

ORIGINAL

Louisiana Attorney Disciplinary Board	
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Docket#	3/22/2019
15-DB-031 c/w 16-DB-099	

LOUISIANA ATTORNEY DISCIPLINARY BOARD

IN RE: CHRISTINE YVONNE VOELKEL

NUMBER: 15-DB-031 C/W 16-DB-099

RECOMMENDATION TO THE LOUISIANA SUPREME COURT



INTRODUCTION

This is a disciplinary matter based upon the consolidation of two sets of formal charges filed by the Office of Disciplinary Counsel (“ODC”) against Christine Yvonne Voelkel (“Respondent”), Louisiana Bar Roll Number 29469.¹ The charges in case number 15-DB-031, which consist of one count, allege that the Respondent violated the following Rules of Professional Conduct: 1.15 (improper use or mismanagement of the client trust account) and 8.1(c) (failure to cooperate with ODC). Hearing Committee No. 15, assigned to case number 15-DB-031, concluded that the Respondent violated Rules 1.15(a) and 8.1(c), as well as Rules 8.1(b) (failure to respond to a lawful demand for information from a disciplinary authority) and 8.4(a) (violating or attempting to violate the Rules of Professional Conduct).² The committee recommended that the Respondent be suspended from the practice of law for a period of one year, fully deferred, conditioned upon a two-year probationary period with various conditions.

In case number 16-DB-099, the charges consist of three counts filed by ODC against the Respondent. These charges allege violations of Rules of Professional Conduct 1.1(b) (lawyer required to comply with the minimum requirements of continuing legal education), 1.1(c) (lawyer required to comply with all Supreme Court requirements regarding annual registration,

¹ Respondent is currently eligible to practice law.

² Members of Hearing Committee No. 15 included Leu Anne Greco (Chair), John H. Smith (Lawyer Member), and Kingsley Blaine Garrison (Public Member).

including payment of Bar dues and the disciplinary assessment, timely notification of changes of address and proper disclosure of trust account information or any changes therein); 1.3 (diligence), 1.4 (communication), 1.15 (improper use or mismanagement of the client trust account), 5.5 (unauthorized practice of law), 8.1(c) (failure to cooperate with ODC) and 8.4(a) (violating or attempting to violate the Rules of Professional Conduct). In this matter, Hearing Committee No. 62 found that the Respondent violated Rules 1.1(b), 1.1(c), 1.15, 5.5, 8.1(c) and 8.4(a).³ The committee also found that insufficient evidence was submitted to prove that the Respondent violated Rules 1.3 and 1.4. The committee recommended that the Respondent be suspended from the practice of law for one year, with all but sixty days deferred. The committee also recommended that the Respondent complete various conditions prior to reinstatement or face further discipline.

For the following reasons, the Board adopts the factual findings of the hearing committee in case number 15-DB-031. The Board also adopts the committee's findings that Rules 1.15(a) and 8.1(c) were violated, but declines to adopt its findings that violations of Rules 8.1(b) and 8.4(a) should be found. As to case number 16-DB-099, the Board adopts the factual findings of the hearing committee and supplements these findings with additional factual findings. The Board also adopts the committee's findings that Rules 1.1(b), 1.1(c), 1.15, 5.5, 8.1(c) and 8.4(a) were violated and its findings that ODC did not prove violations of Rules 1.3 and 1.4. As a sanction for the misconduct in this consolidated matter, the Board recommends that the Respondent be suspended for one year and one day.

³ Members Hearing Committee No. 62 included Mark J. Mansfield (Chair), Kenneth P. Mathews (Lawyer Member), and Verlean W. Randolph (Public Member).

PROCEDURAL HISTORY

Case Number 15-DB-031

On July 28, 2015, ODC filed formal charges against the Respondent. The matter was assigned case number 15-DB-031. By letters dated August 7, 2015, the formal charges were mailed via certified mail to Respondent's primary and preferred registration addresses.⁴ Both mailings were returned. On March 2, 2016, ODC requested that the Respondent be re-served at her updated address. The Board mailed the formal charges via certified mail to the Respondent's new primary registration address.⁵ These charges were returned "unclaimed" on April 22, 2016. On April 11, 2016, ODC further attempted to contact the Respondent via telephone by calling the number she registered with the Bar Association as well as calling the Respondent's mother and father. On April 12, 2016, ODC sent a representative to the Respondent's primary registration address, who left her business card in Respondent's door after no one answered the door. The Respondent called the representative back and indicated that she would pick up the necessary documents from the ODC offices in Baton Rouge, but failed to do so. Accordingly, on June 13, 2016, ODC filed a motion to deem the factual allegations admitted pursuant to Louisiana Supreme Court Rule XIX Section 11(E)(3).⁶ By order signed July 6, 2016, the factual

⁴ Respondent's primary registration address at the time was 218 Lafitte St., Mandeville, LA 70448. Respondent's preferred registration address was P.O. Box 8930, Mandeville, LA 70471.

⁵ Respondent's new primary registration address was and remains 1943 Lakeshore Dr., Unit C, Mandeville, LA 70448.

⁶ This rule states:

The respondent shall file a written answer with the Board and serve a copy on disciplinary counsel within twenty (20) days after service of the formal charges, unless the time is extended by the chair of the hearing committee. In the event Respondent fails to answer within the prescribed time, or the time as extended, the factual allegations contained within the formal charges shall be deemed admitted and proven by clear and convincing evidence. Disciplinary Counsel shall file a motion with the chair of the hearing committee to which the matter is assigned requesting that the factual allegations be deemed proven with proof of service of the formal charges upon the respondent. The order signed by the hearing committee chair shall be served upon respondent as provided by Section 13C. Within twenty (20) days of the mailing of the order of the hearing committee chair deeming the factual allegations contained in the formal charges proven, the respondent may move the hearing committee chair to recall the order thus issued upon demonstration of good cause why imposition of the order would be improper or would result in a miscarriage of justice.

allegations contained in the formal charges were deemed admitted. On September 1, 2016, ODC filed its submission on sanctions.

On January 6, 2017, Hearing Committee No. 15 filed its report and recommendation with the Disciplinary Board. The committee found that the Respondent had violated Rules 1.15(a), 8.1(b), 8.1(c), and 8.4(a). The committee recommended that the Respondent be suspended from the practice of law for a period of one year, fully deferred upon the commencement of the following mandatory conditions during a two (2) year probationary period: (1) regular quarterly audits of the Respondent's IOLTA account shall be submitted to ODC during the period of probation to be performed by a CPA of the Respondent's choosing, approved by the ODC, with the costs and expenses of the audits to be paid by the Respondent; (2) at least six hours of the Respondent's mandatory CLE requirements during the probationary period shall be in the area of law practice management/client trust account management; (3) the Respondent must successfully complete both the Louisiana State Bar Association's Ethics School and Trust Accounting Program during the probationary period; and (4) any failure of the Respondent to comply with the conditions of probation, or any misconduct during the probationary period, may be grounds for making the deferred suspension executory, or imposing additional discipline, as appropriate.

Oral argument before a panel of the Disciplinary Board was then set for April 6, 2017. On January 23, 2017, ODC filed a motion for stay in which it indicated that a new set of formal charges, bearing case number 16-DB-099, had been filed against the Respondent. ODC requested that case number 15-DB-031 be stayed pending issuance of a hearing committee report in case number 16-DB-099, so that the Board could issue a single recommendation to the Louisiana Supreme Court. ODC's motion for stay was granted on January 30, 2017.

Case Number 16-DB-099

A second set of formal charges was filed on December 28, 2016. The Respondent filed an answer to the charges on September 28, 2017. The hearing in this matter was held on February 2, 2018. Deputy Disciplinary Counsel Karen Hayes Green appeared on behalf of ODC. Respondent did not appear. The committee issued its report on May 8, 2018, finding that the Respondent violated Rules 1.1(b), 1.1(c), 1.15, 5.5, 8.1(c), and 8.4(a). The committee also found that insufficient evidence was submitted to show that Respondent violated Rules 1.3 and 1.4. The committee recommended that the Respondent be suspended for one year, with all but sixty days deferred. The committee further recommended that the Respondent meet the following conditions prior to reinstatement or face further discipline: (1) regular quarterly audits of the Respondent's IOLTA account shall be submitted to ODC during the period of probation to be performed by a CPA of the Respondent's choosing, approved by the ODC, with the costs and expenses of the audits to be paid by the Respondent; (2) at least six hours of the Respondent's mandatory CLE requirements during the probationary period shall be in the area of law practice management/client trust account management; (3) the Respondent must successfully complete both the Louisiana State Bar Association's Ethics School and Trust Accounting Program during the probationary period.

On May 9, 2018, ODC filed a motion to lift the stay and consolidate matters, in which it maintained that since the hearing committee had issued a report in case number 16-DB-099, the case should be consolidated with case number 15-DB-031, and a joint decision should be issued in the two matters. This motion was granted on May 11, 2018. ODC filed its pre-argument brief on July 9, 2018, in which it states that it has no objection to the findings of fact and rule violations found by the committees, but submits that jointly the recommended sanction is too

lenient. Oral argument before Panel “C” of the Disciplinary Board in the consolidated matter was held on August 9, 2018.⁷ Deputy Disciplinary Counsel Karen Hayes Green waived oral argument in the matter. The Respondent did not appear.

FORMAL CHARGES

Case Number 15-DB-031

COUNT I -- 0032045:

On or around March 13, 2014, *Screening* received notice that the Respondent incurred an overdraft in the amount of \$1,325.00 on March 10, 2014. The finance charge was waived. On March 21, 2014, *Screening* mailed certified correspondence requesting that the Respondent provide an explanation of the overdraft, along with 6 months of bank statements prior to the overdraft, along with supporting documentation for the activity therein. Respondent received the correspondence on March 28, 2014. However, Respondent failed to provide a response. As a result, a formal complaint was opened.

On August 14, 2014, ODC sent notification to the Respondent that a formal complaint was open due to her failure to provide the requested information. Further, in that correspondence, ODC made a second request for the information. On August 18, 2014, we received a response from the Respondent. In that response, she provided that she was delayed in responding and unable to get the requested materials because of financial and emotional difficulties. Respondent advised that she was recently removed from her home and her office, due to the separation from her spouse. Respondent also advised that she had recently suffered a miscarriage.

Respondent explains that the overdraft was due to the bank placing a hold on a deposit. She further states that the account had a sufficient balance at the time the check was presented.

ODC attempted to serve the Respondent with a subpoena to appear for a sworn statement and to produce requested documentation. However, [the] ODC Investigator was not able to locate her at the registered addresses for her home or office.

Thereafter, Respondent telephoned the ODC and advised that she would waive service because she was homeless. Respondent also agreed to appear for the sworn statement on October 29, 2014. ODC mailed out to Respondent a copy

⁷ Members of Panel “C” included Danna E. Schwab (Panel Chair), Melissa L. Theriot (Lawyer Member), and Charles H. Williamson, Jr. (Public Member).

of the subpoena along with a waiver of service. Respondent failed to return the waiver and failed to appear for the sworn statement on October 29, 2014.

ODC has had no communication with the Respondent in connection with this Complainant [*sic*] since October of 2014. Respondent's actions are in violation of the Rules of Professional Conduct, Rule 1.15 (improper use or otherwise mismanagement of the client trust account) and Rule 8.1(c) (failure to cooperate with the Office of Disciplinary Counsel).

Case Number 16-DB-099

COUNT I – 0033335

On July 1, 2015, the ODC received correspondence from the Clerk of Court at the 22nd Judicial District, informing that the Respondent filed several pleadings during a period of time that she was ineligible to practice law. During that period, the Respondent was ineligible to practice law for her failure to comply with Rules 1.1(b) and 1.1 (c) of the Rules of Professional Conduct.

Further, there were three attempts made to serve the Respondent with notice of the complaint via certified registered mail at her primary bar registered address and via hand delivery. Respondent ignored all attempts. Investigator Mitchell spoke with Respondent in April of 2016, at which time the Respondent advised that she would accept copies of any outstanding complaints and the previously filed formal charges from ODC on April 16, 2016. However, the Respondent never appeared to do so.

The Respondent has violated Rules 1.1(b), 1.1(c), 5.5 and 8.1(c) of the Rules of Professional Conduct.

COUNT II – 0034325

Complainant Nicholas Harper hired the Respondent on or around April 26, 2013, to represent him in a civil suit against the City of Covington Police Department. Complainant initially paid the Respondent \$2,000.00. Respondent also received additional fees on his behalf Harper [*sic*] from the Louisiana Fraternal Order of Police. In December of 2015, Respondent discontinued any and all forms of communications with Complainant. Complainant is facing several pending actions and motions and no longer has legal representation to the extent that Respondent's absence has jeopardized his legal cause of action.

There were two attempts made to serve the Respondent with notice of the complaint via certified mail and [*sic*] her primary bar registered address. Respondent ignored all attempts. Investigator Mitchell spoke with Respondent

in April of 2016, at which time the Respondent advised that she would accept copies of any outstanding complaints and the previously filed formal charges from ODC on April 16, 2016. However, the Respondent never appeared to do so. The Respondent has violated Rules 1.3, 1.4 and 8.1(c) of the Rules of Professional Conduct.

COUNT III – 0034640

On or around June 21, 2016, the ODC received an overdraft notice from Capital One Bank. Check numbers 2056 in the amount of \$20.00 and 2053 in the amount of \$30.00, were returned as insufficient. On July 8, 2016, notice of the complaint was transmitted to the Respondent at her primary registered bar address via certified mail. The correspondence was returned unclaimed. On August 1, 2016, the ODC received a second overdraft notice from Capital One Bank for a new overdraft. The ODC Staff Investigator Tiara Barnes made attempts to personally serve the Respondent with the complaint, along with other outstanding complaints.

The Respondent has violated Rules 1.15, 8.1(c), and 8.4(a) of the Rules of Professional Conduct.

THE HEARING COMMITTEE REPORT IN CASE NUMBER 15-DB-031

The report of Hearing Committee No. 15 was issued in case number 15-DB-031 on January 6, 2017. In its report, the committee noted that the factual allegations in the formal charges had been deemed admitted and proven pursuant to Louisiana Supreme Court Rule XIX, Section 11(E)(3). It also made additional factual findings. The hearing committee's report reads, in pertinent part, as follows:

EVIDENCE

The only evidence in the record is the exhibits produced by ODC (See ODC Exhibits 1-15). Respondent did not file an Answer, responsive pleadings and did not appear for a sworn statement requested of [sic] ODC. On July 7, 2016, an Order deeming the Formal Charges Admitted and Proven was filed. Respondent did not respond to the Order. No hearing was conducted.

FINDINGS OF FACT

Based on the evidence, the Committee finds:

1. Christine Yvonne Voelkel/Respondent was a licensed and practicing attorney in the State of Louisiana at all times relevant hereto.
2. As a licensed attorney in the State of Louisiana, Respondent is subject to the Rules of Professional Conduct.
3. On March 10, 2014, Respondent incurred an overdraft of funds in the amount of \$1,325.00 in a bank account designated as her client trust account.
4. On March 28, 2014, Respondent received formal notice of the overdraft event, with a request for explanation and banking records.
5. Respondent did not respond to the request for information and documentation.
6. On August 14, 2014, ODC sent notification to the Respondent that a formal complaint was open due to her failure to provide requested information, including a second request for information addressing the bank overdraft.
7. On August 18, 2014, Respondent delivered correspondence to ODC containing an explanation that the bank had placed a hold on a deposit and that the account had a sufficient balance at the time the check was presented. (See ODC No. 7).
8. ODC attempted to serve Respondent with a subpoena to appear for a sworn statement and to produce requested documentation. ODC was unable to locate Respondent for service purposes.
9. Respondent thereafter telephoned ODC, advising that she would waive service. Respondent also agreed to appear on October 29, 2014 to conduct a sworn statement.
10. Subsequently, ODC mailed Respondent a copy of the subpoena and waiver of service.
11. Respondent failed to return the waiver of service and failed to appear for the sworn statement scheduled on October 29, 2014.
12. Respondent has had no further communication with ODC.
13. There is no evidence that Respondent has been the subject of prior disciplinary action.

The Committee finds the facts of this matter troubling, primarily due to the Respondent's failure to or inability to appropriately respond to the allegations presented by ODC. Respondent's August 18, 2014 correspondence (ODC No. 7)

indicates serious personal, economic and emotional reasons why she was unable to respond to ODC's multiple requests for information. Respondent recites that she was abandoned by her spouse, evicted from her home, homeless and suffered a miscarriage at some point in time. Unfortunately, there is no evidence that these factors relate to, caused or mitigate the bank overdraft, lack of cooperation and failure to defend herself against the formal charges invoked against her. Thus, although the Committee has deep sympathy for Respondent and her unfortunate circumstances, her failure to participate in this proceeding precludes the potential benefit of sympathetic refuge. The committee recognizes that if Respondent's circumstances are such that she cannot represent herself, then she is in no position to adequately represent clients.

Respondent alleges that the IOLTA account in question was sufficiently funded. If that were true, she could have provided evidence sufficient to end any formal inquiry very quickly. Her failure to support this allegation, particularly in the absence of any formal response, sworn statement or submission of evidence, and multiple opportunities to provide an explanation, only serves to create suspicion as to her veracity.

Respondent further represented that she would voluntarily accept service and appear for a sworn statement. The evidence shows that she was aware of the time, date and location of the sworn statement. Respondent did not appear for the sworn statement, which caused unnecessary expense (cost of transcript of *proces verbal*) and the time for preparation and attendance of the ODC representative. This waste of time and resources could have been avoided if Respondent had notified ODC that she in fact was not going to attend, contrary to her prior assertions.

Finally, Respondent was properly served with process and was aware of these proceedings. There are many resources available to her to assist her in responding to the formal charges pending against her. Furthermore, any reasonably fit attorney is presumed to know that responsive pleadings are required under these circumstances. Despite having knowledge and notice, Respondent failed to cooperate with ODC and in her own defense. Although Respondent is not required to participate in these proceedings, the Committee believes that the circumstances of this case reflect negatively on her ability to provide legal representation to others.

In cases in which the lawyer does not answer the formal charges, the factual allegations of those charges are deemed admitted. Supreme Court Rule XIX, Section 11(E)(3). Thus, the ODC bears no additional burden to prove the factual allegations contained in the formal charges after those charges have been deemed admitted. However, the language of Section 11 (E)(3) does not encompass legal conclusions that flow from the factual allegations. If the legal conclusion the ODC seeks to prove (i.e., a violation of a specific rule) is not readily apparent from the deemed admitted facts, additional evidence may need to be submitted in order to prove the legal conclusions that flow from the deemed admitted allegations. *In re: Donnan*, 01-3058 (La.1/10/03), 838 So.2d 715.

The record in this deemed admitted matter supports a finding that Respondent allowed her client trust account to be overdrawn on one occasion and failed to cooperate with the ODC in its investigation. Based on these facts, Respondent has violated the Rules of Professional Conduct as charged.

The committee found that the Respondent had violated Rules 1.15(a), 8.1(b), 8.1(c) and 8.4(a). The committee determined that the Respondent's trust account was overdrawn as a result of oversight and negligence and that there was no evidence that actual harm to a person or entity resulted from the overdraft. The committee also noted that no evidence of prior discipline on the part of the Respondent was admitted into evidence. As to the Respondent's failure to cooperate with ODC, the committee determined that the Respondent knowingly and intentionally violated her duty to cooperate with ODC's investigation.

The committee also found that mitigating factors "arguably" included the Respondent's personal and emotional problems. These included separation from her spouse, homelessness, miscarriage and the concomitant emotional consequences of these circumstances. Aggravating factors found by the committee included bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary agency and other deceptive practices during the disciplinary process.⁸ The committee also commented that the mitigating factors could also arguably be considered as aggravating factors as they could be interpreted as very good reasons why the Respondent is unfit to continue practicing law without some type of intervention, mentoring and monitoring.

After considering the above, along with the case of *In re Wilson*, 12-0579 (La. 6/15/12), 90 So.3d 1018, 1019, the committee recommended that the Respondent be suspended from the practice of law for a period of one year, fully deferred upon the commencement of the following

⁸ The committee describes this conduct as "acknowledgement of the charges, agreement to appear for sworn statement, failure to attend the sworn statement and failure to provide requested documentation after indicating that she would provide the documentation." Hrg. Comm. Rpt., p. 8.

mandatory conditions during a two (2) year probationary period: (1) regular quarterly audits of the Respondent's IOLTA account shall be submitted to ODC during the period of probation to be performed by a CPA of the Respondent's choosing, approved by the ODC, with the costs and expenses of the audits to be paid by the Respondent; (2) at least six hours of the Respondent's mandatory CLE requirements during the probationary period shall be in the area of law practice management/client trust account management; (3) the Respondent must successfully complete both the Louisiana State Bar Association's Ethics School and Trust Accounting Program during the probationary period; and (4) any failure of the Respondent to comply with the conditions of probation, or any misconduct during the probationary period, may be grounds for making the deferred suspension executory, or imposing additional discipline, as appropriate.

THE HEARING COMMITTEE REPORT IN CASE NUMBER 16-DB-099

The report of Hearing Committee No. 62 was issued in case number 16-DB-099 on May 8, 2018. The pertinent parts of this report read:

FINDINGS OF FACT

ODC witness Barbara Pierpont testified that in June of 2015, Respondent filed three pleadings while she was ineligible to practice law. Through the witness, ODC offered exhibit 2, which included copies of an Answer fax filed on June 2, a Motion for New Trial fax filed on June 11, and an original Motion for New Trial filed on June 19.

Ms. Pierpont testified about her staff's frustration at a year-long inability to contact Respondent for routine and necessary communications regarding pleadings and cases. In nearly every instance, clerks were unable to reach Respondent at addresses and/or telephone numbers provided. One such complaint came from the Customer Service Counter, which could not reach Respondent regarding files which had been checked out and not returned for more than a year.

In response to continued complaints, Ms. Pierpont consulted the Louisiana Bar Association website to get the most recent contact information for Respondent. In doing so she learned that Respondent was ineligible and immediately conferred with the Louisiana Attorney Disciplinary Board for further

guidance.

In addition to the witness testimony, the ODC offered Exhibit One, a certificate from the Louisiana State Bar Association which revealed that Respondent was indeed ineligible from 6/1/15 until 8/3/15 for non-compliance with mandatory continuing legal education requirements, and was again ineligible from 9/9/15 until 9/22/15 for non-payment of LADB [a]ssessment and LSBA membership dues. This is sufficient evidence of violation of Rule 1.1(c)

No evidence was heard to substantiate or corroborate the charges in Count II relative to complainant Nicholas Harper.

With respect to Count III, the ODC offered Letters from Capital One Bank which included statements showing overdrafts on checks 2053 and 2056 written on Respondent's IOLTA trust account on June 3 and June 13 of 2016.

RULES VIOLATED

It is the unanimous opinion of the committee that Respondent violated: Rule 1.1(b), (failure of CLE requirements); Rule 1.1(c), (failure to comply with all of the requirements of the Supreme Court's rules regarding annual registration, including payment of Bar dues, payment of the disciplinary assessment, timely notification of changes of address, and proper disclosure of trust account information or any changes therein); Rule 1.15 (safekeeping of property); Rule 5.5 (unauthorized practice of law); Rule 8.1(c) (failure to cooperate with the ODC); and Rule 8.4(a) (violate rules of professional conduct).

Insufficient evidence was submitted to show Respondent violated: Rule 1.3 (diligence in representation) or Rule 1.4 (communication with client).

The committee also determined that the Respondent violated duties owed to the legal profession. Noting that there was no evidence that the Respondent's misconduct caused actual harm to clients, the committee pointed out that the misconduct in question, filing pleadings while ineligible, could foreseeably cause potential harm. As an aggravating factor, the committee pointed to Hearing Committee No. 15's conditions of probation in case number 15-DB-031, and noted that these conditions should be met by the Respondent prior to any application of the Respondent for reinstatement. The committee also cited Standards 4.12 and 7.2 of the *ABA Standards for Imposing Lawyer Sanctions* in

determining that the baseline sanction in this matter was suspension.⁹

After considering the above, along with the cases of *In re Duhy*, 2014-2052 (La. 11/21/14), 154 So.3d 541, and *In re Richard*, 2016-0076 (La. 4/4/16), 188 So.3d 1035, the committee recommended that the sanction of a one-year suspension, with all but sixty days deferred, be imposed. The committee further recommended that the Respondent meet the following conditions prior to reinstatement or face further discipline: (1) regular quarterly audits of the Respondent's IOLTA account shall be submitted to ODC during the period of probation to be performed by a CPA of Respondent's choosing, approved by the ODC, with the costs and expenses of the audits to be paid by the Respondent; (2) at least six hours of the Respondent's mandatory CLE requirements during the probationary period shall be in the area of law practice management/client trust account management; (3) the Respondent must successfully complete both the Louisiana State Bar Association's Ethics School and Trust Accounting Program during the probationary period.

ANALYSIS OF THE RECORD BEFORE THE BOARD IN THIS CONSOLIDATED MATTER

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

⁹ Standard 4.12 states that "suspension is generally appropriate when a lawyer knows or should know that he is dealing improperly with client property and causes injury or potential injury to a client." Standard 7.2 states that "suspension is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional and causes injury or potential injury to a client, the public, or the legal system."

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

In case number 15-DB-031, the factual allegations in the formal charges have been deemed admitted and proven pursuant to Louisiana Supreme Court Rule XIX, §11(E)(3). The additional factual findings of the committee are supported by the record and are adopted by the Board.

In case number 16-DB-099, the factual findings of the committee are not manifestly erroneous, are supported by the record, and are adopted by the Board, except for one finding as to Count II. As to this count, the committee found that no evidence was heard to substantiate or corroborate the charges relative to the complaint filed by Nicholas Harper. The Board finds, however, that sufficient evidence was submitted by ODC to prove that the Respondent did not cooperate with ODC concerning its investigation of the Harper matter in violation of Rule 8.1(c). *See* ODC Exhibits 7, 9-10. As seen in ODC Exhibit 7, ODC Investigator Robin Mitchell spoke with the Respondent via phone on April 14, 2016. Investigator Mitchell advised the Respondent that she needed to serve the Respondent with documentation including complaints of which the Respondent had not accepted service or to which she had not submitted a response. The record shows that Mr. Harper’s complaint was one of such complaints. ODC Exhibits 9-10. The Respondent advised Investigator Mitchell that she would travel to ODC’s office in Baton Rouge

to pick up the documentation either the following day or the following week. However, the Respondent never appeared to do so. ODC Exhibit 7; February 2, 2018 Hrg. Tr., pp. 20-21.

Moreover, the Board makes an additional factual finding concerning Count III. As to this count, the committee found that ODC introduced into evidence letters from Capital One Bank which included statements showing overdrafts on checks 2053 (\$30.00) and 2056 (\$20.00) written on the Respondent's IOLTA account on June 3, 2016 and June 13, 2016, respectively. ODC Exhibit 12. ODC also introduced into evidence a letter from Capital One Bank which established that an overdraft had also occurred on the Respondent's IOLTA account on August 1, 2016, although the actual statement indicating the amount of the overdraft was not attached to this letter. ODC Exhibit 13. The Board finds that this additional overdraft was also established by ODC.

B. *De Novo* Review

In case number 15-DB-031, the committee correctly applied Rules of Professional Conduct 1.15(a) and 8.1(c). By allowing her trust account to become overdrawn on one occasion, the Respondent violated Rule 1.15(a). By failing to cooperate with ODC in its investigation of this matter, the Respondent violated Rule 8.1(c). These legal conclusions of the committee are supported by the factual allegations asserted in the formal charges and/or by the evidence submitted in support of the allegations. *See In re Donnan*, 2001-3058 (La. 1/10/03), 838 So.2d 715. The Board adopts these findings. The Committee also found that the Respondent had violated Rules of Professional Conduct 8.1(b) and 8.4(a) in connection with Count I of this matter. However, as these two rule violations were not charged in connection with this count, the Board will not adopt these findings by the committee, although violations of these rules appear to be present.

In case number 16-DB-099, the committee correctly found that the Respondent violated Rules of Professional Conduct 1.1(b), 1.1(c), 1.15, 5.5, 8.1(c), and 8.4(a). By failing to timely complete her mandatory continuing legal education requirements, the Respondent was in violation of Rule 1.1(b), and was ineligible to practice law from June 1, 2015 through August 3, 2015. During this time, she filed pleadings in the 22nd Judicial District Court in St. Tammany Parish in violation of Rule 5.5(a). The Respondent was in violation of Rule 1.1(c) for failing to timely pay her 2015-2016, 2016-2017 and 2017-2018 bar dues and disciplinary assessments, which caused her to be ineligible to practice law during various times in 2015, 2016 and 2017, and for failing to timely submit her trust account disclosure form, which resulted in her ineligibility to practice law from September 8, 2017 through September 11, 2017. By allowing her trust account to become overdrawn on three occasions, the Respondent violated Rule 1.15(a). By failing to cooperate with ODC in its investigation of these matters, the Respondent violated Rule 8.1(c). By violating these rules, the Respondent also violated Rule 8.4(a), which provides that it is professional misconduct for a lawyer to violate or attempt to violate the Rules of Professional Conduct. The Board also finds that the committee correctly determined that insufficient evidence was submitted to prove that the Respondent violated Rules 1.3 and 1.4.

II. The Appropriate Sanction

A. Rule XIX, §10(C) Factors

Louisiana Supreme Court Rule XIX, §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.

In case number 15-DB-031, the Respondent has violated duties owed to her clients and to the profession. As to her trust account overdraft, her conduct appears to have been negligent. The amount of actual injury is unknown; however, potential injury to her clients is apparent as her trust account was overdrawn by \$1,325.00. Her failure to cooperate with ODC in its investigation of the overdraft notice was knowing and intentional and caused ODC to waste its limited resources in having to repeatedly pursue the Respondent for a response to its inquiries concerning the overdraft. Mitigating factors include absence of a prior disciplinary record and personal or emotional problems. Aggravating factors include substantial experience in the practice of law (admitted in 2004), bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary agency, and deceptive practices during the disciplinary process.

As to case number 16-DB-099, the Respondent violated duties owed to her clients and to the profession. Her actions appear to be negligent (trust account overdrafts), knowing (practicing law while ineligible to do so and failing to meet the professional requirements mandated by Rules 1.1(b) and (c)), and intentional (failing to cooperate with ODC). The potential for harm when a trust account is overdrawn or an attorney practices law while ineligible to do so is great, although no actual harm has been established as to these counts. Moreover, the Respondent's failure to cooperate with ODC in its investigation of the complaints at issue caused ODC to waste its limited resources in having to repeatedly pursue the Respondent for a response to the complaints. The mitigating and aggravating factors in this matter are the same as those found in case number 15-DB-031, explained above.

B. The ABA Standards and Case Law

The *ABA Standards for Imposing Lawyer Sanctions* suggest that suspension is the baseline sanction for Respondent's misconduct. Standard 4.12 provides that "suspension is generally appropriate when a lawyer knows or should know that he is dealing improperly with client property and causes injury or potential injury to a client." Here, the Respondent has mismanaged her trust account, resulting in a total of four overdrafts. Although no harm has been proven in this matter, the potential injury to clients or third parties exists in that funds owed to them may have been mishandled. Standard 7.2 states that "suspension is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional and causes injury or potential injury to a client, the public or the legal system." The Respondent violated a duty owed to the profession by failing to cooperate with ODC in its investigations, causing damage to the disciplinary agency by forcing the unnecessary expenditure of its limited resources. The Respondent also violated a duty owed to the profession by practicing law while ineligible to do so, causing potential harm to her clients and the legal system.

Additionally, case law provides that the sanction for attorneys who mismanage their trust account and also practice law during periods of ineligibility generally ranges from a one-year and one-day to two year suspension, some portion of which may be deferred. Because the Respondent has engaged in multiple types of misconduct, including practicing law while ineligible to do so, overdrawing her trust account on four occasions, and failing to cooperate with ODC in its investigations on numerous occasions, the Board will recommend a period of actual suspension, with no portion deferred. In making this determination, the Board relies on the following cases for guidance.

In *In re Thomas*, 2011-2012 (La. 11/18/11), 74 So.3d 695, the respondent represented numerous clients while ineligible to practice law, failed to update her primary registration address with the Bar Association, failed to remit funds to a third-party medical provider, and failed to return unearned fees and costs to clients. In determining the appropriate sanction, the Board focused on respondent's most egregious misconduct—the unauthorized practice of law and the conversion of third-party funds. With respect to respondent's unauthorized practice of law, the board determined that the appropriate sanction, based on prior jurisprudence, was at least a six-month suspension with no deferral. With respect to the respondent's conversion of funds, the board determined that this misconduct appeared to be the result of poor law office management skills as opposed to a dishonest or selfish motive. Therefore, the appropriate sanction, based on prior jurisprudence, was at least a one-year and one-day suspension with some portion deferred. *Id.*, 74 So.3d at 701-02. The Board recommended that the respondent be suspended from the practice of law for two years, with one year deferred. The Board also recommended that as a condition of reinstatement, the respondent be required to provide restitution to the third-party medical provider and her client. Finally, the Board recommended that upon her reinstatement to the practice of law, the respondent be required to serve two years of supervised probation, subject to conditions. *Id.* at 702. Agreeing that the respondent's misconduct was largely the result of her inexperience in the practice of law and her poor office management skills rather than a dishonest or selfish motive, the Court found the sanction recommended by the Board to be reasonable and imposed the sanction recommended by the Board. *Id.* at 703.

In the consent discipline matter of *In re Smith*, 2017-1537 (La. 10/16/17), 226 So.3d 1113, the ODC commenced an investigation into allegations that the respondent mishandled his

trust account and practiced law while ineligible to do so. Following the filing of formal charges, the respondent and ODC submitted a joint petition for consent discipline in which the respondent admitted that his conduct violated Rules 1.15(a) and 5.5 of the Rules of Professional Conduct. After reviewing the petition, the Court suspended the respondent from the practice of law for a period of one year and one day, with all but sixty days of this suspension deferred. Following completion of the active suspension, the respondent was required to successfully complete a two-year period of unsupervised probation, with conditions. *Id.*

The cases of *In re Duhy*, 2014-2052 (La. 11/21/14), 154 So.3d 541 and *In re Richard*, 2016-0076 (La. 4/4/16), 188 So.3d 1035 provide guidance as to the appropriate sanction regarding Respondent's failure to cooperate with ODC. In *Duhy*, the respondent failed to cooperate with ODC in three investigations. The Court noted that in the past, it had found that an attorney's failure to communicate with ODC, standing alone, is sufficient to warrant a period of actual suspension. The record reflected that the respondent had a long history of disregarding his professional responsibilities. He had previously been disciplined five times for failing to cooperate with ODC. Nevertheless, he continued to ignore his obligation to cooperate with ODC in the matter before the Court. His pattern of misconduct was described by the Court as "particularly egregious." The Court suspended the respondent for one year and one day, with all but three months deferred, followed by a one-year period of unsupervised probation. *Duhy*, 154 So.3d at 545.

Finally, in *In re Richard*, 2016-0076 (La. 4/4/16), 188 So.3d 1035, the respondent was suspended for one year and one day, with all but sixty days deferred, for failing to cooperate with ODC. In this matter, the respondent's trust account did not have a sufficient balance to cover a \$250 check payable to the parish clerk of court. Respondent's bank nevertheless paid the check,

resulting in an overdraft of the trust account of \$228.43. The bank notified ODC of the overdraft. Although respondent had made a deposit by that time to bring his bank account to a positive balance, he failed to cooperate with the ODC in the disciplinary investigation. ODC filed formal charges against the Respondent, alleging violations of Rules 1.15(a), 8.1(b), 8.1(c) and 8.4(a).

Respondent failed to answer the charges. Accordingly, the factual allegations contained therein were deemed admitted and proven by clear and convincing evidence pursuant to Supreme Court Rule XIX, Section 11(E)(3). After considering ODC's deemed admitted submission, the hearing committee recommended that the respondent be suspended from the practice of law for one year and one day, with no period of deferment. Of particular note was respondent's prior misconduct, an admonition, for failure to cooperate with ODC in four investigations in 2013. The matter was later remanded to the hearing committee for the sole purpose of hearing evidence on the appropriate sanction. *Id.*, 188 So. 3d at 1036. After considering the testimony and evidence in mitigation presented at the hearing, the committee concluded that the previously recommended sanction was too harsh, and recommended that the respondent be suspended for one year and one day, with all but sixty days deferred, followed by a one-year period of supervised probation. After reviewing the matter, the board recommended that the respondent be suspended from the practice of law for one year and one day, with all but sixty days deferred, followed by a one-year period of unsupervised probation. The Board also recommended that the respondent be assessed with all costs and expenses of the proceeding. The Court agreed with the Board and imposed this sanction upon the respondent. *Id.* at 1037-38.

Considering the Respondent's misconduct as a whole, the Board will recommend that a one-year and one-day suspension be imposed in this matter. The Respondent has demonstrated

no grounds for deferral of any part of this suspension. Such a suspension would require the Respondent to petition for reinstatement under Rule XIX, Section 24 should she wish to re-enter the practice of law and demonstrate that she has the requisite fitness to practice law.

CONCLUSION

In case number 15-DB-031, the Board adopts the hearing committee's findings of fact and its findings that the Respondent violated Rules 1.15(a) and 8.1(c). The Board does not adopt the committee's findings that the Respondent violated Rules 8.1(b) and 8.4(a). In case number 16-DB-099, the Board adopts the committee's findings of fact as modified and supplemented above. The Board adopts the committee's finding that Rules 1.1(b), 1.1(c), 1.15, 5.5, 8.1(c) and 8.4(a) were violated. The Board recommends that the sanction imposed in this consolidated matter be a one-year and one-day suspension. The Respondent has demonstrated no grounds for deferral of any part of this suspension. Should she wish to re-enter the practice of law, a one-year and one-day suspension will require the Respondent to petition for reinstatement under Rule XIX, Section 24 and demonstrate her fitness to practice law. The Board also recommends that the Respondent be assessed with all costs and expenses of these proceedings.

RECOMMENDATION

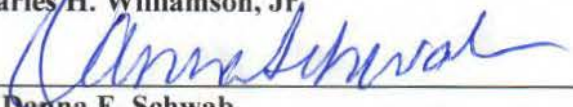
The Board recommends that the Respondent, Christine Yvonne Voelkel, be suspended from the practice of law for one year and one day. The Board further recommends that the

Respondent be assessed with all costs and expenses of these proceedings in accordance with Rule XIX, Section 10.1(A).

LOUISIANA ATTORNEY DISCIPLINARY BOARD

**Linda G. Bizzarro
Carrie L. Jones
Brian D. Landry
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By



Danna E. Schwab

FOR THE ADJUDICATIVE COMMITTEE

APPENDIX

Rule 1.1. Competence

(a) A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

(b) A lawyer is required to comply with the minimum requirements of continuing legal education as prescribed by Louisiana Supreme Court rule.

(c) A lawyer is required to comply with all of the requirements of the Supreme Court's rules regarding annual registration, including payment of Bar dues, payment of the disciplinary assessment, timely notification of changes of address, and proper disclosure of trust account information or any changes therein.

Rule 1.3. Diligence

A lawyer shall act with reasonable diligence and promptness in representing a client.

Rule 1.4. Communication

(a) A lawyer shall: (1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in Rule 1.0(e), is required by these Rules; (2) reasonably consult with the client about the means by which the client's objectives are to be accomplished; (3) keep the client reasonably informed about the status of the matter; (4) promptly comply with reasonable requests for information; and (5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law.

(b) The lawyer shall give the client sufficient information to participate intelligently in decisions concerning the objectives of the representation and the means by which they are to be pursued.

(c) A lawyer who provides any form of financial assistance to a client during the course of a representation shall, prior to providing such financial assistance, inform the client in writing of the terms and conditions under which such financial assistance is made, including but not limited to, repayment obligations, the imposition and rate of interest or other charges, and the scope and limitations imposed upon lawyers providing financial assistance as set forth in Rule 1.8(e).

Rule 1.15. Safekeeping Property

(a) A lawyer shall hold property of clients or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property. Except as provided in (g) and the IOLTA Rules below, funds shall be kept in one or more separate interest-bearing client trust accounts maintained in a bank or savings and loan association: 1) authorized by federal or state law to do business in Louisiana, the deposits of which are insured by an agency of the federal government; 2) in the state where the lawyer's primary office is situated, if not within Louisiana; or 3) elsewhere with the consent of the client or third person. No earnings on a client trust account may be made available to or utilized by a lawyer or law firm. Other property shall be identified as such and appropriately safeguarded. Complete records of such account funds and other property shall be kept by the lawyer and shall be preserved for a period of five years after termination of the representation.

(b) A lawyer may deposit the lawyer's own funds in a client trust account for the sole purpose of paying bank service charges on that account or obtaining a waiver of those charges, but only in an amount necessary for that purpose.

(c) A lawyer shall deposit into a client trust account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred. The lawyer shall deposit legal fees and expenses into the client trust account consistent with Rule 1.5(f).

(d) Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. For purposes of this rule, the third person's interest shall be one of which the lawyer has actual knowledge, and shall be limited to a statutory lien or privilege, a final judgment addressing disposition of those funds or property, or a written agreement by the client or the lawyer on behalf of the client guaranteeing payment out of those funds or property. Except as stated in this rule or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such property.

(e) When in the course of representation a lawyer is in possession of property in which two or more persons (one of whom may be the lawyer) claim interests, the property shall be kept separate by the lawyer until the dispute is resolved. The lawyer shall promptly distribute all portions of the property as to which the interests are not in dispute.

(f) Every check, draft, electronic transfer, or other withdrawal instrument or authorization from a client trust account shall be personally signed by a lawyer or, in the case of electronic, telephone, or wire transfer, from a client trust account, directed by a lawyer or, in the case of a law firm, one or more lawyers authorized by the law firm. A lawyer shall not use any debit card or automated teller machine card to withdraw funds from a client trust account. On client trust accounts, cash withdrawals and checks made payable to "Cash" are prohibited. A lawyer shall subject all client trust accounts to a reconciliation process at least quarterly, and shall maintain records of the reconciliation as mandated by this rule.

(g)...

Rule 5.5. Unauthorized Practice of Law; Multijurisdictional Practice of Law

(a) A lawyer shall not practice law in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so.

(b) A lawyer who is not admitted to practice in this jurisdiction shall not: (1) except as authorized by these Rules or other law, establish an office or other systematic and continuous presence in this jurisdiction for the practice of law; or (2) hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction.

(c) A lawyer admitted in another United States jurisdiction, and not disbarred or suspended from practice in any jurisdiction, may provide legal services on a temporary basis in this jurisdiction that: (1) are undertaken in association with a lawyer who is admitted to practice in this jurisdiction and who actively participates in the matter; (2) are in or reasonably related to a pending or potential proceeding before a tribunal in this or another jurisdiction, if the lawyer, or a person the lawyer is assisting, is authorized by law or order to appear in such proceeding or reasonably expects to be so authorized; (3) are in or reasonably related to a pending or potential arbitration, mediation, or other alternative dispute resolution proceeding in this or another jurisdiction, if the services arise out of or are reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is admitted to practice and are not services for which the forum requires pro hac vice admission; or (4) are not within paragraphs (c)(2) or (c)(3) and arise out of or are reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is admitted to practice.

(d) A lawyer admitted in another United States jurisdiction, and not disbarred or suspended from practice in any jurisdiction, may provide legal services in this jurisdiction that: (1) are provided to the lawyer's employer or its organizational affiliates and are not services for which the forum requires pro hac vice admission and that are provided by an attorney who has received a limited license to practice law pursuant to La. S. Ct. Rule XVII, §14; or (2) are services that the lawyer is authorized to provide by federal law or other law of this jurisdiction.

(e) (1) A lawyer shall not: (i) employ, contract with as a consultant, engage as an independent contractor, or otherwise join in any other capacity, in connection with the practice of law, any person the attorney knows or reasonably should know is a disbarred attorney, during the period of disbarment, or any person the attorney knows or reasonably should know is an attorney who has permanently resigned from the practice of law in lieu of discipline; or (ii) employ, contract with as a consultant, engage as an independent contractor, or otherwise join in any other capacity, in connection with the practice of law, any person the attorney knows or reasonably should know is a suspended attorney, or an attorney who has been transferred to disability inactive status, during the period of suspension or transfer, unless first preceded by the submission of a fully executed employment registration statement to the Office of Disciplinary

Counsel, on a registration form provided by the Louisiana Attorney Disciplinary Board, and approved by the Louisiana Supreme Court.

(2) The registration form provided for in Section (e)(1) shall include: (i) the identity and bar roll number of the suspended or transferred attorney sought to be hired; (ii) the identity and bar roll number of the attorney having direct supervisory responsibility over the suspended attorney, or the attorney transferred to disability inactive status, throughout the duration of employment or association; (iii) a list of all duties and activities to be assigned to the suspended attorney, or the attorney transferred to disability inactive status, during the period of employment or association; (iv) the terms of employment of the suspended attorney, or the attorney transferred to disability inactive status, including method of compensation; (v) a statement by the employing attorney that includes a consent to random compliance audits, to be conducted by the Office of Disciplinary Counsel, at any time during the employment or association of the suspended attorney, or the attorney transferred to disability inactive status; and (vi) a statement by the employing attorney certifying that the order giving rise to the suspension or transfer of the proposed employee has been provided for review and consideration in advance of employment by the suspended attorney, or the attorney transferred to disability inactive status.

(3) For purposes of this Rule, the practice of law shall include the following activities: (i) holding oneself out as an attorney or lawyer authorized to practice law; (ii) rendering legal consultation or advice to a client; (iii) appearing on behalf of a client in any hearing or proceeding, or before any judicial officer, arbitrator, mediator, court, public agency, referee, magistrate, commissioner, hearing officer, or governmental body operating in an adjudicative capacity, including submission of pleadings, except as may otherwise be permitted by law; (iv) appearing as a representative of the client at a deposition or other discovery matter; (v) negotiating or transacting any matter for or on behalf of a client with third parties; (vi) otherwise engaging in activities defined by law or Supreme Court decision as constituting the practice of law.

(4) In addition, a suspended lawyer, or a lawyer transferred to disability inactive status, shall not receive, disburse or otherwise handle client funds.

(5) Upon termination of the suspended attorney, or the attorney transferred to disability inactive status, the employing attorney having direct supervisory authority shall promptly serve upon the Office of Disciplinary Counsel written notice of the termination.

Rule 8.1. Bar Admission and Disciplinary Matters

An applicant for admission to the bar, or a lawyer in connection with a bar admission application or in connection with a disciplinary matter, shall not:

(a) Knowingly make a false statement of material fact;

(b) Fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter, or knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this rule does not require disclosure of information otherwise protected by Rule 1.6; or

(c) Fail to cooperate with the Office of Disciplinary Counsel in its investigation of any matter before it except for an openly expressed claim of a constitutional privilege.

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.