

LOUISIANA ATTORNEY DISCIPLINARY BOARD

IN RE: JOHN JULIUS STEGER IV

NUMBER: 16-DB-074

RECOMMENDATION TO THE LOUISIANA SUPREME COURT

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INTRODUCTION

This is an attorney discipline matter based on the filing of formal charges by the Office of Disciplinary Counsel (“ODC”) against John Julius Steger IV (“Respondent” or “Mr. Steger”), Louisiana Bar Roll Number 24657.¹ ODC alleges that the Respondent violated the following Rules of Professional Conduct: 8.4(b) (commission of a criminal act, especially one which reflects adversely on the lawyer’s honesty, trustworthiness or fitness as a lawyer in other respects) and 8.4(a) (violating or attempting to violate the Rules of Professional Conduct).² The hearing committee assigned to the matter concluded that the Respondent violated Rules 8.4(b) and 8.4(a) as stipulated to by the parties. The committee recommended Respondent be suspended from the practice of law for a period of one year, subject to a five-year period of probation to coincide with the terms of Respondent’s Judges and Lawyers Assistance Program (“JLAP”) monitoring agreement executed on September 11, 2017. The committee also recommended that the Respondent be required to pay all costs and expenses of these proceedings.

¹ Respondent was admitted to the Louisiana Bar on October 11, 1996. His primary registration address is 909 West Esplanade Avenue, Suite 203, Kenner, Louisiana, 70065. He is currently eligible to practice law.

² See attached Appendix for full text of the Rules.

For the following reasons, the Board adopts the committee's factual findings which are supplemented herein and also adopts the committee's conclusions regarding rule violations. The Board recommends that Respondent be suspended from the practice of law for eighteen months, fully deferred, subject to the conditions set forth herein. The Board further recommends that the Respondent be assessed with all costs and expenses of this matter.

PROCEDURAL HISTORY

The formal charges were filed on September 13, 2016. The charges state, in pertinent part:

I.

The Respondent is John Julius Steger IV (Bar No. 24657), a Louisiana licensed attorney born May 11, 1970 and admitted to the practice of law in the State of Louisiana October 11, 1996 after graduating from Louisiana State University School of Law. The Respondent has no prior disciplinary record, either public or private and has never been the subject of a diversion opportunity. He is currently eligible and in good standing with the Louisiana State Bar.

II.

By way of history, the Respondent was arrested on February 23, 1993 with regard to allegations of disturbing the peace and obscenity. Records no longer exist regarding the arrest or outcome. On April 28, 2001, the Respondent was arrested for interfering with the police and "public nudity" in connection with Mardi Gras festivities. He consumed alcohol and was apparently in a state of undress on the back of a pickup truck. On October 3, 2002, the Respondent was arrested and charged with operating a vehicle while intoxicated, reckless operation of a motor vehicle, hit and run driving, and failure to use a seatbelt. The Respondent was allowed to plead guilty to a reduced charge of reckless operation of a vehicle under the provisions of Article 894. On March 8, 2003, the Respondent was again arrested and charged with operating a vehicle while intoxicated and exceeding the speed limit. Once again, the Respondent was permitted to enter a guilty plea to a reduced charge under the provisions of Code of Criminal Procedure Article 894.

On June 28, 2003, the Respondent was arrested and charged with simple battery. The incident stemmed from an argument with his girlfriend/wife at their apartment. The matter was ultimately dismissed without prosecution. None of the above enumerated or outlined incidents were ever reported to the Office of Disciplinary Counsel by either the Respondent himself or by any prosecuting authority in the State of Louisiana.

III.

On November 4, 2013, the Respondent consumed wine with dinner and later took a 10mg. Ambien “to help him sleep.” He continued to drink wine thereafter and estimates that he drank about two bottles of red wine that evening. At some point the Respondent entered his vehicle and drove while in an intoxicated state crashing into a tree. Emergency medical services were called as he sustained a blow to his head when he impacted the windshield. He was taken to the emergency room where a c-collar was placed on him for his safety. The Respondent reportedly removed the c-collar and when a nurse attempted to restrain him and put the collar back on, he bit the nurse leading to a charge of battery. His blood alcohol level at the time registered .2, two and a half times the legal limit. Following his arrest and release, on the next day, November 5, 2013, the Respondent consumed wine yet again. Once again he took a 10mg. Ambien and blacked out. He once again entered his vehicle and commenced driving and went to a local service station to purchase beer. The Respondent was arrested after driving erratically. Breathalyzer reports came back with a blood alcohol content of .151, nearly twice the legal limit. It is only after these two final incidents in successive days that the matter was reported to the Office of Disciplinary Counsel by the prosecuting authority.

IV.

The Respondent submitted to an inpatient evaluation at the Pine Grove Behavioral Health and Addiction Services, the evaluation results of which were not provided to the Office of Disciplinary Counsel until July 30, 2015. The evaluation results reflect the opinion of medical professionals that the Respondent suffers from alcohol dependence requiring a ninety-day residential treatment program. The medical professionals further expressed the professional opinion that to a reasonable degree of clinical certainty, they were not confident about the Respondent’s ability to meet the professional responsibilities of a practicing attorney at this time secondary to his alcohol dependence.

V.

Despite urging from the Office of Disciplinary Counsel that the Respondent participate in an inpatient treatment program, he has refused to do so as of the date his sworn statement was obtained by ODC in April of 2016. Reportedly he has chosen to participate in an intensive outpatient program with ARRNO, a group which is neither sanctioned nor accredited by the Judges and Lawyers Assistance Program professionals. At this time the Respondent is not under a JLAP Monitoring Agreement.

VI.

Respondent’s conduct reflects a violation of Rule 8.4(b)—the commission of a criminal act(s), particularly one(s) which reflects adversely on the lawyer’s

honesty, trustworthiness or fitness in other respects; and Rule 8.4(a)—violating or attempting to violate the Rules of Professional Conduct.

The formal charges were personally served on the Respondent on November 4, 2016. The Respondent filed an answer to the formal charges and a request for opportunity to be heard in mitigation on November 28, 2016.

On December 6, 2016, the Board Administrator issued a notice of scheduling conference and committee hearing. The notice set a scheduling conference in this matter for December 28, 2016, and also set the hearing in this matter for February 6, 2017. On December 22, 2016, Respondent's then-counsel, Raleigh L. Ohlmeyer III, filed a motion for continuance, in which he represented to the hearing committee that the Respondent was "addressing medical issues, which have a bearing on this case." He also indicated that the Respondent was working to resolve the matter via a consent discipline proceeding. ODC did not object to the motion for continuance. On December 27, 2016, the Chair of Hearing Committee No. 12, Racquel B. Pettigrew, granted the motion and ordered that the hearing be continued until April 3, 2017. A pre-hearing conference was set for March 29, 2017.

ODC filed its pre-hearing memorandum on March 22, 2017. The pre-hearing conference was held as scheduled on March 29, 2017. ODC also filed its exhibit list on March 29, 2017. On the same date, the Respondent filed his stipulations, in which he: (1) stipulated to all of the factual allegations contained in the formal charges and the rule violations set forth therein; (2) stipulated to the admissibility of ODC's proposed exhibits and their entry into evidence in these proceedings; and (3) committed to entry into an inpatient treatment program during the month of May 2017 in compliance with the recommendations of the multi-disciplinary professionals at both Pine Grove Behavioral Health and Addiction Services ("Pine Grove") and Palmetto Addiction Recovery Center ("Palmetto"). The hearing set for April 3, 2017 was continued until Mr. Steger completed treatment and signed a JLAP monitoring agreement.

ODC received confirmation from JLAP that Respondent was discharged from Palmetto on September 7, 2017, after successfully completing a 90-day period of inpatient treatment for substance use disorder. Respondent executed a five-year JLAP recovery agreement on September 11, 2017.

Accordingly, on October 4, 2017, ODC filed a motion to reset the matter for hearing. The hearing was to be held for the purpose of receiving mitigating evidence by the hearing committee. On October 13, 2017, Ms. Pettigrew signed an order allowing the matter to be fixed for hearing. The hearing was set for December 1, 2017, with a pre-hearing conference set for November 27, 2017. On November 14, 2017, ODC filed its supplemental pre-hearing memorandum. The pre-hearing conference was held as scheduled on November 27, 2017.

The parties then filed a joint motion to continue the hearing without date on November 29, 2017. In this motion, the parties indicated that they had agreed upon an appropriate sanction to be imposed in this matter and that a petition for consent discipline would be filed directly with the Louisiana Supreme Court. The parties further requested that the hearing in this matter be continued without date based upon the parties' agreed effort to resolve the matter by consent discipline. Ms. Pettigrew granted the parties' motion on November 30, 2017, continuing the matter without date, pending the outcome the Supreme Court's decision on the consent discipline petition.

On December 18, 2017, the parties submitted a joint petition for consent discipline to the Louisiana Supreme Court. The joint consent effort recommended a period of suspension of one year and one day, with all but six months deferred, subject to a five-year period of probation to coincide with the terms and conditions of Respondent's JLAP recovery agreement. On February 9, 2018—in a 4-3 decision—the Supreme Court rejected the joint petition for consent discipline and ordered that the matter be remanded for consideration of the previously filed formal

charges.³ A motion to reset the matter for hearing was filed by ODC on February 9, 2018. On February 19, 2018, Ms. Pettigrew set the matter for hearing on April 13, 2018, with a pre-hearing conference set for April 9, 2018.

On February 28, 2018, the Respondent filed a motion to substitute counsel in which Damon S. Manning of Schiff, Scheckman & White was substituted as Respondent's counsel in place of Raleigh L. Ohlmeyer III. This motion was granted by Ms. Pettigrew on the same date. On April 6, 2018, ODC filed its second supplemental pre-hearing memorandum, and the Respondent filed his pre-hearing memorandum. The pre-hearing conference was held on April 9, 2018. The hearing was held as scheduled on April 13, 2018 before Hearing Committee No. 12.⁴ The hearing committee filed its report on May 22, 2018, recommending that the Respondent be suspended from the practice of law for a period of one year, subject to a five-year period of probation to coincide with the terms of his JLAP monitoring agreement executed on September 11, 2017. The committee also recommended that the Respondent be required to pay all costs and expenses of these proceedings.

ODC filed its pre-argument memorandum on July 6, 2018. The Respondent's pre-argument brief was filed the same date. Oral argument before Panel "C" of the Disciplinary Board was held on August 9, 2018.⁵ Chief Disciplinary Counsel Charles B. Plattsmier appeared on behalf of ODC. Respondent appeared with counsel, Damon S. Manning.

³ Pursuant to Supreme Court Rule XIX, Section 20(f), a rejected consent discipline effort may not be used against a respondent in any subsequent proceedings. Here, the Respondent waived the provisions of Rule XIX, Section 20(f) and openly acknowledged at the hearing in this matter the terms and conditions of his rejected consent discipline.

⁴ Members of Hearing Committee No. 12 included Racquel Burns Pettigrew (Committee Chair), Michael Sepanick (Lawyer Member), and Patricia Caperino (Public Member).

⁵ Members of Panel "C" include Danna E. Schwab (Panel Chair), Melissa L. Theriot (Lawyer Member), and Charles H. Williamson, Jr. (Public Member).

HEARING COMMITTEE REPORT

As stated above, the hearing committee issued its report on May 22, 2018. In its report, the committee noted that the facts and rule violations as alleged in the formal charges had been stipulated to by the parties.⁶ The committee made the following factual findings:

... The facts and the rule violations have been stipulated to.

Prior to being admitted to the practice of law in Louisiana, Mr. Steger was arrested during Mardi Gras on February 23, 1993 with regard to allegations of disturbing the peace and obscenity. Alcohol consumption was involved. Records could no longer be located regarding this arrest. According to Mr. Steger, the matter was ultimately dismissed.

On February 18, 2001, Mr. Steger was arrested again during Mardi Gras for interfering with the police. Alcohol consumption was involved. The matter was ultimately dismissed.

On October 3, 2002, Mr. Steger was arrested and charged with operating a vehicle while intoxicated, reckless operation of a motor vehicle, hit and run driving, and failure to use a seatbelt. Alcohol and Ambien consumption was involved. Mr. Steger pled guilty to a reduced charge of reckless operation of a vehicle under the provisions of Article 894.

On March 8, 2003, Mr. Steger was arrested and charged with operating a vehicle while intoxicated and exceeding the speed limit. Alcohol and Ambien consumption was involved. Mr. Steger pled guilty to a reduced charge of reckless operation of a vehicle under the provisions of Article 894.

On June 28, 2003, Mr. Steger was arrested and charged with simple battery. The incident stemmed from an argument with his then-girlfriend at their apartment. The matter was ultimately dismissed without prosecution.

On November 4, 2013, Mr. Steger consumed wine with dinner and later took a 10 mg Ambien "to help him sleep." He continued to drink wine thereafter and estimates that he drank about two bottles of red wine that evening. At some point, Mr. Steger entered his car and drove while in an intoxicated state crashing into a tree. Emergency medical services were called to the scene due to Mr. Steger having hit his head on the windshield. Mr. Steger was taken to the emergency room where a C-collar was placed on him. Mr. Steger reportedly

⁶ See Respondent's pre-hearing memorandum, filed on April 6, 2018, in which the Respondent states that he has stipulated to the factual allegations and rule violations contained in the formal charges and in which he offers additional factual stipulations. In ODC's pre-argument memorandum filed on July 6, 2018, ODC acknowledges that the Respondent has reviewed and stipulates to all of the factual allegations contained in the formal charges and the rule violations set forth therein. ODC does not address or lodge an objection to the additional factual stipulations offered by the Respondent in his pre-hearing memorandum.

removed the C-collar and when a male nurse attempted to restrain him and put the collar back on, he bit the nurse leading to a charge of battery. Mr. Steger's blood alcohol level at the time registered 0.2. Mr. Steger has no independent recollection of these events but has no reason to doubt the accuracy of police reports and he stipulates to same. Mr. Steger pled guilty to a reduced charge of simple assault.

Following his arrest and release, on the next day, November 5, 2013, Mr. Steger consumed wine, took a 10 mg Ambien and blacked out. He once again entered his vehicle and commenced driving. Mr. Steger was arrested following driving erratically. His blood alcohol level at the time registered 0.151. Mr. Steger had no independent recollection of these events but has no reason to doubt the accuracy of the police reports and he stipulates to same. Mr. Steger plead guilty to DWI.

(Hrg. Comm. Rpt. pp. 1-3). The committee further noted that the following witnesses were called to testify by the Respondent at the hearing:

1. Mr. William Arendell, a counselor and therapist who is involved in Respondent's treatment plan and recovery through JLAP;
2. Mr. Kurt Garcia, an attorney who has shared a law office with Respondent;
3. Ms. Christine DeSue, an attorney and member of the same business networking group as Respondent. Ms. DeSue also has a professional relationship with Respondent as they work together on qualified domestic relations orders ("QDROs") for domestic litigation and tax issues for community property litigation; and
4. Mr. J.E. "Buddy" Stockwell, III, the executive director of JLAP.⁷

The hearing committee explained that the baseline sanction for multiple instances of DWI appeared to be a one-year and one-day suspension. The committee pointed out that although the Respondent had multiple instances of DWI, he had successfully completed a ninety-day inpatient treatment program at Palmetto on September 7, 2017, entered into a five-year monitoring and recovery agreement with JLAP on September 11, 2017, been fully compliant with his JLAP recovery agreement, and maintained a sustained, successful track record of recovery.

⁷ The Board notes that the following exhibits were admitted into evidence at the hearing: ODC 1-6, ODC 7 (under seal), ODC 8-9, ODC 10-14 (under seal), ODC 15-17, R1-2 (under seal), and R-3.

Based on the above, the committee recommended that the Respondent be suspended from the practice of law for a period of one year, subject to a five-year period of probation to coincide with the terms of his JLAP monitoring agreement executed on September 11, 2017. The committee also recommended that the Respondent be required to pay all costs and expenses of these proceedings.

In its pre-argument memorandum to the Disciplinary Board, ODC objects to the hearing committee's proposed sanction. ODC instead suggests that the Board impose a baseline suspension of one-year and one-day, and thereafter assess the mitigating factors presented to determine whether some portion of that suspension should be deferred, subject to Respondent's successful completion of his current JLAP monitoring agreement.

In Respondent's pre-argument brief, he also maintains that the hearing committee's sanction should be rejected by the Board. He argues that the appropriate sanction in this case is an eighteen-month suspension, fully deferred, along with five years of probation including compliance with his JLAP monitoring agreement.⁸ Alternatively, Respondent suggests that the sanction previously recommended by the parties in their consent discipline submission to the Court be imposed. This sanction includes a one-year and one-day suspension, with all but six months deferred, along with five years of probation including compliance with his JLAP monitoring agreement and payment of all costs of these proceedings.

ANALYSIS OF THE RECORD BEFORE THE BOARD

I. The Standard of Review

The powers and duties of the Disciplinary Board are defined in Louisiana Supreme Court Rule XIX, §2. Rule XIX, §2(G)(2)(a) states that the Board is "to perform appellate review

⁸ As will be discussed below, this sanction is similar to the sanction recently imposed by the Court in *In re Ashley*, 18-0408 (La. 05/25/18), 243 So.3d 547.

functions, consisting of review of the findings of fact, conclusions of law, and recommendations of hearing committees with respect to formal charges ... 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 hearing committee do not appear to be manifestly erroneous, are supported by the record, and are adopted by the Board. Further, the Board makes the following additional findings based upon the testimony of the witnesses and the exhibits submitted at the hearing held in this matter.

1. Mr. Steger's physician prescribed Ambien to him as a sleep aid over a long period of time. Mr. Steger no longer takes Ambien and he now abstains from all alcohol and addictive substances, as documented by his full compliance with his JLAP recovery agreement. Mr. Steger candidly acknowledged that he was on a dangerous, downward spiral in his life due to his alcohol abuse combined with Ambien. (Tr., pp. 120-21).

2. Mr. Steger testified were it not for the efforts of Chief Disciplinary Counsel and JLAP, he would not be as far along in his recovery as he is today. This process has encouraged, prompted, and facilitated Mr. Steger's recovery, and he is extremely grateful to be a more healthy and fit person today. (Tr., pp. 140-41).

3. Mr. Steger has been evaluated by multiple experts, including multiple JLAP-approved experts. His evaluations and treatment include the following:

a) Initial JLAP evaluation by Dr. Alexandra Casalino on April 28, 2015, which resulted in a diagnosis of Alcohol Use Disorder and a recommendation that he enter a JLAP monitoring agreement and participate in an outpatient substance abuse treatment program. (See ODC Exhibit 4, Bates pp. 46-50, specifically Bates pp. 49-50).

b) A three-day, inpatient JLAP evaluation by doctors and clinical staff at Pine Grove beginning on June 22, 2015, which resulted in a diagnosis including Alcohol Withdrawal, Alcohol Dependence, and Sedative-Hypnotic Abuse, and a recommendation that he enter a JLAP monitoring agreement and participate in a ninety-day inpatient substance abuse treatment program. (See ODC Exhibit 7, Bates pp. 131-51, specifically Bates pp. 148, 150).

c) Evaluation and treatment by William Arendell, LCSW, beginning on May 14, 2016, which resulted in a recommendation that he complete a thirty-day intensive outpatient program with drug screening. Mr. Steger voluntarily submitted to random drug and alcohol screening beginning December 30, 2016, and he continues to treat with Mr. Arrendell to date. (See drug and alcohol screening results at R-2 *in globo*).

d) Updated three-day, inpatient JLAP evaluation by doctors and clinical staff at Palmetto beginning on January 9, 2017, which resulted in a diagnosis including Alcohol Use Disorder-- Severe, History of Alcohol Withdrawal Symptoms Requiring Detoxification Protocol; and Sedative/Hypnotic Use Disorder--Mild; and a recommendation that he enter a five-year JLAP monitoring agreement and participate in a ninety-day inpatient substance abuse treatment program. (See ODC Exhibit 12, Bates pp. 199-200).

e) A ninety-day inpatient treatment at JLAP-approved Palmetto which he successfully completed on September 7, 2017. See ODC Exhibit 14. Palmetto recommended that Mr. Steger enter a five-year JLAP recovery agreement with specific conditions. (See ODC Exhibit 14, Bates pp. 239-40).

3. Upon successful completion of residential treatment at Palmetto, Mr. Steger promptly contacted JLAP, agreed to enter the recommended recovery agreement, and executed a JLAP Monitoring Substance Use Disorder Recovery Agreement with Waiver of Confidentiality and Mandatory Reporting on September 11, 2017. (*See* ODC Exhibit 16).

4. Mr. Kurt Garcia, a Louisiana licensed attorney and a solo practitioner, testified on behalf of the Respondent. He has known Mr. Steger for approximately three years, and they have shared office space together. Mr. Garcia has referred tax law clients to Mr. Steger. He and the Respondent have both a friendship and a professional relationship. Mr. Garcia testified that it was Mr. Steger who first told him about his most recent alcohol-related incident and arrest. Mr. Steger initially appeared to be sad and depressed about the incident. (Tr., pp. 34-49). Although most of their current contact has been by telephone, Mr. Garcia testified that he has seen obvious improvement in Mr. Steger recently. Mr. Garcia testified that while the Respondent was initially angry and upset about the disciplinary proceedings, over the past several months Respondent has taken full responsibility for his actions and has demonstrated remorse and regret for his behavior. (Tr., pp. 42-43).

5. Ms. Christine DeSue, a Louisiana licensed attorney, also testified on the Respondent's behalf. Ms. DeSue has known Mr. Steger socially for approximately ten years. For the past five years, they have been in the same business networking group that meets on a weekly basis. They also work together on cases. Mr. Steger assists with QDRO work, and Ms. DeSue has used Mr. Steger as an expert in tax law in community property partitions. (Tr., p. 51). Ms. DeSue testified that she speaks to Mr. Steger by telephone daily and sees him in person two to three times a week. (Tr., p. 52). When she began a professional relationship with Mr. Steger, he was very forthcoming with her about his alcohol-related issues and conduct. She also read a copy of ODC's formal charges against Mr. Steger. (Tr., p. 52). When asked to describe Mr. Steger as a

lawyer, Ms. DeSue testified that he was very knowledgeable, accessible, intelligent and professional. (Tr., p. 54). Ms. DeSue testified that she is aware Mr. Steger went through alcohol abuse treatment and she has seen obvious changes in him over the past several months. She described Mr. Steger as "a different person now," "sharper," "compassionate," and highly dependable. (Tr., pp. 54-55). Ms. DeSue testified that Mr. Steger has expressed and demonstrated to her his remorse and regret for his conduct. (Tr., pp. 55-56).

6. Mr. Arendell is a licensed clinical social worker in New Orleans, Louisiana and works in the areas of addiction and trauma. Mr. Steger became a patient of Mr. Arendell's on May 14, 2016 for assessment and treatment for substance abuse. Mr. Arendell has treated Mr. Steger since that time and sees him once or twice a week. Mr. Arendell is now part of Mr. Steger's JLAP-approved recovery program. Mr. Arendell testified that Mr. Steger has been forthcoming and cooperative and that he is progressing in the recovery process, stating that, "he's in a good place in that process." (Tr., p. 24). Mr. Arendell further testified as to the causal link between Mr. Steger's alcohol abuse disorder and his misconduct. (Tr., p. 26). In response to a question posed by ODC, Mr. Arendell testified that Mr. Steger is making appropriate progress in his journey forward in sobriety. (Tr., p. 32).

7. J.E. "Buddy" Stockwell, the Executive Director of JLAP, also was called as a witness by the Respondent. He has known Mr. Steger since 2015 when Mr. Steger participated in his first JLAP evaluation. Mr. Stockwell testified about Mr. Steger's journey to full acceptance of the JLAP recovery program and confirmed Mr. Steger's success in the program, stating,

In the end, he's been through a really tough path and done a good job and he's doing really well in our program. I know I'm jumping to the finish line for you there, but obviously he has struggled, but he has demonstrated to us in his participation in JLAP and his

completion of Palmetto, however rocky it may have been, that he really is in a good recovery and doing well.

(Tr., pp. 80-81).

Mr. Stockwell confirmed that the Respondent completed the ninety-day, inpatient treatment program at Palmetto on September 7, 2017, and he signed his JLAP recovery agreement four days later, on September 11, 2017. (Tr., pp. 90-92). Mr. Stockwell testified that Mr. Steger's JLAP recovery agreement requires his ongoing participation in AA with an AA Sponsor, participation with a JLAP Monitor, counseling with William Arendell, and after care through a Palmetto clinic in New Orleans, Louisiana. JLAP receives periodic update reports from all involved with the exception of AA, and Mr. Steger is also required to submit monthly sobriety reports. Mr. Steger has been fully compliant with his recovery agreement. (Tr., pp. 96-98). Mr. Stockwell further testified that his office had no evidence of any negative or disconcerting feedback on Mr. Steger since he has been under JLAP monitoring. (Tr., pp. 98-99). Mr. Stockwell also confirmed the causal link between Mr. Steger's alcohol abuse and his misconduct, stating,

Well, it's exactly the kind of behavior that we expect to see when people are under the influence of substances: wrecking cars, fighting with police, in a blackout, not knowing what they're doing.

(Tr., p. 87).

Mr. Stockwell further confirmed that JLAP will monitor Mr. Steger for five years, including random drug and alcohol screenings, and that Mr. Steger signed a waiver that allows JLAP to notify ODC immediately if Mr. Steger fails a drug or alcohol screen or demonstrates any attitude problems or other issues that would indicate a problem with his recovery. (Tr., pp. 99-100). Mr. Stockwell also testified that it was the professional opinion of JLAP's clinical staff that Mr. Steger is fit to practice law, in recovery and under contract, and that it is

"extremely unlikely" he will engage in future alcohol-related misconduct if he remains compliant with JLAP and completes his contract. (Tr., pp. 103-04, 107-08).

8. The Respondent also testified and reiterated on the record that he stipulated to all factual allegations and rule violations alleged in the formal charges and that he continues to stand by those stipulations. (Tr., pp. 113-14). Mr. Steger testified that he has not consumed alcohol and has submitted to random testing both through Quest Diagnostics and through JLAP since December of 2016. (Tr., pp. 121-22; *See also* Exhibit R-2). Mr. Steger further testified that he has embraced his recovery and the JLAP monitoring process, and he is fully compliant with JLAP. (Tr., p. 129).

9. Mr. Steger also demonstrated mitigation through his testimony. He was admitted to practice law in Louisiana in 1996 and has no prior disciplinary record. He had no selfish or dishonest motive and gained nothing personally as a result of his conduct. He has demonstrated full and free disclosure to ODC and a cooperative attitude toward the discipline proceedings by stipulating to the formal charges and remaining fully-compliant with his JLAP recovery agreement. As a result of the conduct in which he engaged, Mr. Steger has been subjected to other penalties and sanctions through the criminal justice system, including fines, probation, and a period of time with an interlock device on his car. Mr. Steger satisfied all terms and conditions placed on him by the criminal justice system. Mr. Steger expressed remorse for his past conduct and acknowledged that his conduct was hurtful not only to himself, but to his mother and his son, and to the legal profession. Mr. Steger experienced personal and emotional problems in a volatile relationship that ended in divorce on September 22, 2017. In closure, Mr. Steger thanked Chief Disciplinary Counsel and the Executive Director of JLAP for pushing him and encouraging him to seek treatment and credits their "tough love" approach as one of the main reasons for his success in recovery today. (Tr., pp. 133-48).

B. Novo Review

As noted by the hearing committee, the Respondent has stipulated to violations of Rules 8.4(b) (commission of a criminal act, especially one which reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects) and 8.4(a) (violating or attempting to violate the Rules of Professional Conduct). ODC has agreed to these stipulations.⁹ The committee correctly noted these stipulations in its report. The Board adopts the committee's findings that Rules 8.4(b) and 8.4(a) were violated by the Respondent. *See In re Torry*, 10-0837 (La. 10/19/10), 48 So.3d 1038 (stipulations as to rule violations must be given effect unless they are withdrawn by the parties).

II. The Appropriate Sanction

A. Rule XIX, Section 10(C) Factors

Louisiana Supreme Court Rule XIX, Section 10(C) states that when 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.

Here, the Respondent violated duties owed to the public and to the profession. His conduct was knowing. His conduct caused actual harm to himself and to others, particularly the nurse upon whom he committed an assault.¹⁰ His conduct further caused potential harm to those he endangered while driving while he was intoxicated. The amount of actual injury was significant. He bit and physically injured the nurse who was treating him at the hospital for an

⁹ See ODC's pre-argument memorandum, p.3, filed July 6, 2018.

¹⁰ As noted in the hearing committee's report, although the Respondent was charged with a battery, he pled guilty to a reduced charge of simple assault.

Ambien/alcohol-related injury from a car accident, and he also injured himself when he was involved in this car accident, hitting his head on the windshield. The misuse of Ambien and alcohol was also destructive to his own health. The amount of potential injury was very great. At any time he when he got behind the wheel of his vehicle impaired, he could have seriously injured or killed himself or others or caused significant property damage. The reputation of the legal profession is likewise harmed when a lawyer commits a crime.

Aggravating factors present include pattern of misconduct, multiple offenses, substantial experience in the practice of law¹¹ and illegal conduct. Mitigating factors include absence of a prior disciplinary record, absence of a dishonest or selfish motive, cooperative attitude toward the proceedings, mental disability or chemical dependency including alcoholism or drug abuse,¹² personal or emotional problems¹³, imposition of other penalties and sanctions¹⁴, good character and reputation, and remorse.

B. The ABA Standards and Case Law

The ABA *Standards for Imposing Lawyer Sanctions* suggests suspension is the baseline sanction. Standard 5.11 states:

Disbarment is generally appropriate when: (a) a lawyer engages in serious criminal conduct a necessary element of which includes intentional interference with the administration of justice, false swearing, misrepresentation, fraud, extortion, misappropriation, or theft; or the sale, distribution or importation of controlled substances; or the intentional killing of another; or an attempt or

¹¹ Respondent was admitted to the practice of law in 1996.

¹² As explained earlier, the Respondent's diagnosis from Palmetto in January of 2017 included Alcohol Use Disorder—Severe, History of Alcohol Withdrawal Symptoms Requiring Detoxification Protocol; and Sedative/Hypnotic Use Disorder—Mild. This chemical dependency has been linked to the Respondent's misconduct through the testimony of Mr. Arendell and Mr. Stockwell. Further, the Respondent has undergone treatment and is in full, sustained recovery which has been monitored by JLAP since September of 2017. The Respondent's recovery has arrested the misconduct, and, as testified to by Mr. Stockwell, recurrence of the misconduct is unlikely if Respondent remains compliant with JLAP and completes his contract.

¹³ Respondent was involved in a long-term, volatile relationship that ended in divorce in September of 2017.

¹⁴ Through the criminal justice system, the Respondent was subjected to fines, probation, and a period of time with an interlock device on his car for the incidents which occurred on November 4, 2013 and November 5, 2013 as described in Count III.

conspiracy or solicitation of another to commit any of these offenses; or (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.

Standard 5.12 states: "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." Here, Respondent's misconduct does not fall within the scope of Standard 5.11. Thus, suspension is the baseline sanction for his misconduct.

Louisiana jurisprudence shows that the range of discipline imposed for alcohol and other substance abuse offenses is broad, with the Louisiana Supreme Court focusing on the number of offenses, the presence of disability, and the extent and the status of required treatment. When the hearing committee filed its report regarding Mr. Steger on May 22, 2018, it did not have the benefit of the Louisiana Supreme Court's opinion in the matter of *In re Ashley*, 18-0408 (La. 05/25/18), 243 So.3d 547, published three days later. The Court's opinion in *Ashley* provides clear guidance in Mr. Steger's case.

In *Ashley*, the respondent engaged in multiple instances of misconduct against his clients. He was retained and received substantial fees to represent four separate clients in criminal and traffic matters. He failed to communicate with his clients, neglected their cases, failed to appear in court on multiple occasions, failed to refund unearned fees, and failed to cooperate with ODC's investigation of these matters. As of the formal charge hearing, Mr. Ashley had not made full restitution to his former clients. Mr. Ashley also had a prior disciplinary record.

In making its determination as to the appropriate sanction in *Ashley*, the Court found various mitigating factors, including the mitigating factor of mental disability or chemical dependency including alcoholism or drug abuse. The Court detailed the multiple instances of

alcohol-related incidents in which the respondent had been involved and his subsequent treatment for alcohol abuse. The Court noted that on February 19, 2015, the respondent was involved in an automobile accident totaling his vehicle. On February 24, 2015, he was admitted to the hospital for severe abdominal pain, dehydration, and alcohol abuse. Following a two day stay, he was discharged from the hospital. On April 27, 2015, the respondent was admitted to a behavioral hospital for threat of suicide, pursuant to a coroner's commitment and was discharged two days later. On May 7, 2015, as a result of being highly intoxicated, the respondent suffered a serious fall. He was involved in a single car accident the same day, which totaled his wife's car. The following day, he was admitted to the hospital and placed in ICU where he was intubated for eleven days and diagnosed with three broken ribs, a punctured and collapsed lung, and pneumonia. He was discharged from the hospital on May 22, 2015. On May 29, 2015, the respondent was admitted to a 90-day inpatient treatment program for alcohol abuse. He completed the program on August 26, 2015; and he entered into a JLAP Recovery Agreement on September 17, 2015. The following month, respondent voluntarily appeared before ODC and gave a sworn statement, at which time he disclosed that he suffered from chemical dependency and severe depression.

The Louisiana Supreme Court suspended Mr. Ashley for eighteen months, fully deferred, subject to conditions including compliance with a five-year JLAP recovery agreement.

When addressing the appropriateness of this sanction, the Court noted that:

In instances in which an attorney is found to have committed ethical misconduct stemming from an alcohol or substance abuse problem, we have imposed fully deferred suspensions so long as the attorney has demonstrated that he or she has addressed the problem. *See, e.g. In re Finckbeiner*, 16-0654 (La. 5/20/16), 192 So.3d 111 (fully deferred one-year and one-day suspension imposed upon an attorney who was twice arrested for DWI, where the attorney successfully completed a thirty-day inpatient treatment program and entered into a one-year diagnostic monitoring agreement with

JLAP); *In re Tallon*, 08-0179 (La. 2/22/08), 974 So.2d 1290 (fully deferred one-year and one-day suspension imposed upon an attorney who was convicted of two DWI's, but who had taken steps to address her alcoholism); *In re Labourdette*, 07-1653 (La. 9/19/07), 964 So.2d 927 (fully deferred one-year and one-day suspension imposed upon an attorney convicted of possession of controlled substances, where the attorney entered into a JLAP contract and demonstrated he had been sober for a significant period of time).

Ashley, 243 So.3d at 544.

The Court further stated:

The evidence supports a finding that respondent is affected by a chemical dependency and that the chemical dependency caused the misconduct. The evidence also reflects that he has sought treatment and has demonstrated a meaningful period of recovery. According to respondent, he has been sober for more than two years. He has also completed an inpatient treatment program at Pine Grove in August 2015. Furthermore, respondent has been subject to a JLAP agreement since September 2015, and the director of the program reports that he has no reason to believe that respondent is "using substances or is a risk." By all accounts, respondent's recovery has made a recurrence of his misconduct unlikely. The proposed sanction will encourage his commitment towards recovery, and at the same time protect the public by providing a mechanism to remove respondent from practice if he relapses into substance abuse in the future.

Id.

The Court's reasoning as to why a fully-deferred suspension with supervised probation was appropriate in *Ashley* is also applicable to Mr. Steger's case. The evidence supports the finding that Mr. Steger is affected by a chemical dependency and that this dependency caused his misconduct. The evidence also reflects that Mr. Steger has sought treatment and has demonstrated a meaningful period of recovery, being sober since December 3, 2016. He completed a ninety-day inpatient treatment program at Palmetto on September 7, 2017 and has been subject to a JLAP recovery agreement since September 11, 2017. Mr. Stockwell testified that the Respondent has been fully compliant with his recovery agreement and that his office has

no evidence of any negative feedback on Mr. Steger since he has been under JLAP monitoring. Mr. Stockwell also testified that it is “extremely unlikely” that Respondent will engage in future alcohol-related misconduct. Further, unlike Mr. Ashley, the Respondent has no prior discipline and his misconduct did not affect or involve any clients.

Other cases involving alcohol-related misconduct show that suspensions are often deferred when recovery contracts have been executed with JLAP. For example, in the matter of *In re Marcello*, 09-1945 (La. 10/09/09), 18 So.3d 1271, the respondent was arrested and charged with DWI in February 2007, and again in May 2007. The respondent subsequently pled no contest to DWI (first offense) and DWI (second offense). On August 7, 2007, the respondent executed a five-year recovery agreement with LAP¹⁵. Thereafter, ODC filed formal charges based on the respondent's convictions. Prior to the formal charge hearing, respondent and ODC filed a joint petition for consent discipline proposing that respondent be suspended from the practice of law for one year and one day, fully deferred, subject to a five-year period of probation to coincide with his JLAP agreement. The Louisiana Supreme Court approved the petition for consent discipline.¹⁶

In the matter of *In re Settle*, 12-0617 (La. 04/25/12), 87 So.3d 853, the ODC commenced an investigation into allegations that the respondent was twice charged with DWI. Prior to the institution of formal charges, the respondent and ODC filed a joint petition for consent discipline proposing that respondent be suspended for one year and one day, fully deferred, subject to respondent's successful completion of a five-year recovery agreement with JLAP. The Louisiana Supreme Court approved the petition for consent discipline.

¹⁵ The Lawyers Assistance Program or “LAP” was the former name of JLAP.

¹⁶ See also *In re Marcello*, 12-1152 (La. 6/22/12), 9 So.3d 1044, wherein the Court extended Mr. Marcello's probation due to his execution of a new recovery agreement with LAP. Respondent had suffered a relapse in his recovery, hence, the execution of a new agreement with LAP.

In the recent case of *In re Billiot*, 2018-1098 (La. 8/31/18), ___ So. 3d ___, 2018 WL 4275906, ODC commenced an investigation into the respondent's arrests for driving while intoxicated. Following the filing of formal charges, the respondent and ODC submitted a joint petition for consent discipline, in which the parties stipulated that the respondent violated Rules 8.4(b) and 8.4(a). The Court accepted the petition for consent discipline and suspended the respondent from the practice of law for a period of one year and one day, fully deferred, subject to the respondent being placed on probation for a period to coincide with the term of his recovery agreement with JLAP.

ODC argues that the case of *In re Baer*, 09-1795 (La. 11/20/09), 21 So.3d 941 mandates that the baseline sanction here is an actual suspension of one year and one day, and that any mitigating factors found by the Board may be applied to mitigate this baseline sanction. In *Baer*, the respondent drove while intoxicated on two occasions, for which she was suspended from the practice of law for one year and one day. In discussing an appropriate sanction, the Court applied the following analysis:

We have imposed sanctions ranging from actual periods of suspension to fully deferred suspensions in prior cases involving attorneys who drive while under the influence of alcohol. However, as a general rule, we tend to impose an actual suspension in those instances in which multiple DWI offenses are at issue, as well as in cases in which the DWI stems from a substance abuse problem that appears to remain unresolved. Both of these concerns are implicated in the instant case. Therefore, we find it is appropriate to impose a one-year and one-day suspension, with no portion of the suspension deferred. [Internal footnote omitted].

Id. at 944.

Like the respondent in *Baer*, Mr. Steger has multiple alcohol-related offenses. However, unlike the respondent in *Baer*, Mr. Steger's substance abuse problem has not remained unresolved. He has completed an inpatient treatment program with a JLAP approved treatment facility featuring

a professional track program, and he is in full compliance with a five-year JLAP monitoring agreement. Mr. Steger has also remained sober since December 3, 2016. Given this, *Baer* is not controlling in this matter.

Mr. Steger's alcohol-related misconduct involving driving under the influence of alcohol and Ambien appears to be more like the conduct reported in *Ashley, Marcello, Settle and Billiot*, than the untreated alcohol issues presented in *Baer*. Based on analysis of these cases alone, a fully deferred suspension here would be appropriate. However, as ODC argues, the Board must also consider the incident in which the Respondent assaulted his treating nurse at the hospital following his car accident on November 4, 2013.

Supreme Court jurisprudence indicates that when attorneys are engaged in activities which constitute crimes of violence, disciplinary sanctions range from a period of suspension to disbarment, depending on the facts and severity of the misconduct. Of the cases cited by ODC, the case of *In re Cardenas*, 2011-0031 (La. 5/6/11), 60 So.3d 609, is most similar to the matter at hand, but involves more serious misconduct than Mr. Steger's assault of the emergency room nurse. In *Cardenas*, the Respondent was suspended for one year, with six months deferred, based on his conviction of one misdemeanor count of domestic abuse battery (child endangerment) for striking his estranged wife in the presence of their minor children. Moreover, there was no causal link made between Mr. Cardenas' misconduct and substance abuse as there is in Mr. Steger's matter.¹⁷

After careful consideration, the Board recommends that an eighteen-month suspension, fully deferred, subject to five years of probation with JLAP conditions, be imposed upon the

¹⁷ Other cases cited by ODC include *In re Willis*, 2009-0211 (La. 5/13/09), 8 So.3d 548 (attorney disbarred based on multiple professional violations, including charges that he was involved in a physical altercation with his girlfriend and charged with two counts of simple battery); *In re Sterling*, 2008-2399 (La. 1/30/09), 2 So.3d 408 (respondent suspended for two years based on multiple professional violations including charges based on his conviction for unauthorized entry of an inhabited dwelling and simple battery); and *In re Estiverne*, 1999-0949 (La. 9/24/99), 741 So.2d 649 (respondent suspended for one year based on charges he used an unloaded gun to threaten another attorney).

Respondent. This sanction is appropriate given Respondent's assault of the emergency room nurse, as well as his other alcohol and Ambien-related misconduct. This sanction also serves to encourage Respondent's commitment towards recovery, while at the same time protecting the public by providing a mechanism to remove the Respondent from practice if he relapses into substance abuse in the future.

CONCLUSION

The Board adopts the hearing committee's factual findings as supplemented herein and adopts the committee's conclusions that the Respondent violated Rules 8.4(b) and 8.4(a). Given ABA Standard 5.12 and Louisiana case law, particularly the Court's recent decision in *Ashley*, the Board recommends that an appropriate sanction in this matter would be an eighteen-month suspension, fully deferred, subject to a five-year period of probation with the following conditions:

- (1) The Respondent will be required to enter into a new JLAP contract for five years, or as otherwise recommended by JLAP, and must remain in compliance with its terms, with periodic reports submitted to ODC; and
- (2) Any failure of the Respondent to comply with the above conditions, or any misconduct during the probationary or JLAP contract period, may be grounds for making the deferred suspension executory, or imposing additional discipline, as appropriate.

Further, in accordance with Rule XIX, Section 10.1, the Board recommends that the Respondent be assessed with all costs and expenses of these proceedings.

RECOMMENDATION

The Board recommends that Respondent, John Julius Steger IV, be suspended from the practice of law for eighteen months and that the suspension be fully deferred, subject to a five-year period of probation with the following conditions:

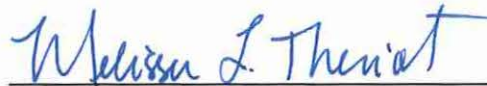
- (1) Respondent shall enter into a new JLAP contract for a period of five years, or as otherwise recommended by JLAP, and shall remain in compliance with its terms, with periodic reports to be provided to ODC; and
- (2) Any failure of Respondent to comply with the above conditions, or any misconduct during the probationary or JLAP contract period, may be grounds for making the deferred suspension executory, or imposing additional discipline, as appropriate.

The Board further recommends that Respondent be assessed with the costs and expenses of these proceedings in accordance with Louisiana Supreme Court Rule XIX, Section 10.1(A).

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BY:



Melissa L. Theriot

FOR THE ADJUDICATIVE COMMITTEE

APPENDIX "A"

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) Commit a criminal act especially one that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;
- (c) Engage in conduct involving dishonesty, fraud, deceit or misrepresentation;
- (d) Engage in conduct that is prejudicial to the administration of justice;
- (e) State or imply an ability to influence improperly a judge, judicial officer, governmental agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law;
- (f) Knowingly assist a judge or judicial officer in conduct that is a violation of applicable Rules of Judicial Conduct or other law; or
- (g) Threaten to present criminal or disciplinary charges solely to obtain an advantage in a civil matter.