

## UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

No. 23-8004(A)

IN RE: MICHAEL A. DALIN, MEMBER OF THE BAR

Before LAURER and JAQUITH, *Judges*.

### ORDER

Attorney Michael A. Dalin (Respondent), a member of this Court's Bar, is the subject of a grievance referred to the Court's Standing Panel on Admission and Discipline (Panel) by the Office of General Counsel, under Rule 6(a) of this Court's Rules of Admission and Practice (A&P Rules). *See* U.S. VET. APP. R. ADM. & PRAC. 6(a). The grievance was referred to the Court's Committee on Admission and Practice (Committee) for investigation and its report and recommendation pursuant to A&P Rule 2(c). Mr. Dalin actively participated in this matter, timely submitting a response at each opportunity. *See* Show Cause Resp. (Nov. 1, 2023); Resp. to Comm. Letter (May 23, 2024); Rebuttal (Nov. 25, 2024).

The Committee submitted its report and recommendation (Committee Report) to the Court on October 11, 2024. The Committee found that Mr. Dalin violated Rule 46(b) of the Court's Rules of Practice and Procedure (Rules) and D.C. Rules of Professional Conduct 1.1(a) and 5.5(a) and, as a result, committed professional misconduct. Comm. Rep. at 20, 22, 25. The Committee recommended that Mr. Dalin be suspended for 78 days, reprimanded, and required to complete 8 hours of continuing legal education classes on ethics. Comm. Rep. at 35-38. On November 25, 2024, Mr. Dalin timely submitted a rebuttal to the Committee's report and recommendation. *See* U.S. VET. APP. R. ADM. & PRAC. 2(d)(8).

On October 3, 2025, the Court issued a preliminary, non-public version of this order notifying Mr. Dalin of its intent to impose discipline largely consistent with the Committee's recommendation, though the period of suspension would be 25 days rather than 78 days. On October 24, 2025, Mr. Dalin timely filed a motion for reconsideration. *See* U.S. VET. APP. R. ADM. & PRAC. 5(d).

For the reasons explained below, we find that Mr. Dalin violated American Bar Association (ABA) Model Rule of Professional Conduct (Model Rule) 5.5(a) and Rule 46(a)(1)(B). Taking into account Mr. Dalin's motion for reconsideration, we will impose discipline that is largely consistent with the Committee's recommendation, though the length of suspension will be 14 days.

## I. Findings of Fact

### A. Background

Mr. Dalin is an appellate attorney employed in the Office of General Counsel (OGC) at the U.S. Department of Veterans Affairs (VA). Mr. Dalin was first admitted to the Court's Bar on August 13, 2021, as a non-attorney practitioner. He became a member of the D.C. Bar on November 25, 2021, and was admitted to the Court's Bar as an attorney on October 14, 2022.

As a new member of the D.C. Bar, Mr. Dalin was required under the Rules Governing the District of Columbia Bar to complete the Mandatory Course within 1 year of his admission. *See* Show Cause Resp. Ex. A at 7 (Feb. 1, 2022, email from the D.C. Bar to Mr. Dalin notifying him of this requirement); D.C. Bar R. II, § 3(b) (Jan. 2016).<sup>1</sup> The Mandatory Course is a four-hour, on-demand course covering topics including the D.C. Rules of Professional Conduct and the "D.C. Disciplinary System." *Mandatory Course*, D.C. BAR, <https://wwwstg.dcbar.org/for-lawyers/mandatory-course#compliance> (last visited June 16, 2025).

The D.C. Bar's February 1, 2022, email notifying Mr. Dalin of the Mandatory Course requirement also warned him that "[f]ailure to complete the Mandatory Course within the specified time period will result in administrative suspension." Show Cause Resp. Ex. A at 7. On October 5, 2022, the D.C. Bar emailed Mr. Dalin a reminder that he was required to complete the Mandatory Course by 11:59 p.m. [Eastern Time (ET)] on November 30, 2022. *Id.* at 5. This email also noted that, if he failed to do so, he'd have a 60-day grace period to complete the Mandatory Course, after which point his bar membership would be administratively suspended. *Id.*

On December 5, 2022, the D.C. Bar emailed Mr. Dalin notifying him that he had not yet completed the Mandatory Course and, as a new admittee, was "automatically granted a one-time, 60-day grace period from the date of this notice to complete the Course." *Id.* at 3. The Bar further warned Mr. Dalin, "[I]f you fail to complete the Course by 11:59 p.m. ET on Friday, February 3, 2023, you will be administratively suspended from membership in the District of Columbia Bar. There are no exceptions or extensions for this requirement." *Id.* (underlining in the original).

Mr. Dalin failed to complete the Mandatory Course within the grace period. On February 8, 2023, the D.C. Bar emailed him a Notice of Administrative Suspension which stated that his **"membership in the District of Columbia Bar . . . was administratively suspended on February 4, 2023,** for noncompliance with the Mandatory Course . . . in accordance with District of Columbia Court of Appeals Rules Governing the Bar, Rule II, Section 3." *Id.* at 1 (boldface in the original). The email also noted that a copy of the Notice of Administrative Suspension would be mailed to his address of record. *Id.*

Mr. Dalin provided these emails in exhibits to the Committee and Court. In his rebuttal to the Committee's report, he explained:

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<sup>1</sup> The Rules Governing the District of Columbia Bar were revised effective March 2024. This requirement is now codified at Rule II § 2.

During this time period, I was struggling with my workload. In order to manage my cases, I often found myself working nights and weekends. I attribute a part of this struggle to my inexperience in the law. During this exceptionally busy time period, I only sporadically checked my personal email. I did this as a time-saving measure. I can now see that this decision was unwise, but it is not a decision I would now make.

Rebuttal at ¶ 59(vi).

On Friday, April 21, 2023, Mr. Dalin attempted to complete an annual certification of his eligibility to practice law as required by VA OGC. Show Cause Resp. at ¶ 3. In doing so, he "discovered" that his license had been administratively suspended on February 4, 2023. *Id.*<sup>2</sup> He completed the Mandatory Course that night and applied for reinstatement to the D.C. Bar the next day. *See id.* at ¶ 4, Ex. B-C.

The following Monday through Wednesday, April 24-26, 2023, Mr. Dalin's direct supervisor was out of the office. *See id.* at ¶ 5; Rebuttal at ¶ 60(iv)(1) & n.10 (clarifying prior confusion in these dates). Mr. Dalin waited to email her until the afternoon of April 26, 2023, to notify her of the issue and request guidance. *See* Show Cause Resp. at ¶ 5; Rebuttal Ex. C. The next day, after seeking guidance from a colleague, Mr. Dalin's supervisor advised him to report the issue to the Clerk of the Court and revert to filing as a law clerk. Rebuttal Ex. C at 1.

On April 27, 2023, Mr. Dalin emailed then-Clerk of the Court Gregory O. Block and reported that he had been administratively suspended by the D.C. Bar since February 8, 2023, had already completed the Mandatory Course and applied for reinstatement, and that "[a]ction on that application is expected no later than 5/12." Show Cause Resp. Ex. E; Rebuttal Ex. D. Mr. Dalin also wrote: "I apologize for any inconvenience this causes the Court. I accept full responsibility for this oversight and any administrative actions taken by the Court in regards to this matter. I will provide an update once the DC Bar has acted on my application." Rebuttal Ex. D.

In his response, on May 1, 2023, Mr. Block thanked Mr. Dalin for the disclosure and requested that Mr. Dalin promptly forward his reinstatement from the D.C. Bar. Rebuttal Ex. D at 1. Mr. Block also noted that, "[a]ssuming you have been practicing before the CAVC while suspended, the Court's General Counsel is reviewing whether your administrative suspension raises a potential grievance issue." *Id.*

On May 2, 2023, the D.C. Bar notified Mr. Dalin that he had been reinstated *nunc pro tunc* to April 27, 2023. *Id.* Ex. B. Mr. Dalin notified Mr. Block of his reinstatement on May 2, 2023. *Id.* Ex. D at 1.

## B. Activity During Administrative Suspension

Based on a review of case records in the Court's Case Management/Electronic Case Filing System (CM/ECF), Mr. Dalin carried a considerable case load during his administrative

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<sup>2</sup> Mr. Dalin wrote that he "discovered" that his license was administratively suspended effective February 8, 2023, but that was the date of the notice. The notice said that the suspension was effective February 4, 2023.

suspension. Mr. Dalin concedes that he participated in Rule 33 staff conferences, filed documents, and provided the Secretary's position on appellants' motions during this time. *See Show Cause Resp.* ¶ 11-12.

Notably, Mr. Dalin's activity as an attorney before this Court continued after April 21, 2023, the date he asserts he became aware of his suspension. He acknowledges that, on April 24, 2023, he "filed three documents" and "provided authorization to file [a joint motion for remand] on [his] behalf in one case." *Show Cause Resp.* at ¶ 11; *see Falkenburg v. McDonough*, U.S. Vet. App. No. 21-6709 (Apr. 24, 2023) (Record of Proceedings); *Parker v. McDonough*, U.S. Vet. App. No. 22-3067 (Apr. 24, 2023) (brief); *Vanwagenen v. McDonough*, U.S. Vet. App. No. 22-4336 (Apr. 24, 2023) (motion for extension); *Cameron v. McDonough*, U.S. Vet. App. No. 22-6339 (Apr. 24, 2023) (joint motion for remand filed by appellant). Records in CM/ECF also reflect that Rule 33 staff conferences were held on April 25, 2023, in case nos. 22-6074 and 22-6919, when Mr. Dalin was the only representative (lead counsel) appearing for the Secretary in those matters.

Throughout his entire suspension, Mr. Dalin held himself out as an attorney in actions he took before this Court. He concedes that he did not file notices of appearance as a non-attorney practitioner or withdraw from his cases in which he served as an attorney during his suspension. *See Show Cause Resp.* at ¶¶ 13, 14(e).

Mr. Dalin first invoked his status as a non-attorney practitioner on April 28, 2023, when he filed two motions and signed each as a law clerk *See Johnson v. McDonough*, U.S. Vet. App. No. 23-1209 (Apr. 28, 2023) (motion to stay and motion to dismiss); *Show Cause Resp.* at ¶ 14(c). He filed a third motion as a law clerk on May 2, 2023, though the D.C. Bar would notify him that same day that he has been reinstated nunc pro tunc to April 27, 2023. *See Thompson v. McDonough*, U.S. Vet. App. No. 22-3329 (May 2, 2023) (motion for extension); *Show Cause Resp.* at ¶ 14(c)-(d).

### C. Procedural History

On June 23, 2023, Mr. Block filed a grievance against Mr. Dalin alleging that, based on case records in CM/ECF, Mr. Dalin appeared to have been practicing before the Court during his suspension in violation of Rule 46(a)(1)(B). Grievance at 1. The alleged practice included filing documents, participating in Rule 33 staff conferences, and providing the Secretary's position on appellants' motions, as well as remaining as attorney of record on over 60 cases during his suspensions. *Id.* at 1-2. Mr. Block also alleged that, after Mr. Dalin was aware of his administrative suspension from the D.C. Bar, "he remained attorney of record on his cases rather than withdrawing as counsel, arranging a substitution of counsel, and/or filing an updated appearance to indicate that he would be continuing to work on the case in a non-attorney practitioner capacity per Rule 46(b)-(c)." *Id.* at 2.

On September 29, 2023, under A&P Rule 6(a), then-Chief Judge Bartley determined that the grievance had prima facie validity and directed the Court's Office of General Counsel to refer the grievance to the Panel. A copy of the September 29, 2023, order referring the grievance to the Panel, the A&P Rules, and the grievance were mailed to Mr. Dalin by certified mail.

On October 3, 2023, the Panel ordered Mr. Dalin to show cause, within 30 days, why the grievance should not be referred to the Committee for action under A&P Rule 2(c). Mr. Dalin filed a timely response to the show cause order on November 1, 2023.

On April 11, 2024, the Panel referred the grievance to the Committee for action under A&P Rule 2(c) and ordered that the Committee's report be submitted within 120 days. Under A&P Rule 2(a)(1), three Committee members were randomly selected, and on April 24, 2024, the Committee sent Mr. Dalin a letter informing him of his rights under A&P Rule 2(d) and inviting him to provide the Committee with a response within 30 days per A&P Rule 2(d)(1).

Mr. Dalin submitted a timely response to the Committee's letter on May 23, 2024. In his response, he noted that he was not requesting a hearing in this matter.

The Committee conducted its investigation and, on September 9, 2024, requested an extension of at least 30 calendar days to complete its report and recommendation. The Standing Panel granted the request, ordering that the report and recommendation be submitted no later than October 11, 2024.

The Committee submitted its report and recommendation to the Court on October 11, 2024. On October 15, 2024, the Committee emailed Mr. Dalin a copy of the report and recommendation, some of its harder to locate sources, and a cover letter notifying him of his right under A&P Rule 2(g) to submit a rebuttal within 30 days from the date of his receipt of the report and recommendation. The same materials were mailed to him by certified mail on October 16, 2024. Mr. Dalin timely submitted a rebuttal to the Committee's report and recommendation on November 25, 2024.

On October 3, 2025, the Court issued a preliminary, non-public version of this order notifying Mr. Dalin of its intent to impose discipline largely consistent with the Committee's recommendation, though the intended length of suspension was 25 days rather than 78 days. On October 24, 2025, Mr. Dalin timely filed a motion for reconsideration. *See* U.S. VET. APP. R. ADM. & PRAC. 5(d). The arguments in this motion focus on the discipline to be imposed and the Court's application of Mr. Dalin's refusal to acknowledge the wrongful nature of his conduct as an aggravating factor, which we address below in the relevant sections.

## **II. Discussion**

### **A. Disciplinary Standard**

Under A&P Rule 4(a), the Court applies the ABA Model Rules as its disciplinary standard. *See* U.S. VET. APP. R. ADM. & PRAC. 4(a). Professional misconduct includes "an act or omission that violates the Court's disciplinary standard or any other disciplinary rules applicable to the practitioner" and "a failure to comply with any rule of the Court." U.S. VET. APP. R. ADM. & PRAC. 4(b)(1)(A), (2). A "finding of clear and convincing evidence that the practitioner engaged in professional misconduct" is required to impose discipline in a grievance proceeding. U.S. VET. APP. R. ADM. & PRAC. 6(c).

The Committee found by clear and convincing evidence that Mr. Dalin violated Rule 46(b) and D.C. Rules of Professional Conduct 1.1(a) and 5.5(a). *See* Comm. Rep. at 20-22, 25. Rather than the D.C. Rules of Professional Conduct, we analyze Mr. Dalin's conduct under Model Rules 1.1 and 5.5(a), which apply to Mr. Dalin's conduct as a function of this Court's rules and are the appropriate rules to apply to his conduct before this Court. *See* U.S. VET. APP. R. ADM. & PRAC. 4(a), (b)(1)(A).<sup>3</sup>

Substantively, D.C. Rules of Professional Conduct 1.1(a) and 5.5(a) are the same as Model Rules 1.1 and 5.5(a), respectively. We depart from the Committee's analysis in that they applied District of Columbia Court of Appeals Rule 49's definition of "practice of law" while we look to relevant case law for the definition. Even so, the definitions and results are consistent.<sup>4</sup>

In addition, while the Committee noted that the grievance alleged that Mr. Dalin violated Rule 46(a)(1)(B) by practicing before the Court while administratively suspended, it did not analyze whether his conduct violated this rule. *See* Comm. Rep. at 1, 3-4.<sup>5</sup> Mr. Dalin provided his response to this allegation in his November 1, 2023, response to this Panel. *See* Show Cause Resp. at ¶¶ 11-14. We will analyze that issue here.

Finally, the Committee raised D.C. Rule of Professional Conduct 8.4(c) as a potential additional issue "for the Court's information, but... d[id] not rely in any way on these observations in [its] subsequent Recommendation." Comm. Rep. at 25. We conclude that Mr. Dalin's conduct is adequately addressed under the rules we analyze here and decline to analyze his conduct under D.C. Rule of Professional Conduct 8.4(c).

For the reasons discussed below, the Court finds by clear and convincing evidence that Mr. Dalin violated Model Rule 5.5(a) and Rule 46(a)(1)(B). As a result, he committed professional misconduct as defined by A&P Rule 4(b)(1)(A) and 4(b)(2).

### 1. Notice of Administrative Suspension

We first address the timeline of when Mr. Dalin was notified of his administrative suspension. Mr. Dalin maintained throughout this proceeding that he first became aware of his administrative suspension on April 21, 2023, when he attempted to recertify his eligibility to practice law for VA OGC. *See* Show Cause Resp. ¶¶ 3, 11; Rebuttal at ¶ 51 n.6. While we do not

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<sup>3</sup> We also note that there should be a consistent result if the D.C. Bar were the first to address Mr. Dalin's conduct before this Court in a disciplinary context. D.C. Rule of Professional Conduct 8.5 provides that "[f]or conduct in connection with a matter pending before a tribunal, the rules to be applied shall be the rules of the jurisdiction in which the tribunal sits, unless the rules of the tribunal provide otherwise." D.C. R. Pro. Conduct 8.5(b)(1).

<sup>4</sup> Even if we were to analyze Mr. Dalin's conduct under the D.C. Rules of Professional Conduct, we would agree with the Committee's conclusion that he violated D.C. Rule of Professional Conduct 5.5(a). This result would still constitute professional misconduct under the Court's rules because it is "an act or omission that violates the Court's disciplinary standard or *any other disciplinary rules applicable to the practitioner*." U.S. VET. APP. R. ADM. & PRAC. 4(b)(1)(A) (emphasis added).

<sup>5</sup> The Committee referred to Rule 46(a)(1)(A) but summarized the section of the grievance which alleged that, "[b]ased on records in CM/ECF, Mr. Dalin appears to have been practicing before the Court during his suspension in violation of Rule 46(a)(1)(B) of the Court's Rules of Practice and Procedure." Grievance at 1; *see* Comm. Rep. at 1, 3-4.

doubt that Mr. Dalin encountered an impediment to his recertification on April 21, 2023, that is not dispositive of this issue.

We find that Mr. Dalin had actual notice of his administrative suspension from the D.C. Bar as of February 8, 2023, when he received an email from the D.C. Bar containing the Notice of Administrative Suspension. *See* Show Cause Resp. Ex. A at 1 (email notifying Mr. Dalin that he was suspended effective February 4, 2023, and that the same notice was being mailed to him).<sup>6</sup> He was also warned in December 2022 that his administrative suspension would begin on February 4, 2023, if he did not complete the Mandatory Course by the end of the day on February 3, 2023. *Id.* at 3; *see also* Rebuttal Ex. C at 2 ("[T]he Bar sent me follow up emails of my need to complete the course on 10/5/2022, 12/5/2022, and a notice of administrative suspension on 2/8/2023. I didn't notice any of these emails."). Even so, we will focus on his conduct from February 8, 2023, forward.

## 2. "Dual Status" as a Non-attorney Practitioner and Attorney

This Court permits both attorneys and non-attorneys to seek admission to its Bar and practice before the Court. *See* U.S. VET. APP. R. 46(a)-(b). The Committee found that "the Rules of Admission and Practice neither allow nor prohibit an individual from holding simultaneous dual-status admission as both an attorney and non-attorney practitioner." Comm. Rep. at 17. We agree and further find that Rule 46 also does not. *Cf.* U.S. VET. APP. R. ADM. & PRAC. 3(a) ("Admission to practice before the Court is governed by Rule 46 of the Court's Rules of Practice and Procedure, as supplemented by these rules.").

In practice, an individual will sometimes seek admission to the Bar as a non-attorney practitioner before passing a bar exam, and then, upon becoming a licensed attorney, seek admission as an attorney. In such an instance, the Court does not revoke the attorney's admission as a non-attorney.

Mr. Dalin was admitted to the Court's Bar as a non-attorney practitioner on August 13, 2021, and as an attorney on October 14, 2022. Thus, to borrow the Committee's term, we find that Mr. Dalin has had "dual status" as both a non-attorney practitioner and attorney in the Court's Bar from October 14, 2022, to the present.

## 3. Practice Before the Court During Administrative Suspension from the D.C. Bar: Model Rule 5.5(a) and Rule 46(a)(1)(B)

We analyze Model Rule 5.5(a) and Rule 46(a)(1)(B) together as the issues are intertwined. Model Rule 5.5(a) prohibits lawyers from "practic[ing] law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist[ing] another in doing so." Model Rules of Pro. Conduct r. 5.5(a). The Model Rules do not define what constitutes the practice of

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<sup>6</sup> We also agree with the Committee that, independent of the actual notice he received, Mr. Dalin also knew or should have known of his administrative suspension because the requirement for the Mandatory Course and the consequence of administrative suspension for failing to complete the course were set forth in the Rules Governing the District of Columbia Bar and the D.C. Bar Bylaws. *See* Comm. Rep. at 9-10, 13-15.

law but note that "[t]he definition of the practice of law is established by law and varies from one jurisdiction to another." Model Rules of Pro. Conduct r. 5.5 cmt. 2.

Under Rule 46(a)(1)(B), "practice before the Court requires an attorney to maintain active status in good standing in the highest court of any state, the District of Columbia, or a United States territory or commonwealth within the meaning of 48 U.S.C. § 1904(e)(5)." U.S. VET. APP. R. 46(a)(1)(B) (2017).<sup>7</sup> During his administrative suspension from February 4, 2023, through April 26, 2023, Mr. Dalin was not in active status in good standing with the D.C. Bar. *See* Show Cause Resp. Ex. F ("Your request for reinstatement to the District of Columbia Bar has been received and approved. Your record has been updated to reflect Active membership in good standing effective 4/27/2023."); *In re Kennedy*, 542 A.2d 1225, 1226-27 (D.C. 1988) (practicing while administratively suspended for failing to pay bar dues was unauthorized practice of law). Mr. Dalin has never asserted, and there is no evidence before the Court, that he was licensed by any other bar during the relevant period.

We therefore must determine whether actions taken by Mr. Dalin during his administrative suspension constitute practice before the Court and whether they were undertaken in his role as an attorney. This Court has addressed the practice of law under Model Rule 5.5(a) in a prior attorney discipline matter. *See In re Stanley*, Nos. 07-8003 and 07-8007, 2009 WL 10870186 (Vet. App. July 28, 2009), *aff'd*, No. 2010-7034 (Fed. Cir. Aug. 10, 2010) (filed under seal). In that matter, the conduct at issue under Model Rule 5.5(a) was the attorney having "prepar[ed] a reply to a designation of the record for a client who filed that reply while acting pro se" while the attorney was suspended from this Court's Bar. *Id.* at \*13.

After reviewing case law from other federal courts, the Court found that the practice of law includes, but is not limited to, "the preparation of legal documents and pleadings" and "advising clients regarding their appearances before a court." *Id.* at \*13-14. The Court also

note[d] that its determination that Mr. Stanley's acts constitute the practice of law within the meaning of the Court's Rules is in no way intended to limit the meaning of the "practice of law." Obviously, other acts not at issue in this matter also constitute the practice of law, such as filing an appearance on behalf of an appellant, arguing before the Court, and submitting pleadings and other documents on behalf of an appellant. There may also be other acts that constitute the practice of law, and we do not intend this list to be exhaustive.

*Id.* at \*14. We find these acts constitute the practice of law when representing a third party, not only an appellant.

During his administrative suspension, Mr. Dalin remained attorney of record for the Secretary on dozens of cases. He held himself out as an attorney when he filed notices of

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<sup>7</sup> Rule 46(a)(1)(B) was revised in July 2024 to require that "[m]embership in the Court's bar and practice before the Court requires an attorney to maintain active status in good standing in the highest court of any state, the District of Columbia, or a United States territory or commonwealth within the meaning of 48 U.S.C. § 1904(e)(5)." Misc. Order 09-24 (July 16, 2024) (emphasis added); *see also* Misc. Order 05-24 (Jan. 22, 2024) (publishing proposed revision for public comment). This change was effective after the relevant time period and does not apply here.



appearance as an attorney, signed filings as an attorney, and participated in Rule 33 staff conferences as counsel for the Secretary. *See, e.g., Jones v. McDonough*, No. 22-1827 (Feb. 27, 2023) (brief filed); *Johnson v. McDonough*, U.S. Vet. App. No. 23-1209 (Mar. 9, 2023) (notice of appearance as lead counsel); *Martin v. McDonough*, No. 23-986 (Apr. 14, 2023) (notice of appearance as lead counsel). This includes actions he took on April 24 and 25, 2023, when he admits he was aware of his suspension. *See, e.g., Parker v. McDonough*, U.S. Vet App. No. 22-3067 (Apr. 24, 2023) (brief filed); *Pongtornwatchakorn v. McDonough*, U.S. Vet App. No. 22-6074 (Apr. 25, 2023) (Rule 33 staff conference).

Mr. Dalin does not dispute that he did not withdraw or arrange for substitution on his active cases during his administrative suspension and that he did not file an appearance as a non-attorney practitioner to continue working on his cases in that status. In fact, he did not invoke his status as a non-attorney practitioner until he filed two motions on April 28, 2023, with a signature block listing him as a "Law Clerk." *Johnson v. McDonough*, U.S. Vet. App. No. 23-1209 (Apr. 28, 2023) (motion to stay and motion to dismiss). Thus, throughout his entire administrative suspension, Mr. Dalin held himself out as an attorney while practicing before this Court.

The Committee found by clear and convincing evidence that Mr. Dalin violated D.C. Rule of Professional Conduct 5.5(a), which is substantively the same as Model Rule 5.5(a). In addressing what constitutes the practice of law, the Committee applied District of Columbia Court of Appeals Rule 49, which led to a result consistent with our conclusion above. Commentary to Rule 49, however, recognizes that "[p]ractice before the courts of the United States is a matter committed to the jurisdiction and discretion of those entities." D.C. App. R. 49(c)(3) cmt. This Court, like other federal courts, "has the inherent power to regulate attorney behavior, including the power to control the admission to its bar and to discipline attorneys who appear before the Court." *DeGuzman v. Nicholson*, 20 Vet. App. 526, 529 (2006) (citations omitted); *see In re Snyder*, 472 U.S. 634, 643 (1985). Thus, while we recognize that Mr. Dalin is subject to the D.C. Rules of Professional Conduct, we instead apply Model Rule 5.5(a) and the relevant case law to his conduct.

Mr. Dalin initially argued that because he was also admitted to the Court's Bar as a non-attorney practitioner and that admission was not revoked, his practice before the Court was permissible as a non-attorney practitioner.<sup>8</sup> He acknowledged that he filed documents with the Court, participated in Rule 33 staff conferences, and provided the Secretary's position on motions to opposing counsel, but asserts that, "[a]t no point from February 8, 2023, through April 27, 2023, did [he] engage in any substantive work with the Court that [he] was not otherwise permitted to participate in as a non-attorney practitioner." Show Cause Resp. at ¶¶ 11-12.

The Court rejects this argument for two reasons. First, it ignores that Mr. Dalin held himself out as an attorney in the practice he conducted before the Court throughout his administrative suspension. Thus, he invoked his status as an attorney during the relevant time period.

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<sup>8</sup> In his motion for reconsideration, Mr. Dalin discusses that he did not assert this argument in his rebuttal after reviewing the Committee's Report. We still find addressing this point necessary here, as the issue of dual status in the context of practicing during an administrative suspension is one of first impression for the Court.

Second, Mr. Dalin's argument conflates the roles of attorneys and non-attorney practitioners under the Court's rules. As discussed further in the following section, while there is overlap between the practice of attorneys and non-attorneys before this Court, the two roles are not interchangeable. Were we to agree with Mr. Dalin's position, his administrative suspension of 78 days would have had no practical effect. He could have continued practicing before this Court as an attorney while having no active law license in good standing to do so. This would be absurd.

We find by clear and convincing evidence that Mr. Dalin practiced as an attorney before this Court during his administrative suspension and that, in so doing, he violated Model Rule 5.5(a) and Rule 46(a)(1)(B). So, we find that Mr. Dalin committed professional misconduct under A&P Rule 4(b)(1)(A) and 4(b)(2).

#### 4. Change of Status and Relevant Requirements Under Rule 46(b)

##### a. Distinct Requirements for Attorneys and Non-Attorney Practitioners

While the Court permits both attorneys and non-attorneys to be members of its Bar and practice before the Court, the two roles are not interchangeable. Under Rule 46(b), both attorneys and non-attorney practitioners representing the Secretary must file with the Court and serve on all parties their notice of appearance. U.S. VET. APP. R. 46(b)(1)(C).<sup>9</sup> Non-attorneys admitted under Rule 46(a)(2)(A), as Mr. Dalin was, must be directly supervised by an attorney who is a member of the Court's Bar. *Id.* § (a)(2)(A). All of the non-attorney's filings, including notices of appearance, must include the name, address, and signature of their supervising attorney. *Id.* § (b)(1)(D).<sup>10</sup>

Rule 46 also, as discussed above, requires attorneys to maintain "active status in good standing in the highest court of any state, the District of Columbia, or a United States territory or commonwealth within the meaning of 48 U.S.C. § 1904(e)(5)" to practice before the Court. *Id.* § (a)(1)(B). Attorneys are subject to the rules and requirements governing their membership in their licensing bar(s), which are relevant to them maintaining active status in good standing as required under Rule 46(a)(1)(B). Non-attorneys do not have an equivalent requirement.

With respect to substitution, the Secretary may "substitute a practitioner of record at any time by submitting for filing with the Court and serving on the appellant a notice of appearance of the new practitioner." *Id.* § (b)(1)(C). If a VA practitioner unable to continue working on a matter is not directly substituted, Rule 46(c) sets forth the requirements for withdrawal.

##### b. Notices of Appearance When Switching Practitioner Statuses

Between February 8, 2023, and April 26, 2023, Mr. Dalin was administratively suspended by the D.C. Bar. During that time, he did not meet the Court's requirements to practice before the Court as an attorney and did not attempt to invoke his status as a non-attorney practitioner.

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<sup>9</sup> Prior to the rule revision in July 2024, this provision was Rule 46(b)(1)(B) and required service on the appellant rather than all parties. Misc. Order 09-24 (July 16, 2024). The revision renumbered several subsections of Rule 46(b)(1). No substantive changes to the rule after the relevant time period apply here. For simplicity's sake, we use the updated numbering of the Rule 46(b)(1) subsections in this order.

<sup>10</sup> This provision was previously Rule 46(b)(1)(C).

We found that Mr. Dalin practiced before this Court as an attorney throughout his administrative suspension. *See supra* Section II.A.3. While Mr. Dalin concedes that he did not file notices of appearance as a non-attorney practitioner to continue working on his cases in that status, he asserts that the actions he took were all permissible as a non-attorney and that he need not have filed notices of appearance as a non-attorney in order to practice in that status. Show Cause Resp. at ¶¶ 12-13, 14(e).

Mr. Dalin first invoked his status as a non-attorney practitioner on April 28, 2023, when he filed two motions and signed them as a "law clerk" beneath the Deputy Chief Counsel's signature block, which included all of her contact information as the supervising attorney of a non-attorney practitioner. *See Johnson v. McDonough*, U.S. Vet. App. No. 23-1209 (Apr. 28, 2023) (motion to stay and motion to dismiss). He also filed a motion for extension as a law clerk in a separate case on May 2, 2023. *See Thompson v. McDonough*, U.S. Vet. App. No. 22-3329 (May 2, 2023) (motion for extension).<sup>11</sup> The only indication of Mr. Dalin's change in practitioner status in these two cases was the change of title in his signature block and the fact that the Deputy Chief Counsel's full signature block was included in those filings. This change, however, is an acknowledgment that the two statuses of attorney and non-attorney practitioner are distinct.

On May 2, 2023, the D.C. Bar notified Mr. Dalin that he was reinstated to active status in good standing *nunc pro tunc* to April 27, 2023. Show Cause Resp. Ex. F. Therefore, at the time Mr. Dalin began invoking his status as a non-attorney practitioner, his reinstatement was already effective, even if that information was not yet available to him.

The Committee reasoned that

[a]summing *arguendo* that the Rules permit dual-status admission . . . a plain reading of Rule 46 requires practitioners to notify the Court and all other parties of which admission status the practitioner is utilizing . . . Implicit in this Rule is that, regardless of which status a practitioner may be authorized to practice before this Court, the practitioner must notify the Court and opposing parties of that election.

Comm. Rep. at 17-18. Thus, the Committee "conclude[d] by clear and convincing evidence that [Mr. Dalin] was required to, but failed to, update his notices of appearance as is required by Rule 46(b) to switch to his status as a non-attorney practitioner following his D.C. Bar suspension." *Id.* at 20.

Mr. Dalin makes several arguments related to the notice of appearance requirements under Rule 46(b). He argues that Rule 46(b)(1)(C), titled "Secretary's Representatives," "does not mention any responsibility to file supplemental notices of appearance when the same attorney moves from filing as a law clerk to filing as an appellate attorney or vice versa." Rebuttal at ¶ 5;

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<sup>11</sup> We acknowledge that, in July 2022, Mr. Dalin filed his notice of appearance in this matter as a non-attorney practitioner. He was already a licensed attorney at that time but did not seek admission to the Court's Bar as an attorney until fall 2022. He then began filing in that matter as an attorney in November 2022, so this invocation of his status as a non-attorney practitioner was a change from his prior filing as an attorney. *See Thompson v. McDonough*, U.S. Vet. App. No. 22-3329 (Nov. 3, 2022) (motion to reschedule).

*see* Show Cause Resp. at ¶ 14(e). He asserts that "[i]t is not reasonably in dispute that the Court's rules do not create an explicit requirement for the same attorney to refile notices of appearance in a case where they are already listed on the docket." Rebuttal at ¶ 11. In response to the Committee's conclusion, he argues that "there is no such thing as an implicit, unwritten, rule of the Court" and that he cannot be disciplined based on a violation of an "implicit, unwritten rule" of which he has no notice. *Id.* at ¶¶ 7-11. He also asserts that there is essentially widespread practice at the Court of practitioners not filing a notice of appearance to reflect their change in status and provided examples of two individuals who moved from non-attorney practitioners to attorneys during the course of pending cases without filing notices of appearance as attorneys. *Id.* at ¶¶ 17-21.

First, Mr. Dalin's argument that Rule 46(b)(1)(C) holds no such requirement ignores that subsection (b)(1)(D) governs notices of appearance by non-attorney practitioners. As a representative of the Secretary, subsection (b)(1)(C) applies to him, but it is not the only provision that applies.

Similarly, Mr. Dalin's assertion there is no "explicit requirement for the same attorney to refile notices of appearance in a case where they are already listed on the docket," ignores the distinctions between the roles of attorney and non-attorney and the requirements for each under Rule 46. If an attorney of record can no longer act as an attorney, they are not "already listed on the docket" in a status in which they can continue to practice.

We disagree with Mr. Dalin's characterization that the Committee found there was an "implicit, unwritten rule." The Committee concluded, and we agree, that Rule 46(b) requires an individual acting as an attorney in a given case to file a notice of appearance as an attorney and an individual acting as a non-attorney to file a notice of appearance as a non-attorney. It logically follows that, if an attorney appearing in a case wanted to practice in that case as a non-attorney, they would need to file a notice of appearance as a non-attorney, which would include the additional required information regarding their supervising attorney.

While we agree that there is not a provision in Rule 46 explicitly addressing a situation where a practitioner switches statuses, that does not change the requirements that do exist under the rule. It is the plain language of Rule 46 that requires an individual seeking to appear as a non-attorney practitioner to file a notice of appearance as a non-attorney practitioner, not an implicit, unwritten rule. *See* U.S. VET. APP. R. 46(b)(1)(D). At bottom, a practitioner working on a given matter must have an accurate notice of appearance filed with the Court. If a practitioner's notice of appearance does not accurately reflect the role in which they are practicing, they must file a notice of appearance that does.

We understand that the progression of dual status practitioners more commonly results from non-attorney practitioners becoming licensed attorneys and subsequently being admitted to the Court's Bar as an attorney. Such admission may well occur while they are actively working on cases in which they began as a non-attorney practitioner, and the circumstances of that transition involve no complicating factors of a suspension or other questions as to their qualifications to practice before this Court.

But this case highlights the need for a practitioner's notice of appearance to be accurate. Rather than reflecting a career progression, this situation involves a suspension which temporarily removed Mr. Dalin's ability to practice as an attorney before this Court. Yet he continued to practice as an attorney and later claimed that it was all permissible as a non-attorney and that he had no obligation to inform the Court, in his active cases, that he was practicing as a non-attorney. Were we to find that a notice of appearance need not accurately reflect a practitioner's status, we would be undermining Rule 46 and the distinct requirements it imposes on attorneys and non-attorneys. We also recognize, however, that this is no ordinary matter, complicated as it is by Mr. Dalin's administrative suspension and conduct while suspended.

We therefore take this opportunity to prospectively clarify for members of the Court's Bar that Rule 46(b) requires a practitioner to file a notice of appearance that accurately reflects the status in which they are practicing, to include filing an updated notice of appearance should they choose to switch statuses in a particular case. Thus, going forward, updated notices of appearance are required of a practitioner switching statuses, even if they are transitioning from non-attorney practitioner to attorney as a normal part of their career progression.

Because we found that Mr. Dalin acted as an attorney in his practice before the Court during his administrative suspension, his failure to file notices of appearance as a non-attorney practitioner during that same time period did not violate Rule 46(b). He did not attempt to switch statuses during his administrative suspension so his conduct between February 8, 2023, and April 26, 2023, did not violate this rule.

Between April 27, 2023, and May 2, 2023, Mr. Dalin attempted to switch practitioner statuses by beginning to sign filings as a law clerk. He remained on his active cases and gave no other indication in those matters of his attempt to switch statuses. As clarified above, switching statuses requires an updated notice of appearance. A practitioner changing the title in her or his signature block is insufficient. Under Rule 46(b), to properly switch statuses, Mr. Dalin would have had to file an updated notice of appearance as a non-attorney practitioner in each active matter. Because we have clarified this requirement on a prospective basis and since Mr. Dalin was once again able to practice in his cases as an attorney once reinstated, we find that Mr. Dalin did not violate Rule 46(b) during this time period.

We are, nevertheless, troubled by Mr. Dalin's assertion that "[w]hen [he] did file as a non-attorney practitioner/law clerk, [he] never received any indication from the Court that there was an issue with [his] decision to proceed as a non-attorney practitioner. To the contrary, during this period, the Court granted the motions [he] filed as a law clerk." Show Cause Resp. ¶ 14(d). This statement shifts blame, implying that the Court and its staff, who process thousands of cases, had the affirmative responsibility to verify and/or challenge Mr. Dalin's title in his signature block. While Court staff address questions related to filings and may reject filings as non-conforming when appropriate, the ultimate responsibility for filing properly rests with the practitioner.

## 5. Competence: Model Rule 1.1

Model Rule 1.1 requires lawyers to "provide competent representation to a client," which "requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the

representation." Model Rules of Pro. Conduct r. 1.1. Commentary to this rule provides that "[c]ompetent handling of a particular matter includes . . . use of methods and procedures meeting the standards of competent practitioners" and "adequate preparation." *Id.* cmt. 5. Failing to file required documents and comply with the Court's rules can violate Model Rule 1.1. *See, e.g., In re Steinberg*, 33 Vet. App. 291, 295 (2020) (finding violation of Model Rule 1.1 where attorney "miss[ed] multiple filing deadlines, repeatedly ignore[ed] Court orders, and submit[ed] nonconforming documents" thereby "demonstrat[ing] an inability or unwillingness to adequately prepare his cases and to follow this Court's procedures.").

The Committee found by clear and convincing evidence that Mr. Dalin violated D.C. Rule of Professional Conduct 1.1(a), the language of which is verbatim from Model Rule 1.1. Specifically, the Committee found that Mr. Dalin:

demonstrated a lack of competence regarding his obligations under Rule 46(b), here arguing against its application despite being plainly applicable. He also admitted to having "no prior knowledge of the proper course of action during an administrative suspension" and, rather than do nothing until he gained the requisite knowledge, he filed documents and participated in court proceedings.

Comm. Rep. at 20-21 (quoting Show Cause Resp. at ¶11).

Because we do not find that Mr. Dalin committed misconduct by violating Rule 46(b), we do not consider that as a basis for violating Rule 1.1. Mr. Dalin did not explicitly address the other bases the Committee relied on to find the violation of D.C. Rule of Professional Conduct 1.1(a) as they pertained to that rule specifically. In discussing other aspects of this matter, he explained that he waited to speak to his direct supervisor until she returned from leave because he wanted her advice as she was an "experienced practitioner in veterans law" and he "a relatively new practitioner." Show Cause Resp. at ¶ 11; Rebuttal at ¶¶ 58(b)(i)-(vi). While we do not fault him for seeking the guidance of his supervisor, and the delay in doing so was fairly minimal, continuing to practice as an attorney in the interim, while knowing of his suspension, was not acceptable. This conduct, however, has been addressed under Model Rule 5.5(a). We, therefore, do not find that Mr. Dalin violated Model Rule 1.1.

## B. Discipline

The Court, having found that Mr. Dalin committed professional misconduct, turns to the Committee's recommendation as to discipline. Under A&P Rule 2(c)(3), the Committee must consider and discuss, but is not bound by, the *ABA Standards for Imposing Lawyer Sanctions* (ABA Standards). *See* U.S. VET. APP. R. ADM. & PRAC. 2(c)(3). The ABA Standards are guidelines and "do not attempt to recommend the type of discipline to be imposed in any particular case" as "the discipline to be imposed 'should depend upon the facts and circumstances of the case, should be fashioned in light of the purpose of lawyer discipline, and may take into account aggravating or mitigating circumstance.'" ABA Standards §§ I.A., II (quoting Standard 7.1). The ABA Standards provide that "[t]he purpose of lawyer discipline proceedings is to protect the public and the administration of justice from lawyers who have not discharged, will not discharge, or are

unlikely properly to discharge their professional duties to clients, the public, the legal system, and the legal profession." *Id.* at Standard 1.1.

### 1. Initial Determination

The framework of the ABA Standards "can be used initially to categorize misconduct and to identify the appropriate sanction. The decision as to the effect of any aggravating or mitigating factors should come only after this initial determination of the sanction." *Id.* at § I.B. When "imposing a sanction after a finding of lawyer misconduct, a court should consider the following factors: (a) the duty violated; (b) the lawyer's mental state; (c) the potential or actual injury caused by the lawyer's misconduct; and (4) the existence of aggravating or mitigating factors." *Id.* at Standard 3.0.

Turning to the first factor, a lawyer owes duties to his clients, the public, the legal system, and the profession. *Id.* at § II. The ABA Standards categorize unauthorized practice of law as a violation of a duty to the profession. *See* Standard 7.0. We find that the violation of Rule 46(a)(1)(B) fits most appropriately in that category as well. *See id.* Thus, we find that Mr. Dalin violated his duty to the profession.

As to mental state, an attorney may act with negligence, knowledge, or intent. ABA Standards § II, III. "Negligence" is defined as "the failure of a lawyer to heed a substantial risk that circumstances exist or that a result will follow, which failure is a deviation from the standard of care that a reasonable lawyer would exercise in the situation." *Id.* "Knowledge" is defined as "the conscious awareness of the nature or attendant circumstances of the conduct but without the conscious objective or purpose to accomplish a particular result," while "intent" is defined as "the conscious objective or purpose to accomplish a particular result." *Id.*

We find that Mr. Dalin acted negligently in practicing while administratively suspended and violating Rule 46(a)(1)(B) from February 8, 2023, through April 21, 2023. When Mr. Dalin practiced before this Court as an attorney after April 21, 2023, in violation of Model Rule 5.5(a) and Rule 46(a)(1)(B), he did so knowingly.

We agree with the Committee that determining injury is difficult here. The Committee concluded that "[n]o actual injury or harm was proffered in the Grievance, and [it was] unable to identify any." Comm. Rep. at 27-28. The Committee found, however, "significant potential injury or harm" to the profession, which is "a self-policing profession." *Id.* at 28. We agree with the Committee's conclusion that there was potential injury, but no identified actual injury, from Mr. Dalin's conduct.

We turn now to making an initial determination of an appropriate sanction before considering whether mitigating or aggravating factors justify a departure from that sanction. *See* ABA Standards § I.B. While the ABA Standards "do not account for multiple charges of misconduct," they provide that "[t]he ultimate sanction imposed should at least be consistent with the sanction for the most serious instance of misconduct among a number of violations." *Id.* § II. Further, the sanction imposed "might well be and generally should be greater than the sanction for the most serious misconduct." *Id.*

Regarding unauthorized practice of law, where a lawyer "engages in conduct that is a violation of a duty owed as a professional and causes injury or potential injury to a client, the public, or the legal system," the appropriate sanction is generally suspension where the conduct is knowing and reprimand where the conduct is negligent. *Id.* at Standards 7.2-7.3. Because Mr. Dalin's unauthorized practice was knowing for a period, and there are two violations in this matter, we find that suspension is appropriate. For the violation of Rule 46(a)(1)(B), we find that reprimand is appropriate. *See id.* at Standard 7.3.

## 2. Mitigating and Aggravating Factors

We now turn to whether mitigating and aggravating circumstances justify a decrease or increase in the degree of discipline, respectively. *See id.* at Standards 9.1, 9.21, 9.31. In his response to the Committee's letter, Mr. Dalin asserted the following mitigating factors: remorse, the absence of a disciplinary record, the absence of a dishonest or selfish motive, full and free disclosure to the disciplinary board or cooperative attitude toward proceedings, inexperience in the practice of law, and interim rehabilitation. Resp. to Comm. Letter at ¶¶ 3(a)-(f). The Committee considered these factors and applied the absence of a disciplinary record and interim rehabilitation. Comm. Rep. at 30-31.

We agree that the absence of a disciplinary record and interim rehabilitation are present as mitigating factors. We will also apply inexperience in the practice of law and full and free disclosure as mitigating factors.

Mr. Dalin has expressed remorse for his conduct leading to his administrative suspension and the Court and Committee resources expended on this matter. *See Show Cause Resp.* at ¶ 2; Rebuttal at 1-2, ¶¶ 56(c), 58. While it would have been ideal to have avoided the administrative suspension in the first place, it is not the fact of the administrative suspension but Mr. Dalin's conduct *while* administratively suspended that has led to this matter. It remains unclear to the Court whether he appreciates that, which we discuss below.

As to absence of a dishonest or selfish motive, Mr. Dalin asserted that his failure to complete the Mandatory Course "was the result of an oversight" and "because [he] did not plan on failing to take this course, it cannot be said that [he] had any motive for failing to take the course, let alone a motive that could be characterized as selfish or dishonest." Resp. to Comm. Letter at ¶ 3(c)(i). This, again, focuses improperly on the fact of his administrative suspension and not his conduct before this Court while administratively suspended. For example, a potential selfish or dishonest motive here could have been Mr. Dalin wanting to maintain the status quo of practicing as an attorney after April 21, 2023, when he knew he was administratively suspended.

The Committee analyzed acting with a selfish or dishonest motive as an aggravating factor. We find insufficient evidence as to either the presence or absence of a selfish or dishonest motive and will not apply it as an aggravating or mitigating factor.

The only other aggravating factor applied by the Committee was Mr. Dalin's refusal to acknowledge the wrongful nature of practicing while suspended. Mr. Dalin responded by stating



the he has "apologized multiple times to this Court and to the Panel members for [his] conduct," and that "[i]f an additional apology is required let me say again— I acknowledge and admit that my failure to complete an ethics course for new admittees to the DC Bar led to where we are today and for that I am sorry." Rebuttal ¶ 56(c). This, again, focuses on his failure to complete the Mandatory Course and not on his conduct before this Court afterward, which is the subject of this matter.

Later in his Rebuttal, when addressing remorse, Mr. Dalin again raised the Committee's assertion that he has "failed to 'acknowledge the seriousness of [his] misconduct,'" and responded by stating that he "ha[s] never denied that [his] failure to take an ethics course was wrongful." *Id.* ¶¶ 58(d), (d)(i) (quoting Comm. Rep. at 31). Mr. Dalin also asserted that he "do[es] not believe that presenting legal arguments and analysis in support of the case is the same as failing to demonstrate remorse," and that "[t]o accept the [Committee's] interpretation of th[e] mitigating factor [of remorse] would imply that the only way an attorney could ever demonstrate remorse would be by declining to substantively participate in the proceedings against them." *Id.* ¶¶ 58(d)(i). To be clear, we do not fault Mr. Dalin for making arguments in his own defense. But taking together Mr. Dalin's filings in this matter up to that point, we concluded in our October 3, 2025, preliminary, non-public version of this order that we were left with the impression that he did not see any issue with practicing before this Court as an attorney while he was administratively suspended because he also happened to be admitted to the Court's Bar as a non-attorney practitioner. As a result, we applied refusal to acknowledge the wrongful nature of his conduct as an aggravating factor.

In his motion for reconsideration, Mr. Dalin requests "that the Court consider that [his] initial pleading filed in this case does not reflect [his] current understanding of the law, which has developed over these past two years. It also did not reflect [his] understanding of the law at the time [he] filed [his] rebuttal response in November 2024." Mot. Recons. at 2. Mr. Dalin acknowledges that his practice while administratively suspended was wrongful and explains his evolving thought process during this matter, which seems to have informed his appreciation of the gravity of the unauthorized practice. *Id.* at 2-4. This evolution over the past two years is particularly significant given the context that that time period accounts for approximately half of the total time that Mr. Dalin has been a licensed attorney. We are, thus, persuaded and will not apply refusal to acknowledge the wrongful nature of his conduct as an aggravating factor.

In sum, we find four mitigating factors apply, two more than the Committee applied. We also find that no aggravating factors apply, whereas the Committee applied two.

Turning to discipline, the Committee recommended that Mr. Dalin be suspended from practice before this Court for 78 days for his unauthorized practice of law. This duration mirrors the length of time from his notice of administrative suspension on February 8, 2023, through the last day his administrative suspension was effective, April 26, 2023.

The Committee did not specifically address Rule 46(a)(1)(B) in its recommendation, though it recommended reprimand for the violations it had found of Rule 46(b) and D.C. Rule of Professional Conduct 1.1(a). In the form of rehabilitation, the Committee recommended that Mr.

Dalin complete at least 8 hours of continuing legal education sponsored by the D.C. Bar focusing on attorney ethics.

We largely agree with the Committee's recommendation. We will reprimand Mr. Dalin for the violation of Rule 46(a)(1)(B). We will also require him to attend 8 hours of continuing legal education focused on attorney ethics and report the discipline in this matter to all bars, courts, and tribunals that have authorized him to practice law.

With respect to the discipline for the unauthorized practice of law, the Committee considered its recommendation of a 78-day suspension to be "consistent with *In re Kennedy*." Comm. Rep. at 36 (referencing *In re Kennedy*, 542 A.2d 1225 (D.C. 1988)). In that matter, an attorney was administratively suspended by the D.C. Bar for approximately 2 years for failure to pay bar dues and actively practiced during that time. 542 A.2d at 1227. The District of Columbia Court of Appeals suspended Mr. Kennedy for a period of 90 days for four violations, one of which was unauthorized practice of law. *Id.* at 1226. The other three violations were engaging in "conduct involving dishonesty, fraud, deceit, or misrepresentation," with respect to "failing to remit to his law firm a retainer fee received from a firm client, . . . instructing another client of the firm to send payment to his new office after he had left the firm, and . . . misrepresenting his current salary to the loan office of a savings and loan institution." *Id.*

The *Kennedy* court noted that Mr. Kennedy "expressed no remorse" during that proceeding, had previously been informally admonished, and had "displayed a disturbing tendency to cut corners in his financial affairs." *Id.* at 1231. These factors weighed into the court's decision to impose a suspension of 90 days after its initial determination that "the most analogous" of prior cases "would justify a sanction in the range of sixty to ninety days." *Id.* With respect to the unauthorized practice of law while administratively suspended, the *Kennedy* court noted that, in general, this violation "taken alone, is not very serious as compared to other disciplinary violations . . . [and] would ordinarily justify the milder sanction, if any, of an informal admonition, a censure, or a reprimand." *Id.* at 1229.

Mr. Dalin points to several informal admonitions issued by D.C. Bar Counsel as support that the D.C. Bar "has repeatedly interpreted *In re Kennedy* as standing for the proposition that when the sole issue is practice during a period of administrative suspension, the maximum penalty is admonishment, censure, or reprimand." Rebuttal at ¶ 28 (citing *In re Cooper*, Bar Docket No. 2004-d422 (BC Mar. 30, 2005); *In re Beaman*, Bar Docket No. 2001-D058 (BPR March 30, 2001); *In re Solomon*, Bar Docket No. 2005-d026 (BC May 10, 2005)). Even if that is so, we have the inherent authority to regulate attorney conduct before this Court and, applying the Standards, find that a suspension is appropriate.<sup>12</sup>

In our October 3, 2025, order, we concluded that a suspension of 25 days would be appropriate for the violation of Model Rule 5.5(a). This was based on the fact that the violations committed by Mr. Kennedy were more egregious than the misconduct here, and we applied two more mitigating factors and one less aggravating factor than the Committee in determining an appropriate discipline.

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<sup>12</sup> We are not persuaded that an alternative form of discipline might equally or better serve the interests of the Court as Mr. Dalin argues in his motion for reconsideration.

In his motion for reconsideration, Mr. Dalin argues that a reduced suspension would be more consistent with *In re Kennedy*. Specifically, he points out that Mr. Kennedy was suspended for 90 days "for attorney misconduct that included unauthorized practice of law covering a period of 713 days," while Mr. Dalin's own unauthorized practice occurred during a period of 78 days. Mot. Recons. at 5. Thus, Mr. Dalin argues that, proportionately, a 25-day suspension "would be almost three times as great," even before factoring in the mitigating factors present here. *Id.* We find this argument persuasive. There are also no aggravating factors that now apply, as opposed to the one aggravating factor we applied in our October 3, 2025, order. We will, therefore, grant the motion for reconsideration in part and impose a suspension of 14 days.

### **III. Conclusion**

Under A&P Rule 6(b)(3)(C), it is ORDERED that Mr. Dalin's motion for reconsideration, filed October 24, 2025, is granted in part. Effective as of the date of this order, attorney Michael A. Dalin is publicly suspended from the practice of law before the United States Court of Appeals for Veterans Claims with a right to apply for reinstatement after a period of 14 days. It is also

ORDERED that Mr. Dalin is prohibited from holding himself out as a member of the Bar of the United States Court of Appeals for Veterans Claims until such time at which he may be reinstated by this Panel. This applies to his membership as both an attorney and non-attorney practitioner. It is also

ORDERED that, under A&P Rule 4(c), Mr. Dalin must notify his client and adverse parties in his open cases before this Court of this public discipline within 10 days of the date of this order. It is also

ORDERED that Mr. Dalin must withdraw or arrange for his substitution on all open matters he has before this Court. If he does not do so within 10 days of the date of this order, the Court may remove him from any open matters. It is also

ORDERED that Mr. Dalin shall be publicly reprimanded with respect to his violation of Rule 46(a)(1)(B) as described in this order. It is also

ORDERED that Mr. Dalin shall complete 8 hours of continuing legal education focused on attorney ethics. The 8 hours cannot include continuing legal education courses that Mr. Dalin taught or attended before his suspension. It is also

ORDERED that Mr. Dalin must report to all bars, courts, and tribunals that have authorized him to practice law of the discipline imposed by this Court. It is also

ORDERED that, should Mr. Dalin seek to be reinstated to this Court's Bar, he must file a motion for reinstatement. The motion shall come with evidence of satisfactory completion of all actions here ordered, including proof of the 8 hours of continuing legal education and an affidavit certifying that he notified all bars, courts, and tribunals that have authorized him to practice law of

the discipline imposed by this Court. Upon his suspension taking effect, Mr. Dalin may not practice before this Court until reinstated by this Panel.

DATED: December 1, 2025

PER CURIAM.

Copy to:

Michael A. Dalin, Esq.

VIA EMAIL AND CERTIFIED MAIL -- RETURN RECEIPT REQUESTED