

IN THE SUPREME COURT OF PENNSYLVANIA

IN THE MATTER OF : No. 2433 Disciplinary Docket No. 3
: :
RANDY McRAE : Board File No. C1-17-133
: :
: (United States District Court for the District
: of Maryland, Misc. Case No. 16-mc-11)
: :
: Attorney Registration No. 54996
: :
: (Out of State)

ORDER

PER CURIAM

AND NOW, this 13th day of April, 2018, Respondent's Motion for Leave to File Surreply to Disciplinary Counsel's Reply is granted. Upon consideration of the responses to a Notice and Order directing Randy McRae to provide reasons against the imposition of disbarment reciprocal to that imposed by the United States District Court for the District of Maryland, Randy McRae is disbarred from the practice of law in this Commonwealth, and he shall comply with all the provisions of Pa.R.D.E. 217.

A True Copy Patricia Nicola
As Of 4/13/2018

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

IN RE:

Randy McRae

Respondent.

MISC. CASE NO. 16-mc-11
(DISCIPLINARY)
SEALED

ORDER


On January 14, 2016, this Court appointed an attorney-investigator under Local Rule 705.1.a to conduct an investigation of Respondent's conduct as a member of the Bar of this Court. The Attorney-Investigator filed his report and recommendation on November 23, 2016, recommending that a formal proceeding be held. *See* Local Rule 705.1.b. Upon review of the Attorney-Investigator's report and recommendation, the Disciplinary and Admissions Committee recommended that the Court initiate formal proceedings against Respondent. On November 30, 2016, this Court issued Respondent an order to show cause within thirty (30) days after mailing of that order why Respondent should not be disciplined as provided in Local Rule 705.1.h for the reasons stated in the Attorney-Investigator's report and recommendation and advising him of his right to request a hearing as provided by Local Rule 705.1.d. In a letter dated January 11, 2017, ECF No. 8, Respondent was advised that he had failed to file a timely response and was notified that he would be recommended for disbarment. The Disciplinary and Admissions Committee has recommend that Respondent be disbarred. Respondent did not file a response or request a hearing and more than thirty days have expired. Accordingly, it is therefore

ORDERED by the United States District Court for the District of Maryland, that Randy McRae, Esquire, be and herby is, disbarred from the practice of law before this Court for the reasons set forth in the Attorney-Investigator's report and recommendation, a copy of which is attached to this Order; and it is further

ORDERED that the Clerk shall enter this Order on the public docket and administratively close the case.

The Clerk is directed to send a certified copy of this Order by regular mail to Respondent. Within fourteen (14) days of this Order, the Clerk shall give notice of this Order to the bar authorities and jurisdictions where Respondent is admitted to practice, as provided for in Local Rule 705.5(a). The Clerk shall also notify the National Discipline Data Bank of this Order as required by Local Rule 705.5(b).

Date: 2/1/17


Catherine C. Blake, Chief Judge
United States District Court

I hereby attest and certify on 2/3/2017
that the foregoing document is a full, true and correct
copy of the original on file in my office and in my
legal custody.

FELICIA G. CANNON
CLERK, U.S. DISTRICT COURT
DISTRICT OF MARYLAND

By  Deputy



November 23, 2016

FILED UNDER SEAL

Hon. Roger W. Titus
United States District Judge
Chair, Disciplinary and Admissions Committee
United States District Court for the District of Maryland
6500 Cherrywood Lane
Greenbelt, Maryland 20770

Re.: Randy McRae
Misc. Case No. 16-mc-11

Dear Judge Titus:

By Order dated January 14, 2016, this Court appointed me pursuant to local Rule 705.1.b. as Attorney-Investigator to conduct an investigation of Respondent Randy McRae, a member of the Bar of this Court.¹

In preparing this report, I reviewed the following documents:²

1. Documents relating to Mr. McRae's membership in the Bar of the District of Columbia;
2. Correspondence and documents relating to Mr. McRae's membership in the Bar of this Court;
3. Correspondence between this Court and Mr. McRae;
4. All pleadings and motions that Mr. McRae filed in this Court from 2010 to the present;
5. The docket and selected documents from the court file in the case of *State of Maryland v. Randy McRae*, Case No. CT100637X (Cir. Ct. for Pr. Geo. Co., Md.);

¹ On January 28, 2016, Mr. McRae filed a Motion to Disqualify Attorney-Investigator. (Dkt. No. 2.) The Court denied the motion on February 9, 2016. (Dkt. No. 3.)

² The documents relevant to this report are cited as exhibits throughout and are included with this report.

6. The entire transcript of the trial in *State of Maryland v. Randy McRae*, June 16-19, 2014; and
7. The transcript of the sentencing hearing in *State of Maryland v. Randy McRae*, August 1, 2014.

I met with Mr. McRae, along with his counsel, at my office in Greenbelt, Maryland on August 25, 2016. His statements are referenced at various parts in this report.

I. Factual Background

A. Mr. McRae's bar admissions and disciplinary history.

Randy McRae was admitted to the Bar of the District of Columbia on November 5, 1991. (Ex. 1.) He was also admitted to the Pennsylvania Bar, but the current status of his Pennsylvania license is "Administrative Suspension." (Ex. 2.) He is not, and never has been, a member of the Maryland Bar.

Mr. McRae has received prior discipline by the District of Columbia Bar. On January 2, 2008, the Office of Bar Counsel of the District of Columbia issued an Informal Admonition to Mr. McRae for the unauthorized practice of law in Maryland. (Ex. 3.) On September 29, 2014, Mr. McRae's license was suspended on an interim basis due to his conviction of a serious crime in the Circuit Court for Prince George's County (which is discussed in detail below). (Ex. 4.) On April 27, 2015, the D.C. Court of Appeals vacated Mr. McRae's interim suspension and remanded the matter to Bar Counsel to investigate. (Ex. 5.) In my meeting with Mr. McRae, he indicated that he believes this investigation remains open and ongoing.

Mr. McRae first became a member of the Bar of this Court in 1993. (Ex. 6.) He failed to timely renew his membership in January 2002 and was stricken from the bar. (Ex. 7.) His application for renewal was granted on or around November 14, 2002. (Ex. 8.) He again failed to timely renew his membership in January 2005, and was stricken from the bar. (Ex. 9.)

On December 10, 2009, Mr. McRae submitted an application for readmission to the Bar of this Court. (Ex. 10.) The Court granted Mr. McRae's application, effective February 1, 2010. (Ex. 11.)

On April 20, 2015, this Court placed Mr. McRae's membership on ineligible status due to the above-referenced suspension by the District of Columbia Bar. (Ex. 12.) On May 6, 2015, after the D.C. Court of Appeals vacated Mr. McRae's interim suspension, this Court returned his membership to active status. (Ex. 13.)

On September 10, 2015, Hon. Roger W. Titus, Chair of this Court's Disciplinary and Admissions Committee, wrote to Mr. McRae to inquire about three issues:

(1) whether you have properly claimed the District of Columbia as the location of your principal law office (which was the basis for your admission to our Bar), (2) whether you maintain any office in Maryland and (3) the effect on your admission to the bar of this Court of criminal proceedings brought against you.

(Ex. 14.)

Mr. McRae responded on September 29, 2015, and provided some, but not all, of the information that Judge Titus requested. (Ex. 15.) By letter on October 6, 2015, Judge Titus reiterated his request for additional information, particularly about the criminal proceedings against Mr. McRae. (Ex. 16.) Mr. McRae did not respond to this letter. Judge Titus wrote to him again on November 12, 2015, instructing him to provide the requested information within fourteen days. (Ex. 17.) Mr. McRae did not do so. But he retained counsel who sought and was granted an extension of time, and who provided some additional information, but again not all of the information Judge Titus had requested. (Ex. 18, 19, 20.)

As noted above, on January 14, 2016, the Court appointed me to investigate this matter.

B. Location of Mr. McRae's law office(s).

In his application for readmission to the Bar of this Court, submitted on December 10, 2009, Mr. McRae listed his address as 4301 F Street, S.E., Washington, D.C. 20019. (Ex. 10.) In his September 29, 2015 letter to Judge Titus, Mr. McRae stated that this location is a private residence:

My District of Columbia address is a permanent residence owned by my family since about 1966, and has been home to our family members for over 40 years. My recollection of the application to become a member of this bar was that the application asked for name, then "address" and as such I consider that my office address. . . .

(Ex. 15.)

In my meeting with Mr. McRae, he reiterated that 4301 F Street is a private residence owned by his family. He does not live there. He stated that he has occasionally conducted legal work at the house using a laptop computer at a kitchen table, but he never used it as a permanent law office, has never met with clients there, and does not consider it a law office.

Since his readmission on February 1, 2010, Mr. McRae has filed at least forty pleadings and motions in this Court listing office addresses in Maryland. In the case of *Randy McRae v. Terry Speigner et al.*, Case No. 8:10-cv-00239-PJM, Mr. McRae filed papers listing his address as 10640 Campus Way South, #110 (or "Ste. 110"), Largo, Maryland 20774. (See Dkt. Nos. 24, 25, 29, 30, 31, 34, 35, 43, 44, 45, 48, 53, 55, 59, attached as Exhibit 21.) In the case of *Randy McRae v. HSBC Bank USA, N.A.*, Case No. 8:11-cv-01201-RWT, Mr. McRae filed papers listing his address as 1106 Merganser Court, Upper Marlboro, Maryland 20774. (See Dkt. Nos. 1, 3,

attached as Exhibit 22.) In the case of *Shelby McRae et al. v. Cyrus A. Araiban*, Case No. 8:13-cv-03622-RWT, Mr. McRae filed papers listing his address as 10640 Campus Way South, Ste. 110, Largo, Md. 20774.³ (See Dkt. Nos. 1, 2, 3, 7, 9, 15, 18, 20, 22, 24, 27, 32, attached as Exhibit 23.) In the case of *HSBC Bank N.A. v. Cyrus A. Ariaban et al.*, Case No. 8:14-cv-00659-RWT, Mr. McRae filed papers listing his address as 10640 Campus Way South, #110 (or "Ste. 110"), Largo, Maryland 20774. (See Dkt. Nos. 6, 12, 18, 19, 32, 33, 38, 39, attached as Exhibit 24.) In the case of *United States of America, ex. rel. John Young v. Eric Brown et al.*, Case No. 8:15-cv-01125-TDC, Mr. McRae filed papers listing his address as 10640 Campus Way South, Ste. 110, Largo, Maryland 20785. (See Dkt. Nos. 1, 9, attached as Exhibit 25.) In the case of *United States of America et al. v. Michael Bryant et al.*, Case No. 8:15-cv-04018-PWG, Mr. McRae filed papers listing his address as 10640 Campus Way South, Ste. 110, Largo, Maryland 20785. (See Dkt. No. 1, attached as Exhibit 26.) In the case of *Tommie Broadwater III v. LPP Mortgage Ltd. et al.*, Case No. 8:16-cv-01139-PJM, Mr. McRae filed papers listing his address as 10640 Campus Way South, Ste. 110, Largo Md. 20785. (See Dkt. No. 17, attached as Exhibit 27.)

In his September 29, 2015 letter to Judge Titus, Mr. McRae stated that "[t]he [Maryland] address which is subject of this letter is simply and solely a mailing address box. It is provided by a business by the name of 'PIC N PAC' which provides post office boxes with a street address for mailing purposes." (Ex. 15.) In my meeting with Mr. McRae, he described the 10640 Campus Way South location as a Post Office box where he has mail delivered.

Mr. McRae informed me that he resides at 8012 Wingate Drive, Glenn Dale, Maryland 20769 (and has since 2012). Mr. McRae stated that he maintains a "home office" at this location, with a desk and computer where he sometimes works. He stated that he keeps files electronically on a "flash drive," which he carries with him in a briefcase. His paper files are kept and maintained at his home office. He conducts telephone calls using his mobile phone wherever he happens to be located at the time of the call, which presumably would at times be at his home office.

The "contact" page of Mr. McRae's website currently lists both the 4301 F Street and 10640 Campus Way South addresses:

4301 F Street SE
Washington, DC 20019

P.O. Box
10640 Campus Way South #110
Largo, MD 20774

(Ex. 28.)

³ In some cases, the address is listed as 10640 Campus Way South, P.O. Box 110, Largo, Maryland 20774.

Mr. McRae stated that he uses different letterhead for different clients: if a client is located in the District of Columbia, he uses letterhead listing the above-referenced Largo, Maryland address; if a client is located in Maryland, he uses letterhead listing a District of Columbia address.

In our meeting, Mr. McRae stated that he does not have a "principal office." He stated that his mail goes to P.O. boxes.⁴ He meets with clients at their offices or at a hotel on Thomas Circle. He uses other attorneys' offices for depositions. He works from his home office, clients' offices, or the law library at Catholic University Columbus School of Law.

C. *State of Maryland v. Randy McRae.*

On May 20, 2010, a grand jury indicted Mr. McRae on three counts of theft over \$10,000 in violation of Md. Code, Crim. Law § 7-104, one count of forgery, and one count of uttering of a counterfeit document in violation of Crim. Law § 8-602. (Ex. 29.)

The case related to actions Mr. McRae took as General Counsel of the Central Prince George's County Development Corporation ("CDC"), a nonprofit corporation focused on community development in Prince George's County, particularly in the area surrounding FedEx Field in Landover. Mr. McRae had the CDC certified as a Community Housing Development Organization ("CHDO"), a federally-regulated entity eligible to receive funding from the U.S. Department of Housing and Urban Development ("HUD"). (Ex. 32 at 39-42.) *See also* 24 C.F.R. § 92.2. Under HUD's Home Investment Partnership Program, it disburses funds to participating local governments, in this case Prince George's County. (Ex. 32 at 31-38.) A CHDO may apply to the County for reimbursement of certain operating and other expenses relating to the organization's ownership, development, or sponsorship of HUD-assisted affordable housing. (Ex. 32 at 31-38.) *See also* 24 C.F.R. 92.208. Under this program, a CHDO must first incur the expenses at issue, and it must then apply to the County for reimbursement, showing evidence of its payment of the expenses. (Ex. 32 at 37.)

The State alleged that Mr. McRae committed theft of \$25,000 from the County by obtaining fraudulent reimbursements and, additionally, that he committed theft of \$25,000 from a would-be business partner and investor in an unrelated venture. (Ex. 30 at 47-54.)

The State presented evidence that Mr. McRae convinced a former client, Kenneth Brewer, to invest in a real estate project in North Carolina. (Ex. 31 at 191-95.) Mr. Brewer wrote a check to Mr. McRae's law firm in the amount of \$25,000, which he understood would be used as a down payment to obtain financing for the project. (Ex. 31 at 192-95.) Mr. McRae did not use the funds for the real estate project. Instead, he opened a bank account in the name of "Central Prince George's County Development Capital Corporation," a nonexistent entity, but a name that is similar to the name of the CDC. (Ex. 32 at 102.) He used a false, nonexistent tax ID number to

⁴ In addition to the above-referenced Maryland P.O. box, Mr. McRae sometimes utilizes a P.O. Box in the District of Columbia: 3178 Bladensburg Road, NE, P.O. Box 41216, Washington, DC 20018. This is the address that is currently on file with this Court. (Ex. 36.)

open the account. He deposited Mr. Brewer's \$25,000 "investment" into this account and subsequently paid it to himself in a series of checks to himself, for cash, or for his personal expenses. (Ex. 32 at 102-14.)

In addition, the State presented evidence that Mr. McRae submitted a series of false invoices to the County and obtained "reimbursements," allegedly for CDC operating expenses. (Ex. 31, 55-60; Ex. 32, 102-14.) The reimbursements came in three separate payments, two of \$10,000 and one of \$5,000. (*Id.*) Mr. McRae deposited the two \$10,000 payments into a legitimate CDC account, but then transferred the funds to his fraudulent account and disbursed the funds to himself or used the funds for payment of personal expenses. (*Id.*)

The State presented evidence that at or around the time of the second \$10,000 payment, the CDC Board of Directors learned of the existence of the two accounts and removed Mr. McRae as an authorized user of the accounts. (Ex. 31 at 111-18.) The Board was not aware that a "reimbursement" check of \$5,000 was forthcoming. (Ex. 31 at 121-22.) When the check was disbursed, Mr. McRae opened a new account in the CDC's name at a different bank, deposited the \$5,000 check, and disbursed the funds to himself or for payment of his personal expenses. (Ex. 32 at 114-15.)

Thus, the State alleged that Mr. McRae committed theft of \$25,000 from Mr. Brewer and \$25,000 from the County and CDC. It also accused him of issuing a counterfeit instrument by forging a Board member's signature on the original application for certification. (Ex. 33 at 103-17.)

A four-day jury trial was held June 16-19, 2014. (The transcripts of the trial are attached as Exhibits 30, 31, 32, and 33.) Witnesses included Mr. Brewer, members of the CDC Board, a representative of the County Department of Housing and Community Development, and a HUD investigator. Mr. McRae did not testify.

The jury found Mr. McRae guilty on all five counts. (Ex. 33 at 162-63.) The Court held a sentencing hearing August 1, 2014. (The transcript of this hearing is attached as Exhibit 34.) The Court sentenced Mr. McRae to restitution; one year of incarceration, suspending all but 48 days, to be served on weekends; and three years of supervised probation. (Ex. 34 at 62-64.) After issuing the sentence, the Court further stated:

I will tell you this: I would be inclined to grant probation before judgment upon completion, successful completion of your weekends and upon payment of restitution. Okay? I would be more than inclined to grant you probation before judgment at that time, even if you had some period of supervised probation.

(Ex. 34 at 64.)

Mr. McRae moved for reconsideration of the sentence. The Court held a hearing on June 30, 2015. (Ex. 29 at 18.) This hearing has not been transcribed. After the hearing, the Court

issued an order that the guilty finding "is hereby stricken," and sentencing Mr. McRae to probation before judgment. (Ex. 35.)

II. Analysis.

Under L.R. 703, any attorney who practices in this Court is deemed to have conferred disciplinary jurisdiction on the Court for any misconduct by the attorney. As provided in L.R. 704, the Court applies the Maryland Rules of Professional Conduct as adopted by the Maryland Court of Appeals. L.R. 705 establishes the substantive rules and procedure for disciplinary proceedings in this Court.

A. Mr. McRae does not maintain his principal law office in the District of Columbia.

L.R. 701.1.a. provides the general qualifications for admission to the Bar of this Court, including for attorneys barred in jurisdictions other than Maryland:

Except as provided in subsections (c) and (d) of this Rule, an attorney is qualified for admission to the Bar of this District if the attorney is, and continuously remains, an active member in good standing of the highest court of any state (or the District of Columbia) *in which the attorney maintains his or her principal law office*, or of the Court of Appeals of Maryland

(Emphasis added.)

Under L.R. 701.1.e. "principal law office" for purposes of L.R. 701.1.a. is defined as follows:

The term "principal law office" as used in this Rule means "the chief or main office in which an attorney usually devotes a substantial period of his or her time to the practice of law during ordinary business hours in the traditional work week." In determining whether an office is the "principal law office," the Court shall consider the following non-exclusive factors:

- i. The attorney's representations of his or her "principal law office" or "law office" for purposes of malpractice insurance coverage, tax obligations, and client security trust fund obligations.
- ii. The address utilized in pleadings, correspondence with clients, applications for malpractice insurance and bar admissions, advertising, letterhead, and other business matters.
- iii. The location of meetings with clients, conduct of depositions, research, and employment of support staff and associates.

- iv. Location of client files, accounting records, and other business records, library and communication facilities such as telephone and fax service.
- v. Whether the attorney has other offices, their locations and their relative utilization.
- vi. The laws under which the law practice is organized, such as the place of incorporation.

As noted above, Mr. McRae is a member of the District of Columbia Bar. He currently utilizes two addresses in the District. One is a P.O. Box address that is currently on file with this Court. (Ex. 36.) This cannot possibly be his principal law office, as it is not an office, but merely a P.O. Box.

The second address utilized by Mr. McRae is 4301 F Street, S.E., Washington, D.C. 20019, the address he listed on his application for readmission to this Court. (Ex. 10.) This also is not his principal law office. As Mr. McRae acknowledged to Judge Titus and to me, this location is a residence owned by Mr. McRae's family. Mr. McRae does not regularly work from this location. He does not keep files, keep business records, meet with clients, or conduct depositions at this location. He does not list this location on his letterhead or on his website.

Moreover, Mr. McRae conceded to me that he does not have a "principal law office," as he generally works from his home and various other locations. As such, Mr. McRae does not have his principal law office in the District of Columbia, the jurisdiction in which he is licensed. He therefore is not qualified for admission to the Bar of this Court.

B. Mr. McRae is not a member of the Maryland Bar, but maintains a law office in Maryland.

Under Local Rule 701.1.d., an attorney who is not a member of the Maryland bar and who maintains any law office in the State of Maryland is not qualified for admission to this Court. Specifically, L.R. 701.1.d. states:

An attorney who is not a member of the Maryland Bar is not qualified for admission to the Bar of this District if the attorney maintains any law office in Maryland. For the purposes of this subsection, an attorney shall be deemed to maintain an office in Maryland if a Maryland address is used by that attorney on any document filed in this Court for purposes of satisfying L.R. 102.1.b.^{5]}

⁵ L.R. 102.1.b. states:

b) Identifying Information

- i) Required on All Court Documents. At the bottom of all court documents, counsel and self-represented litigants shall state their name, address, telephone number, email and fax number. Counsel shall also state their bar number assigned by this Court. This is not a substitute for compliance with L.R. 101.1.b.ii and L.R. 701.3.

However, if an attorney is a member of a law firm having offices in multiple jurisdictions, an attorney who is a member of such a firm shall not be deemed to maintain a law office in Maryland if that attorney does not maintain a regular physical presence in the Maryland office of the firm. Failure of an attorney to satisfy this continuing requirement may result in the attorney either being moved to ineligible status or subjected to expedited remedial action as provided for in L.R. 705.1.i.

L.R. 701.1.d. mandates that, "[f]or the purposes of this subsection, an attorney shall be deemed to maintain an office in Maryland if a Maryland address is used by that attorney on any document filed in this Court for purposes of satisfying L.R. 102.1.b." This provision of L.R. 701.1.d. was added by amendment of the Local Rules effective July 1, 2016.

As noted above, Mr. McRae has used a Maryland address on documents filed in this Court at least forty times since his readmission in 2010. (Ex. 21, 22, 23, 24, 25, 26, 27.) On at least two occasions since July 1, 2016, Mr. McRae has filed documents in this Court using a Maryland address in his signature block on the filing. On July 17, 2016, Mr. McRae filed an opposition to a motion in the case of *Shelby McRae et al. v. Cyrus A. Araiban*, Case No. 8:13-cv-03622-RWT, in which he listed his address as: "10640 Campus Way South, P.O. Box 110, Largo, Maryland 20774." (Ex. 23, Dkt. No. 32.) On August 22, 2016, Mr. McRae filed an opposition to a motion in the case of *Tommie Broadwater III v. LPP Mortgage Ltd. et al.*, Case No. 8:16-cv-01139-PJM, in which he listed his address as: "10640 Campus Way South, Ste. 110, Largo, Md. 20774." (Ex. 27, Dkt. No. 17.)

Mr. McRae has repeatedly used a Maryland address on documents he filed in this Court for purposes of satisfying L.R. 102.1.b. Accordingly, under L.R. 701.1.d., he "shall be deemed to maintain an office in Maryland," and is therefore not qualified for admission to the Bar of this Court.

Even setting aside Mr. McRae's court filings, it is apparent that he maintains a law office in Maryland. He maintains an office at his home in Glenn Dale, Maryland, where he conducts

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- ii) **Duty of Counsel to Notify the Clerk of Any Change in Address.** Counsel must promptly notify the Clerk of any change of address, including email address, irrespective of any changes noted on a pleading or other document. This obligation is continuing and if counsel fails to comply, the Court may enter an order dismissing any affirmative claims for relief and may enter a default judgment.
 - iii) **Duty of Self-Represented Litigants to Keep Current Address on File.** Selfrepresented litigants must file with the Clerk in every case which they have pending a statement of their current address where case-related papers may be served. This obligation is continuing, and if any self-represented litigant fails to comply, the Court may enter an order dismissing any affirmative claims for relief filed by that party and may enter a default judgment on any claims asserted against that party.

legal work and keeps his files. Although in our meeting Mr. McRae stressed that he does not meet with clients or conduct depositions at his home office, it is the only location that can fairly be considered his law office. Thus, even setting aside the fact that Mr. McRae has filed court papers listing a Maryland office, as a matter of fact, he maintains a law office in Maryland, and is therefore not qualified for admission to the Bar of this Court.

C. Mr. McRae committed and was found guilty of a serious crime.

L.R. 704.2.a.ii. requires the immediate suspension of any attorney who is found guilty or convicted of a serious crime:

Upon receipt of a finding of guilt or certified copy of a judgment of conviction demonstrating that any attorney admitted to practice before the Court has been found guilty or convicted of a serious crime in any court of the United States, or the District of Columbia, or of any state, territory, commonwealth or possession of the United States, the Court shall enter an order immediately suspending the attorney, whether the finding of guilt or conviction resulted from a plea of guilty or nolo contendere or from a verdict after trial or otherwise, and regardless of the pendency of any appeal. Such order shall direct the attorney-respondent to show cause within thirty (30) days why disbarment or some lesser punishment should not be imposed. A copy of such order shall immediately be served upon the attorney-respondent.

Under L.R. 704.2.a.i., "serious crime" is defined in the Rules to include any felony, as well as crimes of misappropriation and theft:

For purposes of this Rule, the term "serious crime" shall include any felony and any lesser crime a necessary element of which, as determined by the statutory or common law definition of such crime in the jurisdiction where the finding of guilt or judgment was entered, involved false swearing, misrepresentation, fraud, willful failure to file income tax returns, deceit, bribery, extortion, misappropriation, theft, or an attempt or a conspiracy or solicitation of another to commit any of the above.

As explained in detail above and in the attached exhibits, Mr. McRae was charged with three counts of theft over \$10,000 in violation of Md. Code, Crim. Law § 7-104, a felony offense. (See Ex. 29, 30, 31, 32, 33.) After a full trial, a jury found him guilty on all three counts. (Ex. 33 at 162-63.) As such, he has been found guilty of a "serious crime," and is subject to immediate suspension.

The provision of L.R. 704.2.a. referencing a "finding of guilt" was a recent amendment to the Rule, effective July 1, 2016. Even so, there is no time limitation in the Rule, which states that "[u]pon receipt of a finding of guilt . . . demonstrating that any attorney admitted to practice before the Court has been found guilty . . . of a serious crime in any court . . . of any state . . . the Court shall enter an order immediately suspending the attorney." L.R. 705.2.a.ii. There can be no

dispute that Mr. McRae was found guilty of a serious crime, and therefore the Rule requires immediate suspension.

Even setting aside the provisions of L.R. 705.2., Md. R. Prof. Conduct 8.4 states in relevant part:

It is professional misconduct for a lawyer to:

* * *

(b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;

(c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation

In a comment to this Rule, the Maryland Court of Appeals expounded further on the types of criminal acts that constitute professional misconduct:

Many kinds of illegal conduct reflect adversely on fitness to practice law, such as offenses involving fraud and the offense of willful failure to file an income tax return. However, some kinds of offense carry no such implication. Traditionally, the distinction was drawn in terms of offenses involving "moral turpitude." That concept can be construed to include offenses concerning some matters of personal morality, such as adultery and comparable offenses, that have no specific connection to fitness for the practice of law. Although a lawyer is personally answerable to the entire criminal law, a lawyer should be professionally answerable only for offenses that indicate lack of those characteristics relevant to law practice. Offenses involving violence, dishonesty, or breach of trust, or serious interference with the administration of justice are in that category. A pattern of repeated offenses, even ones of minor significance when considered separately, can indicate indifference to legal obligation.

Md. R. Prof. Conduct 8.4, comm. 2.

Here, a jury found Mr. McRae guilty of theft over \$10,000 in violation of Md. Code, Crim. Law § 7-104. The Maryland Court of Appeals has repeatedly recognized that theft in violation of Crim. Law § 7-104 constitutes a violation of Md. R. Prof. Conduct 8.4. *See, e.g., Attorney Grievance Comm'n of Maryland v. Wills*, 441 Md. 45, 57, 105 A.3d 479, 486 (2014) (stating that a hearing judge found that an attorney had committed theft in violation of Crim. Law § 7-104(a)(1), (a)(2), and (a)(3), and Crim. Law § 7-113(a)(1) and (a)(2), and "[t]hose findings establish a violation of MLRPC 8.4(b)"); *Attorney Grievance Comm'n of Maryland v. Kozel*, 440 Md. 412, 413, 103 A.3d 216 (2014) (stating that an attorney plead guilty to violation of Crim. Law § 104(g)(1)(ii), and that "said criminal act violates Rules 8.4(a), (b), and (c) of the Maryland Rules of Professional Conduct"); *Attorney Grievance Comm'n of Maryland v. Seltzer*,

424 Md. 94, 113, 34 A.3d 498, 510 (2011) (holding that an attorney's violation of Crim. Law § 7-104(b) constituted a violation of Md. R. Prof. Conduct 8.4(b)); *Attorney Grievance Comm'n of Maryland v. Watson*, 382 Md. 465, 474, 855 A.2d 1213, 1218 (2004) (affirming findings and conclusions by the hearing judge that the an attorney violated Crim. Law § 7-104 (among other statutes) and that "[t]he Respondent's criminal activities also establish violations of MRPC 8.4(c) & (d)").

In my meeting with Mr. McRae, he pointed out that the Circuit Court struck the guilty findings against him and sentenced him to probation before judgment. In considering violations of Md. R. Prof. Conduct 8.4, however, the Maryland Court of Appeals looks not only to the conviction of a crime or sentence, but to the underlying acts. "An actual conviction is not required to establish that an attorney violated MRPC 8.4(b), so long as the underlying conduct that constitutes the crime is proven by clear and convincing evidence." *Attorney Grievance Comm'n of Maryland v. Tanko*, 427 Md. 15, 47, 45 A.3d 281, 300 (2012).

The Court of Appeals has found a violation of Rule 8.4 where there was a sentence of probation before judgment. In *Attorney Grievance Comm'n of Maryland v. Reno*, 436 Md. 504, 505, 83 A.3d 781, 782 (2014) ("Reno I"), an attorney was charged with providing a handgun to a person who could not legally possess a regulated firearm. The attorney was found guilty, but received probation before judgment. *Id.* Irrespective of the probation before judgment in the criminal case, the Court of Appeals considered the attorney's underlying conduct and concluded that she had violated Rule 8.4(d). *Id.* at 509-10, 83 A.3d at 784.

In a second appeal in the same matter, *Attorney Grievance Comm'n of Maryland v. Reno*, 440 Md. 414, 103 A.3d 565 (2014) ("Reno II"), the Court of Appeals expressly rejected the notion that the outcome of an attorney's criminal case is relevant in a disciplinary proceeding. As the Court explained:

We reject the Commission's curious assertion that Reno's misconduct is mitigated by the absence of a conviction and the expungement of the records of Reno's criminal case. These circumstances do not correspond to any of the mitigating factors that this Court has identified in its attorney discipline jurisprudence. Indeed, in an attorney discipline proceeding, this Court considers a lawyer's misconduct, regardless of the disposition of any criminal case that arises out of the lawyer's misconduct.

Id. at 422, 103 A.3d at 569-70 (citations omitted). See also *Attorney Grievance Comm'n of Maryland v. Greenleaf*, 438 Md. 151, 160, 91 A.3d 1066, 1071 (2014) (imposing discipline on an attorney for violation of Rule 8.4 despite the fact that the attorney received probation before judgment in a criminal case).

In Mr. McRae's case, a jury found beyond a reasonable doubt that he committed acts of theft in violation of Crim. Law § 7-104. The evidence of Mr. McRae's violations is detailed above and in the attached exhibits. (See Ex. 30, 31, 32, 33.) This evidence is more than sufficient

to prove by clear and convincing evidence that he engaged in conduct that constitutes crimes and that he therefore committed professional misconduct in violation of Md. R. Prof. Conduct 8.4.

III. Conclusion.

As explained above, Mr. McRae is not qualified for admission to the Bar of this Court under L.R. 701 because (a) he is a member of the District of Columbia Bar, but does not maintain his principal law office in the District, and (b) he is not a member of the Maryland Bar, but maintains a law office in Maryland. In addition, Mr. McRae was found guilty of—and in fact committed—a serious crime in violation of L.R. 705.2. and Md. R. Prof. Conduct 8.4.

In accordance with L.R. 705.1.b, I recommend that formal proceedings be initiated as provided in part c., and that the Court issue an order to Mr. McRae to show cause within 30 days why he should not be disciplined.

Respectfully submitted,



Joseph M. Creed

Enclosures

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. 17-BG-224

IN RE: RANDY MCRAE

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

Bar Reg. No. 430494

BEFORE: Thompson, Associate Judge, and Washington and Farrell, Senior Judges.

2017 DDN 20

FILED 10-26-17
District of Columbia
Court of Appeals
Julio Castillo
Clerk of Court

ORDER

(FILED – October 26, 2017)

On consideration of the certified order from the United States District Court for the District of Maryland disbarring respondent from the practice of law, this court's April 26, 2017, order suspending respondent pending resolution of this matter and directing him to show cause why reciprocal discipline should not be imposed, the response thereto, the statement of Disciplinary Counsel, respondent's exceptions, and the reply of Disciplinary Counsel; respondent's motion to lift suspension and stay the case, the opposition of Disciplinary Counsel, and the reply thereto; respondent's supplemental D.C. Bar R. XI, §14 (g) affidavit, second supplemental affidavit, and responses of Disciplinary Counsel, and it appearing that Disciplinary Counsel was not served the supplements and did not receive the supplemental affidavits until October 13, 2017, after being notified by the court, it is

ORDERED that Randy McRae is hereby disbarred from the practice of law *nunc pro tunc* to October 13, 2017. See *In re Sibley*, 990 A.2d 483 (D.C. 2010); *In re Fuller*, 930 A.2d 194, 198 (D.C. 2007) (rebuttable presumption of identical reciprocal discipline applies to all cases in which the respondent does not participate). It is

FURTHER ORDERED that respondent's motion to lift suspension and stay the case is denied as moot.

PER CURIAM

OFFICE OF DISCIPLINARY COUNSEL

OCT 26 2017

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A true Copy
Test:

Julio Castillo
Clerk of the District of Columbia Court
of Appeals

BY



DEPUTY CLERK
Julio Castillo
Clerk of the District of Columbia
Court of Appeals

Exhibit C

DISTRICT OF COLUMBIA COURT OF APPEALS
BOARD OF PROFESSIONAL RESPONSIBILITY

In the Matter of)
Randy McRae)
Respondent)
Bar Number: 430494)
Date of Admission: Dec. 1991)
Effective Date of Suspension: 4/27/2017)

DCCA No.: 17-BG-224
Bar Docket No. 2017-D020

2017 MAY 30 PM 5:08
RECEIVED
DISTRICT OF COLUMBIA
COURT OF APPEALS
Board on Professional Responsibility

RECEIVED

AFFIDAVIT OF COMPLIANCE WITH D.C. BAR RULE XI, § 14

I, Randy McRae, pursuant to D.C. Bar Rule XI, § 14, and Rule 9.10 of the Rules of the Board on Professional Responsibility ("Board Rules"), declares as follows:

1. I was suspended by this Court by order dated April 27, 2017. The suspension is effective the date of the Order as scanned April 27, 2017, pursuant to Rule XI, § 14(f).
2. **NOTICE TO CLIENTS IN NON-LITIGATED MATTERS OR WHERE ATTORNEY HAD NO CLIENTS ON RETAINER OR IN PENDING NON-LITIGATED MATTERS.**

At the time of the entry of the order of suspension, I had no clients or retainer or clients being represented in pending matters other than litigated or administrative matters or proceedings pending in any court or agency, and thus no non-litigated matter client is due notice pursuant to D.C. Bar Rule XI, § 14(a).

3. **NOTICE TO CLIENTS IN LITIGATED MATTERS.**

As required by D.C. Bar Rule XI, § 14(b), I have promptly notified by registered or certified mail, return receipt requested, all clients involved in litigated matters or administrative proceedings in any court of the District of Columbia, or in pending matters before any District of Columbia government agency, of the order of suspension and of my consequent inability to act as an attorney after the effective date of the order. The notice I provide advises prompt substitution of another attorney or attorneys. As



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JUN 05 2017

OFFICE OF DISCIPLINARY COUNSEL

required by D.C. Bar Rule XI, § 14(g)(1), and Board Rule 9.9(a), attached hereto at Tab B are copies of the seven letters I have sent in compliance with § 14(b), including return receipts statements. In instances where the client has failed to obtain substitute counsel before the effective date of suspension, I have moved pro se in the court or agency in which the proceeding is pending for leave to withdraw. Attached hereto at TAB C are copies of the seven such motions I have filed pro se.

I only have seven (7) such client matters: (1) Gene Pender; (2) Wille T. Craft, Jr.; (3) Tommie Broadwater, Jr.; (4) Marty McClaren; (5) Kellee Baker; (6) Lafayette Wright, et al., and (7) Robert Davis.

4. NOTICE TO ADVERSE PARTIES

As required by D.C. Bar Rule XI, § 14(c), I have promptly notified, by certified or registered mail, return receipt requested, the attorney or attorneys for every adverse party in litigated matters in any District of Columbia administrative agency, of the order of suspension and of my consequent inability to act as an attorney after the effective date of the order. Each notice provided the mailing address of each client of mine who is a party in the pending matter or proceeding. As required by D.C. Bar Rule XI, § 14(g)(1), and Board Rule 9.9(a), attached hereto at TAB D are the two notices I have provided the attorney(s) for such adverse parties.

5. DELIVERY OF CLIENT PAPERS AND PROPERTY.

As required by D.C. Bar Rule XI, § 14(d), I have promptly delivered to all clients being represented in pending matters any papers or other property to which the clients are entitled, or have notified the clients and co-counsel of a suitable time and place where the papers and other property may be obtained, calling attention to the urgency for obtaining the papers or other property. As required by D.C. Bar Rule XI, § 14(g)(1),

and Board Rule 9.9(a), attached hereto at TAB E are copies of the letters I have provided to clients and co-counsel in the three matters where this is applicable.

6. OTHER STATE AND FEDERAL JURISDICTIONS AND ADMINISTRATIVE AGENCIES TO WHICH I AM ADMITTED

As required by D.C. Bar Rule XI, § 14(g)(2), I hereby advise that the following is a complete list of all state and federal jurisdictions and administrative agencies to which I am admitted to practice:

U.S. District Court for the District of Columbia
U.S. District Court for the District of Maryland
U.S. Court of Federal Claims
District of Columbia Bar

7. ADDRESS:

As required by D.C. Bar Rule XI, § 14(g), I hereby state that my residence or other address to which communications may hereafter be directed is: 10640 Campus Way So., Ste. 110, Largo, Md. 20774. Furthermore, I understand my obligation pursuant to § 14(g), for five years after the effective date of the suspension order, to continue to file an annual registration statement in accordance with D.C. Bar R. II, stating the residence or other address to which communications may thereafter be directed, so that I may be located if a complaint is made about any of my conduct occurring before my suspension.

8. CONTINUING OBLIGATION TO MAINTAIN RECORDS.

I understand my obligation pursuant to D.C. Bar Rule XI, § 14(h), to keep and maintain records of the various steps taken under § 14, including copies of all pertinent documents, so that in any subsequent proceeding proof of compliance with this section and with the suspension order will be available.

9. FILING AN AFFIDAVIT.

As required by D.C. Bar Rule XI, § 14(g), I am filing originals of this affidavit with the

Clerk, D.C. Court of Appeals, 430 E Street, N.W., Suite 209, Washington, D.C. 20001,
and the Board of Professional Responsibility, 430 E. Street, N.W., Suite 138,
Washington, D.C., 20001. As required by § 14(g)(3), I hereby certify that I am causing
a copy of this affidavit to be served by first class mail this 26th day of May, 2017, on
the Office of Disciplinary Counsel at 515 5th Street, N.W., Room 117, Washington, D.C.
20001. I understand that if this affidavit is rejected by Bar Counsel in a Notice of Non-
Compliance as provided in Board Rule 9.9(b), the period of suspension may be
extended by the Court.

I declare under the penalty of perjury that the foregoing is true and correct. Executed
on April 26, 2017.

Respectfully submitted,

/s/Randy McRae
Randy McRae
D.C. Bar No. 430494

IN THE SUPREME COURT OF PENNSYLVANIA

In the Matter of : No. Disciplinary Docket
 : No.
RANDY MCRAE :
 : Board File No. C1-17-133
 :
 : (United States District Court
 : for the District of Maryland,
 : Misc. Case No. 16-11)
 :
 : Attorney Registration No. 54996
 :
 : (Out of State)

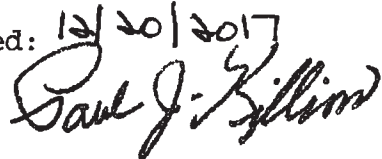
NOTICE AND ORDER

PER CURIAM:

AND NOW, this _____ day of _____, 201_,
having been disbarred from the practice of law by the
attached Order of the United States District Court for the
District of Maryland, Randy McRae is directed to inform
this Court within 30 days from service of this Notice of
any grounds against the imposition of the identical or
comparable discipline in this Commonwealth.

Randy McRae
218 Eleventh Street, SE
Washington, DC 20003

(Respondent)

Dated: 12/20/2017


Paul J. Killion, Attorney Registration No. 20955
Chief Disciplinary Counsel