

## LOUISIANA ATTORNEY DISCIPLINARY BOARD

IN RE: ANNA M. JACKSON

DOCKET NO. 18-DB-044

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**REPORT OF HEARING COMMITTEE # 62**

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**INTRODUCTION**

This attorney disciplinary matter arises out of formal charges consisting of one count filed by the Office of Disciplinary Counsel (“ODC”) against Anna M. Jackson (“Respondent”), Louisiana Bar Roll Number 25104.<sup>1</sup> ODC alleges that Respondent violated the following Rules of Professional Conduct: 1.3, 1.4, 1.5(c), 8.1(c).<sup>2</sup>

**PROCEDURAL HISTORY**

The formal charges were filed on June 5, 2018. By letters dated June 8, 2018, the formal charges were mailed via certified mail to Respondent’s primary and secondary registration addresses.<sup>3</sup> The mailing to the secondary address was received on or before June 18, 2018. Respondent failed to file an answer to the charges. Accordingly, on August 28, 2018, ODC filed a motion to deem the factual allegations admitted pursuant to Louisiana Supreme Court Rule XIX, §11(E)(3).<sup>4</sup> By order signed October 2, 2018, the factual allegations contained in the formal charges were deemed admitted. On November 29, 2018, ODC filed its submission on sanction.

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<sup>1</sup> Respondent was admitted to the practice of law in Louisiana on October 10, 1997. Respondent is currently eligible to practice law.

<sup>2</sup> See the attached Appendix for the text of these Rules.

<sup>3</sup> 11628 S. Choctaw Dr., Ste. 207, Baton Rouge, LA 70815 (primary); 8832 Hickcock Dr., Baton Rouge, LA 70811 (secondary).

<sup>4</sup> 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.

For the following reasons, the Committee finds that the Respondent has violated Rule 1.3, Rule 1.4, Rule 1.5(c) and Rule 8.1 (c). Accordingly, the Committee recommends a sanction of a one year, one day suspension from the practice of law.

### FORMAL CHARGES

The formal charges read, in pertinent part:

4.

On June 12, 2017, the ODC received a complaint from Ronnie Ray Jackson. In 2008, Mr. Jackson, Respondent's uncle, and his coworker, retained Respondent to represent them in a racial discrimination suit against their employer. Mr. Jackson asked Respondent on several occasions if she was able to handle this type of case, to which Respondent confirmed to Mr. Jackson she could. Mr. Jackson and Respondent agreed that she would handle the case on a contingency fee basis; however, Respondent never reduced the agreement to writing.

After Respondent took the case, Mr. Jackson contacted Respondent numerous times, requesting an update; however, Respondent failed to provide the requested updates. In a sworn statement to the ODC, Mr. Jackson stated that Respondent never informed him if she filed suit or furthered the case in any other respect. Mr. Jackson explained that he has had no contact with Respondent since approximately 2016.

Because of Respondent's failure to communicate with Mr. Jackson, Mr. Jackson attempted to secure additional counsel to pursue his claim. In his sworn statement to ODC, Mr. Jackson testified that he could not find another attorney to take his case because the matter was "too old."

Respondent has not responded to the complaint despite numerous attempts to provide her with same. Correspondence was sent as follows:

- On June 26, 2017, the complaint was sent certified mail to Respondent's Louisiana State Bar Association (LSBA) primary registered address. The complaint was ultimately returned as unclaimed on August 29, 2017.
- On August 3, 2017, the initial complaint was sent, certified mail, to Respondent's primary address, and was shown delivered on August 21, 2017.
- On August 21, 2017, the complaint was again sent to Respondent's primary address, and was shown delivered on October 10, 2017.
- On September 11, 2017, correspondence was sent to Respondent's primary address and secondary address requesting Respondent's initial response to the complaint.
- On October 19, 2017, correspondence was sent to Respondent's secondary address requesting Respondent's initial response; however, that letter was returned on October 31, 2017.
- On November 7, 2017, ODC Investigator Danny Williamson made contact with Respondent by phone and informed her that the ODC had been mailing documents to her registered addresses, but no response to that complaint had been received. Respondent explained that her home flooded, forcing her to relocate. In that call, Respondent provided ODC Investigator a post office box address for future mailings. The complaint was forwarded to the post office box on November 7, 2017.

After receiving no response, a subpoena was issued on December 7, 2017, for Respondent's appearance at ODC's office on January 23, 2018. ODC Investigator began contacting Respondent via

telephone at both telephone numbers registered with the LSBA, each time leaving a message and asking Respondent to contact the ODC. These calls took place on December 11, 2017, December 12, 2017, December 13, 2017, December 14, 2017, December 18, 2017, and January 2, 2018. Respondent failed to return any of these calls.

On December 19, 2017, ODC investigator physically traveled to both Respondent's primary and secondary registered addresses, attempting to serve the subpoena. Respondent was not present at either address; however, ODC investigator left his business card on the front doors of both, alerting Respondent to contact the ODC.

On March 21, 2018, an email was sent to Respondent at her LSBA registered email address, advising Respondent of the attempts to contact her and requesting a response.

Despite the efforts detailed above, Respondent has not responded to the complaint.

5.

The Office of Disciplinary Counsel respectfully suggests that there is clear and convincing evidence that Respondent has violated the following Rules of Professional Conduct: Rule 1.3 (diligence); Rule 1.4 (failure to communicate); Rule 1.5(c)(failure to get a contingency fee in writing), and; Rule 8.1(c)(failure to cooperate with ODC).

## **EVIDENCE**

The Committee reviewed the exhibits submitted by ODC, which are Exhibits ODC 1-14. Respondent did not submit evidence or argument for the Committee's consideration, nor did she request to be heard in mitigation pursuant to Rule XIX, §11(E)(4).

## **FINDINGS OF FACT**

Under Rule XIX, §11E (3), the formal charges have been deemed admitted and proven by clear and convincing evidence. The Respondent failed to answer the charges within the time period allowed by the Rule. On August 28, 2018, the ODC filed a motion to have the formal charges deemed admitted and on October 2, 2018, undersigned Chair Mark Mansfield signed an Order declaring the formal charges deemed admitted and proven by clear and convincing evidence. Respondent was granted 20 days to file a motion to recall the order and she failed to do so.

## **RULES VIOLATED**

Based on the above, the Respondent is found to have violated Rule 1.3 (diligence); Rule 1.4 (failure to communicate); Rule 1.5(c) (failure to get a contingency fee in writing), and; Rule 8.1(c)(failure to cooperate with ODC).

## SANCTION

Louisiana Supreme Court Rule XIX, §10(C), states that when imposing a sanction after a finding of lawyer misconduct, a committee 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 the actual or potential injury caused by the lawyer's misconduct; and
- (4) The existence of any aggravating or mitigating factors.

Here, Respondent violated duties owed to the client and to the profession. She acted knowingly and intentionally. Respondent's misconduct caused actual harm to the legal profession by forcing ODC to unnecessarily expend its limited resources in an attempt to sufficiently investigate the matter. *In re Ford*, 2014-0831, p.4 (La. 6/20/14), 141 So.3d 800, 802-803 (per curiam). "Chronic failure to cooperate with the ODC" has been recognized as a burdening an already taxes system. *In re Waltzer*, 2004-1032, pp. 15-16 (La. 10/8/04), 883 So.2d 973, 982 (per curiam). Respondent's failure to reduce contingency fee agreement to writing is a violation of Rule 1.5 (c). In violating Rules 1.5(c), Respondent violated duties owed to the client and the profession, but not significant harm.

The *ABA Standards for Imposing Lawyer Sanctions* suggest that suspension from the practice of law for one year and one day is the baseline sanction for Respondent's misconduct.

Standard 4.42 provides that suspension is generally appropriate when a lawyer knowingly fails to perform services for a client and causes injury or potential injury to a client. Standard 7.2 provides that suspension generally is appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional, causing injury to the legal system. Thus, the baseline sanction in this instance is suspension from the practice of law.

The aggravating and mitigating circumstances that may be considered in deciding the appropriate sanction to impose are set forth in Standard 9.2. Although there are no mitigating factors present, several aggravating factors should be considered.

1. Bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary agency;
2. Refusal to acknowledge wrongful nature of the conduct;
3. Substantial experience in the practice of law (licensed on October 10, 1997).

*See* Standard 9.22.

Disciplinary proceedings are designed to maintain high standards of conduct, protect the public, preserve the integrity of the profession, and deter future misconduct. *In re McClanahan*, 2009-1883, p.17 (La. 2/5/10), 26 So. 3d 756, 769 (per curiam). The discipline to be imposed in a given case depends upon the seriousness of the offense, the circumstances of the offense, and the extent of the aggravating and mitigating circumstances. *In re Abdallah*, 2011-1631, p.7 (La. 10/14/11), 72 So. 3d 836, 841 (per curiam).

Jurisprudence indicates that the baseline sanction for similar misconduct is generally a suspension from the practice of law for a period of one year and one day. *See In re Small*, 20031736 (La. 12/3/03), 863 So. 2d 500, 506 (one-year and one day suspension imposed after an attorney abandoned clients' legal matters, failed to communicate with clients, failed to account for and refund unearned fees, and made no efforts at restitution, *citing*, *In re: Dooley*, 02-2152 (La. 2/14/03), 841So.2d 745 (one-year and one day suspension imposed stemming from neglect of a legal matter, failure to communicate with a client upon abandonment of law practice, as well as failure to cooperate with the ODC); *In re: Vaughan*, 00-1892 (La.10/27/00), 772 So.2d 87 (one-year and one day suspension imposed stemming from neglect of a legal matter, failure to communicate with the client, failure to account for his fee, failure to take any efforts to resolve a fee dispute with his client, and abandonment of law practice); *In re: Bivins*, 98-2513 (La.12/11/98), 724 So.2d 198 (one-year

and one day suspension with probation imposed for three counts of misconduct arising from neglect of two client matters and abandonment of law practice); *In re: Kendrick*, 98-0623 (La.4/3/98), 710 So.2d 236 (one-year and one day suspension stemming from neglect of legal matter, failure to return fee, failure to communicate, and subsequent abandonment of his practice).

"[A]n attorney's failure to cooperate with the ODC, standing alone, is sufficient to warrant discipline." *In re Fahrenholtz*, 2009-0748, p.5 (La. 10/2/09), 18 So. 3d 751, 754 (per curiam). "[S]anctions imposed in failure to cooperate cases typically have been in the range of a public reprimand to a six-month suspension from the practice of law." *Fahrenholtz*, 2009-0748 at p.8, 18 So. 3d at 755; see, e.g., *In re Augustine*, 1997-1570, pp. 3-4 (La. 9/26/97), 707 So. 2d 1, 2 (per curiam) (thirty-day suspension imposed upon attorney for failing to appear before ODC and failing to produce his files on date specified in subpoena); *In re Boudreau*, 2003-1890, p.8 (La. 12/3/03), 860 So. 2d 1119, 1124 (per curiam) (six-month suspension imposed upon attorney who failed to cooperate with ODC in investigation of a complaint; attorney recently was disciplined for failure to cooperate, thus continued failure to cooperate "particularly egregious").

However, there exists precedent for lengthier periods of suspension. In *In re Duhny*, 20142052 (La. 11/21/14), 154 So. 3d 541 (per curiam), the court observed that an attorney's failure to cooperate with the ODC, standing alone, is sufficient to warrant a period of "actual" suspension. Duhny was found to have a long history of disregarding his professional responsibilities and was suspended for a period of one-year and one-day, with all but three months deferred. In *Ford*, the respondent's failure to cooperate resulted in a one-year extension of the period in which she could apply for readmission. *Ford*, 2014-0831 at p.4, 141 So. 3d at 802-803. In *Fahrenholtz*, the respondent made no effort, at any point, to respond to repeated inquiries from the ODC; failed to comply with other professional obligations as a lawyer, such as paying his bar dues and the disciplinary assessment and

completing his mandatory continuing legal education requirements; and was an elected official. Characterizing Fahrenholtz's behavior as "more egregious than the typical failure to cooperate case," the court imposed a one-year and one-day suspension. *Fahrenholtz*, 2009-0748 at p.8, 18 So. 3d at 755-56.

Respondent accepted the representation of Complainant but performed minimal legal work, if any, before completely abandoning the matter and Complainant, causing actual harm to Complainant. The ODC was then forced to utilize its limited resources to investigate the complaint with no cooperation from Respondent. Essentially, "respondent has demonstrated in a convincing fashion that [s]he has no regard for the welfare of [her] clients or for [her] professional obligations." *See In re Brancato*, 2006-0124 (La. 5/26/06), 932 So. 2d 651, 659-60. Standing alone, either Respondent's abandonment of Complainant's matter or Respondent's failure to cooperate with the ODC's investigation, would warrant the imposition of a significant period of actual suspension.

The record clearly indicates that there is no evidence to support a downward deviation from the baseline sanction of a one-year and one-day suspension.

### **RECOMMENDATION**

The committee recommends that the Respondent be suspended from the practice of law for one year and one day. The committee also recommends that Respondent be assessed with the costs and expenses of this proceeding.

**CONCLUSION**

This opinion is unanimous and has been reviewed by each committee member, who fully concur and who have authorized Mark J. Mansfield to sign on their behalf.

Covington, Louisiana, this 25 day of April, 2019.

**Louisiana Attorney Disciplinary Board  
Hearing Committee # 62**

**Mark J. Mansfield, Committee Chair  
Kenneth P. Mathews, Lawyer Member  
Verlean W. Randolph, Public Member**

BY:



**Mark J. Mansfield, Committee Chair  
For the Committee**



## APPENDIX

### 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 1.5. Fees

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(c) A fee may be contingent on the outcome of the matter for which the service is rendered, except in a matter in which a contingent fee is prohibited by Paragraph (d) or other law. A contingent fee agreement shall be in a writing signed by the client. A copy or duplicate original of the executed agreement shall be given to the client at the time of execution of the agreement. The contingency fee agreement shall state the method by which the fee is to be determined, including the percentage or percentages that shall accrue to the lawyer in the event of settlement, trial or appeal; the litigation and other expenses that are to be deducted from the recovery; and whether such expenses are to be deducted before or after the contingent fee is calculated. The agreement must clearly notify the client of any expenses for which the client will be liable whether or not the client is the prevailing party. Upon conclusion of a contingent fee matter, the lawyer shall provide the client with a written statement stating the outcome of the matter and, if there is a recovery, showing the remittance to the client and the method of its determination. ...

### 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:

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(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.