

Supreme Court of Louisiana

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[NEWS RELEASE #041](#)

FROM: CLERK OF SUPREME COURT OF LOUISIANA

The Opinions handed down on the **20th day of October, 2020** are as follows:

PER CURIAM:

[2020-B-00387](#)

[IN RE: SHANE E. ROMERO](#)

Upon review of the findings and recommendations of the hearing committee and disciplinary board, and considering the record, briefs, and oral argument, it is ordered that Shane E. Romero, Louisiana Bar Roll number 26108, be and he hereby is suspended from the practice of law for one year. 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.
SUSPENSION IMPOSED.

Retired Judge James Boddie, Jr., appointed Justice pro tempore, sitting for the vacancy in Louisiana Supreme Court District 4.

[Weimer, J., concurs in part and dissents in part and assigns reasons.](#)

Hughes, J., concurs in part and dissents in part for reasons assigned by Justice Weimer.

10/20/20

SUPREME COURT OF LOUISIANA

NO. 2020-B-0387

IN RE: SHANE E. ROMERO

ATTORNEY DISCIPLINARY PROCEEDING

PER CURIAM*

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

UNDERLYING FACTS

The following facts are not in dispute, as they have been stipulated to by the parties:

In the fall of 2014, respondent was a candidate for the office of judge of the New Iberia City Court. During his campaign, respondent paid \$1,760 to finance the printing and distribution of a flyer against one of his opponents, Theodore “Trey” Haik III. The campaign flyer truthfully stated that Mr. Haik and his family had received substantial fees for legal work performed for various governmental entities; however, it did not contain the required disclosure identifying respondent as the originator of the flyer.¹ Respondent also failed to disclose on his campaign finance report that he paid to have the flyer printed and distributed.

* Retired Judge James Boddie, Jr., appointed Justice *pro tempore*, sitting for the vacancy in Louisiana Supreme Court District 4.

¹ Respondent provided the written material along with cash funds to Paul Camacho to have the flyer printed and distributed, but the flyer indicates that it was paid for by “M. Boutte.”

The Louisiana Board of Ethics opened an investigation into the origins of the campaign flyer. On July 29, 2015, the Board of Ethics obtained a recorded statement from respondent, during which he was asked under oath whether he was the person responsible for the printing and distribution of the flyer. In response, respondent falsely told investigators that he did not pay for the flyer. The Board of Ethics later filed a disciplinary complaint against respondent and also made a criminal referral to the Iberia Parish District Attorney's Office. The Iberia District Attorney self-disqualified and the matter was referred to the Lafourche Parish District Attorney's Office for prosecution.

While the disciplinary investigation was underway, respondent twice asked the person who distributed the flyer, Paul Camacho, to sign an affidavit or statement falsely stating that respondent did not provide the funds to print and distribute the flyer. Respondent intended to submit the false affidavit to the ODC, and in furtherance of this objective, he misled his own attorneys by providing them with false information to be included in the affidavit they prepared. However, Mr. Camacho never signed such an affidavit or statement, and respondent never submitted a false affidavit or statement in the course of any investigation or into the record of any judicial or disciplinary proceeding.

On November 10, 2016, respondent pleaded guilty in the 19th Judicial District Court for the Parish of East Baton Rouge to one misdemeanor count of violating state campaign finance laws by omitting to disclose a required election expenditure. Under the provisions of La. Code Crim. P. art. 894, the district court deferred the imposition of sentence for six months retroactive to the date of the offense and placed respondent on unsupervised probation for that period with the special condition that he pay a \$500 fine and court costs. The district court acknowledged during sentencing that respondent had already amended his campaign finance report

to accurately report the flyer expenditure and that he had already paid a \$1,760 fine to the Board of Ethics.²

Respondent admits that his conduct violated the following provisions of the Rules of Professional Conduct: Rules 3.4(b) (a lawyer shall not falsify evidence or assist a witness to testify falsely), 8.4(a) (violation of the Rules of Professional Conduct), 8.4(b) (commission of a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer), and 8.4(c) (engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation).

DISCIPLINARY PROCEEDINGS

In October 2018, the ODC filed formal charges against respondent. Following the filing of respondent's answer to the formal charges, the matter was set for a hearing in April 2019. No witnesses were called to testify at the hearing, and the parties rested after the exhibits were admitted.

Hearing Committee Report

Based on the evidence introduced at the hearing, the hearing committee found that respondent engaged in the stipulated misconduct. Specifically, the committee found that respondent lied under oath to the Board of Ethics and, on two separate occasions, attempted to suborn the perjury of Mr. Camacho in order to provide false evidence to the district court and the Board of Ethics and again when the matter came before the ODC in the course of its investigation. The committee noted, however, that Mr. Camacho never signed such an affidavit and no false affidavit was ever submitted to the district court or the Board of Ethics. Based on these findings, the

² After accepting respondent's guilty plea, the court set aside the conviction and dismissed the prosecution. On November 29, 2016, the matter was expunged.

committee determined that respondent violated the Rules of Professional Conduct as charged.

The committee found respondent violated duties owed to the public by disregarding the ethical norms governing political candidates. His conduct also brought the legal profession into disrepute. Respondent's actions caused harm to the public, as a violation of the campaign finance laws impairs the public's right to know the source of political advertising so the fitness of candidates can be accurately assessed. That these actions were taken during a judicial campaign brings the judicial system into question and harms the reputation of the court system. The committee found respondent acted intentionally, as demonstrated by his conversations with Mr. Camacho, notwithstanding the parties' stipulation that the conduct was knowing.³ Considering the ABA's *Standards for Imposing Lawyer Sanctions*, the committee determined that the applicable baseline sanction in this matter is suspension.⁴

The parties stipulated to aggravating and mitigating factors. The committee agreed with the stipulated aggravating factors, to wit: a dishonest or selfish motive, a pattern of misconduct, multiple offenses, deceptive practices during the disciplinary process by giving an evasive, incomplete, and misleading statement to the ODC,⁵ and substantial experience in the practice of law (admitted 1999). The

³ In fact, the parties stipulated that respondent's "actions were knowing and intentional."

⁴ ABA Standard 6.11 states that disbarment is generally appropriate when a lawyer, with the intent to deceive the court, makes a false statement, submits a false document, or improperly withholds material information, and causes serious or potentially serious injury to a party, or causes a significant or potentially significant adverse effect on the legal proceeding. By contrast, Standard 6.12 states that suspension is generally appropriate when a lawyer knows that false statements or documents are being submitted to the court or that material information is improperly being withheld, and takes no remedial action, and causes injury or potential injury to a party to the legal proceeding, or causes an adverse or potentially adverse effect on the legal proceeding. The committee rejected the ODC's argument that Standard 6.11 applies and found Standard 6.12 is the more appropriate standard in this case, given that "no perjured testimony was actually submitted (although not for want of effort on the part of Respondent)."

⁵ The ODC took respondent's sworn statement in May 2017. During the statement, respondent testified under oath that he had no involvement in the distribution of the campaign flyer. This

committee found the following mitigating factors apply: absence of a prior disciplinary record, timely good faith effort to make restitution or to rectify the consequences of the misconduct, and the imposition of other penalties or sanctions. The committee rejected three other mitigating factors stipulated to by the parties, namely personal problems, good character and reputation, and remorse, reasoning that no evidence of these factors was introduced at the hearing.

Turning to the issue of an appropriate sanction, the committee began by analyzing the cases cited by the parties in their pre-hearing memoranda. Respondent relied on *In re: Richmond*, 08-0742 (La. 12/2/08), 996 So. 2d 282, in support of his argument that he should be suspended from the practice of law for no more than six months, with all or a substantial portion deferred. Mr. Richmond was suspended for six months, with all but sixty days deferred, for knowingly making a false statement of domicile on a notice of candidacy and making similarly false statements regarding his domicile in pleadings and oral testimony in the election contest filed against him. Mr. Richmond had no prior disciplinary record, was relatively inexperienced in the practice of law, was fully cooperative, and maintained a good reputation in the community. Mr. Richmond also held a position of public trust in that he was serving in the Louisiana Legislature at the time of his misconduct.

Respondent argued that his conduct is less egregious than that of Mr. Richmond, as he did not actually submit a false affidavit, lie under oath at the committee hearing, or violate a position of public trust. However, the committee rejected respondent's argument, explaining that the only reason respondent did not submit a false affidavit to the Board of Ethics or to the ODC was because the putative affiant, Mr. Camacho, refused to sign it. Furthermore, although respondent did not

testimony was false. Moreover, at the time he gave this testimony, respondent had already pleaded guilty to omitting the flyer expenditure from his campaign finance report.

lie under oath to the committee, he did admittedly lie under oath to the ODC during his sworn statement.

The ODC, on the other hand, suggested that respondent should be suspended from the practice of law for two years, with no portion of the suspension deferred. In support, the ODC cited cases involving felony criminal convictions for dishonest conduct. The committee found these cases are distinguishable. While in this case respondent did have a criminal conviction, it was for a misdemeanor involving a campaign finance report, not a felony conviction for perjury or mail fraud. Therefore, the committee concluded that the following cases are more on point: *In re: Landry*, 05-1871 (La. 7/6/06), 934 So. 2d 694 (six-month suspension, with all but thirty days deferred, imposed upon an attorney who notarized and caused to be filed into a succession proceeding two affidavits that he knew or should have known contained false information); *In re: Porter*, 05-1736 (La. 3/10/06), 930 So. 2d 875 (lawyer suspended for one year for notarizing an affidavit verifying a petition which was not actually signed by the affiant); and *In re: Warner*, 03-0486 (La. 6/27/03), 851 So. 2d 1029 (one year and one day suspension imposed upon an attorney who acted with fraudulent intent when he directed the daughter of his deceased personal injury client to sign her father's name on a release and settlement check).

In light of the above findings, and considering in mitigation the fines and costs paid by respondent as a result of his guilty plea, the committee recommended the imposition of a one-year suspension, with three months deferred.

Both respondent and the ODC filed objections to the hearing committee's report.

Disciplinary Board Recommendation

After review, the disciplinary board determined that the hearing committee's factual findings are not manifestly erroneous and adopted the findings to the extent

the committee found that respondent lied under oath to the Board of Ethics and engaged in the other misconduct to which he stipulated. The board did not adopt the committee's finding that respondent intended to provide the false affidavit of Mr. Camacho to the district court or to the Board of Ethics, as the parties' stipulation was only that respondent intended to submit the affidavit to the ODC. Furthermore, the ODC did not allege or prove by clear and convincing evidence that respondent intended to submit the affidavit to the district court or to the Board of Ethics. Based on these findings, the board agreed that, as stipulated by the parties, respondent violated Rules 3.4(b), 8.4(a), 8.4(b), and 8.4(c) of the Rules of Professional Conduct as charged.

The board determined respondent knowingly and intentionally violated duties owed to the public, the legal profession, and the legal system. Respondent's actions caused harm to the public's trust in individuals who seek election as judge, an officer who upholds the law and integrity of the judicial system. As the committee recognized, respondent's conduct also harmed the public's right to know the source of political advertising in order to accurately assess the fitness of the candidates. His behavior and guilty plea also brought public discredit upon the profession and the legal system. Further, respondent's actions during the investigations by the Board of Ethics and the ODC potentially caused additional expenditures of the resources of these agencies and delay in the resolution of the investigations. After considering the ABA's *Standards for Imposing Lawyer Sanctions*, the board determined the baseline sanction is suspension.

The board adopted the aggravating and mitigating factors stipulated to by the parties. The stipulated aggravating factors are a dishonest or selfish motive, a pattern of misconduct, multiple offenses, deceptive practices during the disciplinary process by giving an evasive, incomplete, and misleading statement to the ODC, and substantial experience in the practice of law. The stipulated mitigating factors are

the absence of a prior disciplinary record, personal problems, timely good faith effort to make restitution or to rectify the consequences of the misconduct, good character and reputation, imposition of other penalties or sanctions, and remorse.⁶

Turning to the issue of an appropriate sanction, the board discussed *Richmond*, *supra*, as well as *In re: King*, 19-0356 (La. 5/20/19), 271 So. 3d 1253, both of which are cases involving misconduct by lawyers arising out of their candidacy for public office. In *King*, a jury found Ms. King guilty of felony criminal charges arising out of allegations that she made false representations about her domicile when she qualified to run for judicial office. Ms. King appealed, and the matter was remanded. On remand, the original convictions were vacated and Ms. King pleaded guilty to a misdemeanor for her conduct. In the disciplinary proceeding, the court stated that its determination of an appropriate sanction was “guided by *Richmond*.” For Ms. King’s knowing and intentional conduct, the court imposed a one-year suspension from the practice of law. Aggravating factors included a dishonest or selfish motive and substantial experience in the practice of law. Mitigating factors included the absence of a prior disciplinary record, a cooperative attitude toward the disciplinary proceeding, the imposition of other penalties or sanctions, and remorse.

The board found that respondent’s misconduct here is similar to that of Mr. Richmond in that he violated campaign rules, in this case rules for disclosing the names of the publishers of advertisements and for reporting the expense of the advertisement in question, and then provided false statements about the same in later investigations. However, as in Ms. King’s case, respondent’s conduct was both knowing and intentional. Respondent also pleaded guilty to a misdemeanor criminal

⁶ The board noted that the committee refused to find several mitigating factors on the basis that no evidence of these factors was presented beyond the stipulations. However, citing *In re: Bullock*, 16-0075 (La. 3/24/16), 187 So. 3d 986, the board pointed out that it is bound to accept the parties’ stipulations. Additionally, the board suggested it would be unfair to prejudice a party for not putting on evidence after both parties have entered into a stipulation regarding an issue and the stipulation has been accepted into the record at the hearing.

offense, as did Ms. King. Additionally, respondent attempted to convince a third party to sign a false affidavit which he intended to submit in connection with the ODC's investigation. In so doing, respondent also deceived his own attorneys in connection with the information sought to be included in the affidavit.

Considering all of the circumstances, and the court's holdings in *Richmond* and *King*, the board recommended respondent be suspended from the practice of law for one year. The board further recommended respondent be assessed with the costs and expenses of this proceeding.

Both respondent and the ODC filed objections to the disciplinary board's recommendation. Accordingly, the case was docketed for oral argument pursuant to Supreme Court Rule XIX, § 11(G)(1)(b).

DISCUSSION

In an attorney disciplinary proceeding based on the lawyer's criminal conviction, the issue of his guilt may not be relitigated. Because the lawyer's conviction, whether based on adjudication or guilty plea, is tantamount to a finding of his guilt beyond a reasonable doubt, the clear and convincing standard of proof that applies to disciplinary proceedings has already been satisfied. *In re: Bankston*, 01-2780 (La. 3/8/02), 810 So. 2d 1113; *Louisiana State Bar Ass'n v. Wilkinson*, 562 So. 2d 902 (La. 1990). In this type of proceeding, the sole issue to be determined is whether the crime warrants discipline, and if so, the extent thereof. Supreme Court Rule XIX, § 19(E); *In re: Boudreau*, 02-0007 (La. 4/12/02), 815 So. 2d 76.

The parties have stipulated that during his 2014 campaign for judge of the New Iberia City Court, respondent paid \$1,760 to distribute a flyer which truthfully stated that one of his opponents had received substantial fees for legal work performed for the State of Louisiana and the City of New Iberia. Nonetheless, respondent failed to disclose on his campaign finance report that he paid to have the

flyer printed and distributed. As a result of this omission, respondent pleaded guilty to a misdemeanor violation of state campaign finance laws.

Respondent also admits that he engaged in other, more serious misconduct. During an investigation by the Board of Ethics into the campaign flyer, respondent falsely stated under oath that he did not pay for the flyer. Moreover, on two separate occasions, respondent asked the person who purchased and distributed the flyer, Paul Camacho, to sign an affidavit or statement that respondent did not pay for the flyer. Respondent intended to submit the false affidavit or statement to the ODC, but Mr. Camacho refused to sign the affidavit or statement.

By his conduct, respondent has violated Rules 3.4(b), 8.4(a), 8.4(b), and 8.4(c) as charged in the formal charges. Respondent has stipulated to these rule violations, and discipline is warranted.

Respondent violated duties owed to the public, the profession, and the legal system. He has stipulated that his actions were knowing and intentional, and brought public discredit upon the profession and the legal system. Considering the ABA's *Standards for Imposing Lawyer Sanctions*, the applicable baseline sanction in this matter ranges from suspension to disbarment. We adopt the aggravating and mitigating factors stipulated to by the parties.

Turning to the issue of an appropriate sanction, there is considerable discussion in the record of our prior decisions in *Richmond* and *King*. Both Mr. Richmond and Ms. King made false statements of domicile when they qualified to run for public office. In addition, after Mr. Richmond's candidacy was challenged, he made similarly false statements regarding his domicile in pleadings and oral testimony in the election contest. Ms. King subsequently pleaded guilty to a misdemeanor criminal offense in connection with her misrepresentation, and was suspended from the practice of law for one year. By contrast, Mr. Richmond was not criminally prosecuted for his conduct, which occurred while he was serving in

the state legislature, and he was suspended for six months, with all but sixty days deferred.

Here, respondent's violation of campaign finance laws, followed by his false statements to the Board of Ethics, is very similar to the misconduct seen in *Richmond*. However, respondent also attempted to convince a third party to sign a false affidavit that he intended to offer to the ODC in an ongoing disciplinary investigation. Considering this additional, more egregious misconduct by respondent, we cannot agree with his argument for a six-month suspension, substantially deferred. Rather, we find that the misconduct to which respondent has stipulated, considered in its entirety, warrants the same one-year suspension we imposed in *King*. Our decision in this regard is reinforced by respondent's admission that he engaged in deceptive practices by giving false testimony to the ODC during a sworn statement.

Based on this reasoning, we will adopt the board's recommendation and suspend respondent from the practice of law for one year.

DECREE

Upon review of the findings and recommendations of the hearing committee and disciplinary board, and considering the record, briefs, and oral argument, it is ordered that Shane E. Romero, Louisiana Bar Roll number 26108, be and he hereby is suspended from the practice of law for one year. 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.

10/20/20

SUPREME COURT OF LOUISIANA

NO. 2020-B-0387

IN RE: SHANE E. ROMERO

ATTORNEY DISCIPLINARY PROCEEDING

WEIMER, J., concurs in part and dissents in part.

I agree with the majority that grounds for discipline have been proven. However, I respectfully dissent from the majority's sanction.

"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, 1177-78 (La.1987). While not condoning the respondent's misconduct, I note the lack of harm to any client is undisputed. Moreover, by stipulation with the ODC, the mitigating factors established in this case are the absence of a prior disciplinary record, personal problems, timely good faith effort to make restitution or to rectify the consequences of the misconduct, good character and reputation, imposition of other penalties or sanctions, and remorse. Consequently, I find the goals of the disciplinary system would be met by deferring a portion of the respondent's one-year suspension, consistent with the recommendations of the hearing committee.