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BODA ACTIONS

On Sept. 14, the Board of Disciplinary Appeals signed a judgment of indefinite disability suspension against **Suzanne Elizabeth Mann Minx**, 39, of Porter, 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.

On Sept. 21, the Board of Disciplinary Appeals dismissed for want of prosecution the appeal of **Anthony Bernard Gulley**, 42, of Dallas, of a default judgment of disbarment issued by the evidentiary panel for the District 6-A Grievance Committee in Case No. D0010410037 on Feb. 22, 2005. The board found that Gulley did not file a reporter's record or a brief. The board issued an order to show cause to Gulley on July 29, 2005, giving him 30 days to respond and show cause as to why the appeal should not be dismissed for want of prosecution. Gulley did not respond.

On Sept. 21, the Board of Disciplinary Appeals dismissed for want of prosecution the appeal of **Travis M. Hartgraves**, 57, of Abilene, of a default judgment of disbarment issued by the evidentiary panel for the District 14-D Grievance Committee in Case No. D3110322748. The board found that Hartgraves did not file a reporter's record or a brief. The board issued an order to show cause to Hartgraves on July 29, 2005, giving 30 days to respond and show cause as to why the appeal should not be dismissed for want of prosecution. Hartgraves did not respond.

RESIGNATION

On July 6, the Supreme Court of Texas accepted the resignation, in lieu of discipline, of **Barry W. Finkel**, 52, of Lewisville. At the time of Finkel's motion for resignation, there were 11 grievance matters pending against him for neglecting a legal matter, failing to abide by a client's decisions, failing to keep clients reasonably informed, failing to have a written contingency fee agreement, failing to render an accounting, failing to place clients' funds in a trust account, failing to protect clients' interests after termination of representation, failing to respond to a demand for information from a disciplinary authority, engaging in conduct involving misrepresentation, violating a disciplinary order, failing to respond to grievances, and engaging in the practice of law when his right to practice has been suspended.

Finkel violated Rules 1.01(b) (1) and (b)(2), 1.02(a)(1), 1.03(a), 1.04(d), 1.14(b) and (c), 1.15(a)(2) and (d), 8.01(b), and 8.04(a) (3), (a)(7), (a)(8), and (a)(11). He was ordered to pay \$9,576.20 in restitution.

DISBARMENTS

On June 27, **Jimmie E. Holland, Jr.**, 43, of Wichita Falls was disbarred. The District 14-A Grievance Committee found that in one matter, the client hired Holland for a personal injury matter arising from an automobile accident. Holland drafted a petition but failed to

file it with the court. He failed to respond to the client's phone calls and written correspondence regarding the status.

In a second matter, the client hired Holland to prepare a power of attorney for each of the client's grandchildren and for the client's daughter, who was in the county jail.

Holland failed to take the necessary steps to obtain the client's daughter's signature on the needed paperwork, despite assurances made to the client that he would do so.

In a third matter, the client hired Holland to collect indebtedness owed and secured by a contract for deed. Holland was paid \$2,500 for the representation, but failed to completely handle the matter while using outdated procedures that were not in compliance with revisions to the Texas Property Code. Holland failed to respond to the client's requests for information or explain the matter to the extent reasonably necessary so that the client could make informed decisions regarding the representation.

Ultimately, the clients had to hire other counsel to complete the representation.

In a fourth matter, a client hired Holland to represent him at the final hearing in his divorce case and custody case. The client was unable to communicate with Holland prior to the final hearing. Holland failed to appear at the hearing and the court continued the case so that the client could hire new counsel. Holland failed to respond to the client's written request for the return of his file and the unearned attorney's fees.

In a fifth matter, a client hired Holland, and paid him \$1,500, to file a motion for new trial in a contempt action involving her ex-husband. Holland subsequently instructed the client to appear at a scheduled hearing, but informed her that he might have a conflict and, if so, he would ensure that another attorney appeared on her behalf. The client appeared on the hearing date given to her by Holland, but no one else appeared. Holland contacted the client and apologized, stating that his legal assistant had given him the date of the hearing, which he failed to verify. Holland stated he would immediately get a new date set and would make sure the case was handled promptly. Holland failed to return any of the client's calls or respond to written correspondence. He failed to inform the client of the four-year statute of limitations that pertained to her contempt action.

Holland failed to respond to the grievance committee in all five matters and asserted no grounds for his failure to do so.

Holland violated Rules 1.01(a), 1.01(b)(1), 1.01(b)(2), 1.03(a), 1.03(b), 1.15(d), 8.04(a)(3) and 8.04(a)(8). He was ordered to pay \$5,175 in attorney's fees and \$6,009.64 in restitution.

On Aug. 22, **Damon R. Capps**, 62, of Houston was disbarred. The 11th District Court of Harris County found that Capps entered into a contingency fee agreement with a client regarding a wrongful death matter. Upon settlement of the wrongful death matter, Capps convinced his client to allow him to invest the settlement funds. Capps did not fully disclose the terms of this transaction and did not put the agreement in writing. Capps commingled his client's settlement funds of approximately \$500,000 with his own funds and the funds of other clients; refused to advise his client regarding his handling of her settlement funds; and failed to provide an accounting of the client's settlement funds. Capps refused to turn over the funds to his client upon request. Capps also failed to furnish the grievance committee with bank records that had been subpoenaed. The court found that the aforementioned acts of misconduct were tantamount to a serious crime as defined by the Texas Disciplinary Rules of Professional Conduct and that Capps engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation.

Capps violated Rules 1.04(d), 1.08(a), 1.14(a), (b), and (c), and 8.04(a)(2), (a)(3), and (a)(8). He was ordered to pay \$1,030,320 in restitution and pre-judgment interest to the client and \$10,501.14 in attorney's fees.

On June 23, **Edgar Oran Coble**, 54, of Fort Worth was disbarred. The District 7-A Grievance Committee found that in one matter, Coble was administratively suspended from the practice of law from Sept. 4, 2003, until March 9, 2004, for failure to pay bar dues and occupational taxes. During this period of administrative suspension, Coble represented various clients in lawsuits.

In a second matter, a client hired Coble to represent him in a lawsuit on May 26, 2004. During the course of this representation, Coble began serving the terms of a partially probated suspension, which required that he be actively suspended from the practice of law from July 1, 2004 until July 31, 2004, followed by probation for a period of three years. Coble both continued to represent the client and failed to advise him of this active suspension even though the terms of the judgment required him to notify clients of his suspension. Coble failed to respond to the client's phone calls. Coble failed to respond to the written complaints in both matters and asserted no grounds for such failure. Coble violated Rules 1.01(b)(1) and (b)(2), 1.03(a) and (b), and 8.04(a)(7), (a)(8), and (a)(11). He was ordered to pay \$1,712.50 in attorney fees and \$1,500 in restitution.

SUSPENSIONS

On June 4, **Everett J. McClain**, 49, of Houston received a three-month, partially probated suspension effective June 13, 2005, with the first month actively served and the remainder probated. An evidentiary panel of the District 4-D Grievance Committee found that McClain was hired to continue the representation of an intellectual property case involving the creation of an anti-tobacco slogan. Thereafter, McClain neglected the case. McClain failed to maintain adequate communication with his client. During the representation and pendency of the instant case, McClain was repeatedly administratively suspended from the practice of law.

McClain violated Rules 1.01(a), (b)(1), and (b)(2) and 1.03(a) and (b). He was ordered to pay \$2,050 in attorney's fees and \$160 in costs. McClain has appealed the decision.

On July 22, **G.A. Adesanya**, 45, of Houston was found in civil contempt for violating an agreed judgment of active suspension signed on Sept. 24, 2004. The 113th District Court of Harris County found that Adesanya engaged in the practice of law while on active suspension. He was ordered to pay an additional \$3,120 in attorney's fees and \$592 in costs.

On Aug. 16, **Charles G. Kingsbury**, 42, of Houston accepted a five-year, partially probated suspension effective Oct. 22, 2005, with the first three years actively served and the remainder probated. An evidentiary panel of the District 4-C Grievance Committee found that Kingsbury told his client that her case had been dismissed, which was incorrect. The client requested proof of the dismissal and received an envelope from Kingsbury's office containing a document that appeared to be an order of dismissal of her case. The document the client received was, in fact, a motion and order from an unrelated case that had been altered by inserting the cause and style of the client's case. Kingsbury failed to comply with his client's requests for information. Kingsbury violated Rules 1.03(a) and (b) and 5.03(b)(1). He agreed to pay \$2,000 in attorney's fees.

On April 26, **Jimmie Eugene Holland, Jr.**, 43, of Wichita Falls received a two-year, partially probated suspension, effective May 2, 2005, with the first month actively served

and the remainder probated. The 78th District Court of Wichita County found that Holland was employed to pursue a wrongful death action. He failed to provide any meaningful legal services, failed to return phone calls or otherwise keep the complainant reasonably informed regarding the status of the matter, failed to file a lawsuit, and then withdrew from the case without properly advising the complainant of the statute of limitations and without taking appropriate action to protect the complainant's interests. Holland violated Rules 1.01(b)(1), 1.03(b), and 1.15(b)(1) and (d). He was ordered to pay \$1,000 in attorney's fees.

On Aug. 16, **Alfonso Soliz, Jr.**, 52, of New Braunfels received a two-year, active suspension effective July 1, 2005. An evidentiary panel of the District 15-C Grievance Committee found that Soliz submitted false expense reimbursement requests to his law firm and was reimbursed \$58,630.95 for hotels, meals, and mileage expenses that were not incurred. Soliz submitted false billing records for time expended on client matters when the work had not actually been performed. Soliz violated Rules 8.04(a)(2) and (a)(3). He was ordered to pay \$33,473.94 in restitution to his former law firm.

On Aug. 19, **Peter A. Bergman**, 55, of Houston accepted a two-year, partially probated suspension effective Nov. 1, 2005, with the first year actively served and the remainder probated. The 55th District Court of Harris County found Bergman was retained to handle a name-change petition and was paid \$500 plus costs. Bergman failed to return his client's phone calls, perfect service, or avoid dismissal of the petition for want of prosecution. Although Bergman filed a motion for reinstatement, he failed to attend the hearing on his motion and the case was not reinstated. Bergman failed to communicate information about the status of his client's case or information from which she could make informed decisions about the representation. Bergman practiced law while administratively suspended for failure to pay his bar dues in a timely manner and failed to respond to notice of the complaint. Bergman violated Rules 1.01(b) (1) and (b) (2), 1.03(a) and (b), and 8.04(a) (11). He agreed to pay \$713 in restitution and \$1,000 in attorney's fees.

On Aug. 17, **Samuel L. Milledge**, 50, of Houston accepted a three-year, partially probated suspension effective Nov. 1, 2005, with the first three months actively served and the remainder probated. The 157th District Court of Harris County found that Milledge failed to communicate with his client, neglected a legal matter, frequently failed to carry out completely the obligations owed to a client, and lacked competence related to his representation in an employment discrimination case filed in federal court. A U.S. district judge who ordered that Milledge obtain co-counsel cited Milledge's lack of competence in the underlying case. Milledge failed to respond to a motion for summary judgment. In granting the client's pro se motion to re-open the case, the judge ordered Milledge to file an explanation for his failure to respond to the motion for summary judgment. Milledge never complied with the court's order. Milledge violated Rules 1.01(a) (1), (b) (1), and (b) (2), 1.03(a) and (b), and 3.04(d). He agreed to pay \$2000 in attorney's fees and \$1,550 in costs.

On Aug. 22, **Joseph Leon Nealy**, 36, of Houston received a six-month, fully probated suspension effective Sept. 1, 2005. The District 2-B Grievance Committee found that Nealy accepted employment in bankruptcy proceedings when he knew or should have known that the legal matter entrusted to him was beyond his competency. Nealy obtained an automatic stay on behalf of the complainant in the bankruptcy proceeding

when he should have known that the client was precluded from an automatic stay. Nealy also stated in error to the bankruptcy court that the complainant had not filed for bankruptcy protection within the past six months of the filing when he should have known otherwise. Further, Nealy failed to keep the complainant reasonably informed about the status of the bankruptcy proceeding.

Nealy violated Rules 1.01(a)(1), (a)(2), and (b)(1), 1.03(a), 3.01, and 3.03(a)(1) and (a)(2). He was ordered to pay \$1,000 in restitution and \$500 in attorney's fees.

On Aug. 26, **Donald H. Brandt, Jr.**, 56, of Richardson received a 36-month, partially probated suspension effective Sept. 1, 2005, with the first 18 months actively served and the remainder probated. The 68th District Court of Dallas County found that Brandt neglected a legal matter. This sanction shall run concurrently with the 36-month, partially probated suspension in Cause No. 02-11845-C, styled *Commission for Lawyer Discipline v. Donald H. Brandt, Jr.*, in the 68th District Court of Dallas County. Brandt violated Rule 1.01(b)(1).

PUBLIC REPRIMAND

On Aug. 19, **Paul R. Alexander**, 59, of Dallas accepted a public reprimand. The District 6-A Grievance Committee found that after Alexander was hired in a bankruptcy matter, he failed to timely notify Complainant of a creditors' meeting, causing the complainant not to be able to attend the hearing. As a result, the bankruptcy was dismissed with prejudice. Alexander agreed to reinstate the petition for bankruptcy but failed to do so. Alexander violated Rules 1.01(b)(1) and 1.03(a) and (b). He was ordered to pay \$750 in attorney's fees.