

**LOUISIANA ATTORNEY DISCIPLINARY BOARD**

**IN RE: LINDA RITZIE**

**NUMBER: 09-DB-013**

**RULING OF THE LOUISIANA ATTORNEY DISCIPLINARY BOARD**

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This is a disciplinary proceeding based upon the filing of formal charges against Linda Ritzie (“Respondent”)<sup>1</sup>, by the Office of Disciplinary Counsel (“ODC”). For the reasons stated below, the Disciplinary Board (“Board”) adopts the factual findings and legal conclusions of the hearing committee. For the reasons stated below, a public reprimand is the appropriate sanction for the misconduct present in this matter.

**PROCEDURAL HISTORY**

On March 18, 2009, ODC filed formal charges against Respondent. The charges, which consist of one count, allege that Respondent violated Rules of Professional Conduct (“rule(s)”) 1.1(a), 1.3, 1.4(a), 3.2, and 8.4(a).<sup>2</sup> Respondent filed an answer to the formal charges on April 15, 2009, in which she denied the charges.

A hearing was initially scheduled for June 30, 2009, before Hearing Committee #39 (“Committee”). In anticipation of the hearing, ODC filed its pre-hearing memorandum on June 18, 2009. However, during a telephone conference with the Committee Chairman on June 29, 2009, the parties agreed to submit this matter on the record without a hearing.<sup>3</sup> Accordingly, the hearing date was cancelled.

On July 6, 2009, Respondent submitted a Sworn Statement of Mitigating Factors. On July 7, 2009, ODC submitted its evidence, which consists of twenty-one exhibits.

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<sup>1</sup> Respondent is currently eligible to practice law in Louisiana.

<sup>2</sup> See the attached Appendix for the text of the rules.

<sup>3</sup> See Minute Entry filed June 29, 2009.

After considering the submissions of ODC and Respondent, the Committee submitted its report on July 28, 2009. The Committee found that Respondent violated the rules as charged in the formal charges and recommended that Respondent be publicly reprimanded.

On August 24, 2009, ODC filed an objection to the sanction recommended by the Committee. ODC argued that a six-month suspension was the appropriate sanction for the misconduct in this matter.

Oral argument of this matter was heard on September 24, 2009, before Board Panel "C". Deputy Disciplinary Counsel Eric R. McClendon appeared on behalf of ODC. Respondent did not appear.

### **FORMAL CHARGES**

The formal charges files on March 18, 2009, read, in pertinent part:

Respondent's client, Christopher Bell, was incarcerated in a Louisiana juvenile facility, Swanson Correctional Facility for Youth, on or about April 8, 1996, aged 14 when he was injured and lost four fingers. Several months after the [sic] Mr. Bell's injury, his mother, Sandy Edmonds, retained the services of Respondent, Linda Ritzie, to handle her son's case. As Mr. Bell was a minor at the time of the incident, Respondent brought suit against the Department of Public Safety and Corrections on behalf of Ms. Edmonds as natural tutrix of her son. That suit was dismissed by the trial court on the grounds that Corrections Administrative Remedy Procedure had not been followed and that plaintiff's right to file suit would not come into existence until the Department of Corrections rendered a decision adverse to him. Judgment was issued April 8, 1998 and the matter was appealed to the Second Circuit where the court in its reported opinion, *Edmond v. Department of Public Safety*, 732 So.2d 645 (La. App. 2 Cir., 1999), amended the judgment of dismissal with prejudice to without prejudice giving the plaintiff "the opportunity to comply with the prescribed administrative procedure and an administrative officer may make a determination of whether the failure to timely comply with the Corrections Administrative Remedy Procedure was justifiable, under all the circumstances in this case." *Edmond*, 732 So.2d 645, 650.

The plaintiff was given 30 days from the date of finality of the judgment to commence the administrative remedy procedure. Respondent's writ of certiorari was denied by the U.S. Supreme Court on April 24, 2000 while the Second Circuit's judgment which had been rendered March 31, 1999 was followed less than 30 days later by Respondent's request on April 26, 1999 to the Warden of Swanson Correctional Center for Youth for Mr. Bell's administrative remedy. The

department rejected the administrative remedy out-of-hand on May 17, 1999 as untimely having been filed three years after the incident without addressing the issue, as directed by the appellate court, of whether the delay was justifiable. Failing to request an appeal to the Secretary and/or his designee as required by the administrative procedure, Respondent again requested the Warden, on June 23, 1999, through the administrative process to address the issue of good cause for the delay as directed by the appellate court. On May 18, 2000, after finality of judgment, Respondent again requested the Warden through the administrative process to address the issue of good cause for Mr. Bell's failure to timely comply with the Corrections Administrative Remedy Procedure. The new warden finally replied on September 25, 2000 to Respondent's repeated requests through the administrative procedure stating that the initial response dated May 17, 1999 remains unchanged. The good cause issue was only tangentially addressed stating: "We see no reason to waive the thirty day requirement and therefore, we have no plans to take any further action. [Sic]

Respondent, neglecting to appeal to the Secretary and/ or his designee as required by Corrections Administrative Remedy Procedure, filed a Petition for Judicial Review in the 19th Judicial District Court on December 7, 2000. Respondent requested, on March 6, 2001, service of the petition followed two days later on March 8, 2001 by filing of a Motion to Proceed in forma pauperis. Service of the petition was effected on March 20, 2001. On April 26, 2001, the defendant filed peremptory and declinatory exceptions without requesting that they be set for hearing. Three years passed without any activity until Rachel P. Morgan, Commissioner, Section A, of the 19th Judicial District sent a letter to Mr. Bell notifying him that nothing further had occurred in his suit and that he should contact his attorney, Ms. Ritzie, Respondent herein. Commissioner Morgan's letter provided a Mobile, Alabama address and telephone number for Respondent to Mr. Bell. Three and one-half years after the defendant filed its peremptory and declinatory exceptions, Respondent filed on October 20, 2004 a Motion and Order to Set Exceptions for Hearing. The court set a status conference for January [sic] 6, 2005. Another status conference was set June 5, 2008. Respondent filed Mr. Bell's appellant brief on application for judicial review on July 9, 2008. The defense Memorandum in Support of Peremptory and Declinatory Exceptions was filed July 21, 2008.

Mr. Bell, first complained to ODC in January 2006 stating that Respondent was not handling his case right, that he could not get in touch with her, that her phone was disconnected, and that he hadn't spoken to her in a year since the January 6, 2005 (status conference) court date. March 27, 2007, Complainant phoned ODC - still trying to locate his attorney. Complainant called ODC again and ODC returned the call on March 28, 2007. Mr. Bell inquired if Respondent was still his attorney and needed a better address for Respondent because address he had was no good. Respondent was notified by ODC by letter of April 9, 2007 of Mr. Bell's March 27-28, 2007 inquiries. May 2, 2007, Mr. Bell phoned ODC again as he had not heard from his attorney, the Respondent. May 3, 2007, ODC again wrote to Respondent requesting status information on Mr. Bell's case. January 17, 2008, ODC sent a certified letter to Respondent notifying her

that Mr. Bell continued to contact this office in an effort to contact her and instructed Respondent to contact her client, Mr. Bell, within 10 days. This letter was re-sent to Respondent's primary registration address by certified mail on February 20, 2008. Respondent replied on February 25, 2008 and reestablished contact with Mr. Bell by letter of same date.

Mr. Bell, in a sworn statement given to ODC on March 27, 2008, stated that he had no contact, no communication, with Respondent from 2001 until late 2004 even though he attempted to contact her. Further, that Respondent re-established contact at that time in late 2004, met with him again at the January 6, 2005 status conference, and then contact was lost again. On the date of the sworn statement, Mr. Bell stated that he was unaware of Respondent's address and telephone number. Respondent failed to keep her client informed as to the status of his case from 2001 through late 2004 and from January 6, 2005 at least through March 27, 2008. Further, Mr. Bell indicated that Respondent did not explain the proceedings to him and that she never followed up with him on the results of the status conference held January 6, 2005. Mr. Bell had to contact courthouse personnel on his own after the January 6th status conference in order to ascertain what was going on in his case.

Ms. Sandy Edmonds, Mr. Bell's mother, gave a sworn statement to ODC on March 10, 2008. Ms. Edmonds stated that although her telephone number had changed, her address had not. Further, Ms. Edmonds stated that Respondent had had her address all along and that Respondent re-established contact with her by letter to Ms. Edmonds' address just in the last week or so before the March 10, 2008 sworn statement. Ms. Edmonds stated that Respondent failed to keep her son adequately informed, that she and her son talked about his case and his difficulties in contacting Respondent, that any written communications from Respondent would come to Ms. Edmonds' address as Respondent had that address, and that she hadn't received any other communications at her address from Respondent.

Respondent gave a sworn statement to ODC on March 18, 2008. Respondent stated that she was in California off and on since 2005; that she did have Ms. Edmonds' address; that Mr. Bell's address was the same as his mother's, Ms. Edmonds; that Respondent had not noticed either Mr. Bell or Ms. Edmonds of her address and telephone number changes; that her cell phone was the best manner to reach her; that she had had the current cell number for about a year; that she had not informed either Mr. Bell or Ms. Edmonds of that telephone number; and that when she received notice of the complaint against her by Mr. Bell on February 7, 2006 that she never "really" re-established contact because she didn't know what she was supposed to do concerning their relationship.

By her demonstrated acts and failures to act, the respondent has violated Rules of Professional Conduct: 1.1(a) - competence; 1.3 diligence; 1.4(a) - communication; 3.2 - expediting litigation; and, 8.4(a) - violate or attempt to violate the RPC.

## **HEARING COMMITTEE REPORT**

The Committee filed its report on July 28, 2009. The Committee did not make any specific factual findings. Rather, it appears the Committee adopted the factual allegations of the formal charges. Accordingly, the Committee found that Respondent violated the Rules of Professional Conduct as charged in the formal charges.

The Committee found the presence of the following aggravating factors: pattern of misconduct; refusal to acknowledge wrongful nature of the conduct; and substantial experience in the practice of law. The Committee found the presence of the following mitigating factors: absence of dishonest or selfish motive, and personal or emotional problems<sup>4</sup>.

Based upon its findings, the Committee concluded that a public reprimand was the appropriate sanction.

## **ANALYSIS**

### **I. The Standard of Review**

The powers and duties of the Disciplinary Board are defined in §2 of Louisiana Supreme Court Rule XIX, Rules for Lawyer Disciplinary Enforcement. Subsection (G)(2)(a) states that the Board is “to perform appellate review functions, consisting of review of the findings of fact, conclusions of law, and recommendations of hearing committees with respect to formal charges, petitions for transfer to and from disability inactive status, and petitions for reinstatement, and prepare and forward to the court its own findings, if any, and recommendations.” Inasmuch as the Board is serving in an appellate capacity, the standard of review applied to findings of fact is

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<sup>4</sup> “Respondent claims she had to travel repeatedly to California to care for infirmed relatives and was also caring for infirmed relatives in this state.” Hearing Committee Report, p. 9.

that of “manifest error.”<sup>5</sup> The Board conducts a *de novo* review of the hearing committee’s application of the Rules of Professional Conduct.<sup>6</sup>

Here, the factual findings of the Committee do not appear to be manifestly erroneous. However, the formal charges and the Committee’s report fail to mention that Respondent settled the underlying matter on behalf of Mr. Bell on or about February 5, 2009.<sup>7</sup> Therefore, despite the significant delay, Respondent carried Mr. Bell’s matter to a successful conclusion.

*De novo* review of the record indicates that the Committee correctly applied the Rules of Professional Conduct. Each rule violation is briefly discussed below.

**Rules 1.1(a), 1.3, & 3.2:** Rule 1.1(a) states that a lawyer shall provide competent representation to a client. Rule 1.3 states that a lawyer shall act with reasonable diligence and promptness when representing a client. Rule 3.2 states that a lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client. Here, Respondent allowed Mr. Bell’s matter to linger for two extended periods of time – April 26, 2001 to May 20, 2004, and May 4, 2005 to February 25, 2008. Even though the State failed to request a hearing of its exceptions filed on April 26, 2001, Respondent had a duty to diligently pursue Mr. Bell’s matter. She failed in this duty by waiting over three years to request that the exceptions be set for a hearing. She failed in this duty again by waiting almost another three years after the State filed the administrative file into the record to move Mr. Bell’s matter forward. By allowing an extensive amount of time to pass without any activity in the matter, Respondent failed to represent Mr. Bell with competence. Therefore, the record supports the conclusion that Respondent violated Rules 1.1(a), 1.3, and 3.2.

**Rule 1.4(a):** Generally, Rule 1.4 requires that a lawyer maintain adequate communication with her clients. Mrs. Edmonds and Mr. Bell both testified that they experienced trouble contacting

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<sup>5</sup> *Arceneaux v. Domingue*, 365 So. 2d 1330 (La. 1978); *Rosell v. ESCO*, 549 So. 2d 840 (La. 1989).

<sup>6</sup> *In re Hill*, 90-DB-004.

<sup>7</sup> See ODC Exhibit 21A.

Respondent. Mr. Bell was unaware of the status of his matter for several years. Therefore, the record supports the conclusion that Respondent violated Rule 1.4(a).

**Rule 8.4(a):** Rule 8.4(a) states that it is professional misconduct for a lawyer to violate or attempt to violate the Rules of Professional Conduct. By violating the rules discussed above, Respondent violated Rule 8.4(a).

## **II. The Appropriate Sanction**

### **A. Rule XIX, §10(C) Factors**

Louisiana Supreme Court Rule XIX, §10(C) states that when imposing a sanction after a finding of lawyer misconduct, the Court or Board shall consider the following factors:

1. whether the lawyer has violated a duty owed to a client, to the public, to the legal system, or to the profession;
2. whether the lawyer acted intentionally, knowingly, or negligently;
3. the amount of actual or potential injury caused by the lawyer's misconduct; and
4. the existence of any aggravating or mitigating factors.

Here, Respondent knowingly violated duties owed to her client and the legal system. She caused actual injury to Mr. Bell and the legal system by allowing Mr. Bell's matter to linger for several years. The following aggravating factors are supported by the record: 1) pattern of misconduct; 2) refusal to acknowledge the wrongful nature of the conduct; and 3) substantial experience in the practice of law<sup>8</sup>. The following mitigating factors are supported by the record: 1) absence of a prior disciplinary record; 2) absence of a dishonest or selfish motive; and 3) personal or emotional problems.

### **B. The ABA Standards and Caselaw**

The following ABA Standards offer guidance in determining the appropriate sanction:

**Standard 4.42:** Suspension is generally appropriate when: (a) a lawyer knowingly fails to perform services for a client and causes injury or potential

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<sup>8</sup> Respondent was admitted to the practice of law on October 5, 1990.

injury to a client; or (b) a lawyer engages in a pattern of neglect and causes injury or potential injury to a client.

**Standard 4.43:** Reprimand is generally appropriate when a lawyer is negligent and does not act with reasonable diligence in representing a client, and causes injury or potential injury to a client.

Relying solely on these standards, it appears that suspension is the baseline sanction for Respondent's misconduct because her conduct appears to be with knowledge.

However, a review of the caselaw suggests that a public reprimand is the appropriate sanction for the specific circumstances present in this matter. The facts of *In re Brown* are analogous to the facts of the present matter.<sup>9</sup> On October 8, 1996, Ms. Jones and her son were involved in an accident. Shortly thereafter, Ms. Jones retained Mr. Brown to represent her and her son in the matter. Mr. Brown filed suit on October 8, 1997, but instructed the clerk to withhold service. Mr. Brown filed an amended petition on October 1, 1998, in which he instructed the clerk to serve the defendants. For reasons that are unclear, the defendants were not served. On January 31, 2003, Mr. Brown sent a letter to the clerk requesting that service be reissued to the defendants. The defendant insurance company was eventually served on February 13, 2003. The insurance company filed a motion to dismiss based upon the fact that Mr. Brown did not request service within ninety days of filing the petition. Although the motion was set for hearing, Respondent could not be located to be served with notice. The hearing was continued and, apparently, the motion was never ruled upon.

The Court determined that Mr. Brown knowingly violated Rules 1.1(a), 1.3, and 3.2. The following aggravating factors were present: prior disciplinary offenses, vulnerability of the victims, and substantial experience in the practice of law. The following mitigating factor was present: Mr. Brown's prior misconduct was remote in time. Considering these factors and the record as a whole, the Court concluded that a public reprimand was the appropriate sanction.

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<sup>9</sup> 2007-0995 (La. 10/17/07), 967 So.2d 482.



Respondent's misconduct is similar to the misconduct in *Brown*, but the misconduct present in *Brown* appears to be more egregious than misconduct in the present matter. As in *Brown*, over the course of several years, Respondent failed to competently represent her client or expedite his legal matter. However, unlike Mr. Brown, Respondent eventually obtained a settlement on behalf of her client. Furthermore, unlike Mr. Brown, Respondent does not have a prior disciplinary history and was experiencing personal problems during the time period of the misconduct. Thus, the misconduct in *Brown* appears to be more egregious than the misconduct in this matter.

Given the totality of the circumstances in this matter, especially the mitigating factors, the Board will deviate downward from the baseline sanction of suspension and impose a public reprimand. This sanction is consistent with the Court's holding in *Brown*.

In its objection to the public reprimand recommended by the Committee, ODC cited several disciplinary cases in an attempt to support its argument that a six-month suspension is the appropriate sanction in this matter.<sup>10</sup> However, all of these cases concerned more egregious misconduct or more significant aggravating factors than the present matter. Given the analogous facts and holding in *Brown*, there is no reason to deviate from the sanction imposed in that matter.

## CONCLUSION

The Board adopts the factual findings and legal conclusions of the Committee. A public reprimand is the appropriate sanction for Respondent's misconduct. Given the unique circumstances of this matter, the imposition of a suspension would be unduly harsh.

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<sup>10</sup> *In re Casanova*, 2002-2155 (La. 11/22/02) 847 So.2d 1169; *In re Martin*, 2007-2059 (La. 5/16/08), 982 So.2d 765; *In re Schiro*, 2004-1647 (La. 11/15/04), 886 So.2d 1117; *In re Cunningham*, 2003-1608 (La. 12/3/03), 861 So.2d 135; *In re Dean*, 2003-2478 (La. 1/21/04), 864 So.2d 152; *In re Jeffers*, 2003-3345 (La. 4/14/04), 870 So.2d 1017; *In re Keller*, 2005-0135 (La. 4/1/05), 898 So.2d 319.

## **RULING**

The Board orders that Respondent, Linda Ritzie, be publicly reprimanded for her misconduct. The Board also orders that Respondent be assessed with the costs and expenses of this proceeding.

**William D. Aaron, Jr.**  
**George L. Crain**  
**Lev M. Dawson**  
**Dow M. Edwards**  
**Ralph K. Lee, Jr.**  
**Linda P. Spain**  
**Michael S. Walsh**  
**Joseph R. Ward, Jr.**

BY: \_\_\_\_\_

  
**John T. Cox, Jr.**

**FOR THE ADJUDICATIVE COMMITTEE**

## **APPENDIX**

### **RULE 1.1. COMPETENCE**

*(in pertinent part)*

(a) A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

### **RULE 1.3. DILIGENCE**

A lawyer shall act with reasonable diligence and promptness in representing a client.

### **RULE 1.4. COMMUNICATION**

*(in pertinent part)*

(a) A lawyer shall:

- (1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in Rule 1.0(e), is required by these Rules;
- (2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;
- (3) keep the client reasonably informed about the status of the matter;
- (4) promptly comply with reasonable requests for information; and
- (5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law.

### **RULE 3.2. EXPEDITING LITIGATION**

A lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client.

### **RULE 8.4. MISCONDUCT**

*(in pertinent part)*

It is professional misconduct for a lawyer to:

- (a) Violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;