

The Supreme Court of the State of Louisiana

IN RE: JIM S. HALL

No. 2023-B-00935

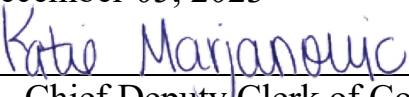
IN RE: Office of Disciplinary Counsel - Applicant Other; Findings and
Recommendations (Formal Charges);

December 05, 2023

Suspension imposed. See per curiam.

WJC
JLW
JDH
SJC
JTG
JBM
PDG

Supreme Court of Louisiana
December 05, 2023



Chief Deputy Clerk of Court
For the Court

SUPREME COURT OF LOUISIANA

NO. 2023-B-0935

IN RE: JIM S. HALL

ATTORNEY DISCIPLINARY PROCEEDING

PER CURIAM

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

UNDERLYING FACTS

Count I

In August 2019, respondent hired TFX Web Net, LLC (“TFX”) to design and create an advertising campaign for his law firm. TFX is owned by Blair Touchard. On September 12, 2019, respondent authorized his law firm staff to send a letter under his signature which stated, in pertinent part, “This letter serves as notification that Jim S. Hall & Associates, LLC authorizes Blair Touchard of TFX web/net dba BLARE of Metairie, LA to plan and place media on our behalf. Jim S. Hall & Associates, LLC will be responsible for the payment of any approved programs that may be contracted on our behalf by Blair Touchard of TFX web/net dba BLARE.”

On October 2, 2019, respondent’s law firm issued a \$3,360 check to TFX as payment for services rendered. Later in October, TFX sought payment from the law firm for additional services rendered, but respondent refused to pay the invoice and terminated his firm’s relationship with TFX. As a result, TFX filed suit against respondent and his law firm in the 22nd Judicial District Court for the Parish of St. Tammany.

In May 2020, respondent filed an exception of improper venue in the litigation. In the accompanying memorandum in support of the exception, respondent stated that he and his law firm “were completely unaware of any involvement by plaintiff TFX Web Net LLC as their only dealings in this matter were with Blair Touchard D/B/A ‘Blare.’” Likewise, respondent submitted an affidavit in which he attested that he and his law firm “were entirely unaware of the existence of plaintiff, TFX Web, LLC [sic].” These representations by respondent were false. In August 2020, Mr. Touchard filed a complaint against respondent with the ODC.

On June 3, 2021, the ODC took respondent’s sworn statement. During his statement, respondent admitted that, contrary to his representations in the memorandum and the affidavit, he knew at the time he signed and filed these pleadings that his law firm previously had dealings with, and was aware of the existence of, TFX. At the conclusion of the sworn statement, the ODC asked respondent whether he intended to correct the false representations in the memorandum and the affidavit. Respondent agreed that he would do so and provide a copy of the revised pleadings to the ODC. On June 10, 2021, respondent sent the following correspondence to the ODC:

Enclosed please find a Second Supplemental and Amended Memorandum in Support of Exception of Improper Venue along with an attached revised Affidavit of Support of the Memorandum that I will be filing into the court record shortly. I believe the Second Supplemental Memorandum covers what we discussed, however if it does not, please let me know.

On April 7, 2022, the ODC inquired whether respondent had filed the corrected pleadings into the court record. On April 8, 2022, ten months after his sworn statement, respondent made the filing.

The ODC alleges that respondent's conduct in Count I violated the following provisions of the Rules of Professional Conduct: Rules 3.3(a)(1) (a lawyer shall not knowingly make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer), 3.3(a)(3) (a lawyer shall not knowingly offer evidence that the lawyer knows to be false), 8.4(c) (engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation), and 8.4(d) (engaging in conduct prejudicial to the administration of justice).

Count II

In October 2020, Richard Lemmler, the Louisiana State Bar Association's ("LSBA") Ethics Counsel, provided the ODC with a video file for a television advertisement by respondent. Respondent did not submit the advertisement for review by the LSBA prior to or concurrently with the publication of the advertisement, and it was not filed with the LSBA as a "late filing." Furthermore, the advertisement does not identify the city or town of respondent's principal office location, and it includes a portrayal of clients and includes a scene depicting an accident, neither of which contains the required disclaimers. Finally, the advertisement includes a voiceover by an announcer shouting "Call Hall," but does not include a disclaimer that the speaker or announcer has been paid. After receiving notice of the ODC's inquiry, respondent pulled the advertisement in question.

The ODC alleges that respondent's conduct in Count II violated the following provisions of the Rules of Professional Conduct: Rules 7.2(a)(2) (all advertisements shall disclose, by city or town, one or more bona fide office location(s) of the lawyer(s) who will actually perform the services advertised), 7.2(c)(1)(H) (an advertisement shall not contain a paid testimonial or endorsement, unless the fact of payment is disclosed), 7.2(c)(1)(I) (an advertisement shall not include a portrayal of

a client by a non-client without disclaimer of such, or the depiction of any events or scenes, other than still pictures, photographs or other static images, that are not actual or authentic without disclaimer of such), and 7.7(c) (evaluation of advertisements by the LSBA Rules of Professional Conduct Committee required prior to or concurrently with the lawyer's first dissemination of the advertisement).

DISCIPLINARY PROCEEDINGS

In July 2022, the ODC filed formal charges against respondent as set forth above. In his answer, respondent denied any misconduct in Count I. As to Count II, respondent admitted that he violated Rules 7.2(a)(2), Rule 7.2(c)(1)(I), and Rule 7.7(c) of the Rules of Professional Conduct, but he denied that he violated Rule 7.2(c)(1)(H).

In light of respondent's answer, the matter proceeded to a formal hearing on the merits.

Formal Hearing

The hearing committee conducted the hearing on January 23, 2023. The ODC called Mr. Touchard to testify before the committee. Respondent testified on his own behalf and on cross-examination by the ODC. He also called three character witnesses.

Hearing Committee Report

After considering the evidence and testimony presented at the hearing, the hearing committee made the following factual findings:

Count I: Respondent and Mr. Touchard reached an oral agreement whereby Mr. Touchard would provide services to respondent's law firm. Mr. Touchard requested that a member of respondent's staff issue a letter stating that the law firm

was authorizing “Blair Touchard of TFX web/net dba BLARE of Metairie, LA” to plan and place media on behalf of the law firm. The law firm staff member issued the letter under respondent’s signature, but respondent did not review the letter. The law firm also issued a check to TFX for the payment of Mr. Touchard’s first invoice.

Respondent admitted that he became aware of the existence of TFX in late October/early November 2019. Nevertheless, he knowingly submitted an affidavit and memorandum in support of an exception of improper venue which contained facts he knew were false. Respondent agreed to correct the false facts with the court and timely submitted a corrected pleading to the ODC for review prior to filing it. The ODC did not prove by clear and convincing evidence that respondent violated the Rules of Professional Conduct by waiting to hear back from the ODC regarding the revised memorandum and affidavit.¹

Count II: Respondent disseminated a television advertisement that was not pre-filed with the LSBA. He did not pay the LSBA the required filing fee. The advertisement did not contain the location of respondent’s practice and did not include proper disclosures related to the portrayal of clients and scenes depicting an accident. The ODC did not prove by clear and convincing evidence that the voiceover by the announcer in the advertisement shouting “Call Hall” was a paid testimonial or a paid endorsement.

Based on these factual findings, the committee determined respondent violated the following provisions of the Rules of Professional Conduct: Rules 3.3(a)(1), 3.3(a)(3), 8.4(c), and 8.4(d) in Count I, and Rules 7.2(a)(2), 7.2(c)(1)(I), and 7.7(c) in Count II.

¹ This finding by the committee is in error. During his sworn statement, respondent was asked whether he intended to file a corrected affidavit and memorandum with the district court, and if so, to provide a copy of same to the ODC. There was no discussion or requirement that the ODC would need to approve the pleadings before respondent submitted them to the court. Moreover, during the hearing, respondent acknowledged that the ODC was not responsible in any way for his failure to timely correct his prior misrepresentations.

The committee determined that respondent violated duties owed to the legal system and the legal profession. The filing of the exception of improper venue and the false affidavit in support caused some degree of hardship to Mr. Touchard, who had to oppose the exception. The failure to provide the advertisement to the LSBA potentially caused harm to the extent it misled the public by not disclosing the location of respondent's practice and not including the proper disclosures related to the portrayal of clients and scenes depicting an accident. After considering the ABA's *Standards for Imposing Lawyer Sanctions*, the committee determined that the baseline sanction is suspension.

In aggravation, the committee found the following factors: a prior disciplinary record (2000 admonition for lack of diligence), a dishonest or selfish motive, multiple offenses, and substantial experience in the practice of law (admitted 1992). In mitigation, the committee found the following factors: timely good faith effort to rectify the consequences of the misconduct, good character and reputation, remorse, and remoteness of prior disciplinary offense.

After further considering this court's prior jurisprudence addressing similar misconduct, the committee recommended respondent be suspended from the practice of law for four months, fully deferred. The committee also recommended that respondent be assessed with the costs and expenses of this proceeding.

Neither respondent nor the ODC filed an objection to the hearing committee's report and recommendation. Therefore, pursuant to Supreme Court Rule XIX, § 11(G), the disciplinary board submitted the committee's report to the court for review.²

² As amended effective May 15, 2019, Supreme Court Rule XIX, § 11(G) provides that "[i]f the parties do not file objections to the hearing committee report, the board shall promptly submit the hearing committee's report to the court."

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 of this matter supports a finding that respondent made false statements to a tribunal, failed to submit an advertisement for review by the LSBA, and engaged in other violations of the lawyer advertising rules. This misconduct amounts to a violation of the Rules of Professional Conduct as found by the hearing committee.

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 the legal system and the legal profession, causing both actual and potential harm. The baseline sanction for this

type of misconduct is suspension. The record supports the aggravating and mitigating factors found by the hearing committee.

Considering these factors, as well as the absence of any objection by the ODC to the hearing committee's report, we will accept the committee's recommendation and suspend respondent from the practice of law for four months, fully deferred, subject to the condition that any misconduct by respondent during the deferral period may be grounds for making the deferred suspension executory or imposing additional discipline, as appropriate.

DECREE

Upon review of the findings and recommendations of the hearing committee, and considering the record, it is ordered that Jim S. Hall, Louisiana Bar Roll number 21644, be and he hereby is suspended from the practice of law for a period of four months. This suspension shall be deferred in its entirety, with the condition that any misconduct during the deferral period may be grounds for making the deferred 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.