



# 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 [txboda.org](http://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, the Board of Disciplinary Appeals signed an agreed interlocutory order of suspension against **Mark Adrian Clark** [#04292200], 55, of New Braunfels. On Feb. 7, Clark was found guilty of attempted sexual performance of a child, an intentional crime as defined in the Texas Rules of Disciplinary Procedure, in Case No. CR2010-276 styled, *The State of Texas v. Mark A. Clark*, in the 207th District Court of Comal County. Clark was sentenced to seven years in the custody of the Institutional Division of the Texas Department of Criminal Justice and ordered to pay a fine in the

amount of \$10,000 and \$533 in court costs. Clark has appealed the conviction. The Board retains jurisdiction to enter a final judgment when the criminal appeal is final. BODA Cause No. 48191.

On April 5, the Board of Disciplinary Appeals signed an order granting a joint motion to reverse the modified judgment of partially probated suspension against **Morris Joseph Kirschberg** [#11533300], 64, of San Antonio, signed by an evidentiary panel of the District 10-4 Grievance Committee in Case No. S0120821273 and remand the matter for rendition and entry of an agreed judgment of a partially probated suspension. BODA Cause No. 47915.

On April 8, the Board of Disciplinary Appeals signed an agreed judgment suspending **Brian Jose Chavez** [#00796343], 40, of Odessa, from the practice of law during the term of his criminal deferred adjudication. On July 15, 2010, Chavez pleaded nolo contendere to burglary of a habitation, with intent to commit assault, a second degree felony, an intentional crime as defined in the Texas Rules of Disciplinary Procedure in Case No. A-37-179, styled, *The State of Texas v. Brian Jose Chavez*, in the 161st District Court of Ector County. Chavez was sentenced to five years deferred adjudication and ordered to pay a \$10,000 fine. Chavez is suspended from the practice of law during the term of his criminal conviction as originally assessed, until Dec. 15, 2015. BODA Cause No. 48190.

On April 11, the Board of Disciplinary Appeals signed a final judgment of disbarment against **Mazen Y. Abdallah** [#24054175], 30, of Houston. On April 13, 2010, the Board signed an interlocutory order suspending Abdallah from the practice of law pending the appeal of

his criminal conviction of conspiracy to defraud and falsely bill Medicare and Medicaid in violation of 18 U.S.C. §371, an intentional crime as defined in the Texas Rules of Disciplinary Procedure. Abdallah was sentenced to 30 months in the custody of the U.S. Bureau of Prisons, followed by supervised release for three years and ordered to pay an assessment of \$100 and \$637,425.79 in restitution. Abdallah appealed the criminal conviction. The U.S. Court of Appeals for the Fifth Circuit affirmed his criminal conviction, and, on July 9, 2010, issued its mandate. The State Bar Commission for Lawyer Discipline filed a motion for entry of final judgment on Dec. 7, 2010. Abdallah answered but did not appear at the hearing. BODA Cause No. 45332.

On April 11, the Board of Disciplinary Appeals signed an order of suspension against **Noel A. Gage** [#07566400], 73, of Las Vegas, Nev. On June 3, 2010, Gage pleaded guilty to one count of obstruction of justice, in violation of 18 U.S.C. §1512(c), an intentional crime as defined in the Texas Rules of Disciplinary Procedure, in Case No. 2:07-CR-0039-JLQ-LRL, styled, *United States of America v. Noel Gage*, in the U.S. District Court for the District of Nevada. Gage was placed on probation for three years and home detention for three months and ordered to pay a fine of \$25,000 and an assessment in the amount of \$100. Gage is suspended from the practice of law during the term of his criminal conviction as originally assessed, until June 2, 2013. BODA Cause No. 48192.

On April 11, the Board of Disciplinary Appeals signed an interlocutory order of suspension against **Todd R. Phillippi** [#00790178], 50, of Midlothian. On Jan. 13, Phillippi was found guilty of fraudu-

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lent use of identifying information, an intentional crime as defined in the Texas Rules of Disciplinary Procedure, in Cause No. 34713CR, styled, *The State of Texas v. Todd Rowland Phillippi*, in the 40th Judicial District Court of Ellis County. Phillippi was sentenced to 730 days imprisonment in state jail, ordered to pay a fine of \$10,000 and \$1,634 in costs. His jail sentence was suspended and he was placed on community supervision for two years. Phillippi has appealed the criminal conviction. The Board retains jurisdiction to enter a final judgment when the criminal appeal is final. BODA Cause No. 48193.

On April 11, the Board of Disciplinary Appeals denied a motion to rehear the compulsory discipline case of **Ronald Leon Sutton** [#19536000], 67, of Junction. On Feb. 8, the Board of Disciplinary Appeals signed a judgment suspending Sutton from the practice of law during the term of his criminal deferred adjudication as originally assessed, until May 21, 2012. BODA Cause No. 47264.

## REINSTATEMENTS

**Steven C. Simmons** [#18373300], 57, of Houston, has filed a petition in the 190th District Court of Harris County for reinstatement as a member of the State Bar of Texas.

**Deirdre S. Sterling** [#90001514], 44, of Lubbock, has filed a petition in the 72nd District Court of Lubbock County for reinstatement as a member of the State Bar of Texas.

## DISBARMENTS

On Nov. 22, 2010, **Roberto E. De La Garza** [#05646875], 59, of Helotes, was disbarred. An evidentiary panel of the District 10-1 Grievance Committee found that De La Garza neglected his client's legal matter, made false statements of fact in connection with the disciplinary matter, and failed to keep his client reasonably informed and to comply with his client's reasonable requests for information.

De La Garza violated Rules 1.01(b)(1), 1.03(a), 8.01(a), and 8.04(a)(3). He was

ordered to pay \$5,540.35 in attorney's fees and costs.

De La Garza filed a notice of appeal on Feb. 25.

On Jan. 24, **Terry W. Rombough** [#17223100], 68, of Arlington, was disbarred. An evidentiary panel of the District 7 Grievance Committee found that, in representing the first complainant, Rombough neglected the legal matter entrusted to him and failed to keep the complainant reasonably informed about the status of his immigration matter.

Upon termination of representation by a second complainant, Rombough failed to surrender papers and property to which the complainant was entitled. While representing the complainant, Rombough engaged in the practice of law when his right to practice had been administratively suspended for failure to comply with Article XII of the State Bar Rules relating to Mandatory Continuing Legal Education.

In representing a third complainant, Rombough neglected the legal matter entrusted to him and failed to keep the complainant reasonably informed about the status of his immigration matter. Upon termination of representation, Rombough failed to surrender papers and property to which the complainant was entitled.

Rombough violated Rules 1.01(b)(1), 1.03(a), 1.15(d), and 8.04(a)(11). He was ordered to pay \$8,504.79 in attorney's fees and \$2,000 in restitution.

On Feb. 18, **Douglas Leroy Haynes** [#24025417], 47, of The Woodlands, was disbarred. An evidentiary panel of the District 3-B Grievance Committee found that Haynes had neglected certain legal matters entrusted to him; engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation; and failed to keep certain clients reasonably informed about the status of their legal matters, to promptly comply with reasonable requests for information, and to promptly deliver to seven persons funds that they were entitled to receive. Haynes also failed to surrender papers and property to which a client was entitled, to refund two advance fee payments that had not been

earned, and to withdraw from representing one client when he was discharged. In five instances, Haynes failed to timely furnish to the Chief Disciplinary Counsel a response or other information as required by the Texas Rules of Disciplinary Procedure. Haynes also engaged in the practice of law when his right to practice had been administratively suspended.

Haynes violated Rules 1.01(b)(1); 1.03(a); 1.14(b); 1.15(a)(3) and (d); and 8.04(a)(3), (a)(8), and (a)(11). He was ordered to pay \$7,210 in attorney's fees and costs and \$7,000 in restitution.

Haynes filed an appeal on March 24.

On March 9, **Alberto Francisco Lopez** [#24050950], 38, of Mission, was disbarred. An evidentiary panel of the District 12-2 Grievance Committee found that Lopez neglected client cases, committed a serious crime, and failed to

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communicate with clients, to respond to grievances, to return unearned fees, to deliver funds to clients and third parties entitled to receive funds, and to hold client funds separate from his own.

Lopez violated Rules 1.01(b)(1); 1.03(a); 1.14(a), (b), and (c); 1.15(d); and 8.04(a)(2), (a)(3), and (a)(8). He was ordered to pay \$2,760 in attorney's fees and direct expenses and \$22,500 in restitution.

On March 25, **Jeffrey M. Bragg** [#02859100], 48, of Dallas, was disbarred. An evidentiary panel of the District 1-2 Grievance Committee found that in the first matter, upon termination of the representation, Bragg failed to return the complainant's unearned fee.

In a second matter, Bragg knowingly made a false statement of material fact to a tribunal; knowingly disobeyed a ruling by a tribunal; and engaged in conduct

involving dishonesty, fraud, deceit, or misrepresentation.

In the third matter, Bragg neglected the complainant's legal matter and engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation.

In the final matter, upon termination of the representation, Bragg failed to return the complainant's file upon request.

Bragg violated Rules 1.01(b)(1), 1.15(d), 3.03(a)(1) and (d), and 8.04(a)(3). He was ordered to pay \$10,182.76 in attorney's fees and \$15,500 in restitution.

Bragg did not file an appeal.

## RESIGNATION

On April 11, the Supreme Court of Texas accepted the resignation, in lieu of discipline, of **Thomas C. Brite** [#03024200], 52, of San Antonio. The Court found that Brite failed to maintain funds in a trust account separate from his own property, to render a full accounting, and to promptly distribute funds to the client.

Brite violated Rules 1.14(a) and (b).

## SUSPENSIONS

On Jan. 19, **Donald G. MacPhail** [#00788757], 43, of Abilene, received a four-year, partially probated suspension effective Jan. 21, with the first two years actively served and the remainder probated. An evidentiary panel of the District 14-6 Grievance Committee found that MacPhail failed to keep the complainants reasonably informed about the status of their personal injury matter, to hold funds belonging in whole or in part to the complainants that was in MacPhail's possession separate from MacPhail's own property, to promptly deliver to the complainants funds that the complainants were entitled to receive, and to keep funds in which both he and the complainants claimed interests separate until there was an accounting and severance of their interests.

In a second matter, MacPhail neglected the legal matter entrusted to him. MacPhail failed to keep the complainant reasonably informed about the status of her wrongful termination and age discrimination matter.

In a third matter, MacPhail neglected the legal matter entrusted to him; failed to keep the complainant reasonably informed about the status of his breach of employment contract matter; and engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation.

MacPhail violated Rules 1.01(b)(1); 1.03(a); 1.14(a), (b), and (c); and 8.04(a)(3). He was ordered to pay \$10,686.64 in attorney's fees and \$1,093.20 in restitution.

MacPhail filed an appeal on Feb. 17.

On Jan. 31, **Todd R. Phillippi** [#00790178], 50, of Midlothian, received a three-year, partially probated suspension effective March 1, with the first six months actively served and the remainder probated. An evidentiary panel of the District 7 Grievance Committee found that Phillippi entered into a business transaction with a client without obtaining the client's consent in writing. Phillippi also engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation.

Phillippi violated Rules 1.08(a)(3) and 8.04(a)(3). He was ordered to pay \$7,077.13 in attorney's fees and costs.

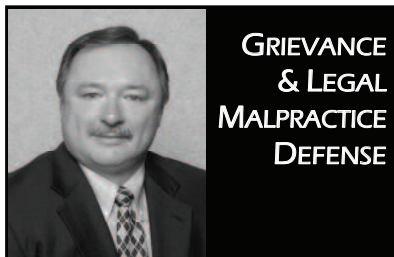
*Please see BODA Actions, Page 528.*

On March 9, **Annette R. Loyd** [#16731100], 48, of Fort Worth, received a three-year, partially probated suspension effective April 1, with the first month actively served and the remainder probated. An evidentiary panel of the District 7-2 Grievance Committee found that Loyd frequently failed to carry out completely the obligations owed to the complainant and failed to keep the complainant reasonably informed as to the status of her civil matter, to promptly comply with reasonable requests for information from the complainant about her civil matter, and to timely furnish a written response or assert any grounds for failure to do so.

Loyd violated Rules 1.01(b)(2), 1.03(a), and 8.04(a)(8). He was ordered to pay \$1,556.97 in attorney's fees and costs.

On March 10, **Kelley Swindle McGaha, Jr.** [#24025522], 47, of San Antonio, received a two-year, active suspension effective April 1. An evidentiary panel of

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the District 10-3 Grievance Committee found that McGaha engaged in the practice of law when his law license was suspended for failing to comply with MCLE requirements.

McGaha violated Rule 8.04(a)(11). He was ordered to pay \$1,055 in attorney's fees and direct expenses.

On March 19, **Juan Antonio Vega** [#00795697], 42, of San Antonio, accepted a two-year, fully probated suspension effective March 2. An evidentiary panel of the District 10-4 Grievance Committee found that Vega neglected the representation of his client and failed to communicate with his client, to return a client file, and to respond to three grievances.

Vega violated Rules 1.01(b)(1), 1.03(a), 1.15(d), and 8.04(a)(8). He was ordered to pay \$400 in attorney's fees and direct expenses.

On March 24, Vega accepted a two-year, fully probated suspension effective March 2. An evidentiary panel of the District 10-2 Grievance Committee found that Vega neglected the representation of a client, failed to promptly respond to requests for information from a client, and, upon termination, failed to return unearned fees.

Vega violated Rules 1.01(b)(1), 1.03(a), and 1.15(d). He was ordered to pay \$400 in attorney's fees and direct expenses and \$1,000 in restitution.

On March 22, **Joseph R. Willie II** [#21633500], 55, of Houston, received a one-year, fully probated suspension effective Feb. 7. The 113th District Court of Harris County found that Willie neglected his client's legal matter and failed to hold funds and other property belonging in whole or part to the client separate from Willie's own property, and to keep funds or other property in which both Willie and the client claimed interests separate until there was an accounting and severance of their interests.

Willie violated Rules 1.01(b)(1) and 1.14(a) and (c). He was ordered to pay \$24,408.20 in attorney's fees and costs.

Willie has filed an appeal.

On March 23, **Boma O. Allison** [#24006243], 53, of Houston, received a six-month, partially probated suspension effective June 1, with the first six weeks actively served and the remainder probated. The 113th District Court of Harris County found that Allison neglected a legal matter entrusted to her and failed to refund advance fee payments that had not been earned.

Allison violated Rules 1.01(b)(1) and 1.15(d). She was ordered to pay \$4,655.70 in attorney's fees and costs and \$1,950 in restitution.

Allison filed an appeal on April 19.

On April 19, **Michael Dwight Goains** [#00793815], 44, of Herndon, Va., received a five-year, partially probated suspension effective May 1, with the first two years actively served and the remainder probated. An evidentiary panel of the District 8 Grievance Committee found that Goains was retained to represent a cemetery association and was paid an advanced fee of \$2,500. Goains failed to safeguard the association's funds and to maintain records regarding those funds. Goains entered a general denial in the matter, but thereafter performed no meaningful legal services. Goains abandoned his law practice and failed to refund unearned fees.

In a second matter, Goains was paid \$800 to represent the complainant in a child custody matter. Goains failed to safeguard the complaint's funds and to maintain records regarding those funds. Goains provided no legal services in the matter and failed to refund unearned fees.

In a third matter, Goains was paid \$375 to represent the complainant in collecting a debt. Goains failed to safeguard the complainant's funds and to maintain records regarding those funds. Goains performed no legal services for the complainant. The complainant requested a refund of her money, but Goains failed to return the unearned fees.

In a fourth matter, Goains was retained to pursue an appeal on behalf of the complainant's son and paid an advanced fee of \$5,000. Goains failed to safeguard the complainant's funds and to maintain

records regarding those funds. Goains neglected the matter and failed to return the reporter's record for which the complainant had paid and to return unearned fees.

In a fifth matter, Goains was retained to pursue post-conviction relief for the complainant's son. Goains was paid more than \$1,900. Goains neglected the case for more than a year and did not file any post-conviction pleadings. Goains failed to provide an accounting or return unearned fees.

In a sixth matter, Goains was retained to represent the complainant in an uncontested divorce. The hearing was held, but Goains failed to timely present a final decree or qualified domestic relations order to the court, which allowed the ex-husband to deplete the retirement account. A year later, Goains obtained a motion to enforce but thereafter failed to have an order signed by the court. Goains failed to return the complainant's file.

## STATE BAR GRIEVANCE DEFENSE

## LEGAL MALPRACTICE

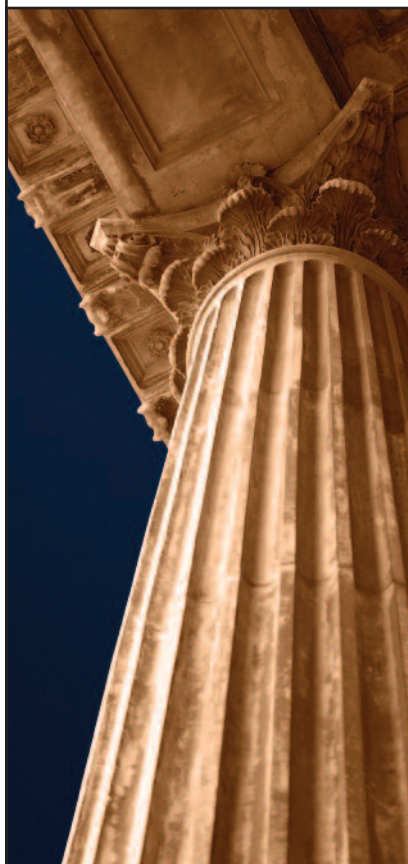
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In each case, Goains failed to communicate with the complainants, abandoned his law practice without notifying the complainants, and failed to withdraw from the representations.

Goains violated Rules 1.01(b)(1), 1.03(a), 1.14(a), and 1.15(d). He was ordered to pay \$4,331.45 in attorney's fees and expenses and \$8,575 in restitution.

On April 21, **Shanna Hennigan** [#24036756], 40, of Houston, accepted a three-year, partially probated suspension effective April 21, with the first three months actively served and the remainder probated. An evidentiary panel of the District 4-D Grievance Committee found that Hennigan was hired for representation in a criminal matter and to secure an occupational drivers license for her client. Hennigan thereafter neglected the case and failed to communicate with her client.

In a second matter, Hennigan was hired to file a lawsuit on her client's behalf stemming from an assault. Hennigan failed to take any action and, in effect, abandoned the representation. Hennigan further failed to communicate with her client.

In a third matter, Hennigan was hired for representation in a divorce and filed suit on her client's behalf, but thereafter failed to take any other action, including maintaining communication with her client. Hennigan also failed and/or refused to comply with the client's request for a refund.

Hennigan violated Rules 1.01(b)(1), 1.03(a), and 1.15(d). Hennigan agreed to pay \$500 in attorney's fees and \$2,900 in restitution.

On April 25, **William J. Gardner** [#07661000], 66, of Longview, agreed to a three-year, partially probated suspension effective June 1, with the first year actively suspended and the remainder probated. The 188th District Court found that, in the course of a civil lawsuit, Gardner took a position that unreasonably increased the costs or other burdens of the case; made a false statement of material fact or law to a third person; used means that have no substantial purpose other than to embarrass,

delay, or burden a third person; and engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation.

Gardner violated Rules 3.02, 4.01(a), 4.04(a), and 8.04(a)(3). He was ordered to pay \$5,000 in attorney's fees and costs.

On April 26, **William L. Smith** [#18708500], 89, of Corsicana, received a two-year, fully probated suspension effective May 1. An evidentiary panel of the District 2-3 Grievance Committee found that Smith failed to hold funds belonging to the complainant in a separate trust or escrow account and to promptly deliver to the complainant the funds to which she was entitled.

Smith violated Rules 1.14(a) and (b). He was ordered to pay \$1,160 in attorney's fees and \$6,274 in restitution.

### REPRIMANDS

On Feb. 21, **Christin Ann Chaskin Cody** [#00790453], 41, of San Antonio, accepted a public reprimand. An evidentiary panel of the District 10 Grievance Committee found that Cody failed to keep the client reasonably informed, to respond to requests for information, and to promptly provide an accounting of the fees paid.

Cody violated Rules 1.03(a) and 1.14(b). She agreed to pay \$1,000 in attorney's fees and direct expenses and \$3,000 in restitution.

On April 5, **Randal B. Gilbert** [#07902300], 60, of Tyler, received a public reprimand. An evidentiary panel of the District 2 Grievance Committee found that Gilbert neglected the legal matter entrusted to him and failed to keep the complainant reasonably informed about the status of her legal matter, to promptly comply with reasonable requests for information from the complainant about her legal matter, and to timely furnish to the Chief Disciplinary Counsel's Office a response or other information as required by the Texas Rules of Disciplinary Procedure.

Gilbert violated Rules 1.01(b)(1), 1.03(a), and 8.04(a)(8). He was ordered to pay \$1,860 in attorney's fees. ★