

LOUISIANA ATTORNEY DISCIPLINARY BOARD

IN RE: TRINA TRINH THI CHU

DOCKET NUMBER: 20-DB-053

RECOMMENDATION TO THE LOUISIANA SUPREME COURT



INTRODUCTION

This attorney discipline matter arises out of formal charges filed by the Office of Disciplinary Counsel (“ODC”) against Trina Trinhthi Chu (“Respondent”), Louisiana Bar Roll Number 28531.¹ ODC alleges that Respondent violated the following Rules of Professional Conduct: 3.5(a) (seek to influence a judge or other official by means prohibited by law); 3.5(b) (communicate *ex parte* with a person during the proceeding unless authorized to do so by law or court order); 3.5(d) (engage in conduct intended to disrupt a tribunal); 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); 8.4(c) (engage in conduct involving dishonesty, fraud, deceit or misrepresentation); 8.4(d) (engage in conduct prejudicial to the administration of justice); and 8.4(e) (state or imply an ability to influence improperly a judge, judicial officer, government agency or official to achieve results by means that violate the Rules of Professional Conduct or other law).²

PROCEDURAL HISTORY

On August 17, 2018, ODC received a complaint against Respondent from Second Circuit Court of Appeal Judges Henry N. Brown, Jr., Felicia Toney Williams, D. Milton Moore III, Frances

¹ Respondent is currently interimly suspended from the practice of law. *In re Chu*, 2020-B-01012 (La. 10/7/20), 302 So.3d 1102, *rehearing denied*, 2020-01012 (La. 10/9/20), 302 So.3d 1125.

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

J. Pitman, Jeanette G. Garrett, Shonda Stone, Jeffrey “Jeff” Cox, James M. “Jimbo” Stephens, and Jay B. McCullum. Also joining the complaint were Second Circuit employees Lillian Evans Richie, Clerk of Court/Judicial Administrator, and Jennifer L. Brown, Administrative General Counsel/Law Clerk to (then) Chief Judge Brown (“AGC Brown”). The matter was opened for investigation as ODC 0037039. Respondent was placed on notice of the complaint and, on November 30, 2018, submitted an initial response to the complaint.

On August 14, 2020, ODC filed with the Louisiana Supreme Court (“the Court”) an Emergency Petition for Immediate Transfer to Interim Suspension Status for Threat of Harm and for Curator Appointment Pursuant to Rule XIX, Sections 19.2 and 27. On August 17, 2020, ODC was notified that the Court had issued its order suspending Respondent from the practice of law on an interim basis for threat of harm pursuant to Rule XIX, Section 19.2, pending further orders of the Court.³ The Court’s order was effective immediately. *See* Rule XIX, Section 26(E).

On August 17, 2020, ODC received Respondent’s Motion to Dissolve Interim Suspension, and ODC timely submitted its response in opposition. Respondent, in turn, submitted a reply to ODC’s response. On August 21, 2020, the Court issued its order, therein vacating its August 17, 2020 order, converting Respondent’s motion to dissolve into a motion for reconsideration, and remanding the matter for an expedited hearing so that Respondent could show cause why she should not be placed on immediate interim suspension for threat of harm. The interim suspension hearing was held on September 8, 2020.

³ Rule XIX, Section 19.2A, states, in pertinent part:

Upon receipt of sufficient evidence demonstrating that a lawyer subject to the disciplinary jurisdiction of this court has committed a violation of the Rules of Professional Conduct or is under a disability as herein defined and poses a substantial threat of serious harm to the public, disciplinary counsel shall: (i) transmit the evidence to the court together with a proposed order for interim suspension[.]

The hearing committee which heard the interim suspension matter issued its report on September 25, 2020, recommending that Respondent be intermily suspended for threat of harm, and on October 7, 2020, the Court issued its order suspending Respondent from the practice of law on an interim basis pursuant to Rule XIX, Section 19.2 (threat of harm). *In re Chu*, 2020-B-01012 (La. 10/7/20), 302 So.3d 1102, *rehearing denied*, 2020-01012 (La. 10/9/20), 302 So.3d 1125.

On November 2, 2020 ODC filed formal charges against the Respondent. On November 5, 2020, the Louisiana Attorney Disciplinary Board (“LADB” or “the Board”) sent Respondent notice of the formal charges, and on November 25, 2020, Respondent filed her answer to the formal charges. The same day, Respondent filed a Motion to Appoint Hearing Committee and Hold Hearing on Formal Charges Outside the Boundaries of the First Judicial District and the Second Circuit Court of Appeal. ODC submitted an opposition, and Respondent submitted a reply. Respondent’s motion was denied.

On December 9, 2020 Respondent forwarded to the Board a Motion to Stay Pursuant to Rule XIX, Section 18(G).⁴ ODC did not oppose the motion, and the motion was granted on December 16, 2020.

On October 24, 2022, Respondent entered a *nolo contendere* plea to a misdemeanor charge under La. Rev. Stat. 14:73.2 A(2), B(1).⁵ Respondent’s conviction is conclusive proof of her guilt. Rule XIX, Section 19(E).

⁴ Rule XIX, Section 18(G) states:

Upon a showing of good cause to the board or to the hearing committee chair assigned to the matter after formal charges have been filed and prior to the hearing on the formal charges, the processing of a disciplinary matter may be stayed because of substantial similarity to the material allegations of pending criminal or civil litigation or disciplinary action.

⁵ This statute provides, in pertinent part, as follows:

Section 73.2. Offenses against intellectual property

- A. An offense against intellectual property is the intentional:
... (2) Disclosure, use, copying, taking, or accessing, without consent, of intellectual property.

On December 2, 2022, ODC filed a Motion to Lift Stay. The motion was unopposed, and on January 12, 2023, the motion was granted, and the stay was lifted. The disciplinary hearing was held before Hearing Committee No. 4 (“the Committee”) on June 9, 2023.⁶ On July 31, 2023, the Committee filed its report with the Board. The Committee found the evidence clear and convincing that, as a matter of law, Respondent violated Rules 3.5(b), 8.4(a), 8.4(b), 8.4(c), and 8.4(d). The Committee did not find clear and convincing evidence that Respondent violated Rules 3.5(a) 3.5(d), and 8.4(e). The Committee recommended that Respondent be disbarred from the practice of law and assessed costs and expenses in accordance with Rule XIX, Section 10.1. Both Respondent and ODC objected to the Committee’s report on August 18, 2023. Respondent argues that the sanction of disbarment is too harsh. ODC argues that the sanction of disbarment is too lenient, and that the sanction of permanent disbarment should be imposed, as the Respondent’s misconduct involves the intentional corruption of the judicial process.⁷

ODC’s pre-argument brief was filed on October 2, 2023, and Respondent’s Board brief was filed the same date.⁸ Oral argument before Panel “B” of the Disciplinary Board was held on Thursday, November 2, 2023.⁹ Susan C. Kalmbach appeared on behalf of ODC. Karen Green appeared on behalf of Respondent, who was also present.

B. (1) Whoever commits an offense against intellectual property shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both, for commission of the offense.

⁶ Members of the Committee included Jeffrey L. Little (Chair), Sarah R. Giglio (Lawyer Member), and Melinda G. Schimberg (Public Member).

⁷ ODC relies on Permanent Disbarment Guideline 2, which states that permanent disbarment may be warranted in the following circumstance:

GUIDELINE 2: Intentional corruption of the judicial process, including but not limited to bribery, perjury, or subornation of perjury.
Rule XIX, Appendix D.

⁸ In Respondent’s Board brief, she argues that any sanction in excess of a three-year suspension is too harsh and that any suspension imposed should be fully deferred.

⁹ Members of Panel “B” included James B. Letten (Chair), Todd S. Clemons (Lawyer Member), and M. Todd Richard (Public Member).

FORMAL CHARGES

The formal charges read, in pertinent part:

On or about August 17, 2018, the ODC received a complaint against Respondent. The matter was opened for investigation as ODC 0037039, and Respondent was placed on notice.

The ODC investigation reveals that between February and August of 2018, Respondent was an employee of the Louisiana Second Circuit Court of Appeal ("Second Circuit") and serving as a judicial law clerk to then-Chief Judge Henry N. Brown, Jr. ("H. Brown"). During that period, two matters were pending at the Second Circuit involving litigant Hanh T. Williams ("H. Williams"): (1) *Succession of Houston*, 52,181-CA; and (2) *Succession of Houston*, 52,300-CW. H. Williams is a personal friend of H. Brown and of Respondent. H. Brown was recused in both matters, and Respondent knew that H. Brown was recused.

While employed at the Second Circuit, Respondent knowingly and intentionally corrupted the judicial process by surreptitiously collecting confidential court information and court records, including confidential court information and court records pertaining to H. Williams's pending matters. Respondent emailed the confidential court information and court records to her private email, to H. Williams, and to others. Respondent also saved confidential court information and court records to a personal flash drive, which never was recovered. Respondent conducted legal research and drafted pleadings, memoranda, and correspondence with the intention that the pleadings, memoranda, and correspondence would be filed on behalf of H. Williams with the Second Circuit under another attorney's signature. In perpetrating this extensive fraud on the court, Respondent used State resources that included a court-provided computer, copier, paper, and Westlaw subscription.

On October 22, 2020, a Bill of Information was filed charging that on or about and between the dates of February 1, 2018, and August 16, 2018, Respondent committed the offenses of:

MALFEASANCE IN OFFICE AS DEFINED BY LA. R.S. 14:134A(2)

(3 COUNTS)

AND

**OFFENSES AGAINST INTELLECTUAL PROPERTY AS DEFINED BY
LA. R.S. 14:73.2A(2) (1 COUNT)**

in that SHE

COUNT 1: did intentionally perform her duties in an unlawful manner while being employed as a public employee with the State of Louisiana Second Circuit Court of Appeal;

COUNT 2: did intentionally perform her duties in an unlawful manner while being employed as a public employee with the State of Louisiana Second Circuit Court of Appeal;

COUNT 3: did intentionally perform her duties in an unlawful manner while being employed as a public employee with the State of Louisiana Second Circuit Court of Appeal;

COUNT 4: did intentionally disclose, use, copy, take, or access, without consent, intellectual property defined in La. R.S. 14:73.1(10), when the damage or loss amounted to a value of \$500.00 dollars or more.

State v. Chu, 377,861, 1st J.D.C., Parish of Caddo.

The ODC respectfully submits that there is clear and convincing evidence that Respondent, TRINA TRINH THI CHU, a Louisiana-licensed attorney, has violated the Rules of Professional Conduct, Rules 3.5(a) (seek to influence a judge or other official by means prohibited by law); 3.5(b) (communicate *ex parte* with a person during the proceeding unless authorized to do so by law or court order); 3.5(d) (engage in conduct intended to disrupt a tribunal); 8.4(a) (violate or attempt to violate Rules of Professional Conduct); 8.4(b) (commit a criminal act especially one that reflects adversely on the lawyer's honest[y], trustworthiness or fitness as a lawyer in other respects); 8.4(c) (engage in conduct involving dishonesty, fraud, deceit or misrepresentation); 8.4(d) (engage in conduct prejudicial to the administration of justice); and 8.4(e) (state or imply an ability to influence improperly a judge, judicial officer, government agency or official to achieve results by means that violate the Rules of Professional Conduct or other law). *See also* La. S. Ct. Rule XIX, Appendix D, Guideline 2 (intentional corruption of the judicial process).

THE HEARING COMMITTEE'S REPORT

In its July 31, 2023 report, the Committee issued the following summary of the evidence introduced at the hearing.

EVIDENCE

Exhibits were introduced as shown on [an attached appendix to the report]. The following witnesses were called:

TRINA CHU (on cross)

ODC called Respondent, Trina Chu on cross. Respondent acknowledged her employment as Judge Brown's law clerk at the Second Circuit from February to August of 2018. She acknowledged her arrest and *nolo contendere* plea to a violation of La. R.S. 14:73.2 and her interim suspension.

Respondent called the following witnesses:

JUDGE HENRY N. BROWN, JR.

Judge Henry N. Brown, Jr. testified he hired Respondent and was the Judge she worked with directly at the Second Circuit Court of Appeal before his retirement as Chief Judge.

The Committee notes his distinguished career on the bench for almost 30 years and service as the District Attorney in Bossier Parish for 21 years before that. Judge Brown acknowledged he hired Respondent as a law clerk because he was impressed with her credentials and to help her build her resume'. Judge Brown related his memory of the events surrounding the discovery that Respondent had accessed confidential information and the circumstances surrounding her firing or resignation. [fn3] Some of Respondent's evidence concerns whether she was fired or resigned. This committee does not need to make any finding on this issue for our purposes.

Judge Brown had recused himself from the case involving Hanh Williams, who was, at that time, Respondent's and Judge Brown's mutual friend, and now is his wife. Judge Brown testified that he did not discuss the case with Respondent and felt that Respondent was not in any position to influence any other Judges on the court on that case. He was not familiar with exactly what information Respondent was accused of taking (Transcript page 52, line 17; page 62, line 8).

Judge Brown testified to his relationship with Respondent's husband, who was his doctor and to Respondent's character and good work ethic. Judge Brown also explained the circumstances which led to him feeling coerced into signing the Disciplinary Complaint against Respondent. He agreed with ODC counsel that the Pre Argument Memorandum and Distribution sheet is not information which is publicly available or sent to the public, or to lawyers/parties to the case (Transcript pages 65-66).

SERGEANT DOUG SMITH

Sergeant Doug Smith, is a 21 year veteran of the Caddo Parish Sheriff's office, and was a credible witness. Smith investigated the underlying criminal complaint and had administratively closed the case in June 2019 [Respondent Exhibit 4]. Months later his superiors reviewed the file and the case was reopened resulting in charges. This was an unusual chain of events. Smith testified about the

Forensic Examination Report (ODC Exhibit 75) of Respondent's computer which showed emails transmitting information from Respondent to Hahn Williams. This information included the circulation sheet, pre-argument memorandum, research, and drafts of pleadings related to the pending case.

DR. GAZI B. ZIBARI

Dr. Zibari, is a Professor of Surgery at LSU Medical School, who met Respondent through her husband. He testified to Respondent's character and "big heart" citing her work with indigent clients and immigrants. He was credible.

ROY "HAL" HAROLD ODOM, JR.

Odom is a Senior Research Attorney at the Second Circuit Court of Appeal. He testified that prior to the incident involving Respondent, there was no actual policy prohibiting looking at shared folders on [the] network. He was credible.

MEGAIL DENISE PARSONS

Ms. Parsons is an administrative assistant in the Department of Psychiatry and Behavioral Health, who testified she has known the Respondent for about 10 years. She testified that Respondent is the most compassionate person she has ever met. She felt the Respondent was honest and caring. While she was not familiar with Respondent's conviction, she stated that despite seeing corruption in various elected officials, she could not envision in our judicial system, a situation where the court was helping one party win against the other. The committee found her to be a credible witness.

TRINA CHU on direct

Ms. Chu testified on direct that she ran for District Court Judge in 2014, Juvenile Judge in 2016 or 17, and again in 2020 against Judge Jeanette Garrett. She met Hahn Williams around 2005.

She testified that no one told her she couldn't look into computer drives or couldn't copy court transcripts (Transcript page 112) and that she didn't send any confidential information before oral argument (Transcript page 113).

She discussed the chronology post termination of her running for judge, her arrest, and public humiliation. She testified that her *nolo contendere* plea was made for convenience (Transcript page 125).

Chu indicated she understood the harm created by the appearance of corruption (Transcript page 126). Respondent said that at that time she truly believed that what she transmitted was public information (Transcript pages 127-131).

She also testified about her pro bono work and work as an interpreter. She stated that she sent the information to her friend to prove to her she knew the facts of the case (Transcript page 134), and that she was giving her friend a “second opinion,” comparing it to the second opinion a doctor gives.

ROSELL STELLA FRANCIS-JONES

Ms. Jones is currently a Public Defender in the 16th Judicial District Court. She met the Respondent 20 years ago working for Legal Aid in Shreveport, and they became friends. Jones is not aware of any details of this matter, but attested to Respondent’s character and volunteer work. She also testified that some in the Caddo District Attorney’s office have personal and/or political animosity towards Respondent. The committee found Ms. Jones credible.

The Committee also issued the following Findings of Fact.

FINDINGS OF FACT

On October 24, 2022[,] Respondent entered a *nolo contendere* plea to a charge that on or about and between the dates of February 1, 2018, and August 16, 2018, Respondent did intentionally disclose, use, copy, take or access, without consent, intellectual property defined in La. R.S. 14:73.1(10), ODC-66, p. 3160.

“A plea of *nolo contendere* is tantamount to an admission of guilt and, for purposes of disciplinary proceedings, equivalent to a plea of guilty.” *Louisiana State Bar Ass’n v. O’Halloran*, 412 So. 2d 523, 525 (La. 1/8/82).

This committee finds that on February 1, 2018, Respondent was hired as Law Clerk for Judge Brown. She signed an Acknowledgment of Second Circuit Personnel Policies and Procedures and an Acknowledgment of Receipt of Policy and Procedures for Use of Computer & Electronic Communications and Social Media Policy (ODC-18a).

Respondent was informed Judge Brown was recused from her friend’s cases. Respondent, as a licensed attorney, and former candidate for Judge, should have known and had a basic understanding of conflicts and recusal.

The matter of *Succession of Houston*, 52,181-CA, a case involving a close friend (Hanh T. Williams) of both Judge Brown and the Respondent was pending before the court and Respondent knew that Judge Brown was recused from this matter (and associated matters) and that this recusal also applied to her.

Respondent knowingly and intentionally collected court information, including items which were undisputedly confidential (Pre-argument memorandum, Opinion Distribution sheet, Civil Issue Sheet) and transmitted same

to her friend, while at the same time she was doing legal work for the litigant. ODC-18a.

As a result of the discovery of this situation, all of the Judges of the Second Circuit Court of Appeal recused themselves and the matters had to be transferred to another circuit for conclusion.

The Committee then analyzed the Rules of Professional Conduct violated by Respondent.

The Committee stated as follows:

RULES VIOLATED

Respondent is accused of violating the following Rules:

3.5(a) (seek to influence a judge or other official by means prohibited by law) - The committee feels this rule regards actions which are directed at a judge (such as bribery, intimidation, witness tampering, etc.). Indirect prohibited actions which help a litigant (and therefore indirectly promote their advocacy and indirectly influence the court) are covered under other rules. While her actions did ultimately cause an interruption, this does not appear to be her intent. This is not believed to be the purpose of this rule and so no violation is found.

3.5(b) (communicate *ex parte* with a person during the proceeding unless authorized to do so by law or court order) - This rule violation was established by clear and convincing evidence. Respondent's communications are documented in ODC-33, 34, and 35.

3.5(d) (engage in conduct intended to disrupt a tribunal) - The Committee does not find that the conduct of Respondent was intended to disrupt the court. *See* analysis of Rule 3.5(a) above.

8.4(a) (violate or attempt to violate Rules of Professional Conduct); Violation of this rule is established by the finding of violation of other rules as discussed above and following.

8.4(b) (commit a criminal act especially one that reflects adversely on the lawyer's honest[y], trustworthiness or fitness as a lawyer in other respects); Violation of this rule was established by clear and convincing evidence (ODC-66).

8.4(c) (engage in conduct involving dishonesty, fraud, deceit or misrepresentation); The Committee concludes the totality of Respondent's conduct violates this rule. Several of Respondent's emails direct the recipient to disguise her involvement (*See* ODC- ODC-35, Bates page 245[2]; ODC-33, Bates page 2337).

8.4(d) (engage in conduct prejudicial to the administration of justice); The Committee concludes the totality of Respondent's conduct violates this rule. Communicating with and doing legal work for a litigant, while knowingly recused, even though it did not in [sic] actually tip the scales in favor of that litigant, is nevertheless prejudicial to any system which seeks to be independent and honorable.

8.4(e) (State or imply an ability to influence improperly a judge, judicial officer, governmental agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law); The committee did not find clear and convincing evidence of a violation of this rule.

As to the sanction, the Committee analyzed the Rule XIX, Section 10(C) factors and found that Respondent violated duties owed to the legal system and to the profession. The Committee also found that Respondent acted intentionally and caused actual harm, requiring transfer of the *Houston* succession matter to another appellate court, inconveniencing parties and counsel, initiating investigative resources, and undermining confidence in the justice system. Aggravating factors found by the Committee included a dishonest motive, experience in the practice of law (licensed in 2003), and illegal conduct. Mitigating factors found by the Committee included lack of prior disciplinary record and lack of selfish motive.

After reviewing Standard 6.31(c) of the ABA's *Standards for Imposing Lawyer Sanctions*, the Committee determined that disbarment is the baseline sanction in this matter. Standard 6.31(c) deals with improper communications with individuals in the legal system and suggests that disbarment is generally appropriate when a lawyer "improperly communicates with someone in the legal system other than a witness, judge, or juror, with the intent to influence or affect the outcome of the proceeding, and causes significant or potentially significant interference with the outcome of the legal proceeding." The Committee found that the aggravating and mitigating circumstances, in total, did not vary the baseline sanction of disbarment. Accordingly, it

recommended that Respondent be disbarred from the practice of law and cast with all costs and expenses associated with this matter in accordance with Rule XIX, Section 10.1.

ANALYSIS OF THE RECORD BEFORE THE BOARD

I. Standard of Review

The powers and duties of the Disciplinary Board are defined in Section 2 of Rule XIX. Rule XIX, Section 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 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

The factual findings of the Committee are not manifestly erroneous; however, two findings warrant clarification by the Board. In its first finding of fact, the Committee finds that Respondent entered a *nolo contendere* plea “to a charge that on or about and between the dates of February 1, 2018, and August 16, 2018, Respondent did intentionally disclose, use, copy, take or access, without consent, intellectual property defined in La. R.S. 14:73.1 (10), ODC-66, p. 3160.” Hrg. Comm. Rpt., p. 5. The Board clarifies that the record shows that the plea was entered under La. Rev. Stat.14:73.2 A(2), B(1).

In its fifth finding of fact, the Committee finds, among other things, that Judge Brown was recused from the *Succession of Houston*, 52,181-CA (and associated matters) and that Respondent knew that this recusal also applied to her. The Board clarifies that one of the associated matters referenced by the Committee was an application for issuance of a supervisory writ, captioned *Succession of Houston*, 52,300-CW, which was also pending at the Second Circuit at the time the appeal in *Succession of Houston*, 52-181-CA, was being considered by the court. All other factual findings of the Committee are adopted by the Board.

The Board also makes the additional findings of fact listed below.¹⁰

- Hahn Williams was a close friend to Judge Henry N. Brown, Jr., then-Chief Judge of the Louisiana Second Circuit Court of Appeal. Judge Brown and Hahn Williams now are married.
- Hahn Williams was a “long time, close friend” and former client of Respondent. Respondent testified that Hahn Williams was like a sister.
- In May of 2013, Judge Brown voluntarily recused himself in the matter of *Hanh Williams v. CDY Development Corporation and Kai S. Chang Individually as President and Owner*, 48,359-CA, consolidated with *Hanh Williams v. Richard R. Ray*, 48360-CA. The written reason for his recusal was that: “I have a business relationship with one of the parties in this case.” Respondent was counsel of record for Hahn Williams.
- Hahn Williams was involved in litigation in the matter of *Succession of Houston*, 525,127, 1st J.D.C., Parish of Caddo. The litigation was before the Second Circuit Court of Appeal on several occasions.
- On August 10, 2017, Judge Brown voluntarily recused himself in the matter of *Succession of Houston*, 51,866-CW. The written reason for his recusal was that: “I have a professional relationship with one of the parties in this matter.”
- [REDACTED]
- Hahn Williams assisted Respondent with getting a job with Judge Brown at the Second Circuit Court of Appeal.

¹⁰ The Board notes that most of these findings of fact, along with supporting citations, are found in ODC’s pre-argument brief, pp. 8-25.

- Respondent understood that in her capacity as a law clerk with the Second Circuit, she could not practice law.
- On Respondent's first day as a law clerk, Respondent questioned AGC Brown about recusals, and AGC Brown advised Respondent that "all of us were recused" when Judge Brown was recused.
- Becky Flippo, then judicial administrative assistant to Judge Brown, personally advised Respondent that being recused "means hands off."
- On February 6, 2018, Respondent inquired about scanning documents to a USB and Second Circuit Court of Appeal IT Specialist Maurice Williams advised Respondent that USB functionality was not setup on the computers.
- [REDACTED]
- On February 22, 2018, Judge Brown voluntarily recused himself in the matter of *Succession of Houston*, 52,181-CA. The written reason for his recusal was that: "My son Jason Brown represented the appellant, and I have a business relationship with the appellant in this matter."
- Lawrence W. "Larry" Pettiette, Jr., Bar Roll No. 10486, and Joseph S. Woodley, Bar Roll No. 19228, were identified as Hanh Williams's attorneys of record in *Succession of Houston*, 52,181-CA, Second Circuit Court of Appeal.
- Respondent testified that she had no knowledge that the *Succession of Houston* case was pending at the Second Circuit at the time Hanh Williams assisted her with obtaining employment with Judge Brown.
- [REDACTED] Respondent emailed Hanh Williams, expressing the "[n]eed to have a good procedural history, who filed what and when and why during this whole case so far."
- On March 13, 2018, Respondent emailed IT Specialist Maurice Williams asking what the code was for retrieving messages from her phone extension. Mr. Williams apparently gave her the code, and Respondent asked, "[w]e can't change the password right? So, everyone's password to their telephone messages is [redacted information]."
- Respondent's Second Circuit e-mail, and documents provided by Westlaw, reflect Respondent's extensive research on legal matters at issue in both the *Succession of Houston*

appeal and, later, the *Succession of Houston* writ. Some of these documents reflect Respondent's repeated sharing of information with Hanh Williams and others.

- On April 11, 2018, at 1:20 a.m., Respondent emailed Hanh Williams, critiquing the appellate brief prepared on Hanh Williams's behalf for filing with the Second Circuit.
- On May 1, 2018, Hanh Williams's writ application docket number 52,300-CW was filed with the Second Circuit.
- On May 1, 2018, Judge Brown voluntarily recused himself in the matter of *Succession of Houston*, 52,300-CW. The written reason for his recusal was "My son Jason Brown represented the appellant, and I have a business relationship with the appellant in this matter."
- Ralph Scott Bowie, Jr., Bar Roll No. 01724, was identified as Hanh Williams's attorney of record in *Succession of Houston*, 52,300-CW, Second Circuit Court of Appeal.
- On June 8, 2018, at 1:19 a.m., Respondent emailed Hanh Williams advising that the motion for reconsideration of the denial of Hanh Williams's writ application was about 85% complete and that Respondent was turning her attention to the "appeal case instead of the writ." A draft of the motion for reconsideration was attached.
- On June 8, 2018, at 2:18 p.m., Respondent emailed Hanh Williams a letter for "Bowie" to sign, which would serve to provide supplemental authorities to the Second Circuit pursuant to Rule 2-12.6.1 of the Uniform Rules of Louisiana Courts of Appeal. The signature block is for Mr. Bowie, attorney for Hanh Williams in Second Circuit docket number 52,300-CW (the writ).
- On June 8, 2018, at 2:53 p.m., from a bridget.a.haling@gmail.com email address, a copy of the letter to be sent the Second Circuit, seeking to provide the Second Circuit with supplemental authorities, was forwarded to Mr. Bowie and Hanh Williams. The subject line of the email reads "Corrected letter from previous email," with an attachment of "Letter to Clerk of Court to supplement case.docx." The message reads "Please Use this one. Thanks."
- In a June 10, 2018, email from Respondent to Hanh Williams, Respondent writes:

Like we discussed on Saturday. We will do the letter. Then if we get a denial, we will do the motion to reconsider. Please let your lawyer see these asap so he can review the cases and be able to talk about it when he sees you. There are no new cases. The letter is rewritten focusing on the fact that the filings of Roos are a new lawsuit and revocatory action and not an enforcement of judgment and should be stayed or deemed invalid. Same thing for motion for reconsideration. This way you'll have two bites at

the apple, doing the letter and the reconsideration motion. **Make sure you cut and paste into a new Word document before emailing these to Bowie.** (Emphasis supplied.)

Attached thereto is a motion for reconsideration of the denial of the writ application and a letter to the clerk of court to supplement the case.

- On June 11, 2018, Hanh Williams’s application for a supervisory writ and for a stay was denied. *Succession of Houston*, 52,300-CW (La. App. 2d Cir. 6/11/18). The Second Circuit’s order, issued under the signatures of Judges Moore, Pitman, and Stephens, provides:

WRIT DENIED; STAY DENIED. Applicants Hanh Thai Williams, Grant M. Williams, Hope Thai Cannon, Hien Thai Nguyen, and Rachael L. Williams seek supervisory review of the trial court’s denial of their declinatory exceptions of lack of personal and subject matter jurisdiction. On the showing made, this writ is denied. La. C.C.P. art. 2088(A)(7). In addition, the applicants’ request for a stay is denied.

- Judge Cox was the “writing” judge in the *Succession of Houston*, 52,181-CA, appeal. The other panel members were Judges Moore and Pitman.
- Janine Boyd, law clerk to Judge Cox, explained the procedure used in the preparation of the pre-argument memorandum for *Succession of Houston*, 52,181-CA. On June 14, 2018, Boyd finalized for circulation the Law Clerk’s PreArg Memorandum (the “pre-arg”). The pre-arg “is not made part of the record and is not released to the public.” Only the panel judges and their law clerks received copies of the pre-arg memorandum. Because Judge Brown was recused, his office did not receive any portion of the pre-arg.
- On June 19, 2018, Respondent shared with Hanh Williams and Bridget A. Haling, “10 Quick Tips for Using Westlaw.”
- On June 19, 2018, Respondent advised Hanh Williams to file a motion for reconsideration from the denial of Williams’s writ application.
- June 26, 2018, oral argument was held in *Succession of Houston*, 52,181-CA.
- On June 28, 2018, at 11:26 a.m., Respondent forwarded to Hanh Williams account a digital tape of the Second Circuit oral arguments in *Succession of Houston*, 52,181-CA.
- On June 28, 2018, at approximately 1:30 p.m., Respondent forwarded to Hanh Williams the “prearg memo” in *Succession of Houston*, 52,181-CA.

- [REDACTED]
- [REDACTED]
- On July 16, 2018, Judge Cox's office circulated the first draft of the opinion in *Succession of Houston*, 52,181-CA, to the other two panel members, Judges Moore and Pitman.
- On July 18, 2018, Judge Cox's office circulated the second draft of the opinion to Judges Moore and Pitman; this second draft incorporated corrections and suggestions from the panel members and included a cover sheet to be signed.
- [REDACTED]
- The July 19, 2018, Second Circuit Door Log Sheet and Respondent's door badge activity log reflect that when security left the building for the evening at 2000 (8:00 p.m.), Respondent remained inside.
- On July 19, 2018, at 8:06 p.m., Respondent sent from her Second Circuit email to her Hotmail account, three documents regarding the *Succession of Houston*, 52,181-CA: (1) Judge Cox's Opinion Distribution Sheet; (2) the Civil Issue Sheet for the June 2018 Docket; and (3) the June 14, 2018, Law Clerk's PreArg Memorandum. These highly confidential court documents revealed information about the case, including: the identity of the writing judge; the identity of the reading judge; the proposed rendering date; and the merits of the case.
- On July 19, 2018, at 8:09 p.m., Respondent used her iPhone to transmit the same three documents regarding *Succession of Houston*, 52,181-CA to Hanh Williams: 1) Judge Cox's Opinion Distribution Sheet; (2) the Civil Issue Sheet for the June 2018 Docket; and (3) the June 14, 2018, Law Clerk's PreArg Memorandum.
- On July 19, 2018, at 8:22 p.m., Respondent sent from her iPhone to "Hanh" a copy of the Distribution Sheet.
- When asked by Sergeant Smith during her May 10, 2019, Caddo Parish Sheriff's Department interview whether she had forwarded the three documents identified in the July 19, 2018, email to anyone, Respondent could not remember sending it but offered that if it said she did, then she had. When Sergeant Smith presented Respondent with proof of the transmittal to Hanh Williams, Respondent was unable to remember why she sent the documents to Hanh Williams.

- On July 23, 2018, at 9:11 a.m., Respondent sent to “Hanh” “recusal content for your lawyer” in the matter of *Succession of Houston*, 52,181-CA.
- On July 23, 2018, at 10:03 a.m., and again at 10:47 a.m., Respondent sent to herself “notes from court transcript” regarding the *Succession of Houston*, 52,181-CA “appeal.”
- On July 23, 2018, at 10:47 a.m., Respondent sent to Hanh Williams “notes from oral argument” in *Succession of Houston*, 52,181-CA.
- On July 23, 2018, Respondent began emailing notes to herself “For Trust supp brief.” These documents also were shared with Hanh Williams and Bridget T. Haling.
- On July 23, 2018, Hanh Williams forwarded to Judge Brown, a document captioned “52181-CA (TRINA CHU) (TRINA CHU).docx,” which contained language to be used in a suggested motion to recuse Judge Pitman.
- On July 24, 2018, Respondent prepared and emailed to herself: a “Motion for reconsideration of denial of a writ app for Hanh T Williams;” a “Letter to clerk of court to supplement case;” a “no right of action exception on appeal;” and a motion for “leave of court to file a supplemental brief.” The documents contained signature lines for the attorneys for Hanh Williams: Bowie, Pettiette, and Woodley. The transmittal also included samples of similar motions filed with the Second Circuit in unrelated matters.
- On July 24, 2018, at 3:41 p.m., Respondent forwarded to Hanh Williams notes from oral argument, as well as notes from the court transcript.
- On July 25, 2018, at 3:35 a.m., Respondent forwarded to Hanh Williams a proposed peremptory exception of no right of action and a memorandum in support. The documents were prepared with a signature line for Pettiette and Woodley and with the court caption for the *Succession of Houston*, 52,181-CA. The email to Hanh Williams reads:

This is an almost final draft. I just need to review the case law and may add summary and analysis of the caselaw and tie them to the facts. And that will be done. Do you have your affidavit ready? Do you need me to put it in the correct format? I will now work on the supplemental brief and motion to file supplemental brief or motion to remand. You need to file all three, nothing to lose. We have to do this by Monday next week. Larry can work over these from now on. **You can send this document to him as is because it has no information that can be traced back to me on the document.** [S]ave it to a jump drive and give it to him so he won't have to type much. I think Rule 2-12 or so governs all this filing. Here is the link to the rules for filing: <http://www.la2nd.org/archives/docs/7faa12.pdf>.

(Emphasis supplied.)

- On July 26, 2018, Respondent sent to Hanh Williams a “final” draft of the exception raising the objection of no right of action, with the instruction that Hanh Williams should “fax this to Larry so he or his associate can read it before you show up for discussion.”
- On July 26, 2018, Respondent sent to Hanh Williams the filing requirements and procedures for filing a motion and supplemental brief with the Court of Appeal.
- On July 26, 2018, Respondent sent to Hanh Williams a flow chart of the “Williams Litigation Plan” in the *Succession of Houston*.
- On July 26, 2018, Respondent sent to Hanh Williams the *Boyd* case (from Westlaw) with instructions that “Larry needs to read this case.”
- On July 26, 2018, Hanh Williams sent to Pettiette a peremptory exception of no right of action and a memorandum in support to be filed in the *Succession of Houston*, 52,181-CA.
- On July 26, 2018, Hanh Williams sent to Pettiette the filing requirements and procedures for filing a motion and supplemental brief with the Court of Appeal.
- On July 27, 2018, Respondent sent to Hanh Williams a “revised exception” of no right of action with a memorandum in support to be used in *Succession of Houston*, 52,181-CA.
- On July 27, 2018, Respondent sent to Hanh Williams a list of cases with summaries thereof.
- On July 27, 2018, Hanh Williams sent an email to Pettiette directing his attention to the *Boyd* case.
- On July 29, 2018, Hanh Williams emailed Pettiette “Inf for supplemental brief,” with content.
- On July 31, 2018, Respondent emailed Hanh Williams asking if Williams’s lawyer made a copy of the record and advising that she will try to “get the rest of the records.”
- On August 1, 2018, Respondent emailed Hanh Williams, attaching numerous links for documents taken from the *Succession of Houston* court record and writing:

There are lots of judgments of accounting that I have no records of yet. I still have about 6 more volumes to scan. They are only important for tracking what happens to the estate since Roos took over. The judgments attached here are what your lawyer agreed to and verdict from jury. May[be] Larry has a copy of the whole

appellate records. He checked it out one weekend. Hopefully he copied it. If not, I have most of it and attached here for you. Click on these links and download them or read them.

- On August 3, 2018, Woodley responded to Hanh Williams, copying Pettiette, regarding the supplemental memorandum to be offered on behalf of Hanh Williams for the purpose of addressing concerns raised by Judge Cox at oral argument. The email string continues through August 5, 2018.
- On August 5, 2018, Respondent emailed Hanh Williams that she “should have access already” to excerpts of the court record in the *Succession of Houston*.
- On August 5, 2018, Respondent emailed Hanh Williams regarding the “last 6 volumes.” Respondent writes:

sorry for the unsearchable pdfs here, but the printer kept jamming on me so I photographed and converted to pdfs and these don't allow you to search for certain terms on the documents. The pages are out of order but they are in this order.

- On August 7, 2018, Flippo, judicial assistant to Judge Brown, discovered a “print job” sent from Respondent’s computer, totaling 818 pages from the court record in *Succession of Houston*, 52-181-CA. Flippo reported the incident to Second Circuit Chief Deputy Clerk McGee, and McGee reported the incident to Second Circuit Judicial Administrator Richie.
- On August 8, 2018, Richie met with Respondent, explaining the importance of preserving Judge Brown’s recusal. Respondent signed a counseling statement, writing at the bottom: “I didn’t realize that my judge’s recusal extends to me and I was just interested in the case.”
- During an August 13, 2018, through August 14, 2018, email exchange with IT Specialist Maurice Williams, Respondent advised that “things from my computer just automatically get printed to the Xerox machine on the second floor.” “But on Tuesday, things were printed that I didn’t know were printing.” Respondent claimed to not have sent the print job.
- While investigating Respondent’s August 13, 2018, query regarding the questionable print job, IT Specialist Maurice Williams and IT Director Lozada discovered that Respondent was storing inordinate amounts of data on her G-drive. Respondent’s G-drive contained hundreds of folders and documents that had been copied from the Second Circuit’s H-drive, which is a shared resource for interconnected access that judges, law clerks, and other authorized employees can access. Respondent’s computer also contained a shortcut pointing to a folder on a removable drive that had been plugged into Respondent’s Second Circuit desktop computer. The IT Department’s concerns were reported to Judicial Administrator Richie. During his criminal investigation, Sergeant Smith conducted his

own forensic investigation of Respondent's Second Circuit computer. Sergeant Smith found shortcuts pointing to folders named "F:\2nd Circuit Work 4" and F:\2nd Circuit Work 4\HW appeal." Sergeant Smith also identified on Respondent's G-drive numerous documents obtained from the H-drive, including documents related to the *Succession of Houston*, and lengthy documents that appeared to be the result of Westlaw searches, one of which was named "combined finds hanh."

- On August 15, 2018, the Second Circuit opinion in *Succession of Houston*, 52,181 (La. App. 2 Cir. 8/15/18), 253 So. 3d 836, was published. The court affirmed the jury verdict against Hanh Williams and affirmed the judgment of the trial court denying Hanh Williams's motion for judgment notwithstanding the verdict and motion for a new trial.
- On August 15, 2018, Judicial Administrator Richie emailed the judges of the Second Circuit regarding the discovery of suspicious activity by Respondent. Richie wrote, in part:

... On Tuesday, August 7, 2018, I was made aware by Becky Flippo that a large print job initiated by Trina Chu on the second floor copier had stopped because the machine had run out of toner. Upon inspection, the cover page with Trina Chu's computer's user name was followed by a print job that included scanned documents regarding a case for which her supervising Judge, Judge Brown, was recused. On the morning of August 8, 2018, I personally counseled Trina Chu that her Judge had signed an order of recusal in said case which extends to his staff. ...

On Monday, August 13, 2018 at 4:50, Trina Chu emailed Maurice Williams.

...

Gil [Lozada] looked at Trina's computer ...[and] noted that her personal G drive contained an extremely large amount of data—17gb of data. ... Trina Chu had copied the entire H drive numerous times onto her personal G drive starting with her employment in February and March, 2018, including the files of judges of this court. There was a shortcut on her personal drive to a flash drive and several folders that were labeled "H drive of ___ date", many of which folders are now empty, leading to the reasonable conclusion that the files (including privileged work product and deliberations of the court) had most probably been copied to a flash drive, which could be easily taken from the premises. Among the documents on Trina's personal G drive were numerous scans of a case from which her judge is recused, and evidence that she was in fact drafting pleadings and correspondence on

behalf of a party to this case, including a draft email to this party regarding the case pending before the court. ...

Gil was alarmed that the security of the court's documents had been internally breached and immediately and prudently changed the permissions of Trina Chu so that she could not damage or alter the network documents contained therein.

- On August 15, 2018, Respondent emailed IT Specialist Maurice Williams and IT Director Lozada complaining of her inability to access her G-drive.
- Respondent was terminated from the Second Circuit, effective 12:00 noon, Thursday, August 16, 2018.
- On August 17, 2018, the ODC received the Second Circuit disciplinary complaint against Respondent.
- On or about August 22, 2018, Judicial Administrator Richie met with Sergeant Doug Smith of the Caddo Parish Sheriff's Department, and Sergeant Smith began his criminal investigation. The Second Circuit was uncertain as to how Respondent obtained the confidential documents that Respondent emailed to Hanh Williams on July 19, 2018 (Judge Cox's Opinion Distribution Sheet, the Civil Issue Sheet for the June 2018 Docket, and the PreArg Memorandum). Sergeant Smith's initial investigation concluded that the documents Respondent forwarded to Hanh Williams on July 19, 2018, originated from the Second Circuit H-drive.
- [REDACTED]
- During the time in question, the judges' suites were left unlocked at the end of the day so that the cleaning crew could enter, and it was only after the cleaning crew had completed its work that the suites were locked. Respondent was present at the courthouse after-hours on July 19, 2018.
- [REDACTED]
- Suggesting that Respondent still had access to Second Circuit intellectual property after her termination, on September 9, 2018, Respondent emailed Hanh Williams, "I don't know why I can't find a copy of this memo at all." The subject line reads: "copy of reading memo where Pitman said she has not read the whole records."

- On October 8, 2018, “considering that all of the judges of the Court of Appeal, Second Circuit, have recused themselves” in the matter of *Succession of Houston*, 52-181-CA, then Chief Justice Bernette Joshua Johnson ordered that the matter be transferred to the Louisiana Third Circuit Court of Appeal.
- On February 20, 2019, the Louisiana Third Circuit Court of Appeal denied Hanh Williams’s motion for leave to file a supplemental brief, her motion for leave to allow the appellant to oppose the appellee’s request for additional briefing, and her motion to strike. The Third Circuit also denied Hanh Williams’s application for rehearing. *Succession of Houston*, 52,181-CA (La. App. 3 Cir. 2/20/19).
- On or about January 24, 2020, Respondent signed a Notice of Candidacy to qualify as a candidate in the November 3, 2020, primary election to the Louisiana Second Circuit Court of Appeal, Third District, which is where Respondent’s disciplinary (and criminal) misconduct occurred. Respondent’s Notice of Candidacy was filed on July 24, 2020.
- On August 3, 2020, a warrant was signed for Respondent’s arrest, and on October 22, 2020, a Bill of Information was filed charging that on or about and between the dates of February 1, 2018, and August 16, 2018, Respondent committed the offenses of Malfeasance in Office (La. Rev. Stat. § 14:134A(2) (three counts) and Offenses Against Intellectual Property (La. Rev. Stat. §14:73.2A(2) (one count). *State v. Chu*, 377,861, 1st J.D.C., Parish of Caddo. The original bill of information was, however, amended two times: November 18, 2020, and April 29, 2021.
- Respondent ultimately was charged with having committed Malfeasance in Office (La. Rev. Stat. § 14:134A(2) (three counts) and Offenses Against Intellectual Property (La. Rev. Stat. §14:73.2A(2)) (one count). Specifically, it was alleged that Respondent:

COUNT 1: did intentionally perform her duties in an unlawful manner while being employed as a public employee with the State of Louisiana Second Circuit Court of Appeal; to wit: in that she being employed in said capacity committed an unauthorized use of a movable; as defined by LA. R.S. 14:68, by intentionally taking and/or using Westlaw, a movable belong to another, without the other’s consent or by means of fraudulent conduct, practices, or representations, but without an intention to permanently deprive the other of the movable permanently.

COUNT 2: did intentionally perform her duties in an unlawful manner while being employed as a public employee with the State of Louisiana Second Circuit Court of Appeal; to wit: in that she being employed in said capacity committed an unauthorized use of a movable; as defined by LA. R.S. 14:68, by intentionally taking and/or using a pre-argument memorandum, a movable belonging to another, without the other’s consent or by means of fraudulent conduct, practices, or representations,

but without any intention to permanently deprive the other of the movable permanently.

COUNT 3: did intentionally perform her duties in an unlawful manner while being employed as a public employee with the State of Louisiana Second Circuit Court of Appeal; to wit: in that she being employed in said capacity committed an unauthorized use of a movable, as defined by LA. R.S. 14:68, by intentionally taking and/or using numerous pages copied, a movable belonging to another, without the other's consent or by means of fraudulent conduct, practices, or representations, but without any intention to permanently deprive the other of the movable permanently.

COUNT 4: did intentionally disclose, use, copy, take or access, without consent, intellectual property defined in La. R.S. 14:73.1(10), when the damage or loss amounted to a value of \$500.00 dollars or more.

- On October 24, 2022, the day of trial, Respondent entered into a plea agreement with the State. Counts 1, 2, and 3 were dismissed; Count 4 was amended from a felony to a misdemeanor offense against intellectual property; and Respondent entered a *nolo contendere* plea to Count 4, as amended.

B. *De Novo* Review

As explained above, the Committee found that Rules of Professional Conduct 3.5(b), 8.4(a), 8.4(b), 8.4(c), and 8.4(d) had been violated by Respondent. The Committee did not find violations of Rules 3.5(a), 3.5(d), and 8.4(e). ODC did not object to the Committee's failure to find violations of Rules 3.5(a), 3.5(d), and 8.4(e).

After *de novo* review, the Board finds violations of Rules 3.5(a), 3.5(d), 8.4(b), 8.4(c), 8.4(d), and 8.4(a). The Board declines to find violations of Rules 3.5(b) and 8.4(e). Each alleged rule violation is discussed below.

Rule 3.5(a): Rule 3.5(a) provides that a lawyer shall not "seek to influence a judge, juror, prospective juror or other official by means prohibited by law." The Committee found that this rule addresses actions which are directed at a judge, such as bribery, intimidation, or witness tampering. The Committee opined that indirect prohibited actions which help a litigant (and

therefore indirectly promote their advocacy and indirectly influence the court), as seen in this matter, are covered under other rules. Therefore, the Committee found that this rule was not applicable and that no violation was established. ODC has not objected to the Committee's finding.

However, *de novo* review of the Committee's finding reveals that it is incorrect. By improperly communicating with Ms. Williams while her case was pending before the Second Circuit, Respondent sought to surreptitiously influence the judges of that court by means prohibited by law (Respondent's violation of La. Rev. Stat. 14:73.2 A(2), B(1)). Accordingly, a violation of Rule 3.5(a) is present.

Rule 3.5(b): Rule 3.5(b) provides that a lawyer shall not communicate *ex parte* with a judge, juror, prospective juror, or other official by means prohibited by law. The Committee found that *Respondent* violated this rule when she communicated with Ms. Williams concerning the *Houston* succession matter as documented in ODC Exhibits 33, 34, and 35. However, *de novo* review of this finding reveals that this rule is not applicable to the situation at hand. Here, Respondent, as a law clerk to then-Chief Judge Brown, inappropriately communicated with a *litigant* to a lawsuit before the Second Circuit, not a judge or other official. Further, even though she improperly assisted Ms. Williams with the preparation of her lawsuit, she, again, did not communicate with a judge or other official concerning the lawsuit in a manner prohibited by law.¹¹ Therefore, the Committee's finding that ODC established a violation of this rule is erroneous. The Board declines to find a violation of Rule 3.5(b).

¹¹ While on July 23, 2018 Ms. Williams forwarded to Judge Brown an email of the same date which she received from Respondent concerning a suggested motion to recuse Judge Pitman in *Succession of Houston*, 52,181-CA, the record does not show that Respondent communicated with Judge Brown about this issue.

Rule 3.5(d): Rule 3.5(d) provides that a lawyer shall not engage in conduct intended to disrupt a tribunal. The Committee determined that while Respondent's actions did ultimately cause an interruption in the *Houston* succession matter (the transfer of the case to the Third Circuit Court of Appeal), the evidence did not show that she intended to cause such an interruption. ODC has not objected to the Committee's finding.

However, *de novo* review of the Committee's finding reveals that it is erroneous. By improperly funneling confidential court documents to Ms. Williams and assisting her with the preparation of her case, Respondent's conduct was clearly intended to influence the case before the Second Circuit panel. Such conduct can be described as intentionally disruptive conduct, aimed at improperly affecting the outcome of the case. Thus, the Committee's finding is erroneous, and the Board finds a violation of Rule 3.5(d).

Rule 8.4(b): Rule 8.4(b) provides that it is professional misconduct for a lawyer to commit a criminal act, especially one that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects. Respondent entered a *nolo contendere* plea to a violation of La. Rev. Stat. 14:73.2 A(2), B(1). ODC-66, pp. 3163-71. Such criminal conduct reflects on her honesty, trustworthiness or fitness as a lawyer, particularly since this conduct occurred during the time she was serving as a law clerk to the chief judge of the Second Circuit. The Committee found that this rule was violated, and following *de novo* review, the Board adopts this finding.

Rule 8.4(c): Rule 8.4(c) states that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation. The Committee found that the totality of Respondent's intentional conduct violated this rule, and several of Respondent's emails direct the recipient to disguise her involvement. *See* ODC Exhibit 35, Bates p. 245; ODC Exhibit

33, Bates p. 2337. *De novo* review indicates that the Committee's finding is correct and is adopted by the Board.

Rule 8.4(d): Rule 8.4(d) provides that it is professional misconduct for a lawyer to engage in conduct that is prejudicial the administration of justice. The Committee found that Respondent violated this rule by communicating with and doing legal work for a litigant, while the judge she worked for was recused from the case. The Committee also noted that even though Respondent's actions did not tip the scales in favor of Ms. Williams, it nevertheless was prejudicial to "any system which seeks to be independent and honorable." *De novo* review indicates that the Committee's finding is correct, and it is adopted by the Board.

Rule 8.4(e): Rule 8.4(e) provides that it is professional misconduct for a lawyer to state or imply an ability to influence improperly a judge, judicial officer, governmental agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law. The Committee did not find clear and convincing evidence of a violation of this rule. *De novo* review shows that the record does not contain specific evidence that Respondent, during her interactions with Ms. Williams, implied an ability to improperly influence the judges of the Second Circuit. The Committee's finding that ODC has not proven a violation of this rule is correct and is adopted by the Board.

Rule 8.4(a): Rule 8.4(a) states, in pertinent part, that it is professional misconduct for a lawyer to violate or attempt to violate the Rules of Professional Conduct. The Committee found that Respondent violated this Rule when she violated other Rules of Professional Conduct discussed by the Committee. After *de novo* review, the Board finds that Respondent violated Rule 8.4(a) when she also violated Rules 3.5(a) 3.5(d) 8.4(b), 8.4(c), and 8.4(d).

II. The Appropriate Sanction

A. The Rule XIX, Section 10(C) Factors

Rule XIX, Section 10(C), states that when imposing a sanction after a finding of lawyer misconduct, the Board or Court shall consider the following factors:

- (1) Whether the lawyer has violated a duty owed to a client, to the public, to the legal system, or to the profession;
- (2) Whether the lawyer acted intentionally, knowingly, or negligently;
- (3) The amount of the actual or potential injury caused by the lawyer's misconduct; and
- (4) The existence of any aggravating or mitigating factors.

Here, Respondent has violated duties owed to the legal system, the public, and the profession. Her conduct was intentional. The actual harm caused by Respondent's misconduct was great. Respondent's highly publicized behavior caused "inestimable harm" to the public's perception of the legal profession, the Louisiana judiciary, and the Louisiana legal system. *See In re Bankston*, 2001-2780, pp. 7-9 (La. 3/8/02), 810 So.2d 1113, 1117-18. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] *See* ODC Exhibit 67, vol. 2, p. 3492; ODC Exhibit 67, vol. 2, pp. 3418-19. Aggravating factors include a dishonest or selfish motive, substantial experience in the practice of law, illegal conduct, submission of false evidence, false statements, or other deceptive practices during the disciplinary process, and refusal to acknowledge the wrongful nature of the conduct. The sole mitigating factor present is the lack of a prior disciplinary record.

B. The ABA Standards and Case Law

As explained above, the Committee relied on Standard 6.31(c) of the ABA's *Standards for Imposing Lawyer Sanctions* in determining that disbarment is the appropriate baseline sanction in this matter. ABA Standards 5.11(b), 5.21, and 7.2 are also applicable. Standard 5.11(b) provides that disbarment is generally appropriate when "a lawyer engages in . . . intentional conduct involving dishonesty, fraud, deceit, or misrepresentation that seriously adversely reflects on the lawyer's fitness to practice." Respondent has been convicted of an offense against the intellectual property of the Second Circuit, in violation of La. Rev. Stat. 14:73.2 A(2), B(1). This intentional conduct involved dishonesty that seriously adversely reflects on Respondent's fitness to practice law.

Standard 5.21 provides, in pertinent part, that "[d]isbarment is generally appropriate when a lawyer in an official or governmental position knowingly misuses the position with the intent to obtain a significant benefit or advantage for himself or another." Here, Respondent misused her position as a law clerk for the Second Circuit with the intent to benefit her friend, Ms. Williams. Further, Standard 7.2 provides that disbarment generally is appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional, with the intent to obtain a benefit for the lawyer or another, and causes serious or potentially serious injury to a client, the public, or the legal system. Respondent's conduct also violated her duty owed as a professional, with the intent to obtain a benefit for Ms. Williams, causing serious harm to the legal system.

Case law and the permanent disbarment guidelines indicate that permanent disbarment is the appropriate sanction in this matter.

An attorney occupying a position of public trust is held to a higher standard of conduct than an ordinary attorney. *Bankston*, 2001-2780, pp. 7-8, 810 So. 2d at 1117-18; see *In re Gray*,

2017-1929, pp. 6-7 (La. 1/29/18), 234 So. 3d 65, 69. Respondent stands convicted of a violation of La. Rev. Stat. 14:73.2 (A)2, B(1). Her conduct, by statutory definition, involves the intentional “disclosure, use, copying, taking, or accessing, without consent, of intellectual property” of the Second Circuit judges and staff. As pointed out by ODC, her intentional misconduct is, at best, a complete disregard for the judicial process and, at worst, an orchestrated scheme to undermine the judicial process. Such conduct can be classified as the “[i]ntentional corruption of the judicial process.” Rule XIX, Appendix D, Guideline 2.

As further pointed out by ODC in its pre-argument brief, there is limited jurisprudence addressing the appropriate sanction for Respondent’s misconduct. The United States Supreme Court (“Supreme Court”) faced a similar issue in May of 2022 with a leak of the draft opinion in the matter of *Dobbs v. Jackson Women’s Health Organization*, 597 U.S. 215, 142 S. Ct. 2228, 213 L. Ed. 2d 545 (2022). Following a federal investigation, the Supreme Court issued a January 19, 2023, *Statement of the Court Concerning the Leak Investigation*.¹² The Supreme Court described the event as “one of the worst breaches of trust” in the Supreme Court’s history: “the leak of a draft opinion.” The actions of the unidentified perpetrator were described as “a grave assault on the judicial process.” The Supreme Court wrote, [i]t is no exaggeration to say that the integrity of judicial proceedings depends on the inviolability of internal deliberations.” *Id.* at p. 1. (emphasis added).

Moreover, the situation at hand is not one where Respondent performed an appropriate duty poorly; rather, this is a situation where Respondent did things that she could not have done properly under any circumstance. See Parker B. Potter, Jr., *Law Clerks Gone Wild*, 34 Seattle

¹² supremecourt.gov/publicinfo/press/Dobbs_Public_Report_January_19_2023.pdf.

U. L. Review 173, 183 (2010). The conduct at issue herein is similar to that which occurred in the case of *Lamprecht v. FCC*, 958 F.2d 382 (D.C. Cir. 1992) -- conduct that at least one writer has referred to as “the worst of the worst law-clerk misconduct.” *Potter, supra*, at p.188. While the *Lamprecht* decision was being written, preliminary drafts of the opinion were leaked to the press, resulting in a news article. In a concurring opinion, Judge Buckley addressed the situation, writing in part:

Unfortunately, this case has also proven the occasion for a most serious breach of trust. . . . The seriousness of this violation cannot be overstated. Each member of this panel has been aggrieved by it, as have the parties who brought this case to us for adjudication. Moreover, because one or more of their number has been guilty of willful breach of trust, this incident must cast a shadow over the dozen or more able young law clerks who had become privy to the preliminary drafts. I say “willful” because the information in the published reports was too detailed to have been the product of inadvertent disclosures.

We cannot, of course, repair the damage that may already have been done to one or more of the parties as a result of this premature disclosure. But we can and must take steps not only to ensure against a repetition in the future, but to demonstrate the seriousness with which we take this violation. I believe the appropriate measure is for this court to initiate a formal investigation in an effort to identify the source or sources of this disclosure, and I urge my colleagues to do so.

The hemorrhaging of confidential information has become endemic in the legislative and executive branches of our government, with untold cost to their ability to function. It is essential that we prevent this disease from invading the judiciary, as this would inevitably undermine the public confidence that is one of the major strengths of our legal system.

Lamprecht, 958 F. 2d at 403-04 (Buckley, J., concurring).

Unlike the Supreme Court leak in *Dobbs* or the situation in *Lamprecht*, in this instance, the source of the leak is known. It was Respondent who intentionally disclosed the intellectual property -- documents involving the confidential judicial deliberations -- of the Louisiana Second Circuit Court of Appeal. Even worse, Respondent disclosed that confidential content

to a litigant who had two matters pending before the Second Circuit Court.

“An independent and honorable judiciary is indispensable to justice in our society.” La. Code of Judicial Conduct, Canon 1. Consistent therewith, Guideline 2 expressly recognizes that the “[i]ntentional corruption of the judicial process, including but not limited to bribery, perjury, and subornation of perjury” is conduct worthy of permanent disbarment. The Court does “not lightly impose the sanction of permanent disbarment;” however, the Court has recognized that some persons do “not possess the requisite moral fitness to practice law in this state.” *In re Morphis*, 2001-2803, p. 9 (La. 12/4/02), 831 So. 2d 934, 940.

The Court has not hesitated to permanently disbar, pursuant to Guideline 2, lawyers who have engaged in conduct involving the intentional corruption of the judicial process. *See, e.g., In re Laudumiey & Mann*, 2003-0234 (La. 6/27/03), 849 So. 2d 515 (conviction of obstruction of justice in connection with the lawyers’ knowing and intentional attempts to influence the testimony of two grand jury witnesses); *In re Pinkston*, 2002-3251, 2002-3252 (La. 5/20/03), 852 So. 2d 966 (lawyer deliberately misrepresented facts to the court in an effort to obtain a more lenient sentence for his client); *In re Harris*, 2003-0212 (La. 5/9/03), 847 So. 2d 1185 (lawyer manufactured evidence and presented perjured testimony in a disciplinary matter; Guideline 9 was also applied); *In re Lynch*, 2002-2275 (La. 1/24/03), 840 So. 2d 508 (conviction of subornation of perjury and conspiracy to obstruct justice in connection with a child pornography investigation).

Moreover, lawyers who have worked in an official capacity -- such as assistant city attorneys or city court prosecutors -- have also been permanently disbarred by the Court based upon criminal conduct that triggered Guideline 2. In the matter of *In re Jackson*, 2009-2354 (La. 2/12/10), 27 So. 3d 273, Jackson, an assistant city attorney for the City of New Orleans

assigned to Traffic Court, had duties that included prosecuting DWI cases. Nevertheless, Jackson accepted \$500 to represent a criminal client charged with DWI in Traffic Court. Prior to the client's arraignment and in his capacity as an assistant city attorney, Jackson entered a *nolle prosequi* in the case, effectively dismissing the charges against his client. Jackson was convicted of felony malfeasance in office. Based upon his malfeasance in office (Guideline 7) and his intentional corruption of the judicial process (Guideline 2), permanent disbarment was imposed.

In the case of *In re Burks*, 2007-0637 (La. 8/31/07), 964 So. 2d 298, Burks, an Assistant City Attorney for the City of New Orleans assigned to prosecute cases in traffic court, accepted \$1,000 to *nolle prosequi* several traffic citations for an undercover FBI agent posing as a taxi driver. Burks pled guilty to a felony in federal court, and the Court permanently disbarred Burks under Guidelines 2 and 7. Likewise, in the matter of *In re Bell*, 2011-1330 (La. 10/7/11), 72 So. 3d 825, Bell was employed as a senior prosecutor at the Baton Rouge City Court. Bell solicited and accepted bribes from individuals with criminal and traffic matters pending before that court in exchange for dismissing or otherwise "fixing" the charges. Bell was convicted of federal felony criminal charges, and was permanently disbarred under Guidelines 2 and 7.

Respondent's misconduct is arguably more egregious than the cases cited above. Respondent was not a party or litigant before the court. Rather, Respondent was an employee of the court, a person whom the court required and trusted "to observe the standards of fidelity and diligence ... and to refrain from manifesting bias or prejudice in the performance of ... official duties." La. Code of Judicial Conduct, Canon 3B(2).

In making a recommendation of permanent disbarment, the Court has directed that permanent disbarment is appropriate for imposition "upon an express finding" of the presence

of the following factors:

- (1) the lawyer's misconduct is so egregious as to demonstrate a convincing lack of ethical and moral fitness to practice law; and
- (2) there is no reasonable expectation of significant rehabilitation in the lawyer's character in the future.

Rule XIX, Section 10A(1).

The Committee determined that it “does not find that this one incident of misconduct is so egregious, as to demonstrate a total lack of ethical and moral fitness to practice law in the future. ... Her character does not preclude the possibility of significant rehabilitation in the future.” Hrg. Comm. Rpt., 8.

However, after considering the Supreme Court's findings in the *Statement of the Court Concerning the Leak Investigation*, Respondent's conduct cannot be described as anything other than egregious and demonstrative of a convincing lack of ethical and moral fitness to practice law. As discussed above, when addressing the *Dobbs* opinion, the Supreme Court described the leak of a draft opinion as “one of the worst breaches of trust” in the Supreme Court's history and “a grave assault on the judicial process.” The Supreme Court also stressed that the integrity of judicial proceedings depends on *the inviolability of internal deliberations*. Similarly, here, Respondent's leak of the Second Circuit's internal, confidential documents concerning the deliberations in the *Houston* succession matter, along with her legal assistance given to Ms. Williams, a party to the action, constituted a breach of trust and an assault on the judicial process at the Second Circuit. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

felony, reflects adversely on her “honesty, trustworthiness or fitness as a lawyer,” and a necessary element of the statute under which she was convicted involves “taking . . . without consent . . . of intellectual property,” which constitutes misappropriation under Section 19(B).

Accordingly, after consideration of the ABA’s *Standards*, Rule XIX, Appendix D, Guideline 2, similar jurisprudence, the Supreme Court’s commentary in its *Statement of the Court Concerning the Leak Investigation*, and the aggravating factors present, the appropriate sanction for Respondent’s misconduct appears to be permanent disbarment.

CONCLUSION

The Board adopts the findings of fact of the Committee, with the two clarifications noted above, along with additional findings of fact as delineated above. The Board finds violations of Rules 3.5(a), 3.5(d), 8.4(b), 8.4(c), 8.4(d), and 8.4(a). The Board declines to find violations of Rules 3.5(b) and 8.4(e). Although the Committee recommended disbarment as the sanction, the Board recommends that Respondent be permanently disbarred. The Board also recommends that Respondent be assessed with all costs and expenses of these proceedings pursuant to Rule XIX, Section I0.1.

RECOMMENDATION

Based on the above, the Board recommends that Respondent, Trina Trinhthi Chu, be permanently disbarred from the practice of law. The Board also recommends that all costs and

respects, or any crime a necessary element of which, as determined by the statutory definition of the crime, involves interference with the administration of justice, false swearing, misrepresentation, fraud, deceit, bribery, extortion, misappropriation, theft, or an attempt, conspiracy or solicitation of another to commit a “serious crime.”

expenses of these proceedings be assessed to Respondent in accordance with Rule XIX, Section 10.1.

LOUISIANA ATTORNEY DISCIPLINARY BOARD

**R. Alan Breithaupt
Albert R. Dennis III
Valerie S. Fields
M. Todd Richard**

DocuSigned by:
By: James Letten
46AB38463411409
James B. Letten
FOR THE ADJUDICATIVE COMMITTEE

**Todd S. Clemons - Dissents with reasons.
Lori A. Waters - Dissents with reason.
Ronald J. Miciotto - Recused.
Erica J. Rose - Recused.**

LOUISIANA ATTORNEY DISCIPLINARY BOARD

IN RE: TRINA TRINH THI CHU

DOCKET NUMBER: 20-DB-053

DISSENT

I disagree with the majority's recommendation to impose Permanent Disbarment in this matter. I do not believe that Respondent's misconduct "is so egregious as to demonstrate a convincing lack of ethical and moral fitness to practice law" nor do I believe that "there is no reasonable expectation of significant rehabilitation in the lawyer's character in the future." Rule XIX, Section 10A(1). Without these two factors being satisfied, I do not agree that permanent disbarment is appropriate in this matter. I concur with the Hearing Committee's recommended sanction of disbarment.

Accordingly, I respectfully dissent.

LOUISIANA ATTORNEY DISCIPLINARY BOARD

By:  _____
0598E7A7B35146 **TODD S. CLEMONS**

LOUISIANA ATTORNEY DISCIPLINARY BOARD

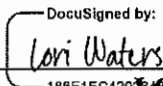
IN RE: TRINA TRINH THI CHU

NO. 20-DB-053

DISSENT

I agree with Mr. Clemmons' dissent. I believe that disbarment is the appropriate sanction.
Accordingly, I respectfully dissent.

LOUISIANA ATTORNEY DISCIPLINARY BOARD

By:  _____
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LORI A. WATERS
Adjudicative Committee Member

APPENDIX A

Rule 3.5 Impartiality and Decorum of the Tribunal

A lawyer shall not:

- (a) seek to influence a judge, juror, prospective juror or other official by means prohibited by law;
- (b) communicate *ex parte* with such a person during the proceeding unless authorized to do so by law or court order;
-
- (d) engage in conduct intended to disrupt a tribunal.

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;
- (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;
- (d) engage in conduct that is prejudicial to the administration of justice;
- (e) state or imply an ability to influence improperly a judge, judicial officer, governmental agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law.