

Supreme Court of Louisiana

FOR IMMEDIATE NEWS RELEASE

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-00612

IN RE: STAVROS PANAGOULOPOULOS

SUSPENSION IMPOSED. SEE PER CURIAM.

Crichton, J., additionally concurs and assigns reasons.

Crain, J., dissents and assigns reasons.

McCallum, J., dissents for the reasons assigned by Crain, J.

SUPREME COURT OF LOUISIANA

NO. 2022-B-0612

IN RE: STAVROS PANAGOULOPOULOS

ATTORNEY DISCIPLINARY PROCEEDING

PER CURIAM

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

UNDERLYING FACTS

Count I

On March 26, 2014, respondent was arrested in New Orleans and charged with DWI, careless operation, no driver’s license on person, open container, and expired registration and license plate. In May 2016, the DWI was reduced to reckless operation and respondent was convicted of that charge. The remaining charges were dismissed.

The ODC alleges that respondent’s conduct violated Rule 8.4(b) (commission of a criminal act reflecting adversely on the lawyer’s honesty, trustworthiness, or fitness as a lawyer) of the Rules of Professional Conduct.

Count II

In February 2015, Joshua Luckey was convicted by a Jefferson Parish jury of two counts of sexual battery of a child under the age of thirteen. He received two twenty-five year sentences, to run consecutively, for a total of fifty years in prison.

Respondent represented Mr. Luckey in an appeal of his criminal conviction and sentence. In October 2016, Mr. Luckey filed a complaint against respondent with the ODC, alleging that respondent had not communicated with him since November 2015. Mr. Luckey further alleged that his appeal brief was due but that he had been unsuccessful in reaching respondent to discuss the matter.

The record of Mr. Luckey's criminal case reflects that respondent filed a timely notice of appeal with the 24th JDC in March 2015, but he failed to include an order granting the appeal. As a result, the matter was in a procedural limbo. In August 2015, and again in December 2015, Mr. Luckey wrote to the court inquiring about the status of his appeal. The 24th JDC forwarded the correspondence to the Fifth Circuit Court of Appeal, which treated the letters as a *pro se* writ of mandamus. The Fifth Circuit granted the writ in January 2016 and instructed the trial judge to enter an order granting an appeal. Judge Raymond Steib granted the motion for appeal on January 28, 2016 and set the return date 75 days from the date of the order.

Thereafter, the clerk of the 24th JDC made several attempts to contact respondent regarding the estimated costs of the appeal, to no avail. On May 4, 2016, the clerk filed a motion to dismiss the appeal for failure to pay costs. On May 6, 2016, Judge Steib ordered Mr. Luckey to appear on June 14, 2016 to show cause why his appeal should not be dismissed with prejudice and why he should not pay all costs outstanding, including rule costs. Mr. Luckey was served through respondent, who appeared on June 14, 2016, at which time Judge Steib appointed the Louisiana Appellate Project to represent Mr. Luckey. There was no further action by respondent in the matter.

Respondent failed to respond to the disciplinary complaint filed by Mr. Luckey, necessitating the issuance of a subpoena to obtain his sworn statement. On April 4, 2017, respondent appeared for a sworn statement. He acknowledged that he had received three notices of Mr. Luckey's complaint and promised to provide a

written response after the sworn statement; however, he failed to do so. On July 11, 2017, respondent gave a second sworn statement during which he admitted that he had no reason for his failure to provide a written response. Respondent testified that he would provide the response later that day, but once again, he failed to do so.

In June 2018, Mr. Luckey advised the ODC that he had not yet received all of his file materials from respondent, including a tax refund check that he provided to respondent for safekeeping. The ODC issued two additional requests to respondent for information and documentation pertaining to these allegations and was forced to again issue a subpoena because of respondent's failure to respond.

On August 8, 2018, respondent appeared for a sworn statement and provided his first written response to Mr. Luckey's complaint. During the sworn statement, respondent acknowledged that he had not provided Mr. Luckey with all of his file materials. Respondent also testified that he could not tender the original tax refund check to Mr. Luckey because he was incarcerated. The tax check eventually became stale.

The ODC alleges that respondent's conduct violated Rules 1.3 (failure to act with reasonable diligence and promptness in representing a client), 1.4 (failure to communicate with a client), 1.16(d) (obligations upon termination of the representation), 8.1(a) (a lawyer shall not knowingly make a false statement of material fact in connection with a disciplinary matter), 8.1(c) (failure to cooperate with the ODC in its investigation), and 8.4(c) (engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation) of the Rules of Professional Conduct.

Count III

Mohamed Taghi retained respondent to handle a divorce, paying a fixed fee of \$1,250 in September 2014. Thereafter, respondent stopped communicating with

Mr. Taghi, failed to return his telephone calls, failed to complete the divorce, and failed to refund the unearned fee.

In January 2017, Mr. Taghi filed a complaint against respondent with the ODC. Respondent failed to respond to the complaint. On April 4, 2017, respondent signed for notice of the complaint when he presented to the ODC for a sworn statement on other matters. During the sworn statement, respondent agreed to provide a written response to the Taghi complaint, including an accounting of his legal fees, within fifteen days; however, he failed to do so, necessitating the issuance of a subpoena to obtain his sworn statement.

On July 11, 2017, respondent appeared for a sworn statement. He acknowledged that he had no excuse for not responding to the ODC. Respondent testified that he had refunded \$450 to Mr. Taghi but that he believed he had earned the remaining \$800 in legal fees. Nonetheless, respondent agreed to submit the matter to fee arbitration. Respondent did not provide a written response to the complaint or an accounting of his legal fees, but stated that he would forward that documentation to the ODC later that same day. Respondent failed to provide a response or the accounting.

On June 5, 2018, the ODC again requested that respondent provide a substantive response to the complaint as well as documentation pertaining to the fee arbitration within ten days. Respondent failed to respond, necessitating the issuance of a subpoena to obtain his sworn statement.

On August 8, 2018, respondent appeared for a sworn statement and provided his first written response to Mr. Taghi's complaint. Respondent stated that he did not give Mr. Taghi a full refund of the \$1,250 legal fee because he had done some work on the file in an attempt to locate Mr. Taghi's wife. Respondent also indicated that he and Mr. Taghi had entered into a settlement and release wherein Mr. Taghi accepted a refund of \$450. However, Mr. Taghi was not advised in writing of the

desirability of seeking or given a reasonable opportunity to seek the advice of independent legal counsel on the transaction.¹

The ODC alleges that respondent's conduct violated Rules 1.3, 1.4, 1.5(f) (payment of fees in advance of services), 1.7 (conflict of interest: current clients), 1.16(d), 8.1(c), and 8.4(c) of the Rules of Professional Conduct.

Count IV

In December 2017, the ODC received a notice from Chase Bank that a \$4,000 check drawn on respondent's client trust account was returned for insufficient funds. Notice of the overdraft was forwarded to respondent, along with a request for specific financial records. When respondent failed to submit the documents, notice of the overdraft was forwarded again in January 2018, June 2018, and July 2018. Respondent failed to produce any of the requested documentation, necessitating the issuance of a subpoena to obtain his sworn statement.

On August 8, 2018, respondent appeared for a sworn statement. He acknowledged receiving previous requests from the ODC and that he failed to respond without good cause or reason. Respondent produced financial records related to his trust account, but the documentation was incomplete. The ODC then issued a subpoena to Chase Bank, seeking the records of respondent's client trust account.

A review of the documentation provided by respondent and the bank reveals that respondent did not maintain client records for at least five years after the conclusion of each client matter. Respondent also failed to reconcile his trust account at least quarterly. In addition, Angelina Marcellino, the ODC's forensic auditor, identified multiple instances of misuse of respondent's client trust account,

¹ On December 30, 2020, respondent sent Mr. Taghi an additional refund of \$850, for a total refund of \$1,300.

including cash withdrawals and the payment of operating expenses directly from the account. Finally, Ms. Marcellino noted the possible conversion of client funds related to the initial overdraft. On December 11, 2017, respondent issued his client Martha Perdone a check in the amount of \$4,000, but on that date, there was only \$2,346.82 in the trust account. As of the date of the filing of the formal charges, respondent had not provided the ODC with proof of full payment to Ms. Perdone.²

The ODC alleges that respondent's conduct violated Rules 1.15(a) (safekeeping property of clients or third persons), 1.15(f) (on client trust accounts, cash withdrawals and checks made payable to "Cash" are prohibited; a lawyer shall subject all client trust accounts to a reconciliation process at least quarterly), 8.1(b) (a lawyer shall not knowingly fail to respond to a lawful demand for information from a disciplinary authority), 8.1(c), and 8.4(c) of the Rules of Professional Conduct.

Count V

In August 2017, Edward Pennington paid respondent \$1,000 to obtain an expungement and to represent him in an application for a concealed handgun permit. Respondent advised Mr. Pennington the process would take approximately sixty to ninety days and requested specific documentation from Mr. Pennington, including fingerprints and letters of recommendation. Mr. Pennington gathered this documentation and provided same to respondent in October 2017.

Thereafter, Mr. Pennington made several calls to respondent to discuss the status of the expungement and application for a concealed handgun permit, to no avail. In March 2018, respondent finally answered Mr. Pennington's telephone call

² On March 5, 2020, after Ms. Marcellino issued her audit report, respondent submitted proof of full payment to Ms. Perdone in the amount of \$4,000. This payment had been made on January 11, 2018, one month after the overdraft, but prior to the issuance of the audit report on August 20, 2019. Accordingly, no restitution is owed to Ms. Perdone.

and advised him that his case was being investigated by the Louisiana State Police and that he should hear something soon. Respondent scheduled a telephone meeting with Mr. Pennington; however, he failed to call at the appointed time and never called to reschedule. In an effort to obtain an update on his case, Mr. Pennington sent respondent text messages and emails, and physically traveled to respondent's office and the courthouse to locate respondent. Mr. Pennington ultimately requested via email that respondent return his file materials.

In August 2018, Mr. Pennington filed a complaint against respondent with the ODC. Respondent failed to respond to the complaint, necessitating the issuance of a subpoena to obtain his sworn statement. On April 29, 2019, respondent appeared for a sworn statement. He produced a copy of Mr. Pennington's file and a written response to the complaint. He acknowledged receiving notice of Mr. Pennington's complaint and testified that he did not deliberately ignore it, but stated he had been "swamped in work at the new office."³ Respondent also acknowledged that he failed to attend a scheduled meeting with Mr. Pennington, failed to communicate with him after the fact, and failed to provide Mr. Pennington with his requested file materials. Respondent testified that he filed the application for a concealed handgun permit for Mr. Pennington but admitted he did not know the current status of the application. Respondent promised to contact Mr. Pennington after the sworn statement to discuss completing the representation or refunding the unearned fee; however, he failed to do so.⁴

The ODC alleges that respondent's conduct violated Rules 1.3, 1.4, 1.5(f), 1.16(d), 8.1(b), 8.1(c), and 8.4(c) of the Rules of Professional Conduct.

³ Respondent began working for Martin Regan & Associates in 2017.

⁴ On September 8, 2020, respondent gave Mr. Pennington a refund check in the amount of \$1,845.76. The additional funds paid were for the costs Mr. Pennington incurred when he filed a case against respondent in small claims court, and for judicial interest.

Count VI

In November 2018, Toyia Goudeau, a court reporter for Orleans Parish Criminal District Court, filed a complaint against respondent with the ODC. Ms. Goudeau alleged that respondent ordered a transcript from his client's criminal trial and paid a \$1,000 deposit in July 2018, with the agreement that the remaining balance would be paid upon completion of the transcript. In August 2018, Ms. Goudeau informed respondent that the transcript was complete and that the balance due was \$714.50; however, respondent failed to pay Ms. Goudeau despite assuring her on several occasions that a check would be forthcoming.

The ODC initially forwarded Ms. Goudeau's complaint to the Louisiana State Bar Association ("LSBA") for handling without a formal disciplinary investigation. In January 2019, William King, the LSBA's Professional Programs Counsel, returned the matter to the ODC, advising that respondent "has not responded to our letters, phone calls and emails."

Thereafter, the ODC forwarded notice of the complaint to respondent at his primary bar registration address. Respondent failed to respond to the complaint, necessitating the issuance of a subpoena to obtain his sworn statement. On April 29, 2019, respondent appeared for a sworn statement and provided his first written response to Ms. Goudeau's complaint. Respondent acknowledged that he had received notice of the complaint and intended to respond, but testified that he "didn't get to it" because he was busy at work. Respondent also testified that he did not have funds from his client's family to pay the balance owed to Ms. Goudeau. In actuality, however, respondent had never contacted the family to request additional funds. The client's family subsequently paid the balance owed to Ms. Goudeau upon the request of a new attorney they hired to handle the matter.

The ODC alleges that respondent's conduct violated Rules 8.1(b), 8.1(c), and 8.4(c) of the Rules of Professional Conduct.

Count VII

In September 2018, Percy Kennedy filed a complaint against respondent with the ODC. Respondent failed to respond to the complaint, necessitating the issuance of a subpoena to obtain his sworn statement. On April 29, 2019, respondent appeared for a sworn statement. He produced a copy of Mr. Kennedy's file and a written response to the complaint. He acknowledged receiving notice of Mr. Kennedy's complaint but testified that he failed to respond because he "got swamped with work."

The ODC alleges that respondent's conduct violated Rules 8.1(c) and 8.4(a) (violation of the Rules of Professional Conduct) of the Rules of Professional Conduct.

DISCIPLINARY PROCEEDINGS

In February 2020, the ODC filed formal charges against respondent as set forth above. Respondent answered the formal charges, admitted the factual allegations and rule violations therein, and requested a hearing in mitigation.

Mitigation Hearing

The hearing committee conducted a hearing in mitigation on March 24, 2021. Both respondent and the ODC introduced documentary evidence. Respondent called the following witnesses to testify before the hearing committee: Jessica Duplantis, clinical case manager for the Judges and Lawyers Assistance Program ("JLAP"); Judge Darryl Derbigny of the Orleans Parish Criminal District Court (character witness); Martin Regan (respondent's employer and a character witness); Mark Coleman, a licensed addiction counselor; Kellie Fox (an attorney who works with respondent on civil cases); Patrick LaRive (a former client); and Tamika McDonald

(respondent's significant other). Respondent also testified on his own behalf and on cross-examination by the ODC.

The testimony at the mitigation hearing revealed that in 2014, around the time of his DWI arrest, respondent contacted JLAP requesting assistance for "stress counseling." Respondent attended counseling for several months thereafter. In April 2015, the ODC directed respondent to contact JLAP to obtain a substance abuse evaluation. On June 20, 2015, respondent was evaluated by Dr. James Smith, Ph.D., who determined that respondent met the criteria for alcohol use disorder (mild, in sustained remission) and major depressive disorder (single episode, mild). Dr. Smith recommended that respondent attend a JLAP-approved intensive outpatient treatment program for substance abuse ("IOP") as well as mental health and couples counseling. However, respondent did not comply with Dr. Smith's recommendations.

In August 2018, upon learning from respondent that he had not attended the IOP, JLAP recommended that he complete a one-day assessment at a JLAP-approved facility to obtain updated recommendations. Respondent completed the assessment at Palmetto Addiction Recovery Center on August 14, 2019. According to Palmetto, respondent met the criteria for alcohol use disorder (moderate in the past, mild at present) and depressive disorder with situational, endogenous, and substance-induced features. Palmetto recommended that respondent complete an IOP and sign and follow a five-year JLAP recovery agreement.

In accordance with the recommendations made by Palmetto, respondent began an IOP on October 29, 2019. He was successfully discharged from treatment on February 14, 2020. On February 19, 2020, respondent signed a five-year JLAP

recovery agreement.⁵ At the time of the mitigation hearing in March 2021, respondent was in full compliance with the requirements of his recovery agreement.

Hearing Committee Report

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

Jessica Duplantis – There is medical evidence that respondent has been affected by chemical dependency, but he has been in a meaningful and sustained recovery from his substance use disorder for at least 13 months. Respondent is showing changes in his behaviors and insight while under JLAP monitoring.

Judge Darryl Derbigny – Respondent has appeared in Judge Derbigny’s court. Judge Derbigny believes respondent to be a person of high character and reputation, and he has had no issues with respondent failing to appear for court.

Martin Regan – Respondent has been employed in the law office of Mr. Regan since 2017. Respondent is a good worker and the quality of his work is excellent. Respondent works long hours. On cross-examination, Mr. Regan explained that respondent is an independent contractor who works on criminal cases in the office. Mr. Regan maintains the trust account on these cases.

Mark Coleman – Mr. Coleman has worked in the substance abuse field since 1981 and is a licensed addiction counselor. He works under contract with Palmetto. He testified that respondent has participated fully in all of the programs required by JLAP. If respondent continues to comply with his JLAP recovery agreement, his prognosis is excellent.

⁵ Respondent tested weakly positive for ketamine at Palmetto. According to the discharge report, respondent denied use of ketamine, and Palmetto concluded the positive result was likely from incidental environmental exposure to ketamine. Nevertheless, respondent’s JLAP recovery agreement includes ketamine testing.

Kellie Fox – Ms. Fox works on personal injury cases with respondent in which they split fees. Ms. Fox maintains the trust account on these cases. She described respondent as a busy person who works well with his clients. She is aware that respondent is under a JLAP agreement. In response to the questions of a hearing committee member, Ms. Fox described respondent as grossly unorganized, but testified he has improved in the last year to 18 months.

Patrick LaRive – Mr. LaRive is a former client of respondent. He was pleased with respondent's work and described him as a man of good character and reputation.

Tamika McDonald – Ms. McDonald is respondent's partner and they have two children together. She described respondent as not being dependable during the time that he was abusing alcohol. Respondent had a drinking problem that increased due to financial issues. She testified that respondent has been sober since late 2019 after his visit with Palmetto. Ms. McDonald has seen a complete turnaround in respondent since that time, and he is now very dependable. She did not know of any drug abuse by respondent. Their finances improved after respondent started to work at Mr. Regan's law office.

Respondent – Respondent has been the principal of the Pelican Law Group since 2011. He worked as a solo practitioner until the end of 2017, when he joined the Regan law office. He does 95% criminal work and 5% civil and family work. He does personal injury work with Ms. Fox. He does not do trust accounting and described himself as terrible with organization. For civil matters, the trust account is maintained by Ms. Fox's law office; for criminal matters, the trust account is maintained by Mr. Regan's law office. He admitted to a history of alcohol abuse. The abuse became worse with financial difficulties and stress. He was arrested for DWI in 2014. He began to drink after court starting in 2015-2016. He was evaluated in 2015 through JLAP, but did not have the money to undergo treatment.

Respondent signed a JLAP agreement in 2019. His last alcoholic drink was on September 15, 2019. He accepts that he is an alcoholic. He is remorseful and wants to take care of his family.

On cross-examination, respondent stated that he ceased doing any trust accounting as of January 2021. The trust accounts he still maintains are not active. Respondent further stated that he has had one previous disciplinary matter which resulted in a diversion in 2015.⁶ With respect to the formal charge regarding Mohamed Taghi, respondent did not make payment to Mr. Taghi until ten months after the ODC filed charges. With respect to Mr. Pennington, respondent did not make restitution until after the ODC filed formal charges and after Mr. Pennington filed a claim against him in small claims court. Asked why he waited until 2019 to sign the JLAP agreement, respondent said that he did not have \$3,000 to pay for treatment. Respondent admitted that in 2015 he was not honest about reporting the extent of his alcohol abuse. Respondent stated that he could not afford to pay for inpatient treatment for his alcohol addiction. Respondent also said that he and Ms. McDonald did not attend couples counseling although same was recommended in 2015.

Based upon this testimony, respondent's stipulations, and the other evidence in the record, the committee adopted all the facts alleged in the formal charges. The committee also made additional factual findings, as follows:

1. Respondent has a long history of alcohol abuse, and suffers from alcoholism which is presently in remission.

⁶ Respondent participated in diversion and attended the LSBA's Ethics School to address issues involving neglect, failure to communicate, and failing to cooperate with the ODC. Pursuant to Supreme Court Rule XIX, § 11(H), diversion may be used in subsequent proceedings in which the respondent has been found guilty of misconduct as evidence of prior misconduct bearing upon the issue of the sanction to be imposed in the subsequent proceedings.

2. Respondent's alcohol abuse caused or substantially contributed to his actions that led to the violations of the Rules of Professional Conduct as charged in the formal charges.
3. Respondent knew right from wrong during the period of his alcohol abuse.
4. Respondent did not report the full extent of his alcohol abuse during his 2015 evaluation and thereby intentionally avoided a recommendation for inpatient treatment. Respondent failed to report this information because he did not have the financial resources to undergo inpatient treatment.
5. Respondent signed a five-year JLAP recovery agreement on February 19, 2020.
6. Respondent has complied with all of the terms and conditions of his JLAP recovery agreement since February 19, 2020, except for one administrative non-compliance of late monitoring fees in March 2021, which he later paid.
7. Respondent's prognosis with respect to the continued remission of his alcoholism is excellent if he complies with the terms and conditions of his JLAP recovery agreement.
8. Respondent has been sober since September 15, 2019.
9. Respondent is presently an independent contractor working at the Regan law firm, where he provides valued and experienced representation to clients in criminal cases. Respondent has worked well with attorney Kellie Fox in personal injury cases in service to their shared clients.
10. Respondent currently does not maintain trust accounts for his criminal and civil cases, as those are maintained by Mr. Regan's law firm and Ms. Fox's law firm.
11. Respondent has had and continues to have organizational problems in his law practice.

12. Respondent has been more dependable for his partner and children since his sobriety started in September 2019.
13. Respondent is remorseful for his admitted multiple violations of the Rules of Professional Conduct as charged in the formal charges.
14. Respondent has provided full restitution to the clients at issue in the formal charges; however, he did not provide full payment to Mr. Taghi (Count III) or Mr. Pennington (Count V) until after the formal charges were filed.
15. Respondent has no prior formal record of discipline. However, in 2015, he accepted diversion for violations of Rules 1.3, 1.4, and 8.1 of the Rules of Professional Conduct and was ordered to attend the LSBA's Ethics School.
16. Recurrence of respondent's misconduct is unlikely if he fully complies with the terms and conditions of his JLAP recovery agreement.

Based upon these findings, the committee accepted respondent's stipulation that he violated the Rules of Professional Conduct as charged in the formal charges.

The committee further determined that respondent violated duties owed to his clients, the public, the legal system, and the profession. His conduct was negligent and knowing, and caused potential harm in some instances and actual harm in others. Relying on the ABA's *Standards for Imposing Lawyer Sanctions*, the committee determined the baseline sanction is suspension.

In aggravation, the committee found the following factors: a pattern of misconduct, multiple offenses, and substantial experience in the practice of law (admitted 2011). In mitigation, the committee found: absence of a prior disciplinary record, absence of a dishonest or selfish motive, character or reputation, chemical dependency, and remorse.

The committee concluded:

In weighing the aggravating and mitigating factors, the Committee is troubled by Respondent's multiple counts that resulted in numerous violations of the Rules of

Professional Conduct, and by his initial failure to cooperate with ODC. However, the Committee believes that alcohol abuse is the primary cause that underlies these violations and is encouraged by the continued sobriety of Respondent, his compliance with his JLAP agreement he signed over a year ago, and his committed legal representation of clients as described by the witnesses who credibly testified during the Committee hearing. Compliance during the full term of his JLAP agreement is essential to avoid recurrence of misconduct, and he has organizational issues that could be helped with a practice monitor.

Based on this reasoning, the committee recommended that respondent be suspended from the practice of law for one year and one day, fully deferred, subject to the following conditions: (1) respondent shall remain fully compliant with the JLAP recovery agreement he signed on February 19, 2020; (2) a practice monitor shall be appointed to monitor the administrative and organizational aspects of respondent's law practice, with some emphasis on trust accounts, for a period of one year; and (3) respondent shall pay all costs and expenses of this proceeding.

The ODC filed an objection to the hearing committee's report.

Disciplinary Board Recommendation

After review, the disciplinary board adopted the hearing committee's factual findings and agreed with its findings of rule violations. The board agreed that respondent negligently and knowingly violated duties owed to his clients, the public, the legal system, and the profession. His conduct caused actual harm in some instances and potential harm in others. For example, respondent caused actual harm to Mr. Luckey (Count II) by his failure to submit an order with the notice of appeal, which caused the appeal to sit in procedural limbo for almost a year. Respondent caused potential harm to the public by his DWI arrest (Count I) and potential harm to his clients, the legal system, and the profession by failing to properly maintain his

trust account (Count IV). Based on the ABA's *Standards for Imposing Lawyer Sanctions*, the board determined the baseline sanction is suspension.

The board found the following aggravating factors are present: a prior disciplinary record (2015 diversion), a pattern of misconduct, multiple offenses, vulnerability of the victim (Mr. Luckey, who was incarcerated), and substantial experience in the practice of law. The board found the following mitigating factors are present: absence of a dishonest or selfish motive, personal or emotional problems, chemical dependency, character or reputation, and remorse.

Turning to the issue of an appropriate sanction, the board determined that the fully deferred suspension recommended by the hearing committee is too lenient, as it does not appear to take all of the misconduct into consideration. Rather, the board determined that the jurisprudence supports a three-year suspension, with part of the suspension deferred, for the totality of respondent's misconduct. In cases in which an attorney was found to have committed ethical misconduct stemming from an alcohol or substance abuse problem, the court has imposed fully deferred suspensions of one year to one year and one day, so long as the attorney has demonstrated that he or she has addressed the problem.⁷ For misconduct involving neglect of legal matters, failure to communicate with clients, failure to refund unearned fees, and failure to cooperate with the ODC, caused by chemical dependency, the court has imposed a fully deferred eighteen-month suspension. *See In re: Ashley*, 18-0408 (La. 5/25/18), 243 So. 3d 547. The trust account violations warrant an eighteen-month suspension under *Louisiana State Bar Ass'n v. Hinrichs*, 486 So. 2d 116 (La. 1986).

Considering this case law, the board recommended that respondent be suspended from the practice of law for three years for his overall misconduct. In

⁷ See, e.g., *In re: Kleinpeter*, 20-1125 (La. 1/20/21), 308 So. 3d 1147; *In re: Finckbeiner*, 16-0654 (La. 5/20/16), 192 So. 3d 111; *In re: Baer*, 09-1795 (La. 11/20/09), 21 So. 3d 941.

light of the mitigating factors, particularly respondent's chemical dependency which was a substantial contributing cause of the misconduct, the board recommended that all but one year and one day of the suspension be deferred. Finally, the board recommended that respondent be assessed with the costs and expenses of these proceedings.

Both respondent and the ODC filed objections 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.

Respondent has admitted the factual allegations of the formal charges as well as the rule violations contained therein. Accordingly, the only issue before the court is that of an appropriate sanction.

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 sanction recommended by the disciplinary board is a three-year suspension, with all but one year and one day deferred. Respondent argues that this sanction is too harsh and that he should be suspended for a year and a day, fully or substantially deferred. On the other hand, the ODC argues the sanction is too lenient and that respondent should be suspended for three years, with no portion deferred.

The record reveals that over the period from 2014 to 2019, respondent engaged in a pattern of neglectful behavior that caused harm to his clients and the disciplinary system. Such misconduct warrants significant discipline.

However, we recognize substantial mitigating factors are present. Specifically regarding the mitigating factor of chemical dependency, we agree that the evidence supports a finding that respondent is affected by a chemical dependency and that the chemical dependency caused the misconduct. Respondent was actively abusing alcohol during the period of time in which the misconduct occurred, although he failed to acknowledge the extent of the problem to the ODC and to the JLAP evaluators. The evidence also reflects that respondent has sought treatment and has demonstrated a meaningful period of recovery; he successfully completed an outpatient treatment program and has been sober for three years. Furthermore, respondent has been subject to a JLAP agreement since February 2020, and he is in full compliance with the requirements of that agreement. By all accounts, respondent’s recovery has made a recurrence of his misconduct unlikely.

Considering the totality of the circumstances, we conclude respondent’s misconduct warrants a suspension from the practice of law for eighteen months, with all but six months deferred. Following the completion of the active portion of his suspension, we will place respondent on unsupervised probation for a period of one year, with the condition that any misconduct during this period may be grounds for

making the deferred portion of the suspension executory or imposing additional discipline as appropriate.

DECREE

Upon review of the findings and recommendations of the hearing committee and the disciplinary board, and considering the record, briefs, and oral argument, it is ordered that Stavros Panagouloupoulos, Louisiana Bar Roll number 33622, be and he hereby is suspended from the practice of law for a period of eighteen months. It is further ordered that all but six months of this suspension shall be deferred. Following the completion of the active portion of his suspension, respondent shall be placed on unsupervised probation for a period of one year, with the condition that any misconduct during this 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-00612

IN RE: STAVROS PANAGOULOPOULOS

Attorney Disciplinary Proceeding

Crichton, J., additionally concurs and assigns reasons.

I agree with the majority and write separately to highlight that, like any legal matter, lawyer disciplinary matters are evidence-driven. *See, e.g., In re Pullins-Gorham*, 20-0692 (La. 12/11/20), 315 So. 3d 187, 192 (Crichton, J., concurring in part and dissenting in part), *reh'g denied*, 2020-00692 (La. 1/26/21). While this case certainly involves serious allegations of misconduct, the presence in the record of substantial mitigating factors persuades me that the one-year suspension imposed by the majority, which is less than the three years recommended by the Disciplinary Board, is warranted. *See, e.g., In re: Confidential Party*, 21-0355 (La. 4/27/21), 314 So. 3d 826 (Crichton, J., additionally concurring and noting the “significant mitigating factors present”).

SUPREME COURT OF LOUISIANA

No. 2022-B-00612

IN RE: STAVROS PANAGOULOPOULOS

Attorney Disciplinary Proceeding

Crain, J., dissenting

The Disciplinary Board recommended a three-year suspension, with all but one year and one day deferred. This court orders the lesser suspension of eighteen months, with all but six months deferred. The majority relies on the mitigating factor of chemical dependency as the cause of Respondent's misconduct. However, Respondent previously failed to acknowledge the extent of his chemical dependency to ODC and JLAP evaluators. Facing discipline in 2015, he now says he minimized the full extent of his alcohol abuse to evaluators at Palmetto Addiction Recovery Center to avoid in-patient treatment. He was successful.

Now, when *being* chemically dependent can mitigate his discipline, he confesses that chemical dependency has caused all his rule violations. I am not persuaded to which of his two realities is the truth, and there is no reliable medical evaluation in this record to sort that out. Even his current success in JLAP, which the majority finds is a mitigating factor, may be due to him not having a severe disorder at all, as he successfully argued before.

If Respondent has a substantial substance abuse problem, I hope he successfully treats it. But I need medical evidence to confirm what problem we are dealing with in order to impose the proper discipline, and before allowing him back into the active practice of law. I dissent and would impose a non-deferred suspension of one year and one day.

