

**ORIGINAL**

LOUISIANA ATTORNEY  
DISCIPLINARY BOARD

**LOUISIANA ATTORNEY DISCIPLINARY BOARD**

2020 JAN 17 AM 10:38

**IN RE: JOSEPH MAYER, III**

**DOCKET NO. 19-DB-050**

**REPORT OF THE HEARING COMMITTEE**

---

**INTRODUCTION, PROCEDURAL HISTORY, STIPULATED  
FACTUAL FINDINGS AND STIPULATED RPC VIOLATIONS**

This attorney disciplinary matter arises out of Formal Charges filed by the Office of Disciplinary Counsel (“ODC”) against Joseph Mayer, III (“Respondent”), alleging violations of Rule 8.4(b) (the commission of a criminal act) and Rule 8.4(a) (the violation or attempted violation of the Rules of Professional Conduct). The criminal acts in question occurred on the morning of October 1, 2018, while Respondent was ostensibly on his way to work as an attorney. While heavily intoxicated (reported BAC “breath sample” of .260 g%), Respondent caused two vehicular accidents, with the second accident co-incident with his unlawfully leaving the scene of the first.

Respondent does not have a sound recollection of what occurred during the accidents, but he admits/stipulates to causing both accidents due to his serious state of intoxication, as well as to unlawfully leaving the scene of an accident. He also admits/stipulates that on the morning of the accident he was driving with a suspended license and driving without vehicle insurance. He was charged with the following by Jefferson Parish Sheriff’s Office: Operating a Vehicle While

Intoxicated (First Offense), “Hit and Run Driving,” “Driving-License Suspended,” and “Liability Security Required.”

Respondent had no prior alcohol-related traffic violations or arrests, and as such was offered and entered into the Jefferson Parish Adult Diversion Program. As part of the Diversion Program, Respondent has completed multiple counseling sessions with a Licensed and Certified Social Worker, has consistently attended AA meetings, and has passed all random drug and alcohol tests administered by the Diversion Program. In addition, Respondent has abstained from the use of alcohol since December 2018.

The Respondent successfully completed the requirements of the Jefferson Parish Adult Diversion Program effective August 29, 2019; and the charges were refused/dropped by the Jefferson Parish District Attorney on October 17, 2019. The Committee notes that Respondent, admitted to practice law in October 1979, has no prior disciplinary record in his forty (40) years of practice in Louisiana.

### **THE HEARING**

A hearing conducted by the hearing committee occurred on December 16, 2019. Both Respondent and the ODC introduced documentary evidence, all of which were admitted by stipulation without objection. The following witnesses testified at the hearing: Respondent, Buddy Stockwell (the Executive Director of

JLAP), and character witnesses Stephen Pizzo and Ed Harris. The Committee finds Respondent to be credible and cooperative with the Office of Disciplinary Counsel's investigation. Respondent stipulates to the factual allegations of the morning of October 1, 2018 as well as to the violations of 8.4(a) and 8.4(b) set forth in the Formal Charges filed by the ODC.

With respect to Respondent's pre-accident history with alcohol, in July 2011 he voluntarily stopped drinking for several years and regularly attended AA. However, in the years thereafter he faced certain personal issues, marital issues and alleged abuse, and financial pressures that impacted him heavily. At some point prior to October 1, 2018, he began drinking heavily, including consuming alcohol prior to work, morning drinking, and drinking while driving.

In December 2018, following a clinical intake and interview by the Louisiana Judges and Lawyers' Assistance Program ("JLAP"), in-patient treatment was recommended for Respondent. Although Respondent agreed he was an alcoholic during his intake with JLAP, he did not undergo inpatient treatment, nor intensive out-patient("IOP"), nor the free/reduced cost program at Bridge House. Respondent has cited issues of cost as the primary reason for not undergoing treatment, but also testified that he felt the diversion program from Jefferson Parish was enough ("competing priorities"). During the hearing, the Director of JLAP testified that the Jefferson Parish diversion program does not satisfy JLAP requirements.

## THE SANCTION

The discipline to be imposed depends upon the facts of each case and the seriousness of the offenses involved considered in light of any aggravating and mitigating circumstances. *Louisiana State Bar Ass'n v. Whittington*, 459 So. 2d 520 (La. 1984). Louisiana Supreme Court Rule XIX, Section 10(C) states that in 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.

By violating Rules 8.4 (a) and (b) of the Rules of Professional Conduct, the Respondent violated duties owed to the public, to the legal profession, and as a professional. Respondent's conduct involved property damage to multiple automobiles, but no injuries to persons (although the potential for serious injury to himself and others was high). Under the jurisprudence of the Louisiana Supreme Court, the baseline sanction in this matter is suspension. As the Supreme Court recently re-affirmed in *In re: Steger*, 18-1979 (La. 05/18/19), *In re: Baer*, 09-1795 (La. 11/20/09) 21 So. 3d 941, dictates the proper sanction for DWI arrests.

In *Baer*, the Louisiana Supreme Court held:

We have imposed sanctions ranging from actual periods of suspension to fully deferred suspensions in prior cases involving attorneys who drive while under the influence of alcohol. However, as a general rule, we tend to impose an actual suspension in those instances in which multiple DWI offenses are at issue, as well as in cases in which the DWI stems from a substance abuse problem that appears to remain unresolved.

Respondent's arrest on October 1, 2018 involved two separate vehicular accidents, driving with a black-out level blood-alcohol content, as well as a hit-and-run offense. The committee finds that this separates the incident(s) from a standard DUI arrest. In addition, the recommendations of JLAP were not complied with, even though different options aside from private inpatient treatment were theoretically available. Therefore, under *Baer* and *Steger*, an actual period of suspension is warranted.

The following aggravating factors are present: the severity of the particular incident(s), unlawfully leaving the scene of an accident (indicative of a dishonest/selfish motive), and substantial experience in the practice of law (forty years of practice). The following mitigating factors are present: absence of a prior disciplinary record, personal and financial problems, full and free disclosure to the disciplinary board and a cooperative attitude toward the proceedings, and good character and reputation, and remorse.

## CONCLUSION

The committee finds that Respondent violated the Rules of Professional Conduct. It recommends that Respondent be suspended for one year and one day, with no portion deferred. The committee further recommends that the Respondent be charged with all costs and expenses of these disciplinary proceedings.

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

Metairie, Louisiana, this 17<sup>th</sup> day of January, 2020.

**Louisiana Attorney Disciplinary Board  
Hearing Committee # 12**

**Michael J. Sepanik, Committee Chair  
Lena D. Giangrosso, Lawyer Member  
Patricia A. Caperino, Public Member**

  
BY: **Michael J. Sepanik, Committee Chair  
FOR THE COMMITTEE**