



# DISCIPLINARY ACTIONS

**G**eneral questions regarding attorney discipline should be directed to the Chief Disciplinary Counsel's Office, toll-free (877)953-5535 or (512)453-5535. The Board of Disciplinary Appeals may be reached at (512)475-1578. Information and copies of actual orders are available at [www.txboda.org](http://www.txboda.org). The State Commission on Judicial Conduct may be contacted toll-free, (877)228-5750 or (512)463-5533. Please note that persons disciplined by the Commission on Judicial Conduct are not necessarily licensed attorneys.

## BODA ACTIONS

On March 28, 2007, the Board of Disciplinary Appeals reversed and dismissed the judgment of a partially probated suspension of **Laura Holliday** [#09876770], 63, of Houston, signed May 15, 2006, by an evidentiary panel for the State Bar of Texas District 4-B in Case No. H0020519461. The Commission for Lawyer Discipline conceded that three of the panel's findings of misconduct were incorrect, and the board found that, as a matter of law, Holliday did not

enter into an arrangement for, charge, or collect an illegal or unconscionable fee, and thus reversed the remaining two findings of the panel. The complaint against Holliday is dismissed. BODA cause number 37882.

On Feb. 5, 2007, the Board of Disciplinary Appeals dismissed for want of prosecution the appeal of **Gordon M. White** [#20303100], 47, of Richmond, of a judgment of disbarment signed by an evidentiary panel for District 5-A Grievance Committee in Case Nos. H0110418858 and H0120419098 on May 12, 2006. The board found that White did not file a reporter's record or a brief. The board signed an order to show cause to White on Nov. 9, 2006, giving him 30 days to respond and show cause as to why the appeal should not be dismissed for want of prosecution. White did not respond. BODA cause number 37921.

On March 27, 2007, the Board of Disciplinary Appeals dismissed for want of prosecution the appeal of **Robert A. Forester** [#07256550], 50, of San Antonio, of a judgment of disbarment signed by an evidentiary panel for the District 10-A Grievance Committee in Case Nos. S0020514894; S0030514932; S0040515053; S0040515146; S0040515147; S0050515277; S0080515624 on July 11, 2006. The board found that Forester did not file a reporter's record or a brief. The board signed an order to show cause to Forester on Jan. 11, 2007, giving him 30 days to respond and show cause as to why the appeal should not be dismissed for want of prosecution. Forester did not respond. BODA cause number 38340.

On March 28, 2007, the Board of Disciplinary Appeals dismissed for want

of prosecution the appeal of **Phillip E. Layer** [#12065600], 55, of Dallas, of a judgment of fully probated suspension signed by an evidentiary panel for the District 6-A Grievance Committee in Case No. D0060526997 on June 12, 2006. The board found that Layer did not file a reporter's record or a brief. The board signed a second order to show cause to Layer on Feb. 5, 2007, giving him 30 days to respond and show cause as to why the appeal should not be dismissed for want of prosecution. Layer did not respond. BODA cause number 38096.

On March 28, 2007, the Board of Disciplinary Appeals signed a judgment of disbarment against **Roland Caballero** [#03569280], 54, of San Antonio. On June 1, 2006, Caballero pleaded guilty to mail fraud in violation of 18 U.S.C. §1341, an intentional crime as defined in the Texas Rules of Disciplinary Procedure in Cause No. SA-04-CR-611(1)FB, styled, *United States of America v. Roland Caballero*, United States District Court, Western District of Texas, San Antonio Division. Caballero was placed on supervised probation for a term of five years. He was also ordered to pay a special assessment in the amount of \$100 and \$57,937.50 in restitution. BODA cause number 38821.

On March 28, 2007, the Board of Disciplinary Appeals signed a judgment of suspension against **Jon D. Curry** [#05272300], 51, of Bandera. On June 5, 2006, Curry pleaded *nolo contendere* to burglary of a habitation in violation of Texas Penal Code §30.02, an intentional crime as defined in the Texas Rules of Disciplinary Procedure in Cause No. 007-1664-04, styled, *The State of Texas v. Jon David Curry*, in the 7th Judicial Dis-

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trict Court of Smith County. Curry was placed on deferred adjudication probation for a period of five years, beginning on June 5, 2006. He was also ordered to pay court costs in the amount of \$263. Curry is suspended during the term of his deferred adjudication as originally assessed, that is, until June 4, 2011. BODA cause number 39267.

On March 28, 2007, the Board of Disciplinary Appeals signed a judgment of active suspension against **James Eddie Tatum** [#19672000], 68, of Trinidad, Colo. On March 30, 2006, Tatum was suspended from practicing law in Colorado for 90 days beginning May 1, 2006 by order approving conditional admission of misconduct and imposing sanctions in Case No. 05PDJ053, styled *Complainant: The People of the State of Colorado, Respondent Jim Tatum*. In accordance with Part IX of the Texas Rules of Disciplinary Procedure, Tatum is actively suspended from the practice of law in Texas for 90 days, beginning on March 28, 2007 and ending on June 26, 2007. BODA cause number 38540.

## DISBARMENTS

On Feb. 15, 2007, **P.J. Murphey Harmon** [#09019500], 57, of Houston, was disbarred. An evidentiary panel of the District 4-A Grievance Committee found that Harmon was retained on March 23, 2005, to represent a complainant in a civil lawsuit. Harmon told the complainant that he would send a letter to the defendant in the complainant's case, and if the defendant did not respond to the letter by April 1, 2005, he would file a lawsuit on the complainant's behalf. On March 29, 2005, the complainant spoke with Harmon because she had not yet received a copy of Harmon's letter to the defendant. Harmon subsequently faxed a copy of the letter to the complainant; however, Harmon failed to send the letter to the defendant. Shortly thereafter, the complainant attempted to contact Harmon via telephone on several occasions,

but was unable to reach him. The complainant also tried to reach Harmon by fax, but the faxes were rejected. Approximately a month later, the complainant learned that Harmon's office telephone number was disconnected. Harmon failed to respond to notice of the complaint.

Harmon violated Rules 1.01(b)(1) and (b)(2), 1.03(a) and (b), 8.04(a)(1), (a)(3), and (a)(8). He was ordered to pay \$1,000 in restitution, \$975 in attorney's fees, and \$280 in costs.

On Nov. 28, 2006, **Lawrence J. Gibbons** [#90001620], 59, of Clayton, was disbarred. An evidentiary panel of the District 10-A Grievance Committee found that Gibbons was hired in July 2003 in an employment discrimination claim against the client's employer. In October 2005, Gibbons ceased communications with the client and moved his office without providing new contact information. Gibbons neglected the representation by failing to comply with a Rule 11 agreement, failed to respond to a motion to dismiss, and failed to appear for a court hearing resulting in the dismissal of the claim. Gibbons failed to keep his client informed about the status of the case or advise the client the case had been dismissed, and misrepresented to the client that the case was still viable when in fact it had been dismissed.

Gibbons violated Rules 1.01(b)(1) and (b)(2), 1.03(a) and (b), and 3.02. He was ordered to pay \$2,035 in attorney's fees and costs.

On Feb. 12, 2007, **Dennis D. Freiheit** [#07434655], 53, of Dallas, was disbarred. The District 6-A Grievance Committee found that Freiheit represented the complainant in a divorce action. At a temporary hearing, the judge ordered the complainant to turn over \$34,359 to Freiheit's trust account. The complainant complied with the judge's order. After the divorce was final, Freiheit provided the complainant's ex-husband his portion of the funds but failed to provide the complainant her

portion, which amounted to \$10,000. Freiheit failed to respond to the grievance.

Freiheit violated Rules 1.14(b), 8.04(a)(2), (a)(3), and (a)(8). He was ordered to pay \$10,000 in restitution and \$1,547.93 in attorney's fees and costs.

## RESIGNATIONS

On March 21, 2007, the Supreme Court of Texas accepted the resignation, in lieu of discipline, of **Terry Erwin Stork**, [#19323000], 68, of Austin. In one matter, the court found that Stork was appointed as the executor of an estate. Stork was also named as a beneficiary of the same estate. As executor, Stork failed and refused to file on a regular basis inventories and accountings of the property and assets of the estate. Although Stork disbursed certain assets

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of the estate to himself as his share of the estate, he failed to complete the administration of the estate in that he failed to promptly and timely distribute the property and assets of the estate to the beneficiaries named in the will. Stork commingled the assets of the estate with his own personal funds or property. Stork misapplied the assets of the estate by distributing such assets to entities or individuals who were not entitled to receive such assets. Stork engaged in transactions involving the assets of the estate without providing an accounting of those transactions. After his removal as executor, Stork failed and refused to provide an inventory and accounting of the assets of the estate in spite of being ordered to do so by the probate court.

In a second matter, the court found that Stork also served as the independent executor of another estate. Stork was not a beneficiary of the estate. Over a period of years Stork misapplied and misappropriated funds and other property of the estate. Stork withdrew money from the estate's bank account and deposited the funds into his own personal account. The funds were then spent or otherwise exhausted by Stork and not utilized for the benefit of the estate. Between 1987 and 2002, Stork and his family lived in a residence owned by the estate; Stork never notified the taxing authorities that the homestead property tax exemption no longer applied. Stork and his family members did not qualify for the continuing tax exemptions. Upon the sale of the residence, Stork deposited the proceeds into his own personal account rather than into the estate's account. Stork never subsequently paid the proceeds into any account of the estate. Stork utilized a portion of the estate's funds to open an account in his own name. Stork then listed that portion as an asset owned by him in a loan application.

Notice of the grievance was served on Stork but he failed and refused to submit a written response or to assert any legal grounds for his failure to do so.

On March 21, 2007, the Supreme Court of Texas accepted the resignation, in lieu of compulsory discipline, of **James Morgan Stabler** [#18987000], 63, of Dallas.

In November 2006, Stabler pleaded guilty to the crime of felony theft, in Cause No. F-0500629-K in the Criminal District Court No. 4 of Dallas County. Stabler was sentenced to five years probation, fined \$2,000, and ordered to pay \$65,696.40 in restitution. Pending at the time of Stabler's motion to resign was a grievance matter alleging that Stabler entered into a business transaction with a client, the terms of which were not fair and reasonable to the client. Further, the client was not given a reason-

able opportunity to seek the advice of independent counsel in the transaction.

Stabler violated Rules 1.08(a)(1) and (2).

On March 12, 2007, the Supreme Court of Texas accepted the resignation, in lieu of discipline, of **Jacob Damien Davis** [#24036445], 30, of Purdon.

At the time of Davis' motion for resignation, there was one grievance matter pending against him. On Sept. 25, 2006, Davis engaged in conduct that put the complainant in imminent danger of serious bodily injury by suggesting to Davis' client that he could have the complainant hurt or killed for a fee.

On Dec. 21, 2006, Davis entered a guilty plea to a charge of deadly conduct in Navarro County stemming from the above-mentioned conduct.

Davis violated Rules 8.04(a)(2).

## SUSPENSIONS

On Feb. 5, 2007, **Stephanie Ann Osburn** [#24009622], 36, of El Paso, received a two-year, partially probated suspension effective Jan. 25, 2007, with the first year actively served and the remainder probated. An evidentiary panel of the District 17-A Grievance Committee found that in the first matter, Osburn was hired in a family law matter. Osburn neglected the representation and failed to communicate with her client. Osburn failed to appear at a hearing scheduled for March 17, 2004, and failed to notify her client that the case was dismissed, reinstated, and transferred to a new court. Osburn failed to notify her client that she closed her practice.

In the second matter, Osburn failed to keep her client informed, failed to inform the client she was closing her practice, failed to respond to her client's requests for information, and neglected the representation.

In the third matter, Osburn neglected a probate matter, failed to respond to the client's requests for information, and failed to respond to the grievance.

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Osburn violated Rules 1.01(b)(1) and (b)(2), 1.03(a) and (b), and 8.04(a)(8). She was ordered to pay \$1,078 in restitution to the first client and \$670.24 to the second client, and \$3,615 in attorney's fees and expenses.

On March 2, 2007, **Steven Randy Solway** [24029151], 45, of Phoenix, Ariz., accepted a five-year, fully probated suspension effective Feb. 1, 2007. The 261st District Court of Travis County found that Solway was employed as an associate attorney with a Phoenix law firm. During the time of his employment, Solway performed legal services in a variety of matters for a client of the law firm. At Solway's direction, portions of the payment of legal fees received from that client and properly belonging to the law firm were diverted and paid directly into Solway's own bank account.

Solway violated Rule 8.04(a)(3). He was ordered to pay \$840 in attorney's fees and costs.

On Jan. 23, 2007, **Thomas Alan Owen** [#15372450], 47, of Arlington, received a six-year, partially probated suspension effective March 1, 2007, with the first two years actively served and the remainder probated. The District 7-A Grievance Committee found that in one matter, Owen represented the complainant in a claim against the seller of a house that the complainant was purchasing. Owen also provided legal counsel to the seller of the house on this claim. Additionally, Owen wrote the complainant a check for \$4,400 from his IOLTA account, which was returned due to insufficient funds.

In a second matter, the complainant and his partner hired Owen to assist them in the purchase of a community center in June 2004. In March 2005, Owen threatened to file a lawsuit and a notice of *lis pendens* on the property unless he received a 20 percent ownership interest in the complainant's busi-

ness. Owen received the 20 percent interest. Owen also asked the complainant's company to make mortgage payments on a piece of property that Owen had taken over from a client, and in response the complainant's company made payments totaling \$25,500 on the property. Owen was to provide written documentation of the payments to the complainant's company but failed to do so. Subsequently, Owen failed to make any payments on the property, lost the property, and the complainant was not repaid. In late 2004, the complainant's company made a \$25,000 deposit on a piece of property in Plano. Owen coerced the complainant's company into giving him a one-third ownership interest in the property in exchange for Owen's agreement to do the legal work. The contracts were not properly completed, and the \$25,000 deposit was lost.

In a third matter, Owen represented a client in a divorce case. Owen gave his client legal advice, filed an original petition, and made a court appearance on his client's behalf while Owen was ineligible to practice law due to an administrative suspension. In all three matters, Owen failed to file a written response to the complaints and asserted no grounds for such failure.

Owen violated Rules 1.06(b)(1) and (b)(2), 1.08(a)(1), (a)(2), and (a)(3), 1.14(b), 1.15(d), and 8.04(a)(8) and (a)(11). He was ordered to pay \$29,900 in restitution, \$2,875 in attorney's fees, and \$848.38 in costs.

On March 21, **Steven A. Bearman** [#90000546], 43, of Houston, received an interim suspension effective March 30, 2007. The 164th District Court of Harris County ordered the suspension pending the final disposition of eight underlying disciplinary cases. Bearman may not accept any new client matters, hold himself out as an attorney at law, perform any legal service for others,

accept any fee directly or indirectly for legal services, or appear as counsel in a proceeding in any Texas court or before any Texas administrative body.

On March 8, 2007, **Lorenzo Brown** [#03151500], 55, of Desoto, accepted a two-year, fully probated suspension effective March 15, 2007. The 160th District Court found that in March 2003, the complainant retained Brown in a personal injury matter. Thereafter, Brown failed to timely inform the complainant that Brown was not going to file a lawsuit on the complainant's behalf; failed to timely provide the file to the complainant, prevented the complainant from employing other counsel; and failed to file a lawsuit to protect the com-

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plainant's interest. As a result of Brown's failures, the statute of limitations expired without a lawsuit being filed.

Brown violated Rules 1.01(b)(1), 1.03(a), and 1.15(d). He was ordered to pay \$7,500 in restitution and \$968.78 in costs.

On Feb. 15, 2007, **Mike Zimmern** [#22276900], 57, of Round Rock, received a five-year, active suspension effective Feb. 15, 2007 by an evidentiary panel of the District 8-C Grievance Committee. The panel found that in a family law matter, Zimmern neglected the legal matter entrusted to him, failed to keep a client reasonably informed, failed to respond to requests for information, failed to respond to a demand for information by a disciplinary authority,

and failed to timely furnish a response to the Chief Disciplinary Counsel.

Zimmern violated Rules 1.01(b)(1), 1.03(a), 8.01(b), and 8.04(a)(1) and (a)(8). He was ordered to pay \$2,000 in restitution and \$1,750 in attorney's fees and costs.

On March 12, 2007, **Joan Myers** [#14761600], 62, of Bedford, accepted a one-year, fully probated suspension effective Jan. 1, 2007. The District 7-A Grievance Committee found that the complainant was hired to collect delinquent consumer debts and referred some cases to a Massachusetts attorney for collection. The Massachusetts attorney subsequently referred 55 cases to Myers.

On Nov. 1, 2001, the complainant contacted Myers and requested that she correspond directly with the complainant. The complainant later asked for an accounting and summary of the cases referred to Myers. On Nov. 18, 2004, the complainant received the accounting and summary and learned that Myers had not remitted all of the amounts collected over a three- or four-year period.

Myers violated Rule 1.14(b). She was ordered to pay \$2,100 in attorney's fees.

On March 1, 2007, **Rita Bacon** [#01496600], 68, of Garland, accepted an eight-month, fully probated suspension after a finding of professional misconduct by the District 6-A Grievance Committee. The panel found that Bacon was hired to defend three lawsuits and file counterclaims. Bacon filed answers but failed to file counterclaims, respond to requests for admission, or ensure the lawsuits were properly monitored. Bacon failed to respond to motions for summary judgments based partially on the deemed admissions, which resulted in summary judgments being granted. Bacon failed to properly communicate with the complainant.

Bacon violated Rules 1.01(b)(1) and (b)(2) and 1.03(a). She was ordered to pay \$1,200 in attorney's fees and costs.

## REPRIMANDS

On March 27, 2007, **Vincent A. Lazaro** [#00789440], 44, of San Antonio, accepted a public reprimand. An evidentiary panel of the District 10-B Grievance Committee found that Lazaro practiced in both state and federal courts during a period while his law license was administratively suspended. Lazaro also failed to file a response to the grievance.


Lazaro violated Rules 8.04(a)(8) and (a)(11). He agreed to pay \$500 in attorney's fees and expenses.

On March 22, 2007, **Allan Fishburn** [#07049110], 52, of Dallas, received a public reprimand. The District 6-A Grievance Committee found that on April 30, 2004, Fishburn's license to practice law was suspended for non-compliance with the MCLE requirements. Fishburn was reinstated on May 9, 2005. On June 20, 2005, Fishburn's license to practice law was suspended for non-payment of bar dues and remained suspended until July 28, 2005. During the period Fishburn's license to practice law was suspended, Fishburn practiced law on behalf of three complainants.

Fishburn violated Rule 8.04(a)(11). He was ordered to pay \$1,850 in attorney's fees.

On March 19, 2007, **Stephen A. Cihal** [#04251050], 53, of Victoria, accepted a public reprimand. An evidentiary panel of the District 11-C Grievance Committee found that in a divorce matter, Cihal was to hold in his trust account proceeds from the sale of community property in which both spouses claimed an ownership interest. Cihal failed to hold the funds in his trust account throughout the divorce proceedings and failed to deliver funds to the opposing party when initially ordered by the court to do so.

Cihal violated Rules 1.14(a) and (c). He agreed to pay \$800 in attorney's fees and expenses.



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On March 19, 2007, **Jerry W. Melton** [#13925000], 63, of Dallas, accepted an agreed judgment of public reprimand after a finding of professional misconduct by the District 6-A Grievance Committee. In 2004, Melton pleaded no contest to multiple Class C misdemeanor offenses involving incidents in 2003 and was ordered to pay fines and costs in each case.

Melton violated Rule 8.04(a)(2). He was ordered to pay \$750 in attorney's fees.

On March 14, 2007, **J. Esequiel Ramos, Jr.** [#16508030], 47, of Corpus Christi, accepted a public reprimand. An evidentiary panel of the District 11-A Grievance Committee found that in connection with a bankruptcy representation, Ramos failed to respond to his client's requests for information to the extent necessary to permit her to make informed decisions and comply with her obligations under the bankruptcy plan.

Ramos violated Rules 1.03(a) and (b). He was ordered to pay \$500 in attorney's fees.

On March 14, 2007, **James Garza** [Bar No. 07732900], of Houston, accepted a judgment of public reprimand. The 11th Judicial District Court in Harris County found that on Nov. 4, 2003, the complainant sold his home and received a cashier's check in the amount of \$34,070.52. The complainant then hired Garza to establish a secured trust account for the funds, prepare his will, deal with divorce issues, and other related legal matters. The complainant co-signed the cashier's check with Garza. Garza deposited the funds into his trust account with the agreement that the complainant would contact Garza if and when he needed any amount of funds.

During the course of the representation and unbeknownst to the com-

plainant, Garza used the secured funds to make three payments to himself in the total amount of \$6,500. The payments Garza made to himself were for attorney's fees payable under the representation agreement. Garza failed to notify the complainant each time that he made a check payable to himself for attorney's fees and failed to respond to the complainant's other requests for information.

Garza violated Rule 1.03(a). He agreed to pay \$1,500 in restitution and \$750 in attorney's fees.

On March 11, 2007, **Ike Waobikeze** [#24004975], 44, of Houston, accepted a public reprimand. An evidentiary panel of the District 4-C Grievance Commit-

tee found that Waobikeze was hired in a personal injury case. One month before the statute of limitations expired, Waobikeze withdrew due to a client conflict. While Waobikeze was out of town, his employee sent a letter of withdrawal but did not confirm with the client that she had received the letter. The withdrawal letter also misstated the deadline date for filing the lawsuit. Waobikeze did not file the lawsuit before the statute of limitations expired, and the client lost her cause of action.

Waobikeze violated rules 1.01(b)(1) and (b)(2), 1.02(a)(1), and 5.03 (b)(1). He agreed to pay \$800 in attorney's fees and costs. ❖

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