

ORIGINAL

Louisiana Attorney Disciplinary Board

FILED by: *Dona P. Burgess*

Docket#

15-DB-044

Filed-On

8/31/2016

**LOUISIANA ATTORNEY DISCIPLINARY BOARD**  
**NUMBER: 15-DB-044**  
**IN RE: ADAM ANTHONY ABDALLA**

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**REPORT OF HEARING COMMITTEE #20**

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This attorney disciplinary matter arises out of formal charges consisting of one count filed by the Office of Disciplinary Counsel ("ODC") against Adam Anthony Abdalla ("Respondent"), Bar Roll Number 30370. ODC alleges, and Respondent admits, that Respondent violated the following Rule of Professional Conduct:

Rule 8.4-It is professional misconduct for a lawyer to:

- (a) Violate or attempt to violate the Rules of Professional Conduct;
- (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
- (c) Engage in conduct involving dishonesty, fraud, deceit or misrepresentation;

**PROCEDURAL HISTORY**

On September 26, 2014, the Office of Disciplinary Counsel received a complaint against Respondent alleging Respondent had converted funds from his former law firm. The ODC and Respondent, through his attorney of record, filed a Joint Petition for Interim Suspension on October 16, 2014. The Louisiana Supreme Court issued an Order dated October 22, 2014, placing Respondent on interim suspension. The Office of Disciplinary Counsel requested permission to file formal charges on August 25, 2015. Said permission was granted on August 31, 2015 and formal charges were filed on September 3, 2015. Respondent's Answer to Formal Charges was filed March 21, 2016. The matter came up for hearing on July 27, 2016.

Prior to the hearing, ODC agreed to drop specific allegations contained at 4(b) and 4(c) of the original formal charges. As detailed below, the parties stipulated to all relevant factual matters and agreed that the purpose of the hearing was strictly for presentation of evidence of mitigating factors. All witnesses and evidence were presented in a single day. Based on the stipulations, exhibits and testimony, the committee concludes that ODC proved the alleged misconduct by clear and convincing evidence and recommends that the Respondent be disbarred.

### **FORMAL CHARGES**

The specific formal charges of misconduct remaining at the time of hearing were as follows:

- A. Respondent wrote three unauthorized checks to himself out of the client escrow account. The checks were made payable to Orange Ocean, LLC, a single member LLC, with Respondent listed as the sole member, in the amounts of \$5,125.00, \$2,500.00, and \$5,000.00. These funds were being held in the escrow account as part of a commercial transaction on behalf of a client.
- B. Respondent wrote two additional unauthorized checks to himself out of client escrow account. The checks were payable to Abdalla Enterprises, LLC, a single member LLC, with Respondent as the sole member, in the amounts of \$2,000.00 and \$800.00. These funds were held in escrow pursuant to an Escrow Agreement, signed by Respondent, which stated that the firm would be compensated \$2,500.00 by the client for its escrow services. Those fees were due to the firm, yet no checks were made payable to the firm.
- C. Respondent wrote an unauthorized check to Belle Realty of Lafayette, LLC, in the amount of \$5,910.86 from the firm operating account, an account for which he never had signing authority. Belle Realty of Lafayette, LLC is a commercial real estate company owned by Respondent's parents. Respondent claimed that the check was for rent payable to Belle Realty of Lafayette, LLC, written on behalf of a firm client, and that the firm would be reimbursed by the client through a corresponding invoice.
- D. Respondent never billed any client for the corresponding amount paid to Belle Realty of Lafayette, LLC.
- E. Client wrote \$1,000.00 check to "Adam – Boudreaux" as a retainer for legal services, and the check was endorsed and deposited by Respondent in his personal account. Respondent never tendered these funds to the firm, and the firm continued to provide legal services to this client.
- F. Respondent created fraudulent invoices on fictitious firm letterhead for two separate clients for legal services rendered. One of the clients paid Respondent \$11,500.00 by

check payable to Respondent. Respondent never tendered any of these funds to the firm, and the firm continued to provide legal services to the client.

- G. Respondent performed legal services for three separate clients including formation of corporate entities and drafting of resolutions, and instructed the clients to pay him cash directly for those services. The clients' paid Respondent cash in the total amount of \$1,250.00, and Respondent never tendered this amount to the firm.
- H. A client, Blanc Bridal, LLC, paid Respondent cash personally for services he rendered through the firm. Respondent created an invoice for \$3,500.00, which was voided by Respondent. The firm did not receive these funds for the legal work performed.
- I. Another client, Corey Devan Willis, paid Respondent \$500.00 in cash for legal services. Respondent marked an invoice to Mr. Willis for \$500.00 paid in full, but he never turned over these funds to the firm.

### **STIPULATED FINDINGS OF FACT**

As all alleged misconduct was admitted by Respondent, for the sake of efficiency, the parties entered comprehensive stipulations of fact. The Stipulations read into the record at the hearing were as follows:

1.

Adam Anthony Abdalla was born on October 20, 1979, and was admitted to the practice of law in the State of Louisiana on October 13, 2006.

2.

On September 26, 2014, the Office of Disciplinary Counsel ("ODC") received a complaint against Respondent alleging Respondent had converted funds from his former law firm ("the firm").

3.

On October 22, 2014, the Louisiana Supreme Court ordered that Respondent be placed on Interim Suspension after the ODC and Respondent filed a Joint Petition for Transfer to Interim Suspension Pursuant to Supreme Court Rule XIX § 19.3.

4.

The specific allegations from the complaint are as follows:

- A. Respondent wrote three unauthorized checks to himself out of the client escrow account. The checks were made payable to Orange Ocean, LLC, a single member LLC with Respondent listed as the sole member, in the amounts of \$5,125.00, \$2,500.00, and \$5,000.00. These funds were being

held in the escrow account as part of a commercial transaction on behalf of a client.

- B. Respondent wrote two additional unauthorized checks to himself out of client escrow account. The checks were payable to Abdalla Enterprises, LLC, a single member LLC with Respondent as the sole member, in the amounts of \$2,000.00 and \$800.00. These funds were held in escrow pursuant to an Escrow Agreement, signed by Respondent, which stated that the firm would be compensated \$2,500.00 by the client for its escrow services. Those fees were due to the firm, yet no checks were made payable to the firm.
- C. Respondent wrote an unauthorized check to Belle Realty of Lafayette, LLC, in the amount of \$5,910.86 from the firm operating account, an account for which he never had signing authority. Belle Realty of Lafayette, LLC is a commercial real estate company owned by Respondent's parents. Respondent claimed that the check was for rent payable to Belle Realty of Lafayette, LLC, written on behalf of a firm client, and that the firm would be reimbursed by the client through a corresponding invoice.
- D. Respondent never billed any client for the corresponding amount paid to Belle Realty of Lafayette, LLC.
- E. Client wrote \$1,000.00 check to "Adam – Boudreaux" as a retainer for legal services, and the check was endorsed and deposited by Respondent in his personal account. Respondent never tendered these funds to the firm, and the firm continued to provide legal services to this client.
- F. Respondent created fraudulent invoices on fictitious firm letterhead for two separate clients for legal services rendered. One of the clients paid Respondent \$11,500.00 by check payable to Respondent. Respondent never tendered any of these funds to the firm, and the firm continued to provide legal services to the client.
- G. Respondent performed legal services for three separate clients including formation of corporate entities and drafting of resolutions, and instructed the clients to pay him cash directly for those services. The clients paid Respondent cash in the total amount of \$1,250.00, and Respondent never tendered this amount to the firm.
- H. A client, Blanc Bridal, LLC, paid Respondent cash personally for services he rendered through the firm. Respondent created an invoice for \$3,500.00, which was voided by Respondent. The firm did not receive these funds for the legal work performed.
- I. Another client, Corey Devan Willis, paid Respondent \$500.00 in cash for legal services. Respondent marked an invoice to Mr. Willis for \$500.00 paid in full, but he never turned over these funds to the firm.

5.

The parties stipulate that the conduct described above violates Rules 8(a-c) of the Rules of Professional Conduct.

6.

Respondent has admitted taking the funds and has reimbursed the firm for all funds that he has converted that is known to the firm.

7.

All funds were taken from the law firm and none were taken from individual clients.

8.

Respondent stole the money to support a drug habit as Respondent routinely used oxycontin and is addicted to same.<sup>1</sup>

9.

Respondent voluntarily enrolled in Palmetto Addiction Recovery Center for a 90-day rehabilitation program after the complaint was filed with the Office of Disciplinary Counsel.

10.

Respondent successfully completed the 90-day program and enrolled in the Lawyer's Assistance Program ("LAP") after completing his treatment. Further, Respondent entered into a five-year contract with LAP.

11.

There are no criminal charges pending against Respondent.

12.

The aggravating factors listed at AB.A. Standard 9.22 present in this matter include: 9.22(c) a pattern of misconduct; and, 9.22(d) multiple offenses.

Aggravating factors may justify an increase in the sanction to be imposed.

13.

The mitigating factors listed at AB.A. Standard 9.32 present in this matter include: 9.32(a) absence of a prior disciplinary record; 9.32(c) personal or emotional problems; 9.32(d) timely good faith effort to make restitution or rectify consequences of misconduct; 9.32(e) full and free disclosure to the disciplinary board or cooperative attitude toward proceedings; and, 9.32(1) remorse.

Mitigating factors may justify a decrease in the sanction to be imposed.

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<sup>1</sup> The original stipulation was to the effect Respondent's drug of choice was hydrocodone; however the evidence established and the parties agreed oxycontin, an opioid, was the drug in question.

The parties stipulate that Respondent's actions have harmed the firm, the public, and the legal profession.

### **DOCUMENTARY EVIDENCE**

Both ODC and Respondent submitted documentation supporting the facts recited in the stipulations above. Those exhibits are listed in Appendix 1 attached hereto.

### **WITNESSES**

The committee was first presented with the testimony of Buddy Stockwell, director of the Louisiana Judges And Lawyers Assistance Program, to discuss Respondent's participation in the JLAP program, specifics about Respondent's current sobriety, and issues related to the mechanics of the JLAP program. His testimony was followed by that of Dr. Jay Weiss, medical director of Palmetto Addiction Recovery Center, where Respondent completed a 90 day inpatient rehabilitation program and follow-up counseling. Dr. Weiss testified as to the mechanics of his recovery program, Respondent's current sobriety, and the long-term issues presented by addiction problems. Dr. Weiss stated that Respondent presented to Palmetto with a severe opioid addiction and a moderate use disorder related to Adderall. He testified that, after working through withdrawal symptoms, Respondent spent approximately three months at his facility, and, by all indications, was a successful patient who has maintained his sobriety since.

The committee was also presented with the testimony of four of Respondent's longtime friends, Jacques Landry, Buck Miciotto, James Bayard and Michael Fenstermaker, who all testified as to Respondent's reputed good character. Respondent's wife, Stephanie Abdalla, testified as to his character and his ongoing recovery process. Respondent's sister, Alicia Mouton, testified as to the behavior she saw in her brother in the course of his addiction, his character, and how his life has changed in the recovery process. Prior to the hearing, Respondent listed four

additional family members as witnesses. In lieu of cumulative testimony, those witnesses did not testify at the hearing, and the parties stipulated that the testimony they would have given would be consistent with that of Respondent's friends and family members who had already testified. Finally, Respondent testified on his own behalf.

### **DETERMINATION OF RULES VIOLATED**

The Committee respectfully submits that the formal charges, which have been admitted and proven by clear and convincing evidence establish that, as a matter of law, Respondent has knowingly and intentionally violated Louisiana Rule of Professional Conduct 8.4 (a-c):

It is professional misconduct for a lawyer to:

- (a) Violate or attempt to violate the Rules of Professional Conduct;
- (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
- (c) Engage in conduct involving dishonesty, fraud, deceit or misrepresentation;

### **ASSESSMENT OF BASELINE SANCTION**

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

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

In this case, Respondent violated duties owed to the legal system, to his firm and to the profession. As suggested by both OCD and Respondent, this Committee finds that the *ABA Standards for Imposing Lawyer Sanctions* suggests that disbarment is the baseline sanction for the offense committed by Respondent. ABA Standard 5.11 states the following, in pertinent part:

5.11 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 ... theft ...

(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.

This baseline is supported by the jurisprudence. *See In re: Kelly*, 98-0368 (La.6/5/98), 713 So.2d 458; *Louisiana State Bar Ass'n v. Hinrichs*, 486 So.2d 116 (La.1986), and *In re: Bernstein*, 2007-1049 (La. 10/16/07) 966 So.2d 537. Respondent's principal contention is that there should be a deviation downward from this baseline sanction due to evidence that he suffered from a mental condition during the time of the misconduct.

Mitigating factors present which could justify a downward deviation in severity from the baseline sanction include: absence of a prior disciplinary record; personal or emotional problems; timely good faith effort to make restitution or rectify consequences of misconduct; full and free disclosure to the disciplinary board or cooperative attitude toward proceedings; and, remorse.

Aggravating factors presented by Respondents' behavior which could justify an upward deviation from the baseline are: a pattern of misconduct; and multiple offenses.

### **ANALYSIS OF THE EVIDENCE**

The evidence presented to the committee establishes that Respondent was addicted to opioid medication, has been sober since June 2015, and is well equipped with the tools needed to manage his sobriety moving forward. The committee was impressed by the friends and family members who testified on Respondent's behalf, and is confident that Respondent has the support structure in place around him to help maintain his sobriety.

All of the evidence presented to this committee was that, prior to developing a severe opioid addiction in late 2012, at age 32, Respondent was respected for his character, integrity and

professional skills. There was no evidence presented that, prior to developing the opioid addiction, Respondent had any previous substance abuse or addiction problems.

While addiction recovery is a “day by day” process, all of the evidence presented suggests that Respondent has a high likelihood of maintaining his sobriety. His recovery program at Palmetto was specifically focused on professionals returning to work, and, through the JLAP program, he has on-demand access to high-quality treatment options. Though, at the peak of his addiction, Respondent was consuming shockingly high doses of opioids, it does not appear to the Committee that the specter of his prior addiction, if managed properly, presents a significant danger to the public or the profession.

However, the committee finds that the thefts committed by Respondent, though done in the midst of a severe addiction, were executed knowingly, over an extended period of time, and with significant planning and forethought.<sup>2</sup> Respondent stole a total of \$39,085.86 in **eleven** separate acts. It was Respondent’s specific business and professional knowledge and skill that allowed him to commit these thefts and, for a time, conceal them from his employer and clients.

Respondent and ODC both suggest that the facts and circumstances of this case are most like the case of *In re: Wade N. Kelly*, 713 So. 2d 458 (La. 1998). In *Kelly*, the Respondent converted approximately \$80,000.00 from his law firm by keeping payments made to him for legal services and not depositing the payments into the firm accounts. He later repaid the firm and sought treatment for depression he was experiencing at the time of the conversion. The Louisiana Supreme Court imposed a three year suspension on Mr. Kelly.

This Committee finds that the Louisiana Supreme Court decision of *In re: Bernstein*, 2007-1049 (La. 10/16/07) 966 So.2d 537, provides helpful guidance beyond that of the *Kelly* case. In

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<sup>2</sup> The first theft occurred on or about November 1, 2012, and continued through the spring of 2014. (see ODC Exhibit 5.)

*Bernstein*, the Respondent stole a significant sum, over many years, from two different firms, and, in the course of disciplinary proceedings, claimed that a mental disability was to blame. The Supreme Court did not accept his argument in mitigation and imposed disbarment.

As cited in the *Bernstein* decision, in *In re: Stoller*, 04-2758 (La.5/24/05), 902 So.2d 981, Louisiana's Supreme Court discussed the appropriate analysis for considering addiction and mental disability as a mitigating factor. The guiding ABA Standard is 9.32(i), which the Court stated:

In essence, Respondent argues that his condition constitutes a mental disability. In order to prove the mitigating factor of mental disability, ABA Standard 9.32(i) provides the lawyer must prove the following four factors by clear and convincing evidence:

- (1) There is medical evidence that the Respondent is affected by a chemical dependency or mental disability;
- (2) **The chemical dependency or mental disability caused the misconduct;**
- (3) The Respondent's recovery from the chemical dependency or mental disability is demonstrated by a meaningful and sustained period of successful rehabilitation; and
- (4) The recovery arrested the misconduct and recurrence of that misconduct is unlikely.

The commentary to Standard 9.32 emphasizes the "careful analysis" that is required in considering issues of mental disability offered as mitigating factors in disciplinary proceedings, and that **"direct causation between the disability" and the misconduct must be established.** The commentary further discusses the weight to be assigned to this factor, indicating that "the greatest weight" should be assigned when the disability is the sole cause of the offense. If the disability is the principal cause of the offense, it should be given "very great weight"; if it is a substantial contributing cause of the offense, it should be given "great weight." In all other cases in which the disability is considered as mitigating, the commentary indicates it should be given "little weight."<sup>3</sup>

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<sup>3</sup> *Id.* @ p. 988 (emphasis supplied)

It is clear that, for the better portion of the last few years, Mr. Abdalla was a fully ensnared opioid addict, but this Committee finds that there was not sufficient evidence presented to show “direct causation between” his chemical dependency and the misconduct for which he has been charged. In *Bernstein*, the Louisiana Supreme Court held that expert testimony that Mr. Bernstein’s mental disability was the sole cause of his misconduct was not dispositive of that issue when other facts did not support that conclusion.<sup>4</sup> While, in the instant matter, some friends and family testified that Mr. Abdalla was a different man during his addiction, and not someone who would be expected to steal under normal circumstances, Respondent did not present expert testimony that his disability was the cause of the misconduct. Though he may have used the money taken to support his addiction, that fact is not necessarily proof that the addiction caused his misconduct. Respondent knew that what he was doing was wrong and he used various, sophisticated methods to accomplish his criminal acts over an extended period.<sup>5</sup> This Committee borrows from language used by the Louisiana Supreme Court in *Stroller*, in stating, “Respondent’s repeated and deliberate actions over this lengthy period of time belie his contention that his misconduct was an aberration.”<sup>6</sup>

Respondent has been cooperative with the disciplinary process, proactive in his recovery, and seems to be on the right track for getting his life straight. However, given the severity of his misconduct, in the judgment of this Committee, those action are not sufficient to justify a downward deviation from the baseline sanction of disbarment.

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<sup>4</sup> *In re Bernstein*, 2007-1049 (La. 10/16/07) 966 So.2d 537 at p 454.

<sup>5</sup> Respondent testified when he was terminated by his employer in early August 2014 he feared his thefts had been discovered.

<sup>6</sup> *In Re Stroller*, 902 So.2d at 988

## **SANCTION RECOMMENDATION**

For the foregoing reasons, it is the recommendation of this hearing committee that Adam Anthony Abdalla, be disbarred, retroactive to the October 22, 2014, date of his Interim Suspension. It is further recommended that Respondent be assessed with the costs and expenses of this proceeding.

### **HEARING COMMITTEE #20**

Patrick J. Briney, Chair

Brandon O. Wallace, Attorney Member

Carolyn R. Bruder, Public Member



By: \_\_\_\_\_  
**Patrick J Briney, For the Committee**

LOUISIANA ATTORNEY DISCIPLINARY BOARD

IN RE: ADAM ANTHONY ABDALLA

DOCKET NO. 15-DB-044

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**APPENDIX 1  
TO HEARING  
COMMITTEE  
REPORT**

**EXHIBITS FILED INTO  
THE RECORD**

**OFFICE OF DISCIPLINARY COUNSEL'S EXHIBIT LIST**

<b>Exhibit</b>	<b>Description</b>
ODC-1	Complaint received from Complainant, Jean-Paul P. Coussan, Esq., on September 26, 2014;
ODC-2	Correspondence from Respondent's Counsel to the ODC dated October 23, 2014;
ODC-3	Written response to complaint from Respondent's Counsel to the ODC dated October 23, 2014;
ODC-4	Correspondence to complainant from the ODC dated January 21, 2015; and,
ODC-5	Correspondence from Complainant to the ODC dated May 8, 2015, with attachments.

## RESPONDENT'S LIST OF EXHIBITS

EX. #	DATE	DESCRIPTION
R-1	05/24/2013	Valerio LLC check #6801 payable- to Adam-Boudreaux in amount of \$1,000.00
R-2	07/12/2013	Balbeisi Investment Group LLC check#1 003 payable to Adam A. Abdalla in the amount of \$6,000.00
R-3	08/12/2013	Adan Abdalla invoice in amount of \$5,500.00; legal services in connection with Cracker Barrel Lease Agreement, Linebacker's, Sabin's Hair Studio, Balbeisi Investment Grollp LLC, Andy Veazev
R-4	08/20/2013	Balbeisi Investment Group LLC check #1006 payable to Adam A. Abdalla in the amount of \$5,500.00
R-5		LEFT BLANK INTENTIONALLY
R-6		LEFT BLANK INTENTIONALLY
R-7		LEFT BLANK INTENTIONALLY
R-8		LEFT BLANK INTENTIONALLY
R-9		LEFT BLANK INTENTIONALLY
R-10		LEFT BLANK INTENTIONALLY
R-11	03/12/2014	Andrus Boudreaux invoice re: Tye Hebert Investments LLC in the amount of \$1,500.00
R-12	08/28/2016	Boudreaux email to Abdalla @ gmail account; balance owed to firm at present is \$18,790.19
R-13	08/29/2014	Chase Cashier's check remitted by Adam Anthony Abdalla to Andrus-Boudreaux in amount of \$10,000.00
R-14	08/31/2014	Ottinger Hebert invoice 14-30843 in the amount of \$1,255.13
R-15	09/03/2014	Chase Cashier's check remitted by Adam Anthony Abdalla to Andrus-Boudreaux in amount of \$8,790.19
R-16	09/04/2014	Invoice ASAP from AAA Budget Moving to Andrus/Boudreaux in amount of \$550.00 of which \$375.00 is attributable to Adam Abdalla
R-17	09/15/2014	Darnall Sikes invoice #23 13 in amount of \$6,050.00
R-18	09/19/2014	Paul Hebert (Ottinger Hebert) letter to Leslie Schiff demanding \$21,498.35
R-19	09/19/2014	Ottinger Hebert invoice 14-30981 in the amount of \$1,193.22
R-20	09/24/2014	LJS letter to Paul Hebert enclosing SSW trust account check #2806 in amount of \$21,498.35 payable to Andrus Boudreaux
R-21	09/30/2014	Ottinger Hebert invoice #14-3 1023 in the amount of \$674.36
R-22	10/13/2014	Paul Hebert (Ottinger Hebert) letter to Leslie Schiff making second demand in amount of \$18,549.36; comment at (b) denied.
R-23	10/31/2014	Ottinger Hebert invoice 14-3 1241 in the amount of \$740.16
R-24	11/30/2014	Ottinger Hebert invoice 14-3 1241 in the amount of \$499.10

R-25	01/05/2015	Philip Boudreaux (Andrus Boudreaux) letter to Leslie Schiff re: \$6,000.00 Blanc Bridal LLC payments in amount \$4,000.00 and
R-26	05/01/2015	LJS letter to Philip Boudreaux enclosing SSW trust check #2913 in amount of \$6,955.00 payable to Andrus Boudreaux
<b>R-27</b>	06/20/2016	J.E. "Buddy" Stockwell JLAP Compliance Report to Leslie Schiff and Tammy Northrup Re: Adam Abdalla <b>FILED UNDERSEAL</b>
<b>R-28</b>	09/15/2015	Respondent's current LAP Agreement <b>FILED UNDERSEAL</b>
<b>R-29</b>	9/10/2015	Correspondence from Dr. Jay Weiss to Respondent's counsel <b>FILED UNDERSEAL</b>