

Supreme Court of Louisiana

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NEWS RELEASE #023

FROM: CLERK OF SUPREME COURT OF LOUISIANA

The Opinions handed down on the 13th day of May, 2022 are as follows:

PER CURIAM:

2022-B-00073

IN RE: SEDRIC E. BANKS

Retired Judge Frank H. Thaxton appointed Justice ad hoc, sitting for McCallum, J., recused case number 2022-B-00073 only.

SUSPENSION IMPOSED. SEE PER CURIAM.

Hughes, J., concurs in part, dissents in part and assigns reasons.

Crichton, J., concurs in part, dissents in part for the reasons assigned by J. Thaxton.

Thaxton, J., concurs in part, dissents in part and assigns reasons.

SUPREME COURT OF LOUISIANA

NO. 2022-B-0073

IN RE: SEDRIC E. BANKS

ATTORNEY DISCIPLINARY PROCEEDING

PER CURIAM*

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

UNDERLYING FACTS

Dr. Manmohan Dhaliwal died intestate on June 21, 2010, survived by his wife, Dr. Kailash Dhaliwal, and two sons, Mahinderpal “Paul” Dhaliwal and Karminderdal “Karl” Dhaliwal. Kailash was appointed the administratrix of Manmohan’s succession.

In 2011, Kailash retained respondent on a contingent fee basis to represent her in the succession proceeding. The contingent fee agreement also covered related litigation between the family members arising out of a joint business venture.¹

Respondent had litigated these matters for more than two years when Kailash had a change of heart and decided she no longer wished to pursue the joint venture litigation. On September 5, 2013, Kailash wrote a letter to respondent instructing him to dismiss the joint venture litigation. On September 11, 2013, Kailash wrote a second letter to respondent reiterating her wish to discontinue the litigation, and

* Retired Judge Frank Thaxton, assigned as Justice Ad Hoc, sitting for McCallum, J., recused.

¹ Kailash was also represented by attorney Robert A. Lee; however, Mr. Lee died in 2019 and thus his conduct is not at issue in this matter.

discharging him as her lawyer. However, respondent disregarded the letters, based upon his belief that Kailash had diminished capacity or was being unduly influenced by Karl.

In January 2014, Kailash hired attorney Margaret Blackwell Pruitt. On January 16, 2014, Ms. Pruitt wrote to respondent to advise him that Kailash had retained her for representation. Ms. Pruitt also requested that respondent execute a motion to substitute counsel. When respondent declined to sign the motion to substitute, Ms. Pruitt filed an *ex parte* motion to substitute counsel on January 31, 2014. Respondent filed an opposition to the motion, claiming Kailash suffered from diminished capacity.

A hearing on the motion was scheduled for April 30, 2014 before Judge Stephens Winters. During the hearing, Judge Winters interviewed Kailash in camera. Following this interview, Judge Winters found that Kailash had full mental capacity and was not unduly influenced. Judge Winters then signed an order disqualifying respondent from further representing Kailash and the succession and enrolling Ms. Pruitt as Kailash's counsel. Thereafter, Kailash's individual claims asserted in the joint venture litigation were dismissed pursuant to her motion. However, the claims asserted by Kailash as administrator of the succession were not dismissed.

After being disqualified as counsel, respondent decided that Kailash had "colluded" with Karl to breach the attorney-client contract and unjustly enrich herself and Karl without having to pay respondent's attorney's fee. Respondent reached this conclusion based upon information allegedly provided to him by Paul. Respondent then filed a "Petition to Intervene and Assert both Direct and Oblique Actions and Alternate Relief for Unjust Enrichment." This petition was filed on respondent's own behalf and on behalf of Paul and the trustee of Paul's bankruptcy proceeding. Respondent named as defendants Kailash, Karl, and Karl's wife. In

response, Ms. Pruitt filed a motion to disqualify respondent as counsel and a motion to dismiss the petition to intervene.

Judge Winters held a hearing on these motions on August 7, 2014. During the hearing, respondent requested to put Kailash on the stand to cross-examine her regarding his claims against her. Judge Winters declined to permit respondent to do so. Following the hearing, Judge Winters granted the motion to disqualify respondent. In his reasons for judgment, Judge Winters stated, “[The] Rules of Professional Conduct are very clear in that a lawyer may not represent a client and then successively represent an interest adverse to that party on the same issues, let alone in the same suit.” Judge Winters also granted the motion to dismiss all of respondent’s claims against Kailash asserted in the petition to intervene except a claim to protect his contingency fee interest under La. R.S. 37:218.

After Judge Winters dismissed the majority of the claims asserted in the petition to intervene, respondent filed the identical action against Kailash, Karl, and Karl’s wife in a separate direct action lawsuit reasserting the conspiracy and breach of contract claims. This suit was assigned to a different judge, Judge Carl Sharp. Ms. Pruitt filed in the direct action lawsuit an exception of no cause of action on Kailash’s behalf, which Judge Sharp denied without assigning reasons. Karl and his wife filed declinatory and peremptory exceptions of *lis pendens*, *res judicata*, prescription, no right of action, no cause of action, and vagueness. Following a hearing on November 25, 2014, Judge Sharp sustained the exceptions of no right of action and no cause of action and dismissed the direct action lawsuit against Karl and his wife.

Kailash passed away on April 16, 2015 during the pendency of the proceedings. Karl’s daughter, Simran Dhaliwal Emaus, was appointed to replace Kailash as the administratrix of Manmohan’s succession. Respondent continued to

pursue his claims against Kailash in the direct action lawsuit through Simran, forwarding Simran a request for production of documents on July 30, 2015.

Respondent appealed the dismissal of the direct action lawsuit against Karl and his wife to the Second Circuit. On November 25, 2015, the Second Circuit affirmed all of the judgments of the trial court and remanded the matter for further proceedings with respect to respondent's claims against Kailash. Respondent subsequently filed a writ application with this court, which was denied on April 4, 2016.² Respondent's claims against Kailash remain pending in the direct action lawsuit, but he has not moved the case forward.

On September 19, 2016, Simran, as administrator of the succession, filed a motion to dismiss the joint venture litigation against Karl and his wife. On November 14, 2017, following a hearing and over Paul's objection, the motion to dismiss was granted.

DISCIPLINARY PROCEEDINGS

In March 2019, the ODC filed formal charges against respondent, alleging that his conduct violated the following provisions of the Rules of Professional Conduct: Rules 1.2(a) (a lawyer shall abide by a client's decisions concerning the objectives of representation), 1.5(a) (charging an unreasonable fee), 1.9 (duties to former clients), 1.16 (a lawyer shall withdraw from the representation of a client if the lawyer is discharged), and 3.1 (meritorious claims and contentions). Respondent answered the formal charges, denying he engaged in any misconduct and arguing that the charges should be dismissed. Accordingly, the matter proceeded to a formal hearing on the merits.

² *Dhaliwal v. Dhaliwal*, 49,973, 49,974, 50,355 (La. App. 2nd Cir. 11/25/15), 184 So. 2d 773, writ denied, 16-0236 (La. 4/4/16), 190 So. 3d 1204.

Hearing Committee Report

After considering the evidence and testimony presented at the hearing, the hearing committee first determined that none of the witnesses who testified “could be said to have any credibility problems.” Regarding the allegation that respondent violated Rules 1.2(a) and 1.16 of the Rules of Professional Conduct by failing to dismiss the joint venture litigation pursuant to Kailash’s directions and then failing to promptly withdraw from the representation, the committee found that respondent reasonably believed Kailash was not making decisions unfettered by significant intimidation by Karl. Thus, the committee determined respondent did not violate Rules 1.2(a) and 1.16. Regarding the allegation that respondent violated Rules 1.5(a), 1.9, and 3.1 by filing an oblique action against Kailash on Paul’s behalf, the committee found the claim was made directly against Kailash in the same proceeding as the other claims on which respondent initially represented Kailash. Thus, the committee determined respondent violated Rules 1.5(a) and 1.9. The committee determined the claim made by respondent was not baseless and therefore did not violate Rule 3.1.

The committee then determined respondent violated duties owed to his client. According to the committee, respondent acted knowingly “but without animus” and caused no actual harm. In aggravation, the committee found a refusal to acknowledge the wrongful nature of the conduct and substantial experience in the practice of law (admitted 1976). In mitigation, the committee found the absence of a prior disciplinary record, the absence of a dishonest or selfish motive, and a cooperative attitude toward the proceedings.

Under these circumstances, the committee recommended respondent be suspended from the practice of law for one year, fully deferred, subject to one year of probation.

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

Disciplinary Board Recommendation

After review, the disciplinary board rejected some of the hearing committee's factual findings. The board determined that the facts relevant to the alleged rule violations are as follows:

1. With respect to the joint venture litigation, respondent entered into a contingency fee contract with Kailash, which contract provided that Kailash would owe respondent nothing for services rendered in the event of no recovery.
2. Initially, a motion for summary judgment in favor of Karl and his wife was granted in the joint venture litigation, and respondent appealed the ruling to the Second Circuit.
3. On September 5, 2013, Kailash wrote to respondent instructing him to dismiss the joint venture litigation.
4. On September 11, 2013, the Second Circuit reversed the summary judgment in favor of Karl and his wife in the joint venture litigation and remanded the case for further proceedings. The Second Circuit found that factual issues remained regarding whether or not a joint venture existed between the parties.
5. In response to Kailash's September 5, 2013 letter, respondent hand-delivered a letter to Kailash on September 11, 2013. He enclosed a copy of the Second Circuit's decision, which had been issued that day. In the letter, respondent expressed his confusion over Kailash's instructions, his concerns regarding the timing of her decision, his opinion that the requested dismissal would be against Kailash's best interest and her duties as administrator of the succession, and his suspicions of fraud, undue influence, and duress.

Respondent also offered to meet with Kailash at her convenience. He further advised that, if Kailash wished to dismiss the joint venture litigation, then he would seek permission from the court to withdraw as counsel, request leave of court to intervene to protect his contracted interests, and ask the court for a reasonable period of time for Kailash to retain a new attorney to dismiss the joint venture litigation.

6. On September 11, 2013, Kailash wrote respondent another letter, again requesting that he dismiss the joint venture litigation.
7. Subsequent to September 11, 2013, respondent did nothing to comply with Kailash's request that he dismiss the joint venture litigation, to withdraw as counsel pursuant to her termination of his services, or to bring to the attention of the court or take other reasonable protective actions related to his purported concerns regarding her diminished capacity.
8. In January 2014, Kailash hired Ms. Pruitt. On January 16, 2014, Ms. Pruitt wrote to respondent advising of her representation of Kailash and enclosing a motion to substitute counsel in the joint venture litigation. Respondent refused to sign the motion to substitute counsel, necessitating a hearing on the motion.
9. The motion to substitute counsel was set for hearing on April 30, 2014. On April 24, 2014, respondent filed a motion to continue the hearing because he had allergic rhinitis and laryngitis and his doctor had recommended he have two weeks of voice rest. Ms. Pruitt opposed the motion to continue. Respondent filed a reply to the opposition, arguing his purported concerns regarding Kailash's diminished capacity. The judge denied the motion to continue the hearing.
10. The hearing on the motion to substitute went forward on April 30, 2014. Mr. Lee appeared in place of respondent. No evidence was presented in support

of respondent's purported concerns regarding Kailash's diminished capacity. The judge interviewed Kailash without counsel or other parties present and was satisfied that Kailash was competent and not subject to undue influence in her decision to substitute counsel. The judge granted the motion to substitute counsel and denied Mr. Lee's oral request to prohibit Kailash from dismissing the joint venture litigation for fifteen days.

11. On May 2, 2014, respondent filed a petition to intervene in the joint venture litigation on his own behalf and on behalf of Paul and the bankruptcy trustee. This intervention included claims against Kailash in her individual capacity. Among other claims, respondent asserted claims against Kailash for attorney's fees based on the contingency fee contract. Respondent also asserted allegations on behalf of Paul against Kailash. These allegations included collusion between Kailash and the defendants with the intent to violate Kailash's fiduciary duty as administrator of the succession, knowing intention and conspiracy on the part of Kailash and the defendants to violate both the letter and spirit of Kailash's attorney-client agreement by which Paul would benefit as an heir to the succession, and further conspiracy to violate fiduciary duties owed by Kailash in order to intentionally convert and conceal partnership property rightfully belonging to the succession, Paul, and the bankruptcy trustee. In the intervention, Paul and the bankruptcy trustee prayed for all relief available, including the value of a one-third interest in the family partnership, any other sums due as a result of the alleged bad faith and collusion on the part of Kailash and the defendants, and attorney's fees.
12. On May 13, 2014, Ms. Pruitt filed a voluntary motion to dismiss with prejudice Kailash's individual claims against Karl and his wife pursuant to Kailash's instruction, which motion was granted.

13. On August 7, 2014, the judge granted a motion by Kailash, individually and as administratrix of the succession, to disqualify respondent from representing Paul and the bankruptcy trustee in the intervention. The Second Circuit later affirmed this decision, recognizing that it was not in its purview to determine whether respondent's actions constituted a violation of Rule 1.9 of the Rules of Professional Conduct. However, in reaching its decision, the Second Circuit found that the petition to intervene on behalf of Paul and the bankruptcy trustee asserted claims that were materially adverse to respondent's former client because they accused Kailash of collusion, conspiracy, and breach of fiduciary duty.

14. On September 3, 2014, respondent filed a separate lawsuit which also included claims against Kailash. Among other claims, respondent asserted claims against Kailash for attorney's fees for work in pursuing her personal claim for an interest in the joint venture and a request that the judgment dismissing Kailash's individual claims in the joint venture litigation be revoked.

Based on these factual findings, the board determined respondent violated the Rules of Professional Conduct as alleged in the formal charges. According to the board, respondent violated Rule 1.2(a) when he failed to comply with Kailash's instruction to dismiss the joint venture litigation. He violated Rule 1.16 when he failed to withdraw as Kailash's counsel after she terminated his services on September 11, 2013. Addressing respondent's argument that his conduct should be considered in light of his belief that Kailash had diminished capacity, the board noted that had respondent been genuinely concerned about Kailash's capacity then he should have brought those concerns to the attention of the judge promptly after receiving Kailash's letters in September 2013. Instead, respondent did nothing. With respect to Rules 1.5(a) and 3.1, the board noted that respondent's petition to

intervene in the joint venture litigation and his direct action lawsuit both asserted claims against Kailash for attorney's fees, which fees were based on a contingency fee contract that stated Kailash would owe respondent nothing for his services if she did not recover anything. The direct action lawsuit also requested that the judgment dismissing Kailash's individual claims in the joint venture litigation be revoked. The board concluded that respondent's continued pursuit of attorney's fees and of the revocation of Kailash's voluntary dismissal of her individual claims constituted an attempt to recover an unreasonable fee in violation of Rule 1.5(a) and constituted the pursuit of non-meritorious claims in violation of Rule 3.1. Because Kailash never obtained a recovery, respondent's continued pursuit of a claim for attorney's fees against her was inappropriate and without any basis. With respect to Rule 1.9, the board noted that, in the petition to intervene, respondent asserted claims on behalf of Paul and the bankruptcy trustee against Kailash. These claims included allegations that Kailash engaged in collusion and conspiracy to violate her fiduciary duties and to convert and conceal property, which claims were materially adverse to Kailash. Based on these facts, the board concluded that respondent violated Rule 1.9.

The board then determined respondent knowingly violated duties owed to his client and the legal system, causing harm to his client. The board also determined the baseline sanction is suspension. In aggravation, the board found a dishonest or selfish motive, refusal to acknowledge the wrongful nature of the conduct, and substantial experience in the practice of law. In mitigation, the board found the absence of a prior disciplinary record and a cooperative attitude toward the proceedings.

After also considering this court's prior jurisprudence addressing similar misconduct, the board recommended respondent be suspended from the practice of law for one year and one day.

Respondent filed an objection to the board's recommendation. Accordingly, the case was docketed for oral argument pursuant to Supreme Court Rule XIX, § 11(G)(1)(b).

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.

Based on our review of the record, we find respondent failed to withdraw from the representation when Kailash terminated his services, filed meritless claims against Kailash, and engaged in a conflict of interest by representing Paul against Kailash in the joint venture litigation. Based on these findings, respondent violated the Rules of Professional Conduct as charged.

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).

The record supports a finding that respondent knowingly violated duties owed to his client, the legal system, and the legal profession. His conduct caused actual harm to Kailash. The record supports the aggravating and mitigating factors found by the board.

A review of our prior jurisprudence indicates we have not had occasion to address any prior instances where the lawyer has both engaged in a conflict of interest and filed meritless litigation. However, some guidance on the conflict of interest charge is provided by *In re: Cook*, 18-1076 (La. 12/5/18), 319 So. 3d 272, in which we imposed a suspension from the practice of law for six months, with all but thirty days deferred, followed by one year of unsupervised probation, on a lawyer who engaged in a conflict of interest which caused actual harm. Similar guidance on the meritless litigation charge is provided by *In re: Boydell*, 00-0086 (La. 5/26/00), 760 So. 2d 326 (lawyer suspended for three years for engaging in nearly ten years of meritless litigation against a former client over a disputed fee), and *In re: Bandaries*, 14-1435 (La. 12/9/14), 156 So. 3d 1152 (lawyer publicly reprimanded for filing several lawsuits against a former client, which had no basis in fact or law and were filed for the sole purpose of harassing the former client).

While none of these prior holdings represent an exact fit to the combination of misconduct presented in the instant case, they support the conclusion that the baseline sanction for respondent's misconduct is a period of actual suspension. Considering all the unique facts of the case, we will impose a one-year suspension. However, in consideration of the mitigating factors, we will defer six months of the suspension. Following the active portion of his suspension, we will place respondent on probation for a period of one year, with the special conditions that during the probationary period, respondent shall successfully complete the Louisiana State Bar

Association's Ethics School and obtain six additional hours of continuing legal education in the area of professionalism.

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 Sedric E. Banks, Louisiana Bar Roll number 2730, be and he hereby is suspended from the practice of law for a period of one year. It is further ordered that six months of this suspension shall be deferred. Following the active portion of the suspension, respondent shall be placed on probation for a period of one year, subject to the conditions set forth in this opinion. Any failure of respondent to comply with the conditions of probation, or any misconduct during the probationary 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.

SUPREME COURT OF LOUISIANA

No. 2022-B-00073

IN RE: SEDRIC E. BANKS

Attorney Disciplinary Proceeding

Hughes, J., concurring in part and dissenting in part.

For the reasons assigned by Thaxton, J., I would impose a lesser sanction.

SUPREME COURT OF LOUISIANA

No. 2022-B-00073

IN RE: SEDRIC E. BANKS

Attorney Disciplinary Proceeding

**CRICHTON, J., concurs in part and dissents in part for the reasons assigned
by Judge Thaxton.**

SUPREME COURT OF LOUISIANA

No. 2022-B-00073

IN RE: SEDRIC E. BANKS

Attorney Disciplinary Proceeding

THAXTON, J., concurs in part and dissents in part and assigns reasons:

While I agree with the per curiam that respondent has engaged in misconduct warranting discipline imposed by this Court, I disagree that respondent has committed all violations as set forth in the formal charges and would find, as the hearing committee did, only two (2) rule violations under these circumstances. As noted by the majority, respondent was charged with five (5) violations of the Rules of Professional Conduct: Rule 1.2(a) (a lawyer shall abide by a client's decision concerning the objectives of representation); Rule 1.5(a) (a lawyer shall not make an agreement for or charge an unreasonable fee or collect an unearned fee); Rule 1.9 (a lawyer formerly representing a client shall not represent another person whose interests are materially adverse to a former client); Rule 1.16 (a lawyer shall withdraw from the representation of a client if the lawyer is discharged); and Rule 3.1 (a lawyer shall not bring or defend a proceeding unless there is a basis in law and fact that is not frivolous). The hearing committee ultimately concluded respondent violated only two (2) of the aforementioned rules, Rule 1.5(a) and Rule 1.9, recommending a fully deferred one year suspension. The disciplinary board disagreed and found respondent violated all of the above, thereby recommending this Court suspend respondent from the practice of law for one year and one day.

As is well established, this Court has original jurisdiction over all bar disciplinary matters, pursuant to La. Const. art. V, § 5(B). This Court will conduct an independent review of the evidence contained in the record to determine whether the

alleged misconduct has been proven by clear and convincing evidence. *In re: Ernest L. Caulfield*, 96-1401, p. 5 (La. 11/25/96), 683 So.2d 714, 717 *reh'g denied*, 12/13/96, citing *In re: Quaid*, 94-1316 (La.11/30/94), 646 So.2d 343; *Louisiana State Bar Association v. Boutall*, 597 So.2d 444 (La.1992). Furthermore, while this Court is not bound in any way by the findings and recommendations of the hearing committee and disciplinary board, this Court has repeatedly held that the manifest error standard is applicable to the committee's factual findings. *In re: Williams*, 11-1457, p. 11 (La. 1/24/12), 85 So.3d 583, 590-1, citing *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 establishes that respondent, after receiving the letters from his client asking him to withdraw, and based upon his conversation with his client's son Paul (whom the hearing committee found to be credible), held a sincere belief that his client was under substantial influence by her son Karl. Thus, I do not believe it prudent for this Court to fully ignore respondent's reasonable subjective belief that his client was not making decisions unfettered by intimidation at the hands of her son. In my view, this precludes a finding that respondent violated Rules 1.2(a) and 1.16.

Relatedly, although there is no noted objection on the record, I find the in-chambers "competency hearing" inadequate in light of the allegations set forth by respondent. Not only was respondent's former client likely transported to the hearing by her alleged intimidator (her son),¹ it is also noteworthy respondent was not at the competency hearing and therefore could not have questioned his former client,² there was no medical evaluation or doctor involved in determining his client's mental fitness to proceed, and the transcript of the conversation between

¹ The transcript of the April 30, 2014, hearing reflects that the court recognized Mr. Karl Dhaliwal as being in the courtroom during that proceeding.

² Respondent had requested a continuance of the hearing due to illness, which the trial court denied, but his co-counsel was present at the hearing.

Judge Winters and respondent's client, hardly constituting a proper competency hearing, is difficult to follow at best.

Moreover, the record also shows respondent and his co-counsel were retained on behalf of Paul, respondent's client's other son, *and the trustee of Paul's bankruptcy*, to intervene in the joint venture litigation. Certainly a bankruptcy trustee, in consenting and authorizing respondent's filing of the claim on behalf of Paul, would not deem such a claim entirely meritless. Thus, as the hearing committee concluded, I do not find that the Office of Disciplinary Counsel proved by clear and convincing evidence that respondent violated Rules 1.2(a), 1.16, or 3.1.

However, the Committee did aptly find that respondent violated Rules 1.5 and 1.9 when respondent filed suit on behalf of his client's son Paul against his former client both personally and as the succession representative. Specifically, respondent's oblique action which prayed for 1/3 of an interest in the family partnership as a result of alleged bad faith and collusion was clearly a claim materially adverse to his former client's interest, in violation of Rule 1.9. Furthermore, as the Office of Disciplinary Counsel also found, I agree that respondent's effort to recover a yet unearned contingent fee that was premised upon his former client's actual recovery was in violation of Rule 1.5.

As noted above, although the recommended sanctions by the hearing committee and the Office of Disciplinary Counsel are widely divergent, I agree with the per curiam's sanction of a one year suspension with six months deferred. In light of respondent's misconduct, such a period of actual suspension satisfies this Court's obligation to "maintain appropriate standards of professional conduct in order to protect the public and the administration of justice." *In re: Schoenberger*, 21-191, p. 10 (La. 6/30/21), 320 So.3d 1125, 1132 (citing *Louisiana State Bar Ass'n v. Powell*, 439 So.2d 415, 417 (La. 1983)).