No. _____

In the Supreme Court of the United States

IN RE: HENRY L. KLEIN,

Applicant

LOUISIANA OFFICE OF DISCIPLINARY COUNSEL,

Respondent

APPENDIX

To Emergency Rule 22 and Rule 23
Application to Circuit Justice Samuel A. ALITO, Jr.
For a Stay of Disciplinary Action Pending
Writ Application Pursuant to
Axon Enterprise v. FTC* and *SEC v. Cochran

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1. Preamble: Paul-Pendley-Policing-Paul-Pendley. Before *Axon* and *Cochran* were decided on April 14, 2023, Applicant-Klein was complaining about the combination of prosecutorial and adjudicatory functions in a **single** person, Paul Pendley, a matter of deeper gravity than a **single** agency, which also happened. In Applicant's Opening Brief to the Louisiana Supreme Court, Exhibit A, full sections were devoted to multiple concepts addressed by Justice KAGAN in *Axon/Cochran*, all of which raise compelling issues, to-wit:

§ II: *An Unholy Alliance*;

§ III: *Girod was a Vulture Fund and ODC Knew it*;

§ VIII: *Valuable Excerpts from the McKay Commission*;

§ IX: *Paul-Pendley-Policing-Paul-Pendley*;

§ XII: *ODC Violated Rule XIX*[1];

§ XIII: *Appointments Clause Challenge to Non-Article III Adjudicators*[2];

§ XIV: *Lack of Specificity and ODC Refusals to Address [Klein]'s Objections*;

§ XV: *First Amendment Violations*[3];

§ XVII: *Request of Independent Investigation of ODC*[4].

§ XXIII: *In Disciplinary Cases, [the Louisiana Supreme Court] is the Court of First and Only Judicial Resort*[5].

Applicant's purpose in providing the above is to give the Circuit Justice a preview of the issues which will be included in the Cert Petition.

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1 This rule should have kept prosecutorial and adjudicatory functions separate, but didn't.

2 Straight from Michelle Cochran's lips before she had the "...last straw...".

3 By any measure, as this High Court will see, this case is all about the use of ODC to silence Applicant-Klein.

4 The Louisiana Justices were apparently appalled at Applicant's speaking his mind about ODC having only **one witness** — Girod's lawyer — who had a $15 million axe to grind.

5 Unlike judicial review which is part of a congressional scheme, *(i.e. Elgin v. Department of the Treasury)* the Louisiana scheme is *sui generis*. The concept that it considers disciplinary matters *de novo*, is an **illusion**. It has no process to determine facts and accepts what the underlying panels say — a preponderance of *ipse dixits*.

2. Both *ODC v. Klein* and *Said v. USDA* Answer the Questions Remaining After *Axon* and *Cochran* were decided. Justice KAGAN's vision of an "...ordinary statutory review scheme [which] does not preclude a district court from entertaining these extraordinary claims..." does **not** exist in the case of *ODC v. Henry Klein*. There is nothing "...ordinary..." about the manner in which Applicant-Klein was SILENCED by a vulture combining with an administrative agency to give aid to GIROD LoanCo., a loathsome purchaser of litigation. But unless the suspension is STAYED, Applicant-Klein's ability to continue with *Enas Said v. USDA* will be endangered and two cases responsive to the following analysis will be lost:

> "And one respondent attacks as well the combination of prosecutorial and adjudicative functions in a single agency. The challenges are fundamental, even existential. They maintain in essence that the agencies, as currently structured, are unconstitutional in much of their work. Our task today is not to resolve those challenges; rather it is to decide where they may be heard. . . . . [B]eing subjected to such an illegitimate proceeding causes legal injury...."

3. ALJs, AROs and ODC: No Mention of Any Issues by the Louisiana Supreme Court. By any acronym, non-Article III adjudicators are all the same. Yet the serious issues raised went *unmentioned* by the Louisiana Supreme Court, which allowed ODC to combine with Applicant's most vicious adversary. The present request is modest: stay the disciplinary action and allow Applicant to file a Petition for Certiorari on very serious issues. For purposes of the stay requested, the volume of pleadings below need not be digested, just so the Circuit Justice knows the Certiorari Petition will be well-documented:

02/14/2023: Objecting Party Opening Brief, Exhibit A.

03/09/2023: Motion for Judgment on the Pleadings, Exhibit B[6].

05/05/2023: Motion to Enforce Axon/Cochran, Exhibit C[7].

05/16/2023: Motion to Dismiss Pursuant to *Axon/Cochran*, Exhibit D[8].

05/18/2013: PER CURIAM opinion sentencing Applicant to a-year-and-a-day as a sentence for doing what? Because this case is about the *infirm administrative review structure* applied to lawyer-discipline cases in Louisiana, Applicant will simply ask Justice ALITO to find a scintilla of specificity in the opinion. Exhibit E[9].

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6 Applicant accused ODC of being "...judge, jury and executioner..." and argued that Paul Pendley was the scrivener of all reports. ODC did not deny the assertions, an unconditional surrender in the world of pleading. The Louisiana Justices made no mention of these issues, causing Applicant to seek an independent investigation pursuant to *Chambers v. NASCO*. As to Regina Heisler, who was defrauded, Applicant provided the 43 GUILTY verdicts of FNBC CEO Ashton Ryan. For simply expressing 1st Amendment thoughts, Applicant was effectively disbarred by the year-and-a-day verdict.

7 The May 1, 2023 oral argument at the Louisiana Supreme Court was limited to 20 minutes. Not close to a "...meaningful review..." of anything, particularly considering Applicant's 55-year career under siege. Applicant's efforts to explain the significance of *Axon/Cochran* were eliminated by having to rebut Paul Pendley's misrepresentations and statements by other people *never* called as witnesses below. Prior presentations are **not** recorded under the infirm scheme below.

8 Applicant cited Justice KAGAN in *Axon/Cochran*, Circuit Judges LUCERO and MORITZ in *Bandimere v. SEC*, *Withrow v. Larkin*, *SEC v. Caledonian Bank*, *In Re Murchison*, *NASCO v. Calcasieu*, and *Girod v. Henry Klein* without the Louisiana Court saying a whisper.

9 As to the significance of *Axon/Cochran*, Justice Chrichton commented that *Axon/Cochran* had "...no actual relevance..." at footnote 1:

06/28/2023: Timely Motion for Article 2167 Stay Pending a Timely Application for Relief to the United States Supreme Court, Exhibit F.

06/30/2023: DENIAL by the Louisiana Supreme Court of Applicant's Motion for Article 2167 Stay Pending a Timely Application for Relief to the United States Supreme Court, Exhibit G.

4. Conclusion Regarding the Appendix to the Application for a Stay. Regina Heisler, a widow in her 70s, was victimized by of one of the largest bank failures in history. The FDIC, violating its policies, sold the failed bank's debt to vulture funds in secrecy jurisdictions. The vulture which purchased the Heisler debt, Girod LoanCo, combined with Louisiana's self-regulated-organization ("SRO") to accuse Applicant of filing "...overly-zealous pleadings..." and the two entities moved the Supreme Court, also an SRO, to effectively disbar Applicant **for telling the truth about corruption.**

Respectfully submitted,

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Member of Supreme Court Bar
since September 6, 1974

"These [filed] documents include . . . . a 'Motion to Dismiss Pursuant to SCOTUS rulings at *Axon v. FTC* and *SEC v. Cochran* and for Further Relief' (a repetitive, albeit largely unclear, filing urging the Court to investigate alleged collusion between the Office of Disciplinary Counsel and Girod, a party in the underlying litigation)."

EXHIBIT A

2/14

IN THE SUPREME COURT
OF THE STATE OF LOUISIANA

DOCKET NO. 2023-B-0066

* IN RE: HENRY L. KLEIN *

OBJECTING PARTY OPENING BRIEF

Supreme Court Rule XIX, Section 11(G) Objection to Board Recommendations at ODC Docket 21-DC-003 with Request for Oral Argument

Respectfully submitted,

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INCREASING PUBLIC CONFIDENCE IN THE DISCIPLINARY SYSTEM

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24 A *res nova* issue well-supported by the McKay Commission and Respondent's Appointments Clause challenge.

SEPARATE APPENDIX OF EXHIBITS

On October 27, 2022, a hearing was held before Board Panel "B". To say that it was disingenuous would be an understatement for all ages. The argument was so lacking in specificity that Respondent filed a veritable plethora of motions to try to understand exactly what he did wrong and why ODC sought the "death sentence" of a -year-and-a-day. The following efforts were made without avail, sending Respondent to the Clark Committee and the McKay Commission for guidance:

10/24/22 In Limine Motion to stop Paul Pendley from arguing about other people's state-of-mind.

11/02/22 Ventriloquist Objection addressing the fact that other people's words were coming out of Paul Pendley's mouth.

11/03/22 Motion for Post-argument Submission. The allotted 15 minutes on October 27 were inadequate to correct the scathing statement by Paul Pendley and the outright factual misrepresentations. A fifty-four year career was being destroyed in minutes. The McKay Commission would agree. Judge Pauley would agree.

11/11/22 Appointments Clause Challenge. This process in this case was devoid of real "...deliberations..." by three lay persons unvetted for the task of destroying this lawyer's life.

After darkness, there is light. This Court can and should issue a Declaratory Judgment that Girod LoanCo, LLC did not have the right to present judicial demands in any Louisiana Court of Law. La. R.S. 12:1354(A) was passed to protect the public interest; this process seeks to protect the public interest; *Chambers v. NASCO* was authored by Justice WHITE to allow courts of justice to protect the public interest. He used the term "...inherent right..." or versions thereof 68 times. This case is exactly what Judge Pauley called for in *Caledonian Bank:*

"...This Case Offers Fertile Ground for Agency Self-Examination..."

And enforcement of the law set forth by Louisiana Civil Code Article 7:

> **Article 7. Laws for the preservation of the public interest**
>
> Persons may not by their juridical acts derogate from laws enacted for the protection of the public interest. Any act in derogation of such laws is an absolute nullity.

The term "juridical" was inserted in the Code to deal with what Girod did on May 27, 2020: qualify after-the-fact, mocking *Milburn v. Proctor Trust*, *infra*. The following exhibits support a declaration that will protect the public interest and begin the process of reversing the $15 million larceny of the Heislers.

Exhibit A: Opening Remarks, United Nations Human Rights Counsel regarding (i) Leprosy-related discrimination, (ii) vulture funds and (iii) trafficking migrant children.

Exhibit B: Corporate Finance Institute Report of Vulture Funds' level of inflating debt by 5 to 20 times, returning 300% to 2,000% on the price the debts are purchased by vulture-creditors.

Exhibit C: Nineteen (19) page reconstruction of the fraud upon Regina Heisler by Gary Gibbs, prepared by Respondent and provided to the prosecution team in *USA v. Gibbs* and *USA v. Ryan*.

Exhibit D: ABA Formal Opinion 491, warning lawyers not to assist clients in matters that may involve fraud or crimes, provided to Kean Miller within days of publication.

Exhibit E: Clark Committee 1970 Report: *Problems and Recommendations in Disciplinary Enforcement*, excerpting the following:

> **Problem 13:** Processing of complaints involving material allegations that are also the subject of pending civil or criminal proceedings; and
>
> **Problem 25:** Inadequate provisions concerning public disclosure of pending disciplinary proceedings

Exhibit F: Writ Application 20-1361 to the United States Supreme Court regarding Judge Schlegel's perceived violation of *Caperton v. A.T. Massey Coal*, dealing with large campaign contribution while adjudicating issues important to the contributor and *Henson v. Santander*, dealing with the fact that Girod, as the OWNER of notes,

could not qualify as a "...debt collector for others...", exempted from qualifying to transact business in Louisiana.

Exhibit G: SCOTUS Rule 22 Application to Justice ALITO stemming from Girod's obtaining a lift-stay order in the Heisler Bankruptcy before Girod's (fraudulent) Proof-of Claim was finally vetted, a matter impacted by Justice SOTOMAYOR's concurring opinion in *Chicago v. Fulton*, referred by Justice ALITO to Justice SOTOMAYOR, who referred the Application to the Full Court, denied November 1, 2021.

Exhibit H: Jury Verdict in *United States v. Ryan*, finding Ashton Ryan Guilty on all 46 Counts, 15 of which involved Gary Gibbs, who used Regina Heisler to make "shill loans" that eventually added up to $125 million when the bank failed.

Exhibit I: Robert B. McKay Commission Report on Evaluation of Disciplinary Enforcement, *Lawyer Regulation for a New Century*, first 9 pages out of 129 pages, referenced by Respondent in SectionVIII, *Valuable Excerpts from the McKay Commission*, pp. 11-14.

Exhibit J: Respondent's *Curriculum Vitae*.

Exhibit K: Photograph of Respondent's oldest son several hours before he was slain by Fentanyl.

Exhibit L: The Making of Modern Law: Henry L. Klein accolade at the United States Supreme Court, *viz*:

The Making of Modern Law: U.S. Supreme Court Records and Briefs, 1832-1978 contains the world's most comprehensive collection of records and briefs brought before the nation's highest court by leading legal practitioners - many who later became judges and associates of the court. It includes transcripts, applications for review, motions, petitions, supplements and other official papers of the most-studied and talked-about cases, including many that resulted in landmark decisions. This collection serves the needs of students and researchers in American legal history, politics, society and government, as well as practicing attorneys. This book contains copies of all known US Supreme Court filings related to this case: William J. Warner, Jr., Petitioners, v. Board of Trustees of the Police Pension Fund of the City of New Orleans, et al. HENRY L KLEIN, 429 U.S. 858, 97 S.Ct. 157, 50 L.Ed.2d 135 (1976).

I. PROLOGUE

The following observation by New York Bankruptcy Judge William H. Pauley III in SEC v. Caledonian Bank 145 F. Supp. 3d 293, applies fully to this case:

"...This Case Offers Fertile Ground for Agency Self-Examination..."

Sadly, we live in an epoch of regulators who don't regulate and protectors who don't protect. Madison's Angels must be turning over in their graves:

> *In framing a government to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and* ***in the next place oblige it to control itself.*** (Federalist 51)

Judge Pauley's next observation epitomizes ODC's loss of self-control:

> ***The power to investigate carries with it the power to defame and destroy****....Judges rely on [ODC] to deploy these powers conscientiously and provide accurate assessments of evidence collected in their investigations.* ***By overstating its case, [ODC] can undermine public confidence in the administration of justice.***

II. AN UNHOLY ALLIANCE

ODC entered into a Faustian pact with Girod, a repugnant vulture fund created *only* to purchase debt from the failed FNBC Bank. This Court's most important obligation is to protect "...the public interest..." Civil Code Article 7. A declaration that Girod did not have any right to present its *ex turpi causa* demands in a Louisiana court (including this tribunal) is a moral mandate[1]. Girod paid less than $300,000 for Heisler debt, yet has collected an *unconscionable* $15,000,000

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1 *Ex turpi causa non oritur actio*: no action can arise from an illegal act, Rights of Parties to Illegal Transactions, Neil Thompson, Federation Press, 1991. Courts of law are taught **not** to lend their aid to parties pleading a dishonorable cause.

to date, assisted by ODC. Turning small investments into vulgar profits is why the United Nations ranks vulture funds as vile as human trafficking and the maltreatment of leprosy[2]. The *Corporate Finance Institute*, headquartered in Vancouver, Canada, reported on the multiples like the Girod's fleecing of the Heislers, Exhibit B, page 4:

> **Vulture funds have also been criticized for their debt recovery mechanisms. These funds purchase debts at deep discounts with the intent of suing debtors for amounts exceeding the original debt amounts (because of interest and penalties on the debt). The funds have average recovery rates of 5 to 20 times their initial investment, and this puts their rates of return at 300% to 2,000% . . . . choosing to pursue legal action for the debt's face value plus any additional [default] interest, penalties, arrears, and legal fees.**

III. GIROD WAS A VULTURE FUND, ODC KNEW IT AND RESPONDENT PROVIDED THE PROSECUTION WITH EVIDENCE AGAINST GARY GIBBS AND ASHTON RYAN[3]

Engaging in unforgivable misconduct, ODC joined forces with an admitted vulture-creditor to silence Henry Klein. The *Stop the Vultures Act*, H.R. 2932 (pending in the judiciary committee), provides as follows, R. 669-675:

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2 "Distinguished Members: **let me turn to your mandates on leprosy-related discrimination, vulture funds and unaccompanied migrant children."** Exhibit A.

3 On February 10, FNBC CEO Ashton Ryan was found guilty on 46 counts of bank fraud. Respondent and Dayna Heisler provided the prosecution a complete report **on the "shill loans" made to Regina Heisler**, Exhibit C. The same information is contained in the record at R. 630-644. At R. 649-668 is Respondent's Expert Report on "...Predatory Lending...", ignored by ODC, *infra*.

> **(7) Vulture creditors usually acquire the debt for the payment of a sum far less than the face value of the defaulted obligation. They do so for the sole purpose of collecting through litigation, seizure of assets or other means, payment on the defaulted debt on terms and in amounts far in excess of the amount paid by the vulture creditor to acquire the debt.**

Paul Pendley knew Girod was a vulture-creditor. When he took the sworn statement of Kean-Miller attorney Eric Lockridge on June 8, 2020, Lockridge made the following judicial confession, R. 265:

MR. PENDLEY:

How would you describe your client?

MR. LOCKRIDGE:

> **Girod is a special purpose vehicle created to purchase FNBC debt from the FDIC...**

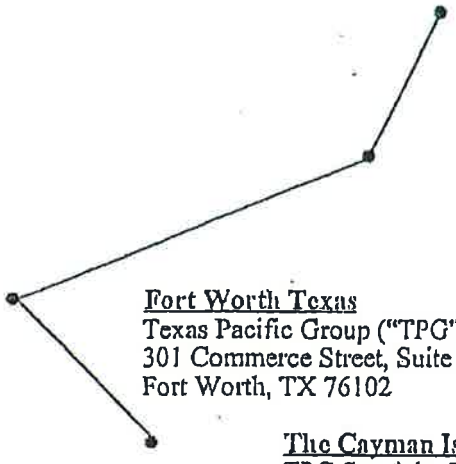
Girod was created in April of 2017, days before the collapse. Girod's exploitation of the "...Louisiana public interest..." far exceeds the Heisler case. On November 13, 2017, Girod paid $ 215,613,090 for $ 414,769,266 in FNBC debt or 52% of alleged book value, as reported by the FDIC website after the auction:

	Site Name	Date Sold	Number Loans	Book Value	Price	Win Bid	Address
DC_A1	Dallas FOB	11/13/2017	123	$208,702,913.76	$119,029,332.00	Girod Loanco LLC	301 Commerce Street, Ste. 3300 Ft. Worth, TX 76102
DC_B1	Dallas FOB	11/13/2017	121	$206,066,353.12	$96,583,758.00	Girod Loanco LLC	301 Commerce Street, Ste. 3300 Ft. Worth, TX 76102

The address, 301 Commere Street in Ft. Worth, Texas was linked by Respondent's *circa* $50,000 tracing Girod from Montreal to the Cayman Islands, ignored by ODC Hearing Committee #37 and the Board at R. 269:

IV. RECORD PAGE 269 — IGNORED BY HC-37

Our claims that LOANCO and REO are vulture funds operating out of "...virtual offices..." at 301 Commerce Street, Suite 3300, Fort Worth Texas, under the corrupt umbrella of Texas Pacific Group ("TPG") are no hyperbole. Here is how the dots were connected through reports by private investigators hired by counsel for Regina Heisler at great costs (she has no money)[1]:



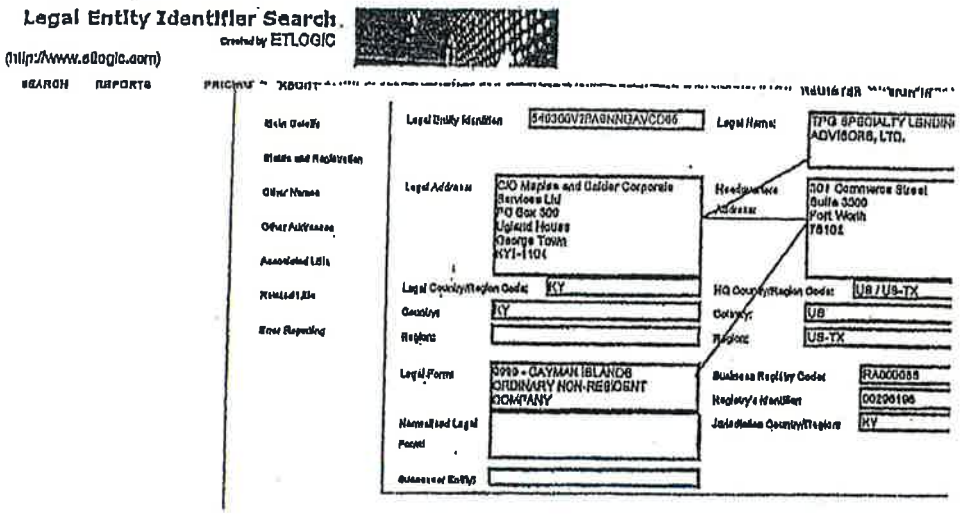
Montreal, Canada
The Maples Group
2000 McGill College Avenue
Suite 2050, Montreal, Canada

Greenville, Delaware
Maples Fiduciary Services
4001 Kennett Pike, Suite 302
Wilmington, DE 19807

Fort Worth Texas
Texas Pacific Group ("TPG")
301 Commerce Street, Suite 3300
Fort Worth, TX 76102

The Cayman Islands
TPG Specialty Lending Advisors, Ltd.
P.O. Box 309, Ugland House
George Town, Grand Cayman

See also, ETLOGIC, *Legal Entity Identifier Search*:



269

V. GIROD'S CLAIM WAS 29.4 TIMES THE AMOUNT IT PAID

Girod had ample reason to silence Henry Klein: When Respondent tried to pay the Heisler debt of *circa* $600,000, the FDIC claimed the book value on Heisler loans was $9,177, 230, a multiple of 15.295 times the actual debt. When taking into consideration the 52% Girod paid FDIC for the debt, the vulgar multiple is 29.4 times purchase price ($600,000 x 52% / $9,177,230 = 29.4).

This is why the United Nations Human Rights Council ranks vulture funds as the vilest of evils and why the CFI reported as follows at Exhibit B, *supra*:

> **The funds have average recovery rates of 5 to 20 times their initial investment, and this puts their rates of return at 300% to 2,000%**

VI. ABA FORMAL OPINION 491

As the ultimate guardian of the legal profession, Respondent urges his Court to conduct an independent investigation into both Kean-Miller and Eric Lockridge — ODC's only witness with a $15 million axe to grind — in view of ABA 491, Exhibit D:

> *In the wake of media reports, disciplinary proceedings, criminal prosecutions, and reports on international counter-terrorism and efforts to combat money-laundering, the legal profession has become increasingly alert to the risk that a prospective client may retain a lawyer for a transaction or non-litigation matter that could be legitimate but which further inquiry would reveal to be criminal or fraudulent.*

Respondent put Kean-Miller and its managing partners on notice that it may be violating ABA 491. The ODC called all communications "...threatening..." and "...without a legal basis..." in two separate reports that qualify for "...poisoning the

well[4]..." This Court is urged to conduct an *independent* investigation of the ODC, Girod and Kean-Miller as the Clark Committee and the McKay Commission on lawyer discipline advocate and as *Chambers v. NASCO* authorizes, *infra*.

ODC's "...power to investigate..." was used in this case to do more than "...***defame and destroy***..." as Judge Pauley put it in *Caledonian Bank*, it was used to protect the vilest of fiscal predators, ***"...underminfing] public confidence in the administration of justice..."*** This leads Respondent to four overarching questions which this Court should decide, ultimately utilizing the Declaratory Judgment Act to right an unrightable wrong against Respondent, the Heisler family and the public interest.

VII. OVERARCHING QUESTIONS PRESENTED FROM THE CLARK COMMITTEE[5], THE MCKAY COMMISSION[6] AND CHAMBERS v. NASCO[7]

[1] Did ODC violate Clark Committee Recommendation No. 13 against processing complaints involving material allegations that are also the subject of pending civil and/or criminal proceedings?

[2] Should the non-Article III adjudicators at ODC below be given any deference in view of Respondent's

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4 The art of "...poisoning the well..." called for preemptive strikes intended to discredit Respondent before he could say a word, John Henry Cardinal Newman, *Apologia Pro Vita Sua* on defending against personal attacks.

5 ABA Clark Committee, *Problems and Recommendations in Disciplinary Enforcement*, June 1970, Problem 13 and Problem 25, Exhibit E.

6 ABA Robert B. McKay Commission, *Evaluation of Disciplinary Enforcement*, July, 1990.

7 *Chambers v. NASCO*, 501 U.S. 31 (1991), Byron "Whizzer" WHITE, J.

Appointments Clause Challenge, Exhibit M[8] and the McKay Commission's recommendation that a state high court control the disciplinary process exclusively?

[3] Should this Court conduct an independent investigation to determine if Girod's *ex parte* communications with Paul Pendley constituted "...a wrong against institutions set up to protect and safeguard the public..." *Chambers v. NASCO*, at 45?

[4] Should this Court declare[9] that Girod LoanCo did not have the right to file judicial demands in any Louisiana court pursuant to La. R.S. 12:1354(A), *Milburn v. Proctor Trust* and *Henson v. Santander*, **the** issue that threatened Girod's multi-million dollar toxic investment in FNBC unless Henry Klein was silenced for good?

Jurisprudential support for Overarching Question No. 4 is compelling:

> **Courts of justice are universally acknowledged to be vested, by their very creation, with power to impose submission to their lawful mandates. These powers are governed by the control necessarily vested in courts to manage their own affairs so as to achieve the orderly and expeditious disposition of cases. Of particular relevance here, the inherent power also**

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8 *Article II Appointments Clause Challenge and Request for Investigation of Hearing Committee-37 and ODC Deputy Paul Pendley*.

9 Such a declaration would be *ratio decidendi*, not *obiter dicta*. Discussed further, *infra*.

> **allows a court to vacate its own judgment upon proof that a fraud has been perpetrated upon the court . . . for tampering with the administration of justice in [this] manner involves far more than an injury to a single litigant. It is a wrong against the institutions set up to protect and safeguard the public.** (slightly truncated). *Chambers v. NASCO*, at p 45 etc.

ODC's mission should have been to protect the public, not Girod's *multibillion* dollar bilking of Louisiana citizens[10]. Aiding Girod's litigation goals violated all standards of law and equity. On its part, Kean-Miller and its lawyer mocked ABA 491, as Respondent argued below, at R. 264:

> "ODC's case should have been brought against Eric Lockridge, who violated ABA Formal Opinion 491 and has bilked the Heisler estate ruthlessly."

Indeed, ABA 491 may be the most important document before this temple of justice[11]. The declaration Respondent seeks is easy, e.g. *A Proposed Minimum Threshold for the Imposition of State Door-Closing Statutes*:

> **Door-closing statutes bar a corporate plaintiff from pursuing an action based on an intrastate claim in a state's courts if the corporation has been conducting intrastate business in that state without having qualified to do so.** 51 Fordham L. Rev. 1360 (1983)

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10 $414,769,266 x 29.4 = $12.2 billion, not inconsistent with international statistics. If Respondent is 10% right, the larceny at hand was still unconscionable.

11 If a court finds "...that fraud has been practiced upon it, **or that the very temple of justice has been defiled**..." it may assess [fees and sanctions] against the responsible party, *Chambers v. NASCO*, at 46.

Why Paul Pendley became "...an advocate for [Girod's] cause..." should trouble this tribunal[12]. Respondent urges this Court to do what Justice WHITE (whose statue guards this Court's foyer) would do: (1) *investigate* ODC; (2) *investigate* how Girod talked Paul Pendley into attacking Henry Klein; (3) *investigate* why ODC checks and balances failed and (4) *consider* the recommendations by the Clark Committee and the McKay Commission. A Rule XIX, § 18(J)(1) Complaint by Respondent will not avoid self-regulatory *inaction*. This Court should enforce the law, not disbar Respondent[13]:

> §1354. Transacting business without authority
>
> **A. No foreign limited liability company transacting business in this state shall be permitted to present any judicial demand before any court of this state unless it has been authorized to transact such business, if required by and as provided in, this Chapter. The burden of proof shall rest upon the limited liability company to establish that it has been so authorized, and the only legal evidence thereof shall be the certificate of the secretary of state or a duly authenticated copy thereof.**

When Girod foreclosed on all Heisler property, **it had not qualified**. Days

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12 When [anyone] becomes an advocate for a cause, he departs from the ranks of [objectivity] and any resulting [argument or] testimony would be unfairly prejudicial and misleading..." *Viterbo v. Dow*, 646 F. Supp. 1420 (E.D. La 1986). Here, ODC blindly *embraced* Girod's protection of a $15 million axe to grind.

13 On April 26, Respondent will be 79. A year-and-a-day would be a career death-sentence — exactly what Girod needed to silence the pesky Henry Klein.

after a No Right of Action exception was filed, Kean-Miller sent the Schlegel campaign $2,500, raising the total from Kean-Miller clients to $47,500[14]. When Judge Schlegel threatened Respondent with contempt of court, the issue was brought to SCOTUS, Exhibit F.

Notably, *Wolff v. Selective Service Local Board No. 16*, 372 F.2d 817 (2d Cir. 1967), makes action by this Court imperative:

> "Since it is the mere threat of unconstitutional sanctions which precipitates the injury, **the courts must intervene at once to vindicate the threatened liberties**..."

SCOTUS Writ 20-1361 dealt with Judge Schlegel's violation of *Caperton v. A.T. Massey Coal*, 556 U.S. 868 (2009) and Girod's violation of La. R.S. 12:1354(A) vis-a-vis *Henson v. Santander*, 137 S. Ct. 1718 (2018), holding that OWNERS of debt are not "...collectors of debt for another..." who don't get a free pass from qualifying to transact business in foreign jurisdictions.

Exhibit G, filed with Circuit Justice ALITO, dealt with Girod's early lifting of the automatic stay bankruptcy gamesmanship in the face of FNBC criminality[15]. In ODC's two reports, the task of "...poisoning the well..." mentions none of this and paints Respondent as having made no "...valid arguments..." !!!

For the completeness of the record, the jury verdict is made Exhibit H.

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14 Richard Ducote's "...Schlegel's Funds..." blog exposed everything, R. 353-364. It was not Henry Klein who blew the whistle.

15 On February 9, 2023, the jury in *United States v. Ryan* convicted Ashton Ryan on 46 counts of bank fraud, including counts involving the fraud practiced by Gary Gibbs, *Borrower 1* upon Regina Heisler, *Nominee Borrower F:* Counts 2, 4, 7, 9, 10, 12,13, 15, 16, 33, 41, 43, 44, 47 and 48.

VIII. VALUABLE EXCERPTS FROM THE MCKAY COMMISSION

Before addressing the Board's Recommendations, it is valuable to consider excerpts from the Robert B. McKay Commission, selected to augment the four overarching questions presented, *supra*, Exhibit I[16].

IX. Paul-Pendley-Policing Paul Pendley. On the specific subject of "self regulation", the combination of multiple roles in one person was illegal. In its introduction, the McKay Commission made this observation about self-regulation, which is where Respondent started.

> *To strengthen judicial regulation of the profession, it must be distinguished from self-regulation. Control of lawyer discipline by elected officials of bar associations is self-regulation.* ***It creates an appearance of conflicts of interest and of impropriety.*** *In many states, bar officials still investigate, prosecute and adjudicate disciplinary cases. The state high court should control the disciplinary process exclusively.*

Respondent's Initial Objections, SC061755, said the same thing as the McKay Commission:

> In *Bandimere v. SEC*, 844 F.3d 1168 (10th Cir. 2016), the evils of combining administrative and adjudicative functions *in one person* was discussed:
> **There is a conflict of principle involved in [the agencies'] make-up and functions. They are vested with duties of administration and at the same time they are given important judicial work. The evils resulting from this confusion of principles are insidious and far-reaching. . . . The mixed duties of the [agencies] render escape from these subversive influences**

16 *Lawyer Regulation for a New Century*, Recommendations 1 and 5.

> **impossible: the same men are obliged to serve both as prosecutors and as judges. This not only undermines judicial fairness; it weakens public confidence in that fairness. Agency decisions affecting private rights lie under suspicion of rationalizations of the preliminary findings with the agency — in the role of prosecutor — presented to itself.**

That is exactly what happened in 21-DB-003. More disturbing is the specter that Paul Pendley was the scrivener at both levels below and that no "...deliberations..." actually took place. ***The proposition that all six members at the two adjudicative levels agreed with every culumnious word is ephemeral.*** Unfortunately, SROs can be arbitrary and capricious at their whim and caprice.

X. Secrecy. In the case at bar, Respondent's efforts to discover the communications between Pendley and Girod were rejected on "work-product" bases. A request for *specific* Findings of Fact and Conclusions of Law was DENIED *without* reasons. The Rule regarding Hearing Committees, at D(2) requires "...written findings of fact and conclusions of law..." *in hæc verba*. All motions by Respondent for clarity and specificity were DENIED. Why?

The McKay Report made the following comment very apropos to the case at bar:

INCREASING PUBLIC CONFIDENCE IN THE DISCIPLINARY SYSTEM

> *The Commission is convinced that secrecy in discipline proceedings continues to be the greatest single source of public distrust of lawyer disciplinary systems. Because it engenders such distrust, secrecy does great harm to the reputation of the profession.*

Why was Girod able to obtain the support of ODC when litigation was raging vigorously at civil and criminal fora?

Why was Respondent (fighting for his 54-year career) denied any information as to the alliance between Girod and ODC?

Why did ODC Deputy Paul Pendley engage in a veritable crusade in favor of Girod when he was supposed to be "...protecting the public..."?

Respondent prefers that this matter be handled as an internal inquiry. Already, Respondent has been defamed and destroyed by the premature publication of the two scathing opinions intended to do no more than poison the well at this high level.

XI. Improving the quality of decisions. On this subject, the McKay Commission identified several problems that "*...reduced the quality of adjudication...*" The two reports at bar are devoid of "...specificity..." By any standard, the findings are nothing more than ODC *ipse dixits* and *non-sequiturs*. There are human lives at stake !!! It's **not** just Respondent's life: his wife, his family, his clients, his friends !!! The *stigmata* of professional expulsion is a scar that *never* goes away !!! The Clark Commission and McKay Committee are not alone in harboring doubts as to the quality of decisions that impact lives. In a judicial tirade about administrative decision-making, the late jurist Martin L. C. Feldman did not mince words in describing his views in *Weyerhaeuser v. United States Wildlife & Fisheries Service*, 586 U.S. __(2018): **"...what the government has done is remarkably intrusive and has all the hallmarks of governmental insensitivity to private property..."**

For a lawyer who loves the law[17], a license to practice law is very valuable private property. A year-and-a-day is more a "smoking gun" in the hands of Eric Lockridge than a judicious use of regulatory power.

XII. ODC VIOLATED RULE XIX, SECTION 2(A)

Imprimis, the ABA Model Rules for Attorney Disciplinary Action state that:

> The Center for Professional Responsibility provides leadership in developing standards and scholarly resources in legal and judicial ethics, professional regulation, professionalism and **client protection.**

By assisting "...non-client.." Girod, ODC violated its own mission:

> **The primary purpose of the discipline system is to protect the public. To accomplish this, the agency investigates complaints of lawyer misconduct and makes recommendations to the Louisiana Supreme Court when discipline is warranted.**

In the underlying fight, Respondent was protecting the public, hiring detectives to trace Girod from Montreal to the Ugland House in the Cayman Islands, Record Page 269, ignored below. Rather than consider that evidence, Paul Pendley violated Section 2(A) of Rule XIX, acting as the complainant, investigator, prosecutor, suspected scrivener and the appellate counsel:

> **Agency. There is hereby established one permanent statewide agency to administer the lawyer discipline and disability system. The agency consists of a statewide board as provided in Section 2, hearing committees as provided for in Section 3, disciplinary**

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17 Respondent's *Curriculum Vitae* received no mention from either panel. The same for the accolade at the United States Supreme Court Publication "The Making of Modern Law", Exhibit J.

> **counsel as provided for in Section 4, and staff appointed by the board and counsel. The agency is a unitary entity. While it performs both prosecutorial and adjudicative functions, these functions *shall* be separated within the agency insofar as practicable in order to avoid unfairness.**

The same concept is found at *In Re: Murchison*, 349 U.S. 133 (1955):

> "A fair trial in a fair tribunal is a basic requirement of due process. Fairness, of course, requires an absence of actual bias in the trial of cases. But our system of law has always endeavored to prevent even the probability of unfairness. To this end, no man can be a judge in his own case, **and no man is permitted to try cases where he has an interest in the outcome**[18]."

Mr. Pendley's "...interest in the outcome..." was manifested early. Although he was rejected by the Hearing Chair because "...the proceeding was being used to discourage a litigant from being aggressive...", R. 44, he went back and persuaded the Chair to let him prosecute Respondent.

XIII. APPOINTMENTS CLAUSE CHALLENGE AS TO ODC'S NON-ARTICLE III ADJUDICATORS

This could be *res nova* in lawyer-enforcement, but not in law-enforcement. Constitution Article II, Section 2, clause 2, known as the "Appointments Clause" is intended to protect citizens from adjudication of rights by "inferior officers" or

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18 The Latin phrase: *nemo judex in causa sua* is doctrinal. When Judge Schlegel engaged in self-absolution on Respondent's Motion to Recuse, it was a matter of "...Judge-Schlegel-judging-Judge-Schlegel...". A *malum prohibitum* unmentioned by HC-37 and the Board.

"mere employees" of the government. Pursuant to *Ryder v. United States*, 515 U.S. 177 (2015), Respondent is entitled to a ruling on the challenge is a matter *imprimis*:

> "We think that one who makes a timely challenge to the constitutional validity of the appointment of an officer who adjudicates his case is entitled to a decision on the merits of the question and whatever relief may be appropriate if a violation has indeed occurred."

The key issue deals with persons who hold "...significant authority..." to impact protected rights. For example, bankruptcy judges, magistrate judges and administrative law judges hold "...significant authority..." but cannot render final adjudications. The Louisiana disciplinary system places significant authority in ODC, which may be why the McKay Commission argues that a state high court should control the disciplinary process *exclusively*. Respondent challenged because ODC was so reckless that the Board should be given no deference whatsoever. Both panels failed *Weyerhaeuser* rigors that [ODC] must have "... engaged in *careful analysis*, considered the impact of agency-actions on *private rights* and have given *plausible explanations* for its decisions..." Implausibly, ODC advocated for a "silo structure" so opaque that it cannot be linked to any human being, much less a Louisiana human, which is how Girod manipulated the federal court into remanding the case to Judge Schlegel the first time around[19]:

---

19 In Water Street Bank v. Panama, 1995 WL 51160, the court dealt with the issue, thus:

> Vulture funds tend to be secretive about their investors. Yet knowing the identity of an adversary is essential to defending against claims. In *Water Street Bank v. Panama* Judge Harold Baer found the plaintiff's refusal to disclose his owners unacceptable and dismissed the case outright." *Vultures, Alter Egos, and Other Legal Fauna*, www.law.duke.edu.

The fraud perpetrated long ago by Girod was in the filing of an affidavit that the removal by Respondent lacked "diversity" because Girod had a Louisiana member. Paul Pendley told HC-37 and the Board that Respondent removed to avoid Judge Schlegel's wrath, a reckless falsehood twice repeated. We'll see if it happens again.

Here is what the opaque affidavit said:

> **Girod is wholly-owned by a limited liability company that is owned by three other limited liability companies. One member of the limited liability companies is a limited partnership formed under the laws of Delaware. To Girod's knowledge, a limited partner of the DE LP is a limited liability company formed in Louisiana; the members of the LA LLC are inter vivos trusts incorporated under the Louisiana Trust Code and the settlors, trustees and beneficiaries of the Trusts are individuals who reside in Louisiana.**

Based on the FDIC's policy statement, R. 191-200 (never mentioned), Girod should not have been allowed to bid. Despite the time-honored phrase that "...fraud vitiates all...", Regina Heisler has lost a $15 million estate and her beleaguered lawyer is being severely sanctioned for fighting hard.

However, the worm may turn at this temple of justice. The Louisiana Declaratory Judgment Act and this Court's inherent powers can bring welcomed light to the darkness that obscures the public interest in this egregious case.

XIV. LACK OF SPECIFICITY AND ODC REFUSALS TO ADDRESS RESPONDENT'S OBJECTIONS

Throughout, Respondent Respondent sought *specificity* without avail:

R. 25-31: Respondent's Discovery to ODC *stonewalled.*

R. 58-71: Respondent's Memorandum *ignored.*

R. 95-134: Respondent's Objections to HC-37 *ignored.*

R. 137-143: Respondent's Findings of Fact *unaddressed.*

R. 170-140: Respondent's Motion *denied without reasons.*

R. 262-274: Respondent's Motion *denied without reasons.*

R. 277-286[20] Respondent's Ventriloquist Objection *mocked.*

R. 311-315: Respondent's Questions to the Board *denied without reasons*, leaving this question open:

> **WHY DID ODC HELP GIROD — A "...NON-CLIENT..." VULTURE-CREDITOR WITH A $15 MILLION AXE TO GRIND — REAP THE FRUITS OF A POISONOUS TREE[21]?**

XV. FIRST AMENDMENT VIOLATIONS IMPACTING RESPONDENT

This entire Odyssey was about Respondent's speech, a basic freedom:

> Respondent's statements about Judge Schlegel and Kean Miller were inflammatory and without any evidence to support the statements, potentially hurting the reputation of a sitting judge and of a well-established law firm."

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18 It was called a "...ventriloquist objection..." because other people's words were coming out of Mr. Pendley's mouth. He also read other people's minds and reached their conclusions *without* the inconvenience of calling witnesses.

19 "The fruit of a poisonous tree" is a *doctrine* established by Justice Oliver Wendell Holmes in *Silverthorne v. United States*, 251 U.S. 385, coined by Justice Frankfurter in *Nardone v. United States*, 308 U.S. 338 (1939).

ODC's "...without evidence..." accusation was reckless. SCOTUS Writ Application 20-1361, Exhibit K, was no frivolous task, replete with specific facts:

> **Within days after FNBC was closed, [Respondent] met with FDIC liquidators to pay circa $600,000 in Heisler debt, but was told that the debt would be sold in a "...secondary market...", as with RTC in the 1980's. On November 13, 2017, Girod purchased the Heisler debt for undisclosed pennies- on-the-dollar. In February, 2018, Kean Miller demanded $9,775,764.02 plus default interest, penalties and fees. Heisler's attempts to exercise her right of litigious redemption was rejected out-of-hand.**

Although this Court's decisions always begin by searching for "...clear and convincing evidence..." at the threshold, **this case has no evidence**. The biased testimony of Eric Lockridge cannot count. This case offers fertile ground to "...investigate the investigators..." At every step, Respondent raised his 1st Amendment Rights and Regina Heisler's 1st, 5th and 14th Amendment rights as prohibitions violated for sinister reasons.

XVI. PALOWSKY v. CAMPBELL

Despite the non-adjudicative acts on the part of Judge Schlegel and the exposure by candidate Ducote, ODC ignored this Court's analysis in *Palowsky v. Campbell*, 285 So.3rd 466 (La. 2019). When Respondent was ordered to seek Judge Schlegel's "...permission to file pleadings in advance *or face contempt*..." the principles articulated in *Wolff v. Selective Service*, *supra* were violated. In *Palowski v. Campbell*, this Court considered facts not dissimilar to what happened in *Girod v. Heisler* at the 24th JDC, where Respondent's pleadings were physically

purged from the public records and returned by the Clerk of Court to Respondent's court runner[22]. Yet HC-37 and the Board make no mention of the non-adjudicative acts by Judge Schlegel and make no effort to conduct the in-depth analyses by Justices Johnson, Weimer, Guidry, Crichton and Kirby, *ad hoc.*

The McKay Commission's concerns about the **reduced quality of adjudication** is particularly applicable to the work performed by the non-Article III adjudicators in this case. Six individuals and two ODC counsel failed the system. Deciding the credibility of witnesses is one of the most important aspects of Article III adjudication.

This case truly offers fertile ground for agency self-examination.

XVII. REQUEST FOR AN INDEPENDENT INVESTIGATION OF ODC

Respondent's Writ 20-1361 began by prefacing that the integrity of the judicial process was paramount and that ODC's accusations turned a blind eye to Question-1 posed to SCOTUS...

> **"...as to District Judge Scott U. Schlegel, who was campaigning for Louisiana Supreme Court Justice and accepted $47,500 in contributions from the Kean-Miller law firm and its client, Texas Brine? *Contemporaneous* with the contributions, Kean-Miller represented Girod LoanCo against [Regina Heisler] before Judge Schlegel, requiring *vacatur* of his infirm orders per *Caperton*."**

ODC's reckless accusation that Respondent made statements in pleadings

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22 Essentially, [the Palowski] plaintiffs allege the law clerk "...spoliated, concealed, removed, destroyed, shredded, withheld, and/or improperly handled court documents..." Respondent is not privy to how his pleadings were purged.

that "...were inflammatory and without any evidence to support the statements, potentially hurting the reputation of a sitting judge..." require an independent investigation of ODC. Madison's Angels would expect this judicial branch to control the executive branch of Louisiana government. In a case that involves billions of dollars exposed by Respondent to be heading to the Cayman Islands, the Office of Disciplinary Counsel engaged in an **unholy alliance** with a repugnant vulture-creditor who has destroyed the Heisler family, mocked ABA 491 and gotten away with fiscal terrorism.

XVIII. UNSUPPORTED *IPSE DIXITS*

In a memorable dissent in *Morrison v. Olson*, 487 U.S. 654 (1988), Justice SCALIA observed that

"...he who lives by the *ipse dixit* dies by the *ipse dixit*..."

There is no "...clear and convincing evidence..." in this case. Statements by Paul Pendley are not evidence. Statements by Eric Lockridge are poisoned evidence. As painful as it is, Respondent is compelled to chronicle some of the more egregious self-serving declarations by Deputy Pendley, contained in his suspect charges:

> Respondent's purpose for having filed his supervisory writ **"...appeared to have been..."** an attempt...etc., etc.,
>
> **"...It was clear that Mr. Olivier's concern..."** was that there were indications that Respondent had engaged in actions...etc., etc., etc.
>
> [Respondent] suggested that Judge Schlegel's motion created a constitutional issue, **"...presumably in an effort to argue..."** etc., etc., etc.

> Respondent's removal theory was based on alleged federal question. However, **"...the court found that the remand (sic) was filed solely to delay the contempt matter..."** etc., etc., etc.
>
> On June 3, [Judge Schlegel] filed Reasons alleging that Respondent was engaged in a pattern of filing repetitive motions, **"...abusive of process..."** etc., etc, etc.

Actually, Judge Schlegel said "...abuse of process..." **not** "...abus*ive* of process...". That slip of the lip raises the question: "Who was the scrivener of the two reports?" At *In re: Murchison*, *supra*, Justice BLACK said this about a man wearing too-many hats:

> "[T]rial before the judge who was at the same time the complainant, indicter and prosecutor constituted a denial of the fair and impartial trial required by the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

XIX. FAILURE TO MENTION COMPELLING MITIGATING FACTORS

Missing from both reports is the fact that Respondent, at the brink of 79, is raising two grandsons who lost *both* parents to heroin. How will Respondent explain the expulsion from a profession that he loves? Paul Pendley knew this. Paul Pendley also knew that Respondent had a son who was a very talented musician by the name of H. Christopher Klein ("H" is for Henry), deeply depressed by the lack of "gigs" wrought by Covid. In May of 2020, Respondent found Chris slain by Fentanyl. Exhibit H was taken by a neighbor the afternoon before Chris Klein he died. When will enough be enough?

XX. INCORPORATION BY REFERENCE

Respondent incorporates the following submissions in the record, none of which ODC referenced in **any** of its pleadings or reports:

1. Respondent's Opening Statement..... R.58-71
2. Respondent's Objections to the Report of Hearing Committee #37..... R.95-134[23]
3. Respondent's Motion for Findings of Fact and Conclusions of Law, pursuant to Rule XIX, § 3(D)(2)..... R.137-143
4. Respondent's 10-page letter to Charles Plattsmier asking that these charges be dismissed..... R.178-187
5. Respondent's *In Limine* Motions seeking to prevent hearsay statements by Paul Pendley at October 21 argument to the Board..... R. 262-273
6. Respondent's *Ventriloquist Objection* to statements by others coming out of Paul Pendley's mouth..... R. 277
7. Respondent's Motion for Post-Argument Submission with Question to the Board..... R.278-288
8. Martha (sic) Hamilton/Judge Schlegel and "Smoking Guns"..... R.343-365

XXI. CONCLUSION.

What ODC did is inexcusable. It took a lawyer fighting hard for a client who has been fleeced out of $15 million her late husband left his widow and

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23 On **December 7, 2021**, Lockridge received a $2,037,327.16 check payable to Girod, 99% of the money Fred Heisler left his widow. On **December 8, 2021**, Lockridge testified to HC-37 and never said a word about the $2 million. Paul Pendley never asked. Fraud by silence is fraud, Louisiana Civil Code Article 1953. **Fraud vitiates all.**

manufactured a bar complaint. Regina Heisler died on December 23, 2022 almost destitute. The late Judge Feldman's words about "...governmental insensitivity to the rights [of others]..." ring loud and clear. The Louisiana ODC was incredibly *undisciplined* and this Court has a lot to do to cure the damage inflicted.

XXII. DECLARATORY RELIEF REQUESTED

The Louisiana Declaratory Judgment Act is a valuable tool that has not received the respect it deserves.

> **Art. 1871. Declaratory judgments; scope**
>
> Courts of record within their respective jurisdictions may declare rights, status, and other legal relations whether or not further relief is or could be claimed. No action or proceeding shall be open to objection on the ground that a declaratory judgment or decree is prayed for; and the existence of another adequate remedy does not preclude a judgment for declaratory relief in cases where it is appropriate. The declaration shall have the force and effect of a final judgment or decree.

Justice Sandra Day O'CONNOR did appreciate the legislation in *Wilton v. Seven Falls*, 515 U.S. 277 (1995), stating at 288 that:

> "By the Declaratory Judgment Act, Congress sought to place a remedial arrow in the district court's quiver."

XXIII. IN DISCIPLINARY CASES, THIS IS THE COURT OF FIRST JUDICIAL RESORT

The Clark Committee and the McKay Commission both suggest that the highest court of a state must be the *exclusive* arbiter in disciplinary cases. Respondent's Appointment Clause argument makes the same point. The Panels

below are not adjudicative entities and this Court must decide disciplinary cases *de novo*. Therefore, Justice O'CONNOR's "remedial arrow" is in this Court's quiver. This Court has the absolute right to make the declaration that should have been made when Respondent first filed a Peremptory Exception of no Right of Action against Girod in front of Judge Schlegel.

Internally, this Court is urged to conduct its own *Chambers v. NASCO* investigation to determine if the combination of Paul Pendley and Eric Lockridge was the ***unholy alliance*** Respondent has spent a lot of time, money and energy exposing.

Landmark cases don't knock twice.

XXIV. VERIFICATION AND CERTIFICATE OF SERVICE

I, Henry L. Klein, *pro se,* hereby verify that all statements of fact are true and correct and that I have served this pleading on Paul Pendley, by e-mail on this 14th day of February, 2023.

So Help Me, God

Respectfully submitted,

Henry L. Klein (7440)
201 St. Charles Avenue
Suite 2501
New Orleans, LA, 70170
henryklein44@gmail.com

EXHIBIT B

3/9

IN THE SUPREME COURT
OF THE STATE OF LOUISIANA

DOCKET NO. 2023-B-0066

* IN RE: HENRY L. KLEIN *

REPLY TO ODC BRIEF
AND MOTION FOR JUDGMENT ON THE PLEADINGS[1]

Expedited Consideration is Requested

Respectfully submitted,

Henry L. Klein, *pro se*
201 St. Charles Avenue
Suite 2501
New Orleans, LA 70170
504-439-0488
henryklein44@gmail.com

---

1 **ODC did not deny the assertions made in Respondent's Opening Brief.** ODC simply repeated the *scathing* "...findings..." of HC-37, repeated by the Board almost *in totidem verbis*. This Court has inherent authority to grant the relief Respondent seeks; it is a court of law and equity; the nature of its proceedings are *sui generis*. Most importantly, on February 9, the jury verdict in *United States v. Ashton Ryan* proved beyond cavil what Respondent was advocating: Regina Heisler was a victim of FNBC corruption. ODC is a self-regulating organization:

This Case Offers Fertile Ground for Agency Self-Examination

REPLY TO ODC BRIEF
AND MOTION FOR JUDGMENT ON THE PLEADINGS

Henry L. Klein hereby replies to the ODC Brief filed on March 6, 2023. For reasons set forth at p. 4, *infra*, expedited consideration is requested.

1. The Ashton Ryan 46 Guilty Verdicts: Exhibit A. The *only* reason Respondent is before this Court is because he fought tooth-and-nail against corruption. Girod LoanCo was created *only* to engage in corruption. Respondent gave his client the most vigorous defense possible, a good thing. Respondent traced Girod from Montreal to the Cayman Islands, Exhibit B, but ODC didn't look. Respondent could **not** persuade a court of law to enforce La. 12:1354, promulgated to protect the public interest. Respondent could **not** get a court of law to recognize that Regina Heisler was the victim of corruption at FNBC. Finally, on February 9, 2023, the truth came from the jury in *USA v. Ashton Ryan*. ODC's assertion that Respondent's accusations were "...grounded only in fantasy and imagination..." were soundly vanquished by the verdicts of a jury that was not fooled.

2. The Failure to Deny Assertions Made. After spending much time and effort on the Clark and McKay analyses of the disciplinary process, Respondent made specific assertions not factually denied. The statement at page 3: "ODC and Deputy Counsel expressly deny all of Respondent's accusations . . . none bear foundation in truth or reality..." is an *ipse dixit*. Respondent reads what SCOTUS Justices write. In that regard, the incomparable Antonin SCALIA is famous for his dissent in *Morrison v. Olson*:

He who lives by the ipse dixit dies by the ipse dixit

At page 4, ODC admitted that there was neither a complaint nor a complainant, but demurred on the grounds that it was "...empowered to investigate..." by Section 4(B)(2). Not one word was written about Judge Pauley's sage observation in *Caledonian Bank*[2]:

> ***The power to investigate carries with it the power to defame and destroy***....[Justices] rely on [ODC] to deploy these powers conscientiously and provide accurate assessments of the evidence collected in their investigations. ***In that way, the integrity of the regulatory regime is preserved***.

The issue of "integrity" played a leading role in the Clark/McKay papers and in Respondent's Opening Brief after the emphasized statement:

INCREASING PUBLIC CONFIDENCE IN THE DISCIPLINARY SYSTEM

XI. was about "Improving the Quality of Decisions", an issue raised by Clark/McKay. Additional *material* issues *ignored* by ODC follows[3]:

	XII.	ODC Violated Rule XIX, Section 2(A);
(*)	XIV.	Lack of Specificity and ODC Refusals to Address Respondent's Objections;
	XV.	First Amendment Violations Impacting Respondent;
(*)	XVII.	Request for an Independent Investigation of ODC;

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2 For the sake of brevity, Respondent will not repeat citations and truncate quotations for ease of reading.

3 Not all issues raised will be included. (*) is borrowed from the D.C. Circuit to signify the highest level of importance, used sparingly.

XVIII. Unsupported Ipse Dixits;

(*) XXII. Declaratory Relief Requested;

(*) XXIII. In Disciplinary Cases, This is the Court of First Judicial Resort;

The use of this process (and this Court) to aid Girod is a very serious matter that ODC cannot cavalierly dismiss. Citing (*) *Chambers v. NASCO*, Respondent strongly urged this Court to conduct its own investigation to determine if **ODC and Girod have committed a fraud upon *this* Court.** In that regard, Justice FRANKFURTER in *Universal Oil Products v. Root Refining Co.*, 328 U.S. 575 provided the following guidance:

> The inherent power of a [] court to investigate whether a judgment was obtained by fraud is beyond question. **The power to unearth such a fraud is the power to unearth it effectively.**

Although Respondent has spilled much ink and spent great energy fighting hard *pro bono publico*[4], it is *the courts* which have "...the inherent power to manage their own proceedings and to control the conduct of those who appear before them..."

Because Respondent loves Opera, his reference to *Faust* was ridiculed. ODC, however, DID make a *Faustian Pact* with Eric Lockridge, ODC's only witness — a non-client of Respondent !!! The Court should investigate the

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4 Beginning with the multimillion dollar writ signed by Judge Schlegel in 2019, Girod tied-up and took all Heisler funds. She died on December 23, 2022 with only Social Security available. Respondent could not abandon the lady.

inner sanctum of the meetings between ODC and Lockridge. There is a quote from *Universal Oil Products Co. v. Root Refining Co.*, 328 U.S. 575 (1946) worth repeating now:

> "If a court finds after a proper hearing that fraud has been practiced upon it, **or that the very temple of justice has been defiled**, the entire cost of the proceedings could justly be assessed against the guilty parties."

TO ALL THE JUSTICES OF THE LOUISIANA SUPREME COURT:

Your Very Temple of Justice Has Been Defiled !!!

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3. The Ventriloquist Objection. ODC mocked Respondent's "ventriloquist objection" and ignored the issue in its brief. It was not a joke. When Paul Pendley stood up before the Hearing Committee and the Board, other people's words came out of Pendley's mouth: John Olivier, Judge Scott Schlegel, Marla Hamilton, lawyers at Kean-Miller, non-lawyers at Kean-Miller, United States District Judges, etc. etc. etc. But it did **not** stop with words: the ODC Deputy also read people's minds and reached **their** conclusions *without* the inconvenience of calling witnesses. None of these argument were defended by ODC in its brief, thus admitted.

4. Collateral Damage, Clark/McKay. Today, Respondent is fighting corruption on a national scale against the United States Department of Agriculture. The fight involves the USDA's SNAP program, which replaced food stamps. The publication of the HC-37 *scathing* report has already cost Respondent's *Pro Hac Vice* standing in the Central District of California and

threatens all *PHV* admissions throughout the United States. To give this Court a sense of the collateral damage caused by ODC's recklessnes, the Summary of the Argument in the United States 10th Circuit Court of Appeals, sitting in Denver, Colorado, in *Four Winds Behavioral Health v. The United States of America* reveals the constitutional gravity of SNAP cases Respondent handles nationally:

> **The law allows Appellants to establish by trial *de novo* the invalidity of the administrative process. The accused can't possibly understand how to prove his innocence. The term "trafficking" evokes impressions of the most vile forms of criminality. The Standard of Proof turns the most basic precept in law inside-out and upside-down: "...Guilty Until Proven Innocent..." The precept is implicit in the Bill of Rights, although not *in hæc verba*. While the 5th Amendment protects against self-incrimination, ALERT mechanically forces incriminating data upon the stores. The 14th Amendment declares that "no state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States" ALERT combines with states to turn algorithmic minutia into charges without trial, *In re: Murchison*.**

Also endangered by *these* charges is Respondent's upcoming *PHV* application to enroll in *Enas Said v. The United States of America* in the United States 7th Circuit Court of Appeals sitting in Chicago, Illinois. Millions of families will lose their lawyer-of-choice if ODC has its way. The recommendation that Respondent be suspended for a year-and-a-day is very

disturbing. Respondent will be 79 on April 26, 2023 and the suspension will be an effective disbarment of a lawyer who loves what he does. Expedited Consideration is Requested.

5. Respondent's Disclosure to all Court Regarding Prior Discipline. ODC does not play fair regarding prior discipline, another issue discussed in the Clark/McKay papers. Here is how Paul Pendley began *every* presentation about Respondent, poisoning the well:

> **Respondent was admitted in Louisiana in 1968 and has prior discipline. Respondent received Formal Private Reprimands in 1975 and 1988. He received a six-month suspension in 1987. He was suspended again in 1989 for 90 days. Respondent received a third Formal Private Reprimand in 1989. He was also admonished twice, in 1993 and again in 2018.**

In 55 years, any lawyer will face petty complaints by clients. "Private Reprimands" are meant to stay private and are typically agreed to avoid the nuisance. ODC had no specifics and Respondent had no memory of the issues. ODC should *never* have said what it did. It was character assassination from the start. The most lethal character assassination was to publication of the Hearing Committee *before* his Court decided *de novo*. On this point, McKay Problem Number 25 was clear:

> "...a complaint against [an attorney] is no more than an accusation. Disclosure of the existence of that accusation may itself result in irreparable harm to the attorney."

For perspective, Exhibit C is Respondent's Application to become an active member of the bar of the United States District Court for the District of Columbia, as high as a lawyer can go at the trial level of the judicial system. Respondent was sponsored by Senior District Judge Reggie B. Walton, before whom Respondent tried a major case and lost. Replicated below is what Respondent tells *every* court about his suspensions — portrayed by ODC very negatively:

QUESTION 3. Bar suspensions:

> **In 1986, as a consequence of personal difficulties and ill-judgment during the year 1983 regarding alcohol abuse and domestic strife, I was suspended for six months. No one was hurt financially. On January 6, 1986, I enrolled in a recovery program, New Freedom Institute and assisted the Louisiana Supreme Court with setting up a program for troubled judges and lawyers, codified in 1992 as La. R.S. 37:221, the Judges and Lawyers Assistance Program "JLAP", a confidential program dealing with disability resulting from addiction, illness, depression and personal tragedies. To a much lesser degree, the experience allowed me to suggest a program now called SOLACE. When I lost my daughter to heroin, I received the attached outreach from all of the Judges and Magistrates in the Eastern District of Louisiana. My suspension was a good thing in the end.**

This Court should consider Respondent an *amicus curiæ* with experience in the world of "...lawyers in trouble..." and unfortunately, a runaway ODC.

6. Request for Judgment on the Pleadings. When a party fails to deny assertions, Louisiana Code of Civil Procedure Article 965 allows a court to grant a Judgment on the Pleadings, a *powerful* tool seldom used:

> **Article 965. Motion for judgment on pleadings**
>
> Any party may move for judgment on the pleadings after the answer is filed, or if an incidental demand has been instituted after the answer thereto has been filed, but within such time as not to delay the trial. For the purposes of this motion, all allegations of fact in mover's pleadings not denied by the adverse party or by effect of law, and all allegations of fact in the adverse party's pleadings shall be considered true.

7. Requested Relief. This Court CAN take the steps necessary to ensure the integrity of its own processes. Judge Pauley's observations in *Caledonian Bank* are compellingly on point. Respondent is more an *amicus* than a respondent who fought too hard[5]. But a judgment **now** On The Pleadings should issue.

First, the charges must be dismissed. Secondly, it is high time for a court of law to issue a Declaratory Judgment as follows:

---

5 In 1983, Respondent's life hit rock-bottom. During the 6-month respite authored by Justice Lemmon, Respondent studied a concept he titled "...lawyers in trouble..." and gave his findings to the Louisiana Supreme Court, highly-likely a starting point to JLAP, Judges and Lawyers Assistance Program. Every time Respondent seeks *PHV* admission, he discloses his experience as a positive aspect of his life, Exhibit C. Today, Respondent is active in SOLACE, led by United States District Judge Jay Zainey.

Pursuant to Article 1871 of the Louisiana Code of Civil Procedure,

IT IS ORDERED, ADJUDGED AND DECREED THAT

Judgment issue hereby, Declaring that Girod LoanCo, LLC did not have the right to file judicial demands in any Louisiana court of law at any time subsequent to the closure by the Louisiana Office of Financial Institutions on April 28, 2017 for failure to comply with the provisions of Louisiana Revised Statute 12:1354(A) ("the Louisiana Closed Door Statute"); and .

IT IS FURTHER ORDERED, ADJUDGED AN DECREED THAT

Louisiana Revised Statute 12:1354(A) is a law promulgated to protect the public interest and that all acts by Girod LoanCo derogating from the Louisiana Closed Door Statute are absolute nullities, *ab initio*; and

IT IS FURTHER ORDERED, ADJUDGED AN DECREED THAT

Girod LoanCo's act seeking to qualify to transact business in the State of Louisiana on May 27, 2020, Exhibit D, constitutes a "...juridical act..." which does not avoid the absolute nullity of the judicial demands made by Girod LoanCo; and

IT IS FURTHER ORDERED, ADJUDGED AN DECREED THAT

this Declaration shall have the force and effect of a final judgment or decree.

---

8. Conclusion. Protecting Regina Heisler from vulture-creditor Girod LoanCo has been brutal. ABA FORMAL OPINION 491 warned against lawyers representing clients up to fraud and crime. Kean-Miller did it anyway. ODC shamelessly mocked Respondent for the use of the term "vulture". The

United Nations Council on Human Rights ranks vulture funding as one of the three most vile practices in the world. ODC said *nothing* to dispute that fact. The level of effort by Respondent in exposing Girod was made Exhibit B hereto.

The Declaratory Judgment sought is appropriate pursuant to (i) Louisiana Code of Civil Procedure Articles 1871 and 1872; (ii) *Chambers v. NASCO*, (iii) *Universal Oil v. Root*, (iv) law and equity (v) separation of powers principles, and (vi) this Court's inherent powers. Should this Court grant both of Respondent's requests, Madison's Angels will stop turning in their Federalist 51 graves:

> *But what is government itself, but the greatest of all reflections on human nature? If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself.*

ODC is out of control.

Respectfully submitted,

Henry L. Klein, *pro se*
201 St. Charles Avenue
Suite 2501
New Orleans, LA 70170
504-439-0488

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA	*	**CRIMINAL NO. 20-65**
v.	*	**SECTION: "L"**
ASHTON RYAN	*	
	*	

* * *

VERDICT – ASHTON RYAN

We, the Jury, in the above-captioned case, unanimously return the following verdict:

COUNT 1
(CONSPIRACY TO COMMIT BANK FRAUD)

As to the charge set forth in Count 1 of the Second Superseding Indictment, Conspiracy to Commit Bank Fraud (18 U.S.C. § 1349), we, the Jury, unanimously find, the defendant, **ASHTON RYAN:**

__X__ GUILTY _____ NOT GUILTY

COUNT 2
(BANK FRAUD (GIBBS – NOVEMBER 23, 2010))

As to the charge set forth in Count 2 of the Second Superseding Indictment, we, the Jury unanimously find the defendant, **ASHTON RYAN**:

__X__ GUILTY _____ NOT GUILTY

COUNT 3
(BANK FRAUD (ST. ANGELO – NOVEMBER 30, 2010))

As to the charge set forth in Count 3 of the Second Superseding Indictment, we, the Jury unanimously find the defendant, **ASHTON RYAN**:

X GUILTY _____ NOT GUILTY

COUNT 4
(BANK FRAUD (GIBBS– MAY 31, 2011))

As to the charge set forth in Count 4 of the Second Superseding Indictment, we, the Jury unanimously find the defendant, **ASHTON RYAN**:

X GUILTY _____ NOT GUILTY

COUNT 5
(BANK FRAUD (ST. ANGELO– JULY 29, 2011))

As to the charge set forth in Count 5 of the Second Superseding Indictment, we, the Jury unanimously find the defendant, **ASHTON RYAN**:

X GUILTY _____ NOT GUILTY

COUNT 6
(BANK FRAUD (ST. ANGELO– SEPTEMBER 30, 2011))

As to the charge set forth in Count 6 of the Second Superseding Indictment, we, the Jury unanimously find the defendant, **ASHTON RYAN**:

X GUILTY _____ NOT GUILTY

COUNT 7
(BANK FRAUD (GIBBS– OCTOBER 31, 2011))

As to the charge set forth in Count 7 of the Second Superseding Indictment, we, the Jury unanimously find the defendant, **ASHTON RYAN**:

X GUILTY _____ NOT GUILTY

COUNT 8
(BANK FRAUD (DUNLAP– JANUARY 31, 2012))

As to the charge set forth in Count 8 of the Second Superseding Indictment, we, the Jury unanimously find the defendant, **ASHTON RYAN**:

__X__ GUILTY _____ NOT GUILTY

COUNT 9
(BANK FRAUD (GIBBS– MAY 18, 2012))

As to the charge set forth in Count 9 of the Second Superseding Indictment, we, the Jury unanimously find the defendant, **ASHTON RYAN**:

__X__ GUILTY _____ NOT GUILTY

COUNT 10
(BANK FRAUD (GIBBS–AUGUST 24, 2012))

As to the charge set forth in Count 10 of the Second Superseding Indictment, we, the Jury unanimously find the defendant, **ASHTON RYAN**:

__X__ GUILTY _____ NOT GUILTY

COUNT 11
(BANK FRAUD (CHARITY–OCTOBER 9, 2012))

As to the charge set forth in Count 11 of the Second Superseding Indictment, we, the Jury unanimously find the defendant, **ASHTON RYAN**:

__X__ GUILTY _____ NOT GUILTY

COUNT 12
(BANK FRAUD (GIBBS–DECEMBER 28, 2012))

As to the charge set forth in Count 12 of the Second Superseding Indictment, we, the Jury unanimously find the defendant, **ASHTON RYAN**:

__X__ GUILTY _____ NOT GUILTY

COUNT 13

(BANK FRAUD (GIBBS–FEBRUARY 15, 2013))

As to the charge set forth in Count 13 of the Second Superseding Indictment, we, the Jury unanimously find the defendant, **ASHTON RYAN**:

__X__ GUILTY _____ NOT GUILTY

COUNT 14
(BANK FRAUD (622 CONTI (ST. ANGELO)–MARCH 26, 2013))

As to the charge set forth in Count 14 of the Second Superseding Indictment, we, the Jury unanimously find the defendant, **ASHTON RYAN**:

__X__ GUILTY _____ NOT GUILTY

COUNT 15
(BANK FRAUD (GIBBS–SEPTEMBER 13, 2013))

As to the charge set forth in Count 15 of the Second Superseding Indictment, we, the Jury unanimously find the defendant, **ASHTON RYAN**:

__X__ GUILTY _____ NOT GUILTY

COUNT 16
(BANK FRAUD (GIBBS–OCTOBER 17, 2013))

As to the charge set forth in Count 16 of the Second Superseding Indictment, we, the Jury unanimously find the defendant, **ASHTON RYAN**:

__X__ GUILTY _____ NOT GUILTY

COUNT 17
(BANK FRAUD (ADOLPH–MARCH 27, 2014))

As to the charge set forth in Count 17 of the Second Superseding Indictment, we, the Jury unanimously find the defendant, **ASHTON RYAN**:

__X__ GUILTY _____ NOT GUILTY

COUNT 18
(BANK FRAUD (TREME–JUNE 19, 2014))

As to the charge set forth in Count 18 of the Second Superseding Indictment, we, the Jury unanimously find the defendant, **ASHTON RYAN**:

X GUILTY _____ NOT GUILTY

COUNT 19
(BANK FRAUD (ST. ANGELO–JULY 31, 2014))

As to the charge set forth in Count 19 of the Second Superseding Indictment, we, the Jury unanimously find the defendant, **ASHTON RYAN**:

X GUILTY _____ NOT GUILTY

COUNT 20
(BANK FRAUD (ST. ANGELO–AUGUST 29, 2014))

As to the charge set forth in Count 20 of the Second Superseding Indictment, we, the Jury unanimously find the defendant, **ASHTON RYAN**:

X GUILTY _____ NOT GUILTY

COUNT 21
(BANK FRAUD (DUNLAP–SEPTEMBER 16, 2014))

As to the charge set forth in Count 21 of the Second Superseding Indictment, we, the Jury unanimously find the defendant, **ASHTON RYAN**:

X GUILTY _____ NOT GUILTY

COUNT 22
(BANK FRAUD (PHOENIX (DUNLAP)–SEPTEMBER 18, 2014))

As to the charge set forth in Count 22 of the Second Superseding Indictment, we, the Jury unanimously find the defendant, **ASHTON RYAN**:

X GUILTY _____ NOT GUILTY

COUNT 23
(BANK FRAUD (ST. ANGELO–NOVEMBER 25, 2014))

As to the charge set forth in Count 23 of the Second Superseding Indictment, we, the Jury unanimously find the defendant, **ASHTON RYAN**:

X GUILTY _____ NOT GUILTY

COUNT 24
(BANK FRAUD (ST. ANGELO–DECEMBER 23, 2014))

As to the charge set forth in Count 24 of the Second Superseding Indictment, we, the Jury unanimously find the defendant, **ASHTON RYAN**:

X GUILTY _____ NOT GUILTY

COUNT 25
(BANK FRAUD (ST. ANGELO–FEBRUARY 13, 2015))

As to the charge set forth in Count 25 of the Second Superseding Indictment, we, the Jury unanimously find the defendant, **ASHTON RYAN**:

X GUILTY _____ NOT GUILTY

COUNT 27
(BANK FRAUD (ST. ANGELO–MAY 28, 2015))

As to the charge set forth in Count 27 of the Second Superseding Indictment, we, the Jury unanimously find the defendant, **ASHTON RYAN**:

X GUILTY _____ NOT GUILTY

COUNT 29
(BANK FRAUD (WADSWORTH (DUNLAP)–OCTOBER 16, 2015))

As to the charge set forth in Count 29 of the Second Superseding Indictment, we, the Jury unanimously find the defendant, **ASHTON RYAN**:

X GUILTY _____ NOT GUILTY

COUNT 30
(BANK FRAUD (CHARITY–DECEMBER 27, 2015))

As to the charge set forth in Count 30 of the Second Superseding Indictment, we, the Jury unanimously find the defendant, **ASHTON RYAN**:

X GUILTY _____ NOT GUILTY

COUNT 31
(BANK FRAUD (WADSWORTH (DUNLAP)–FEBRUARY 17, 2016))

As to the charge set forth in Count 31 of the Second Superseding Indictment, we, the Jury unanimously find the defendant, **ASHTON RYAN**:

X GUILTY _____ NOT GUILTY

COUNT 32
(BANK FRAUD (TREME–FEBRUARY 12, 2016))

As to the charge set forth in Count 32 of the Second Superseding Indictment, we, the Jury unanimously find the defendant, **ASHTON RYAN**:

X GUILTY _____ NOT GUILTY

COUNT 33
(BANK FRAUD (GIBBS–MARCH 21, 2016))

As to the charge set forth in Count 33 of the Second Superseding Indictment, we, the Jury unanimously find the defendant, **ASHTON RYAN**:

X GUILTY _____ NOT GUILTY

COUNT 34
(BANK FRAUD (CHARITY–MARCH 29, 2016))

As to the charge set forth in Count 34 of the Second Superseding Indictment, we, the Jury unanimously find the defendant, **ASHTON RYAN**:

X GUILTY _____ NOT GUILTY

COUNT 35
(BANK FRAUD (CHARITY–AUGUST 31, 2016))

As to the charge set forth in Count 35 of the Second Superseding Indictment, we, the Jury unanimously find the defendant, **ASHTON RYAN**:

X GUILTY _____ NOT GUILTY

COUNT 36
(BANK FRAUD (DUNLAP–NOVEMBER 29, 2016))

As to the charge set forth in Count 36 of the Second Superseding Indictment, we, the Jury unanimously find the defendant, **ASHTON RYAN**:

X GUILTY _____ NOT GUILTY

COUNT 37
(BANK FRAUD (TREME–NOVEMBER 29, 2016))

As to the charge set forth in Count 37 of the Second Superseding Indictment, we, the Jury unanimously find the defendant, **ASHTON RYAN**:

X GUILTY _____ NOT GUILTY

COUNT 38
(FALSE ENTRIES IN BANK RECORDS (CHARITY–MARCH 30, 2012))

As to the charge set forth in Count 38 of the Second Superseding Indictment, we, the Jury unanimously find the defendant, **ASHTON RYAN**:

X GUILTY _____ NOT GUILTY

COUNT 39
(FALSE ENTRIES IN BANK RECORDS (CHARITY–MARCH 30, 2012))

As to the charge set forth in Count 39 of the Second Superseding Indictment, we, the Jury unanimously find the defendant, **ASHTON RYAN**:

X GUILTY _____ NOT GUILTY

COUNT 40
(FALSE ENTRIES IN BANK RECORDS (CHARITY–MARCH 30, 2012))

As to the charge set forth in Count 40 of the Second Superseding Indictment, we, the Jury unanimously find the defendant, **ASHTON RYAN**:

X GUILTY _____ NOT GUILTY

COUNT 41
(FALSE ENTRIES IN BANK RECORDS (GIBBS–SEPTEMBER 15, 2014))

As to the charge set forth in Count 41 of the Second Superseding Indictment, we, the Jury unanimously find the defendant, **ASHTON RYAN**:

X GUILTY _____ NOT GUILTY

COUNT 43
(FALSE ENTRIES IN BANK RECORDS (GIBBS–MARCH 18, 2015))

As to the charge set forth in Count 43 of the Second Superseding Indictment, we, the Jury unanimously find the defendant, **ASHTON RYAN**:

X GUILTY _____ NOT GUILTY

COUNT 44
(FALSE ENTRIES IN BANK RECORDS (GIBBS–SEPTEMBER 17, 2015))

As to the charge set forth in Count 44 of the Second Superseding Indictment, we, the Jury unanimously find the defendant, **ASHTON RYAN**:

__X__ GUILTY _____ NOT GUILTY

COUNT 47
(FALSE ENTRIES IN BANK RECORDS (GIBBS-JANUARY 21, 2016))

As to the charge set forth in Count 47 of the Second Superseding Indictment, we, the Jury unanimously find the defendant, **ASHTON RYAN**:

__X__ GUILTY _____ NOT GUILTY

COUNT 48
(FALSE ENTRIES IN BANK RECORDS (GIBBS-MARCH 18, 2016))

As to the charge set forth in Count 48 of the Second Superseding Indictment, we, the Jury unanimously find the defendant, **ASHTON RYAN**:

__X__ GUILTY _____ NOT GUILTY

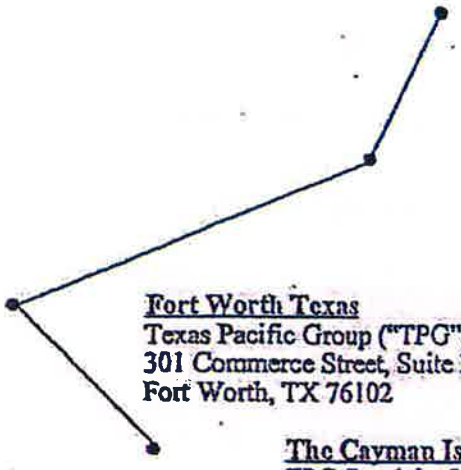
The foreperson must sign and date this form and hand it to the Marshal.

New Orleans, Louisiana, this 9 day of February, 2023.

[redacted]

IV. RECORD PAGE 269 — IGNORED BY HC-37

Our claims that LOANCO and REO are vulture funds operating out of "...virtual offices..." at 301 Commerce Street, Suite 3300, Fort Worth Texas, under the corrupt umbrella of Texas Pacific Group ("TPG") are no hyperbole. Here is how the dots were connected through reports by private investigators hired by counsel for Regina Heisler at great costs (she has no money)[1]:



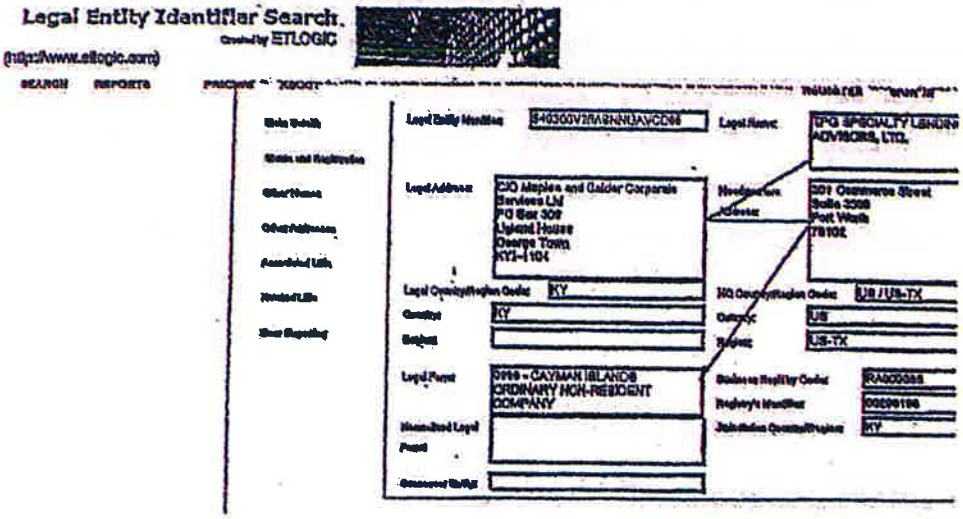
Montreal, Canada
The Maples Group
2000 McGill College Avenue
Suite 2050, Montreal, Canada

Greenville, Delaware
Maples Fiduciary Services
4001 Kennett Pike, Suite 302
Wilmington, DE 19807

Fort Worth Texas
Texas Pacific Group ("TPG")
301 Commerce Street, Suite 3300
Fort Worth, TX 76102

The Cayman Islands
TPG Specialty Lending Advisors, Ltd.
P.O. Box 309, Ugland House
George Town, Grand Cayman

See also, ETLOGIC, *Legal Entity Identifier Search*:



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PLAINTIFF'S EXHIBIT 13

EXHIBIT C

5/5

IN THE SUPREME COURT
OF THE STATE OF LOUISIANA

DOCKET NO. 2023-B-0066

*** IN RE: HENRY L. KLEIN ***

RULE XIX § 18(B) MOTION TO STRIKE HEARSAY AND REQUEST FOR ENFORCEMENT OF APRIL 14 SCOTUS RULING

I. PREAMBLE

Respectfully, May 1 was sheer torture. In the first 20 minutes, I heard Paul Pendley "...poison the well...", one of my specific objections in my Oral Argument Outline (OAO)[1]. Without calling any independent witnesses at the HC-37 hearing, Mr. Pendley told this Court what *other* people (i) said, (ii) thought and (iii) surmised about my zeal for a widow bilked out of $15 million by an "...odious purchaser of litigation..."[2]. In the second 20 minutes, my plan was to address what the Clark Committee saw in 1970 as "...a scandalous situation in professional discipline..."[3]. My 20 minutes was reduced by fair questions from the Court, but by no means a forty-minute "...trial *de novo*..." where I face *effective* disbarment. At 79, a-year-and-a-day is a life sentence. Humiliatingly, disbarment is *only* appropriate when the "...misconduct is so egregious as to demonstrate a convincing lack of ethical and moral fitness to practice law...", §10(A)(1) without any "...reasonable expectation of significant rehabilitation in the lawyer's character in the future..." §10(A)(2). This scathing attack upon my integrity was based *solely* on Mr. Pendley's hearsay statements, which must be stricken pursuant to Code of Evidence Rule 802. As to Eric Lockridge, when he testified on December 8, 2021, he had a $2,037,327.16 check burning in his fiscal pocket dated December 7, concealed from HC-37, the Board and probably this Court, Exhibit E.

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1 Respondent addresses the Justices in the first person-singular because this is as personal as it gets.

2 In *Smith v. Cook*, 180 So. 469, (1938), Justice John FOURNET observed that "...public policy requires that by the debtor taking for himself the bargain, he should be preferred over **an odious purchaser of litigation.**"

3 OAO, at page 5.

B

Q. Isn't the suppression of the truth to obtain an unjust advantage for one party (Girod) or cause a loss to the other (Regina Heisler) an Article 1953 fraud?

A. YES.

The deepest cut of all. The May 1 torture reached a painful zenith when Mr. Pendley said there was no evidence that Girod LoanCo was a vulture fund:

> Q. Is your client, are they a debt buyer typically? How would you designate them?
>
> A. Yeah, they're, they are a, Girod is a special purpose, special purpose vehicle that was formed to purchase the notes from the FDIC. That is, that is Girod's business, is it buys notes, it bought notes from First NBC Bank and seeks to collect on those notes.

This record is full of evidence that Girod was born to buy millions of dollars in FNBC debt for pennies-on-the-dollar without the inconvenience of authority to transact business in this state. On May 27, 2020, Girod tried to qualify *ex-post-facto*, a trick that didn't work in *Milburn v. Proctor Trust*, Exhibit H.

FAUST

Unwittingly, my reference to *Faust* received more attention than I ever intended. It would have been easier to simply challenge the use of Eric Lockridge as the only witness and argue that he had a "...$15 million axe to grind..." Justice Crain oft-inquired if I intended to accuse ODC and Girod of collusion by using the term: "...a Faustian pact...". The answer was and still is YES. The 1st Amendment allows me to think and speak my mind. Circumstantial evidence is "evidence" and irresistible inferences are "irresistible". As this Court gets deeper into the record made, the alliance between Messrs. Pender and Lockridge was not about "...protecting the profession..." as Rule XIX mandates. But because I love Opera, twice bringing Placido Domingo to New Orleans, Exhibit D, page 1, it now appears I have the lead in my own version of *Pagliacci*. To me, *this* is a very tragic opera. But as I envision at Section IX, ***Amicus Curiæ***, light will follow darkness, *infra*.

II. OVERARCHING QUESTION

In the case of lawyer-discipline, isn't this ***the*** district court? Isn't this a court of first resort, last resort and only resort? The question is important when considering Justice KAGAN's analysis in *Axon* and Justice O'CONNOR's analysis in *Wilton v. Seven Falls*. While this may be a *res nova* question, the McKay Commission's advice is that the highest court in every state take greater control of the process. No deference is due to the scathing opinions below. *Axon* would constitutionally eliminate the *entire* structure. In *Bandimere v. SEC*, 10th Circuit Judges Lucerno and Moritz said this about the multiple hats Mr. Pendley donned against me:

> There is a conflict of principle in the agencies' make-up and functions. They are vested with duties of administration and are simultaneously given important judicial work. **The evils resulting from this confusion of principles are insidious and far reaching.** . . . . the same men are obliged to serve both as prosecutors and as judges. This not only undermines judicial fairness, it weakens public confidence in that fairness.

Landmark cases are born from landmark facts. This is such a case.

TABLE OF CONTENTS

Two closing quotes from Roscoe Pound and Felix Frankfurter, respectively:

"The Law Must Be Stable, and Yet it Cannot Stand Still"
and

"Justice Must Satisfy the Appearance of Justice"

EXHIBITS

A. *Axon Enterprises*, 598 U.S. ____, April 14, 2023

B. *Girod LoanCo v. Klein*, Denial of Declaration re 12:1354(A)

C. *Girod LoanCo v. Klein*, Louisiana Supreme Court Denial, 2022-CC-01317 re 12:1354(A)

D. Excerpt from Henry Klein *Curriculum Vitae*

E. December 7, 2021, $2,037,327.16 Check to Girod

F. 16-page report to the prosecution in *United States v. Ryan*

G. Tracing Girod from Montreal to the Cayman Islands

H. Girod LoanCo *ex-post-facto* qualification on May 27, 2020.

III. AN "...EYE-OPENER..."

On June 30, 2020, I voluntarily provided Mr. Pendley with the cold facts of the *Girod v. Heisler* foreclosure. This colloquy took place in Baton Rouge almost three years ago, slightly truncated for the sake of brevity and easier reading:

MR. PENDLEY:

> The litigation referenced by the Clerk of Court for the [Louisiana] Supreme Court was a civil matter. Was it a collection matter?

MR. KLEIN:

> No. It was absolutely not a collection matter. The matter that was presented involved vulture funding, an international corruption. It's made up of secret entities that invest in distressed debt and when First NBC bank was closed, it held $600,000 worth of debt by my client Regina Heisler and the Succession of Fred Heisler.

MR. PENDLEY:

> Now First NBC bank, that was in New Orleans?

MR. KLEIN:

That's the New Orleans bank that went down April 28, 2017 because of [bank fraud]. The Heislers were involved with a developer who borrowed $158,000,000 without collateral. That person (Gary Gibbs) used Regina Heisler's name and assets to borrow money that didn't go to my client. Now Girod, a vulture fund, is foreclosing on Mrs. Heisler. The first foreclosure was before Judge Schlegel, who signed the writ of seizure. The ruckus between he and I is that I was trying to get him to vacate the order for executory process for lots of [valid] reasons: (1) the notes were not enforceable, (2) the notes were the fruit of a poisoned tree, (3) she didn't get any money, and (4) [Girod] was gouging this lady out of $15,000,000 worth of property. *Klein, pp. 8-10*.

MR. PENDLEY:

They're not registered anywhere in the United States? They're a Canadian company?

MR. KLEIN:

They're registered in Delaware, a secrecy jurisdiction which won't give you backup papers. A vulture fund is an entity the FDIC calls a 'private investment fund' where no one knows who the persons with ownership interests are. The Secretaries of State of every state require knowledge as to who is involved with corporations seeking to do business in their state. My defense is that Girod has no right to seek assistance from a Louisiana court of law to cash in on its wrongful deeds. *Klein, p. 12*.

MR. PENDLEY:

Now as far as who the principals are of the corporation, wouldn't that be subject to discovery?

MR. KLEIN:

No. That's strictly confidential. FDIC had no paperwork on Regina Heisler's loans because that paperwork was destroyed by a person I'm not at liberty to disclose. I'm cooperating with the United States government on this[4]. Girod has no human being that can be disclosed. It's a secrecy fund, a silo structure. FDIC issued a policy statement regarding who could not bid on failed banks on September 2, 2009: entities that are silo structures,

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4 Respondent and Dayna Heisler provided the US Attorney a 16-page analysis of Gary Gibbs' $158 million+ use of Heisler assets, Exhibit F. No light task.

which means you can't tell who they are, are not allowed to bid. Entities in secrecy jurisdictions like the Cayman Islands cannot bid. Yet, FDIC sold $3 billion worth of notes disobeying its own rules just like the RTC days where homestead loans were sold for 20-30 cents on the dollar. That's what happened here. I tried to exercise rights of litigious redemption. Couldn't. It's all corrupt.

MR. PENDLEY:

How was this entity able to establish ownership?

MR. KLEIN:

They bought the notes from FDIC at an auction held November 13, 2017. Well in advance of the sale, I filed pleadings against whoever would buy the notes to exercise the right of litigious redemption and for a declaratory judgment that the notes were not enforceable because my client did not get any money. No one knows who got that money. The grand jury may figure it out, but my client didn't get any of that money. She's a 77-year old lady with liver cancer with no acumen and no business experience. She was duped into signing notes, but she didn't know what she was doing with Gary Gibbs, Borrower No. 1. *Klein, pp.14-15*.

MR. PENDLEY:

When did you become involved in the litigation?

MR. KLEIN:

Ten days after the bank went down, I met with the FDIC at FNBC. I had $600,000 to pay all Heisler debts because I knew it would be bad if the notes were sold to vultures. They told me the Heislers owed not $600,000 but $9 million. Jennifer Davis from Dallas-FDIC said, Mr. Klein, we have nine loans by your client. I knew they didn't have nine loans. I asked for the files but was denied because they were being sold, *Klein p.17*.

MR. KLEIN:

In June of 2018, Girod filed a foreclosure by executory process in 24th JDC before Judge Schlegel. I called Judge Schlegel's office and said "...there's an executory process preceding that should not be executory process, a harsh remedy... I represent a 77-year old widow with liver cancer. I asked Marla Hamilton, please, please let the judge know that this is not just a regular foreclosure. The judge signed the executory process writ and because

of the exigencies involved, I called Marla Hamilton a couple of more times and asked her to accelerate the process for me to file some exceptions, but they didn't. They set hearings on my exceptions in like 78 days after I filed them. Under the Code, anyone over 70 years old and a malady that is life threatening is entitled to expeditious consideration on a court's docket [Article 1573]. Judge Schlegel got upset me because I was talking to his law clerk in which I probably exhibited some frustration. So I sent one e-mail. *(Last try at an olive branch, Klein, p. 20)*. One. He got on the phone and told me that he would not countenance my threats, my abuse, and my communications ex parte with his law clerk, and he was just not going to put up with that. Two days later I got an Order to show cause why I should not be held in contempt of court. It didn't say constructive contempt or non-constructive contempt. I was concerned about this judge and removed the case to federal court on the grounds that I was being threatened with contempt for articulating my client's position and that the threat of contempt had "...a chilling effect..." upon my ability to advocate my client's interests *(Klein, p. 21)*[5]. When the case was removed, I called Marla back, I said, Marla, I'm supposed to be here on October 29 and I've removed the case to federal court. Does the judge expect me to be there or what? Marla says, no, Mr. Klein. It's off. Don't worry about it. Approximately three, four, five months later, the federal court remanded the case back to Judge Schlegel and it stayed pretty vanilla until I tried to file pleadings *(Klein, p.23)*.

(INTERRUPTION)

On May 1, Mr. Pendley told this Court that the first removal was filed only to avoid Judge Schlegel. ABSOLUTELY NOT !!! It was a diversity removal, thinking Girod was a Delaware LLC. It was remanded because Girod claimed it

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5 See, *Wolff v. Selective Service Local Board No. 16*, 372 F.2d 817:

> It has been held repeatedly that the mere threat of the imposition of unconstitutional sanctions will cause immediate and irreparable injury to the free exercise of rights as fragile and sensitive to suppression as freedoms of speech and assembly and the right to vote. **Since it is the mere threat of unconstitutional sanctions which precipitates the injury, the courts must intervene at once to vindicate the threatened liberties.** (Citations omitted).

had a Louisiana member, which was false. Eric Lockridge filed an affidavit describing Girod in the following opaque language:

> **Girod is wholly-owned by a limited liability company that is owned by three other limited liability companies. One of the members of the three limited liability companies is a limited partnership formed under the laws of the State of Delaware (the "DE LP"). To Girod's knowledge, one of the limited partners of the DE LP is a limited liability company formed under the laws of the State of Louisiana; the members of the LA LLC are inter vivos trusts incorporated under the Louisiana Trust Code (the "Trusts") and the settlors, trustees and beneficiaries of the Trusts are individuals who reside in Louisiana.**
>
> (END OF INTERRUPTION)

MR. KLEIN:

> When I tried to file pleadings, he said you can't file pleadings without asking me for permission in advance. So I filed a request for permission to file a pleading. I didn't say what the pleading would be, but I wanted an accounting as to how much money Girod had collected from Mrs. Heisler. When I filed a request for permission, he denied that and has me facing another contempt hearing. *(Klein, p.24)*

MR. KLEIN:

> Every time I filed something Judge Schlegel said it's the same I've already filed. Not true. The first motion I filed was an Exception of Lis Pendens. Then I filed a Peremptory Exception of No Right of Action. Two days after I filed that, Kean Miller sends 2,500 bucks.

MR. PENDLEY:

> How did you find out about that?

MR. KLEIN:

> I got a hint from a candidate for Supreme Court Justice [Richard Ducote]. Judge Schlegel took eight 5,000 dollar payments from an entity in Houston that had litigation that looked like it was going to have to be decided by the Louisiana Supreme Court[6]. Richard

---

6 Bayou Corne Sinkhole Litigation. Kean Miller represented Texas Brine, whose affiliated LLCs sent nine $5,000 campaign contributions totaling $45,000.

Ducote, who came in fourth in the election accused Schlegel as being for sale[7]. And so I looked at the reports with the board that guards campaigns and saw that two days after I filed this motion, a $2500 payment was made by Kean Miller. Not nice. *(Klein, pp. 25-26.)*

MR. PENDLEY:

It's a somewhat complex fact pattern which also makes it easier if we're able to talk about it as opposed to exchanging letters and I can ask you question if something is confusing to me.

MR. KLEIN:

I have a 77-year old lady who has liver cancer. She may not live through this and I needed expedited consideration. *(She died December 23, 2022)* All I ever said to Marla is please give me a quick hearing on this issue. This shouldn't be executory process because executory process is a harsh remedy where everything has to be absolutely clean and you have to have somebody that just refuses to pay on a mortgage. This is the biggest fruit of a poisoned tree I've ever seen.

MR. PENDLEY:

And then your client was distraught and penned a letter?

MR. KLEIN:

She prepared a very nasty letter that she was going to send to the editor of the Times Picayune. It was very aggressive. She basically said you should not be a judge. You should be disrobed. She was very upset. She showed up at the hearing after [Judge Schlegel] got the $2500 where the judge abused me and she was very upset. She showed me the letter and I told her: "Reggie, I know how you feel but he's almost at the place in the campaign where he's trying to get into a run-off. Don't send it". That was nice of me. *(Klein, p.33).*

Henry Klein is **not** the person depicted in the Board Report.

IV. MEANINGFUL JUDICIAL REVIEW

The HC-37 and Board reports are so lacking in specificity that there is nothing for this Court to review in a "...meaningful..." way. *Axon/Cochran* agrees *(Congress rarely allows claims about agency action to escape effective judicial*

---

7 Richard Ducote's words.

review). Without a reliable record below, this Court cannot do its job in comfort.

V. JUST ONE SILVER BULLET: 12:1354(A)

During oral argument, the issue of La. R.S. 12:1354(A) was addressed. Despite my supplications, no court of law has taken that issue and ruled upon it, perhaps because it is ill-understood by lawyers and few courts appreciate the value[8], as in *Girod v. Henry Klein*, Civil District Court Docket 2021-5090[9].

VI. REQUEST FOR A DECLARATION IN *GIROD v. KLEIN*

On July 7, 2022, Girod sued me, claiming an anticipated $286,893.92 deficiency after the collection of $15 million in Heisler assets. I sought the illusive declaration that Girod did not have the right to present judicial demands in a Louisiana Court of Law. The District Court Declined to make the declaration, Exhibit B. A writ to the 4th Circuit Court of Appeals was denied without reasons.

VII. WRIT TO THIS COURT IN *GIROD v. KLEIN*

During oral argument, Justice Crain asked about a Writ Application to the United States Supreme Court regarding *Caperton v. A.T. Massey Coal*, which was DENIED. Not included in my answer was the November 16, 2022, denial by this Court from the failure by District Judge Jennifer M. Medley to make the declaration requested, Docket 2022-C-0496, Exhibit C.

VIII. PRE-ENFORCEMENT OF 802 AND SCOTUS REQUEST

This bar complaint can and should end swiftly. It is not about Henry Klein; it is about a $15 million fleecing of *Nominee Borrower F* in *United States v. Ashton Ryan*, where a jury in Judge Eldon Fallon's court came down with 42 GUILY verdicts out of 42 counts of bank fraud. A declaration is within this Court's inherent power to ensure the integrity of its process, *Chambers v. NASCO*.

IX. *AMICUS CURIÆ*

Anyone who attended the May 1 hearing in 2023-B-0066 would think the lawyer should be packing his lawyer bags. Eric Lockridge watched. As this

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14 Courts of record within their respective jurisdictions may declare rights, status and other legal relations whether or not further relief is or could be claimed. No action or proceeding shall be open to objection on the ground that a declaratory judgment or decree is prayed for; and the existence of another adequate remedy does not preclude a judgment for declaratory relief in cases where it is appropriate. The declaration shall have the force and effect of a final judgment or decree.

15 Section 18(G), Related Pending Litigation was woefully disregarded by ODC.

document should establish beyond cavil, Respondent has been a thorn in Girod's side since it payed pennies-on-the-dollar for $600,000 of Heisler debt Respondent was prepared to pay for the family on May 10, 2017. Respondent has traced Girod from Montreal to the Cayman Islands, Exhibit D.

In the 1980s, when Henry Klein was in terrible personal trouble, he looked to the Man Who Wrote the Book and eventually helped the legal profession with what his mind's eye called "lawyers in trouble". Repectfully, ODC is in trouble. This case epitomizes what the McKay Commission is concerned about. The name of this case should be *In Re: Louisiana ODC Reform*. Many fundamental rules were broken, the most egregious being Section 2(A) and Section 18(B). I would like to do what I did thirty-seven years ago as an *amicus curiæ*. It is part of what I endured Bogotá, Colombia on April 9, 1948. It was actually a blessing that made me who I am — a grateful supporter of our Constitution and a devoted fan of Madison's Angels at Federalist 51.

X. CONCLUSION

This High Court has before it a landmark opportunity to make the disciplinary system a better process as *Clark/McKay* envisioned. Presently, it is a self-regulation organization with no accountability for what ODC has done to a lawyer who fights hard and broke no rules. The one e-mail to Marla Hamilton, questioned by Justice McCallum, can be answered in seven words:

Mea Culpa, Mea Culpa, Mea Maxima Culpa

Walking in my shoes in those days caused the pain to reach my brain. The lawyer described in the two reports should be tarred and feathered. But it wasn't me. *PER CURIAM* declarations enforcing 12:1354(A) and ABA 491 would cure a plethora of ills, bringing to the fore two of my favorite quotes from days gone by, Roscoe Pound[16] and Felix Frankfurter[17], respectively:

"The Law must Be Stable, and Yet It Cannot Not Stand Still"

and

"Justice Must Satisfy the Appearance of Justice"

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16 LAW AND HISTORY: Interpretations of Legal History, Harvard University Press, 1946, pp. 1-21. https://doi.org/10.4159/harvard.9780674289109.c2

17 *Offutt v. United States*, 348 U.S. 11 (1954)

The charges have neither merit nor specificity. Clark/McKay cry out for a *Chambers v. NASCO* independent investigation with follow-up reforms. My pledge to be an *amicus* to this Court is not a frivolous overture. I have seen a lot of corruption (not a bad word) and have devoted myself to championing humanitarian injustices[18]. This is one.

Respectfully Submitted,

Henry L. Klein, *pro se*
201 St. Charles Avenue, Suite 2501
New Orleans, La 70170
henryklein44@gmail.com

18 *Curriculum Vitæ*, Exhibit D, page 5: ***Contrubutions to Doctrinal Law***

EXHIBIT D

5/16

IN THE SUPREME COURT

OF THE STATE OF LOUISIANA

DOCKET NO. 2023-B-0066

*** IN RE: HENRY L. KLEIN ***

MOTION TO DISMISS PURSUANT TO SCOTUS RULINGS AT *AXON v. FTC* AND *SEC v. COCHRAN* AND FOR FURTHER APPROPRIATE RELIEF

Respondent Henry L. Klein respectfully moves for a dismissal of the ODC charges on the constitutional grounds articulated by the United States Supreme Court in *AXON ENTERPRISE v. FTC*, 21-86 and *SEC v. COCHRAN*, 21-1239, both decided **April 14, 2023**. I respectfully address the Court in the first-person singular:

1. Three overarching issues: Although I have raised the same issues in my pleadings, the April 14, 2023 rulings compel expedited dismissal of ODC's charges. A dismissal on constitutional grounds should **not** avoid issues this Court has before it as part of its overarching obligation to control the Attorney-Disciplinary Process:

(1) Should ODC be restructured as the Clark Committee and the McKay Commission have recommended?

(2) Should this Court conduct a *Chambers v. NASCO* independent investigation to determine if ODC and Girod LoanCo engaged in collusion to silence a pesky Henry Klein?

(3) Should this Court make the illusive declaration that Girod had no right to make judicial demands pursuant to Louisiana's Door-Closing Statute?

2. Justice KAGAN's introduction. To decide, this Court need go no further than Justice KAGAN's introduction at page 1, Exhibit A:

> In each of these two cases, the respondent in an administrative enforcement action challenges the constitutional authority of the agency to proceed. Both respondents claim that the agencies' administrative law judges are insufficiently accountable to the President, in violation of separation-of-powers principles. **And one respondent attacks as well the combination of prosecutorial and adjudicatory functions in a single agency. The challenges are fundamental, even existential. They maintain in essence that the agencies, as currently structured, are unconstitutional in much of their work.**

By any measure, the ODC is an agency charged with the protection of the public interest. Rule XIX describes ODC as a "...unitary entity..." and mandates that "...while it performs both prosecutorial and adjudicative functions, these functions shall be separated within the agency insofar as practicable in order to avoid unfairness. That did not happen here.

Much the same was articulated by Circuit Judges LUCERO and MORITZ in *Bandimere v. SEC*, 844 F.3d 1168 (10th Cir. 2016):

> "ALJs are vested with duties of administration and at the same time given important judicial work. **The evils resulting from this confusion of principles are insidious and far-reaching.** Pressures and influences properly directed toward officers responsible for formulating and administering policy constitute an unwholesome atmosphere in which to adjudicate private rights. These mixed duties render escape from these subversive influences **impossible**. Furthermore,

> the same men are obliged to serve both as prosecutors and as judges. This not only undermines judicial fairness; it weakens public confidence in that fairness[1]. Decisions affecting private rights and conduct lie under the suspicion of being rationalizations with the Commission, in the role of prosecutor, presented to itself."

The trial before HC-37 suffered from these basic infirmities, as well-stated by *Withrow v. Larkin*, 421 U.S. 35 (1975):

> "[a] 'fair trial in a fair tribunal is a basic requirement of due process', *In re Murchison*. This applies to administrative agencies which adjudicate as well as courts, *Gibson v. Berryhill*. The contention is that the combination of investigative and adjudicative functions creates an unconstitutional risk of bias in administrative adjudication....and it must convince that, under a realistic appraisal of psychological tendencies and human weakness, conferring investigative and adjudicative powers on the same individual poses such a risk of actual bias or prejudgment **that the practice must be forbidden if the guarantee of due process is to be adequately implemented."**

Equally compelling is *SEC v. Caledonian Bank*, 145 F. Supp. 3rd 200 (2015), observing that "...**the power to investigate carries with it the power to defame and destroy**..." As Mr. Pendley oft-expressed, ODC took a letter from John Olivier, a non-complainant, and used it to investigate unbridled for the sole benefit of non-client Girod LoanCo.

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1 Public confidence in the disciplinary process was a key concern of the McKay Commission.

In describing the *Axon / Cochran* complaints, Justice KAGAN noted:

> "Each suit by [respondents] charged that some fundamental aspect of the Commission's structure violates the Constitution; that the violation made the entire proceeding unlawful; and that **being subjected to such an illegitimate proceeding causes legal injury.**", *Id*, at page 3.

At page 5, Justice KAGAN put it thus:

> "In addition, Axon claimed that the combination of prosecutorial and adjudicative functions in the Commission renders all of its enforcement actions unconstitutional, citing the Complaint's language: "...the FTC will act as prosecutor, judge and jury. Again, similarly to Cochran, Axon asked the court to enjoin the FTC 'from subjecting it to the Commission's **unfair and unconstitutional internal forum**'."

3. **The detrimental impact of these proceedings.** I fight corrupt practices in many jurisdictions, *pro hac vice*. There are cases that I can **not** file with this black cloud overhead awaiting in the United States District Courts for the Districts of Wyoming, Missouri and Arizona. As a hint of the quality of my pleadings — which ODC and Eric Lockridge described as "...frivolous, repetitive, redundant and filed in bad faith..." Exhibit B was filed May 15 just past. It is the beginning of an Opening Brief in the Seventh Circuit in *Enas Said v. United States*, hopefully bringing an end to the regulatory abuse of the SNAP program, successor to food stamps, by the United States Department of Agriculture, whose Administrative Review Officers ("AROs") suffer from the same constitutional maladies as ODC. Because I am a permanent member of that bar, I did not need to apply for *pro hac vice* admission.

4. *Chambers v. NASCO.* I respectfully submit that I am more an *amicus* than a respondent worthy of effective disbarment. Should the Court decide to do what Judge Nauman Scott did in *NASCO v. Calcasieu Television and Radio*, 623 F. Supp. 1372 (W.D. La. 1985) and appoint a trusted independent investigator, I can expose what I have gathered in the fight for Regina Heisler since May of 2017.

5. **Reducing Henry Klein *(et ux)* and Regina Heisler to a "...condition of exhausted compliance..."** Girod just set a Motion for Summary Judgment in *Girod LoanCo v. Henry Klein*, CDC Docket 2021-5090 for hearing, seeking a deficiency judgment of what Girod will claim to be more than $400,000. Flexing emotional muscle, Girod served my wife at home, a case Girod would not have filed if I "...stopped fighting..." Three months before Regina died of increasingly debilitating liver cancer, she signed a settlement whereby Girod kept **$15 million** and the now-deceased widow-Heisler kept two Yamaha Jet Skis and her jewelry, *viz*:

I can **not** and will **not** stop fighting this travesty. A declaration by this Court enforcing Louisiana's Door-Closing Law would begin the turning of that worm.

On March 8, 2023, Exhibit C, Girod fled to the Boston office of Capital Crossing, part of the TPG vulture-fund conglomerate long ago exposed in vain[2].

6. Declaratory Judgment. No court has made the incredibly simple declaration that La.12:1354(A) is the law. Justice Crain asked if I tried and if so (and I did), the issue was litigated (as I respectfully recollect). But litigation and adjudication are different: "...litigation..." is the mano-a-mano fight, whereas "...adjudication..." is when the judges' cards are read by the ringmaster. **That has yet to happen.** Without a declaration from this tribunal, I will soon lose the 15-round fight against Girod LoanCo, LLC, the *only* invisible entity attacking my integrity[3]. ODC's poisoning the well and its character assassination of Henry Klein has worked wonders[4].

This is my Court of last resort and the Heislers swan song.

7. Everything I say is true. Girod is a moving target with no identifiable humanity. I am not. This is how landmark cases are made. My humble request is for (i) an expedited dismissal of these ephemeral charges, (ii) the appointment of a trusted *Chambers v. NASCO* independent investigator, (iii) a declaration that will enforce a law

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2 See, *Mississippi developer alleged to be major player in loans that brought down First NBC Bank*. Anthony McCauley. **Code of Evidence 902(6):**

> In her civil case, Heisler is trying to keep assets that include a $2 million brokerage account, a shopping center in Metairie and a building at 844 Baronne St. from being seized by Girod LoanCo, the debt investor that bought a large portion of the First NBC loans sold by regulators last year, including the notes Heisler signed. **Girod LoanCo is a specially created company that is ultimately owned by TPG Capital, a $100 billion private investment firm co-founded by billionaire James Coulter.**

3 See, *Character Assassination*, Wikepedia.

4 The lawyer described in the HC-57 Report and Board decision should be tarred and feathered. **It just wasn't me.**

promulgated for the protection of the public interest as Louisiana Civil Code Article 7 has envisioned and (iv) an invitation to assist this Court in the goals set forth by Clark and McKay.

So help me God,

Henry L. Klein, *pro se*
201 St. Charles Avenue, Suite 2501
New Orleans, LA 70170
(504) 439-0488
henryklein44@gmail.com

318 E Boston St, Covington, Louisiana 70433

DUCOTE FOR JUSTICE

A CONSTITUTIONAL REPUBLICAN

UPDATES

< All Posts

SCOTT SCHLEGEL'S FUNDS

July 17, 2019

SCOTT SCHLEGEL'S SUPREME COURT CAMPAIGN FUNDED BY HUGE TEXAS COMPANY WITH $$$MILLIONS AT STAKE IN LOUISIANA LAWSUITS. In his July 15 campaign finance report, Scott Schlegel's team disclosed that his campaign took $25,000 from Texas Brine Co., a large Houston based company involved in many Louisiana lawsuits in which it stands to lose or gain millions of dollars. The $25K was all paid on July 1, and broken up into 5 payments of $5K each by Texas Brine and its 4 subsidiaries (all with the same Houston address of 4800 San Felipe Street) to avoid the $5K corporate contribution limit. Texas Brine is known best for its involvement in the Bayou Corne sinkhole in Assumption Parish which swallowed scores of homes affecting 350 residents, and prompted many of the lawsuits and scores of filings in both the First Circuit Court of Appeal and the Louisiana Supreme Court. Just Google "Bayou Corne Sinkhole" for all of the story. There is no doubt that much of Texas Brine's fate will be decided by the Louisiana Supreme Court in a number of appeals. I have attached a partial listing of the appellate activity involving Texas Brine. There is no question that Texas Brine believes that Schlegel is a good investment for them. Why would some Texas outfit otherwise care who sits on the Louisiana Supreme Court? His approving the $25K campaign contribution is an indefensible and arrogant lapse of ethics and judgment. Imagine watching a Saints game where one team, say the Rams, handpicked the game's ref with $$$$. Would you have any confidence whatsoever in the fairness of any 4th quarter calls in the secondary? I have no opinion about the merits of any of the Texas Brine lawsuits, and will judge them, and every other party in every suit with fairness and integrity. But, whatever anyone thinks of my ultimate

decisions, there will be no basis for any worry that I was for sale. Tomorrow I will post more about his campaign finance report. That is why I am not taking one red cent of campaign contributions from anybody. I hope you consider all of this on October 12, and vote for me as your next Supreme Court Justice. Thanks, Richard Ducote FB: Ducote for Justice ducoteforjustice.com

#ducoteforjustice.com

CANDIDATE'S REPORT

(to be filed by a candidate or his principal campaign committee)

1. Qualifying Name and Address of Candidate

SCOTT U. SCHLEGEL
406 N Labarre Road
Metairie, LA 70001

2. Office Sought (include title of office as well)

Associate Justice
Louisiana Supreme Court
First District

OFFICE USE ONLY

Report Number: 77429
Date Filed: 7/15/2019

Report Includes Schedules:
Schedule A-1
Schedule B
Schedule C
Schedule E-1

3. Date of Primary 10/12/2019

This report covers from 1/1/2019 through 7/4/2019

4. Type of Report:

- ____ 150th day prior to primary
- X 90th day prior to primary
- ____ 30th day prior to primary
- ____ 10th day prior to primary
- ____ 10th day prior to general
- ____ 40th day after general
- ____ Annual (future election)
- ____ Supplemental (past election)
- ____ Amendment to prior report

5. FINAL REPORT if:

- ____ Withdrawn
- ____ Unopposed
- ____ Filed after the election AND all loans and debts paid

6. Name and Address of Financial Institution (You are required by law to use one or more banks, savings and loan associations, or money market mutual fund as the depository of all

GULF COAST BANK
5001 Veterans Blvd
Metairie, LA 70006

7. Full Name and Address of Treasurer

AMY L BODET
4805 Kent Avenue
Metairie, LA 70006

8. Name of Person Preparing Report AMY L BODET

Daytime Telephone 504-415-1120

10. WE HEREBY CERTIFY that the information contained in this report and the attached schedules is true and correct to the best of our knowledge, information and belief, and that no expenditures have been made nor contributions received that have not been reported herein, and that no information required to be reported by the Louisiana Campaign Finance Disclosure

This 15th day of July, 2019.

Amy L Bodet — 504-415-1120
Signature of Candidate/Chairperson (To be signed by Chairperson only if report by principal campaign committee) — Daytime Telephone

Amy L Bodet — 504-415-1120
Signature of Treasurer — Daytime Telephone

9. FOR PRINCIPAL CAMPAIGN COMMITTEES ONLY
a. Name and address of principal campaign committee, committee's chairperson, and subsidiary committees, if any (use additional sheets if necessary).

On attached sheet

Report Number: 77429 Page 1 of 16 SCOTT U. SCHLEGEL

SUMMARY PAGE

RECEIPTS	This Period
1. Contributions (Schedule A-1)	$ 82,000.00
2. In-kind Contributions (Schedule A-2)	$ 0.00
3. Campaign paraphernalia sales of $25 *or less*	$ 0.00
4. **TOTAL CONTRIBUTIONS** (Lines 1 + 2 +3)	$ 82,000.00
5. Other Receipts (Schedule A-3)	$ 0.00
6. Loans Received (Schedule B)	$ 25,000.00
7. Loan Repayments Received (Schedule D)	$ 0.00
8. **TOTAL RECEIPTS** (Lines 4 + 5 + 6 + 7)	$ 107,000.00

DISBURSEMENTS	This Period
9. Expenditures (Schedule E-1)	$ 11,747.15
10. Other Disbursements (Schedule E-2)	$ 0.00
11. Loan Repayments Made (Schedule B)	$ 0.00
12. Funds Loaned (Schedule D)	$ 0.00
13. **TOTAL DISBURSEMENTS** (Lines 9 + 10 + 11 + 12)	$ 11,747.15

FINANCIAL SUMMARY	Amount
14. Funds on hand at beginning of reporting period (Must equal funds on hand at close from last report or -0- if first report for this election)	$ 711.80
15. *Plus* total receipts this period (Line 8 above)	$ 107,000.00
16. *Less* total disbursements this period (Line 13 above)	$ 11,747.15
17. *Less* in-kind contributions (Line 2 above)	$ 0.00
18. Funds on hand at close of reporting period	$ 95,964.65

Form 102 Rev. 3/08, Page Rev. 3/08

SCHEDULE A-1: CONTRIBUTIONS (Other than In-Kind Contributions)

The following information must be provided for all contributors to your campaign during this reporting period, except for in-kind contributions. Information on in-kind contributions is reported on SCHEDULE A-2: IN-KIND CONTRIBUTIONS. In Column 1, check if the contributor is a political committee or a party committee. Any personal funds a candidate contributes to his campaign must be reported on this schedule. Personal funds a candidate *loans* to his campaign should be reported on Schedule B. For anonymous contributions, see SCHEDULE F. Totals and subtotals are *optional*. Completion of totals and subtotals may assist in calculating totals that must be reported on the Summary Page.

1. Name and Address of Contributor	2. Contributions this Reporting Period		3. Total this Election
	a. Date(s)	b. Amount(s)	
ROSITA U SCHLEGEL 136 Imperial Woods Harahan, LA 70123 POLITICAL COMMITTEE? ___ PARTY COMMITTEE? ___	06/24/2019	$5,000.00	$5,000.00
HEATHER SONGY 4701 Sheridan Avenue Metairie, LA 70002 POLITICAL COMMITTEE? ___ PARTY COMMITTEE? ___	07/01/2019	$250.00	$250.00
STEPHEN M PETIT JR ATTORNEY AT LAW 801 Oriole Street Metairie, LA 70003 POLITICAL COMMITTEE? ___ PARTY COMMITTEE? ___	07/01/2019	$250.00	$250.00
STERNBERG, NACCARI & WHITE LLC 935 Gravier Street Suite 2020 New Orleans, LA 70112 POLITICAL COMMITTEE? ___ PARTY COMMITTEE? ___	06/26/2019	$2,500.00	$2,500.00
KIRK TALBOT 9625 Evelyn Place River Ridge, LA 70123 POLITICAL COMMITTEE? ___ PARTY COMMITTEE? ___	07/02/2019	$500.00	$500.00
TBC SALES & DISTRIBUTION LLC 4800 San Felipe Street Houston, TX 77056 POLITICAL COMMITTEE? ___ PARTY COMMITTEE? ___	07/01/2019	$5,000.00	$5,000.00
4. SUBTOTAL (this page)		$13,500.00	N/A
5. TOTAL (complete only on last page of this schedule)			N/A
6. CONTRIBUTIONS FROM POLITICAL COMMITTEES: SUBTOTAL (this page) $0.00 TOTAL (complete only on last page of this schedule)			

Form 102. Rev. 3/98. Focus Rev. 3/98

SCHEDULE A-1: CONTRIBUTIONS (Other than In-Kind Contributions)

The following information must be provided for all contributors to your campaign during this reporting period, except for in-kind contributions. Information on in-kind contributions is reported on SCHEDULE A-2: IN-KIND CONTRIBUTIONS. In Column 1, check if the contributor is a political committee or a party committee. Any personal funds a candidate contributes to his campaign must be reported on this schedule. Personal funds a candidate *loans* to his campaign should be reported on Schedule B. For anonymous contributions, see SCHEDULE F. Totals and subtotals are *optional*. Completion of totals and subtotals may assist in calculating totals that must be reported on the Summary Page.

1. Name and Address of Contributor	2. Contributions this Reporting Period		3. Total this Election
	a. Date(s)	b. Amount(s)	
TEXAS BRINE COMPANY LLC 4800 San Felipe Street Houston, TX 77056 POLITICAL COMMITTEE? ___ PARTY COMMITTEE? ___	07/01/2019	$5,000.00	$5,000.00
THE KING FIRM LLC 2912 Canal Street New Orleans, LA 70119 POLITICAL COMMITTEE? ___ PARTY COMMITTEE? ___	07/01/2019	$5,000.00	$5,000.00
UNDERGROUND SERVICES MARKHAM LLC 4800 San Felipe Street Houston, TX 77056 POLITICAL COMMITTEE? ___ PARTY COMMITTEE? ___	07/01/2019	$5,000.00	$5,000.00
UNDERGROUND STORAGE LLC 4800 San Felipe Street Houston, TX 77056 POLITICAL COMMITTEE? ___ PARTY COMMITTEE? ___	07/01/2019	$5,000.00	$5,000.00
UNITED BRINE SERVICES LLC 4800 San Felipe Street Houston, TX 77056 POLITICAL COMMITTEE? ___ PARTY COMMITTEE? ___	07/01/2019	$5,000.00	$5,000.00
HC WELLMAN, JR 102 Elaine Street Harahan, LA 70123 POLITICAL COMMITTEE? ___ PARTY COMMITTEE? ___	06/24/2019	$1,000.00	$1,000.00
4. SUBTOTAL (this page)		$26,000.00	N/A
5. TOTAL (complete only on last page of this schedule)			N/A

6. CONTRIBUTIONS FROM POLITICAL COMMITTEES:

SUBTOTAL (this page) $0.00 TOTAL (complete only on last page of this schedule)

Form 102. Rev. 3/08. Page Rev. 3/08

1. Assumption Parish Police Jury v. Texas Brine Company, LLC
Supreme Court of Louisiana. January 13, 2017 215 So.3d 246 2017 WL 374926

Denied. HUGHES, J., would grant.

...Assumption Parish Police Jury v. Texas Brine Company, LLC La., 2017 Supreme Court of Louisiana. ASSUMPTION PARISH POLICE JURY , et al. v. TEXAS BRINE COMPANY, LLC Assumption Parish Sheriff Mike Waguespack v. Texas Brine Company, LLC , et al. State of Louisiana v. Texas Brine Company, LLC , et al. NO. 2016-CC-2000 January 13...

2. Assumption Parish Police Jury v. Texas Brine Company, LLC
Court of Appeal of Louisiana, First Circuit. March 05, 2018 Not Reported in So.3d 2018 WL 1151935

WRIT DENIED. We decline to exercise our supervisory jurisdiction.

...Assumption Parish Police Jury v. Texas Brine Company, LLC La.App. 1 Cir., 2018 UNPUBLISHED OPINION. CHECK COURT...

...Louisiana, First Circuit. ASSUMPTION PARISH POLICE JURY , et al. v. TEXAS BRINE COMPANY, LLC , et al. State of Louisiana v. Texas Brine Company, LLC , et al. Assumption Parish Sheriff Mike Waguespack v. Texas Brine Company, LLC , et al. NO. 2017 CW 1463 March 5...

3. Assumption Parish Police Jury v. Texas Brine Company
Court of Appeal of Louisiana, First Circuit. December 28, 2016 Not Reported in So.3d 2016 WL 7468155

WRIT DENIED.

...Assumption Parish Police Jury v. Texas Brine Company La.App. 1 Cir., 2016 UNPUBLISHED OPINION. CHECK COURT RULES...

...Louisiana, First Circuit. Assumption Parish Police Jury , et al v. Texas Brine Company, LLC , et al State of Louisiana v. Texas Brine Company, LLC , et al Assumption Parish Sheriff Mike Waguespack v. Texas Brine Company, LLC , et al NO. 2016 CW 1489 DECEMBER 28...

4. Assumption Parish Police Jury v. Texas Brine Company, LLC
Supreme Court of Louisiana. January 13, 2017 215 So.3d 247 2017 WL 374927

Denied.

...Assumption Parish Police Jury v. Texas Brine Company, LLC La., 2017 Supreme Court of Louisiana. ASSUMPTION PARISH POLICE JURY , et al. v. TEXAS BRINE COMPANY, LLC , et al. Assumption Parish Sheriff Mike Waguespack v. Texas Brine Company, LLC , et al. State of Louisiana v. Texas Brine Company, LLC , et al. NO. 2016-CC-2001 January 13...

5. Assumption Parish Police Jury v. Texas Brine Company, LLC
Court of Appeal of Louisiana, First Circuit. February 21, 2018 Not Reported in So.3d 2018 WL 1027124

WRIT DENIED ON THE SHOWING MADE.

...Assumption Parish Police Jury v. Texas Brine Company, LLC La.App. 1 Cir., 2018 UNPUBLISHED OPINION. CHECK COURT...

...Louisiana, First Circuit. ASSUMPTION PARISH POLICE JURY , et al. v. TEXAS BRINE COMPANY, LLC , et al. State of Louisiana v. Texas Brine Company LLC , et al. Assumption Parish Sheriff, Mike Waguespack v. Texas Brine Company, LLC NO. 2018 CW 0223 FEBRUARY 21, 2018 In...

6. Assumption Parish Police Jury v. Texas Brine Company, LLC
Supreme Court of Louisiana. February 23, 2018 269 So.3d 705 2018 WL 8489140

Stay denied. Writ denied.

...Assumption Parish Police Jury v. Texas Brine Company, LLC La., 2018 Supreme Court of Louisiana. ASSUMPTION PARISH POLICE JURY , et al. v. TEXAS BRINE COMPANY, LLC , et al. State of Louisiana v. Texas Brine Company, LLC , et al. Assumption Parish Sheriff Mike Haguespack v. Texas Brine Company, LLC NO. 2018-CC-0311 February 23, 2018 Applying...

7. Crosstex Energy Services, L.P. v. Texas Brine Company
Supreme Court of Louisiana. September 06, 2016 205 So.3d 912 2016 WL 4991885

Denied.

...Crosstex Energy Services, L.P. v. Texas Brine Company La., 2016 Supreme Court of Louisiana. CROSSTEX ENERGY SERVICES...

...L.P. Crosstex Lig, L.L.C. , and Crosstex Processing Services, LLC v. TEXAS BRINE COMPANY Zurich American Insurance Company and American Guarantee and Liability Insurance Company In re: Texas Brine Company LLC , Defendant NO. 2016-C-0935 September 6, 2016...

8. Pontchartrain Natural Gas System v. Texas Brine Company, LLC
Supreme Court of Louisiana. January 13, 2017 215 So.3d 244 2017 WL 374925

Denied.

...Pontchartrain Natural Gas System v. Texas Brine Company, LLC La., 2017 Supreme Court of Louisiana. PONTCHARTRAIN NATURAL...

...d/s Promix, LLC and Acadian Gas Pipeline System v. TEXAS BRINE COMPANY, LLC NO. 2016-CC-1997 January 13, 2017 Applying...

9. Florida Gas Transmission Co. v. Texas Brine Company, L.L.C.
Supreme Court of Louisiana. January 14, 2019 261 So.3d 780 2019 WL 277627

Denied.

...Florida Gas Transmission Co. v. Texas Brine Company, L.L.C. La., 2019 Supreme Court of Louisiana. FLORIDA GAS TRANSMISSION CO. , et al. v. TEXAS BRINE COMPANY, L.L.C. , et al. NO. 2018-CC-1858 January 14...

10. Crosstex Energy Services v. Texas Brine Company, LLS
Supreme Court of Louisiana. January 13, 2017 215 So.3d 252 2017 WL 375685

Denied.

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...Crosstex Energy Services v. Texas Brine Company, LLS La., 2017 Supreme Court of Louisiana. CROSSTEX ENERGY SERVICES , et al. v. TEXAS BRINE COMPANY , LLS, et al. NO. 2016–CC–1984 January 13...

11. Pontchartrain Natural Gas System v. Texas Brine Company, LLC
Court of Appeal of Louisiana, First Circuit. March 23, 2018 Not Reported in So.3d 2018 WL 1448098

WRIT DENIED. We decline to exercise our supervisory jurisdiction.

...Pontchartrain Natural Gas System v. Texas Brine Company, LLC La.App. 1 Cir., 2018 UNPUBLISHED OPINION. CHECK COURT...

...d/s Promix, L.L.C. , and Acadian Gas Pipeline System v. TEXAS BRINE COMPANY, LLC NO. 2017 CW 1506 MARCH 23, 2018 In...

12. Labarre v. Texas Brine Company, LLC
Supreme Court of Louisiana. January 29, 2018 233 So.3d 608 2018 WL 825703

Not considered. See La.S.Ct. Rule IX, §6.

...Labarre v. Texas Brine Company, LLC La., 2018 Supreme Court of Louisiana. Gustave J. LABARRE, Jr., et al. v. TEXAS BRINE COMPANY, LLC and Georgia Gulf Chemical & Vinyls, LLC NO. 2017...

13. Labarre v. Texas Brine Company, LLC
Supreme Court of Louisiana. February 23, 2018 237 So.3d 519 2018 WL 1083931

Denied.

...Labarre v. Texas Brine Company, LLC La., 2018 Supreme Court of Louisiana. Gustave J. LABARRE, Jr., et al. v. TEXAS BRINE COMPANY, LLC and Georgia Gulp Chemical & Vinyls, LLC NO. 2017...

14. Labarre v. Texas Brine Company, LLC
Supreme Court of Louisiana. January 14, 2019 261 So.3d 788 2019 WL 277615

Denied.

...Labarre v. Texas Brine Company, LLC La., 2019 Supreme Court of Louisiana. Gustave J. LABARRE, Jr., et al. v. TEXAS BRINE COMPANY, LLC and Georgia Gulf Chemical & Vinyls, LLC NO. 2018...

15. W & T Offshore, L.L.C. v. Texas Brine Corporation
Supreme Court of Louisiana. October 08, 2018 253 So.3d 788 2018 WL 4997442

Granted. And, whereas, the Court has this date, pursuant to Article 5, Section 5, of the Constitution of Louisiana, made and issued the following order, to wit—"It is ordered that the writ of review issue; that the District Court and the Court of Appeal send up the record in Duplicate of the case; and that counsel for all parties be...

...W & T Offshore, L.L.C. v. Texas Brine Corporation La., 2018 Supreme Court of Louisiana. W & T OFFSHORE, L.L.C. v. TEXAS BRINE CORPORATION and Texas Brine Company, L.L.C. Texas Brine Company, L.L.C. v. W & T Offshore, L.L.C. NO. 2018-C...

V

EXHIBIT E

SUPREME COURT OF LOUISIANA

NO. 2023-B-0066

IN RE: HENRY L. KLEIN

ATTORNEY DISCIPLINARY PROCEEDING

PER CURIAM

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

UNDERLYING FACTS

This disciplinary matter originates from respondent's actions in connection with a civil matter. While it is not our intent to express any opinion on this civil proceeding, a brief discussion of the facts is necessary in order to understand the context of the disciplinary charges.

Essentially, respondent represented Regina Heisler in connection with a suit brought by Girod LoanCo, LLC ("Girod"), in which it sought to enforce certain promissory notes executed by Mrs. Heisler both individually and in her capacity as the executrix of her late husband's succession.[1] On March 12, 2019, Girod filed a "Verified Petition for Foreclosure by Executory Process" against Mrs. Heisler in the 24th Judicial District Court for the Parish of Jefferson. Two days later, respondent removed the action to federal court on the alleged basis of diversity jurisdiction. On June 5, 2019, the federal court remanded the matter to the 24th JDC, finding the

[1] The notes were originally executed in favor of First NBC Bank. Girod purchased the notes after the bank failed.

undisputed evidence in the record established that Mrs. Heisler and Girod are both citizens of Louisiana.

On June 21, 2019, the district court entered an "Order for Writ of Seizure and Sale" in favor of Girod. Respondent filed an exception of lack of jurisdiction on the ground that Girod was an "unauthorized foreign entity" and Louisiana has no jurisdiction to hear any claims by such an entity. The court denied the exception, and the court of appeal denied writs. Respondent also filed a motion captioned, "Motion To Vacate Order of Executory Process, Peremptory Exception of No Right of Action, Request for Expedited Hearing and Motion to Dismiss." In denying this motion, the court stated that the relief requested was duplicative of the relief previously requested and previously denied. Again, the court of appeal denied writs.

On October 7, 2019, the district court issued *sua sponte* an "Order to Show Cause Why Attorney Should Not Be Held in Contempt." The order alleged that respondent had sent "threatening and disrespectful correspondence" to the court's fax number and to the personal email address of the court's law clerk. The order also alleged that these communications were *ex parte* efforts by respondent to influence the court to reverse its previous rulings in the Heisler litigation. The show cause hearing was scheduled for October 29, 2019.

Before the hearing could be held, respondent filed two writ applications directly in this court, under docket numbers 19-CD-1582 and 19-CD-1633, seeking "protection" from the district court's show cause order. We denied both applications. *Girod Loanco, LLC v. Heisler*, 19-1582 (La. 10/9/19), 280 So. 3d 594; *Girod Loanco, LLC v. Heisler*, 19-1633 (La. 10/16/19), 280 So. 3d 1159.

Respondent then filed a second "Notice of Removal," suggesting that the show cause order created a federal question supporting the exercise of subject matter jurisdiction by the federal court. On December 23, 2019, the federal court again remanded the matter to the 24th JDC, finding respondent "did not have an

'objectively reasonable basis' for seeking removal, and sought to remove only to delay a state court show cause hearing regarding contempt." The federal court awarded attorney's fees and costs in favor of Girod due to the improper removal.

Following remand, respondent resumed the filing of motions in state court. On May 27, 2020, respondent filed a "Motion to Set a Hearing Pursuant to Precedent Set in *NASCO v. Calcasieu* and *Chambers v. NASCO*, 501 U.S. 32 (1991)." This motion alleged that the "vulture fund" Girod had perpetrated a fraud upon the court and requested an independent investigation to protect the integrity of the court. On June 3, 2020, the district court denied respondent's motion, refused to accept certain exhibits as part of the record, and prohibited respondent from filing further motions in the case without first seeking leave of court and obtaining permission to make such filings.[2] In written reasons, the court found that respondent had engaged in a pattern of filing repetitive motions, abuse of process, and refusing to follow proper procedures.

On August 3, 2020, respondent filed a motion to recuse the district judge. In his motion, respondent accused Girod's counsel of aiding and abetting its client's fraud and the district judge of "turning a blind eye to the fraud." Respondent also stated that the relationship between the district judge and Girod's counsel was "nothing short of shocking" because counsel had made a campaign contribution to the district judge, and that the district judge's integrity had been compromised with counsel's participation. Throughout the pleading, respondent accused the district judge of partiality towards Girod's counsel and its clients, without regard to Mrs. Heisler. Respondent cited no evidence for these allegations. On August 10, 2020, the district judge denied the motion to recuse.

[2] Respondent admitted that after the district court issued this order, he filed another motion without having first sought leave of court to do so. The ODC alleges that as a result of this action, the district court filed a second motion for contempt against respondent.

On August 19, 2020, respondent filed a petition in Orleans Parish Civil District Court on behalf of himself and his wife. The Orleans Parish Civil Sheriff was named as defendant. In the suit, respondent represented that the foreclosure order against Mrs. Heisler was unconstitutional and argued that the Sheriff was not legally obligated to execute the "constitutionally infirm" order. In paragraph 43 of the petition, respondent again alleged that Girod's counsel had actively participated in compromising the integrity of the district judge.

DISCIPLINARY PROCEEDINGS

On October 16, 2019, the clerk of this court sent correspondence to the ODC enclosing copies of respondent's writ applications in 19-CD-1582 and 19-CD-1633, which involved the contempt proceedings arising from respondent's *ex parte* communications. The correspondence was not in the nature of a complaint, but requested that the ODC review the filings for the purpose of determining whether any ethical violations may have occurred.

The ODC opened an investigation into the matter. During its investigation, the ODC took the sworn statement of Girod's counsel. Counsel testified that respondent sent messages to the law firm's managing partner in which he threatened to file a legal malpractice claim against the firm. Respondent, in pleadings, also accused the firm of aiding and abetting criminal activity on the part of its client, demanded that the firm dismiss Girod's claims, and pay a settlement of three million dollars. Respondent also sent harassing messages to non-attorney employees of the firm, including the Chief Finance Officer, the Chief Operating Officer, the Human Resources manager, and the Information Technology staff.

In January 2021, the ODC filed formal charges against respondent, alleging that his conduct as set forth above violated Rules 3.1 (a lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis

in law and fact for doing so that is not frivolous), 3.3(a)(1) (a lawyer shall not knowingly 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), 3.4(c) (a lawyer shall not knowingly disobey an obligation under the rules of a tribunal), 3.5(a) (a lawyer shall not seek to influence a judge, juror, prospective juror or other official by means prohibited by law), 3.5(b) (a lawyer shall not communicate ex parte with a judge, juror, prospective juror or other official during the proceeding unless authorized to do so by law or court order), 3.5(d) (a lawyer shall not engage in conduct intended to disrupt a tribunal), 4.4(a) (in representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person), 8.2(a) (a lawyer shall not make a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge), 8.4(a) (violation of the Rules of Professional Conduct), 8.4(c) (engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation), and 8.4(d) (engaging in conduct prejudicial to the administration of justice) of the Rules of Professional Conduct.

Respondent answered the formal charges and denied any misconduct. He asserted that his work to protect Mrs. Heisler was "above board, yet sabotaged by the district judge and by the ruthless tactics" of Girod. Respondent also stated that the district judge was "corrupted" by Girod and its counsel.

In light of respondent's answer, the matter proceeded to a formal hearing on the merits.

Formal Hearing

The hearing committee conducted a formal hearing on December 8, 2021. Respondent did not appear at the hearing. When reached by telephone, respondent stated that he was ill and could not attend the hearing. Respondent declined the

opportunity to participate in the hearing via telephone or video conference. Instead, he requested a continuance, which was denied. The hearing then proceeded in respondent's absence, and the ODC called Girod's counsel to testify.

A second day of hearing was held on March 28, 2022. Respondent appeared at the hearing but was not represented by counsel. Respondent did not call any witnesses to testify. His evidence consisted of information as to the civil matter in which he represented the Heisler family, information as to his history as an attorney, and information as to his personal history. He did not present any evidence to refute any of the facts as presented by the ODC.

Hearing Committee Report

After considering the evidence and testimony presented at the hearing, the hearing committee found that respondent violated the Rules of Professional Conduct as alleged in the formal charges. Respondent violated Rule 3.1 by removing the Heisler case to federal court, not once but twice, in response to a contempt motion issued against him, with the court finding no reasonable basis for the removal, and that the removal was filed solely to delay the contempt matter in the state court proceeding. These actions had no basis in law or fact, nor did there exist a good faith argument for an extension, modification, or reversal of existing law. Respondent violated Rule 3.3(a)(1) when he falsely accused Girod's counsel of aiding and abetting criminal activity on the part of Girod, without any evidence to support such a claim. Respondent violated Rule 3.4(c) when he continued to file additional pleadings into the record without leave of court, disregarding the district court's filing order. Respondent violated Rules 3.5(a)(b)(d) when he had *ex parte* communications with the district court's law clerk. This conduct was an inappropriate and disruptive attempt to influence the court. Respondent violated Rule 4.4(a) when he sent multiple messages to other attorneys not associated with

the litigation, as well as non-attorney employees, of Girod's counsel. These communications had no purpose other than to embarrass and/or burden individuals not associated with the Heisler litigation. Respondent violated Rule 8.2(a) when he filed several public court documents accusing the district judge of compromising his integrity, "turning a blind eye" to fraud perpetrated by Girod's counsel, and receiving inappropriate campaign contributions from Girod's counsel, all without any evidence to support such claims. Respondent violated Rules 8.4(a)(c)(d) by the personal and defamatory attacks he made on Girod's counsel and the district judge. These attacks were dishonest and were prejudicial to the administration of justice.

The committee determined respondent violated duties owed to the legal system and the legal profession. He acted knowingly and intentionally. Respondent's misconduct caused actual harm, in that his statements about the district judge and Girod's counsel were inflammatory and were not supported by any evidence, and designed to attempt to damage the reputation of a sitting judge and of a well-established law firm. His statements were made in public pleadings filed with the court, and also in the course of the hearing, without any regard for the risk associated with making the statements. Based on the ABA's *Standards for Imposing Lawyer Sanctions*, the committee determined the baseline sanction is suspension.

The committee determined the following aggravating factors are present: a prior disciplinary record,[3] refusal to acknowledge the wrongful nature of the conduct, and substantial experience in the practice of law (admitted 1968). The committee determined the only mitigating factor present is respondent's full and free disclosure to the disciplinary board.

[3] Respondent was suspended from the practice of law for three months in 1987. In 1989, he was suspended for six months. Respondent has also received three formal private reprimands (1975, 1988, and 1989) and two admonitions (1993 and 2018).

Based on these findings, the committee recommended respondent be suspended from the practice of law for one year and one day.

Respondent filed an objection to the hearing committee's report.

Disciplinary Board Recommendation

After review, the disciplinary board determined that the hearing committee's factual findings are not manifestly erroneous and adopted same. Based on these factual findings, the board determined respondent's conduct violated the Rules of Professional Conduct as alleged in the formal charges.

The board agreed with the committee that respondent violated duties owed to the legal system and the legal profession. His actions were knowing and intentional, and caused actual harm. Based on the ABA's *Standards for Imposing Lawyer Sanctions*, the board determined the baseline sanction is suspension. The board agreed with the aggravating and mitigating factors found by the committee.

Considering these findings, the court's prior jurisprudence discussing similar misconduct, and the applicable aggravating factors, the board recommended respondent be suspended from the practice of law for one year and one day. The board further recommended that respondent attend Ethics School and that he be assessed with the costs and expenses of this matter.

Respondent filed an objection to the board's recommendation. Accordingly, the case was docketed for oral argument pursuant to Supreme Court Rule XIX, § 11(G)(1)(b).[4]

[4] Respondent filed numerous motions in this court both prior to and after the docketing of the case for oral argument. After careful review, we find the motions are without merit and hereby deny them.

DISCUSSION

Bar disciplinary matters fall within the original jurisdiction of this court. La. Const. art. V, § 5(B). Consequently, we act as triers of fact and conduct an independent review of the record to determine whether the alleged misconduct has been proven by clear and convincing evidence. *In re: Banks*, 09-1212 (La. 10/2/09), 18 So. 3d 57. While we are not bound in any way by the findings and recommendations of the hearing committee and disciplinary board, we have held the manifest error standard is applicable to the committee's factual findings. *See In re: Caulfield*, 96-1401 (La. 11/25/96), 683 So. 2d 714; *In re: Pardue*, 93-2865 (La. 3/11/94), 633 So. 2d 150.

The charges in this case allege that in the course of representing a client in pending litigation, respondent made unsubstantiated, disparaging remarks about the trial judge and opposing counsel, engaged in *ex parte* communications with the trial court's law clerk, continued to file duplicative pleadings into the record although ordered by the trial court to refrain from doing so without leave of court, and removed the case to federal court solely for the purpose of delay. Respondent's sole defense to these charges is based on his assertion that he was acting as a zealous advocate for his client and was seeking to address what he perceived as a significant injustice.

While we have recognized attorneys must be vigorous advocates on behalf of their clients, we have consistently rejected any attempts by lawyers to justify their unethical conduct under the guise of "zealous advocacy." *In re: Zohdy*, 04-2361 (La. 1/19/05), 892 So. 2d 1277, 1289 at n.15. *See also In re: Young*, 03-0274 (La. 6/27/03), 849 So. 2d 25, 31 ("While respondent's motivation may have been to protect the interests of his client, he may not violate his professional obligations as an officer of the court under the guise of being a zealous advocate.").

Respondent's actions in the instant case clearly crossed the boundary between zealous advocacy and professional misconduct. As the hearing committee found, many of respondent's actions, such as his removal of the Heisler case to federal court to avoid the state court contempt hearing, had no basis in fact or law and were intended solely for purposes of delay. He filed multiple pleadings into the record without leave of court, in clear violation of the trial court's order. He improperly entered into *ex parte* communications with the trial court's law clerk, which the committee found represented an "inappropriate and disruptive attempt to influence the court." Finally, he has repeatedly made unfounded accusations of improper conduct against opposing counsel and the trial court.

Significantly, respondent's harassing conduct did not abate after the filing of formal charges but has continued during the course of these disciplinary proceedings. Respondent's filings in this disciplinary matter are replete with unsubstantiated attacks on the integrity of the ODC, the trial judge, and opposing counsel.[5] When asked during oral argument to provide proof for these assertions, respondent merely referred to vague "inferences" which he claims to have drawn from the facts. Such unsupported attacks clearly exceed the bounds of mere advocacy. *See In re: Milkovich*, 493 So. 2d 1186, 1198-99 (La. 1986) (finding an attorney "far exceeded the limits of zealous advocacy" by leveling "a vicious attack on the integrity of the prosecutor and the judge which is not in any manner suggested by the record.").

Respondent has also burdened this court during these disciplinary proceedings by filing multiple motions and pleadings, the vast majority of which have no bearing

[5] Many of respondent's filings in this court arguably could be seen as violating Supreme Court Rule VII, § 7, which provides, "[t]he language used in any brief or document filed in this court must be courteous, and free from insulting criticism of any person, individually or officially, or of any class or association of persons, or of any court of justice, or other institution." However, because respondent was representing himself in these disciplinary proceedings, we exercised our discretion to permit the filings so as to not interfere with respondent's ability to defend himself.

on the issues presented in his disciplinary case. Instead, respondent has consistently attempted to re-litigate the merits of the *Girod* matter in the context of his disciplinary case. Such actions are clearly inappropriate and any attempt by respondent to covertly re-litigate final judgments will not be countenanced by this court.

Taken as a whole, respondent's actions, both in the context of the underlying litigation and the disciplinary proceedings, display a disturbing lack of respect for the judicial system and his obligations as a professional. As aptly stated by Justice Crichton, "[i]t is unfortunate that respondent does not seem to understand that being a zealous advocate does not equate to such repugnant disrespect for the system we are charged to honor and serve." *In re: McCool*, 15-0284 (La. 6/30/15), 172 So. 3d 1058, 1090 (Crichton, J. concurring). It is beyond question that the formal charges have been proven by clear and convincing evidence.

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

Respondent submits his actions should not be a basis for discipline as he caused no actual harm to any client. We disagree. Even a cursory review of the facts demonstrates he violated duties owed to the legal system and the legal profession. His actions were knowing and intentional, and caused actual harm to the administration of justice.

The applicable baseline sanction is suspension. The aggravating and mitigating factors found by the hearing committee are supported by the record.

In fashioning an appropriate sanction, we take some guidance from *In re: Abadie*, 20-1276 (La. 5/13/21), 320 So. 3d 1073, 1081, *cert. denied sub nom. Abadie v. Louisiana Att'y Disciplinary Bd.*, 212 L. Ed. 2d 11, 142 S. Ct. 1114 (2022), in which we imposed a year and a day suspension on an attorney who filed improper pleadings, failed to follow court procedures, and attacked the integrity of the presiding judge. In doing so, we stated:

> It is clear respondent was frustrated that her client did not obtain the relief to which she believed he was legally entitled. It is an unfortunate fact that in many instances, litigation leaves one of the parties and its counsel disappointed by the outcome. However, this does not give an attorney license to make unsupported and reckless allegations of collusion and conspiracy on the part of the judges who participated in the matter. Rather, lawyers are expected to be professionals and to honor their obligations to the legal system and to the profession. Respondent failed to do so, and for this misconduct, she must be sanctioned.
>
> Based on this reasoning, and considering respondent's complete lack of remorse, we find the board's recommended sanction is appropriate. Accordingly, we will suspend respondent from the practice of law for one year and one day.

Similarly, in this case, we are confronted with respondent's failure to honor his obligations to the profession and legal system, as well as his continued lack of remorse for his actions. We find a one year and one day suspension, which will require respondent to file a formal application for reinstatement pursuant to Supreme Court Rule XIX, § 24, is an appropriate sanction. As in *In re: Simon*, 04-2947 (La. 6/29/05), 913 So. 2d 816, 826–27, "[w]e urge respondent to take this opportunity to reflect upon his professional and ethical duties as a member of the bar of this state, in particular the need to balance the zealous advocacy of a client's cause with his oath as an attorney to 'maintain the respect due to courts and judicial officers.'"

DECREE

Upon review of the findings and recommendations of the hearing committee and the disciplinary board, and considering the record, briefs, and oral argument, it is ordered that Henry L. Klein, Louisiana Bar Roll number 7440, be and he hereby is suspended from the practice of law for a period of one year and one day. All costs and expenses in the matter are assessed against respondent in accordance with Supreme Court Rule XIX, § 10.1, with legal interest to commence thirty days from the date of finality of this court's judgment until paid.

SUPREME COURT OF LOUISIANA

No. 2023-B-00066

IN RE: HENRY L. KLEIN

Attorney Disciplinary Proceeding

CRICHTON, J., concurs in part and dissents in part and assigns reasons:

I agree with the majority's finding that respondent has violated the multitude of Rules of Professional Conduct as alleged. However, I disagree with the sanction of one year and one day suspension, as I find it unduly lenient. Respondent has not only continued to deny any responsibility for his misconduct, he has engaged in a pattern of filing repetitive and unnecessary documents in this Court since the Office of Disciplinary Counsel filed its formal charges against him on January 18, 2023. In fact, other than his objection and brief responding to the Petition filed by Office of Disciplinary Counsel, as of May 17, 2023, respondent has filed approximately fourteen documents in this Court since the Office of Disciplinary Counsel's initial filing, many of which seek only to address the underlying litigation and have no actual relevance to (or express remorse for) respondent's misconduct.[1] This Court's rules setting forth the Code of Professionalism in the Courts provides that lawyers will "speak and write civilly and respectfully in all communications with the court" and "will be considerate of the time constraints and pressures on the court and court staff inherent in their efforts to administer justice." La. S.Ct. Rules, Part G, § 11.[2]

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[1]These documents include, but are not limited to, a "Request for Special Assignment" (seeking to have his disciplinary matter heard on an expedited basis), a "Motion for Judgment on the Pleadings" (a pleading not relevant to disciplinary proceedings in this Court), a "Notice of Significant Development" (pertaining only to the underlying litigation and not respondent's misconduct), a "Verified Notice of Significant Filing" (also related to the underlying matter and not the instant disciplinary process), and most recently a "Motion to Dismiss Pursuant to SCOTUS Rulings at [sic] *Axon v. FTC* and *SEC v. Cochran* and for Further Relief" (a repetitive, albeit largely unclear, filing urging this Court to investigate alleged collusion between the Office of Disciplinary Counsel and Girod, a party in the underlying litigation).

[2] *See also,* Rule 3.1 of the Rules of Professional Conduct ("A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous, which includes a good faith argument for an extension, modification or

EXHIBIT F

6/28

IN THE SUPREME COURT
OF THE STATE OF LOUISIANA

DOCKET NO. 2023-B-0066

2023 JUN 23 PM 2:22

CLERK OF COURT

* **IN RE: HENRY L. KLEIN** *

MOTION FOR ARTICLE 2167 STAY
PENDING A TIMELY APPLICATION FOR RELIEF
TO THE UNITED STATES SUPREME COURT

Pursuant to Louisiana Code of Civil Procedure Article 2167, Respondent moves for a stay of the Suspension Order pending a timely Application to the United States Supreme Court for relief. On June 27, 2023, this Court DENIED Respondent's Rule IX Application for Rehearing, triggering the following:

> **Article 2167. Supreme court judgment rehearing; finality; stay**
>
> C. When an application for rehearing has been applied for timely, a judgment of the supreme court becomes final and definitive when the application is denied. The supreme court may stay the execution of the judgment pending a timely application for certiorari or an appeal to the United States Supreme Court.

Without repeating prior arguments, Respondent provides his reasons for seeking a stay.

1. Factors to be considered. In the matter of *Sherlock-White v. Probate Appeal*, 2009 Ct. Sup. 11299 (Conn. Super. Ct. 2009), the court identified four factors in determining whether to grant a stay in a lawyer-discipline case: (i) the likelihood of success, (ii) the irreparable injury to the lawyer involved, (iii) the effect of a stay on other parties and (iv) the

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public interest involved, opining that a "...balancing of the equities..." is required[1]. Before measuring the factors, an overarching principle taken from *Supreme Court Practice, 10th Edition*, at 1000 is applicable here:

> "In other words, the nonconclusive nature of state disbarment orders stems from the Court's view of such proceedings as being 'adversary proceedings of a quasi-criminal nature', *In re Ruffalo*, 390 U.S. 455, 551 (1968) in which the requirements of due process must be met before a State can exclude a person from practicing law."

All U. S. Supreme Court cases on disbarment require (1) fair notice of the charges and (2) ample opportunity to be heard. Here, Respondent's outcries for *specificity* as to what speech or chilled expression went too far were never answered and the 20 minutes to save 55 years was hardly ample. As to the four Sherlock-White factors, Respondent avers:

(i) Likelihood of success. *Axon/Cochran*, decided April 14, is right on point. ODC's combination of complainant, investigator, prosecutor, Girod-advocate, sentencing advisor and trial attorney in the singular person of Paul Pendley violated the 3rd, 4th and 5th sentences in Justice KAGAN's introduction:

> "And one respondent attacks as well the combination of prosecutorial and adjudicatory functions in a single agency. The challenges are fundamental, even existential. They maintain in essence that the agencies, as currently structured, are unconstitutional in much of their work."

Pursuant to Supreme Court Rule 22.4, Respondent can seek relief from Justice ALITO first, but if that is denied, Respondent can seek the same relief from any other Justice, which will be Justice KAGAN[2].

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1 Similar articulation by this Court could not be found.

2 A Justice denying an application will note the denial thereon. Thereafter . . . . the party making an application may renew it to any other Justice, subject to the provisions of this Rule.

(ii) Irreparable injury to the lawyer involved. Already, because of the premature (in my view) publication of the HC-37 scathing report, Respondent's *pro hac vice* admissions across the United States are being attacked by the USDA, which — like Girod LoanCo — is anxious to silence this lawyer fighting hard for the immeasurable members of low-income families who are being deprived of SNAP benefits. The case in the 7th Circuit Court of Appeals, *Enas Said v. United States* was fully briefed yesterday. It will be instructive to the Justices to read the very short presentation in Reply to the government, Exhibit A. The campaign against SNAP-abuse by USDA AROs is not very different from the ODC-abuse in embracing Girod's case against Henry Klein.

(iii) The effect of a stay on other parties. ODC will not be prejudiced. Girod will suffer if Henry Klein can express himself without fear of reprisal. It is said that the "chilling effect" doctrine was born in *Dombrowski v. Pfister*, 380 U.S. 479 (1965), but throughout these proceedings, Respondent has objected on 1st Amendment grounds only to be overruled by "...the chair..." each and every time a ruling was requested for more specificity. Most importantly, a stay will help all the beneficiaries of what undersigned counsel is doing in the 7th Circuit and possibly in the Supreme Court.

(iv) The public interest. This case is where it is because no court to date enforced La. R. S. 12:1354(A), a law promulgated to protect the public interest. Now, *Axon/Cochran*'s invitation for "...the perfect case..." might be this case:

> "Our task today is not to resolve those [constitutional] challenges; rather, it is to decide where they may be heard."

This is the highest Court in the State of Louisiana. 28 U.S.C. § 1257 is the exception to the *Rooker-Feldman Doctrine.* This case can reach the Supreme Court faster than *Enas Said v. United States*. The "...agency

structure..." at ODC has been brought into question by *Axon/Cochran* because of the combination of roles in the person of Paul Pendley (as to whom Respondent has no personal antipathy) is no different than the ALJs at SEC and FTC.

2. Conclusion. This case is the epitome of "...the fruit of a poisoned tree...". A banker more like Robin Hood than Jesse James (in Respondent's eye) loses all control on a euphoric trip to NASDAQ, a thieving developer from Mississippi bilks a $1 billion bank using other people's property, defrauds a widow who loses $15 million to the scheme and the lawyer who fights as hard as he can against a multibillion dollar super-vulture gets disbarred[3].

Respectfully submitted,

Henry L. Klein, *pro se*
201 St. Charles Avenue
Suite 2501
New Orleans, LA 70170
504-439-0488
henryklein44@gmail.com

3 A year-and-a-day at almost 80 is a full disbarment and a humiliating good-bye to a 55-year career fighting corruption.

EXHIBIT G

6/30

Supreme Court
STATE OF LOUISIANA
New Orleans

VERONICA O. KOCLANES
CLERK OF COURT

400 Royal St., Suite 4200
NEW ORLEANS, LA 70130-8102

TELEPHONE (504) 310-2300
HOME PAGE http://www.lasc.org

June 30, 2023

Henry L. Klein
201 Saint Charles Ave Ste 2501
New Orleans, LA 70170-

Re: IN RE: HENRY L. KLEIN
2023-B-00066

Dear Counsel:

This is to advise that the court took the following action on your Motion for Article 2167 Stay Pending a Timely Application for Relief to the United States Supreme Court filed in the above-entitled matter.

IT IS ORDERED that respondent's motion is DENIED.

With kindest regards, I remain,

Very truly yours,

Theresa McCarthy
Second Deputy Clerk

TM: TM
ccs:

A

EXHIBIT H

IN THE SUPREME COURT

OF THE STATE OF LOUISIANA

DOCKET NO. 2023-B-0066

*** IN RE: HENRY L. KLEIN ***

OBJECTION TO BOARD FINDINGS

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TABLE OF AUTHORITIES

THE FOLLOWING AUTHORITIES ADDRESS (A) ABUSE OF REGULATORY POWER BY ODC, (B) CONSTITUTIONAL VIOLATIONS, (C) APPOINTMENTS CLAUSE CHALLENGE TO ODC ADJUDICATORS, (D) THE NEED TO INVESTIGATE ODC'S DECISION TO AID GIROD LOANCO IN CRIMINALITY AND (E) FRAUD UPON THE COURTS:

I. ODC'S MISSION WAS TO PROTECT THE PUBLIC, NOT GIROD's $15 MILLION FLEECING OF THE HEISLERS

There is something very wrong with this picture. Why did ODC engage in this scathing attack upon a lawyer fighting for his client, a victim of the greatest bank heist since the Brinks Robbery? By any measure, ODC violated its mission to protect the public. The ABA's Model Rules for Attorney Disciplinary Action makes the following observation:

> The Center for Professional Responsibility provides leadership in developing and interpreting standards and scholarly resources in legal and judicial ethics, professional regulation, professionalism and *client protection*.

By assisting non-client Girod LoanCo, ODC violated its own mission:

> **The primary purpose of the discipline and disability system is to protect the public. To accomplish this purpose, the agency investigates complaints of lawyer ethical misconduct and makes recommendations to the Louisiana Supreme Court when discipline is warranted.**

In the case at bar, it was Respondent who was protecting the Heislers and thereby the public. Out of his own pocket, Respondent hired detectives to trace Girod from Montreal to the Ugland House in the Cayman Islands. After fleecing the Heislers of over $15 million, still pending is *Girod LoanCo v. Henry Klein*, CDC No. 2021-5090, a deficiency action Girod agreed **not** to file if Respondent and the Heislers would "...stop fighting...".

II. ODC VIOLATED RULE XIX, SECTION 2(A)

ODC Deputy Paul Pendley was (i) the complainant, (ii) the investigator, (iii) the prosecutor, (iv) the suspected scrivener and (v) the appeals counsel in violation of the Rule XIX Section 2(A), which provides:

> **A. Agency. There is hereby established one permanent statewide agency to administer the lawyer discipline and disability system. The agency consists of a statewide board as provided in this Section 2, hearing committees as provided for in Section 3, disciplinary counsel as provided for in Section 4, and staff appointed by the board and counsel. The agency is a unitary entity. While it performs both prosecutorial and adjudicative functions, these functions *shall* be separated within the agency insofar as practicable in order to avoid unfairness.**

Rule XIX, Section 2(A) is supported by sage jurisprudence. In *Bandimere*

v. SEC, 844 F.3d 1168 (10th Cir. 2016), the evils of combining administrative and adjudicative functions *in one person* was discussed:

> **There is a conflict of principle involved in [the agencies'] make-up and functions. They are vested with duties of administration and at the same time they are given important judicial work. The evils resulting from this confusion of principles are insidious and far-reaching. Pressures and influences properly enough directed toward officers responsible for formulating and administering policy constitute an unwholesome atmosphere in which to adjudicate private rights. But the mixed duties of the [agencies] render escape from these subversive influences impossible. Furthermore, the same men are obliged to serve both as prosecutors and as judges. This not only undermines judicial fairness; it weakens public confidence in that fairness. Agency decisions affecting private rights lie under the suspicion of being rationalizations of the preliminary findings with the agency --- in the role of prosecutor --- presented to itself.**

The first time Mr. Pendley sought approval to bring formal charges, he was *rejected*. That should have been the end. The national damage of ODC's scathing "reports" as to Respondent has been *irreparable*[1].

III. APPOINTMENTS CLAUSE CHALLENGE AS TO ODC'S NON-ARTICLE III ADJUDICATIONS

The process *a qua* places grave responsibilities on non-Article III adjudicators made public before *de novo* presentation to this tribunal. From the start, Respondent objected on Constitutional grounds, including his 1st Amendment right to advocate for Regina Heisler *without* the threat of career-ending sanctions[2].

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1 Respondent practices *pro hac vice* nationally, making this matter exceedingly damaging.

2 It is often said that the threat of sanctions is the most lethal enemy of the 1st Amendment. See, *Wolff v. Selective Service Local Board No. 16*, 372 F.2d 817 (2d Cir. 1967):

> It has been held repeatedly that the mere threat of the imposition of sanctions will cause immediate and irreparable injury to the free exercise of rights as fragile and sensitive to suppression as the freedoms of speech and assembly. . . . **Since it is the mere threat of unconstitutional sanctions which precipitates the injury, the courts must intervene at once to vindicate the threatened liberties.**

See also, 58 Boston Law Review 658, *Fear, Risk and the First Amendment:*

Pursuant to *Ryder v. United States*, 515 U.S. 177 (2015), Respondent is entitled to a ruling on his Appointments Clause challenge as a matter *imprimis*[3]:

> "We think that one who makes a timely challenge to the constitutional validity of the appointment of an officer who adjudicates his case is entitled to a decision on the merits of the question and whatever relief may be appropriate if a violation indeed occurred[4]."

Neither scathing report gave Respondent any deference whatsoever, implicating what the late jurist Martin L. C. Feldman observed in *Weyerhaeuser v. United States F&W*, 586 U.S. ___ (2018) regarding "...governmental insensitivity to private rights...":

> Implicit in the ruling, any regulatory agency (such as ODC) must engage in *careful analysis*, must consider the impact of agency-actions on *private rights* and (iii) give *plausible explanations* for its decisions.

IV. LACK OF SPECIFICITY AND ODC REFUSALS TO ADDRESS RESPONDENT'S OBJECTIONS

Throughout, Respondent sought *specificity* without avail:

R. 25-31: Respondent's Discovery to ODC was stonewalled.

R. 58-71: Respondent's Pre-hearing Memorandum was given no deference in either report.

R. 95-134: Respondent's Objections to HC-37 were ignored by both Section 2(A) agencies.

R. 137-143: Respondent's Proposed Findings of Fact and Conclusions of Law were never addressed.

R. 170-140: Respondent's Motion was denied without reasons.

R. 262-274: Respondent's *In Limine* Motion was denied without

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Unraveling the "Chilling Effect".

3 It is a certainty that this is a *res nova* argument. But because this case is replete with constitutional violations, the tedious task of measuring each of the Hearing Committee's findings is obviated by 1st, 5th and 14th Amendment principles.

4 The Appointments Clause at Article II, Section 2, Clause 2, comes up in cases testing ALJs, highly-likely better-able to administer justice than HC-37, which could **not** have actually deliberated.

reasons[5].

R. 277-286: Respondent's "...Ventriloquist Objection..." was both misunderstood and mocked[6].

R. 311-315: Respondent's Specific Questions to the Board were denied without reasons, leaving the overarching question for this Court:

> WHY DID ODC HELP GIROD, A NON-CLIENT VULTURE-CREDITOR WITH A $15 MILLION AX TO GRIND REAP THE FRUITS OF A POISONOUS TREE[7]?

V. FIRST AMENDMENT VIOLATIONS INPACTING RESPONDENT

This entire process was about Respondent's *advocacy* for Regina Heisler, a victim of FNBC criminality on trial at *United States v. Ryan*, Docket 20-CR-65 in the Eastern District. As ODC admits, the only *alleged* victims were Judge Scott U. Schlegel and the Kean Miller firm, summarized at page 8 of the calumnious report:

> Respondent's misconduct caused actual harm — his statements about Judge Schlegel and Kean Miller were inflammatory and **without any evidence to support said statements**, potentially hurting the reputation of a sitting judge and of a well-established law firm."

The ODC statement as RECKLESS. On March 26, 2021, Cert Application 20-1361 was filed with SCOTUS, Exhibit A (truncated and paraphrased for brevity):

> **The Questions Presented implicated *Caperton v. Massey*, *Henson v. Santander*, *In re Murchison* and *Chicago v. Fulton* . . . . Within days after FNBC was closed, [Respondent] met with FDIC liquidators to pay circa $600,000 in Heisler debt, but was told that the debt would be sold in a "...secondary market...", as with RTC in the 1980's. On November 13, 2017, Girod purchased the Heisler debt for undisclosed pennies-on-the-dollar. In February, 2018, Kean Miller demanded $9,775,764.02 plus default interest, penalties and fees. Heisler's attempts to exercise the right of litigious redemption**

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5 The Gravamen was to stop Deputy Pendley from arguing what non-witnesses said or speculating on what non-witnesses meant by what they said.

6 It was called a "...ventriloquist objection..." because other people's words were coming out of Mr. Pendley's mouth.

7 The phrase is *doctrine*, making evidence inadmissible if illegally obtained. Thus, if the evidential tree is tainted, so is its fruit. The doctrine was established in 1920 by Justice Oliver Wendell Holmes in *Silverthorne Lumber Co. v. United States*, 251 U.S. 385 (1920), coined by Justice Frankfurter in *Nardone v. United States*, 308 U.S. 338 (1939).

were rejected out-of-hand. On March 12, 2019, Girod foreclosed on all Heisler property by Judge Schlegel's executory-process order [under visibly suspect circumstances].

Respondent's solemn oath on August 29, 1968 created a duty to defend the Constitution and the Laws of the State of Louisiana and the United States of America. This Court's decisions always begin by searching for "...clear and convincing evidence..." at the threshold. This case has **no** admissible evidence at all. ODC's reliance on Girod and its biased lawyer calls more for a *Chambers v. NASCO* investigation of Paul Pendley than the disbarment of a lawyer faithful to his client !!!

VI. 1ST, 5TH and 14TH Amendment Violations Impacting the Heislers

The ABA's main focus is on protecting clients — not the clients' enemies. How ODC Deputy Pendley got it exactly backwards requires this Court to conduct an independent inquiry as authorized by *Chambers v. NASCO*, *infra*. It should not be left up to Respondent — already traumatized by fighting for his life — to investigate the investigators. Due Process of Law and Equal Protection demand that a client's lawyer be allowed to freely-advocate without the threat of sanctions.

VII. *BROUDY v. MATHER*

"Chilling" Respondent's enthusiasm for the Heislers case violated another 1st Amendment right addressed in *Broudy v. Mather*, 460 F.3d 106 (D.C. Cir. 2006) thus:

A. The Elements of a Denial-of-Access Claim:

The Supreme Court has long recognized that citizens have a right of access to the courts: [T]he right to sue and defend in the courts is the alternative of force. In an organized society it is the right conservative of all other rights, and lies at the foundation of orderly government. It is one of the highest and most essential privileges of citizenship. . . ."). The Supreme Court has grounded the right in . . . .the Article IV Privileges and Immunities Clause, the 1st Amendment Petition Clause, the 5th Amendment Due Process Clause, and the 14th Amendment Equal Protection and Due Process Clauses. Furthermore, the right not only protects the ability to get into court, but also ensures that such access be adequate, effective, and meaningful.

Because of Girod and ODC's attacks, now bolstered by the publication of HC-37's *scathing* ruling, Respondent was disqualified (a very tangled web) as Heisler's

lawyer in the federal 5th Circuit, forcing her to fight *pro se*. In deciding the issue presented just below, this Court cannot overlook the fact that Regina Heisler's right to "...adequate, effective and meaningful..." access to courts was impeded by ODC's character-assassination of Respondent[8].

VIII. *SEC v. CALEDIONAN BANK*

In an incisive decision by New York Bankruptcy Judge William N. Pauley, 145 F. Supp. 3d 290 (S.D. N.Y. 2015), at 293, he made an observation this High Court should consider in its important role supervising the legal profession:

"...**This Case Offers Fertile Ground for Agency Self-Examination...**"

LSBA v. Henry L. Klein is a travesty of justice at a time our country is plagued by lawlessness. Parties charged with protecting the public attack innocents, as in the Memphis murder of Tyre Nichols and the purloining of the Heislers by Girod, described by Congress in the Stop the Vultures Act, 2009 H. R. 2932, thus:

> ***THE CONGRESS FINDS THE FOLLOWING:***
>
> **(7) So-called "vulture" creditors acquire by purchase, assignment or other form of transaction, the defaulted obligations of and sometimes actual court judgments against [debtors]. Vulture creditors usually acquire the debt for the payment for a sum far less than the face value of the defaulted obligation. They do so for the sole purpose of collecting through litigation, seizure of assets or other means, payment on the defaulted debt on terms and in amounts far in excess of the amount paid by the vulture creditor to acquire the debt.**

ODC knew that Girod was a vulture-creditor. When ODC took the sworn statement of Eric Lockridge, he confessed:

MR. PENDLEY:

> How would you describe your client?

MR. LOCKRIDGE:

> "Girod is a special purpose vehicle created to purchase FNBC debt from the FDIC...[9]"

---

8 Regina Heisler, worth $15 million when her husband passed, died broke on December 23, 2022, hours after Respondent's last visit to his client.

9 Girod was created in April of 2017, the month FNBC collapsed. Pursuant to FDIC policy, Girod was a "silo-structured" entity from an off-shore jurisdiction which should

In *Caledonian Bank*, the following applies to ODC's power to investigate:

> **The power to investigate carries with it the power to defame and destroy**....Judges rely on the agency (ODC) to deploy these powers conscientiously and provide accurate assessments regarding the evidence collected in their investigations. **In that way, the integrity of the regulatory regime is preserved.**

In this case, ODC made mountains out of every molehill. A second point by the esteemed *Caledonian* jurist is found at 310-311:

> By overstating its case, the agency (ODC) can do great harm and **undermine public confidence in the administration of justice**.

This Court should not countenance ODC's assistance to Girod. When Respondent met with the FDIC on May 10, 2017, he introduced the *Ex Turpi Causa Doctrine*, which teaches courts of law **not** to lend aid to parties involved in illegal or fraudulent transactions[10]. The likelihood that ODC will engage in the "...self-examination..." Judge Pauley suggested is very low. Thus, Respondent urges this Court to conduct an independent investigation into the Girod/Pendley relationship that has spawned this improper use of regulatory power.

IX. *POLOWSKY v. CAMPBELL*

Despite ample citation to the *adjudicative* versus *administrative* acts on the part of Judge Schlegel and later on the part of Mr. Pendley, the ODC totally ignored this Court's analysis in *Palowsky v. Campbell*, 285 So.3rd 466 (La. 2019). When Respondent was ordered to seek Judge Schlegel's "...permission to file pleadings in advance *or face contempt*..." the principles from *Wolff v. Selective Service Local Board*, *supra* were violated. So too, Judge Schlegel violated principles of law articulated in *Baggett v. Bullitt*, 377 U.S. 360 (1964); *NAACP v. Button*, 371 U.S. 415 (1963); *Smith v. People of State of California*, 361 U.S. 147; *Bandimere v. SEC*, 844 F.3d 1168 (10th Cir. 2016); *Buckley v. Valeo*, 424 U.S. 1 (1976); *Financial Oversight v. Aurelius*, 590 U.S. ___ (2020); *In re Murchison*, 349 U. S. 133 (1955); *Morrison v. Olson*, 487 U.S. 654, 726 (1988); *Ramspeck v. Federal Trial Examiners Conference*, 345 U.S. 128 (1953); *Ryder v. United States*, 515 U.S. 177 (2015);

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not have been allowed to bid. ODC knew all of this but ignored it.

10 *Ex turpi causa non oritur actio*: no cause of action can arise from an illegal act.

Withrow v. Larkin, 421 U.S. 35 (1975) and *Dombrowski v. Pfister*, 380 U.S. 479 (1965) — all of which consider threats of sanctions as the "...most lethal enemies of the 1st Amendment...". Freedom of speech is not limited to pleasantries.

In *Polowski v. Campbell*, this Court considered facts not dissimilar (?) to what happened in *Girod v. Heisler* at the 24th Judicial District Court, where Respondent's pleadings were physically purged from the public records[11]. ODC's argument that Respondent should **not** have advocated for Regina Heisler with these facts at hand is *indefensible*. Yet, Respondent stands before this Court facing disbarment from a profession that he loves[12]. At age 79 forthcoming in April, Respondent will not overcome the year-and-a-day suspension sought by ODC, *approved* by HC-37 and *affirmed* by the Board, almost every-word-for-every-word *(in totidem verbis)* raising the specter of Mr. Pendley being the single scrivener.

Q: Why a year-and-a-day?

A: Because that would rid Girod of the pesky Henry Klein.

X. *CHAMBERS v. NASCO*

Unwittingly, Respondent asked Judge Schlegel to conduct an independent investigation into "...fraud upon the court..." pursuant to *Chambers v. NASCO*, 501 U.S. 32 (1991), authored by Justice Byron "Whizzer" WHITE, whose words were repeated to *every* court before whom Respondent pleaded Regina Heisler's case:

> **It has long been understood that [c]ertain implied powers must necessarily result to our Courts of justice from the nature of their institution . . . . These powers are governed not by rule or statute, but by the control necessarily vested in courts to manage their own affairs so as to achieve the orderly and expeditious disposition of cases. . . . . Of particular relevance here, the inherent power also allows a federal court to vacate its own judgment upon proof that a fraud has been perpetrated upon the court. This historic power of equity to set aside fraudulently begotten judgments, is necessary to the integrity of the courts, for tampering with the administration of justice in [this] manner . . . involves far more than an injury to a single litigant. It is a wrong**

---

11 Essentially, [the Polowski] plaintiffs allege the law clerk "...spoliated, concealed, removed, destroyed, shredded, withheld, and/or improperly handled court documents..." Respondent **cannot** describe the details of the actions and prefers to let this Court use its inherent powers to ferret out the truth, as authorized by *Campbell v. NASCO*, *infra*.

12 Very few lawyers have a *Curriculum Vitae* as does Respondent.

> **against the institutions set up to protect and safeguard the public. Moreover, a court has the power to conduct an independent investigation in order to determine whether it has been the victim of fraud[13].**

XI. REQUEST FOR AN INDEPENDENT INVESTIGATION OF ODC

Justice WHITE used the term "inherent power" or versions thereof 68 times in *Chambers v. NASCO.* Respondent's Questions Presented to SCOTUS in Writ Application 20-1361 Began with this preface:

> **The integrity of the judicial process is paramount and a matter within this Court's "...inherent power..." to protect, *Chambers v. NASCO,* 509 U.S. 32 (1991) . . . . The failure of *any* tribunal below to enforce the Court's "...lawful mandates..." in *Caperton* and *Henson* raises 28 U.S.C. § 1651(a) to the fore."**

ODC's RECKLESS accusations disregarded the First Question posed to SCOTUS...

> **"...as to District Judge Scott U. Schlegel, who was campaigning for Louisiana Supreme Court Justice and accepted $47,500 in contributions from the Kean-Miller law firm and its client, Texas Brine? *Contemporaneous* with the contributions, Kean-Miller represented Girod LoanCo against [Regina Heisler] before Judge Schlegel, requiring *vacatur* of his infirm orders per *Caperton*."**

Neither Section 2(A) Agency below made **any** mention of the mountain of evidence Respondent submitted everywhere. ODC has been out-of-control since the first time Mr. Pendley cavorted with Girod's lawyer, Eric Lockridge. Now the Judicial Branch must control the Executive Branch of Louisiana Government.

XII. MADISON'S ANGELS

Federalist 51, known as "Madison's Angels", teaches that

> *In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; **and in the next place oblige it to control itself.***

---

13 Lest it be forgotten, the **first** fraudulently-begotten judgment was the $9 million writ of seizure presented by Girod to Judge Schlegel. When a recusal motion was filed, Judge Schlegel called the writ a "final judgment", blocking allotment to another judge.

XIII. UNSUPPORTED *IPSE DIXITS*

When ODC says that "...it is so..." because ODC says that "...it is so...", it's called an *ipse dixit*. In one of his memorable dissents in *Morrison v. Olson*, Justice SCALIA observed that "...he who lives by the *ipse dixit* dies by the *ipse dixit*..." The requirement that charges be proved by clear and convincing evidence has been abandoned in the case at bar. **There is no evidence presented**; only ODC *ipse dixits* and *non-sequiturs*. As painful as it is, Respondent is compelled to chronicle the more egregious self-serving declarations by Mr. Pendley, assisted by Eric Lockridge:

> Respondent's purpose for having filed his supervisory writ **appeared to have been** an attempt to seek relief... etc., etc., etc.
>
> **It was clear that Mr. Olivier's concern** was that there were indications that Respondent had engaged in actions...etc., etc., etc.
>
> [Respondent] suggested that Judge Schlegel's motion created a constitutional issue, **presumably in an effort to argue**...etc., etc., etc.
>
> Respondent's removal theory was based on alleged federal question. **However, the court found that the remand (sic) was filed solely to delay the contempt matter** etc., etc., etc.
>
> On June 3, 2020, [Judge Schlegel] filed Reasons for Order alleging that Respondent was engaged in a pattern of filing repetitive motions, **abusive of process** etc., etc, etc.
>
> *JUDGE SCHLEGEL SAID "ABUSE OF PROCESS" NOT "...ABUSIVE OF PROCESS..." A PENDLEY SLIP OF THE PEN THAT RAISES QUESTIONS AS TO WHO THE SCRIVENER OF THE **CALUMNIOUS** ATTACKS ON RESPONDENT REALLY WAS.*

XIV. FAILURE TO MENTION COMPELLING MITIGATION

Unmentioned in the two reports was the fact that Respondent, at the brink of 79, is raising two grandsons who lost *both* parents — one his daughter — to heroin. So what will Respondent say he is expelled from the profession that he loves? In May of 2020, Respondent found his oldest son, Christopher Klein, dead from Fentanyl. He was a talented musician deeply depressed by the lack of "gigs" wrought by Covid. Exhibit B was taken by a neighbor the afternoon before he died.

When will enough be enough?

XV. CONCLUSION AND CERTIFICATE OF SERVICE

MAY IT PLEASE THE JUSTICES OF THE LOUISIANA SUPREME COURT:

We live in an epoch of systemic corruption. Judge Pauley was correct in *Caledonian Bank* when he said that **"...the power to investigate carries the power to defame and destroy..."** ODC's mission to "...protect the public..." has been squandered and Girod has been allowed to bilk Louisiana citizens out of billions while Regina Heisler and her late husband's succession have lost $15 million to a vulture fund from the Cayman Islands. The Kean-Miller law firm mocked ABA FORMAL OPINION 491 and ODC turned coat. Now, the worm must turn.

This case presents fertile grounds for agency examination by this Court.

Expedited consideration is requested.

Respectfully submitted

Henry L. Klein, *pro se*

CERTIFICATE OF SERVICE

I certify that this pleading has been served on the Office of Disciplinary Counsel by e-mail to Paul Pendley on this 30st day of January, 2023.