

The Supreme Court of the State of Louisiana

**IN RE: DENIS COLLINS SWORDS**

No.2020-B-00642

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IN RE: Disciplinary Counsel - Applicant Other; Findings and Recommendations  
(Formal Charges);  
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**September 23, 2020**

Suspension imposed. See per curiam.

SJC

JLW

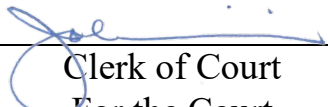
JDH

JTG

WJC

JHB

Supreme Court of Louisiana  
September 23, 2020

  
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Clerk of Court  
For the Court

09/23/20

SUPREME COURT OF LOUISIANA

NO. 2020-B-0642

IN RE: DENIS COLLINS SWORDS

ATTORNEY DISCIPLINARY PROCEEDING

PER CURIAM

This disciplinary matter arises from formal charges filed by the Office of Disciplinary Counsel (“ODC”) against respondent, Denis Collins Swords, an attorney licensed to practice law in Louisiana, but currently ineligible to practice.

**UNDERLYING FACTS**

On September 9, 2016, respondent was declared ineligible to practice law for failing to pay bar dues and the disciplinary assessment. On June 29, 2018, respondent was additionally declared ineligible to practice for failing to comply with the mandatory continuing legal education (“MCLE”) requirements. Respondent has never rectified his ineligibility.

In January 2019, the ODC received information that, despite his ineligibility, respondent had practiced law on behalf of Petsec Energy, Inc. following his relocation to New Hampshire. Specifically, respondent performed legal work for Petsec as follows:

1. 5/25/17 – Telephone Ross regarding Ron Krenzke and Dick Smith agreements, Review Points of Agreement. 0.50 hrs. @ \$300 = \$150.00;
2. 5/26/17 – Review Points of Agreement, draft agreement, review consulting agreement for Ron Krenzke, prepare consulting agreement, review Dick Smith termination agreement. 2.75 hrs. @ \$300 = \$825.00;
3. 6/1/17 – Telephone with Ross, review emails, revise Krenzke consulting agreement. 0.50 hrs. @ \$300 = \$150.00;
4. 6/2/17 – Revise Krenzke consulting agreement. 0.75 hrs. @ \$300 = \$225.00;

5. 8/4/17 – Telephone with Ross regarding Main Pass 270, 273, 274 regarding agreement with the London Group, review and revise agreement. 1.25 hrs. @ \$300 = \$375.00
6. 8/5/17 – Review and revise London Group agreement, Main Pass 270. 0.50 hrs. @ \$300 = \$150.00;
7. 8/6/17 – Review email regarding MP 270, revise agreement. 2.0 hrs. @ \$300 = \$600.00;
8. 8/7/17 – Revise arbitration provision in MP 270 agreement, review, reply to emails. 1.75 hrs. @ \$300 = \$525.00;
9. 10/9/17 – Review co regarding Houston lease, review, revise Second Amendment to lease agreement, prepare correspondence regarding same. 1.0 hrs. @ \$300 = \$300.00.

As indicated, this legal work consisted of reviewing and revising consulting agreements and leases for Petsec and totaled \$3,300 for 2017.

In response to the ODC's disciplinary complaint, respondent stated:

First let me point out that I am not a lawyer and that I do not plan to ever reinstate my license to practice law. I am and have been engaged in running a small business in New Hampshire for seven years. I plan to continue in that endeavor.

When I first arrived in New Hampshire I maintained my bar license and continued to do a small amount of work for my only client. However, maintaining a license became too expensive and too time consuming. I asked to be listed as inactive but the cost to be inactive was too much of a burden for someone trying to establish a small business.

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In looking at my billing it appears that I did unfortunately bill some time after my license was suspended. I do not remember the particulars. I subsequently referred my one and only client to other lawyers. Again, I am not nor will I ever attempt to be employed in the future as a lawyer.

### **DISCIPLINARY PROCEEDINGS**

In August 2019, the ODC filed formal charges against respondent, alleging that his conduct violated the following provisions of the Rules of Professional Conduct: Rules 1.1(c) (failure to pay bar dues and the disciplinary assessment),

5.5(a) (engaging in the unauthorized practice of law), and 8.4(a) (violation of the Rules of Professional Conduct). Respondent answered the formal charges, stating:

I find it disconcerting that you have not bothered to reference your own records. Were you to do so you would determine that I was in fact reenrolled in 2017. After my reenrollment I practiced law. I was later ruled ineligible in 2018, yes 2018. During and after 2018 I did not practice law.

I realize I am asking you to look at exculpatory evidence when you'd prefer to rush ahead and convict. But the evidence is your own records. Please at least bother to accurately reflect your own records.

The matter then proceeded to a formal hearing on the merits.

### *Formal Hearing*

The hearing committee conducted the hearing on December 17, 2019. The ODC introduced documentary evidence and called two witnesses to testify before the committee, including Loretta Larsen Conques, the Executive Director of the Louisiana State Bar Association. Respondent did not appear at the hearing, having previously informed the committee of the following:

I no longer practice law. I have not practiced law for several years. I requested inactive status several times but was refused. Regardless of the outcome of this hearing I will never again practice law. I admit that I fail to see how you can suspend or disbar someone who is not a member of the bar. I understand you could inhibit any attempts I might make to become a member if I should try, but until such time I don't see the purpose of this hearing.

I am the sole proprietor of a business in New Hampshire. My business requires my presence. I will not attend the hearing of this matter.

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Anyway, I am not able to leave my business to attend. Your decision has obviously been reached so I do not see where I can influence your actions anyway.

### *Hearing Committee Report*

After considering the testimony and evidence presented at the hearing, the hearing committee found that Ms. Conques' testimony and the ODC's exhibits established respondent has been ineligible to practice law since September 2016 and has never re-established his eligibility. The committee also found that respondent's 2017 federal tax return and respondent's year-end invoice to Petsec, which he submitted to the ODC, suggest he performed legal services in 2017 after he was ineligible to do so. Noting the legal work consisted of reviewing and revising consulting agreements and leases, the committee further noted there is no evidence that respondent went out and solicited work, appeared in court on behalf of a client, filed any pleadings in court in an ongoing matter, or misled the public as to his status. Based on these facts, the committee determined respondent violated the Rules of Professional Conduct as alleged in the formal charges.

The committee determined respondent acted knowingly, causing potential harm to Petsec and the legal system. After considering the ABA's *Standards for Imposing Lawyer Sanctions*, the committee determined the baseline sanction is suspension.

In aggravation, the committee found bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with the rules or orders of the disciplinary agency and substantial experience in the practice of law (admitted 1992). In mitigation, the committee found the absence of a prior disciplinary record and the absence of a dishonest or selfish motive. In further mitigation, the committee noted respondent's participation in a contentious marital property proceeding during the relevant time period.

After considering this court's prior jurisprudence addressing similar misconduct, the committee recommended respondent be suspended from the practice of law for one year, with six months deferred. The committee also recommended that any misconduct by respondent during the first six months

following his reinstatement should result in the deferred portion of the suspension being made executory.

Neither respondent nor the ODC filed an objection to the committee's report or recommendation. Therefore, pursuant to Supreme Court Rule XIX, § 11(G), the disciplinary board submitted the committee's report directly to the court for review.<sup>1</sup>

## DISCUSSION

Bar disciplinary matters fall within the original jurisdiction of this court. La. Const. art. V, § 5(B). Consequently, we act as triers of fact and conduct an independent review of the record to determine whether the alleged misconduct has been proven by clear and convincing evidence. *In re: Banks*, 09-1212 (La. 10/2/09), 18 So. 3d 57. While we are not bound in any way by the findings and recommendations of the hearing committee and disciplinary board, we have held the manifest error standard is applicable to the committee's factual findings. *See In re: Caulfield*, 96-1401 (La. 11/25/96), 683 So. 2d 714; *In re: Pardue*, 93-2865 (La. 3/11/94), 633 So. 2d 150.

The record in this matter supports a finding that respondent practiced law while ineligible to do so. This misconduct amounts to a violation of the Rules of Professional Conduct as alleged in the formal charges.

Having found evidence of professional misconduct, we now turn to a determination of the appropriate sanction for respondent's actions. In determining a sanction, we are mindful that disciplinary proceedings are designed to maintain high standards of conduct, protect the public, preserve the integrity of the profession, and deter future misconduct. *Louisiana State Bar Ass'n v. Reis*, 513 So. 2d 1173

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<sup>1</sup> As amended effective May 15, 2019, Supreme Court Rule XIX, § 11(G) provides that “[i]f the parties do not file objections to the hearing committee report, the board shall promptly submit the hearing committee's report to the court.”

(La. 1987). The discipline to be imposed depends upon the facts of each case and the seriousness of the offenses involved considered in light of any aggravating and mitigating circumstances. *Louisiana State Bar Ass'n v. Whittington*, 459 So. 2d 520 (La. 1984).

Respondent knowingly violated duties owed to his client, the legal system, and the legal profession. While his conduct did not cause any actual harm, it had the potential to harm his client and the legal system. We agree with the hearing committee that the baseline sanction is suspension.

Aggravating factors include respondent's bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with the rules or orders of the disciplinary agency, refusal to acknowledge the wrongful nature of the conduct, and substantial experience in the practice of law. The record indicates the presence of the following mitigating factors: the absence of a prior disciplinary record, the absence of a dishonest or selfish motive, and personal or emotional problems.

Turning to the issue of an appropriate sanction, we find guidance from the case of *In re: Walsh*, 18-1232 (La. 12/3/18), 257 So. 3d 654. In *Walsh*, an attorney practiced law during an extended period of ineligibility for failing to pay bar dues and the disciplinary assessment. Finding the attorney's misconduct to be grossly negligent, we imposed a six-month suspension from the practice of law, deferring all but thirty days, followed by one year of unsupervised probation. Unlike the attorney in *Walsh*, respondent's misconduct was knowing; thus, we find a harsher sanction is warranted.

Accordingly, we will adopt the committee's recommendation and suspend respondent from the practice of law for one year, with six months deferred, subject to the condition that any misconduct during this period may be grounds for making the deferred portion of the suspension executory, or imposing additional discipline, as appropriate.



## DECREE

Upon review of the findings and recommendation of the hearing committee, and considering the record, it is ordered that Denis Collins Swords, Louisiana Bar Roll number 21905, be and he hereby is suspended from the practice of law for a period of one year, with six months deferred, subject to the condition that any misconduct during this period may be grounds for making the deferred portion of the suspension executory, or imposing additional discipline, as appropriate. All costs and expenses in the matter are assessed against respondent in accordance with Supreme Court Rule XIX, § 10.1, with legal interest to commence thirty days from the date of finality of this court's judgment until paid.