

**ORIGINAL**

Louisiana Attorney Disciplinary Board

FILED by: *Kym H. Amato*

Docket#

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22-DB-058

1/23/2024

**LOUISIANA ATTORNEY DISCIPLINARY BOARD**

**IN RE: GREGORY JAMES SAUZER**

**NUMBER: 22-DB-058**

**RECOMMENDATION TO THE LOUISIANA SUPREME COURT**

**INTRODUCTION**

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This is an attorney discipline matter based upon the filing of formal charges by the Office of Disciplinary Counsel (“ODC”) against Gregory James Sauzer (“Respondent”), Louisiana Bar Roll Number 34972.<sup>1</sup> ODC alleges that Respondent violated the following Rules of Professional Conduct: 8.4(a) (violate or attempt to violate the Rules of Professional Conduct); 8.4(b) (commit a criminal act especially one that reflects adversely on the lawyer’s honesty, trustworthiness or fitness as a lawyer in other respects); and 8.4(c) (engage in conduct involving dishonesty, fraud, deceit or misrepresentation).<sup>2</sup> Prior to and at the outset of the hearing, Respondent admitted to all of the formal charges, including alleged rule violations. Therefore, the hearing proceeded on the sanction issue only. The hearing committee (“Committee”) assigned to the matter recommended that Respondent be suspended for six months, with all but thirty days deferred, and that Respondent be placed on probation for a period of one year.

For the following reasons, the Board adopts the Committee’s factual findings, with the limited revisions and additions suggested herein, and the Committee’s conclusions regarding rule violations. The Board recommends that Respondent be suspended for six months, with all but

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<sup>1</sup> Respondent was admitted to the Louisiana Bar on April 25, 2013. His primary registration address is in New Orleans, LA. Respondent is currently eligible to practice law in Louisiana.

<sup>2</sup> Rule 8.4 provides, 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; ...

thirty days deferred, subject to a one-year period of probation with the conditions set forth herein. Additionally, the Board recommends that Respondent be assessed with the costs and expenses of this matter in accordance with Louisiana Supreme Court Rule XIX, §10.1(A).

### **PROCEDURAL HISTORY**

The formal charges were filed in the present matter on November 14, 2022. The charges state, in pertinent part:

#### **II.**

The Respondent willfully failed to file federal income tax returns for the years 2015, 2016, 2017 and 2018 in violation of Title 26, U.S.C. §7203 and willfully failed to supply information or pay taxes as required by federal law.

#### **III.**

While acknowledging that he failed to file federal income tax returns for any of the years outlined hereinabove, on or about July 21, 2022 and pursuant to a plea agreement with the Government[,] the Respondent entered a guilty plea in the United States District Court for the Eastern District of Louisiana to one count of failing to file federal income tax returns in violation of 26 U.S.C. §7203[.]

#### **IV.**

On Thursday, October 20, 2022 was [sic] sentenced to probation for a term of two (2) years and payment of restitution.

#### **V.**

The Respondent's conduct reflects violations of Rule 8.4(b)—it is a violation for a lawyer to commit a criminal act; Rule 8.4(c)—engaging in conduct involving dishonesty, fraud, deceit or misrepresentation; and Rule 8.4(a)—violate or attempt to violate the Rules of Professional Conduct.

After being granted an extension of time to plead, Respondent answered the formal charges on December 22, 2022. Respondent admitted the factual allegations contained in Paragraphs I through IV and denied the allegations of rule violations contained in Paragraph V. Respondent further averred that there were material issues of fact raised by the pleadings and requested the opportunity to be heard in mitigation.

Respondent filed a pre-hearing memorandum on March 24, 2023. In his memorandum, Respondent admitted that he willfully failed to file federal income tax returns for the years 2015, 2016, 2017, and 2018, that he pleaded guilty to one misdemeanor count of failing to file federal

income tax returns, and that he violated Rules 8.4(a), 8.4(b), and 8.4(c). Respondent's Pre-Hearing Memorandum, pp. 1-2.

The hearing in this matter was held on April 5, 2023, before Hearing Committee No. 23.<sup>3</sup> Chief Disciplinary Counsel Charles B. Plattsmier appeared on behalf of ODC. Respondent appeared pro se. Under questioning by Mr. Plattsmier at the outset of the hearing, Respondent confirmed that he admitted the charged misconduct and rule violations and the hearing proceeded on the issue of sanction. T.11-12. The Committee heard testimony from the following: Respondent; David P. Salley (attorney; Respondent's current employer); and Stephen C. Resor (attorney; Respondent's current employer). ODC's Exhibits ODC 1 through ODC 7 and Respondent's Exhibits R-1 through R-9 were admitted into evidence.

The Committee filed its report on May 2, 2023.

On May 8, 2023, ODC filed an objection to the Committee's sanction recommendation. ODC asserted that the recommended sanction is unduly lenient in view of the Court's jurisprudence in similar matters. ODC filed its brief to the Board in support of its objection on June 30, 2023. ODC argued that the appropriate sanction "squarely within the range imposed by the Court for similar cases is a period of suspension of one (1) year with no more than 6 months deferred followed by a one (1) year period of probation" with additional conditions. ODC Brief, p. 11.

Respondent did not file an objection to the Committee's report. On July 18, 2023, Respondent filed a reply brief in support of the Committee's findings and recommendation.

Oral argument of this matter was held on August 3, 2023, before Board Panel "C."<sup>4</sup>

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<sup>3</sup> Hearing Committee No. 23 was comprised of Jeffrey W. Peters (Committee Chair), Abid M. Hussain (Lawyer Member), and Thomas W. Mitchell (Public Member).

<sup>4</sup> Board Panel "C" was composed of Paula H. Clayton (Chair), Lori A. Waters (Lawyer Member), and Susan P. DesOrmeaux (Public Member).

## HEARING COMMITTEE REPORT

In its report filed on May 2, 2023, the Committee provided a summary of the testimony presented and made findings and conclusions, as follows:

### PROCEDURAL HISTORY

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For the following reasons, the Committee finds that the evidence is clear and convincing that Respondent violated Rules 8.4(a), 8.4(b), and 8.4(c). As a sanction for the Rule violations, the Committee recommends that Respondent be suspended from the practice of law for six months, with all but 30 days deferred, with a one year [sic] probationary period after the active period of suspension.

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### EVIDENCE

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The following witnesses were called to testify by ODC.

- 1) Respondent Gregory Sauzer, in person  
Respondent graduated from Loyola Law School in 2012 and was admitted to the Bar in April, 2013. He began a criminal defense practice with the Regan Law Firm in 2014. In July 2015, he joined the law office of Jason Rogers Williams and Associates. During this time, he was an independent contractor (“a 1099 employee”) for both firms. In July 2019, he left the Williams firm and quit the practice of criminal law.<sup>5</sup> In 2021, he was hired by [Salley], Hite, Mercer & Resor, an insurance defense firm, where he is still employed at the time of the proceeding.  
With respect to the Formal Charges, Respondent admits that he did not file federal or state tax returns for the years 2015, 2016, 2017, and 2018. Respondent pled guilty to one count of failing to file federal tax returns in violation of 26 U.S.C. § 7203. He was sentenced to probation for a term of two (2) years, seventy-five (75) hours of community service, and the payment of restitution.  
Respondent stated that while his failure to file taxes was willful, he was enduring financial, professional, and emotional stress related to issues arising from his practice of criminal law. Respondent stated that he has not been subject to any prior disciplinary action or investigation. Respondent has paid the restitution amounts in full, agreed to cooperate with federal prosecutors in other matters, and complied with the conditions of his probation. He has not completed any of the required community service hours, although he has two years from the date of sentencing to complete that requirement.

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<sup>5</sup> Respondent actually testified that he left the Williams firm in approximately October of 2018. He then worked for another attorney from October 2018 until July 2019, still performing criminal defense work. After this employment, he quit the practice of criminal law. He worked for another firm between October 2019 and May 2021 before going to work for Salley, Hite, Mercer & Resor. T.23-24.

The following witnesses were call by the Respondent:

- 1) David Salley, attorney, partner of Salley, Hite, [Mercer] and Resor  
Mr. Salley is an attorney and partner of Salley, Hite, [Mercer] and Resor, Respondent's current employer. Mr. Salley stated that Respondent has demonstrated high integrity and skills necessary to practice law. Mr. Salley testified at the time Respondent was hired that he did not disclose the potential for criminal matters related to failure to file taxes. Mr. Salley stated that his firm elected to retain Respondent even after learning of the criminal and disciplinary matters because of his exceptional job performance. Mr. Salley stated that if Respondent was subject to any period of suspension, potential harm could arise to his firm and its clients.
- 2) Stephen Resor, attorney, partner of Salley, Hite, [Mercer] and Resor  
Mr. Resor is an attorney and also a partner in the firm which employs Respondent. Mr. Resor stated that Respondent possessed the experience, skills, and integrity to practice law. Mr. Resor expressed some frustration that Respondent did not disclose the criminal investigation at the time of employment, but stated that the firm believed Respondent to be worthy of continued employment. Mr. Resor further stated that Respondent was well received by his clients and handled litigation matters in a competent and professional manner.

#### **FINDINGS OF FACT**

Respondent admitted that his failure to file tax returns for 2015, 2016, 2017, and 2018 violated Rules 8.4(a), 8.4(b), and 8.4(c). The purpose of the hearing was to determine the sanction for Respondent's admitted rule violation. The Committee accepts the admissions of Respondent and further finds that there is clear and convincing evidence to support the Formal Charges for violations of Rules 8.4(a), 8.4(b), and 8.4(c). The Committee further finds:

- 1) Respondent's gross income for 2015 was \$63,400.00, for 2016 was \$38,361.00, for 2017 was \$40,660.00, and for 2018 was \$35,369.00.<sup>6</sup>
- 2) The Committee finds that the failure to file tax returns was dishonest in nature.
- 3) Respondent is not a current public official.
- 4) Respondent has paid the full amount of restitution.
- 5) Based on the testimony of Mr. Salley and Mr. Resor, Respondent has a good professional reputation.
- 6) Respondent has expressed remorse for his actions.
- 7) Respondent has a dishonest or selfish motive in failing to file his tax returns. However, the Committee further finds Respondent's testimony that he was under emotional, professional, and economic stress to be credible.
- 8) Respondent has no prior discipline.

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<sup>6</sup> This finding appears to contain typographical errors in three of the monetary amounts. The gross income for 2015 was \$63,300, not \$63,400.00; for 2016 was \$38,631.00, not \$38,361.00; and for 2018 was \$35,469.00, not \$35,369.00. See Exs. R-3, Line 7; R-4, Line 22; and R-6, Line 6.

## RULES VIOLATED

Respondent admitted to violations of Rules 8.4(a), 8.4(b), and 8.4(c). The record supports clear and convincing evidence of such violations of the Rules.

Committee Report, pp. 1-6.

The Committee further provided the following analysis in support of the recommended sanction:

## SANCTION

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Here, Respondent violated duties owed to public and the profession. He acted willfully by not filing his tax returns. Respondent's misconduct caused actual harm because his taxes were not paid on time and cast the profession in negative light. As discussed above, the following mitigating factors are supported by the record: timely good faith effort to make restitution, good character and reputation, remorse, personal problems, and absence of a prior disciplinary record. The only aggravating factor present is Respondent's dishonest motive in failing to file his tax returns.

The *ABA Standards for Imposing Lawyer Sanctions* suggest that suspension is the baseline sanction for Respondent's misconduct. See Standard 5.12. The ABA standards provide a framework for analyzing the conduct of the lawyer subject to sanction, taking into account the lawyer's state of mind, prior disciplinary history, and any mitigating or aggravating factors.

The Louisiana Supreme Court provided the framework to consider sanctions for failing to file tax returns. *In re: Harvey Wayne Cook*, 2010-B-0092, 33 So.3d 155 (La 4/16/2010). The factors to consider are: 1) whether there is pattern of failure to file over a number of years; 2) the amount of money involved; 3) whether Respondent's actions were selfish or dishonest in nature; and 4) whether the Respondent is a public official. In this matter, Respondent failed to file tax returns for four consecutive years, which indicates a pattern of misconduct. Respondent's income and taxes during the period when he failed to file tax returns was substantially less than the amount in *Cook* and other cases. Respondent's actions were dishonest or selfish. However, those motives were mitigated by personal, professional, and economic pressure. Respondent is not a public official.

The Committee found the testimony of Mr. Salley and Mr. Resor compelling. The fact that the firm continued the employment and allowed Respondent greater responsibilities after learning of the criminal investigation and disciplinary action speaks to Respondent's competence and character. The Committee commends this action as a grace note in what has become a too often a brutal and harsh profession. [FN3]

[FN3] However, the Committee did not consider any potential hardships to the firm that might result from Respondent's suspension to be a mitigating factor. Much like the criminal penalties resulting from Respondent's plea, there are additional consequences which flow from disciplinary action. We

also note Respondent could work in a non-lawyer capacity during the period of actual suspension.]

### **CONCLUSION**

Considering all the factors of this case and analysis of the applicable case law, the Committee recommends a six-month suspension from the practice of law with all but thirty (30) days deferred. [FN4] The Committee further recommends that Respondent be placed on probation for a period of one year. Any misconduct during the probationary period will result in activation of the deferred suspension, in addition to any additional sanction for future misconduct.

[FN4] The Committee strongly suggests Respondent use this period of actual suspension to complete the require[d] community service hours as ordered by the plea agreement.]

This opinion is unanimous and has been reviewed by each committee member, who fully concur ...

Committee Report, pp. 6-8.

### **ANALYSIS OF THE RECORD BEFORE THE BOARD**

#### **I. Standard of Review**

The powers and duties of the Disciplinary Board are defined in §2 of Louisiana Supreme Court Rule XIX. Rule XIX, §2(G)(2)(a) states that the Board is “to perform appellate review functions, consisting of review of the findings of fact, conclusions of law and recommendations of hearing committees with respect to formal charges, and petitions for reinstatement and readmission, and prepare and forward to the court its own findings, if any, and recommendations ...” Inasmuch as the Board is serving in an appellate capacity, the standard of review applied to findings of fact is that of “manifest error.” *Arceneaux v. Domingue*, 365 So. 2d 1330 (La. 1978); *Rosell v. ESCO*, 549 So. 2d 840 (La. 1989). The Board conducts a *de novo* review of the hearing committee’s application of the Rules of Professional Conduct. *In re Hill*, 90-DB-004, Recommendation of the Louisiana Attorney Disciplinary Board (1/22/92).

#### **A. The Manifest Error Inquiry**

Respondent has admitted and the record supports the factual allegations of the formal charges that Respondent willfully failed to file federal income tax returns and to pay taxes for the

years 2015, 2016, 2017, and 2018; that Respondent pleaded guilty in the United States District Court for the Eastern District of Louisiana to one count of failing to file federal income tax return in violation of 26 U.S.C. §7203; and that Respondent was sentenced to probation for a term of two years and ordered to pay restitution.

Additionally, the factual findings of the Committee, enumerated in its report as numbers 1 through 8, do not appear to be manifestly erroneous, are supported by the record, and are adopted by the Board with the following limited revisions and additions.

Finding Nos. 1, 3, and 4 are amended to read as follows:

1) Respondent's gross income for 2015 was \$63,300.00, for 2016 was \$38,631.00, for 2017 was \$40,660.00, and for 2018 was \$35,469.00.<sup>7</sup> Respondent's gross income for the four years totaled \$178,060.00.

3) Respondent is not a current or former public official.

4) Respondent has paid the full amount (\$28,863.00) of restitution ordered by the federal court in the criminal proceeding.

The Board further makes the following additional findings of fact:

9) Respondent's actual federal tax liability, not including penalties and interest, for 2015 was \$13,273.00, for 2016 was \$8,613.00, for 2017 was \$9,160.00, and for 2018 was \$5,220.00. The total for the four years was \$36,266.00. Ex. R-7.

10) Respondent had paid all federal taxes, penalties, interest, and restitution at issue prior to the hearing in this matter. T.17-19; Ex. R-7.

11) As a special condition of supervision in connection with his criminal probation, Respondent was ordered to perform 75 hours of unpaid community service, as directed by the United States Probation Officer, during the two-year probation period. T.21-22; Ex. R-1.

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<sup>7</sup> The amendment to this finding corrects the typographical errors in the monetary amounts mentioned in the preceding footnote.



## **B. De Novo Review**

Respondent admitted in his pre-hearing memorandum and under oath at the hearing that he violated Rules 8.4(a), 8.4(b), and 8.4(c) as charged. *See* Respondent Pre-Hearing Memorandum, p. 1; T.11-12. Effect must be given to stipulations of the parties regarding rule violations. *In re Webre*, 2017-1861 (La. 1/12/18), 318 So.3d 667; *In Re Torry*, 2010-837 (La. 10/19/10), 48 So. 3d 1038.

## **II. The Appropriate Sanction**

### **A. Rule XIX, §10(C) Factors**

Louisiana Supreme Court Rule XIX, §10(C) states that when 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 his misconduct, Respondent violated duties owed to the public and the profession. His conduct was knowing and willful. He caused harm to the government in violating the system of truthful disclosure of income and in delaying tax payments and his criminal behavior reflects adversely on the profession as a whole.

Aggravating factors under Standard 9.22 of the *ABA Standards for Imposing Lawyer Sanctions* include pattern of misconduct; illegal conduct; and dishonest or selfish motive.<sup>8</sup> Mitigating factors under Standard 9.32 of the *ABA Standards* include absence of a prior

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<sup>8</sup> ODC argued in its brief that there is an inconsistency in the Committee's mitigating finding of personal, professional and economic pressure and its aggravating finding of a dishonest motive. The Board disagrees with ODC. The Board concurs in the Committee's finding that Respondent's testimony that he was under emotional, professional, and economic stress was credible and accepts that these stresses led to his misconduct. *In re Pryor*, 2015-0243 (La. 9/1/15), 179 So.3d 566, 570; *In re Bolton*, 02-0257 (La. 6/21/02), 820 So.2d 548, 553 (The Court gives great deference to the credibility evaluations made by committee members who were present during the testimony and "who act as the eyes and ears" of the Court.).

disciplinary record; personal or emotional problems; timely good faith effort to make restitution or to rectify consequences of misconduct; full and free disclosure to disciplinary board or cooperative attitude toward the proceedings; inexperience in the practice of law; character or reputation; imposition of other penalties or sanctions; and remorse.

#### **B. The ABA Standards and Case Law**

Standard 5.12 of the *ABA Standards* and the jurisprudence reflect that suspension is the baseline sanction for Respondent's misconduct. Standard 5.12 provides:

5.12 Suspension is generally appropriate when a lawyer knowingly engages in criminal conduct which does not contain the elements listed in Standard 5.11 and that seriously adversely reflects on the lawyer's fitness to practice.<sup>9</sup>

Further, in disciplinary matters arising from conviction for misdemeanor failure to file tax returns, the jurisprudence supports a sanction of a suspension in the range of six months to two years, all or part of which may be deferred. *In re Thomas*, 2010-0593 (La. 6/25/10), 38 So.3d 248, n.6; and *In re Cook*, 2010-0092 (La. 4/16/10), 33 So.3d 155.

In *Cook*, the Court provided the following helpful review of the jurisprudence related to disciplinary matters arising from convictions for misdemeanor failure to file tax returns and instruction regarding the four principal factors to be applied in determining the sanction to be imposed:

Prior to 1997, we typically imposed fully-deferred suspensions on attorneys convicted of the misdemeanor offense of failure to file tax returns. [FN3] *See, e.g., In re: Early*, 93-2973 (La.1/7/94), 628 So.2d 1131 (six-month suspension, deferred, with probation for one year, for misdemeanor conviction of willful failure to file income tax returns); *In re: Ellerman*, 626 So.2d 1188 (La.1993) (two-year

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<sup>9</sup> Standard 5.11 provides: Disbarment is generally appropriate when:

(a) a lawyer engages in serious criminal conduct a necessary element of which includes intentional interference with the administration of justice, false swearing, misrepresentation, fraud, extortion, misappropriation, or theft; or the sale, distribution or importation of controlled substances; or the intentional killing of another; or an attempt or conspiracy or solicitation of another to commit any of these offenses; or  
(b) a lawyer engages in any other intentional conduct involving dishonesty, fraud, deceit, or misrepresentation that seriously adversely reflects on the lawyer's fitness to practice.

suspension, deferred, based on misdemeanor conviction of four counts of willful failure to file income tax returns).

[FN3 At the outset, we distinguish cases involving misdemeanor failure to file tax returns from cases in which the lawyer is convicted of more serious crimes such as tax evasion or filing false returns. In these cases, this court has consistently imposed actual suspensions. *See, e.g., Louisiana State Bar Association v. O'Halloran*, 412 So.2d 523 (La.1982); *Louisiana State Bar Association v. Ponder*, 340 So.2d 134 (La.1976).]

We departed from this jurisprudence in *In re: Huckaby*, 96–2643 (La.5/20/97), 694 So.2d 906, in which we imposed a one-year suspension, with six months deferred (resulting in a six-month actual suspension), on an attorney and former judge convicted of misdemeanor failure to file income tax returns. The *Huckaby* court acknowledged Louisiana had never previously imposed an actual period of suspension in a disciplinary case arising from a conviction for misdemeanor failure to file. *Id.* at p. 3, 694 So.2d at 907, fn. 2. Nonetheless, the *Huckaby* court found an actual period of suspension was warranted under the facts presented:

Based upon our review of the record, we agree with disciplinary counsel that the facts of this case warrant a greater sanction than that recommended by the disciplinary board. We find that several aggravating factors are present in this case. First, respondent's actions occurred over a number of years, demonstrating a pattern of misconduct. Although respondent only pled guilty to one count of violating 26 U.S.C. § 7203, based on his failure to file a federal income tax return for 1987, the presentencing investigation from the federal court revealed that respondent had also failed to file his tax returns in a prompt fashion for twelve other years. Secondly, the very nature of respondent's actions, which the federal court found to be intentional and willful, indicates a selfish or dishonest motive on the part of respondent. Finally, we feel that respondent's substantial experience in the practice of law, combined with the fact that he held the office of district judge, requires that he should be held to even a higher standard of conduct than an ordinary attorney.

In imposing discipline, we are mindful that respondent has been punished for his conduct, in that he has served a one year jail sentence and was removed from office by this court. Nonetheless, we believe that an actual period of suspension is justified under the circumstances. Therefore, we conclude that a one year suspension from the practice of law, with six months of the suspension being deferred, and a two year period of supervised probation subject to the conditions recommended by the disciplinary board, is an appropriate sanction in this matter.

*Id.* at p. 2, 694 So.2d at 907 [footnotes omitted].

Following the rendition of *Huckaby* in 1997, we addressed several other disciplinary cases involving lawyers who were convicted of misdemeanor failure

to file income tax returns. In each of these cases, we imposed suspensions ranging from one year to eighteen months, with some period of the suspension deferred. *See, e.g., In re: Stout*, 97–0217 (La.5/20/97), 694 So.2d 908 (eighteen-month suspension, with six months deferred, imposed on an attorney and former city court judge who failed to file timely tax returns for a total of eight years and still owed a substantial sum in tax liability); *In re: Thomas*, 97–0881 (La.10/10/97), 700 So.2d 490 (fifteen-month suspension, with all but nine months deferred, imposed on an attorney who served on a public board and had a prior disciplinary record, who was convicted of failing to file tax returns for two years and was ordered to pay more than \$100,000 in restitution for unpaid taxes); *In re: Shealy*, 97–0835 (La.10/10/97), 700 So.2d 488 (one-year suspension, with all but six months deferred, imposed on an attorney who was a member of the school board, who was convicted of failing to file a tax return for one year and was ordered to pay nearly \$30,000 in restitution for unpaid taxes); *In re: Rodney*, 08–2318 (La.10/31/08), 993 So.2d 218 (one-year suspension, with six months deferred, by consent, imposed on an attorney who failed to file an income tax return timely, despite receiving an extension).

Considering this jurisprudence as a whole, we conclude the discipline imposed in similar cases has been in the form of suspensions from the practice of law ranging from six months to two years, all or part of which may be deferred. In distilling a common thread from the cases, we find four principal factors [FN4] have influenced our decisions regarding sanctions in this area: (1) whether there is a pattern of failure to file over a number of years; (2) the amount of money involved; (3) whether the respondent's actions were selfish or dishonest in nature; and (4) whether respondent is held to a higher standard as a result of having a position as a public official. [FN5]

[FN4] We acknowledge some of these factors overlap the general aggravating and mitigating factors listed in the ABA's *Standards for Imposing Lawyer Sanctions*. However, we find the enumerated factors have particular relevance in the context of determining discipline for lawyers convicted of misdemeanor failure to file tax returns and should be weighted accordingly.]

[FN5] In addition to *Huckaby*, the cases of *Stout*, *Thomas* and *Shealy* all involved attorneys who served as public officials.]

*In re Cook*, 33 So.3d at 159-161.

The respondent in *Cook* failed to file tax returns for two years. His combined gross income for the two years was \$277,243.00. The respondent pleaded guilty to two counts of misdemeanor failure to file a tax return and was sentenced to five years of supervised probation on each count to run concurrently. As a special condition of his probation, Mr. Cook was placed on home detention for a period of twelve months. In the criminal proceeding, he was also ordered to pay

restitution in the amount of \$121,233.00, an assessment in the amount of \$50.00, and prosecutorial costs in the amount of \$1,704.00. In her statement of reasons, the federal judge commented that it appeared that Mr. Cook's actions were not motivated by greed or other selfish motives but related to a period of financial pressure and problems due to family matters. Mr. Cook was not a public official. In the disciplinary proceeding, the Court imposed a six-month suspension, with three months deferred, subject to a one-year period of supervised probation.

Considering *Cook* and other jurisprudence involving lawyers who have pleaded guilty to charges of misdemeanor failure to file a tax return, the Committee's recommendation of a six-month suspension, with all but thirty days deferred, does not appear to be unreasonable. It is acknowledged that Respondent here failed to file a tax return for four years as opposed to two years in *Cook*. However, Mr. Cook's total gross income in those two years was approximately \$100,000.00 higher than Respondent's total gross income in four years. Additionally, Mr. Cook had been practicing approximately ten years at the time his misconduct began while Respondent had been practicing only three years. Respondent was a young practitioner working as a contract employee, without the benefit of more structured W-2 employment. His earnings during most of the years in question were fairly modest and it appears that he became overwhelmed by day-to-day financial demands and the stress of his work. Considering these circumstances, his complete cooperation with the federal government in his and other criminal proceedings, and the numerous mitigating factors in this matter, including his complete cooperation in the disciplinary process, the Committee's recommended sanction of a six-month suspension, with all but thirty days deferred, appears to be appropriate.

Further, the circumstances surrounding Respondent's misconduct here are much less egregious than the other cases cited by ODC in which more significant active suspension periods

were imposed. As examples, in *In re Huckaby*, 96-2643 (La. 5/20/97), 694 So.2d 906 (one-year suspension, with six months deferred and two-year probationary period with conditions), the respondent failed to file tax returns for thirteen years, had substantial experience in the practice of law, held the office of district judge, and apparently had not satisfied all of his tax obligations, including penalties and interest, at the time of the Court's decision. In *In re Thomas*, 97-0881 (La. 10/10/97), 700 So.2d 490 (fifteen-month suspension, with all but nine months deferred and two-year probationary period with conditions), the respondent failed to file tax returns and pay taxes for four years (the tax liability totaled over \$100,000.00) and had a prior disciplinary record. The record also included evidence that the respondent served as Chairman of the Madison Parish Port Commission and counsel to the Superintendent of Education at the time of his offense. The respondent in *In re Stout*, 97-0217 (La. 5/20/97), 694 So.2d 908 (eighteen-month suspension, with six months deferred and two-year probationary period with conditions), failed to file returns for eight years, had substantial experience in the practice of law, was a former city court judge for twenty years, and had not yet satisfied all of his tax obligations at the time of the Court's decision. In *In re Shealy*, 97-0835 (La. 10/10/97), 700 So.2d 488 (twelve-month suspension, with all but six months deferred and two-year probationary period with conditions), the respondent failed to file returns for eight years, had substantial experience in the practice of law, and was a member of the Lincoln Parish School Board, counsel for the Lincoln Parish Police Jury, and an Assistant District Attorney for the parish.

### **CONCLUSION**

Considering the above, the Board adopts the Committee's factual findings, with the limited revisions and additions set forth herein, and the Committee's conclusions regarding rule violations.

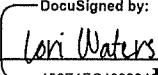
The Board concludes that that Respondent should be suspended for six months, with all but thirty days deferred, subject to the following conditions:

- (1) Upon completion of the active suspension, Respondent shall be subject to a one-year period of probation; and
- (2) Any failure of Respondent to comply with the conditions of probation or any misconduct by Respondent during the period from the date of the Court's imposition of sanction through completion of his probationary period will be grounds for making the deferred suspension executory or imposing additional discipline, as appropriate.

The Board further recommends that Respondent be assessed with the costs and expenses of these proceedings in accordance with Louisiana Supreme Court Rule XIX, §10.1(A).

**LOUISIANA ATTORNEY DISCIPLINARY BOARD**

**R. Alan Breithaupt  
Paula H. Clayton  
Todd S. Clemons  
Susan P. DesOrmeaux  
Ronald J. Miciotto  
M. Todd Richard**

By:  **Lori A. Waters**  
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**FOR THE ADJUDICATIVE COMMITTEE**

**Albert R. Dennis III - Concurs with reason.  
James B. Letten - Dissents with reason.**

**LOUISIANA ATTORNEY DISCIPLINARY BOARD**

**IN RE: GREGORY JAMES SAUZER**

**DOCKET NO. 22-DB-058**

**CONCURRENCE**

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I concur in the Recommendation of the Board and would additionally recommend that Respondent be required to complete the community service ordered in the federal criminal proceeding by the end of the active suspension period recommended by the Board.

**LOUISIANA ATTORNEY DISCIPLINARY BOARD  
ADJUDICATIVE COMMITTEE**

By: \_\_\_\_\_



**ALBERT R. DENNIS III**  
**Adjudicative Committee Member**



**LOUISIANA ATTORNEY DISCIPLINARY BOARD**

**IN RE: GREGORY JAMES SAUZER**

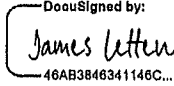
**DOCKET NO. 22-DB-058**

**DISSENT**

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Considering the fact that the Respondent's failures to file income tax returns were not isolated but rather formed a pattern of intentional violations--resulting in a criminal conviction and evidencing a dishonest motive and intent--I feel strongly that the recommended suspension with all but 30 days deferred is too lenient and is a disincentive to attorneys to adhere to the law and the most basic ethical standards. I most respectfully disagree with and therefore, dissent from the Board's recommended sanction.

**LOUISIANA ATTORNEY DISCIPLINARY BOARD**

By:  \_\_\_\_\_  
**James B. Letten**  
**Adjudicative Committee Member**