

ORIGINAL

Louisiana Attorney Disciplinary Board

FILED by: *Karen H. Piroto*
Docket# 23-DB-007 Filed-On 9/10/2024

LOUISIANA ATTORNEY DISCIPLINARY BOARD

IN RE: LIONEL LON BURNS

NUMBER: 23-DB-007

RECOMMENDATION TO THE LOUISIANA SUPREME COURT

INTRODUCTION

This is an attorney discipline matter based upon the filing of formal charges by the Office of Disciplinary Counsel (“ODC”) against Lionel Lon Burns (“Respondent”), Louisiana Bar Roll Number 25352.¹ ODC alleges that Respondent violated the following Rules of Professional Conduct in two counts included in the formal charges:

Count I (McDuffie/Crocklen): 1.4(a)(2) (communication - lawyer shall reasonably consult with client regarding how objective will be accomplished); 1.4(a)(3) (communication - keep the client reasonably informed about the status of the matter); 1.4(a)(4) (communication - promptly comply with reasonable requests for information); 1.4(a)(5) (communication - 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); 1.5(f)(5) (failure to return unearned fee/failure to deposit disputed fee amount into trust account/failure to suggest means for prompt resolution of fee dispute); 1.16(d) (obligations upon termination of representation – failure to return unearned fee and client file); 3.4(c) (knowingly disobey an obligation under the rules of a tribunal, except for an open refusal based on an assertion that no valid obligation exists); 5.5(e)(4) (suspended lawyer shall not receive, disburse or otherwise handle client funds);

¹ Respondent was admitted to the Louisiana Bar on April 9, 1998. His primary registration address is 1465 N. Broad St., Suite 207, New Orleans, LA 70119. Respondent is currently eligible to practice law in Louisiana. He has a prior disciplinary history which is summarized later herein.

8.1(a) (knowingly make a false statement of material fact in connection with a disciplinary matter); and 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation);

Count II (Blackstone): 1.16(d); 8.4(a); and 8.4(c).²

During the hearing, Respondent admitted to all of the alleged rule violations. Therefore, the hearing proceeded on issues related to sanction. The hearing committee (“Committee”) assigned to the matter recommended that Respondent be suspended for two years and that he be assessed with costs and expenses.

For the following reasons, the Board concludes that Respondent violated Rules 1.4(a)(2), 1.4(a)(3), 1.4(a)(4), 1.4(a)(5), 1.5(f)(5), 1.16(d), 3.4(c), 5.5(e)(4), 8.1(a), and 8.4(c) in Count I and Rules 1.16(d), 8.4(a), and 8.4(c) in Count II. The Board further concurs in the Committee’s recommendation that Respondent be suspended for two years. Additionally, the Board recommends that Respondent be assessed with the costs and expenses of these proceedings in accordance with Louisiana Supreme Court Rule XIX, §10.1(A).

PRIOR DISCIPLINARY HISTORY

In 2006, Respondent was admonished for violations of Rules 3.4(a) (unlawfully obstruct another party’s access to evidence or unlawfully alter, destroy or conceal a document or other material having potential evidentiary value; counsel or assist another person to do any such act) and 8.4(d) (conduct prejudicial to the administration of justice). The disciplinary action arose out of Respondent’s misconduct in a judicial proceeding during which Respondent was found to be in contempt of court on two separate occasions in connection with the same discovery dispute. As a

² See attached Appendix for full text of the Rules.

condition of the admonition, Respondent attended the LSBA Practice Assistance School. *See* Exs. ODC 1 and ODC 25, Bates pp. 519-522.

In 2007, Respondent was admonished for violating Rule 1.15(d) (safekeeping and prompt delivery of funds in which a client or third person has an interest). In that matter, Respondent failed to disburse funds owed to a third-party medical provider after settlement of a client's claim. *See* Ex. ODC 2.

Respondent was suspended for one year, effective May 16, 2018, and ordered to attend the LSBA Ethics School for violations of Rules 5.5(a) (a lawyer shall not practice law in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so) and 8.4(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). Respondent's paralegal appeared on Respondent's behalf and participated in a pre-trial conference before a judge in Jefferson Parish without identifying himself as a paralegal. Respondent facilitated and assisted the paralegal in the unauthorized practice of law. Additionally, contrary to his later testimony, Respondent was not ill or unable to attend the pre-trial conference, but had appeared in criminal court in Orleans Parish on the same day. *In re Burns*, 2017-2153 (La. 5/1/18), 249 So.3d 811; *see also* Ex. ODC 3. Respondent was reinstated from his one-year suspension on May 17, 2019. *See* ODC 4.

PROCEDURAL HISTORY

The original formal charges were filed in the present matter on January 26, 2023, and amended charges were filed on June 20, 2023. The formal charges, as amended, state, in pertinent part:

3.

COUNT I:
ODC 0038544

Kimberly Stewart McDuffie and Mark Crocklen, Sr., Complainants

On May 16, 2020, the Office of Disciplinary Counsel (hereinafter “ODC”) received a complaint from Kimberly Stewart McDuffie (“Ms. McDuffie”), which caused the matter to be opened as investigative file number 0038544. At some point throughout the course of the investigation, Mark Crocklen, Sr. joined in the complaint originally filed by Ms. McDuffie (hereinafter, collectively referred to as “Complainants”).

4.

After conducting a preliminary investigation, on July 13, 2020, the initial complaint was forwarded to Respondent via certified mail to his primary/preferred registered address, to which Respondent provided an initial response on August 6, 2020.

5.

Respondent appeared on September 26, 2022, to provide the ODC with a sworn statement.

6.

The facts of the underlying litigation are as follows. On, or about, June 29, 2016, there was a robbery and murder of a manager at a Raising Canes fast food restaurant in Kenner, Louisiana. Mark Crocklen, Jr., along with several co-defendants, were arrested in connection with this heinous crime. By all accounts, Mark Crocklen, Jr. was the get-away driver in the robbery, and on October 27, 2016, he was charged by Bill of Indictment with, among other things, Second Degree Murder, Armed Robbery, Conspiracy to Commit Armed Robbery, False Imprisonment, Intimidating a Witness and Obstruction of Justice.

7.

On September 24, 2016, Complainants retained Respondent, Lionel Lon Burns, to represent their son, Mark Crocklen, Jr., in connection with the aforementioned pending criminal charges in *State of Louisiana v. Mark Crocklen, [Jr.]*, 24th Judicial District Court, Parish of Jefferson, docket number 16-6590. Their agreement was memorialized in a document entitled, *Flat Fee Agreement and Authority to Represent*.

8.

The *Flat Fee Agreement and Authority to Represent*, although unsigned, governed the relationship between the parties. This fact is undisputed. A flat fee of \$20,000 was charged for the stated representation, the scope of which included representation through trial on the merits, if necessary.

9.

Ms. McDuffie paid the original \$10,000 deposit via Mid-South Bank Cashier’s Check number 423532, dated September 23, 2016. Mark Crocklen, Sr. paid the remaining \$10,000 balance in bi-monthly payments of \$150.

10.

During the course of the representation, Respondent was disciplined by the Louisiana Supreme Court, order dated May 1, 2018, under docket number 2017-B-

2153. The aforementioned discipline resulted in Respondent's suspension of one-year, effective May 16, 2018. Respondent remained suspended until he was reinstated effective May 17, 2019.

11.

Pursuant to Supreme Court Rule XIX, § 26(A), Respondent was required to notify, or caused [sic] to be notified, by registered or certified mail, return receipt requested, all clients, adverse parties, and opposing counsel, of his suspension and his disqualification to act as a lawyer after the effective date of the court's order.³ Although not required to, ODC advised Respondent, through his counsel of record, of his requirement to comply with Rule 26. Respondent failed to notify Complainants, or Mark Crocklen, Jr., of his suspension, by registered/certified mail, or otherwise.

12.

Pursuant to Supreme Court Rule XIX, §26(H), Respondent was required, within thirty (30) days from the effective date of the suspension order, to file with the Court, an affidavit showing, among other things, compliance with the court order and rules. Respondent failed to file the required affidavit of compliance, pursuant to Rule XIX, § 26(H), or otherwise inform the court that he had provided the required notifications.

13.

Pursuant to Supreme Court Rule XIX, §26(D), Respondent was required to deliver to all clients being represented in pending matters any papers or other property to which they are entitled and shall notify them **and** any counsel representing them of a suitable time and place where the papers and other property may be obtained. Respondent failed to deliver to Complainants, or Mark Crocklen, Jr. the client file, or to notify them of a time and place where the file could be obtained.

14.

Pursuant to Supreme Court Rule XIX, §26(E), Respondent was required to refund, within thirty (30) days after entry of the order of suspension, any part of any fees paid in advance that have not been earned. Respondent failed to return to Complainants, or Mark Crocklen, Jr., any of the unearned fee related to the representation of Mark Crocklen, Jr. in *State of Louisiana v. Mark Crocklen, [Jr.]*, 24th Judicial District Court, Parish of Jefferson, docket number 16-6590, within thirty (30) days as required by Section 26(E).

14a.

Pursuant to Louisiana Rules of Professional Conduct, Rule 1.5(f)(5), Respondent was required to immediately refund to the client any unearned fee; and if there is a dispute concerning the amount of unearned fee, Respondent was required to deposit into his trust account an amount representing the portion reasonably in dispute. Moreover, Respondent should have suggested a means for prompt resolution of the fee dispute.

14b.

Following his suspension, Respondent failed to immediately return to Complainants, or Mark Crocklen, Jr., any of the unearned fee related to the

³ The full text of Rule XIX, §26 is included in the attached Appendix.

representation of Mark Crocklen, Jr. in *State of Louisiana v. Mark Crocklen, [Jr.]*, 24th Judicial District Court, Parish of Jefferson, docket number 16-6590 until October 6, 2022, well after the complaint was filed. Respondent did not deposit any portion of the fee into his trust account. Respondent did not suggest a means of prompt resolution of the fee dispute, until October of 2022.

14c.

Rather than return any portion of the fee to the Complainants, Respondent continued to accept attorney fees in furtherance of the representation, although it was impossible for him to continue to represent Mr. Crocklen, due to Respondent's suspension. Specifically, Respondent collected attorney fees on twenty-four (24) occasions, while suspended by the Louisiana Supreme Court:

- i. Check No. 1114, \$150.00, dated 5-22-18
- ii. Check No. 1115, \$150.00, dated 6-5-18
- iii. Check No. 1116, \$150.00, dated 6-18-18
- iv. Check No. 1117, \$150.00, dated 7-3-18
- v. Check No. 1118, \$150.00, dated 7-17-18
- vi. Check No. 1119, \$150.00, dated 7-31-18
- vii. Check No. 1170, \$150.00, dated 8-15-18
- viii. Check No. 1171, \$150.00, dated 8-28-18
- ix. Check No. 1172, \$150.00, dated 9-10-18
- x. Check No. 1173, \$150.00, dated 9-25-18
- xi. Check No. 1174, \$150.00, dated 10-9-18
- xii. Check No. 1175, \$150.00, dated 10-22-18
- xiii. Check No. 1176, \$150.00, dated 11-13-18
- xiv. Check No. 1177, \$150.00, dated 11-27-18
- xv. Check No. 1178, \$150.00, dated 12-11-18
- xvi. Check No. 1179, \$150.00, dated 12-25-18
- xvii. Check No. 1182, \$150.00, dated 2-5-19
- xviii. Check No. 1183, \$150.00, dated 2-19-19
- xix. Check No. 1184, \$150.00, dated 3-5-19
- xx. Check No. 1185, \$150.00, dated 3-19-19
- xxi. Check No. 1186, \$150.00, dated 4-2-19
- xxii. Check No. 1187, \$150.00, dated 4-16-19
- xxiii. Check No. 1188, \$159.00 [sic], dated 4-30-19⁴
- xxiv. Check No. 1189, \$150.00, dated 5-14-19

15.

Neither Complainants, nor Mark Crocklen, Jr., had obtained another lawyer before the effective date of the suspension order. Thus, pursuant to Supreme Court Rule XIX, §26(F), Respondent was required to withdraw from the representation of Mark Crocklen, Jr., in connection with *State of Louisiana v. Mark Crocklen, [Jr.]*, 24th Judicial District Court, Parish of Jefferson, docket number 16-6590. Respondent failed to withdraw from the representation.

⁴ This entry appears to include a typographical error in the First Amended and Supplemental Formal Charges. Check No. 1188, dated April 30, 2019, was in the amount of \$150.00. See Ex. ODC 25, Bates p. 728.

16.

Respondent was unable to continue the representation, due to the aforementioned discipline, resulting in his inability to practice law. Rather than terminate the representation, Respondent, for all practical purposes, “appointed” another attorney, Deidre Peterson, to represent Mark Crocklen, Jr., without communicating this fact to the client. Moreover, Respondent did not receive the consent, in writing or oral, from the client to the appointment.

17.

The first time the client learned that Respondent had “appointed” an attorney to represent him was on August 17, 2018, when Deidre Peterson showed up in court, purporting to be the attorney for Mark Crocklen, Jr.

18.

Upon ultimately learning of Respondent’s suspension, the Complainants made several attempts to communicate with Respondent and demanded the return of the unearned fee. Respondent failed to return their calls and failed to comply with the Complainants’ requests for the return of the unearned fee.

19.

Upon ultimately learning of Respondent’s suspension, attempts were made to secure new counsel for Mark Crocklen, Jr., but all efforts were unsuccessful, due to the approaching trial date. On October 16, 2018, Mark Crocklen, Jr. plead guilty to Manslaughter; two counts of Armed robbery; conspiracy to commit Armed Robbery; False Imprisonment while Armed with a weapon; Intimidation of a Witness; and Obstruction of Justice. Crocklen was sentenced, by Judge Stephen Grefer of the 24th Judicial District Court, to forty (40) years in prison, without benefit of probation, parole or suspension of sentence.

20.

In connection with his reinstatement efforts and Supreme Court Rule XIX, §23, on May 23, 2019, Respondent filed, or caused to be filed, with the Louisiana Supreme Court, an affidavit, certifying “full compliance with the requirements of the Court’s suspension order.” This was dishonest and/or a misrepresentation because Respondent had not complied with any of the requirements of Rule XIX, §26, as established herein.

21.

With respect to Count I, Respondent violated the following Rules:

- 1) Rule 1.4(A)(2)(3)(4)(5), by failing to communicate to the client the fact of the suspension, and inability to practice law; by failing to respond to inquiries of the client after being suspended;
- 2) Rule 1.16(d) by failing to return the client file and unearned fee, despite repeated requests;
- 3) Rule 3.4(c) by failing to comply with the requirements of Supreme Court Rule XIX, §26 requiring that he notify the client of the suspension order, that he file an affidavit of compliance with court, that he return the unearned fee, that he return the client file and that he withdraw from the representation.

4) Rule [sic] 8.1(a) and 8.4(c) by filing an affidavit with the Louisiana Supreme Court which contained false and misleading information certifying compliance with the order of suspension.

21a.

Additionally, with Respect to Count I, Respondent violated the following Rules:

1) Rule 1.5(f)(5), by failing to failing to [sic] immediately return the unearned fee; failing to deposit the disputed amount into his trust account; by failing to suggest a means for prompt resolution

2) Rule 5.5(e)(4) by continuing to collect attorney fees, on at least twenty-four occasions, while on active suspension by the Louisiana Supreme Court.

22.

COUNT II:

ODC 0040162

Chadsidy Blackstone, Complainant

On July 1, 2022, the ODC received the complaint of Chadsidy Blackstone (hereinafter, “Complainant” or “Ms. Blackstone”), which caused the matter to be opened as ODC investigative file number 0040162.

23.

The initial complaint was forwarded to Respondent via certified mail to his primary/preferred registered address on July 14, 2022, to which Respondent submitted an untimely initial response on September 20, 2022.

24.

Respondent appeared on September 26, 2022 at ODC to provide a sworn statement.

25.

On or about December 2, 2021, Ms. Blackstone retained Respondent, Lionel Lon Burns, to represent her in connection with a Disciplinary Action between she and her employer, the United States Postal Service, that arose after Ms. Blackstone, a janitor, made complaints that she was sexually harassed and discriminated against while at work, thereby creating a hostile work environment, resulting in her seeking treatment. The agreement related to the representation was memorialized in a document entitled, *Flat Fee Agreement and Authority to Represent*.

26.

The *Flat Fee Agreement and Authority to Represent* contemplated Ms. Blackstone would pay a flat fee of \$3,500 for the representation. On December 2, 2021, Ms. Blackstone paid the \$3,500 attorney fee.

27.

On June 22, 2022, after becoming dissatisfied with the pace at which the representation was proceeding, Ms. Blackstone made a written request via email to the Respondent requesting a return of the client file and the \$3,500 attorney fee she paid.

28.

Respondent admitted in his sworn statement that at the time Ms. Blackstone terminated the representation in June of 2022, the disciplinary action for which he

was hired had not commenced, and thus, he had not done any of the legal work for which he was retained.

29.

Rather than return the unearned fee, Respondent provided a “Detailed Bill” to Ms. Blackstone which consists mostly of texts/calls between Ms. Blackstone and his paralegal, Randy Tucker-the same paralegal who was the subject of the previous discipline. The detailed bill reflected a total attorney fee amount of \$9,050.00.

30.

By Respondent’s own admission, the “Detailed Bill” that was provided to Ms. Blackstone was replete with misrepresentations and/or errors regarding the amount of time take [sic] to accomplish various tasks.

31.

Respondent did not return the unearned fee to Ms. Blackstone until September 27, 2022, well after Ms. Blackstone filed the complaint and ODC took the sworn statement of the Respondent.

With respect to Count II, Respondent violated the following Rules:

- 1) Rule 1.16(d) by failing to return the unearned fee when the representation terminated;
- 2) Rule 8.4(c) by presenting a “Detailed Bill” to Ms. Blackstone that was replete with misrepresentations and/or errors; and
- 3) Rule 8.4(a) he violated or attempted to violate the Rules of Professional Conduct for the reasons stated herein.

Through his counsel, Dane S. Ciolino and Clare S. Roubion, Respondent answered the original formal charges on March 13, 2023. In response to the allegations of Count I, Respondent admitted that he did not send Mr. Crocklen notice of his suspension by certified mail and that he did file an affidavit with the Court incorrectly stating that he had notified his clients of his suspension by certified mail. Respondent denied that he violated the Rules of Professional Conduct as alleged by ODC and any other allegations not specifically admitted. In response to Count II, Respondent admitted that he sent Ms. Blackstone a detailed bill containing an inadvertent calculation error, but denied that he violated the Rules as alleged by ODC and any other allegations not specifically admitted.

Through his counsel, Respondent answered the amended charges, which added the allegations related to Count I in Paragraphs 14a, 14b, 14c, and 21a, on July 20, 2023. Respondent

denied that he violated the Rules as alleged by ODC and any other allegations not specifically admitted.

The hearing in this matter was held on November 6, 2023, before Hearing Committee No. 12.^{5,6} Deputy Disciplinary Counsel Brianne A. Hemmans appeared on behalf of ODC. Respondent appeared with counsel, Mr. Ciolino.⁷ As previously indicated, during the hearing, Respondent stipulated to all of the alleged rule violations. Therefore, the hearing proceeded on issues related to sanction. The Committee heard testimony from the following: Respondent, Deidre K. Peterson-Jefferson (attorney who represented Mark Crocklen, Jr. after Respondent was suspended); David Wolff (lead prosecuting attorney in Mr. Crocklen, Jr.'s criminal proceeding); Mark Crocklen, Jr. (via Zoom) (Respondent's client in criminal matter referenced in Count I); and Chadsidy Blackstone (Respondent's client/complainant in Count II). ODC's Exhibits ODC 1 through ODC 31 and Respondent's Exhibits 1 through 8 were admitted into evidence.

The Committee filed its report on March 12, 2024. On April 1, 2024, Respondent filed an objection to the Committee's report.

The matter was subsequently noticed for oral argument before a panel of the Board on May 30, 2024. On May 1, 2024, Respondent filed an unopposed motion for new briefing and argument date. Respondent explained that he had unexpectedly lost his son on April 8, 2024, and that "the funeral, its costs, working and still going through the grief process with immediate family and friends continues to date." He also stated in the motion that he would need to replenish funds for attorney representation at the argument and that new dates be "in the future, such as forty (45) [sic]

⁵ Hearing Committee No. 12 was comprised of John F. Olinde (Committee Chair), Brian M. Ballay (Lawyer Member), and Judy L. Milnar (Public Member).

⁶ The hearing was preliminarily scheduled for June 5, 2023 and was subsequently rescheduled for June 13, 2023. The hearing was later continued to September 6, 2023 based on an unopposed motion to continue filed by Respondent. The hearing was then continued to November 6, 2023 based upon another unopposed motion filed by Respondent.

⁷ On May 1, 2024, Mr. Ciolino and Ms. Rubion filed a motion to withdraw as counsel which was granted on the same date.

to sixty (60) days out.” The motion was granted on May 6, 2024, and oral argument was rescheduled for July 11, 2024, with initial briefing due June 11, 2024.

On June 11, 2024, the date his brief was due, Respondent faxed to the Board an unsigned copy of a second motion for new briefing deadline and hearing date. Respondent again stated that he was still going through the grief process due to the death of his son. He further stated that he had just secured funding for an attorney, who had made contact with ODC, but was advised that the attorney may have a conflict, the attorney’s schedule would not allow for the time delays/briefing schedule, and the attorney may lack independent experience to handle a Board hearing as lead counsel. He again asked for dates forty-five to sixty days in the future.

ODC opposed Respondent’s second motion to continue. ODC explained that Respondent first contacted the proposed new attorney on June 11, 2024, the date his brief was due. After speaking with Deputy Disciplinary Counsel about the status of the matter, the new attorney informed ODC that he would not be taking on the representation. ODC also asserted that Respondent did not have a biological relationship with the individual who had passed away, but that his adult “son” was a half-brother of Respondent’s oldest son. While acknowledging respect for Respondent’s unfortunate loss, ODC argued that Respondent knew that he needed to retain an attorney and had already been granted an unopposed continuance and that the matter needed to move forward.

Respondent submitted his original signed motion to continue on June 20, 2024. His motion was denied by an Order signed on the same date.

On June 26, 2024, ODC filed a brief in support of the Committee’s findings and recommendations. Respondent did not file a brief prior to oral argument.

Oral argument of this matter was held on July 11, 2024, before Board Panel “B.”⁸ Ms. Hemmans appeared on behalf of ODC. Respondent appeared pro se. Prior to the commencement of arguments, Respondent orally moved for leave to file a pleading entitled “Motion of Brief Notes and Points of Emphasis for Oral Presentation at Disciplinary Board Hearing.” ODC opposed the motion for leave. The Panel Chair granted the motion.

HEARING COMMITTEE REPORT

In its report filed on March 12, 2024, the Committee made findings and conclusions and provided analysis in support of the recommended sanction, as follows:

IV. RULES VIOLATED

At the commencement of the November 6, 2023 Hearing (the “Hearing”), Respondent stipulated to the following violations of the Rules of Professional Conduct:

Regarding Count I (the “Crocklen, Jr. Matter”) Respondent stipulated to the following violations:

Rule 1.4(a)(2), (a)(3), (a)(4), and (a)(5) by failing to communicate to his client, Mr. Crocklen, Jr., the fact of his suspension and inability to practice law, and by failing to respond to inquiries of the client after being suspended; Rule 1.5(f)(5) by failing to immediately refund to the client the unearned portion of the fixed fee at the termination of the representation; Rule 1.16(d) by failing to return the client file and unearned fee despite repeated requests; Rule 3.4(c) by knowingly failing to comply with the requirements of Supreme Court Rule XIX, Section 26, requiring that he notify the client of his suspension order by certified mail; that he file an affidavit of compliance with the court; that he return the unearned fee; that he return the client file; and, that he withdraw from the representation; Rule 8.1(a) and (c)⁹ in connection with his reinstatement efforts by knowingly filing an affidavit with the Louisiana Supreme Court which contained false and misleading information certifying compliance with the order of suspension.

During his testimony, Respondent stipulated to and admitted that he violated Rule 5.5(e)(4) by continuing to collect attorney fees while he was suspended.

⁸ Board Panel “B” was comprised of Erica J. Rose (Chair), R. Alan Breithaupt (Lawyer Member), and M. Todd Richard (Public Member).

⁹ The Committee’s reference to Rule 8.1(c) here appears to be a typographical error. Respondent was charged with and stipulated to a violation of Rule 8.4(c). See Formal Charges, ¶21(4); T.21; see also T.41. Respondent was not charged with a violation of Rule 8.1(c). It is also noted that there appears to be a typographical error in the transcript of the hearing. At page 21, the court reporter apparently failed to include the “(c)” after 8.4. However, it is apparent from the phrase “as in cat” following “8.4” that the statement made was actually “8.4[(c)], as in cat.”

Regarding Count II (the “Blackstone Matter”) Respondent stipulated to the following violations:

Rule 1.16(d) by failing to return the unearned fee when the representation terminated; Rule 8.4(c) by presenting a “Detailed Bill” to Ms. Blackstone that was replete with misrepresentations and/or errors; and Rule 8.4(a) by violating or attempting to violate the Rules of Professional Conduct.

As a result of Respondent stipulating to all of the violations asserted by the ODC, the remaining issue to be decided is the appropriate sanction.

VI. FINDINGS OF FACT

1. Effective May 16, 2018, Respondent was suspended from the practice of law for one year.
2. Respondent failed to file affidavit with court showing compliance with court order and rules.
3. Respondent was reinstated effective May 17, 2019.
4. On May 23, 2019, Respondent filed a false affidavit with the Louisiana Supreme Court certifying “full compliance with the court’s suspension order.”
5. On approximately September 24, 2016, Respondent was hired by the Crocklens to provide legal representation through the conclusion of a criminal matter involving Mr. Crocklen, Jr.¹⁰
6. Mr. Burns did not notify opposing counsel in the Crocklen case that he had been suspended. Opposing counsel heard that Mr. Burns had been suspended and filed a Motion to Determine Counsel approximately two months after Mr. Burns had been suspended.
7. A plea deal for Mr. Crocklen, Jr. had not been negotiated by the time Mr. Burns was suspended.
8. Ms. Diedre Peterson-Jefferson handled the representation of various clients for Mr. Burns, including Mr. Crocklen, Jr., after Mr. Burns was suspended; she was not involved or contacted by Mr. Burns about the cases prior to Mr. Burns’ suspension.
9. On December 2, 2021, Ms. Chadsidy Blackstone (“Blackstone”) entered into a fee agreement with Respondent and paid a \$3,500 retainer (the “Retainer”).
10. On June 22, 2022, Ms. Blackstone emailed Mr. Burns terminating his legal representation and requesting a return of the Retainer previously paid.
11. On June 23, 2022, Mr. Burns issued an invoice to Ms. Blackstone in the amount of \$9,050.00 for a period of time between October 2021 and June 2022. None of the charges listed on this invoice related to work for which Mr. Burns had been retained.
12. Ms. Blackstone filed a Complaint with the Disciplinary Board on July 1, 2022, and the Retainer was returned on about September 27, 2022.

¹⁰ Respondent was hired by Mark Crocklen, Jr.’s parents, Ms. McDuffie and Mr. Crocklen, Sr. T.41-46.

VII. THE COMMITTEE'S CONCLUSIONS AND RECOMMENDATION

With respect to Count I, the Committee finds that Respondent knowingly and intentionally violated Rule 1.4 (a)(5) by failing to 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. Respondent knowingly and intentionally violated Rule 1.5(f)(5) by failing to immediately refund to the client the unearned portion of the fixed fee at the termination of the representation and Rule 1.16(d) by failing to return the client file and unearned fee despite repeated requests. Respondent continued to pay himself a fee after he was suspended. Respondent reimbursed a portion of that fee approximately two years later.

Respondent knowingly and intentionally violated Rule 3.4(c) by knowingly failing to comply with the requirements of Supreme Court Rule XIX, Section 26, requiring that he notify the client of his suspension order by certified mail; that he file an affidavit of compliance with the court; that he return the unearned fee; that he return the client file; and, that he withdraw from the representation; Respondent knowingly and intentionally violated Rule 8.1(a) and (c) in connection with his reinstatement efforts by knowingly filing an affidavit with the Louisiana Supreme Court which contained false and misleading information certifying compliance with the order of suspension. Respondent testified that he did not notify his clients of the suspension order, he did not notify opposing counsel of the suspension order, he did not withdraw from the representation, and he did not pay the unearned fees.

With respect to Count II, the Committee finds that Respondent knowingly and intentionally violated Rule 1.16(d) by failing to return the unearned fee when the representation terminated; Rule 8.4(c) by presenting a "Detailed Bill" to Ms. Blackstone that was replete with misrepresentations and/or errors; and Rule 8.4(a) by violating or attempting to violate the Rules of Professional Conduct. Respondent testified that he directed his assistant to prepare and send the "Detailed Bill" to Ms. Blackstone after she requested a return of the Retainer. At no time prior to presentation of the "Detailed Bill" had Respondent provided Ms. Blackstone with an accounting. No evidence was provided demonstrating legal work that had been performed on Ms. Blackstone's behalf by Respondent. At the Hearing, Respondent testified that the \$9,050.00 amount billed was incorrect and that the correct amount should have been \$905.00 because of the misplacement of a decimal. However, the hourly rate on the "Detailed Bill" coincided with the \$9,050.00 amount based on a \$150/hr. rate. When questioned further, Respondent testified that none of the charges related to the representation for which Respondent was retained. The Committee finds that the "Detailed Bill" was prepared to pressure Ms. Blackstone into accepting that that [sic] Respondent was entitled to keep the unearned Retainer. Not until after a complaint was filed with the ODC did Respondent return the unearned fee.

Respondent knowingly and intentionally violated duties to his clients, the profession, and the legal system. Respondent's conduct caused actual harm to the Crocklens and Ms. Blackstone. Both clients were deprived of funds for a

significant period of time. Furthermore, Mr. Crocklen was left unrepresented by the attorney he retained.

The following aggravating factors are supported by the record: prior disciplinary offenses, dishonest or selfish motive, multiple offenses, and substantial experience in the practice of law. The only mitigating factor supported by the record is Respondent's full and free disclosure to disciplinary board and his cooperative attitude toward this proceeding.

When an attorney practices law while on suspension, the Court has imposed sanctions ranging from suspension to disbarment/permanent disbarment. The Court has imposed short to moderate suspensions for acting as a notary after suspension or disbarment. *See In re Ellis*, 99-2483 (La.9/15/99), 742 So.2d 869 (ninety-day suspension for failing to remove "attorney at law" from office sign and acting as a notary on two occasions);¹¹ *In re Dowell*, 2009-1419 (La. 12/18/09), 24 So.3d 203 (1 year suspension for failing to send notices to clients after disbarment and acting as a notary on one occasion).

The Court has imposed two-year suspensions, with all but one year and one day deferred, when suspended attorneys have appeared as an attorney at depositions or sworn statements and participated in the deposition/statement by asking questions. *See In re Williams*, 2002-2698 (La. 4/9/03), 842 So.2d 353; *In re: Jackson*, 02-3062 (La.4/9/03), 843 So.2d 1079.

In *In re Jones*, the Court suspended the respondent for two years for continuing to take legal action on behalf of a client after his suspension from the practice of law, which consisted of filing two motions and brief. 2012-1701 (10/12/12), 99 So.3d 20. Knowing conduct. Numerous aggravating factors and no mitigating factors. The charges were deemed admitted.

In *In re Nalls*, the Court disbarred the respondent for continuing to advise a client after the respondent's suspension from the practice of law and for converting insurance settlement funds owed to another client. 2013-2873 (5/7/14), 145 So.3d 1011.

When suspended or disbarred attorneys have engaged in multiple overt acts constituting the practice of law, the Court has imposed permanent disbarment. *See In re Melton*, 2005-0409 (La. 6/17/05), 905 So.2d 281 (appeared as counsel in at least three hearings after his suspension); *In re Matthews*, 2009-2416 (La. 3/26/10), 30 So.3d 737 (appeared as counsel in depositions, conducted settlement negotiations, and shared legal fees with an attorney); *In re Jackson*, 2008-2424 (La. 2/13/09), 1 So.3d 454 (engaged in an [sic] relationship with an attorney whereby he negotiated settlements, gave legal advice to clients, and shared legal fees); *In re Jefferson*; 2004-0239 (La. 6/18/2004); 878 So.2d 503 (acted as a notary, conducted settlement negotiations, signed pleadings, and engaged in other activities constituting the practice of law); *In re Lindsay*, 2007-1813 (La. 3/7/08), 976 So.2d 1261 (appeared as defense counsel in 45 traffic court matters).

¹¹ It is noted that the *Ellis* decision cited by the Committee was a consent discipline matter. The Court has instructed that reliance on consent discipline cases is inappropriate in matters that are not consent discipline proceedings. In *In re Mui*, 2022-1305 (La. 12/6/22), 350 So.3d 853, 858, the Court stated, "The board has justified its recommended sanction by citing a consent discipline case, which is inappropriate in this matter as it is not a consent discipline proceeding."

Here, the facts present unique circumstances with regard to the unauthorized practice of law. Respondent did not engage in overt acts that constitute the practice of law, such as filing pleadings, advising clients, or appearing in court. Rather, Respondent's unauthorized practice was passive, albeit knowing and intentional, by continuing to collect legal fees in the Crocklen matter despite his suspension. Thus, with regard to the unauthorized practice of law, despite being knowing and intentional, the Committee does not find that it rises to the level of disbarment. However, Respondent engaged in other serious misconduct by failing to communicate with clients, failing to return unearned fees, engaging in dishonest conduct, and filing an affidavit with the Louisiana Supreme Court which contained false and misleading information certifying compliance with the order of suspension. Thus, a period of suspension that would require Respondent to petition for reinstatement pursuant to Rule XIX, §24, is warranted. Accordingly, the Committee finds that a two-year suspension is appropriate.

VIII. CONCLUSION

The Committee recommends that Respondent be suspended from the practice of law for two years. Additionally, the Committee recommends that Respondent be assessed with the costs and expenses of the proceeding pursuant to Rule XIX, §10.1.

This opinion is unanimous and has been reviewed by each Committee member, who fully concur ...

Committee Report, pp. 6-14 (footnotes omitted).

ANALYSIS OF THE RECORD BEFORE THE BOARD

I. Standard of Review

The powers and duties of the Disciplinary Board are defined in §2 of Louisiana Supreme Court Rule XIX. Rule XIX, §2(G)(2)(a) states that the Board is “to perform appellate review functions, consisting of review of the findings of fact, conclusions of law and recommendations of hearing committees with respect to formal charges, and petitions for reinstatement and readmission, and prepare and forward to the court its own findings, if any, and recommendations ...” Inasmuch as the Board is serving in an appellate capacity, the standard of review applied to findings of fact is that of “manifest error.” *Arceneaux v. Domingue*, 365 So. 2d 1330 (La. 1978); *Rosell v. ESCO*, 549 So. 2d 840 (La. 1989). The Board conducts a *de novo* review of the hearing

committee's application of the Rules of Professional Conduct. *In re Hill*, 90-DB-004, Recommendation of the Louisiana Attorney Disciplinary Board (1/22/92).

A. The Manifest Error Inquiry

The Committee's Findings of Fact and additional factual statements made in the The Committee's Conclusions and Recommendation section of the report do not appear to be manifestly erroneous, are supported by the record, and are adopted by the Board.

B. De Novo Review

Respondent has stipulated to the charged violations of Rules 1.4(a)(2), 1.4(a)(3), 1.4(a)(4), 1.4(a)(5), 1.5(f)(5), 1.16(d), 3.4(c), 5.5(e)(4), 8.1(a), and 8.4(c) in Count I and Rules 1.16(d), 8.4(a), and 8.4(c) in Count II. *See* T.17-24, 41, 65, 97. Effect must be given to these stipulations regarding rule violations. *In re Webre*, 2017-1861 (La. 1/12/18), 318 So.3d 667; *In Re Torry*, 2010-837 (La. 10/19/10), 48 So. 3d 1038.

II. The Appropriate Sanction

A. Rule XIX, §10(C) Factors

Louisiana Supreme Court Rule XIX, §10(C) states that when imposing a sanction after a finding of lawyer misconduct, the Court or Board shall consider the following factors:

1. whether the lawyer has violated a duty owed to a client, to the public, to the legal system, or to the profession;
2. whether the lawyer acted intentionally, knowingly, or negligently;
3. the amount of actual or potential injury caused by the lawyer's misconduct; and
4. the existence of any aggravating or mitigating factors.

By his misconduct, Respondent violated duties owed to the client, the legal system, and the profession. The misconduct was knowing and intentional. Respondent failed to timely notify his client, Mark Crocklen, Jr., or Mr. Crocklen's parents, who hired Respondent to represent their son and who were continuing to make payments to Respondent, of his suspension. As a result of

this misconduct, Mr. Crocklen, who was charged with multiple serious crimes, was deprived of the ability to hire new counsel of his choosing with sufficient time to properly defend him in his criminal matter. There is no way to know whether Mr. Crocklen could have obtained a better result than the forty-year plea agreement he accepted, but the potential existed that new counsel hired in a timely manner may have achieved a better outcome. Further, both Mr. Crocklen's parents and Ms. Blackstone were deprived of their funds for significant periods of time due to Respondent's failure to return the unearned fees.

The following aggravating factors are present: prior disciplinary offenses; dishonest or selfish motive; multiple offenses; vulnerability of victim; and substantial experience in the practice of law. The sole mitigating factor present is full and free disclosure to disciplinary board and cooperative attitude toward the proceedings.

B. The ABA Standards and Case Law

The following *ABA Standards for Imposing Lawyer Sanctions* provide guidance in determining the appropriate sanction to be imposed for Respondent's misconduct:

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

5.11 Disbarment is generally appropriate when:

- (a) a lawyer engages in serious criminal conduct a necessary element of which includes . . . ; or
- (b) a lawyer engages in any other intentional conduct involving dishonesty, fraud, deceit, or misrepresentation that seriously adversely reflects on the lawyer's fitness to practice.

5.13 Reprimand is generally appropriate when a lawyer knowingly engages in any other conduct that involves dishonesty, fraud, deceit, or misrepresentation and that adversely reflects on the lawyer's fitness to practice law.

6.22 Suspension is generally appropriate when a lawyer knows that he or she is violating a court order or rule, and causes injury or potential injury to a client or a party, or causes interference or potential interference with a legal proceeding.

7.1 Disbarment is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional with the intent to obtain a benefit for the lawyer or another, and causes serious or potentially serious injury to a client, the public, or the legal system.

7.2 Suspension is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional and causes injury or potential injury to a client, the public, or the legal system.

The above standards suggest that the sanction for Respondent's misconduct could range from suspension to disbarment. Considering the above standards, the facts and circumstances of this particular case, and the jurisprudence, the Committee's recommended sanction of a two-year suspension appears to be appropriate.

Respondent's misconduct in continuing to receive scheduled payments in the Crocklen matter after he was suspended falls under the rule regarding the unauthorized practice of law. As indicated by the review of jurisprudence in the Committee's report, depending on the circumstances of the particular case, the sanction for unauthorized practice of law can vary from short to moderate suspensions to permanent disbarment. Here, Respondent's misconduct in violating Rule 5.5(e)(4) did not involve the active performance of any legal services such as drafting or filing pleadings, appearing in court or at a deposition, or providing legal advice. The Board finds that the Committee was correct that the sanction for this violation does not warrant disbarment or the most severe suspension.

In *In re Dowell*, 2009-1419 (La. 12/18/09), 24 So.3d 203, the respondent, who had been disbarred, failed to file an affidavit of compliance with the Rule XIX, §26 requirements regarding notifying all clients, adverse parties, and opposing counsel of his disbarment.¹² He also acted as a notary on one occasion after disbarment and failed to cooperate with ODC in its investigation. For

¹² It is noted that while Mr. Dowell failed to file the required affidavit, no clients were harmed as it was determined during subsequent investigation that, unlike Respondent here, Mr. Dowell did not have any active client matters at the time of his disbarment.

the combined misconduct, the Court imposed a one-year suspension, the effect of which was to extend by one year the minimum period before which he could seek readmission to practice from his disbarment.

Respondent's misconduct in failing to file an affidavit of compliance with his obligations regarding notification of clients and opposing parties and counsel regarding his suspension and in continuing to receive scheduled payments after his suspension would warrant a sanction similar to the sanction imposed for the misconduct in *Dowell*. However, here, Respondent has engaged in additional misconduct. As can be seen from the decisions discussed below, Respondent's other misconduct would also warrant suspension and, therefore, a suspension period greater than one year is appropriate.

In *In re Barry*, 2001-1722 (La. 10/26/01), 799 So.2d 479, a deemed admitted matter involving only one client complaint, the respondent was retained by the complainant for \$1,500.00 to complete a post-conviction matter for the complainant's friend who was incarcerated. The respondent failed to take any action or subsequently communicate with the complainant or his friend. The respondent failed to respond to numerous requests for information by ODC, but did appear pursuant to a subpoena for a sworn statement. The respondent subsequently made restitution to the complainant after the hearing in the disciplinary matter. The respondent was found to have violated Rules 1.3 (diligence), 1.4, 1.5, 1.16(d), 8.1 (false statement of material fact in disciplinary proceeding), 8.4(a), 8.4(c), 8.4(d) (conduct prejudicial to the administration of justice), and 8.4(g) (failure to cooperate with ODC).¹³ The Court concluded that the respondent's actions caused potential harm in delay of the resolution of the post-conviction matter and

¹³ Rule 8.4(g) was subsequently amended. At the time of the *Barry* proceeding, Rule 8.4(g) provided that it was professional misconduct to fail to cooperate with ODC except upon the expressed assertion of a constitutional privilege.

deprivation of at least \$1,500.00 in legal fees for an extended period of time. The Court emphasized that the respondent's underlying misconduct was compounded by his intentional misrepresentations to ODC that he would complete the matter or return the fee which caused ODC to close the matter temporarily at one point in the investigation. Aggravating factors included a prior admonition for similar misconduct, failure to cooperate in the proceedings, vulnerability of the incarcerated victim, and substantial experience in the practice of law. There were no mitigating factors. The respondent was suspended for six months followed by a one-year period of supervised probation and was required to complete the LSBA Ethics School.

In *In re Brown-Manning*, 2015-2342 (La. 3/4/16), 185 So.3d 728, another deemed admitted matter, the respondent was found to have neglected two client matters, failed to communicate with her clients, failed to refund unearned fees, and failed to cooperate with the ODC. The respondent violated Rules 1.3, 1.4, 1.5(f)(5), 1.16(d), 8.1(c) (failure to cooperate with ODC in its investigation), and 8.4(a). The respondent was suspended for one year and one day and ordered to pay restitution for unearned fees. The Court found that the respondent knowingly violated duties owed to her clients and the legal profession, causing actual harm, and stated that the baseline sanction for the respondent's conduct was suspension. Aggravating factors present were pattern of misconduct, multiple offenses, bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with the rules or orders of the disciplinary agency, and indifference to making restitution. The sole mitigating factor was absence of a prior disciplinary record.

In *In re Parks*, 2008-3006 (La. 4/24/09), 9 So.3d 106, a disciplinary complaint was filed against the respondent by the victim of an automobile accident caused by the respondent. The complainant asserted that the respondent had failed to address her responsibility for the accident and had failed to maintain liability insurance coverage on her vehicle on the date of the accident.

The Court found that such conduct, while concerning, did not warrant discipline by the Court. However, the respondent had failed to respond to the disciplinary complaint despite being mailed four copies of the complaint and later being personally served with a copy of the complaint. She also failed to appear for a sworn statement despite having been personally served with a subpoena. The respondent finally responded to the complaint by submitting a notarized affidavit and later appeared for a sworn statement. The Court determined that she failed to cooperate with ODC and made misrepresentations to ODC, both while under oath and in written and verbal statements. The Court found this conduct to be in violation of Rules 8.1(a), 8.1(c), 8.4(a), and 8.4(c). The Court concluded that the respondent acted knowingly and intentionally and caused harm to the disciplinary system and the legal profession and had never acknowledged her wrongfulness. For her conduct in connection with the disciplinary proceeding alone, the respondent was suspended for one year and one day.¹⁴

In *In re LaMartina*, 2010-0093 (La. 7/2/10), 38 So.3d 266, the respondent had been convicted of unauthorized access to the public school her child attended and resisting arrest and placed on probation prior to her admission to practice law in Louisiana. In the disciplinary matter, the respondent stipulated to violating the conditions of her criminal probation after she went onto the campus of a public school on three occasions without authorization and failed to pay her \$50 monthly supervision fee. The Court found that she violated Rules 3.4(c) (knowing disobedience of an obligation under the rules of a tribunal), 8.4(a) (violation of the Rules of Professional Conduct), and 8.4(b) (commission of a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer), as charged. The respondent acted knowingly, if not intentionally, and violated duties to the legal system and the public. Aggravating factors present

¹⁴ *Parks* was a deemed admitted matter, but the respondent did later appear at oral argument before the Board panel.

were a dishonest or selfish motive, pattern of misconduct, multiple offenses, and refusal to acknowledge the wrongful nature of the conduct. Mitigating factors included absence of a prior disciplinary record, full and free disclosure to the disciplinary board and a cooperative attitude toward the proceedings, and imposition of other penalties or sanctions. Additionally, in the Court's view, the respondent's tenacious behavior called into question her mental health. The respondent was suspended for one year and one day, fully deferred, subject to a two-year period of probation and additional conditions.¹⁵

Here, Respondent failed to properly fulfill his obligations under Rule XIX to inform his client and opposing counsel of his prior suspension, failed to timely return unearned fees in two client matters, provided a false affidavit to the Court in order to qualify for reinstatement from his prior suspension, continued to receive payments in the Crocklen matter during his prior suspension, and provided a false bill to Ms. Blackstone. Respondent also has a prior disciplinary history. Considering the above Standards and jurisprudence and the multiple violations committed by Respondent in connection with two client matters, a two-year suspension is reasonable.

CONCLUSION

In light of the above, the Board concludes that Respondent violated Rules 1.4(a)(2), 1.4(a)(3), 1.4(a)(4), 1.4(a)(5), 1.5(f)(5), 1.16(d), 3.4(c), 5.5(e)(4), 8.1(a), and 8.4(c) in Count I and Rules 1.16(d), 8.4(a), and 8.4(c) in Count II. The Board further concludes that the Committee's recommendation of a two-year suspension is reasonable and appropriate. The Board also recommends that Respondent be assessed with the costs and expenses of these proceedings in accordance with Louisiana Supreme Court Rule XIX, §10.1(A).

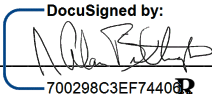
¹⁵ The conditions included the requirement that the respondent submit to an examination by a mental health care professional, selected or approved by ODC, and that she comply with any plan of treatment prescribed by that professional, at the respondent's cost.

RECOMMENDATION

The Board recommends that Lionel Lon Burns, Jr., Louisiana Bar Roll Number 25352, be suspended for two years. The Board further recommends that he be assessed with the costs and expenses of these proceedings in accordance with Louisiana Supreme Court Rule XIX, §10.1(A).

LOUISIANA ATTORNEY DISCIPLINARY BOARD

Todd S. Clemons
Albert R. Dennis III
Valerie S. Fields
James B. Letten
Ronald J. Miciotto
M. Todd Richard
Erica J. Rose
Lori A. Waters

By:  **R. Alan Breithaupt**
700298C3EF74406
FOR THE ADJUDICATIVE COMMITTEE

APPENDIX

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; (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.

...

Rule 1.5. Fees

...

(f) Payment of fees in advance of services shall be subject to the following rules: ... (5) When the client pays the lawyer a fixed fee, a minimum fee or a fee drawn from an advanced deposit, and a fee dispute arises between the lawyer and the client, either during the course of the representation or at the termination of the representation, the lawyer shall immediately refund to the client the unearned portion of such fee, if any. If the lawyer and the client disagree on the unearned portion of such fee, the lawyer shall immediately refund to the client the amount, if any, that they agree has not been earned, and the lawyer shall deposit into a trust account an amount representing the portion reasonably in dispute. The lawyer shall hold such disputed funds in trust until the dispute is resolved, but the lawyer shall not do so to coerce the client into accepting the lawyer's contentions. As to any fee dispute, the lawyer should suggest a means for prompt resolution such as mediation or arbitration, including arbitration with the Louisiana State Bar Association Fee Dispute Program.

Rule 1.16. Declining or Terminating Representation

...

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

Rule 3.4. Fairness to Opposing Party and Counsel

A lawyer shall not:

...

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

...

Rule 5.5. Unauthorized Practice of Law; Multijurisdictional Practice of Law

...

(e) (4) In addition, a suspended lawyer, or a lawyer transferred to disability inactive status, shall not receive, disburse or otherwise handle client funds.

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;

...

Section 26. Notice to Clients, Adverse Parties, and Other Counsel.

A. Recipients of Notice; Contents. Within thirty days after the date of the court order imposing discipline, transfer to disability inactive status, or voluntary resignation, a respondent who permanently resigns in lieu of discipline, a respondent who permanently retires, or a respondent who is disbarred, transferred to disability inactive status, placed on interim suspension, or actively suspended shall notify or cause to be notified by registered or certified mail, return receipt requested,

(1) all clients being represented in pending matters;

(2) any co-counsel in pending matters; and

(3) any opposing counsel in pending matters, or in the absence of opposing counsel, the adverse parties, of the order of the court and that the lawyer is therefore disqualified to act as lawyer after the effective date of the order.

The notice to be given to the lawyer(s) for an adverse party, or, in the absence of opposing counsel, the adverse parties, shall state the place of residence of the client of the respondent.

B. Special Notice. The court may direct the issuance of notice to such financial institutions or others as may be necessary to protect the interests of clients or other members of the public.

C. Duty to Maintain Records. The respondent shall keep and maintain records of the steps taken to accomplish the requirements of paragraphs A and B, and shall make those records available to the disciplinary counsel on request. Proof of compliance with this section will be a condition precedent to consideration of any petition for reinstatement or readmission.

D. Return of Client Property. The respondent shall deliver to all clients being represented in pending matters any papers or other property to which they are entitled and shall notify them and any counsel representing them of a suitable time and place where the papers and other property may be obtained, calling attention to any urgency for obtaining the papers or other property.

E. Effective Date of Order; Refund of Fees. Court orders imposing discipline or transfer to disability inactive status are effective in accordance with La. C.C.P. Art. 2167, unless otherwise ordered. Orders imposing discipline in accordance with Section 20, orders which impose an interim suspension, and permanent resignation orders are effective immediately, unless otherwise ordered by the court. The respondent shall refund within thirty days after entry of the order any part of any fees paid in advance that has not been earned.

F. Withdrawal from Representation. In the event the client does not obtain another lawyer before the effective date of the disbarment or suspension, it shall be the responsibility of the respondent to move in the court or agency in which the proceeding is pending for leave to withdraw. The respondent shall in that event file with the court, agency or tribunal before which the litigation is pending a copy of the notice to opposing counsel or adverse parties.

G. New Representation Prohibited. Prior to the effective date of the order, if not immediate, the respondent shall not agree to undertake any new legal matters between service of the order and the effective date of the discipline.

H. Affidavit Filed with Court. Within thirty days after the effective date of the disbarment or suspension order, order of transfer to disability inactive status, or order of permanent resignation, the respondent shall file with this court an affidavit showing:

- (1) Compliance with the provisions of the order and with these rules;
- (2) All other state, federal and administrative jurisdictions to which the lawyer is admitted to practice;
- (3) Residence or other addresses where communications may thereafter be directed; and
- (4) Service of a copy of the affidavit upon disciplinary counsel.