

The Supreme Court of the State of Louisiana

**IN RE: ROLANDO ROBERTO URBINA**

No. 2022-B-00394

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IN RE: Office of Disciplinary Counsel (ODC) - Applicant Other; Findings and  
Recommendations (Formal Charges);  
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**May 10, 2022**

Suspension imposed. See per curiam.

JBM

JLW

JDH

SJC

JTG

WJC

PDG

Supreme Court of Louisiana

May 10, 2022



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Chief Deputy Clerk of Court  
For the Court

SUPREME COURT OF LOUISIANA

NO. 2022-B-0394

IN RE: ROLANDO ROBERTO URBINA

ATTORNEY DISCIPLINARY PROCEEDING

PER CURIAM

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

**FORMAL CHARGES**

In January 2019, the ODC received notice from Capital One Bank that respondent’s client trust account held insufficient funds to honor a \$365.00 check presented for payment. Thereafter, the ODC sent a letter to respondent seeking his substantive response and trust account records. Respondent failed to respond to the request, necessitating the issuance of a subpoena for his sworn statement.<sup>1</sup>

Pursuant to the subpoena, respondent appeared at the ODC’s office on August 15, 2019 and provided a sworn statement, but the records which he brought with him were incomplete. Respondent was advised of the materials needed to complete an audit of his trust account, but he failed to tender the requested records, and a precise forensic audit of the trust account was not possible. Since then, the ODC has not been successful in contacting and/or locating respondent, and his family members have indicated that respondent may have relocated to Texas.

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<sup>1</sup> Apparently, the ODC did receive some documents from respondent because the record contains two letters, dated April 11, 2019 and June 13, 2019, wherein the ODC informed respondent that the documentation he provided had been reviewed but additional documentation was need to complete an audit of the account. There is no indication that respondent provided any substantive response to the ODC’s request for same.

The ODC's forensic auditor, Angelina Marcellino, conducted an assessment of the overdraft investigation and trust account. She found that respondent failed to keep proper records, failed to conduct reconciliations of his trust account, and failed to provide the records necessary to support the transactions and balances identified in the trust account. However, her findings were not precise as respondent failed to provide enough information to allow for a complete audit. Discrepancies that were found in the trust account could not be explained with the records that were obtained.

### **DISCIPLINARY PROCEEDINGS**

In May 2021, the ODC filed formal charges against respondent, as set forth above, alleging that he violated the following provisions of the Rules of Professional Conduct: Rules 1.15(a)(b)(c) (safekeeping property of clients or third persons), 8.1(b) (a lawyer shall not knowingly fail to respond to a lawful demand for information from a disciplinary authority), 8.1(c) (failure to cooperate with the ODC in its investigation), and 8.4(a) (violation of the Rules of Professional Conduct).

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 deemed admitted submission, the hearing committee adopted the deemed admitted factual allegations as its factual findings. Based on these facts, the committee determined that respondent violated the Rules of Professional Conduct as alleged in the formal charges.

The committee determined respondent violated duties owed to his clients and the legal system. He acted knowingly and intentionally. His misconduct caused actual and potential harm to his clients' interests. The insufficient funds notice suggests that respondent mishandled client property. Client funds were not properly maintained and thereby converted to personal use. Respondent violated duties owed to the legal system by refusing to register his current service address and by failing to cooperate with the disciplinary process, making it difficult for the legal system to properly supervise its own licensee and maintain public trust and faith in the legal system. His actions are those that seed public distrust in the legal profession. Under the ABA's *Standards for Imposing Lawyer Sanctions*, the baseline sanction is suspension.

The committee found the following aggravating factors present: 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 2011). The committee found the absence of a prior disciplinary record to be the sole mitigating factor 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 he 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.

## **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.

The record in this deemed admitted matter supports a finding that respondent mishandled his client trust account and failed to cooperate with the ODC in its investigation. As such, he 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 his clients, the legal system, and the legal profession. His misconduct caused potential harm to his clients and actual harm to the legal profession. The record supports the aggravating factors and mitigating factors found by the hearing committee. We agree with the committee that the applicable baseline sanction is suspension.

Turning to the issue of an appropriate sanction, we agree that a one year and one day suspension is appropriate under the facts of this case. The ODC has been unsuccessful in contacting and/or locating respondent since his sworn statement. After further considering the likelihood that he has relocated out of state, it appears as though respondent has no intention of practicing law again in Louisiana. Therefore, in order to ensure that the public is protected from any future misconduct,

we agree that respondent should be required to apply for reinstatement in the event he decides to return to the practice of law.

Accordingly, we will accept 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 Rolando Roberto Urbina, Louisiana Bar Roll number 34129, be and he hereby is suspended from the practice of law for 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.