

IN THE SUPREME COURT, STATE OF WYOMING

2017 WY 128

October Term, A.D. 2017

October 25, 2017

**BOARD OF PROFESSIONAL
RESPONSIBILITY, WYOMING
STATE BAR,**

Petitioner,

v.

**MARY JACLYN COOK, WSB#
7-5492,**

Respondent.

D-17-0006

ORDER SUSPENDING ATTORNEY FROM THE PRACTICE OF LAW

[¶1] **This matter** came before the Court upon a “Report and Recommendation for Order of Reciprocal Discipline,” filed herein October 16, 2017, by the Board of Professional Responsibility for the Wyoming State Bar, pursuant to Rule 12 (Stipulated Discipline) and Rule 19 (Discipline Imposed by Foreign Jurisdiction) of the Wyoming Rules of Disciplinary Procedure. After a careful review of the Board of Professional Responsibility’s Report and Recommendation and the file, this Court finds that the Report and Recommendation should be approved, confirmed, and adopted by the Court, and that Respondent Mary Jaclyn Cook should be suspended from the practice of law for nine months, consistent with the discipline imposed by the Presiding Disciplinary Judge of the Colorado Supreme Court. It is, therefore,

[¶2] **ADJUDGED AND ORDERED** that the Board of Professional Responsibility’s Report and Recommendation for Order of Reciprocal Discipline, which is attached hereto and incorporated herein, shall be, and the same hereby is, approved, confirmed, and adopted by this Court; and it is further

[¶3] **ADJUDGED AND ORDERED** that, consistent with the discipline imposed by the Presiding Disciplinary Judge of the Colorado Supreme Court and as a result of the

conduct set forth in the Report and Recommendation for Order of Reciprocal Discipline, Respondent Mary Jaclyn Cook shall be, and hereby is, suspended from the practice of law for a period of nine months, with that period commencing on August 10, 2017, the effective date of Ms. Cook's suspension in Colorado; and it is further

[¶4] **ORDERED** that the Wyoming State Bar may issue a press release consistent with the one contained in the Report and Recommendation for Order of Reciprocal Discipline; and it is further

[¶5] **ORDERED** that, during the period of suspension, Respondent shall comply with the requirements of the Wyoming Rules of Disciplinary Procedure, particularly the requirements found in Rule 21 of those rules; and it is further

[¶6] **ORDERED** that, pursuant to Rule 25 of the Wyoming Rules of Disciplinary Procedure, Respondent shall reimburse the Wyoming State Bar the amount of \$50.00, representing the costs incurred in handling this matter, as well as pay the administrative fee of \$750.00. Respondent shall pay the total amount of \$800.00 to the Wyoming State Bar on or before December 1, 2017; and it is further

[¶7] **ORDERED** that the Clerk of this Court shall docket this Order Suspending Attorney from the Practice of Law, along with the incorporated Report and Recommendation for Order of Reciprocal Discipline, as a matter coming regularly before this Court as a public record; and it is further

[¶8] **ORDERED** that, pursuant to Rule 9(b) of the Wyoming Rules of Disciplinary Procedure, this Order Suspending Attorney from the Practice of Law, along with the incorporated Report and Recommendation for Order of Reciprocal Discipline, shall be published in the Wyoming Reporter and the Pacific Reporter; and it is further

[¶9] **ORDERED** that the Clerk of this Court cause a copy of this Order Suspending Attorney from the Practice of Law to be served upon Respondent Mary Jaclyn Cook.

[¶10] **DATED** this 25th day of October, 2017.

BY THE COURT:

/s/

E. JAMES BURKE
Chief Justice

BEFORE THE SUPREME COURT
STATE OF WYOMING

In the matter of)
MARY JACLYN COOK,)
WSB # 7-5492,)
Respondent.)

IN THE SUPREME COURT
STATE OF WYOMING
FILED
OCT 16 2017
Pat Bennett
PATRICIA BENNETT, CLERK

REPORT AND RECOMMENDATION
FOR ORDER OF RECIPROCAL DISCIPLINE

THIS MATTER came before the Board of Professional Responsibility on the 10th day of October, 2017, for consideration of the Stipulated Motion for Order of Reciprocal Discipline submitted pursuant to Rules 12 and 19 of the Wyoming Rules of Disciplinary Procedure, and the Board having reviewed the Stipulation, the accompanying affidavit of factual basis and being fully advised in the premises, FINDS, CONCLUDES and RECOMMENDS as follows:

1. Respondent was admitted to practice in Wyoming in 2015. She is a resident of Colorado, where she was also licensed to practice law in 2015.
2. On August 10, 2017, an "Order Approving Conditional Admission of Misconduct and Imposing Sanctions Under C.R.C.P. 251.22" was issued by the Office of the Presiding Disciplinary Judge of the Colorado Supreme Court. The Order resulted from a "Second Amended Stipulation, Agreement and Affidavit Containing Respondent's Conditional Admission of Misconduct" in which Respondent conditionally admitted violations of Rules 4.1(a) and 8.4(c) of the Colorado Rules of Professional Conduct. Wyoming's W.R.P.C. Rules 4.1(a) and 8.4(c) are identical. The Order imposed a nine month suspension upon Respondent effective August 10, 2017.
3. Respondent's nine month suspension in Colorado followed Respondent's conditional admission of having inflated and fabricated certain billing entries in an effort to meet her

law firm's targeted billable hours requirement. The inflated and fabricated time entries were discovered by the firm and appropriate corrections were made.

4. Rule 19 of the Wyoming Rules of Disciplinary Procedure requires Bar Counsel to file a formal charge against a member of the Wyoming State Bar upon receiving notice that the attorney has been publicly disciplined in another jurisdiction. Rule 19(d) provides:

Upon receiving notice that an attorney subject to these rules has been publicly disciplined in another jurisdiction, Bar Counsel shall obtain the disciplinary order and prepare and file a formal charge against the attorney as provided in Rule 13. If Bar Counsel intends either to claim that substantially different discipline is warranted or to present additional evidence, notice of that intent shall be given in the formal charge. If the attorney intends to challenge the validity of the disciplinary order entered in the foreign jurisdiction, the attorney must file with the BPR Clerk an answer and a full copy of the record of the disciplinary proceedings which resulted in the imposition of that disciplinary order within 21 days after service of the formal charge or such greater time as the BPR Chair may allow for good cause shown. At the conclusion of proceedings brought under this Rule, the BPR shall issue a report and recommendation that the same discipline be imposed as was imposed by the foreign jurisdiction, unless it is determined by the BPR that:

- (1) The procedure followed in the foreign jurisdiction did not comport with requirements of due process of law;
- (2) The proof upon which the foreign jurisdiction based its determination of misconduct is so infirm that the BPR cannot, consistent with its duty, accept as final the determination of the foreign jurisdiction;
- (3) The imposition of the same discipline as was imposed in the foreign jurisdiction would result in grave injustice; or
- (4) The misconduct proved warrants that a substantially different form of discipline be recommended by the BPR.

5. Rule 19(a) provides, "Except as otherwise provided by these rules, a final adjudication in another jurisdiction of misconduct constituting grounds for discipline of an attorney shall, for purposes of proceedings pursuant to these rules, conclusively establish such misconduct." The Colorado Order Approving Conditional Admission of Misconduct and Imposing Sanctions Under C.R.C.P. 251.22 is a final adjudication of such misconduct.

6. On August 23, 2017, Bar Counsel filed a formal charge pursuant to Rule 19(d). Respondent does not wish to contest the allegations of the formal charge. Bar Counsel does not claim that substantially different discipline is warranted. Respondent does not challenge the validity of the Colorado Order Approving Conditional Admission of Misconduct and Imposing Sanctions Under C.R.C.P. 251.22. Respondent concedes that her conduct in the underlying disciplinary proceeding constitutes a violation of Rules 4.1(a) and 8.4(c) of the Wyoming Rules of Professional Conduct.

7. For the reasons stated in the Stipulation and based on the facts and admissions in Respondent's affidavit of factual basis, the Board recommends that the Court issue an Order of Reciprocal Discipline suspending Respondent for a period of nine months commencing August 10, 2017, the effective date of Respondent's suspension in Colorado.

8. If the Court accepts the Board's recommendation and issues an Order of Reciprocal Discipline in accordance herewith, Bar Counsel and Respondent have agreed to the following press release:

The Wyoming Supreme Court issued an order of reciprocal discipline suspending Colorado lawyer Mary Jaclyn Cook from the practice of law for a period of nine months effective August 10, 2017. The reciprocal order of suspension stemmed from a corresponding order issued by the Presiding Disciplinary Judge of the Colorado Supreme Court. The Presiding Disciplinary Judge approved the parties' conditional admission of misconduct and suspended Cook for nine months, effective August 10, 2017. Cook, a member of the products liability group at the Denver office of Faegre Baker Daniels, faced in late 2016 the prospect of failing to meet the firm's yearly billable hour expectation. In mid-December 2016, Cook spent two weeks away from the office for her wedding and honeymoon. She returned to the office well short of her hours target.

January 3, 2017, Cook entered or finalized sixty time entries for the December 2016 billing cycle. In some entries she inflated legitimate time that had not yet been submitted; other entries she fabricated entirely. Her fabricated billing reflected nearly \$40,000.00 in time that she had not worked. A supervisor identified Cook's December billing as unusually high. In an office meeting in late January 2017, firm partners confronted Cook. She panicked, claiming that the hours were legitimate. Later that day, she confessed to the partners that she


had inflated and fabricated time entries, explaining that she was afraid she would lose her job if she failed to meet the billable hours target. The firm gave Cook the opportunity to resign, which she accepted. With one exception, all client invoices containing the fabricated time were corrected before they were issued to clients.

In this matter, Cook violated Colo. RPC 4.1(a) (in the course of representing a client, a lawyer shall not knowingly make a false statement of material fact or law to a third person) and Colo. RPC 8.4(c) (a lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation). The sole aggravating factor in this case was outweighed by multiple mitigating factors. The Wyoming Supreme Court approved an order of reciprocal discipline which found that Cook's conduct violated Rules 4.1(a) and 8.4(c) of the Wyoming Rules of Professional Conduct, which are identical to the Colorado rules. Cook was ordered to pay an administrative fee in the amount of \$750.00 and costs of \$50.00 to the Wyoming State Bar.

For the foregoing reasons, the Board of Professional Responsibility recommends that:

1. The Court issue an Order of Reciprocal Discipline suspending Respondent for a period of nine months commencing August 10, 2017, the effective date of Respondent's suspension in Colorado; and further
2. Order Respondent to pay an administrative fee in the amount of \$750.00 and costs of \$50.00 to the Wyoming State Bar.

DATED this 11 day of October, 2017.


Judith A.W. Studer, Chair
Board of Professional Responsibility
Wyoming State Bar