

The Supreme Court of the State of Louisiana

IN RE: AKELLO PATRICE DANGERFIELD

No.2020-B-00116

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

May 14, 2020

Permanent disbarment imposed. See per curiam.

WJC

BJJ

JLW

SJC

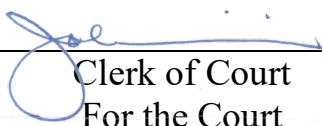
JTG

JHB

Hughes, J., would order disbarment.

Crichton, J., additionally concurs and assigns reasons.

Supreme Court of Louisiana
May 14, 2020



Clerk of Court
For the Court

05/17/20

SUPREME COURT OF LOUISIANA

NO. 2020-B-0116

IN RE: AKELLO PATRICE DANGERFIELD

ATTORNEY DISCIPLINARY PROCEEDING

PER CURIAM

This disciplinary matter arises from formal charges filed by the Office of Disciplinary Counsel (“ODC”) against respondent, Akello Patrice Dangerfield, an attorney licensed to practice law in Louisiana, but currently ineligible to practice.¹

FORMAL CHARGES

Kenneth and Paula Laborde retained respondent to represent their company, TekCrete, Inc., in connection with a claim for losses resulting from the BP oil spill. Respondent accepted the representation for a 15% contingency fee.

In December 2016, the Labordes were awarded \$505,882.94 for their TekCrete claim. The Labordes were pleased with this amount and did not wish to seek an appeal. Respondent received the funds from BP on March 7, 2017. Her 15% contingency fee totaled \$75,882.44, leaving the sum of \$430,000.50 due to TekCrete.

Respondent did not inform the Labordes that she had received TekCrete’s funds, and when they asked her about the funds, respondent denied that she had already received them. The Labordes finally reviewed an online status report regarding their claim and learned that respondent had already received the funds.

¹ On June 29, 2018, respondent was declared ineligible to practice law for failing to comply with mandatory continuing legal education requirements. She is also ineligible for failing to pay bar dues and the disciplinary assessment.

On April 27, 2017, the Labordes met with respondent. At that time, respondent attempted to renegotiate her employment contract, seeking to receive a higher percentage of TekCrete's recovery as her fee. The Labordes refused to agree to alter the contract. Respondent then disclosed to the Labordes that she had received the BP funds, but had already spent a significant portion of the funds and had only \$303,000 left to disburse to TekCrete. On that day, respondent paid the Labordes \$303,000. She agreed to give them the balance of \$127,000.50 within ninety days. Following the expiration of the delay, respondent still did not disburse the remaining funds. The Labordes advised respondent that they were hiring an attorney to collect the remaining funds. In September 2017, the Labordes filed a complaint against respondent with the ODC.

In November 2017, respondent gave a sworn statement to the ODC. Respondent admitted during the sworn statement that after she received TekCrete's funds, she paid \$100,000 to another individual as a referral fee. Respondent conceded she did this without the Labordes' authorization or knowledge. Respondent has yet to repay the Labordes any portion of the \$127,000.50 she owes.

DISCIPLINARY PROCEEDINGS

In September 2018, the ODC filed formal charges against respondent, alleging that her conduct violated the following provisions of the Rules of Professional Conduct: Rules 1.15(a) (a lawyer shall hold property of clients or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property), 1.15(d) (failure to timely remit funds to a client or third person), 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), 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).²

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.

In its submission, the ODC argued that the appropriate sanction for respondent's misconduct is permanent disbarment. In support, the ODC asserted that Guideline 6 of the permanent disbarment guidelines, pertaining to "insurance fraud, including but not limited to staged accidents or widespread runner-based solicitation," is applicable in light of respondent's admission that she disbursed a large portion of TekCrete's funds to another individual as a referral fee. Respondent filed nothing for the hearing committee's consideration.

Hearing Committee Report

After considering the ODC's submission, the hearing committee accepted that the factual allegations contained in the formal charges were deemed admitted upon respondent's failure to file an answer. Based on those facts, the committee determined that respondent violated the Rules of Professional Conduct as alleged in the formal charges.

The committee determined that respondent violated duties owed to her client, the public, and the legal profession. She acted intentionally and without regard for the consequences. With full understanding of the import of her actions, respondent

² The ODC did not allege that respondent violated either Rule 7.4(a) (solicitation) or 7.2(c)(13) (a lawyer shall not give anything of value to a person for recommending the lawyer's services) of the Rules of Professional Conduct.

willfully converted over \$120,000 in client funds and then made no meaningful attempt to restore these funds to the rightful owners thereof. She knowingly and deliberately converted the settlement funds without her client's knowledge. She misrepresented to her client that she had not received the funds and improperly distributed portions to a non-lawyer associate. She admitted to the theft and promised to restore the funds, to no avail. Her conversion of the funds, for which restitution has not been made, caused her client direct, significant, and actual harm. Her conduct also tarnished the image of the legal profession in the eyes of her clients and in the eyes of the public.

After considering the ABA's *Standards for Imposing Lawyer Sanctions*, the committee determined the baseline sanction is disbarment. The committee noted, however, that the seriousness of respondent's actions and the extent of the harm caused to the client warrant additional sanctions beyond the baseline recommendation.

The committee determined that the following aggravating factors are present: a dishonest or selfish motive and substantial experience in the practice of law (admitted 1996). The committee determined that the following mitigating factors are present: absence of a prior disciplinary record and full and free disclosure to the disciplinary board and a cooperative attitude toward the proceedings.

After considering respondent's conduct in light of the court's prior jurisprudence addressing similar misconduct, the committee recommended respondent be permanently disbarred.

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

Disciplinary Board Recommendation

After review, the disciplinary board acknowledged that the factual allegations in the formal charges were deemed admitted and proven. The board also made an

additional factual finding that the exact amount owed to TekCrete is \$127,000.50. The board then determined that the legal conclusions of the hearing committee are supported by the factual allegations asserted in the formal charges and by the evidence submitted in support of the allegations. Based on those findings, the board agreed with the committee that respondent violated the Rules of Professional Conduct as charged. The board addressed each alleged rule violation as follows:

Respondent violated Rule 1.15(a) by converting \$127,000.50 in funds owed to TekCrete and by not keeping these funds in her trust account.

Respondent violated Rule 1.15(d) by failing to promptly notify the Labordes that she had received the settlement funds from BP and by failing to promptly deliver the funds to TekCrete.

Respondent violated Rule 8.4(b) by converting \$127,000.50 owed to TekCrete. In 2018, respondent was charged in Orleans Parish Criminal District Court with theft in excess of \$1,500 in violation of La. R.S. 14:67(B)(1). She also violated La. R.S. 37:219, which makes it “unlawful for any attorney to pay money or give any other thing of value to any person for the purpose of obtaining representation of any client.”

Respondent violated Rule 8.4(c) by converting the funds owed to TekCrete, thereby engaging in dishonest and deceitful conduct.

Respondent violated Rule 8.4(d) by converting funds owed to her client and initially misrepresenting to the Labordes that the funds had not been received, impeding the settlement of a claim in the BP claims process.

Respondent violated Rule 8.4(a) by violating the rules as set forth above.

The board determined that respondent violated duties owed to her client, the public, the legal system, and the legal profession. She acted intentionally. Her misconduct caused actual harm to her client and the legal profession. By converting \$127,000.50 in client funds, for which restitution has not been made and for which

no meaningful payment arrangements have been established, respondent caused her client direct, significant, and actual harm. Her conduct has also tarnished the image of the legal profession. After considering the ABA's *Standards for Imposing Lawyer Sanctions*, the board determined that the baseline sanction is disbarment.

The board adopted the aggravating and mitigating factors found by the hearing committee. In addition, the board found the presence of the mitigating factor of personal problems. Respondent testified in her sworn statement that during the time of the misconduct, she was caring for her mother, who died after a long illness.

After considering respondent's conduct in light of the permanent disbarment guidelines as well as the court's prior jurisprudence addressing similar misconduct, the board recommended respondent be permanently disbarred. The board also recommended that she be ordered to make restitution to TekCrete in the amount of \$127,000.50. The board further recommended that she be assessed with the costs and expenses of these proceedings.

Neither respondent nor the ODC filed an objection to the board's recommendation.

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.

In cases in which the lawyer does not answer the formal charges, the factual allegations of those charges are deemed admitted. Supreme Court Rule XIX, § 11(E)(3). Thus, the ODC bears no additional burden to prove the factual allegations contained in the formal charges after those charges have been deemed admitted.

However, the language of § 11(E)(3) does not encompass legal conclusions that flow from the factual allegations. If the legal conclusion the ODC seeks to prove (i.e., a violation of a specific rule) is not readily apparent from the deemed admitted facts, additional evidence may need to be submitted in order to prove the legal conclusions that flow from the admitted factual allegations. *In re: Donnan*, 01-3058 (La. 1/10/03), 838 So. 2d 715.

The record in this deemed admitted matter supports a finding that respondent converted \$127,000.50 in client funds. This misconduct is a violation of the Rules of Professional Conduct as alleged 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's conduct was intentional. In acting as she did, she violated duties owed to her client, the public, the legal system, and the legal profession, causing actual harm. The baseline sanction for this type of misconduct is disbarment. The record supports the aggravating and mitigating factors found by the disciplinary board.

Turning to the issue of an appropriate sanction, the board has concluded that respondent's offenses are so egregious that she should be permanently disbarred. In support, the board cites Guideline 6 of the permanent disbarment guidelines, but acknowledges that "the conduct at issue may not fall squarely within" this guideline.

The board is correct that Guideline 6 does not strictly apply here. Respondent's conduct does not involve insurance fraud, as there is no indication of any misconduct relating to the settlement of TekCrete's BP claim. Furthermore, although respondent admits she paid a referral fee to a third person for her BP cases, there is no information in the record to suggest how many cases are at issue. Therefore, it is impossible to determine whether respondent's conduct involved widespread runner-based solicitation, as contemplated by Guideline 6.

Nevertheless, it is abundantly clear that the permanent disbarment guidelines are not intended to bind our decision-making process. *In re: Minor*, 12-1006 (La. 10/16/12), 100 So. 3d 319. Regardless of the fact that respondent's misconduct may not definitively fit any of the specific permanent disbarment guidelines, her conduct demonstrates a clear lack of moral fitness. Her behavior continues to cause great harm to her client and tarnish the image of the legal profession. In order to protect the public and maintain the high standards of the legal profession in this state, we find respondent should not be allowed the opportunity to return to the practice of law in the future.

Accordingly, we will adopt the board's recommendation and permanently disbar respondent.

DECREE

Upon review of the findings and recommendations of the hearing committee and disciplinary board, and considering the record, it is ordered that Akello Patrice Dangerfield, Louisiana Bar Roll number 24365, be and she hereby is permanently 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. Pursuant to Supreme Court Rule XIX, § 24(A), it is further ordered that respondent be permanently prohibited from being readmitted to the practice of law in this state. It is further ordered that

respondent shall pay restitution of \$127,000.50 plus legal interest to TekCrete, Inc. 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.