In re Barbara Ann Susman
Attorney-Respondent

Commission No. 2018PR00080

Synopsis of Hearing Board Report and Recommendation
(August 2021)

The Administrator charged Respondent with failing to act diligently and properly communicate with clients in three immigration matters, failing to refund unearned fees in one of the matters, and failing to respond to the Administrator's requests for information. The Administrator proved misconduct related to two of the client matters and the failure to respond to the Administrator's requests for information.

The Panel accepted the Administrator's recommended sanction of a suspension stayed in its entirety by probation, having determined that probation is appropriate because Respondent's office management practices are in need of improvement. Accordingly, the Panel recommended that Respondent be suspended for five months, with the suspension stayed in its entirety by one year of probation, contingent upon Respondent's compliance with conditions including completion of the ARDC Professionalism Seminar and a law office management program.

BEFORE THE HEARING BOARD
OF THE
ILLINOIS ATTORNEY REGISTRATION
AND
DISCIPLINARY COMMISSION

In the Matter of: **BARBARA ANN SUSMAN,** Attorney-Respondent, No. 6186506.	Commission No. 2018PR00080

REPORT AND RECOMMENDATION OF THE HEARING BOARD

SUMMARY OF THE REPORT

The Administrator charged Respondent with failing to act diligently and to properly communicate with clients in three immigration matters, failing to refund unearned fees in one of the matters, and failing to respond to the Administrator's requests for information. We find the Administrator proved misconduct related to two of the client matters and the failure to respond to the Administrator's requests for information. We recommend that Respondent be suspended for five months, with the suspension stayed in its entirety by one year of probation.

INTRODUCTION

The hearing in this matter was held on December 14, 2020, January 15, 2021, February 17, 2021, and March 12, 2021 by video conference, before a panel consisting of Heather A. McPherson, Chair, Mark W. Bina[1], and Peter B. Kupferberg. Melissa A. Smart and Scott Renfroe represented the Administrator. Respondent was present and was represented by Stephanie L. Stewart.

PLEADINGS AND MISCONDUCT ALLEGED

On October 23, 2019, the Administrator filed a four-count First Amended Complaint, charging Respondent with neglecting three immigration matters and failing to respond to the Administrator's requests for information. Specifically, Respondent is charged with: 1) failing to act with reasonable diligence and promptness in representing a client (Counts I, II, IV); 2) failing to reasonably consult with her clients about the means by which the client's objectives were to be accomplished (Counts I, II); 3) failing to keep her clients reasonably informed about the status of a matter (Counts I, II, IV); 4) failing to promptly comply with reasonable requests for information (Counts I, II, IV); 5) failing to refund a fee paid in advance after termination (Count II); failing to respond to a lawful demand for information from a disciplinary authority (Count III); and engaging in conduct prejudicial to the administration of justice (Count III), in violation of Rules of Professional Conduct 1.3, 1.4(a)(2), 1.4(a)(3), 1.4(a)(4), 1.16(d), 8.1(b), and 8.4(d).

On November 20, 2019, Respondent filed an answer to the First Amended Complaint in which she admitted some of the factual allegations and denied all allegations of misconduct.

EVIDENCE

The Administrator called eight witnesses and Respondent as an adverse witness. The Administrator's Exhibits 1-33 were admitted into evidence. (Tr. 56). Respondent testified on her own behalf and called four character witnesses. Respondent's Exhibits 1-19 were admitted into evidence, with Exhibits 13-15 admitted for a limited, non-hearsay purpose. (Tr. 59-60).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Administrator bears the burden of proving the charges of misconduct by clear and convincing evidence. In re Thomas, 2012 IL 113035, ¶ 56. Clear and convincing evidence constitutes a high level of certainty, which is greater than a preponderance of the evidence but less

stringent than proof beyond a reasonable doubt. People v. Williams, 143 Ill. 2d 477 (1991). The Hearing Board assesses witness credibility, resolves conflicting testimony, makes factual findings, and determines whether the Administrator met the burden of proof. In re Winthrop, 219 Ill. 2d 526, 542-43 (2006).

I. In Count I, Respondent is charged with failing to provide diligent representation in the Brocksmith immigration matter and failing to communicate with her clients, in violation of Rules 1.3, 1.4(a)(2), 1.4(a)(3), and 1.4(a)(4).

A. Summary

Respondent failed to diligently complete her client's visa application process and failed to properly respond to the clients' requests for information and to discuss their matter.

B. Admitted Allegations and Evidence Considered

Respondent has been licensed to practice in Illinois since 1983 and has focused her practice on immigration, customs, and international law. (Tr. 813)

Circuit Court Judge Carolyn Gallagher met Respondent at a professional event. When Gallagher learned Respondent handles immigration matters, she told Respondent that her daughter-in-law, Marné Brocksmith, a South African citizen, wanted to obtain an immigrant visa to return to the United States. Marné is married to Gallagher's son, Tim Brocksmith. At the time, Marné was in South Africa and Tim was in the United States. (Tr. 603).

On August 25, 2016, Gallagher, on behalf of Marné and Tim, retained Respondent to obtain an immigrant visa (green card) for Marné. (Tr. 69; Adm. Ex. 2). Respondent charged an initial retainer fee of $2,500. Gallagher completed payment of the retainer on October 11, 2016. (Resp. Ex. 1 at 53). Respondent anticipated a complex case because Marné had problems with her visa in the past and had returned to South Africa rather than staying in the United States when her previous visa expired. (Tr. 607-11; Resp. Ex. 1 at 2).

Respondent's engagement letter stated that obtaining an immigrant visa was a multi-stage process that was estimated to take nine to twelve months. (Resp. Ex. 1 at 3). The first stage required submitting a petition for an I-130 visa to the U.S. Citizenship and Immigration Services (USCIS). After the I-130 petition was approved, the next stage was initial visa consular processing through the National Visa Center (NVC). The third stage was final consular processing, which included an interview at the U.S. Consulate in Johannesburg, South Africa. (Resp. Ex. 1 at 112).

Tim and Marné wanted to obtain Marné's visa as soon as possible and gathered the documents Respondent requested as quickly as they could. (Tr. 184-185). Respondent filed the I-130 petition on November 16, 2016. (Resp. Ex. 1 at 117).

On November 18, 2016, Respondent provided the Brocksmiths and Gallagher with a timeline estimating that the I-130 petition stage would take 5 months, the NVC processing time would be 60-90 days thereafter, and it was unknown how long it would take to complete the final consular processing in Johannesburg. (Resp. Ex. 1 at 111).

USCIS approved the I-130 petition on February 28, 2017. Respondent sent Gallagher and the Brocksmiths a letter on March 6, 2017, stating, "Now we have 60-90 days of waiting for the National Visa Center action, leading to the Final Permanent Visa Consular Processing in Johannesburg, South Africa." (Tr. 74; Adm. Ex. 3).

According to Tim, Respondent advised that his presence was not required for the interview in South Africa, but it would be helpful. (Tr. 186-87). In anticipation of the interview, Tim traveled to South Africa in March 2017. Before he left, he spoke with Respondent about timing his travel so the interview would take place before his visa expired. He believes he had a 90-day visa, which he planned to extend once he arrived in South Africa. Tim testified he would not have gone to South Africa at that time if Respondent had not given him confidence that the interview would

take place within the window of his visa. (Tr. at 188-90). Respondent denied having any such discussion with Tim, and testified she was not aware of his travel plans. (Tr. 658-59, 859). In a September 27, 2017 email to Tim, however, Respondent referred to an earlier telephone call "in which you mostly spoke about your interest in leaving for South Africa." (Resp. Ex. 1 at 213).

On March 27, 2017, Respondent sent Gallagher and the Brocksmiths a letter with a list of additional items they needed to provide to the NVC, including government processing fees totaling $445. The letter requested that the fees be paid to Respondent by credit card or wire transfer. (Adm. Ex. 4). Respondent could not file Marné's documents with the NVC without paying the required fees. (Tr. 871).

Gallagher sent Respondent an email on April 17, 2017, attaching some of the documents Respondent requested and advising that she instructed her bank to send Respondent a check for the processing fees. On April 21, 2017, Respondent informed Gallagher she had not received the check. Later that day, Gallagher asked Respondent if she should stop payment and issue a new check. Respondent said she would check her mail again and get back to Gallagher. (Adm. Ex. 5).

On May 19, 2017, Respondent advised the Brocksmiths and Gallagher by letter that she had not received the check and asked Gallagher to issue a new check. Respondent also asked for additional documents. On May 22, 2017, Gallagher asked Respondent via email if they could speak so Gallagher could provide her debit card information. Respondent did not respond. Because Gallagher did not receive a response, she assumed Respondent took care of the processing fees. She later learned the fees remained unpaid and the application had been marked inactive. (Tr. 79-80).

Marné testified that, after Tim traveled to South Africa, they could not reach Respondent by phone or email for a month. Once they reached Respondent, they asked about the timing of the

interview and she advised there was nothing they could do but wait. (Tr. 297). Respondent subsequently asked for information or documents that Marné had previously provided. Marné testified that by May 5, 2017, "every single document that was ever requested was sent again" both physically and by email. (Tr. 298). At that time, Tim and Marné were not aware the processing fees had not been paid. (Tr. 299).

On May 25, 2017, Tim sent Respondent an email with additional documents she requested. According to Respondent, she did not receive it. (Tr. 625). On May 30, 2017, Gallagher sent Respondent an email attaching tax returns Respondent had requested and asking if Respondent needed anything more from her. The record does not contain any response from Respondent.

On June 14, 2017, Gallagher sent Respondent the following text message:

> Hi Barbara. I tried calling but your mailbox is full. Would it be possible to get back to me today? Tim needs to know whether to try to extend his visa and spend the $ to rebook his flight home, depending on when you think the process & interview will be completed. They have to address it by tomorrow so they're in a bit of a panic that I haven't been able to advise them by now.

(Adm. Ex. 7 at 4).

Later that day, Respondent sent Gallagher an email stating she had been out of town and her cell phone was not working. She told Gallagher that when she returned to the office she would "follow up regarding our speaking soon." (Adm. Ex. 7 at 5). On June 16, 2017 at 8:35 a.m., Gallagher sent Respondent a text asking, "Any word Barbara? Need to take action." Gallagher sent the same text again at 12:58 p.m., having received no response. At 7:00 p.m., Respondent responded that she was waiting to hear back from the U.S. Consulate in Johannesburg. She further stated, "We should know very soon – maybe by MONDAY. I do not think the remaining time period will be too long." On June 19 and 20, 2017, Gallagher followed up with Respondent by text message but received no response. (Adm. Ex. 7 at 8-10).

Marné testified that in late spring and early summer 2017 "Carolyn called and texted so many times, Tim tried calling [Respondent], we called her every night for a week trying to reach her, and we never could. And it would take weeks for us to get a response on e-mail, and the response would never actually answer any of the questions that we asked." (Tr. at 303).

Respondent's former associate, Alberto Gonzales, was assisting Respondent with keeping track of the documents for Marné's application. (Tr. 863-64). On June 22, 2017, Respondent sent Gonzales an email asking how much time it would take for Tim and Marné to get their interview and whether "we still have all the remaining consular paperwork to do." (Resp. Ex. 1 at 171). Gonzales responded on July 13, 2017, advising there were outstanding forms that needed to be completed and documents that needed to be submitted to NVC. He further advised that he would be out of the country until July 23 and had told Respondent several months ago to hire his replacement because he had his own law firm to run. Respondent responded that she had no idea Gonzales was out of the country and would not be returning soon. (Resp. Ex. 1 at 170).

Gallagher's efforts to reach Respondent continued in July 2017. On July 10, 2017, Gallagher sent Respondent a text message and an email stating, "Barbara, it's been weeks and you still haven't responded. Please advise." On July 11, 2017, Respondent responded that she had reached out to the U.S. Consulate and "a consultative group" regarding the timing of the interview. She further stated she was out of town and asked Gallagher to allow her to follow up the next day. Gallagher contacted Respondent again on July 13, 2017, stating she had not heard from Respondent and asking if she should retain a different attorney. (Adm. Ex. 7 at 11-14).

Gallagher also asked a mutual acquaintance, Patricia Howse, to get in touch with Respondent on Gallagher's behalf. Howse sent Respondent an email on July 17, 2017, asking her

to call Gallagher. (Resp. Ex. 1 at 168). Respondent responded to Howse that she would follow up with Gallagher. There is no indication in the record that Respondent did so. (Tr. 169).

On July 20, 2017, Tim sent Respondent an email asking her to draft a letter explaining why he needed to remain in South Africa so that he could extend his visa. He also asked Respondent to explain why the visa process was moving so slowly. On July 22, 2017, Gallagher re-sent Tim's email to Respondent because she had not responded. Gallagher stated, in part, that Tim and Marné were "extremely anxious, having had no response to our many calls, texts, and emails to you." She further stated that four months had passed with no mention of the interview and no updated timeline for Marné's application. (Adm. Ex. 7 at 16).

On July 24, 2017, Gallagher sent Respondent a text message stating, "Barbara, very worried about you and the kids are going into a panic. PLEASE respond." (Adm. Ex. 7 at 17). Gallagher's ex-husband also tried to reach Respondent on July 24, 2017. (Adm. Ex. 7 at 18).

Respondent sent Tim the requested letter on July 27, 2017. (Adm. Ex. 8). The letter stated that Tim was seeking a three-month extension of his visa. On July 28, 2017, Tim advised Respondent that he had rebooked his flight back to the United States for February 2018, approximately six months later. Respondent advised Gallagher by text that the maximum extension permitted under South African law was 90 days. (Adm. Ex. 10 at 3). Gallagher responded that Tim had no choice but to choose a date without Respondent's input. (Adm. Ex. 10 at 4).

Tim and Marné scheduled a conference call with Respondent for August 1, 2017 at 3:00 p.m. because they wanted to talk about Tim's visa application, discuss the timeline for Marné's visa, "and get clarity on a couple of matters ASAP." (Tr. at 191; Adm. Ex. 10 at 10). Respondent advised that Tim's visa matter was a separate engagement that required an additional retainer.

Marné then indicated they would not need further assistance with Tim's visa but still wanted to discuss Marné's matter. (Adm. Ex. 10 at 14). The Brocksmiths called Respondent at 3:00 but Respondent did not answer. (Tr. 98, 305).

Respondent sent Tim and Marné an email thirty minutes after the scheduled conference call stating, in part, "I have already answered all of your questions and provided you with legal advice on the Siuth [*sic*] African vusa [*sic*] extension." She went on to say she was led to believe the purpose of the call was to discuss urgent issues involving Tim's visa, and she would need time to review the file in order to discuss Marné's visa application. (Adm. Ex. 10 at 16). She rescheduled the call with the Brocksmiths, and it took place on August 4, 2017. (Tr. 305; Adm. Ex. 10 at 18).

After the conference call, Gallagher did not hear anything more from Respondent for seven weeks. Tim sent Respondent an email on September 4, 2017, asking for information about the interview timeline. Gallagher had a telephone conversation with Respondent on September 21, 2017, then re-sent Tim's email of September 4 because Respondent advised she had not received it. (Tr. 100-101; Adm. Ex. 10 at 19-29). Gallagher asked whether Respondent needed anything else from Gallagher and Respondent said no. (Tr. 156).

On September 25, 2017, Respondent sent Gallagher and the Brocksmiths an email with an attached letter that was dated August 14, 2017. Respondent had not previously sent the August 14 letter. (Tr. 159-160). The letter stated that the $445 processing fees had yet to be paid and Respondent had not received most of the documents she requested by letter on May 19, 2017. Tim advised Respondent he emailed the requested documents on May 25, 2017. (Tr. 161-62; Adm. Ex. 10 at 22). Respondent responded that she did not receive Tim's May 25 email. (Resp. Ex. 1 at 213-214).

On or about September 25, 2017, Gallagher went to the State Department's website to see which steps of Marné's application needed to be completed. She completed those steps and paid the processing fees directly to the National Visa Center. (Tr. 165-66). Marné's application was subsequently approved. (Tr. 107).

Gallagher terminated Respondent's representation by letter on October 5, 2017. The letter reiterated the difficulties she and the Brocksmiths had communicating with Respondent and expressed Gallagher's dismay upon learn the previous week that Respondent had not submitted the required documents and fees to the NVC. Gallagher demanded that Respondent deliver the case file to her and refund all fees as well as the expenses Tim incurred in connection with his travel to South Africa. (Adm. Ex. 12).

Tim and Marné completed the rest of the immigration process by themselves with no difficulty. (Tr. 198). Their interview took place in April 2018. (Tr. 236).

Respondent testified she had "tremendous amounts of communication" with Gallagher and the Brocksmiths but did not sign on to be their "24/7 advisor." (Tr. 653-54, 871). She denied that Tim and Marné were responsive to her requests for information throughout the representation. (Tr. 628). When asked whether she contacted Gallagher to obtain her debit card information, Respondent answered, "I think many times." (Tr. 651).

C. Analysis and Conclusions

Rule 1.3-Diligence

Rule 1.3 of the Rules of Professional Conduct requires a lawyer to act with reasonable diligence and promptness in representing a client. Unless the relationship is terminated, "a lawyer should carry through to conclusion all matters undertaken for a client." Comment [4] to Rule 1.3.

We find that Respondent was not diligent in completing the necessary steps for obtaining Marné's visa. Although Respondent filed the I-130 application in a timely manner, she failed to

follow through with the next stage of the process. Specifically, Respondent ignored Gallagher's effort to arrange for payment of the processing fees, which stalled the application.

The lapse in attention to this matter coincided with the absence of Respondent's associate, Alberto Gonzales. It is clear from Respondent's June 22, 2017 email to Gonzales that she was not aware of the status of the NVC proceeding at that time. While it was not misconduct to delegate tasks to Gonzales or to ask him for information, Respondent was ultimately responsible for the representation. The fact that Respondent did not know the status of the Brocksmith matter or that Gonzales had left the country and did not intend to return to work for Respondent is further evidence that she was not diligently attending to the Brocksmiths' case. Moreover, even though Respondent learned on July 13 that Gonzales was not returning, she took no further action toward completing the NVC application until September 25. This was an unreasonable delay.

Respondent's position that the clients were to blame for the delay is not persuasive. The evidence shows the clients responded to Respondent's document requests and made efforts to pay the necessary fees. Respondent was the person with expertise in the immigration process and was being paid to see the application through to completion in an expeditious manner. She did very little to advance the process after the initial I-130 application was approved. Accordingly, we find Respondent failed to provide diligent representation, in violation of Rule 1.3.

Rule 1.4(a)-Communication

A lawyer must reasonably consult with the client about the means by which the client's objectives are to be accomplished (Rule 1.4(a)(2)), keep the client reasonably informed about the status of the matter (Rule 1.4(a)(3)), and promptly comply with reasonable requests for information (Rule 1.4(a)(4)). With respect to all of the Rule 1.4(a) charges, we note that the clients were satisfied with the level of communication prior to the spring of 2017, but a breakdown occurred between May 22, 2017, and September 25, 2017. Respondent had an ongoing obligation to

communicate in a prompt and reasonable manner for the entirety of the representation. The following evidence of deficiencies in Respondent's communications established violations of Rules 1.4(a)2), 1.4(a)(3), and 1.4(a)(4) by clear and convincing evidence.

There was a four-month gap in Respondent's communications regarding payment of the NVC processing fees. Respondent's contention that she told the clients multiple times they needed to pay the fees is unpersuasive for two reasons. First, when Gallagher tried to arrange for payment of the fees in May 2017, Respondent did not respond. Respondent said nothing more about the fees until September 25, 2017, even though the clients begged her for information about the status of their matter for the entire summer. It is the failure to respond to Gallagher's request to arrange for payment coupled with the four-month gap in communication about the fees that constitutes misconduct, particularly given Respondent's knowledge that the NVC application could not proceed until the fees were paid. The foregoing evidence clearly and convincingly established that Respondent failed to keep the clients reasonably informed about the status of their matter and failed to respond to their reasonable requests for information, in violation of Rules 1.4(a)(3) and 1.4(a)(4)

The credible testimony from Gallagher and the Brocksmiths regarding their many unsuccessful attempts to reach Respondent in June and July 2017, along with the documentary evidence of their text and email messages, further establish Respondent's failure to comply with Rule 1.4(a). It took two months of nearly constant effort on the clients' part to schedule a conference call with Respondent to discuss the status of Marné's application. Even when they were finally able to speak to Respondent on August 4, 2017, she did not let them know that no progress had been made toward the interview they were expecting and awaiting because nothing had been filed with the NVC. The clients did not learn this until Judge Gallagher contacted the State Department on September 25, 2017.

Clients should not have to go to extraordinary lengths to consult with and obtain accurate information from their lawyer, but that is what the Brocksmiths and Gallagher had to do due to Respondent's failure to respond to them. The fact that Respondent consulted with and provided information to the clients prior to the summer of 2017 does not excuse her subsequent failures to respond. As we noted, she had a continuing obligation to communicate in accordance with the Rules of Professional Conduct. Based on the foregoing evidence, the Administrator established that in June and July 2017, Respondent did not reasonably consult with the clients about the means by which their objectives were to be accomplished, did not keep them reasonably informed about the status of their matter, and did not promptly respond to their reasonable requests for information.

We reject Respondent's contention that she had no obligation to respond to the Brocksmiths and Gallagher during June and July 2017 because their requests involved Tim's travel and visa issues, which were separate from the matter for which she was hired. The clients asked for information about the status of the visa application not only so that Tim could make arrangements to extend his stay but because they also wanted to know why Marné's application was not progressing. Their requests were clearly within the scope of the original representation, and Respondent failed to promptly respond to them.

Moreover, the evidence established that Tim consulted with Respondent and timed his travel to South Africa based on Respondent's guidance. We do not find credible Respondent's testimony that Tim never advised her of his intention to travel to South Africa. Respondent's own email correspondence noted a telephone conversation with Tim when he spoke about his interest in leaving for South Africa. Consequently, it was reasonable for Tim and Marné to expect information and assistance from Respondent when the interview did not occur within the expected window.

Based on the evidence that for several months the clients were unable to consult with Respondent and received no meaningful information about the status of their matter, despite numerous efforts, we find the Administrator proved violations of Rule 1.4(a)(2), 1.4(a)(3), and 1.4(a)(4) by clear and convincing evidence.

II. Count II charged Respondent with failing to act diligently in Jenifer Maalouf's immigration matter, failing to properly communicate, and failing to refund an unearned fee, in violation of Rules 1.3, 1.4(a)(2), 1.4(a)(3), 14.(a)(4), and 1.16(d).

A. Summary

The Administrator did not meet his burden of proving that Respondent committed misconduct in her representation of Jenifer Maalouf and Joseph Aiello.

B. Admitted Allegations and Evidence Considered

Jenifer Maalouf, a Canadian citizen, and her then-fiancé, Joseph Aiello, retained Respondent on November 30, 2017 to obtain an adjustment of Maalouf's immigration status. (Tr. 356). Aiello paid Respondent a $1,500 retainer fee. (Ans. at par. 23). He and Maalouf were married on December 18, 2017. (Resp. Ex. 6 at 2).

In early December 2017, Respondent, Aiello, and Maalouf exchanged emails regarding documents and information that were required for the visa application. On December 1, 2017, Aiello asked Respondent for a copy of their representation agreement so he could provide it to his employer. (Resp. Ex. 5). The record shows no communication between Aiello and Respondent between December 14, 2017 and January 11, 2018.

Aiello contacted Respondent on January 11, stating he had been trying to reach her. Respondent responded the same day and advised that she still needed certain documents from Aiello and Maalouf. (Tr. 367-68). On January 12, 2018, Respondent arranged to speak with Aiello by phone and to meet with him. Aiello sent Respondent email messages on January 17, 22, and 29, and February 5, 2018, asking Respondent for updates and advising that he had been trying to

reach her. On January 24, 2018, Aiello provided Respondent with documentation she had requested, showing that Maalouf had been added as a dependent on Aiello's health insurance. (Resp. Ex. 5 at 38-39).

On February 6, 2018, Respondent asked Aiello for dates the following week when they could meet. She also promised to provide Aiello with a copy of the representation agreement, but never did so. (Adm. Exs. 15-20). Respondent and Aiello exchanged additional emails on February 9, 2018 about scheduling a meeting. On Tuesday, February 20, 2018, Aiello sent Respondent an email stating he had tried to call Respondent "all weekend (Friday, Sat, Sunday), yesterday and today and I never hear back from you." (Adm. Ex. 22).

Aiello and Maalouf testified they were satisfied initially with the level of communication from Respondent, but later it became "a battle" to get a response from her. They felt anxious because Maalouf was scheduled to be in a wedding in Canada and wanted to have her immigration status resolved so she could travel. They were also worried because Maalouf could not work legally in the United States and could have been deported. (Tr. 358-60).

Aiello and Maalouf terminated their relationship with Respondent on February 27, 2018 and asked Respondent to refund her fees and return their documents. (Adm. Ex. 21). At the time of the termination, Respondent had not filed a visa application on Maalouf's behalf. Respondent refunded $1,500 to Aiello on December 28, 2018. (Tr. 361-62).

C. Analysis and Conclusions

Rule 1.3-Diligence

Respondent is charged with failing to diligently represent Maalouf and Aiello because she did not file a visa application before the representation was terminated. For the following reasons, we find the Administrator did not meet his burden of proving this charge by clear and convincing evidence.

The representation in this matter lasted about three months and ended on February 27, 2018. Up until January 24, 2018, Aiello was still providing necessary documents to Respondent. We understand that Aiello and Maalouf wanted the application to be filed as soon as possible and were frustrated with Respondent. However, in light of the short time frame at issue here, we do not find a lack of diligence proven by clear and convincing evidence. The fact that Respondent did not complete the application in the four weeks between the time she received the clients' documents and the time of her discharge, while not to the clients' liking, was not a lengthy enough delay to constitute a violation of Rule 1.3.

We recognize that, in addition to not filing the application, Respondent did not provide Aiello with a copy of the representation agreement despite multiple requests. We do not condone the failure to provide the agreement but find it does not rise to the level of misconduct. The fact that a representation is less than perfect does not necessarily lead to a finding of neglect. See In re Shefler, 05 CH 35, M.R. 22826 (Jan, 20, 2009) (Review Bd. at 13).

Rule 1.4(a)-Communication

Respondent is charged with failing to reasonably consult with Aiello and Maalouf about the means by which their objectives were to be accomplished (Rule 1.4(a)(2)), failing to keep them reasonably informed about the status of their matter (Rule 1.4(a)(3)), and failing to promptly comply with reasonable requests for information (Rule 1.4(a)(4)).

We find the Administrator did not prove these charges by clear and convincing evidence. Given that the representation was in the early stages and nothing had been filed on Maalouf's behalf, there were no developments that should have been relayed to the clients. Moreover, the correspondence admitted into evidence showed that Respondent consulted with Aiello and Maalouf at the beginning of the representation and did respond to them during the representation, albeit not as quickly as they would have liked. Respondent was slow to respond at times, but we

find the delays were not so significant as to constitute misconduct. Accordingly, we are not convinced that Respondent violated Rule 1.4(a)(2), 1.4(a)(3), or 1.4(a)(4).

Rule 1.16(d) -Refund of Unearned Fees

Rule 1.16(d) requires that, "[u]pon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred."

Respondent refunded the entirety of the $1,500 retainer fee to Aiello in December 2018, approximately ten months after the representation ended. In In re Jankura, 2018PR00052, M.R. 30583 (Jan. 21, 2021) and In re Tracy, 2017PR00014, M.R. 29753 (May 21, 2019) the Hearing Board found no violation of Rule 1.16(d) when it was undisputed that the respondent attorneys refunded all unearned fees prior to their disciplinary hearings. Based on this precedent, we similarly find no violation of Rule 1.16(d).

III. Count III charges Respondent with failing to cooperate with the Administrator's disciplinary investigation and engaging in conduct prejudicial to the administration of justice, in violation of Rules 8.1(b) and 8.4(d).

A. Summary

Respondent violated Rules 8.1(b) and 8.4(d) by failing to comply with the Administrator's requests for information and subpoena to appear for a sworn statement.

B. Admitted Allegations and Evidence Considered

Between March 7, 2018 and April 26, 2018, ARDC attorney Althea Welsh sent Respondent four letters seeking information about the Brocksmith and Aiello/Maalouf matters. Respondent admits she did not respond to the letters. (Ans. to Amended Compl. at par. 34).

ARDC paralegal Theresa Waters called Respondent on May 8, 2018 and had a conversation in which Respondent acknowledged receiving Welsh's letters. (Tr. 693). Their conversation was interrupted by a fire drill. Respondent did not follow up with Waters about providing the requested information because she thought Waters would get back to her. (Tr. 700). Respondent further testified it was impossible for her to respond to the Administrator's inquiries because her father was seriously ill. (Tr. 727).

ARDC Investigator Michael Hall made six attempts to personally serve Respondent with a subpoena in June 2018 but was not able to reach her at her office. He also called Respondent's home and office. He was able to leave messages at the office phone number but not the home number. (Tr. 404). On June 26, 2018, Respondent left Hall a voicemail stating she was dealing with difficult personal circumstances involving her father. Her father died on June 30, 2018. Hall then sent a new subpoena to Respondent by regular and certified mail. (Tr. 406). The certified letter was not picked up, but Respondent received the subpoena by regular mail. (Tr. 715). The subpoena directed Respondent to appear and produce certain documents on July 26, 2018 at the ARDC office. She did not appear or provide the requested documents. (Tr. 720-21). Respondent acknowledged that she continued to represent clients while she was dealing with her father's illness and death. (Tr. 727).

C. Analysis and Conclusions

Rule 8.1(b) provides that a lawyer shall not knowingly fail to respond to a lawful demand for information from a disciplinary authority in connection with a disciplinary matter. Respondent acknowledges she received but did not respond to the Administrator's letters seeking information about the Brocksmith and Aiello/Maalouf matters and received but did not comply with the subpoena to appear for a sworn statement. She testified she did not intend to ignore the Administrator's requests but was unable to comply with them due to her father's illness and death.

While we sympathize with Respondent's difficult family circumstances and loss of her father, these issues do not excuse her lack of cooperation. See In re Bruno, 2014PR00006, M.R. 27476 (Sept. 21, 2015) (Hearing Bd. at 10-11). Respondent could have requested an extension of time but instead ignored the Administrator's letters and subpoena. Given her testimony that she maintained her law practice during the time period at issue, we must conclude that she could have communicated with the Administrator as well. In addition, this was not Respondent's first disciplinary proceeding. She was aware of her obligation to respond to the Administrator's requests. Accordingly, we find the Administrator proved by clear and convincing evidence that Respondent violated Rule 8.1(b).

An attorney's failure to comply with requests for information needlessly delays the disciplinary process and impedes the Administrator's ability to obtain relevant facts about Respondent's conduct. This constitutes actual prejudice to the administration of justice and establishes a violation of Rule 8.4(d). In re Cannon, 2011PR00015, M.R. 27055 (Jan. 16., 2015) (Hearing Bd. at 27). Having found that Respondent violated Rule 8.1(b), we further find that her failure to respond to the Administrator's letters and to comply with the subpoena to appear for her sworn statement violated Rule 8.4(d).

IV. Count IV charges Respondent with failing to diligently represent Amanda Sanchez in her immigration matter, failing to keep her reasonably informed about the status of her matter, and failing to promptly respond to reasonable requests for information, in violation of Rules 1.3, 1.4(a)(3) and 1.4(a)(4).

A. Summary

Respondent failed to diligently complete Amanda Sanchez's DACA renewal application and failed to properly communicate with Sanchez.

B. Admitted Allegations and Evidence Considered

Amanda Sanchez retained Respondent on November 3, 2018 to represent her in applying for renewal of her immigration status under Deferred Action for Childhood Arrivals (DACA). (Tr. 419). Sanchez's DACA status expired on February 16, 2019. (Tr. 420). Sanchez did not want to be in the United States illegally, so she wanted Respondent to file the renewal application before her status expired. (Tr. 424).

Respondent represented Sanchez in two previous DACA applications. (Tr. 416, 418). Sanchez had concerns about Respondent's customer service based on her prior experiences, but retained Respondent again because she had the information from Sanchez's earlier applications. (Tr. 419-20).

Pursuant to their retainer agreement, Sanchez paid Respondent $1,000 on November 3, 2018 and $750 per month for the following three months. (Tr. 425; Adm. Ex. 29). By February 2, 2019, Sanchez completed all of the payments and provided Respondent with a cashier's check for the filing fee. (Tr. 426).

Respondent initially told Sanchez she would have the application ready in January 2019, but it was not ready when Sanchez met with Respondent in January. Sanchez called Respondent and arranged a meeting at her office in late January, but Respondent was not there when Sanchez arrived. Respondent then advised Sanchez the application would be ready in February, but it was not ready when Sanchez met with Respondent on February 2, 2019. (Tr. 427-28).

Respondent told Sanchez they could meet the following week, on February 9, 2019. Sanchez called and texted Respondent on February 9 and February 10 but Respondent did not answer until around 6:00 p.m. on February 10. She asked Sanchez to meet her later that evening, at 9:00 p.m. Sanchez indicated she was willing to go to Respondent's office at 9:00 p.m. but Respondent never called or texted her back to confirm. (Tr. 433). Sanchez tried calling and texting

Respondent on February 10 and 11 and stated she did not want to wait any longer to meet because the deadline was approaching. Respondent responded on February 12 by asking Sanchez if they could talk that evening. Sanchez told Respondent she could speak in the evening and would wait for Respondent's call. Respondent did not call and did not respond when Sanchez texted her again. (Tr. 433). Respondent testified she did not interpret Sanchez's statement "I'll wait for your call" to mean that Sanchez expected Respondent to call her. (Tr. 751). Sanchez tried contacting Respondent again on February 13 with no response. (Tr. 436).

On February 13, Sanchez contacted attorney Angilberto Tamayo to help with her DACA matter. (Tr. 434-35). Tamayo agreed to represent Sanchez. Sanchez paid him $400 and signed a waiver allowing Tamayo to obtain her previous DACA applications from Respondent. (Tr. 435-36, 443).

Tamayo's assistant called Respondent's office on February 13 to request Sanchez's file and left a message on behalf of "Angel Tamayo." The assistant also tried to communicate with Respondent by fax and email on February 13 but did not receive a response. Her email identified Tamayo as an attorney and contained his law firm's name and contact information. It also included a copy of Tamayo's business card, a cover page indicating Tamayo was representing Sanchez, and Sanchez's signed authorization to release her file. In order to file Sanchez's DACA renewal application, Tamayo needed her entry date and location from her initial DACA application and subsequent renewals. Sanchez did not have that information in her possession. (Tr. 464-65).

On February 15, 2019, Respondent sent Sanchez a text message advising that her application was ready. Respondent denied that was the first time she told Sanchez her application was ready. According to Respondent, she finalized the application on February 12 but had trouble

getting Sanchez to come in to sign the application. (Tr. 747-48, 905-906). Respondent testified that there was no risk to Sanchez for filing late. (Tr. 737).

Respondent also stated in her February 15 text message that Tamayo was not a lawyer, was dangerous, and was trying to scam Sanchez. (Tr. 436-37, 440-41). After receiving those messages, Sanchez told Respondent she no longer needed her and stopped responding to her. (Tr. 442).

On February 16, 2019, Tamayo sent Respondent an email demanding that she turn over Sanchez's file and refund unearned fees and other funds she was holding, such as Sanchez's filing fee. (Adm. Ex. 33). Respondent did not turn over Sanchez's file and advised Tamayo he would have to pay her to have the file copied. Her refusal to turn over the file delayed Tamayo's ability to file Sanchez's application by about one month because Sanchez had to contact family members to get the information about her entry. Once Tamayo filed the application, Sanchez's DACA status was renewed. (Tr. 443-44, 462-63, 475-79).

Respondent thought Tamayo was not an attorney because the circumstances surrounding his involvement with Sanchez were "irregular." (Tr. 764). She searched "Angel Tamayo" on the ARDC website, and it did not show any Illinois lawyer by that name. (Tr. 757-58).

C. Analysis and Conclusions

Rule 1.3-Diligence

Rule 1.3 required Respondent to act with reasonable diligence and promptness in representing Sanchez. The evidence established that Respondent failed to do so.

Comment [3] to Rule 1.3 is particularly apt with respect to the Sanchez matter:

> Perhaps no professional shortcoming is more widely resented than procrastination. A client's interests often can be adversely affected by the passage of time or the change of conditions; in extreme instances, as when a lawyer overlooks a statute of limitations, the client's legal position may be destroyed. Even when the client's interests are not affected in substance, however, unreasonable delay can cause a client needless anxiety and undermine confidence in the lawyer's trustworthiness . . . .

Sanchez's matter was time sensitive. She, understandably, did not want her DACA status to expire and engaged Respondent three months before the application was due because she wanted to make sure it was filed on time. Sanchez paid Respondent pursuant to their agreed schedule and gave Respondent a check for the filing fees on February 2, 2019. There is no valid reason we can discern why Respondent did not have Sanchez's application completed by February 2, at the latest. The application was not particularly lengthy or complicated, and Respondent already had Sanchez's background information from her prior applications.

We do not find credible Respondent's testimony that, prior to February 15, she completed the application and was trying to get Sanchez to come in to sign it. The first time Respondent advised that the application was ready was in a text message on February 15. Prior to that date, there was no mention of it being completed. The communications between Sanchez and Respondent showed Sanchez making numerous, unsuccessful efforts to contact Respondent in the days leading up to the February 16 deadline, not the other way around. Moreover, even if the application was ready to be signed on February 15, it was not completed because it was neither signed nor filed. It was Respondent's responsibility to make sure the application was ready in sufficient time to allow for signing and filing before Sanchez's DACA status expired. Respondent failed to do so and provided no valid explanation for that failure. Accordingly, the Administrator proved by clear and convincing evidence that Respondent failed to diligently represent Sanchez.

Rule 1.4(a)-Communications

Respondent is charged with failing to keep Sanchez informed about the status of her matter and failing to promptly respond to Sanchez's reasonable requests for information, in violation of Rules 1.4(a)(3) and 1.4(a). We find the Administrator proved these charges by clear and convincing evidence.

Sanchez's matter was time sensitive, and she sought assurance that her renewal application would be completed on time. She never received such assurance despite many attempts to contact Respondent. The evidence showed Sanchez's numerous efforts in January and February 2019 to reach Respondent in the hopes of finalizing her renewal application. Respondent took days to respond, even in the week leading up to the DACA expiration. When she did respond, she asked to set up a meeting or a call at a later time but then failed to follow through after Sanchez confirmed her availability. Even after Sanchez agreed to Respondent's requests to come to her office at 9:00 p.m. or to wait until the evening to have a phone call, Respondent continued to dodge Sanchez. By doing so, Respondent failed to keep Sanchez informed about the status of her matter and failed to respond to Sanchez's reasonable requests for information, in violation of Rules 1.4(a)(3) and 1.4(a)(4).

Last, we need not address Respondent's conduct involving attorney Tamayo, as the First Amended Complaint contains no charges specifically related to that conduct.

EVIDENCE IN MITIGATION AND AGGRAVATION

Mitigation

Respondent has been active in several professional organizations, including the American Immigration Lawyers Association, the Chicago Lincoln Inn of Court, the Chicago Bar Association, and the Illinois State Bar Association. She has given numerous speeches and has written an article for the Hofstra Labor Law Journal and a chapter for a book on immigration law. She and others in her firm have done pro bono work for faith-based institutions. Respondent was unable to estimate the number of pro bono hours she provided, but testified "it may be 500 hours in a year." (Tr. 929).

Respondent's father was diagnosed with a serious illness in December 2017, was hospitalized in March 2018, and died on June 30, 2018. This time period was extraordinarily difficult for Respondent. (Tr. 917, 918, 925). She acted as her father's health advocate and spent time speaking with his health care providers and traveling to Waukegan to visit and assist him. (Tr. 921-22). Respondent was responsible for taking care of all of the funeral arrangements when her father passed away. (Tr. 924). In addition, one of Respondent's brothers allegedly took a large amount of money from Respondent's father during his illness, which caused Respondent additional distress. (Tr. 918; Resp. Ex. 14, 15).

Former Circuit Court Judge Russell Hartigan has known Respondent for 6 years. He has invited her to speak to his law school students at least three times about immigration law and how to start a law practice. He described Respondent as a person of good moral character and high integrity. Judge Hartigan has never had the occasion to discuss Respondent's reputation in the legal community for honesty and veracity with other lawyers. (Tr. 52-54).

Retired federal judge Samuel Der-Yeghiayan has known Respondent since the early 1980s. Between 2001 and 2003, Respondent practiced before him in immigration court, and he found her to a good advocate for her clients. He has never had a reason to question Respondent's character. (Tr. 521, 523, 532-33).

Circuit Court Judge James A. Shapiro has known Respondent for 15 years through the Chicago Lincoln Inn of Court. He has a high opinion of Respondent's character and referred a family member to Respondent for an immigration matter. Respondent hosted an event for one of his judicial campaigns. (Tr. 538-43).

Attorney and former Chicago alderman Robert W. Fioretti has known Respondent for 20 years. He has referred immigration matters to her. Most of the people he referred made "glowing

remarks" about Respondent. Fioretti described Respondent's character and integrity as unblemished. He believes she has a good reputation for character and truthfulness in the legal community. (Tr. 550-53).

Aggravation

Judge Gallagher described her experience with Respondent as shocking, upsetting, and horrifying. (Tr. 107). Tim Brocksmith described the uncertainty during Respondent's representation as stressful and nerve-wracking. (Tr. 193-94). By the end of the relationship, he felt appalled and shocked at the lack of communication. (Tr. 197-98). Marné Brocksmith testified she started getting panic attacks and high levels of anxiety as a result of their difficulties with Respondent. She was also upset by the fact that, after the representation was terminated, Respondent sent her private information to a South African attorney without her permission. (Tr. 303). Amanda Sanchez testified that Respondent's conduct led her to feel fearful and stressed by the possibility of getting deported and having to leave her family, school, and job. (Tr. 445).

Prior Discipline

Respondent was censured in 2013 for filing a frivolous pleading and engaging in the unauthorized practice of law by representing a client after her name had been removed from the master roll for failure to register. In re Susman, 2009PR00126, M.R. 26102 (Sept. 25, 2013).

RECOMMENDATION

The purpose of the disciplinary process is not to punish attorneys, but to protect the public, maintain the integrity of the legal profession, and safeguard the administration of justice from reproach. In re Edmonds, 2014 IL 117696, ¶ 90. When recommending discipline, we consider the nature of the misconduct and any factors in mitigation and aggravation. In re Gorecki, 208 Ill. 2d 350, 360-61, 802 N.E.2d 1194 (2003). We seek consistency in recommending similar sanctions

for similar misconduct but must decide each case on its own unique facts. Edmonds, 2014 IL 117696, ¶ 90.

Respondent's lack of diligence and failures to communicate, while not on the most egregious end of the misconduct spectrum, were nonetheless serious. Respondent caused delays for her clients and, in Sanchez's case, put her at risk of losing her DACA status. The misconduct is aggravated by the financial and emotional harm the clients suffered. The Brocksmiths incurred additional expenses due to the delay of their matter and Sanchez had to pay additional attorney fees in order to get her DACA renewal filed. The Brocksmiths, Gallagher, and Sanchez experienced a great deal of anxiety and frustration as well.

Additional aggravating factors include Respondent's prior discipline and the fact that she engaged in a pattern of misconduct. The prior discipline is not significantly aggravating because it was not similar to the misconduct here, but Respondent should have had a heightened awareness of her obligation to comply with the Rules of Professional Conduct. See In re Storment, 203 Ill. 2d 378, 401, 786 N.E.2d 963 (2002).

Respondent's testimony in this hearing gave rise to additional aggravation. We do not believe Respondent testified truthfully when she denied knowing that Tim Brocksmith planned to travel to South Africa so he could participate in the consulate interview, or when she testified that she tried to get Sanchez to come in to sign her DACA renewal application prior to February 15, 2019. Lack of candor before the Hearing Board is a factor that may be considered in aggravation. Gorecki, 208 Ill. 2d at 366. Respondent's efforts to blame her clients for the delays in their matters also leads us to conclude that she does not recognize or accept responsibility for her conduct. See In re Samuels, 126 Ill. 2d 509, 531, 535 N.E.2d 808 (1989).

In mitigation, we consider Respondent's commendable involvement in the legal community as well as the evidence of her good character.

The Administrator requests that Respondent be suspended for five months, with the suspension stayed in its entirety by one year of probation with conditions focused on improving her office management. Respondent does not suggest an alternative sanction but contends probation is not necessary because any deficiencies in her practice resulted from the difficulties involving her father and not from office management problems.

Sanctions imposed in cases involving neglect range from censure to disbarment. See In re Ackermann, 99 Ill. 2d 56, 66, 457 N.E.2d 409, 75 Ill. Dec. 415 (1983). In support of the request for a five-month suspension stayed by probation, the Administrator cites In re Douglas Wayne Smith, 168 Ill. 2d 269, 659 N.E.2d 896 (1995); In re Sheldon Banks, 2011PR00008, M.R. 25136 (Mar. 19, 2012); and In re Louis Worthington Brydges, 2018PR00075, M.R. 30472 (Sept. 21, 2020).

The Administrator cites to Smith and Banks for the proposition that probation is appropriate when an attorney's practice needs to be monitored rather than suspended. We agree with the Administrator that Respondent's misconduct arose from office management deficiencies that can be addressed and improved with monitoring rather than suspension. Suspensions stayed entirely by probation have been imposed in other cases in which attorneys with prior discipline failed to act with diligence and communicate appropriately. In Brydges, the attorney failed to act diligently in two client matters, did not appropriately communicate with one client, and collected unreasonable fees from both clients. Like Respondent, Brydges had previously been disciplined for misconduct that was not similar to his more recent misconduct. See also In re McCarthy,

2017PR00051, M.R. 29303 (May 24, 2018); In re Glover, 2016PR00035, M.R. 28333 (Nov. 18, 2016).

We do not agree with Respondent that her misconduct was solely attributable to father's illness and death. Respondent's father became seriously ill in late 2017 and passed away on June 30, 2018. While the failure to comply with the Administrator's disciplinary investigation occurred during this time period, the misconduct in the Brocksmith matter occurred between May and October of 2017, and the misconduct in the Sanchez matter occurred in late 2018 and early 2019. Consequently, the majority of Respondent's misconduct is not attributable to Respondent's family difficulties.

Moreover, we have concerns about the numerous occasions when Respondent did not receive telephone messages, email messages, or physical mail, according to her testimony. Technical or delivery issues occasionally prevent receipt of electronic messages or physical mail, but the number of missed or delayed communications in this matter is beyond the norm and leads us to conclude that Respondent's office systems and practices need improvement. We believe a period of probation with conditions focused on office management is necessary to help to resolve these issues.

Having considered all of the relevant circumstances and case law, we agree that a five-month suspension stayed in its entirety by one year of probation is an appropriate recommendation for the proven misconduct. Working through a law office management program with another attorney will help Respondent implement more effective and organized office practices, in the interest of preventing future misconduct and protecting the public.

Accordingly, we recommend that Barbara Ann Susman be suspended for five months, with the suspension stayed in its entirety by one year of probation, subject to the following conditions:

1. Respondent shall comply with the provisions of Article VII of the Illinois Supreme Court Rules on Admission and Discipline of Attorneys and the Illinois Rules of Professional Conduct and shall timely cooperate with the Administrator in providing information regarding any investigations relating to her conduct;

2. Respondent shall successfully complete the ARDC Professionalism Seminar within the first six months of probation;

3. During the first thirty (30) days of probation, Respondent shall enroll in a law office management program acceptable to the Administrator and shall, upon enrollment, notify the Administrator in writing of the name of the attorney with whom Respondent is assigned to work. Respondent shall successfully complete the law office management program prior to the end of the probation term;

4. Through Respondent's participation in the law office management program, Respondent shall establish and utilize the following:

    a. A system for maintaining records as required by Supreme Court Rule 769;

    b. A diary and docketing system in accordance with the requirements established by the law office management program, including a mechanism by which approaching filing deadlines are noted;

    c. A system by which telephone messages are recorded and telephone calls are returned in a timely manner; and

    d. A system by which requests by clients for the status of their legal matters are answered, either orally or in writing, in a timely manner;

5. Respondent shall authorize the attorney assigned to work with her in the law office management program to:

    a. Disclose to the Administrator on a quarterly basis, by way of signed reports, information pertaining to the nature of Respondent's compliance with the law office management program and the above described conditions;

    b. Promptly report to the Administrator Respondent's failure to comply with any part of the above described conditions; and

    c. Respond to any inquiries by the Administrator regarding Respondent's compliance with the above described conditions;

6. Respondent shall attend meetings as scheduled by the Commission probation officer. Respondent shall submit quarterly written reports to the Commission probation officer concerning the status of her practice of law and the nature and extent of her compliance with the conditions of probation;

7. Respondent shall notify the Administrator within fourteen days of any change of address;

8. Respondent shall notify the Administrator within seven (7) days of any arrest or charge alleging her violation of any criminal or quasi-criminal statute or ordinance;

9. At least thirty days (30) prior to the termination of probation, Respondent shall reimburse the Client Protection Program for any Client Protection payments arising from her conduct;

10. Respondent shall reimburse the Commission for the costs for this proceeding as defined in Supreme Court Rule 773 and shall reimburse the Commission for any further costs incurred during the period of probation; and

11. Probation shall be revoked if Respondent is found to have violated any of the terms of her probation. The five-month period of suspension shall commence from the date of the determination that any term of probation has been violated.

Respectfully submitted,

Heather A. McPherson
Mark W. Bina
Peter B. Kupferberg

CERTIFICATION

I, Michelle M. Thome, Clerk of the Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois and keeper of the records, hereby certifies that the foregoing is a true copy of the Report and Recommendation of the Hearing Board, approved by each Panel member, entered in the above entitled cause of record filed in my office on August 19, 2021.

/s/ Michelle M. Thome
Michelle M. Thome, Clerk of the
Attorney Registration and Disciplinary
Commission of the Supreme Court of Illinois

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[1] Mr. Bina was unavailable for a short time on March 12, 2021. With the parties' agreement, the hearing proceeded in his absence and he reviewed the transcript of the testimony he missed.