ORIGINAL

LOUISIANA ATTORNEY DISCIPLINARY BOARD

IN RE: HAROLD D. REGISTER, JR.

DOCKET NO. 18-DB-029

REPORT OF HEARING COMMITTEE # 19

INTRODUCTION

This attorney disciplinary matter arises out of formal charges consisting of six counts filed by the Office of Disciplinary Counsel ("ODC") against Harold D. Register, Jr. ("Respondent"), Louisiana Bar Roll Number 16764.[1] ODC alleges that Respondent violated the following Rules of Professional Conduct: 1.3, 1.4(a), 1.4(b), 1.5(a), 1.5(c), 1.5(f)(3), 1.5(f)(5), 1.15(a), 1.15(d), 1.16(d), 8.1(b), 8.1(c), 8.4(c), and 8.4(a).[2]

PROCEDURAL HISTORY

The formal charges were filed on March 27, 2018. By letters dated March 28, 2018, the formal charges were mailed via certified mail to Respondent's primary, secondary, and last known addresses.[3] The mailing to the secondary address was received on March 30, 2018.[4] Respondent failed to file an answer to the charges. Accordingly, on April 26, 2018, ODC filed a motion to deem the factual allegations admitted pursuant to Louisiana Supreme Court Rule XIX,

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[1] Respondent was admitted to the practice of law in Louisiana on September 18, 1985. Respondent is currently disbarred. *See In re Register*, 2017-1547 (La. 2/14/18), ---So.3d---, 2018 WL 847637.
[2] See the attached Appendix for the text of these Rules.
[3] 216 Rue Louis XIV, Lafayette, LA 70508-5737 (primary); 102 Supreme Court Drive, Lafayette, LA 70503 (secondary); 102 Versailles Blvd., Ste. 620, Lafayette, LA 70501-6704 (last known).
[4] The other two mailings were returned as "unclaimed."

§11(E)(3).[5] By order signed May 1, 2018, the factual allegations contained in the formal charges were deemed admitted. On June 27, 2018, ODC filed its submission on sanction.

For the following reasons, the Committee finds that Respondent has violated the numerous rules specifically discussed below and this Committee hereby recommends permanent disbarment as the only appropriate sanction for Respondent's flagrant behavior.

FORMAL CHARGES

The formal charges read, in pertinent part:

> **Count 1: ODC 0034613 / Victorian**
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> On June 8, 2016, the ODC received a complaint from Inez M. Victorian, and the matter was opened for investigation as ODC 0034613. On June 14, 2016, the ODC sent notice of the complaint and a request for an initial response to Respondent via certified mail to Respondent's LSBA-registered primary, secondary, and preferred addresses. The letters sent to Respondent's primary and preferred addresses were received on June 16, 2016, and June 30, 2016, respectively. The correspondence sent to Respondent's secondary address was returned to the ODC as "unclaimed." On August 30, 2016, the ODC made a second request for an initial response; the correspondence was hand delivered to Respondent on September 9, 2016. Respondent signed for receipt. Despite the ODC's efforts, Respondent has not submitted an initial response to the complaint and did not cooperate with the ODC investigation.
>
> On or around January 18, 2016, Victorian hired Respondent to represent her in a civil matter before the Department of Defense Inspector General's Office (DoD). Victorian did not sign a contract of representation. Respondent required an advance fee of $2,500. Respondent asked Victorian to wire the funds to him; however, Victorian declined. Instead, Victorian paid the advance fee with a January 18, 2016, money order in the amount of $200, and with a March 18, 2016, cashier's check in the amount of $2,300.

[5] 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.

Victorian advised Respondent that it was very important to her that correspondence with the DoD be sent via certified mail so that delivery could be confirmed. On March 30, 2016, Respondent sent on Victorian's behalf the completed DoD complaint form, addressed to "The Pentagon." Seeing the address on the correspondence, Victorian contacted Respondent's office to verify that the letter was sent via certified mail. Victorian was assured that the letter was mailed as requested; however, Victorian was provided with no certified mail receipt or tracking information.

Dissatisfied with Respondent's representation, on May 6, 2016, by email and in a telephone call, Victorian advised Respondent that the representation was terminated and that she wanted a return of the unearned legal fee. On May 8, 2016, via certified mail to Respondent's LSBA-registered primary address, Victorian again notified Respondent of the termination of representation and again requested a refund of unearned fees. Respondent did not respond to Victorian's termination efforts.

Victorian has not received the requested accounting, and none of the $2,500 fee paid has been returned. Victorian lacked the funds to hire counsel to complete her matter before the DoD, and her complaint was dismissed. Victorian's efforts to retrieve her client file have been unsuccessful.

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The ODC respectfully submits that in Count 1, ODC 0034613, there is clear and convincing evidence that Respondent is in violation of the Rules of Professional Conduct, Rules 1.5(f)(5) (unearned fee, conversion); 1.16(d) (unearned fee upon termination, conversion, client file); 8.l(b) (respond); 8.1(c) (cooperate); and 8.4(a) (violate or attempt to violate RPC).

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Count 2: ODC 0034615 / Campbell

On April 18, 2016, the ODC received a complaint from Rhonda Campbell. Campbell reported to the ODC that Mr. Nelson Chambers had made extensive efforts to obtain his client file from Respondent with no success. On May 10, 2016, the ODC sent Respondent notice, via certified mail to Respondent's LSBA-registered preferred address, that his client, Mr. Chambers, was seeking the return of his client file. That notice was received on May 20, 2016; however, Respondent did not respond, and the matter was opened for investigation as ODC 0034615. On June 14, 2016, the ODC sent notice of the complaint and a request for an initial response to Respondent via certified mail to Respondent's LSBA-registered primary, secondary, and preferred addresses. The correspondence sent to Respondent's primary address was received on June 17, 2016. The correspondence sent to Respondent's secondary address was returned to the ODC as "unclaimed." The correspondence sent to Respondent's preferred address was received on June 30, 2016. On August 30, 2016, the ODC made a second request for an initial response; the correspondence was hand delivered to Respondent on September 9, 2016. Respondent signed for receipt. Despite the ODC's efforts, Respondent has not submitted an initial response to the complaint and did not cooperate with the ODC investigation.

Mr. Chambers hired Respondent to represent him on direct appeal. *State v. Chambers,* 2013-637 (La. App. 3 Cir. 12/11/13) (unpublished), *writ denied,* 2014-0091 (La. 6/20/14), 141 So. 3d 807 (mem.). Mr. Chambers reports that the agreed-to fee for the direct appeal was $15,000. Thereafter, Respondent was hired to represent Mr. Chambers in seeking post-conviction relief, and consistent therewith, on November 17, 2014, Respondent wrote to Mr. Chambers advising him of the representation. Mr. Chambers advises the ODC that the agreed-to fee for the post-conviction relief representation was $5,000, which his mother paid on his behalf. Ms. Mary Chambers advised the ODC that the total fee paid to Respondent was approximately $20,000, and she confirmed that she paid a separate fee for the post-conviction relief representation.

The docket summary in the matter of *State v. Nelson,* 2009-CR-125227, 15th J.D.C., Parish of Lafayette, reflects no activity of record by Respondent after Respondent sent the November 14, 2014, letter to Mr. Chambers. Unable to contact Respondent, on June 8, 2015, Mr. Chambers filed with the Court a request for an extension of time within which to file his application for postconviction relief; the request was denied.

Realizing that the time limitation for seeking relief was running, Mr. Chambers then sought return of his client file. Unsuccessful on his own, Mr. Chambers enlisted the assistance of Rhonda Campbell. Ms. Campbell owns an investigative service and had worked with Respondent in the past. Ms. Campbell called Respondent on approximately ten occasions seeking Mr. Chambers' client file; none of her calls were returned. On March 31, 2016, she sent a certified letter to Respondent, which was received on April 4, 2016. Receiving no response, on April 6, 2016, she sent a second certified letter to Respondent, which was received on April 12, 2016. Again, Respondent did not respond. With each letter, Ms. Campbell included March 27, 2016, correspondence from Mr. Chambers in which Mr. Chambers set forth that Ms. Campbell was assisting him in his efforts to get his client file.

On December 5, 2016, Mr. Chambers submitted a *pro-se* application for post-conviction relief, therein explaining that the delay in submission was due to the lack of efforts by counsel (Respondent). Included therewith was Respondent's November 17, 2014, letter to Mr. Chambers. The application for post-conviction relief was denied. An application for supervisory review filed with the Louisiana Third Circuit Court of Appeal was denied due to the untimeliness of the application. *State v. Chambers,* 17-00069 (La. App. 3 Cir. 6/15/17) (unpublished).

Mr. Chamber's mother paid for the preparation of his trial transcript, and Mr. Chambers confirms that he has a copy of the same. After this complaint was filed, Respondent provided Mr. Chambers with six to seven pages of documents; however, Mr. Chambers does not believe that he has received his entire client file. For instance, Mr. Chambers was not provided with the discovery packet associated with his case. The ODC confirmed with the office of the curator appointed to distribute Respondent's client files following Respondent's interim suspension that no file was recovered for Mr. Chambers. None of the fee paid has been returned.

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The ODC respectfully submits that in Count 2, ODC 0034615, there is clear and convincing evidence that Respondent is in violation of the Rules of Professional Conduct, Rules 1.3 (diligence); 1.4(a)-(b) (communication); 1.5(f)(5) (unearned fee, conversion); 1.16(d) (obligations upon termination, conversion); 8:1(b) (respond); 8.1(c) (cooperate); 8.4(c) (dishonest conduct); and 8.4(a) (violate or attempt to violate RPC).

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Count 3: ODC 0034770 / Butler

On July 11, 2016, the ODC received a complaint from Larry Butler, and the matter was opened for investigation as ODC 0034770. On July 15, 2016, the ODC sent notice of the complaint and a request for an initial response to Respondent via certified mail to Respondent's LSBA-registered primary address. The certified mail was delivered on July 18, 2016. On September 9, 2016, Respondent signed for hand delivery of the complaint and for an August 30, 2016, ODC request for an initial response. Despite the ODC's efforts, Respondent has not submitted an initial response to the complaint and did not cooperate with the ODC investigation.

Mr. Butler hired Respondent in April of 2013 to represent his interests in two separate matters regarding his "Wrongful Incarceration Matter." Mr. Butler signed a written contingency fee agreement on October 9, 2013. In October of 2015, Mr. Butler was released from incarceration, and he contacted Respondent seeking information regarding the status of his litigation. Unable to contact Respondent, on November 23, 2015, Mr. Butler wrote to Respondent, asking that Respondent provide him with court information and docket numbers for his case.

On December 2, 2015, Respondent wrote to Mr. Butler, forwarding a $600 check as a "loan," referencing docket no. 129,325, and a pending "settlement" of the matter. Respondent sent Mr. Butler an additional $600 on December 7, 2015. On April 10, 2016, Respondent advised Mr. Butler that the defendants had been served and had filed a motion to dismiss Mr. Butler's suit. Respondent also advised Mr. Butler that he would be opposing the motion. On May 28, 2016, Respondent advised Mr. Butler that his suit was dismissed. Mr. Butler again requested copies of the pleadings and the court's judgment, to no avail. Since the May 28, 2016, telephone conversation, Mr. Butler has been unable to reach Respondent; his telephone calls to Respondent are refused. On December 21, 2016, Mr. Butler again wrote to Respondent, but Respondent did not respond.

The ODC has been able to locate two lawsuits in which Respondent represented Mr. Butler. Specifically: (1) *Butler v. La. State Parole Board*, C625926, 19th J.D.C., Parish of East Baton Rouge; and (2) *Butler v. La. Dept. of Probation & Parole*, 2:14-cv-00635 (W.D. La.). The ODC has not identified a lawsuit in Mr. Butler's name under docket number 129325, which Respondent referenced in his letters to Respondent, and Mr. Butler is not aware of a third suit.

The docket summary in the East Baton Rouge Parish litigation reflects that Respondent filed a petition for judicial review on behalf of Mr. Butler on November 6, 2013, which would be shortly after the signing of the written contingency agreement. The submitted pauper form was incorrect, and the issue regarding the request for pauper status was not resolved until September of 2014.

On December 17, 2015, a status conference, which had been set by the Commissioner, was passed without date in light of Mr. Butler's release from incarceration in October of that year.

The docket summary reflects no further activity. The docket summary in the Federal Court litigation reflects that Respondent filed a complaint on Mr. Butler's behalf on March 24, 2014. The defendant filed a motion to dismiss, and Respondent submitted a memorandum in opposition. The motion to dismiss was granted on December 4, 2015, and the docket summary reflects no further activity. Thus, at the time Respondent wrote to Mr. Butler transmitting a "loan," pending "settlement," Mr. Butler's federal suit already had been dismissed. Stated differently, when Mr. Butler learned in May of2016 that his suit had been dismissed, Mr. Butler's federal suit, in actuality, had been dismissed for approximately six months. Mr. Butler has since attempted to obtain legal representation, but he has been advised by several attorneys that they cannot help him with his legal matters. Mr. Butler tells the ODC, "All he had to do was let me know."

The ODC verified with the curator appointed to distribute Respondent's client files following Respondent's interim suspension, that Mr. Butler's client file was forwarded to him and received on November 30, 2017.

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The ODC respectfully submits that in Count 3, ODC 0034770, there is clear and convincing evidence that Respondent is in violation of the Rules of Professional Conduct, Rules 1.4(a)-(b) (communication); 1.16(d) (obligations upon termination of representation); 8.1(b) (respond); 8.1(c) (cooperate); 8.4(c) (dishonest conduct); and 8.4(a) (violate or attempt to violate RPC).

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Count 4: ODC 0034902 / Prejean

On August 10, 2016, the ODC received a complaint from James and Cary Jane Prejean, and the matter was opened for investigation as ODC 0034902. On August 30, 2016, the ODC sent notice of the complaint and a request for an initial response to Respondent via certified mail to Respondent's LSBA-registered primary address. The correspondence was received on September 2, 2016. On September 9, 2016, the ODC hand-delivered a copy of the complaint and an August 30, 2016, ODC request for an initial response to Respondent, who signed for delivery. On October 6, 2016, the ODC sent a second request for an initial response to Respondent's primary, secondary, and preferred addresses. None of the correspondence was returned to the ODC, indicating receipt. Despite the ODC's efforts, Respondent has not submitted an initial response to the complaint and has not cooperated with the ODC investigation.

Herbert Lee Prejean (Herbert) was convicted of criminal misconduct, and following a direct appeal, the Louisiana Supreme Court granted a writ of certiorari, in part, vacating a part of the court of appeal judgment and reinstating Herbert's original sentence. In all other respects, Herbert's application for writ of certiorari was denied. *See State v. Prejean,* 2007-1269 (La. App. 3 Cir. 4/30/08), 981 So. 2d 272, *writ granted in part and judgment vacated in part,* 2008-1192 (La. 2/6/09), 999 So. 2d 1135 (mem.). Thereafter, Respondent was hired to represent Herbert's

interests in the filing of an application for post-conviction relief. Herbert's parents, James and Cary Jane Prejean, signed a "CONTRACT OF EMPLOYMENT-CRIMINAL RETAINED" on November 11, 2011. The contract provides for the payment of a "non-refundable," "retainer to begin action." The fee was subject to being increased as "assessed during the case;" however, the contract does not set forth an hourly rate. Specifically, the contract provides in pertinent part:

> Client agrees to pay the retainer fee of $15,000.00 in the following terms: $5,000.00, paid on NOVEMVER [sic] 11, 2011 [,]and the remaining balance to be paid MONTHLY at $300.00. The fee will serve as a retainer to begin action on the above. If additional expenses or fee[s] are assessed during the case[,] the client will be notified of the same.
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> If fee dispute arises, it will be resolved by mandatory arbitration.
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> *SUBJECT FEE OR ANY ADDITIONAL FUNDS PAID BY CLIENT(S) IS (ARE) NON-REFUNDABLE. REGARDLESS OF HOW THE CASE IS RESOLVED. IF SUBJECT CASE IS DISMISSED. GOES TO TRIAL. OR IF PRE-TRIAL AGREEMENT IS REACHED. A REFUND WILL NOT BE PROVIDED.*

In accordance with the terms of the contract, the Prejeans delivered to Respondent a total of $15,000, receiving receipts for each payment. The first payment of $5,000 was delivered on November 8, 2011. After the initial payment was made, regular monthly payments were delivered to Respondent, with the last payment being made on July of 2014.

The record in *State v. Prejean*, 108791, 15th J.D.C., Parish of Lafayette, reflects two January 12, 2012, filings by Respondent, a motion to enroll and a motion for discovery, both of which were granted on February 1, 2012. There is no further activity of record. Shortly thereafter, the Prejeans were unable to make contact with Respondent, and they were unable to verify any progress in the representation.

Dissatisfied with the representation, the Prejeans asked Respondent for an accounting of the fees received and the fees earned; however, Respondent did not respond. As a result, Respondent's services were terminated, and the Prejeans requested return of $10,000 (3/4 of the fee paid). Instead of the requested $10,000, Respondent refunded to the Prejeans $1,500, via check number 9371, dated April 29, 2016, written out of Respondent's MidSouth Bank General Operating Account, no. XXX1373. The Prejeans disagreed with Respondent's unilateral determination regarding the fee to which Respondent was entitled; however, their attempts to discuss the issue with Respondent were futile. Telephone and text messages left by the Prejean's for Respondent were not returned.

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The ODC respectfully submits that in Count 4, ODC 0034902, there is clear and convincing evidence that Respondent is in violation of the Rules of Professional Conduct, Rules 1.3 (diligence); 1.4(a)-(b) (communication); 1.5(a), (f)(3), (f)(5) (reasonable fee, accounting, unearned fee, conversion); 1.16(d) (obligations upon termination, unearned fee, conversion); 8.1(b) (respond); 8.1(c) (cooperate); 8.4(c) (dishonest conduct); and 8.4(a) (violate or attempt to violate RPC).

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Count 5: ODC 0036015 / ODC

On August 16, 2017, the ODC was made aware of the July 13, 2017, issuance in Lafayette Parish of a warrant for Respondent's arrest. At issue were allegations of violations of Louisiana Revised Statutes Section 14:67 (felony theft) in conjunction with Respondent's representation of a client, Ke'Shawn Jones. The matter was opened for investigation as ODC 0036015. On August 18, 2017, the ODC sent notice of the complaint and a request for an initial response to Respondent via certified mail to Respondent's Louisiana State Bar Association (LSBA) registered primary address. The certified mail was delivered on August 23, 2017. The ODC sent that same correspondence via regular United States mail to Respondent at his LSBA-registered primary address. The correspondence was not returned to the ODC, indicating receipt. The ODC also received forwarding notices from the postal service, directing future correspondence to a non-LSBA-registered address. Despite the ODC's efforts, Respondent has not submitted an initial response to the complaint and has not cooperated with the ODC investigation.

Respondent was hired to represent Mr. Jones in a personal injury action arising from an August 9, 2014, automobile accident. *See Ke 'Shawn Jones v. Vivian Neumann and Star Farm Insurance,* 2015-2866-L, 15th J.D.C., Parish of Lafayette. Mr. Jones does not recall signing or receiving a written contingency fee agreement. In a December 21, 2016, text message, Respondent wrote to Mr. Jones's mother, Demetra Miller: "My fee is 40% if a lawsuit is filed and 33 1/3% if no lawsuit is filed, but I will not charge the entire 40%."

The matter ultimately was resolved by settlement. State Farm Automobile Insurance Company issued three checks payable to Mr. Jones and Respondent, totaling $133,446.68. The first disbursement, check no. 1-22-333385, dated December20, 2016, in the amount of $93,446.68, payable to Ke'Shawn Jones & Law Offices of Harold D. Register, Jr, was forwarded to Respondent in December of 2016, along with a release. The check was deposited into Respondent's MidSouth Bank IOLTA account no. XXX8288, on December 29, 2016. The endorsement is by "Keshawn Jones." Mr. Jones advised the ODC that the signature is not his own, his name is misspelled in the signature, and he had not given Respondent permission to sign his name. Mr. Jones further advised that at the time the check was endorsed and negotiated, he was unaware of its issuance, as Mr. Jones did not sign the release until January 30, 2017. On March 7, 2017, the trial court signed an order of partial dismissal as to defendants Vivian Neumann, Rip Neumann, and State Farm (their insurer).

Mr. Jones also had coverage under Ms. Miller's uninsured motorist (UM) policy, and Respondent filed an amended petition on behalf of Mr. Jones against Mr. Jones, Ms. Miller, and State Farm. On February 2, 2017, the trial court signed an order dismissing the amended petition. On March 7, 2017, State Farm forwarded a second release to Respondent for Mr. Jones's signature, as well as two checks. The transmittal letter includes the following statement, "It is my understanding that you will not negotiate the check until the Release and Dismissal are executed." State Farm never received the second, signed release back from Respondent. Included with the correspondence were two checks. Check no. 1-22-4284211, in the amount of $15,000 for UM bodily injury, dated March 2, 2017, and check no. 1-22-428415J, dated March 2, 2017, in the amount of $25,000, payable under the Neumann insurance policy. Both checks were made payable to Ke'Shawn Jones & Law Offices of Harold D. Register, Jr., and both checks were deposited into Respondent's MidSouth Bank IOLTA account no. XXX8288, on March 13, 2017. Mr. Jones examined his purported signature on the back of each check, and he advised the ODC that the signature was not his own. Mr. Jones's first name was misspelled ("Ke'"). Mr. Jones also advised the ODC that he had not given Respondent permission to sign his name or to otherwise negotiate the checks. At the time the checks were endorsed, Mr. Jones was unaware that the checks had been issued.

On March 31, 2017, the family met with Respondent, presumably to retrieve Mr. Jones's share of the settlement proceeds. Respondent explained that after his fee, and after Respondent withheld funds due to third-party providers, Mr. Jones would be receiving approximately $40,000. Ms. Miller challenged Respondent's calculations, presenting him with documentation reflecting that Mr. Jones's medical bills already had been paid by State Farm directly to the third-party providers. Respondent then advised that Mr. Jones would receive $56,000 from the settlement proceeds. Respondent offered the family a check, dated March 30, 2017, in the amount of $25,000, advising that his secretary had written the check for the wrong amount and that Mr. Jones would need to wait a while longer for the remainder. Distrustful, Mr. Jones did not accept the $25,000 check, indicating that he would await the corrected check.

Thereafter, Mr. Jones and Ms. Miller made numerous attempts to schedule a meeting with Respondent so that Mr. Jones could receive his settlement disbursement. Text messages between Respondent and Ms. Miller and between Respondent and Mr. Jones reflect the family's efforts. From March of 2017 through June of 2017, Mr. Jones's text messages were met with Respondent's repeated excuses and cancellations.

On May 16, 2017, State Farm forwarded to Ms. Miller copies of the three checks transmitted by State Farm to Respondent. Now aware of the amount of money that Respondent had received and that Respondent had deposited the funds into his bank account, on June 2, 2017, Ms. Miller texted Respondent; her message in pertinent part provides:

> When we met a few months ago it was issues and we're still dealing with the same issues. I am aware of the check for the 93,000 plus that was giving [sic] to you on Dec 22 and also the 40,000 in March. I am just unclear why all the new problems and issues. I thou [sic] you would've gotten all this straight by now.

And on June 12, 2017, Mr. Jones texted Respondent, in pertinent part:

> If you don't have the money and somehow spent it, could've talked to me with me a [sic] this. I been trying since January. You've been giving me good excuses about the papers, and checks. But I don't feel as though should have to wait any longer, to you receiving the 1st checks December and the 2nd in March. It's been so many excuses from and you I don't feel as these excuses should've been giving to me. I have been Patient enough and Long enough. I have all the copies from State Farm, since you have been giving me the run around.

Ms. Miller's and Mr. Jones's efforts were to no avail. Mr. Jones has not received any funds from the settlement of his lawsuit. The money Respondent received is unaccounted for, and the limited financial records of Respondents that the ODC was able to obtain reflect that by April 30, 2017, Respondent's IOLTA account balance was as low as $35,760.16.

After Respondent's placement on interim suspension, a curator was appointed to collect and disburse Respondent's client files. Although the curator located three client files for Mr. Jones, the client file associated with Mr. Jones's 2014 automobile accident was not recovered.

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The ODC respectfully submits that in Count 5, ODC 0036015, there is clear and convincing evidence that Respondent is in violation of the Rules of Professional Conduct, Rules 1.1(c) (annual professional obligations); 1.5(c) (written contingency fee agreement); 1.15(d) (distribution of client and third-party funds, conversion by fraud); 1.16(d) (obligations upon termination); 8.1(b) (respond); 8.l(c) (cooperate); 8.4(c) (dishonest conduct); and 8.4(a) (violate or attempt to violate RPC).

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Count 6: ODC 0036279 / Middleton

On November 9, 2017, the ODC received a complaint from Leeon Ray Middleton, and the matter was opened for investigation as ODC 0036279. On November 28, 2017, the ODC sent notice of the complaint and a request for an initial response to Respondent via certified and regular mail to Respondent's LSBA-registered primary address. The same correspondence also was sent to Respondent via regular United States mail to his secondary and preferred addresses. The letters sent to Respondent's secondary and preferred addresses were not returned to the ODC, indicating receipt. The correspondence sent certified and regular mail to Respondent's LSBA-registered primary address was returned.

Respondent has not submitted an initial response to the complaint and has not cooperated with the ODC investigation.

Middleton hired Respondent in April of 2015 to represent his interests in a divorce and property settlement. *See Middleton v. Middleton*, C-96113, 15th J.D.C., Parish of Vermilion. The agreed-to fee was $1,500, which Middleton paid in cash, receiving receipt no. 471921, dated April 9, 2015. The subject line of the receipt indicates the payment was a "retainer fee." A judgment of divorce was obtained on January 3, 2017.

Respondent advised Middleton that Middleton's ex-wife was requesting $9,000 in order to resolve the community property settlement. Middleton's sister, Leeanna Parnell, loaned Middleton $9,000, which Middleton delivered to Respondent in the form of a cashier's check. The cashier's check is dated July 26, 2016, and receipt no. 851600, also dated July 26, 2016, states that the money is for the "divorce settlement."

After the judgment of divorce in January of 2017, communication with Respondent was limited. When Middleton was able to contact Respondent to inquire about the status of the community property settlement, Respondent advised that he was attempting to negotiate a better resolution, such that Middleton might receive a return of a portion of the $9,000 delivered to Respondent. During their last conversation, which Middleton believes was in the Spring of 2017, Respondent advised Middleton that he was attempting to negotiate a settlement amount with Middleton's ex-wife of $4,500. Thereafter, communication ended. Respondent's law office dosed, and his office telephone is "no longer in service." Calls by Middleton to Respondent's home telephone go unanswered.

Middleton's ex-wife, Candace Marchant Middleton, who now lives out of state, advised the ODC that she received nothing from the community property settlement. Ms. Middleton explained that Respondent asked her to provide him with written statement of the amount she required to settle the community property distribution. Ms. Middleton emailed Respondent that she expected to recover between $3,000 to $6,000 from the property distribution; however, Respondent did not contact her again. Ms. Middleton advises that her email to Respondent was sent prior to the judgment of divorce.

Thus, the $9,000 that Middleton gave to Respondent to settle his community property distribution remains unaccounted for. The ODC has obtained copies of limited records from Respondent's MidSouth Bank IOLTA account number XXX8288, and in December of 2016, the balance in the trust account dropped as low as $896.99. Thus, when Respondent advised Middleton in the Spring of 2017 that he was still negotiating with Ms. Middleton, the $9,000 already had been removed from Respondent's client trust account.

Middleton is over 65 and retired. Middleton's community property settlement remains unresolved. The delay in resolution is preventing Middleton from placing a piece of property on the market. Middleton does not have the funds to hire another attorney. Middleton confirmed that a curator appointed by the district court after Respondent's interim suspension provided him with a copy of his client file.

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The ODC respectfully submits that in in Count 6, ODC 0036279, there is clear and convincing evidence that Respondent is in violation of the Rules of Professional Conduct, Rules 1.3 (diligence); 1.4(a)-(b) (communication); 1.15(a), (d) (safekeeping client property, conversion by misrepresentation); 8.l(b) (respond); 8.1(c) (cooperate); 8.4(c) (dishonest conduct); and 8.4(a) (violate or attempt to violate RPC).

EVIDENCE

The Committee reviewed the exhibits and argument submitted by ODC, which include Exhibits ODC 1-57. Respondent did not submit evidence or argument for the Committee's consideration, nor did he request to be heard in mitigation pursuant to Rule XIX, §11(E)(4).

FINDINGS OF FACT

All allegations of fact made by the ODC have been deemed admitted. As such all of the factual allegations recited above are taken as true for the sake of this Committee's analysis. Because the factual allegations are accepted in their entirety, they will not be repeated herein.

RULES VIOLATED

Count 1: ODC 0034613/Victorian

This Committee finds that in Count 1, ODC 0034613, there is clear and convincing evidence that, as a matter of law, Respondent is in violation of the Rules of Professional Conduct, Rules 1.5(f)(5) (failure to return unearned fee, conversion); l.16(d) (failure to return unearned fee, conversion, failure to return client file); 8.l(b) (failure to respond); 8.l(c) (failure to cooperate); and 8.4(a) (violate or attempt to violate RPC).

Count 2: ODC 0034615/Campbell

This Committee finds that in Count 2, ODC 0034615, there is clear and convincing evidence that, as a matter of law, Respondent is in violation of the Rules of Professional Conduct, Rules 1.3 (lack of diligence); 1.4(a)-(b) (inadequate communication); 1.5(f)(5) (failure to return

an unearned fee, conversion); 1.16(d) (failure to meet obligations upon termination, conversion); 8.l(b) (failure to respond); 8.l(c) (failure to cooperate); 8.4(c) (dishonest conduct); and 8.4(a)(violate or attempt to violate RPC).

Count 3: ODC 0034770/Butler

This Committee finds that in Count 3, ODC 0034770, there is clear and convincing evidence that, as a matter of law, Respondent is in violation of the Rules of Professional Conduct, Rules 1.4(a)-(b) (communication); l .16(d) (obligations upon termination of representation); 8. l(b) (respond); 8.l(c) (cooperate); 8.4(c) (dishonest conduct); and 8.4(a) (violate or attempt to violate RPC).

Count 4: ODC 0034902/Preiean

This Committee finds that in Count 4, ODC 0034902, there is clear and convincing evidence that, as a matter of law, Respondent is in violation of the Rules of Professional Conduct, Rules 1.3 (diligence); l.4(a)-(b) (communication); l.5(a), (f)(3), (f)(5) (reasonable fee, accounting, unearned fee, conversion); 1.16(d) (obligations upon termination, unearned fee, conversion); 8.l(b) (respond); 8.l(c) (cooperate); 8.4(c) (dishonest conduct); and 8.4(a) (violate or attempt to violate RPC).

Count 5: ODC 0036015/ODC

This Committee finds that in Count 5, ODC 0036015, there is clear and convincing evidence that, as a matter of law, Respondent is in violation of the Rules of Professional Conduct, l.5(c) (written contingency fee agreement); l.15(d) (distribution of client and third-party funds,

conversion by fraud); 1.16(d) (obligations upon termination); 8.l(b) (respond); 8.l(c) (cooperate); 8.4(c) (dishonest conduct); and 8.4(a) (violate or attempt to violate RPC).

Count 6: ODC 0036279/Middleton

This Committee finds that in Count 6, ODC 0036279, there is clear and convincing evidence that, as a matter of law, Respondent is in violation of the Rules of Professional Conduct, Rules 1.3 (diligence); l.4(a)-(b) (communication); l.15(a), (d) (safekeeping client property, conversion by misrepresentation); 8.l(b) (respond); 8.l(c) (cooperate); 8.4(c) (dishonest conduct); and 8.4(a) (violate or attempt to violate RPC).

SANCTION

Louisiana Supreme Court Rule XIX, §10(C), states that when imposing a sanction after a finding of lawyer misconduct, a committee 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 the actual or potential injury caused by the lawyer's misconduct; and
(4) The existence of any aggravating or mitigating factors.

Duties Violated

This Committee finds that, under the definitions of the ABA Standards, Respondent has violated duties owed to his clients, the public, and the profession.

Mental State

The ABA Standards define "negligence" as the failure of a lawyer to heed a substantial risk that circumstances exist or that a result will follow, which failure is a deviation from the

standard of care that a reasonable lawyer would exercise in the situation. "Knowledge" is the conscious awareness of the nature or attendant circumstances of the conduct but without the conscious objective or purpose to accomplish a particular result. Finally, "intent" is the conscious objective or purpose to accomplish a particular result.

Respondent's failure to respond to, or otherwise cooperate with, the ODC reflects intentional behavior, especially considering that Respondent has been afforded numerous opportunities to submit initial responses to these six complaints or to otherwise cooperate with the ODC investigations. Respondent's failure to maintain proper registration information also is knowing and intentional. This Committee finds that Respondent's neglect and inadequate communication with his clients was knowing and intentional and for the purpose of concealing his knowing and intentional conversion of client funds, which was accomplished through misrepresentation and, in Count 5, forgery.

Extent of injury/Harm

Respondent's misconduct caused actual harm to the ODC, as the ODC has been forced to unnecessarily expend its limited resources and time to sufficiently investigate these matters.[6] Respondent also has chosen not to participate in these proceedings, further reflecting a disregard for the disciplinary process.

[6] In re: *Ford*, 2014-0831, p.4 (La. 6/20/14), 141 So. 3d 800, 802-803 (per curiam) (deemed admitted); In re: *Waltzer*, 2004-1032, pp. 15-16 (La. 10/8/04), 883 So. 2d 973, 982 (per curiam) (chronic failure to cooperate with the ODC caused undue delay and burdens an already taxed disciplinary system).

The harm to the ODC, however, pales in comparison to the harm caused to Respondent's clients and their families, harm that was caused by Respondent's multiple instances of intentional conversion of client funds, which he accomplished with avoidance, misrepresentation, and forgery.

Baseline Sanction

Respondent's knowing and intentional conversion of client funds, which he accomplished through avoidance, misrepresentation, and forgery, calls for the imposition of the harshest sentence. Under ABA Standards, Standard 4.11, "Disbarment is generally appropriate when a lawyer knowingly converts client property and causes injury or potential injury to a client." Disbarment also is appropriate "when a lawyer knowingly deceives a client with the intent to benefit the lawyer ... and causes serious injury or potentially serious injury to a client." ABA Standards, Standard 4.61.

Disbarment is the baseline sanction.

Aggravating and Mitigating Circumstances

Aggravating and mitigating circumstances that may be considered in deciding the appropriate sanction to be imposed are set forth in ABA Standards, Standards 9.22 and 9.32. This Committee finds that the evidence is clear and convincing that the following aggravating factors are present in this case:

1. Prior disciplinary offenses;
2. Dishonesty or selfish motive;
3. Pattern of misconduct;
4. Multiple offenses;
5. Bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary agency;

6. Refusal to acknowledge wrongful nature of conduct;
7. Substantial experience in the practice of law; and
8. Indifference to making restitution.

In 2003, Respondent was publicly reprimanded and placed on supervised probation for 18 months, with conditions, for failing to promptly disburse settlement funds, mishandling his client trust account, and neglecting legal matters. In 2018, Respondent was disbarred for failing to provide competent representation to a client, neglecting a legal matter, and conversion of client and third-party funds.[7]

There are multiple offenses, reflecting a pattern of neglect and conversion, which Respondent attempted to hide through avoidance, lack of communication, misrepresentation, and forgery. Respondent has expressed no remorse for the harm done to his clients and has made no efforts at restitution. Respondent benefitted from his misconduct, establishing a selfish motive. Respondent has not participated in any of the investigations, or with these disciplinary proceedings. Respondent is an experienced attorney, having received his license in 1985.

Regarding factors in mitigation, the burden of proof is on a respondent to establish any mitigating circumstances.[8] This Committee appreciates that, on or about August 21, 2017, the ODC was made aware that Respondent that day had signed a five-year JLAP Monitoring Agreement for a gambling disorder. Following his 2017 arrest, Respondent was referred to the

[7] See *In re: Register*, 2017-1547 (La 2/14/18), _ So. 3d _ (per curiam). Two counts were at issue in the February 2018 decision, the *LeDay* and *Glaude* matters. Respondent's civil representation of *LeDay* began in 2010, and his civil representation of *Glaude* began in 2008. The conversion of funds in the *LeDay* matter began in 2011 and was ongoing-more than six years had passed, and Respondent still had not made restitution.

[8] See Standard 9.32; *In re Bernstein*, 2007-1049, pp. 9-11 (La. 10/16/07), 966 So. 2d 537, 543-44 (per curiam) (respondent failed to establish a causal connection between his disability and his conduct); *In re Stoller*, 2004-2758, pp. 11-12 (La. 5/24/05), 902 So. 2d 981, 987-88 (per curiam) (burden of proof on respondent to prove mitigating factor of mental disability).

Center of Recovery (CORE). Respondent was admitted for treatment on July 19, 2017, and discharged on August 15, 2017. As of June 25, 2018, JLAP advises the ODC that Respondent is compliant with his monitoring agreement. [9] This Committee finds that this mitigating factor is not enough to cancel out the numerous, serious aggravating factors.

Louisiana Jurisprudence

The discipline to be imposed in a given case depends upon the seriousness of the offense, the circumstances of the offense, and the extent of the aggravating and mitigating circumstances.[10] Finding jurisprudence that will mirror a disciplinary case is difficult due to the fact that each case has its own peculiar set of facts, as well as unique aggravating and mitigating circumstances that are inherent to each individual.

In the matter of *Louisiana State Bar Ass'n v. Schmidt*, 506 So. 2d 1186 (La. 1987), a three-count matter, the respondent signed client names to a release and draft without authorization, fraudulently notarized the false signatures, and converted $18,000 in funds. The Court noted that although the respondent did not personally appear before the court to contest the allegations against him, a curator *ad hoc* urged the Court to consider the respondent's "apparent" substance abuse problem and patient status in a residential substance abuse program. *Schmidt*, which was decided prior to the adoption of the Code of Professional Conduct and the permanent disbarment guidelines, resulted in disbarment.

In the matter of *In re: Fontenot*, 2017-1661 (La. 11/28/17), 230 So. 3d 185 (per curiam), a single-count matter, the respondent was disbarred for settling his clients' personal injury matter

[9] ODC-57

[10] *In re: Abdallah*, 2011-1631, p.7 (La. 10/14/11), 72 So. 3d 836, 841 (per curiam).

without their consent, forging their signatures on the settlement documents, misleading his clients as to the status of the case, and failing to disburse the settlement proceeds for five years. He also failed to reduce the contingency fee agreement to writing and made cash withdrawals from his client trust account. The Court observed:

> Notwithstanding the presence of mitigating factors, we see no reason to deviate from the baseline sanction of disbarment. Respondent's conduct was clearly intentional. He settled his clients' case without informing them, forged their signatures on the settlement documents, purposely misled them as to the status of the case, despite their repeated inquiries, and failed to disburse their settlement funds for five years. This type of deception cannot be tolerated by attorneys. Moreover, respondent has previously been disciplined for misconduct which included misrepresentation[.][11]

This Committee finds that in this instance permanent disbarment is appropriate. The Louisiana Supreme Court Rules, Rule XIX, Appendix E, Guideline 1, provides that permanent disbarment may be appropriate when there are repeated or multiple instances of intentional conversion of client funds with substantial harm.

In the matter of *In re: Cooper*, 2009-1848 (La. 12/11/09), 23 So. 3d 886 (per curiam) (deemed admitted), a six-count matter, the Court imposed permanent disbarment for the respondent's conversion of at least $168,000 in client and/or third-party funds. In evaluating the applicability of Guideline 1, the court observed:

> The record indicates that respondent converted at least $168,000 in client and/or third-party funds and has not made restitution to any of her victims. In addition, respondent forged her husband's signature on title transfer documents and kited checks in excess of $60,000 between her escrow account and personal account. These

[11] *Fontenot*, 2017-1661 at p.13, 230 So. 3d at 192.

> actions reveal a fundamental lack of moral character and fitness to practice law.[12]

In the matter of *In re: Purse*r, 2017-1170 (La. 10/9/17), 227 So. 3d 264 (per curiam), a ten-count matter, the respondent was permanently disbarred, in part, for repeated instances of the intentional conversion of client funds with substantial harm. The Louisiana Attorney Disciplinary Board quantified the harm to multiple clients at $297,753.56. The Supreme Court set forth the factual basis for permanent disbarment under Guideline 1.

> On numerous occasions, respondent received funds on his clients' behalf and failed to remit those funds to the clients, thereby converting client funds to his own use. Respondent was also paid to perform legal work that he either never performed or never completed. Nevertheless, he did not refund the unearned fees, which likewise constitutes a conversion of client funds.[13]

In the matter of *In re: Woods,* 2004-1543 (La. 10/29/04), 885 So. 2d 551 (per curiam) (deemed admitted), a single count matter, in excess of $100,000 in funds were converted. The victims were minors, and thus vulnerable, and the respondent made no efforts at restitution. The respondent earlier had engaged in three instances of conversion, which when viewed with the matter that was presently before the court, 109 amounted to multiple instances of intentional conversion of client funds resulting in substantial harm to the respondent's clients. The respondent was permanently disbarred with reference to Guideline 1.

[12] Cooper, 2009-1848 at pp. 13-14, 23 So. 3d at 893.
[13] Purser, 2017-1170 at p.17, 227 So. 3d at 273.

In the matter of *In re: Hodge*, 2008-2296 (La. 2/6/09), 999 So. 2d 1131 (per curiam) (deemed admitted), a three-count matter, the respondent was permanently disbarred under Guideline 1 for converting client funds totaling more than $56,000 to his own use.

In the matter of *In re: Toaston*, 2017-0702 (La. 9/6/17), 225 So. 3d 1066 (per curiam), a 26-count matter, the Court concluded that Guideline 1 was implicated. The Court observed:

> Time and time again, respondent collected fees from his clients and subsequently performed little or no services; he then failed to refund the unearned fees even after admitting that refunds were due, essentially converting his clients' funds to his own use.[14]

In the instant matter, The ODC calculates, and this Committee accepts, that the harm to clients in the form of fees paid for services never rendered and for settlement proceeds received by Respondent and not disbursed, is as follows:

Count 1. Respondent received $2,500 in fees, and the only legal service identified was the transmittal letter to "The Pentagon" on behalf of Victorian.

Count 2. Respondent received $5,000 to represent Chambers in seeking post-conviction relief, and no legal service has been identified.

Count 3. The legal services to be provided to Butler were subject to a contingency fee agreement.

Count 4. Respondent received $15,000 to provide legal representation to Prejean. Respondent filed a motion to enroll and a motion for discovery. Respondent's services were

[14] *Toaston*, 2017-0702 at p.37, 225 So. 3d at 1086.

terminated, and the family requested the return of $10,000 in unearned fees. Respondent returned $1,500.

Count 5. Respondent received a total of $133,446.68 from the settlement of Jones' civil matter. Ms. Miller reports that the medical providers were paid directly. Jones has received none of the settlement proceeds. Respondent has indicated that Jones is entitled to varying sums: 60% of the net proceeds; $40,000; and lastly $56,000. The ODC submits that, at a minimum, Respondent has converted $56,000.

Count 6. Middleton delivered $9,000 to Respondent to distribute to his Middleton's wife in settlement of their community property regime. None of the funds delivered to Respondent were disbursed.

CONCLUSION

For the numerous reasons discussed above, this Committee suggest that the appropriate discipline for Respondent's misconduct is:

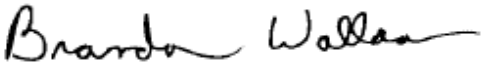
- Permanent disbarment;
- Payment of all costs and expenses associated with this matter. See La. S. Ct. Rule, Rule XIX,§ 10.1.

The recommended discipline is consistent with the ABA Standards and with the jurisprudence. The proposed sanction will support the disciplinary goals of maintaining high standards of conduct, protecting the public, preserving the integrity of the profession, and deterring future misconduct.

Lafayette, Louisiana, this 16th day of November, 2018.

Louisiana Attorney Disciplinary Board
Hearing Committee # 19

Brandon O. Wallace, Committee Chair
Christopher B. Bailey, Lawyer Member
Margaret B. Hebert, Public Member



BY: _____
Brandon O. Wallace, Committee Chair
For the 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

(a) A lawyer shall not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses. The factors to be considered in determining the reasonableness of a fee include the following: (1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly; (2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer; (3) the fee customarily charged in the locality for similar legal services; (4) the amount involved and the results obtained; (5) the time limitations imposed by the client or by the circumstances; (6) the nature and length of the professional relationship with the client; (7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and (8) whether the fee is fixed or contingent.
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(c) A fee may be contingent on the outcome of the matter for which the service is rendered, except in a matter in which a contingent fee is prohibited by Paragraph (d) or other law. A contingent fee agreement shall be in a writing signed by the client. A copy or duplicate original of the executed agreement shall be given to the client at the time of execution of the agreement. The contingency fee agreement shall state the method by which the fee is to be determined, including the percentage or percentages that shall accrue to the lawyer in the event of settlement, trial or appeal; the litigation and other expenses that are to be deducted from the recovery; and whether such expenses are to be deducted before or after the contingent fee is calculated. The agreement must clearly notify the client of any expenses for which the client will be liable whether or not the client is the prevailing party. Upon conclusion of a contingent fee matter, the lawyer shall provide the client with a written statement stating the outcome of the matter and, if there is a recovery, showing the remittance to the client and the method of its determination.
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(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

(a) A lawyer shall hold property of clients or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property. Except as provided in (g) and the IOLTA Rules below, funds shall be kept in one or more separate interest-bearing client trust accounts maintained in a bank or savings and loan association: 1) authorized by federal or state law to do business in Louisiana, the deposits of which are insured by an agency of the federal government; 2) in the state where the lawyer's primary office is situated, if not within Louisiana; or 3) elsewhere with the consent of the client or third person. No earnings on a client trust account may be made available to or utilized by a lawyer or law firm. Other property shall be identified as such and appropriately safeguarded. Complete records of such account funds and other property shall be kept by the lawyer and shall be preserved for a period of five years after termination of the representation.

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(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 1.16. Declining or Terminating Representation

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(d) Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred. Upon written request by the client, the lawyer shall promptly release to the client or the client's new lawyer the entire file relating to the matter. The lawyer may retain a copy of the file but shall not condition release over issues relating to the expense of copying the file or for any other reason. The responsibility for the cost of copying shall be determined in an appropriate proceeding.

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 8.4. 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;

***

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