

June 2005

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BODA ACTIONS

On April 14, the Board of Disciplinary Appeals entered an interlocutory order of suspension against **Roxane Esther Martinez**, 46, of Houston. On Feb. 18, 2004, Martinez was found guilty of Class B misdemeanor theft, an intentional crime as defined in the Texas Rules of Disciplinary Procedure, in County Criminal Court at Law No. 12, Harris County. Martinez was sentenced to 90 days' confinement, probated for one year. In the event that the conviction becomes final, Martinez will be suspended from the practice of law for the term of her criminal probation.

On April 14, the Board of Disciplinary Appeals entered an interlocutory order of suspension against **C. Tom Zaratti**, 60, of Houston. On Sept. 15, 2004, Zaratti was found in possession of child pornography, a third-degree felony, an intentional crime as defined in the Texas Rules of Disciplinary Procedure, in the 180th District Court of Harris County. Zaratti was sentenced to 10 years' imprisonment. In the event that the conviction becomes final, Zaratti will be disbarred from the practice of law.

On April 13, the Board of Disciplinary Appeals revoked the probation of **Edgar Oran Coble**, 54, of Fort Worth, and suspended him from the practice of law for three years, effective April 13, 2005. On May 4, 2004, Coble consented to an agreed judgment of partially probated suspension. The agreed order found that Coble committed professional misconduct and suspended him from the practice of law for 37 months, effective July 1, 2004, with the first month actively served and the remainder probated. The board found that Coble violated the terms and conditions of probation in that he failed to make restitution to a former client, file an affidavit with the State Bar stating that all courts where he had matters pending were notified in writing of his suspension, or file the results of a psychiatric or psychological evaluation with the State Bar in violation of the terms and conditions of the agreed judgment.

On April 13, the Board of Disciplinary Appeals affirmed the agreed judgment of partially probated suspension against **Thomas S. Nelson**, 57, of Carrollton. issued by an evidentiary panel in response to five grievance matters after an appeal by the complainant in one of the grievances. The board found that Nelson and the Commission for Lawyer Discipline entered into an agreed judgment before the evidentiary hearing took place and that the appellant did not demonstrate error in the entry of the agreed judgment.

On April 13, the Board of Disciplinary Appeals affirmed a default judgment of disbarment against **Hoang N. Tran**, 37, of Houston, in response to two grievance matters.

On May 3, the Board of Disciplinary Appeals signed an agreed judgment of indefinite disability suspension against **Rosendo Rodriguez, Jr.**, 57, of San Antonio, in accordance with Part XII of the Texas Rules of Disciplinary Procedure and Section 8 of the internal procedural rules of the Board of Disciplinary Appeals.

DISBARMENTS

On March 25, **Antonio Cortez**, 56, of El Paso was disbarred. In one matter, Cortez was hired to transfer venue and modify child custody in reference to the complainant's 1996 divorce proceedings. Cortez failed to carry out completely the obligations owed the complainant and took little or no action on the complainant's behalf. During the course of the representation, which lasted until approximately December 2003, Cortez continually misrepresented to the complainant the true status of the case. He advised the complainant that all pleadings necessary to effect the change of venue and to seek custody had been prepared and filed, when in fact no pleadings had been filed to seek change of venue.

In a second matter, Cortez was hired in August 2001 to seek a reduction in child support arrearages owed to the Texas Attorney General's Office. Cortez failed to timely respond to notice of the complaint.

Cortez violated rules 1.01(b) (1) and (b) (2) and 8.04(a) (3) and (a) (8).

On Feb. 16, **Lisa Aston Ryan**, 43, of Fort Worth received a default judgment of disbarment. In April 2001, Ryan was retained for representation in a criminal matter. Ryan neglected the legal matter entrusted to her and frequently failed to carry out the obligations owed the complainant by failing to notify him of his court hearing. Ryan failed to appear in court on the complainant's behalf.

Ryan violated Rules 1.01(b) (1) and (b) (2).

On March 10, **Richard A. Tindall**, 70, of Friendswood was disbarred. On Jan. 5, 1994, judgment in the amount of \$23,394.99 (plus interest) was entered against Tindall in a legal malpractice lawsuit filed by a former client. Tindall never paid any portion of the amount owed and his former client hired another attorney to pursue enforcement of the judgment. In response to a request for satisfaction of the judgment, Tindall misappropriated letterhead from a law firm with which he shared office space, forged another attorney's name to the letter, and sent the forged letter, which contained dishonest, false, and misleading statements, to opposing counsel. Tindall's acts were criminal in nature and met the elements of the forgery statute, §32.21 of the Texas Penal Code.

Tindall violated Rules 8.04(a)(1), (a)(2), and (a)(3).

SUSPENSIONS

On April 12, **Francisco R. Yeverino III**, 34, of Richmond accepted a two-year, partially probated suspension effective May 1, 2005, with the first two months actively served and the remainder probated. Yeverino was hired for representation in a criminal appeal, but missed the deadline to file the brief in spite of repeated orders issued by the court.

Yeverino was found in contempt and taken into custody. Yeverino represented three clients while on administrative suspension.

Yeverino violated Rules 3.04(d) and 8.04(a) (11).

On Feb. 18, prior to trial in the 94th District Court of Nueces County, **Joseph A. Cheffo**, 38, of Corpus Christi agreed to a two-year, fully probated suspension effective March 1, 2005. Cheffo sent advertising and solicitation letters to potential clients in the Midland area seeking their business. These letters falsely advertised the existence of offices

located at different addresses. However, the letters reflected either an office address that was not the business address of Cheffo or an address that did not exist. At one of these addresses, the building manager had warned Cheffo by letter not to use the building for return mail. The solicitation letters sent by Cheffo included a toll-free telephone number for Midland. The callers were automatically transferred to Cheffo's Corpus Christi office and all consultations were done by telephone from that office. Cheffo's letterhead used in these solicitation mailings is misleading in that they led the recipient to believe that Cheffo had the five people listed on the letterhead located at the Midland address. All the listed individuals were members of Cheffo's Corpus Christi office.

Cheffo violated Rules 7.04(j) (1) and 7.05(a) (2) and (a) (3).

On April 8, **Cary W. Urban**, 32, of Austin accepted a two-year, fully probated suspension effective May 1, 2005. In one matter, Urban represented a party in attempting to collect a judgment from judgment debtors domiciled in Mexico. Urban failed to maintain the client's entire file or return the file to the client upon termination of the representation. In a second matter, Urban accepted representation of a corporate client in commercial litigation pending in federal court. Urban failed to answer requests for admission, respond to a motion for summary judgment, or inform the client about either the requests for admission or the summary judgment motion.

Urban violated Rules 1.01(b) (1) and (b) (2), 1.03(a), and 1.15(d).

On Feb. 11, **Walter Andrew Ladyman**, 51, of Clyde received a two-year, fully probated suspension effective Jan. 1, 2005. In two matters, Ladyman failed to keep the complainants adequately informed of the status of their cases or timely pursue their claims.

Ladyman violated Rules 1.01(b) and (b) (2) and 1.03(a).

On March 28, **Paul A. Esquivel**, 37, of Dallas received a four-year, fully probated suspension effective April 1, 2005. Esquivel was retained in an immigration matter. The complainant completed a power of attorney naming Esquivel's non-attorney employee as the complainant's attorney in fact, with the understanding that Esquivel would safeguard the complainant's property and return it to him following his deportation to Morocco. Only a portion of the complainant's property was returned to him. Esquivel's non-attorney employee closed out the complainant's bank account and had the entire amount, \$9,876.56, put into a check made payable to "The Law Offices of Paul A. Esquivel". Esquivel admitted endorsing the check, but could not explain what became of the funds and was unable to account for the actions of his employee. Esquivel knowingly made a false statement of material fact when he testified to the grievance committee that he did not know the non-attorney employee. He eventually admitted that the man was, in fact, his brother-in-law. The power of attorney that was signed by the complainant was not notarized. When the non-attorney employee closed out the complainant's bank account, he presented the bank with a power of attorney that was fraudulently notarized by another of Esquivel's non-attorney employees. Esquivel admitted that this would only have happened at his direction.

Esquivel violated Rules 1.14(a) and (b), 3.03(a) (1), (a) (2), and (a) (5), 5.03(a) and (b) (1), 8.01(a) and (b), and 8.04(a) (1), (a) (2), and (a) (3).

On Feb. 7, **Tracy Dee Cluck**, 43, of dripping Springs received a two-year, fully probated suspension effective Jan. 1, 2005. Cluck represented a client in a divorce matter, collected an unconscionable fee, failed to return any unearned portion of the fee upon

termination of the representation, failed to hold client funds in a trust account, failed to adequately communicate the basis of his fee, failed to promptly comply with his client's reasonable requests for information, and failed to render a full accounting to the client. Cluck violated Rules 1.03(a), 1.04(a) and (c), 1.14(a) and (b), and 1.15(d).

PUBLIC REPRIMANDS

On April 1, **David T. Lopez**, 65, of Houston accepted an agreed judgment of public reprimand. Lopez failed to inform his client that a proposed charge of sex discrimination would not be filed with the EEOC because the statute of limitations had expired before Lopez was hired.

Lopez violated Rule 1.03(b).

On March 17, **Marcus Donnell Norman**, 34, of Sachse accepted a public reprimand. In one matter, Norman was retained to represent the complainant in a personal injury matter. Norman sent the complainant a letter in which he withdrew from the representation. The complainant attempted by telephone and by written requests to obtain the return of her file so that she could seek representation by another attorney. However, Norman failed to communicate with the complainant or return her file. In a second matter, Norman was retained to legally change the name of complainant. The complainant attempted several times to contact Norman, but he would not return her telephone calls or respond to her certified letter. Norman failed to pursue the legal matter. In both matters, he failed to respond to notice of the complaint.

Norman violated Rules 1.01(b) (1), 1.03(a), and 8.04(a) (8).

On April 4, **Brian A. Eberstein**, 62, of Dallas accepted a public reprimand. Eberstein was retained to represent the complainant in a personal injury matter, which he settled. Eberstein failed to provide the complainant with an accounting of the funds or reply to the complainant's reasonable requests for information regarding the status of the matter. Eberstein failed to promptly pay the settlement funds to the complainant or return the complainant's file upon request.

Eberstein violated Rules 1.01(b) (2), 1.03(a), and 1.15(d).

On Feb. 25, **Charlie L. Johnson**, 48, of Dallas accepted a public reprimand. In July 2003, Johnson was retained to lift an arrest warrant and to obtain a continuance for a hearing. The complainant paid Johnson \$500, but Johnson did little to no legal work on the matter. He failed to respond to the complainant's reasonable requests for information. Johnson failed to timely respond to notice of the complaint.

Johnson violated Rules 1.03(a) and 8.01(b).