

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.

RESIGNATIONS

On June 2, 2014, the Supreme Court of Texas accepted the resignation, in lieu of discipline, of **Charles D. Jones** [#10866500], 61, of Woodway. At the time of Jones's resignation, a disciplinary matter was pending in which Jones was hired to represent a complainant and his family in relation to estate planning and other legal matters. Thereafter, Jones misappropriated complainant's money by transferring funds to his own accounts and to accounts of entities he controlled.

Jones violated Rules 8.04(a)(1), 8.04(a)(2), and 8.04(a)(3).

DISBARMENTS

On April 9, 2014, **Don D. Becker** [#02012888], 60, of Houston, was disbarred. An evidentiary panel of the District 4 Grievance Committee found that in two separate matters Becker neglected the legal matters entrusted to him, failed to keep his clients reasonably informed about the status of their legal matters, failed to promptly comply with reasonable requests for information, and upon termination of representation, failed to refund advance payments of fee that had not been earned. Becker also failed to timely furnish to the Office of Chief Disciplinary Counsel responses

or other information as required by the rules and failed to comply with section 13.01 of the rules relating to the notification of his cessation of practice.

Becker violated Rules 1.01(b)(1), 1.03(a), 1.15(d), 8.04(a)(8), and 8.04(a)(10). He was ordered to pay \$6,500.00 in restitution and \$1,640.00 in attorneys' fees and direct expenses.

Becker did not file an appeal.

SUSPENSIONS

On April 29, 2014, **David Edward Biagas** [#02285500], 58, of El Paso, accepted a one-year fully probated suspension effective May 1, 2014. The District 17 Grievance Committee found that Biagas shared fees that were not in proportion to the services performed, failed to obtain his client's consent to share fees with another attorney, and knowingly assisted a judge in the violation of the Code of Judicial Conduct.

Biagas violated Rules 1.04(a), 1.04(f), and 8.04(a)(6) and was ordered to pay \$600 in attorneys' fees and direct expenses.

On March 6, 2014, **Bruce A. Rokohl** [#17208800], 58, of Orange Grove, received a three-year partially probated suspension, with the first year actively served and the remainder probated. The District 11 Grievance Committee found that Rokohl neglected a client matter, failed to keep a client reasonably informed, and failed to return unearned fees.

Rokohl violated Rules 1.01(b)(1), 1.03(a), and 1.15(d) and was ordered to pay \$2,500 in restitution and \$2,685 in attorneys' fees and direct expenses.

On May 8, 2014, **Alex J. Scharff** [#17727350], 48, of San Antonio, received a six-month probated sus-

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pension effective May 1, 2014. The District 10 Grievance Committee found that Scharff shared legal fees with a non-lawyer private investigator.

Scharff violated Rule 5.04(a) and was ordered to pay \$5,000 in restitution and \$1,000 in attorneys' fees and direct expenses.

On May 9, 2014, **Joseph Campbell Schultz** [#24041886], 37, of Bellaire, accepted a two-year partially probated suspension effective June 1, 2014, with the first six months actively suspended and the remainder probated. An evidentiary panel of the District 4 Grievance Committee found that, among four different matters, Schultz neglected a legal matter entrusted to him, failed to keep clients reasonably informed about the status of their legal matters, failed to promptly comply with reasonable requests for information, failed to keep funds belonging to third parties in a trust account, and failed to promptly deliver to third parties funds that they were entitled to receive.

Schultz violated Rules 1.01(b)(1), 1.03(a), 1.14(a), and 1.14(b). He was ordered to pay \$2,475 in attorneys' fees and \$536.66 in direct expenses.

On May 15, 2014, **Nuru L. Witherspoon** [#24039244], 36, of Dallas, received a one-year fully probated suspension effective June 1, 2014. An evidentiary panel of the District 6 Grievance Committee found that upon the termination of his representation of complainants, Witherspoon failed to surrender to them the papers and property to which they were entitled. The panel also found that while representing the complainants, Witherspoon failed to make reasonable efforts to ensure that the conduct of his employees was compatible with his professional obligations.

Witherspoon violated Rules 1.15(d) and 5.03(a). He was ordered to pay \$2,500 in attorneys' fees and direct expenses.

On June 6, 2014, **Jeffrey Scott Barry** [#24036193], 40, of Houston, accepted a two-year partially probated suspension effective June 13, 2014, with the first year actively suspended and the remainder probated. An evidentiary panel of the District 4 Grievance Committee found that in representing his client, Barry neglected the legal matter entrusted to him, failed to keep his client reasonably informed about the status of the case and failed to promptly comply with reasonable requests for information, and failed to explain the legal matter to the extent reasonably necessary to permit his client to make informed decisions regarding the representation. Upon termination of representation, Barry failed to refund advance payments of fee that had not been earned and also violated a prior disciplinary judgment.

Barry violated Rules 1.01(b)(1), 1.03(a), 1.03(b), 1.15(d), and 8.04(a)(7). He was ordered to pay \$3,150 in restitution, \$250 in attorneys' fees, and \$70 in direct expenses.

On June 13, 2014, **Omar Orlando Collin** [#24048185], 43, of Kingsville, received a five-year partially probated suspension effective June 3, 2014, with the first two years actively served and the remainder probated. An evidentiary panel of the District 11-2 Grievance Committee found that Collin neglected a client's representation, failed to promptly respond to a client's reasonable requests for information, failed to return a client file, and failed to refund the unearned portion of a fee.

Collin violated Rules 1.01(b)(1), 1.03(a), and 1.15(d) and was ordered to pay \$1,000 in restitution and

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DISCIPLINARY ACTIONS

\$1,857.50 in attorneys' fees and direct expenses.

On June 23, 2014, **Brian Anthony Hamner** [#24041050], 38, of San Antonio, accepted a two-year fully probated suspension effective March 17, 2015. An evidentiary panel of the District 10 Grievance Committee found that Hamner neglected a client matter and failed to communicate with a client.

Hamner violated Rules 1.01(b)(1) and 1.03(a) and was ordered to pay \$2,500 in restitution.

On March 10, 2014, **Wells Ted Wakefield** [#24058164], 38, of Syracuse, Utah, received a six-year partially probated suspension effective March 7, 2014, with the first three years actively suspended and the remainder probated. An evidentiary panel of the Dis-

trict 9 Grievance Committee found that Wakefield committed misconduct in two cases. In the first matter, Wakefield was hired and paid \$10,470 to represent complainant to file residency applications for complainant's family. Although Wakefield claimed to have filed the applications, he would not provide the application numbers and complainant later discovered that Wakefield never filed the applications. Complainant requested a refund of unearned fees, and Wakefield provided two checks to complainant. Neither of the checks was drafted from Wakefield's trust account and one for \$6,000 was dishonored.

In a second matter, Wakefield was hired to represent complainant's wife in an immigration matter. Wakefield was paid \$2,000 toward the total fee of \$4,490. Thereafter, Wakefield did not file a residency application or provide

any further legal services. Wakefield relocated to Utah without giving complainant notice. Complainant attempted to contact Wakefield by telephone and email with no response. Wakefield failed to return papers belonging to his client and failed to refund any unearned fees. Wakefield further failed to furnish written responses to the complaints as directed.

Wakefield violated Rules 1.01(b)(1), 1.03(a), 1.14(a), 1.15(d), 8.04(a)(1), 8.04(a)(3), and 8.04(a)(8). He was ordered to pay \$8,000 in restitution and \$4,980.97 in attorneys' fees and direct expenses.

On June 4, 2014, **Timothy Wayne Weltin** [#24008260], 48, of Houston, agreed to an 18-month fully probated suspension effective June 1, 2014. An evidentiary panel of the District 4 Grievance Committee found that in representing his client, Weltin neglected the legal matter entrusted to him, failed to keep his client reasonably informed about the status of his legal matter and failed to comply with reasonable requests for information, failed to hold funds belonging to his client that were in Weltin's possession separate from his own property, and failed to promptly deliver to his client funds that the client was entitled to receive.

Weltin violated Rules 1.01(b)(1), 1.03(a), 1.14(a), and 1.14(b). He was ordered to pay \$500 in attorneys' fees.

PUBLIC REPRIMANDS

On May 16, 2014, **Mark Houston Barber** [#01708050], 51, of Wichita Falls, accepted a public reprimand. The 30th District Court of Wichita County found that Barber committed professional misconduct by violating Rules 3.01 [a lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless the lawyer reasonably believes that there is a basis for doing so that is not frivolous] and 4.04(a) [in represent-

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ing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person, or use methods of obtaining evidence that violate the legal rights of such a person].

Barber was ordered to pay \$1,472.57 in attorneys' fees and direct expenses.

On April 21, 2014, **Lenda Bush Burnett** [#03496270], 62, of Terrell, accepted a public reprimand. The District 1 Grievance Committee found that upon termination in complainant's divorce matter, Burnett failed to promptly return the unearned fee to complainant. Burnett 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 did not in good faith timely assert a privilege or other legal ground for failure to do so.

Burnett violated Rules 1.15(d) and 8.04(a)(8). She was ordered to pay \$1,456.33 in attorneys' fees.

On May 5, 2014, **Kaycee Lynn Jones** [#24034511], 39, of Livingston, accepted an agreed judgment of public reprimand. An evidentiary panel of the District 3-2 Grievance Committee found that Jones, then an assistant criminal district attorney, engaged in ex parte communications with a judge during a jury trial wherein the judge was presiding on the bench and Jones was an observer. One of the text messages from the judge suggested a line of questioning for the prosecutor, and Jones then handwrote a message that contained the judge's text verbatim and had it delivered to the prosecutor during the trial.

Jones violated Rules 3.05(b) and 8.04(a)(6). She was ordered to pay \$650 in attorneys' fees and direct expenses.

On May 28, 2014, **Pascual Madrigal** [#12802150], 59, of San Antonio, accepted a public reprimand. The

District 10 Grievance Committee found that Madrigal failed to return unearned fees.

Madrigal violated Rule 1.15(d) and agreed to pay \$3,500 in restitution and \$800 in attorneys' fees and direct expenses.

On May 9, 2014, **Steven Daniel Monte** [#24007695], 44, of Dallas, received an agreed judgment of public reprimand. An evidentiary panel of the District 6 Grievance Committee found that in representing complainant, Monte neglected the legal matter entrusted to him by failing to enter an appearance or contact the court regarding the legal matter. Monte engaged in the practice of law when his right to practice had been administratively suspended for failure to pay his guaranteed student loan. Monte 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 did not in good faith timely assert a privilege or other legal ground for failure to do so.

Monte violated Rules 1.01(b)(1), 8.04(a)(8), and 8.04(a)(11). He was ordered to pay \$899.27 in attorneys' fees and direct expenses.

On May 23, 2014, **John L. Plant** [#24027619], 42, of Anna, agreed to a judgment of public reprimand. The District 1 Grievance Committee found that Plant failed to promptly comply with reasonable requests for information from complainant about his name change and amendment to his birth certificate. Plant failed to timely furnish to the Office of Chief Disciplinary Counsel a response or other informa-

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tion as required by the Texas Rules of Disciplinary Procedure and did not in good faith timely assert a privilege or other legal ground for failure to do so.

Plant violated Rules 1.03(a) and 8.04(a)(8). He was ordered to pay \$1,500 in attorneys' fees and \$750 in restitution.

On June 25, 2014, **Stephan Dongwhee Hwang** [#24036817], 44, of Addison, agreed to a judgment of public reprimand. An evidentiary panel of the District 6 Grievance Committee found that Hwang failed to hold escrow funds belonging to complainant that were in Hwang's possession separate from Hwang's own property. Hwang failed to promptly deliver to complainant funds that complainant was entitled to receive in connection with his real estate matter.

Hwang violated Rules 1.14(a) and 1.14(b). He was ordered to pay \$1,000 in attorneys' fees.

PRIVATE REPRIMANDS

Listed below is a breakdown of Texas Disciplinary Rules of Professional Conduct violations for nine 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 (4).

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 (2).

1.09(a)—for representing a person in a matter adverse to a former client if it is the same or a substantially

related matter (1).

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(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 (1).

5.01(b)—the lawyer is a partner in the law firm in which the other lawyer practices, is the general counsel of a government agency's legal department in which the other lawyer is employed, or has direct supervisory authority over the other lawyer, and with knowledge of the other lawyer's violation of these rules knowingly fails to take reasonable remedial action to avoid or mitigate the consequences of the other lawyer's violation (1).

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 (1).

8.04(a)(8)—for failing to timely furnish a district grievance committee with a response or other information as required unless he or she timely asserts a privilege or other legal ground for failure to do so (1).

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 (1). **TBJ**