

LOUISIANA ATTORNEY DISCIPLINARY BOARD

IN RE: KENNETH TODD WALLACE

16-DB-027

RECOMMENDATION TO THE LOUISIANA SUPREME COURT



INTRODUCTION

This attorney disciplinary matter arises out of formal charges filed by the Office of Disciplinary Counsel (“ODC”) against Kenneth Todd Wallace (“Respondent”), bar roll number 25920.¹ In the charges, the ODC alleged that Respondent violated the following Rules of Professional Conduct (“Rule(s)”): Rule 8.4(c) (conduct involving dishonesty, fraud, deceit and misrepresentation) and Rule 8.4(a) (violating or attempting to violate the Rules of Professional Conduct).² The hearing committee (“committee”) assigned to the matter concluded that Respondent violated the Rules as charged and recommended that he be suspended from the practice of law for a year and a day, retroactive to the date of his interim suspension, and that he pay all costs and expenses of these proceedings.³ For the following reasons, the Board adopts the committee’s factual findings and legal conclusions. As to sanction, the Board recommends that Respondent be suspended for one year, retroactive to the date of interim suspension, and that he be assessed with all costs and expenses of these disciplinary proceedings.

¹ Respondent was admitted on October 9, 1998. Respondent joined the ODC in a petition for interim suspension. By order of January 8, 2016, he was placed on interim suspension.

²Rule 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; . . .
 (c) Engage in conduct involving dishonesty, fraud, deceit or misrepresentation; . . .

³ Hearing Committee #10 was comprised of Sandra D. Guidry (Chair), Scott A. Umberger (Lawyer Member) and Chad M. Rachal (Public Member).

PROCEDURAL HISTORY

The formal charges were filed on March 7, 2016. Respondent answered the charges on March 14, 2016, through his counsel, Dane S. Ciolino. The parties submitted stipulations on April 11, 2016, and a hearing was held on April 29, 2016. Chief Disciplinary Counsel Charles B. Plattsmier appeared on behalf of the ODC. Respondent appeared with counsel, Mr. Ciolino.

In large part, the facts were stipulated prior to the hearing, as were several aggravating and mitigating factors. The ODC objected to the committee's report only insofar as the recommended sanction. The ODC argued the sanction is too lenient, suggesting a thirty-month suspension. Likewise, the Respondent objected only to the committee's sanction recommendation, arguing the sanction is too harsh. Respondent suggested that suspension for twelve months, rather than a year and a day, is appropriate. Respondent argues that the year and a day suspension would require Respondent to petition for reinstatement, which he suggested is unnecessary and will, as a practical matter, add additional months to the suspension. Furthermore, he argues the reinstatement criteria are either inapplicable, or would require the introduction of virtually the same evidence presented at the disciplinary hearing, and thus, the reinstatement proceeding would be unnecessary and redundant.

The matter came for argument before Panel "C" of the Board on September 29, 2016.⁴ Mr. Plattsmier appeared on behalf of the ODC. Mr. Ciolino appeared on behalf of the Respondent.

FORMAL CHARGES

The formal charges read, in pertinent part:

II.

As a member of a law firm, the Respondent generally billed on an hourly basis but on rare occasions had the opportunity to work on some cases on a contingency basis. The firm policy was to set hourly billing targets for attorneys

⁴ Panel "C" was comprised of Melissa L. Theriot, Laura B. Hennen and R. Lewis Smith, Jr.

with the firm at 1800 billable hours annually. Meeting or exceeding the annual billing targets established by the firm were factors taken into consideration for annual salary increases, bonuses, and/or promotion within the firm.

III.

From in or around 2012 through November 7, 2015, the Respondent internally recorded time entries and created receivables that were in part false and/or inflated. The Respondent self-reported his misconduct to the Office of Disciplinary Counsel by correspondence dated November 25, 2015. The Respondent's law firm also reported Respondent's conduct to ODC pursuant to the provisions of Rule 8.3(a).

IV.

The law firm reported to the Office of Disciplinary Counsel that its internal investigation was able to conclusively demonstrate that the Respondent submitted 428 entries which were classified as "certainly false" and an additional 220 entries that were "reasonably certain to be false or inflated". The Respondent's conduct reflects violations of Rule 8.4(c) (conduct involving dishonesty, fraud, deceit and misrepresentation), and Rule 8.4(a) (violating or attempting to violate the Rules of Professional Conduct).

JOINT STIPULATIONS

The ODC and Respondent stipulated to the following facts:

1. Kenneth T. Wallace (La. Bar Roll No.25920) is a Louisiana licensed attorney born on November 7, 1971, and admitted to the bar in the state of Louisiana on October 9, 1998, after graduating from Loyola University College of Law.
2. The Respondent has no prior disciplinary record.
3. The Respondent has been the subject of an investigation under Investigative File Number 33904.
4. On December 15, 2015, the Respondent and the Office of Disciplinary Counsel filed a Joint Petition for Interim Suspension pursuant to Supreme Court Rule XIX, § 19.3. The Supreme Court granted the Joint Petition for Interim Suspension on January 8, 2016, thereby suspending Respondent on an interim basis.
5. The Office of Disciplinary Counsel has completed its investigation and has now filed Formal Charges against Respondent in this matter docketed as Docket No. 16-DB- 027.
6. Following his graduation from Loyola University College of Law in

New Orleans, Mr. Wallace joined the law firm of Liskow & Lewis as an associate in 1998.

7. After his promotion to shareholder in 2005, Mr. Wallace served [as] the firm's hiring partner, head of recruiting, and chaired the firm's diversity committee as the firm's first minority recruiting and retention partner.

8. In 2012, Mr. Wallace was elected to the firm's Board of Directors and served as the board's Junior Director through April of 2015.

9. As a member of the law firm, Mr. Wallace generally billed on an hourly basis, [and] on rare occasions, worked on cases on a contingency basis. The firm policy set hourly billing targets for shareholders with the firm at 1,800 billable hours annually. Billing targets established by the firm were one of several factors taken into consideration for annual salary increases, discretionary bonuses, and promotion with the firm.

10. In November of 2015, the firm's compensation committee noted that Mr. Wallace's "fee bill credit," which is a measure of collections attributable to a lawyer's recorded billable time, seemed low.

11. The compensation committee inquired into the status of certain files for which Mr. Wallace had recorded significant billable time as the billing attorney.

12. It was discovered that from 2012 through 2015, Mr. Wallace had recorded internally time entries on a contingency fee case that had been dismissed in 2012.

13. Because the case was an unsuccessful contingency fee matter, the false hours were not billed to the client in the matter nor submitted to any court for approval.

14. The compensation committee also identified two other files that contained entries that had not been billed to clients.

15. The firm presented the preliminary findings to Mr. Wallace in a meeting held on November 9, 2015. At the meeting, Mr. Wallace acknowledged and apologized for his misconduct and assured the firm that his actions had not impacted any firm clients.

16. Mr. Wallace also informed the firm about other files in which he had recorded false or inflated time, or in which he created false receivables that were never billed to clients.

17. With Mr. Wallace's assistance and cooperation, the firm proceeded with a full investigation in order to assess whether Mr. Wallace's conduct, including all past time entry and billing practices, had impacted any firm clients.

18. Upon completing its internal investigation, the firm concluded that Mr. Wallace's admission that his actions did not adversely impact any firm clients was indeed accurate; however, the firm identify[ed] seven files containing, in part, internal false entries or receivables.

19. Regarding the one contingency fee file, Mr. Wallace recorded the following hours on the matter after the case was dismissed in October, 2012, that the firm considered false: 2012 (post-dismissal of matter) – 52.25 hours; 2013 – 385 hours; 2014 – 270 hours; and 2015 – 376 hours.

20. On three additional files, Mr. Wallace recorded false and inflated entries and prepared and reported bills totaling \$91,544.50 that were reported to the firm's accounting department but that were never sent to the client.

21. On three additional files, Mr. Wallace recorded false and inflated entries that were written off without preparation of any bills and not billed to the client.

22. The law firm's internal investigation revealed that Mr. Wallace submitted 428 entries that were classified as "certainly false" and an additional 220 entries that were "reasonabl[y] certain to be false or inflated."

23. From 2012 through 2014, Mr. Wallace received "merit" bonuses totaling \$85,000. Due to his many contributions at the firm during that time period, the firm hypothesized that it is highly likely that Mr. Wallace would have received some or all of those merit bonuses even without the false inflation of his billable hours.

24. Mr. Wallace contends that he engaged in the admitted misconduct due to concerns that his accurate billable hour numbers when coupled with an insufficient book of business were not commensurate with his leadership position in the firm. He contends that he did not engage in the misconduct out of a desire for discretionary bonuses or any other monetary gain.

25. Mr. Wallace voluntarily renounced his entire approximately \$85,000 termination bonus owed to him for his share of the firm's accounts receivable.

26. The firm concluded that his renunciation likely exceeds any losses that the firm may have incurred as a result of Mr. Wallace's actions.

27. On November 22, 2015, Mr. Wallace voluntarily submitted his

letter of resignation to the firm, effective November 30, 2015. He has not practiced law in any jurisdiction since that date.

28. In November 2015, Mr. Wallace self-reported to the Office of Disciplinary Counsel his misconduct, his resignation from Liskow & Lewis, and his expectation that the firm would be submitting a formal, detailed report of Mr. Wallace's actions (which the firm submitted to the Office of Disciplinary Counsel on December 4, 2015).

29. On December 15, 2015, the Respondent and the Office of Disciplinary Counsel filed a Joint Petition for Interim Suspension pursuant to Supreme Court Rule XIX, § 19.3, which the Supreme Court granted on January 8, 2016, thereby suspending Respondent on an interim basis until further orders of the Supreme Court.

30. On March 7, 2016, the Office of Disciplinary Counsel filed Formal Charges against Mr. Wallace. Mr. Wallace responded to the Formal Charges on March 14, 2016. In his response, Mr. Wallace admitted fully the allegations of misconduct.

31. The Respondent acknowledges that his conduct represents violations of the following Rules of Professional Conduct: Rule 8.4(c) (conduct involving dishonesty, fraud, deceit, or misrepresentation), and Rule 8.4(a) (violating the Rules of Professional Conduct) as alleged in the Formal Charges.

32. The Respondent regrets his past conduct and respectfully apologizes to the Board and to the profession for the embarrassment and harm caused to the profession as a result of his actions.

33. Three aggravating factors are stipulated in this matter.
- a. Dishonest and selfish motive. The presence of a dishonest and selfish motive is an aggravating factor. *See* ABA STANDARDS FOR IMPOSING LAWYER SANCTIONS § 9.22(b)
 - b. Pattern of misconduct. A pattern of misconduct is an aggravating factor. *See* ABA STANDARDS FOR IMPOSING LAWYER SANCTIONS §9.22(c), and
 - c. Substantial experience in the practice of law. Having substantial experience in the practice of law at the time of the misconduct is an aggravating factor. *See* ABA STANDARDS FOR IMPOSING LAWYER SANCTIONS § 9.22(i).

34. Five mitigating factors are stipulated in this matter.

- a. Mr. Wallace has no prior disciplinary record. Absence of a prior disciplinary record is a mitigating factor. *See* ABA STANDARDS FOR IMPOSING LAWYER SANCTIONS § 9.32(a).
- b. Mr. Wallace made timely good faith efforts to rectify the consequences of his misconduct and accepted full responsibility of his actions. This is a mitigating factor. *See* ABA STANDARDS FOR IMPOSING LAWYER SANCTIONS § 9.32(d).
- c. Mr. Wallace has fully cooperated with the Office of Disciplinary Counsel in this matter. He has provided “full and free disclosure” of his actions and having a “cooperative attitude” toward the disciplinary proceedings are mitigating factors. *See* ABA STANDARDS FOR IMPOSING LAWYER SANCTIONS § 9.32(e).
- d. Mr. Wallace has a reputation for good character. This is a mitigating factor. *See* ABA STANDARDS FOR IMPOSING LAWYER SANCTIONS § 9.32(g).
- e. Mr. Wallace is remorseful for committing his admitted misconduct. Mr. Wallace has repeatedly apologized to the firm, both in writing and person to person, and to the Chief Disciplinary Counsel. This is a mitigating factor. *See* ABA STANDARDS FOR IMPOSING LAWYER SANCTIONS § 9.32(l).

HEARING COMMITTEE REPORT

The committee considered the stipulations, testimony and documentary evidence and rendered a report on June 20, 2016.⁵ Finding Respondent’s testimony to be credible, it

⁵ The committee received testimony from Robert S. Angelico, Donna Vince, Scott Perkins, Thomas Joe McGoey, II, and Kenneth Todd Wallace. The following exhibits were admitted: ODC-1: Letter of Kenneth Todd Wallace to Robert S. Angelico dated November 23, 2015 outlining his conduct and tendering his resignation from the Liskow & Lewis Law Firm; ODC-2: Correspondence dated December 4, 2015 from Robert Angelico to the Office of Disciplinary Counsel reporting the conduct of Kenneth Todd Wallace pursuant to the provisions of Rule 8.3(a); ODC-3: Joint Petition for Interim Suspension and Order of the Louisiana Supreme Court in reference to Kenneth Todd Wallace; ODC-4: Copy of e-mail thread from James A. Brown to Leslie Schiff forwarded to the Office of Disciplinary Counsel January 18, 2016; ODC-5: Sworn Statement of Kenneth Todd Wallace; ODC-6: Summary of Respondent’s reported hours for 2012 through 2015; ODC-7: April 8, 2016 Deposition of James Brown; R01: Wallace Resume; R02a: Jarrett Character Letter; R02b: Abauza Character Letter; R02c: Petrie Character Letter; R02d: Brown Character Letter; R02e: Hunter Character Letter; R02f: Landrieu Character Letter; R02g: Monica Wallace Character Letter; R02h: Hof Character Letter; R02i: Holtzman Character Letter; R02j: Cambre Character Letter; R02k: Denegre Character Letter; R02l: Adams Character Letter; R02m: Menasco Character Letter; R02n: Bruzdinski Character Letter; R02o: Rubenstein Character Letter; and R02p:

determined that Respondent engaged in misconduct due to his concerns that his accurate billable hour numbers were not commensurate with his leadership position within the firm, rather than any desire for direct financial gain. He submitted false and inflated billing for the purpose of making himself look good to enhance his opportunities for leadership positions and to ultimately become managing partner of the firm. As a member of the Board of Directors, the Respondent saw first-hand and on a monthly basis the extraordinary billable time and business dollars generated by key leaders of the firm. When his practice began to decline, Respondent gave in to his own internal pressures. He began to submit time on a dismissed contingency fee matter, and eventually on six other matters, in an effort to make himself look better “on paper” each month.⁶

The Respondent received a discretionary bonus from the firm’s compensation committee for 2012, 2013, and 2014. While the testimony established that the legitimate hours billed by Respondent met and exceeded his billing targets in each of these years, he nonetheless fabricated billing entries.⁷ The parties stipulated that due to his many contributions at the firm during that time period, the firm hypothesized that it was highly likely that Respondent would have received all or some of those merit bonuses even without the false inflation of his billable hours.⁸ Still, the Committee recognized that testimony from firm members also supported the conclusion that the full amounts of the merit bonuses may not have been paid to the Respondent had his hours been accurately recorded.

Considering the stipulations and evidence, the committee found that Respondent violated Rules of Professional Conduct Rule 8.4(c) (conduct involving dishonesty, fraud, deceit and

Leefe Character Letter. All exhibits were received into evidence without objection.

⁶ Hearing Committee Report, p. 9.

⁷ Transcript of hearing, p. 45-47.

⁸ From 2012-2014, Respondent received merit bonuses totaling \$85,000. Stipulation #23.

misrepresentation) and Rule 8.4(a) (violating or attempting to violate the Rules of Professional Conduct).

Relative to sanction, the committee found that Respondent violated duties owed to the public and to the profession. It further found that he acted with intent by submitting false and inflated billing entries with the conscious objective or purpose of making himself look good to the members of his firm and to enhance his opportunities for leadership positions and ultimately become managing partner of the firm. The committee found no evidence of client harm, however it determined Respondent's conduct created potential harm to his firm. By falsifying his billing entries and time submissions, the Respondent provided the firm with opportunities to reward him with merit bonuses in amounts to which he was not entitled.⁹

Three aggravating factors were stipulated by the parties and were found by the committee: substantial experience in the practice of law; a pattern of misconduct; and the presence of a dishonest and selfish motive. As mitigating factors, the committee found: absence of a prior disciplinary record; timely good faith efforts to rectify the consequences of his misconduct and acceptance of full responsibility of his actions; full and free disclosure to disciplinary board or cooperative attitude toward the proceedings; character or reputation; remorse for his misconduct; and collateral consequences. The parties stipulated to all of these mitigating factors except for "collateral consequences."¹⁰ The committee found that Respondent endured a number of collateral consequences such as loss of job, loss of income, and loss of community leadership positions. Respondent resigned from his firm and renounced his termination bonus as part of his good faith efforts to rectify the consequences of his misconduct.¹¹ The Respondent lost

⁹ Hearing Committee Report, p. 11-12.

¹⁰ ABA Standards for Imposing Lawyer Sanctions § 9.32(k) recognizes the mitigating factor of "imposition of other penalties or sanctions."

¹¹ His termination bonus was approximately \$85,000. Stipulation #25.

additional income because he was unable to secure other employment for several months. He was active in the community and resigned several of his community leadership positions.

Turning to the issue of an appropriate sanction, the committee considered the jurisprudence cited by the ODC and Respondent. It noted that in cases in which attorneys directly and intentionally converted funds belonging to their law firms, the Louisiana Supreme Court imposed either a lengthy suspension or disbarment. Among other cases, the committee cited *In re Sharp*, 09-0207 (La. 6/26/09); 16 So. 3d 343 (disbarment imposed for conversion of \$50,000 in settlement funds belonging to the lawyer's law firm); *In re Bernstein*, 07-1049 (La. 10/16/07); 966 So. 2d 537 (disbarment imposed for lawyer's creation of "off the books" billing statements and collection of \$30,000 in fees from clients which he then converted to his own use); and *In re Kelly*, 98-0368 (La. 6/5/98); 713 So. 2d 458 (three-year suspension imposed for conversion of \$80,000 in funds over a four-year period belonging to the lawyer's law firm).

The committee also considered the case of *In re Lawrence*, 04-0019 (La. 10/19/04); 884 So. 2d 561, in which an attorney "padded" his time sheets in a contingency fee case. Mr. Lawrence was assigned a personal injury matter, which his firm agreed to handle on a contingency fee basis. Over an eleven-month period, Mr. Lawrence billed time against the file with hours he did not actually work. He claimed to have done so because he frequently did not have enough work to keep him busy and he feared losing his job. Since the bills were not paid by the client, Mr. Lawrence did not believe any real harm was done. The Court found Mr. Lawrence's conduct to have been dishonest and thus, violative of Rules 8.4(a) and 8.4(c) of the Rules of Professional Conduct. It further found that he acted knowingly, causing harm by compromising the integrity of his firm's billing system and causing harm to the client in the

form of the delay of her personal injury matter. The Court determined the baseline sanction to be suspension. Finding no reason to deviate from this baseline sanction, particularly given Mr. Lawrence's lack of remorse, the Court suspended Mr. Lawrence for a period of three months.

Considering the jurisprudence, and the instant circumstances, particularly the heavy mitigating factors, the committee recommended that Respondent be suspended from the practice of law for a year and a day, retroactive to the date the interim suspension began. Further, the committee recommended that Respondent pay all costs and expenses of the proceedings.

ANALYSIS OF THE RECORD BEFORE THE BOARD

I. Standard of Review

The powers and duties of the Disciplinary Board are defined in §2 of Louisiana Supreme Court Rule XIX. Rule XIX, §2(G)(2)(a) states that the Board is “to perform appellate review functions, consisting of review of the findings of fact, conclusions of law, and recommendations of hearing committees with respect to formal charges ... and petitions for reinstatement, and prepare and forward to the Court its own findings, if any, and recommendations.” Inasmuch as the Board is serving in an appellate capacity, the standard of review applied to findings of fact is that of “manifest error.” *Arceneaux v. Domingue*, 365 So. 2d 1330 (La. 1978); *Rosell v. ESCO*, 549 So. 2d 840 (La. 1989). The Board conducts a *de novo* review of the Hearing Committee's application of the Rules of Professional Conduct. *In re Hill*, 90-DB-004, Recommendation of the Louisiana Attorney Disciplinary Board (1/22/92).

A. The Manifest Error Inquiry

The factual findings of the committee are supported by the record and are not manifestly erroneous.

B. De Novo Review

The committee correctly concluded that Respondent violated Rules 8.4(a) and 8.4(c), as

stipulated.

II. The Appropriate Sanction

A. Application of Rule XIX, §10(C) Factors

Louisiana Supreme Court Rule XIX, §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 considers the *ABA Standards for Imposing Lawyer Sanctions* in determining the baseline sanction. *In re Quaid*, 94-1316 (La. 11/30/94); 646 So. 2d 343, 350.

Here, Respondent violated duties owed to the public and the profession when he submitted false time entries to his firm. His conduct was knowing, if not intentional. Though Respondent did not seek any direct financial gain, he sought to maintain the appearance that his performance met the high standards of the top leaders of his firm, which he aspired to be. While Respondent engaged in dishonesty, his conduct caused no actual harm to any client and the evidence supports that little to no actual harm was suffered by his firm.

The parties stipulated to three aggravating factors and numerous mitigating factors. In addition, the committee found, and the record supports, the additional mitigating factor of "collateral consequences" or the imposition of other sanctions and penalties, inasmuch as Respondent suffered the loss of his job, loss of income and the loss of community leadership positions he had held. The record supports the committee's findings as to aggravating and mitigating factors, which are adopted by the Board.

B. The ABA Standards and Case Law

Depending on various factors, including the mental element and damage sustained, the baseline sanction for the instant misconduct ranges from suspension to disbarment.¹² While the cited caselaw indicates that disbarment is the baseline sanction for conduct involving the intentional conversion of firm funds, the conduct in the instant matter more closely resembles that found in *Lawrence* than the conduct in the *Sharp*, *Bernstein* or *Kelly* cases. Here, as in *Lawrence*, Respondent did not attempt to convert firm or client funds. Moreover, the evidence shows that Respondent was motivated not by a desire to enrich himself, but by a desire to maintain his reputation among the members of his firm so that he could continue as a firm leader. The evidence shows that little, if any, actual harm was sustained by his firm. Still, Respondent's conduct is the type that damages the image of the profession.

In addition to the *Lawrence* case, the recent decision of *In re Henry*, 2016-0455 (La. 6/13/16); 191 So. 3d 562, is instructive. In that case, an attorney employed by a firm agreed to handle a legal matter for his friend on a *pro bono* basis, but failed to advise his employer about the agreement. He recorded billable hours with his employer for the work. Because the employer was unaware of the agreement, Mr. Henry was paid by his employer and the employer billed the client, eventually filing suit against the client to collect attorney's fees. The suit was eventually dropped

¹²The following ABA Standards are instructive:

5.11 Disbarment is generally appropriate when:

* * *

(b) a lawyer engages in any other intentional conduct involving dishonesty, fraud, deceit, or misrepresentation that seriously adversely reflects on the lawyer's fitness to practice.

5.12 Suspension is generally appropriate when a lawyer knowingly engages in criminal conduct which does not contain the elements listed in Standard 5.11 and that seriously adversely reflects on the lawyer's fitness to practice.

7.2 Suspension is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional and causes injury or potential injury to a client, the public, or the legal system.

and Mr. Henry paid full restitution to his employer. The Court noted that Mr. Henry maintained his deception for several months. Considering the lack of significant or long-term harm, and the existence of several mitigating factors, the Court affirmed the Board's recommendation of suspension for nine months, with all but sixty days deferred, followed by probation to run concurrently with Mr. Henry's JLAP contract

The instant matter involves deception of a different scale than that in *Lawrence* or *Henry*. The deception at issue spanned a three-year time period and involved hundreds of false billing entries in seven client matters. Accordingly, a longer period of suspension is warranted than those imposed in the two aforementioned cases. The committee recommended suspension for a year and a day, but emphasized the heavy mitigating factors. The committee's recommended sanction would require that Respondent file a petition for reinstatement and prove that he meets all criteria set forth in La. Sup. Ct. Rule XIX, Sec. 24. The Board agrees that the mitigating factors should be weighed heavily and in making its recommendation, is mindful that the purpose of discipline is not primarily to punish the lawyer, but rather to maintain the appropriate standards of professional conduct, to preserve the integrity of the legal profession, and to deter other lawyers from engaging in violations of the standards of the profession. *In re Vaughan*, 00-1892 (La. 10/27/00); 772 So. 2d 87; *In re Lain*, 00-0148 (La. 5/26/00); 760 So. 2d 1152; *Louisiana State Bar Ass'n v. Levy*, 400 So. 2d 1355 (La. 1981). Respondent has admitted and attempted to rectify the consequences of his misconduct as described in this public proceeding. He is extraordinarily remorseful, which was shown in his testimony and actions following the discovery of his wrongful billing. He has suffered significant losses. Little, if any, harm was sustained by the members of his firm, many of whom testified on his behalf. Given the stated purpose of lawyer discipline, the Board finds that to require Respondent to undergo the reinstatement process would not serve the purposes of the

discipline system and would be punitive. Accordingly, it recommends that the sanction imposed be suspension for one year.

CONCLUSION

The Board adopts the committee's findings of fact and conclusions of law. As to sanction, the Board concludes that suspension for one year is appropriate.

RECOMMENDATION

The Board recommends that Kenneth Todd Wallace be suspended from the practice of law for one year, retroactive to the date of interim suspension. Further, the Board recommends that Respondent be assessed with all costs and expenses of these proceedings in accordance with Rule XIX, Section 10.1(A).

LOUISIANA ATTORNEY DISCIPLINARY BOARD

Anderson O. Dotson, III
Laura B. Hennen
R. Lewis Smith, Jr.
Evans C. Spiceland, Jr.
Walter D. White
Charles H. Williamson, Jr.

BY: _____



MELISSA L. THERIOT

FOR THE ADJUDICATIVE COMMITTEE

Pamela W. Carter – Concurs with reservations.
Linda G. Bizzarro - Dissents with reason.

LOUISIANA ATTORNEY DISCIPLINARY BOARD

IN RE: KENNETH TODD WALLACE

DOCKET NO. 16-DB-027

CONCURRENCE WITH RESERVATIONS

One year suspension is inadequate in this matter where lawyer dishonesty is clear and unequivocal. There was continual intent on the part of Mr. Wallace for a period of three years. The firm's investigation and conclusions that Mr. Wallace's false entries were "reasonably certain" to be of a false nature is very telling. It is my opinion that the Board's recommendation should also require that Mr. Wallace apply for reinstatement. There is no question that Mr. Wallace's dishonesty was purposeful, calculated, done knowingly and intentional. Mr. Wallace deliberately inflated the amount of time recorded for the purpose of presenting to clients bills which reflected undisclosed premiums. Not discussed is the information in the record regarding Mr. Wallace's violation of his supervisory duties, as a member of the firm (partner), and as a billing partner, even though the factual record is replete with evidence that he violated these rules. Mr. Wallace served as the firm's hiring partner, and was the head of recruiting.

LOUISIANA ATTORNEY DISCIPLINARY BOARD


By: _____
PAMELA W. CARTER
Adjudicative Committee Member

LOUISIANA ATTORNEY DISCIPLINARY BOARD

IN RE: KENNETH TODD WALLACE

DOCKET NO. 16-DB-027

DISSENT

I don't believe a suspension of one year is sufficient to address the admitted, multiple instances of misconduct in this matter. Considering the number of false or inflated billing entries (428 confirmed, 200 "reasonably certain" to be false), the length of time Respondent repeated the intentional misconduct (3 years), and the amount of money involved in the scheme (\$91,544 in false billing, \$85,000 of bonus money voluntarily renounced), a one year suspension is inadequate. In my opinion the Board should adopt the Hearing Committee's sanction recommendation of one year and one day, which would require the Respondent to apply for reinstatement.

LOUISIANA ATTORNEY DISCIPLINARY BOARD

By: _____



LINDA G. BIZZARRO
Adjudicative Committee Member