COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPREME JUDICIAL COURT
FOR SUFFOLK COUNTY
NO: BD-2020-013

IN RE: Lisa Siegel Belanger

ORDER OF TERM SUSPENSION
IN ACCORANCE WITH MEMORANDUM OF DECISION

This matter came before the Court, Gaziano, J., on an Information and Record of Proceedings pursuant to S.J.C. Rule 4:01, § 8(6), with the Recommendation and Vote of the Board of Bar Overseers (Board) filed by the Board on February 3, 2020.

After the July 14, 2020 hearing was held, attended by assistant bar counsel but not the lawyer, and in accordance with the Memorandum of Decision of this date;

it is ORDERED that:

1. Lisa Siegel Belanger is hereby suspended from the practice of law in the Commonwealth of Massachusetts for a period of two (2) years. In accordance with S.J.C. Rule 4:01, § 17(3), the suspension shall be effective thirty (30) days after the date of the entry of this Order. The lawyer, after the entry of this Order, shall not accept any new retainer or engage as a lawyer for another in any new case or legal matter of any

nature. During the period between the entry date of this Order and its effective date, however, the lawyer may wind up and complete, on behalf of any client, all matters which were pending on the entry date.

It is FURTHER ORDERED that:

2. Within fourteen (14) days of the date of entry of this Order, the lawyer shall:

a) file a notice of withdrawal as of the effective date of the suspension with every court, agency, or tribunal before which a matter is pending, together with a copy of the notices sent pursuant to paragraphs 2(c) and 2(d) of this Order, the client's or clients' place of residence, and the case caption and docket number of the client's or clients' proceedings;

b) resign as of the effective date of the suspension all appointments as guardian, executor, administrator, trustee, attorney-in-fact, or other fiduciary, attaching to the resignation a copy of the notices sent to the wards, heirs, or beneficiaries pursuant to paragraphs 2(c) and 2(d) of this Order, the place of residence of the wards, heirs, or beneficiaries, and the case caption and docket number of the proceedings, if any;

c) provide notice to all clients and to all wards, heirs, and beneficiaries that the lawyer has been

suspended; that she is disqualified from acting as a lawyer after the effective date of the suspension; and that, if not represented by co-counsel, the client, ward, heir, or beneficiary should act promptly to substitute another lawyer or fiduciary or to seek legal advice elsewhere, calling attention to any urgency arising from the circumstances of the case;

d) provide notice to counsel for all parties (or, in the absence of counsel, the parties) in pending matters that the lawyer has been suspended and, as a consequence, is disqualified from acting as a lawyer after the effective date of the suspension;

e) make available to all clients being represented in pending matters any papers or other property to which they are entitled, calling attention to any urgency for obtaining the papers or other property;

f) refund any part of any fees paid in advance that have not been earned; and

g) close every IOLTA, client, trust or other fiduciary account and properly disburse or otherwise transfer all client and fiduciary funds in her possession, custody or control.

All notices required by this paragraph shall be served by certified mail, return receipt requested, in a form approved by

the Board.

3. Within twenty-one (21) days after the date of entry of this Order, the lawyer shall file with the Office of the Bar Counsel an affidavit certifying that the lawyer has fully complied with the provisions of this Order and with bar disciplinary rules. Appended to the affidavit of compliance shall be:

a) a copy of each form of notice, the names and addresses of the clients, wards, heirs, beneficiaries, attorneys, courts and agencies to which notices were sent, and all return receipts or returned mail received up to the date of the affidavit. Supplemental affidavits shall be filed covering subsequent return receipts and returned mail. Such names and addresses of clients shall remain confidential unless otherwise requested in writing by the lawyer or ordered by the court;

b) a schedule showing the location, title and account number of every bank account designated as an IOLTA, client, trust or other fiduciary account and of every account in which the lawyer holds or held as of the entry date of this Order any client, trust or fiduciary funds;

c) a schedule describing the lawyer's disposition of all client and fiduciary funds in the lawyer's possession, custody or control as of the entry date of this Order or

thereafter;

d) such proof of the proper distribution of such funds and the closing of such accounts as has been requested by the bar counsel, including copies of checks and other instruments;

e) a list of all other state, federal and administrative jurisdictions to which the lawyer is admitted to practice;

f) the residence or other street address where communications to the lawyer may thereafter be directed.

The lawyer shall retain copies of all notices sent and shall maintain complete records of the steps taken to comply with the notice requirements of S.J.C. Rule 4:01, § 17; and

g) any and all bar registration cards issued to the lawyer by the Board of Bar Overseers.

4. Within twenty-one (21) days after the entry date of this Order, the lawyer shall file with the Clerk of the Supreme Judicial Court for Suffolk County:

a) a copy of the affidavit of compliance required by paragraph 3 of this Order;

b) a list of all other state, federal and administrative jurisdictions to which the lawyer is admitted to practice; and

c) the residence or other street address where

communications to the lawyer may thereafter be directed.

By the Court, (Gaziano, J.)

/s/ Maura S. Doyle

Maura S. Doyle, Clerk

Entered: February 1, 2021

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPREME JUDICIAL COURT
FOR SUFFOLK COUNTY
NO. BD-2020-013

IN RE: LISA SIEGEL BELANGER

MEMORANDUM OF DECISION

This matter came before me on an information and record of proceedings, and recommendation by the Board of Bar Overseers (board) that the respondent be suspended from the practice of law in the Commonwealth for a period of two years. The board found, inter alia, that the respondent knowingly violated a series of orders and rulings by the Probate and Family Court and made recklessly unfounded accusations in Federal court proceedings against the integrity of several Massachusetts State court judges. For the reasons that follow, I conclude that the board's findings regarding the respondent's misconduct are fully supported in the record, and agree that the appropriate sanction is that the respondent be suspended from the practice of law in the Commonwealth for a period of two years.

1. Background. I summarize the facts adopted by the board as well as those found by a Probate and Family Court judge. After careful review, I am satisfied that these findings of fact are well supported by documents in the record and testimony at

the hearing, as detailed in the hearing committee's report. Notwithstanding the respondent's assertions to the contrary, the only thing irregular or improper about these proceedings has been her own misconduct.

a. Hearing committee's report. The findings in the hearing committee's report were adopted in full by the board. The hearing committee found as follows.

The respondent was admitted to the Massachusetts bar on December 18, 1996. The hearing committee concluded that the respondent has committed numerous violations of the rules of professional conduct, specifically: asserting claims that lacked a basis in fact, Mass. R. Prof. C. 3.1; knowingly disobeying court rulings and orders of the Probate and Family Court, Mass. R. Prof. C. 3.4(c); engaging in conduct involving deceit and dishonesty, Mass. R. Prof. C. 8.4(c); engaging in conduct that is prejudicial to the administration of justice, Mass. R. Prof. C. 8.4(d); engaging in conduct that adversely reflects on her fitness to practice law, Mass. R. Prof. C. 8.4(h); and making allegations concerning the qualifications and integrity of several judges, knowing those statements to be false or with reckless disregard as to their truth or falsity, Mass. R. Prof. C. 8.2. The basis for the hearing committee's and the board's conclusions are found in the following facts.

i. Conduct in Probate and Family Court. This matter arose from a dispute over the guardianship of the respondent's father and the conservatorship of his assets. In April, 2011, the respondent and her family moved into her elderly father's home. Shortly thereafter, he was involuntarily civilly committed pursuant to G. L. c. 123, § 12, and the respondent petitioned the Probate and Family Court seeking appointment as his temporary conservator and guardian. At a hearing on those petitions, the father testified that his children were trying to steal his money, and the court concluded that the father was not in need of a temporary guardian or conservator. Elder Services of Merrimack Valley thereafter moved to intervene; the agency argued that the respondent had attempted to remove approximately $6 million from her father's bank account, while, at the same time, a different agency providing direct services to him was owed more than $21,000 and was threatening to terminate services. The motion to intervene was allowed. At a subsequent hearing, a Probate and Family Court judge appointed an independent temporary guardian and conservator for the respondent's father. The judge found that the respondent had exploited her father financially, causing him "to withdraw $85,000 of which the majority of the funds were disbursed for her personal benefit and/or to achieve the legal objectives to further financially exploit" her father.

As discussed, infra, during the course of this litigation, the Probate and Family Court judge issued a series of temporary orders limiting the respondent's access to her father and her influence over his care. Three times the respondent was found in contempt of court for failing to comply with the terms of some of these orders.

First, on November 8, 2011, the judge issued an emergency order which prohibited the respondent from disrupting her father's general care, medical care, at-home services, and communication with the court-appointed guardian (November 8 order). The judge also prohibited her from "attending or transporting" her father to "any appointment scheduled for him without the written consent of the guardian."

On December 12, 2011, a Probate and Family Court judge held an emergency hearing at which the respondent's father sought an order that the respondent be required to move out of his home because of violations of the November 8 order. Specifically, the respondent's father and his guardian testified that the respondent stopped giving him one of his medications, interfered in his efforts to communicate both with his counsel and with his guardian, and "disappeared with the Father for five or six hours, an incident in which the police had to be called." While acknowledging that it constituted "extremely drastic relief,"

the judge ordered the respondent to move out of her father's home on the ground that she had violated the November 8 order.

In a complaint for contempt dated January 23, 2012, the guardian alleged that the respondent again had violated the November 8 order, this time by gaining access to her father through a ruse in which she pretended to be her sister. The complaint asserted that once she was with her father, the respondent "repeatedly advised the Father that his medications were being poisoned and that his attorneys were against him and not to be trusted." After a hearing, a Probate and Family Court judge entered a judgement of contempt against the respondent "for having gained access to her father knowingly using false pretenses and knowingly without the express authorization of the Guardian." The judgment extended the November 8 order and added new conditions barring the respondent from all access to and communication with her father, other than with express written authorization from the guardian.

Following a trial in June and July of 2012, the judge found that the respondent had "unduly influenced" her father to alter his durable power of attorney in 2011 to "put her in the position of making his medical and financial decisions," and then had caused him to withdraw tens of thousands of dollars of his funds for the respondent's benefit. The judge concluded

that the respondent was not a suitable guardian, and appointed the temporary conservator and guardian as permanent.

On December 15, 2015, the judge held a hearing on the conservator's motion for payment and to strike certain allegations in the respondent's filings. The conservator asserted that the respondent and her sister "continu[ed] with their relentless filing of pleadings," making false statements and distorting the language in other documents. The judge allowed, in part, the conservator's motion to strike, and imposed financial penalties of $2,370 on the respondent and her sister for "blatant misrepresentation" in the course of the ongoing litigation efforts. The judge concluded that "[b]y continuing to raise allegations and opposition to normally routine matter[s] which are not based on facts, the [respondent and her] sister[] are needlessly reducing [the Father's] estate." The respondent refused to pay the sanction. On May 19, 2016, after a subsequent hearing, at which the judge found that the respondent was financially able to pay the amount imposed, the judge again found her in contempt.

On December 6, 2016, the respondent's father's attorney filed a complaint against the respondent for civil contempt. The complaint asserted that the respondent again had gained access to her father, while he was a patient at a local hospital, without the written permission of the guardian. After

an evidentiary hearing, the judge found "a willful violation of a clear and unequivocal order," entered a third judgment of contempt, and ordered the respondent to pay her father's attorney's fees of approximately $2,837.

ii. 2003 Durable Power of Attorney. In 2003, the respondent's father executed a durable power of attorney in her favor. Subsequently, the father executed additional durable powers of attorney. At a hearing on June 14, 2012, the Probate and Family Court judge determined that the most recent durable power of attorney signed by the father was controlling, because he had never been declared judicially incompetent.

iii. Conduct in Federal Court. Since 2015, the respondent has filed two civil actions and three separately-docketed appeals in the Federal courts, on her own behalf and that of her sister, related to her father's finances and the guardianship and conservatorship.

The hearing committee found that, in these filings, the respondent made numerous false statements. Among these were that (1) Judges J1, J2, J3, and J4 of the Probate and Family Court conspired and colluded with the attorneys involved in the probate cases for illicit gain; (2) "Judge [J1] has violated the rules of the Massachusetts Judicial Canon of Ethics . . . knowingly and intentionally to aid and abet the . . . exploitation of the DSL Trust;" (3) "Judge [J3] and Judge [J5]

have knowingly and intentionally facilitated embezzlement in several probate matters over a long established period of time;" (4) "Judge [J1] had a prior history of demonstrated corruption;" (5) "Judge [J1] and Judge [J2] . . . engaged in communications outside the court with designated Defendants; colluding to facilitate financial exploitation in" the guardianship case; (6) "The embeddedness of the . . . criminal enterprise in the Massachusetts Probate & Family Courts is illustrated by Massachusetts Appeals Court Justice [J6]'s apparent use of the Suffolk Probate and Family Court to money launder embezzled funds;" and (7) "The [Supreme Judicial Court and . . . Probate & Family Court] and/or through [their] officers, agents, servants and employees have engaged in fraudulent and deceptive acts in furtherance of depriving Plaintiff Daughters of equal protection under the law."

iv. Disciplinary proceedings. On May 25, 2018, bar counsel initiated disciplinary proceedings against the respondent by filing and serving a petition for discipline. The respondent answered the petition on June 15, 2018, and on June 29, 2018, the matter was assigned to a hearing committee of the board. On August 20, 2018, a prehearing conference was held at which the respondent moved orally to recuse one of the hearing committee's members. An order allowing the respondent's motion to recuse was issued on August 21, 2018.

In September, 2018, bar counsel and the respondent filed separate motions for orders of issue preclusion. On the same day, the respondent also filed a motion for discovery and for bar counsel to provide a more definite statement of the charges. The chair of the hearing committee denied both motions. The chair thereafter denied the respondent's motion for issue preclusion and allowed, in part, bar counsel's motion for an order of issue preclusion. In November, 2018, bar counsel filed a motion in limine to preclude evidence; the chair allowed this motion in part.

A hearing on the petition for discipline was held on January 8 and 9, 2019. Forty exhibits were introduced in evidence. The respondent was the only witness to testify. On the second day of the hearing, the respondent asserted that the hearing committee's questions to her constituted harassment and abuse, and thereafter declined to answer further questions.

After the hearing, the parties were asked to file requests for findings of fact and conclusions of law. Bar counsel ultimately submitted her requests at the end of April, 2019; the respondent did not file anything. In June, 2019, the hearing committee issued its report and recommendation that the respondent be suspended from the practice of law in the Commonwealth for two years. The respondent appealed to the board. On November 12, 2019, the board met and heard argument

on the respondent's appeal. On January 13, 2020, the board issued a decision adopting the hearing committee's recommended sanction, with an additional recommendation that, if the single justice chose to impose a sanction of less than one year's suspension, the respondent nonetheless be required to petition for reinstatement and to prove that she had addressed the shortcomings noted by the board.

In February, 2020, bar counsel filed the information in this court, seeking a sanction of a suspension of two years. The respondent subsequently undertook efforts, opposed by bar counsel, to remove the matter to Federal court. The respondent thereafter repeatedly rejected notices of videoconferencing hearing dates (issued pursuant to then-existing COVID-19 protocols) on the ground that she was constitutionally entitled to an in-person hearing before this court. Ultimately, an in-person hearing was conducted at the John Adams Courthouse on July 14, 2020, at which bar counsel appeared. The respondent, despite her insistence on an in-person hearing, declined to attend. The respondent subsequently submitted numerous materials asserting, among other things, that she was being targeted as a whistle blower for having exposed wrongdoing in her father's care.

b. Hearing committee's rulings. As stated, the respondent admitted to much of the conduct asserted by bar counsel, and did

not object to any of bar counsel's forty exhibits. Prior to the hearing, the respondent had sought to introduce testimony and documentary evidence with respect to several of bar counsel's claims, particularly relative to her state of mind when she undertook certain actions. The respondent, however, did not provide bar counsel or the board their requested lists of witnesses and copies of proposed exhibits. Accordingly, counsel's subsequent motion to preclude additional documentary evidence and testimony on these issues was allowed in part. The respondent was permitted to testify herself, and to make a proffer of other documentary evidence or testimony, the proffer subject to objection by bar counsel.

Given the chair's rulings on issue preclusion, the factual determinations before the hearing committee were limited to three issues. Each are discussed in turn.

i. Respondent's state of mind when she violated the November 8 order. The hearing committee concluded that the respondent violated the rules of professional conduct by repeatedly arguing, after consistently having been told otherwise, that the 2003 durable power of attorney was controlling or valid; the committee found that these assertions also were misstatements of law. See General Laws c. 190B, § 5-503(a). The respondent's conduct in asserting frivolous claims

that lacked a basis in law or fact violated Mass. R. Prof. C. 3.1.

The hearing committee also concluded that the respondent's conduct in knowingly disobeying the rulings of the Probate and Family Court was a violation of Mass. R. Prof. C. 3.4(c). The respondent repeatedly violated Probate and Family Court orders and, when given the opportunity to explain her actions, she was unable to do so, and instead responded with further allegations without a basis in fact and lacking evidence.

The hearing committee also concluded that the respondent had engaged in deceit and dishonest conduct in disobeying an order of the Probate and Family Court, in violation of Mass. R. Prof. C. 8.4(c), (d), and (h), when she impersonated her sister and knowingly attempted to circumvent the guardian's authority. In addition, the respondent’s repeated and frivolous insistence that the 2003 durable power of attorney was in effect, and her intentional violation of court orders, wasted time and resources and therefore harmed the administration of justice.

The hearing committee determined that bar counsel had proved that the respondent knowingly violated the November 8 order by pretending to be her sister, signing herself into the hospital where her father was a patient, and remaining there with him. As the committee noted, the second judgment of contempt, which expanded the November 8 order, provided that the

respondent "is not permitted any access to . . . [her father], nor shall she be permitted any communication with him . . . except by the express written authorization of the Guardian." The subsequent order to vacate did not include a finding as to the respondent's state of mind when she violated the November 8 order. When the committee asked specifically about her state of mind at that time, however, her answers were non-responsive to the question and vague. Based on these responses, and after reviewing the transcript of the December 12, 2011 hearing in the Probate and Family Court, the hearing committee found that the respondent was aware of the November 8 order, understood what it prohibited, and intentionally interfered with her father's medical care and services, as well as his access to counsel. The committee thus concluded that the respondent knowingly violated the November 8 order.

ii. Respondent's ongoing claims that 2003 durable power of attorney was valid and controlling. After the Probate and Family Court judge made a specific finding that all powers of attorney had been revoked, the respondent repeatedly claimed that a 2003 durable power of attorney appointing her to manage her father's financial affairs and his medical care was valid and controlling. The hearing committee found that the respondent made these claims despite her knowledge that the most recent durable power of attorney, designating the father's

accountant, was controlling, and her attendance at a hearing on August 17, 2011, at which the judge had the temporary conservator revoke all powers of attorney. At that hearing, the judge specifically asked the respondent if she understood that the orders meant that she was to no longer empowered to act for her father, including financially; the respondent asserted that she understood. The Probate and Family Court also sent the respondent and her sister notices of "Revocation of Durable Power of Attorney" on September 6, 2011, which revoked an April 7, 2011 durable power of attorney designating the respondent, as well as "any and all other Powers of Attorney, Durable or otherwise, which [the father] may have executed from the beginning of time in which either [the respondent or her sister] is named as his attorney in fact or alternate attorney in fact." At the disciplinary hearing, the respondent conceded that she had received this notice of revocation.

The hearing committee pointed out that, notwithstanding the August 2011 hearing, and acknowledge receipt of the order of revocation, the respondent subsequently continued to argue that the 2003 durable power of attorney designating her was valid. She did so at the trial on June 27, 2012; in a Federal complaint on February 12, 2015; in an amended complaint after that Federal complaint was dismissed, in which she again argued for the validity of the 2003 power of attorney; and in a second amended

complaint. The respondent made these representations despite being told repeatedly at hearings that they were inaccurate and incorrect, and after having been sanctioned by a Probate and Family Court judge, in part, for making blatant misrepresentations when she made similar assertions.

The board determined that the respondent's repeated insistence that the 2003 durable power of attorney was in effect, and her intentional violation of court orders, wasted time and resources and therefore harmed the administration of justice. The respondent presented her claims purportedly based on her own personal knowledge, misrepresenting that she had evidence in support of these claims, which she in fact did not have. She offered no evidence that she had conducted any "reasonably diligent inquiry prior to making [the allegations]." See Matter of Diviacchi, 475 Mass. 1013, 1020, 32 Mass. Att'y Disc. R. 268, 280 (2016). Cf. Matter of Zimmerman, 17 Mass. Att'y Disc. R. 633, 646 (2001). Citing the hearing committee's examples of the respondent's knowing violations of Probate and Family Court orders, as well as the respondent's inability to offer a coherent rationale for her actions, the board concluded that the respondent's conduct in engaging in deceit and dishonesty and disobeying an order of the Probate and Family Court violated Mass. R. Prof. C. 8.4(c).

iii. Allegations about qualifications and integrity of Probate and Family Court judges. The hearing committee and the board found that the respondent's assertions regarding the qualifications and integrity of multiple judges of the Probate and Family Court, as well as the Appeals Court, were made knowing the statements to be false or with reckless disregard as to their truth or falsity, and thus were in violation of Mass. R. Prof. C. 8.2 and 8.4(c), (d), and (h).

As discussed, a Probate and Family Court judge had found the respondent knowingly violated the November 8 order by pretending to be her sister, signing herself into the hospital where their father was a patient, and remaining there with him. Consequently, the judge expanded the November 8 order that the respondent "is not permitted any access to . . . [her father], nor shall she be permitted any communication with him . . . except by the express written authorization of the Guardian." The subsequent order to vacate her father's house, on December 12, 2011, did not include a finding as to the respondent's state of mind when she violated the expanded November 8 order. When asked about her state of mind at the disciplinary hearing, however, the respondent's answers to specific questions again were vague and not on topic. Based on the respondent's answer, and after having reviewing the transcript of the hearing on the motion to vacate, the hearing

committee and the board concluded that the respondent was aware of the November 8 order, understood what it prohibited, and intentionally interfered with her father's medical care and services, as well as his access to counsel. Accordingly, the hearing committee determined it was clear from the facts that the respondent knowingly violated the expanded November 8 order.

Citing the hearing committee's conclusion, the board found that the respondent's actions had had a profound impact on the administration of justice, in violation of Mass. R. Prof. C. 8.4(d), and reflected adversely on her fitness to practice law, in violation of Mass. R. Prof. C. 8.4(h). The board concluded that the respondent was either recklessly indifferent to the mandates of the rules of professional conduct, or else genuinely does not understand the rules and conventions of litigation.

In recommending a suspension from the practice of law for two years, the hearing committee identified eight factors in aggravation, and none in mitigation. The committee set forth as purported aggravating factors that the respondent (1) refused to participate fully in the disciplinary process; (2) blamed others in an effort to deflect attention away from her own misconduct; (3) used invective towards the Committee; (4) did not acknowledge her wrongful acts and displayed an "utter lack of familiarity with or attention to even basic ethical principles";

(5) lacked candor; (6) had engaged in multiple violations of the rules of professional conduct; (7) had taken advantage of vulnerable third parties; and (8) had engaged in uncharged misconduct.

The board adopted some of the asserted aggravating factors, and agreed with the hearing committee's recommended sanction of a suspension from the practice of law for two years. The board additionally recommended that, should the single justice impose a sanction of less than one year's suspension, the respondent nonetheless be required to petition for reinstatement at which she would be required to prove that she had "developed an appreciation for her ethical duties as a lawyer" and that she had "taken steps to address the lack of self-control and inappropriate compartment" that the board and the hearing committee had observed at their respective hearings..

2. Discussion. In an attorney disciplinary proceeding, bar counsel bears the burden of proof. See In re Driscoll, 447 Mass. 678, 685 (2006). "The subsidiary findings of the hearing committee, as adopted by the board, 'shall be upheld if supported by substantial evidence,' see S.J.C. Rule 4:01, § 18(5). . . ." In re Weiss, 474 Mass. 1001, 1001 n.1 (2016). "While we review the entire record and consider whatever detracts from the weight of the board's conclusion, as long as there is substantial evidence, we do not disturb the board's

finding, even if we would have come to a different conclusion if considering the matter de novo." Matter of Curry, 450 Mass. 503, 519 (2008), quoting Matter of Segal, 430 Mass. 359, 364 (1999).

a. Challenges to hearing committee's and board's findings. "The hearing committee is the sole judge of credibility, and arguments hinging on such determinations generally fall outside the proper scope of our review." In re Diviacchi, 475 Mass. 1013, 1018-1019 (2016), quoting Matter of McBride, 449 Mass. 154, 161-162 (2007). "The hearing committee's determination of intent is treated as a determination of credibility." In re Murray, 455 Mass. 872, 882 (2010).

In challenging the board's decision, the respondent contends that certain findings of fact made by the hearing committee and adopted by the board are not supported by substantial evidence. The respondent, however, has not provided any alternative reasoning or explanation, or pointed to any other evidence, for the facts concerning her underlying intentions that the hearing committee found. The facts found by the hearing committee and the board, and the conclusions that they drew therefrom, are amply supported in the record and the transcripts of the proceedings. There was no error in the hearing board's conclusion that the respondent knowingly violated multiple Rules of Professional Conduct.

b. Board's findings on violations of rules of professional conduct. The board found, as bar counsel had alleged, that the respondent violated Mass. R. Prof. C. 3.1 (presenting claims that lacked a basis in fact); Mass. R. Prof. C. 3.4(c) (knowingly disobeying court orders); Mass. R. Prof. C. 8.4(c) (engaging in conduct involving deceit and dishonesty; Mass. R. Prof. C. 8.4(d) (conduct that is prejudicial to the administration of justice); Mass. R. Prof. C. 8.4(h) (engaging in conduct that adversely reflects on fitness to practice law); and Mass. R. Prof. C. 8.2 (making allegations in court and court filings knowing those statements to be false or with reckless disregard as to their truth or falsity). The board's determination that each of these rules was violated was entirely correct and fully supported by the record.

i. Mass. R. Prof. C. 3.1. Rule 1(g) of the Rules of Professional Conduct defines "knowingly" as "actual knowledge of the fact in question. A person's knowledge may be inferred from circumstances."

The board's determination that the respondent knowingly and repeatedly claimed and sought a judicial declaration stating that the 2003 power of attorney was controlling, when she knew it was not, is amply supported in the record. The respondent made these assertions repeatedly in motions filed in State and Federal Courts, notwithstanding orders by the Probate and Family

Court empowering the conservator to revoke all powers of attorney, of which the respondent was aware, the notice of revocation sent to her house, and Probate and Family Court motion judges' explanations to her at several hearings. The board properly concluded that the respondent's conduct was in violation of Mass. R. Prof. C. 3.1, because the respondent asserted claims that she knew lacked a basis in law or fact.

ii. Mass. R. Prof. C. 3.4. The board's conclusion that the respondent knowingly disobeyed orders of the Probate and Family Court, in violation of Mass. R. Prof. C. 3.4(c), which provides that attorneys must deal with fairness to opposing parties and counsel, also is amply supported by the record. The respondent repeatedly violated Probate and Family Court orders and, when given the opportunity to explain her actions, she was unable to do so; indeed, she then made further allegations, unsupported by testimony or documentary evidence, which she knew were without a basis in fact and lacking in evidence.

iii. Mass. R. Prof. C. 8.4 (c), (d), and (h). The board determined that: the respondent had engaged in deceit and dishonesty by disobeying an order of the Probate and Family Court when she impersonated her sister and knowingly attempted to circumvent the guardian's authority violated Mass. R. Prof. C. 8.4(c), (d), and (h); the respondent's repeated and frivolous insistence that the 2003 durable power of attorney was in

effect, and her intentional violation of court orders, wasted time and resources and therefore harmed the administration of justice; and the respondent's actions had a profound impact on the administration of justice, in violation of rule 8.4(d), and reflected adversely on her fitness to practice, in violation of rule 8.4(h). These findings are fully justified by the respondent's filings and statements at various hearings in the Probate and Family Court, in addition to her testimony before the hearing committee, as is the board's conclusion that the respondent either was recklessly indifferent to the mandates of the rules of professional conduct or genuinely does not understand the rules and conventions of litigation.

iv. Mass. R. Prof. C. 8.4 (h). The board concluded that the respondent engaged in conduct that adversely reflects on her fitness to practice law. The respondent (1) sued forty defendants, all of whom therefore were required to respond and many of whom retained counsel to do so; (2) filed a complaint that was rambling and incoherent; and (3) included nearly three hundred and ninety-three exhibits, totaling over four thousand pages, yet did not submit proposed lists of witnesses or copies of intended exhibits, despite repeated requests by the chair of the hearing committee. Moreover, even though her multiple motions for extensions of time were allowed, the respondent did not comply with even one of the deadlines established by the

chair of the hearing committee or the board. Based on this as well as the respondent's conduct at the disciplinary proceedings, the board concluded that the respondent either was recklessly indifferent to the mandates of the rules or genuinely does not understand the rules and conventions of litigation.

The examples cited by the board fully support a conclusion that the respondent could not have believed her complaints in the Federal court set forth a "short and plain statement of the claim" as contemplated by the Federal rules. I discern no error in the board's determination that the respondent has demonstrated a lack of fitness to practice law.

Mass. R. Prof. C. 8.2. The board concluded, and I agree, that the respondent made allegations concerning the qualifications and integrity of several judges in the Probate and Family Court, and the Appeals Court, knowing those statements to be false or with reckless disregard as to their truth or falsity. This conduct undoubtedly violated Mass. R. Prof. C. 8.2.

Having concluded that the board's findings the respondent violated the rules of professional conduct as asserted by bar counsel are correct and proper on this record, I turn to consideration of the appropriate sanction.

c. Appropriate sanction. A reviewing court "afford[s] substantial deference to the board's recommended disciplinary

sanction," Matter of Griffith, 440 Mass. 500, 507 (2003), but also independently considers "what measure of discipline is necessary to protect the public and deter other attorneys from the same behavior." Matter of Lupo, 447 Mass. 345, 356 (2006), quoting Matter of Concemi, 422 Mass. 326, 329 (1996). "Although the effect upon the respondent lawyer in any discipline case is an important consideration," Matter of Finnerty, 418 Mass. 821, 829 (1994), when reviewing a disciplinary sanction, the court's overriding consideration is "the effect upon and perception of, the public and the bar." Matter of Kerlinsky, 423 Mass. 656, 664 (1983). A particular sanction is appropriate, in part, because it is not "markedly disparate from judgments in comparable cases." In re Foley, 439 Mass. 324, 333 (2003). At the same time, however, "[e]ach case must be decided on its own merits and every offending attorney must receive the disposition most appropriate in the circumstances." Matter of Murray, 455 Mass. 872, 883 (2010), quoting Matter of Discipline of an Attorney, 392 Mass. 827, 837 (1984).

The board noted the difficulties in imposing a sanction in this case that is not markedly disparate from sanctions imposed for similar misconduct in other cases. In discussing the appropriate sanction, the board began by noting,

> "This is a serious and troubling case. In addition to the respondent's misbehavior in the underlying litigations (multiple, intentional violations of court orders; false

> statements in court; false and inflammatory allegations about judges; attempts to take advantage of her vulnerable father), we and the hearing committee witnessed for ourselves her utter lack of respect for the bar discipline process, her apparently willful ignorance of her ethical obligations as a lawyer, and her lack of insight into her own misconduct."

I agree with the board's conclusion that a two-year suspension is the appropriate sanction in this case. As the board pointed out in the cases it discussed with respect to each individual violation of the rules, the typical sanction for a number of the rules the respondent violated is one of several months, or at most a year. The board clearly anticipated the possibility of a lower sanction in its recommendation that, if a sanction of less than one year is imposed, the respondent still be subjected to a reinstatement proceeding at which she would be required to demonstrate her then-current fitness to practice law.

Nonetheless, the respondent's actions included instances of serious misconduct. As the hearing committee and the board emphasized, the respondent’s misconduct in the Probate and Family Court included knowingly asserting claims that lacked a basis in fact; knowingly disobeying Court rulings and orders; engaging in deceit and dishonesty; and impugning the qualifications and integrity of several judges, knowing the statements to be false or with reckless disregard to their truth or falsity. The respondent acted in ways that are prejudicial

to the administration of justice, and forced numerous others to have to defend themselves against frivolous and extensive court proceedings. In particular, the respondent's unsupported attacks on the integrity of judges in the Commonwealth, and her repeated assertions of claims that lacked any basis in law or fact, support the conclusion that the respondent is unfit to practice law.

The respondent also apparently continually rejected opportunities to defend herself. While claiming that multiple hearings, including the proceedings before the board, were unfair and those conducting the hearings were biased against her, the respondent was not willing to adhere to established procedures in order to challenge the facts alleged by bar counsel, or to introduce evidence in support of her own assertions, and declined to appear at the in-person hearing before me that she repeatedly requested, giving further support to the determination that the respondent lacks a basic understanding of the rules of professional conduct and her obligations as a member of the bar.

As the board noted, the circumstances of this case are highly unusual, and it is difficult to find other cases which contain a similar collection of misconduct. Given the multiple violations of the rules at issue here, "consideration of the cumulative effect of [these] violations is proper." Matter of

Saab, 406 Mass. 315, 327 (1989). In seeking to support its recommended sanction of a two-year suspension, the hearing committee noted that, "We have reviewed other cases imposing a two-year suspension and find the conduct featured there, while different from the respondent's, to be no worse than hers." I agree. While the circumstances are unique, when the multiple violations of the rules are considered in combination, I agree that a two-year suspension is warranted. "Even minor violations, when aggregated, can result in a substantial sanction exceeding what each alone would receive." Matter of Saab, supra at 326-327. Indeed, the full court has noted that "cumulative and wide-ranging misconduct may warrant the sanction of disbarment, even if the individual instances of unethical conduct would not warrant so severe a sanction." Matter of Crossen, 450 Mass. 533, 574 (2008).

Turning to one of the serious violations alone, making false statements or deliberate misrepresentations to the court, not in a proceeding under oath, typically results in a suspension of one year and one day. See, e.g., Matter of Shaw, 427 Mass. 764, 768 (1998); Matter of McCarthy, 415 Mass. 423, 431-432 (1993) (eliciting false testimony and presenting false documents to rent control board); Matter of Neitlich, 413 Mass. 416, 421 (1992) (misrepresentations in real estate transaction). In some circumstances, however, sanctions for such

misrepresentations may be longer. See, e.g., Matter of Foley, 439 Mass. 324, 339 (2003) (three-year suspension for assisting and encouraging client to prepare fabricated defense in criminal case that ultimately was nol prossed); Matter of Gross, 435 Mass. 445 (2001) (eighteen-month suspension for soliciting client and alibi witness to engage in scheme of impersonation before court); Matter of Gleason, 10 Mass. Att'y Disc. R. 141 (1994) (two-year suspension). But see, e.g., Matter of Finn, 433 Mass. 418, 426 (2001) (three-month suspension for false statements and material omissions on bar application, given three mitigating factors); Matter of McGarvey, 15 Mass. Att'y Disc. R. 390, 391 (1999) (two-month suspension for falsely answering "no" to question on bar application concerning prior discipline in any other profession); Matter of Ruzzo, 10 Mass. Att'y Disc. R. 233, 233 (1994) (one-suspension for falsely answering "no" to one question and leaving another question blank in bar application).

Some of the respondent's other misconduct, however, typically results in much longer sanctions. The sanctions imposed where respondents disparaged or attacked sitting judges in court filings or during court proceedings are illustrative. One case involving certain similarities to some of the respondent's misconduct is Matter of Cobb, 445 Mass. 452, 480 (2005). The respondent in that case was disbarred, amongst

other misconduct, for having converted client funds and having made misrepresentations to the court. Here, of course, the respondent did not engage in any misconduct, and was not charged with, violations concerning client funds, but the two respondents' unsupported allegations against judges are similar. There, the respondent made statements critical of a presiding judge, impugning the judge's integrity, without any reasonable basis in fact, although the respondent in that case was not charged with a violation of Mass. R. Prof. C. 8.2. The respondent in Cobb did not dispute the statements or their lack of basis, but claimed that they were protected speech under the First Amendment to the United States Constitution. Matter of Cobb, supra at 467. The full court noted that "[u]nwarranted public suggestion by an attorney that a judicial officer is motivated by criminal purposes and considerations does nothing but weaken and erode the public's confidence in an impartial adjudicatory process." Id. at 471.

In Matter of Crossen, 450 Mass at 456, the respondent participated in an "intricate plan" (far beyond the statements and accusations at issue here) to discredit a sitting judge. The full court determined that a sanction of disbarment was appropriate where "[t]he record leaves no doubt that [the respondent] was a willing participant, and at times a driving force, in a web of false, deceptive, and threatening behavior

designed to impugn the integrity of a sitting judge in order to obtain a result favorable to his clients."

In Matter of Kurker, 18 Mass. Att'y Disc. R. 353 (2002), the respondent was suspended for a year and a day for violating Mass. R. Prof. C. 3.1, 8.2, 8.4(d) and 8.4(h), after a family dispute resulted in five lawsuits and twelve appeals, all ultimately resolved against him. Like the respondent in the present case, he attributed his defeats to a conspiracy involving members of an opposing law firms and judges ruling against him, while providing no evidence to support his claims. The single justice determined that the respondent in that case had violated Mass. R. Prof. C. 8.2 in part because he "made statements that he knew were false, or with reckless disregard for their truth or falsity concerning the integrity of judges." Matter of Kurker, supra at 355. Here, the record also reveals a pattern of misconduct involving repeated false statements concerning the integrity of multiple judges.

In Matter of Wilson, 32 Mass. Att'y Disc. R. 617 (2016), the respondent was suspended for a year and a day for multiple violations of the rules of professional conduct. Among them, he was rude, intemperate, and insulting to the presiding judge. The court held that, "[t]he respondent's behavior was sufficiently disrespectful and disruptive to warrant the one year and one day suspension . . . [since he] made baseless

allegations regarding the fitness, qualifications, and integrity of numerous judges." Wilson, supra at 635.

In Matter of Harrington, 27 Mass. Att'y Disc. R. 432 (2011), a respondent was suspended for a year and a day after he became convinced that the judge presiding over his post-divorce proceedings was biased against him. As with the misconduct at issue here, the respondent in Harrington accused that judge, in various motions to recuse, of acting "corruptly and dishonestly." He also accused another judge of conspiring with the presiding judge and attempting to subvert the legal process. Id. at 432-433.

In light of this, I conclude that a suspension from the practice of law in the Commonwealth for a period of two years is an appropriate sanction. Lastly, I consider whether the sanction should be modified after weighing any mitigating or aggravating factors. See Matter of Balliro, 453 Mass. 75, 86 (2009). I agree with the board that there are no mitigating factors here. I reject most of the hearing committee's and the board's asserted aggravating factors, which essentially are parts of the asserted violations themselves. The board noted three aggravating factors that are appropriately considered in deciding the sanction to be imposed, i.e., the respondent's refusal to participate fully in the disciplinary process, see the multiple disciplinary violations, see Matter of Crossen, 450

Mass. at 580; and uncharged misconduct, see Matter of Strauss, 479 Mass 294, 299-300 & n.9 (2018), citing Matter of the Discipline of an Attorney, 448 Mass. 819, 825 n.6 (2007).

6. Conclusion. An order shall enter suspending the respondent from the practice of law in the Commonwealth for a period of two years.

By the Court,

/s/ Frank M. Gaziano
Frank M. Gaziano
Associate Justice

Entered: February 1, 2021