

LOUISIANA ATTORNEY DISCIPLINARY BOARD

IN RE: JOHN E. SETTLE, JR.

DOCKET NO. 18-DB-076

REPORT OF HEARING COMMITTEE # 18

INTRODUCTION

This attorney disciplinary matter arises out of formal charges consisting of one count filed by the Office of Disciplinary Counsel (“ODC”) against John E. Settle, Jr. (“Respondent”), Louisiana Bar Roll Number 11950.¹ ODC alleges that Respondent violated the following Rules of Professional Conduct: 5.5(a), 8.4(a), and 8.4(c).²

PROCEDURAL HISTORY

The formal charges were filed on October 24, 2018. Respondent filed an answer to the charges on November 16, 2018. The hearing of this matter was held on February 28, 2019. Deputy Disciplinary Counsel Megan Rawle Stafford appeared on behalf of ODC. Respondent appeared *pro se*.

For the following reasons, the Committee finds that the evidence presented did not reach the clear and convincing standard required to show that Respondent intentionally violated Rules of Professional Conduct 5.5(a), 8.4(a), or 8.4(c).

FORMAL CHARGES

The formal charges read, in pertinent part:

After receiving several documents indicating that Respondent was engaging in the unauthorized practice of law, while under an order of interim

¹Respondent was admitted to the practice of law in Louisiana on October 7, 1977. Respondent is currently suspended from the practice of law on an interim basis. *In re Settle*, 2017-0529 (7/13/17), 222 So.3d 41.

²See the attached Appendix for the text of these Rules.

suspension for threat of harm based on Respondent engaging in the unauthorized practice of law, the ODC opened complaint number 0036786. Respondent was forwarded notice of the initial complaint, via certified mail, on May 31, 2018. On July 14, 2018, the ODC received Respondent's initial response.

The investigation reveals that on May 3, 2018, Respondent sent a demand letter on behalf of client Marie K. Voss using letterhead from ArkLaTex Title Company bearing Respondent's Louisiana State Bar Association primary registration address. Thereafter, in response to July 3, 2018, correspondence from opposing counsel offering to settle Ms. Voss's matter, Respondent presented a counter offer, forwarding same to opposing counsel.

The Office of Disciplinary Counsel respectfully suggests that there exists clear and convincing evidence that Respondent has violated Rules 5.5(a)(engaging in the unauthorized practice of law), 8.4(a)(violate or attempt to violate the Rules of Professional Conduct), and 8.4(c)(engaging in conduct that involves dishonest, fraud, deceit or misrepresentation).

EVIDENCE

Documentary evidence was stipulated by the parties at the beginning of the hearing. Exhibits 1-26 were submitted by ODC, made a part of the bench books, and admitted into the record. Exhibits A-F were submitted by Respondent made a part of the bench books and admitted into the record. These documents included correspondence between Respondent and Attorney Kyle Moore concerning reclaiming property lost in a tax sale. The only witnesses who testified at the hearing were Respondent, John E. Settle, Jr., and Kyle Moore. The communications between Moore and Respondent were characterized by ODC as settlement negotiations and/or providing legal advice. Respondent characterized these communications as simply communicating his long-time client's position much as a landman or title company would do for its client. No legal advice or consultation was required.

FINDINGS OF FACT

John E. Settle, Jr. testified that although his license to practice law was under suspension, he was still allowed to conduct the business of his title company and act as a landman as he had done for decades. Representing the interests of his clients in property transactions in such

capacities should not be considered the practice of law. Mr. Settle testified that he made clear to his client during the subject transactions that he was not licensed to practice law at the time and was not acting as her lawyer in this matter. Mr. Settle's client was a sophisticated landowner who was very experienced in tax sale properties. No calculations, legal advice or negotiation consultation was required by Settle. His client simply gave him information which he communicated to the other side.

Kyle Moore testified that he was acting as a lawyer while representing his client in the subject transaction. However, Mr. Moore did not provide any testimony to rebut Mr. Settle's position. Additionally, no other witnesses, including the clients of Mr. Moore or Mr. Settle, provided testimony at the hearing. Therefore, the Committee is left to make credibility determinations based on the only two witnesses that testified, *i.e.*, Mr. Settle and Mr. Moore. Although it is recognized that Respondent cannot be considered a completely objective witness as his own interests are at stake in this matter, no testimony was provided to rebut or question his characterization of his intent and actions in the subject transactions.

RULES VIOLATED

The Committee finds that Rules of Professional Conduct 5.5(a), 8.4(a), and 8.4(c) were not violated.

CONCLUSION

Respondent may have acted a bit carelessly, especially considering his history of disciplinary action and pending interim suspension. Under such circumstances, Respondent came dangerously close to the boundary line of violating Rules of Professional Conduct 5.5(e)(3)(v) regarding negotiating or transacting any matter for or on behalf of a client with third

parties. However, Respondent's misconduct caused no actual harm to any of the parties or participants in the subject transaction.

Respondent should be cautioned that the filing of these charges by the ODC were not unreasonable considering the circumstances. The fact that the testimony and evidence at the hearing did not reach the high burden of clear and convincing required to support a ruling against Respondent by this Committee, it does not exonerate Respondent from the responsibility to pay more careful attention to the consequences of the pending interim suspension and/or disciplinary actions in place.

The conclusion of this Committee is that the evidence presented at the hearing did not reach the clear and convincing standard required to show that Respondent violated Rules of Professional Conduct 5.5(a), 8.4(a), or 8.4(c). Therefore, no sanction is recommended concerning the subject charges.

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

Monroe, Louisiana, this 6th day of June, 2019.

**Louisiana Attorney Disciplinary Board
Hearing Committee # 18**

**Barry W. Dowd, Committee Chair
W. David Hammett, Lawyer Member
James D. Myers, Public Member**

BY: 
W. David Hammett, Lawyer Member

APPENDIX

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.

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;

(c) Engage in conduct involving dishonesty, fraud, deceit or misrepresentation;
