

## LOUISIANA ATTORNEY DISCIPLINARY BOARD

IN RE: RUSSELL S. STEGEMAN

DOCKET NO. 23-DB-008

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**REPORT OF HEARING COMMITTEE # 29**

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**INTRODUCTION**

This attorney disciplinary matter arises out of formal charges filed by the Office of Disciplinary Counsel (“ODC”) against Russell S. Stegeman (“Respondent”), Louisiana Bar Roll Number 08224.<sup>1</sup> ODC alleges that Respondent violated the following Rules of Professional Conduct: 1.3, 1.4(a)(2), 3.3(a)(1), 8.1(a), and 8.4(a) (c) (d).<sup>2</sup>

**PROCEDURAL HISTORY**

The formal charges were filed on February 1, 2023. Respondent filed an answer to the charges on February 22, 2023. The hearing of this matter was held on July 12, 2023. Deputy Disciplinary Counsel Renee H. Pennington and Robin K. Mitchell appeared on behalf of ODC. Dane S. Ciolino appeared on behalf of Respondent, who was also present.

For the following reasons, the Committee finds Stegeman negligently violated Rule of Professional Conduct 1.3. Diligence, knowingly and intentionally violated Rule of Professional Conduct 3.3 Candor Toward Tribunal, and knowingly and intentionally violated Rules of Professional Conduct 8.1(a) Bar Admission and Disciplinary Matters and 8.4 Misconduct, particularly (a), (c) and (d).

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<sup>1</sup> Respondent was admitted to the practice of law in Louisiana on October 17, 1980. Respondent is currently eligible to practice law.

<sup>2</sup> See the attached Appendix for the text of these Rules.

## FORMAL CHARGES

The formal charges read, in pertinent part:

### *Count I (ODC File No. 40093)*

The Respondent began representing Christian Arnouville regarding paternity, visitation and child support matters on April 5, 2021. The scope of the Respondent's representation included preparation of the petition, "all phone calls and up to three court appearances" for paternity, child visitation and child support. The Respondent charged a flat fee of \$2,500.00, not including court costs.

A hearing date to address custody and visitation was set for May 26, 2022. Counsel had been attempting to negotiate an agreement but were unable to do so prior to the hearing date.

On May 26, 2022, the complainant, opposing party and opposing counsel, Paul Brown, appeared. The Respondent told ODC that he was "ten minutes late due to unexpected heavy traffic. However, within that short amount of time, Christian Arnouville had accepted the terms of the settlement we previously negotiated and was no longer in the courthouse." According to Mr. Brown and Mr. Arnouville, they both arrived near 8:30 a.m. and the matter wasn't taken up by the court for one to two hours after their arrival. Both Mr. Brown and Mr. Arnouville stated the Respondent never appeared, and the hearing minutes reflect that Mr. Arnouville was not represented. Mr. Arnouville expressed that he was also unable to reach the Respondent by phone, which was corroborated by Mr. Brown.

The parties testified and the judge considered the evidence and ruled on the case. The parties also stood outside talking for approximately 10-15 minutes after the hearing and never saw the Respondent.

The Respondent's failure to appear at the hearing on behalf of his client violated Louisiana Rules of Professional Conduct 1.3, 1.4(a)(2), and 8.4(a) and (d). The Respondent's assertion to the ODC that was ten minutes late to the May 26, 2022, hearing, and that Mr. Arnouville had accepted the terms of the settlement and left before the Respondent arrived violated Louisiana Rules of Professional Conduct 8.1(a) and 8.4(a).

### *Count II (ODC File No. 40322)*

The Respondent represented the husband (defendant) in a divorce and custody suit that began in April Of 2022. Attorney and Complainant, Rebecca Heilman, represented the wife (plaintiff) in the same suit. A trial date of July 21, 2022 was scheduled, and Ms. Heilman presented a dispositive procedural issue, which resulted in a continuance. A new trial date of August 26, 2022 was agreed upon in court the same day by all parties.

On August 26, 2022, Ms. Heilman travelled from Metairie to Edgard, Louisiana for the trial. She appeared, ready to proceed to trial, with her client, two lay witnesses and a minor child witness who was missing school to attend the trial. Upon her arrival she learned the judge and court reporter were not present and that

the Respondent had filed an "Unopposed Motion to Continue," of which the Complainant was unaware. The court reporter had been cancelled and the judge was not present. The motion was never officially granted, but the trial could not proceed because needed personnel were not present. The trial was re-scheduled for September 30, 2022.

Respondent's motion requested a continuance of the August 26, 2022, trial because he had a previously scheduled trial in St. Tammany Parish the same day, that "discovery is ongoing," and that "counsel for the defendant has contacted counsel for the plaintiff and has no objection to the continuance."

The Respondent asserts that his former employee advised him the Complainant had no objection to the continuance. Ms. Heilman asserts she never received a request from the Respondent or his staff, nor did she ever receive a draft of the proposed motion.

Regarding the scheduling conflict, the Respondent advised ODC that he originally filed a motion to continue an August 30, 2022, trial date, but when the clerk notified him that the trial was scheduled for August 26, 2022, he requested the filing be rejected. Nevertheless, the motion Respondent actually filed with the clerk on August 24, 2022, requests a continuance of the (correct) August 26, 2022, trial date due a conflict the same day in St. Tammany Parish, which was not accurate because there was no conflict the same day in St. Tammany Parish.

Ms. Heilman filed a motion for sanctions against the Respondent, which was heard and granted on the September 30, 2022, trial date. In its written reasons, after considering testimony by the Complainant and the Respondent, the court found that the Respondent "was not truthful with his assertion that the motion was unopposed," and that "the pleading was submitted to cause unnecessary delay." The court ordered the Respondent to pay \$600.00 to Ms. Heilman for attorney's fees associated with appearing on August 26, 2022.

The Respondent's "Unopposed Motion to Continue" contained misrepresentative statements to the court in violation of Louisiana Rules of Professional Conduct 3.3(a)(1) and 8.4(a). The Respondent's failure to provide a copy of his motion to Ms. Heilman or to appear at the August 26, 2022, hearing violated Louisiana Rules of Professional Conduct 8.4(a), (c) and (d).

The ODC respectfully submits there is clear and convincing evidence that the Respondent, Russell S. Stegeman has violated Louisiana Rules of Professional Conduct 1.3 (a lawyer shall act with reasonable diligence and promptness), 1.4(a)(2) (a lawyer shall reasonably consult with the client regarding how objectives will be accomplished), 3.3(a)(1) (a lawyer shall not make a false statement of fact or law to a tribunal, or fail to correct a false statement of material law or fact), 8.1(a) (a lawyer shall not knowingly make a false statement of material fact), 8.4(a) (violate or attempt to violate the Rules of Professional Conduct), 8.4(c) (engage in conduct involving dishonesty, fraud, deceit or misrepresentation), and (d) (conduct prejudicial to the administration of justice).

## **EVIDENCE**

The ODC and the Respondent consented to the submission of Exhibits offered by the other, except for one Exhibit by Respondent (Respondent 5) the admission of which was denied over objection and then proffered by Respondent.

### ODC EXHIBITS

- ODC-1 Complaint by Arnouville with attachments of June 13, 2022
- ODC-2 Correspondence from Stegeman to ODC of June 24, 2022
- ODC-3 Correspondence from ODC to Stegeman of August 3, 2022
- ODC-4 Correspondence from Stegeman to ODC of September 12, 2022 with his file on Arnouville
- ODC-5 Complaint with attachments of Rebecca Heilman of September 1, 2022
- ODC-6 Correspondence from Stegeman of September 13, 2022
- ODC-7 Correspondence from ODC to Stegeman of September 28, 2022
- ODC-8 Cox phone records of October 18, 2022
- ODC-9 Cox phone records of October 18, 2022
- ODC-10 Judgment in Debarbieris matter with reasons, St. John the Baptist Parish October 14, 2022
- ODC-11 Correspondence from Heilman of October 24, 2022
- ODC-12 Correspondence from ODC to Stegeman October 25, 2022
- ODC-13 Correspondence from Stegeman to ODC October 5, 2022
- ODC-14 Correspondence from Heilman to ODC November 14, 2022
- ODC-15 Stegeman and Heilman email exchanges August 2022
- ODC-16 Stegeman office and Heilman email exchanges August and September 2022

ODC-17 Arnouville v. Berg Suit Record- Evangeline Parish

ODC-18 Arnouville v. Berg transcript of May 26, 2022

ODC-19 Portions of Debarbieris v. Debarbieris suit record

ODC-A Admonition Matter involving Stegeman of 2007

ODC-B Deposition of Sarah Elizabeth Hidalgo of May 24, 2022

RESPONDENT EXHIBITS

Respondent 1 Stegeman Credit Card Statement

Respondent 2 Stegeman notes in Arnouville

Respondent 3 Arnouville trial transcript

Respondent 4 Stegeman notes in Debarbieris

Respondent 6 Internal memoranda

The following witnesses were called at the Hearing:

1. Russell Stegeman, respondent;
2. Paul Brown, opposing counsel to Stegeman in the Arnouville matter;
3. Kristyl Treadaway, counsel in the same office as Rebecca Heilman;
4. Sue Chartier, staff member of Heilman;
5. Rebecca Heilman, complainant;
6. Joana Artajo, staff member of Stegeman via Facetime from the Philippines

## **FINDINGS OF FACT<sup>3</sup> and APPLICATION OF THE FINDINGS TO THE RULES OF PROFESSIONAL CONDUCT**

The Hearing Committee had before it two obvious and critical practice errors by Russell Stegeman, with some discrepancy as it relates to factual matters, some with consequence and some without consequence. Some factual discrepancies might have been able to be resolved with additional witnesses. The response by Stegeman to the critical errors, both immediate and thereafter was woeful and concerning.

### **Christian Arnouville matter**

Christian Arnouville retained Stegeman in connection with a custody matter in Evangeline Parish on a flat fee basis, plus costs. A trial had been set for February 17, 2022. Stegeman requested the trial be continued and obtained the consent of opposing counsel to the continuance. On February 16, 2022 Stegeman sent a letter to the Court confirming the matter had been moved to May 26, 2022. He attached a Motion with order resetting the matter for trial May 26, 2022 at **8:30 a.m.**<sup>4</sup> There are several email exchanges between the office of Stegeman and that of his opponent Paul Brown directed to the continuance.<sup>56</sup> The Order that Stegeman filed with his Motion was signed February 22, 2022.<sup>7</sup>

In anticipation of the May 26 trial date efforts were made between the parties to enter into a consent agreement. On May 20 in a telephone call Mr. Arnouville discussed accepting the consent

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<sup>3</sup> This is not intended to be a recitation of all of the testimony and exhibits. These are the factual **findings** of the Committee after considering all testimony and exhibits presented. While it may be suggested that there was some information presented that is contrary to the findings listed here, the Committee did not find such proven, found it implausible or unfounded and rejected such. Some discrepancies in the evidence are noted.

<sup>4</sup> ODC Exhibit 4 Bates 45, 46.

<sup>5</sup> ODC Exhibit 4 Bates 103-107.

<sup>6</sup> It is noted that emails of this nature are absent in the Heilman matter.

<sup>7</sup> ODC Exhibit 4, Bates 174.

agreement.<sup>8</sup> Mr. Arnouville ultimately did not consent to the terms of the consent agreement that was proposed. A final email seeking the consent judgment came from the office of Paul Brown on May 24, 2022 wherein his staff reiterates that the hearing is May 26, 2022 at **8:30 a.m.**<sup>9</sup>

There are no emails or letters to the client, Arnouville confirming the hearing or pertaining to a meeting with Stegeman prior to the start of the trial. A recorded voicemail from Arnouville's grandmother of May 23, 2022 gives the indication that there was a planned meeting with Stegeman 30 minutes ahead of the trial. The grandmother suggests that 30 minutes is not sufficient time.<sup>10</sup> Stegeman had email addresses and mobile phone numbers for Arnouville.<sup>11</sup> Thus, it appears the client expected Stegeman at the Courthouse in Ville Platte at 8:00 a.m. on May 26, 2022 and the grandmother of the client suggested more time was needed.

While ODC has contended that Stegeman did not go to Ville Platte on May 26, 2022 the Hearing Committee concludes that the ODC did not prove this point with clear and convincing evidence. The hearing testimony of Stegeman, the May 24, 2023 deposition testimony of Stegeman's legal assistant Sarah Hidalgo<sup>12</sup> who was driving Stegeman to Ville Platte, and a credit card bill showing a charge on May 26, 2022 at a Chevron in Opelousas<sup>13</sup> support that Stegeman in fact went to Ville Platte.

Nevertheless, Stegeman was **not** at the courthouse in Ville Platte for the 8:00 a.m. meeting with Arnouville. Stegeman was **not** in Ville Platte for the 8:30 a.m. trial. Stegeman testified that

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<sup>8</sup> ODC Exhibit 4, Bates 86. Based on other testimony at the hearing an internal memorandum such as this Exhibit are notes of a call between Stegeman and Arnouville, in which Joana Artajo-Reyes (while in the Philippines) listened in on the call and then typed a note of the call.

<sup>9</sup> ODC Exhibit 4, Bates 82.

<sup>10</sup> ODC Exhibit 4, Bates 83.

<sup>11</sup> ODC Exhibit 4, Bates 77.

<sup>12</sup> ODC Exhibit B. Hidalgo did testify that she was not employed by Stegeman until June 2022, however, her other testimony supports that she did in fact accompany Stegemen to Ville Platte.

<sup>13</sup> Respondent Exhibit 1, Bates 4. This is a single credit card charge in Opelousas, which does not appear to be an area Stegeman frequents. Opelousas is on the route to Ville Platte. No time is supplied on the charge. It is noted Hidalgo testified in her deposition that there were no stops enroute or on the return. ODC Exhibit B, page 28.

he thought the hearing was a 9:00 a.m. He was running late but “not late enough” to call and let the Court know that he was running late. Stegeman’s assistant, Ms. Hidalgo, suggested she recalled that they arrived at 9:04 a.m.<sup>14</sup>

It is unclear at what time the trial actually started. The trial transcript does not provide a start or finish time.<sup>15</sup> It is clear it started without Stegeman, but with Arnouville. The bailiff called for Stegeman and there was no response. Limited testimony was taken. The general terms of what had been discussed for a “consent judgment” appears to be the resulting judgment that was entered by the Court. There are references in the trial transcript to the effect that the Judgment would be a “considered decree”.<sup>16</sup> Based on the testimony a considered decree would be more difficult to revise in the future than a consent judgment in that a change of circumstances would need to be shown.

Paul Brown arrived for Court in a timely fashion. He testified the Judge had other business that was taken up before their trial. The case was then called by the Judge and the trial went forward. While he appeared at trial with a consent judgment, since a trial took place, the judgment had to be revised to reflect that a trial had occurred. He revised the judgment by either going back to his office in Eunice or by calling his staff from the courthouse in Ville Platte and having his staff bring a revised judgment. A joint obligation worksheet that was attached to the judgment was printed at his office at 9:19 a.m.<sup>17</sup> He filed his judgment with a cover letter at 10:52 a.m.<sup>18</sup> The judgment was signed the same day in open court according to the wording in the judgment.

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<sup>14</sup> ODC Exhibit B, page 26.

<sup>15</sup> ODC Exhibit 18.

<sup>16</sup> ODC Exhibit 18, Bates 342 and 346.

<sup>17</sup> ODC Exhibit 17, Bates 338.

<sup>18</sup> ODC Exhibit 17, Bates 332 and 337.



Brown said when he walked out the courtroom Arnouville looked dejected and unhappy with the ruling. Brown remained at the courthouse during this time to have the judgment filed and signed. He never saw Stegeman.

Stegeman says that when he arrived, he went to Judge Vidrine's office and spoke to the Judge's secretary who advised the matter was finished. Stegeman was surprised.

Stegeman suggests that there was no ultimate loss to Arnouville because Stegeman was tardy, that the outcome would have been the same had he been present for the trial, and that the judgment rendered is not a considered decree. It is not known if the outcome would have been different had Stegeman appeared. Arnouville is not expected to know the issues and know how to present evidence, much less what evidence might have been relevant to prove his case toward a different outcome. Arnouville does not know how to cross examine a witness. The fact that the judgment looks like the proposed consent judgment except for a lower monthly support payment does not excuse Stegeman's absence and that "all is well." Arnouville was entitled to a lawyer and Stegeman should have been in Court. Stegeman's absence was explained, but it cannot be excused.<sup>19</sup>

Furthermore, the Hearing Committee is miffed at the response of Stegeman to the situation that he created. It concludes that the only effort he made was to talk to the Judge's secretary. Stegeman supplied no records of letters, calls, email, etc. or any effort to communicate with Arnouville<sup>20</sup>, Paul Brown or Judge Vidrine to explain his absence. The Committee concludes that he talked to the Judge's secretary and "moved on" to his next matter. Indeed on May 26, 2022 he

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<sup>19</sup> It is not known whether the Judgment is or is not a considered decree. Stegeman and his counsel argue that it is not. Had Stegeman been in Court this issue would be clear. Unfortunately, this may be a legal issue for another day that Arnouville will need to face.

<sup>20</sup> The complaint, ODC Exhibit 1, Bates 3 says Stegeman never contacted Arnouville to explain why he did not show up.

sent a communication to his office at 10:07 am: “We have a new team member, Sarah.”<sup>21</sup> While Stegeman supplied this to support his position that Hidalgo was employed by him on May 26, it is surprising that this was his focus at 10:07 a.m. on a day he missed a trial and his client went to trial without him.

The Hearing Committee is further surprised at some of the responses of Stegeman to charges related to his failure to appear in court. His June 24, 2022 response to the ODC, 1 month after the trial, specifically states he was 10 minutes late.<sup>22</sup> At a minimum he was 40 minutes late for Court and 70 minutes late for his pre-trial meeting with his client. He continued to maintain this 10-minute position in his June 24, 2022<sup>23</sup> and September 12, 2022 written submissions to the ODC.<sup>24</sup> He further submits that Arnouville accepted the terms of the settlement.<sup>25</sup> There is no evidence of this occurring. These responses are deceptive and untrue.

When Arnouville sought to have fees reimbursed from Stegeman, Stegeman submitted the matter for LSBA Fee Dispute Arbitration. The arbitrator awarded Stegeman all of his fee. The arbitrator was not there to consider violations of the Code of Professional Conduct and any corresponding ramifications such as restitution.

Applying the above findings of fact and incorporated analysis to the charges in the Arnouville matter, the Committee concludes as follows:

1. Stegeman violated Rule 1.3. Diligence (A lawyer shall act with reasonable diligence and promptness in representing a client) by his failure to appear in court as scheduled and by his failure to appropriately respond to his failure to appear.
2. There is insufficient proof that Stegeman violated Rule 1.4. Communication ((a) A lawyer shall: ... (2) reasonably consult with the client about the means by which the client’s objectives are to be accomplished; ...). While there certainly was proof he failed to

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<sup>21</sup> Respondent Exhibit 6

<sup>22</sup> ODC Exhibit 2, Bates 7; Respondent Exhibit 2, Bates 7.

<sup>23</sup> ODC Exhibit 4, Bates 22.

<sup>24</sup> ODC Exhibit 4, Bates 20.

<sup>25</sup> ODC Exhibit 2, Bates 8; ODC Exhibit 4, Bates 23.

communicate with the client this failure was not on the “objectives” to be accomplished, though it certainly could be argued that missing the pretrial meeting would have addressed objectives to be accomplished.

3. Stegeman violated Rule 8.1(a) Bar Admission and Disciplinary Matters (a lawyer in connection with a bar admission application or in connection with a disciplinary matter, shall not: (a) Knowingly make a false statement of material fact; ). It is concluded that the above cited responses to the ODC on the Arnouville complaint were done knowingly and intentionally.
4. Stegeman violated Rule 8.4 (a) and (d) Misconduct. (It is professional misconduct for a lawyer to:(a) Violate or attempt to violate the Rules of Professional Conduct. . .; (d) Engage in conduct that is prejudicial to the administration of justice;). This is due to his other violations and due to his failure to appear.

His violations of Rule 1.3 were done negligently. His violations of Rule 8.1 were knowing and intentional. His violations of Rule 8.4 were partially negligent as it relates to Rule 1.3 and intentional as it relates to Rule 8.1.

The Hearing Committee also finds that restitution is in order to Arnouville in the amount of \$600 for Stegeman’s failure to be there to represent Arnouville on the day of trial. Regardless of any amount of work performed by Stegeman for Arnouville, Stegeman was not there for the trial and Arnouville was left to fend for himself.

### **Rebecca Heilman matter**

Stegeman represented Jason Debarbieras (the defendant) in a family matter (described as a “nasty divorce” involving “sexual abuse” by Heilman) pending in St. John the Baptist Parish. The case was assigned to Judge Sterling Snowdy. Opposing counsel was Rebecca Heilman. A trial was originally set for July 21, 2022 and at that time, in open court, Judge Snowdy granted an oral request by Stegeman to move the trial date to August 26, 2022 as a special setting.

On August 24, 2022 Stegeman filed a pleading styled “**UNOPPOSED MOTION TO CONTINUE TRIAL DATE**”<sup>26</sup>. In the Motion he states the reason for the Motion includes:

- 1. Counsel for the defendant has a scheduling conflict with a previously scheduled Trial in the 22<sup>nd</sup> JDC at the same date and time.**
- 2. Discovery is ongoing in this matter;**
- 3. Counsel for the defendant has contacted counsel for the plaintiff and has no objections to the continuance.**

This motion was preceded by a motion attempted to be filed wherein Stegeman erroneously stated the St. John the Baptist trial was August 30, 2022. When this discrepancy as to the trial date was called to Stegeman’s attention by the office of the Clerk of Court, Stegeman advised the clerk’s office to reject this first filing.

On August 26, 2022 Heilman appeared for the scheduled trial with her client and additional witnesses. At that time, she learned from Judge Snowdy’s law clerk about the filing of the August 24, 2022 continuance request by Stegeman. She was supplied a copy the Motion by the law clerk. This was the first time she had seen the Motion. The Motion had not previously been supplied to her by Stegeman. She was **never** contacted by Stegeman about a continuance and did not consent to the continuance. Heilman was unaware of the need for any further discovery. She had mailed some discovery responses to Stegeman August 16, 2022.

No judge or court reporter was available to allow the case to proceed to trial on August 26 because the Court had received the August 24 filing by Stegeman and essentially “stood down.”. The law clerk advised Heilman he tried to call Stegeman and that there was no answer. Heilman

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<sup>26</sup> ODC Exhibit 5, Bates 225.

further witnessed the law clerk continue trying to contact Stegeman. Heilman also tried to call Stegeman and there was no answer. Heilman's client was distraught. Her client had a stress disorder and was subject to seizures. Preparing her client to testify was a challenge.

Stegeman suggests that when he learned about the call from the Court that he and his client headed to court.<sup>27</sup> Stegeman maintains that there was no untoward reason for him to file this Motion. He had no reason to file a Motion with misrepresentations and get the trial continued for any strategical reason.

In the end:

1. Stegeman did not have a conflict for August 26, 2022 as stated in his Motion.
2. It is disputed as to whether discovery was ongoing. Heilman states she mailed answer August 16, 2022. Stegeman says he did not receive the answers mailed August 16, 2022.
3. It is undisputed that Heilman was never sent the Motion. Stegeman suggests this was error and that it is not his practice to not send pleadings to other counsel.
4. It is undisputed that Heilman did not consent to the continuance. She was never contacted about a continuance.<sup>28</sup> Stegeman contends that he was of the impression that his staff had contacted Heilman and that there was consent. He suggests that it was all due to incompetence.

At the disciplinary hearing Stegeman said he asked Jeremy Monroe of his office to make sure that there was consent to the continuance and that he relied on Monroe. Monroe could not be found by the ODC or by Stegeman for purposes of the hearing. Stegeman's

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<sup>27</sup> It is unclear how on such short notice Stegeman could have appropriately prepared for trial and prepared his client for trial.

<sup>28</sup> Kristyl Treadaway, another attorney in the same office as Heilman said she was never contacted about a continuance. It was stipulated that Sue Chartier, a legal assistant in the office of Heilman, was never contacted about a continuance.

position at the disciplinary hearing that he relied on Monroe is in direct contrast to Stegeman's prehearing communications. In his submission to the ODC of September 13, 2022<sup>29</sup> Stegeman states it was Sarah Hidalgo who advised Heilman did not oppose the continuance—in fact he insists therein that Heilman's office was contacted. Hidalgo denies this in all respects.<sup>30</sup>

Heilman filed a motion for sanctions with Judge Snowdy which was granted. Judge Snowdy also awarded sanctions of \$600.<sup>31</sup> The Court states that Stegeman testified that he thought the motion had been granted. No evidence was supplied in the disciplinary hearing to this effect and it is unclear how this could be the case. The Court noted that there was no testimony from Stegeman's staff corroborating the consent and found that Stegeman was not truthful with his assertion that the motion was unopposed.

The Disciplinary Hearing would thus have been the second time where Stegeman would reasonably have been called upon to corroborate his contention that his staff had advised him that they had obtained consent from Heilman. The Hearing Committee concludes that Stegeman's position that one of his staff advised them he had obtained consent is contrived and untrue.

5. Stegeman's immediate reaction in the district court to the turmoil that he caused again appears dismissive of his failures. Where is the call or letter of apology to other counsel? Where is the call or letter of apology to Judge Snowdy and his clerk? These are noted but are not ethical violations.

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<sup>29</sup> ODC Exhibit 6, Bates 227. The tone of Stegeman's response to a serious allegation appears rather dismissive of the entire matter.

<sup>30</sup> ODC Exhibit B, page 51-53.

<sup>31</sup> ODC Exhibit 10, Bates 238. The reasons for judgment on this topic begin at Bates 245.

Based on all of the evidence it is concluded that misstatements in the Motion by Stegeman were negligent, however the representations to the ODC, particularly as it relates to the involvement of Stegeman's staff were intentional misrepresentations. The Hearing Committee concludes that NO staff member of Stegeman advised him that there was consent to the continuance and that this was simply made up by Stegeman.

Applying the above findings of fact and incorporated analysis to the charges in the Heilman matter, the Committee concludes as follows:

1. Stegeman violated Rule 3.3 Candor Toward Tribunal ( (a) A lawyer shall not knowingly: (1) make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer). Here his filings with the Court contained false statements AND he failed to correct the false statements once known;
2. Stegeman violated Rule 8.1 Bar Admission and Disciplinary Matters ( . . .a lawyer in connection with a bar admission application or in connection with a disciplinary matter, shall not: (a) Knowingly make a false statement of material fact ).
3. Stegeman violated Rule 8.4(a), (c) and (d): Misconduct It is professional misconduct for a lawyer to (a) (violate or attempt to violate the Rules of Professional Conduct), 8.4(c) (engage in conduct involving dishonesty, fraud, deceit or misrepresentation), and (d) (engage in conduct prejudicial to the administration of justice).

The Hearing Committee also finds that restitution is due to Nicole Debarieris in the amount of \$400 based on the testimony of Ms. Heilman. This amount was the amount that was incurred and uncompensated due to the actions of Stegeman.<sup>32</sup> While there was a sanctions award it did not fully compensate Heilman's client for all incurred fees.

### **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;

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<sup>32</sup> The sanction award has already been reduced. The cost to Heilman's client was \$1,000. \$1000 less \$600 = \$400.

- (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, the Committee finds that Stegeman violated duties owed to his client Mr. Arnouville. He further violated duties to the public, to the legal system and to the profession in connection with both the Arnouville and Heilman complaints. Mr. Arnouville will likely have a future distrust for any lawyer he retains. Nicole Debarieris was not a client of Stegeman, but nevertheless encountered his actions and was detrimentally affected by the actions of Stegeman. Stegeman's actions in Evangeline Parish and St. John the Baptist Parish violated duties to the legal system and to the profession.

As noted above with more detail, Stegeman's actions were negligent as it relates to his failing to appear for court on time and the filing he made with the court on the continuance. His misrepresentations as to what occurred to the ODC were intentional and knowing.

Stegeman's actions caused actual monetary injury to his clients and to a non-client. The potential injury caused by his actions will never be known. Certainly Mr. Anouville will never know what he should be able to expect from a lawyer he hires, even if for a flat fee. Ms. Heilman and her client and those in her office will never trust him again. Judge Vidrine and Judge Snowdy will no doubt always question his veracity.

The *ABA Standards for Imposing Lawyer Sanctions* suggest that reprimand is the baseline sanction for Stegeman's negligent misconduct. Under Section 4.4 **Lack of Diligence** his actions are such that they lean toward reprimand under 4.43 as it relates to his failure to appear and to his errant filing only because they were negligent. His actions fall just short of constituting a pattern of neglect to justify a suspension on these matter under 4.42(b).

On the other hand, Stegeman's actions further fall under *ABA Standards for Imposing Lawyer Sanctions* Section 6.1 **False Statements, Fraud and Misrepresentation**, particularly



6.12, in that his conduct before the Courts in Evangeline and St. John the Baptist Parishes and his disciplinary proceedings involve conduct prejudicial to the administration of justice and involve dishonesty, deceit and misrepresentations. Here 6.12 warrants suspension.

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:

- Prior disciplinary offenses—present. There was a prior admonition of 2007 In re : Russel s. Stegeman, 06-ADB-021<sup>33</sup> for failing to account for an unearned fee and failing to cooperate with the ODC investigation.
- Multiple offenses—present. This is based on the fact that the matter at hand involves two separate incidents.
- Submission of false statements during the disciplinary process—strongly present. The veracity of Stegeman’s responses in his dealings with the ODC are very suspect. His dealings with the ODC were flippant and he appeared to revise and shape his position over time rather than confront what he had done.
- Refusal to acknowledge wrongful nature of conduct—strongly present. As it relates to the factual findings that in some respect were “negligent”, Stegeman too easily suggests everyone makes mistakes. Mistakes certainly occurred but his response to the mistakes were largely absent except when pressed through the sanctions motion and the disciplinary process—and there he was not candid in his dealings.

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<sup>33</sup> ODC Exhibit A.

- Vulnerability of a victim—present based on the testimony of Ms. Heilman that her client suffered greatly over the events in a very unique context.
- Substantial experience in the practice of law—strongly present.

The following mitigating factors were determined to possibly justify a reduction in the degree of discipline to be imposed. Other mitigating factors that could be considered or which were presented have been rejected:

- Absence of a dishonest or selfish motive—present as it relates to the failure to appear and the continuance, but not as relates to the response to his actions.

To further assist in making the sanction recommendation, relevant jurisprudence has been considered. The focus in the review of jurisprudence was not on the negligent aspects of the Hearing Committee’s findings related to Stegeman, but rather on his **response** to what was alleged and the deceptive nature of his responses.

In the case of *In re: J. Michael Bordelon*, 2004-0759 (La. 1/7/05); 894 So.2d 315 the attorney made false statements of material fact in connection with a disciplinary matter. He was suspended sixty days.

*In Re Douglas L. Uzee*, 2019-B-1474 (11/05/2019) 281 So.3d 648 involved a matter in which Uzee failed to cooperate with the ODC in its investigation of three complaints filed against him. This was a consent discipline. He was suspended for a period of one year and one day, with all but sixty days deferred. There was also two years of supervised probation.

In the case of *In re: Gary W. Bailey*, 2003- 0839 (La. 6/6/03), 848 So.2d 530, Bailey attempted to obtain continuance by misleading the court as to a scheduling conflict and knowingly attempted to introduce an altered medical report into evidence. There were two counts and the violations included: Rules 3.3 (a) (1) (false statement of material fact or law to a tribunal), 3.3(a) (4) (offering evidence the lawyer knows to be false), 3.4(a) (unlawfully altering potential evidence), 3.4(b) (falsifying evidence), 8.4(a) (misconduct), 8.4(c) (dishonesty) and 8.4(d). Bailey was suspended 2 years.

Finally in the matter *In re Michael H. Bercier*, 2014-2352 (La. 3/27/15), 164 So.3d 170, Bercier provided false evidence to ODC during its investigation and engaged in dishonest conduct. A 2-year suspension was ordered.

In determining an appropriate sanction, the Committee is also 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).

Lawyers do make mistakes and the profession as well as the Rules of Professional Conduct recognize lawyers can make honest mistakes. Nevertheless, the bar is set very high. Perfection is encouraged and certainly approved even in the adversarial process, but it is not mandated such that an attorney should be suspended or disbarred for failing to be perfect. On the other hand, when a mistake is made the profession mandates that the response be made with complete honesty and integrity in

dealing with those that have been affected by the mistake. This includes the client, the opposing attorney and his client when applicable, the Court system, and the Office of Disciplinary Counsel. Here the mistakes warranted an admonition, but the response by Stegeman requires suspension.

When considering all of the facts, the applicable rules and the jurisprudence the Committee concludes that the actions of Stegeman mandate a 6-month suspension.

As part of the Recommendation the Hearing Committee has recommended a practice monitor. While such monitors are more typically used in matters of reinstatement, the Committee has concern about Stegeman's legal practice. He very easily referred to incompetence on his part and that of his staff, that there was a lot of "bungling going on", that his staff was not up to his needs and that "we were going too fast." He testified that changes have been made, but nevertheless the Committee has concerns. He appears to have a high volume, fast approach practice, with perhaps an overuse of technology and an overuse of staff to deal with the clients. Several staff members are in the Philippines. The comments to ABA Model Rule 1.3 Section 2 note: [2] A lawyer's work load must be controlled so that each matter can be handled competently.

## CONCLUSION

In Conclusion the Committee makes the following recommendations:

1. That respondent Russell L. Stegeman be suspended from the practice of law for a period of 6 months.
2. That upon his reinstatement to the practice of law, respondent Russell L. Stegeman be required to work with a practice monitor for a period of 1 year, the terms and conditions to be set by the Office of Disciplinary Counsel.

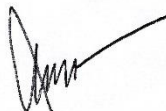
3. That respondent Russell L. Stegeman pay restitution to Christian Arnouville in the amount of \$600.00.
4. That respondent Russell L. Stegeman pay restitution to Nicole Debarieris in the amount of \$400.00.
5. The respondent Russell L. Stegeman be assessed with the cost and expenses of this proceeding pursuant to Rule XIX, Section 10.1.

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

Baton Rouge, Louisiana, this 7<sup>th</sup> day of August, 2023.

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

**Myron A. Walker, Jr., Committee Chair  
Henry G. Terhoeve, Lawyer Member  
Vance J. Normand, Jr., Public Member**



**BY:**

**Henry G. Terhoeve  
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: ... (2) reasonably consult with the client about the means by which the client's objectives are to be accomplished; ...

### **Rule 3.3. Candor Toward the Tribunal**

(a) A lawyer shall not knowingly: (1) make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer; ...

### **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:

(a) Knowingly make a false statement of material fact;

...

### **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;

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

...