

## LOUISIANA ATTORNEY DISCIPLINARY BOARD

IN RE: JUAN CARLOS LABADIE

DOCKET NO. 17-DB-025

---

REPORT OF HEARING COMMITTEE # 24

---

## INTRODUCTION

This attorney disciplinary matter arises out of formal charges consisting of four counts filed by the Office of Disciplinary Counsel (“ODC”) against Juan Carlos Labadie (“Respondent”), Louisiana Bar Roll Number 24145.<sup>1</sup> ODC alleges that Respondent violated the following Rules of Professional Conduct: 1.3, 1.4(a) (b), 1.5(f)(5), 1.15(d), 3.4(c), 8.1 (b) (c), 8.4 (a) (b) (d).<sup>2</sup>

## PROCEDURAL HISTORY

The formal charges were filed on June 5, 2017. By letter dated June 8, 2017, the formal charges were mailed via certified mail to Respondent’s primary registration address.<sup>3</sup> The mailing was received on June 10, 2017. Respondent failed to file an answer to the charges. Accordingly, on July 14, 2017, ODC filed a motion to deem the factual allegations admitted pursuant to Louisiana Supreme Court Rule XIX, §11(E)(3).<sup>4</sup> By order signed August 7, 2017, the factual

---

<sup>1</sup> Respondent is currently suspended from the practice of law.

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

<sup>3</sup> 300 Fairfield Ave., Gretna, LA 70056.

<sup>4</sup> This rule states:

The respondent shall file a written answer with the Board and serve a copy on disciplinary counsel within twenty (20) days after service of the formal charges, unless the time is extended by the chair of the hearing committee. In the event, Respondent fails to answer within the prescribed time, or the time as extended, the factual allegations contained within the formal charges shall be deemed admitted and proven by clear and convincing evidence. Disciplinary Counsel shall file a motion with the chair of the hearing committee to which the matter is assigned requesting that the factual allegations be deemed proven with proof of service of the formal charges upon the respondent. The order signed by the hearing committee chair shall be served upon respondent as provided by Section 13C. Within twenty (20) days of the mailing of the order of the hearing committee chair deeming the factual allegations contained in the formal charges proven, the respondent may move the hearing

allegations contained in the formal charges were deemed admitted. On September 29, 2017, ODC filed its submission on sanctions.

### **FORMAL CHARGES**

The formal charges read, in pertinent part:

#### Count I

Respondent is Mr. Juan Labadie, Bar Roll #24145. Respondent was born on March 2, 1969 and was admitted to practice law in Louisiana on April 19, 1996. The Complainant in Count I is Ms. Deborah L. Frazier, a former client. Complainant hired Respondent to represent her interests in a potential malpractice claim against her former attorneys from her prior divorce proceeding. Complainant paid to Respondent a fee of \$3,000 for the representation, a copy of the check was attached to the formal complaint. Complaint advised that she met with Respondent September 21, 2013 to discuss the case.

Despite frequent calls to Respondent, Complainant was unable to compel Respondent to take action on her claim. The ODC spoke with Complainant, who advised the ODC that Respondent allowed her cause of action to prescribe. Complainant requested a refund of the fee she paid to Respondent, but he did not refund the fee.

After July 1, 2015, Respondent's telephone line was disconnected and Complainant was unable to locate Respondent after that.

Complainant filed a formal ODC complaint against Respondent on May 5, 2016. A copy of the complaint was sent to Respondent, who received and signed for the notice on June 10, 2016. Respondent failed to respond to the complaint. A follow-up letter was sent to Respondent on November 17, 2016 again advising Respondent of the filed complaint and his obligation under Rule 8.1 to respond. Respondent never responded to the complaint.

Respondent, by engaging in the above described behavior, has violated Louisiana Rules of Professional Conduct Rule 1.3, Rule 1.4(a)(b), Rule 1.5(f)(5), Rule 1.15(d), and Rule 8.1(b)(c).

#### Count II

The Complainant for Count II is Ms. Lana B. Rousell. The formal complaint was opened on October 2, 2015. Complainant alleged that she had requested, on November 10, 2014, a refund from Respondent of the funds she paid to him. She alleged that Respondent agreed, but was having financial issues and could not refund the money at that time. However, Complainant filed a formal ODC complaint when Respondent had, by October 1, 2015, still not refunded the money.

---

committee chair to recall the order thus issued upon demonstration of good cause why imposition of the order would be improper or would result in a miscarriage of justice.

Respondent received notice of the complaint on October 28, 2015, but did not respond to the complaint. A subpoena was issued on March 16, 2016 to compel Respondent's appearance at the ODC for a sworn statement. Respondent appeared for his statement scheduled for April 6, 2016. During his statement, Respondent admitted that he advised Complainant he would issue to her a refund of \$1,000. Complainant agreed to the amount of the refund. Although Respondent had, at the time of the statement, not yet refunded the money, he said in his statement that he would be able to issue the refund within 30 days. However, Respondent never refunded the money.

Respondent, by engaging in the above described behavior, has violated Louisiana Rules of Professional Conduct Rule 1.5(f)(5) and Rule 1.15(d).

### Count III

The formal complaint for Count III was sent to the ODC by the Louisiana Attorney General. Attached to the complaint was a Jefferson Parish Sheriff's Office crime report. The report detailed a domestic violence incident that involved Respondent. The victim was Respondent's live-in girlfriend (at the time), Ms. Sherri Patureau.

On July 23, 2014, deputies were dispatched to take the statement of Ms. Patureau, who suffered domestic abuse at the hand of Respondent. According to the crime report, Respondent had isolated Ms. Patureau in the master bedroom closet of her home and verbally abused her. When she tried to leave the closet, Respondent physically grabbed her and threw her to the floor. While on the floor, Respondent grabbed Ms. Patureau by the neck and pinned her down. Ms. Patureau tried to get up, but Respondent grabbed her hair and held her down. Ms. Patureau felt shortness of breath, and Respondent told her that she "deserved to die." Respondent then rose and wielded a leather belt, menacing Ms. Patureau with it. Ms. Patureau was able to escape, shortly thereafter, the home with her two children. The crime report noted that Ms. Patureau had sustained minor injuries in the form of swelling of her left wrist and redness of her neck. Respondent was apprehended by deputies and placed under arrest for domestic abuse battery.

Ms. Patureau tendered a sworn statement to the ODC. She advised that while she was pinned to the floor, Respondent, who consumes chewing tobacco, spat tobacco saliva in her face. This is also evidenced in the crime report. Additionally, Ms. Patureau advised that on a later, separate occasion while she and Respondent lived with his parents, Respondent held the edge of a straight razor to her throat in a menacing and threatening manner. Asked if she feared for life, she admitted that she did.

Respondent, by engaging in the above listed behavior, had violated Louisiana Rules of Professional Conduct 8.4 (a) (b).

### Count IV

The complaint in count IV was sent to the ODC by the Louisiana Attorney General on November 20, 2014. The complaint consisted of multiple police reports that alleged that Respondent had engaged in domestic violence against his (then)

wife, Ms. Lori Labadie. The first police report stated that on January 1, 2005, pursuant to a verbal argument about finances, Respondent grabbed Ms. Labadie, kicked her on the left knee, and pushed her out of the home and into the yard. Deputies noted marks on Ms. Labadie's wrist and knee, and Respondent was placed under arrest.

A second police report indicated a domestic incident had taken place on May 1, 2010. Ms. Labadie was attempting to enter the family home, but Respondent had physically restrained her and pushed her away. Respondent used his body to block her entrance into the home. At the time, Respondent had an active arrest warrant and deputies took him into custody.

Relating to the family law dispute between Respondent and Ms. Labadie, the docket master for litigation in *John C. Labadie v. Lori J. Labadie*, No. 681850, 24<sup>th</sup> JDC reveals that Respondent was ordered by the court to submit to a drug test, but he refused to comply. On August 11, 2014, Judge Michael Mentz held Respondent in Contempt of Court and ordered him to serve 30 days of house arrest. The same day, Respondent announced his campaign to unseat Judge Mentz in the upcoming judge's election. Judge Mentz was compelled to recuse himself from the *Labadie* case. Currently, Respondent has an attachment for his arrest because he failed to appear at a hearing on his motion to recuse the current judge presiding over his domestic civil suit, Judge Donald Rowan. Respondent's motion was denied and order of attachment was issued.

Respondent, by engaging in the described behavior, had violated Louisiana Rules of Professional Conduct 3.4 (c) and Rule 8.4 (a) (b) (d).

## **EVIDENCE**

The only evidence introduced consists of the following exhibits submitted by ODC, all of which are admitted:

### **ODC EXHIBITS**

#### **FILE NO. 0034475**

ODC1 - Complaint filed against Respondent Juan Labadie by Complainant Deborah Frazier - 5/5/16.

ODC2 - Initial letter sent to Respondent including signed certified green card -6/7/16.

ODC3 - Correspondence to Respondent from ODC - 11/17/16.

#### **FILE NO. 0033694**

ODC4 - Complaint filed against Respondent Juan Labadie by Complainant Lana B. Rouse11 - 10/5/15.

ODC5 - Initial letter to Respondent including signed certified green card - 10/29/15.

ODC6 - Subpoena issued and served for Respondent's sworn statement because he did not file a written response to the complaint - served March 29, 2016.

ODC7 - Sworn statement transcript of Respondent taken April 6, 2016.

ODC8 - Correspondence to Respondent from ODC 6/7/16 regarding refund to Complainant.

**FILE NO. 0032099**

ODC9 - Complaint - criminal matter - 8/14/14.

ODC10 - Motion for Interim Suspension filed in this matter - 5/9/16.

ODC11 - Amended Motion for Interim Suspension filed in this matter without attachments - 5/19/16.

ODC12 - Order from the Louisiana Supreme Court . granting ODC's Petition for Interim Suspension - May 26, 2016.

**FILE NO. 0032095**

ODC13 - Complaint - Divorce/Family Matter - 8/14/14.

ODC14 - Case Docket Respondent held in Contempt of Court.

ODC15 - Investigative Report including Case Docket printed 11/21/16.

**FILE NO. 32566**

ODC16 - Complaint sent to ODC by the Attorney General's office - 11/24/16.

ODC17 - Initial letter to Respondent including signed certified green card 1/5/15.

### **FINDINGS OF FACT**

All of the facts alleged by the complainants are deemed admitted.

The Committee notes that in his sworn statement, which is Respondent's only testimony in the record, he states that he did very little work on the Rousell matter, that he might not have a file on it, and that he would refund \$1,000.00 to the client. [ODC Exhibit 7, pages 8, 12-13, 16-17]. Respondent also tested positive for cocaine use in 2016, though he "vehemently denied any drug use," and was ordered to show cause by the Supreme Court why he should not be placed on interim suspension. [Amended Motion for Interim Suspension filed by ODC, ODC Exhibit 11, and Order of the Louisiana Supreme Court, May 26, 2016, ODC Exhibit 12]. The Committee was unable to determine from the record the disposition of this matter though the roster maintained by the Louisiana State Bar Association shows the Respondent was deemed ineligible to practice for noncompliance with CLE requirements on June 3, 2016 and was suspended on August 31, 2016.

It is further found by the Committee that ODC and the Board Administrator have taken all the steps required by the rules to involve Respondent in these proceedings and that respondent has failed to respond.

### **RULES VIOLATED**

Respondent's conduct is a violation of the Rules of Professional Conduct summarized below (see the Appendix for the text of these Rules).

1.3           A lawyer shall act with reasonable diligence and promptness in representing a client.

1.4(a)(b)    A lawyer shall keep the client reasonably informed about the status of the matter and give the client sufficient information to participate intelligently.

- 1.5(f)(5) A lawyer shall return any unearned portion of a fixed fee paid by the client.
- 3.4(c) A lawyer shall not knowingly disobey an obligation under the rules of a tribunal, except for an open refusal based on an assertion that no valid obligation exists;
- 8.1(c) A lawyer in connection with a disciplinary matter shall not fail to cooperate with the Office of Disciplinary Counsel in its investigation of any matter before it except for an openly expressed claim of a constitutional privilege.
- 8.4(a)(b)(d) It is professional misconduct for a lawyer to violate or attempt to violate the Rules of Professional Conduct, commit a criminal act, or engage in conduct prejudicial to the administration of justice.

### SANCTION

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

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

The terms intent, knowledge and negligence are defined in the definitions portions of the ABA Standards. Under the ABA Standards, intent is defined as the conscious objective or purpose to accomplish a particular result. Knowledge is defined as the conscious awareness of the nature or attendant circumstances of the conduct but without conscious objective or purpose to accomplish a particular result. Negligence is defined as the failure to heed a substantial risk that circumstances exist, or that a result will follow, which failure is a deviation from the standard of care that a reasonable lawyer would exercise in the situation. ODC suggested that the misconduct involved in this matter is knowing, if not intentional.

The Committee finds that Respondent knowingly violated his duties to his clients, and that his misconduct caused injury to his clients. The Committee further finds that Respondent abused

the judicial process by his failure to appear in court when so ordered by a judge, and by failing to take a drug test when so ordered by the court. While it is unclear from the record whether Respondent has ever been convicted of a criminal act, the Committee believes that Respondent has been physically abusive to his former wife and his domestic partner. [See, e.g., ODC Exhibit 15]. Respondent did not display an inability to assist in his defense with regard to the disciplinary proceeding due to a physical or mental incapacity in accordance with Rule XIX (22)(c).

The ABA Guidelines for diligence indicate, under Standard 4.41, that disbarment is generally appropriate when: (a) a lawyer abandons the practice and causes serious or potentially serious injury to a client; or (b) a lawyer knowingly fails' to perform services for a client and causes serious or potentially serious injury to a client; or (c) a lawyer engages in a pattern of neglect with respect to client matters and causes serious or potentially serious injury to a client.

The ABA Guidelines for communication, under Standard 4.61, indicate that disbarment is generally appropriate when a lawyer knowingly deceives a client with the intent to benefit the lawyer or another, and causes serious injury or potential serious injury to a client.

The ABA Guidelines for commission of a criminal act, under Standard 5.12, indicate that suspension is generally appropriate when a lawyer knowingly engages in criminal conduct which does not contain the elements listed in Standard 5.11 and that seriously adversely reflects on the lawyer's fitness to practice.

The ABA Guidelines for unearned fees and failure to account, under Standard 4.12, indicate that suspension is generally appropriate when a lawyer knows or should know that he is dealing improperly with client property and causes injury or potential injury to a client.

The ABA Guidelines for conduct prejudicial to the administration of justice, under Standard 6.22, indicates that 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.

The ODC has argued in its Submission on Sanctions that the baseline sanction for Respondent's actions is suspension. The Committee agrees. The Complainants in Counts I and II indicate knowing neglect of the clients' affairs but do not necessarily reflect a continued pattern of such misconduct. While both clients suffered monetary loss, the Committee does not conclude that Respondent knowingly deceived his clients with the intention of receiving a benefit. It is not clear that Ms. Rousell necessarily suffered a loss of her legal rights. Ms. Labadie, on the other hand, charges that Respondent also allowed her cause of action for legal malpractice to prescribe.

The Committee does find that the following ABA Standard 9.22 aggravating factor are present: (a) dishonest or selfish motive; (b) multiple offenses; (c) refusal to acknowledge wrongful nature of conduct; (d) vulnerability of victim; (e) substantial experience in the practice of law (Respondent was licensed to practice law in 1996), and (f) indifference to making restitution. It appears likely that Respondent has also engaged in illegal conduct, including that involving the use of controlled substances and the physical abuse of his former wife and of his domestic partner. It is not clear to the Committee that Respondent had prior disciplinary offenses, since all of those alleged in this proceeding seem to arise during the same period and involve the same general loss of awareness of the requirements for practicing law.

The following ABA Standard 9.32 mitigating factors appear to be present: (a) personal or emotional problems, and (b) mental disability or chemical dependency, i.e., drug abuse.

The ODC, in its Submission of Sanctions, cited numerous cases in support of its recommendation that Respondent be suspended, and the Committee finds them persuasive in concluding that suspension, rather than disbarment, is the appropriate sanction.

## CONCLUSION

Based on the evidence introduced by the Office of Disciplinary Counsel, the prior jurisprudence, and the ABA's *Standards for Imposing Lawyer Sanctions*, the appropriate sanction in this matter is a one year and one-day suspension. The Committee further finds that Respondent should be required to make restitution in the amount of \$3,000.00 to Ms. Deborah L. Frazier and \$1,000.00 to Ms. Lana B. Rousell, and to pay all costs of these proceedings.

New Orleans, Louisiana, this 21<sup>st</sup> day of December, 2017.

**Louisiana Attorney Disciplinary Board  
Hearing Committee # 24**

**Anthony P. Dunbar, Committee Chair  
Kenneth K. Orie, Lawyer Member  
Daniel E. Sullivan, Public Member**

BY: 

**Anthony P. Dunbar, Committee Chair  
For the Committee**

## **APPENDIX**

### **Rule 1.3. Diligence**

A lawyer shall act with reasonable diligence and promptness in representing a client.

### **Rule 1.4. Communication**

(a) A lawyer shall: (1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in Rule 1.0(e), is required by these Rules; (2) reasonably consult with the client about the means by which the client's objectives are to be accomplished; (3) keep the client reasonably informed about the status of the matter; (4) promptly comply with reasonable requests for information; and (5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law.

(b) The lawyer shall give the client sufficient information to participate intelligently in decisions concerning the objectives of the representation and the means by which they are to be pursued.

### **Rule 1.5. Fees**

(f) Payment of fees in advance of services shall be subject to the following rules: (1) When the client pays the lawyer a fee to retain the lawyer's general availability to the client and the fee is not related to a particular representation, the funds become the property of the lawyer when paid and may be placed in the lawyer's operating account. (2) When the client pays the lawyer all or part of a fixed fee or of a minimum fee for particular representation with services to be rendered in the future, the funds become the property of the lawyer when paid, subject to the provisions of Rule 1.5(f)(5). Such funds need not be placed in the lawyer's trust account, but may be placed in the lawyer's operating account. (3) When the client pays the lawyer an advance deposit against fees which are to accrue in the future on an hourly or other agreed basis, the funds remain the property of the client and must be placed in the lawyer's trust account. The lawyer may transfer these funds as fees are earned from the trust account to the operating account, without further authorization from the client for each transfer, but must render a periodic accounting for these funds as is reasonable under the circumstances. (4) When the client pays the lawyer an advance deposit to be used for costs and expenses, the funds remain the property of the client and must be placed in the lawyer's trust account. The lawyer may expend these funds as costs and expenses accrue, without further authorization from the client for each expenditure, but must render a periodic accounting for these funds as is reasonable under the circumstances. (5) When the client pays the lawyer a fixed fee, a minimum fee or a fee drawn from an advanced deposit, and a fee dispute arises between the lawyer and the client, either during the course of the representation or at the termination of the representation, the lawyer shall immediately refund to the client the unearned portion of such fee, if any. If the lawyer and the client disagree on the unearned portion of such fee, the lawyer shall immediately refund to the client the amount, if any, that they agree has not been earned, and the lawyer shall deposit into a trust account an amount representing the portion reasonably in dispute. The lawyer shall hold such disputed funds in trust until the dispute is resolved, but the lawyer shall not do so to coerce the client into accepting the lawyer's contentions. As to any fee dispute, the lawyer should suggest a means for prompt resolution such

as mediation or arbitration, including arbitration with the Louisiana State Bar Association Fee Dispute Program.

### **Rule 1.15. Safekeeping Property**

(d) Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. For purposes of this rule, the third person's interest shall be one of which the lawyer has actual knowledge, and shall be limited to a statutory lien or privilege, a final judgment addressing disposition of those funds or property, or a written agreement by the client or the lawyer on behalf of the client guaranteeing payment out of those funds or property. Except as stated in this rule or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such property.

### **Rule 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 8.1. Bar Admission and Disciplinary Matters**

An applicant for admission to the bar, or a lawyer in connection with a bar admission application or in connection with a disciplinary matter, shall not:

(b) Fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter, or knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this rule does not require disclosure of information otherwise protected by Rule 1.6; or

(c) Fail to cooperate with the Office of Disciplinary Counsel in its investigation of any matter before it except for an openly expressed claim of a constitutional privilege.

### **Rule 8.4. Misconduct**

It is professional misconduct for a lawyer to:

(a) Violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;

(b) Commit a criminal act especially one that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;

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