

LOUISIANA ATTORNEY DISCIPLINARY BOARD**IN RE: MARVIN C. GROS****NUMBER: 10-DB-080****RULING OF THE LOUISIANA ATTORNEY DISCIPLINARY BOARD**

This is a disciplinary proceeding based upon formal charges filed by the Office of Disciplinary Counsel ("ODC") against Marvin C. Gros ("Respondent"), Louisiana Bar Roll No. 20207. The charges allege that Respondent violated the following Rules of Professional Conduct ("Rule(s)"): 1.1(a) (incompetent representation), 1.3 (lack of diligence and promptness), 1.4 (lack of communication), 5.1 (failure to supervise), and 8.4(a) (violate or attempt to violate the Rules).¹ The Hearing Committee assigned to this matter concluded that Respondent violated the Rules as charged. As a sanction, the Hearing Committee recommended that Mr. Gros be publicly reprimanded. For the reasons stated below, the Board adopts the findings, conclusions, and recommendation of the Hearing Committee. Accordingly, the Board orders that Respondent be publicly reprimanded.

PROCEDURAL HISTORY

On November 4, 2010, ODC filed formal charges against respondent. James E. Boren filed his notice of enrollment as counsel on behalf of Respondent on June 27, 2011. Respondent filed his answer through counsel on November 21, 2011, in which he admitted to violating Rules 1.1(a), 1.3, and 5.1. On December 9, 2011, a motion was filed to consolidate this matter with another matter pending against Respondent, matter No. 11-DB-033. The motion was granted, and the cases were consolidated on December 12, 2011.

¹ See the attached Appendix for the text of the Rules.

This matter was assigned to Hearing Committee No. 42 (“the Committee”),² and a notice of scheduling conference and hearing on the formal charges was issued to the parties on December 21, 2011. Respondent filed a motion for continuance on December 30, 2011, citing a scheduling conflict with his counsel’s pending criminal trial. The continuance was granted on January 6, 2012. A notice of scheduling conference and committee hearing was issued on January 19, 2012. Respondent filed a motion to compel discovery on April 24, 2012, and it was granted on April 27, 2012. Notice of the pre-hearing conference and committee hearing was issued on May 9, 2012.

ODC filed a pre-hearing memorandum on May 25, 2012, recommending suspension as the baseline sanction. On the same day, Respondent filed a pre-hearing memorandum suggesting that a public reprimand was the appropriate sanction. The original hearing scheduled to take place on June 26, 2012 was cancelled by the Chair and converted into a final status conference which took place on the same day. After the parties failed to reach a consent agreement, a notice of pre-hearing conference and hearing dates was issued to the parties on July 3, 2012.

A hearing was conducted before the Committee on August 7, 2012. At the hearing, ODC was represented by Deputy Disciplinary Counsel Yolanda Cezar. Respondent was represented by counsel, James E. Boren. The Committee issued its report on October 26, 2012, finding that Respondent violated the Rules as charged. The Committee recommended that Respondent be publicly reprimanded as a result of his transgressions.

On November 19, 2012, ODC filed a Motion to Dismiss the formal charges in matter No. 11-DB-033, which was previously consolidated with matter No. 10-DB-080. The formal charges in matter No. 11-DB-033 were dismissed without prejudice on November 21, 2012. On January

² The Committee was composed of Henry P. Mounger (Chair), William E. Scott (Lawyer Member), and Margaret C. Anderson (Public Member).

4, 2013, ODC filed an objection to the Committee's report, objecting to the findings of fact and leniency of the recommended sanction. On January 23, 2013, ODC filed a pre-argument memorandum. On January 30, 2013, Respondent filed a response brief to ODC's pre-argument memorandum.

Oral argument of this matter was held before Board Panel "A" on January 31, 2013.³ Deputy Disciplinary Counsel Yolanda Cezar appeared on behalf of ODC. Jim Boren appeared on behalf of Mr. Gros, who did not attend the oral argument.

FORMAL CHARGES

The formal charges read, in pertinent part:

You were retained by Linda Hampton for representation regarding a medical malpractice claim. On June 13, 2005, you submitted a request for a medical review panel naming Dr. Shawn C. Kleinpeter and the Women's Clinic as defendants. You remitted a filing fee of \$100. In a letter dated June 20, 2005, the Patient's Compensation Fund acknowledged receipt of your request and also advised you that effective August 15, 2003, a filing fee of \$100 per qualified defendant was due within 45 days from the date of the notice. You were informed that you were required to remit a payment of \$200 because you had listed two defendants in your claim. You were given instructions regarding having the fee waived. Also, you were warned that failure to comply would render your request invalid and without effect, and that the request alone would not suspend the time within which to institute the claim. In a letter from the Patient's Compensation Fund dated August 23, 2005, you were informed that due to your failure to remit the total balance of \$200 filing fee within the time allowed, your claim was considered invalid and without effect. Nevertheless, on May 4, 2007, you submitted a second request for a medical review panel. Although you had no knowledge of the status of claim, you advised Mrs. Hampton that the matter was "going through the process to get the appointment deal". (Transcript p. 35).

In response to the second request, opposing counsel filed an exception of prescription; asserting that the June 13, 2005 request was invalid and did not suspend the time within which to institute a claim. You did not file an opposition to the exception of prescription and waived your appearance and service. By order dated July 1, 2008, the exception of prescription was sustained at plaintiffs' costs. You filed a motion for devolutive appeal on August 5, 2008. You failed to pay the appeal costs and eventually filed a motion to dismiss the appeal.

³ Board Panel "A" was composed of Carl A. Butler (Chairman), R. Steven Tew (Lawyer Member) and R. Lewis Smith, Jr. (Public Member).

You appeared at the Office of Disciplinary Counsel on June 15, 2010 and submitted a sworn statement regarding this matter. Although you signed all of the documents submitted to the Patient Compensation Fund and all of the correspondences from the agency were directed to you as counsel of record for Mrs. Hampton, you testified that you did not get involved in the matter until 2007; approximately two years after the initial filing. You further testified that the file was assigned to an associate in your office, Ms. Tonya Clark, who prepared the petition and was responsible for receiving all documents directed to the firm regarding the matter. Nevertheless, you admitted to having consulted with Mrs. Hampton regarding the matter and having signed the documents that were initially submitted to the Patient Compensation Fund. You claim that you never received the letter from [the PCF] regarding the insufficient filing fee. You claim that you only learned of the insufficiency during your investigation into the matter some two years later. (Transcript p. 20) You testified that no action was taken on the file for two years. (Transcript p. 40) Although you testified that you understood that the matter had prescribed, you informed Mrs. Hampton that the case was lost because she failed to submit an affidavit from a new doctor stating that the care provided by Dr. Kleinpeter was below standard. (Transcript pp. 36, 46).

The following Rules of Professional Conduct are at issue with regard to your conduct: Rule 1.1 (a) (A lawyer shall provide competent representation to a client), Rule 1.3 (Failure to act with reasonable diligence and promptness in representing a client), Rule 1.4 (A lawyer shall communicate with the client), Rule 5.1 (Failure to supervise other lawyers in the firm), and Rule 8.4(a) (Violation or attempt to violate the Rules of Professional Conduct).

THE HEARING COMMITTEE REPORT

As noted above, the hearing of this matter was held on August 7, 2012. The Committee received documentary evidence and heard the testimony of Respondent, Marvin Gros, and Complainant, Linda Hampton. After considering the testimony and the evidence, the Committee provided the following factual findings and analysis:

FINDINGS OF FACT

The Respondent acknowledged he did not properly supervise a then-recently-hired attorney in his office, he did not maintain Ms. Hampton's file properly and he was negligent in the handling of Mrs. Hampton's claim. (Transcript p. 134). Respondent did not submit the required filing fees associated with Mrs. Hampton's medical complaint and did not timely respond to the notices regarding the filing fee deficiency. He did not properly supervise and/or train his staff regarding handling the receipt of court notices and did not maintain an active

case list or redundant calendaring system to track items such as those involved in Mrs. Hampton's complaint.

Based on the testimony of both Mrs. Hampton and Respondent, it further appears Respondent did not promptly and sufficiently explain to Mrs. Hampton the significance of the prescription defense asserted against her claim, and the reasons for filing, then dismissing the appeal of the judgment sustaining the prescription exception against her. There was testimony suggesting Respondent did not promptly comply with reasonable requests for information, although Respondent did offer some explanation for those delays.

Respondent testified that Mrs. Hampton's claim was not viable due to the absence of an affidavit of medical malpractice. Respondent indicated in testimony that both the lack of a doctor's affidavit, and the prescription problem, were independently fatal to Complainant's claim. While that may have been correct, the committee notes Respondent did not provide much if any evidence of his efforts to obtain a physician's affidavit regarding the alleged malpractice. It appears Respondent left the task of obtaining the affidavit solely to his client Mrs. Hampton, which she was unable to do. The communication to the client regarding this issue was found to be lacking.

The committee further notes Respondent's testimony suggesting a change in the jurisprudence while Mrs. Hampton's claim was pending that allowed a medical malpractice defendant to file a motion for summary judgment (in the absence of an affidavit of malpractice); and Respondent's statement that this motion could be filed during the pendency of the medical review panel proceedings. (Transcript pp. 161-163) In *Samaha v. Rau*, 977 So.2d. 880 (La. 2/26/08), the Louisiana Supreme Court held that a patient's failure to produce, on summary judgment, expert evidence establishing a physician's breach of the standard of care would preclude the patient from recovery. However, the defendant's opportunity to file such a motion for summary judgment is not available during the pendency of the review panel proceeding. See LRS 40:1299.47, and *Perritt v. Dona*, 849 So.2d 56 (La. 2003).

As set out above, and as supported by the evidence presented at the hearing and admitted into the record, the Hearing Committee finds Respondent did not properly supervise a recently-hired attorney in his office, was overall negligent in the handling of Mrs. Hampton's claim and negligent in responding to deadlines and court notices. Respondent did not properly and sufficiently explain to Mrs. Hampton the significance of the prescription defense and the reasons for filing, then dismissing, the appeal of the judgment sustaining the prescription exceptions.

Hearing Committee Report, pp. 3-5.

The Committee determined that Respondent violated a duty to his client and was negligent in failing to timely pay the filing fees associated with Mrs. Hampton's medical malpractice complaint and heed the notices from the board regarding same. Additionally, Respondent was also negligent in the manner in which he communicated with his client regarding the prescription defense. The Committee did not find that Respondent intentionally or knowingly deceived his client. They also concluded that the injury caused by his actions and inactions is speculative, as Mrs. Hampton's legal malpractice claim was settled and no evidence was presented that causation could have been established.

The Committee recognized several factors in mitigation: Respondent's 22 years of practice and commitment to the law, Respondent's age and intention to retire in December 2013, his lack of previous complaints of misconduct (besides the matter originally consolidated with this matter, which was subsequently dismissed by ODC), his acknowledgment and acceptance of responsibility for the violations presented, and that fact that he advised the client, as well as his malpractice carrier, regarding the prescription issue. The Committee also noted that he implemented a new intake procedure for cases, and added a new calendar tickler system in his office for case reminders. The Committee found no aggravating factors.

The Committee found Respondent violated Rule 1.1 by failing to provide competent representation to his client, Rule 1.3 by failing to act with reasonable diligence and promptness in representing his client, Rule 1.4 in his failure to promptly and sufficiently communicate with his client, Rule 5.1 by failing to supervise a lawyer in his firm, and Rule 8.4(a) by violating or attempting to violate the Rules of Professional Conduct. The Committee, relying on the *ABA Standards for Imposing Lawyer Sanctions*, recommended Respondent receive a public reprimand pursuant to Standard 4.43.

ANALYSIS OF THE RECORD BEFORE THE COURT

I. STANDARD OF REVIEW

The powers and duties of the Disciplinary Board are defined in §2 of Louisiana Supreme Court Rule XIX. Rule XIX, §2(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... and petitions for reinstatement, and prepare and forward to the court its own findings, if any, and recommendations.” The Board, serving in an appellate capacity, applies “manifest error” as the standard of review to the findings of fact. *Arceneaux v. Domingue*, 62446 (La. 12/15/1978), 365 So.2d 1330; *Rosell v. ESCO*, 89-0607 (La. 9/12/1989), 549 So.2d 840 (La. 1989). The Board conducts a de novo review of the hearing committee’s application of the Rules of Professional Conduct. *In re Hill*, 90-DB-004, Recommendation of the Louisiana Disciplinary Board (1/22/92).

A. THE MANIFEST ERROR INQUIRY

The factual findings of the Committee do not appear to be manifestly erroneous. The findings of the Committee are supported by the testimony and documentary evidence in the record.

B. DE NOVO REVIEW

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

Rule 1.1(a): Rule 1.1(a) states that a lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation. Respondent failed to provide Mrs. Hampton competent representation. Respondent did not submit the required filing fees associated with

Mrs. Hampton's medical complaint and did not timely respond to the notices regarding the filing fee deficiency. He assigned her case to an inexperienced, newly hired attorney and testified that he negligently failed to pay any attention to the matter for two years.⁴ Respondent admits that he failed to provide Mrs. Hampton with competent representation in violation of Rule 1.1(a).⁵

Rule 1.3: Rule 1.3 states that a lawyer shall act with reasonable diligence and promptness when representing a client. By failing to properly supervise his associate attorney, losing notices pertaining to the case, and misplacing and mislabeling the client's file, Respondent failed to provide Mrs. Hampton with diligent and prompt representation. He "...personally didn't get involved in actually doing anything on the file personally until early 2007..."⁶ Respondent admits that his representation in this matter failed to meet the standards imposed by Rule 1.3.⁷

Rule 1.4: Generally, Rule 1.4 requires that a lawyer maintain adequate communication with the client. Respondent failed to keep his client reasonably informed about the status of the matter and failed to promptly comply with reasonable requests for information. Respondent admits that he did not receive any information from his associate about the status of the case, but told Mrs. Hampton, "...it was going through the process to get the appointment deal."⁸ After discovering the invalidity of the initial petition, Respondent failed to notify his client and did not do so until he re-filed the complaint.⁹ From this point forward, Respondent claims to have had numerous conversations with Mrs. Hampton.¹⁰ Mrs. Hampton visited Respondent's office many times and

⁴ Hearing Transcript, pp. 134, 140.

⁵ Answer, p. 3; Respondent's Pre-Hearing Memorandum, pp. 7, 15.

⁶ Sworn Statement of Marvin C. Gros, p. 20.

⁷ Answer, p. 3, Respondent's Pre-Hearing Memorandum, pp. 7, 15.

⁸ Sworn Statement of Marvin C. Gros, p. 35.

⁹ Hearing Transcript p. 17.

¹⁰ *Id.* at p. 19.

was told he was unavailable,¹¹ and when he was available, they only met briefly.¹² Respondent never told her that her case was being handled by another attorney,¹³ failed to communicate for long periods of time,¹⁴ failed to explain thoroughly the necessity of the medical affidavit,¹⁵ and the significance of the issue of prescription. Additionally, it was through opposing counsel that she ultimately learned her claim had been dismissed.¹⁶ The sporadic and inadequate communications between Respondent and Mrs. Hampton constitute a violation of Rule 1.4.

Rule 5.1: Rule 5.1 states that a partner in a law firm, and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a law firm, shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that all lawyers in the firm conform to the Rules of Professional Conduct. Additionally, lawyers with direct supervisory authority over another lawyer shall make reasonable efforts to ensure that the other lawyer conforms to the Rules of Professional Conduct. Respondent failed to supervise the subordinate attorney whom he entrusted with this matter. He did not properly supervise and/or train his staff regarding handling the receipt of court notices and did not maintain an active case list or redundant calendaring system to track items such as those involved in Mrs. Hampton's complaint. He testified that he neglected to supervise or pay any attention to this matter for a two year period¹⁷ and admitted violating Rule 5.1.¹⁸

¹¹ *Id.* at pp. 60, 70.

¹² *Id.* at p. 66.

¹³ *Id.* at p. 66.

¹⁴ *Id.* at p. 67.

¹⁵ *Id.* at p. 69.

¹⁶ *Id.* at p. 71.

¹⁷ Hearing Transcript pp. 134, 140.

¹⁸ Answer, p. 3; Respondent's Pre-Hearing Memorandum, pp. 6, 16.

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, knowingly assist or induce another to do so, or do so through the acts of another. Respondent's conduct as described above constitutes a violation of 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 violated duties to his client; however, he did not act knowingly or intentionally. Respondent negligently failed to supervise an attorney and run his office. Respondent negligently failed to receive and respond to court notices and deadlines. He negligently failed to sufficiently explain the significance of the prescription defense and the reasons for filing, then dismissing, the appeal of the judgment sustaining the prescription exceptions. Mrs. Hampton was harmed when she lost her opportunity to litigate her medical malpractice claim. Mrs. Hampton was able to recover \$15,000 in a settlement with Respondent's legal malpractice insurer.

The Board adopts the following mitigating factors: absence of a prior disciplinary record, timely good faith effort to make restitution or to rectify consequences of misconduct,¹⁹ physical

¹⁹ Respondent advised the client, as well as his malpractice carrier, regarding the prescription issue.

disability,²⁰ full and free disclosure to the disciplinary board or cooperative attitude toward the proceedings, character and reputation,²¹ and remorse.

The Board finds that Respondent's substantial experience in the practice of law is the sole aggravating factor.²²

B. ABA STANDARDS AND CASE LAW

The *ABA Standards for Imposing Lawyer Sanctions* indicates that a public reprimand is the appropriate baseline sanction for Respondent's violations. Standards 4.43, 4.53, and 4.63 are all relevant to the matter at hand.

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.

Standard 4.53: Reprimand is generally appropriate when a lawyer:
a. demonstrates failure to understand relevant legal doctrines or procedures and causes injury or potential injury to a client; or

b. is negligent in determining whether he or she is competent to handle a legal matter and causes injury or potential injury to a client.

Standard 4.63: Reprimand is generally appropriate when a lawyer negligently fails to provide a client with accurate or complete information, and causes injury or potential injury to the client.

Respondent negligently failed to act with reasonable diligence while handling the case, demonstrated a failure to understand relevant legal doctrines or procedures, and negligently failed to provide his client with accurate or complete information. Respondent did not act intentionally or knowingly and his actions had minimal potential for possible injury. A review of

²⁰ Respondent's heart condition, age (64), and intention to retire in December 2013.

²¹ Respondent is an active member in the community, serving as President of the Louisiana Jaycees, President of the St. Joseph Society of Donaldsonville, Grand Knight of the Knights of Columbus, City Manager of Donaldsonville, and more.

²² Respondent was admitted to the practice of law in Louisiana on October 5, 1990.

the relevant case law also supports a public reprimand as the appropriate sanction in this instance.

In *In re Jesse C. Brown*, Mr. Brown was publicly reprimanded for violating Rules 1.1(a), 1.3, and 3.2. 07-0995 (La. 10/17/2007), 967 So.2d 482. Over the course of nine years after the initial filing of his client's tort claim, Mr. Brown did not file any discovery or take any depositions. He also failed to interview the doctors who performed the surgery subject to the tort claim. The Court considered what elements of legal malpractice elevated the issue to a disciplinary matter. The Court noted a lack of deceit and misrepresentation as well as a lack of an evil or dishonest motive. Considering these factors and a lack of actual harm, the Court concluded this matter would be more appropriately considered in a civil malpractice action. Under the totality of the circumstances the Court concluded that Mr. Brown should be publicly reprimanded for his infractions.

In *In re Hobart O. Pardue*, Mr. Pardue was publicly reprimanded for his improper handling of a personal injury case. 93-2865 (La. 3/11/94), 633 So.2d 150. He failed to timely file the petition causing the claim to prescribe and concealed this fact from his client. The Court found that he violated Rules 1.4 and 8.4(c). Citing the substantial delay in the disciplinary proceedings over nine years, the Court concluded public reprimand was the appropriate sanction.

In *In re Gregory Caver*, Mr. Caver was publicly reprimanded for his negligent supervision of his employees. 93-2698 (La. 1/13/94), 632 So.2d 1157. Mr. Caver's failure to supervise his employees and failure to maintain proper safeguards of his client trust account resulted in the commingling and conversion of client funds. Taking into consideration Mr. Caver's lack of prior disciplinary complaints, the fact that he derived no financial benefit from

the violation, the minimal amount of money involved and full restitution paid plus compensation, the Court concluded that a public reprimand was the appropriate sanction.

In *In re David F. Post*, Mr. Post was publicly reprimanded for violating rules 1.3, 1.5(f)(5), 1.16(d), and 8.4(a). 08-1678 (La. 11/10/08), 993 So.2d 1207. Mr. Post failed to file an answer, a reconventional demand, or any other pleading on behalf of his clients in a real estate dispute. He also failed to follow-up with a succession issue that arose in the case and failed to promptly remit unearned fees. Mr. Post conceded these violations to the Hearing Committee and the Court decreed a public reprimand as the appropriate sanction.

The sanction recommended by the Committee corresponds to the relevant case law and ABA Standards. Taking into consideration Respondent's lack of intent, minimal injury or potential injury, and the mitigating factors, the Board adopts the sanction recommended by the Committee of a public reprimand.

CONCLUSION

Respondent violated the Rules of Professional Conduct as alleged in the formal charges. He negligently violated a duty owed to his client. The Board adopts the factual findings and legal conclusions of the Committee. Furthermore, the Board adopts the sanction recommended by the Committee – public reprimand. Finally, the Board assesses Respondent with the costs and expenses of this matter.

RULING

Based on the foregoing, the Board hereby orders that Respondent, Marvin C. Gros, be publicly reprimanded. The Board also orders that Respondent be assessed with the costs and expenses of this matter.

LOUISIANA ATTORNEY DISCIPLINARY BOARD

**Carl A. Butler
Stephen F. Chiccarelli
George L. Crain, Jr.
Jamie E. Fontenot
Tara L. Mason
Edwin G. Preis, Jr.
R. Lewis Smith, Jr.
Linda P. Spain**

BY:



**R. Steven Tew
FOR THE ADJUDICATIVE COMMITTEE**

APPENDIX

RULE 1.1 COMPETENCE

(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.

(b) A lawyer is required to comply with the minimum requirements of continuing legal education as prescribed by Louisiana Supreme Court rule.

(c) A lawyer is required to comply with all of the requirements of the Supreme 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.

RULE 1.3 DILIGENCE

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

RULE 1.4 COMMUNICATION

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.

(b) The lawyer shall give the client sufficient information to participate intelligently in decisions concerning the objectives of the representation and the means by which they are to be pursued.

(c) A lawyer who provides any form of financial assistance to a client during the course of a representation shall, prior to providing such financial assistance, inform the client in writing of the terms and conditions under which such financial assistance is made, including but not limited to, repayment obligations, the imposition and rate of interest or other charges, and the scope and limitations imposed upon lawyers providing financial assistance as set forth in Rule 1.8(e).

RULE 5.1 RESPONSIBILITIES OF PARTNERS, MANAGERS, AND SUPERVISORY LAWYERS

(a) A partner in a law firm, and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a law firm, shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that all lawyers in the firm conform to the Rules of Professional Conduct.

(b) A lawyer having direct supervisory authority over another lawyer shall make reasonable efforts to ensure that the other lawyer conforms to the Rules of Professional Conduct.

(c) A lawyer shall be responsible for another lawyer's violation of the Rules of Professional Conduct if:

(1) the lawyer orders or, with knowledge of the specific conduct, ratifies the conduct involved; or

(2) the lawyer is a partner or has comparable managerial authority in the law firm in which the other lawyer practices, or has direct supervisory authority over the other lawyer, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

RULE 8.4 MISCONDUCT

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;

(b) Commit a criminal act especially one that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;

(c) Engage in conduct involving dishonesty, fraud, deceit or misrepresentation;

(d) Engage in conduct that is prejudicial to the administration of justice;

(e) State or imply an ability to influence improperly a judge, judicial officer, governmental agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law;

(f) Knowingly assist a judge or judicial officer in conduct that is a violation of applicable Rules of Judicial Conduct or other law; or

(g) Threaten to present criminal or disciplinary charges solely to obtain an advantage in a civil matter.