

**LOUISIANA ATTORNEY DISCIPLINARY BOARD**

**IN RE: JUAN CARLOS LABADIE**

**NUMBER: 17-DB-002 c/w 17-DB-025**

**RECOMMENDATION TO THE LOUISIANA SUPREME COURT**

.....

**INTRODUCTION**

This is a disciplinary matter based upon the consolidation of two sets of formal charges filed by the Office of Disciplinary Counsel (“ODC”) against Juan Carlos Labadie (“Respondent”), Louisiana Bar Roll Number 24145.<sup>1</sup> The charges in 17-DB-002, which consist of three counts, allege that Respondent violated the following Rules of Professional Conduct (“Rule(s)”): 1.3, 1.4 (a & b), 1.5(f)(5), 8.2(a), and 8.4 (c & d). The Hearing Committee assigned to 17-DB-002 concluded that Respondent violated the Rules as charged and recommended that he be disbarred. The Board concurred with the sanction of disbarment in its recommendation to the Court in 17-DB-002. However, the Court remanded 17-DB-002 to the Board for consolidation with 17-DB-025 for the issuance of a single recommendation of discipline.

The 17-DB-025 charges, which consist of four counts, allege violations of Rules of Professional Conduct 1.3, 1.4(a) (b), 1.5(f)(5), 1.15(d), 3.4(c), 8.1(b) (c), and 8.4(a) (b) (d).<sup>2</sup> Respondent allowed the charges to become and remain deemed admitted pursuant to Louisiana Supreme Court Rule XIX, §11(E)(3).<sup>3</sup> The Hearing Committee assigned to 17-DB-025 concluded

---

<sup>1</sup> Respondent is currently on interim suspension. *In re Labadie*, 2016-B-0884 (La. 8/31/16), 199 So.3d 607.

<sup>2</sup> The text of the Rules is contained in the attached Appendix.

<sup>3</sup> This rule states:

The respondent shall file a written answer with the Board and serve a copy on disciplinary counsel within twenty (20) days after service of the formal charges, unless the time is extended by the chair of the hearing committee. In the event, Respondent fails to answer within the prescribed time, or the time as extended, the factual allegations contained within the formal charges shall be deemed admitted and proven by clear and convincing evidence. Disciplinary Counsel shall file a motion

that Respondent violated the Rules as charged and recommended that he be suspended for one year and one day. For the following reasons, the Board adopts the factual findings and legal conclusion of the Committee in 17-DB-025. As a sanction for the misconduct in 17-DB-002 and 17-DB-025, the Board recommends that Respondent be disbarred.

## PROCEDURAL HISTORY

### I. 17-DB-002

ODC filed the formal charges in 17-DB-002 on January 26, 2017. The charges state, in pertinent part:

#### COUNT I

Respondent in the instant matter is Mr. Juan C. Labadie, Louisiana Bar Roll #24145. The Complainant as to Count I is Judge Michael P. Mentz, Division "F", 24<sup>th</sup> Judicial District Court, Gretna, LA.

The formal complaint was opened on September 29, 2014. Judge Mentz, before recusing himself, presided over Respondent's child custody and support suit that Respondent was engaged in with his former spouse. Judge Mentz was compelled to recuse himself from the matter because Respondent had qualified to run against him in the general election for the Division "F" bench.

The basis of the formal complaint was statements that Respondent made to the news media (NOLA.com and the *Advocate*) during the election. Judge Mentz had, during the pendency of Respondent's family case, ordered that Respondent submit to a drug test, which Respondent had refused. Respondent spoke with the news media and it was reported "there was no basis for his ex-wife's request that he be drug-tested, and he accused Mentz of altering the court transcript as it related to the deadline by which he was supposed to take the drug test." According to a news story on NOLA.com, Respondent made accusations against Complainant by "asserting that Mentz has doctored the public record, altering the transcript of an August 7 court hearing." According to the *Advocate* article, Respondent further commented, stating that he was running for judge against Mentz to "highlight that Mentz doesn't belong on the bench." Respondent said that "when faced with a situation where I have firsthand knowledge (of misconduct) and I know it happened, how can I turn my back on this and not do it?"

---

with the chair of the hearing committee to which the matter is assigned requesting that the factual allegations be deemed proven with proof of service of the formal charges upon the respondent. The order signed by the hearing committee chair shall be served upon respondent as provided by Section 13C. Within twenty (20) days of the mailing of the order of the hearing committee chair deeming the factual allegations contained in the formal charges proven, the respondent may move the hearing committee chair to recall the order thus issued upon demonstration of good cause why imposition of the order would be improper or would result in a miscarriage of justice.

Judge Mentz has publicly stated that he has never altered a transcript, and that he would have no reason to alter one. He said he is not involved in transcribing court proceedings and has never reviewed one before it was entered into the record.

Respondent later made the same accusation of court transcript tampering against Judge Mentz during a formal ODC proceeding. He testified of the existence of a tape recording that established his claims that a transcript of a hearing in front of Judge Mentz had been altered.

Respondent had made a request to review this tape, but the request was denied. Respondent appealed the denial to the Fifth Circuit Court of Appeals, who then ordered Judge Donald A. Rowan to conduct an *in camera* inspection of the audio file of the August 7, 2014 hearing to ensure that the written transcript in the trial record accurately reflected the verbal orders of Judge Mentz, and for Judge Rowan to make a report to the Court. Judge Rowan's report and affidavit confirmed the accuracy of the transcript when it was compared with the audio recording. Respondent has been unable to produce any evidence to support the statements and allegations that he made to NOLA.com and the *Advocate*.

The investigation into the matter by the Fifth Circuit concluded that Respondent's accusations against Judge Mentz were without merit. It is undisputed that slander and libel are not speech protected by the First Amendment.

Respondent, by engaging in the above described behavior, has violated Louisiana Rules of Professional Conduct Rule 8.2(a) and Rule 8.4(c)(d).

## COUNT II

The Complainant as to Count II is Tamara George. The formal complaint was opened on August 8, 2013. Complainant alleged that she filed a malpractice suit against Respondent which had settled in the form of a consent judgment dated October 5, 2011. Complainant said that since that time, Respondent has failed to pay the judgment pursuant to the written terms.

The petition for damages alleged that Complainant was injured in a slip/fall accident at the Boomtown Casino ("Boomtown") gift shop, and that she had retained Respondent on or about March 4, 2004 to represent her in her claim of damages against Boomtown. Complainant alleged that she signed a contract with Respondent, but Respondent has never provided to her a copy of this contract. Complainant's claim against Boomtown prescribed on March 1, 2005.

Complainant said that Respondent advised her in September of 2004 that he had filed suit on her behalf. Complainant made several attempts to contact Respondent to discover the status of her suit but was not successful. Complainant, on February 19, 2007, contacted both Second Parish Court and the 24th Judicial District Court (both courts of proper venue) in an effort to discover the status of her suit, but was advised that neither venue had a record of her suit.

Complainant scheduled an appointment with Respondent for February 27, 2007, wherein Respondent advised her that the case had been "lost." Respondent did not admit to Complainant that he never actually filed suit. Complainant's suit against Respondent for professional malpractice resulted.

As previously noted, the malpractice suit settled. Under the terms of the agreement, Respondent was to pay Complainant a total of \$22,355.00 in damages.

Of that amount, \$15,548.74 was to be paid no later than sixty days from September 21, 2012. Another \$4,231.26 was to be paid to Complainant no later than 120 days after September 21, 2012. Respondent was to pay \$2,575.00 to various medical providers as well, also within 120 days of September 21, 2012. On information and belief, none of these funds have been paid to either Complainant or to the medical providers.

The sixth provision of the agreement barred Complainant from filing a formal complaint with the Louisiana Attorney Disciplinary Board and/or the Louisiana State Bar Association. This provision of the agreement was impermissible.

Respondent, by engaging in the above described behavior, has violated Louisiana Rules of Professional Conduct Rule 1.3, Rule 1.4(a) (b), and Rule 8.4(c) (d).

### COUNT III

The Complainant as to Count III is Cammie J. Templet. The formal complaint was opened on November 20, 2015. Complainant said that she had hired Respondent to represent her in an appeal action involving an order of restitution in a criminal matter from which she had been cast into judgment. Complainant paid to Respondent \$3,000.00 for this representation. The appeal record shows that Respondent filed a motion on December 10, 2013 in the Louisiana Fifth Circuit Court of appeal to stay enforcement of the restitution order. This motion was denied. Respondent then filed an appeal in the Fifth Circuit on January 15, 2014, docket number 14-KA-42. Delay cutoffs were set by the Court at that time. On March 13, 2014, Respondent was notified that his brief was overdue. The record reflects that Respondent filed a voluntary motion to dismiss the appeal on or about March 28, 2014 which was granted on March 31, 2014.

Complainant regularly attempted to contact Respondent to discover the status of her appeal. Complainant attached to her complaint copies of electronic text messages that she exchanged with Respondent. On November 25, 2014, which was almost eight months after Respondent had dismissed Complainant's appeal, Complainant messaged Respondent requesting status of the appeal. Respondent failed to reveal to Complainant that he had already dismissed her appeal months prior. Complainant again messaged Respondent on December 1, 2014. Respondent did not respond. Complainant messaged Respondent on December 4, 2014. Respondent replied that he would answer the message later that day. He failed to do so. Complainant again texted Respondent on December 9, 2014, but again, Respondent failed to advise Complainant that he had dismissed her appeal. Complainant and Respondent messaged back and forth on December 10, 11, and 17, 2014. On the 17th, Respondent told Complainant that he didn't "think that it's a good idea (the appeal) considering that your payments were lowered to what I believe would be lower than you would have even if successful in an appeal." Once again, Respondent failed to disclose to Complainant that he had long-since dismissed her appeal. Complainant requested a refund, but Respondent appeared to balk at the suggestion.

Shortly afterward, Complainant contacted the Court to seek status of her appeal. The Clerk informed her that Respondent had voluntarily dismissed her

appeal in March, 2014. Respondent stopped responding to Complainant's attempts of contact, and she never received from Respondent an accounting of the \$3,000.00 fee she paid to him.

Respondent, by engaging in the above listed behavior, has violated Louisiana Rules of Professional Conduct Rule 1.3, Rule 1.4(a) (b), Rule 1.5(f) (5) and Rule 8.4(c).

By letter dated January 30, 2017, the formal charges were mailed via certified mail to Respondent's primary registration address.<sup>4</sup> The mailing was delivered on February 1, 2017. Respondent failed to file an answer to the charges. Accordingly, on March 7, 2017, ODC filed a motion to deem the factual allegations admitted pursuant to Louisiana Supreme Court Rule XIX, §11(E)(3).<sup>5</sup> By order signed March 24, 2017, the factual allegations contained in the formal charges were deemed admitted. On May 24, 2017, ODC filed its submission on sanction, in which ODC argued that Respondent should be suspended.

Hearing Committee No. 53 ("the Committee") issued its report in 17-DB-002 on September 8, 2017.<sup>6</sup> The Committee concluded that Respondent violated the Rules as charged. In recommending a sanction, the Committee found that Respondent violated duties owed the public, the legal system, and to the profession and that his conduct and behavior had caused actual

---

<sup>4</sup> Respondent's primary address is 300 Fairfield Avenue, Gretna, LA 70056.

<sup>5</sup> This rule states:

The respondent shall file a written answer with the Board and serve a copy on disciplinary counsel within twenty (20) days after service of the formal charges, unless the time is extended by the chair of the hearing committee. In the event, Respondent fails to answer within the prescribed time, or the time as extended, the factual allegations contained within the formal charges shall be deemed admitted and proven by clear and convincing evidence. Disciplinary Counsel shall file a motion with the chair of the hearing committee to which the matter is assigned requesting that the factual allegations be deemed proven with proof of service of the formal charges upon the respondent. The order signed by the hearing committee chair shall be served upon respondent as provided by Section 13C. Within twenty (20) days of the mailing of the order of the hearing committee chair deeming the factual allegations contained in the formal charges proven, the respondent may move the hearing committee chair to recall the order thus issued upon demonstration of good cause why imposition of the order would be improper or would result in a miscarriage of justice.

<sup>6</sup> The Committee was composed of Beau P. Sagona (Chair), Louis G. Arceneaux (Lawyer Member), and Jean E. Finch (Public Member).

harm to his clients. The Committed recognized the following aggravating factors: prior disciplinary offenses, dishonest or selfish motive, pattern of misconduct, multiple offenses, substantial experience in the practice of law, indifference to making restitution, and failure to respond in these proceedings. The only mitigating factor recognized by the Committee is Respondent's personal and emotional problems.<sup>7</sup> The Committee recommended that the Respondent be disbarred. ODC filed a concurrence to the Committee's report on September 18, 2017. ODC filed its brief on October 9, 2017.

Oral argument of 17-DB-002 was heard on November 9, 2017, before Board Panel "B".<sup>8</sup> Deputy Disciplinary Counsel Paul E. Pendley appeared on behalf of ODC. Respondent did not appear. The Board issued its recommendation to the Court on January 26, 2018. The Board adopted the Committee's conclusions on the Rule violations. The Board also adopted the Committee's recommendation of disbarment. The Board also recommended that Respondent pay restitution to Ms. George consistent with the malpractice settlement and provide an accounting and/or a refund to Ms. Templet. The Board found that Respondent acted knowingly and intentionally, causing actual harm to his clients, the legal system, and the profession. The Board adopted the aggravating factors recognized by the Committee: prior disciplinary offenses,<sup>9</sup> dishonest or selfish motive, pattern of misconduct, multiple offenses, substantial experience in the practice of law,<sup>10</sup> indifference to making restitution, and failure to respond in these proceedings. The Board did not recognize any mitigating factors.

---

<sup>7</sup> The Committee's report does not elaborate on the nature of these problems.

<sup>8</sup> Board Panel "B" was composed of Melissa L. Theriot (Chair), Pamela W. Carter (Lawyer Member), and Evans C. Spiceland, Jr. (Public Member).

<sup>9</sup> In 2011, Respondent was suspended from the practice of law for one year and one day, fully deferred, for maintaining incomplete records of his client trust account, which resulted in a negligent commingling and conversion of funds. *In re Labadie*, 2011-B-1021 (La. 6/24/2011), 65 So.3d 152.

<sup>10</sup> Respondent was admitted to the practice of law in Louisiana on April 19, 1996.



On February 23, 2018, pursuant to a motion filed by ODC, the Court remanded 17-DB-002 to the Board for consolidation with 17-DB-025. The Court directed the Board to “issue a single recommendation of discipline to this Court encompassing all disciplinary matters involving respondent.” On March 5, 2018, the Board consolidated 17-DB-002 and 17-DB-025.

## **II. 17-DB-025**

ODC filed the formal charges in 17-DB-025 on June 5, 2017. The charges state, in pertinent part:

### Count I

Respondent is Mr. Juan Labadie, Bar Roll #24145. Respondent was born on March 2, 1969 and was admitted to practice law in Louisiana on April 19, 1996. The Complainant in Count I is Ms. Deborah L. Frazier, a former client. Complainant hired Respondent to represent her interests in a potential malpractice claim against her former attorneys from her prior divorce proceeding. Complainant paid to Respondent a fee of \$3,000 for the representation, a copy of the check which was attached to the formal complaint [sic]. Complainant advised that she met with Respondent September 21, 2013 to discuss the case.

Despite frequent calls to Respondent, Complainant was unable to compel Respondent to take action on her claim. The ODC spoke with Complainant, who advised the ODC that Respondent allowed her cause of action to prescribe. Complainant requested a refund of the fee she paid to Respondent, but he did not refund the fee. After July 1, 2015, Respondent's telephone line was disconnected and Complainant was unable to locate Respondent after that.

Complainant filed a formal ODC complaint against Respondent on May 5, 2016. A copy of the complaint was sent to Respondent, who received and signed for the notice on June 10, 2016. Respondent failed to respond to the complaint. A follow-up letter was sent to Respondent on November 17, 2016 again advising Respondent of the filed complaint and his obligation under Rule 8.1 to respond. Respondent never responded to the complaint.

Respondent, by engaging in the above described behavior, has violated Louisiana Rules of Professional Conduct Rule 1.3, Rule 1.4(a)(b), Rule 1.5(f)(5), Rule 1.15(d), and Rule 8.1(b)(c).

### Count II

The Complainant for Count II is Ms. Lana B. Rousell. The formal complaint was opened on October 2, 2015. Complainant alleged that she had requested, on November 10, 2014, a refund from Respondent of the funds she paid to him. She alleged that Respondent agreed, but was having financial issues and could not refund the money at that time. However, Complainant

filed a formal ODC complaint when Respondent had, by October 1, 2015, still not refunded the money.

Respondent received notice of the complaint on October 28, 2015, but did not respond to the complaint. A subpoena was issued on March 16, 2016 to compel Respondent's appearance at the ODC for a sworn statement. Respondent appeared for his statement scheduled for April 6, 2016. During his statement, Respondent admitted that he advised Complainant he would issue to her a refund of \$1,000. Complainant agreed to the amount of the refund. Although Respondent had, at the time of the statement, not yet refunded the money, he said in his statement that he would be able to issue the refund within 30 days. However, Respondent never refunded the money.

Respondent, by engaging in the above described behavior, has violated Louisiana Rules of Professional Conduct Rule 1.5(f)(5) and Rule 1.15(d).

### Count III

The formal complaint for Count III was sent to the ODC by the Louisiana Attorney General. Attached to the complaint was a Jefferson Parish Sheriff's Office crime report. The report detailed a domestic violence incident that involved Respondent. The victim was Respondent's live-in girlfriend (at the time), Ms. Sherri Patureau.

On July 23, 2014, deputies were dispatched to take the statement of Ms. Patureau, who suffered domestic abuse at the hand of Respondent. According to the crime report, Respondent had isolated Ms. Patureau in the master bedroom closet of her home and verbally abused her. When she tried to leave the closet, Respondent physically grabbed her and threw her to the floor. While on the floor, Respondent grabbed Ms. Patureau by the neck and pinned her down. Ms. Patureau tried to get up, but Respondent grabbed her hair and held her down. Ms. Patureau felt shortness of breath, and Respondent told her that she "deserved to die." Respondent then rose and wielded a leather belt, menacing Ms. Patureau with it. Ms. Patureau was able to escape, shortly thereafter, the home with her two children. The crime report noted that Ms. Patureau had sustained minor injuries in the form of swelling of her left wrist and redness of her neck. Respondent was apprehended by deputies and placed under arrest for domestic abuse battery.

Ms. Patureau tendered a sworn statement to the ODC. She advised that while she was pinned to the floor, Respondent, who consumes chewing tobacco, spat tobacco saliva in her face. This is also evidenced in the crime report. Additionally, Ms. Patureau advised that on a later, separate occasion while she and Respondent lived with his parents, Respondent held the edge of a straight razor to her throat in a menacing and threatening manner. Asked if she feared for life, she admitted she did.

Respondent, by engaging in the above listed behavior, had violated Louisiana Rules of Profession Conduct 8.4 (a) (b).

### Count IV

The complaint in count IV was sent to the ODC by the Louisiana Attorney General on November 20, 2014. The complaint consisted of multiple police reports



that alleged that Respondent had engaged in domestic violence against his (then wife), Ms. Lori Labadie. The first police report stated that on January 1, 2005, pursuant to a verbal argument about finances, Respondent grabbed Ms. Labadie, kicked her on the left knee, and pushed her out of the home and into the yard. Deputies noted marks on Ms. Labadie's wrist and knee, and Respondent was placed under arrest.

A second police report indicated a domestic incident had taken place on May 1, 2010. Ms. Labadie was attempting to enter the family home, but Respondent had physically restrained her and pushed her away. Respondent used his body to block her entrance into the home. At the time, Respondent had an active arrest warrant and deputies took him into custody.

Relating to the family law dispute between Respondent and Ms. Labadie, the docket master for litigation in *John C. Labadie v. Lori J. Labadie*, No. 681850, 24<sup>th</sup> JDC reveals that Respondent was ordered by the court to submit to a drug test, but he refused to comply. On August 11, 2014, Judge Michael Mentz held Respondent in Contempt of Court and ordered him to serve 30 days of house arrest. The same day, Respondent announced his campaign to unseat Judge Mentz in the upcoming judge's election. Judge Mentz was compelled to recuse himself from the Labadie case. Currently, Respondent has an attachment for his arrest because he failed to appear at a hearing on his motion to recuse the current judge presiding over his domestic civil suit, Judge Donald Rowan. Respondent's motion was denied and [the] order of attachment was issued.

Respondent, by engaging in the described behavior, had [sic] violated Louisiana Rules of Professional Conduct 3.4 (c) and Rule 8.4 (a) (b) (d).

By letter dated June 8, 2017, the formal charges were mailed via certified mail to Respondent's primary registration address.<sup>11</sup> The mailing was received on June 10, 2017. Respondent failed to file an answer to the charges. Accordingly, on July 14, 2017, ODC filed a motion to deem the factual allegations admitted pursuant to Louisiana Supreme Court Rule XIX, §11(E)(3). By order signed August 7, 2017, the factual allegations contained in the formal charges were deemed admitted. On September 29, 2017, ODC filed its submission on sanction, in which it suggested that suspension was the baseline sanction.

Hearing Committee #24 ("the Committee") issued its report in 17-DB-025 on December 26, 2017.<sup>12</sup> The Committee concluded that Respondent violated the Rules as charged and

---

<sup>11</sup> 300 Fairfield Ave., Gretna, LA 70056.

<sup>12</sup> The Committee was composed of Anthony P. Dunbar (Chair), Kenneth K. Orié (Lawyer Member), Daniel E. Sullivan (Public Member).

recommended that he be suspended from the practice of law for one year and one day. The Committee also recommended that Respondent provide restitution to the complainants in Counts I & II (Ms. Frazier and Ms. Rousell), and that he pay the costs of this proceeding.

On January 12, 2018, ODC filed an objection to the Committee's sanction recommendation, arguing that a two-year suspension was appropriate for the misconduct in 17-DB-025. ODC filed its brief on March 5, 2018, reiterating the same argument.<sup>13</sup> Oral argument of this matter was heard on April 5, 2018, before Board Panel "B."<sup>14</sup> Deputy Disciplinary Counsel Paul E. Pendley appeared on behalf of ODC. Respondent did not appear.

## **ANALYSIS OF THE RECORD BEFORE THE BOARD**

### **I. Standard of Review – 17-DB-025**

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." Inasmuch as the Board is serving in an appellate capacity, the standard of review applied to findings of fact is that of "manifest error." *Arceneaux v. Domingue*, 365 So. 2d 1330 (La. 1978); *Rosell v. ESCO*, 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 Attorney Disciplinary Board (1/22/92).

---

<sup>13</sup> In its brief and at oral argument, ODC did not offer an argument on the appropriate sanction for the consolidated matter (17-DB-002 & 17-DB-025). Rather, ODC simply argued the appropriate sanction for 17-DB-025.

<sup>14</sup> The Panel was composed of Pamela W. Carter (Chair), Dominick Scandurro, Jr. (Lawyer Member), and Sheila E. O'Leary (Public Member).

**A. The Manifest Error Inquiry**

The factual allegations in 17-DB-025 have been deemed admitted and proven pursuant to Louisiana Supreme Court Rule XIX, §11(E)(3). The additional findings of the Committee are supported by the record.

**B. De Novo Review**

The Committee in 17-DB-025 correctly applied the Rules of Professional Conduct. The legal conclusions of the Committee are supported by the factual allegations asserted in the formal charges and/or by the evidence submitted in support of the allegations. *See In re Donnan*, 2001-3058 (La. 1/10/03), 838 So.2d 715.

**II. The Appropriate Sanction – 17-DB-002 & 17-DB-025**

**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.

In 17-DB-002, Respondent knowingly and intentionally violated duties to his clients, the legal system, and the profession. This conduct created the potential for harm and caused actual harm. In Count I, Respondent's statements to the media regarding Judge Mentz were made with reckless disregard for the truth or falsity. These statements had the potential to harm Judge Mentz in his campaign for reelection and to harm the public's perception of the judiciary. In Count II, Respondent harmed Ms. George by failing to file her lawsuit in the timely manner, then misleading her regarding its status. His harm to Ms. George is on-going because of his failure to comply with

the malpractice settlement to which he agreed. In Count III, Respondent harmed Ms. Templet by dismissing her appeal without her knowledge or consent and by failing to provide an accounting and/or refund of the fees she paid.

In 17-DB-025, Respondent knowingly and intentionally violated duties owed to his clients, the profession, and the public. Respondent caused actual harm to Ms. Frazier by neglecting her legal matters and failing to return the unearned fee. Similarly, Respondent caused actual harm to Ms. Rousell by failing to return an unearned fee. Respondent's various acts of domestic violence caused serious actual harm to the victims. Respondent's failure to comply with the directives of a court harmed the legal process.

The following aggravating factors are supported by the consolidated record: prior disciplinary offenses,<sup>15</sup> dishonest motive, pattern of misconduct, multiple offenses, refusal to acknowledge the wrongful nature of the misconduct, vulnerability of the victims, substantial experience in the practice of law,<sup>16</sup> indifference to making restitution, bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary agency, and illegal conduct. There are no mitigating factors supported by the consolidated record.

## **B. The ABA Standards, and Case Law**

The *ABA Standards for Imposing Lawyer Sanctions* suggests that suspension is the baseline sanction for the misconduct in 17-DB-002 and 17-DB-025. With regard to the misconduct in 17-DB-002, the Standards state, in pertinent part:

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

---

<sup>15</sup> In 2011, Respondent was suspended from the practice of law for one year and one day, fully deferred, for maintaining incomplete records of his client trust account, which resulted in a negligent commingling and conversion of funds. *In re Labadie*, 2011-B-1021 (La. 6/24/2011), 65 So.3d 152.

<sup>16</sup> Respondent was admitted to the practice of law in Louisiana in 1996.

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

4.62 Suspension is generally appropriate when a lawyer knowingly deceives a client, and causes injury or potential injury to the client.

In 17-DB-002, Respondent failed to file a client's lawsuit and knowingly misled her regarding its status. He has also failed to comply with the malpractice settlement agreement to which he consented. Respondent knowingly dismissed another client's appeal without her knowledge and consent, misled her regarding this fact, and has failed to provide an accounting and/or refund of the fees paid by her. These actions caused actual harm to these clients. Accordingly, suspension appears to be the baseline sanction for that misconduct. Furthermore, Respondent knowingly, if not intentionally, made false public statements regarding the integrity of a judge, which based on the case law discussed below, warrants at least a period of suspension.

With regard to the misconduct in 17-DB-025, Standard 4.12 states: "Suspension is generally appropriate when a lawyer knows or should know that he is dealing improperly with client property and causes injury or potential injury to a client." Here, Respondent has knowingly failed to return unearned fees to Ms. Frazier and Ms. Rousell, causing actual harm. Standard 4.42 states, in pertinent part: "Suspension is generally appropriate when ... a lawyer knowingly fails to perform services for a client and causes injury or potential injury to a client ..." Here, Respondent neglected Ms. Frazier's matter, causing actual harm. Standard 5.11 states:

Disbarment is generally appropriate when: (a) a lawyer engages in serious criminal conduct a necessary element of which includes intentional interference with the administration of justice, false swearing, misrepresentation, fraud, extortion, misappropriation, or theft; or the sale, distribution or importation of controlled substances; or the intentional killing of another; or an attempt or conspiracy or solicitation of another to commit any of these offenses; or (b) a lawyer engages in any other intentional conduct involving dishonesty, fraud, deceit, or misrepresentation that seriously adversely reflects on the lawyer's fitness to practice.

Standard 5.12 states: “Suspension is generally appropriate when a lawyer knowingly engages in criminal conduct which does not contain the elements listed in Standard 5.11 and that seriously adversely reflects on the lawyer’s fitness to practice.” Here, Respondent’s acts of domestic violence do not fall within the scope of Standard 5.11. Thus, suspension is the baseline sanction for that misconduct.

The Court has imposed sanctions ranging from fully-deferred suspensions to active six-month suspensions for misconduct related to allowing a client’s legal matter to prescribe or be dismissed as abandoned. *See In re Heisler*, 2006-1202 (La. 11/3/06), 941 So. 2d 20 (one-year suspension, all deferred, for allowing a personal injury matter to prescribe, failing to inform his client about the prescription, and staging a “settlement” whereby he disbursed personal funds to his client); *In re Thompson*, 1998-0079 (La. 5/8/98), 712 So. 2d 72 (one-year suspension, fully deferred, for allowing a worker’s compensation matter to prescribe, failing to inform the client of the prescription, and staging a “disbursement” whereby Mr. Thompson disbursed his personal funds to the client); *In re August*, 2010-1546 (10/15/10), 45 So.3d 1019 (two-year suspension, with all but sixty days deferred, for allowing a wrongful death action to prescribe, misleading the client about the prescription, and failing to withdraw from the matter after being sued for malpractice by the client); *In re Cade*, 2015-0803 (La. 6/19/15), 166 So.3d 243 (one year and one day suspension, with six months deferred, for allowing a personal injury matter to be dismissed as abandoned and failing to inform the client about the dismissal); *In re Bullock*, 2016-0075 (La. 3/24/2016), 187 So. 3d 986 (one year and one day suspension, with six months deferred, for failing to file a petition for damages within the prescriptive period for her client and subsequently misleading her client regarding the issue).



The Court has imposed short to lengthy suspensions when attorneys have dismissed client matters without the clients' knowledge or consent. See *In re Bruscato*, 1999-0287 (La. 6/4/99), 743 So.2d 645 (sixty-day suspension for dismissing a client's lawsuit without the client's knowledge or consent, then misleading the client about the status of the matter); *In re Sims*, 2008-B-2176 (11/21/08), 994 So.2d 1280 (two-year suspension for dismissing a client's matter without the client's knowledge or consent and for withholding a settlement check in another matter).

The Court has imposed suspensions of at least one year and one day in deemed admitted matters where attorneys have, in multiple instances, neglected client matters, failed to returned unearned fees, and failed to cooperate with ODC. See *In re Armato*, 2007-0500 (La. 6/1/07), 958 So.2d 650 (two client matters; one year and one day suspension); *In re Engum*, 2009-1619 (10/28/09), 21 So.3d 926 (three client matters; one year and one day suspension);<sup>17</sup> *In re Turnage*, 2001-1240 (La. 6/22/01), 790 So.2d 620 (two client matters; one year and one day suspension); *In re Mathews*, 2002-1377 (La. 9/20/02), 827 So.2d 1129 (one client matter; eighteen-month suspension).

With regard to making false statements regarding the qualifications or integrity of a judge, the Court has imposed sanctions ranging from active thirty-day suspensions to disbarment. In *In re Simon*, the Court suspended Mr. Simon for six months, with all but thirty days deferred, for violating Rule 8.2(a) on three occasions with statements he made in pleadings and motions he filed in two matters. 2004-2947 (La. 06/29/05), 913 So. 2d 816. The following aggravating factors were present: refusal to acknowledge the wrongful nature of the conduct, prior disciplinary record, and substantial experience in the practice of law. In mitigation, the Court considered the absence of a dishonest or selfish motive and Mr. Simon's cooperative attitude toward the proceedings.

---

<sup>17</sup> The deemed admitted order in *Engum* was recalled and a hearing on the merits was held. However, Ms. Engum failed to appear at the hearing or otherwise present evidence in her defense.

In *In re Mire*, the Court suspended Ms. Mire for one year and one day, with all but six months deferred, based upon statements she made in a writ application. 2015-1453 (La. 2/19/2016), 197 So.3d 656. In the application, Ms. Mire made accusations against members of the judiciary, including an allegation that a judge edited a court reporter's audio tapes. The following aggravating factors were present: pattern of misconduct and multiple offenses. The following mitigating factors were present: absence of a prior disciplinary record, inexperience in the practice of law, and the imposition of other penalties or sanctions.

In *In re McCool*, the Court disbarred Ms. McCool for launching a lengthy social media campaign, related to her representation of a client, in which she used social media to discredit two judges. 2015-0284 (La. 6/30/15), 172 So. 3d 1058. The Court noted that because Ms. McCool posted her statements on the internet, the postings still have the potential to reach a large number of people and remain present. The following aggravating factors were present: dishonest and selfish motive, pattern of misconduct, multiple offenses, substantial experience in the practice of law, and refusal to acknowledge the wrongful nature of her conduct or show any remorse for her actions. The only mitigating factor recognized by the Court was Ms. McCool's lack of a disciplinary record.

With regard to domestic violence, the Court has imposed short periods of suspension for isolated instances of domestic violence. In *In re Cardenas*, Mr. Cardenas was convicted of misdemeanor domestic abuse battery in the presence of a child. 2011-0031 (La. 5/6/11), 60 So.3d 609. The aggravating factors included prior disciplinary offences, vulnerability of the victim, substantial experience in the practice of law, and illegal conduct. Mitigating factors were cooperative attitude toward the proceeding, character or reputation, and imposition of other

penalties or sanctions. Mr. Cardenas was suspended for one year, with six months of the suspension deferred.

In *In re Bowman*, Mr. Bowman was convicted of misdemeanor domestic abuse battery in the presence of a child. 2012-2410 (La. 3/19/13), 111 so.3d 317. The following aggravating factors were present: refusal to acknowledge the wrongful nature of the conduct, substantial experience in the practice of law, and illegal conduct. The following mitigating factors were present: absence of a prior disciplinary record, full and free disclosure to the disciplinary board and a cooperative attitude toward the proceedings, character or reputation, and the imposition of other penalties or sanctions in connection with the criminal proceeding. The Court held that a six-month suspension with all but thirty days deferred was the appropriate sanction.

In cases involving battery that did not constitute domestic violence, the Court has imposed sanctions ranging from short to lengthy suspensions. In *In re Greenburg and Lewis*, the Court suspended Mr. Greenburg for six months, with all but thirty days deferred, for engaging in a verbal confrontation with opposing counsel in open court, which led to a physical confrontation. 2008-2878 (La. 5/5/09), 9 So.3d 802. During a hearing in a contentious civil matter, Mr. Greenburg initiated a verbal confrontation with Mr. Lewis, who was opposing counsel. In response to a retort by Mr. Lewis, Mr. Greenburg approached Mr. Lewis, grabbed his lapels, and both men fell to the ground. Mr. Greenburg was charged with simple battery and convicted of that charge after a bench trial. He was also held in contempt by the presiding judge in the civil matter. The Court recognized the following mitigating factors: absence of a prior disciplinary record; cooperative attitude toward the disciplinary proceeding; character and reputation; imposition of other

sanctions; and remorse. The Court recognized only one aggravating factor: substantial experience in the practice of law.<sup>18</sup>

In *In re Redd*, the Court suspended Mr. Redd for one year and one day based upon his conviction for simple battery. 95-1472 (La. 9/15/95), 660 So.2d 839. The conviction was the result of the following facts. While working as a legal advisor for the Baton Rouge Police Department, Mr. Redd was charged with the responsibility of granting exotic dancer licenses. Mr. Redd abused this position by taking photographs and touching the breasts of several applicants. The Court recognized the following mitigating factors: personal or emotional problems; cooperative attitude toward the proceeding; good character or reputation; interim rehabilitation; imposition of other penalties or sanctions; and remorse. The Court recognized the following aggravating factors: vulnerability of the victims; dishonest or selfish motive; and pattern of misconduct.

In *In re Sterling*, the Court suspended Mr. Sterling for two years, retroactive to the date of his interim suspension, based upon his plea of guilty to felony unauthorized entry of an inhabited dwelling and other minor misconduct<sup>19</sup>. The criminal conviction was based upon the following facts. Mr. Sterling, along with two friends, went to the apartment of his fiancée to retrieve an engagement ring and the keys to a vehicle Mr. Sterling had given her. When Mr. Sterling could not gain entry into the apartment, he kicked in the front door. Upon entering the apartment, he found his fiancée with another man. Mr. Sterling proceeded to push and shove his fiancée around the apartment. After being arrested, Mr. Sterling continued to send threatening text messages to his fiancée. The Court recognized the following mitigating factors: absence of a prior disciplinary

---

<sup>18</sup> Mr. Lewis received a public reprimand for his role in the altercation.

<sup>19</sup> Mr. Sterling was also found to have engaged in misconduct by negligently failing to return a file after termination and negligently failing to notify a client of his interim suspension.

record; inexperience in the practice of law; character and reputation; imposition of other penalties or sanctions; and remorse. The only aggravating factor recognized by the Court was multiple offenses.<sup>20</sup>

In this consolidated matter, Respondent has engaged in multiple instances of neglect and failure to return unearned fees/pay restitution, has made false statements regarding the integrity of a member of the judiciary, and has committed several acts of domestic violence. As the lengthy discussion of cases above illustrates, any of this misconduct, standing alone, would warrant a lengthy suspension. In fact, the Board has previously determined that the combination of misconduct in 17-DB-002 warranted disbarment. Likewise, the Board finds that the combination of misconduct in 17-DB-025 warrants disbarment as well. Thus, the Board recommends disbarment for the misconduct in 17-DB-002 and 17-DB-025.<sup>21</sup>

### CONCLUSION

The Board adopts the factual findings and legal conclusion of the Committee in 17-DB-025. As a sanction for the misconduct in 17-DB-002 and 17-DB-025, the Board recommends that Respondent be disbarred. The Board also recommends that Respondent: 1) pay restitution to Ms. George consistent with the malpractice settlement and provide an accounting and/or a refund to Ms. Templet (17-DB-002), 2) provide refunds to Ms. Frazier and Ms. Rousell (17-DB-025), and 3) be assessed with the costs and expenses of this proceeding.

---

<sup>20</sup> ODC cites two other cases in its pre-argument brief, but those cases involve conduct that is clearly more egregious than that present in this case. See *In re Martin*, 2004-0170 (La. 12/1/04), 888 So.2d 178 (the respondent was convicted for five counts of aggravated assault upon a peace officer with a firearm); and *In re Brown*, 95-0817 (La. 5/21/96), 674 So.2d 243 (the respondent was convicted of negligent homicide).

<sup>21</sup> The Board has considered the guidelines for permanent disbarment in Rule XIX, but concludes that the totality of the misconduct in this matter does not fall within the scope or spirit of the guidelines.

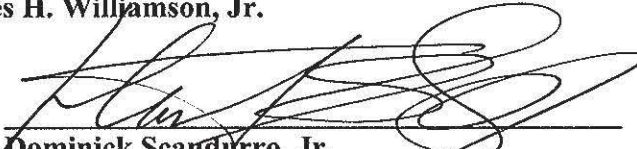
## RECOMMENDATION

The Board recommends that Respondent, Juan Carlos Labadie, be disbarred. The Board also recommends that Respondent: 1) pay restitution to Ms. George consistent with the malpractice settlement and provide an accounting and/or a refund to Ms. Templet (17-DB-002), 2) provide refunds to Ms. Frazier and Ms. Rousell (17-DB-025), and 3) be assessed with the costs and expenses of this proceeding pursuant to Rule XIX, §10.1.

### LOUISIANA ATTORNEY DISCIPLINARY BOARD

**Linda G. Bizzarro  
Pamela W. Carter  
Brian D. Landry  
Sheila E. O'Leary  
Danna E. Schwab  
Evans C. Spiceland, Jr.  
Melissa L. Theriot  
Charles H. Williamson, Jr.**

BY:

  
\_\_\_\_\_  
**Dominick Scandurro, Jr.  
FOR THE ADJUDICATIVE COMMITTEE**



## APPENDIX

### **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.

### **Rule 1.5. Fees**

(f) Payment of fees in advance of services shall be subject to the following rules: (1) When the client pays the lawyer a fee to retain the lawyer's general availability to the client and the fee is not related to a particular representation, the funds become the property of the lawyer when paid and may be placed in the lawyer's operating account. (2) When the client pays the lawyer all or part of a fixed fee or of a minimum fee for particular representation with services to be rendered in the future, the funds become the property of the lawyer when paid, subject to the provisions of Rule 1.5(f)(5). Such funds need not be placed in the lawyer's trust account, but may be placed in the lawyer's operating account. (3) When the client pays the lawyer an advance deposit against fees which are to accrue in the future on an hourly or other agreed basis, the funds remain the property of the client and must be placed in the lawyer's trust account. The lawyer may transfer these funds as fees are earned from the trust account to the operating account, without further authorization from the client for each transfer, but must render a periodic accounting for these funds as is reasonable under the circumstances. (4) When the client pays the lawyer an advance deposit to be used for costs and expenses, the funds remain the property of the client and must be placed in the lawyer's trust account. The lawyer may expend these funds as costs and expenses accrue, without further authorization from the client for each expenditure, but must render a periodic accounting for these funds as is reasonable under the circumstances. (5) When the client pays the lawyer a fixed fee, a minimum fee or a fee drawn from an advanced deposit, and a fee dispute arises between the lawyer and the client, either during the course of the representation or at the termination of the representation, the lawyer shall immediately refund to the client the unearned portion of such fee, if any. If the lawyer and the client disagree on the unearned portion of such fee, the lawyer shall immediately refund to the client the amount, if any, that they agree has not been earned, and the lawyer shall deposit into a trust account an amount representing the portion reasonably in dispute. The lawyer shall hold such disputed funds in trust until the dispute is resolved, but the lawyer shall not do so to coerce the client into accepting the lawyer's contentions. As to any fee dispute, the lawyer should suggest a means for prompt resolution such

as mediation or arbitration, including arbitration with the Louisiana State Bar Association Fee Dispute Program.

### **Rule 1.15. Safekeeping Property**

(d) Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. For purposes of this rule, the third person's interest shall be one of which the lawyer has actual knowledge, and shall be limited to a statutory lien or privilege, a final judgment addressing disposition of those funds or property, or a written agreement by the client or the lawyer on behalf of the client guaranteeing payment out of those funds or property. Except as stated in this rule or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such property.

### **Rule 3.4. Fairness to Opposing Party and Counsel**

A lawyer shall not:

(c) knowingly disobey an obligation under the rules of a tribunal, except for an open refusal based on an assertion that no valid obligation exists;

### **Rule 8.1. Bar Admission and Disciplinary Matters**

An applicant for admission to the bar, or a lawyer in connection with a bar admission application or in connection with a disciplinary matter, shall not:

(b) Fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter, or knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this rule does not require disclosure of information otherwise protected by Rule 1.6; or

(c) Fail to cooperate with the Office of Disciplinary Counsel in its investigation of any matter before it except for an openly expressed claim of a constitutional privilege.

### **Rule 8.2. Judicial and Legal Officials**

(a) A lawyer shall not make a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge, adjudicatory officer or public legal officer, or of a candidate for election or appointment to judicial or legal office. ...

### **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; ...