

LOUISIANA ATTORNEY DISCIPLINARY BOARD**IN RE: BENJAMIN JOHN BARROW KLEIN****DOCKET NO. 25-DB-004**

REPORT OF HEARING COMMITTEE #29

INTRODUCTION

This attorney disciplinary matter arises out of formal charges filed by the Office of Disciplinary Counsel (“ODC”) against Benjamin John Barrow Klein (“Respondent” or “Klein”), Louisiana Bar Roll Number 28639.¹ ODC alleges that Respondent violated the following Rules of Professional Conduct: 1.3, 1.4, 8.1(b) & (c), and 8.4(c) & (d).²

PROCEDURAL HISTORY

The formal charges were filed on January 14, 2025. By letters dated January 17, 2025, the formal charges were mailed via certified mail to Respondent’s primary and secondary bar registration addresses.³ The mailing to the secondary registration address was received on January 29, 2025. The mailing to the primary registration address was received on January 31, 2025. Respondent failed to file an answer to the charges. Accordingly, on March 12, 2025, ODC filed a motion to deem the factual allegations admitted pursuant to Louisiana Supreme Court Rule XIX, §11(E)(3).⁴ By order signed March 20, 2025, the factual allegations contained in the formal

¹ Respondent was admitted to the practice of law in Louisiana on October 10, 2003. Respondent is currently eligible to practice law in Louisiana.

² See the attached Appendix for the text of these Rules.

³ 201 Saint Charles St., Baton Rouge, LA 70802 (primary); 6184 Highway 61, St. Francisville, LA 70775 (secondary).

⁴ 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

charges were deemed admitted. On May 19, 2025, ODC filed its submission on sanctions. Respondent did not submit anything for consideration by the Hearing Committee.

For the following reasons, the Hearing Committee finds there is clear and convincing evidence that BENJAMIN JOHN BARROW KLEIN knowingly and intentionally violated Rules 1.3, 1.4, 8.1(b), 8.1(c), 8.4(c) and 8.4(d) of the Rules of Professional Conduct and recommends a suspension from the practice of law for a period of 1 year and 1 day, along with other sanctions specified below.

FORMAL CHARGES

The formal charges read, in pertinent part:

2.

Christopher Casselberry hired you for several matters concerning debt collecting. It was challenging for Mr. Casselberry to get in touch with you for updates on these matters. Mr. Casselberry believes that you may have performed some work on some of the cases in 2019 but indicates that it took forever to obtain service on the parties. Several e-mails sent to you from Mr. Casselberry went unanswered.

3.

ODC mailed notice of this complaint to you at your Primary Registration Address on August 23, 2023. On September 8, 2023, you e-mailed ODC and requested an extension of time to submit a response. Your request was granted, and you were provided with an extension of time until September 25, 2023. On September 25, 2023, you requested a second extension, which was granted, making your response due on September 29, 2023.

4.

Your initial response was intentionally vague, merely acknowledging your having overlooked messages Mr. Casselberry had sent you and advising that you would take steps to prevent this from happening again. A copy of this response was sent to Mr. Casselberry, who advised in an October 17, 2023 letter that he was still having communication issues with you. A copy of this letter was sent to you on October 17, 2023, seeking your response. You failed to respond to this request, so a second letter was sent to you on November 9, 2023. You sent a fax to ODC on

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.

November 20, 2023, advising that you would “contact Mr. Casselberry directly to address and hopefully resolve the issues.”

5.

On January 11, 2024, ODC sent a letter to you seeking the status of your communication with Mr. Casselberry. You did not respond, so a second letter was sent to you on February 5, 2024. You did not respond to this letter either, and a letter was sent to you on February 21, 2024, seeking available dates for taking your sworn statement. You did not respond to this request, and a subpoena was issued to take his sworn statement to discuss the merits of the complaint, as well as your failure to cooperate with ODC’s investigation.

6.

During your sworn statement on March 27, 2024, you acknowledged that you had allowed two of Mr. Casselberry’s cases to become abandoned. You failed to offer a reasonable explanation for your failure to pursue Mr. Casselberry’s claims or your failure to communicate the accurate status of Mr. Casselberry’s cases. Based on these sworn admissions, you were instructed to notify Mr. Casselberry of your potential malpractice and further recommend that he consult with another attorney to discuss his options. Confirmation of your having relayed this information to Mr. Casselberry was to be provided to ODC by April 26, 2024. It was also suggested that you consult with qualified ethics counsel.

7.

On April 24, 2024, you called ODC and requested an extension until May 3, 2024, to provide the requested information. This request was granted. On May 3, 2024, rather than provide proof of your having communicated with Mr. Casselberry, you sought to schedule a meeting with DDC to discuss the matter. DDC wrote to you on that same date and advised that you needed to provide the requested information by May 10, 2024, and were strongly encouraged to seek the advice of qualified ethics counsel.

8.

On May 28, 2024, ODC sent you a letter advising that we had obtained permission to file formal charges for the above-detailed misconduct. You were asked to provide us with any additional information you had for us to consider before filing formal charges or to contact our office if you wanted to discuss a potential resolution to these issues. On June 17, 2024, ODC received a letter from you requesting an additional five days to respond to our May 28, 2024 letter. To date, ODC has not received any additional information from you.

There is clear and convincing evidence that BENJAMIN JOHN BARROW KLEIN knowingly and intentionally violated Rules 1.3, 1.4, 8.1(b), 8.1(c), 8.4(c) and 8.4(d) of the Rules of Professional Conduct.

EVIDENCE

The Committee reviewed the exhibits submitted by ODC, which are Exhibits ODC 1-15. 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 with incorporated discussion of RULES VIOLATED

What follows are the factual findings of the Committee based upon the submissions by ODC and a reasonable extrapolation of the information all of which were shown by clear and convincing evidence.

The present matter arises out of an attorney-client relationship between Klein and Christopher Casselberry and/or a corporation owned by Casselberry (Corporate Green LLC). The indications are that there was a previous attorney-client relationship between Klein and Casselberry. The focus of the complaint involved 3 separate matters, though it appears that during this time there was also a 4th matter that Klein was handling for Casselberry, based on the emails in Exhibit ODC 1 (submitted by Casselberry).

The 3 matters at issue are referenced as:

1. A collection matter against Mr. McNemar in which a \$2,000 retainer was paid. See January 28, 2019, retainer letter at ODC 1, pg. 4.
2. A collection matter for work at the Quality Inn (at time referenced as Patel matter) in which a \$2,000 retainer was paid. See January 28, 2019, retainer letter at ODC 1, pg. 10.
3. A collection matter against Mr. Strain in which a \$2,000 retainer was paid. See January 28, 2019, retainer letter at ODC 1, pg. 16.

None of the above retainer letter copies are signed by the client however subsequent information suggests that they were signed by the client.

The matter at hand thus begins in January 2019. The Ethical Conduct Complaint was filed August 14, 2023. ODC 1, pg. 1. At the time of the filing of the Complaint one of the 3 matters had been concluded and the other 2 were still pending. There was during these times a plethora of emails from the client to Klein requesting updates. The client suggests that as the cases became older Klein's replies to the client's emails were less and less and then non-existent. See ODC 1, pg. 2.

The support for the contentions of Casselberry can be found in the multiple emails and email chains which were supplied. They begin with an email of January 28, 2019, when the client requested the engagement letters and inquires when the 3 suits will be filed against those persons owing the client money. ODC 1, pg. 27. It logically follows that there was communication before this email.

1. February 15, 2019, client requests an update from Klein via email. ODC 1, pg. 23. **NO RESPONSE FROM KLEIN.**
2. February 19, 2019, client requests a response to his emails. ODC 1, pg. 23.
3. February 20, 2019, Klein sends draft of McNemar petition and states he is "wrapping up" the drafts against Strain and Patel Construction. ODC 1, pg. 22.
4. February 20, 2019, Klein emails client a draft of the suit against Strain. ODC 1, pg. 33.
5. February 21, 2019, client in an email explains he is asking for \$9,000 from Strain. ⁵ ODC 1, pg. 33.
6. February 21, 2019, client explains the amount due by McNemar is \$10,422.08. ODC 1, pg. 22.⁶

⁵ This is believed to be a clarification by the client once the Strain suit was received.

⁶ This is believed to be a clarification by the client once the McNemar suit was received by the client.

7. March 19, 2019, client requests updates on the 3 suits and asks if they were filed. Client also asks about discovery to Patel. ODC 1, pg. 32.
8. March 20, 2019, Klein advises client in email: "Things are moving." He advises he is waiting for information from Mark Miley on the Strains and that Patel discovery should be ready by Friday. ODC 1, pg. 31.
9. Some time on March 20, 2019, or shortly thereafter Klein and Casselberry speak. The substance of the conversation is not known.
10. April 8, 2019, client in an email notes it has been 3 weeks since they talked and asks if the suits were filed and what is next. ODC 1, pg. 30.

This is approximately 70 days from engagement and the client does not know if the 3 collection suits have been filed yet. It is not known what occurred between this email and the next email.

11. September 3, 2019, Klein emails Affidavit of Correctness in McNemar matter and requests a meeting to execute. ODC 1, pg. 45.
12. October 7, 2019, client sends an email requesting update on the 3 cases. ODC 1, pg. 44.
NO RESPONSE FROM KLEIN
13. October 9, 2019, client asks if Klein received his email. ODC 1, pg. 44.
14. October 9, 2019, Klein in an email advises he will send an update when he returns to office. ODC 1, pg. 44.
THIS IS A RESPONSE BUT NOT A SUBSTANTIVE RESPONSE.
15. October 16, 2019, client in an email advises he never received an update. ODC 1, pg. 44.
16. October 16, 2019. Klein advises:
 - *McNemar - waiting on confirmation of default. Should be a week or so.
 - *Strain - inference is sheriff is still trying to serve and will find out later today.
 - *Patel - moving forward but a subcontractor filed an exception and that Diez cannot be found. ODC 1, pg. 43.
17. November 5, 2019, client requests updates and states that he needs to get court dates. ODC 1, pg. 43.
18. November 5, 2019, Klein advises that Strain was served and will check on hotel suit. ODC 1, pg. 42.

19. November 29, 2019, client asks when they are going to trial in Strain, on McNemar he thought could garnish wages and inquires what is next with Patel (hotel matter). ODC 1, pg. 42.

**This is 24 days from the last email wherein Klein said he would check on matter.
NO RESPONSE FROM KLEIN TO THIS EMAIL.**

20. December 4, 2019, client asks for a response to November 29 email. ODC 1, pg. 41.

21. December 4, 2019 Klein advises

*McNemar - still trying to get judgment finalized.

*Strain - responded with exceptions that need to be heard.

*Patel - matter dealing with exceptions and discovery. ODC 1, pg. 40.

22. January 19, 2020, client requests updates in email. ODC 1, pg. 40.

This is 45 days from the last email from Klein.

NO RESPONSE FROM KLEIN TO THIS EMAIL.

23. January 25, 2020, client requests a response to January 19 email. ODC 1, pg. 40.

24. January 28, 2020, Klein advises his new tablet was messing up emails. This was corrected.

*McNemar - the client was advised of the need for another affidavit which will be emailed.

*The Strains are pointing the finger at McNemar.

*Patel - waiting on exceptions by Santini to be set. ODC 1, pg. 39.

25. January 28, 2020, client wondering why Strain suit cannot get to trial to resolve factual disputes. ODC 1, pg. 39.

NO RESPONSE FROM KLEIN TO THIS EMAIL.

26. February 1, 2020, client sends email advising did not get a response to January 28 email and did not get affidavit [1/28 email]. ODC 1, pg. 38.

NO RESPONSE FROM KLEIN TO THIS EMAIL.

27. February 5, 2020, client asks for response to his emails. ODC 1, pg. 38.

28. February 5, 2020, Klein advises will move these matters to trial or resolution as fast as reasonably possible. He encloses an affidavit. ODC 1, pg. 37.

29. March 2, 2020, client requests a call for an update to understand when he will be going to court on the cases. ODC 1, pg. 37. Follow emails suggest a phone call was set.

30. July 28, 2020, Klein advises

*McNemar - expect a judgment to be entered by the 15th.

*Patel - completing discovery requests, setting exceptions for hearing and skip tracing Diez.

*Strain - still waiting for a hearing. ODC 1, pg. 50.

31. December 7, 2020, client requests updates on “four “matters being handled. ODC 1, pg. 49.

THERE IS NO INDICATION OF ACTION SINCE THE LAST EMAIL 133 DAYS BEFORE.

NO RESPONSE FROM KLEIN TO THIS EMAIL.

32. December 9, 2020, client requests a response to his prior email. ODC 1, pg. 49.

33. December 10, 2020, Klein advises they are checking on things and he should be getting specifics later today. ODC 1, pg. 48.

THIS IS NOT A SUBSTANTIVE RESPONSE.

34. January 11, 2021, client advises he is still waiting for updates on all 3 cases. ODC 1, pg. 48.

NO RESPONSE FROM KLEIN TO THIS EMAIL.

35. January 13, 2021, client requests a response to his prior email. ODC 1, pg. 48.

NO RESPONSE FROM KLEIN TO THIS EMAIL.

36. January 25, 2021, client forwards an email from McNemar that notes Justin has died and inquiring how this affects his case. ODC 1, pg. 75.

NO RESPONSE FROM KLEIN TO THIS EMAIL.

37. February 1, 2021, client requests a response to his prior email. ODC 1, pg. 75.

38. February 2, 2021, Klein notes they can file proof of claim in Strain estate; McNemar is being pursued. ODC 1, pg. 74.

IT IS THUS 190 DAYS AND 7 CLIENT EMAIL INQUIRIES SINCE THE LAST SUBSTANTIVE COMMUNICATIONS FROM KLEIN.

39. March 1, 2021, client inquires if a proof of claim is filed and status of cases. ODC 1, pg. 73.

NO RESPONSE FROM KLEIN TO THIS EMAIL.

40. March 2, 2021, client seeks a response to last email. ODC 1, pg. 73.

NO RESPONSE FROM KLEIN TO THIS EMAIL.

41. March 4, 2021, client notes he has not heard anything. ODC 1, pg. 73.

42. March 4, 2021, Klein notes no succession is open so will send to his the attorney the proof of claim. Expect exceptions in hotel case to be set. ODC 1, pg. 72.

43. June 9, 2021, client notes in email he has not heard from Klein in a while and attorney is handling FOUR cases. ODC 1, pg. 71.
NO RESPONSE FROM KLEIN TO THIS EMAIL.
44. June 11, 2021, client inquires about his prior email. ODC 1, pg. 71.
45. June 14, 2021, Klein notes returning to the office in the morning and will get updates. ODC 1, pg. 71.
46. June 23, 2021, Klein encloses dismissal in Corrent ⁷
Proof of claim filed in succession and may need to amend Strain suit to name executrix.
Cannot find McNemar.
Checking on notice in hotel matter. ODC 1, pg. 70.
47. October 1, 2021 client notes it has been 3 months since last contact and hopes for updates on his 3 cases. ODC 1, pg. 69.
NO RESPONSE FROM KLEIN TO THIS EMAIL.
48. October 6, 2021, client requests response to his email with an update. ODC 1, pg. 69.
NO RESPONSE FROM KLEIN TO THIS EMAIL.
49. October 19, 2021, client notes he has not heard anything. ODC 1, pg. 69.
50. October 21, 2021, Klein notes he received the client's message and will check and give him a call when he returns to the office. ODC 1, pg. 68.
THIS IS NOT A SUBSTANTIVE RESPONSE.
51. October 29, 2021 client in an email advises he never got a response. ODC 1, pg. 68. **NO RESPONSE FROM KLEIN TO THIS EMAIL.**
52. February 7, 2022, CLIENT advises he was speaking to McNemar and will stop actions against him. Inquires of update on other matter. ODC 1, pg. 61. ⁸
53. February 7, 2022, input by Klein on release and payment in Strain. ODC 1, pg. 60.
THIS IS THE FIRST SUBSTANTIVE EMAIL IN 230 DAYS FROM KLEIN.
54. November 7, 2022, client requests updates on Strain and hotel matter [Patel]. ODC 1, pg. 60.
NO RESPONSE FROM KLEIN TO THIS EMAIL
55. November 14, 2022, client inquiry if Klein received his prior email. ODC 1, pg. 60.

⁷ This is the 4th case referenced earlier in this writing that does not appear to be part of the complaint by Casselberry.

⁸ The indications are that the CLIENT handled the conclusion of this matter, not Klein.

56. November 15, 2022, Klein advises he is checking with opposing counsel and will provide an update shortly. ODC 1, pg. 59.
THIS IS NOT A SUBSTANTIVE RESPONSE.
57. November 28, 2022, client inquiry email asks for an update. ODC 1, pg. 64.
NO RESPONSE FROM KLEIN TO THIS EMAIL
58. December 1, 2023, client inquires if Klein got the 11/28 email. ODC 1, pg. 64.
NO RESPONSE FROM KLEIN TO THIS EMAIL
59. December 7, 2022, client notes he is waiting for a reply to his prior email. ODC 1, pg. 63.
NO RESPONSE FROM KLEIN TO THIS EMAIL
60. December 12, 2022, client notes he is still waiting for an answer. ODC 1, pg. 63.
NO RESPONSE FROM KLEIN TO THIS EMAIL
61. December 14, 2022, client requests an update. ODC 1, pg. 63.
NO RESPONSE FROM KLEIN TO THIS EMAIL
62. January 7, 2023, client requests an update and notes it has been 7 weeks. He notes STRAIN HAS DIED and something needs to happen before they settle his estate. ODC 1, pg. 59.
NO RESPONSE FROM KLEIN TO THIS EMAIL
63. January 12, 2023, client requests a reply. ODC 1 pg. 59.
64. January 12, 2023, Klein apologizes for not responding promptly and missing messages. He says there is no excuse and some of the matters are clearing up. He says Strain should be teed up and he is checking on the hotel matter. ODC 1, pg. 58.
IT HAS BEEN NEARLY 1 YEAR SINCE KLEIN'S LAST SUBSTANTIVE RESPONSE.
THIS IS NOT A SUBSTANTIVE RESPONSE ON THE HOTEL MATTER.
65. February 28, 2023, client requests updates and notes it has been 6 weeks since his email. ODC 1, pg. 57.
NO RESPONSE FROM KLEIN TO THIS EMAIL
66. March 3, 2023, client requests a response to 2/28 email. ODC 1, pg. 57.
NO RESPONSE FROM KLEIN TO THIS EMAIL
67. March 7, 2023, client seeks reply to his email. ODC 1, pg. 57.
NO RESPONSE FROM KLEIN TO THIS EMAIL
68. March 25, 2023, client notes he has not heard anything. ODC 1, pg. 57.
NO RESPONSE FROM KLEIN TO THIS EMAIL

69. March 28, 2023, client seeks an update. ODC 1, pg. 56.
NO RESPONSE FROM KLEIN TO THIS EMAIL
70. April 4, 2023, client advises he is waiting for an update. ODC 1, pg. 56.
NO RESPONSE FROM KLEIN TO THIS EMAIL
71. April 6, 2023, client notes he has not not heard anything. ODC 1, pg. 56.
NO RESPONSE FROM KLEIN TO THIS EMAIL
72. April 11, 2023, client notes that he needs to hear something. ODC 1, pg. 55.
NO RESPONSE FROM KLEIN TO THIS EMAIL
73. April 28, 2023, client requests updates on his cases. ODC 1, pg. 55.
NO RESPONSE FROM KLEIN TO THIS EMAIL
74. May 2, 2023, client notes he is still waiting for information. ODC 1, pg. 55.
NO RESPONSE FROM KLEIN TO THIS EMAIL
75. May 4, 2023, client email that he is waiting for information. ODC 1, pg. 54.
NO RESPONSE FROM KLEIN TO THIS EMAIL
76. May 5, 2023, clients asks when he is going to get an update. ODC 1, pg. 54.
NO RESPONSE FROM KLEIN TO THIS EMAIL
77. May 11, 2023, client notes he still has not heard anything. ODC 1, pg. 54.
NO RESPONSE FROM KLEIN TO THIS EMAIL
78. May 12, 2023, client in email notes still no information has been given. ODC 1, pg. 53.
NO RESPONSE FROM KLEIN TO THIS EMAIL
79. May 16, 2023, client email that he is still waiting on an answer. ODC 1, pg. 53.
NO RESPONSE FROM KLEIN TO THIS EMAIL
80. May 18, 2023, client email notes he still needs information. ODC 1, pg. 53.
NO RESPONSE FROM KLEIN TO THIS EMAIL
81. May 31, 2023, client notes he has sent 20 emails asking the same question and seeking a reply. ODC 1, pg. 52.
NO RESPONSE FROM KLEIN TO THIS EMAIL
82. June 6, 2023, client email noting he is waiting for information. ODC 1, pg. 52.
NO RESPONSE FROM KLEIN TO THIS EMAIL

83. June 15, 2023, client asks in email when he can get an answer to his email. ODC 1, pg. 52.
NO RESPONSE FROM KLEIN TO THIS EMAIL

August 14, 2023 client filed ODC COMPLAINT. ODC 1, pg. 1.

At the time of the filing of the ODC Complaint the last communication from Klein was January 12, 2023, or 214 days before and 20 emails ago. Prior to that a year has lapsed since the previous substantive communication. There is no indication in the record that Klein ever had a communication with his client between January 12, 2023, and today.

A client should not need to request updates from their lawyer. It is the obligation of the lawyer to keep the client reasonably informed. When a client does inquire of a lawyer about the status of a matter, it certainly should prompt the lawyer to respond to his client. The gaps in communication from Klein are not acceptable and not explained. The lack of substantive action by Klein is not acceptable and not explained. The Hearing Committee has no trouble concluding that Klein violated Rule 1.3 **Diligence** and Rule 1.4 **Communications**, specifically 1.4 (a) and 1.4 (b) based on these factual events and the admissions that emanate from the March 20, 2025, order that deemed the formal charges admitted.

The complaint by Casselberry caused ODC to open an investigation. On August 23, 2023, ODC sent a letter to Klein enclosing the Complaint and requesting a response in 15 days. ODC 2, pg. 81. The mere knowledge of the Complaint made by Casselberry should have prompted an immediate effort by Klein to contact Casselberry. There is no indication that Klein made any effort to contact Casselberry. This may have appeased Casselberry, albeit unreasonably late, and may have caused ODC to perhaps see if the situation was salvageable.

Klein requested an extension to respond to the Complaint and was given until September 25, 2023, to respond to the Complaint. ODC 3. Klein then requested another extension and was given to September 29, 2023, to respond. ODC 4, pg. 85.

On September 29, 2023, Klein sent a letter to ODC stating I “now realize I had on many occasions, overlooked the messages Mr. Casselberry has sent to me. I cannot and do not now dispute that they were sent, and only respond that due to some breakdowns in my office procedures, particularly with calendaring and clearance of electronic messages, they were not given the attention they deserve... .” ODC 5, pg. 88.

Casselberry was sent the letter from Klein of September 29, 2023. Casselberry sent a letter to ODC of October 17, 2023, noting he still has not received a response to his email. ODC 6, pg. 90. As a result of the letter from Casselberry, the ODC sent a letter to Klein of October 17, 2023 enclosing ODC 6 from the client and requesting a response in 15 days. ODC 7, pg. 93. No response was received from Klein and on November 9, 2023, Klein was sent another letter by ODC requesting a response to ODC 6 per the letter ODC 7. ODC 8, pg. 94.

On November 20, 2023, Klein authored a letter to ODC advising he would contact the client to address and hopefully resolve the issues. ODC 13, Exhibit 3, pg. 134. He was thus given a chance to rectify and said he would do so.

On January 11, 2024, ODC again sent a letter to Klein asking if the communications issue with the client had been resolved. ODC 9, pg. 95. Klein did not reply to the letter from ODC. On February 5, 2024, ODC sent a follow up letter to Klein advising no response has been received and they will presume the matter is unresolved if no response is received from Klein in 10 days. ODC 10, pg. 96. Klein did not reply.

The ODC proceeded toward a sworn statement of Klein. The ODC sent a letter of February 21, 2024, to Klein requesting sworn statement dates. ODC 11, pg. 97. Klein did not reply. It was necessary to subpoena Klein to appear. ODC 12, pg. 98.

On March 27, 2024, the sworn statement of Klein occurred after issuance of a subpoena. ODC 13. Many “warnings” were given to Klein by ODC counsel during the statement. Klein suggested he was trying to figure out how to get the matters resolved with Casselberry and acknowledges he is NOT doing so timely. ODC 13 pg. 106. To the extent that in the statement Klein suggests issues with the receipt of emails or letters from Casselberry or the ODC, the Hearing Committee does not believe him and to the contrary finds that Klein received ALL emails and letters from Casselberry and ODC.

Klein acknowledge that in one of the matters he was handling for Casselberry that he checked the record recently and the claim of his client was dismissed for abandonment. ODC 13, pg. 115. He then stated he knew of the abandonment 6 months before. ODC 13, pg. 116. Of course, an abandonment order would have been preceded by an abandonment motion pleading which would have been sent to Klein. He acknowledged he was responsible for the matter being abandoned and that he has NOT advised Casselberry of the abandonment. ODC 13, pg. 115.

One of the other matters he was handling for Casselberry had no activity in the record since March 2020 and Klein was unclear if any substantive action was taken in the case that would prevent an abandonment. ODC 13, pg. 116.

ODC advised Klein that due to these abandonment matters he clearly had a conflict of interest. The Hearing Committee agrees that Klein had and has a conflict of interest, however he has not been charged with violations of the Rules of Professional Conduct related to conflicts of interest.

Klein agreed to notify ODC by April 26, 2024, that he communicated with his client regarding these abandonment issues and advising the client to seek alternate counsel. ODC 13, pg.

119. Klein was given a substantial warning by counsel for ODC to address the matters and concerns. Klein did not NOTHING. See ODC 14, pg. 138.

The Hearing Committee likewise has no trouble concluding that Klein violated Rule 8.1 **Bar Admission and Disciplinary Matters**, specifically 8.1 (b) and 8.1 (c), based on these factual events described above in his dealings with the ODC and related to the Complaint and the admissions that emanate from the March 20, 2025 order that deemed these the formal charges admitted.

The Hearing Committee also finds that based on the violations of Rule 1.3, 1.4 and 8.1 and Klein's actions, as well as the admissions that emanate from the March 20, 2025 order that he has engaged in conduct involving dishonesty and deceit and that he has engaged in conduct that is prejudicial to the administration of justice all in violation of Rule 8.4 (c) and Rule 8.4 (d) for **Misconduct**.

Aside from these very serious charges and findings and conclusions, the Hearing Committee notes that it is confused why a lawyer with 20 year's experience would have a legal practice that could **ever** let matters rise to the level that they have in the Casselberry matters and then compound the situation by giving short shrift to the clear and concise warnings by ODC counsel and the disciplinary process.

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.

Here, Klein violated duties owed to his client, to the legal system and to the profession. Lawyers can and do make mistakes and this is not a violation of the Rules of Profession Conduct. Here the duties owed to a client, the legal system and the profession became manifest when Klein chose to ignore the problem and refused to make any effort to cure the issues that he created. Klein acted negligently at first in his dealings with Casselberry, but with time and the resulting compounding effects and failure to cure these actions became knowing and intentional. Having abandoned 1 or both cases, it seems clear that ignoring the instruction from ODC is an effort to run from a malpractice claim. Klein's misconduct caused actual harm to his client who now has 2 matters that appear to have been abandoned through the dismissal of one case and probably a second. His client probably will not trust lawyers in the future such that the profession is damaged.

The *ABA Standards for Imposing Lawyer Sanctions* suggest that suspension is the baseline sanction for Respondent's misconduct. Under 4.4, Lack of Diligence it does not appear at this point that Klein's actions/inactions rise to a level of a 4.41 disbarment. This matter fits under 4.42 where 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 (b) a lawyer engages in a pattern of neglect causes injury or potential injury to a client. Both (a) and (b) apply.

Section 8.0, Prior Discipline Orders is also applicable. Klein received an admonishment in 2015 for a violation of Rule 1.3 in that he failed to act with reasonable diligence and promptness in representing a client. See ODC-15. He was also required to attend Ethics School. The ABA Standards suggest suspension is appropriate when a lawyer . . . engages in further similar acts of misconduct that causes injury.

The ABA Standards do not appear to address the Louisiana Rule of Professional Conduct Rule 8.1 directly. In the case of Klein, the Hearing Committee is deeply troubled by Klein's

disregard for the disciplinary process, first in his dealings with ODC, and ultimately by failing to respond to the complaint.

The Committee has also considered the aggravating and mitigating factors outlined in Section 9 of the ABA Standards. Those that are applicable to the present matter have been listed with a short reference provided as to its applicability.

The following present aggravating factors justify an increase in the degree of discipline to be imposed:

- (a) Prior disciplinary offenses—present due to the 2015 admonishment of Klein;
- (b) Dishonest or selfish motive—strongly present based on the ultimate disregard of the instructions from ODC to address the issues with the client. The Hearing Committee believes that Klein is attempting to avoid a malpractice claim though he has a clear conflict of interest with his client;
- (i) Substantial experience in the practice of law—strongly present in that Klein was admitted to practice in 2003;
- (j) Indifference in making restitution—strongly present in that the Hearing Committee believes that this provision is sufficient to address the failure on the part of Klein to cure the issues with his client.

The following mitigating factors were determined to possibly justify a reduction in the degree of discipline to be imposed:

None. Klein had the burden on this issue of mitigation.

This analysis supports an upward deviation for the sanction of suspension which the Hearing Committee has factored into the period of suspension.

To further assist in making the sanction recommendation, relevant jurisprudence has been considered. The following cases closely align with the facts and the ultimate sanction of the Hearing Committee:

In re Armato, 2007-0500 (La. 6/1/2007), 958 So.2d 650. Armato neglected two legal matters, failed to communicate with clients, failed to protect the clients' interests upon termination of representation, and failed to cooperate with the ODC. Aggravating factors: Pattern of misconduct, multiple offenses, bad faith obstruction of disciplinary proceeding, refusal to acknowledge wrongful nature of conduct, vulnerable victims, substantial experience, indifference to making restitution. Mitigating factors: Absence of prior disciplinary record. The Court imposed a 1 year and 1 day suspension.

In re Kehr, 2006- 0071 (La. 3/23/2007), 952 So.2d 668. Respondent neglected one legal matter and failed to cooperate with ODC. Aggravating factors: Court noted that several aggravating factors exist, but cited only prior discipline. Mitigating factors : none. A 1 year and 1 day suspension was imposed upon Kehr by the Supreme Court.

In re Kurzweg, 2003-2902 (La. 4/2/2004), 870 So.2d 978. Neglect of client matters (allowing a client's suit to be abandoned), failure to communicate, and failure to cooperate in disciplinary investigation. Aggravating factors: Prior disciplinary offenses, substantial experience in the practice of law (admitted 1974). Mitigating factors: None. Similarly a 1 year and 1 day suspension was imposed by the Court.

CONCLUSION

The Hearing Committee has considered the matter of Mr. Klein carefully. It is unfortunate that he did not participate in the process. The Hearing Committee makes the following recommendations:

1. That Benjamin John Barrow Klein be suspended from the practice of law for one year and one day, with discipline to commence from the effective date of the final order of discipline;
2. That Benjamin John Barrow Klein be assessed with the costs and expenses of this proceeding pursuant to Rule XIX, Section 10.1.

The Hearing Committee also recommends that if the suspension recommended herein is imposed by the Louisiana Supreme Court, that Klein be ordered to refund to Mr. Casselberry and his company \$4,000 in retainers, any fees paid to Klein or his firm above the retainers on the 2 matters that were the subject of the abandonment, and the value of the debt being pursued in those 2 matters, with interest at the judicial rate from the date of the filing of the Complaint in this matter until paid.

The Hearing Committee further recommends that a condition be imposed on Klein at such time as he may seek to regain the right to practice law. This would include a clear demonstration that he has a system in place to timely deal with client communications and effectively represent clients in litigation, the details of any such demonstration to be decided by the Office of Disciplinary Counsel.

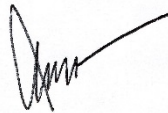
This opinion is unanimous and has been reviewed by each committee member, who fully concur and who have authorized Henry G. Terhoeve, to sign on their behalf.

Date and signature on following page

Baton Rouge, Louisiana, this 25th day of June, 2025.

**Louisiana Attorney Disciplinary Board
Hearing Committee #29**

**Henry G. Terhoeve, Committee Chair
Jacquelyn E. Watts, Lawyer Member
Raquel S. Ayles, Public Member**



BY:

**Henry G. Terhoeve, 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.

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

Rule 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:

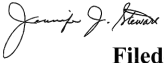
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(c) Engage in conduct involving dishonesty, fraud, deceit or misrepresentation;

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

...

ORIGINAL

Louisiana Attorney Disciplinary Board	
FILED by: 	
Docket#	Filed-On
25-DB-004	6/22/2025

CERTIFICATE OF MAILING

**IN RE: BENJAMIN JOHN BARROW KLEIN
DOCKET NO. 25-DB-004**

I, Raul V. Esquivel, the undersigned Board Administrator for the Louisiana Attorney Disciplinary Board, certify that a copy of the foregoing Hearing Committee Report and Initial Cost Statement has been mailed to the Respondent or his/her Attorney of Record, by E-mail and/or United States Mail and E-Filed to the Office of Disciplinary Counsel, this 26TH **day of JUNE, 2025** at the following address:

Via U.S. Mail to:

RESPONDENT
Benjamin John Barrow Klein
201 St. Charles Street
Baton Rouge, LA 70802

AND
Benjamin John Barrow Klein
6184 Highway 61
St. Francisville, LA 70775

(Via E-File)
Gregory L. Tweed
Deputy Disciplinary Counsel
4000 S. Sherwood Forest Blvd
Suite 607
Baton Rouge, LA 70816



Raul V. Esquivel III
Board Administrator