

The Supreme Court of the State of Louisiana

IN RE: SUZAN EDWINA JACKSON

No.2020-B-01203

IN RE: Disciplinary Counsel - Applicant Other; Findings and Recommendations
(Formal Charges);

January 20, 2021

Suspension imposed. See per curiam.

SJC

JLW

JDH

JTG

WJC

JBM

PDG

Supreme Court of Louisiana
January 20, 2021



Clerk of Court
For the Court

01/20/21

SUPREME COURT OF LOUISIANA

NO. 2020-B-1203

IN RE: SUZAN EDWINA JACKSON

ATTORNEY DISCIPLINARY PROCEEDING

PER CURIAM

This disciplinary matter arises from formal charges filed by the Office of Disciplinary Counsel (“ODC”) against respondent, Suzan Edwina Jackson, an attorney licensed to practice law in Louisiana.

PRIOR DISCIPLINARY HISTORY

Before we address the current charges, we find it helpful to review respondent’s prior disciplinary history. Respondent was admitted to the practice of law in Louisiana in 2000.

In 2012, respondent received a diversion for mishandling her client trust account. As part of that diversion, respondent attended the Louisiana State Bar Association’s (“LSBA”) Trust Accounting School.

In 2019, the court accepted a joint petition for consent discipline in which respondent stipulated that she had mishandled her client trust account. For this misconduct, the court suspended respondent from the practice of law for one year and one day, with all but thirty days deferred, followed by a two-year period of supervised probation during which she would be required to undergo quarterly trust account audits performed by an ODC-approved accountant, who would then report

the findings to the ODC. *In re: Jackson*, 19-1340 (La. 10/8/19), 280 So. 3d 139 (“*Jackson I*”).¹

Against this backdrop, we now turn to a consideration of the misconduct at issue in the instant proceeding.

FORMAL CHARGES

On June 20, 2019, six days after the filing of formal charges *in Jackson I*, the ODC received notice that an overdraft occurred in respondent’s client trust account on June 5, 2019. The ODC sent notice of the overdraft to respondent, along with a request for her written response and documentation related to the trust account. Respondent personally accepted delivery of the correspondence on July 1, 2019, but she failed to provide the ODC with her written response or the requested documents.

On August 22, 2019 and September 12, 2019, the ODC sent additional notices of the overdraft to respondent, along with requests for her written response and documentation related to the trust account. Respondent again failed to provide the ODC with the requested information.

On October 10, 2019, the ODC contacted respondent via telephone. During the call, respondent indicated that she had moved to Oakland, California. On November 5, 2019, the ODC mailed a fourth and final letter to respondent at her new address via certified mail. Delivery of the letter was attempted at the new address, and “a notice was left because an authorized recipient was not available.” To date, respondent still has not provided the ODC with her written response or the requested documents. In addition, respondent has not changed her address with the LSBA.

¹ Despite her agreement to do so, respondent did not undergo any such required quarterly trust account audits, and therefore, did not fulfill the condition of her probation.

DISCIPLINARY PROCEEDINGS

In October 2019, the ODC filed formal charges against respondent, as set forth above, alleging that she violated the following provisions of the Rules of Professional Conduct: Rules 1.15 (safekeeping property of clients or third persons) and 8.1(c) (failure to cooperate with the ODC in its investigation). Respondent failed to answer the formal charges. Accordingly, the factual allegations contained therein were deemed admitted and proven by clear and convincing evidence pursuant to Supreme Court Rule XIX, § 11(E)(3). No formal hearing was held, but the parties were given an opportunity to file with the hearing committee written arguments and documentary evidence on the issue of sanctions. Respondent filed nothing for the hearing committee's consideration.

Hearing Committee Report

After considering the ODC's submission, the hearing committee determined that the factual allegations set forth in the formal charges were deemed admitted and proven by clear and convincing evidence. Additionally, the committee found that the subject overdraft had occurred when a \$212.60 check was presented for payment at a time when the trust account had only a \$5.99 balance. The committee also found that respondent has failed to cooperate in any manner with the ODC's investigation. Based on the above findings, the committee determined respondent violated the Rules of Professional Conduct as alleged in the formal charges.

The committee determined that respondent knowingly violated duties owed to her clients and the legal profession. Her misconduct caused potential harm to her clients and actual harm to the legal profession. After considering the ABA's *Standards for Imposing Lawyer Sanctions*, the committee determined that the baseline sanction is suspension.

The committee found the following aggravating factors present: a prior disciplinary record, a pattern of misconduct, 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 2000). The committee found no mitigating factors present.

After further considering this court's prior jurisprudence addressing similar misconduct, the committee recommended respondent be suspended from the practice of law for one year and one day. The committee further recommended that she be assessed with the costs and expenses of this proceeding.

Neither respondent nor the ODC filed an objection to the hearing committee's report. Therefore, pursuant to Supreme Court Rule XIX, § 11(G), the disciplinary board submitted the committee's report to the court for review.²

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.

In cases in which the lawyer does not answer the formal charges, the factual allegations of those charges are deemed admitted. Supreme Court Rule XIX, § 11(E)(3). Thus, the ODC bears no additional burden to prove the factual allegations contained in the formal charges after those charges have been deemed admitted. However, the language of § 11(E)(3) does not encompass legal conclusions that flow

² 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.”

from the factual allegations. If the legal conclusion the ODC seeks to prove (i.e., a violation of a specific rule) is not readily apparent from the deemed admitted facts, additional evidence may need to be submitted in order to prove the legal conclusions that flow from the admitted factual allegations. *In re: Donnan*, 01-3058 (La. 1/10/03), 838 So. 2d 715.

The record in this deemed admitted matter supports a finding that respondent mishandled her client trust account and failed to cooperate with the ODC in its investigation. As such, she has violated 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 (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 her clients and the legal profession. Her misconduct caused potential harm to her clients and actual harm to the legal profession. The record supports the aggravating factors found by the hearing committee, and no mitigating factors are supported by the record. We agree with the committee that the applicable baseline sanction is suspension.

This is the third occasion on which respondent has been subjected to discipline for mishandling her client trust account. In the second instance (*Jackson I*), respondent was suspended for one year and one day with all but thirty days deferred, subject to her completion of a two-year period of supervised probation. There is no

evidence that respondent ever participated in the supervised probation process, and her misconduct has continued. After further considering her relocation to California and her failure to cooperate with the ODC's investigation of this matter, it appears as though respondent has no intention of practicing law again in Louisiana. Nevertheless, in order to ensure that the public is protected from any future misconduct on the part of respondent, we agree that she should be required to apply for reinstatement.

Accordingly, we will adopt the hearing committee's recommendation and suspend respondent from the practice of law for one year and one day.

DECREE

Upon review of the findings and recommendation of the hearing committee, and considering the record, it is ordered that Suzan Edwina Jackson, Louisiana Bar Roll number 26937, be and she hereby is suspended from the practice of law for a period of one year and one day. 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.