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Louisiana Attorney Disciplinary Board
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10/10/2012

11-DB-073

LOUISIANA ATTORNEY DISCIPLINARY BOARD

IN RE: DAARINA HANEEFAH PHILLIPS

NUMBER: 11-DB-073

RULING OF THE LOUISIANA ATTORNEY DISCIPLINARY BOARD

This is a disciplinary proceeding based upon the filing of formal charges against Daarina Haneefah Phillips ("Respondent") by the Office of Disciplinary Counsel ("ODC"). The formal charges, which consist of two counts, allege that Respondent violated Rules 1.1(c), 5.5, and 7.1 of the Rules of Professional Conduct. After reviewing the hearing testimony and the documentary evidence, the Committee concluded that Respondent violated the Rules of Professional Conduct as charged. For her misconduct, the Committee recommended that Respondent be suspended from the practice of law for a period of six months.

For the reasons set forth below, the Board adopts the Committee's factual findings as they pertain to the allegations contained in the formal charges and modifies the Committee's findings in mitigation. Additionally, the Board adopts the legal conclusions of the Committee; however, it rejects the Committee's recommendation of a six-month suspension in favor of a more lenient sanction. The Board orders that Respondent be publicly reprimanded for her misconduct and assessed with all costs and expenses of these proceedings in accordance with Rule XIX, Section 10.1(A).

PROCEDURAL HISTORY

Formal charges, consisting of two counts, were filed against Respondent by ODC on July 17, 2011. The charges allege that Respondent violated Rules 1.1(c) (failure to comply with bar membership requirements); 5.5 (practicing law while ineligible); and 7.10 (false, misleading, or

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¹ See attached Appendix for the text of the Rules at issue.

deceptive firm name, logo, letterhead, professional designation, trade name, or service mark).

The charges were served upon Respondent via certified mail at her primary registration address

on July 22, 2011.

Upon the motion of Respondent, an order was issued on August 12, 2011, granting

Respondent until August 22, 2011 to respond to the formal charges. On August 22, 2011,

Respondent answered the formal charges through her counsel of record, Rodney B. Hastings.

She admitted certain allegations but denied others.

After one continuance, the formal hearing in this matter was held on January 11, 2012.

Deputy Disciplinary Counsel, James W. Standley, IV, appeared on behalf of ODC. Respondent

appeared and was represented by her counsel, Mr. Hastings. The Committee heard the testimony

of numerous witnesses, including Respondent. ODC submitted various exhibits, which were

entered into the record as Exhibits ODC-1 through ODC-50. Respondent introduced various

exhibits, which were admitted into evidence as Exhibits R-1 through R-14.

The Committee issued its report on February 27, 2012. The Committee concluded that

Respondent violated the Rules of Professional Conduct as charged. For Respondent's

misconduct, the Committee recommended a six-month suspension from the practice of law.

Oral argument in this matter was heard by Panel "A" of the Disciplinary Board on May

24, 2012. Mr. Standley appeared on behalf of ODC. Respondent appeared and was represented

by Mr. Hastings.

FORMAL CHARGES

The formal charges read, in pertinent part, as follows:

COUNT I

Unauthorized Practice of Law

(File Nos.: 0027312 and 0027407)

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During the course of ODC's investigation into an unrelated matter, it was discovered that Respondent Daarina Haneefah Phillips was enrolled as counsel of record in a proceeding while ineligible to practice law. Based upon information obtained from the Louisiana State Bar Association, Ms. Phillips became ineligible on September 10, 2010 for failing to pay her Bar association dues and for failing to provide accurate trust accounting information as required.

Despite this ineligibility, Ms. Phillips continued to engage in the practice of law as set forth in Rule 5.5(e)(3) by making appearances as an attorney in several matters pending before the 19th Judicial District Court in and for the Parish of East Baton Rouge, including:

- 1. Leah T. Warrington Brown v. Marc Walter Brown, No. 164675, Division 'D';
- 2. Heather Yvette Williams v. Natalie Buxton & Nationwide Insurance, No. 592458, Sec. 26;
- 3. Adraine N. Conrad-Johnson v. Russell Lewis Johnson, No: F176341, Division 'D'; and
- 4. Angela Brigalia v. Randy Mallad, No. F176821, Division 'B.'

It has further been discovered that Respondent, during this period of ineligibility, filed an answer on behalf of a client in the matter of *Marie Reed v. Robert W. Tucker, Sr.*, No. 10-004720, Division 'C,' in Baton Rouge City Court, which prompted plaintiff's counsel in that matter to file a motion to withdraw a default judgment. ODC indicates that it is possible, if not likely, that there are other yet to be discovered matters in which Respondent made appearances during this period of ineligibility.

In her letter of December 13, 2010, Honorable Annette M. Lassalle, Chief Judge of the Family Court of East Baton Rouge Parish, stated that it had recently been brought to her attention that Respondent was listed as ineligible to practice law. Therein, she references Respondent's involvement in the *Brown* matter listed above. Nonetheless, Respondent filed pleadings with that court on October 22, 2010 and sent a letter to the court on behalf of a client on October 28, 2010.

In her response letter of December 20, 2010, Respondent suggests that she was not aware of her ineligibility and offers her apologies. She states, "[m]oreover, in response to appearances of record, made in East Baton Rouge Parish, I submit that all were appearances made in error of fact of my ineligibility to practice during this time." This position is echoed in her letter of December 28, 2011, which responds to Judge Lassalle's letter. A list of additional matters in which Respondent admits to having entered appearances is contained in her correspondence of March 11, 2011.

Respondent's conduct, in failing to timely pay her Bar dues, disciplinary assessment, and in failing to provide trust account information is a clear violations[sic] of Rule 1.1 (c) of the Louisiana Rules of Professional Conduct. Her continuing to practice law during the period of her ineligibility[] constitutes a violation of Rule 5.5, which relates to the unauthorized practice of law.

COUNT II Issues Pertaining to Firm Name and Letterhead (File No. 0027785)

In connection with the investigations relating to Respondent's unauthorized practice of law during her period of ineligibility, a discussion arose during her sworn statement of February 17, 2011 regarding her status as a sole practitioner. Therein, Respondent indicated that, though her letterhead suggests that she is a member of the firm "Phillips, Jones & Eichelberger, LLC, Attorneys & Counselors at Law," she is, in fact, a sole practitioner.

Respondent indicates that she chose this name for her office in 2007 when she filed her articles of incorporation. "That's actually my last name and my parents' last name, so." "But nobody in my office has the last names of Jones or Eichelberger." Respondent clarified that Jones is her mother's last name, but indicates that her mother is not an attorney. She claims that Eichelberger refers to her late grandmother and that these are family names. Regarding this issue, an investigation was opened, with Respondent being notified by ODC's letter of March 29, 2011. In her reply letter of May 11, 2011, Respondent reiterates that she is a sole practitioner and that Rule 7.10 has not been violated being that the names listed on her letterhead are family names. "I am a Phillips, I am a Jones and I am an Eichelberger."

Respondent's defiant position does not render Rule 7.10 inapplicable. Further, her continued use of the name "Phillips, Jones & Eichelberger, LLC, Attorneys & Counselors at Law," which is clearly visible on her letterhead, constitutes a willful violation of this Rule, [and] as such is a false, misleading, or deceptive firm name, logo, letterhead, professional designation, trade name, or service mark.

THE HEARING COMMITTEE'S REPORT

As noted above, the Committee issued its report on February 27, 2012. Based upon the testimony presented at the hearing and the evidentiary record, the Committee made the following findings of fact:

FINDINGS OF FACT

The Committee finds that Daarina Haneefah Phillips engaged in the unauthorized practice of Law, a violation of Rule 5.5 as a result of her failure to pay her bar dues and disciplinary assessment, a violation of Rule 1.1.

The Committee further finds that Daarina Haneefah Phillips knowingly used the name "Phillips, Jones & Eichelberger, L.L.C., Attorneys and Counselors at Law" on her letterhead which is a violation of Rule 7.10 in that it is a false, misleading or deceptive firm name and a false, misleading or deceptive use of her letterhead.

Once the Committee determined that Respondent had engaged in professional misconduct, it undertook consideration of the factors set forth in Rule XIX, Section 10(C). First, the Committee found that Respondent violated duties owed to the public, the legal system, and the profession. Furthermore, the Committee found that Respondent acted knowingly and intentionally with respect to her use of misleading letterhead [see Exhibit R-20] and that she risked injuring the public by practicing law while she was ineligible. Next, the Committee considered the existence of aggravating or mitigating factors under the ABA Standards for Imposing Lawyer Sanctions. The Committee found no aggravating factors to exist under Standard 9.32. In mitigation, under Standard 9.22, the Committee found that Respondent had a serious illness which caused her to be out of the office entirely for the months of July and August 2010 and to practice on a limited basis in September 2010.

In determining the appropriate sanction, the Committee did not cite the ABA Standards or any case law upon which it relied. It simply indicated that a six-month suspension is the appropriate sanction for Respondent's misconduct. Thus, the Committee recommended that Respondent be suspended from the practice of law for a period of six months.

ANALYSIS

I. The Standard of Review

The powers and duties of the Disciplinary Board are defined in §2 of the Louisiana Supreme Court Rule XIX, Rules for Lawyer Disciplinary Enforcement. Rule XIX, §(G)(2)(a) states that the Board is "to perform appellate review functions, consisting of review of the findings of fact, conclusions of law, and recommendations of hearing committees with respect to formal charges…and prepare and forward to the court its own findings, if any, and recommendations." Inasmuch as the Board is serving in an appellate capacity, the standard of

review applied to findings of fact is that of "manifest error." *Arceneaux v. Domingue*, 365 So. 2d 1330 (La. 1978); *Rosell v. ESCO*, 549 So. 2d 840 (La. 1989). The Board conducts a *de novo* review of the hearing committee's application of the Rules of Professional Conduct. *In re Hill*, 90-DB-004, Recommendation of the Louisiana Attorney Disciplinary Board (1/22/1992).

Here, the Committee's findings of fact do not appear to be manifestly erroneous. *De novo* review of the record indicates that the Committee correctly applied the Rules of Professional Conduct to conclude that Respondent violated Rules 1.1(c), 5.5, and 7.10. Respondent has admitted that she violated Rule 1.1(c) by failing to timely pay her bar dues and disciplinary assessment for 2010-11. Furthermore, Respondent has admitted that she violated Rule 1.1(c) by failing to timely file her Trust Account Disclosure Form for 2010. Lastly, Respondent has admitted that she engaged in the practice of law while she was ineligible to do so in violation of Rule 5.5.

In light of Respondent's admissions, which are clearly supported by the record, the Board now considers whether Respondent also has violated Rule 7.10 through the use of her firm name and letterhead. Rule 7.10 consists of seven sub-parts or rules, (a) through (g), all of which have been provided in the attached Appendix. Although the formal charges do not specify any particular sub-part or rule, ODC appears to be alleging violations of the following:

- (a) False, Misleading, or Deceptive. A lawyer or law firm shall not use a firm name, logo, letterhead, professional designation, trade name, or service mark that violates the provisions of these Rules.

- (f) **Partnerships and Organizational Business Entities.** Lawyers may state or imply that they practice in a partnership or other organizational business entity only when that is the fact.

Notwithstanding its title, Rule 7.10(a) merely states that the use of firm names or letterhead shall not violate the provisions of *these Rules*, which can be interpreted as referring to

subparts (b) through (g) or, more broadly, Rules 7.1 through 7.10(b)-(g).² In either case, the record demonstrates that Respondent practiced under the name "Phillips, Jones & Eichelberger, LLC" and used letterhead stating "Attorneys & Counselors at Law," which is clearly misleading and implies that she is a member of a firm with other attorneys rather than a solo practitioner. ODC asserts that this conduct is a violation of Rule 7.10(f).³

According to Rule 7.10(f), a lawyer may state or imply that he/she practices in a partnership or other organizational business entity only when that is the fact. Relying on a literal interpretation of this Rule, Respondent maintains that she was in *technical* compliance because "Phillips, Jones & Eichelberger, LLC" is registered with the Louisiana Secretary of State as a limited liability corporation ("LLC") for the purpose of practicing law. ⁴ As such, Phillips, Jones & Eichelberger is, in fact, a recognized organizational business entity in which she practices law.

There is no jurisprudence on point, as the reenactment of the Series 7 Rules is still relatively new. Nevertheless, the Board finds that such a literal interpretation of "these Rules" clearly negates their intent. Respondent certainly violated the spirit, if not the letter, of Rule 7.10(f) by practicing law as a solo practitioner under the name "Phillips, Jones & Eichelberger" and using letterhead stating, "Attorneys and Counselors at Law," ergo she also violated Rule 7.10(a). Accordingly, the Board adopts the Committee's conclusion that Respondent violated Rule 7.10 as charged. However, the Board finds that Respondent's conduct constitutes a minor violation of Rule 7.10 that was based on her inexperience and negligence in interpreting the Rules rather than the result of a dishonest or selfish motive. Moreover, the record reflects that

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² Rules 7.1 through 7.10 comprise the entire series of Rules regulating information about legal services.

³ See ODC's pre-hearing memorandum.

⁴ According to the Articles of Incorporation, Respondent is identified as the registered agent and sole member of the LLC. *See* Exhibit R-11.

Respondent's conduct did not cause any actual harm and that she no longer practices under the name "Phillips, Jones & Eichelberger."

II. THE APPROPRIATE SANCTION

A. Application of Rule XIX, §10(C) Factors

Louisiana Supreme Court Rule XIX, §10(C) states that in imposing a sanction after a finding of lawyer misconduct, the Court or Board shall consider the following factors:

- 1. whether the lawyer has violated a duty owed to a client, to the public, to the legal system, or to the profession;
- 2. whether the lawyer acted intentionally, knowingly, or negligently;
- 3. the amount of actual or potential injury caused by the lawyer's misconduct; and
- 4. the existence of any aggravating or mitigating factors.

Here, Respondent violated duties owed to the public, the legal system, and the profession; however, her actions were largely negligent and did not result in actual harm. Respondent's failure to pay Bar dues and register her trust account were oversights—the result of becoming seriously ill during the period for license renewal. Although Respondent intentionally practiced under the name "Phillips, Jones & Eichelberger," she did so to honor her heritage and not to mislead her clients or the public into believing she practiced with other attorneys.

The following mitigating factors are found to be present: (1) absence of a prior disciplinary record; (2) absence of a dishonest or selfish motive; and (3) physical disability. The record demonstrates that Respondent suffered from a serious, life-threatening illness that kept her from the office during the months of July and August 2010 and practicing on a limited basis in September 2010.⁵ Since Respondent was rendered ineligible on September 10, 2010, the

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⁵ See Hr. Tr. p. 76-78. See also Exhibit R-14.

Board attributes her failure to pay her Bar dues and disciplinary assessment to this illness. The record does not support the finding of any aggravating factors.

B. The ABA Standards and Case Law

Standard 7.3 of the *ABA Standards for Imposing Lawyer Sanctions* is relied upon in determining the appropriate sanction in this matter. According to Standard 7.3, "[r]eprimand is generally appropriate when a lawyer negligently 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." While the ABA Standards indicate that reprimand is the baseline sanction for the misconduct at issue here, the Committee recommended a six-month suspension. The Committee did not cite any cases to support this recommendation; however, and a review of the applicable case law indicates that it is too harsh in this instance.

1. Failing to comply with bar membership requirements and practicing law while ineligible to do so:

There is very little case law addressing *negligent* violations of Rules 1.1(c) and 5.5. One such case is *In re: Oldenburg* 2009-B-0991 (La. 10/16/2009), 19 So.3d 455, in which the Court overturned a ruling of the Disciplinary Board⁶ on appeal and suspended an attorney for six months with all but thirty days deferred for failing to comply with his professional obligations and for practicing law while ineligible to do so. Oldenburg had actually enrolled and attended a course with enough mandatory continuing legal education (MCLE) credits to meet his requirements for the year, but his payment was returned due to insufficient funds in his checking account. Consequently, Oldenburg was declared ineligible to practice law for failing to comply with MCLE requirements. He rendered payment and was eventually reinstated to the practice of law; however, he had already appeared in court on behalf of a client. The Court declined to

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⁶ On April 14, 2009, the Disciplinary Board ordered that Gair Oldenberg be publicly reprimanded for his misconduct. File No. 07-DB-070.

excuse Oldenburg's misconduct as a simple oversight, because he had a history of failing to comply with his professional obligations.

Citing *In re: Jones*, 708 So2d 413, (La. 3/27/1998), ODC argues that violations of Rules 1.1 and 1.5 warrant a minimum suspension of six months with no deferral. However, *In re: Jones* is clearly distinguishable from the instant matter, because Jones previously had been declared ineligible for his failure to pay Bar dues and had been admonished for engaging in the unauthorized practice of law. He also admitted that he knowingly engaged in this misconduct. Based on his admission and prior disciplinary history, the Court suspended Jones from the practice of law for one year and one day with six months deferred, followed by a year of probation.

More recently, in *In re: Fisher*, 2009-B-1607 (La. 12/18/2009), 24 So.3d 191, the Court suspended a lawyer for one year with all but ninety days deferred, followed by a one-year period of supervised probation for engaging in similar misconduct. As in *In re: Oldenburg*, Fisher's ineligibility history was extensive and spanned many years. He had been declared ineligible on at least 11 occasions and at times had engaged in the practice of law while ineligible. Although the Court found Fisher's misconduct to be more serious than that of Oldenburg, it found several mitigating factors that were not present in *In re: Jones*. Moreover, Fisher was only charged with one instance of practicing law while ineligible while Jones was charged with two. Consequently, the Court determined that the case fell in between *In re: Oldenburg* and *In re: Jones* and that a period of actual suspension greater than 30 days but less than six months was warranted for Fisher's misconduct. It should be noted that Justice Weimer dissented from the opinion with regard to sanction. He agreed that an actual period of suspension was appropriate but believed that a shorter period would have been adequate.

The present case involves an isolated instance in which Rules 1.1(c) and 5.5 were violated due to negligence and oversight. The record contains compelling evidence of Respondent's good character as well as the seriousness of the health problems that precipitated her ineligibility. Moreover, it is clear that Respondent was not operating under a selfish or dishonest motive. Rather, she was attempting to regain control of her practice and keep client matters moving once her health had improved, and she was able to do so. Considering these mitigating factors, and the lack of aggravating factors, the baseline sanction of public reprimand is appropriate here.

2. Using false, misleading, or deceptive firm name, logo, letterhead, professional designation, trade name, or service mark:

Since the reenactment of the Series 7 Rules is still relatively new, there is no jurisprudence on point. Although Respondent's conduct constitutes a minor violation of Rule 7.10,⁷ it was based upon inexperience rather than a dishonest or selfish motive. The record demonstrates that no actual harm was caused by Respondent's conduct. It is also clear that Respondent no longer practices under the name "Phillips, Jones & Eichelberger." Following the Court's position in *In re: Hartley*, 2003-2828 (La. 04/02/2004) 869 So.2d 799, the Board finds that no additional penalty is warranted for this misconduct. In *In re: Hartley*, the Court declined to impose formal discipline for the respondent's minor violation, providing the following reasons:

We agree that respondent's actions constitute a minor violation of the Rules of Professional Conduct. However, we find his actions were not the product of an evil or dishonest motive nor did they cause any actual harm. Respondent has been a practicing attorney since 1971 and has an unblemished disciplinary record. Under the totality of the circumstances, we do not find formal discipline is warranted by this court. *See, e.g., In re: Marullo*, 96-2222 (La. 4/8/97), 692 So. 2d 1019.

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⁷ Respondent's conduct violates the spirit, if not the letter, of Rule 7.10.

The Board adopts the Committee's factual findings as they pertain to the allegations contained in the formal charges and modifies the Committee's findings in mitigation. Additionally, the Board adopts the legal conclusions of the Committee; however, it rejects the Committee's recommendation of a six-month suspension in favor of a more lenient sanction. The Board orders that Respondent be publicly reprimanded for her misconduct and assessed with all costs and expenses of these proceedings in accordance with Rule XIX, Section 10.1(A).

RECOMMENDATION

For the foregoing reasons, the Board hereby rules that Respondent, Daarina Haneefah Phillips, be publicly reprimanded for engaging in professional misconduct. In addition, the Board orders that Respondent be assessed with all costs and expenses of these proceedings in accordance with Rule XIX, Section 10.1(A).

LOUISIANA ATTORNEY DISCIPLINARY BOARD

John T. Cox, Jr.
George L. Crain, Jr.
Jamie E. Fontenot
Tara L. Mason
Edwin G. Preis, Jr.
R. Lewis Smith, Jr.
Linda P. Spain
R. Steven Tew

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Carl A. Butler

FOR THE ADJUDICATIVE COMMITTEE

APPENDIX

RULE 1.1. COMPETENCE

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(c) A lawyer is required to comply with all of the requirements of the Supreme Court's rules regarding annual registration, including payment of Bar dues, payment of the disciplinary assessment, timely notification of changes of address, and proper disclosure of trust account information or any changes therein.

RULE 5.5. UNAUTHORIZED PRACTICE OF LAW; MULTIJURISDICTIONAL PRACTICE OF LAW

- (a) A lawyer shall not practice law in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so.
- (b) A lawyer who is not admitted to practice in this jurisdiction shall not:
 - (1) except as authorized by these Rules or other law, establish an office or other systematic and continuous presence in this jurisdiction for the practice of law; or
 - (2) hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction.
- (c) A lawyer admitted in another United States jurisdiction, and not disbarred or suspended from practice in any jurisdiction, may provide legal services on a temporary basis in this jurisdiction that:
 - (1) are undertaken in association with a lawyer who is admitted to practice in this jurisdiction and who actively participates in the matter;
 - (2) are in or reasonably related to a pending or potential proceeding before a tribunal in this or another jurisdiction, if the lawyer, or a person the lawyer is assisting, is authorized by law or order to appear in such proceeding or reasonably expects to be so authorized;
 - (3) are in or reasonably related to a pending or potential arbitration, mediation, or other alternative dispute resolution proceeding in this or another jurisdiction, if the services arise out of or are reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is admitted to practice and are not services for which the forum requires *pro hac vice* admission; or
 - (4) are not within paragraphs (c)(2) or (c)(3) and arise out of or are reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is admitted to practice.

- (d) A lawyer admitted in another United States jurisdiction, and not disbarred or suspended from practice in any jurisdiction, may provide legal services in this jurisdiction that:
 - (1) are provided to the lawyer's employer or its organizational affiliates and are not services for which the forum requires pro *hac vice* admission and that are provided by an attorney who has received a limited license to practice Jaw pursuant to La. S. Ct. Rule XVII, § 14; or .
 - (2) are services that the lawyer is authorized to provide by federal law or other law of this jurisdiction.

(e) (1) A lawyer shall not:

- (i) employ, contract with as a consultant, engage as an independent contractor, or otherwise join in any other capacity, in connection with the practice of law, any person the attorney knows or reasonably should know is a disbarred attorney, during the period of disbarment, or any person the attorney knows or reasonably should know is an attorney who has permanently resigned from the practice of law in lieu of discipline; or (ii) employ, contract with as a consultant, engage as an independent contractor, or otherwise join in any other capacity, in connection with the practice of law, any person the attorney knows or reasonably should know is a suspended attorney, or an attorney who has been transferred to disability inactive status, during the period of suspension or transfer, unless first preceded by the submission of a fully executed employment registration statement to the Office of Disciplinary Counsel, on a registration form provided by the Louisiana Attorney Disciplinary Board, and approved by the Louisiana Supreme Court.
- (2) The registration form provided for in Section (e)(I) shall include:
 - (i) the identity and bar roll number of the suspended or transferred attorney sought to be hired;
 - (ii) the identity and bar roll number of the attorney having direct supervisory responsibility over the suspended attorney, or the attorney transferred to disability inactive status, throughout the duration of employment or association;
 - (iii) a list of all duties and activities to be assigned to the suspended attorney, or the attorney transferred to disability inactive status, during the period of employment or association;

- (iv) the terms of employment of the suspended attorney, or the attorney transferred to disability inactive status, including method of compensation;
- (iv) a statement by the employing attorney that includes a consent to random compliance audits, to be conducted by the Office of Disciplinary Counsel, at any time during the employment or association of the suspended attorney, or the attorney transferred to disability inactive status; and
- (v) a statement by the employing attorney certifying that the order giving rise to the suspension or transfer of the proposed employee has been provided for review and consideration in advance of employment by the suspended attorney, or the attorney transferred to disability inactive status.
- (3) For purposes of this Rule, the practice of law shall include the following activities:
 - (i) holding oneself out as an attorney or lawyer authorized to practice law:
 - (ii) rendering legal consultation or advice to a client;
 - (iii) appearing on behalf of a client in any hearing or proceeding, or before any judicial officer, arbitrator, mediator, court, public agency, referee, magistrate, commissioner, hearing officer, or governmental body operating in an adjudicative capacity, including submission of pleadings, except as may otherwise be pem1itted by Jaw;
 - (iii) appearing as a representative of the client at a deposition or other discovery matter;
 - (iv) negotiating or transacting any matter for or on behalf of a client with third parties;
 - (v) otherwise engaging in activities defined by law or Supreme Court decision as constituting the practice of law.
- (4) In addition, a suspended lawyer, or a lawyer transferred to disability inactive status, shall not receive, disburse or otherwise handle client funds.
- (5) Upon termination of the suspended attorney, or the attorney transferred to disability inactive status, the employing attorney having direct supervisory authority shall promptly serve upon the Office of Disciplinary Counsel written notice of the termination.

RULE 7.10. FIRM NAMES AND LETTERHEAD

- (a) **False, Misleading, or Deceptive.** A lawyer or law firm shall not use a firm name, logo, letterhead, professional designation, trade name or service mark that violates the provisions of these Rules.
- (b) **Trade Names.** A lawyer or law firm shall not practice under a trade name that implies a connection with a government agency, public or charitable services organization or other professional association, that implies that the firm is something other than a private law firm, or that is otherwise in violation of subdivision (c)(l) of Rule 7.2.
- (c) Advertising Under Trade Name. A lawyer shall not advertise under a trade or fictitious name, except that a lawyer who actually practices under a trade name as authorized by subdivision (b) may use that name in advertisements. A lawyer who advertises under a trade or fictitious name shall be in violation of this Rule unless the same name is the law firm name that appears on the lawyer's letterhead, business cards, office sign, and fee contracts, and appears with the lawyer's signature on pleadings and other legal documents.
- (d) Law Firm with Offices in More Than One Jurisdiction. A law firm with offices in more than one jurisdiction may use the same name in each jurisdiction, but identification of the lawyers in an office of the firm shall indicate the jurisdictional limitations on those not licensed to practice in any jurisdiction where an office is located.
- (e) Name of Public Officer or Former Member in Firm Name. The name of a lawyer holding a public office or formerly associated with a firm shall not be used in the name of a law firm, on its letterhead, or in any communications on its behalf, during any substantial period in which the lawyer is not actively and regularly practicing with the firm.
- (f) **Partnerships and Organizational Business Entities.** Lawyers may state or imply that they practice in a partnership or other organizational business entity only when that is the fact.
- (g) **Deceased or Retired Members of Law Firm.** If otherwise lawful and permitted under these Rules, a law fim1 may use as, or continue to include in, its name, the name or names of one or more deceased or retired members of the law firm, or of a predecessor firm in a continuing line of succession.