STATE OF MINNESOTA

IN SUPREME COURT

A18-1967

Original Jurisdiction

Per Curiam
Concurring, Thissen, J.
Took no part, McKeig, J.

In re Petition for Disciplinary Action against
Karlowba R. Adams Powell, a Minnesota
Attorney, Registration No. 0327335.

Filed: May 6, 2020
Office of Appellate Courts

Susan M. Humiston, Director, Binh T. Tuong, Assistant Director, Office of Lawyers Professional Responsibility, Saint Paul, Minnesota, for petitioner.

Bobby Joe Champion, Minneapolis, Minnesota, for respondent.

S Y L L A B U S

1. The record supports the referee's findings of fact and conclusions of law that respondent attorney violated the Minnesota Rules of Professional Conduct. The record also supports the referee's findings of aggravating factors, except regarding lack of remorse.

2. The appropriate discipline is an indefinite suspension from the practice of law with no right to petition for reinstatement for 120 days.

Suspended.

O P I N I O N

PER CURIAM.

The Director of the Office of Lawyers Professional Responsibility filed a petition for disciplinary action against respondent, Karlowba R. Adams Powell, alleging professional misconduct warranting public discipline. The allegations of misconduct by Powell fell into four categories.[1] First, the Director alleged that Powell engaged in the unauthorized practice of law. Second, the Director alleged that Powell knowingly made false statements. Third, the Director alleged that Powell mismanaged client funds. Fourth, the Director alleged that Powell failed to cooperate with the Director's investigation.

A referee held a hearing and concluded that Powell had violated the Minnesota Rules of Professional Conduct as alleged by the Director. The referee also found five aggravating factors and no mitigating factors. The referee recommended that Powell be indefinitely suspended from the practice of law and ineligible to petition for reinstatement for a period of six months.

We conclude that the referee did not clearly err in finding and concluding that Powell knowingly made false statements, engaged in the unauthorized practice of law, violated the rules about client funds, and failed to cooperate with the Director's investigation. But the referee erred in the finding on an aggravating factor: lack of remorse. We conclude that a minimum suspension of 120 days is appropriate.

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[1] The Director's charges are in three counts. For ease of analysis, we consider the Director's allegations by category.

FACTS

Powell was admitted to practice law in Minnesota in 2003. She began her practice at a law firm. In 2011, she started her own practice focused on criminal defense and family law. Before this appeal, Powell was the subject of three disciplinary proceedings.

In 2007, Powell was privately admonished for failing to act with reasonable diligence and promptness, and failing to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation. In 2016, Powell was again privately admonished for failing to diligently pursue a client's representation and failing to keep a client advised of the representation.

In the fall of 2015, Powell failed to appear on behalf of a client in court, and in 2016, she failed to cooperate with the Director's investigation. On June 14, 2017, the Director and Powell entered into a stipulation for discipline. The stipulation recommended a 45-day public suspension, effective 14 days from the date of the suspension order, and a two-year probation period upon reinstatement. On July 19, 2017, we issued an order suspending Powell from the practice of law for 45 days, effective immediately, to be followed by probation. *In re Powell*, 901 N.W.2d 646 (Minn. 2017) (order). We did not accept the stipulation's proposed effective date.

Some of the relevant events in this matter took place after Powell and the Director entered into the stipulation for discipline in the 2017 proceeding, but before we issued our order. A little over one week after Powell entered into the stipulation, Powell agreed to take on a new client, J.S. Powell met J.S., and her mother, J.H., on June 22, 2017, and agreed to represent J.S. in three criminal felony matters. J.S. told Powell that the case was

urgent, with an upcoming hearing on August 12, 2017. Powell did not tell J.S. or J.H. of her impending suspension. J.H. paid part of the retainer in cash, and Powell gave J.H. a payment receipt. J.H. did not countersign the payment receipt.

From July 24 to 31, 2017, Powell continued working on J.S.'s case by gathering information and providing legal advice. Powell invoiced J.S. for this work. On August 1, 2017, Powell contacted a district court clerk and a prosecutor about the possibility of a continuance. Ultimately, J.S. terminated Powell's representation, and J.H. had to quickly find a replacement attorney for her daughter.

In the summer of 2017, Powell was representing B.B. in an ongoing order for protection and child custody case. On August 1, 2017, Powell appeared on behalf of B.B. before a family court referee. Before going on the record, Powell, opposing counsel, and the guardian ad litem met in chambers to discuss scheduling with the referee. During this discussion, Powell did not mention her suspension. She said that she was unavailable until after September 16, 2017, because of vacations and several other trials. Later, Powell told the Director that she did not mention her suspension because she did not believe it was for public consumption and was not something that she was in a position to disclose.

The parties then went on the record. The referee asked Powell if she had checked her calendar for her availability for a telephone conference. Powell responded that she had checked her calendar and was not available on August 8. She said she would try to have someone cover the telephone conference for her. The referee set the telephone conference for August 8.

On August 1, Powell mailed notices dated July 28, 2017, to inform the court, opposing counsel, and her clients of her suspension. She also called clients and told them that she was suspended.

On August 7, Powell emailed the referee, opposing counsel, and the guardian ad litem in the B.B. matter, and said that she was unable to find an attorney to attend the August 8 telephone conference. She also included a paragraph discussing B.B.'s case and stating his position on ongoing issues. The August 8 telephone conference was continued until August 28, and Powell arranged for other counsel to appear on behalf of B.B. Nonetheless, in subsequent communications with the Director, Powell claimed that she found an attorney to appear and the August 8 telephone conference was held.

On September 25, 2017, we conditionally reinstated Powell to the practice of law. *In re Powell*, 901 N.W.2d 915 (Minn. 2017) (order). We placed Powell on supervised probation for two years. Her probation required supervision by a licensed Minnesota attorney, appointed by the Director, to monitor her compliance with the terms of her probation. In early 2018, Powell met with the members of the probation department of the Director's office because she did not have a probation supervisor.

During this meeting, the Director requested the client files for B.B. and another client, R.W. Powell provided these client files, which included fee agreements. The Director reviewed those files and discovered that Powell's fee agreements did not comply with Minn. R. Prof. Conduct 1.5(b).

After the Director discovered the non-compliant fee agreements, the Director reviewed Powell's trust and business accounts. The Director learned that B.B. had paid

Powell a flat fee and that Powell had deposited the money into her business account around August 15, 2016. But Powell did not complete B.B.'s legal representation until December 11, 2017. R.W. paid Powell a flat fee on June 15, 2017, and Powell deposited the money into her business account. Powell completed R.W.'s legal services on April 20, 2018.

During the Director's investigation, the Director asked Powell where she had placed the unearned portions of the B.B. and R.W. fees. Powell said that she had deposited the fees in her trust account and agreed to provide documentation.

In March 2018, Powell told the Director's office that the fees were actually placed into her business account. She also said that a bank employee told her that the funds were placed into her business account due to a bank error. The Director's office requested that Powell provide documentation from the bank confirming the error. The Director's office followed up with Powell multiple times about providing the documentation. Powell did not do so.

On December 4, 2018, the Director filed a petition against Powell. The Director alleged that Powell made intentionally false statements, engaged in the unauthorized practice of law, violated rules pertaining to client funds, and failed to cooperate with the Director's investigation. Powell denied that any of the allegations warranted discipline.

On June 23-24, 2019, a referee conducted a discipline hearing. The referee heard testimony from six witnesses: the referee and the opposing counsel present at the August 1, 2017, hearing; the bank employee who allegedly told Powell that the deposits in the business account were bank errors; the lawyer in the Director's office that corresponded with Powell about the bank errors; J.H.; and Powell.

The referee found and concluded that Powell knowingly made false statements, engaged in the unauthorized practice of law, violated rules pertaining to client funds, and failed to cooperate with the Director's investigation. The referee also found five aggravating factors: a history of prior discipline; engaging in misconduct while on public disciplinary probation; intentional misconduct; lack of remorse; and a lack of candor with the court at the discipline hearing. The referee found no mitigating factors.

The referee concluded that Powell violated Minn. R. Prof. Conduct 1.15(h) as interpreted by Appendix 1, Section II (2),[2] 1.15(c)(5),[3] 3.4(c),[4] 5.5(a),[5] 3.3(a)(1),[6] 4.1,[7]

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[2] Minn. R. Prof. Conduct 1.15(h) as interpreted by Appendix 1, Section II (2), provides:

> An attorney or law firm must maintain at least one bank account, other than the trust account, for funds and property received and disbursed outside the attorney's fiduciary capacity. The following books and records shall be maintained for such accounts: . . . [c]opies of receipts, countersigned by the payor, for all cash payments.

[3] Minn. R. Prof. Conduct 1.15(c)(5) requires a lawyer to "deposit all fees received in advance of the legal services being performed into a trust account and withdraw the fees as earned."

[4] Minn. R. Prof. Conduct 3.4(c) states that a lawyer shall not "knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists."

[5] Minn. R. Prof. Conduct 5.5(a) provides: "(a) A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so . . . ."

[6] Minn. R. Prof. Conduct 3.3(a)(1) states that a lawyer shall not knowingly "make a false statement of fact or law to a tribunal, or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer."

[7] Minn. R. Prof. Conduct 4.1 provides: "In the course of representing a client a lawyer shall not knowingly make a false statement of fact or law."

8.1(a),[8] 8.4(c) and (d),[9] and the suspension order. The referee recommended that Powell be suspended from the practice of law for six months.

I.

The referee's findings of fact and conclusions of law are not conclusive because Powell ordered a transcript. *See* Rule 14(e), Rules on Lawyers Professional Responsibility (RLPR); *In re Wentzell*, 656 N.W.2d 402, 405 (Minn. 2003). But we give great deference to a referee's findings and will not reverse those findings unless they are clearly erroneous. *Wentzell*, 656 N.W.2d at 405. To conclude that a referee's findings are clearly erroneous, we must be left " 'with the definite and firm conviction that a mistake has been made." *In re Lieber*, 939 N.W.2d 284, 291 (Minn. 2020) (quoting *In re Strid*, 551 N.W.2d 212, 215 (Minn.1996)).

Powell disputes all of the referee's findings of fact and conclusions of law, and argues that the referee did not present clear and convincing evidence that Powell committed ethical violations. The Director responds that the record supports the referee's findings.

A.

The referee found that Powell knowingly made four false statements.

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[8] Minn. R. Prof. Conduct 8.1(a) provides: "An applicant for admission to the bar, or a lawyer in connection with a bar admission application or in connection with a disciplinary matter, shall not: (a) knowingly make a false statement of material fact."

[9] Minn. R. Prof. Conduct 8.4(c)–(d) provide that it is professional misconduct to "engage in conduct involving dishonesty, fraud, deceit, or misrepresentation" or "engage in conduct that is prejudicial to the administration of justice."

First, the referee found that Powell made a knowingly false statement when she said, at a proceeding before a referee, that she was unavailable because of vacations and trials. Powell argues that the statement was not false. The Director responds that the referee did not err because of Powell's failure to disclose her suspension.

We agree with the referee that Powell made a knowingly false statement about her unavailability. Powell was only able to produce documentation that she was on vacation from August 9 to 13. And Powell knew at the time she made the statement that pending trials would have to be postponed because she had been suspended.

Second, the referee found that Powell's reason for not disclosing her suspension at the August 1 hearing was knowingly false. Powell said she did not inform anyone about her suspension at the August 1 hearing because her suspension was not for public consumption and was something she was not in a position to disclose. The Director argues that, even by Powell's own analysis, Rule 26, RLPR,[10] required Powell to provide notice of her suspension on July 31, the day before the hearing. The Director also argues that Powell knew she had to disclose her suspension before the hearing because she listed the date on her Rule 26 notices as July 28.

We agree with the referee that Powell knowingly made a false statement about why she did not reveal her suspension at the August 1 hearing. On the same day that Powell

[10] Rule 26, RLPR, requires suspended lawyers to notify "each client, opposing counsel . . . and the tribunal involved in pending litigation . . . as of the date of the resignation or the order imposing discipline . . . of the lawyer's disbarment, suspension, resignation, revocation of conditional admission, or disability . . . within ten (10) days of the Court's order."

claims she thought that her suspension was not for public consumption and she was not in a position to disclose it, she called her clients and mailed her Rule 26 notices.

Third, the referee found that Powell's statements that the August 8 telephone conference occurred were knowingly false. Powell argues that she merely misspoke when she stated the August 8 telephone conference occurred, and meant to say that the telephone conference was on August 28. In two different letters to the Director, Powell said that the August 8 telephone conference was not continued and occurred as planned. She also testified—under oath at a deposition—that the telephone conference was not continued. It was not clearly erroneous for the referee to conclude that Powell made knowingly false statements on this subject.

Finally, the referee found that Powell's statements about the deposits of funds into her business account due to bank errors were knowingly false. Powell argues that a bank employee told her a bank error may have caused the deposits of client fees into the wrong account.

It is well-settled that this court gives "great deference to a referee's findings and will not reverse those findings unless they are clearly erroneous, especially in cases where the referee's findings rest on disputed testimony or in part on respondent's credibility, demeanor, or sincerity." *Wentzell*, 656 N.W.2d at 405. The bank employee testified at the hearing and said he was certain he never told Powell that the money had been placed in her account because of a bank error. The referee was able to observe the bank teller's demeanor and credibility. The referee's finding that Powell knowingly made a false statement about her conversation with the bank employee was not clearly erroneous.

Accordingly, because Powell knowingly made false statements, the referee did not err in concluding that Powell violated Minn. R. Prof. Conduct 3.3(a), 4.1, and 8.4(c)–(d).

B.

The referee found and concluded that Powell engaged in the unauthorized practice of law. Powell argues that, based on the stipulation for discipline, she had a good faith belief that she could practice until August 2.

Our order suspended Powell for 45 days effective July 19, 2017. Thereafter, she engaged in the unauthorized practice of law three times. First, Powell engaged in unauthorized practice when she appeared on behalf of a client at the hearing on August 1. Second, Powell engaged in unauthorized practice when she sent an email discussing her client's position on August 7. Third, Powell engaged in unauthorized practice in the J.H. matter by working for a week after she was suspended. The referee's finding that Powell engaged in the unauthorized practice of law was not clearly erroneous.

Powell's argument that she did not "knowingly" violate our order is unavailing. There is no "knowing" element in Minn. R. Prof. Conduct 5.5(a), and Powell's purported failure to read her own discipline order is no excuse. *Cf. In re Rudawski*, 710 N.W.2d 264, 270 (Minn. 2006) (explaining that disciplined attorneys are responsible for being aware of orders issued regarding their discipline). The referee did not err in concluding that Powell violated Minn. R. Prof. Conduct 5.5(a) and 3.4(c).

C.

The referee found and concluded that Powell violated the rules pertaining to the management of client funds.

The referee found that Powell failed to have her client countersign a receipt for a cash payment. She thus violated Minn. R. Prof. Conduct 1.15(h) as interpreted by Appendix 1, Section II (2).

Powell argues that she was not aware of this rule. Ignorance of the rule is not a defense. As a licensed attorney, Powell is charged with knowing the rules regarding client funds. *See In re Panel Case No. 44387*, 932 N.W.2d 310, 315–16 (Minn. 2019); *In re Klotz*, 909 N.W.2d 327, 337 (Minn. 2018); *In re Copeland*, 505 N.W.2d 606, 608–09 (Minn. 1993).

The referee also found that Powell's fee agreements did not comply with Minn. R. Prof. Conduct 1.5(b)(3), and Powell did not place her unearned fees in her trust account. Powell admits that her fee agreements did not comply with the rules, and says that she has revised her fee agreements to ensure that they do. Powell also admits that the fees were placed into her business account, but, as already discussed, maintains that was due to bank error. The referee's finding that there was no bank error is not clearly erroneous. In any event, "misuse of the [trust] account, whether negligent or intentional, violates the rule." *In re Varriano*, 755 N.W.2d 282, 289 (Minn. 2008). The referee did not err in his findings and conclusions regarding Powell's fee agreements and deposits in her business account.

D.

The referee found that Powell did not cooperate with the Director in her investigation. Powell argues that she provided the Director with all of the information requested despite extenuating circumstances. The Director argues that the referee did not find Powell's explanations credible.

We agree with the Director. The Director's office made several requests for information and set several deadlines that Powell missed. *See Klotz*, 909 N.W.2d at 332, 336 (holding that a disciplined attorney failed to cooperate when he did not timely respond, did not send all the requested documents, and sent heavily redacted documents).

E.

We turn last to the referee's findings and conclusions about aggravating and mitigating factors. The referee found five aggravating factors: Powell has a history of prior discipline; she engaged in misconduct while she was on public disciplinary probation; her misconduct was intentional; she showed a lack of remorse; and she showed a lack of candor with the referee at her discipline hearing. The referee found no mitigating factors.

We agree with the referee, except in one respect. We agree that the record demonstrates that Powell was disciplined three times previously and engaged in misconduct while on disciplinary probation, both aggravating factors. We agree, with a caveat to be discussed, that Powell's conduct was intentional. We also agree that Powell's lack of candor with the referee at her discipline hearing—conduct not charged by the Director—was an aggravating factor.

We cannot agree, however, with the referee's finding and conclusion that lack of remorse was an aggravating factor. The referee opined that Powell refused to acknowledge her misconduct, exhibited no remorse for it, and failed to offer any evidence or assurance that she will not engage in similar future misconduct.

In our view, Powell did show remorse at her discipline hearing. She acknowledged that "there were things that I could have done differently and that I should have done

differently." She also said she learned from her mistakes and made changes in her practice. At one point in the hearing, Powell said she "absolutely" saw that "things should have been handled differently." She "could have told the judge that I was suspended" at the August 1, 2017, hearing. She also said that she "could have . . . should have [said she was suspended]" in the August 7 email. She also addressed her fee agreements and trust fund account and said that she had made corrections to her fee agreements and reformed how she handled client funds and bookkeeping. She also said that she now obtains a countersignature when her clients pay in cash. The aggravating factor of no remorse was not proven by clear and convincing evidence.

Finally, Powell argues that the referee erred in finding no mitigating factors. The Director argues that Powell did not claim, nor offer evidence of, any legally recognized mitigating factors.[11] We agree with the Director and the referee.

II.

We turn now to the appropriate discipline in this case. The referee recommended that Powell be indefinitely suspended from the practice of law and ineligible to apply for reinstatement for a minimum of six months. Powell argues that the appropriate discipline is a 60-day suspension. The Director is satisfied with the referee's recommendation.

The purpose of discipline is not to punish the attorney, but rather "to protect the courts, the public, and the profession and to guard the administration of justice." *In re*

[11] At oral argument, Powell's counsel said that Powell testified at her discipline hearing about her family challenges as a possible mitigating factor. At her discipline hearing, Powell discussed her family challenges, but only in terms of the misconduct that led to her suspension on July 19, 2017, not the misconduct alleged here.

Westby, 639 N.W.2d 358, 370 (Minn. 2002) (quoting *In re Flanery*, 431 N.W.2d 115, 118 (Minn. 1988)). The discipline recommended by the referee carries great weight, but we have the final responsibility for determining the appropriate discipline. *In re Jagiela*, 517 N.W.2d 333, 335 (Minn. 1994).

To determine the appropriate discipline we consider: (1) the nature of the misconduct; (2) the cumulative weight of the disciplinary violation; (3) the harm to the public; and (4) the harm to the legal profession. *See, e.g.*, *In re Nathanson*, 812 N.W.2d 70, 79 (Minn. 2012). We also take into account any mitigating or aggravating circumstances. *See In re Perez*, 688 N.W.2d 562, 567 (Minn. 2004).

A.

We first address the nature of the misconduct. Powell violated a variety of rules.

First, Powell knowingly made multiple false statements. "We take issues of attorney dishonesty seriously." *In re Sea*, 932 N.W.2d 28, 36 (Minn. 2019). "Honesty and integrity are chief among the virtues the public has a right to expect of lawyers. Any breach of that trust is misconduct of the highest order and warrants severe discipline." *In re Ruffenach*, 486 N.W.2d 387, 391 (Minn. 1992). We pay special attention to dishonesty in statements to a tribunal. *See In re Nwaneri*, 896 N.W.2d 518, 525 (Minn. 2017). Powell's misconduct is significant and warrants discipline.

Second, Powell engaged in the unauthorized practice of law. Practicing law in violation of a suspension order "not only constitutes unauthorized practice of law, it also constitutes contempt of court." *In re Grigsby*, 815 N.W.2d 836, 845 (Minn. 2012) (citation omitted) (internal quotation marks omitted).

Third, Powell mismanaged client funds. Powell's violation of the rules was more akin to clerical errors than intentional theft. *See Panel Case No. 44387*, 932 N.W.2d at 315.

Finally, Powell failed to cooperate with the Director's investigation. Persistent failure to cooperate with the Director's investigation is "serious misconduct that constitutes separate grounds for discipline" and "increase[s] the severity of the disciplinary sanction when connected with other professional misconduct." *In re Rhodes*, 740 N.W.2d 574, 579–80 (Minn. 2007). Powell's non-cooperation was serious.

B.

We now turn to the cumulative weight of Powell's misconduct. When assessing the cumulative weight of violations, we distinguish a "brief lapse in judgment" or "a single, isolated incident" of misconduct from "multiple instances [] occurring over a substantial amount of time." *In re Murrin*, 821 N.W.2d 195, 208 (Minn. 2012) (citation omitted) (internal quotations omitted). "The cumulative weight and severity of multiple disciplinary rule violations may compel severe discipline even when a single act standing alone would not have warranted such discipline." *In re Oberhauser*, 679 N.W.2d 153, 160 (Minn. 2004). Powell engaged in serious misconduct and the cumulative weight of her disciplinary violations is significant.

C.

The final two factors require us to consider the harm to the public and legal profession. In considering harm, we consider the number of clients harmed and the extent of their injuries. *In re Coleman*, 793 N.W.2d 296, 308 (Minn. 2011). Here, Powell harmed

two clients: J.S., who had to quickly find a replacement attorney and paid that attorney a significant amount for the quick representation, and B.B., because his case was delayed.

In addition to the harm to her clients, we also consider Powell's harm to the profession. We place great weight on the reputation of the legal community as honest and truthful and have noted that "making false statements to a court harms the public and the legal profession." *Nwaneri*, 896 N.W.2d at 526; *see also In re Jensen*, 542 N.W.2d 627, 634 (Minn. 1996). Powell's dishonesty harmed the practice of law.

D.

After considering the factors discussed, we "consider and weigh any aggravating or mitigating factors to determine the appropriate sanction." *In re Ulanowski*, 834 N.W.2d 697, 703 (Minn. 2013). Here, we consider four aggravating factors and no mitigating factors.

As to the first and second aggravating factors, there is no dispute that Powell was disciplined three times previously and was on disciplinary probation when the misconduct occurred.

As to the third aggravating factor, intentional misconduct, we are cautious not to "double count" behavior as both a violation and an aggravating factor. *Sea*, 932 N.W.2d at 37 (quoting *In re Tayari-Garrett*, 866 N.W.2d 513, 520 n.4 (Minn. 2015)). Here, we give little weight to this factor because we have accounted for most of Powell's misconduct already.

As to the fourth aggravating factor, we have recognized that misconduct in the referee hearing may be an aggravating factor. *See, e.g.*, *In re Winter*, 770 N.W.2d 463, 469

(Minn. 2009). In this case, we give this factor little weight. We have already accounted for Powell's misrepresentations, and the referee's findings about conduct during the hearing are conclusory.

E.

Finally, we look to similar cases for guidance in determining the appropriate discipline. In other cases, we have imposed significant discipline for making false statements. Among all of the relevant discipline cases, the most similar are *Sea* and *Tayari-Garret*. *Sea*, 932 N.W.2d at 39; *Tayari-Garrett*, 866 N.W.2d at 522. In *Sea*, an attorney made multiple false statements to the court about the reason why he was late to court. *Sea*, 932 N.W.2d at 35. In *Tayari-Garrett*, an attorney lied and said that she was not at a hearing because of medical problems. 866 N.W.2d at 518. In each case, multiple false statements to the court about the reason for the attorney's unavailability warranted a 120-day suspension. *Sea*, 932 N.W.2d at 39; *Tayari-Garrett*, 866 N.W.2d at 522.

A similar suspension is appropriate here. True, Powell engaged in misconduct besides false statements. But taking everything into account, we are convinced that the public will be protected with a suspension for a minimum of 120 days, followed by a reinstatement proceeding at which Powell will be required to demonstrate moral change.

Accordingly, we order that:

1. Respondent Karlowba R. Adams Powell is indefinitely suspended from the practice of law, effective 14 days from the date of this opinion, with no right to petition for reinstatement for 120 days.

2. Respondent shall pay $900 in costs, pursuant to Rule 24(a), RLPR, and comply with the requirements of Rule 26, RLPR (requiring notice of suspension to clients, opposing counsel, and tribunals).

3. If respondent seeks reinstatement, she must comply with the requirements of Rule 18(a)–(d), RLPR. Reinstatement is conditioned on successful completion of the written examination required for admission to the practice of law by the State Board of Law Examiners on the subject of professional responsibility, and satisfaction of continuing legal education requirements. *See* Rule 18(e)–(f), RLPR.

Suspended.

MCKEIG, J. took no part in the consideration or decision of this case.

C O N C U R R E N C E

THISSEN, Justice (concurring).

I agree with the court that an indefinite suspension from the practice of law with no right to petition for reinstatement for 120 days is the appropriate discipline for respondent Karlowba Adams Powell. I agree with the court's analysis with one exception. I write separately to register my concern with the court's reliance on Powell's conduct at the disciplinary hearing as an aggravating factor. *See In re Nelson*, 933 N.W.2d 73, 76–77 (Minn. 2019) (Thissen, J., concurring).