

The Supreme Court of the State of Louisiana

**IN RE: SAMUEL ROBERT AUCOIN**

No. 2021-B-00847

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IN RE: Disciplinary Counsel - Applicant Other; Findings and Recommendations  
(Formal Charges);  
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**December 07, 2021**

Suspension imposed. See per curiam.

PDG

JLW

JDH

SJC

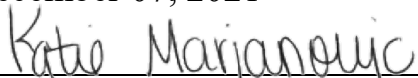
JTG

WJC

JBM

Supreme Court of Louisiana

December 07, 2021



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Chief Deputy Clerk of Court  
For the Court

SUPREME COURT OF LOUISIANA

NO. 2021-B-0847

IN RE: SAMUEL ROBERT AUCOIN

ATTORNEY DISCIPLINARY PROCEEDING

PER CURIAM

This disciplinary matter arises from formal charges filed by the Office of Disciplinary Counsel (“ODC”) against respondent, Samuel Robert Aucoin, an attorney licensed to practice law in Louisiana but currently on interim suspension for threat of harm to the public. *In re: Aucoin*, 20-0979 (La. 8/10/20), 300 So. 3d 838.<sup>1</sup>

**UNDERLYING FACTS**

In July 2019, Mindi Hunter, the MCLE Director for the Louisiana State Bar Association (“LSBA”), reported the following to the ODC: Respondent had issues fulfilling his MCLE obligation for 2018. As a result, Ms. Hunter agreed to allow him to satisfy his entire 12.5-hour obligation for that year via online CLE courses. On June 27, 2019, respondent sent Ms. Hunter ten e-mails, each containing a certificate of completion for an online CLE program of one or two hours. However, it appeared to Ms. Hunter that the certificate of completion for course number 5193170101B, entitled “Behind the Wheel: Plaintiff’s Automotive Personal Injury Cases” and provided by TRTCLE, had been altered to reflect respondent had completed the course on June 26, 2019. Specifically, the date of completion was

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<sup>1</sup> In addition to the misconduct at issue here, the ODC based its petition for interim suspension on several disciplinary complaints filed against respondent by clients who alleged that he collected legal fees from them and then neglected their legal matters and failed to communicate with them. Additionally, the ODC’s petition indicated respondent failed to cooperate with its investigations and was charged with two misdemeanor counts of issuing worthless checks in January 2020.

handwritten instead of typed. Ms. Hunter contacted Mr. Fareed Issa at TRTCLE for verification and learned that respondent had indeed taken the course, but in 2017, at which time he received credit for it. However, TRTCLE had no record of respondent taking the course for credit in 2019.

The ODC subpoenaed respondent to appear for a sworn statement on August 21, 2019. During his statement, respondent insisted that he had taken the TRTCLE course at issue in 2019 and that he had no memory of having done so in 2017. When shown the handwritten date on the certificate of completion, respondent testified that the form was tendered from TRTCLE in such condition. The ODC requested that respondent produce a copy of his credit card statement reflecting the date he paid for the course, but he failed to comply with this request until the date of the formal hearing in this matter.

After the sworn statement, the ODC spoke to Ms. Hunter again. She advised that the course at issue was not offered by TRTCLE in 2019. Therefore, it was not possible for respondent to have taken the course when he claimed.

As a result of his failure to satisfy his MCLE obligation for 2018, respondent was declared ineligible to practice law on May 31, 2019. He did not restore his eligibility to practice until August 23, 2019.

On June 25, 2019, while he was ineligible, respondent filed a motion in the matter of *Breaux v. Duhon*, pending in Lafayette Parish. On June 17, 2019, he notarized an affidavit in the same matter. On August 16, 2019, respondent filed an amended petition in the matter of *Courville v. Courville*, pending in St. Landry Parish. Also on August 16, 2019, a final judgment signed by respondent was filed in the matter of *McKnight v. McKnight*, pending in Iberia Parish.

## DISCIPLINARY PROCEEDINGS

In November 2019, the ODC filed formal charges against respondent, alleging that his conduct as set forth above violated the following provisions of the Rules of Professional Conduct: Rules 1.1(c) (failure to pay bar dues, to pay the disciplinary assessment, or to submit the trust account disclosure statement), 5.5(a) (engaging in the unauthorized practice of law), 8.1(c) (failure to cooperate with the ODC in its investigation), 8.4(a) (violation of the Rules of Professional Conduct), and 8.4(c) (engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation).

Respondent answered the formal charges, essentially denying he engaged in any misconduct. Accordingly, the matter proceeded to a formal hearing on the merits, conducted by the hearing committee in October 2020.

### *Formal Hearing*

Both respondent and the ODC introduced documentary evidence. The ODC called Mr. Issa and Ms. Hunter to testify before the committee. Respondent did not call any witnesses. However, he did testify on his own behalf and on cross-examination by the ODC.

### FAREED ISSA'S TESTIMONY

Mr. Issa, TRTCLE's customer service manager, testified that course number 5193170101B was only offered as an approved course in Louisiana in 2017. TRTCLE's records show respondent took this course on May 30, 2017, but the records do not show respondent taking the course on June 26, 2019. Mr. Issa explained that anyone who purchased and completed a course in the past can rewatch the course at any time but will not get credit for the rewatch if the course is not offered again for credit. The person can also reprint the uniform certificate of attendance any time after completing the course, but the printout will always have

the date the course was initially completed typed on it. The date would not be handwritten as it was on respondent's uniform certificate of attendance. TRTCLE's records further show that, on June 26, 2019, respondent purchased two other courses approved in Louisiana for 2019 and received credit for those two courses.

#### MINDI HUNTER'S TESTIMONY

Ms. Hunter testified that respondent contacted her after he became ineligible on May 31, 2019 for failing to comply with his MCLE requirements for 2018. The LSBA's hardship committee allowed him to take all of his 2018 hours online to correct his ineligibility because he was unable to drive at the time. Ms. Hunter also allowed respondent to email his certificates of completion for the courses instead of waiting for the CLE sponsors to do so. However, the certificate of completion for the course at issue seemed suspicious to her because the date of completion was handwritten instead of typed. Upon further inspection, Ms. Hunter noticed that the course number had a 2017 designation even though respondent claimed to have taken the course in 2019. In fact, respondent had already received MCLE credit for the course in 2017. Therefore, she contacted respondent and told him he would need to take another course because that particular course would not count. Respondent agreed to do so without any argument.

#### RESPONDENT'S TESTIMONY

Respondent verified that he did not argue with Ms. Hunter when she told him the course at issue would not count and he would need to take a different course. He immediately took another course to replace the course at issue. Respondent further claimed that Ms. Hunter told him he could practice law once he had submitted all of his certificates of completion to her. Therefore, he practiced law "a couple of times"

when he was still ineligible because he was “under the impression from Ms. Hunter” that he was allowed to practice.

Contradicting his sworn statement testimony, respondent admitted he handwrote the date on the certificate of completion for the course at issue “because the date wasn’t appearing at the top.” He had no explanation why the date did not print on this particular certificate of completion when it printed on the other certificates of completion from TRTCLE courses. He also argued that he had no way of knowing the course number indicated the course was from 2017. He denied submitting a fraudulent certificate of completion for the course.

Regarding the final judgment in *McKnight v. McKnight*, respondent claimed he signed the judgment before he became ineligible to practice law, but the opposing party did not sign or submit the judgment to the court until after he was ineligible to practice. Regarding the motion in *Breaux v. Duhon*, respondent claimed he presented the motion to the judge on June 17, 2019 because that is the date the judge signed it. Then the judge filed it with the clerk’s office. He also admitted he notarized an affidavit in the same matter on June 17, 2019. He did not address the amended petition he filed in *Courville v. Courville*.

#### *Hearing Committee Report*

After considering the evidence and testimony presented at the hearing, the hearing committee found that the ODC proved respondent knowingly engaged in the practice of law while ineligible, submitted falsified evidence to the Committee on Mandatory Continuing Legal Education, and lied under oath in both his sworn statement and at the hearing of this matter. More specifically, the committee found that respondent was delinquent in fulfilling his MCLE requirements in 2018, which resulted in his ineligibility to practice law beginning on May 31, 2019. Ms. Hunter gave respondent permission to fulfill his 2018 MCLE requirements online and told

him he would become eligible to practice law again when his fulfillment of his 2018 MCLE requirements had been completed and processed. Respondent submitted an altered and falsified certificate of completion for the course at issue. The certificate of completion respondent presented to the Committee on Mandatory Continuing Legal Education contained a handwritten date of June 26, 2019, but the course was not offered by TRTCLE in 2019. Respondent refused to admit that the document had been falsified despite clear evidence that it had been. Respondent ultimately fulfilled his 2018 MCLE requirements, and his eligibility was reinstated on August 23, 2019. However, respondent admitted that, on June 17, 2019 while he was ineligible to practice law, he filed a motion in *Breaux v. Duhon*. Respondent also admitted that he prepared and notarized an affidavit in the same case on the same day. Additionally, respondent admitted that the judge presiding over *McKnight v. McKnight* signed a final judgment bearing his signature on August 21, 2019; however, respondent was not certain when he prepared the judgment.

Based on these factual findings, the committee determined respondent violated the Rules of Professional Conduct as alleged in the formal charges. The committee further determined respondent knowingly violated duties owed to his clients, the public, the legal system, and the legal profession. His conduct caused potentially catastrophic harm to his clients and actual harm to the legal profession. 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: submission of false evidence, false statements, or other deceptive practices during the disciplinary process, refusal to acknowledge the wrongful nature of the conduct, and substantial experience in the practice of law (admitted 1991). In further aggravation, the committee noted that (1) respondent was also ineligible to practice law for failing to comply with MCLE requirements in both 2016 and 2017; (2) he specifically failed

to cooperate with the ODC's investigation by failing to produce the requested credit card statement until the formal hearing; (3) he displayed no remorse; and (4) he exhibited a cavalier attitude toward the disciplinary process. In mitigation, the committee noted that respondent is experiencing health problems (he suffered four strokes and has experienced extremely high blood pressure).

After further considering this court's prior jurisprudence addressing similar misconduct, the committee recommended respondent be suspended from the practice of law for one year and one day.

Respondent filed an objection to the committee's report and recommendation.

#### *Disciplinary Board Recommendation*

After review, the disciplinary board determined the hearing committee's factual findings are not manifestly erroneous and are supported by the record. Thus, the board adopted same, with some clarifications and additions. First, the board clarified that TRTCLE offered the course at issue in Louisiana in 2017 but did not offer the course in Louisiana in 2019. The board also clarified that the admissions respondent made regarding the documents he prepared, signed, and/or filed while ineligible to practice law were made during his testimony at the formal hearing in this matter. The board then made additional findings as follows:

1. On August 21, 2019, respondent provided a sworn statement to the ODC;
2. During the sworn statement, respondent denied that he had practiced law while ineligible except for appearing at a deposition the week before the sworn statement because he understood from Ms. Hunter that he was able to start practicing again;
3. During the sworn statement, respondent testified that he took the course at issue on June 26, 2019 and paid for the course with a credit card. The ODC requested a copy of the credit card statement;



4. Respondent did not produce a copy of the credit card statement until the formal hearing on October 28, 2020. The statement included a payment to TRTCLE on June 27, 2019 for \$134. Mr. Issa explained that respondent purchased two TRTCLE courses at that time: one entitled “Money is the Root of Many Ethical Violations” for \$75 and another entitled “A Primer on Technology Contracts” for \$59; and
5. In addition to the 2019 period of ineligibility at issue here, respondent was also ineligible for short periods of time in 2011, 2014, 2016, 2017, and 2018.

Based on these facts, the board determined respondent violated the Rules of Professional Conduct as charged, with one exception. Specifically, the board found that respondent filed at least one pleading and notarized a document while ineligible to practice law in June 2019 in violation of Rule 5.5(a). Respondent also violated Rule 8.4(c) when he submitted altered documentation to the LSBA regarding completion of the course at issue, gave false information regarding the completion of the course to the ODC during his sworn statement, and falsely denied having engaged in the practice of law while ineligible to do so during his sworn statement. Respondent further failed to cooperate with the ODC in its investigation in violation of Rule 8.1(c) by failing to produce the credit card statement for the credit card that he claimed during his sworn statement was used to purchase the course at issue. Respondent also failed to cooperate with the ODC in its investigation by providing altered documents and false information during the investigation.

However, the board found that the ODC’s allegation and the committee’s conclusion that respondent violated Rule 1.1(c) are inaccurate. Rule 1.1(c) provides that a lawyer is required to comply with all of the requirements of the court’s rules regarding annual registration, including payment of bar dues, payment of the disciplinary assessment, timely notification of changes of address, and proper disclosure of trust account information or any changes therein. There is no allegation

in the formal charges that respondent failed to comply with Rule 1.1(c). Instead, the factual allegation proven at the hearing was that respondent failed to satisfy his MCLE requirements. According to the board, this failure constitutes a violation of Rule 1.1(b), which requires a lawyer to comply with the minimum requirements of continuing legal education. Therefore, the board concluded that respondent violated Rule 1.1(b), not Rule 1.1(c).<sup>2</sup>

Finally, the board found that the above rule violations establish the derivative violation of Rule 8.4(a), which provides it is professional misconduct to violate or attempt to violate the Rules of Professional Conduct.

The board then determined that respondent knowingly, if not intentionally, violated duties owed to his clients, the legal system, and the legal profession. His conduct caused harm to the attorney disciplinary system and to the integrity of the legal profession. He caused potential harm to his clients and the legal system. Based on the ABA's *Standards for Imposing Lawyer Sanctions*, the board determined the baseline sanction is suspension.

In aggravation, the board found the following: a dishonest or selfish motive, multiple offenses, submission of false evidence, false statements, or other deceptive practices during the disciplinary process, refusal to acknowledge the wrongful nature of the conduct, and substantial experience in the practice of law. In further aggravation, the board noted that respondent has been ineligible to practice law for failing to comply with his professional obligations on six other occasions over the past ten years. In mitigation, the board found the absence of a prior disciplinary

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<sup>2</sup> In *Louisiana State Bar Ass'n v. Keys*, 88-2441 (La. 9/7/90), 567 So.2d 588, 591, citing *In re: Ruffalo*, 390 U.S. 544, 88 S. Ct. 1222, 20 L. Ed. 2d 117 (1968), the court held that due process requires that an attorney be given notice of the misconduct for which the disciplinary authority seeks to sanction him. Here, the formal charges specifically state that respondent was declared ineligible to practice law from May 31, 2019 to August 23, 2019 for failing to satisfy his MCLE requirements. Therefore, the substance of the formal charges gave respondent adequate notice of the asserted sanctionable misconduct. Accordingly, the board determined that a finding of a Rule 1.1(b) violation is appropriate.

record and physical disability (with respect to his initial failure to complete his MCLE requirements).

Like the committee, after further considering this court's prior jurisprudence addressing similar misconduct, the board recommended respondent be suspended from the practice of law for one year and one day.

Neither respondent nor the ODC filed a timely objection in this court to the disciplinary board's recommendation. However, after the expiration of the time for filing objections under Supreme Court Rule XIX, § 11(G)(1), respondent filed a motion for extension to file an objection with the accompanying objection. On September 27, 2021, we issued an order denying the motion and rejecting respondent's objection as untimely. However, we permitted the parties to file briefs, without oral argument. Respondent and the ODC both filed briefs in response to the court's order.

## 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 practiced law while ineligible due to his failure to comply with his MCLE requirements for 2018. The record also indicates that, while attempting to cure his ineligibility, respondent

provided the LSBA with an altered certificate of completion for a CLE course. Both the hearing committee and the disciplinary board found that respondent knowingly altered the certificate of completion and then provided false statements about the altered certificate of completion to the ODC and at the formal hearing of this matter. Based on these facts, respondent has violated the Rules of Professional Conduct as found by the board.

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).

We agree with the board that respondent acted knowingly, if not intentionally. He violated duties owed to his clients, the public, the legal system, and the legal profession. His conduct harmed the attorney disciplinary system and the legal profession and had the potential to harm his clients, the public, and the legal system. We also agree with the committee and the board that the baseline sanction is suspension.

Turning to the issue of an appropriate sanction, we find guidance from the following cases: *In re: Parks*, 08-3006 (La. 4/24/09), 9 So. 3d 106; *In re: Hebert*, 08-2785 (La. 5/29/09), 9 So. 3d 846; and *In re: Carter*, 13-2005 (La. 10/11/13), 128 So. 3d 990. In *Parks*, an attorney failed to cooperate with the ODC in its investigation of a disciplinary complaint. When the attorney finally began to cooperate with the ODC, she made numerous misrepresentations, both while under

oath and in written and verbal statements. For this knowing and intentional misconduct, we suspended the attorney from the practice of law for one year and one day. In *Hebert*, an attorney neglected a legal matter, failed to communicate with a client, made false statements of material fact to the client and the ODC, and failed to cooperate with the ODC in its investigation. For this partly negligent and partly intentional misconduct, we suspended the attorney from the practice of law for one year and one day. Finally, in *Carter*, an attorney negligently practiced law while ineligible to do so. For this misconduct, we suspended the attorney from the practice of law for six months, fully deferred, subject to two years of probation with conditions.

In light of this case law, we find a suspension from the practice of law for one year and one day will adequately address the totality of respondent's misconduct. Accordingly, we will adopt the board's recommendation and suspend respondent from the practice of law for one year and one day.

### **DECREE**

Upon review of the findings and recommendations of the hearing committee and disciplinary board, and considering the record and the briefs filed by the parties, it is ordered that Samuel Robert Aucoin, Louisiana Bar Roll number 20682, be and he hereby is suspended from the practice of law for one year and one day. 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.