

Supreme Court of Louisiana

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[NEWS RELEASE #046](#)

FROM: CLERK OF SUPREME COURT OF LOUISIANA

The Opinions handed down on the **21st day of October, 2022** are as follows:

PER CURIAM:

[2022-B-00571](#)

[IN RE: PAUL A. LAPEYROUSE](#)

SUSPENSION IMPOSED. SEE PER CURIAM.

Retired Judge Freddie Pitcher, Jr., assigned Justice ad hoc, sitting for Weimer, C.J., recused.

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

Griffin, J., dissents in part for the reasons assigned by Hughes, J.

SUPREME COURT OF LOUISIANA

NO. 2022-B-0571

IN RE: PAUL A. LAPEYROUSE

ATTORNEY DISCIPLINARY PROCEEDING

PER CURIAM*

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

UNDERLYING FACTS

18-DB-081

In March 2017, Glynn Trahan hired respondent to handle his divorce from his wife, Pamela Trahan. On March 20, 2017, respondent filed a petition for divorce on Mr. Trahan’s behalf in the 32nd JDC for the Parish of Terrebonne. The petition alleged that the parties had lived separate and apart for more than six months and sought a no fault divorce under La. Civ. Code art. 103.

On March 23, 2017, Mrs. Trahan was personally served with a copy of the petition. She was not represented by counsel in the divorce proceeding, and she subsequently filed a *pro se* answer to the petition.

On multiple occasions, both while respondent represented Mr. Trahan in the divorce proceeding, as well as after that representation was terminated by Mr. Trahan, respondent and Mrs. Trahan discussed a rumor that Mr. Trahan was having an affair with respondent’s long-time secretary, Nedra Porche. Respondent also

*Retired Judge Freddie Pitcher, Jr. assigned as Justice Ad Hoc, sitting for Weimer, C.J., recused.

revealed to Mrs. Trahan other confidential information relating to his representation of Mr. Trahan in the divorce proceeding, and he provided legal advice to Mrs. Trahan regarding actions that she could take in the divorce proceeding. Mr. Trahan did not give informed consent for respondent to discuss these matters with Mrs. Trahan. In May 2017, Mr. Trahan terminated respondent's representation. Mr. Trahan then retained new counsel and obtained a divorce on June 23, 2017.

On June 29, 2017, Mr. Trahan filed a disciplinary complaint against respondent. In September 2017, the ODC took respondent's sworn statement, during which he acknowledged that he and Mrs. Trahan had discussed Mr. Trahan's alleged affair on "five or so" occasions.

More than six months later, on April 19, 2018, respondent filed into the divorce proceeding a motion and order to remove his name as Mr. Trahan's counsel of record. The motion stated:

Movant herein represents to the court that:

He prepared the above captioned Petition for Divorce in the capacity of a Notary only.

The agreement with [Mr. Trahan] was that movant would prepare the document and see that it was filed but was not representing [Mr. Trahan] in any capacity, because doing so would result in a conflict of interest between movant, [Mr. Trahan], movant's secretary, and [Mr. Trahan's] wife.

Movant performed in no further function in this matter as [Mr. Trahan] engaged the services of another attorney who obtained the divorce.

The judge signed the order on April 23, 2018.

The ODC alleged that respondent's conduct violated Rules 1.6 (a lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent) and 1.7(a)(2) (a lawyer shall not represent a client if there is a significant risk that the representation will be materially limited by the lawyer's

responsibilities to a third person or by a personal interest of the lawyer) of the Rules of Professional Conduct.

19-DB-080

In June 2019, the hearing committee conducted a disciplinary hearing on the formal charges filed against respondent in 18-DB-081. During the hearing, Mr. Trahan and Ms. Porche testified on the ODC's behalf. In September 2019, less than three months after the hearing but before the committee issued its report, respondent filed a "Petition for Defamation by Libel and Slander" against Mr. Trahan and Ms. Porche. The defamation petition was based, at least in part, on Mr. Trahan's and Ms. Porche's communications to the ODC and their testimony at the hearing.

Through counsel, Mr. Trahan filed peremptory exceptions of no cause of action based on privilege/immunity and prescription. Through counsel, Ms. Porche filed peremptory exceptions of no cause of action, prescription, and absolute immunity. Respondent failed to appear at the hearing on the exceptions.¹ On December 23, 2019, the judge signed an order granting the exceptions and dismissing respondent's defamation petition against Mr. Trahan and Ms. Porche.

The ODC alleged that respondent's conduct violated Rules 3.1 (meritorious claims and contentions), 8.4(a) (violation of the Rules of Professional Conduct), and 8.4(d) (engaging in conduct prejudicial to the administration of justice) of the Rules of Professional Conduct. The ODC also alleged that respondent violated Supreme Court Rule XIX, §§ 9(a) (it shall be a ground for discipline for a lawyer to violate or attempt to violate the Rules of Professional Conduct) and 12A (communications to the board, hearing committees, or disciplinary counsel relating to lawyer misconduct or disability and testimony given in the proceedings shall be absolutely privileged,

¹ Respondent indicated that he did not learn exceptions had been filed or that an exception hearing was scheduled until he received the judgment granting the exceptions.

and no lawsuit predicated thereon may be instituted against any complainant, respondent, lawyer, or witness).

DISCIPLINARY PROCEEDINGS

In November 2018, the ODC filed the formal charges in 18-DB-081. In November 2019, the ODC filed the formal charges in 19-DB-080. Respondent answered both sets of formal charges and denied any misconduct. The matters were considered by separate hearing committees before being consolidated by order of the disciplinary board. The board then filed in this court a single recommendation of discipline encompassing both sets of formal charges.

18-DB-081

Formal Hearing

The hearing committee conducted the formal hearing on June 19, 2019. The ODC called Mr. Trahan and Ms. Porche to testify before the committee. Respondent called his wife, Linda Lapeyrouse, and Chuck Bullock as witnesses. Respondent also testified on his own behalf and on cross-examination by the ODC.

Respondent's third witness got lost on his way to the hearing location and did not appear. At the end of the hearing, respondent requested that the hearing be held open so he could take the testimony of the witness at a later date. When the ODC objected, respondent withdrew his request before the committee chair made a ruling.

Hearing Committee Report

After considering the evidence and testimony presented at the hearing, the hearing committee summarized the relevant testimony as follows:

Respondent – Respondent testified that he has known Glynn and Pamela Trahan for twenty years and that he helped them with legal matters over the years.² Respondent also testified that he agreed to facilitate the Trahans' divorce paperwork at the request of Ms. Porche, whom he considered to be his best friend.

According to respondent, Ms. Porche drafted Mr. Trahan's petition for divorce, which was based upon living separate and apart. Respondent further claimed that Ms. Porche signed his name to the petition for divorce with his consent. He then claimed he acted only as a notary with respect to the divorce. Respondent denied representing Mr. Trahan and maintained throughout his testimony that he was being erroneously referred to as "retained by" or "representing" Mr. Trahan. He claimed the petition for divorce mistakenly stated that it was being filed by "undersigned counsel." Later, though, respondent said he "fired" Mr. Trahan.

Respondent also asserted that the alleged affair between Mr. Trahan and Ms. Porche was common knowledge. Thus, he claimed he did not divulge any confidential information to Mrs. Trahan, even though he acknowledged that he never asked Mr. Trahan for permission to discuss the alleged affair with Mrs. Trahan. Respondent indicated he told both Ms. Porche and Mr. Trahan that he would do the work only if the divorce was uncontested and based on living separate and apart, that he would not take sides in the divorce, and that he would discuss the divorce with Mrs. Trahan. Respondent claimed Mr. Trahan agreed that he could talk to Mrs. Trahan about the divorce.

² More specifically, respondent explained that he knew who the Trahans were but did not become better acquainted with them until 2014.

Glynn Trahan – Mr. Trahan verified that he has known respondent for twenty years and that he consulted with respondent about other legal matters. He testified that respondent signed the petition for divorce in his presence and that there was no doubt in his mind that respondent represented him.³ He even gave respondent confidential information about community property issues. He denied that respondent told him he was going to discuss the divorce with Mrs. Trahan and denied that he agreed to same. Mr. Trahan also denied having an affair with Ms. Porche, although he did admit to discussing the alleged affair with Mrs. Trahan. He also indicated Mrs. Trahan allowed him to listen in on telephone calls she had with respondent, during which respondent discussed the pending divorce and revealed confidential information to her. Finally, Mr. Trahan testified that respondent's actions have had an adverse impact on his life and family.

Nedra Porche – Ms. Porche testified that respondent signed the petition for divorce. She denied that respondent ever said he was signing as notary only and denied that respondent told Mr. Trahan he was going to give Mrs. Trahan legal advice about the divorce. Ms. Porche also denied that she was having an affair with Mr. Trahan. She indicated respondent's actions have adversely impacted her life.

Linda Lapeyrouse – Mrs. Lapeyrouse, respondent's wife, testified that she has known Ms. Porche for many years but never talked directly with her about an alleged affair with Mr. Trahan. Mrs. Lapeyrouse instead indicated that she overheard respondent's side of many telephone conversations he had with Ms. Porche about an affair.

Chuck Bullock – Mr. Bullock testified that he asked respondent if there was any truth to the alleged affair between Mr. Trahan and Ms. Porche, and respondent

³ Mr. Trahan first consulted another attorney who was going to charge him \$5,000 for the divorce. Respondent then told Mr. Trahan he would charge \$1,200 to \$1,500 to handle the divorce. Respondent asked him to pay for the filing fee, which he did, and said they would discuss the payment of attorney's fees later.

indicated that he doubted it. He also provided hearsay testimony to which the committee gave no weight, as discussed in more detail below.

Based upon this testimony and the other evidence in the record, the committee made the following findings:

The ODC's position is that respondent engaged in a conflict of interest when (1) he provided legal advice to both Mr. Trahan and Mrs. Trahan in connection with their divorce, and (2) he disclosed confidential information to Mrs. Trahan, including details of an alleged affair between Mr. Trahan and Ms. Porche.

The committee noted that some of the witnesses provided hearsay testimony about an encounter respondent apparently had with Mrs. Trahan at a local grocery store after the petition for divorce was filed. The committee found that the hearsay testimony could have been avoided if the ODC had called all of the witnesses it had listed as having knowledge of the facts. The committee decided not to give any credibility or any weight to the hearsay testimony about the grocery store encounter.

The committee then noted that respondent claimed Ms. Porche signed his name on the petition for divorce with his consent. However, this claim was contradicted by both Mr. Trahan and Ms. Porche, who both testified that respondent signed the petition for divorce. Respondent also maintained that he never represented Mr. Trahan. Yet, he claimed to have fired Mr. Trahan and then filed a motion to withdraw as Mr. Trahan's counsel, which contradicted his denial of representation. Finally, the committee noted that a number of text messages from respondent to Mrs. Trahan referred to financial matters and to ways the divorce proceeding could be prolonged.

Based on these facts, the committee concluded that respondent violated Rules 1.6 and 1.7(a)(2), as charged. Specifically, the committee determined respondent represented Mr. Trahan but gave legal advice to Mrs. Trahan and divulged confidential information to her, in both telephone calls and text messages, without

obtaining a proper waiver from Mr. Trahan. Although respondent's conduct caused Mr. Trahan and Ms. Porche to experience anger and some emotional distress, the committee found no significant harm.

As aggravating factors, the committee found that "[r]espondent's conduct was the result of his misguided feelings towards his long-time employee. His violation of the Rules was not realized or addressed in a timely manner. He allowed his emotions to guide him rather than his legal judgment." In mitigation, the committee found the following:

The Respondent is a mature individual. The record reflects that the Respondent has no prior disciplinary record. He is a solo Practitioner in a small community and other clients have ongoing matters with him that need continuing attention. It appears that he has not had the opportunity for a proper mentorship in the practice of law. The Respondent would benefit from attending and passing the LSBA Ethics School which would refresh him on the Rules of Professional Conduct as well as discipline avoidance. He seems to be very sincere in his misguided feelings towards his ex-employee. He has belatedly acknowledged his error at the hearing.

In light of the above, the committee recommended respondent be suspended from the practice of law for one year, fully deferred, subject to a two-year period of probation with the condition that he attend Ethics School.

Both respondent and the ODC filed objections to the committee's report in 18-DB-081.

19-DB-080

Formal Hearing

The hearing committee conducted the formal hearing on October 20, 2020. The ODC called Mr. Trahan and Ms. Porche to testify before the committee. Respondent called his wife as a witness. He also testified on his own behalf and on cross-examination by the ODC.

Hearing Committee Report

After considering the evidence and testimony presented at the hearing, the hearing committee summarized the relevant testimony as follows:

Glynn Trahan – Mr. Trahan testified that he had to hire an attorney to defend him against respondent’s defamation petition, and he incurred \$2,000 in legal fees plus \$100 in travel expenses. He also testified that he believes respondent filed the defamation petition in retaliation for Mr. Trahan’s June 2017 disciplinary complaint against him.

Nedra Porche – Like Mr. Trahan, Ms. Porche testified that she had to hire an attorney to defend her against respondent’s defamation petition. She indicated that she incurred \$2,500 in legal fees, lost \$120 for missing work, and incurred \$80 in “other expenses.” Ms. Porche also testified that she believes respondent included her as a defendant in the defamation petition because she provided information to the ODC when Mr. Trahan filed his June 2017 disciplinary complaint against respondent and then testified for the ODC during respondent’s first disciplinary hearing.

Linda Lapeyrouse – Mrs. Lapeyrouse testified that respondent filed the defamation petition because of what Mr. Trahan and Ms. Porche “were saying on the streets” about him, claiming that it destroyed respondent’s law practice. By way of example, Mrs. Lapeyrouse explained that an officer who brings papers from the court told her that he heard respondent was out of business and no longer an attorney.

Respondent – Respondent testified that his law practice began to decline after Mr. Trahan filed his first disciplinary complaint against him in June 2017. Respondent recited multiple instances of Mr. Trahan and Ms. Porche saying things about him to others that he believes were untrue and caused harm to his practice. For example, respondent alleged that Ms. Porche said something to his abstractor, Grant Dupre, which caused Mr. Dupre to stop working for him.

Respondent acknowledged that allegations he made in his defamation petition matched the things Mr. Trahan wrote in his initial disciplinary complaint to the ODC. However, respondent stated that Mr. Trahan also reported those things to people in the community where respondent's law practice was located. Respondent believes that Mr. Trahan's statements in his complaint to the ODC are proof of what Mr. Trahan had been saying about him in the community.

Based on this testimony and the other evidence in the record, the committee made the following findings:

Mr. Trahan filed a disciplinary complaint against respondent in 2017, which complaint resulted in the ODC filing formal charges against respondent. Both Mr. Trahan and Ms. Porche testified at the related hearing held on June 19, 2019. On September 9, 2019, respondent filed a defamation petition against Mr. Trahan and Ms. Porche. The committee determined that the issue presented in the second set of formal charges is whether respondent based his defamation petition, at least in part, on Mr. Trahan's and Ms. Porche's prior communications to the ODC and their testimony at the June 19, 2019 hearing.

Based on the testimony, the committee found that a lot of animosity and hard feelings existed and still remain between respondent, Mr. Trahan, and Ms. Porche. Mr. Trahan and Ms. Porche both believe respondent's defamation petition was retaliation for their participation in the initial disciplinary proceeding. Respondent testified about multiple instances of Mr. Trahan and Ms. Porche saying untrue and harmful things about him, but he failed to produce any evidence or witnesses to corroborate those allegations.

Noting that respondent's defamation petition was based on both slander and libel, the committee found that the allegations of slander were not based on Mr. Trahan's initial disciplinary complaint but instead on falsehoods respondent claimed Mr. Trahan was saying about him in the community. However, the allegations of

libel, or written defamatory statements, can only have been based on Mr. Trahan's initial disciplinary complaint.

Based on these findings, the committee determined respondent violated Supreme Court Rule XIX, §§ 9(a) and 12A when he filed a defamation petition based on Mr. Trahan's initial disciplinary complaint. The committee further determined that respondent's conduct violated Rules 3.1, 8.4(a), and 8.4(d) of the Rules of Professional Conduct.

The committee then determined respondent violated duties owed to the legal system and the legal profession. His conduct caused actual harm in the form of attorneys' fees and costs as well as court time to handle the defamation petition. Based on the ABA's *Standards for Imposing Lawyer Sanctions*, the committee determined the baseline sanction is a public reprimand.

As aggravating factors, the committee found substantial experience in the practice of law (admitted 1997). The committee also noted that respondent "is the subject of prior disciplinary action, however, that matter is still pending at this time." Regarding mitigation, the committee stated that respondent "is presently 80 years old. He served in the military and did not attend law school until he was in his 50's. He obtained his law degree from Southern University in 1995 and passed the bar in 1997. He has been practicing law for approximately 23 years in Terrebonne Parish, where he was originally from."

In light of the above findings, the committee recommended respondent be publicly reprimanded. The committee further recommended, "if proper documentation is presented as to attorney's fees actually incurred, that respondent pay reparations of legal fees to Ms. Porche of approximately \$2,500 and Mr. Trahan of approximately \$2,000."

Both respondent and the ODC filed objections to the committee's report in 19-DB-080.

18-DB-081 & 19-DB-080

Disciplinary Board Recommendation

After review, the disciplinary board determined that the factual findings of both hearing committees do not appear to be manifestly erroneous and are supported by the record. Based on those facts, the board found that respondent violated the Rules of Professional Conduct as alleged in both sets of formal charges and as found by both committees. Likewise, the board found that respondent violated Supreme Court Rule XIX, §§ 9(a) and 12(A) with respect to 19-DB-080.

The board then determined respondent knowingly violated duties owed to his client, the public, the legal system, and the legal profession. His conduct caused potential and actual harm to Mr. Trahan and Ms. Porche. His filing of the defamation petition caused an unnecessary burden on the court system and had the potential to cause a chilling effect upon and undermine the proper function of the attorney disciplinary system. Citing the ABA's *Standards for Imposing Lawyer Sanctions*, the board determined the baseline sanction is suspension.

According to the board, aggravating factors include a dishonest or selfish motive, multiple offenses, refusal to acknowledge the wrongful nature of the conduct, and substantial experience in the practice of law. The sole mitigating factor found by the board is the absence of a prior disciplinary record.

After further 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.

The record in this matter supports a finding that respondent engaged in a conflict of interest by providing legal advice to both his client and his client's estranged wife in connection with their divorce and by disclosing confidential information to his client's estranged wife. Respondent then filed a defamation petition against his client and another witness based on the information they provided to the ODC regarding his conflict of interest.

Based on these facts, respondent has violated the Rules of Professional Conduct as alleged in both sets of formal charges. The facts also support a finding that respondent violated Supreme Court Rule XIX, §§ 9(a) and 12(A) as alleged.

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 client, the public, the legal system, and the legal profession. His conduct caused actual and potential harm. Under the ABA’s *Standards for Imposing Lawyer Sanctions*, the baseline sanction is suspension. The aggravating and mitigating factors found by the disciplinary board are supported by the record.

Under the circumstances presented, we find the board’s recommended sanction is overly harsh. Accordingly, we will suspend respondent from the practice of law for one year, with six months deferred.

DECREE

Upon review of the findings and recommendations of the hearing committees and disciplinary board, and considering the record, briefs, and oral argument, it is ordered that Paul A. Lapeyrouse, Louisiana Bar Roll number 24825, be and he hereby is suspended from the practice of law for a period of one year, with six months deferred. 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-00571

IN RE: PAUL A. LAPEYROUSE

Attorney Disciplinary Proceeding

Hughes, J., dissents in part.

Respectfully, under these facts I would impose a lesser sanction.