

DISTRICT OF COLUMBIA COURT OF APPEALS
BOARD ON PROFESSIONAL RESPONSIBILITY

In the Matter of: :
 :
 JEFFREY B. CLARK, :
 :
 : Board Docket No. 22-BD-039
 Petitioner. :
 : Disciplinary Docket No. 2021-D193
 :
 :
 A Member of the Bar of the :
 District of Columbia Court of Appeals :
 (Bar Registration No. 455315) :

ORDER

This matter is pending before a Hearing Committee. It is before the Board on Respondent’s August 11, 2022 Motion to Recuse Board Member Matthew Kaiser. Respondent argues that Mr. Kaiser should not serve as either a Board or Hearing Committee Member in this matter based on his representation of a client. Disciplinary Counsel has not filed a response.

We begin by addressing a footnote in Respondent’s motion that questions the Board’s jurisdiction to consider the matter. Motion at 1 n.1. Respondent is a member of the District of Columbia Bar, and this motion arises out of a disciplinary matter pending before a Hearing Committee. As such, the Board has jurisdiction to consider this motion under D.C. Bar R. XI, § 1(a): “All members of the District of Columbia Bar, . . . are subject to the disciplinary jurisdiction of this Court and its Board on Professional Responsibility.”

Respondent’s motion acknowledged that Mr. Kaiser’s term on the Board on Professional Responsibility had expired on July 31, 2022. Respondent does not explain how a former Board member is subject to recusal, or otherwise address the obvious mootness of the requested relief. Respondent speculates that Mr. Kaiser may serve as a Hearing Committee Member in this matter. However, the Board has not appointed Mr. Kaiser to serve as a Hearing Committee member following the completion of his Board service, *see* D.C. Bar Rule XI, § 4(e), and thus there is

nothing to Respondent's speculation.

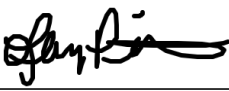
Respondent further speculates that Mr. Kaiser's perceived impartiality may be imputed to the other members of the Board. However, the proffered basis of Mr. Kaiser's impartiality arises out of his representation of a client. Respondent does not assert that other members of the Board represent the same client, or explain how Mr. Kaiser's perceived client-based impartiality could be imputed to others on the Board.

Respondent also speculates whether the "Board was called upon in any way to rule or give guidance to Disciplinary Counsel, formally or informally, over the period November 2021 until July 2022." The Board takes judicial notice that it did not issue any orders regarding Respondent prior to ruling on Disciplinary Counsel's August 4, 2022 Motion for Leave to File Under Seal. And that informal consultation with Disciplinary Counsel is limited to the Hearing Committee Contact Member assigned to review Disciplinary Counsel's proposed disposition of a docketed investigation. *See* Board Rule 2.12. The Board declines to further entertain Respondent's speculations. *Cf. Anderson v. United States*, 754 A.2d 920, 924 (D.C. 2000) ("Ordinarily, rumors and speculation will not satisfy the requirements for disqualification of a judge.").

Upon consideration of the foregoing, it is hereby

ORDERED Respondent's Motion to Recuse Board Member Matthew Kaiser is denied as moot.

BOARD ON PROFESSIONAL RESPONSIBILITY

By: 

Lucy Pittman
Chair

cc:

Jeffrey Clark, Esquire
c/o Charles Burnham, Esquire
Robert A. Destro, Esquire
Harry W. MacDougald, Esquire
charles@burnhamgorokhov.com
robert.destro@protonmail.com
hmacdougald@ccedlaw.com

Hamilton P. Fox, III, Esquire
Jason R. Horrell, Esquire
Office of Disciplinary Counsel
foxp@dcodc.org
horrellj@dcodc.org