



General 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. 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.

REINSTATEMENT

Daniel Jay Goldberg [#08075050], 60, 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.

This action does not refer to **Daniel Jacob Goldberg** [#08075000] nor **Daniel Joshua Goldberg** [#24052856], both of Houston.

BODA ACTIONS

On May 24, the Board of Disciplinary Appeals dismissed for want of prosecution the appeal of **Charles Russell**

Bomba [#02580499], 62, of San Antonio, from a judgment of partially probated suspension signed on June 22, 2011, by an evidentiary panel of the State Bar of Texas District 10-2 Grievance Committee in Case Nos. A0011012886; S0021023275; and S0021023276. Bomba did not file a brief and the Board issued an order to show cause to Bomba on April 2, giving him 30 days to respond and show cause as to why the appeal should not be dismissed for want of prosecution. Bomba did not respond. BODA Cause No. 49085.

On May 24, the Board of Disciplinary Appeals dismissed for want of prosecution the appeal of **William S. McCants, Jr.** [#13363000], 69, of Waco, from a judgment of partially probated suspension signed on May 31, 2011, by an evidentiary panel for the State Bar of Texas District 8 Grievance Committee in Case No. D0011039361. McCants did not file a brief and the Board issued an order to show cause to McCants on April 2, giving him 30 days to respond and show cause as to why the appeal should not be dismissed for want of prosecution. McCants did not respond. BODA Cause No. 48799.

On May 7, the Board of Disciplinary Appeals signed an agreed judgment of indefinite disability suspension against **Althea M. Bailey** [#01513450], 46, of Houston, 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. BODA Cause No. 50349.

DISBARMENTS

On Feb. 21, **Aaron Christopher Bitter** [#24048137], 34, of Lewisville, was disbarred. The 362nd District Court of

Denton County found that Bitter committed a serious crime and engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation. Bitter failed to respond to the grievance.

Bitter violated Rules 8.04(a)(2), (a)(3), and (a)(8). He was ordered to pay \$1,895.51 in attorney's fees and costs.

Bitter filed an appeal on May 17.

On April 25, **Brian G. Dicus** [#05846100], 50, of Rockwall, was disbarred. An evidentiary panel of the District 1 Grievance Committee found that, upon termination of representation in the complainant's probate matter, Dicus failed to refund advance payments of fee that had not been earned. During the representation, Dicus engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation; violated a disciplinary judgment by practicing law when his right to practice had been suspended and by failing to notify the complainant of the suspension; and engaged in the practice of law when his right to practice had been suspended.

Dicus violated Rules 1.15(d) and 8.04(a)(3), (a)(7), and (a)(11). He was ordered to pay \$5,786.27 in attorney's fees and costs and \$3,500 in restitution.

Dicus filed an appeal on May 29.

SUSPENSIONS

On May 9, **James M. Brown, Jr.** [#03199600], 65, of Bedford, accepted a one-year, fully probated suspension effective May 15. An evidentiary panel of the District 7-2 Grievance Committee found that Brown failed to keep the complainant reasonably informed about the status of his divorce matter. Brown failed to promptly comply with reasonable requests for information from the complainant about his divorce matter. Upon termination of representation in the com-

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plainant's divorce matter, Brown failed to give reasonable notice to the complainant and to allow the complainant time for the employment of other counsel.

Brown violated Rules 1.03(a) and 1.15(d). He was ordered to pay \$1,518.75 in attorney's fees and costs.

On Feb. 21, **Aaron Christopher Bitter** [#24048137], 34, of Lewisville, received a four-year, fully active suspension effective March 1. The 367th District Court of Denton County found that Bitter failed to respond to the complainant's reasonable requests for information regarding the status of her expunction case and neglected the case.

In the second matter, Bitter failed to respond to the complainant's reasonable requests for information regarding the status of her personal injury case and neglected the case.

Bitter failed to respond to the grievances. Bitter violated Rules 1.01(b)(1), 1.03(a), and 8.04(a)(8). He was ordered to pay \$1,895.51 in attorney's fees and costs and \$600 in restitution.

Bitter filed an appeal on May 17.

On Feb. 21, Bitter received a four-year, fully active suspension effective March 1. The 16th District Court of Denton County found that Bitter failed to respond to the complainant's reasonable requests for information regarding the status of her family law case and neglected the case. The complainant terminated Bitter and demanded an itemized accounting and a refund of unearned fees. Bitter failed to provide an accounting and a refund.

In the second matter, Bitter failed to respond to the complainant's reasonable requests for information regarding the status of her family law case, neglected the case, and failed to explain the matter sufficiently to allow the complainant to make informed decisions.

Bitter failed to respond to the grievances. Bitter violated Rules 1.01(b)(1), 1.03(a) and (b), 1.15(d), and 8.04(a)(8). He was ordered to pay \$1,895.51 in

attorney's fees and costs and \$5,200 in restitution.

Bitter filed an appeal on May 17.

On April 19, **Jose L. Gutierrez** [#08642450], 55, of Houston, received a two-year, active suspension effective April 11. An evidentiary panel of the District 4-F Grievance Committee found that Gutierrez was hired for representation in a personal injury matter. Gutierrez later settled the case, but failed to pay the medical provider. Gutierrez also failed to respond to his client's attempts to ascertain the status of her case. Furthermore, Gutierrez was administratively suspended from the practice of law during the representation of his client.

In a second matter, Gutierrez was hired for representation concerning outstanding traffic tickets, which resulted in the suspension of his client's driver's license. Gutierrez failed to deposit the monies given to him by the client for the purpose of paying the traffic tickets and ultimately misplaced the funds. Gutierrez failed to take any action on his client's behalf and further failed to communicate with his client. During the representation, Gutierrez was administratively suspended but continued to represent his client, as well as 30 other clients.

Gutierrez violated Rules 1.01(b)(1); 1.03(a); 1.14(a), (b), and (d); and 8.04(a)(11). He was ordered to pay \$1,100 in attorney's fees and costs and \$2,302.80 in restitution.

On May 16, **Paul Lee Heath** [#24030780], 45, of San Antonio, accepted a one-year, fully probated suspension effective June 1. An evidentiary panel of the District 10-1 Grievance Committee found that Heath failed to carry out completely the obligations owed to a client and to return unearned fees.

Heath violated Rules 1.01(b)(2) and 1.15(d). He was ordered to pay \$500 in attorney's fees and expenses.

On May 17, **Richard Joseph Tholstrup** [#00793079], 58, of Houston, accepted a three-year, fully probated suspension effective July 1. An evidentiary panel of the District 4-E Grievance Committee found that in one matter, Tholstrup failed to keep his client reasonably informed about the status of their legal matter and to promptly comply with reasonable requests for information. In another matter, he neglected the legal matter entrusted to him. In both matters, Tholstrup failed to explain matters to the extent reasonably necessary to permit his clients to make informed decisions regarding their representation.

Tholstrup violated Rules 1.01(b)(1) and 1.03(a) and (b). He agreed to pay \$1,300 in attorney's fees and costs.

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DISCIPLINARY ACTIONS

On April 23, **Caron D. Avery** [#00789135], 51, of Sheridan, Wyo., received a three-year, fully active suspension effective April 11. An evidentiary panel of the District 7-2 Grievance Committee found that while representing the complainant, Avery neglected the family law matter entrusted to her. She also failed to keep the complainant reasonably informed about the status of his case and to respond to his requests for information. Furthermore, Avery failed to render a full accounting to the complainant of the funds he paid to Avery and to refund any advance payments of fee that had not been earned. Finally, Avery failed to respond to the complainant's grievance.

Avery violated Rules 1.01(b)(1), 1.03(a), 1.14(b), 1.15(d), and 8.04(a)(8). She was ordered to pay \$2,200.45 in attorney's fees and \$7,700 in restitution.

Avery did not file an appeal.

On April 24, **William Gary Nellis** [#90001643], 42, of Frisco, received a two-year, partially probated suspension effective May 1, with the first year actively served and the remainder probated. An evidentiary panel of the District 1-2 Grievance Committee found that in representing the complainant in a child custody matter, Nellis neglected the legal matter; failed to keep the complainant reasonably informed; to promptly comply with reasonable requests for information from the complainant; to, upon termination of representation, refund advance payments of fee that had not been earned; and to respond to the grievance.

Nellis violated Rules 1.01(b)(1), 1.03(a), 1.15(d), and 8.04(a)(8). He was ordered to pay \$2,500 in attorney's fees and costs and \$6,500 in restitution.

On April 26, **Mario A. Mata** [#13184400], 58, of Austin, received a one-year, fully probated suspension effective May 1. An evidentiary panel of the District 6-A1 Grievance Committee

found that in representing the complainant, Mata neglected the case by failing to prepare a limited partnership agreement and to perform related estate planning. Mata failed to keep the complainant reasonably informed about the status of the case. Mata failed to hold funds belonging to the complainant that were in Mata's possession in connection with the representation separate from Mata's own property. Upon termination of the representation, Mata failed to refund the advance payment of a fee that had not been earned.

Mata violated Rules 1.01(b)(1), 1.03(a), 1.14(a), and 1.15(d). He was ordered to pay \$4,180.86 in attorney's fees and costs and \$7,500 in restitution.

On June 5, **Richard A. Wagner** [#20661050], 59, of Bulverde, received a 39-month, partially probated suspension effective July 5, with the first three months actively served and the remainder probated.

The 433rd District Court of Comal County found that Wagner violated Rules 3.01, 3.02, 3.04(d), and 8.04(a)(3) and (a)(8). He was ordered to pay \$7,800 in attorney's fees and expenses.

On May 10, **Steven L. Rushing** [#00789055], 53, of Longview, received a six-year, partially probated suspension effective Nov. 15, 2016, with the first three years actively served and the remainder probated. The 188th District Court of Gregg County found that in 2002, the complainant hired Rushing to represent her in a legal matter. Rushing subsequently neglected the legal matter entrusted to him. In addition, he failed to communicate with the complainant. Furthermore, Rushing misrepresented the status of the complainant's case to her. Finally, Rushing failed to return the complainant's file to her upon request.

Rushing violated Rules 1.01(b)(1), 1.03(a), 1.15(d), and 8.04(a)(3). He was ordered to pay \$3,171.87 in attorney's fees.

Rushing did not file an appeal.



PUBLIC REPRIMANDS

On May 3, **Chukwu Uwakwe Oko** [#24007771], 49, of Houston, accepted a public reprimand. The 269th District Court of Harris County found that Oko violated a disciplinary judgment previously entered against him.

Oko violated Rule 8.04(a)(7). He agreed to pay \$347.88 in current attorney's fees and expenses, as well as \$5,591.29 in past-due attorney's fees and expenses and \$19,060.83 in past-due restitution.

On May 7, **Richard F. Briggs** [#02986080], 51, of San Antonio, accepted a public reprimand. An evidentiary panel of the District 10 Grievance Committee found that Briggs accepted payments for expenses from a court-appointed client without disclosing to the court the client's financial ability to pay and failed to return a client file timely.

Briggs violated Rules 1.15(d) and 3.03(a)(2). He agreed to pay \$800 in attorney's fees and direct expenses and \$900 in restitution.

On May 10, **Kimberly Pinkerton** [#24046634], 35, of Cedar Hill, accepted a public reprimand. An evidentiary panel of the District 6 Grievance Committee found that in representing the complainant in his civil matter, Pinkerton neglected the legal matter entrusted to her. Pinkerton failed to keep the complainant reasonably informed about the status of his civil matter, to explain the complainant's civil matter to the extent reasonably necessary to permit the complainant to make informed decisions regarding the representation, to hold funds or other property belonging in whole or in part to the complainant that were in Pinkerton's possession in connection with the representation separate from Pinkerton's own property, to keep the complainant's funds in a separate trust or escrow account, and to appropriately safeguard the complainant's property.

Pinkerton violated Rules 1.01(b)(1), 1.03(a) and (b), and 1.14(a). She was

ordered to pay \$1,743.75 in attorney's fees and \$700 in restitution.

On May 15, **Stephen J. Frost** [#24002112], 40, of Austin, received a public reprimand. An evidentiary panel of the District 1-4 Grievance Committee found that in representing the complainant in a family law matter, Frost neglected the legal matter entrusted to him and failed to keep the complainant informed and to promptly comply with requests for information from the complainant.

Frost violated Rules 1.01(b)(1) and 1.03(a). He was ordered to pay \$1,500 in attorney's fees and costs.

Frost has until June 14 to file an appeal.

On May 29, **S. Bruce Hiran** [#00785965], 52, of Houston, accepted

a public reprimand. Hiran failed to adequately supervise a nonlawyer and permitted him to engage in conduct that involved a violation of the Texas Disciplinary Rules of Professional Conduct.

Hiran violated Rule 5.03(a). He agreed to pay \$1,877.86 in attorney's fees and costs.

On May 31, **Bryan Mac Morris** [#00792706], 51, of Plano, accepted a public reprimand. While representing the complainants, Morris neglected the legal matters entrusted to him. In addition, Morris knowingly disobeyed rulings by a tribunal.

Morris violated Rules 1.01(b)(1) and 3.04(d). He was ordered to pay \$2,000 in attorney's fees.

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PRIVATE REPRIMANDS

Listed below is the breakdown of rule violations for 21 attorneys, with the number of attorneys violating each rule in parentheses. Please note that an attorney may be reprimanded for more than one rule violation. Texas Disciplinary Rules of Professional Conduct:

1.01(b)(1) — for neglecting a legal matter entrusted to the lawyer (12); **1.01(b)(2)** — for failing to carry out completely the obligations owed to a client (one); **1.02(a)** — for failing to abide by a client's decisions concerning the objectives and general methods of representation (one); **1.02(a)(2)** — for failing to abide by a client's decisions regarding acceptance of an offer of settlement of a matter (one); **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 (20); **1.03(b)** — for failing to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation (seven); **1.04(d)** — for entering into a contingent fee agreement prohibited by paragraph (e) or other law, and/or failing to enter into a written contingency fee agreement that states the method by which the fee is to be determined (one); **1.04(f)** — a division or agreement for division of a fee between lawyers who are not in the same firm shall not be made unless: (1) the division is: (iii) made, by written agreement with the client, with a lawyer who assumes joint responsibility for the representation (one); **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 (one); **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 belongs to the client (five); **3.04(d)** — for knowingly

disobeying an obligation under the standing rules or of a ruling by a tribunal (one); **4.01(b)** — for failing to disclose a material fact to a third person when disclosure is necessary to avoid making the lawyer a party to a criminal act or knowingly assisting a fraudulent act perpetrated by a client (one); **4.04(b)(1)** — for presenting, participating in presenting, or threatening to present criminal or disciplinary charges solely to gain an advantage in a civil matter (one); **5.03(a)** — for failing to make reasonable efforts to ensure that the non-lawyer's conduct is compatible with the professional obligations of the lawyer (one); **5.03(b)(1)** — a lawyer shall be in violation if the lawyer orders, encourages, or permits the conduct involved of a non-lawyer to be in violation of the rules of the Texas Disciplinary Rules of Professional Conduct (one); **7.04(a)** — for advertising in the public media that the lawyer is a specialist, except as permitted under Rule (one); **8.01(b)** — for knowingly failing to respond to a lawful demand for information from a disciplinary authority (one); **8.04(a)(1)** — for violating these Rules, knowingly assisting or inducing another to do so, or doing so through the acts of another, whether or not such violation occurred in the course of a client-lawyer relationship (five); **8.04(a)(3)** — for engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation (one); **8.04(a)(8)** — for failing to timely furnish a district grievance committee a response or other information as required unless he/she timely asserts a privilege or other legal ground for failure to do so (six); and **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 (one). ❖