

The Supreme Court of the State of Louisiana

IN RE: CHRISTOPHER ALEXANDER GROSS

No. 2022-B-01471

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

March 14, 2023

Disbarment imposed. See per curiam.

JDH

JLW

JTG

WJC

JBM

PDG

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

Supreme Court of Louisiana

March 14, 2023



Chief Deputy Clerk of Court
For the Court

SUPREME COURT OF LOUISIANA

NO. 2022-B-1471

IN RE: CHRISTOPHER ALEXANDER GROSS

ATTORNEY DISCIPLINARY PROCEEDING

PER CURIAM

This disciplinary matter arises from formal charges filed by the Office of Disciplinary Counsel (“ODC”) against respondent, Christopher Alexander Gross, an attorney licensed to practice law in Louisiana but currently on interim suspension for threat of harm to the public. *In re: Gross*, 19-2084 (La. 1/8/20), 286 So. 3d 1035.

FORMAL CHARGES

Count I – The Unauthorized Practice of Law Matter

On May 31, 2019, respondent was declared ineligible to practice law for failing to comply with mandatory continuing legal education requirements. On June 19, 2019, during the period of his ineligibility, respondent represented a client in the 24th Judicial District Court for the Parish of Jefferson.

Respondent’s opposing counsel then filed a disciplinary complaint against him. In August and September 2019, the ODC sent respondent notice of the complaint at three separate addresses. Respondent received at least one of the notices but failed to respond to the complaint.

Count II – The Cao Matter

Attorney Anh Cao of the Cao Law Firm is respondent’s former employer. On October 1, 2018, the Cao Law Firm hired respondent as a full-time associate. He

was paid an annual salary of \$58,500, plus 6% of the attorney's fees for cases he brought to the firm.

In May 2019, Quang Le contacted the Cao Law Firm and requested representation for his nephew Quoc Ta Nguyen, who was being detained at an immigration detention center in Jena, Louisiana. Mr. Cao quoted Mr. Le a flat fee of \$5,000 for the representation and requested a retainer of \$2,500. Mr. Cao directed respondent to attend Mr. Nguyen's May 13, 2019 hearing, at which time he was to collect the retainer fee. Three weeks later, Mr. Le contacted Mr. Cao to inquire about the status of his nephew's immigration matter. Mr. Cao reminded Mr. Le that he required a retainer of \$2,500. Mr. Le then communicated to Mr. Cao that he had paid respondent \$2,500 in cash. When Mr. Cao confronted respondent about Mr. Le's payment, respondent stated that he only received \$2,000 from Mr. Le and that he had deposited the money into his Apple Pay account.

In August 2019, Paul Schillesi contacted the Cao Law Firm and complained that respondent had not filed the documents he promised to file on behalf of D Jay's Cosmetology School against the Louisiana State Board of Cosmetology ("LSBC"). During a subsequent meeting with Mr. Cao, Mr. Schillesi indicated that he had called the Cao Law Firm in December 2018 about the problems he was having with the LSBC. Thereafter, respondent traveled to Baton Rouge and met with Mr. Schillesi at his cosmetology school. Respondent communicated to Mr. Schillesi that Mr. Cao was not interested in the case, which was untrue. Instead, respondent told Mr. Schillesi that he would handle the case and that the retainer should be paid directly to him. Mr. Schillesi wrote a check to the Gross-Tillero Law Firm in the amount of \$2,500. Respondent cashed the check the next day but did nothing for Mr. Schillesi for the next eight months. When Mr. Cao learned in August 2019 what had transpired, he contacted respondent, demanded that he return the money to Mr. Schillesi, and terminated his employment with the Cao Law Firm.

Further, while employed with the Cao Law Firm, respondent communicated to client Martha Menjivar that he had taken care of her traffic tickets and that she had nothing to worry about. However, respondent did not handle Ms. Menjivar's traffic tickets, resulting in the court issuing attachments against Ms. Menjivar and the suspension of her driver's license.

In January 2019, Thu Pham contacted the Cao Law Firm to handle a DWI matter in Avoyelles Parish. Mr. Cao instructed respondent to tell Mr. Pham that it would be less expensive to hire a criminal attorney in that area. Mr. Cao was not sure what respondent told Mr. Pham, but thereafter, Mr. Pham wrote respondent two checks totaling \$3,000. Mr. Pham contacted the Cao Law Firm on several occasions, and respondent communicated to him that "everything was done." In fact, nothing was done. Respondent failed to appear in court on behalf of Mr. Pham, which resulted in the issuance of an attachment for Mr. Pham's arrest. Consequently, Mr. Cao was compelled to enroll as counsel of record in order to assist Mr. Pham. Mr. Cao then had the bench warrant recalled and a trial date set.

On October 1, 2019, the ODC sent notice of Mr. Cao's disciplinary complaint to respondent at his primary bar registration address. The notice was returned to the ODC unclaimed.

Count III – The Foucher Matter

In January 2019, Charissa Foucher retained respondent to handle an immigration matter on behalf of her husband. At that time, respondent quoted Ms. Foucher a \$1,600 fee for the representation. On March 18, 2019, Ms. Foucher paid respondent \$800 in cash. On April 12, 2019, respondent told Ms. Foucher that the fee for the representation had increased to \$3,170, and she paid him another \$800 in cash that day. Thereafter, respondent ceased communicating with Ms. Foucher.

In September 2019, Ms. Foucher contacted what she believed to be respondent's law firm. Ms. Foucher was told that respondent no longer worked there and that there was no record of respondent handling an immigration matter on behalf of her husband.

On October 7, 2019, the ODC sent notice of Ms. Foucher's disciplinary complaint to respondent at his primary bar registration address. The notice was returned to the ODC unclaimed, and respondent has never responded to the complaint.

Count IV – The Tran Matter

Evon Tran retained respondent to prepare a power of attorney and to handle litigation regarding a life insurance matter, paying respondent \$350 in cash for the preparation of the power of attorney. After respondent prepared the power of attorney, he delivered same to Ms. Tran, who then paid respondent \$2,600 in cash to begin litigating the life insurance matter. After receiving payment, respondent failed to communicate or meet with Ms. Tran. When Ms. Tran was finally able to schedule a meeting with respondent for September 11, 2019, respondent failed to show up for the meeting. The next day, Ms. Tran texted respondent about the missed meeting, but respondent did not respond. Ms. Tran has not heard from respondent since.

On October 21, 2019, the ODC sent notice of Ms. Tran's disciplinary complaint to respondent at his primary bar registration address. The notice was returned to the ODC unclaimed.

Count V – The Chapman Matter

Ronald Chapman hired respondent to handle a claim for damages against the Department of Veterans Affairs. According to Mr. Chapman, respondent failed to keep him informed of the status of the matter and was hostile toward him.

On June 5, 2020, the ODC sent notice of Mr. Chapman's disciplinary complaint to respondent. On July 13, 2020, the ODC sent a second notice of the complaint to respondent at his primary and secondary bar registration addresses. On July 23, 2020, respondent emailed the ODC to request additional time to respond, and the ODC gave him an extension of fifteen days. Respondent had no further contact with the ODC.

DISCIPLINARY PROCEEDINGS

In February 2022, the ODC filed formal charges against respondent, alleging that his conduct violated the following provisions of the Rules of Professional Conduct: Rules 1.1 (failure to provide competent representation to a client), 1.3 (failure to act with reasonable diligence and promptness in representing a client), 1.4 (failure to communicate with a client), 1.5(e) (division of fees), 1.15(a) (safekeeping property of clients or third persons), 5.5 (engaging in the unauthorized practice of law), 8.1(b) (knowing failure to respond to a lawful demand for information from a disciplinary authority), 8.1(c) (failure to cooperate with the ODC in its investigation), 8.4(a) (violation of the Rules of Professional Conduct), 8.4(b) (commission of a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer), and 8.4(c) (engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation). Respondent failed to answer the formal charges. Accordingly, the factual allegations contained therein were deemed admitted and proven by clear and convincing evidence pursuant to Supreme Court Rule XIX, § 11(E)(3). No formal hearing was held, but the parties were given an

opportunity to file with the hearing committee written arguments and documentary evidence on the issue of sanctions. Respondent filed nothing for the committee's consideration.

Hearing Committee Report

After considering the ODC's deemed admitted submission, the hearing committee determined that the factual allegations set forth in the formal charges are proven. Based on those facts, the committee determined respondent violated the Rules of Professional Conduct as charged.

The committee then determined respondent violated duties owed to his clients, the Cao Law Firm, the public, the legal system, and the legal profession. He acted knowingly and intentionally, causing actual and potential harm to his clients, the Cao Law Firm, the public, the legal system, and the legal profession. Citing the ABA's *Standards for Imposing Lawyer Sanctions*, the committee determined the baseline sanction is disbarment.

The committee found the following aggravating factors present: a dishonest or selfish motive, a pattern of misconduct, multiple offenses, bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with the rules or orders of the disciplinary agency, vulnerability of the victims, substantial experience in the practice of law (admitted 2008), and indifference to making restitution. The committee determined the sole mitigating factor present is the absence of a prior disciplinary record.

Considering these findings, and the prior jurisprudence considering similar misconduct, the committee recommended that respondent be permanently disbarred. The committee also recommended that respondent be required to make full restitution to all harmed parties, including his clients, the Cao Law firm, and the

Louisiana State Bar Association's Client Assistance Fund, for all funds and unearned fees he improperly converted to his own use.

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

After considering the matter, the court issued an order directing respondent and the ODC to submit written briefs addressing whether the sanction recommended by the committee is appropriate. The ODC submitted a brief in response to the court's order, but respondent did not.

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 deemed admitted matter supports a finding that respondent neglected legal matters, failed to communicate with clients, failed to refund unearned fees, practiced law while ineligible to do so, engaged in deceitful conduct, and failed to cooperate with the ODC in its investigations. More specifically, respondent represented a client in court during a period of ineligibility, in violation of Rules 1.1 and 5.5 of the Rules of Professional Conduct. He collected attorney's fees from clients and never turned them over to the Cao Law Firm, in violation of

Rules 1.15(a) and 8.4(c). He accepted legal fees, neglected the legal matters, either failed to communicate with the clients or deceived them regarding the status of their legal matters, and then failed to refund the unearned fees, in violation of Rules 1.3, 1.4, 1.5(f)(5) (failure to refund an unearned fee),¹ and 8.4(c). Respondent also failed to cooperate with the ODC's investigations of the numerous complaints filed against him, in violation of Rules 8.1(b) and 8.1(c). Finally, in violating the aforementioned rules, respondent also violated Rule 8.4(a) of the Rules of Professional Conduct.

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 further supports a finding that respondent knowingly and intentionally violated duties owed to his clients, the Cao Law Firm, the legal system, and the legal profession. His conduct caused both potential and actual harm. The actual harm was significant in that at least two clients had attachments issued for their arrests due to respondent's neglect of their legal matters. Furthermore, respondent collected at least \$11,700 in attorney's fees from several clients and then did little to no work on their behalf. He also did not refund any of the unearned fees

¹ The ODC charged respondent with a violation of Rule 1.5(e), which references the division of fees between attorneys who are not in the same firm. Based upon the established facts, however, Rule 1.5(e) does not apply here. Instead, the alleged facts set forth in the formal charges suggest the ODC meant to charge respondent with a violation of Rule 1.5(f)(5) regarding an attorney's failure to refund unearned fees.

to his clients or reimburse the Cao Law Firm when it stepped in to complete some of the representations for which he had been paid. We agree with the hearing committee's determination of aggravating and mitigating factors. We also agree with the committee that the baseline sanction is disbarment.

Turning to the issue of an appropriate sanction, the committee has recommended that respondent be permanently disbarred. However, we find recent case law suggests a more appropriate sanction for respondent's misconduct is ordinary disbarment. For example, in *In re: Dantzler*, 21-1235 (La. 11/3/21), 326 So. 3d 868, an attorney neglected legal matters, failed to communicate with clients, failed to return client files upon request, failed to refund unearned fees, allowed his client trust account to become overdrawn on numerous occasions, converted client funds, practiced law while ineligible to do so, practiced law after being placed on interim suspension, illegally sold pain pills to another person, and failed to cooperate with the ODC in numerous investigations. We determined the attorney acted knowingly and intentionally, causing significant actual and potential harm. We further determined that numerous aggravating factors were present, and the sole mitigating factor was the absence of a prior disciplinary record. Under these circumstances, we imposed ordinary disbarment and ordered the attorney to make restitution totaling \$9,696 to four clients, provide another client with an accounting and payment of any funds due, and provide two other clients with their files.

We find the misconduct in *Dantzler* is more egregious than respondent's misconduct. For example, although respondent has neglected legal matters, failed to communicate with clients, failed to refund unearned fees, practiced law while ineligible to do so, engaged in deceitful conduct, and failed to cooperate with the ODC in its investigations, he did not practice law after being placed on interim suspension or illegally sell pain pills to another person. Additionally, respondent's misconduct did not include mismanagement of his client trust account. In light of

Dantzler, we conclude that the imposition of permanent disbarment for respondent's misconduct would be overly harsh and, therefore, unwarranted.

Accordingly, we will reject the committee's recommended sanction and, instead, impose ordinary disbarment, retroactive to January 8, 2020, the date of respondent's interim suspension. We will further order respondent to make full restitution to all harmed parties, including his clients, the Cao Law firm, and the Client Assistance Fund, for all funds and unearned fees he improperly converted to his own use.

DECREE

Upon review of the findings and recommendations of the hearing committee, and considering the record and the brief filed by the ODC, it is ordered that Christopher Alexander Gross, Louisiana Bar Roll number 31754, be and he hereby is disbarred, retroactive to January 8, 2020, the date of his interim suspension. His name shall be stricken from the roll of attorneys and his license to practice law in the State of Louisiana shall be revoked. It is further order that respondent shall make full restitution to all harmed parties, including his clients, the Cao Law firm, and the Louisiana State Bar Association's Client Assistance Fund, for all funds and unearned fees he improperly converted to his own use. 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-01471

IN RE: CHRISTOPHER ALEXANDER GROSS

Attorney Disciplinary Proceeding

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

I agree with the majority's finding that respondent has violated the Rules of Professional Conduct as alleged. Specifically, respondent's conduct violated: Rules 1.1 (failure to provide competent representation to a client), 1.3 (failure to act with reasonable diligence and promptness in representing a client), 1.4 (failure to communicate with a client, 1.5(f)(5) (failure to refund an unearned fee), 1.15(a) safekeeping property of clients or third persons, 5.5 (engaging in the unauthorized practice of law), 8.1(b) (knowing failure to respond to a lawful demand for information from a disciplinary authority, 8.1(c) (failure to cooperate with ODC in its investigation, 8.4(a) (violation of the Rules of Professional Conduct), 8.4(b) (commission of a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer, and 8.4(c) (engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation). However, I disagree with the imposition of regular disbarment and find the circumstances of this matter warrant permanent disbarment. Not only did respondent repeatedly fail to respond to the charges against him, he failed to file anything in mitigation and did not object to the Hearing Committee report which detailed the serious misconduct in which he engaged. Moreover, respondent ignored a specific order from this Court to file a brief regarding the appropriate sanction under these circumstances. In my view, the record in this matter establishes that respondent has satisfied this Court's newly adopted amendments to Supreme Court Rule XIX related to permanent disbarment.

As this Court's order states, permanent disbarment may be imposed only "upon an express finding of the presence of the following factors: (1) the lawyer's conduct is so egregious as to demonstrate a convincing lack of ethical and moral fitness to practice law; and (2) there is no reasonable expectation of significant rehabilitation in the lawyer's character in the future." I find both of these provisions to be satisfied. Accordingly, I would permanently disbar respondent. *See also In re Bell*, 22-1331 (La. 11/8/22), 349 So. 3d 551 (Crichton, J., dissents and would impose permanent disbarment); *In re Nalls*, 2020-1126 (La. 3/24/21), 347 So. 3d 675, *reh'g denied*, 2020-01126 (La. 5/13/21), 320 So. 3d 414 (Crichton, J., dissents and would impose permanent disbarment); *In re Whalen*, 20-0869 (La. 9/29/20), 301 So. 3d 1170 (same); *In re: Mendy*, 16-0456 (La. 10/19/16), 217 So. 3d 260 (same).