

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

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

IN RE: MAUDE LAROCHE-ST. FLEUR

MEMORANDUM OF DECISION

This matter came before the court, Lowy, J., on (1) bar counsel's motion, docketed December 21, 2022, to show cause why a *capias* and *mittimus* should not issue for the respondent's failure to comply with the court's September 30, 2022, order adjudicating the respondent in civil contempt for failure to comply with the court's March 25, 2022, order suspending the respondent from the practice of law for eighteen months; (2) the court's January 6, 2023, order of notice, requiring the respondent to bring to a hearing held on January 19, 2023, certain documentation certifying the extent to which she had complied with this court's September 30, 2022, order of contempt; and (3) the court's March 1, 2023, order to show cause why a *capias* should not issue, what sanctions are required to bring the respondent into compliance with the court's orders, and with regard to whether the respondent is engaged in the practice of law.

A hearing was held on March 13, 2023, attended by assistant bar counsel and the respondent. Upon consideration of the

parties' arguments and submissions and a review of the record, the respondent is adjudged in civil contempt for her failure to effect full and timely compliance with the court's September 30, 2022, and January 6, 2023, orders. It is also adjudged that, by continuing to hold herself out as a practicing attorney or as entitled to practice law while she has been suspended, the respondent has engaged in the unauthorized practice of law, in violation of S.J.C. Rule 4:01, § 17 (7). See also S.J.C. Rule 4:01, § 17 (8).

For the reasons set forth infra, this court orders that, commencing on April 18, 2023, the respondent shall pay a fine of \$100 for each day of her continued contempt of the court's orders, until such time as the respondent may purge herself of the contempt. The court further orders that, where the respondent has continued to hold herself out as an attorney and thereby engaged in the unauthorized practice of law, she shall not be eligible for reinstatement for forty-two months after the expiration of her existing eighteen-month term suspension, which will commence as of the date the court determines that the respondent is in substantial compliance with the court's orders. See S.J.C. Rule 4:01, § 17 (8). This is a total cumulative suspension term of five years, and she may not be reinstated until after the expiration of that term. For purposes of eligibility for reinstatement, the respondent shall be considered

to be indefinitely suspended from the practice of law.

Additionally, because the respondent has not complied with her responsibilities under S.J.C. Rule 4:01, § 17, to protect the interests of the respondent's clients, the public and the judicial system, and in light of the respondent's continuing disregard for the court's orders, it is necessary that a commissioner be appointed to take appropriate action as directed in S.J.C. Rule 4:01, §§ 17 (1), (2). It is ordered that the Office of Bar Counsel shall make reasonable efforts to search for, identify, and propose to the court a commissioner to be appointed pursuant to S.J.C. Rule 4:01, § 17 (2).

Background. The misconduct underlying the respondent's suspension from the practice of law is outlined in the full court's opinion affirming that suspension. See Matter of Laroche-St. Fleur, 490 Mass. 1020 (2022). It need not be repeated here. It is sufficient to say that, on March 25, 2022, the court ordered that the respondent be suspended from the practice of law for eighteen months, effective thirty days later. That order required the respondent to comply with the requirements of S.J.C. Rule 4:01, § 17 (1), within fourteen days, and within twenty-one days to file the documents necessary to comply with S.J.C. Rule 4:01, § 17 (5), (6).

In August 2022, bar counsel filed a petition for contempt, alleging that the respondent had failed to comply with the March

25, 2022, order by failing to file the compliance affidavit and materials required by the order. See S.J.C. Rule 4:01, § 17 (5), (6). After a hearing, the court found that the respondent had violated the order and adjudicated her in civil contempt by an order dated September 30, 2022. See Matter of Kafkas, 451 Mass. 1001 (2008).

The September 30, 2022, order required the respondent to comply with the same requirements enumerated in the March 25, 2022, order of term suspension. It also provided that the respondent would be ineligible to apply for reinstatement to the bar for eighteen months after she provided proof to the court and the Office of Bar Counsel of her compliance with the March 25, 2022, order of suspension and the provisions of S.J.C. Rule 4:01, § 17. The respondent did not comply with the September 30, 2022, order. Nor did she appeal from the order.

Thereafter, in December 2022, bar counsel filed a motion to show cause why a capias and mittimus should not issue for the respondent's failure to comply with the September 30, 2022, order. On January 6, 2023, an order issued scheduling a hearing for January 19, 2023. The January 6, 2023, order required the respondent "to bring to the hearing documentation certifying the extent to which she ha[d] complied with the conditions of this [c]ourt's September 30, 2022, [o]rder of [c]ontempt." Both bar counsel and the respondent appeared at the hearing. The

respondent did not bring the documents identified by the January 6, 2023, order to the January 19, 2023 hearing. Further, she did not file the materials required by both the March 25, 2022, order of suspension and the September 30, 2022, order of contempt.

Following the hearing, the court issued an order on March 1, 2023, scheduling a hearing to show cause why a *capias* should not issue, what sanctions are required to bring the respondent into compliance with the court's orders, and with regard to whether the respondent is engaged in the practice of law. A hearing was held on March 13, 2023, attended by assistant bar counsel and the respondent. At the hearing, assistant bar counsel produced an affidavit of an investigator from the Office of Bar Counsel averring that the respondent's online presence, including her firm website and two LinkedIn pages, identify her as an attorney with no reference to her suspension.¹ Bar counsel also represented that the voicemail message attached to the phone number listed on the respondent's website states that the phone number belongs to the respondent's

¹ Although the respondent asserted at the hearing that she had not seen the investigator's affidavit or had time to review it, the investigator was present in the courtroom and a recess was taken to allow the respondent to review the affidavit. After the recess, the respondent did not object to the court's consideration of the materials.

law practice. At the March 13, 2023, hearing, the respondent repeatedly stated that she would not be complying with the court's orders.²

Discussion. 1. Contempt. To date, the court has issued three clear and unequivocal orders with which the respondent clearly has not complied. Ultimately, her reasons for noncompliance are of no moment. "To hold a party in contempt, 'there must be a clear and unequivocal command and an equally clear and undoubted disobedience.'" Costello v. Bd. of Appeals, 450 Mass. 1004, 1004 (2007), quoting Newell v. Department of Mental Retardation, 446 Mass. 286, 305 (2006). "Court orders are accorded a special status in American jurisprudence." Mohamad v. Kavlakian, 69 Mass. App. Ct. 261, 264 (2007), quoting Matter of Providence Journal Co., 820 F.2d 1342, 1347 (1st Cir. 1986), modified on reh'g, 820 F.2d 1354 (1st Cir. 1987), cert. dismissed, 485 U.S. 693 (1988). Even if the respondent disagrees with the court's orders, and regardless of whether she has appealed from them, it is black letter law that the orders "must be obeyed . . . and . . . [they are] to be respected." Mohamad, supra.

² As requested in the March 1, 2023, order, assistant bar counsel did produce a one-page draft affidavit, which if true and accurate and executed by the respondent would satisfy bar counsel that the respondent substantially complied with the court's orders. The court asked the respondent if she intended to sign the affidavit, to which she responded "no, your honor."

Here, the respondent has already been adjudged in contempt of the initial, March 25, 2022, order of term suspension. In addition, the September 30, 2022, order of contempt required the respondent to take the affirmative steps outlined therein to bring her into compliance with the March 25, 2022, order of suspension, including taking the appropriate actions required by S.J.C. Rule 4:01, § 17. The January 6, 2023, order required the respondent "to bring the hearing documentation certifying the extent to which she has complied with the conditions of the [c]ourt's September 30, 2022, [o]rder of [c]ontempt." The respondent has not filed the requisite materials required to bring her into compliance and she has not provided any materials certifying the extent she has complied with the September 30, 2022 order. Perhaps most significant of all, the respondent has stated in open court that she would not take the steps necessary to comply with the court's orders. Therefore, in addition to her continuing contempt of the March 23, 2022, order of term suspension, the respondent is further adjudged in contempt for her failure to comply with the court's September 30, 2022, and January 6, 2023, orders.³

³ Although the respondent continues to challenge the merits of the underlying disciplinary decision, that decision is not before the court. Indeed, her appeal has been decided, the order of term suspension affirmed by the full court, and the United States Supreme Court has denied her motion "for leave to file a petition for a writ of certiorari with the supplemental

This blatant defiance of the clear and unequivocal commands of the court constitutes text-book contempt. "To allow such behavior [to continue] would undermine the efficacy of court decrees and allow anyone to flout the judicial branch." Judge Rotenberg Educ. Ctr. v. Commissioner of Dep't of Mental Retardation, 424 Mass. 430, 463 (1997). I recognize that the court's "inherent power of contempt for violation of [its] orders," Commonwealth v. Florence F., 429 Mass. 523, 525 (1999), includes the imposition of remedial sanctions, the purpose of which "is to coerce the performance of a required act by the disobedient party." In re Birchall, 454 Mass. 837, 847-848

appendix under seal." See Mohamad, 69 Mass. App. Ct. at 264 ("a court order must be obeyed, . . . until it is reversed" through proper appellate proceedings). At no point has a stay been granted as to her initial suspension. See Allard v. Estes, 292 Mass. 187, 195 (1935) ("The plaintiff was bound to obey the order . . . unless a stay was granted"). While the respondent was entitled to appeal her suspension and other orders of the court, she may not defy such orders while litigating her appeals. Cf. Matter of Johnson, 450 Mass. 165, 171-172 (2007) ("We reject the respondent's claim that the single justice lacked jurisdiction to find her in contempt where she had appealed from the disbarment judgment. She had moved unsuccessfully for a stay of the judgment pending appeal. . . . the single justice merely acted to enforce the disbarment judgment"). While the respondent may disagree with the initial suspension order or other court orders, her repeated failure to comply with them is inexcusable. See Matter of Liviz, 484 Mass. 1039, 1049 (2020) ("After a hearing, at which the respondent appeared and was given an opportunity for explanation and defense, the second single justice was warranted in concluding that the respondent failed to comply with the first single justice's clear and unambiguous order").

(2009). See Doe v. Commonwealth, 386 Mass. 421, 422 (1985). To bring contemnors into compliance, they have been, among other things, incarcerated, fined, and had their suspensions from the practice of law increased. See, e.g., In re Birchall, supra at 848; Matter of Johnson, 450 Mass. 165, 171 (2007); Mahoney v. Commonwealth, 415 Mass. 278, 284 (1993); Labor Relations Comm'n v. Fall River Educators' Ass'n, 382 Mass. 465, 477 (1981). In this case, the court finds that imposing a daily fine until such time as the respondent may purge herself of the contempt is the appropriate mechanism to achieve the respondent's compliance with this court's orders. See, e.g., Labor Relations Comm'n v. Fall River Educators' Ass'n, 382 Mass. 465, 477 (1981) ("a fine for civil contempt of court may be properly imposed where, after an adjudication of contempt of court, the judge has announced that a fine will be imposed for each day of continued contempt of the court's order"); Matter of Meaney, 490 Mass. Att'y Discipline Rep. 403, 417 (1999) (respondent adjudged in contempt and ordered to "pay a fine of one hundred dollars each day to this court until he or an attorney acting on his behalf has filed an affidavit of compliance with this and all earlier orders"). If, after review of an affidavit of compliance filed by the respondent, a commissioner, or an attorney acting on her behalf, and considering the circumstances, the court determines that the respondent has purged her contempt, it will hear

argument on whether to vacate the fine. See, e.g., Mahoney v. Commonwealth, 415 Mass. 278, 284 (1993).

2. Holding herself out as eligible to practice law. The next issue before the court is whether the respondent has continued to hold herself out as eligible to practice law, notwithstanding the March 25, 2022, order of term suspension. It has long been "the declared policy of this Commonwealth that only members of its bar should [practice] law or hold themselves out as authorized to [practice] law." In re Lyon, 301 Mass. 30, 35 (1938). "There can be no question that [a] judgment of disbarment [or order of term suspension] contains a clear and unequivocal command against practicing law" (citation omitted). Matter of Rosenberg, 491 Mass. 1027, 1029 (2023). Under S.J.C. Rule 4:01, § 17 (8), "[a]ny lawyer who is . . . suspended . . . and who is found by the court to have violated the provisions of this rule by engaging in legal or unauthorized paralegal work prior to reinstatement under this rule may not be reinstated until after the expiration of a specified term determined by the court after a finding that the lawyer has violated the provisions of this rule." Put simply, if the court finds that a suspended attorney has violated Rule 4:01, § 17 (8), the court is required to impose an additional term of suspension. Matter of Shanahan, 26 Mass. Att'y Discipline Rep. 583, 585 (2010). Of particular importance to this case, "[a] disbarred [or otherwise

suspended] attorney's holding [herself] out as being licensed to or engaged in the practice of law is, by itself, sufficient for a finding that [she] has engaged in the unauthorized practice of law."⁴ Matter of Shanahan, 26 Mass. Att'y Discipline Rep. 583, 585 (2010), citing Matter of McInerney, 389 Mass. 528, 536 n.11 (1983).

While the parties have not identified any direct evidence that the respondent has actively practiced law, accepted clients, or appeared in court since her order of suspension issued on March 25, 2022, there is significant evidence that the respondent continues to hold herself out as authorized to do so. Evidence before the court includes printouts from her law firm website and two LinkedIn webpages, all of which identify the respondent as an attorney at the "Laroche Law Office." The printouts show that her law office website includes an interactive-active page titled "Contact Us at Any Time" that allows perspective clients to input information and thereby presumably contact the respondent. Additionally, it was represented by bar counsel at the March 13, 2023, hearing that the phone number listed on the law office website is active and

⁴ Although the court has determined not to disbar the respondent for holding herself out as an attorney after she was suspended by the terms of the March 25, 2022, order of term suspension, it is notable that the full court has suggested that "[s]uch acts would be a sufficient basis for a judgment of disbarment." Matter of McInerney, 389 Mass. at 536 n.11.

that the voicemail message attached refers to the Laroche Law Office. The respondent was present at the hearing when bar counsel made these representations to the court and she did not disagree or object.

It is both significant and concerning that the respondent's suspension is not referenced on these websites or on the active voicemail message. On this record, I conclude that by continuing to hold herself out as an attorney, the respondent has engaged in the unauthorized practice of law in violation of S.J.C. Rule 4:01, § 17 (8). Cf. Matter of Dawkins, 432 Mass. 1009, 1010 (2000) (suspended attorney impermissibly continued to hold himself out as attorney by maintaining listing in telephone directory and acceptance of funds [later returned] for agreeing to engage in legal services); Matter of McInerney, 389 Mass. at 536 (suspended attorney held himself as a practicing attorney by continuing to list himself in telephone directory as attorney); Matter of Howarth, Jr., 18 Mass. Att'y Discipline Rep. 325, 325-326 (2002) (suspended attorney adjudged in contempt for, among other misconduct, "holding himself out as a lawyer while temporarily suspended" and ordered to provide "adequate proof, including but not limited to copies of correspondence sent by him, that he has notified all Web masters, directory services, and listing services, whether electronic or otherwise, that he has been suspended from the practice of law and may not be

listed as an attorney or lawyer or designated as 'Esq.'). Contrast Matter of Shanahan, 26 Mass. Att'y Discipline Rep. at 585 (disbarred attorney listing that "he has a juris doctor degree from Suffolk University" on his website was not holding himself out as practicing law but rather "a statement of educational credentials"). See also Matter of Callahan, 35 Mass. Att'y Discipline Rep. 27, 30-31 (2019) (suspended lawyer who "appear[ed] to be continuing to hold himself as an attorney" was adjudged in contempt and ordered to "remove the 'law offices' sign from the premises [of his practice] and any other listings signs and other designations indicating or implying that he is engaged in the practice of law"); Matter of McBride, 29 Mass. Att'y Discipline Rep. 440, 440 (2013) (attorney violated S.J.C. Rule 4:01, § 17 [8] by "holding himself out as a lawyer while disbarred")

In considering the appropriate, specific, additional term to impose before the respondent may apply for reinstatement, see S.J.C. Rule 4:01, § 17 (8), the primary consideration is "the effect upon, and perception of, the public and the bar" (quotation and citation omitted). Matter of Finneran, 455 Mass. 722, 737 (2010). In the circumstances presented here, an additional suspension of forty-two months, thereby resulting in a cumulative suspension for five years -- the same period of time that applies to an indefinite suspension -- is appropriate.

Cf. Matter of Murphy, 29 Mass. Att'y Discipline Rep. 473, 473-474 (2019) (attorney that "appear[ed] to be continuing to hold himself out as a lawyer despite his suspension" was "in violation of S.J.C. Rule 4:01, § 17 (8) and [was] prohibited from applying for reinstatement to the practice of law . . . until after the expiration of at least eight (8) years from the date of his compliance with the . . . Order of Indefinite Suspension"); Matter of Kaplan, 33 Mass. Att'y Discipline Rep. at 241-242 (2017) (attorney violated order of suspension and S.J.C. Rule 4:01, § 17 (8) by holding himself out as an attorney after suspension issued and was ordered suspended for an additional two years); Matter of Kiernan, 19 Mass. Att'y Discipline Rep. 221, 221 (2003) (indefinitely suspended lawyer that was adjudged in contempt for "holding himself out as a lawyer while indefinitely suspended, performing legal services while indefinitely suspended, and by failing to comply with the [suspension] order's requirements" was therefore "prohibited from applying for reinstatement . . . until at least ten years from the date of" the contempt order). See also Matter of Shaughnessy, 446 Mass. 1013, 1013-1014 (2006) (Supreme Judicial Court concluded single justice did not err in finding suspended attorney had rendered legal services after date of suspension and thereafter imposing sanction provided by S.J.C. Rule 4:01, § 17 (8), which at that time required twice the original period

of suspension). The respondent's total term of suspension is to run for five years after she has provided to this court and to the Office of Bar Counsel sufficient documentation that she has fully complied with the March 25, 2022, order of term suspension and the provisions of S.J.C. Rule 4:01, § 17, and has filed a truthful affidavit of compliance with this court and to the Office of Bar Counsel.

3. Appointment of a commissioner. S.J.C. Rule 4:01, § 17 (2) provides that "[w]henver the court deems it necessary, it may appoint a commissioner to take appropriate action in lieu of, or in addition to, the action directed in [S.J.C. Rule 4:01, § 17 (1)]." Commissioners have been appointed under this rule in situations like the one at bar, where suspended attorneys have failed to comply with the requirements of their suspension and been adjudged in contempt for such failure. See, e.g., Matter of Lansky, 22 Mass. Att'y Discipline Rep. 443, 443-445 (commissioner appointed pursuant to S.J.C. Rule 4:01, § 17 [2] where after five months attorney had not complied with order of term suspension).⁵ Here, the respondent's order of suspension

⁵ Commissioners have been appointed under similar circumstances in a number of comparable cases. See, e.g., Matter of Murphy, S.J.C. No. BD-2017-100 (March 13, 2019). (commissioner appointed pursuant to S.J.C. Rule 4:01, § 17 [2] where suspended attorney had failed to comply with prior orders of suspension which had been issued approximately sixteen and ten months earlier); Matter of Arnowitz, S.J.C. No. BD-2010-127 (April 24, 2012) (commissioner appointed pursuant to S.J.C. Rule

was issued over a year ago and she has been adjudged in contempt for her failure to comply with that order and two additional orders of the court. She has also stated in court that she would not comply with the court's orders, which include the requirements of S.J.C. Rule 4:01, § 17 (1). In light of these facts and upon consideration of the effect and perception of the respondent's continued noncompliance on both the public and the bar, see, e.g., Matter of Lupo, 447 Mass. 345, 356 (2006), the court deems it necessary to appoint a commissioner pursuant to Rule 4:01, § 17 (2), to "take appropriate action," as detailed in the court's order, to bring the respondent into compliance with the requirements of the rule. S.J.C. Rule 4:01, § 17 (2).

Conclusion. In accordance with the order accompanying this decision, the respondent is further adjudged in contempt of the court's September 30, 2022, and January 6, 2023, orders. As a remedial measure to bring the respondent into compliance with the court's order, she shall be liable for and pay a fine of \$100 per day to this court until such time as she has purged herself of contempt. Because the respondent has continued to hold herself out as eligible to practice law while suspended, in

4:04, § 17 [2] where attorney failed to comply with court's prior judgment of disbarment and order of contempt); Matter of Hodgdon, S.J.C. No. BD-2007-066 (November 26, 2007) (commissioner appointed pursuant to S.J.C. Rule 4:01, § 17 [2] where after three months attorney had failed to comply with order of term suspension).

violation of S.J.C. Rule 4:01, §§ 17 (7), (8), she shall be ineligible to apply for reinstatement for a cumulative total of five years commencing from the date the court determines she is in substantial compliance with the court's March 25, 2022, order of term suspension. Finally, the court will appoint a commissioner to take appropriate action, as directed in the order.

By the Court,

/s/ David A. Lowy
David A. Lowy, Associate Justice

Entered: April 11, 2023