

ORIGINAL

Louisiana Attorney Disciplinary Board

FILED by: *Donna P. Burgess*

Docket#

Filed-On

13-DB-031

11/3/2015

LOUISIANA ATTORNEY DISCIPLINARY BOARD

IN RE: STANLEY STEPHEN SPRING, II

DOCKET NO. 13-DB-031

REPORT OF THE HEARING COMMITTEE #26

INTRODUCTION

This attorney disciplinary matter arises out of formal charges filed by the Office of Disciplinary Counsel (“ODC”) against Stanley Stephen Spring, II, (“Respondent”), bar roll number 12347. The formal charges consist of two counts. In the charges, ODC alleges that Respondent violated Rules of Professional Conduct 1.7, 3.3, 8.4(a), 8.4(c), and 8.4(d).¹

PROCEDURAL HISTORY

The formal charges were filed on June 27, 2013. Respondent filed an answer to the charges on May 5, 2015, through counsel Leslie J. Schiff. The hearing of this matter was held on August 15, 2015. Deputy Disciplinary Counsel Eric R. McClendon appeared on behalf of ODC. Respondent appeared with counsel, Leslie J. Schiff.

For the following reasons, the hearing committee finds that, as to Count I, the Respondent, Stanley Stephen Spring, II is in violation of Rule 1.7 [Conflict of Interest, Current Clients], Rule 8.4 (a) Violation of the Rules of Professional Conduct and Rule 8.4 (d) [Conduct Prejudicial to the Administration of Justice] As to Count II, the hearing committee finds that the Respondent is in violation of Rule 3.3 [Candor to Tribunal], Rule 8.4 (a) Violation of the Rules of Professional Conduct, Rule 8.4 (c) [Conduct involving dishonesty, fraud, deceit or misrepresentation]; and Rule 8.4 (d) [Conduct Prejudicial to the Administration of Justice.

¹ The text of the Rules is contained in the attached Appendix.

FORMAL CHARGES

The formal charges read, in pertinent part:

COUNT I

Respondent, Stanley Stephen Spring, II, is a Louisiana licensed attorney, Bar No. 12347, admitted to practice law in the State of Louisiana on April 24, 1981 and is currently eligible to practice law. In addition, Respondent has prior discipline reported at *In re Spring*, 801 So.2d 327 (La. 2001) as well as two formal private reprimands with notice from 1987 and 1989. (Today, a formal private reprimand is called an admonition).

Respondent self-reported his conduct to the Office of Disciplinary Counsel and ODC complaint file no. 28464 was opened. Respondent reported that he represented a client, Mr. Arnold against his wife, Mrs. Arnold, in a divorce proceeding; that a stipulation was reached and read into the record in open court; that a judgment was prepared, signed, and sent to opposing counsel to sign and file; that Respondent did not follow-up and the judgment was never filed; that the Arnolds reconciled and resumed living together; that Mrs. Arnold had an automobile accident for which Respondent took on Mrs. Arnold as his client as well; that Respondent represented both Mr. and Mrs. Arnold in a wrongful repossession matter involving an automobile rent-to-own matter; that Mrs. Arnold worked for Respondent's law office for a short period for which Mr. Arnold's LLC was paid; that Mrs. Arnold presented herself at Respondent's office with an alleged copy of the earlier judgment claiming that the signature page was missing; that Respondent, without reading the document, signed both his signature and that of his client, Mr. Arnold, on this alleged copy of the judgment; and, that the judgment had, in fact, been altered by raising the child amount obligation from \$666 monthly to \$1200 monthly with said judgment being presented and signed by the court.

Respondent, by his demonstrated acts and failure to act, violated Rules of Professional Conduct 1.7 - conflict of interest: current clients; 8.4(c) - conduct involving dishonesty, fraud, deceit, or misrepresentation; 8.4(d) - conduct prejudicial to the administration of justice; and, 8.4(a) - violate the RPC.

COUNT II

Respondent, Stanley Stephen Spring, II, is a Louisiana licensed attorney, Bar No. 12347, admitted to practice law in the State of Louisiana on April 24, 1981 and is currently eligible to practice law. In addition, Respondent has prior discipline reported at *In re Spring*, 801 So.2d 327 (La. 2001) as well as two formal private reprimands with notice from 1987 and 1989. (Today, a formal private reprimand is called an admonition).

Lori Romero, MS, LPC, Complainant, filed a complaint against Respondent which was opened by ODC under file no. 28819. Ms. Romero was a therapist to a minor child involved in a dispute between the child's parents in *Sherrill Bares Rothmier v. Warren Overton Bares*, #2004-0741, 15th JDC, Parish of Lafayette. On or about August 3, 2011, Respondent, representing Sherrill Bares Rothmier, filed with the Clerk of Court requesting the issuance of a subpoena duces tecum to Ms. Romero seeking "copies of all electronic communications consisting of, but

not limited to, telephone text messages, SMS, emails, MMS, instant messages, chat messages, or any other form of electronic communications, since July 24, 2009 through present which were transmitted to or received by you from the following persons: .. ." Simultaneously, Respondent caused to be filed with the Clerk of Court of East Feliciana Parish, 20th JDC, in the matter of Rosalie Kelley v. Jane Doe, #39020, seeking to obtain the issuance of subpoenas duces tecum to AT&T Landlines, Cingular Wireless, AT&T Subpoena Compliance Ctr., AT&T Wireless, and BellSouth Subpoena Compliance Ctr. Pertaining to "all records of all incoming and outgoing telephone calls, text messages, made or received by Telephone Number: (337) 298-3959 ... " belonging to Ms. Romero. Said subpoenas were issued in the 20th JDC case. The case of Kelley v. Doe in the 20th JDC is a case totally unrelated to the Bares matter in the 15th JDC. Ms. Romero was not involved in Kelley v. Doe; Respondent's client Sherrill Bares Rothmier was not involved in Kelley v. Doe; Warren Overton Bares was not involved in Kelley v. Doe.

By his demonstrated acts and failure to act, the respondent has violated Rules of Professional Conduct 3.3 - candor to tribunal; 8.4(c) - conduct involving dishonesty, fraud, deceit, or misrepresentation; 8.4(d) - conduct prejudicial to the administration of justice; and, 8.4(a) - violate the RPC.

EVIDENCE

Prior to the start of the hearing, counsel for the Respondent and the ODC stipulated to the facts as outlined in the formal charges. Both parties also stipulated as to the proffering of exhibits. Those exhibits are, now, a part of the record. As for witnesses, the Respondent testified on his behalf and was subsequently cross-examined by counsel for the ODC. The ODC's primary witness was Lori Romero. Ms. Romero provided testimony and was, subsequently cross examined by counsel for the Respondent.

FINDINGS OF FACT

As to Count I, the Respondent testified that he reported this matter to the Office of Disciplinary Counsel on September 19, 2011. In establishing the background for this count, the Respondent testified that he had come to know the Arnolds by way of the landlord for his business office. The Respondent stated that he entered into a bartering agreement with Mr. Arnold wherein he would provide legal services in return for any maintenance and repair work done at his home and office by Mr. Arnold. While engaged in this arrangement with Mr. Arnold, the Respondent stated that the Arnolds were in the course of ending their marriage and that he served as legal counsel for Mr. Arnold. The Arnolds' Petition for Divorce was not contested and a joint order was

signed by Mr. Arnold and the Respondent. However, this joint order was never submitted to the Court by Mrs. Arnold and her legal counsel and the matter was never closed.

Sometime after the drafting of the joint order for divorce, the Respondent stated that he represented Mrs. Arnold in a personal injury matter that was eventually resolved. After the personal injury matter was resolved, the Respondent testified that Mrs. Arnold presented the previously drafted joint divorce order for his signature. The Respondent testified that he signed the pleading with the knowledge that the entire pleading was not presented to him for review. Thereafter, the Respondent learned that the stipulated monetary amount for child support, that was to be paid by his client Mr. Arnold, had been altered from \$660 a month to \$1,200 a month. In response to this discovery, the Respondent took steps to amend the pleading so that it would reflect the correct amount of \$660.00.

The testimony and record suggests that the Respondent has intentionally violated Rules 1.7, 8.4 (a) and 8.4(d) of the Rules of Professional Conduct.

As for Count II, the Respondent testified as to his contact with the complainant Lori Romero. The Respondent testified that he served as legal counsel for Sherrill Bares Rothmore in a child custody matter involving Mrs. Rothmore's minor child. Mrs. Romero is a clinical psychologist who was appointed by the 15th Judicial District Court, Parish of Lafayette to serve as a counselor to the minor child. During the course of the proceedings, the Respondent testified that he had filed several pleadings with the Court, including but not limited to a subpoena duces tecum for Ms. Romero's cell phone records. According to the Respondent, the Court was not responsive to the pleadings that were filed. As such, Respondent testified that he made the decision to file a subpoena duces tecum for Ms. Romero's cell phone records in an unrelated matter that was being adjudicated in the 20th Judicial District Court, Parish of West Feliciana Parish. However, once Ms. Romero recused herself as the court appointed counselor for the minor child involved in the matter, the Respondent moved to dismiss the subpoena duces tecum.

In response to the Respondent's testimony, Mrs. Romero testified before the hearing committee as to the emotional and financial hardship that she incurred as a result of having to address the subpoena duces tecum that was served upon her through the 20th Judicial District Court. Mrs. Romero also testified that the Respondent's attempts to access her cell phone records had been prohibited by a court order issued in the 15th Judicial District Court.

The testimony and record obtained suggests that the Respondent has intentionally violated Rules 3.3, 8.4 (a), 8.4 (c) and 8.4(d) of the Rules of Professional Conduct.

RULES VIOLATED

COUNT I

- 1.7 Conflict of Interest: Current Clients
- 8.4 (a) Violation of the Rules of Professional Conduct
- 8.4 (d) Conduct Prejudicial to the Administration of Justice

COUNT II

- 3.3 Candor to Tribunal
- 8.4 (a) Violation of the Rules of Professional Conduct
- 8.4 (c) Conduct Involving Dishonesty, Fraud, Deceit or Misrepresentation
- 8.4 (d) Conduct Prejudicial to the Administration of Justice

SANCTION

Louisiana Supreme Court Rule XIX, Section 10(C) states that in imposing a sanction after a finding of lawyer misconduct, the court or board shall consider the following factors:

1. whether the lawyer has violated a duty owed to a client, to the public, to the legal system, or to the profession;
2. whether the lawyer acted intentionally, knowingly, or negligently;
3. the amount of actual or potential injury caused by the lawyer's misconduct; and
4. the existence of any aggravating or mitigating factors.

The Louisiana Supreme Court also relies on the *ABA Standards for Imposing Lawyer Sanctions* ("ABA Standards") to determine the baseline sanction. In this matter, the baseline sanction is suspension. *ABA Standard 4.32* provides that suspension is appropriate when a lawyer knows of a conflict of interest and does not fully disclose to a client the possible effect of that conflict, and causes injury or potential injury to that client. However, there are facts in this matter that could warrant a harsher penalty of disbarment. *ABA Standard 6.21* provides that disbarment is generally appropriate when a lawyer knowingly violates a court order or a rule with the intent to obtain a benefit for the lawyer or another, and causes serious injury or potentially serious injury to a party or causes serious or potentially serious interference with a legal proceeding. Notwithstanding the elements that could result in disbarment, it is the recommendation of this hearing committee that the sanction of suspension would be appropriate.

CONCLUSION

It is the finding of this Hearing Committee that the ODC has established, by clear and convincing evidence that the Respondent, Stanley Stephen Spring, II, is in violation of Rules 1.7, 8.4(a) and 8.4(d) of the Rules of Professional Conduct, as to Count I. As to Count II, the ODC has established, by clear and convincing evidence that the Respondent, Stanley Stephen Spring, II, is in violation of Rules 3.3, 8.4(a), 8.4(c) and 8.4(d) of the Rules of Professional Conduct. As such, this Hearing Committee offers that the Respondent should be subject to a sanction of suspension for a period of one (1) year and one (1) day.

Baton Rouge, Louisiana, this 3rd day of November, 2015.

**Louisiana Attorney Disciplinary Board
Hearing Committee #26**

**Charles B. Hansberry, III, Committee Chair
Sue McNabb, Lawyer Member
Clarissa A. Preston, Public Member**



**BY: Charles B. Hansberry, III, Committee Chair
FOR THE COMMITTEE**

APPENDIX

RULE 1.7. CONFLICT OF INTEREST: CURRENT CLIENTS

(a) Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:

- (1) the representation of one client will be directly adverse to another client; or
- (2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.

(b) Notwithstanding the existence of a concurrent conflict of interest under paragraph (a), a lawyer may represent a client if:

- (1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;
- (2) the representation is not prohibited by law;
- (3) the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal; and
- (4) each affected client gives informed consent, confirmed in writing.

RULE 3.3. CANDOR TOWARD THE TRIBUNAL

(a) A lawyer shall not knowingly:

- (1) 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;
- (2) fail to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel; or
- (3) offer evidence that the lawyer knows to be false. If a lawyer, the lawyer's client, or a witness called by the lawyer, has offered material evidence and the lawyer comes to know of its falsity, the lawyer shall take reasonable remedial measures including, if necessary, disclosure to the tribunal. A lawyer may refuse to offer evidence, other than the testimony of a defendant in a criminal matter, that the lawyer reasonably believes is false.

(b) A lawyer who represents a client in an adjudicative proceeding and who knows that a person intends to engage, is engaging or has engaged in criminal or fraudulent conduct related to the proceeding shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal.

(c) The duties stated in paragraphs (a) and (b) continue to the conclusion of the proceeding, and apply even if compliance requires disclosure of information otherwise protected by Rule 1.6.

(d) In an ex parte proceeding, a lawyer shall inform the tribunal of all material facts known to the lawyer that will enable the tribunal to make an informed decision, whether or not the facts are adverse.

RULE 8.4. MISCONDUCT

It is professional misconduct for a lawyer to:

- (a) Violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
- (b) ...
- (c) Engage in conduct involving dishonesty, fraud, deceit or misrepresentation;
- (d) Engage in conduct that is prejudicial to the administration of justice; ...