

ORIGINAL

Louisiana Attorney Disciplinary Board

FILED by: *Samuel Amato*

Docket# Filed-On

17-DB-074

11/7/2018

LOUISIANA ATTORNEY DISCIPLINARY BOARD

IN RE: LEONARD E. YOKUM, JR.

NUMBER: 17-DB-074

RECOMMENDATION TO THE LOUISIANA SUPREME COURT

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INTRODUCTION

This is a reinstatement matter initiated by Leonard E. Yokum, Jr. (“Mr. Yokum”), Louisiana Bar Roll Number 13745, on December 12, 2017. Mr. Yokum was suspended from the practice of law for three years by the Louisiana Supreme Court on March 13, 2012, retroactive to February 4, 2009, the date of his interim suspension.¹ The Office of Disciplinary Counsel (“ODC”) opposes Mr. Yokum’s petition and application for reinstatement. The hearing committee assigned to the matter recommended that reinstatement be granted based upon its determination that Mr. Yokum has satisfied by clear and convincing evidence all the criteria of Louisiana Supreme Court Rule XIX, Section 24(E).

For the following reasons, the Board rejects the hearing committee’s findings that Mr. Yokum has met the criteria of Section 24(E)(1) and (E)(4) and recommends that Mr. Yokum’s petition and application for reinstatement be denied. The Board also recommends that Mr. Yokum be assessed with all costs and expenses of these proceedings..

¹ *In re Yokum*, 2011-2232 (La. 3/13/12), 85 So.3d 645; *In re Yokum*, 2009-0213 (La. 2/4/09), 999 So.2d 1129 (interim suspension).

BACKGROUND

On March 13, 2012, the Louisiana Supreme Court suspended Mr. Yokum from the practice of law for three years, retroactive to February 4, 2009, the date of Mr. Yokum's interim suspension.² When imposing this suspension, the Court stated that "[w]e will also order respondent [Mr. Yokum] to make payment of restitution in the Anthony and Delaney matters, and refund the unearned fees owed in the Millaudon and Clark matters."³ Mr. Yokum's suspension was based on eleven counts of misconduct consisting of failing to communicate with clients, neglecting legal matters, failing to refund unearned fees, engaging in conduct constituting conflicts of interest, failing to timely pay third-party medical providers, committing a criminal act, and engaging in dishonest and deceitful conduct.

PROCEDURAL HISTORY IN THE REINSTATEMENT MATTERS

Mr. Yokum initially filed a petition and application for reinstatement with the Board on February 22, 2013. The petition and application for reinstatement were rejected by the Board on February 26, 2013, and correspondence was sent to Mr. Yokum by Deputy Administrator Jennifer J. Stewart detailing the reasons for rejection. Mr. Yokum did not correct the deficiencies, but instead filed a motion for interim reinstatement with the Supreme Court on March 15, 2013. Mr. Yokum's motion was rejected by the Court on or about April 24, 2013.

Mr. Yokum filed a second petition and application for reinstatement on October 15, 2013, to which ODC objected. Both the hearing committee assigned to the matter and the Board recommended that the petition and application be denied.⁴ On January 23, 2015, the Supreme Court denied Mr. Yokum's request for reinstatement. In its order, the Supreme Court stated that Mr. Yokum could not re-file for reinstatement until he "paid the costs of his prior disciplinary

² *Yokum*, 85 So.3d 645; *Yokum*, 999 So.2d 1129.

³ *Yokum*, 85 So.3d at 663.

⁴ See *In re Yokum*, 13-DB-055, Recommendation of the Louisiana Attorney Disciplinary Board (11/25/14).

proceedings and paid restitution, or made good faith efforts to do both, but in no event until one year has passed from the date of [the] judgment.”⁵

Mr. Yokum filed this third petition and application for reinstatement to the practice of law on December 12, 2017. On February 8, 2018, the Office of Disciplinary Counsel (“ODC”) filed its opposition to the petition in which it argued that Mr. Yokum was unable to carry his burden of proof required for reinstatement on two bases: 1) he had not fully complied with the terms and conditions of all prior disciplinary orders; and 2) he did not recognize the wrongfulness and seriousness of the misconduct for which he was suspended. The matter was then set for hearing pursuant to Rule XIX, Section 24(F). ODC filed its pre-hearing memorandum on April 6, 2018. Mr. Yokum’s pre-hearing memorandum was filed on April 9, 2018. The matter was heard by Hearing Committee No. 26 on April 16, 2018.⁶ Corbett L. Ourso, Jr., appeared on behalf of Mr. Yokum. Deputy Disciplinary Counsel Tammy Pruet Northrup appeared on behalf of ODC. Post-hearing memoranda were filed by the parties on May 4, 2018. On July 31, 2018, the hearing committee issued its report, recommending that Mr. Yokum’s petition and application for reinstatement be granted and that he be reinstated to the practice of law, subject to various conditions. These conditions include:

- (1) Respondent shall read all current Louisiana Rules of Professional Conduct and maintain a copy in his office at all times (a free copy should be made available by the ODC);
- (2) Beginning in January 2019, Respondent shall meet all MCLE requirements as though he was admitted as a new attorney in 2017--12.5 hours, including 8 hours of ethics, professionalism, or law office management for each year he continues to practice law;
- (3) Beginning in January 2019, Respondent shall participate in at least three (3) technology focused CLE courses per year--to be counted toward the 12.5 MCLE requirement stated above; and

⁵See *In re Yokum*, 2014-2474 (La. 1/23/15); 159 So.3d 449.

⁶ Members of Hearing Committee No. 26 included Alexis M. Breedlove (Committee Chair), Rene I. Solomon (Lawyer Member) and James R. Mobley (Public Member).

- (4) Respondent shall participate in a mentoring/monitoring program, which should include monthly meetings with an actively practicing attorney who is admitted to practice law in the State of Louisiana in the same or similar field of law as Mr. Yokum intends to practice.

ODC filed its objection to the hearing committee's report on August 9, 2018. On August 21, 2018, ODC filed its initial brief. Mr. Yokum filed a pleading entitled "Appellate Review Memorandum to the Disciplinary Board in the Matter of Report of Hearing Committee #26" on August 31, 2018. Oral argument before Panel "A" of the Disciplinary Board was held on September 20, 2018.⁷ Deputy Disciplinary Counsel Tammy Pruet Northrup appeared on behalf of ODC. Corbett L. Ourso, Jr. appeared on behalf of Mr. Yokum. Mr. Yokum was also present at the oral argument.

ANALYSIS

I. Standard of Review

The powers and duties of the Disciplinary Board are defined in Section 2 of Louisiana Supreme Court Rule XIX. Rule XIX, Section 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 legal determinations as well as its application of the Rules of Professional Conduct. *See In re Hill*, 90-DB-004, Recommendation of the Louisiana Attorney

⁷ Members of Panel "A" included Brian D. Landry (Panel Chair), Linda G. Bizzarro (Lawyer Member), and Sheila E. O'Leary (Public Member).

Disciplinary Board (1/22/92); *In re Henderson*, 15-DB-022, Recommendation of the Louisiana Attorney Disciplinary Board (5/31/16).

II. Rule XIX, Section 24

A suspended lawyer petitioning for reinstatement to the practice of law must satisfy the procedural requirements outlined in Rule XIX, Section 24(A-D). Further, the lawyer must satisfy all the criteria detailed in Rule XIX, Section 24(E), or present good and sufficient reason why he or she should nevertheless be reinstated to the practice of law. The petitioning lawyer has the burden of proving the satisfaction of each criterion by clear and convincing evidence.

Rule XIX, Section 18(C). Rule XIX, Section 24, reads, in pertinent part:

A. Generally. ... No lawyer may petition for reinstatement until six months before the period of suspension has expired.⁸

B. Petition and Application. A petition for reinstatement or readmission must be under oath or affirmation under penalty of perjury and shall specify with particularity the manner in which the lawyer meets each of the criteria specified in paragraph E or, if not, why there is good and sufficient reason for reinstatement or readmission... An application for reinstatement or readmission, also drafted under oath or affirmation under penalty of perjury, shall also be submitted by the lawyer. ...

C. Service of Petition and Application. The lawyer shall file the petition and application with the disciplinary board and shall serve a copy of the petition and application (Parts I and II) on disciplinary counsel.

D. Publication of Notice of Petition and Application. At the same time that a lawyer files a petition and application for reinstatement or readmission, the lawyer shall also publish a notice of the petition and application in the journal of the state bar and in a newspaper of general circulation in each judicial district in which the lawyer maintained an office for the practice of law when the lawyer was suspended or disbarred. The notice shall inform members of the bar and the public about the petition and application for reinstatement or readmission, and shall request that any individuals file notice of their opposition or concurrence with the board within thirty days. In addition, the lawyer shall notify the complainant(s) in the disciplinary proceeding that led to the lawyer's suspension or disbarment that the lawyer is applying for reinstatement or readmission, and shall inform each

⁸ As noted above, the Court's order in *In re Yokum*, 159 So.3d 449, directed that Mr. Yokum could not reapply for reinstatement . . . "until one year has passed from the date of this judgment." One year from the date of the judgment would have been January 23, 2016. Mr. Yokum complied with the Court's order, not filing his third petition and application for reinstatement until December 12, 2017.

complainant that he or she has thirty days to raise objections to or to support the lawyer's petition and application.

E. Criteria for Reinstatement and Readmission. A lawyer may be reinstated or readmitted only if the lawyer meets each of the following criteria, and executes and files with the petition for reinstatement or readmission an application for reinstatement or readmission, a copy of which can be obtained from the board administrator, or, if not, presents good and sufficient reasons why the lawyer should nevertheless be reinstated or readmitted:

(1) The lawyer has fully complied with the terms and conditions of all prior disciplinary orders except to the extent that they are abated under Section 25.

(2) The lawyer has not engaged nor attempted to engage in the unauthorized practice of law during the period of suspension or disbarment.

(3) If the lawyer was suffering under a physical or mental disability or infirmity at the time of suspension or disbarment, including alcohol or other drug abuse, the disability or infirmity has been removed. Where alcohol or other drug abuse was a causative factor in the lawyer's misconduct, the lawyer shall not be reinstated or readmitted unless:

(a) the lawyer has pursued appropriate rehabilitative treatment;

(b) the lawyer has abstained from the use of alcohol or other drugs for at least one year; and

(c) the lawyer is likely to continue to abstain from alcohol or other drugs.

(4) The lawyer recognizes the wrongfulness and seriousness of the misconduct for which the lawyer was suspended or disbarred.

(5) The lawyer has not engaged in any other professional misconduct since suspension or disbarment.

(6) Notwithstanding the conduct for which the lawyer was disciplined, the lawyer has the requisite honesty and integrity to practice law.

(7) The lawyer has kept informed about recent developments in the law and is competent to practice and has satisfied MCLE requirements for the year of reinstatement or readmission.

(8) The lawyer has paid to the Louisiana State Bar Association currently owed bar dues.

(9) The lawyer has paid all filing fees owed to the Clerk of Court and all disciplinary costs to the Disciplinary Board.

(10) The lawyer has paid to the Disciplinary Board currently owed disciplinary administration and enforcement fees required under Section 8(A) of this rule and has filed the registration statement required under Section 8(C) of this rule.

(11) The lawyer shall obtain a certification from the Client Assistance Fund that no payments have been made by the Fund to any of the lawyer's clients. To the extent that Client Assistance Funds have been paid to qualifying clients, the lawyer shall obtain a certification from the Fund that the Fund has been reimbursed in its entirety, or alternatively, that a payment plan is in effect which will result in reimbursement to the Fund.

III. Application of the Facts to the Section 24(E) Criteria

ODC does not dispute that Mr. Yokum has satisfied the administrative criteria of Section (24) (A-D), and the Board finds that these criteria have been met. However, the facts of this matter demonstrate that Mr. Yokum has not satisfied the criteria of Section 24(E)(1) and (E)(4) by clear and convincing evidence. Each of the eleven criteria is discussed below.

Section 24(E)(1) – Has the Petitioner “fully complied with the terms and conditions of all prior disciplinary orders”?

The Supreme Court’s order of March 13, 2012 suspending Mr. Yokum in the underlying disciplinary matter states:

It is further ordered that respondent pay restitution to Beverly Anthony and Louis Delaney, and refund the unearned fees owed to Clifford Millaudon and Diane Clark. All costs and expenses in the matter are assessed against respondent in accordance with Supreme Court Rule XIX, Section 10.1, with legal interest to commence thirty days from the date of finality of this court’s judgment until paid.⁹

Later, during Mr. Yokum’s second reinstatement proceeding, the Board examined whether Mr. Yokum had complied with the restitution requirements of the Court’s order in his underlying disciplinary matter. At that time, the restitution owed to Ms. Anthony and Mr. Delaney remained outstanding. Further, although Mr. Yokum had executed a promissory note with the Client Assistance Fund in the Diane Clark matter, he had failed to make payments pursuant to the terms of the note. With regard to Mr. Millaudon’s matter, Mr. Yokum argued that no unearned fees were owed to him, which was contrary to the findings and order of the Court in his underlying disciplinary matter.¹⁰ The Board found that even if Mr. Yokum did not owe unearned fees to Mr. Millaudon, Mr. Yokum had failed to seek a ruling in arbitration

⁹ *Yokum*, 85 So.3d 645, 663.

¹⁰ As noted in the Board’s opinion, Mr. Millaudon had passed away at the time of the second reinstatement proceeding. Therefore, references to him were a reference to his estate.

indicating that he did not owe unearned fees. Additionally, Mr. Yokum had executed a promissory note to the Disciplinary Board for the costs and expenses of his underlying disciplinary matter, but had only made minimal payments pursuant to that note. The Board found that Mr. Yokum had not made restitution or a good faith effort at restitution and had not established that he met the criteria of Section 24(E)(1) by clear and convincing evidence. In denying his second application and petition for reinstatement, the Court stated that Mr. Yokum could not re-file for reinstatement until he “paid the costs of his prior disciplinary proceedings and paid restitution, or made good faith efforts to do both, but in no event until one year has passed from the date of [the] judgment.”¹¹

In the matter at hand, the hearing committee found that Mr. Yokum had made a good faith effort to pay all restitution or amounts owed and that the criteria of Section 24(E)(1) had been met. ODC objects to the hearing committee’s finding, challenging its determination only as to the restitution owed to Louis Delaney.¹² The committee found that prior to Mr. Delaney’s death, he and Mr. Yokum entered into a promissory note for payment of restitution in the amount of \$100,000. However, the restitution/note owed to Mr. Delaney was later forgiven by Mary L. Delaney, Mr. Delaney’s widow and sole legatee of his estate, upon Mr. Yokum’s payment of \$5.00 to her. Mrs. Delaney testified at the hearing that she would refuse payment from Mr. Yokum for satisfaction of the restitution/note, regardless of the original debt amount.¹³ The

¹¹ *Yokum*, 159 So.3d 449.

¹² The committee found that the restitution owed to Beverly Anthony was reduced to judgment and subsequently compromised. It also found that despite his position that all fees were earned, Mr. Yokum attempted to pay Mr. Millaudon’s widow \$250. Mr. Millaudon’s widow refused to accept the funds and returned this payment as she believed she was owed more. The committee also found that Diane Clark was advanced funds by the Client Assistance Fund, and Mr. Yokum returned this amount to the Client Assistance Fund. ODC has not objected to these findings.

¹³ The facts of the underlying disciplinary matter show that Mr. Yokum was hired to represent Louis Delaney, the executor of the succession of Rose Mary Delaney. In his capacity as the attorney for the executor, Mr. Yokum opened a succession checking account on which he was the sole signatory. Thereafter, he wrote several checks on the account totaling \$150,000 all payable to Extreme Auto Mart, a business run by Angela Spiers. According to the

committee found that Mrs. Delaney's decision was guided by her Christian beliefs and her familiarity with her husband's wishes.¹⁴

In response to the hearing committee's findings, ODC maintains that Mr. Yokum cannot compromise payment of restitution when ordered by the Court to make full restitution. Mr. Yokum contends that ODC presents no case law which would prevent compromise of the debt now owed to Mrs. Delaney. He further argues that ODC has no right to collaterally attack the compromise, as there is no evidence that the compromise was in any way fraudulent, in bad faith, or coerced.

The record in this matter confirms the committee's finding that prior to Mr. Delaney's death, he and Mr. Yokum entered into a promissory note for payment of the restitution in the amount of \$100,000.¹⁵ As noted above, the restitution/note owed to Louis Delaney was later forgiven after his death by Mrs. Delaney, in return for a payment of \$5.00.¹⁶ The documents executed by Mrs. Delaney in order to forgive the debt indicate that the debt, at the time the

notations on the checks, the sums represented loans to Extreme Auto Mart. Later, Mr. Yokum borrowed \$179,000 in succession funds to finance the purchase of a home for Ms. Spiers in Mississippi. The home was purchased in the name of Altus Group, Inc., a corporation of which Mr. Yokum was the president. Mr. Delaney testified at the hearing in the underlying disciplinary matter. He appeared to the committee to be an unsophisticated gentleman who unexpectedly inherited a large estate from his sister. Persuaded by Mr. Yokum that an investment in Extreme Auto Mart would provide a reasonable return, Mr. Delaney agreed to loan the business a substantial amount of money. Documents introduced by ODC indicated that Mr. Yokum was an officer and director of Extreme Auto Mart during the times relevant to this count. Mr. Yokum testified at the underlying disciplinary hearing that he believed the investment would provide a return for Mr. Delaney. The committee concluded that Mr. Yokum used his fiduciary relationship with Mr. Delaney to foster his own personal motives, failed to disclose the romantic and business relationship he had with Ms. Spiers, and thus, misled Mr. Delaney into loaning money to Ms. Spiers' business and to Mr. Yokum to purchase the real estate in Mississippi. Ms. Spiers later defaulted on these obligations fairly quickly, leaving Mr. Delaney to engage counsel in Mississippi and to undertake foreclosure proceedings in that state. Mr. Yokum was found to have violated Rules 1.3, 1.4, 1.7(a), 1.8, 8.4(a) and 8.4(c) in connection with this count. *Yokum*, 85 So.3d at 658,662. At the hearing in this reinstatement matter, Mr. Yokum testified that Mr. Delaney ultimately foreclosed upon the house in Mississippi and sold it again, netting approximately \$90,000 from the sale. Hrg. Tr., pp. 119-20. The amount owed to Mrs. Delaney as the sole legatee of Mr. Delaney's estate is therefore approximately \$239,000.

¹⁴ See Hrg. Tr., p. 40; Hrg. Comm. Rpt., p. 5.

¹⁵ See Hrg. Tr., pp. 56-57, 121.

¹⁶ See Hrg. Tr., pp. 40-47; Petitioner's Exhibit 1, Petition for Reinstatement, para. 3, no.1; and Petitioner's Exhibit 2, Affidavit of Mary Delaney.

documents were executed, was represented to be approximately \$150,000.¹⁷ However, the testimony and evidence in this matter indicate that the debt owed to Mrs. Delaney is approximately \$239,000.¹⁸ The record also confirms that at the hearing in this matter, Mrs. Delaney testified that she would refuse any payment from Mr. Yokum for satisfaction of the restitution/note owed, regardless of the original debt amount.¹⁹

In finding that Mr. Yokum had satisfied the criteria of this section, the committee noted that it “was not presented with any law or evidence to indicate that Mr. Yokum is required to pay a debt that has been forgiven or a debt that would be refused if paid.” While no case law has been presented which addresses whether the Court’s order of restitution would be satisfied if a debt is forgiven or if payment of the debt would be refused by the creditor, the case of *In re Woods*, 2004-1453 (La. 10/29/04), 885 So.2d 551, indicates that the Court has required respondents to pay restitution owed to clients, even after such debts have been discharged in bankruptcy.

In *Woods*, the respondent negotiated a large settlement on behalf of two minor children, arising out of the wrongful death of their mother. The respondent indicated that she would invest the settlement funds for the benefit of the minors, but she never obtained a court order authorizing the disbursement of the funds. Instead, she retained the funds and converted them to her own use.²⁰

After Ms. Woods’ clients obtained new counsel, they filed suit against the respondent. In response to the lawsuit, the respondent filed bankruptcy, listing the minors and their guardians as her only creditors. The respondent’s clients, through their new attorney, also filed a complaint

¹⁷ See Petitioner’s Exhibit 2.

¹⁸ See footnote 13, *supra*.

¹⁹ See Hrg. Tr., pp. 45-48, 50.

²⁰ *Woods*, 885 So.2d at 553.

against the respondent with ODC. The respondent failed to cooperate with ODC in its investigation of the complaint.²¹

When considering the sanction to be imposed in *Woods*, the Court noted the respondent's indifference in making restitution and stated, "respondent has not made any effort at restitution; to the contrary, she has sought bankruptcy protection in an effort to shield herself from the payment of restitution."²² The Court permanently disbarred the respondent, noting in its opinion that the respondent must provide a "complete accounting and full restitution to her victims."²³

The *Woods* case clearly indicates that the Court will not relieve an attorney from an order to pay restitution even if factors outside the disciplinary proceeding, such as a bankruptcy proceeding resulting in discharge of a corresponding debt, render the debt no longer enforceable by the creditor. The same reasoning applies in this matter. The Court has twice ordered Mr. Yokum to make restitution to Mr. Delaney, once as part of the initial order of discipline and once in its order issued in connection with his second reinstatement proceeding. The Court's orders should be followed, and Mr. Yokum should be required to make full restitution to Mrs. Delaney or make a good faith effort to do so.

Moreover, the Board does not consider Mr. Yokum's payment of \$5.00 to Mrs. Delaney a "good faith effort" to make restitution. Notably, the settlement of this debt was initiated by Mrs. Delaney, not the Respondent.²⁴ The record indicates that when Mrs. Delaney became aware that the debt was due the estate, she approached Mr. Ourso and asked him to draft a contract wherein the debt would be relieved if Mr. Yokum paid her a small amount of money. She took this

²¹ *Id.*

²² *Id.* at 556.

²³ *Id.* at 557.

²⁴ Hrg. Tr., pp. 61-66.

action “out of [her] own understanding of [her] husband and wanting to have this resolved.”²⁵ She had no contact with Mr. Yokum concerning this decision and did not let him know that she was taking this action.²⁶ She further testified that Mr. Yokum had no knowledge that she had signed the January 12, 2017 letter or executed the affidavit settling the debt and releasing Mr. Yokum from any and all further liability on the debt until after the documents had been signed and executed.²⁷ The record therefore shows that any good faith effort to settle this debt came from Mrs. Delaney, not Mr. Yokum. According, the Board cannot find that Mr. Yokum made a good faith effort to pay the restitution owed to Mrs. Delaney.

Mr. Yokum has failed to satisfy the criteria of Section 24(E)(1) by clear and convincing evidence. Specifically, he has failed to pay the restitution owed to Mrs. Delaney or make a good faith effort to do so as mandated by the Court in its previous orders in his disciplinary and reinstatement matters. The Board therefore rejects the hearing committee’s finding that the criteria of Section 24(E)(1) have been met.

Section 24(E)(2) – Has Petitioner engaged or attempted to engage in the unauthorized practice of law during his period of suspension?

In his petition for reinstatement, Mr. Yokum states that he has not engaged or attempted to engage in the practice of law.²⁸ He further testified that he only periodically worked as a paralegal to his counsel, Corbett L. Ourso, Jr., during his period of suspension.²⁹ The ODC did not offer any evidence to the contrary and did not challenge whether the criteria of this section had been met. The Board adopts the Committee’s finding that Mr. Yokum did not engage or

²⁵ Hrg. Tr., pp. 39-40, 42.

²⁶ Hrg. Tr., p. 54.

²⁷ Hrg. Tr., p. 60.

²⁸ See Petitioner’s Exhibit 1, Petition for Reinstatement, para. 7, no. 2, and Application for Reinstatement, pp. 4, 6-7.

²⁹ Hrg. Tr., p. 130.

attempt to engage in the unauthorized practice of law during his suspension, and finds that Mr. Yokum has satisfied the criteria of this section.

Section 24(E)(3) – Has Petitioner “removed” the disability from which he was suffering at the time of his suspension? More specifically, has Petitioner done the following with regard to any alcohol and drug abuse:

- a) Pursued appropriate rehabilitative treatment; and**
- b) Abstained from the use of alcohol or other drugs for at least one year?**

Is Petitioner likely to continue to abstain from alcohol or other drugs?

No evidence was presented to show that Mr. Yokum was suffering from any disability at the time of his suspension. Accordingly, this section is not applicable to this reinstatement proceeding.

Section 24(E)(4) – Does Petitioner recognize the wrongfulness and seriousness of the misconduct for which he was suspended?

The committee found that Mr. Yokum testified that he takes responsibility for his mistakes and has learned the wrongfulness and seriousness of his conduct over the past nine years. Based upon this testimony and Mr. Yokum’s overall demeanor during the hearing, the committee found that Mr. Yokum feels remorse for and understands the seriousness of his behavior.

ODC challenges the hearing committee’s finding, arguing that the committee ignored a part of Mr. Yokum’s testimony in his sworn statement as to whether he recognizes the wrongfulness and seriousness of his misconduct. ODC particularly focuses on Mr. Yokum’s assertion in his sworn statement that “[his] clients have not lost any money” due to his misconduct.³⁰ Mr. Yokum’s assertion is particularly troubling, given the fact that he has

³⁰ At his January 26, 2018 sworn statement, Mr. Yokum testified as follows:

- A. None of these things here are [*sic*] the things that I’ve been charged were things that I wanted to do or did intentionally. And therefore, I would never hurt any of my clients, and as a result of these things, my clients have not lost

submitted Petitioner's Exhibit 2 into evidence in support of his petition for reinstatement. This exhibit includes a letter dated January 12, 2017 from Mr. Yokum's counsel to Mrs. Delaney acknowledging that Mr. Yokum owes Mrs. Delaney restitution in the amount he and Mr. Yokum approximate to be around \$150,000. Further, Mrs. Delaney's affidavit of February 13, 2017, also submitted as part of Petitioner's Exhibit 2, states that Mr. Delaney's estate is owed approximately \$150,000 in restitution.³¹ Mr. Yokum also failed to recognize in his testimony at the hearing held in this matter that the restitution amount owed is far higher than \$150,000, stating that he could "possibly" owe Mrs. Delaney more than \$150,000.³² From a review of this evidence and his testimony, it is apparent that Mr. Yokum does not recognize the wrongfulness and seriousness of his misconduct. Accordingly, he has failed to meet the criteria of Section 24(E)(4) by clear and convincing evidence.

Section 24(E)(5) – Has Petitioner engaged in any other professional misconduct since his suspension?

The committee found that since being suspended, Mr. Yokum has not engaged in any other professional misconduct.³³ The record supports this finding, and ODC did not offer any evidence to the contrary and did not challenge whether this requirement had been met. The Board adopts the committee's finding that Mr. Yokum has not engaged in any other professional misconduct during his suspension, and finds that Mr. Yokum has met the criteria of this section.

Section 24(E)(6) – Notwithstanding the conduct for which the Petitioner was disciplined, does he have the requisite honesty and integrity to practice law?

As clearly stated in Section 24(E)(6), this section requires that an attorney petitioning for reinstatement show that he or she has, notwithstanding the conduct for which the lawyer was

any money.

ODC Exhibit 6, Sworn Statement Tr., p. 34.

³¹ As noted above, Mrs. Delaney is the sole legatee of Mr. Delaney's estate.

³² Hrg. Tr., pp. 118-22.

³³ See Petitioner's Exhibit 1, Petition for Reinstatement, para. 7, no. 5.

disciplined, the requisite honesty and integrity practice law. ODC contends that Respondent's strained financial situation proves that he does not have the requisite "honesty, trustworthiness and fitness," which ODC argues includes financial responsibility, to be reinstated to the practice of law.³⁴ While ODC concedes that financial responsibility is not one of the items specifically enumerated for consideration in Section 24(E), it points out that the application for reinstatement, which the Court mandates as part of the reinstatement process, includes mandatory disclosures of the petitioner's financial history. ODC further maintains that the hearing committee ignored the evidence presented of Mr. Yokum's lack of financial responsibility when making its determination that the criteria of this section had been proven. In response, Mr. Yokum maintains that ODC has presented no law supporting the contention that a lawyer cannot or should not be reinstated due to weak or strained personal finances.

In its report, the committee notes that while the issues of Mr. Yokum's strained personal financial situation and his poor computer skills are cause for concern, ODC did not present the committee with any law supporting the proposition that a lawyer cannot or should not be reinstated due to weak or strained personal finances. Considering this and several character letters received on behalf of Mr. Yokum, the committee found that Mr. Yokum had the requisite honesty and integrity to practice law.³⁵

Mr. Yokum's application for reinstatement shows that he has been a party to several lawsuits due to financial difficulties, and his testimony reveals that his personal finances are

³⁴ See ODC's Initial Brief, p. 23.

³⁵ The committee stated that it had given more weight to the character letters submitted by T. Jay Seale, Ron S. Macaluso, and Andre G. Coudrain than to the letter in opposition to Mr. Yokum's reinstatement submitted by his cousin, Carolyn Thompson Griffing. Messrs. Seale, Macaluso and Coudrain all request that Mr. Yokum be reinstated and attest to his positive character and professionalism. Ms. Griffing and Mr. Yokum have been in long-standing disputes over property and their grandparents' estate, and she describes this information in her letter. The Board finds that the credibility determinations made by the committee concerning these letters are not manifestly erroneous and adopts same.

strained.³⁶ As pointed out by his counsel, Mr. Yokum has not practiced law in over nine years. At the time of his interim suspension, he was supporting himself and meeting a lifestyle commensurate with the income he earned as a practicing lawyer for approximately forty years. With no substantial income and continuing obligations, he began to eventually experience financial difficulties. In his memorandum to the Disciplinary Board, he explains how he has sold, mortgaged, or given to creditors almost all of his assets, including his office, which has also served as his home during most of the term of his suspension. Since he has not been able to practice law, it has taken a great deal of time to gather the resources in an attempt to pay the restitution ordered. He has not sought bankruptcy protection to avoid paying his other debts.

In the past, prior financial problems have not prohibited the Court from ultimately granting readmission to a petitioner. *See In re Riley*, 2018-OB-0237 (La. 5/25/18), 243 So.3d 537 (despite a prior bankruptcy, petitioner was conditionally readmitted to the practice of law, with one of the conditions of readmission being that all restitution owed to a client be paid); *In re Riley*, 16-DB-083, Report of the Hearing Committee, (12/21/17); *In re Riley*, 05-DB-062 and 06-DB-04, Recommendation of the Louisiana Attorney Disciplinary Board (8/06/07) (detailing Mr. Riley's bankruptcy history). Given this and the record as a whole as to this section, the Board adopts the hearing committee's conclusion that Mr. Yokum has proven that he has the requisite honesty and integrity to practice law by clear and convincing evidence. The Board therefore adopts the committee's finding that Mr. Yokum has met the criteria of Section 24(E)(6).

Section 24(E)(7) – Has Petitioner kept informed about recent developments in the law, is he competent to practice, and has he satisfied MCLE requirements for the year of reinstatement?

The committee noted that counsel for Mr. Yokum argued, and the ODC did not dispute, that since Mr. Yokum is over sixty-five years of age, he is no longer required to attend

³⁶ *See* ODC Exhibit 7 and Hrg. Tr., pp. 164-86.

continuing legal education seminars.³⁷ Mr. Yokum testified that he would have liked to attend such seminars but was unable to do so because of the cost involved.³⁸ He also has not attended many, if any, of the free continuing legal education seminars offered by the Disciplinary Board or the Louisiana State Bar Association because he was concerned he would be seen as “acting as a lawyer.”³⁹ Instead, he has performed research while employed at Mr. Ourso’s office, read bar journals, and spoken with other lawyers regarding current events.⁴⁰ While Mr. Yokum’s concerns regarding free continuing legal education seminars could have been resolved through communication with the ODC, the committee nevertheless found that he did not have any mandatory continuing legal education requirements for the year 2018 due to his age. The Board finds that the committee’s determinations are supported by the record, and agrees with the committee that the criteria of this section have been met.

Section 24(E)(8) and (E)(10) – Has Petitioner paid currently owed bar dues to the LSBA, currently owed disciplinary administration and enforcement fees required under Section 8(a) to the Disciplinary Board, and filed the registration statement required under Section 8(C)?

The committee found that Mr. Yokum provided a 2017-2018 Attorney Registration Statement which indicates that his LSBA Membership and LADB Assessment dues have been paid.⁴¹ The registration statement also included Mr. Yokum’s mailing address, primary and secondary registration statement addresses, email address and telephone number and was stamped as “entered” on August 2, 2017.⁴² The ODC did not offer any evidence to the contrary and did not challenge whether these requirements have been met. The Board adopts the committee’s findings that the criteria of Section 24(E)(8) and (E)(10) have been met.

³⁷ Hrg. Tr., p. 128.

³⁸ Hrg. Tr., p. 129.

³⁹ Hrg. Tr., p. 131.

⁴⁰ Hrg. Tr., p. 129.

⁴¹ See Petitioner’s Exhibit 1, Supp. 2017-2018 Registration Statement, p. 2.

⁴² See Petitioner’s Exhibit 1, Supp. 2017-2018 Registration Statement, p. 2.

Section 24(E)(9) – Has Petitioner paid all filing fees owed to the Clerk of Court and all disciplinary costs to the Disciplinary Board?

As to disciplinary costs owed, Mr. Yokum provided a letter from the Disciplinary Board indicating the payment of \$7,500.00 as of November 2017 and the execution of a promissory note on November 13, 2017 for the remaining \$9,890.72 owed.⁴³ Mr. Yokum testified that he has made monthly payments on the note since its execution.⁴⁴ The ODC did not offer any evidence to the contrary nor did the ODC challenge whether the promissory note satisfies the criteria of this section. The committee found that Mr. Yokum had met the requirements of this section, and the Board adopts these findings.

Section 24(E)(11) – To the extent that Client Assistance Funds have been paid to qualifying clients, has Petitioner obtained a certification from the Client Assistance Fund indicating that the Fund has been reimbursed in its entirety, or alternatively, that a payment plan is in effect which will result in reimbursement to the fund?

Mr. Yokum provided a certificate from the Client Assistance Fund indicating that he “made full restitution to the Louisiana State Bar Association’s Client Assistance Fund” in the Diane Clark matter.⁴⁵ The ODC did not offer any evidence to the contrary. The committee accordingly found that Mr. Yokum had met this requirement, and the Board adopts this finding.

CONCLUSION

The Board adopts the hearing committee’s finding that Mr. Yokum has met the criteria of Section 24(E)(2), (3) and (5)-(11), as applicable, by clear and convincing evidence. However, the Board rejects the committee’s finding that the Petitioner has met the criteria of Section 24(E)(1) and (E)(4) by clear and convincing evidence. By failing to make restitution or to make a good faith effort at restitution to Mrs. Mary L. Delaney, he has failed to show that he has fully

⁴³ See Petitioner’s Exhibit 1, Letter from LADB to Mr. Yokum and attached promissory note, pp. 45-49.

⁴⁴ Hrg. Tr., pp. 169-73.

⁴⁵ See Petitioner’s Exhibit 1, Petition for Reinstatement, para. 3, no. 3; See Petitioner’s Exhibit 1, Client Assistance Fund Certificate, pp. 38-40.

complied with the terms and conditions of all prior discipline orders. He has also failed to show that he recognizes the wrongfulness and seriousness of the misconduct for which he was suspended. Moreover, Mr. Yokum has failed to show that, despite his failure to meet the criteria of Section 24(E)(1) and (E)(4), he has good and sufficient reason why he should nevertheless be reinstated. The Board recommends that Mr. Yokum's petition and application for reinstatement be denied. The Board also recommends that Mr. Yokum be assessed with all costs and expenses of these proceedings.

RECOMMENDATION

The Board recommends that the petition and application for reinstatement filed by Leonard E. Yokum, Jr. be denied. The Board further recommends that Mr. Yokum be assessed with all costs and expenses of these proceedings.

LOUISIANA ATTORNEY DISCIPLINARY BOARD

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BY: _____



**LINDA G. BIZZARRO
FOR THE ADJUDICATIVE COMMITTEE**