

DISCIPLINARY ACTIONS

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

JUDICIAL ACTIONS

On Aug. 26, 2014, the **Hon. Noe Gonzalez** [#08130900], judge of the 370th District Court, Hidalgo County, was issued a public admonition and order of additional education by the State Commission on Judicial Conduct for failing to comply with the law under Canon 2A, failing to maintain professional competence in the law under Canon 3B(2), and demonstrating incompetence in performing the duties of office under Article V, Section 1-a(6)A of the Texas Constitution. According to the commission's findings, Judge Gonzalez entered a broad receivership order in a divorce case that granted the

receiver non-delegable judicial powers. These non-delegable powers included the unfettered authority for the receiver to make payments to himself and to his attorneys in excess of \$2 million from settlement proceeds arguably belonging to the litigants' community estate and to bankruptcy creditors without any court oversight, approval, or intervention. In addition, Judge Gonzalez failed to comply with the Texas Fair Defense Act and the Hidalgo County Indigent Defense Plan as evidenced by the disproportionately high percentage of indigent court appointments that a local attorney received out of the 370th District Court from Jan. 1, 2008, to Dec. 31, 2013.

On Sept. 4, 2014, the **Hon. Denise Pratt** [#16238500], former judge of the 311th District Court, Houston, Harris County, was issued a public reprimand by the State Commission on Judicial Conduct for failing to be diligent and failing to timely execute the business of the court in violation of Article V, Section 1-a(6)A of the Texas Constitution. The commission found that Judge Pratt's decisional delays, which included a failure to timely issue orders, renditions, and findings of fact in numerous family law cases pending before her court, were unreasonable and unjustified; that Judge Pratt's frequent tardiness and cancelation of hearings and trials contributed to the court's enormous backlog; and that her dismissal for want of prosecution of more than 600 cases on Dec. 30-31, 2013, without notice to the parties or their attorneys, failed to comply with the law under Canon 2A, demonstrated a lack of professional competence in the law under Canon 3B(2), and deprived litigants of their right to be heard under Canon 3B(8). The commission noted

that prompt disposition of cases is critical to the parties appearing in court, especially when vulnerable children are involved, and necessary to prevent backlogs that interfere with the administration of justice. The commission also noted that a judge who fails to show up for court hearings, appears late to court, or delays making decisions and signing orders in cases involving the rights of parents and the best interests of children, causes harm and a great disservice to parties, lawyers, witnesses, jurors, and other judges.

On July 3, 2014, the **Hon. William Romo** [#17225860], former judge for the City of Hidalgo Municipal Court, Hidalgo County, was issued a public reprimand by the State Commission on Judicial Conduct for failing to comply with the law under Canon 2A, failing to maintain professional competence in the law under Canon 3B(2), and engaging in conduct that cast public discredit upon the judiciary and upon the administration of justice under Article V, Section 1-a(6) of the Texas Constitution. According to the commission's findings, Judge Romo engaged in an extended practice of dismissing citations without a motion from the prosecutor. According to Judge Romo, he dismissed citations due to political pressures and a fear of losing his job, evidencing, according to the commission, that the judge was neither independent nor impartial as required by law.

On Aug. 21, 2014, the **Hon. Kristopher Terrazas**, justice of the peace in Pecos, Reeves County, was issued a public reprimand and order of additional education by the State Commission on Judicial Conduct for demonstrating incompetence in per-

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forming the duties of office under Article V, Section 1-a(6)A of the Texas Constitution, failing to comply with the law under Canon 2A, and failing to maintain professional competence in the law under Canon 3B(2). According to the commission's findings, Judge Terrazas repeatedly failed to timely and successfully complete his judicial education hours in his first term in office and failed to cooperate with the commission's investigation into this matter. In addition, the commission found that Judge Terrazas knew, or should have known, that his arrests for public intoxication and for driving while intoxicated would severely compromise the public's confidence in the integrity and impartiality of the judiciary, especially given the judge's testimony that he presides over alcohol-related offenses in his court, magistrates defendants charged with alcohol-related offenses, and would like to be seen as a role model to the youth in his community. Moreover, the commission found that the judge's plea of guilty to the offense of deadly conduct demonstrated a failure to comply with the law under Canon 2A and constituted conduct inconsistent with the proper performance of judicial duties that cast public discredit upon the judiciary and upon the administration of justice in violation of Article V, Section 1-a(6)A of the Texas Constitution.

DISBARMENTS

On Oct. 2, 2104, **Charles C. Davis** [#05465900], 62, of Argyle, was disbarred. An evidentiary panel of the District 14 Grievance Committee found that Davis brought a proceeding, asserted an issue, or controverted an issue affecting the complainants that was frivolous. In addition, the panel found that Davis took positions that unreasonably increased the costs or other burdens of the case or that unreasonably delayed the resolution of the matter. Furthermore, Davis knowingly made a false statement of material fact

or law to a tribunal. Davis engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation.

Davis violated Rules 3.01, 3.02, 3.03(a)(1), and 8.04(a)(3).

Davis has until Dec. 31, 2014, to file an appeal.

On Sept. 15, 2014, **Melonie Dwan Jones** [#24032483], 49, of Sugar Land, was disbarred in three separate disciplinary actions composed of multiple cases.


An evidentiary panel of the District 5 Grievance Committee found that in all three disciplinary matters, Jones failed to keep her clients reasonably informed about the status of their legal matters; failed to promptly comply with reasonable requests for information from the clients about their legal matters; failed to explain the status of the legal matters to the extent reasonably necessary to permit the clients to make informed decisions regarding the representation; engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation; failed to timely furnish to the Office of Chief Disciplinary Counsel a response or other information as required by the Texas Rules of Disciplinary Procedure; and engaged in the practice of law when her right to practice had been administratively suspended for failure to timely pay required fees and assessments or for failure to comply with Article XII of the State Bar rules relating to mandatory continuing legal education.

The panel found that, upon receiving funds in which some of the clients had an interest, Jones failed to promptly notify the clients; failed to promptly deliver to the clients funds that they were entitled to receive; failed to hold funds, belonging at least in part to the clients, that were in Jones's possession in connection with the representation separate from her own property; and distributed funds, belonging at least in part to the clients, that were in Jones's possession in con-

nection with the representation to persons or entities who were not entitled to receive them by virtue of the representation or by law. The panel found that Jones failed to abide by some clients' decisions of whether to accept an offer to settle the clients' legal matters and that she knowingly disobeyed a ruling by a tribunal and committed a serious crime or other criminal act that reflects adversely on her honesty, trustworthiness, or fitness as a lawyer.

Jones violated Rules 1.01(b)(1), 1.02(a)(2), 1.03(a), 1.03(b), 1.14(a), 1.14(b), 1.14(c), 3.04(d), 8.04(a)(2), 8.04(a)(3), 8.04(a)(8), and 8.04(a)(11). She was ordered to pay \$60,955 in restitution and \$3,944.99 in attorneys' fees and direct expenses.

On Sept. 3, 2014, **Lester L. Hood III** [#09943410], 50, of Austin, was disbarred. An evidentiary panel of the



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District 9 Grievance Committee found that complainant paid Hood \$4,500 to represent complainant in a criminal case. Complainant requested information regarding the status of his case via telephone and text messages but Hood failed to respond to any requests after June 12, 2012. Hood also failed to appear at three pre-trial hearings in complainant's matter. At one hearing the judge notified complainant that Hood was not currently authorized to practice law and advised complainant to obtain new counsel. Complainant sent Hood a letter specifically requesting a copy of the employment contract and receipts for fees paid but received no response. Hood failed to return unearned fees to complainant. Hood also failed to furnish a written response to the complaint as directed.

Hood violated Rules 1.01(b)(1), 1.03(a), 1.15(d), 8.04(a)(1), and

8.04(a)(8). He was ordered to pay \$3,000 in restitution and \$2,798.19 in attorneys' fees and direct expenses.

RESIGNATIONS

On Sept. 30, 2014, the Supreme Court of Texas accepted the resignation in lieu of discipline of **Ronald Ray Higgins** [#00795784], 52, of Weslaco. At the time of resignation, there were eight disciplinary actions pending alleging Higgins failed to promptly notify clients and third parties of the receipt of settlement funds; failed to promptly deliver funds to parties entitled to receive funds; failed to hold client's funds in a trust account; failed to communicate with clients; neglected client matters; engaged in conduct involving fraud, deceit, or misrepresentation; failed to respond to grievances; failed to return a client file; permitted a non-lawyer employee to initiate in-person contact with prospective clients to seek professional employment; shared legal fees with a non-lawyer; and acted through another to violate the rules.

Higgins violated Rules 1.01(b)(1), 1.02(a)(2), 1.03(a), 1.14(a), 1.14(b), 1.14(c), 1.15(d), 5.03(a), 5.03(b)(1), 5.03(b)(2), 5.04(a), 7.03(a), 7.03(b), 7.03(c), 7.06(a), 8.04(a)(1), 8.04(a)(2), 8.04(a)(3), and 8.04(a)(8).

On Sept. 30, 2014, the Supreme Court of Texas accepted the resignation in lieu of discipline of **Claudia Arrieta Smith** [#24000308], 44, of San Antonio. At the time of resignation, there were nine disciplinary actions pending alleging Smith failed to keep clients reasonably informed, failed to promptly respond to client's reasonable requests for information, neglected client matters, failed to hold client's funds in a trust account, failed to return unearned fees, failed to return a client file, engaged in conduct involving dishonesty, fraud, or misrepresentation, and failed to respond to two grievances.

Smith violated Rules 1.01(b)(1), 1.03(a), 1.03(b), 1.14(a), 1.14(b),

1.15(d), 8.01(b), 8.04(a)(1), 8.04(a)(2), 8.04(a)(3), and 8.04(a)(8).

SUSPENSIONS

On Sept. 26, 2014, **Eureka M. Cornelius** [#24045303], 42, of Dallas, received a three-year partially probated suspension effective Oct. 1, 2014, with the first two years actively served and the remainder probated.

The District 6 Grievance Committee found that Cornelius failed to reduce to writing the contingent fee agreement entered into with complainant and failed to state the method by which the fee was to be determined. Cornelius failed to keep complainant's funds in a separate trust or escrow account and failed to promptly deliver to complainant and an insurance provider funds they were entitled to receive. Upon termination of representation, Cornelius failed to surrender papers and property to which complainant was entitled. Cornelius engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation.

Cornelius violated Rules 1.04(d), 1.14(a), 1.14(b), 1.15(d), and 8.04(a)(3). She was ordered to pay \$4,260 in restitution and \$3,947.51 in attorneys' fees.

On Oct. 9, 2014, **Ty Alexander Gibson** [#24083069], 28, of Houston, agreed to a 28-month, 15-day partially probated suspension effective Nov. 1, 2014, with the first four months and 15 days actively suspended and the remainder probated. An evidentiary panel of the District 4 Grievance Committee found that Gibson ordered, encouraged, or permitted conduct by a non-lawyer that would have been a violation of the Texas Disciplinary Rules of Professional Conduct if engaged in by Gibson; paid a non-lawyer to solicit and refer prospective clients; accepted or continued employment in a matter when that employment was procured in a manner contrary to the disciplinary rules; committed a criminal act that reflects

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adversely on his honesty, trustworthiness, or fitness as a lawyer; and engaged in conduct that involves dishonesty, fraud, deceit, or misrepresentation and that constitutes barratry as defined by the law of this state.

Gibson violated Rules 5.03(b)(1), 7.03(b), 7.06(a), 8.04(a)(2), 8.04(a)(3), and 8.04(a)(9). He agreed to pay \$2,000 in attorneys' fees and \$620.80 in direct expenses.

On Sept. 24, 2014, **Robert L. Hoffman** [#09788000], 69, of Dallas, received a 12-month active suspension effective Jan. 1, 2014. The 134th District Court of Dallas County found that Hoffman violated Rule 1.04(d) [requiring a contingent fee agreement to be in writing].

Hoffman was ordered to pay \$7,000 in restitution and \$4,149.50 in attorneys' fees and direct expenses.

On Oct. 15, 2014, **Richard Abram Roman** [#00789595], 51, of El Paso, accepted a one-year fully probated suspension effective Nov. 1, 2014. The District 17 Grievance Committee found Roman charged a client an illegal or unconscionable fee.

Roman violated Rule 1.04(a) and was ordered to pay \$3,667.00 in attorneys' fees and direct expenses.

On Sept. 15, 2014, **Charles L. Thorn** [#19963700], 61, of Webster, received a two-year probated suspension effective Oct. 1, 2014. An evidentiary panel of the District 7 Grievance Committee found that complainant hired Thorn for representation regarding two traffic citations. In representing complainant, Thorn neglected the legal matters entrusted to him by failing to provide legal services for complainant and failing to keep complainant reasonably informed about the status of the legal matters.

Thorn violated Rules 1.01(b)(1) and 1.03(a). He was ordered to pay \$100 in restitution and \$1,300 in

attorneys' fees and direct expenses.

PUBLIC REPRIMANDS

On October 7, 2014, **William R. Leighton** [12185320], 50, of Austin, Texas, accepted a Public Reprimand. The District 9 Evidentiary Panel found that in the Spring of 2007 Robert Lindsey Duncan and Cheryl Marie Duncan ("the Duncans") sought legal advice from Respondent, William Leighton, regarding estate planning. Respondent made preliminary recommendations to the Duncans regarding their estate plan, but the Duncans never formally retained Leighton to do estate planning. In August of 2007 Mr. Duncan told Respondent not to proceed with the estate planning that he recommended. Respondent was never paid any legal fees by the Duncans. Prior to and during the consultation with the Duncans, Respondent had negotiated

with the Stanford Financial Group ("Stanford") for his own employment. Respondent referred the Duncans to Patrick Cruickshank, a financial advisor with Stanford in its Austin office, with whom the Duncans subsequently invested over five and a half million dollars. Cruickshank received commissions for this investment. Respondent was formally hired by Stanford in late July of 2007. Respondent did not receive any commissions on the Duncans' initial investment at the time of their initial investment because he was not then a licensed Financial Advisor. Respondent became a licensed Financial Advisor with Stanford in late September of 2007. The potential for Respondent to receive trailing commissions from Stanford relating to their initial investment was not disclosed to the Duncans at the time Respondent referred the Duncans to Cruickshank.

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However, in November of 2007, Respondent informed the Duncans he had completed his licensing as a Financial Advisor and could serve as their Financial Advisor if they chose to use his services. The Duncans subsequently designated Respondent to be their Financial Advisor and Respondent began receiving trailing commissions on the Duncans' initial investment in January of 2008.

Leighton violated Rules 1.06(b)(2) and 8.04(a)(1) of the Texas Disciplinary Rules of Professional Conduct, Article X, Section 9, State Bar Rules. Leighton paid \$2,739.96 in attorney's fees and costs.

PRIVATE REPRIMANDS

Listed below is a breakdown of Texas Disciplinary Rules of Professional Conduct violations for 14 attorneys, with the number in parentheses indicating the frequency of violation. Please note that an attorney may be reprimanded for more than one rule violation.

1.01(b)(1)—for neglecting a legal matter entrusted to the lawyer (2).

1.01(b)(2)—for failing to carry out completely the obligations owed to a client (1).

1.03(a)—for failing to keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information (6).

1.03(b)—for failing to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding representation (1).

1.08(a)—a lawyer shall not enter into a business transaction with a client (1).

1.14(a)—for failing to hold funds and other property belonging in whole or part to clients or third persons in a lawyer's possession separate from the lawyer's own property (3).

1.14(b)—for failing, upon receiving funds or other property in which a client or third person has an interest, to promptly notify the client or third person and render a full accounting

upon request (1).

1.15(a)(1)—for failing to decline or withdraw from representation of a client if the representation will result in a violation of Rule 3.08, other applicable rules of professional conduct, or other law (1).

1.15(d)—for failing, upon termination of representation, to reasonably protect a client's interests, give notice to the client to seek other counsel, or surrender papers and property that belong to the client (4).

7.05(b)(1)—except as provided in paragraph (e) of this rule, a written solicitation communication to prospective clients for the purpose of obtaining professional employment: shall, in the case of a non-electronically transmitted written communication, be plainly marked "ADVERTISEMENT" on its first page, and on the face of the envelope or other packaging used to transmit the communication. If the written communication is in the form of a self-mailing brochure or pamphlet, the word "ADVERTISEMENT" shall be in a color that contrasts sharply with the background color; and in a size of at least 3/8" vertically or three times the vertical height of the letters used in the body of such communication, whichever is larger (1).

8.04(a)(8)—for failing to timely furnish a district grievance committee a response or other information as required unless he or she timely asserts a privilege or other legal ground for failure to do so (2).

8.04(a)(11)—for engaging in the practice of law when the lawyer is on inactive status or when the lawyer's right to practice has been suspended or terminated, including but not limited to situations where a lawyer's right to practice has been administratively suspended for failure to timely pay required fees or assessments or for failure to comply with Article XII of the State Bar Rules relating to mandatory continuing legal education (2). **TBJ**