

ORIGINAL

Louisiana Attorney Disciplinary Board

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18-DB-078

5/14/2019

**LOUISIANA ATTORNEY DISCIPLINARY BOARD**

**IN RE: SHANE E. ROMERO**

**DOCKET NO. 18-DB-078**

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**REPORT OF HEARING COMMITTEE #19**

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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 Shane E. Romero (“Respondent”), Louisiana Bar Roll Number 26108.<sup>1</sup> ODC alleges that Respondent violated the following Rules of Professional Conduct: 3.4(b), 8.4(a), 8.4(b), and 8.4(c).<sup>2</sup>

**PROCEDURAL HISTORY**

The formal charges were filed on October 31, 2018. Respondent filed an answer to the charges on December 16, 2018. The hearing of this matter was held on April 22, 2019. Deputy Disciplinary Counsel Robert S. Kennedy, Jr., appeared on behalf of ODC. Respondent appeared with counsel, Dane S. Ciolino.

For the following reasons, the Committee finds that the Respondent has stipulated to all the factual allegations of the count, that only sanction recommendations are necessary and that, for the reasons set forth below, that the Committee recommends that Respondent, Shane E. Romero,

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<sup>1</sup> Respondent was admitted to the practice of law in Louisiana on April 23, 1999. Respondent is currently eligible to practice law in Louisiana.

<sup>2</sup> Rule 3.4(b) states, “A lawyer shall not ... falsify evidence, counsel or assist a witness to testify falsely, or offer an inducement to a witness that is prohibited by law; ...”

Rule 8.4 states, in pertinent part: “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; ...”

should be suspended for one year, with three months being deferred and that he be ordered to pay all costs.

### **FORMAL CHARGES**

The formal charges read, in pertinent part:

On November 11, 2016, Respondent pleaded guilty in the 19th JDC (East Baton Rouge Parish) to one count of violating state campaign finance/election laws (R.S. 18:1505.1) by knowingly and willfully failing to file an accurate and complete financial disclosure report. In 2014, Respondent knowingly failed to disclose a \$1760 expenditure which he made in connection with his candidacy for New Iberia City Court Judge. Respondent later amended his previously-filed campaign finance report to report the undisclosed expenditure. At Respondent's guilty plea, Respondent voluntarily elocuted to providing \$1760 to an individual, identified as Paul Camacho, for the purpose of printing and distributing a campaign "flyer" anonymously disparaging Respondent's election opponent, Theodore, "Trey" Haik, III. Because state law requires that the person(s) publishing election materials must disclose their identity on the advertisement, in an effort to conceal Respondent's connection to the campaign material, Respondent enlisted Mr. Camacho as an intermediary and provided him with the flyer and necessary cash with instructions to print and distribute the flyer, which he later did. The flyer which Respondent provided to Mr. Camacho does not identify Respondent as the author or source of the material as required by law.

By his acts and omissions, Respondent has knowingly and intentionally violated Rule 8.4(b) (commission of a criminal act) and Rule 8.4(c) (conduct involving dishonesty, fraud, deceit, and misrepresentation).

Prior to Respondent's guilty plea, Respondent was questioned by investigators from the Louisiana State Board of Ethics about his involvement in the publication of the flyer. Respondent was expressly asked if he was the person responsible for making the cash payment to Camacho to print and distribute the flyer. Respondent falsely told the investigators that Respondent was not the party responsible for making such payment.

When Respondent later learned that the Board of Ethics had filed a disciplinary complaint against him, Respondent urged Mr. Camacho to sign an affidavit falsely stating that Respondent was not the person who paid him to have the flyer printed and distributed. Respondent intended to provide the false affidavit to disciplinary authorities in an effort to discredit Mr. Camacho as a potential witness. In furtherance of this objective, Respondent falsely told the attorneys representing Respondent in the disciplinary matter that he had not paid Mr. Camacho any sums for printing and distributing the flyer. Respondent's deceptive conduct caused Respondent's lawyers to confect an affidavit for Mr. Camacho's signature containing these false statements to present to the ODC. After the attorneys had reduced the false affidavit to writing, in May of 2016 Respondent

brought Camacho to their offices in Baton Rouge for the express purpose of having him execute the document. Camacho refused to sign the proposed affidavit.

Respondent later invited Camacho to come to his law office, which Camacho did on August 9, 2016. At that time, Respondent once again counseled and urged him to sign an affidavit falsely stating that Respondent had not paid him cash to have the flyer printed and distributed. Respondent's stated purpose in doing so was to present false testimony from Mr. Camacho in affidavit form to the ODC. Mr. Camacho declined to sign the proffered affidavit.

By his acts and omissions, Respondent has violated RPC 3.4(b) (falsify evidence or counsel or assist a witness to testify falsely); 8.4(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); 8.4(c) (conduct involving dishonesty, fraud, deceit and misrepresentation).

### **EVIDENCE**

The factual evidence of Rules violations are contained in the stipulations, which is Exhibit

J-1. The other exhibits admitted into evidence are:

ODC 1 – November 2014 campaign finance disclosure form;

ODC 2 – Campaign flyer paid for by Respondent

ODC 3 – Transcript of Respondent's recorded statement to La. Board of Ethics on 11/10/16

ODC 4 – Bill of information filed against Respondent on 11/10/16

ODC 5 – Elocution of plea on 11/10/16

ODC 6- Affidavit (unsigned) of Paul Comacho III

ODC 7 – Transcript and CD audio files of recorded conversations between Respondent and Paul Camacho III

ODC 8 – Excerpted transcript of Respondent's sworn statement to ODC on 5/15/17

R 1 – CV of Shane Romero

R 2 – Newspaper ad containing information also contained in campaign flyer

In addition to the exhibits, the testimony of Respondent, Shane E. Romero, was taken.

Romero testified that he currently engages in the general practice law as a sole practitioner, and that he has no other source of income.

## **FINDINGS OF FACT**

The Committee finds that the Respondent engaged in the conduct set forth in the eight joint stipulations and that he did lie under oath to the Louisiana Board of Ethics and, on two separate occasions, attempt to suborn the perjury of Paul Camacho, III in order to provide false evidence to the Court which took his guilty plea and to the Louisiana Board of Ethics (paragraph V of the stipulations) and again when the matter came before the Office of Disciplinary Counsel in the course of its investigation (ODC – 7), although Camacho never signed such an affidavit and no false affidavit was ever submitted either to the court or to the Board of Ethics.

## **RULES VIOLATED**

The Committee finds, as stipulated, that Respondent violated Louisiana Rules of Professional Conduct, including 3.4 (b) (falsify evidence or counsel or assist a witness to testify falsely); 8.4 (b) ( commission of a criminal act); 8.4(c) (conduct involving dishonesty, fraud, deceit and misrepresentation); and 8.4 (a) (violate or attempt to violate the Rules of Professional Conduct).

## **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 public, since his actions violated ethical norms governing political candidates. His conduct also brought the legal profession into disrepute. The Committee finds that Respondent acted intentionally, not simply “knowingly” as stipulated. This

conclusion is drawn from the evidence regarding his conversation with Camacho. Moreover, Respondent's actions caused harm to the public since a violation of the ethics laws regarding campaign funding harms the public's right to know the source of political advertising so the public can accurately assess the fitness of the candidates and to consider the source of campaign advertising. That these actions were taken in the course of a judicial campaign (for City Court judge) brings the judicial system into question and harms the reputation of the court system.

The *ABA Standards for Imposing Lawyer Sanctions* suggest that suspension is the baseline sanction for Respondent's misconduct. **ABA Standard 6.12:** Suspension is generally appropriate when a lawyer knows that false statements or documents are being submitted to the court or that material information is improperly being withheld, and takes no remedial action, and causes injury or potential injury to a party to the legal proceeding, or causes an adverse or potentially adverse effect on the legal proceeding. The ODC suggested that **ABA Standard 6:11** applies, but the Committee finds that since no perjured testimony was actually submitted (although not for want of effort on the part of Respondent), that Standard 6:12 is the more appropriate standard.

The parties have stipulated to both aggravating and mitigating circumstances. As to aggravating circumstances, the Committee agrees with the stipulations, to wit:

- (b) dishonest or selfish motive;
- (c) pattern of misconduct;
- (d) multiple offenses;
- (f) deceptive practices during the disciplinary process by giving an evasive, incomplete, and misleading statement to ODC; and
- (i) substantial experience in the practice of law (admitted 1999).

The Committee finds that the following mitigating circumstances exist:

- (a) no prior discipline;

- (d) timely good faith effort to make restitution or to rectify consequences of misconduct;
- (k) imposition of other penalties or sanctions;

The Committee notes that the parties stipulated to three additional mitigating circumstances, a) personal problems, b) good character and reputation and c) remorse. However, no evidence beyond the stipulations that these exist was provided that would allow the Committee to weigh and consider the extent, if any, to which these factors would in fact have mitigated the conduct and thus the sanction. The Committee does note that Respondent has stipulated to all the factual allegations, which may be inferred as remorse. Respondent provided no direct testimony on this issue, however.

The Committee is especially concerned with the fact that Respondent, in his sworn statement to the ODC given in the course of its investigation (ODC – 8), continued to deny that he had paid for the printing of the campaign materials (ODC-8, p. 109). This is in stark contrast to Stipulation III. Although counsel for Respondent correctly points out that this was not charged conduct, it is an aggravating circumstance (f).

As to mitigating circumstances the Committee notes that Respondent has paid fines assessed by the Louisiana Board of Ethics, and fines and costs in connection with his guilty plea, has no prior discipline and did plead guilty to the underlying violation of Louisiana campaign reporting requirements.

Respondent relies heavily on *In re Richmond*, 996 So.2d 282 (La. 2008) as a case closest to this. *In re Richmond* involves a political candidate who filed a notarized statement falsely giving his address as within the district from which he sought to be elected. He was given a 6-month suspension, all but 60 deferred. Respondent points out that unlike the respondent in that case he

did not actually submit a false affidavit, lie under oath at the committee hearing or violate a position of public trust, pointing out that none of these things occurred in this case.

However, the only reason Respondent did not submit a false affidavit to the Ethics Board or to the ODC is that the putative affiant, Paul Camacho, refused to sign it. And while Respondent did not lie under oath to the Committee he did admittedly lie under oath to the ODC. These seem to be distinctions without a difference.

The ODC, on the other hand, suggests a 2-year suspension, none of it deferred. The ODC first cites two cases, *In re: Linda Watkins*, 95-0459 (La. 6/16/95) and *In re: Patricia King a/k/a Patricia A. Eicher*, 94-0686 (La. 11/20/94), in which the Court disbarred the respondents. However, both of the cases involved conviction for dishonesty (obstruction of justice and lying to a grand jury in the first case and aiding and abetting mail fraud in the second).

Three other cases cited by ODC, *In re: Landry*, 934 So.2d 694 (La. 7 /6/06), *In re: Porter*, 930 So.2d 85 (La. 3/10/06) and *In re: Warner*, 851 So.2d 1029 (La. 6/27 /03), seem more on point. The sanctions in those cases range from 6 months suspensions, to a year and to a year and a day, respectively.

While in this case Respondent did have a criminal conviction, it was for a misdemeanor involving a campaign finance report, not a felony conviction for perjury or mail fraud. Moreover, the fines and costs paid by Respondent as a result of his guilty plea constitute a mitigating circumstance.

## **CONCLUSION**

The Committee recommends a sanction of a one-year suspension, with three months deferred, and for Respondent to pay all customary associated costs of this prosecution.

This opinion is unanimous and has been reviewed by each committee member, who fully concur and who have authorized Timothy A. Maragos, Committee Chair, to sign on their behalf.

Lafayette, Louisiana, this 2nd day of May, 2019.

**Louisiana Attorney Disciplinary Board  
Hearing Committee #19**

**Timothy A. Maragos, Committee Chair  
Alan K. Breaud, Lawyer Member  
Margaret B. Hebert, Public Member**

BY:



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**Timothy A. Maragos, Committee Chair  
For the Committee**