

ORIGINAL

Louisiana Attorney Disciplinary Board

FILED by: *Donna P. Burgess*

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22-DB-059

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LOUISIANA ATTORNEY DISCIPLINARY BOARD

IN RE: CHARLES EDWARD BRUMFIELD

ODC FILE NO. 0038550

DOCKET NUMBER 22-DB-059

REPORT OF HEARING COMMITTEE

INTRODUCTION

This attorney disciplinary matter arises out of formal charges filed by the Office of Disciplinary Counsel (ODC) against Charles Edward Brumfield (“Respondent”), Louisiana Bar Roll # 31072. The Respondent was admitted to the practice of law on October 18, 2007. ODC alleges that Respondent violated the following Rules of Professional Conduct: 1.2(d), counseling a client to engage, or assisting a client in conduct that the lawyer knows is criminal or fraudulent); 8.4(a), 8.4(b), 8.4(c), and 8.4(d). Violating or attempting to violate the Rules of Professional Conduct, knowingly assisting or inducing another to do so, or doing so through the acts of another;(b) Committing a criminal act especially one that reflects adversely on the lawyer’s honesty, trustworthiness or fitness as a lawyer in other respects;(c) Engaging in conduct involving dishonesty, fraud, deceit or misrepresentation;(d) Engaging in conduct that is prejudicial to the administration of justice;

PROCEDURAL HISTORY

The formal charges were filed on November 14, 2022. On December 21, 2022, the Respondent filed an Answer to the Formal Charges. A hearing on the formal charges was initially scheduled for April 12, 2023. On February 22, 2023, Respondent’s counsel requested a continuance that ODC did not oppose. The Motion was granted, and the hearing was continued. The hearing was moved to June 21, 2023. A hearing was held on that date in Baton Rouge, Louisiana. Robin K. Mitchell and Renee H. Pennington appeared on behalf of ODC. Respondent appeared with counsel, Karen Hayes Green.

FORMAL CHARGES

The formal charges filed against Respondent are as follows:

On May 26, 2020, Allan Durand, legal counsel for the St. Martin Parish President (Chester Cedars), filed a disciplinary complaint against the Respondent alleging Respondent committed criminal conduct and violated the Rules of Professional Conduct by attempting to extort the St. Martin Parish Council on behalf of Respondent's client, Chris Hebert.

Respondent represented Chris Hebert in a federal complaint filed against St. Martin Parish and Guy Cormier, individually and in his official capacity as Parish President of St. Martin Parish, Louisiana. The complaint was filed in the U.S. District Court, Western District of Louisiana in July of 2017, and an amended complaint was filed in January of 2018. The complaint alleged Respondent's client was terminated from St. Martin Parish Government as a result of his reporting illegal and discriminating behavior made by his direct supervisor, which included the use of racial epithets, and theft of materials by coworkers. The complaint further alleged that a current member of the St. Martin Parish Council was aware of and verified the allegations. The complaint does not contain specific racial epithets used, nor does the federal court record contain transcripts of any recordings.

The federal complaint was ultimately resolved with a *Joint Stipulation of Dismissal with Prejudice*, which was signed by Respondent, and included a *Settlement Agreement, Waiver and Release* as an attached exhibit. The *Settlement Agreement, Waiver, and Release* includes the signature of Respondent's client (Mr. Hebert), in which he agreed to waive and release all claims, causes of action, promises, and liabilities against the Defendants arising from or relating to any and all employment, contracts, obligations, demands, rights, acts, events, and omissions occurring prior to the date of the agreement (July 26, 2018).

On at least four separate occasions between November 15, 2018, and June 9, 2020, Respondent forwarded correspondence on behalf of Chris Hebert to the St. Martin Parish President (Chester Cedars) and/or the legal counsel to the St. Martin Parish President. In his correspondence, Respondent continuously offers to produce tape recordings made by Chris Hebert which allegedly prove the former Parish President, employees of St. Martin Parish Government, and a Councilman knew of behavior that created the racial environment with the use of racial epithets. Respondent sought to "negotiate terms of a non-disclosure agreement" that would place the St. Martin Parish Government in possession of all recordings in exchange for the following: (1) various sums of money paid to Mr. Hebert (initially \$80,000.00 and later \$150,000.00); (2) reinstatement of Mr. Hebert to his previous employment position with commensurate salary and benefits; and (3) the termination removed from Mr. Hebert's employment record with St. Martin Parish Government. The Respondent's correspondence consistently warned the Parish President and his legal counsel that if a resolution could not be reached with the Parish President,

that the Respondent would seek offers and interest from, or release the tapes to, other entities such as various specifically named media conglomerates, the Breaux Bridge Branch of the NAACP, the NAACP, the Office of the Governor, the Board of Ethics, and local media. The Respondent's last correspondence indicates his client wanted the matter resolved in 30 days, and that the current political and sensitive time in America would only exacerbate the claims that were being made, advanced, and purportedly documented by his client.

There is clear and convincing evidence the Respondent has violated Rules 1.2(d), 8.4(a), 8.4(b), 8.4(c), and 8.4(d) of the Rules of Professional Conduct.

EVIDENCE

Exhibits by ODC:

- ODC-1 Complaint (including attachments) filed by Allan Durand on behalf of St. Martin Parish President, Chester Cedars, received by the ODC on May 26, 2020;
- ODC-2 Notice of ODC complaint and request for a response mailed to Respondent on June 9, 2020, and signed for receipt on June 11, 2020;
- ODC-3 Respondent's initial response to the complaint (including attachments), received by the ODC on June 15, 2020;
- ODC-4 Supplemental complaint (including attachments) forwarded to the ODC by Allan Durand, dated June 11, 2020;
- ODC-5 Supplemental correspondence forwarded to the ODC by Allan Durand, dated July 6, 2020;
- ODC-6 Email from Chester Cedars to Respondent, dated August 16, 2017
- ODC-7 Email from Chester Cedars to Respondent, dated April 24, 2020;
- ODC-8 Respondent's Fee Agreement and Authority to Represent Chris Hebert, dated June 30, 2017;
- ODC-9 Respondent's Fee Agreement and Authority to Represent Chris Hebert, dated July 16, 2018
- ODC-10 A copy of the following court case record obtained from PACER website: Hebert v St. Martin Parish, et al; Docket No. 6:17-cv-00943-RGJ-PJH; U.S. District Court, Western District of Louisiana (Lafayette);
- ODC-11 Letter from Respondent to Chester Cedars, dated December 1, 2018; and
- ODC-12 Proceedings of the St. Martin Parish Council, Regular Meeting, March 6, 2018

Exhibits by Respondent

- R-1 Resume of Charles Edward Brumfield;

- R-2 Biography of Charles Edward Brumfield
- R-3 Fee Agreement and Authority to Represent, dated June 30, 2017
- R-4 Chester Cedars Letter to Chris Hebert, dated July 10, 2017;
- R-5 Fee Agreement and Authority to Represent, dated July 16, 2018;
- R-6 Email from Charles Brumfield to Chester Cedars, dated April 16, 2017;
- R-7 Email from Charles Brumfield to Chester Cedars, dated November 15, 2018, that includes the recording of Chris Tauzin;
- R-8 Email from Charles Brumfield to Chester Cedars, dated November 28, 2018, at 10:44 a.m.;
- R-9 Email from Chester Cedars to Charles Brumfield, dated December 1, 2018, at 12:51 p.m.;
- R-10 Email between Charles Brumfield and Chester Cedars, dated December 3, 2018;
- R-11 Email between Charles Brumfield and Allan Durand, dated April 30, 2020;
- R-12 St. Martin Parish Council Meeting Minutes and Agenda from May 5, 2020 to June 2, 2020;
- R-13 Letter from Charles Brumfield, Jr., to Allan Durand, dated June 9, 2020;
- R-14 Emails between Charles Brumfield and Allan Durand, dated June 9, 2020;
- R-15 Letter from Gregory Moroux and Inspector Gauthier, dated March 5, 2021;
- R-16 Letter from the ODC to St. Martin Parish Sheriff's Office, Gregory Moroux, dated April 8, 2021;
- R-17 Letter from Chester Cedars to Gregory Moroux, dated April 16, 2021;
- R-18 Email from Sgt. S. Turner to Greg Moroux, dated April 6, 2021; and
- R-19 Letter of Termination from Charles Brumfield, Jr., to Chris Hebert, dated April 17, 2021

Witnesses called by ODC:

1. Charles Brumfield- Respondent on Cross Examination
2. Chris Hebert- Client of Respondent
3. Allend Durand-Complainant-Parish Attorney
4. Chester R. Cedars-Parish President

Witnesses called by Respondent:

1. Albert Menard-City Councilman
2. Kip Andrews-Character Witness
3. Rodney Barney-Character Witness
4. Charles Brumfield- Respondent on Direct

FINDINGS OF FACTS

1. Respondent received his license to practice law on October 18, 2007, under Louisiana Bar Roll No. 31072.
2. Respondent is eligible to practice law in the state of Louisiana.
3. On May 26, 2020, the ODC received a complaint against Respondent from Allen Durand (legal counsel to St. Martin Parish) on behalf of St. Martin President, Chester Cedars, and the St. Martin Parish Government.
4. Respondent was provided with notice of the complaint and submitted a response thereto.
5. On July 10, 2017, Chester Cedars, then Parish Attorney under Parish President Guy Cormier, forwarded a letter to Chris Hebert demanding a copy of the tapes he had regarding the conduct of Parish employees advising that "the St. Martin Parish Government is not adverse to exploring and/or adopting the necessary legal steps to secure the recordings if you do not voluntarily produce it."
6. On July 22, 2017, Chris Hebert sued the Parish of St. Martin and Guy Cormier in the United States District Court for the Western District of Louisiana in a suit entitled, "*Chris Hebert v. Parish of St. Martin and Guy Cormier*" bearing Civil Action No. 6:17-cv-00943 (the "Lawsuit").
7. Respondent did not represent Chris Hebert in the Lawsuit when it was filed in July 2017.
8. Respondent enrolled as counsel for Chris Hebert in the Lawsuit on or about January 5, 2018.
9. Chester Cedars became St. Martin Parish President on March 6, 2018 by appointment when Guy Cormier resigned as St. Martin Parish President to take another job.
10. The Lawsuit was resolved and a Judgement granting a Joint Stipulation of Dismissal With Prejudice was entered on July 31, 2018.
11. The Settlement Agreement, Waiver and Release executed by Chris Hebert did not contain a confidentiality provision or restrict Chris Hebert's use of recordings he had regarding the conduct of St. Martin Parish employees.
12. On July 16, 2018, Respondent signed a Fee Agreement with Chris Hebert to represent him in Negotiations with St. Martinville on a pro bono basis.
13. This pro bono representation involved negotiating a non-disclosure agreement and the surrendering of certain tape recordings in the possession of Chris Hebert.
14. On November 15, 2018, Respondent sent a letter to Chester R. Cedars, President of the St. Martin Parish. The letter references a July 17, 2017 letter from Chester Cedars to Chris Hebert for tape recordings. Respondent's November 15, 2018 letter confirmed that Chris Hebert has a recording showing that former Parish President, Guy Cormier, and others had knowledge of behavior that created a hostile work environment stemming from comments directed toward parish employees and parish counsel members. The recordings also contained racial epithets. Respondent advised that his client was interested in negotiating the terms of a non-disclosure agreement that would put the Parish in Possession of all the recordings and the transcripts.

15. Respondent's November 15, 2018 letter further advised Mr. Cedars that his client was interested in discussing the possibility of a non-disclosure agreement and requested that the topic be placed on the agenda for the next Board Meeting.
16. Respondent's November 15, 2018 letter also indicated that Chris Hebert would like to discuss the possibility of a non-disclosure agreement with Mr. Cedars before reaching out to third parties who may have interest in the tapes including media outlets and the NAACP.
17. On Wednesday November 28, 2018, Respondent advised Mr. Cedars that he would be meeting with Mr. Hebert on November 30 and would have an offer to for Mr. Cedars to present to the Board.
18. On December 1, 2018, Mr. Cedars emailed Respondent stating, "As I prepare this email on December 1, 2018, I note that I have not received any transmittal or other sort of communication from you relative the any specific proposal. . . "
19. On December 3, 2018, Respondent emailed Mr. Cedars attaching a December 1, 2018, letter advising that his client, Mr. Hebert was willing to produce the tapes "that were previously requested by you" for \$80,000.00 plus reinstatement of his job. The email also included a portion of one of the tapes.
20. On December 3, 2018, Mr. Cedars emailed Respondent stating in part "It is my understanding that should your offer in this morning's email be rejected, then the tape recordings will be released to the news media and entities referenced in your letter of November 15, 2018. I need clarification since the dismissal of your client's federal lawsuit absolves the Parish of any liability related to his 2015 discharge."
21. Respondent responded the same day stating, "We are not saying anything will be released. We are not trying to get any payment from the lawsuit. Your letter stated that you wanted the tapes. I reached out to you prior to the lawsuit about but never got a response." The email further stated, "I forwarded you what my client asked me to send. It has nothing to do with the lawsuit but what he would like in exchange for the tapes."
22. On April 22, 2020, Respondent wrote St. Martin Parish advising that Mr. Hebert wanted to re-urge his rejected offer. The letter states, "Mr. Hebert is considering forwarding those concerns to entities that may be in a better position to address those concerns including but not limited to the Office of the Governor, Board of Ethics, NAACP and local media."
23. On April 30, 2020, Allan Durand, St. Martin Parish Attorney, sent an email advising Respondent that there are some things the Parish may be willing to do but that they will not give Mr. Hebert his job back. He states that if that is what he wants in exchange for a non-disclosure agreement then they have nothing to talk about. He then advises Respondent it would help to know what Mr. Hebert has in mind.
24. On May 15, 2020, Respondent advised Allan Durand that Mr. Hebert would accept \$150,000.00.
25. On June 9, 2020, at 10:10 a.m. Respondent forwarded an email to Allan Durand requesting an update and expressing his understanding that the matter would be considered at the last council meeting.

26. On June 9, 2020, at 10:27 a.m. Respondent sent a letter to Allan Durand, noting that due to the cry for equality in our nation, the problem of racism within St. Martin Parish government would be exacerbated.
27. On June 11, 2020, Allan Durand sent an email to Respondent stating that this matter was believed to be a private matter and that there is no reason for St. Martin Parish to have further involvement.
28. Respondent never received anything in writing from Mr. Cedars stating that Cedars perceived any of Respondent's emails to be extortion.
29. Respondent never received emails and/or letters from Allan Durand explaining to Respondent that Durand thought any of Respondent's emails or letters to Cedars/Durand amounted to extortion.
30. The first time Respondent learned that Durand perceived his conduct and/or communications to be extortion was when he received a formal letter from the Office of Disciplinary Counsel.
- 31.

TESTIMONIAL EVIDENCE

Chris Hebert- Respondent's Client

Chris Hebert was an employee of St. Martin Parish. Mr. Hebert believed there was theft and racism within the St. Martin Parish government being covered up. Hebert advised human resources that his supervisor was using racial epithets to describe men working under him and that a co-worker was stealing granite and converting it for use on his property and family property. In 2016, St. Martin Parish fired Mr. Hebert. Mr. Hebert sued St. Martin Parish and parish president Guy Cormier for wrongful termination. The suit was ultimately dismissed.

Chris Hebert testimony:

Mr. Hebert testified that he hired Respondent to help him with his lawsuit against St. Martin Parish and Guy Cormier. The case was resolved in July 2018 and dismissed with prejudice.

Mr. Hebert testified that he received a letter from the attorney for St. Martin Parish, Chester Cedars, asking tape recordings he had that contained evidence of racism within the St. Martin Parish Government. Mr. Hebert hired Respondent to represent him in connection with the demand for production of the tape recordings. Respondent did not charge Mr. Hebert fee in connection with these negotiations.

The Committee reviewed the testimony of Chris Hebert. Hebert was very emotional and a little confused. However, overall Mr. Hebert's testimony was sincere and honest.

Mr. Albert Menard-Parish Councilman

Mr. Menard was a member of the St. Martin Parish Council at the time the tape recordings were an issue. He testified that he and other council members heard the tapes and were upset by their contents. He confirmed the public was also aware of and had heard he tapes. Mr. Menard testified as follows:

Q. Do you think that -- since you had this discussion with others, you think it kind of got out into the Parish, got out into neighborhoods?

A. Oh, yeah. We, we -- yeah, we even brought out in the neighborhood.

Q. Okay. Good.

A. We even talked about it. I personally talked about it.

Q. So if somebody who was trying to sell the tapes, they really weren't worth much since everybody --

A. Yeah.

Q. -- knew about them?

A. Yeah, everybody knew about them. I mean, after, after -- you know, after we heard -- I know after I heard, I started talking about it in the neighborhood. And then as you would meet or as I would meet other people, oh, Lisa told me this, Jason told me this, you know, that [Councilman] Chris [Tauzin] called you all some niggers.

Mr. Menard's testimony concerning the tapes and disclosure of the tapes to others in the community was credible.

Chester Cedars St. Martin Parish President and former Parish Attorney

Mr. Cedars was serving as Parish Attorney when the issue of the tapes first surfaced. He became aware of the existence of the tapes which purported to include racial slurs by council members and that the African American Council members were upset. He testified as follows:

Mr. Cormier indicated to me that there had been a former employee that had recorded a conversation with a Council member. And in the course of that conversation, there were a lot of racial slurs made about some of the Council members, some of the, some of the African American and white Council members. There were some derogatory comments made by him, and there was allegations about some misconduct amongst some of the employees in the Public Works Department of the Parish Government.

Mr. Cormier than [sic] said, look, we've got a problem because several portions of that recording -- later I learned it might have been multiple recordings. But any case, Mr. Cormier was concerned because portions of the recording that touched upon racial, defamatory statements had been played to members of the public, including some of the black Council members. And I think some of those Council members had approached Mr. Cormier and, of course, as you would expect, extremely upset about the substance of those tapes. And so he came to me and said, what can we do about it, any suggestions, is there anything we can do to punish, quote, unquote, my words, the Council member for making those comments.

Mr. Cedars testified that as a result of a meeting in executive session of the Council and his meeting with several African American members of the Parish Council he sent a letter to former St. Martin Parish employee Chris Hebert on July 10, 2017⁵, requesting that he provide Cedars with copies of the tape. On or about August 16, 2017, Cedars received a response from Respondent advising that he represented Mr. Hebert in reference to the letter concerning the tapes and further that he would be forwarding a settlement offer for improper firing of Mr. Hebert.⁶

Mr. Cedars confirmed that a lawsuit was filed, settled by the parties, and dismissed with prejudice. No demand for the tapes was made while the suit was pending. Mr. Cedars thought the matter was resolved until he received a November 15, 2018 letter from Respondent referencing his July 10, 2017 letter requesting the tapes from Mr. Hebert.⁷ Mr. Cedars thought the letter was borderline blackmail. When questioned by ODC about the results of releasing the tapes he testified:

⁵ See Exhibit R-4.

⁶ See Exhibits ODC 6 and R-6.

⁷ The letter is Part of the Complaint filed by Mr. Durand and bears bate stamp 0004.

It would have been a very, you know, embarrassing, disgraceful piece of information that would have been shared publicly, no doubt found its way to social media as well. It just wouldn't be a good thing for a governmental entity, particularly one that just a few months earlier had been *under the leadership of a new Parish President, me*. It would have been very disruptive to Parish government affairs. I think that's obvious. [Emphasis added].

The first step Cedars took upon receipt of the letter was to contact the district attorney for the 16th Judicial District and transmit a copy of the letter to him⁸ Mr. Cedars told the District Attorney he thought the letter was extortion or some other criminal offense.

Respondent sent Mr. Cedars a letter on December 1, 2018, which proposed Hebert providing the tapes to St. Martin Parish for \$80,000.00. Prior to this, Mr. Cedars specifically asked Respondent what he wanted. Mr. Cedars testified:

I know I kept asking him before he sent this letter, what is it you want, what is it you want, give me some -- specifically, what are you wanting to negotiate quote, unquote. And then this letter came, and we, we ended up having a conversation right about the time, right after we received this letter.

Mr. Cedars testified that after receiving this letter he told Respondent that he was not interested in the tapes and St. Martin Parish was not going to pay anything. The Parish was not interested in paying Mr. Hebert "one red cent".

On April 22, 2020, post COVID, Mr. Cedars received a follow up letter from Respondent. Within two days of receiving the letter, he contacted the Parish counsel, Mr. Durand, and told him he wanted to file a formal complaint with law enforcement. He also testified that if he did not report Respondent's conduct to ODC, that he would be in violation of the Rules of Professional Responsibility.

He further testified about the anticipated repercussion of the tapes being released to the press post COVID:

We were in very difficult times, and that unfortunate incident with George Floyd, you know, just kind of enhanced that polarization.

⁸ There was no evidence presented of the transmittal of any letter to the District Attorney at that time.

And you can imagine a being in a rural community and, and suddenly tapes with council members, Parish Council members criticizing other Parish Council members and using racial epithets and derogatory statements about people is now made public, it just -- the whole of it and the negative effects just -- I think we all understand that and appreciate that. And I think we all can understand and appreciate that without any hyperbole. To me, I think it's just absolutely obvious of the dangers.⁹But, you know, it is what it is, but that doesn't mean you write a check.

On cross examination, Mr. Cedars confirmed that Respondent's monetary responses to St. Martin Parish were directly in response to Mr. Cedars and/or Parish Attorney Allan Durand's inquiries asking Respondent what Mr. Hebert wanted.

The Committee found Mr. Cedars' testimony mostly credible, but to some extent self-serving and biased by political motivation. The Committee found it odd that upon receipt of the initial letter from Respondent Mr. Cedars would send it to the District Attorney and allege extortion but didn't think it was actionable enough to send to ODC. The Committee believes that the matter went from a non-disclosure agreement to extortion when Mr. Cedar was bothered by Respondent's post COVID follow up. Cedars was dealing with the Pandemic and other issues and simply did not want to deal with Respondent or his client anymore.

Allan Durand-Parish Attorney – Complainant

In 2018, Allan Durand was counsel for St. Martin Parish under Parish President Chester Cedars. Mr. Durand filed the Complaint with the Office of Disciplinary Counsel in consultation with the Parish President, Chester Cedars. Both of these lawyers thought that a violation of the Code of Professional Ethics had been committed and they were required by the Code of Professional Responsibility to report it. (TR p.143) Mr. Durand viewed a November 18, 2018 letter as a request to offer a non-disclosure agreement to the Parish to prevent some transcripts or tape recordings being released to the local news media in Lafayette. Mr. Durand thought the recordings Mr. Hebert had would be released to the news media if a non-disclosure agreement could not be finalized. Durand viewed Respondent's May 15, 2020¹⁰ letter as an offer to sell the tapes to St. Martin Parish for \$150,000.00. He filed the Complaint with ODC on May 26, 202 because he believed that Respondent was engaged in criminal conduct.

Allan Durand testimony:

⁹ For clarification, the complaint against Respondent was filed prior to the George Floyd incident.

¹⁰ The May 20, 2018, was written prior to the George Floyd incident.

When asked what criminal conduct he believed to be transpiring he answered:

Well, at this point, I had become aware that Mr. Hebert had filed a suit in Federal District Court against the Parish alleging that he was fired because of something to do with racial epithets, and that case was settled and dismissed with prejudice in exchange for the St. Martin Parish agreeing not to seek sanctions against Mr. Brumfield in the, in the Federal District Court suit. So at that point, there was no case left to settle. The case has been settled in 2018, I think. So the only conclusion I could draw is that St. Martin Parish Government was being told, give us \$150,000 or we're going to release those tapes.

This illustrates that Durand mistakenly believed that because the federal lawsuit had been settled any post settlement discussion about the tapes equated to extortion. There is no evidence that the tapes were confidential under the terms of the settlement or that as part of the settlement Hebert agreed not to publically release the tapes to the media. Furthermore, the St. Martinville community had already heard and talked about the contents of the recordings.

Regardless, Mr. Durand did have concerns about the tapes being released. He testified:

Well, my concern is that -- what, what the reaction would have been to the fact that a member, an elected member of St. Martin Parish Government was throwing racial epithets around, which is what we had been led to believe was on the tape.

Mr. Durand also thought the tapes could have additional implications:

Well, I'm also the attorney for St. Martin and I'm the development authority, and we were negotiating to bring in a company which eventually came in and built a 77 -- building, building a \$77 million facility to be able to make -- under contract with Ochsner, the Ochsner Hospital System to make all the gloves, all the masks, all the gowns, 17 different items for all the Ochsner Hospitals. And my observation of what happens on the national scene over the last few years is that if, if this -- if the tapes had been played and if there, if there was a St. Martin Parish Councilman using racial epithets, it's seemed to me that that makes, that make you radioactive. And, and, you know, big companies are just -- they're going to stay away. They're going to stay away from you.

When asked about Respondent's post COVID June 9, 2020¹¹ letter Mr. Durand replied,

Well, it -- you know, with all the unrest and, and burning and everything else that was going on around the country, it seemed to me that Mr. Brumfield was, was telling us you ought to -- well, he said we better take it seriously, you know, it's a very sensitive time in America. And, and current circumstances in our country, current outcry around our nation, this would only make things worse. And, you know, he just -- I mean, I guess that's a polite way of saying that, you know, it can happen in St. Martinville, too.

When questioned about when the non-disclosure negotiations with Respondent's client became extortion Mr. Durand replied:

Q. So when did the -- so what manifested a non-disclosure agreement to extortion from -- between 2018 and 2020? Was it the pending contract for economic development?

A. No. No, I mean, it was just George -- if George Floyd had never happened.¹² You know, there was, as I understand, extortion. One of the -- if you, if you threaten to do something that would bring someone -- expose someone to disrepute in exchange for -- you agree not to do it in exchange for money, that's extortion.

The committee reviewed the testimony of Mr. Durand and he was generally credible. Mr. Durand's overall thought process may have been clouded by his political concerns. His testimony that Respondent and/or his client were attempting to extort money from St. Martin Parish was not believable. Mr. Durand admitted that the essence of his negotiations with Respondent on behalf of Mr. Hebert were for a non-disclosure agreement.

Charles Brumfield, Respondent

Respondent assisted Mr. Hebert, a former St. Martin Parish employee with two projects: 1) a civil lawsuit that was already pending for wrongful termination; and 2) negotiating a non-disclosure agreement with St. Martin Parish in connection with racially charged recordings of government officials.

¹¹ The June 9, 2020 letter was written after the Complaint had been filed with ODC and after the George Floyd incident.

¹² For clarification purposes, the George Floyd incident occurred after the complaint was filed alleging extortion.

A. The Lawsuit

Respondent testified that he began to represent Mr. Hebert on June 30, 2017. A federal lawsuit was filed on behalf of Chris Hebert against St. Martin Parish and Guy Cormier by attorney Desherick Boone on July 22, 2017. Respondent enrolled as counsel of record for Mr. Heber on January 3, 2018. After enrolling, Respondent filed an Amended Complaint on behalf of Mr. Hebert alleging employment discrimination and a whistleblower claim. The Complaint and Amended Complaint sought for damages for psychological suffering, loss of earnings and earning capacity, humiliation, and embarrassment as well as emotional distress. The Lawsuit was resolved and the parties entered into a settlement agreement which included a Waiver and Release of Claims.¹³

B. The Non-Disclosure Agreement

St. Martin Parish attorney Chester Cedars sent a letter to Mr. Hebert on or about July 10, 2017 demanding that he turn over a replica of racially charged tape recordings.¹⁴ In an email dated August 16, 2017, the Respondent notified Chester Cedars that he would be representing Mr. Hebert in reference to the letter concerning the tapes and further advised that he would be forwarding settlement demands for the improper firing of Mr. Hebert.

Respondent testified that he sent a letter to Chester Cedars on November 15, 2018, in response to his letter of July 10, 2017. Under examination by ODC the Respondent testified the letter was sent to negotiate an NDA. The testimony is as follows:

Q. Okay. All right. If you'd turn to ODC Exhibit Number 3, page 34. We're going to speed up a couple months. In November, on November 15th, 2018, you forwarded an email to President Cedars - he was now the President of St. Martin Parish Council - and you, you attached a letter. is that correct?

A. That's correct.

Q. All right. And so the letter is not followed directly behind this email. That's going to be in ODC 1, page 4 through 5. This is the letter the email makes reference to; is that correct?

¹³ ODC Exhibit 10, bates 186 – 191.

¹⁴ ODC Exhibit 3, bates 35 – 36.

A. Yes.

Q. The letter references an attached recording that you say demonstrates the former Parish President, employees of the Parish Government, and a councilman knew of behavior that created a racial environment with racial epithets; is that correct?

A. Yes.

Q. And in your letter, you tell the President Cedars that you have several recordings demonstrating this behavior.

A. Yes.

Q. And the behavior that you're talking about, the racial epithets, that was all part of the underlying issue in the federal litigation; was it not?

A. It was, it was -- yes, it was.

Q. Okay. And so in this letter, you state the tapes would have serious implications on current council and any elected official running for office?

A. Yes, I did.

Q. Okay. And these are your words? This isn't a letter that you just signed your name to, this is a letter you drafted and prepared?

A. I drafted it, correct.

Q. And in your letter, you state the client is interested in negotiating terms of an NDA, and you're making the offer before you seek interest from other third parties; do you see that?

A. Yes, I see it.

Respondent believed other entities would have interest in the contents of the tapes as a public concern. Respondent asked Mr. Cedars to discuss his letter at the next board meeting. Respondent received an email from Cedars on December 3, 2018, asking him whether he was stating that if the Parish did not negotiate a non-disclosure agreement that

the tapes would be released to third parties. Respondent testified that he told Cedars he was not saying anything would be released and that was not trying to get anything for his client from the dismissed lawsuit. Respondent saw the Lawsuit and the non-disclosure agreement as two separate things.

Respondent sent a follow up letter to Chester Cedars advising that his client wanted to re-urge his client's offer that St. Martine Parish rejected. On May 15, 2020, Respondent testified that as a result of an email from parish attorney Allen Durand asking what his client had in mind, he sent a letter requesting 150,000.00 to sign a nondisclosure agreement. This figure was based on the damages his client had suffered. Respondent testified that he sent a subsequent letter via email on June 9, 2020¹⁶. ODC solicited testimony from Respondent regarding the June 9, 2020 letter. The testimony is as follows:

Q. What was the sensitive time in America dealing with the cry for equality. What was the sensitive time you were referring to?

A. Probably events going on in 2020.

Q. What, what events?

A. I don't recall. I just know that there were a lot of events going on.

Q. Well, if you don't recall, how do you know there were events going on?

A. Because I wrote it in this letter, so it gives me information that something was going on.

Q. Was it -- were you referring to COVID, because COVID was going on in 2020?

A. I wrote, "As you're aware, we are in a very sensitive time in America dealing with the cry for equality," so it had to be issues around equality.

Q. Equality, race relations, would that be fair to say?

MS. GREEN:

¹⁶ Letter is introduced as R-13 and ODC 4 page 39.

Objection. He answered equality. Equality and race relations are two different terms.

MS. MITCHELL:

I'll rephrase.

BY MS. MITCHELL CONTINUED:

Q. What was the sensitive time in America dealing with the cry for equality?

A. As I told you, I don't remember specifics. The only thing I can tell you is what I have within the confines of this letter.

Respondent also testified that he did not believe and still does not believe that he committed extortion, nor did he advise his client to commit extortion.

Q. Did you think your negotiations of the non-disclosure agreement amounted to extortion? I think I asked that.

A. I did not. And if I believed that it was, I would not have sent the letters.

Q. Would you have sent the emails?

A. I would have, have sent the emails.

Q. Did you counsel Mr. Hebert to commit any crimes?

A. No, I did not.

The Committee reviewed the testimony of Respondent and though the Committee found Respondent was not as forthcoming regarding the contents of his June 9, 2020 letter as to what events he was referring to in the letter, the Committee believes that Respondent forcefully and credibly denied an intent to extort or to advise his client to extort the St. Martin Parish government. The evidence established that his participation in the Lawsuit and later negotiation of a non-disclosure agreement were separate and distinct professional engagements.

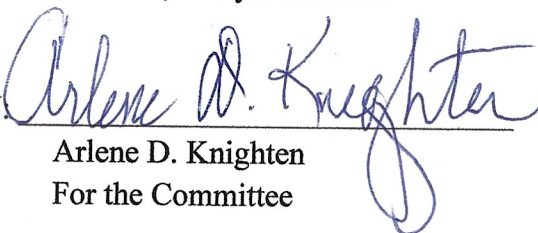
After review of all the exhibits, and the testimony of the parties, the Committee finds that the ODC did not present by clear and convincing evidence that Respondent violated any Rules of Professional Conduct. The committee also found that ODC did not establish that the Respondent committed Extortion as defined by La. R.S. 14:66 nor did Respondent encourage his client to commit extortion. The committee finds that the tapes in question were well known throughout the community and were not a secret. Mr. Menard testified that the community was aware of the tapes and was aware of the racial slurs that were contained in the tapes. In addition, Mr. Chester Cedars testified that he had already advised the Respondent that he did not want the tape and was not going to give him any funds for the tape. He advised the respondent to do what he needed to do with the tape. It was evident from his testimony that he did not feel threatened by Respondent or the tapes. He testified that he would hate to see them released but he was not going to write a check to stop them from being released and he conveyed that sentiment to Respondent. The fact that Respondent kept coming back may have been tiresome or bothersome, but it is clear that the tapes were not a threat.

CONCLUSION

The Committee recommends that the formal charges against Respondent be dismissed. The opinion and recommendation have been reviewed by each committee member two members of the Committee concur and the Public Member has written a separate opinion which is attached hereto.

Louisiana Attorney Disciplinary Board
Hearing Committee # 02

Arlene D. Knighten, Chair
W. Brett Mason, Lawyer Member

BY: 
Arlene D. Knighten
For the Committee

Opinion of Charles Brumfield

September 9, 2023

By Vallan Corbett

Rule 1.2: A lawyer shall not counsel a client to engage in conduct that the lawyer knows is criminal or fraudulent.

Mr. Brumfield's letter of June 9, 2020 to Mr. Durand states: "Mr. Hebert instructed me to attempt negotiations". It is here that Mr. Brumfield makes his mistake. He, as a member of the Louisiana Bar Association, has the responsibility to keep his behavior a good faith effort. Mr. Brumfield may have been warning St. Martin Parish of his client's threats, kind of giving them a heads up without going outside the attorney/client confidence. OR In June, 2020, because of the pandemic, churches were closed and courthouses were closed. These were the two ways Mr. Brumfield made his living. He may in desperation been looking for money. Getting St. Martin Parish to meet his demand of \$150,000 would have been a way of getting money.

There was a lot of discussion about rehiring Mr. Hebert, back pay, benefits. I think that was a guise to introduce the clandestine tapes. Mr. Hebert had already released the tapes to the mechanic of St. Martin Parish and he shared them with his friends. Did Mr. Brumfield know that? Mr. Hebert was not a reliable client, in fact I found him to be mentally unstable while on the witness stand.

There seems to be a combination of things going on at the same time. Why Mr. Brumfield took Mr. Hebert as a client is a mystery, when asked he said he was just trying to help. I couldn't find any money earned by Mr. Brumfield in his representation of Mr. Hebert. In August 2021, Mr. Hebert was informed that Mr. Brumfield "could no longer represent you in this manner".

After the disciplinary complaint was filed against Mr. Brumfield, he had to hire his own attorney to represent him in the complaint. Bottom line, it cost Mr. Brumfield money to have Mr. Hebert as a client.

Using Dane Ciolino's 2022 Louisiana Legal Ethics, page 45-46: Assisting Client with Crime or Fraud: a lawyer cannot knowingly help a client commit a crime or perpetrate a fraud, a lawyer is permitted to discuss the legal consequences of "any" proposed course of conduct that the client may be considering. However, discerning the difference between facilitating unlawful conduct and providing permissible legal advice can be problematic in practice. Whether the lawyer has crossed the line, at least for purposes of professional discipline, can turn on the lawyers intent in

providing the advice in question. A mere suspicion on the part of the lawyer that the client may have such designs should not be enough to warrant discipline.

In April 22, 2020, Mr. Hebert asked Mr. Brumfield to send a letter to the St. Martin Parish President, subject: tapes. This letter stated threats: the tapes will be sent to Office of the Governor, Board of Ethics, NAACP and local media. It went further to say this will be the last communication unless we enter into meaningful negotiations. Mr. Brumfield said Mr. Hebert was seeking closure.

But it wasn't the last communication, there was another veiled threat of "I believe that the current outcry around our nation and the world would only exacerbate the claims that are being alleged and are documented", referring to conversation on the tapes Mr. Hebert was trying to get \$150,000 from the parish.

I believe we all do things we regret, I believe Mr. Brumfield fully understands his poor judgment and has learned a very hard lesson. I find no malice in Mr. Brumfield.

Rule 8.4 Misconduct (a)(b)(c)(d)

It is professional misconduct for a lawyer to violate the Rules of Professional Conduct. Mr. Brumfield was always respectful, he may have had lapses in his communications, but he would usually apologize and give a reason. Mr. Brumfield did not draft the federal lawsuit, but he did work the dismissal. He should have known what was decided in the lawsuit and not readdressed it as his client Mr. Hebert asked him to do. But I don't think that constitutes dishonesty, trustworthiness or fitness as a lawyer. I don't think he ever had action that could be described as dishonest, fraud, deceit or misrepresentation. He wrote a letter but never acted on it. It doesn't even equate to "appearance of impropriety". I don't see any misconduct here.

If I recommended a sanction, it would be an admonition. It would be based on 2.1: I believe Mr. Brumfield should have advised Mr. Hebert about veiled threats and not verbalized them in a letter to the St. Martin Parish. My reason for the admonition is to have something on Mr. Brumfield's record as a lawyer in case there is behavior in the future that is questionable. I don't think Rule 8.4 applies to Mr. Brumfield's actions.

Vallan Corbett, public member