The Supreme Court of the State of Louisiana

IN RE: DANIEL B. BARZARE

No. 2025-B-01343

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IN RE: Office of Disciplinary Counsel - Applicant Other; Findings and Recommendations (Formal Charges);

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January 21, 2026

Suspension imposed. See per curiam.

JLW

JDH

PDG

JMG

McCallum, J., dissents and would reject the proposed discipline as too harsh.
Cole, J., dissents and would reject the proposed discipline as too harsh.
Penzato, J., dissents and would reject the proposed discipline as too harsh.

Supreme Court of Louisiana
January 21, 2026

Katie Marjanovic

Chief Deputy Clerk of Court
For the Court

SUPREME COURT OF LOUISIANA

NO. 2025-B-1343

IN RE: DANIEL B. BARZARE

ATTORNEY DISCIPLINARY PROCEEDING

PER CURIAM

This disciplinary matter arises from formal charges filed by the Office of Disciplinary Counsel ("ODC") against respondent, Daniel B. Barzare, an attorney licensed to practice law in Louisiana.

UNDERLYING FACTS

In July 2019, Geraldine Stelly retained respondent to represent her in a community property partition matter. She agreed to pay a 25% contingency fee in connection with the representation. In July 2022, Ms. Stelly filed a complaint against respondent with the ODC. Ms. Stelly made the following allegations in her complaint:

> After I hired him to represent me, he came to me around the middle of the summer of 2020. He asked to borrow $5,000.00 and stated he would pay me back. I cashed in some stocks to allow him to borrow this amount and he even promised to pay the tax penalties. Then 4 months later he asked for another $5,000.00 and I cashed in more stocks under the agreement he would pay me back and the taxes on the money. Then he called and asked to borrow $300.00 and I said, "I can't give you any money I don't have my checkbook." Then on Feb 8th at 7 am he asked me in a text message to borrow another $5,000 but I didn't loan him the money for this request. Then he asked me for his fees upfront and I cashed out $45,000.00 in stocks and gave it to him in a check. I do not feel like this is right, he is also withholding my documents regarding my community property and I would like this matter to be investigated to prevent him from doing this to someone else. I would also like restitution. I believe this is a sick man with a gambling problem. I have attached the text

> message asking about the third $5,000 loan and I also have it on my phone.[1] Thank you.

Through counsel, respondent replied to the complaint, denying that the payments by Ms. Stelly were loans. Instead, respondent asserted that Ms. Stelly made three payments to him totaling $25,000 as an advance on his $105,000 attorney's fee in the partition matter. He attached settlement statements reflecting that Ms. Stelly first received a partial settlement of the community property in the amount of $218,000, from which settlement respondent deducted a reduced attorney's fee of $40,000. In June 2022, the partition matter was concluded through a settlement of $1,126,960 paid to Ms. Stelly. Respondent agreed to accept $40,000 (which was again a reduced amount) from this settlement as payment in full of his remaining attorney's fee. He concluded:

> Thus, as the matter now stands, Mr. Barzare has received total fees in the amount of $105,000.00. This includes $40,000.00 paid twice and $25,000.00 paid as an advance against fees on three (3) separate occasions: One for $5,000.00, a second for $5,000.00 and a third for $15,000.00.
>
> We believe it was entirely appropriate for Mr. Barzare to request and for Ms. Stelly to pay an advance on fees. This matter was never one of questionable recovery. The community property was substantial, the work was performed and inevitably the money was received. There were problems with the case along the way including the fact that it was difficult to get an appraiser on board to do the work in an efficient and timely manner.
>
> Nevertheless, at the end of the day, Ms. Stelly received one-half of the community. Under the contract Mr. Barzare would have been entitled to 25% of the recovery. Having done the math I think you will see that Mr. Barzare's recovery was something in the neighborhood of 10%. He recognized that his ethical obligation was to charge a reasonable fee and he did so.

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[1] The text message from respondent stated:

> Gone to Gay Babin's [opposing counsel in the community property partition matter] office this afternoon. I'll call you when I get out. Can I get one more $5,000 loan. This ought to be the last one.

In November 2022, respondent gave a sworn statement to the ODC. Asked whether he had borrowed money from Ms. Stelly, respondent initially indicated that he had, but he then explained:

A. Yes, sir, I borrowed three sums of money in three increments, 15,000, 5,000, and 5,000. So it's a total of 25,000.

Q. And was this cash?

A. Check. Money order.

Q. Check?

A. Money [order] or a personal check.

Q. Okay, and, I wanted to ask you what the nature of these loans were? …

A. The fifth, the 15,000 was for home improvements.

Q. Whose home?

A. For me.

Q. Okay.

A. And the two 5,000 was just to pay bills, personal bills.

Q. And these are your personal bills?

A. Correct.

Q. Okay, and why did you borrow this money from a client and not, say, a bank or?

A. Well, at the time Ms. Stelly had about 200,000 dollars in the bank. I figured she would help me.

* * *

A. And I, I considered any loans from Ms. Stelly to be an advance on my contingency fee, fees. Apparently, I didn't make myself clear enough on, I didn't make a contract for the loans.

* * *

A. But it, it was my, in hindsight I, I neglected to make that clear in writing. But for all intents and purposes as evidenced by the settlement sheets I think I termed the amount advance, advances. So that, that was my intent. We, it was inevitable, we were going to have a settlement and I thought this would be the opportunity to get an advance on my fees.

Q. Right, and then that amount would be subtracted –

A. Correct.

Q. -- from your fee when, when, when she made her recovery.

A. Yes, sir.

In September 2023, Ms. Stelly gave a sworn statement to the ODC. She testified that in the summer of 2020, respondent asked to borrow $5,000 from her. She testified that she agreed to cash in some stock and loan the funds to respondent. Ms. Stelly admitted that the entire transaction was verbal and that nothing was put into writing. According to Ms. Stelly, respondent characterized the transaction as a "loan" that he would repay, and he did not explain that the funds were part of his fee. Ms. Stelly also indicated that respondent agreed to pay whatever taxes and penalties she incurred as a result of the transaction. Ms. Stelly testified that respondent did not repay the loan and did not pay her taxes or penalties.[2]

Ms. Stelly testified that four months later, respondent asked to borrow another $5,000. She again cashed in some stock and loaned the funds to respondent, with the understanding that he would repay the loan and any taxes and penalties she incurred as a result of the transaction. Ms. Stelly testified that respondent did not repay the second loan and did not pay her taxes or penalties.

DISCIPLINARY PROCEEDINGS

In March 2024, the ODC filed formal charges against respondent, alleging that his conduct in the Stelly matter violated the following provisions of the Rules of Professional Conduct: Rules 1.8(a) (a lawyer shall not enter into a business

[2] Ms. Stelly could not recall the amount of the taxes she incurred as a result of the transaction, or whether she in fact had to pay any penalties. The ODC asked Ms. Stelly to produce her tax records to confirm these amounts, but no such information appears in the record. In addition, the ODC asked Ms. Stelly to provide copies of the two $5,000 checks she wrote to respondent; however, no copies of the checks are in the record.

transaction with a client or knowingly acquire an ownership, possessory, security, or other pecuniary interest adverse to the client unless certain conditions are met), 8.4(a) (violation of the Rules of Professional Conduct), and 8.4(c) (engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation).

The formal charges were served upon respondent by certified mail sent to his primary registration address. Respondent failed to answer or otherwise reply to the formal charges. Accordingly, the factual allegations contained therein were deemed admitted and proven by clear and convincing evidence pursuant to Supreme Court Rule XIX, § 11(E)(3). Respondent made no submission for the hearing committee's consideration.

Hearing Committee Report

The hearing committee acknowledged that the factual allegations set forth in the formal charges were deemed admitted. The committee also made the following findings of fact:

(1) Complainant Geraldine M. Stelly hired Respondent to represent her pursuant to a partition of the marital community.

(2) Respondent asked Complainant for several loans during his representation of her, totaling $25,000.00, which he never re-paid. Additionally, Respondent agreed to pay any tax liabilities associated with the loans, which he also failed to pay.

(3) Respondent did not reduce these loans/agreements to writing.

(4) Respondent asked Complainant for these loans knowing she had $200,000.00 in the bank.

Based on these facts, the committee determined respondent violated the Rules of Professional Conduct as charged. No part of the transaction between respondent and Ms. Stelly was reduced to writing, as required by Rule 1.8(a). Respondent also

failed to repay the loans to Ms. Stelly, which was dishonest and fraudulent, in violation of Rules 8.4(a) and 8.4(c).

The committee determined respondent violated duties owed to his client. He acted intentionally and dishonestly in seeking multiple loans from a wealthy, elderly client. Respondent's misconduct caused actual harm to Ms. Stelly, in that she lost funds and incurred additional tax penalties which have yet to be repaid. Relying on the ABA's *Standards for Imposing Lawyer Sanctions*, the committee determined the baseline sanction is suspension.

The committee found the following aggravating factors present: a dishonest or selfish motive, a pattern of misconduct, multiple offenses, refusal to acknowledge the wrongful nature of the conduct, vulnerability of the victim, substantial experience in the practice of law (admitted 1988), and an indifference to making restitution. In mitigation, the committee found respondent has no prior disciplinary record.

After further considering the prior jurisprudence addressing similar misconduct, the committee recommended that respondent be suspended for three years and be ordered to pay restitution of all sums owed to Ms. Stelly, including the principal of all loans, repayment of the tax penalty as well as judicial interest on the loans, in addition to all costs and expenses of this proceeding.

Neither respondent nor the ODC filed an objection to the committee's report and recommendation. Having received no objections, the disciplinary board submitted the committee's report directly to the court for consideration pursuant to Supreme Court Rule XIX, § 11(G). On February 28, 2025, we remanded the matter to the board for further review. *In re: Barzare*, 24-1407 (La. 2/28/25), 401 So. 3d 1261. In the remand order, we instructed the board that it "should particularly consider whether the alleged violations of Rules 1.8(a) and 8.4(c) have been proven by clear and convincing evidence."

Filings After Remand

On March 7, 2025, respondent filed a letter with the board as a reply to this court's remand order. In that letter, respondent denied he engaged in any dishonest conduct and admitted to receiving the three loans. He detailed a breakdown of the money exchange, stating:

> I do not have a copy of my final disbursement sheet to refer to but I recall collecting $40,000 initially and $40,000 (final payment) as well as $25,000 in loan advances from Ms. Stelly. As previously stated, Ms. Stelly never provided me with a breakdown of penalties and tax liability for the withdrawal of IRA funds. The total I received then was $105,000 plus the tax liability and penalty for the three (3) withdrawals. I believe her share of the community property was worth in excess of $1,000,000 dollars.
>
> Despite our client contract [contingency fee], my fees were drastically reduced since we settled the case without having a trial. A reduction of my fees were in my client's best interest and that is what I did. The case took three years to settle. My reduction took into account the three loans, interest, and penalties. Had I been given the interest and penalties incurred, I certainly would have noted that amount in my settlement disbursement, but again, Ms. Stelly never provided me with those amounts. I thought I was doing Ms. Stelly a good deed but she saw otherwise.

On April 5, 2025, respondent filed a supplement to his response, in which he generally reiterated his earlier arguments and understanding of his fee agreement with Ms. Stelly and again denied engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation.

On April 22, 2025, the ODC filed a brief with the board, generally reasserting its previous understanding of the facts and arguments. In response to the remand order, the ODC asserts that the evidence and record reflect that no part of the transaction between respondent and Ms. Stelly was ever reduced to a writing, in violation of Rule 1.8(a). The ODC asserts that respondent's failure to repay Ms.

Stelly violated Rule 8.4(c) "due to the dishonest and fraudulent nature of his actions."[3]

Disciplinary Board Recommendation

After review of the record, the disciplinary made detailed findings of fact, including a discussion of some discrepancies between the testimony of respondent and Ms. Stelly in their descriptions of the events in question. The board concluded that respondent's version of events appears more credible. Respondent admitted that he asked Ms. Stelly for the loans and that he did not sufficiently explain to her that he considered the loans as advances which would be paid back from his fee when the matter was concluded. He admitted that he did not prepare any written document in connection with the loans. Moreover, respondent admitted that the loans totaled $25,000, approximately twice the amount claimed by Ms. Stelly.

The board found clear and convincing evidence that respondent violated Rule 1.8(a) after he requested and received three loans from his client without reducing the agreement to writing, not advising Ms. Stelly of the desirability of seeking independent legal advice, and not receiving Ms. Stelly's informed written consent.

Regarding Rule 8.4(c), the board found as follows:

> The Board finds that Respondent violated Rule 8.4(c) by intentionally misrepresenting to Complainant that he was requesting loans from Complainant when at all times his intent was that he was actually taking the money as advances against his fee which would be deducted from the fee when Complainant's matter was finally settled. The Board does not find that Respondent failed to repay the amounts loaned by Complainant. It is true that Respondent did not write out a check to Complainant in repayment of the loans and any tax liability incurred by the Complainant. However, the $25,000 was deducted in the fee calculation when the partition matter was settled, as evidenced by the settlement sheet signed by Complainant and Respondent in June 2022. Further, Complainant never

[3] Later, the ODC states that respondent's "original portrayal of the loans as fee payments, as well as his failure to repay the loans" constitute violations of Rule 8.4(c).

> provided Respondent with the amount of any tax liability or penalty which may have been incurred in making the loans and ODC has not proven by clear and convincing evidence that Complainant did in fact sustain any tax liability or penalty.

Finally, the board determined that respondent violated Rule 8.4(a) by violating Rules 1.8(a) and 8.4(c).

The board found that respondent violated his duty to his client. In violating Rule 1.8(a), the board found respondent's conduct "was at most knowing and he did not explain to Complainant that his intent was that he considered the loans to be deducted from his fee when the matter was finally settled." The only harm to Ms. Stelly "would have been loss of use of the money from the time the loans were made until the partition matter was concluded." Relying on the ABA's *Standards for Imposing Lawyer Sanctions*, the board determined the baseline sanction is suspension.

The board found the following aggravating factors present: a selfish motive, a pattern of misconduct, bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary agency (in failing to participate in the proceedings after the formal charges were filed), and substantial experience in the practice of law. In mitigation, the board found that respondent has no prior disciplinary record.

After further considering the court's prior jurisprudence addressing similar misconduct, the board recommended that respondent be suspended from the practice of law for one year and one day and be required to attend the Louisiana State Bar Association's Ethics School prior to being reinstated.

Neither respondent nor the ODC filed an objection to the disciplinary board's recommendation.

DISCUSSION

Bar disciplinary matters fall within the original jurisdiction of this court. La. Const. art. V, § 5(B). Consequently, we act as triers of fact and conduct an independent review of the record to determine whether the alleged misconduct has been proven by clear and convincing evidence. *In re: Banks*, 09-1212 (La. 10/2/09), 18 So. 3d 57.

In cases in which the lawyer does not answer the formal charges, the factual allegations of those charges are deemed admitted. Supreme Court Rule XIX, § 11(E)(3). Thus, the ODC bears no additional burden to prove the factual allegations contained in the formal charges after those charges have been deemed admitted. However, the language of § 11(E)(3) does not encompass legal conclusions that flow from the factual allegations. If the legal conclusion the ODC seeks to prove (i.e., a violation of a specific rule) is not readily apparent from the deemed admitted facts, additional evidence may need to be submitted in order to prove the legal conclusions that flow from the admitted factual allegations. *In re: Donnan*, 01-3058 (La. 1/10/03), 838 So. 2d 715.

In this deemed admitted matter, the formal charges contain a lengthy recitation of various assertions made by respondent and Ms. Stelly, ending with a conclusory statement that respondent violated Rules 1.8(a), 8.4(a), and 8.4(c) of the Rules of Professional Conduct by entering into a loan with his client that was not properly documented or repaid. The ODC submitted documentary evidence to the hearing committee consisting of: (1) Ms. Stelly's complaint; (2) the letter from the ODC forwarding the initial complaint to respondent; (3) respondent's reply to the initial complaint, with attachments; (4) the transcript of respondent's investigative sworn statement; and (5) the transcript of Ms. Stelly's investigative sworn statement. We now review this record to determine whether the ODC proved the alleged rule violations by clear and convincing evidence.

Rule 1.8(a) prohibits a lawyer from entering into a business transaction with a client unless the transaction and terms are fair and reasonable to the client and fully disclosed and transmitted in writing in a manner that can be reasonably understood by the client; the client is advised in writing of the desirability and a reasonable opportunity to seek independent counsel on the transaction; and the client gives written informed consent of the essential terms of the transaction and the lawyer's role in the transaction, including whether the lawyer is representing the client in the transaction. We agree with the board that the record supports a Rule 1.8(a) violation. Respondent requested and received three loans from his client without reducing the agreement to writing, without advising Ms. Stelly of the desirability of seeking independent legal advice, and without receiving Ms. Stelly's informed written consent.

Rule 8.4(c) provides that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation. The board found that respondent violated this rule by intentionally misrepresenting that he was seeking loans from Ms. Stelly that he would later deduct from his legal fee. There is nothing in the deemed admitted facts or in the evidence submitted by the ODC which establishes that respondent intentionally misrepresented any portion of the transaction with Ms. Stelly. The evidences does contain a settlement statement signed by Ms. Stelly accounting for all of the fees earned and sums borrowed. The evidence also shows that respondent provided Ms. Stelly a significant discount from the original agreed upon fee (which agreement was also in writing and signed by Ms. Stelly). The mere conclusory statement that respondent violated this rule, without supporting factual allegations or other evidence, is insufficient to establish a rule violation.[4] At best, the evidence reveals a significant miscommunication or

[4] The formal charges state that "Respondent's failure to repay the loans to his client has violated Rule 8.4(a)(c) due to the dishonest and fraudulent nature of his actions."

misunderstanding between the parties as to the loan(s) terms and conditions. However, without more, and in light of documents in the record, evidence of a misunderstanding is insufficient to establish that respondent's conduct involved dishonesty, fraud, deceit, or misrepresentation.[5] Therefore, the ODC has not proven a violation of Rule 8.4(c).

Having found evidence of professional misconduct, we now turn to a determination of the appropriate sanction for respondent's actions. In determining a sanction, we are mindful that disciplinary proceedings are designed to maintain high standards of conduct, protect the public, preserve the integrity of the profession, and deter future misconduct. *Louisiana State Bar Ass'n v. Reis*, 513 So. 2d 1173 (La. 1987). The discipline to be imposed depends upon the facts of each case and the seriousness of the offenses involved considered in light of any aggravating and mitigating circumstances. *Louisiana State Bar Ass'n v. Whittington*, 459 So. 2d 520 (La. 1984).

The record supports a finding that respondent violated a duty owed to his client, with the only damage to Ms. Stelly being the loss of the use of the money from the time the loans were made until her legal matter was concluded. The board's findings of aggravating and mitigating factors are supported by the record with the exception of the board's finding in aggravation that respondent intentionally failed to comply with the rules or orders of the disciplinary agency (in failing to participate in the proceedings after the formal charges were filed). Respondent's conduct after formal charges were filed cannot form the basis of an aggravating factor to be

[5] *See In re: Gross*, 03-2268 (La. 11/21/03), 860 So. 2d 1105, wherein the deemed admitted facts supported the conclusion that respondent borrowed $25,000 from his client without complying with the safeguards required by Rule 1.8(a). However, the board found that, standing alone, the deemed admitted facts were insufficient to establish that respondent engaged in dishonest or deceitful conduct. *See also In re: Curry*, 08-2557 (La. 7/1/09), 16 So. 3d 1139, wherein the ODC asserted that the respondents failed to credit their client's account with cash payments made by him totaling $19,000. However, this court found that because there was no evidence other than the client's "self-serving" testimony concerning same to establish the existence of payments, it did not rise to the level of clear and convincing proof of a Rule 8.4(c) violation.

considered in imposing a sanction. Evidence of respondent's failure to cooperate and/or comply with the ODC or otherwise may form the basis of future additional charges, but it cannot be relied upon here as an aggravating factor.

Turning to the issue of an appropriate sanction, we find the board's recommended sanction of a one year and one day suspension from the practice of law is appropriate. The board relied on the recent decision in *In re: Young*, 24-0248 (La. 6/28/24), 388 So. 3d 319, wherein an attorney was suspended for one year and one day, with all but ninety days deferred, for entering into a business relationship with a client without advising the client in writing that he should seek independent legal counsel and never obtaining the client's informed consent to the loan transactions and proposed payment plans.

Like respondent, Mr. Young was not found to have engaged in conduct involving dishonesty, fraud, or misrepresentation. However, unlike Mr. Young, respondent has multiple aggravating factors and only one mitigating factor. As such, imposing a similar sanction without the benefit of any deferment is supported by the record and jurisprudence.

Based on this reasoning, we will accept the disciplinary board's recommendation and impose a one year and one day suspension. Respondent shall attend Ethics School prior to seeking reinstatement to the practice of law.

DECREE

Upon review of the findings and recommendations of the hearing committee and the disciplinary board, and considering the record, it is ordered that Daniel B. Barzare, Louisiana Bar Roll number 18780, be and he hereby is suspended from the practice of law for one year and one day. Prior to seeking reinstatement to the practice of law, respondent shall attend the Louisiana State Bar Association's Ethics School. All costs and expenses in the matter are assessed against respondent in

accordance with Supreme Court Rule XIX, § 10.1, with legal interest to commence thirty days from the date of finality of this court's judgment until paid.