

IN RE: OLAYEMI ISAAC FALUSI

NO. BD-2018-074

S.J.C. Order of Term Suspension entered by Justice Budd on June 27, 2019.¹

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¹ The complete order of the Court is available by contacting the Clerk of the Supreme Judicial Court for Suffolk County.

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPREME JUDICIAL COURT
FOR SUFFOLK COUNTY
No: BD-2018-074 and
BD-2018-075

IN RE: OLAYEMI ISAAC FALUSI AND STEVEN ANTHONY LANG

MEMORANDUM OF DECISION

This matter came before me on bar counsel's petition for reciprocal discipline against the respondents, Olayemi Isaac Falusi and Steven Anthony Lang, pursuant to S.J.C. Rule 4:01, § 16, recommending that the respondents be suspended from the practice of law in the Commonwealth for a period of fifteen months and that each lawyer's reinstatement be conditioned on his reinstatement in Maryland. The Court of Appeals of Maryland indefinitely suspended respondents for numerous violations of the Maryland Lawyers' Rules of Professional Conduct ("MLRPC").¹ See *Attorney Grievance Comm'n of Md. v. Lang*, 191 A.3d 474 (2018). Respondent Falusi opposed the petition and Lang joined. After a hearing and review of the parties' submissions, I conclude that a reciprocal suspension of fifteen months and reinstatement conditioned on respondents' respective reinstatement in Maryland is appropriate.

Background. On August 16, 2018, the Court of Appeals of Maryland disciplined respondent Lang for violations of the MLRPC by way of: (1) failing to file an opposition to a

¹ The Maryland Lawyers' Rules of Professional Conduct ("MLRPC") was renamed as the Maryland Attorneys' Rules of Professional Conduct effective July 1, 2016 and recodified in Title 19 of the Maryland Rules. The Court of Appeals of Maryland applied the MLRPC as that was the law at the time of the Respondents' conduct.

motion to dismiss in a declaratory judgment action and failing to appear at a hearing scheduled in a related second foreclosure action²; (2) failing to inform the same client that the court had denied his motion to postpone the hearing³; (3) charging the same client an excessive fee considering the work performed for the client⁴; (4) failing to maintain a client trust account, thereby commingling personal and client funds⁵; (5) misrepresenting to the court the date on which he gave the client notice of disengagement and failure to timely provide a copy of the file and an accounting to the client⁶; (6) failing to disclose that his partner in Lang & Falusi, LLP was not licensed to practice in Maryland and that his partner's practice was limited to immigration law⁷ and; (7) falsely advertising to Maryland bar counsel that he held no client funds and referred to office staff within Lang & Falusi, LLP when the firm in fact did not hire staff.⁸ *Id.* at 3-4, 10-16.

² In violation of Rules 1.1 (Competence), 1.2 (Scope of Representation) and 1.3 (Diligence) of the MLRPC. *Id.* at 11-13.

³ In violation of Rules 1.4(a) and (b) (Communication) of the MLRPC. *Id.* at 11-12.

⁴ In violation of Rule 1.5(a) (Fees) of the MLRPC. *Id.* at 14.

⁵ In violation of Rules 1.15(a) and (c) (Safekeeping Property) of the MLRPC. *Id.* at 4, 14-15.

⁶ In violation of Rules 1.16(d) (Declining or Terminating Representation) and Rules 8.4(a), (c), and (d) (Misconduct) of the MLRPC. *Id.* at 13-14.

⁷ In violation of Rules 5.5(a) (Unauthorized Practice of Law; Multijurisdictional Practice of Law) and Rules 7.1(a) (Communications Concerning a Lawyer's Services) and 7.5(a) (Firm Names and Letterheads) of the MLRPC. *Id.* at 3-4, 10.

⁸ In violation of Rules 8.1(a) and (b) (Bar Admission and Disciplinary Matters) of the MLRPC. *Id.* at 15-16.

The Court of Appeals of Maryland also disciplined respondent Falusi for engaging in all of the same misconduct as respondent Lang, except for misrepresenting to the court the date on which a client was given notice of disengagement and comingling personal and client funds.⁹ However, respondent Falusi was found to have engaged in additional misconduct apart from that of respondent Lang. Respondent Falusi was found to have engaged in the unlicensed practice of law with respect to three clients because he failed to make clear to those clients that he was not licensed to practice law in Maryland and he held himself out as an attorney by negotiating and preparing a settlement without explaining his jurisdictional limitations.¹⁰ *Id.* at 27-30, 38. Respondent Falusi also failed to list Lang & Falusi, LLP on his Maryland bar application in an attempt to conceal his unauthorized practice in Maryland prior to his admission to the Maryland bar.¹¹ *Id.* at 17. Respondent Falusi further failed to update his bar application to advise the Maryland board of examiners that he was the subject of a complaint to bar counsel.¹² *Id.* at 18. Finally, respondent Falusi made knowing misstatements to bar counsel that he "did not have any relationship" with a former client, that when the client came to their office, he had advised the client that he was not licensed to practice law in Maryland, and further, that he "perform[ed] paralegal work at the firm for Mr. Lang."¹³ *Id.* at 18-19.

⁹ Falusi was not a licensed attorney in Maryland and thus did not have to abide by Rule 1.15(a).

¹⁰ In violation of Rule 5.5(a) and (b)(2) (Unauthorized Practice of Law; Multijurisdictional Practice of Law) of the MLRPC. *Id.* at 27-30, 38.

¹¹ In violation of Rule 8.1 (Bar Admission and Disciplinary Matters) of the MLRPC. *Id.* at 17.

¹² In violation of Rule 8.1 of the MLRPC. *Id.* at 18.

¹³ In violation of Rules 8.1 and 8.4(c) and (d) (Misconduct) of the MLRPC. *Id.* at 18-19.

Sanctions. As respondents have made no allegations of procedural failings or unfairness in the Maryland proceedings, and take full responsibility for their actions, I take as true the facts underlying the suspension. "The judgment of suspension or disbarment shall be conclusive evidence of the misconduct unless . . . the court concludes that the procedure in the other jurisdiction did not provide reasonable notice or opportunity to be heard or there was significant infirmity of proof establishing the misconduct." S.J.C. Rule 4:01, § 16 (3). In determining the appropriate sanction to be imposed in a petition for reciprocal discipline, I "may impose the identical discipline unless (a) imposition of the same discipline would result in grave injustice; (b) the misconduct established does not justify the same discipline in this Commonwealth; or (c) the misconduct established is not adequately sanctioned by the same discipline in this Commonwealth." *Id.* The Court of Appeals of Maryland issued an order indefinitely suspending the respondents from the practice of law, however, bar counsel recommends a reciprocal suspension of fifteen months and reinstatement in the Commonwealth conditioned on prior reinstatement in Maryland. Given the totality of the respondents' violations and the ordinary suspension in the Commonwealth for each violation individually, I conclude that the fifteen month suspension recommended by bar counsel is appropriate.

a. Falusi. Misrepresentation to bar counsel, which is "comparable to making false representations to a court," see *Matter of Curry*, 450 Mass. 503 (2008), has warranted a one-year suspension from the practice of law. In *Matter of Eberle*, 27 Mass. Att'y Disc. R. 243 (2011), an attorney was given a one-year suspension for fabricating a client bill for the purpose of misleading bar counsel as to when he had billed and received payment from that client, and failing to report several criminal convictions to bar counsel. Here, Falusi made knowing misrepresentations to the Maryland bar, including falsely informing the Maryland bar office that

he did not have a relationship with a particular client. He also failed to list Lang & Falusi LLP on his Maryland bar application for the purpose of concealing his unauthorized practice in Maryland, and he failed to update his bar application to advise the board of examiners that he was the subject of a bar counsel complaint.

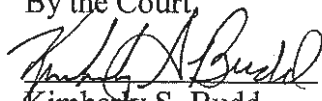
Falusi also held himself out as an attorney, in violation of MLRPC 5.5(b)(2), when he did not make clear to three clients that he was not licensed in Maryland and when he negotiated and prepared a settlement without having explained his jurisdictional limitations. Although an attorney admitted elsewhere may provide temporary legal services with a Maryland-barred attorney, pursuant to MLRPC 5.5(c)(1), the foreign attorney must still abide by MLRPC 5.5(b)(2) and make clear that he or she is not admitted in Maryland, which Falusi failed to do. The same is true in Massachusetts. See Mass. R. Prof. C. 5.5(c) (unauthorized practice of law; multijurisdictional practice of law). Such unauthorized practice of law has resulted in a six-month suspension in the Commonwealth. See *In Matter of Airewele*, 28 Mass. Att'y Disc. R. 3 (2012) (Massachusetts attorney given six-month suspension for providing legal services in Georgia, where he was not admitted, and for failing to represent his clients diligently and competently); *Matter of Ramos*, 29 Mass. Att'y Disc. R. 554 (2013) (Massachusetts attorney not admitted in Ohio suspended for six months for holding himself out as an Ohio attorney and failing to report his prior misdemeanor convictions to bar counsel). Falusi's misconduct, taken together, merits a suspension of fifteen months.

b. Lang. Likewise, the totality of Lang's misconduct merits a suspension of fifteen months. In addition to assisting Falusi in the unlicensed practice of law, Lang backdated a certificate of service with the court, failed to provide competent and diligent service to a client, and made his own misrepresentations to bar counsel concerning client funds. As stated above,

intentionally misleading bar counsel has merited a one-year suspension. See *Matter of Eberle*, *supra*. See also *Matter of Harris-Daley*, 31 Mass Att'y Disc. R. 244 (2015) (attorney received six-month suspension for misrepresenting information to third parties and in motion submitted to a judge, which concerned matter that was only tangential to merits of proceedings). Moreover, assisting another in the unlicensed practice of law in the Commonwealth, in and of itself, has warranted a suspension of three months. See *Matter of Vasa*, 31 Mass. Att'y Disc. R. 313 (2015) (partner of small law firm given three-month suspension for knowingly hiring suspended lawyer to serve as pseudonymous "settlement consultant" on personal injury cases). In light of all of Lang's misconduct, bar counsel's recommendation for a fifteen month suspension is wholly appropriate here.

Conclusion. Given the nature and extent of the misconduct by both respondents, bar counsel's recommendation of a fifteen month suspension "is not markedly disparate from what has been ordered in comparable cases" in the Commonwealth. *In re Goldberg*, 434 Mass. 1022, 1023 (2001). Bar counsel's request that the Respondents' reinstatement in the Commonwealth be conditioned upon reinstatement in Maryland is also warranted. See *Matter of Tunney*, 28 Mass. Att'y Disc. R. 857, 865-866 (2012) ("in cases involving reciprocal discipline, it is the usual practice to condition reinstatement in the Commonwealth upon prior reinstatement in the jurisdiction in which the discipline originated"). Accordingly, an order shall enter suspending both respondents from the practice of law for fifteen-months, effective immediately, with reinstatement conditioned upon the respondents' respective prior reinstatement in Maryland.

Dated: June 27, 2019

By the Court,

Kimberly S. Budd
Associate Justice