

The Supreme Court of the State of Louisiana

IN RE: STACY MICHELE YOUNG

No.2020-B-01176

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IN RE: Disciplinary Counsel - Applicant Other; Findings and Recommendations  
(Formal Charges);  
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March 09, 2021

Disbarment imposed. See per curiam.

JTG

JLW

SJC

WJC

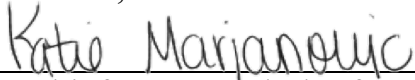
JBM

PDG

Hughes, J., dissents and would impose a lesser sanction.

Supreme Court of Louisiana

March 09, 2021



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Chief Deputy Clerk of Court  
For the Court

03/09/21

SUPREME COURT OF LOUISIANA

NO. 2020-B-1176

IN RE: STACY MICHELE YOUNG

ATTORNEY DISCIPLINARY PROCEEDING

PER CURIAM

This disciplinary matter arises from formal charges filed by the Office of Disciplinary Counsel (“ODC”) against respondent, Stacy Michele Young, an attorney licensed to practice law in Louisiana, but currently ineligible to practice.<sup>1</sup>

**UNDERLYING FACTS**

The following facts are not in dispute, as they have been stipulated to by the parties:

Respondent was formerly associated with the Shreveport law firm of Rogers, Carter & Payne, LLC (the “firm”). She left the firm in 2013 and moved to Florida to care for her elderly parents. Respondent is presently employed by a title insurance company in Jacksonville.

The primary focus of respondent’s law practice in Louisiana was in the area of bankruptcy law. The firm also maintains a significant collection practice representing many clients in various district and city courts around the state. In the course of its practice, the firm advances costs and expenses which are ultimately reimbursable by the client, and receives proceeds from sheriff’s sales and garnishments and other monies that belong to the client and/or the firm.

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<sup>1</sup> On July 1, 2020, respondent was declared ineligible to practice law for failure to comply with the mandatory continuing legal education requirements. She is also ineligible for failure to pay her bar dues and the disciplinary assessment.

In 2017, the firm discovered that over a period of several years, respondent had received checks payable to her from the Caddo Parish Clerk of Court for refunds of court costs or other monies due to the firm or its clients. These checks were mailed to respondent's home address in Florida.<sup>2</sup> Although she had no legal right to these funds, respondent endorsed the checks from the clerk of court and converted the funds to her own use.

In January 2018, respondent made full restitution to the firm in the amount of \$17,636.53.<sup>3</sup> Subsequently, the firm determined that several of the checks presumed to have been received and cashed by respondent were in fact received by the firm and properly credited to clients, third parties, and/or the firm. In September 2018, the firm refunded the sum of \$7,369.06 to respondent, resulting in a true net conversion of 89 checks from the clerk of court totaling \$10,267.47.

### **DISCIPLINARY PROCEEDINGS**

In May 2018, the firm filed a complaint against respondent with the ODC. In November 2018, the ODC filed formal charges against respondent, alleging that her conduct as set forth above violated the following provisions of the Rules of Professional Conduct: Rules 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 answered the formal charges and admitted her misconduct, but requested a hearing in mitigation.

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<sup>2</sup> The firm found no evidence that respondent had taken any action to cause the clerk's office to mail the checks to her in Florida.

<sup>3</sup> Respondent was able to make restitution to the firm by obtaining a loan from her mother. To date, respondent has not fully repaid her mother.

### *Mitigation Hearing*

Following the filing of respondent's answer, the matter was set for a hearing in mitigation on March 7, 2019. Respondent participated in the hearing by telephone from her home in Florida. The ODC called two members of the firm, Fred A. Rogers, III and Sandy E. Clause, to testify before the hearing committee concerning the circumstances of respondent's conversion. The ODC also introduced documentary evidence. Respondent offered no evidence and called no witnesses, although she testified on her own behalf and on cross-examination by the ODC. In her testimony, respondent explained that at the time of her misconduct, she had been under a great deal of stress as a result of serious health problems suffered by both her and her husband, and that she was "just not thinking clearly."

### *Hearing Committee Report*

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

1. Respondent worked on bankruptcy files for the firm, but she also signed petitions in collection matters. The firm would often advance court costs for the various filings.
2. In 2013, respondent left the firm and moved to Florida. After she moved, she received checks from the Caddo Parish Clerk of Court that were meant to reimburse the law firm, debtors, and/or creditor clients. Respondent kept the checks and converted the funds to her own use. The evidence shows she did this 89 times.
3. Each time respondent received a check from the clerk of court, she intentionally converted the funds by endorsing the check and placing it into her bank account.

4. Originally the amount of converted funds was believed to be \$17,636.53, but it was subsequently determined that the actual amount totaled \$10,267.47.
5. The amount of converted funds was determined after Ms. Clause went to a storage facility and reviewed each file. The firm spent many hours trying to discover the extent of the conversion and to determine whether clients/debtors were entitled to a refund. Some of the parties owed a refund could not be found.
6. When the law firm discovered what respondent did, they asked her to self-report. Respondent did not do so and ultimately the firm reported respondent's conduct.
7. Respondent testified that health problems and stress led her down this unfortunate path; however, no medical records or other evidence of health issues was placed into the record other than respondent's testimony.

Based on these findings, the committee determined respondent violated Rules 8.4(a), 8.4(b) and 8.4(c) of the Rules of Professional Conduct as charged. These violations were stipulated to by respondent.

The committee found that respondent violated duties owed to clients, the public, the legal system, and the legal profession. She acted intentionally. Respondent's misconduct caused injury to clients, debtors, former colleagues, and her family. The applicable baseline sanction is disbarment.

The parties stipulated to aggravating and mitigating factors. The aggravating factors are a dishonest or selfish motive, a pattern of misconduct, multiple offenses, and substantial experience in the practice of law (admitted 1989). The mitigating factors are the absence of a prior disciplinary record, personal or emotional problems, timely good faith effort to make restitution or to rectify the consequences of the misconduct, a cooperative attitude toward the disciplinary proceedings, and remorse.

During the hearing, respondent testified that she had breast cancer, diabetes, and other health issues that caused her to convert the funds. The committee believed that respondent had health issues during the time of her misconduct, although she offered no evidence of her illness other than her testimony. The committee noted that the best mitigating testimony came from Mr. Rogers, who genuinely believed that respondent should not be punished harshly and who advocated for mercy for her.

The committee considered case law to determine whether a downward departure from disbarment is warranted in light of respondent's health issues and the plea from Mr. Rogers. In *In re: Abdalla*, 17-0453 (La. 10/18/17), 236 So. 3d 1223, the respondent was disbarred for converting \$39,085.86 from his law firm, notwithstanding the mitigating factors of drug addiction, inpatient rehabilitation, compliance with a five-year recovery agreement with the Judges and Lawyers Assistance Program, remorse, cooperation with the disciplinary investigation, and restitution. On the other hand, a downward departure to a three-year suspension was ordered in *In re: Kelly*, 98-0368 (La. 6/5/98), 713 So. 2d 458, in which the respondent converted approximately \$80,000 in funds belonging to his law firm. Notably, the injury was only to the firm, and Mr. Kelly suffered with a mental condition. In this case, the committee found the injury is not limited to the firm, as creditor clients and debtors were also injured.

Based on these cases, as well as the aggravating and mitigating factors present, the committee recommended that respondent be disbarred. The committee also recommended that respondent be assessed with all costs of this proceeding.

Neither respondent nor the ODC filed an objection to the hearing committee's report.

### *Disciplinary Board Recommendation*

After reviewing this matter, the disciplinary board determined that the hearing committee's findings of fact are supported by the record. The board also made additional findings of fact, as follows:

Respondent's mother paid restitution for respondent in the amount of \$17,636.53, which was originally determined to be the amount of converted funds (in the form of 98 separate checks). Because the actual amount of the converted funds (in the form of 89 separate checks) was later determined to be \$10,267.47, a refund of the difference between these amounts was then made to respondent's mother. Respondent testified that she has made some payments back to her mother, but she could not provide the committee with any approximation of the amount she still owes her mother.

Based on these findings, the board agreed that, as stipulated by the parties, respondent violated Rules 8.4(a), 8.4(b), and 8.4(c) of the Rules of Professional Conduct.

The board determined respondent violated duties owed to clients, the public, and the legal profession. She acted intentionally. She caused significant injury to her former clients, debtors, her former colleagues, and her family. After considering the ABA's *Standards for Imposing Lawyer Sanctions*, the board determined that the applicable baseline sanction is disbarment.

The board accepted the aggravating and mitigating factors stipulated to by the parties. Respondent additionally testified regarding the health issues from which she suffers, including breast cancer and diabetes. While the board found there is no reason not to believe this testimony, it noted respondent presented no medical records or expert testimony which would show a causal connection between her health conditions and her misconduct. She also presented no evidence that her health

issues affected her ability to understand right from wrong. Accordingly, the board declined to give respondent's medical issues any weight in mitigation.

The board acknowledged that this court has imposed disbarment in prior cases addressing the conversion of funds from a lawyer's law firm. Nevertheless, the board determined that respondent's conduct is so egregious as to warrant permanent disbarment. As recognized by the hearing committee, the funds converted by respondent included not only funds belonging to her prior law firm, but also to clients and debtors. Fifty of the 89 checks which respondent intentionally endorsed and cashed were refunds to clients totaling over \$4,000.

Considering these circumstances, the board recommended respondent be permanently disbarred. The board further recommended respondent be assessed with the costs and expenses of this proceeding.

Although neither respondent nor the ODC filed an objection to the board's recommendation, on January 25, 2021, we ordered briefing addressing the issue of an appropriate sanction. The ODC filed a brief in response to the court's order; respondent did not file a brief.

## **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 stipulated that she converted \$10,267.47 in funds belonging to her former law firm and/or its clients. She has also stipulated that her conduct violated Rules 8.4(a), 8.4(b), and 8.4(c) of the Rules of Professional Conduct, as charged in the formal charges.

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 violated duties owed to her clients and the legal profession. She acknowledges that her conduct was intentional and caused actual harm in that clients and/or the firm were deprived of funds they were entitled to receive in a timely fashion. The applicable baseline sanction is disbarment.

We accept the aggravating and mitigating factors stipulated to by the parties. We also agree with the hearing committee and the disciplinary board that respondent did not present clear and convincing evidence that her misconduct was caused by any health condition from which she was suffering.

Turning to the issue of an appropriate sanction, we find that permanent disbarment is unduly punitive under the facts of this matter. For various forms of theft from law firms, we typically impose either a three-year suspension or disbarment.<sup>4</sup> Notably, we have imposed permanent disbarment in only one case

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<sup>4</sup> See *In re: Abdalla*, 17-0453 (La. 10/18/17), 236 So. 3d 1223 (disbarment imposed for lawyer's conversion of \$39,085.86 from his law firm); *In re: Pearson*, 12-0940 (La. 10/16/12), 100 So. 3d 313 (lawyer converted \$133,000 belonging to his law firm and improperly used the firm's credit

involving theft of funds from a law firm. In *In re: Mitchell*, 13-2688 (La. 5/7/14), 145 So. 3d 305, the respondent submitted to his law firm nearly 800 false expense reimbursement requests totaling \$23,212. In turn, the law firm charged these expenses to its client. The respondent could offer no credible explanation for the charges, some of which involved purported travel to court proceedings on weekends or holidays. For this misconduct, which we characterized as “a knowing and calculated scheme,” the respondent was permanently disbarred.

Here, respondent’s misconduct does not rise to the level of that seen in *Mitchell*. While respondent clearly committed misconduct by retaining the refunds erroneously sent to her by the clerk of court, there is no evidence that her conduct involved any type of “scheme” on her part. Rather, respondent’s conversion of funds belonging to her former law firm and its clients is most similar to those cases in which ordinary disbarment was imposed.

Based on this reasoning, we will reject the board’s recommendation and impose disbarment.

## DECREE

Upon review of the findings and recommendations of the hearing committee and disciplinary board, and considering the record and the brief filed by the ODC, it is ordered that Stacy Michele Young, Louisiana Bar Roll number 19547, be and she hereby is disbarred. Her name shall be stricken from the roll of attorneys and her license to practice law in the State of Louisiana shall be revoked. All costs and

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card for personal expenses; disbarment imposed); *In re: Sharp*, 09-0207 (La. 6/26/09), 16 So. 3d 343 (disbarment for lawyer’s conversion of \$50,000 in attorney’s fees and expenses due to his law firm upon settlement of a personal injury matter); *In re: Bernstein*, 07-1049 (La. 10/16/07), 966 So. 2d 537 (while a partner in two law firms, the lawyer created “off the books” billing statements and collected fees from clients for legal services totaling approximately \$30,000 which he then converted to his own use; disbarment imposed); *In re: Kelly*, 98-0368 (La. 6/5/98), 713 So. 2d 458 (three-year suspension imposed upon a lawyer who converted approximately \$80,000 in funds belonging to his law firm; significant mitigating factors present).

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.