

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPREME JUDICIAL COURT
FOR SUFFOLK COUNTY
BD-2022-12

IN RE: MAUDE LAROCHE-ST. FLEUR



MEMORANDUM OF DECISION

This matter comes before me on the information and record of proceedings filed by the Board of Bar Overseers (board). The board recommends that the respondent, Maude Laroche-St. Fleur, be suspended from the practice of law for eighteen months. This recommendation is based on the board's determination that the respondent committed three types of professional misconduct related to her conduct in her divorce proceedings: knowingly filing false financial statements under oath, willful disregard of court orders resulting in multiple judgments of contempt, and engaging in frivolous litigation. After hearing, upon consideration, and for the reasons that follow, I find that substantial evidence supports the board's findings and agree with the board's recommendation. I therefore order an eighteen-month suspension from the practice of law.

Background. In 2014, the respondent filed a complaint for divorce against her husband.¹ The proceedings were focused on

¹ The respondent appeared pro se in her divorce proceeding.

the division of assets, primarily the marital home and the husband's 401(k) plan savings. Over the course of the divorce, the respondent filed personal financial statements with the court wherein she claimed to have a mortgage on the marital home and an outstanding loan from her son, and wherein she did not disclose certain bank accounts. In an attempt to gather the information required to move forward with the division of assets, the trial court, in January 2015, appointed a special discovery master. The respondent failed to cooperate with the special discovery master and in April 2015, the trial court found the respondent in contempt. As a result, the trial court ordered the respondent to pay the fees associated with the special discovery master's work, and when the respondent failed to pay the fees, the trial court, in December 2015, again held the respondent in contempt.

After a two-day trial held in November 2015, the trial court issued a judgment of divorce and ordered the respondent to sell the marital home, with her husband to share equally in the proceeds from the sale. The respondent appealed, and in 2017 the Appeals Court affirmed the trial court's judgment, with this court declining to grant further appellate review. In 2018, after the respondent failed to act to sell the marital home in accordance with the judgment, the trial court once again found the respondent in contempt. In the judgment of contempt, the

court, pursuant to Mass. R. Dom. P. 70, appointed an attorney to oversee the sale and ordered the respondent to pay his associated fees. The respondent largely refused to cooperate with him.

In February 2018, the respondent filed a motion for relief from judgment pursuant to Mass. R. Dom. P. 60(b), which the trial court denied. Upon appeal, the Appeals Court affirmed the trial court's decision and this court declined to grant further appellate review.

Disciplinary proceedings. In June 2020, bar counsel filed and served a petition for discipline against the respondent, alleging, in three counts, that:

- (1) the respondent's misrepresentations to the Probate Court constituted violations of Mass. R. Prof. C. 3.3(a)(1) (knowingly making a false statement of fact or law to a tribunal or failure to correct a false statement of material fact previously made to the tribunal), 3.3(a)(3) (knowing offer of evidence a lawyer knows to be false; failure to take remedial measures), and 8.4(c) (dishonesty, deceit, misrepresentation, or fraud);
- (2) the respondent's behavior that led to her contempt judgments constituted violations of Mass. R. Prof. C. 3.4(c) (knowing disobedience of obligation under rules of

tribunal) and 8.4(d) (conduct prejudicial to the administration of justice); and

- (3) the respondent's repeated follow-up litigation constituted violations of Mass. R. Prof. C. 3.1 (frivolous claims) and 8.4(d) (conduct prejudicial to the administration of justice).

In August 2020, the respondent filed an answer essentially admitting to the facts as alleged, but denying that the facts constituted the violations brought against her, as well as offering various explanations for her conduct. The matter was referred to a hearing committee of the board (committee). In November 2020, bar counsel filed a motion to preclude the respondent from relitigating certain facts that bar counsel argued were established in the prior divorce and contempt proceedings. In a January 2021 Final Order, the chair of the committee allowed the bar counsel's unopposed motion.

Specifically, the order gave preclusive effect to the April 2015, December 2015, and February 2018 probate court contempt judgments, discussed above, that formed the basis of the second count of the petition for discipline.

On March 23 and 24, 2021, the committee conducted a two-day hearing on the petition for discipline against the respondent. On October 21, 2021, it issued a report of its findings of fact and conclusions that bar counsel had established the misconduct

alleged in the petition. The report recommended that, considering all mitigation and aggravating factors, the respondent be suspended for eighteen months. After considering the record, a majority of the board voted to adopt the findings and conclusions of the hearing committee and to recommend to the court that the respondent be suspended from the practice of law for eighteen months. One member dissented.

Discussion. "The standard of review for bar discipline cases is well-established. '[T]he findings and recommendations of the board, though not binding on [the Supreme Judicial Court], are entitled to great weight.'" Matter of Lupo, 447 Mass. 345, 356 (2007), quoting Matter of Hiss, 368 Mass. 447, 461 (1975). We uphold the board's subsidiary findings "if supported by substantial evidence, upon consideration of the record, or such portions as may be cited by the parties." S.J.C. Rule 4:01, § 8 (6).

As an initial matter, the board contends that the respondent failed to appeal from the committee's report. This assertion is supported by the record: no such appeal appears on the docket of the disciplinary proceedings, and nothing else in the record suggests that the appeal was taken. Pursuant to Section 3.50(c) of the Rules of the Board of Bar Overseers, a party who fails to properly appeal from a committee's report "will be conclusively deemed to have waived all objections to

the findings, conclusions and recommendations of the hearing committee." On this basis alone, I consider the board's findings and conclusions that the respondent committed the alleged violations, which were based on the committee's report, to be established. See In the Matter of Daniel Boyce, 25 Mass. Att'y Disc. R. 74 (2009).

Although the respondent's waiver is sufficient grounds to establish her violations, her arguments on the merits also fail. The board found that bar counsel had established the violations laid out in the three counts discussed supra. In her brief on appeal the respondent makes some objections to the board's factual findings, but ultimately does not contest the relevant facts underlying the violations. In her defense, she chiefly offers various reasons explaining why she committed her misconduct, or impermissibly seeks to relitigate issues already decided in her divorce proceedings.

As to count one, the board found that the respondent made misrepresentations on financial statements submitted to the trial court during her divorce proceedings. The respondent admits to falsifying personal financial statements submitted to the trial court. Specifically, she admits entering a mortgage amount into the financial statement despite knowing that the mortgage on the family house had been paid in full. Her assertion that her misrepresentations were justified -- e.g.,

that the reason she entered a mortgage amount was to conceal the money she owes her son so he would be less of a target for kidnappers in Haiti -- may have possible relevance as a mitigating factor, but does not change the fact that the misrepresentations occurred. I therefore find that there is substantial evidence to support the board's finding that the respondent knowingly and intentionally misrepresented material facts regarding her finances, in violation of Mass. R. Prof. C. 3.3(a)(1), 3.3(a)(3), and 8.4(c).

On count two, the board found that the respondent had been adjudged in contempt three times for failing to obey the orders of the probate and family court. In response, the respondent argues various reasons why each contempt judgment was wrongly entered. Regarding the April 2015 contempt judgment, the respondent argues that opposing counsel falsely claimed that she failed to cooperate. Additionally, she argues that the trial court's order was ambiguous as to when payment needed to be made. Regarding the December 2015 contempt judgment, the respondent admits that she failed to pay the fees related to the special discovery master. She asserts that her disobedience is a result of being unable to pay the fees, as she is the sole caretaker of her son and is also a sole practitioner. Regarding the final contempt judgment, February 2018, the respondent admits to not selling the family house. However, she asserts

that the contempt judgment is based on factual findings not supported by the record and takes issue with the trial court's refusal to allow supplemental fact finding.

Based on the Final Order by the committee chair from January 2021, the three contempt judgments at issue are precluded from further litigation and appeal. See Bar Counsel v. Board of Bar Overseers, 420 Mass. 6 (1995) (attorneys are precluded from relitigating issues in a disciplinary proceeding that have already been litigated in prior court proceedings). In any event, the violations of the court orders that led to the three contempt judgments each have ample support in the record, and I therefore find that there is substantial evidence to support the board's finding that the respondent violated Mass. R. Prof. C. 3.4(c) and 8.4(d).

On count three, the board found that the respondent's various and repeated attempts to challenge the outcome of the divorce proceedings constituted frivolous litigation and that her motion for relief under 60(b) was untimely. The respondent admits to raising her arguments on this issue in prior proceedings and also admits that the probate court had proper jurisdiction over her divorce proceeding. However, she alleges that errors by the divorce trial judge make her continued litigation meritorious and her motion for appeal timely. She asserts that that trial court allowed her to submit additional

documents to the record but failed to consider them, so the final judgment is inequitable. The record reveals no support for the respondent's contention that her Rule 60 motion is timely, and her arguments therein have already been repeatedly heard and rejected, by both trial and appellate courts. Consequently, I find that there is substantial evidence to support the board's finding that the respondent violated Mass. R. Prof. C. 3.1 and 8.4(d).

Disposition. "We generally afford substantial deference to the board's recommended disciplinary sanction," upon determination that it is not "markedly disparate" from the sanction imposed in other similar cases. Matter of Griffith, 440 Mass. 500, 507 (2003).

In Matter of Finnerty, 418 Mass. 821 (1994) the board recommended a six-month suspension for willful failure to disclose financial information during a divorce proceeding. Beyond the divorce context, in Matter of Diviacchi, 475 Mass. 1013 (2016), the board recommended no less than a two-year suspension for an attorney who misrepresented financial statements to the tribunal. In Matter of Okai, 11 Mass. Att'y Disc. R. 187 (1995) (Board Memorandum), the board found that four contempt judgments, a frivolous appeal, and attempts to hide assets warranted a one-year suspension.

Here, the respondent engaged in financial misrepresentation, was found in contempt several times, and engaged in frivolous litigation, as in Finnerty, Diviacchi, and Okai, respectively. Given that the respondent in this case did more than just fail to disclose financial statements, like in Finnerty, a suspension closer to the recommendations in Diviacchi and Okai is warranted.

The board in this case recommends an eighteen-month suspension, and the respondent does not offer any specific arguments against that recommendation. To inform their decision, the board considered aggravating and mitigating circumstances, finding support for five of the former: (1) refusal to acknowledge the seriousness of the respondent's financial misrepresentation; (2) blaming others for the respondent's misconduct, including opposing counsel, the probate court, the Appeals Court, the Supreme Judicial Court, and Bar Counsel; (3) continued harm against her ex-husband, opposing counsel, the attorney in charge of selling the marital home, and the administration of justice; (4) violations of the rules of professional conduct; and (5) lack of candor in the respondent's testimony at the disciplinary hearing. The board did not credit any of the respondent's proffered mitigating factors: (1) the safety concerns as a motivation for financial misrepresentation; (2) the respondent's insistence that she did not receive notice

of hearings; and (3) seeking justice as an explanation for her serial challenges to the judgment of divorce. Having reviewed the record, I agree with the board's findings as to the aggravating and mitigating factors.

Giving the board the substantial deference it is due, and considering the presence of aggravating factors and absence of mitigating factors, I conclude that an eighteen-month suspension is appropriate.

Conclusion. In accordance with the order accompanying my decision in this case, the respondent shall be suspended from the practice of law for a term of eighteen months.

By the Court,

/s/ David A. Lowy
Associate Justice

Dated: March 24, 2022

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPREME JUDICIAL COURT
FOR SUFFOLK COUNTY
NO: BD-2022-012

IN RE: Maude Laroche-St. Fleur

ORDER OF TERM SUSPENSION

This matter came before the Court, Lowy, 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 January 25, 2022.

On January 27, 2022, the lawyer filed a motion for permission to submit a response and evidence to the Information. The Office of Bar Counsel filed its objection to the lawyer's motion on February 1, 2022, with the lawyer then filing her opposition to bar counsel's objection on February 2, 2022.

This Court addressed the lawyer's motion by its February 11, 2022 Order, in which the motion was allowed in part and denied in part. The matter was set for hearing on February 24, 2022, and an Order of Notice issued directing the lawyer to appear before this Court.

After a hearing was held, attended by assistant bar counsel and the lawyer, and in accordance with the MEMORANDUM OF DECISION of this date, it is ORDERED that:

1. Maude Laroche-St. Fleur is hereby suspended from the practice of law in the Commonwealth of Massachusetts for a period of eighteen (18) months. 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' places 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; and

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

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.

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, (Lowy, J.)

/s/ Maura S. Doyle
Maura S. Doyle, Clerk

Entered: March 25, 2022