

Note to readers: To navigate within this document use the set of icons listed above on the Acrobat toolbar.

These opinions are made available as a joint effort by the District of Columbia Court of Appeals and the District of Columbia Bar.

Notice: This opinion is subject to formal revision before publication in the Atlantic and Maryland Reporters. Users are requested to notify the Clerk of the Court of any formal errors so that corrections may be made before the bound volumes go to press.

DISTRICT OF COLUMBIA COURT OF APPEALS

No. 98-BG-1383

IN RE ALAN F. POST, RESPONDENT,

A Member of the Bar of the
District of Columbia Court of Appeals

On Report and Recommendation of the
Board on Professional Responsibility

(Decided October 7, 1999)

Before TERRY and REID, *Associate Judges*, and NEWMAN, *Senior Judge*.

PER CURIAM: On June 9, 1998, the Court of Appeals of Maryland (“the Maryland court”) suspended respondent Alan F. Post from the practice of law for an indefinite period, with the right to apply for reinstatement after thirty days. This suspension was based on respondent’s failure to file timely certain withholding income tax returns and his failure to remit timely the taxes withheld from his employees’ wages. *Attorney Grievance Comm’n v. Post*, 350 Md. 85, 710 A.2d 935 (1998).

In a separate proceeding, respondent acknowledged violating Rule 1.15 of the Maryland Rules of Professional Conduct by placing disputed funds in a non-escrow account. As a sanction for this misconduct, the Court of Appeals of Maryland extended, by an additional sixty days, the period of time before which respondent could seek reinstatement in the prior disciplinary case. In the interim, respondent was reciprocally suspended by the United States District Court for the District of Columbia and the United States District Court for the District of Maryland.

Bar Counsel filed with this court certified copies of each of the disciplinary orders. On September 23, 1998, this court temporarily suspended respondent under D.C. Bar Rule XI, § 11 (d), and referred the matter to the Board on Professional Responsibility (“the Board”). Respondent did not fully comply with the requirements of D.C. Bar Rule XI, § 14, until February 16,

1999.¹ On February 25, 1999, this court granted respondent's motion to lift the temporary suspension.

The Board has recommended reciprocal discipline in the form of a ninety-day suspension, which it considers functionally identical to the discipline imposed by the Maryland court. The Board further recommends that this suspension be imposed *nunc pro tunc* to the date on which respondent fully complied with Rule XI, § 14. Bar Counsel has informed the court that he takes no exception to the Board's report and recommendation. Respondent has not filed any opposition to the Board's report and recommendation.

Given our limited scope of review and the presumption in favor of identical reciprocal discipline, we adopt the Board's recommendation. *See In re Goldsborough*, 654 A.2d 1285 (D.C. 1995); *In re Zilberberg*, 612 A.2d 832, 834 (D.C. 1992). Accordingly, it is

¹ The Board appears to have overlooked respondent's February 16, 1999, filing, and thus it considers respondent not to have fulfilled his duties under D.C. Bar Rule XI, § 14, until February 23, 1999. However, the February 23 filing was only a supplement to respondent's February 16 filing, and the February 16 filing satisfied the requirements of Rule XI, § 14.

ORDERED that Alan F. Post be, and he hereby is, suspended from the practice of law in the District of Columbia for a period of ninety days, *nunc pro tunc* to February 16, 1999. We note that respondent was serving his temporary suspension from February 16 to February 25, 1999, and therefore those nine days shall be credited toward his ninety-day suspension.