hearing Tr. 10, 33.

[6] It was further ordered that any future motion for continuance proffered by Respondent must be filed at least seven (7) days prior to the scheduled hearing date and would only be granted upon showing of good cause and that no oral request would be considered absent "the most unusual emergency circumstances." Order at 2, Mar. 29, 2023; *see also* Board Rule 7.10 (requiring that motions to continue a hearing to be in writing and filed at least seven days before a hearing and mandating

Id. at 2-3. The order provided that if Respondent retained successor counsel on or before May 1, 2023, successor counsel would be permitted to move for a continuance of the hearing dates, upon a showing of good cause, but that any continuance would not be permitted to extend the hearing beyond July 31, 2023. *Id.* at 2.

On May 1, 2023, Barry Coburn, Esquire, filed an Appearance of Counsel. Simultaneously, Mr. Coburn, filed a motion to continue the hearing, citing his criminal trial schedule and additional representations that conflicted with the scheduled June 12-16 hearing dates as good cause for the continuance. The Hearing Committee vacated the June hearing dates and ordered the parties to confer and select dates for the once again continued hearing. *See* Order, May 25, 2023. Ultimately, the hearing was scheduled for October 3-5, 2023 (past the prior deadline of July 31), and the parties were ordered to exchange proposed exhibits and to file preliminary exhibit lists and witness lists no later than September 22, 2023. *See* Order, Jun. 14, 2023.

On September 27, 2023, four business days before the disciplinary hearing was scheduled to convene, Respondent, acting *pro se*, moved the Hearing Committee to, "temporarily suspend all proceedings . . . due to extraordinary circumstances" purported to be: (i) termination of representation by Mr. Coburn; (ii) insufficient time to prepare for the hearing if appearing *pro se*, or alternatively,

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that oral requests for a continuance are not to be considered by a Committee "absent the most unusual emergency circumstances").

requiring additional time to retain new legal representation as successor counsel to Mr. Coburn; (iii) additional time to secure witnesses; (iv) her "grueling schedule"; (v) compliance with Disciplinary Counsel's and Practice Management Advisory Service's ("PMAS"[7]) document production demands; (vi) her contraction of Covid "several times"; and (vii) time constraints from the document production to PMAS related to her conditions of practice. On September 28, 2023, Mr. Coburn moved to withdraw as counsel, asserting that Respondent had terminated the representation on the evening of September 27.

The Hearing Committee denied Respondent's motion to suspend, stating that no further delays would be tolerated observing that the "Specification . . . was served almost a year ago and the Answer was filed ten months ago." *See* Order at 2-3, Sept. 29, 2023. Mr. Coburn's motion to withdraw was granted and the scheduled hearing dates of October 3-5, 2023, were reaffirmed. *Id.* at 3.

Hearing Procedures

The disciplinary hearing convened on October 3, 2023, and concluded on October 5, 2023, via Zoom video conference before Hearing Committee Number Four. Disciplinary Counsel was represented by Traci Tait, Esquire. Respondent appeared *pro se*.

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[7] As part of Respondent's conditions of practice resulting from her Notice of Intent to Raise Disability in Mitigation, the Board appointed Kaitlin McGee, Esquire, as Practice Monitor, along with the assistance of Daniel Mills, Esquire, from the D.C. Bar's PMAS. *See* Board Order, Jan. 19, 2023.

During the hearing, Disciplinary Counsel submitted DCX 1 through 34. All of Disciplinary Counsel's exhibits were admitted into evidence Tr. 852.[8] Prior to moving to withdraw, Mr. Coburn exchanged Respondent's exhibits RX 1 through RX 9 with Disciplinary Counsel. Respondent, acting *pro se*, identified additional documents during the Zoom hearing that had not been provided to Disciplinary Counsel: RX 10 through RX 19. All of Respondent's exhibits were admitted into evidence at the close of the hearing, with Respondent being advised that she was responsible for filing her exhibits with the Office of the Executive Attorney and for providing a copy to Disciplinary Counsel. *See* Tr. 718-19, 852.

Disciplinary Counsel called the following witnesses during its case-in-chief and/or during rebuttal: Respondent; Azadeh Matinpour, Esquire; Brian Kass, Esquire; Daniel Mills, Esquire; and Kaitlin McGee, Esquire. Respondent testified on her own behalf and called as witnesses: Jemal Everett; Mia Alexander-Davis; Nadine Feastor; Jodi Artman; and Dr. Samuel Williams.

Upon conclusion of the hearing on the Rule violations, the Hearing Committee made a preliminary non-binding determination that Disciplinary Counsel had met its burden of proving at least one of the charged violations set forth in the Specification of Charges. Tr. 722-23; *See* Board Rule 11.11. During the sanctions phase of the proceedings, Respondent made an oral request for a stay in the proceedings to allow her more time to present *Kersey* witnesses in mitigation of

[8] On the first day of the hearing, Respondent made a general objection to any exhibits being admitted, which the Committee denied. *See* Tr. 261.

sanction. Respondent claimed that her doctor was not available to testify, and other *Kersey* witnesses had not been subpoenaed. *See* Tr. 724, 788, 791 (Respondent).

However, Respondent's *Kersey* witness (Dr. Samuel Williams) appeared in the Zoom videoconference waiting room, and Respondent agreed to take his testimony and he was sworn in as a witness. Tr. 795-96. Dr. Williams explained that he had been treating Respondent for her mental health conditions. Tr. 800 (Williams). Respondent, however, declined to ask Dr. Williams any additional questions to establish her *Kersey* defense ("That's all I'm prepared to go through with right now today." Tr. 800-01 (Respondent)). Disciplinary Counsel objected to continuing the *Kersey* portion of the hearing, arguing that Respondent had been on notice of the scheduled hearing dates, which included the sanction phase. Tr. 801. The Hearing Committee denied Respondent's motion to continue the hearing, but permitted Respondent the opportunity to file a motion to reopen the hearing, "specifically identify[ing] the witnesses that you intend to call or the evidence that you intend to elicit." Tr. 721; *see* Tr. 720-22. The Committee ordered that any motion to reopen had to be filed no later than October 12, 2023, and no motions to enlarge time would be permitted. *See* Order, Oct. 6, 2023.

Post-Hearing Procedures

On October 24, 2023, in consideration of Respondent's late Amended Motion to Enlarge Time and Reopen the Hearing and Disciplinary Counsel's Opposition to Respondent's Motion to Reconvene Hearing or Reopen Record, the Hearing Committee denied the request to reopen the record and reopen the hearing, finding

that Respondent's motion was filed late and did not "identify which documents or witnesses were recently discovered, why or how they would help her defend against the charges, and most importantly, why she could not have discovered the documents or witnesses before the hearing." Order, Oct. 24, 2023. The Committee, however, gave Respondent additional time, until October 31, 2023, to submit her exhibit list form and to properly file her exhibits identified at the hearing, RX 1-19. *See id.*

Pursuant to the briefing schedule agreed to by the parties at the close of the hearing, Disciplinary Counsel submitted its Proposed Findings of Fact, Conclusions of Law, and Recommended Sanction on October 31, 2023. Respondent was ordered to submit her post-hearing brief on November 13, 2023. Order, Oct. 31, 2023. On November 9, 2023, however, Respondent moved the Committee to enlarge the time to submit her post-hearing brief, which was granted until November 27, 2023. *See* Order, Nov. 13, 2023.

On November 27, 2023, the same day her Proposed Findings of Fact, Conclusions of Law, and Recommended Sanction were due, Respondent filed a second motion to enlarge time, this time to which Disciplinary Counsel filed an Opposition to Respondent's Motion for an Indefinite Extension to File her Brief Responsive to Disciplinary Counsel's Post-hearing Brief. The Committee denied Respondent's second motion to enlarge time, citing Disciplinary Counsel's objections, Respondent's long history of seeking delays in this matter, the fact that Respondent had more than seven weeks to prepare her brief, and the fact that Respondent had yet to file her exhibits. *See* Order, Dec. 4, 2023.

On January 16, 2024, the Committee *sua sponte* issued another extension for the filing of Respondent's exhibits RX 1-19, requiring Disciplinary Counsel to file RX 1-9 (which Mr. Coburn had exchanged with the Office of Disciplinary Counsel) and Respondent to file RX 10-19, by January 26, 2024. *See* Order, Jan. 16, 2024. As of the filing date of this Report, Respondent still has not filed her exhibits RX 10-19; Disciplinary Counsel filed RX 1-9 with the Office of the Executive Attorney on January 23, 2024.[9]

II. FINDINGS OF FACT

On the basis of the record as a whole, the following findings of fact are based on the testimony and documentary evidence admitted at the hearing. The Hearing Committee makes these findings of facts by clear and convincing evidence. Board Rule 11.6; *In re Cater*, 887 A.2d 1, 24 (D.C. 2005) (holding "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 was admitted to the District of Columbia Bar on July 6, 2007, and assigned Bar number 491717. DCX 1. *Compare* DCX 2 at 1, *with* DCX 3 at 1.

[9] As a result, the record of Respondent's exhibits only includes RX 1-9 (filed by Disciplinary Counsel) and RX 18-19 (previously emailed to the Office of the Executive Attorney). As of the date of this report, Respondent still has not provided RX 10-17 to either Disciplinary Counsel or the Office of the Executive Attorney.

2. Respondent was admitted to the Connecticut Bar in November 2002. DCX 1.

Respondent's Admission to the D.C. Superior Court Fiduciary Panel

3. To protect vulnerable wards, the D.C. Superior Court maintains a fiduciary panel of attorneys who volunteer to be appointed to four-year terms following application and completion of training, including training on conservatorship accountings. Tr. 171-72, 186-87, 237-38 (Kass).

4. The D.C. Superior Court maintains a published Probate Attorney Practice Standards manual ("Standards" or "Standards manual") to address the general authority and duty of attorneys and other professionals who are appointed to probate matters. DCX 34 at 5; Tr. 187, 196-98, 198-200, 210 (Kass). The Standards identify in all instances the duties and responsibilities of attorneys appointed to serve in matters before the Probate Division and provide guidance on relevant D.C. law, statutes, court rules, and Rules of Professional Conduct. DCX 34 at 5. Standard 1.2 directs that in addition to participating in training, attorneys also must certify in writing that they have read and understand the Standards and that they have completed the required hours of continuing legal education (CLE). DCX 34 at 6.

5. Fiduciary panel members are expected to scrupulously document all uses of their ward's entrusted funds and refrain from commingling their funds with that of their wards, a point emphasized in training. Tr. 180-190, 202-03, 238 (Kass). Attorneys appointed by the court as conservators are charged with fiduciary obligations to "[m]arshal[] all assets of the ward." DCX 34 at 32 (Standard 7.1); *see*

Tr. 175, 180-82 (Kass). Standard 7.2 provides that a conservator shall "[m]aintain the ward's assets in a safe manner and keep accurate records at all times of all transactions involving estate assets" and "[e]nsure that the ward's assets are maintained separately from the assets of others -- including those of the Conservator . . . ." DCX 34 at 33.

6. Standard 1.5.1 states in part that the "fiduciary shall provide competent management" of property and "exercise prudence and diligence" in the performance of fiduciary duties. *Id.* at 8. The same Standard specifically recommends fiduciaries avoid delegating duties to non-fiduciaries, which is further supported by Standard 1.5.3 instructing that "the fiduciary is the ultimate decision maker." *Id.* Further, the Standards mandate that fiduciaries must exhibit trust, loyalty, fidelity and prudence in relation to the ward. *Id.* at 9 (Standards 1.5.4 and 1.5.5).

7. Standard 1.5.7 states a fiduciary's obligation to provide periodic accountings of the ward's finances and instructs that the fiduciary should maintain complete records of financial affairs of the ward including compensation paid for legal and other services rendered. *Id.* at 10; Tr. 209 (Kass).

8. Standard 6.1, governing conduct pertaining specifically to guardianships, also demands that reports be timely filed to the court and interested persons. DCX 34 at 26. Similar to Standard 1.2 governing fiduciaries generally, Standard 6.2 requires guardians to maintain an ongoing familiarity with the laws and standards applicable to the discharge of the guardian's duties. *Id.*; *see id.* at 6.

9. Pertaining to housing and welfare, Standards 6.6 and 6.7 require guardians to ensure the ward's residence is "appropriate" and that regular and appropriate healthcare services are arranged for the ward, respectively. *Id.* at 27-28. According to Standard 6.9, in circumstances where the court had not appointed a conservator, the guardian was charged to obtain the resources necessary to meet the ward's needs. *Id.* at 29.

10. A temporary guardianship imposes a fiduciary relationship. Tr. 606 (Kass).

11. Respondent served as a member of the court's fiduciary panel for approximately ten years. Tr. 528 (Respondent). She could only become a member after undergoing the required training, certification, and continuing legal education. *See* Tr. 187 (Kass).

12. Respondent undertook the required training to become a member of the fiduciary panel, which included training on the requirements for filing guardianship plans and guardianship reports, on the purpose of filing an accounting, and concerning the importance of keeping records of how she spent a ward's funds. Tr. 529-531, 535-36, 539-540 (Respondent).

13. Respondent recalled that she completed approximately 8-10 hours of training and was admitted to the fiduciary panel after completing an exam sometime in 2011. Tr. 528, 531, 534 (Respondent).

14. Respondent testified that probate is very complex and nuanced and that she is inexperienced in acting as conservator and guardian; that she is unfamiliar and

unsure of requirements and procedures; and when confronted with the deadline to submit accountings to the court, she repeatedly solicited assistance from the court and Auditor-Master that went unanswered. *See, e.g.*, Tr. 521, 536, 540, 558-561, 567, 577-78 (Respondent). The Committee views Respondent's testimony as self-serving on these points. The Committee does not credit Respondent's statements given the lack of corroborating evidence that the procedures for filing an accounting for the Brown estate were unusually complex or that court personnel did not respond to her requests for assistance.

15. According to Respondent, she became aware of the fiduciary panel's Standards manual only after she had been invited to serve on the editing committee; she did not recall seeing the Standards manual during her training. Tr. 530-33 (Respondent).

16. Respondent did not remember when or by whom she was asked to be an editor of the Standards manual. Tr. 533-34 (Respondent). At the time of the hearing, Respondent was not sure if she still had a copy of the Standards. Tr. 533 (Respondent).

17. Respondent, however, acknowledged it is crucial to keep and maintain "meticulous records" of how she spent funds belonging to her wards. Tr. 539-540 (Respondent).

18. Based on her training and experience, Respondent knew the difference between guardianship plans and reports and had filed both in the past. Tr. 535-36 (Respondent).

19. Respondent admitted that she knew it was necessary to file regular accountings as a conservator and she understood the purpose of filing an account for a ward. Tr. 536, 539 (Respondent).

The Estate of Elease Brown

20. Adult Protective Services filed a petition for the appointment of a guardian and conservator for Elease Brown on January 9, 2014, because her cognitive functions were impaired from her severe dementia. DCX 5 at 6 ¶¶ 6-7. On January 23, 2014, Respondent was appointed by the D.C. Superior Court to be the guardian and conservator for Ms. Brown. *Id.* at 6 ¶ 9; *see* Tr. 58-59 (Matinpour). *Compare* DCX 2 at 2, *with* DCX 3 at 1.

21. At the time she was appointed as Ms. Brown's guardian and conservator, Respondent had served as a qualified member of the court's fiduciary panel for approximately three years. *See* Tr. 528-29, 551 (Respondent).

22. When she undertook the representation of Ms. Brown, Respondent acknowledged that her ward suffered from severe dementia. Tr. 552-53 (Respondent); DCX 14 at 7.

23. Respondent knew Ms. Brown did not possess the cognitive faculties to use cash, nor was she competent enough to document how she used cash. *See* DCX 15 at 19.

24. Adult Protective Services stated in its petition for appointment of a guardian and conservator that Ms. Brown was unable to handle her finances because her cognitive functioning was impaired. DCX 5 at 6 ¶¶ 6-7; *see also* Tr. 58

(Matinpour: "[Ms. Brown] was . . . cognitively impaired."). Ms. Brown was a highly vulnerable ward and Respondent understood she had a duty to marshal and protect the few assets possessed by Ms. Brown. Tr. 553 (Respondent). Respondent further understood that she needed to spend her ward's money carefully in order to preserve as much of her funds as possible. Tr. 553-54 (Respondent).

25. At the relevant time of Respondent's tenure as conservator, Ms. Brown received a modest monthly Social Security and civil service annuity payments typically totaling less than $1,300 per month. *See* DCX 5 at 34. Ms. Brown received a monthly electronic payment from the Social Security Administration, approximately $800 a month, that was directly deposited into her account. *See* DCX 6 at 3 (SunTrust Bank conservatorship account statement showing direct deposits "ACH" from "SSA"); DCX 16 at 24-25; DCX 5 at 34-35. However, her civil service annuity checks (approximately in the amount of $450) were sent monthly by mail. DCX 16 at 25; *see* DCX 5 at 34-35 (Auditor-Master accounting showing "Deposit (Civil Service)"). The cost for Ms. Brown's nursing home was approximately $1,100 a month. DCX 16 at 25.

26. In addition to real property located at 3427 25th Street SE Washington, D.C. 20020, the corpus of Ms. Brown's liquid estate consisted of a Wells Fargo (Transamerica) brokerage account containing approximately $18,320.59 (ending in 0369). DCX 5 at 6-7 ¶ 12C-D, at 11-12 ¶ 45C. Ms. Brown also maintained an account at Andrews Federal Credit Union (ending in 4888), a SunTrust conservatorship account (ending in 4313) (opened by Respondent, DCX 14 at 20),

and a Wells Fargo conservatorship account (ending in 1908) (opened by Respondent, DCX 17 at 5). DCX 5 at 6-7 ¶¶ 8, 12; *see also* DCX 5 at 11-12 ¶ 45A-B, at 20 ¶ 100, at 31, at 34-35.[10]

27. Respondent delegated many supportive tasks to her assistant, Lesli Friend, because Ms. Friend lived near Ms. Brown and Respondent did not. Tr. 514, 523 (Respondent); *see* RX 2. Ms. Friend was tasked with helping to secure and maintain housing for Ms. Brown and ensure Ms. Brown had food, clothes, and sundries, but Respondent did not recall how those purchases were reported by Ms.

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[10] Disciplinary Counsel cites to the Report of the Auditor-Master as support for the existence of these accounts, but only introduced a few monthly statements from the SunTrust conservatorship account into the record. *See* DCX 6. The Report of the Auditor-Master identified the following accounts and balances in the initial inventory provided by Respondent. DCX 5 at 6-7 ¶ 12A-C:

> Wells Fargo Bank (conservatorship account)- $782.65
> Andrews Federal Credit Union- $642.00
> Wells Fargo brokerage account- $18,320.59

The Report of the Auditor-Master also provides the following balances in the First and Second Accountings (beginning January 23, 2014, and ending April 19, 2016). *Id.* at 11-12 ¶¶ 44-45. The Andrews Federal Credit Union accounts were closed by Respondent at the end of August 2014. *Id.* at 12 ¶ 46Biii:

> Andrews Federal Credit Union checking account (ending in 4888)- $841.99
> Andrews Federal Credit Union savings account (ending in 4888)- $5.00
> Transamerica brokerage account (ending in 0369)- $18,410.33

The Report of the Auditor-Master provides the following balances for the Final Accounting. *Id.* at 20 ¶ 100:

> Transamerica brokerage account (ending in 0369)- $10,999.35
> SunTrust Bank account (ending in 4313)- $698.70

Friend to Respondent. Tr. 576-77 (Respondent); *see also* Tr. 515-16 (Respondent) (Ms. Friend paid someone to repair broken windows and to change locks for Ms. Brown). Respondent, however, took credit for finding the nursing home for Ms. Brown. Tr. 526 (Respondent). According to Respondent, because she "had taken a course at the time that said you should delegate," she "delegated a lot of stuff to [Ms. Friend] to handle." Tr. 523 (Respondent). Ms. Friend passed away on July 13, 2015. RX 2.

28. On April 12, 2017, Ms. Brown passed away. Tr. 597 (Matinpour).

29. As noted earlier, Ms. Brown had multiple bank accounts to which Respondent gained access in connection with her court-appointment as guardian and conservator. Tr. 69 (Matinpour).

30. Respondent opened a conservatorship account for Ms. Brown in April 2014 at Wells Fargo (account ending in 1908) ("Wells Fargo conservatorship account"), but in or around September 2015, she moved the account to SunTrust Bank (account ending in 4313) ("SunTrust conservatorship account"). *See* DCX 5 at 34-35; DCX 6; Tr. 75 (Matinpour); DCX 15 at 38-39; DCX 17 at 5.

31. To withdraw funds from the conservatorship accounts, sometimes Respondent bought cashier's checks and sometimes she simply withdrew cash from an ATM or wrote other checks on the account. *See* Tr. 17 (Respondent's argument on pre-hearing motion); Tr. 75 (Matinpour); DCX 5 at 15; DCX 6 at 4-5. Respondent made these withdrawals without memorializing the transaction necessary to track

the funds and meet her obligations as a fiduciary Panel Member. DCX 5 at 10-11 ¶¶ 38, 42, at 14 ¶ 53; Tr. 74-75, 79-81 (Matinpour). *See generally* DCX 14-DCX 17.

32. Although Respondent was familiar with her ward's cognitive deficiencies pertaining to the handling of cash, Respondent repeatedly gave Ms. Brown cash. *See, e.g.*, Tr. 162 (Respondent explaining exhibit); Tr. 526 (Respondent: "[Ms. Brown] was constantly begging for money and she wanted her money then and there."). Respondent admittedly failed to memorialize many transfers of cash made to Ms. Brown; further, Respondent did not obtain receipts from Ms. Brown's nursing home when she made cash payments. *See* DCX 5 at 15 ¶ 60; DCX 15 at 18-19.

33. When withdrawing cash from Ms. Brown's accounts, including her SunTrust conservatorship account, Respondent often incurred unnecessary and costly fees which diminished the estate by using out-of-network ATMs or causing overdrafts on the accounts. Tr. 75, 79-81, 85 (Matinpour); *see, e.g.*, DCX 5 at 44-45 ("Non-W[ells] F[argo] ATM Bal Inquiry Fee" totaling $20.50; Andrews Federal Credit Union "withdrawal priv pay fee" totaling $100 and "withdrawal RTN ACH FEE" totaling $75; SunTrust conservatorship account "Overdraft Item Fee" of $36 and "Extended Overdraft Fee" of $36); DCX 17 at 22-23.

34. Respondent established herself as the representative payee for Ms. Brown's civil service annuity checks, which she then received directly. Tr. 247-48 (Kass: "If the ward is receiving Social Security or some other benefit in that regard, the fiduciary with their, either their letters of guardianship or letters of

conservatorship, or even just with [a court] order that says they have been appointed as such, they can file a representative payee application and then they will be appointed [as] the representative payee for the benefit[] of the ward."); Tr. 91-96, 98-100, 103-04 (Matinpour); DCX 7 at 7-8; DCX 8 at 8-9; DCX 11 at 7-8; DCX 12. Thus, the civil service annuity checks were issued in Respondent's name, as conservator of Ms. Brown ("Sonya N Armfield Esq CNS Elease Brown"). DCX 7 at 7; DCX 8 at 8; DCX 11 at 7.

35. On September 8, 2014, January 8, 2015, and October 2, 2015, Respondent deposited Ms. Brown's civil service annuity checks into Respondent's personal bank account, instead of the Wells Fargo or SunTrust conservatorship accounts. Tr. 92-100 (Matinpour); DCX 7 at 3, 7-8; DCX 8 at 3, 8-9; DCX 11 at 3, 7-8; *see also* DCX 12; Tr. 554-55. At the time the September 8, 2014 and January 8, 2015 deposits were made or while they were being held, Respondent's personal banking account included her personal funds. *See, e.g.*, DCX 7 at 1, 3 (on September 8, 2014, the personal account already held approximately $189.35 when the civil service annuity check was deposited); DCX 8 at 3 (on January 8, 2015, the personal account included a January 7, 2015 payment to Respondent from the Virginia Employment Commission when the civil service annuity check was deposited). At the time the October 2, 2015 deposit was made to her personal bank account, the account was overdrawn. *See* DCX 11 at 1, 3.

36. When Respondent deposited Ms. Brown's civil service annuity check on **September 8, 2014**, for $446.72 directly into her own personal bank account

ending in 0311, the beginning balance of the account was $189.35 on September 6. DCX 7 at 1; Tr. 92-96 (Matinpour); DCX 7 at 3 (total deposit of $531.72 on September 8), at 7-8 (endorsed check signed by Respondent from U.S. Treasury in the amount of $446.72 for deposit); DCX 12 (ODC Deposited Checks Index). For the month of September, the deposits to the personal account totaled $1,931.74 (including Ms. Brown's civil service annuity check of $446.72) and total withdrawals, deductions, and bank service fees were $2,079.78, resulting in an ending balance of only $41.31 by October 7, 2014. *See* DCX 7 at 1. We cannot determine from the bank statement if withdrawals and deductions from the personal account were made on Ms. Brown's behalf, but it is clear that $446.72 of Ms. Brown's check was largely spent by October 7, 2014.

37. When Respondent deposited Ms. Brown's civil service annuity check on **January 8, 2015**, for $456.72 directly into her own personal bank account ending in 0311, her personal account showed an opening balance of -$46.14 but a deposit was made on January 7 in the amount of $176.40 which would have increased the balance to $130.26 by the time of the January 8 deposit of Ms. Brown's funds. Tr. 98-100 (Matinpour); DCX 8 at 1, 3 (January 7 deposit of $176.40 from "VEC-Virginia DES:UI Benefit"), 8-9 (endorsed check for deposit); DCX 12 (ODC Deposited Checks Index). The ending balance of the account was $3.03 by February 3, 2015, after a total of $2,341.88 in deposits (including Ms. Brown's $456.72 civil service annuity check) and a total of -$2.292.71 in withdrawals. DCX 8 at 1. Again, it is clear that Ms. Brown's funds were mostly used by February 3, but we cannot

determine from the bank statement if $ 456.72 of the withdrawals from the personal account were made on Ms. Brown's behalf.

38. When Respondent deposited Ms. Brown's civil service annuity check on **October 2, 2015**, for $449.77 directly into her own personal account ending in 0311, the account was overdrawn, with a balance of approximately -$18 following the deposit of $70 for a fee refund to the account on October 1. Tr. 103-04 (Matinpour); DCX 11 at 1, 3-5, 7-8 (bank statement and copy of endorsed check for deposit); DCX 12 (ODC Deposited Checks Index).[11]

39. Respondent never disclosed to the Probate Court that she had deposited the three annuity checks in her personal bank account. Tr. 92-94, 100-05 (Matinpour), 554 (Respondent). *See generally* DCX 14-DCX 17; DCX 5 at 11, 35 (Auditor-Master Report reflecting Ms. Brown's annuity checks as "missing").

40. Bank statements indicate Respondent overdrew Ms. Brown's SunTrust conservatorship account multiple times from September 8 through October 24, 2015, and from May 9 through May 25, 2016. DCX 6 at 1-2 (-$76.23 balance on 9/8/2015, -$112.23 balance on 9/14/2015 until a deposit in the amount of $4,980.00 was made on 10/23/15); DCX 6 at 4-5 (overdrawn from May 9, 2016 to May 25, 2016, when a deposit of $1,289.82 was made); Tr. 74-78 (Matinpour). As a result of these

[11] Disciplinary Counsel claims that Respondent's personal bank account was overdrawn "each statement period" that Ms. Brown's annuity checks were deposited" into her personal bank account. *See* ODC Br. at 9-10 (PFF 24-27, 29).

overdrafts, the SunTrust conservatorship account was subject to repeated overdraft fees. DCX 6 at 1, 4 ($72.00 in overdraft fees in both 2015 and 2016).

41. When appearing before the Auditor-Master, Respondent testified that any unaccounted-for annuity checks may have been diverted by a third party that improperly made themselves the representative payee. DCX 5 at 11 ¶ 41. However, the Auditor-Master determined that these Social Security payments were mailed to Respondent as representative payee. *Id.* at 11 ¶ 42.

42. Upon Disciplinary Counsel's subpoena for production of documents, Respondent never produced sufficient accountings showing each deposit, withdrawal, and disbursement of Ms. Brown's assets. Tr. 86-88 (Matinpour).

43. Respondent also had a practice of taking Ms. Brown's civil service annuity checks to the bank, cashing them, and then failing to secure and retain receipts for expenditures purportedly used for the ward. *See, e.g.*, DCX 5 at 11 ¶ 42, at 14 ¶ 54.

44. Respondent repeatedly stated she had receipts to support cash expenditures made on behalf of Ms. Brown, but she never produced them. *See, e.g.*, *Id.* at 14 ¶¶ 56-57.

45. Respondent gave no viable explanation to the Auditor-Master for why she purportedly paid cash to Ms. Brown's nursing home instead of a check or even a cashier's check. *Id.* at 15 ¶ 58.

46. In its First and Second Accounting of Ms. Brown's estate, after adding Ms. Brown's estate beginning balance and income, the Auditor-Master calculated

that Respondent "must account for $53,865.95 of [Ms. Brown's] assets."[12] *Id.* at 12 ¶ 47. Ultimately, Respondent was held liable for $12,535.77 (plus interest) in unaccounted entrusted funds. *Id.* at 14 ¶¶ 51-52, at 20 ¶ 102E, at 27, at 44.

47. Both the Auditor-Master and the Office of Disciplinary Counsel had been concerned that three previously mentioned civil service annuity checks for Ms. Brown had gone missing. Tr. 91-92 (Matinpour). Further investigation revealed that Respondent had deposited the three missing checks into her personal bank account ending in 0311. Tr. 91-97 (Matinpour); DCX 7 at 3, 7-8; DCX 8 at 3, 8-9; DCX 11 at 3, 7-8. Respondent never provided documentation illustrating the authority or necessity for Respondent to deposit Ms. Brown's annuity checks into her own personal account rather than the Wells Fargo or SunTrust conservatorship accounts. *See* Tr. 211-13 (Kass). In fact, Respondent forgot she had made the deposits. Tr. 554 (Respondent).

48. Respondent was aware that as Ms. Brown's fiduciary, she was required to file annual accountings detailing how she had spent Ms. Brown's funds. Tr. 539, 551 (Respondent).

49. Respondent was supposed to file an inventory, a guardian report, accounting, and guardian plan. Tr. 59 (Matinpour). Nevertheless, Respondent never timely filed any of the required accountings, and in fact failed to file timely reports

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[12] The Auditor-Master noted that in proceedings before the Auditor-Master, "[a] fiduciary has the burden of proof in accounting for assets under their control and will be held personally responsible for those assets when they fail to meet the burden." DCX 5 at 12 ¶ 48 (citing *In re Estate of Elkins*, 692 A.2d 910, 912 (D.C. 1995)).

and accountings during the entire representation. Tr. 60, 71 (Matinpour); *see* DCX 13.

50. Respondent's continued failure to file the required accountings and reports led the court to issue multiple delinquency notices for missing accounting and guardianship reports. Tr. 59-61 (Matinpour); *e.g.*, DCX 13 at 10, 14, 17-23. When Respondent then still failed to fulfill her responsibilities, the court ordered her to appear at multiple summary hearings to explain her lack of compliance. DCX 13 at 7-12, 14-24.

51. Respondent caused the necessity for multiple hearings because prior to each hearing she failed to produce the required accounting. *See* DCX 5 at 7. Respondent ultimately never filed the required accountings. Tr. 71 (Matinpour)

52. The court scheduled a hearing on April 28, 2015, after Respondent failed to file her accounting, which was continued to June 30, 2015, to allow her more time to produce the accounting. DCX 5 at 7 ¶¶ 13-18; DCX 13 at 14-15. The court again continued the matter to August 4, 2015, when Respondent again failed to file the accounting. DCX 5 at 7 ¶ 19; DCX 13 at 14. Respondent again failed to file the accounting. DCX 5 at 7 ¶ 20.

Referral to Office of Auditor-Master

53. At the time the First Account was due to the court, Respondent requested assistance and clarification with regard to making the accounting from both the court and Auditor-Master. Tr. 550, 558 (Respondent).

54. By Order of Reference, on August 14, 2015, the court referred the matter to the Office of the Auditor-Master. DCX 5 at 7 ¶ 21; DCX 13 at 13.

55. Because Respondent consistently failed to timely produce accountings to the court, and given the absence of receipts to support Respondent's purported expenditures, the Auditor-Master was forced to conduct several hearings. Tr. 66-69 (Matinpour); *see* DCX 5 at 10 ¶ 37; DCX 14-DCX 17. Respondent completely failed to deliver supporting documents and any viable excuse for her failure (emphasis added). DCX 5 at 10 ¶¶ 37-39. For example, Respondent testified before the Auditor-Master that she had faxed documents to the court, but the fax never arrived, and she also testified that she intended to bring the documents, but emailed them instead, but no one at the court received the email. DCX 14 at 14-17, 23-24; DCX 15 at 5; Tr. 69-70 (Matinpour).

56. The Auditor-Master held a hearing on October 5, 2015, in an effort to get an accounting of Ms. Brown's assets. During the hearing, Respondent was sanctioned for failing to produce financial records pertaining to Ms. Brown. DCX 14 at 1, 23-24; *see* DCX 15 at 69.

57. At the time of her appearance before the Auditor-Master, Respondent could not explain what happened to all of Ms. Brown's missing civil service annuity checks, including the three that had been deposited into her personal account. *See* DCX 5 at 35 ("Missing Annuity Income" including, *inter alia*, September 1, 2014; January 1, 2015; October 1, 2015); DCX 7 at 7; DCX 8 at 8; DCX 11 at 7; DCX 17 at 7-9; Tr. 91, 129 (Matinpour). Respondent does not deny that she failed to disclose

to the Auditor-Master that she deposited three of Ms. Brown's civil service annuity checks into her personal bank account ending in 0311. Tr. 554 (Respondent). The Auditor-Master identified two of Ms. Brown's Social Security checks for February and March of 2014 that were unaccounted for. DCX 14 at 21-22. At the relevant time, Respondent testified to the Auditor-Master that Respondent had been designated as a representative payee for the annuity checks by January 2014. *Id.* (Transcript of hearing before the Auditor-Master on 10/5/2015, Respondent: "in January of 2014, I added myself as rep payee"). By the end of the hearing, the Auditor-Master sanctioned Respondent for her failure to comply with the order to provide copies of all receipts and documentation regarding the disposition of all Social Security benefits issued for the benefit of Ms. Brown. DCX 14 at 23-26 (Respondent ordered to pay $250 and an additional $100 per week until full compliance with the production order).

58. During the disciplinary hearing, Respondent testified that she reviews her bank statements but did not recall commingling Ms. Brown's annuity checks with her personal funds. Tr. 554 (Respondent). Because the bank statements clearly show deposits of the three annuity checks, we do not credit Respondent's claim that she regularly reviewed her personal bank statements. *See* DCX 7 at 3; DCX 8 at 3; DCX 11 at 3.

59. Respondent could not recall the number of bank accounts she had at the relevant times of her representation of Ms. Brown. Tr. 555 (Respondent).

60. Throughout the entire time of her appointment as conservator of Ms. Brown, Respondent failed to timely provide reports including an inventory, guardian report, accounting, and guardian plan to the court. Tr. 59-60 (Matinpour).

61. Respondent has provided no coherent documentary record or other explanation for spending Ms. Brown's funds on service fees from using out-of-network ATMs, nor has she articulated any cogent explanation for the purpose of the cash withdrawals generally. Tr. 86-88 (Matinpour); DCX 5 at 15. *See generally* Tr. 509-594 (Respondent).

62. Mr. Kass explained that routinely using cash from ATMs to address a ward's needs is a breach of proper practice. For example, ATM transaction receipts are not descriptive enough to support fiduciary accounting standards and using ATMs does not support maintaining a ward's assets in a safe manner. Tr. 202 (Kass).

63. Respondent acknowledged she was responsible for accounting for all of a ward's funds as conservator. Tr. 552 (Respondent). Simultaneously, she acknowledged that she was "overworked" and admitted to "not being organized." Tr. 522 (Respondent).

64. Although directed to state just the First Accounting, because of Respondent's inept administration of Ms. Brown's estate, the Auditor-Master, not Respondent, produced the First and Second Accounting for the period beginning January 23, 2014, and ending April 19, 2016, for Ms. Brown's estate. DCX 5 at 11 ¶¶ 43-44; *see* Tr. 551 (Respondent).

Removal as Guardian & Conservator – Findings of the Auditor-Master

65. On March 23, 2015, Respondent was removed as Ms. Brown's guardian at a hearing Respondent failed to attend. Tr. 61 (Matinpour); DCX 13 at 16-17. In August of 2016, Respondent was removed as Ms. Brown's conservator. Tr. 62 (Matinpour); DCX 13 at 5.

66. The Auditor-Master's office made repeated, painstaking efforts to reconstruct Respondent's handling of Ms. Brown's cash assets as conservator. Tr. 66-69 (Matinpour). *See generally* DCX 5; DCX 14-DCX 17. The Auditor-Master held four separate hearings on October 5, 2015, February 10, 2016, April 12, and April 22, 2016, and took Respondent's testimony under oath. DCX 5 at 8 ¶27, at 10 ¶ 37; DCX 14; DCX 15; DCX 16; DCX 17; Tr. 66-69 (Matinpour).

67. In advance of each hearing, the court directed Respondent to provide the required evidence documenting her spending of Ms. Brown's funds. DCX 5 at 8 ¶ 23, at 10 ¶ 39, at 14 ¶ 56; *see, e.g.*, DCX 14 at 14-15, 18-20; DCX 15 at 69, 74; DCX 16 at 11-12, 36-37; DCX 17 at 59, 86, 95. However, at each hearing, Respondent failed to produce all of the required records. *See, e.g.*, DCX 14 at 14-15, 18-20; DCX 15 at 69, 74; DCX 16 at 11-12, 36-37; DCX 17 at 59, 86, 95; Tr. 69-71 (Matinpour).

68. The Auditor-Master repeatedly expressed his concern that Respondent's handling of entrusted funds without complete documentation meant no means existed to show that she was using Ms. Brown's cash solely for the ward's benefit. *See generally* DCX 14-DCX 17; DCX 5.

69. At the first Auditor-Master's hearing the court sanctioned Respondent for failing to present documentation of her cash receipts and records of expenditures. DCX 14 at 1, 14, 23-24. The court then explicitly directed Respondent to turn over records showing what she had done with Ms. Brown's funds:

> THE COURT: . . . . And understand, we're talking about all of your bank accounts. I mean, we want copies of every check you've written, every receipt, every documentation that you have in support of your accounting. . . . And then you mentioned you have other bank accounts which are needed in order for us to comply with the order of reference. So copies with those -- of those other bank accounts that belong to Ms. Brown.

DCX 14 at 26.

70. At the second Auditor-Master hearing, the court repeatedly admonished Respondent's handling of Ms. Brown's funds stating her behavior was troubling and unacceptable. For example:

> THE COURT: . . . . [R]ight now you say it was $1,000, and I gave it to this person to do the house, and I took $2,000, and I gave it to these people, and they didn't, you don't have any checks, so unfortunately, that record is consistent with you taking the money and putting it in your pocket. And while I'm not suggesting you put it in your pocket, I'm just saying that that's -- it's just as consistent because we don't even -- at least if you had checks that were endorsed by another person, at least there's evidence that at least they got the money in a check, but then we'd be looking for an invoice. But now, you know, we don't even have proof that the money really went to them.

DCX 15 at 73.

71. Respondent made no protest to the Auditor-Master's admonishments. *See id.* (Respondent's response to concerns voiced by the Auditor-Master regarding Respondent's handling of Ms. Brown's accounting matters: "Okay").

72. During this disciplinary hearing, however, Respondent did not recall that the Auditor-Master was alarmed by her handling of Ms. Brown's assets. Tr. 560 (Respondent).

73. Before the Auditor-Master, Respondent conceded that she was unaware of the circumstances concerning the dispersal of Ms. Brown's cash and other assets. *See, e.g.*, DCX 14 at 20-22, 28-29; DCX 15 at 3, 9-10, 19, 40-41, 49; DCX 16 at 12, 25, 29-31, 39, 46; DCX 17 at 23-25, 29, 43, 50, 61-62, 69, 73-74; *see also* Tr. 84-85, 89-90 (Matinpour).

74. Ultimately, after the court's concerted efforts to obtain the records, Respondent committed that she would document her use of Ms. Brown's funds, however, Respondent failed to produce documentation of thousands of dollars in cash expenditures. *See generally* DCX 5; DCX 14-DCX 17; Tr. 69-71 (Matinpour).

75. Respondent asserts that she made cash or cashier's check payments to contractors on Ms. Brown's behalf, *see* DCX 5 at 14 ¶¶ 55-56; DCX 15 at 24-25; Tr. 579 (Respondent), to Ms. Brown's nursing home, *see* DCX 5 at 15 ¶ 58; DCX 15 at 23; DCX 17 at 48, to a locksmith, *see* DCX 5 at 17-19 ¶¶ 76- 90; DCX 17 at 41, 53-54, 75-76, 78-83, 88, 90-91, 94-95, and to Respondent herself as reimbursement for expenses, *see* Tr. 162 (Respondent explaining exhibit). But Respondent has failed to produce the supporting records corroborating her claimed expenditures. The records Respondent did produce were inconsistent with her claims. DCX 5 at 16-19; *see, e.g.*, DCX 17 at 80-81.

76. Respondent averred that she paid nearly $6,000 in cash to a locksmith for work at a property where her ward no longer lived. DCX 5 at 17-19; DCX 16 at 39, 56; DCX 17 at 2; *see also* DCX 5 at 13, 19. Respondent testified that "someone kept changing her locks. . . . and locked [Ms. Brown] out." Tr. 515 (Respondent). Respondent testified that there were repeated burglaries requiring multiple lock changes. Tr. 576 (Respondent); *see* DCX 5 at 17. But Respondent did not produce police reports for the supposed multiple burglaries, though she had promised to do so. DCX 5 at 17; DCX 16 at 38-39, 56-57. *See generally* DCX 17 (no police report produced at the subsequent hearing). The Auditor-Master also attempted to verify that the work was done by calling the locksmith directly, but the locksmith had no business records verifying Respondent's expenditures on behalf of Ms. Brown. DCX 5 at 18 ¶¶ 83-88; DCX 17 at 81-83. Moreover, the documentation Respondent did provide was inconsistent with her story of multiple lock changes. DCX 5 at 17-18; DCX 17 at 80-81. After visiting Ms. Brown's home and considering the physical locks Respondent provided, the Auditor-Master concluded the evidence supported only one lock change. DCX 5 at 17-18 ¶¶ 80-81; *see* DCX 17 at 78-83, 84, 88, 90, 94-95.

77. Respondent conceded that she did not know how many times she changed Ms. Brown's locks, but testified it was more than one time. DCX 16 at 56; DCX 17 at 94.

78. Throughout the Auditor-Master's investigation, Respondent at times testified that she did not know, did not understand, or could not explain the

circumstances under which Ms. Brown's cash was dissipated. *See, e.g.*, DCX 15 at 9; DCX 16 at 12, 23, 25, 29, 39, 44, 46; DCX 17 at 23; *see also* Tr. 84-85, 89-90 (Matinpour).

79. The Auditor-Master asked Respondent what had become of a number of Ms. Brown's annuity checks that were unaccounted-for, including the check issued in October of 2015—one of the three she had deposited into her personal bank account. Tr. 98-102 (Matinpour); DCX 17 at 6-12, 14, 55 (inquiry about annuity checks generally and including reference to October 2015 check). The Auditor-Master asked Respondent specific and detailed questions about each annuity check. DCX 17 at 7-12. *See generally* DCX 5.

80. Respondent never disclosed that she deposited three of the unaccounted-for checks in her personal bank account 0311. Tr. 92-94, 100-05 (Matinpour); Tr. 554 (Respondent); *see also* DCX 5 at 11, 35 (Auditor-Master Report reflecting Ms. Brown's annuity checks as "missing"). *See generally* DCX 14-DCX 17.

81. To the contrary, Respondent stated under oath that someone other than herself had fraudulently diverted Ms. Brown's funds from the ward's accounts. DCX 5 at 7 ¶ 16; DCX 14 at 19-21; DCX 15 at 3, 38; DCX 17 at 18; Tr. 116, 600-01 (Matinpour); Tr. 17 (Respondent's argument on pre-hearing motion).

82. The Auditor-Master expressly found no basis for Respondent's claims of fraud allegedly perpetrated upon Ms. Brown, finding that "the only payments that are missing are payments which were mailed to [Respondent] as representative

payee which were never deposited into the estate account." DCX 5 at 11 ¶ 42; *see* DCX 5 at 10 ¶ 40. Because the Auditor-Master could not factually determine if Respondent had taken that money for herself, the Auditor-Master concluded the checks had "essentially disappeared." *Id.* at 14 ¶ 54; *see also id.* at 11 ¶ 42.

83. Ultimately, the Auditor-Masterdid not credit Respondent's claims that she spent Elease Brown's funds solely for the ward's benefit. *Id.* at 14-15 ¶¶ 51, 54-58, 60.

84. To the contrary, the Auditor-Master found that, "on many occasions, [Respondent's] testimony was absolutely incredulous [sic]." *Id.* at 15 n.3.

85. On July 6, 2016, the Office of the Auditor-Master produced a combined First and Second Accounting for the Estate of Elease Brown. *Id.* The report stated: "[I]t will be very difficult for the successor to state her account when [Respondent] does not maintain adequate financial documentation." *Id*. at 20 ¶ 101.

Judgment of $12,535.77 Against Respondent

86. On July 6, 2016, the Office of the Auditor-Master recommended to the D.C. Superior Court that Respondent be removed as Ms. Brown's conservator and be ordered to repay Ms. Brown's estate $12,535.77 plus interest. DCX 5 at 14 ¶¶ 51-52, at 27; Tr. 71 (Matinpour).

87. On August 19, 2016, the court approved the findings of the Auditor-Master's report. DCX 13 at 5; *see* Tr. 62-64 (Matinpour). Based on Respondent's failure to adequately document her use of Ms. Brown's entrusted funds solely for her ward's benefit, as well as Respondent's failure to file required accountings and other reports, in August 2016, the court removed Respondent as Ms. Brown's conservator. Tr. 61-64 (Matinpour); DCX 13 at 5.

88. Although Respondent had a right to object to the Auditor-Master's report, she did not. *See* DCX 5 at 26; DCX 17 at 15-16; DCX 13 at 4-7.

89. On October 21, 2016, Respondent was ordered to repay Ms. Brown's estate $12,535.77 within fifteen days of the order. DCX 13 at 1-2; DCX 5 at 14 ¶¶ 51-52, at 27. On November 4, 2016, Respondent presented check number 502 for payment; however, the check was dishonored for insufficient funds on November 10, 2016. DCX 13 at 1; Tr. 73-74 (Matinpour). One week later, on November 17, 2016, the court issued a delinquency notice for failure to pay. DCX 13 at 1. The next day, on November 18, 2016, Respondent repaid $12,535 plus $45 for a returned check fee. DCX 13 at 1 (Docket entries 74 and 77 showing both amounts were "Repaid 11/18/16"); DCX 33; Tr. 73-74 (Matinpour).

Referral to Disciplinary Counsel

90. On July 7, 2016, the Auditor-Master's office referred Respondent to Disciplinary Counsel. DCX 5 at 23-24.

91. Disciplinary Counsel obtained and reviewed the Probate Division's file and subpoenaed Elease Brown's records for all known bank accounts. *See* Tr. 57, 74-75 (Matinpour).

92. Disciplinary Counsel asked Respondent to provide a complete accounting of all funds deposited and disbursed in connection with Elease Brown's assets. Tr. 85-88 (Matinpour).

93. In connection with its request for Respondent's accounting, Disciplinary Counsel subpoenaed Respondent's financial records showing each deposit, transfer, and disbursement of Ms. Brown's funds. Tr. 86 (Matinpour).

94. Respondent produced some records, but they were incomplete, ultimately, and insufficient to create a full accounting of how Ms. Brown's funds were used. Tr. 86-88 (Matinpour). By way of explanation for her persistent failures to keep adequate records needed to account and report, Respondent either denies responsibility or alternatively relies on her efforts in seeking assistance, from not only the court but also the Auditor-Master, to comply with her duties regarding document productions and reports demanded by the court and auditor-Master respectively. Tr. 540-45; 560-61 (Respondent).

95. In response to Disciplinary Counsel's inquiries, Respondent did not explain how these deposits to her personal account were for Ms. Brown's benefit,

largely because she had no memory of making the deposits in the first place. *See* Tr. 75, 86-87 (Matinpour), 554 (Respondent). She never provided a credible explanation why it would have been in the ward's interest to have the money deposited into her account.

96. Respondent produced no documentation explaining why Ms. Brown's SunTrust conservatorship account was overdrawn on multiple occasions. Tr. 74-77, 85-87 (Matinpour); DCX 17 at 29-30. *See generally* DCX 14-DCX 17.

97. Consequently, Disciplinary Counsel was no more able than the Auditor-Master to document that the funds were used solely for Ms. Brown's benefit. Tr. 70-71, 74, 86-88, 123, 127-29 (Matinpour).

98. Respondent's own accountant, Jemal Everett, has been unable to document thousands of dollars' worth of her unaccounted-for expenditures of Ms. Brown's funds, testifying that Respondent's bookkeeping continues to be "[v]ery lacking. And not at all to any type of standard whatsoever." Tr. 428 (Everett); *see also* Tr. 341-44, 347-49, 356-57, 423 (Everett).

99. Respondent purports she did $25,000 worth of work for Ms. Brown but was never compensated because she did not have sufficient time to do her required accounting. Tr. 516-17 (Respondent). Respondent further testified that she has almost never been compensated for a decade on the fiduciary panel, despite the services she provided. Tr. 522, 563, 657, 685 (Respondent).

The Estate of Christopher Maillet

100. In June of 2014, the court appointed Respondent to be Christopher Maillet's temporary healthcare guardian because Mr. Maillet was incapacitated and unable to provide "daily care and maintenance" for himself without assistance. DCX 28 at 5 (court approving appointment of ninety-day emergency temporary guardian), 7-9 (June 16, 2014, Probate Division order); Tr. 105 (Matinpour); *see* Tr. 623 (Kass). Respondent's guardianship was expected to last ninety days during which Respondent could make medical decisions on Mr. Maillet's behalf. Tr. 610-11 (Kass); DCX 28 at 7.

101. Consequently, the usual six-month periodic reporting requirement did not apply. Tr. 621, 623 (Kass); *see* Tr. 615 (Kass).

102. Respondent knew that Mr. Maillet had cognitive challenges and that she had been appointed because Mr. Maillet was unable to independently manage his activities of daily living. Tr. 555 (Respondent); *see* DCX 28 at 5, 7. As temporary healthcare guardian, Respondent was involved in moving Mr. Maillet to Orlando, Florida. Tr. 520 (Respondent: "[T]he judge . . . ordered me to transfer [Mr. Maillet] to Orlando."); Tr. 526 (Respondent: "[Mr. Maillet] wanted to go stay in a long-term hotel that I felt . . . looked seedy. . . . unsavory people were there[,] [b]ut that's where I left him."). *Compare* DCX 34 at 27 (Standard 6.6: "The Guardian shall ensure the ward's residence is appropriate . . . ."), *with* Tr. 526 (Respondent).

103. During her three-month appointment, Respondent learned that Mr. Maillet received monthly Social Security checks. *See* Tr. 546-47 (Respondent).

Respondent successfully applied to the Social Security Administration to become his representative payee. *See* DCX 9 at 7-8; DCX 10 at 7-10; Tr. 546 (Respondent).

104. Respondent failed to inform the court that Mr. Maillet had cash resources, nor did she disclose that she was receiving his Social Security checks. *See* Tr. 542-44 (Respondent).

105. The scope of Respondent's healthcare guardianship duties did not include managing his financial resources. DCX 28 at 5, 7-8; Tr. 649 (Kass: "You should not be taking charge of someone's money, in my opinion, . . . if you're only designated as a healthcare fiduciary."). The court order appointing Respondent gave her authority to give consent or refuse medical examinations and health care treatments on behalf of Mr. Maillet, obtain medical records for the purpose of providing substitute consent, and have the status of a legal representative. DCX 28 at 8. The order did not include authority to manage Mr. Mailett's personal finances or to withdraw funds for medical care. *See id.*; D.C. Code §§ 21-2047.01-.02 (cited in DCX 28 at 8).

106. Respondent failed to ask the court for authority to expand her fiduciary duties to include managing Mr. Maillet's funds. Therefore, the court could not review her handling of Mr. Maillet's finances, in addition to her guardianship duties. Alternatively, she also failed to ask the court to appoint her as guardian. *See* Tr. 639-640, 611-12, 632 (Kass). Respondent unilaterally decided to take control of Mr. Maillet's limited funds. *See* Tr. 542-44; 519 (Respondent: "I decided to temporarily be [Mr. Maillet's] representative payee because . . . he needed resources.").

107. From August through September 2014, Respondent deposited three of Mr. Maillet's Social Security checks into her personal bank account ending in 0311 totaling nearly $2,000. Tr. 105-08 (Matinpour); DCX 33; DCX 9 at 3, 7-8, DCX 10 at 3, 7-10; DCX 12. Each check was in the amount of $648.90 for a total of $1,946.70. DCX 9 at 7; DCX 10 at 7, 9. Respondent deposited the three Social Security checks when her account held her personal funds. On August 1, 2014, Respondent deposited the $648.90 check (issued July 17, 2014) made out to herself for Mr. Maillet while her account held her personal funds. *See* DCX 9 at 3-5 7-8. On August 7, 2014, Respondent deposited a $648.90 check ("SSI for August") made out to herself for Mr. Maillet while her account held her personal funds. *See* DCX 10 at 1, 3, 7-8. On September 2, 2014, Respondent deposited another $648.90 check ("SSI for September") while her account held her personal funds. *See* DCX 10 at 3-6, 9-10.

108. Respondent does not deny she deposited the three Social Security checks belonging to Mr. Maillet into her personal bank account, but suggests, without supporting documentation, that the deposits were made by support staff. Tr. 548-49 (Respondent). Respondent testified that she was unaware at the time that she had commingled Mr. Maillet's Social Security checks by depositing them into her personal account. Tr. 556 (Respondent).

109. If Respondent believed Mr. Maillet's circumstances were sufficiently exigent that she needed to use her own funds for his benefit (and without time to expand the scope of her appointment), the proper procedure would have been for her

to go to the court with her expenditures documented in a petition for reimbursement with receipts. Tr. 651 (Kass). But Respondent did not do that. *See* DCX 28.

110. Respondent lacked express legal authority to deposit Mr. Maillet's Social Security checks directly into her own bank account. Tr. 613 (Kass: "[B]y no stretch of the imagination should any ward's funds go into the fiduciary's account.").

111. Further, Respondent lacked legal authority to pay herself from Mr. Maillet's funds without prior court approval. Tr. 613 (Kass).

112. Respondent failed to account to the court for how she spent Mr. Maillet's funds. *See* Tr. 539-40, 544 (Respondent). Thus, the court remained unaware that Respondent had deposited Mr. Maillet's money in her personal bank account 0311. Tr. 544 (Respondent). "[Mr. Maillet] requested that I cash his checks for him. And that's what I did." Tr. 543-44 (Respondent).

113. On June 6, 2022, Disciplinary Counsel asked Respondent, through counsel, to explain the presence of Mr. Maillet's three checks in her personal bank account, which included one occasion when she was overdrawn for part of the bank's statement period during which she deposited his money. DCX 33 at 2; DCX 9; Tr. 109-110 (Matinpour). Respondent, through counsel, provided a receipt for the train ticket purchased to move Mr. Maillet to Florida ($210.80), and a business card from a Florida hotel but no receipt. DCX 29; DCX 30; DCX 31. In responding to Disciplinary Counsel's query, her counsel explained that Respondent might have more records in a storage facility. DCX 33 at 1. In the email to Disciplinary Counsel on June 20, 2022, Respondent's counsel stated the following:

> On the Maillet matter, my client has been able to find only a few records thus far. I am attaching four Maillet-related PDFs. My client recalls being appointed as a temporary guardian for Maillet, an elderly man with significant health disorders and no ID. . . . My client further recalls being ordered to take Maillet to Florida. She recalls buying him food and clothing before and for that trip. She recalls taking Maillet to Florida on Amtrak. She recalls renting a car while in Florida to take Maillet around to potential living places; and staying overnight in a Florida hotel for at least one night. The docket does not reflect that my client filed a claim for fees or expenses; and that's consistent with her recollection.

Id. Respondent's counsel added that if more documentation was needed, additional time was needed to locate records because older files were placed by Respondent in a storage facility. *Id.* at 1-2.

114. During the disciplinary hearing, Respondent produced documentary exhibits connected with Mr. Maillet in addition to those provided during Disciplinary Counsel's investigation. However, all documents provided both during the hearing and during Disciplinary Counsel's investigation identified less than $500 of the nearly $2,000 of Mr. Maillet's Social Security checks she personally deposited into her Bank of American Account ending in 0311. *See* FF 107, 116; Tr. 110 (Matinpour); DCX 29-DCX 33; RX 6 (receipts totaling less than $500 for expenditures other than the Amtrak ticket); DCX 9; DCX 10.

115. Specifically, Respondent testified that she spent the funds she deposited from Mr. Maillet on train tickets for them both to relocate him to Florida. Tr. 520 (Respondent). She further testified that she rented a car and purchased food and clothing for the trip. Tr. 520-21 (Respondent). She also produced documentation that she bought a plane ticket for her return trip. RX 6 at 2; Tr. 521 (Respondent).

116. While acting as a temporary guardian, Respondent deposited three of Mr. Maillet's Social Security checks (July, August and September Social Security payments) into her personal bank account. **On August 1, 2014**, Respondent deposited a **$648.90** check (issued July 17, 2014) made out to herself for Mr. Maillet. DCX 9 at 3, 7-8. Soon after (from August 1 to 6), cash withdrawals were made along with charges for "SOU THE HOME D," Faxage and Fedexoffice, parking, and food purchases. DCX 9 at 4. Two subsequent deposits in the amount of $600 and $35 were made on August 4, 2014; the ending balance of Respondent's personal account was $174.31 on August 6, 2014. DCX 9 at 1. **On August 7, 2014**, Respondent deposited a **$648.90** check ("SSI for August") made out to herself for Mr. Maillet. DCX 10 at 3, 7-8. During the period covering most of the month of August, three other deposits were made ($860, $300, and $400), her account was credited a temporary credit adjustment of $150, and there was a counter credit of $160. DCX 10 at 3. **On September 2, 2014**, Respondent deposited another **$648.90** check ("SSI for September"). DCX 10 at 3, 9-10. However, after charges for food, court e-filing, truck rental, laundry, taxis, Faxage, Staples, and multiple ATM cash withdrawals and PayPal transfers, the balance for her personal account fell to $189.35 by September 5, 2014. DCX 10 at 1, 3-6. It was not until three days later, on September 8, when Mr. Maillet's funds were mostly exhausted, that Respondent purchased the train tickets to Florida. DCX 29; DCX 30; DCX 33; RX 6 at 9. The cost of the Amtrak ticket was $210.80 which was deducted as a PayPal payment from Respondent's personal account on September 11, 2014. *See* DCX 7 at 4 ("PAYPAL

DES:INST XFER ID:5LRJ28BWJL37U" for "-210.80"); DCX 30; Tr. 110 (Matinpour). By September 9, Respondent was traveling with Mr. Maillet in Florida and the charges to her personal account reflect multiple expenses for food, gas, rental car incurred in Tampa, Florida, until September 15. DCX 29; DCX 7 at 4. Respondent's expenditures in Florida with Mr. Maillet and her return flight likewise could not have originated from the Social Security funds Respondent deposited in her personal account, since the account only held $189.35 on September 6. DCX 7 at 1; *see also* RX 6 at 1 (Hotwire purchase of $116.61 on September 10), at 2 (Delta airline PayPal Debit MasterCard purchase of $161.60 on September 11), at 3 (restaurant PayPal Debit MasterCard purchase of $37.79 on September 11), at 4 (restaurant PayPal Debit MasterCard purchase of $35.79 on September 10), at 5 (Amtrak food using PayPal Debit MasterCard purchase of $12.00 on September 11) at 6 (purchase of $47.41 using PayPal Debit MasterCard on September 9).[13]

117. Respondent deposited Mr. Maillet's funds into her personal bank account and failed to disclose this fact to the court. *See* Tr. 542-44 (Respondent); Tr. 213-15, 227-28 (Kass). Although the docket shows that the court authorized Respondent to relocate Mr. Maillet to Florida, the court did not authorize Respondent to use Mr. Maillet's funds to do so. *See* RX 4; RX 5 at 3 (8/22/2014 Docket entry: "Court will allow the Temporary GDN to escort the ward to Florida

[13] RX 6 also includes receipts for purchases of $5.15 at George Washington University Hospital Cafeteria using PayPal Debit MasterCard on September 5 and 8, prior to the trip to Florida. Mr. Maillet was admitted to that hospital prior to his relocation to Florida. *See* Tr. 518, 526 (Respondent); DCX 28 at 9.

and assist him with housing before terminating the Guardianship; Guardian represented to the court that they will go to Florida [at] the beginning of September and will inform the court when they are there so the hearing may be vacated."), at 2 (9/10/2014 Docket entry: "[T]emp GDN is transporting the Subject to Florida for permanent placement.").

118. Respondent testified she was not aware that Mr. Maillet's checks had been deposited in her personal bank account until Disciplinary Counsel brought it to her attention in 2022. Tr. 556 (Respondent). She did not recall the frequency that she reviewed her bank statements. *Id.* Respondent did not file a petition for fees related to work as the temporary health guardian, but the attorney appointed to represent Mr. Maillet and the court-appointed examiner were paid their fee petitions. *See* Tr. 522, 565 (Respondent); RX 5 at 1, 4, 6 (Maillet Docket entries for 3/1/2015 and 1/14/2015).

119. Respondent emphasized at the hearing that the events occurred a "long time ago" but,

> [I]t's conceivable because I always, like I said, both parties were in dire circumstances. And that he didn't have ID and she didn't, she didn't have ID. She didn't have any resources. And I advanced a lot of money. My assistant advanced a lot of money. So it's possible, and then like I said, both parties wanted money. . . . So it's possible, as I said, I deposited the money [into my personal account]. But if I deposited the money it was because I erroneously thought I could reimburse my [sic] myself. I never paid myself [for my fees]. . . . But I thought I could reimburse myself for expenses.

Tr. 571-72 (Respondent).

Credibility of Respondent

120. The three days of hearing in this matter were conducted by video conference with Disciplinary Counsel, Respondent appearing *pro se*, witnesses, and each of the members of the Hearing Committee attending from separate locations. Transmission was not flawless, but the hearing proceeded in a timely manner and provided sufficient time for all parties to be heard. Conducting the hearing in this manner allowed members of the Hearing Committee to examine the facial expressions of the witnesses more closely as they were testifying than if the hearing had been conducted in person. Our review of the evidence and ability to ascertain the credibility of the witnesses was not diminished by the remote setting.

121. Much of Respondent's defense relied on professed and sincere beliefs set forth in an array of reasons that caused her entry into the attorney discipline system, none of which the Committee finds credible. Nor does the Committee find much of Respondent's other testimony credible, except that which is corroborated by verifiable documents in the record. Like the Auditor-Master, the Committee found much of Respondent's testimony confusing. *See* DCX 5 at 16-17 ¶¶ 66-77; *see also* DCX 5 at 15 n.3. For example, as to whether she is a licensed attorney, *compare* Tr. 11:10-11 (Respondent), *with* Tr. 802:2 (Respondent), and as to why her accounts were overdrawn, *see* Tr. 571-75. Respondent blamed her misconduct on a litany of reasons (discussed in more detail below) including missing self-described exculpatory documentary evidence, and erroneous deposits of entrusted funds into her personal bank account by her deceased assistant, Ms. Friend.

122. Respondent testified that unknown third parties engaged in fraud and that it was those third parties who converted funds belonging to Ms. Brown, *see, e.g.*, FF 81. However, the record is void of any evidence to support this claim. Thus, the Probate Court rejected Respondent's third-party bad actor assertions. *Compare* Tr. 516 (Respondent), *with* Tr. 116-17, 600-01 (Matinpour); DCX 5 at 10 ¶ 40. Based on the totality of Respondent's testimony and the record, the Committee does not credit Respondent's claim of fraud perpetrated by third parties.

123. Respondent's explanations for how she handled her wards' entrusted funds are contradictory; thus, the Committee does not credit them. *Compare* Tr. 540 (Respondent testified at disciplinary hearing to maintaining "meticulous" records of her handling of Elease Brown's funds), *and* Tr. 599-600 (Respondent examined Matinpour regarding entrusted funds "diverted" by unidentified persons), *with* Tr. 116-17, 600-01 (Matinpour regarding lack of evidence of fraud by anyone other than Respondent), *and* DCX 5 at 10 ¶ 40 (Auditor-Master Report finding no evidence of diverted funds by someone other than Respondent), *and* DCX 5 at 15 n.3 (Auditor-Master Report finding Respondent generally incredible).

III. CONCLUSIONS OF LAW

A. Disciplinary Counsel Proved that Respondent Violated Rule 1.15(a) by Commingling Entrusted Funds with Her Own.

Rule 1.15 provides, in pertinent part, that: "(a) A lawyer shall hold property of clients or third persons that is in the lawyer's possession in connection with a representation separate from the lawyer's own property. Funds of clients or third

persons that are in the lawyer's possession (trust funds) shall be kept in one or more trust accounts . . . ."

Commingling occurs when an attorney fails to hold entrusted funds in an account separate from her own funds. *In re Moore*, 704 A.2d 1187, 1192 (D.C. 1997) (per curiam). "[C]ommingling is established 'when a client's money is intermingled with that of his attorney and its separate identity is lost so that it may be used for the attorney's personal expenses or subjected to the claims of its creditors.'" *In re Malalah*, Board Docket No. 12-BD-038 (BPR Dec. 31, 2013), appended Hearing Committee Report at 12 (quoting *In re Hessler*, 549 A.2d 700, 707 (D.C. 1988)), *recommendation adopted where no exceptions filed*, 102 A.3d 293 (D.C. 2014) (per curiam).

To establish commingling, Disciplinary Counsel must prove that entrusted and non-entrusted funds were held in the same account at the same time. "The rule against commingling has three principal objectives: to preserve the identity of client funds, to eliminate the risk that client funds might be taken by the attorney's creditors, and most importantly, to prevent lawyers from misusing/misappropriating client funds, whether intentionally or inadvertently." *In re Rivlin*, 856 A.2d 1086, 1095 (D.C. 2004) (per curiam).

(i) Ms. Brown's and Mr. Maillet's Annuity and Social Security Checks Were "Entrusted Funds."

When appointed guardian and conservator, Respondent was obligated to handle and preserve the funds belonging to Ms. Brown, who suffered from severe dementia. FF 5, 20. In April of 2014, Respondent established a conservatorship bank

account ending in 1908 in which to deposit entrusted funds for the benefit of Ms. Brown, and in September of 2015, she established a new conservatorship bank account ending in 4313 to use for that same purpose. FF 30. Respondent also became the representative payee of Ms. Brown's monthly annuity checks. FF 34. Clear and convincing evidence establishes that Respondent, in her appointment as a fiduciary, held Ms. Brown's funds and her monthly annuity checks in connection with the representation. FF 34-38.

Although Respondent was not ordered by the court to handle or protect Mr. Maillet's funds, she applied to become the representative payee so that his Social Security checks were issued in her name on behalf of Mr. Maillet. FF 103, 105-106. As a result, the Social Security Administration designated Respondent to receive the Social Security checks and to hold them for Mr. Maillet's benefit. FF 103; *see* FF 34. Accordingly, by applying to be the representative payee for Mr. Maillet's Social Security payments, Respondent became responsible for holding entrusted funds. *See* FF 34, 106-107.

(ii) At the Time of the Deposit of the Entrusted Funds, the Account Held Respondent's Personal Funds.

Respondent admitted to depositing checks belonging to both Ms. Brown and Mr. Maillet into her personal account ending in 0311. FF 119; *see also* 57-58, 117-118. On three occasions, Respondent deposited Ms. Brown's funds into her own personal bank account instead of the SunTrust conservatorship account. *See* FF 35-38. On September 8, 2014, and January 8, 2015, Respondent deposited Ms. Brown's annuity checks into Respondent's personal bank account ending in 0311. FF 35. At

the time the deposits were made or the day after, Respondent's personal banking account included her personal funds. *Id.* On September 8, 2014, the personal account already held $189.35 in personal funds when the September 8 annuity check was deposited. *Id.*; FF 36. On January 8, 2015, the personal account included a January 7, 2015 payment to Respondent from the Virginia Employment Commission when the annuity check was deposited. FF 35, 37.

Similarly, Respondent deposited Mr. Maillet's Social Security checks into her personal account ending in 0311. When these deposits were made on August 1, 2014, and August 7, 2014, the account held Respondent's personal funds. *See* FF 107.

Accordingly, Respondent violated Rule 1.15(a) by commingling Ms. Brown's and Mr. Maillet's funds with her own funds.

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

Rule 1.15(a) requires lawyers to keep "[c]omplete 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 h[er] ethical duties.'" 990 A.2d at 522 (quoting *In re Clower*, 831 A.2d 1030, 1034 (D.C. 2003) (per curiam) (finding Rule 1.15(a) and § 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." *Id.* (quoting *Clower*, 831 A.2d at 1034); *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). Accordingly, "[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. Fiduciary panel Standard 7.2 requires conservators to "[m]aintain the ward's assets in a safe manner and keep accurate records at all times of all transactions involving estate assets." FF 5 (quoting DCX 34 at 33).

This record is replete with an alarming level of a pervasive failure to keep records. The Auditor-Master repeatedly communicated, in the strongest terms, the ongoing concern for Respondent's pervasive failure to keep adequate records. *See* FF 68-71. These missing records caused the Auditor-Master to reconstruct the First and Second Accountings for the Brown estate from inadequate records. FF 85.

We find clear and convincing evidence that Respondent failed to keep complete records of account funds of the Brown estate in violation of Rule 1.15(a).

C. Disciplinary Counsel Proved that Respondent Violated Rule 1.15(a) in Her Handling of Ms. Brown's Estate by Engaging in Intentional or Reckless Misappropriation.

Rule 1.15(a) prohibits misappropriation of entrusted funds. Misappropriation is "any unauthorized use of client's funds entrusted to an attorney, including not only stealing but also unauthorized temporary use for the lawyer's own purpose, whether or not [the attorney] derives any personal gain or benefit therefrom." *In re Cloud*,

939 A.2d 653, 659 (D.C. 2007) (quoting *In re Harrison*, 461 A.2d 1034, 1036 (D.C. 1983)).

Misappropriation requires clear and convincing proof of an unauthorized use of entrusted funds. *See In re Anderson*, 778 A.2d 330, 335 (D.C. 2001); *In re Nave*, 197 A.3d 511, 518 (D.C. 2018) (per curiam) ("This stringent standard 'expresses a preference for the attorney's interests by allocating more of the risk' of an erroneous conclusion to Disciplinary Counsel." (citation omitted)). First, Disciplinary Counsel must establish clear and convincing evidence that client funds were entrusted to the attorney; second, that the attorney used those entrusted funds for the attorney's own purpose; and third, that such use was unauthorized. *In re Harris-Lindsey*, 242 A.3d 613, 620 (D.C. 2020) (citing *In re Travers*, 764 A.2d 242, 250 (D.C. 2000)).

Funds are "entrusted" when the lawyer is "imbued with authority to prevent their unauthorized use." *Id.* at 624 (applying holding prospectively); *see Anderson*, 778 A.2d at 335; *Harrison*, 461 A.2d at 1036. A lawyer's unauthorized use can be shown when "the balance in the attorney's trust account falls below the amount due to the client [or third party]." *In re Ahaghotu*, 75 A.3d 251, 256 (D.C. 2013) (internal quotation marks and citations omitted); *see also In re Chang*, 694 A.2d 877, 880 (D.C. 1997) (per curiam) (appended Board Report) (citing *Pels*, 653 A.2d at 394).

Here, our analysis is complicated by the lack of documentary evidence necessary to validate Respondent's explanations for the disposition of entrusted funds. Disciplinary Counsel has established by clear and convincing evidence that client funds were entrusted to Respondent and that she commingled entrusted funds

with her own personal funds. But, documentary evidence that Respondent used those entrusted funds for the benefit of her wards respectively, and that such use was authorized, are lacking from the record because of Respondent's own recordkeeping practices. Thus, the Hearing Committee looks to Respondent's explanation for the disposition of entrusted funds and the available bank account records.

In circumstances where Disciplinary Counsel charges misappropriation and a respondent asserts an explanation for use of the funds, the court has looked at how much weight may properly be given to a respondent's explanatory evidence without imposing a burden shift to the Respondent. The court in *In re Thompson* held that Disciplinary Counsel bears the burden of proof by clear and convincing evidence, but refrained from imposing a "formal rebuttable presumption" finding instead that the respondent bears the burden of explaining what happened to entrusted funds. 579 A.2d 218, 222 (D.C. 1990) (holding that "the Board may weigh, together with all of the other evidence, [a respondent's] explanation for—or conversely inability to explain satisfactorily—the [respondent's] use of [entrusted] funds . . . ."). *In re Thompson* also instructs that "[Disciplinary Counsel's] burden of persuasion . . . is met *prima facie* when [Disciplinary] Counsel . . . show[s] an unauthorized taking of client funds with no accounting thereof. The [respondent] may then come forward with proper explanatory evidence, and *if it is credited*, the presumption is rebutted." *Id*. at 221 (emphasis added); *see also In re Ingram*, 584 A.2d 602, 603 (D.C. 1990) (per curiam) (Court crediting the respondent's explanation finding that Disciplinary Counsel did not establish clear and convincing evidence of misappropriation and

both the Hearing Committee and the Board declined to draw the inference of dishonesty).

Fundamentally, Disciplinary Counsel is not required to "face[] the obstacle of tracing virtually untraceable cash" to prove misappropriation. *Thompson* 579 A.2d at 220; *see also In re Burton*, 472 A.2d 831, 845 (D.C. 1984) (per curiam) (appended Board Report) (even though Disciplinary Counsel failed to prove precisely how he spent entrusted funds, such information was not a predicate to a misappropriation charge).

Like in *Thompson*, this record lacks sufficient evidence for Disciplinary Counsel to avoid facing the obstacle of tracing virtually untraceable cash. Therefore, the Hearing Committee weighed, together with all evidence, Respondent's explanation for—or conversely inability to explain satisfactorily—her use of entrusted funds.

Disciplinary Counsel argues that Respondent engaged in the unauthorized use of entrusted funds when (i) the balance in the SunTrust conservatorship account fell below the amount she was required to hold in trust for Ms. Brown and (ii) when Respondent's personal account's balance fell below the amount of the deposited annuity and Social Security checks she was required to hold in trust for Ms. Brown and Mr. Maillet. *See* ODC Br. at 28-30.

During the relevant times, Respondent handled Ms. Brown's funds in connection with her appointment as conservator and guardian of the estate. *See* FF 20, 25-26, 29. Although Respondent lacked court-appointed authority to handle Mr.

Maillet's Social Security checks, Respondent came into control of those funds after being appointed as his temporary healthcare guardian. FF 103-106. Respondent successfully applied with the Social Security Administration to become Mr. Maillet's representative payee, upon designation of which, she became subject to duties as a fiduciary responsible for receiving and preserving Mr. Maillet's Social Security payments. *See* FF 6, 10, 34, 103, 106.

(i) The SunTrust Conservatorship Account

On occasions spanning from September 8, 2015, through October 24, 2015, and from May 9, 2016 through May 25, 2016, respectively, the conservatorship account became overdrawn such that overdraft fees were incurred on the account. FF 40; Tr. 75-76 (Matinpour). Respondent overdrew Ms. Brown's SunTrust conservatorship account multiple times. These overdrafts led to repeated negative balances, when they fell below the required amount to be held in trust for Ms. Brown. FF 40; *see* FF 33. Respondent was never able to provide any legally sufficient explanation for why Ms. Brown's entrusted accounts so frequently had a negative balance.

Respondent also testified that she encountered obstacles while banking, going as far as to suggest Bank of America willfully dishonored her business on racial grounds and it was interference from Bank of America that caused overdrafts.

> [A]nytime, and maybe this is just only particular to me as a person of color, but any time I make a large deposit or I try to cash a large check at Bank of America, there is an issue. So that -- more than once I have made large deposits and they haven't honored it or they have held onto

> the funds, for an extraordinary amount time, and that has caused other things to bounce.

Tr. 525 (Respondent). The record belies Respondent's explanation of her obstacles to banking. The repeated instances of overdrafts and insufficient explanations for the management of entrusted funds, fails to support the contention that banks willfully failed to honor her business on any grounds including racial. Instead, the record and bank statements show routine transactions that led to overdrafts due to Respondent's withdrawals and spending patterns. *See* FF 33.

Because entrusted funds were deposited in the SunTrust conservatorship account, when that account subsequently became overdrawn, Disciplinary Counsel established misappropriation by clear and convincing evidence.

(ii) The Annuity and Social Security Checks

As we have explained, on September 8, 2014, January 8, 2015, and October 2, 2015, respectively, Respondent deposited entrusted funds belonging to Ms. Brown into her personal bank account ending in 0311. FF 35-38; *supra* Part III.A. Disciplinary Counsel contends that those annuity checks were misappropriated when the balance in the personal account fell below the amount Respondent should have been holding in trust for Ms. Brown. ODC Br. at 29, 32; FF 35 (at time of the October 2, 2015 deposit, her personal bank account had a negative balance). Disciplinary Counsel also contends that Respondent misappropriated Mr. Maillet's funds when she "spent almost all of [the Social Security funds] before making the claimed travel expenditures for their Florida trip." ODC Br. at 30; FF 115-116.

The difficulty in proving the unauthorized use for Ms. Brown's annuity checks for September 8, 2014 and January 8, 2015 is that withdrawals were made from Respondent's personal account that Respondent testified were made on her clients' behalf. FF 32, 43. The record would have to show clear and convincing evidence that the shortage in the account occurred before Respondent used the entrusted funds for her clients. However, the October 2, 2015 check was misappropriated or "used" at the time it was deposited because her bank account had a negative balance when it was deposited.

On September 12, 2014; January 7, 2015; and September 21, 2015, respectively, Respondent's personal bank account ending in 0311 became overdrawn. DCX 7 at 6; DCX 8 at 1; DCX 11 at 5; *see* FF 36-38, 113. We consider Respondent's factual rebuttal evidence together with evidence presented by Disciplinary Counsel to determine whether Disciplinary Counsel has proven the unauthorized use of entrusted funds by clear and convincing evidence. *See In re Szymkowicz*, 195 A.3d 785, 789-790 (D.C. 2018) (per curiam) (discussing the burden of proof in disciplinary cases); *see also, e.g.*, *In re Arneja*, 790 A.2d 552, 553-56 (D.C. 2002) (Disciplinary Counsel failed to prove misappropriation where it failed to rebut respondent's evidence that the clients had consented to the respondent's use of the funds); *Ingram*, 584 A.2d at 603 (where the balance in the respondent's bank account fell below the amount to be held in trust for a client, testimony that the respondent kept the money owed to the client intact in the client's file was "sufficient to negate a finding of misappropriation"); *In re Gilchrist*, 488 A.2d 1354, 1357-58

(D.C. 1985) (no misappropriation where Disciplinary Counsel failed to offer testimony or evidence to refute the respondent's explanation for his use of the funds). In determining whether Disciplinary Counsel has carried its burden, we may consider Respondent's explanation for the use of entrusted funds, or lack thereof. *See Thompson*, 579 A.2d at 221. Finally, although Disciplinary Counsel bears the burden of proof, it is not obligated "to rebut all conceivable defenses" that Respondent could have raised to the hearing committee but did not. *Burton*, 472 A.2d at 846.

When the Hearing Committee asked for her explanation for the use of the checks deposited into her personal account belonging to Ms. Brown and Mr. Maillet respectively, Respondent frequently cited her lack of accounting knowledge and the sudden death of her assistant as reasons for the incomplete or missing documentation of her fiduciary duties. *E.g.*, FF 14, 27-28. She claimed that she had sought help from the court and the Auditor-Master to properly manage the accounting requirements but faced obstacles. FF 53, 94. "My bookkeeper passed. . . . I did at that time because I wasn't that familiar with bookkeeping requirements. One of the reasons why I went to the auditor master was for help." Tr. 541 (Respondent).

Respondent described taking a class in "delegation" offered by the American Bar Association. FF 27. The record indicates that her decision to delegate responsibilities was influenced by the extensive needs of her wards and her geographical separation from them, requiring her to heavily rely on her assistant for key services like housing, food, and cleaning. *Id.*; Tr. 523, 576 (Respondent).

> I took this class at the ABA about delegating. And I lived in Maryland at the time. She lived in Southeast. As I said, you know, there were -- Ms. Brown had so many needs. . . . So Ms. Friend's responsibility was to help me secure housing for Ms. Brown, to make sure she always had food, she always had toiletries, she always had clothes. And to maintain upkeep of the home. So she knew someone in the neighborhood who was supposed to mow the lawn and shovel the snow. And then she hired people to repair the damage that had been done by the fire and to clean. And the home had to be cleaned more than once because, again, someone kept breaking in and ramshackling everything.

Tr. 576 (Respondent). By delegating key accountabilities to Ms. Friend, Respondent disassociated herself from the minimum nexus necessary to ensure her fiduciary obligations were being met—let alone the well-being of her ward.

Considering all the evidence, the Hearing Committee does not credit Respondent's explanations for overdrafted accounts and how funds were used. Additionally, at least for the October civil service annuity check belonging to Ms. Brown, the evidence is clear and convincing that Respondent's personal account ending in 0311 already had a deficit overdraft—so it was immediately used by Respondent to reduce her overdraft; it was not used for Ms. Brown's benefit given its deposit into an overdraft personal checking account owned by Respondent. *See* FF 38. Additionally, the bank statements show that Mr. Maillet's checks were not used to relocate him to Florida: Respondent's expenditures in Florida with Mr. Maillet and her return flight likewise could not have originated from the Social Security funds Respondent deposited in her personal account, since the account only held $189.35 on September 6, the date of the move to Florida. She had deposited his checks previously, used the funds for expenses unrelated to Mr. Maillet, and by the

time it was necessary to pay for his travel and relocation, she used funds for her own purposes that did not originate from the Social Security checks she had deposited. *See* FF 116.

Intentional, Reckless, or Negligent Misappropriation

Upon establishing misappropriation, Disciplinary Counsel must establish whether the misappropriation was intentional, reckless, or negligent. *See Anderson*, 778 A.2d at 336.

Intentional Misappropriation

Intentional misappropriation most obviously occurs where an attorney takes a client's funds for the attorney's personal use. *Id.* at 339 (intentional misappropriation occurs where an attorney handles entrusted funds in a way "that reveals . . . an intent to treat the funds as the attorney's own"). However, "[b]efore and since *Addams* . . . our decisions have made clear that misappropriation 'resulting from more than simple negligence' need not be intentional . . . to warrant disbarment." *Id.* at 336.

Here, Disciplinary Counsel directs us to Respondent's deposit and withdrawal account activities as clear and convincing evidence of Respondent using and treating entrusted funds as her own and for her own personal use. ODC Br. at 28-29. Disciplinary Counsel further points to the direct deposit of her ward's annuity checks into Respondent's personal bank account, repeated ATM cash withdrawals, and frequent check-cashing and ATM withdrawals as clear and convincing evidence of her repeated intentional misappropriation. ODC Br. at 30; FF 35-39, 42-43; DCX 15 at 8. Further supporting the proposition is that Respondent was held to account for

$53,865 including a judgment for over $12,500 in restitution for unaccounted expenditures. FF 46.

Additionally, based upon her appointment expressly as temporary healthcare guardian to Mr. Maillet, Respondent neither disclosed nor obtained any authority whatsoever to possess funds belonging to her ward, yet these funds were also deposited in her personal account or otherwise went missing. ODC Br. at 34; *see also* ODC Br. at 30 (where nearly $2,000 of Respondent's ward's entrusted funds were expended lacking any substantial documentary evidence tracing the expenditures).

This record clearly shows an intentional misappropriation, the movement of entrusted funds from her wards into the hands of Respondent. "I noticed that [Respondent] had written herself multiple checks from those estate accounts and deposited them into [her] personal account." Tr. 92 (Matinpour); *see* FF 29, 31-33. Respondent deposited Ms. Brown's civil service annuity checks into her personal bank account on several occasions. FF 35-38. Regarding Mr. Maillet's funds, Respondent established herself as a Social Security Administration designated representative payee for Mr. Maillet. FF 103; Tr. 546 (Respondent) ("I didn't want to be [Mr. Maillet's] representative payee. But [the hospital lawyers] helped me with that process . . . ."). Further, Respondent never disclosed to the court that she had assumed designation as representative payee. FF 104. Further, based upon her appointment as Mr. Maillet's temporary healthcare guardian, Respondent neither disclosed nor obtained any authority whatsoever to be in possession of funds

belonging to her ward, yet these funds were also deposited in her personal account or otherwise went missing. FF 104-108, 110-112, 116. Respondent does not deny she deposited Mr. Maillet's entrusted funds into her personal bank account but attributes these deposits to the actions of her staff. Tr. 548-49 (Respondent); *see* FF 108.

When Respondent established a conservatorship account, she demonstrated that she knew (or should have known) entrusted funds were not hers and that her use of these certain funds was unauthorized and improper. *See* FF 30. Nevertheless, on multiple occasions when Respondent chose to improperly deposit entrusted funds into and spend entrusted funds from her personal account, she demonstrably treated entrusted funds as if they were her own. Finally, given the record before us, we do not credit Respondent's explanations of how the funds were used as there is little credible evidence to support Respondent's explanations for disposition of the funds entrusted to her. Therefore, the Committee finds that Respondent violated Rule 1.15(a) by intentionally misappropriating funds entrusted to her safekeeping.

Reckless Misappropriation

In the alternative, the Committee finds that Respondent recklessly misappropriated entrusted funds. "[T]he central issue in determining whether a misappropriation is reckless is *how* the attorney handles entrusted funds . . . ." *Anderson*, 778 A.2d at 339.

> Reckless misappropriation reveals an unacceptable disregard for the safety and welfare of entrusted funds, and its hallmarks include: the indiscriminate commingling of entrusted and personal funds; a complete failure to track settlement proceeds; the total disregard of the

> status of accounts into which entrusted funds were placed, resulting in a repeated overdraft condition; the indiscriminate movement of monies between accounts; and finally the disregard of inquiries concerning the status of funds.

Ahaghotu, 75 A.3d at 256 (internal quotation marks and citation omitted); *see also Anderson*, 778 A.2d at 339 ("[R]ecklessness is a state of mind in which a person does not care about the consequences of his or her action." (internal citation and quotation marks omitted)). Further, "'[r]eckless misconduct requires a conscious choice of a course of action, either with knowledge of the serious danger to others involved in it or with knowledge of facts that would disclose this danger to any reasonable person.'" *Anderson*, 778 A.2d at 339 (quoting 57 Am. Jur. 2d Negligence § 302 (1989)). Thus, an objective standard should be applied in assessing whether a respondent's misappropriation was reckless.

Indiscriminate Commingling of Entrusted and Personal Funds

Despite her acknowledgement that she was responsible for full accountings of her wards' funds as a fiduciary, Respondent represented that even though she reviewed her bank statements, she never knew any entrusted funds were commingled with her own personal funds. FF 58, 63, 108. "I don't honestly remember putting those checks in my bank account. But if I did, then it was [sic] a valid reason." Tr. 517 (Respondent); *see also* Tr. 575 (Respondent).

As set forth in the Standards manual, Respondent was to "refrain from comingling [personal] funds with the funds of their wards." FF 5. Despite this fact, Respondent consciously deposited entrusted funds into her personal bank account ending in 0311. In so doing, Respondent caused the entrusted funds' separate and

distinct identity to become lost and exposed those certain entrusted funds to the risk of being used for the Respondent's personal expenses or to become subjected to the claims of her creditors. FF 34-38, 107-108. Respondent never had proper authority to deposit entrusted funds in her personal bank account. *See* FF 29-30, 106.

Respondent demonstrated the requisite lack of care, judgment, and selectivity when she removed the distinct identity of entrusted funds from her own funds by consciously choosing to mix entrusted funds with her own. FF 34-38, 107-108. Therefore, we find clear and convincing evidence that Respondent demonstrated an unacceptable conscious disregard for the safekeeping of those certain entrusted funds by commingling them with her own personal funds. *Id.*

Failure to Track

Standard 7.2 requires conservators to "[m]aintain the ward's assets in a safe manner and keep accurate records at all times of all transactions involving estate assets." FF 5 (quoting DCX 4 at 33). Likewise, standard 1.5.1 directs that the fiduciary shall conduct competent management of property and exercise prudence and diligence in the exercise of fiduciary duties. FF 6; DCX 34 at 8.

Respondent acknowledged that it is crucial to keep meticulous records of how a ward's funds are spent. Tr. 539-540 (Respondent); FF 17. However, when confronted with facts regarding the keeping of meticulous records on behalf of Mr. Maillet, at first, Respondent rebutted "I wasn't required to [keep any records for Mr. Maillet.]" Tr. 542 (Respondent). Later, she testified that she had in fact kept meticulous records regarding her ward, Mr. Maillet, but Disciplinary Counsel did

not afford adequate time to produce them, "[Disciplinary Counsel] just jumped to file the charges." Tr. 547 (Respondent). Alternatively, Respondent complained she did not know how long she was to keep records. Tr. 547-48 (Respondent); *see also* Tr. 542 (Respondent) ("And lawyers are only required to keep records for, what, five years, maybe six years. So I don't have all those records anymore. Is it five or six years?"). Finally, the latter two arguments notwithstanding, Respondent intimated in testimony that the relevant records were destroyed in storage by rats. Tr. 547 (Respondent).

Regarding the keeping of Ms. Brown's records, Respondent testified that, "there were exceptions" from producing records for her ward Ms. Brown upon the death of her bookkeeper. Tr. 540 (Respondent). Further, Respondent testified that she had "asked [her defense counsel] several times for his help in securing those records from [her deceased bookkeeper's] estate and he never did." Tr. 540 (Respondent); *see* FF 113.

Although she never provided proper accountings to the court, Auditor-Master, or PMAS, *see infra*, Respondent conducted her own accounting concluding that she was owed $25,000 for services rendered and that the *Estate of E. Brown* owed her money. Tr. 526 (Respondent); FF 99. "[W]hen I did my own accounting . . . [Ms. Brown's] estate owes me money." Tr. 526 (Respondent); *see also* Tr. 517 (Respondent) ("I did in six months . . . $25,000 worth of work. And I never have been compensated. Zero dollars for that."); Tr. 517 (Respondent: "[W]hen I do my accounting, I'm owed funds by the [e]state. . . because I worked 19 or 20 hours

helping these clients."). Despite conducting accountings to determine her own fees, ultimately, Respondent never provided any coherent accountings, documents, or credible explanations for the disposition of her ward's entrusted funds. FF 42, 44-45, 49, 62; *see also* DCX 5 at 7-8 ¶¶ 18, 23, at 10 ¶ 39 ('[Respondent] completely failed to supply any documents . . . and did not provide a viable excuse for her failure.").

The lack of tracking was complicated by Respondent's consistent use of cash without promulgating written receipts, testifying that, "if I used cash, it was for a reason." Tr. 517 (Respondent); *see* FF 31-33, 42-43. Respondent never provided any cogent reason for why she used cash instead of less fungible (more trackable) negotiable instruments. FF 45. Respondent's persistent failure to produce timely accounting repeatedly frustrated the court, Auditor-Master, and PMAS, *see infra*. FF 55.

In addition to repeatedly failing to produce records to the court and Auditor-Master, Respondent also consistently failed to provide complete and relevant records to PMAS. *See* DCX 19-DCX 26 (Reports on Respondent from practice monitor); *see also supra* n.7. Despite multiple requests, Mr. Mills, the practice auditor, DCX 19 at 1, testified that his audit of Respondent's practice was never completed due to lack of records produced by Respondent. Tr. 744-46; 755 (Mills). When asked why he was not able to fully understand Respondent's handling of entrusted funds, Mr. Mills responded, "[T]here doesn't appear to be . . . any records." Tr. 756 (Mills). In fact, Respondent still has not produced records from time and billing and financial

management information systems used by her, nor has she submitted a law firm assessment form provided by PMAS. Tr. 746-47 (Mills). The records Respondent did provide to the practice management auditors, "didn't make sense. . . . it was just really tough to get a sense of what was going on in her practice . . . ." Tr. 748-49 (Mills).

Respondent demonstrated a state of mind in which she did not care about the consequences of her conscious choices, for example, her decision to maintain her ward's receipts in the glove box of her car while simultaneously failing to explain to the Auditor-Master why the glove box constituted proper storage or how the receipts came to be illegible while in the glove box. DCX 5 at 15 ¶ 61, at 15 n.3; *see also* DCX 15 at 12, 14. These receipts were also reportedly stained with liquid believed to be coffee. *Id.* at 16 ¶¶ 63-64. Even so, the faded and stained receipts were never produced. FF 55; DCX 5 at 16 ¶ 65.

Because Respondent habitually used highly fungible cash, never timely produced any receipts or records for cash used, nor provided any cognizable explanation for using cash instead of checks or other traceable form of payment to the court, Auditor-Master, or the practice auditor, Respondent failed to track, conduct competent management of property, and exercise prudence and diligence in accounting for the disposition of entrusted funds. FF 5-6.

Disregard of the Status of Accounts and Funds

The Standards manual states in Standard 1.5.7 that, "[t]he fiduciary shall provide periodic accountings to the ward and interested persons, not less than

annually." FF 7; DCX 34 at 10; *see* DCX 14 at 17, 25; D.C. Code § 21-2065(a) ("Each conservator shall account to the court. . . at least annually on the anniversary date of appointment . . . .").

Respondent represented that she reviewed her bank statements regularly but does not recall how many bank accounts she had or that comingling had occurred. FF 58-59, 63, 108. Respondent further represented that she repeatedly made cash payments to her ward's creditors and service providers but could not produce evidence of such payments, nor did she provide any reasonable explanation for using cash. FF 32, 43, 45.

Respondent consistently failed to timely produce entrusted funds accountings to both the court, the Auditor-Master, and PMAS. FF 55; *see* Tr. 755 (Mills). Respondent never timely filed any of the required accountings. FF 49. Despite the court filing several delinquency notices for missing accounting deadlines, including conducting summary hearings in which Respondent was sanctioned for noncompliance, Respondent still failed to deliver accounting records. FF 50-52; 56. Respondent's mismanagement and disregard of monitoring the status of accounts resulted in a judgment of liability against her for $12,535. FF 46, 86.

Because Respondent failed to file any timely accountings on demand of presiding authority, failed to competently manage entrusted funds and bank accounts, and incurred an adverse judgment for missing funds, Respondent disregarded the status of funds and failed to provide periodic accountings to the ward

and interested persons in violation of the Standards and her duties as a fiduciary. FF 4-7; 48-50.

Repeated Overdraft Condition; Movement of Monies Between Accounts

Respondent allowed multiple accounts to be overdrafted on multiple occasions. FF 36-38, 40, 113. Respondent wrote several checks that were dishonored (including one to the court for satisfaction of judgment), thus necessitating her to "start paying people in cash." Tr. 516 (Respondent); DCX 13 at 1, FF 89.

Disciplinary Counsel argues that Respondent's deposit activity shows that Respondent used Ms. Brown's scarce financial resources for her own purposes because both the conservatorship and Respondent's personal account containing entrusted funds became overdrawn. FF 29, 31-40; ODC Br. at 28-29.

According to Respondent, checks were dishonored because some third party had access to Ms. Brown's account and was presumably withdrawing funds causing checks to be dishonored. Tr. 516 (Respondent). Respondent then closed the account. *Id.* Respondent then opened a new account at SunTrust Bank, "[a]nd the same thing happened." *Id.* Further, Respondent argues she used entrusted funds for the benefit of her ward; however, she never produced records to support her assertion. FF 48-50.

On multiple occasions, Respondent's personal account became overdrawn, thus, causing injury to her wards by depleting their comingled entrusted funds. FF 36-38, 113. Even though Respondent alleges that these expenditures were for the benefit of her wards, sufficient accountings have not been produced to the court,

Auditor-Master, or PMAS due to the lack of Respondent's own recordkeeping. FF 54-56; *see also* Tr. 755-760 (Mills). In carrying out her role as conservator to Ms. Brown, Respondent rarely, if ever, made any effort to document expenditures made on behalf of her ward. FF 61; Tr. 60 (Matinpour); *see also* DCX 5 at 14 ¶ 56. Despite her insistence that these documents exist, she has never produced them. *See, e.g.*, DCX 5 at 14 ¶ 56; FF 42, 44, 47, 55. According to Respondent, she acted in good faith in every expenditure, but testified that she was unaware of her obligations to record or account for the expenditures as a conservator. Tr. 558 (Respondent).

Because Respondent indiscriminately commingled; failed to track; disregarded status of accounts and funds; repeatedly overdrafted accounts; and, frequently moved monies via check cashing and ATM withdrawals, in the event the Board or Court determines the misappropriations were not intentional, we find clear and convincing evidence of reckless misappropriation.

D. Disciplinary Counsel Proved that Respondent Violated Rule 8.4(d) by Seriously Interfering with the Administration of Justice.

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

process to a serious and adverse degree. *In re Hopkins*, 677 A.2d 55, 60-61 (D.C. 1996). Rule 8.4(d) is violated if the attorney's conduct causes the unnecessary expenditure of time and resources in a judicial proceeding. *See In re Cole*, 967 A.2d 1264, 1266 (D.C. 2009).

As to the Specification's allegations related to the Rule 8.4(d) charge, we have found clear and convincing evidence to support a violation of Rule 8.4(d).

Respondent's Conduct Was Improper

Respondent's incomplete reporting of Ms. Brown's assets to the court prompted the assistant deputy register of wills on August 14, 2015, to issue an order of reference to the Office of the Auditor-Master directing the investigation into the disposition of real property, production of an accounting on behalf of Respondent's ward, and to conduct a parallel investigation on the disposition of her ward's Social Security income. FF 54; Tr. 67 (Matinpour); DCX 5 at 5, 7 ¶ 21. Thus, we find clear and convincing evidence that Respondent's conduct was improper.

Respondent's Conduct Bore on the Judicial Process in this Case

In *In re Smith*, Board Docket No. 18-BD-012, at 19-20 (BPR Dec. 17, 2020), *recommendation adopted where no exceptions filed*, 252 A.3d 889 (D.C. 2021) (per curiam), the Board agreed with the Hearing Committee that Respondent's failure to maintain adequate records seriously interfered with the administration of justice due to the "laborious process" necessary for the Auditor-Master to verify certain claimed expenditures stating, "[t]here can be little dispute that the [r]espondent would be

reasonably expected to act in such a way as to avoid the unnecessary expenditure of resources during the Auditor-Master proceeding."

Here, the Auditor-Master held at least four hearings in an effort to discover information pertaining to Respondent's disposition of her ward's entrusted funds. FF 51, 55, 66; Tr. 69 (Matinpour). Rather than producing required documentation of expenditures of her ward's entrusted funds, Respondent "always [had] an excuse why she didn't have the receipts . . . ." Tr. 70 (Matinpour); FF 123. Alternatively, Respondent represented to the Auditor-Master that Ms. Brown's representative payee was being fraudulently changed. DCX 5 at 7 ¶ 16. Ultimately, Respondent never produced the required information for the Auditor-Master to produce First and Second Accountings of entrusted funds and after a year-long investigation, the Auditor-Master recommended Respondent be removed as conservator, ordered Respondent to return over $12,500 of the ward's funds, and referred the matter to the Office of Disciplinary Counsel. FF 86-90; Tr. 71 (Matinpour). Respondent's conduct resulted in consistently frustrating the court, Auditor-Master, and PMAS. FF 50-51, 55, 60-61, 66-70, 123; Tr. 755 (Mills).

Because she did not keep receipts and other records, the Auditor-Master's office "made repeated, painstaking efforts to reconstruct Respondent's handling of Ms. Brown's cash assets as conservator." FF 66; *see* FF 67-68. In addition, Respondent's failure to file the required reports and retain the appropriate records burdened the Probate Court by causing additional hearings. FF 66 (noting separate hearings by the Auditor-Master on October 5, 2015, February 10, 2016, April 12,

and April 22, 2016, that were caused by Respondent's late and incomplete filings); *see also* FF 50. Her conduct bore directly on the judicial process with respect to an identifiable case, Ms. Brown's conservatorship, and tribunal, the D.C. Superior Court's Probate Division. Therefore, there is credible and sufficient evidence that Respondent's conduct bore directly on this case.

Respondent's Conduct Tainted the Judicial Process in a More Than De Minimis Way

Respondent's consistent failure to provide adequate recordkeeping caused multiple hearings and administrative efforts by the Auditor-Master. Respondent "completely failed to supply any documents in response to the Initial Hearing Order and did not provide any viable excuse for her failure." DCX 5 at 10 ¶ 39; *see* FF 55. Rather, Respondent represented to the Auditor-Master that Ms. Brown's representative payee was being fraudulently changed. DCX 5 at 7 ¶ 16; *see* FF 81. Upon investigating Respondent's claims that her ward's funds were being converted by a third-party, the Auditor-Master "determined . . . no factual support for [Respondent's] statements." DCX 5 at 10 ¶ 40; *see* FF 82. Therefore, Respondent's consistent failure to provide necessary production of documents and her unsubstantiated claims of alleged third-party bad actors tainted the judicial process in more than a *de minimis* material way.

Respondent's Conduct Needlessly Wasted Time and Resources

In addition to the multiple hearings convened in an effort to discover documentary evidence indicating the disposition of ward funds entrusted to Respondent, the Auditor-Master ultimately performed what was Respondent's

fiduciary accounting obligations stating, "[b]ecause of the basically inept manner in which [Respondent] administered [Ms. Brown's] estate and failed to maintain records, . . . we have stated her first and second account for the period beginning January 23, 2014, and ending April 19, 2016." DCX 5 at 11 ¶ 44; *see* FF 64. The Auditor-Master had to create a combined first and second accounting "to the best of its ability." Specification at 3 ¶ 8.

Respondent "also gave a lot of confusing and conflicting testimony" causing persistent frustration in the administration of the Auditor-Master's investigations. DCX 5 at 16-17 ¶¶ 66-77. For example, regarding the services of a locksmith, the Auditor-Master actually visited the real property to inspect the doors and locks finding that although Respondent submitted invoices for multiple different lock changes, "we found that there were just enough locks for one lock change." DCX 5 at 18 ¶ 81; *see* FF 76; DCX 5 at 17 ¶ 80. Via telephone, the Auditor-Master spoke directly to the locksmith that Respondent represented completed the lock changes. DCX 5 at 18 ¶ 86; FF 76. After searching their files, they "could not find any work orders under the name of [Respondent] or the Ward" and essentially denied receipt of nearly $6,000. DCX 5 at 18 ¶¶ 87-89.

On February 15, 2023, in response to a PMAS discovery request, Respondent produced three blank spreadsheets purportedly summarizing transactions for her trust, operating, and e-Check accounts to the Practice Auditor. DCX 19 at 9. Respondent's counsel ultimately produced a ledger for an IOLTA trust account ending in 5839 prior to August 10, 2023, meeting. DCX 24 at 2, 5. Unbeknownst to

the practice auditor, Respondent (for some years) utilized the services of a bookkeeper. DCX 26 at 2. It wasn't until August 25, 2023, that Respondent disclosed to the practice auditor, *for the first time*, that she had a bookkeeper, despite being ordered to meet with PMAS since December of 2022. *Id.*; DCX 19 at 1. Likewise, on August 10, 2023, Respondent disclosed to the practice auditor, *for the first time*, that she used a cloud-based billing application known as ChaosSoftware. DCX 24 at 2.

Disciplinary Counsel has presented sufficient evidence that Respondent's conduct needlessly wasted time and resources sufficient to seriously interfere with the administration of justice. Therefore, Respondent violated Rule 8.4(d).

IV. RECOMMENDED SANCTION

For the reasons set forth below, we recommend Respondent be disbarred.

A. Standard of Review

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

The 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. Presumptive Sanction of Disbarment

The law regarding misappropriation is clear and consistent: absent "extraordinary circumstances," disbarment is the presumptive sanction for intentional or reckless misappropriation. *In re Addams*, 579 A.2d at 191 ("[I]n virtually all cases of misappropriation, disbarment will be the only appropriate sanction unless it appears that the misconduct resulted from nothing more than simple negligence."); *see also In re Hewett*, 11 A.3d 279, 286 (D.C. 2011). The Court further held that "it is appropriate . . . to consider the surrounding

circumstances regarding the misconduct and to evaluate whether the mitigating factors are highly significant and [whether] they substantially outweigh any aggravating factors such that the presumption of disbarment is rebutted." *Addams*, 579 A.2d at 195. The Court recognized that extraordinary circumstances are present when a respondent is entitled to mitigation under *Kersey*, 520 A.2d at 326, but the Court warned that "mitigating factors of the usual sort" are not sufficient to rebut the presumptive sanction of disbarment, and "[o]nly the most stringent of extenuating circumstances would justify a lesser disciplinary action." *Addams*, 579 A.2d at 191, 193.

Accordingly, once misappropriation involving more than simple negligence has been established, the inquiry turns to whether sufficient mitigating factors rebut the presumption of disbarment. *Anderson*, 778 A.2d at 337-38 (citing, *e.g.*, *Addams*, 579 A.2d at 196,199).

C. Respondent Did Not Establish *Kersey* Mitigation

In *Kersey*, 520 A.2d at 327-28, the Court held that where a respondent's ethical misconduct would not have occurred but for a qualifying disability or addiction (and where the respondent is substantially rehabilitated), a hearing committee may recommend a mitigated sanction, which may result in a stay of disbarment or suspension in favor of probation. The *Kersey* doctrine does not excuse misconduct, but rather "may provide for mitigation of the sanction in certain cases where, at the minimum, 'the attorney no longer poses a threat to the public welfare, or if that threat is manageable and may be controlled by a period of probation . . . .'"

In re Robinson, 736 A.2d 983, 989 (D.C. 1999) (quoting *In re Appler*, 669 A.2d 731, 740 (D.C. 1995)).

Here, Respondent gave timely notice of her intent to raise disability in mitigation of sanction; in addition, Respondent elected to disclose her *Kersey* claims to the Hearing Committee in her Answer. DCX 3 at 5. But, as discussed below, she did not carry her burden of proof on all three *Kersey* elements.

To warrant *Kersey* mitigation, Respondent had the burden of establishing: (1) by clear and convincing evidence that she suffered from a disability or addiction at the time of the misconduct; (2) by a preponderance of the evidence that the disability or addiction substantially caused her to engage in that misconduct; and (3) by clear and convincing evidence that she is substantially rehabilitated. *In re Stanback*, 681 A.2d 1109, 1114-15 (D.C. 1996); *see also In re Rohde*, 191 A.3d 1124, 1136-37 (D.C. 2018).

Despite being on notice that the sanctions phase of the hearing would immediately follow the rule violation phase, Respondent was not prepared and claimed that all her *Kersey* witnesses were unavailable. *See* Tr. 788 (Respondent).[14] However, it was later discovered that Respondent had Dr. Samuel Williams available to testify. *See* Tr. 795-99. Dr. Williams testified that Respondent suffers

[14] As such, the Hearing Committee granted leave for Respondent to reopen in order to present *Kersey* arguments. Tr. 789-792. Despite being granted leave to reopen the hearing if she filed a timely motion with a proffer regarding her expected witnesses' testimony, Respondent failed to file a timely motion and the Hearing Committee denied her late request as unsupported. *See* Order, Oct. 24, 2023.

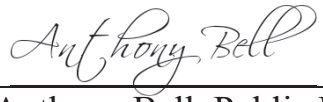
from "long-standing mental illness, specifically major depressive disorder, recurrent anxiety disorder, and . . . some issues with hoarding." Tr. 800 (Williams). During her direct examination of Dr. Williams, Respondent abruptly halted her questioning and stated, "[t]hat's all I'm prepared to go through." Tr. 800; *see* Tr. 802-03 (Respondent).

V. CONCLUSION

For the reasons set forth above, the Committee finds that Respondent violated Rules 1.15(a) (intentional or reckless misappropriation, commingling, and failing to maintain complete records of entrusted funds) and 8.4(d) (serious interference with the administration of justice) and should be disbarred. 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).

HEARING COMMITTEE NUMBER FOUR

Aaron Pease, Chair



Anthony Bell, Public Member

Dawn Murphy-Johnson, Attorney Member