

## DISCIPLINARY ACTIONS

► Contact the Office of Chief Disciplinary Counsel at (512) 453-5535, the Board of Disciplinary Appeals at (512) 475-1578 or [txboda.org](http://txboda.org), or the State Commission on Judicial Conduct at (512) 463-5533.

### BODA

On November 17, 2017, the Board of Disciplinary Appeals signed an agreed judgment of fully probated suspension of Mandeville, Louisiana, attorney **Richard Collins Dalton** [#24033539], 48. On June 16, 2017, the Supreme Court of Louisiana entered an order per curiam suspending Dalton from the practice of law for six months deferred for two years subject to his successful completion of probation in a matter styled *In Re: Richard Collins Dalton*, attorney disciplinary proceeding, Case No. 2017-B-0857. Dalton consented to the discipline and agreed to the allegations in the petition that he violated Louisiana Rule of Professional Conduct 1.15 after his bank reported overdrafts in his trust account to the State Bar and an audit of his account showed that he had made disbursements to himself to which he was not entitled, causing shortages to the trust account on multiple occasions. Dalton is

on a probated suspension from the practice of law in Texas beginning November 17, 2017, and ending November 16, 2019. BODA Cause No. 59480.

On December 11, 2017, the Board of Disciplinary Appeals signed an order dismissing compulsory discipline against Greenville attorney **Royal Mullins** [#14657750], 65. On May 4, 2016, Mullins was found guilty of murder, an intentional crime as defined in the Texas Rules of Disciplinary Procedure, in the case styled *The State of Texas v. Royal Lynn Mullins*, Cause No. 30544, in the 196th District Court of Hunt County. Mullins was sentenced to prison for 60 years and ordered to pay a fine in the amount of \$10,000 and court costs of \$266.25. On January 12, 2017, the Board of Disciplinary Appeals signed an agreed interlocutory order of suspension against Mullins pending the appeal of his criminal conviction. On May 19, 2017, the

6th Court of Appeals for the State of Texas affirmed his conviction. On November 30, 2017, the Supreme Court of Texas accepted Mullins' resignation in lieu of discipline by Misc. Docket No. 17-9150 and canceled his license to practice law. BODA Cause No. 58339.

On December 11, 2017, the Board of Disciplinary Appeals signed an order dismissing compulsory discipline against Dallas attorney **Randall R. Lyle** [#12719500], 56. On September 16, 2016, Lyle pleaded guilty to one count of theft of property in violation of Texas Penal Code § 31.0(e)(5), an intentional crime as defined in the Texas Rules of Disciplinary Procedure, in the case styled *The State of Texas v. Randall Ray Lyle*, Cause No. 1239400D, in the 371st District Court of Tarrant County. Lyle was sentenced to community supervision for 10 years and ordered to pay \$34,297 in restitution. His probation was subsequently revoked and he was adjudicated guilty on July 6, 2017. On November 30, 2017, the Supreme Court of Texas accepted Lyle's resignation in lieu of discipline by Misc. Docket No. 17-9144 and canceled his license to practice law. BODA Cause No. 59135.

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On January 18, 2018, the Board of Disciplinary Appeals signed an agreed judgment of public reprimand of Coos Bay, Oregon, attorney **James Matthew Monsebrot** [#24044180], 49. On August 1, 2017, the Oregon Supreme Court entered an order approving stipulation for discipline and publicly reprimanded Monsebrot in a matter styled *In Re: Complaint as to the Conduct of James M. Monsebrot, Accused*, Case No. 17-10. Monsebrot admits that he violated the Oregon Rules of Professional Conduct Rule 1.4(a) [by failing to keep his client reasonably informed], 1.4(b) [by failing to explain matters sufficiently to allow his client to make informed decisions], 1.5(c)(3) [by failing to have a written fee agreement for earned-upon-receipt fees for a flat fee], 1.15-1(a) [by failing to hold a client's property in trust], and 1.15-1(c) [by failing to deposit unearned fees in trust]. BODA Cause No. 59815.

On January 26, 2018, the Board of Disciplinary Appeals revoked the probation of McKinney attorney **Staci Jennifer Strong** [#24037564], 45, finding that she materially violated the terms and conditions of her agreed judgment of fully probated suspension and suspended her from the practice of law for 30 months, beginning January 26, 2018, and ending July 26, 2020. On or about February 10, 2016, an evidentiary panel of the District 6 Grievance Committee signed an agreed judgment of fully probated suspension against Strong. The judgment found that Strong violated Texas Disciplinary Rules of Professional Conduct Rule 1.14(a) [by failing to hold funds belonging to a client of her law firm that were in her possession separate and apart from her own property], 1.14(b) [by failing to notify a party that had an interest in the funds of the receipt of the funds and failing to deliver the funds to the interested party], and 8.04(a)(3) [by engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation], and suspended her from the practice of law for 30 months, fully probated on certain terms beginning March 1, 2016, and ending August 31, 2018. BODA Cause No. 59903.

On January 26, 2018, the Board of Disciplinary Appeals signed an interlocutory order of suspension against Little River-Academy attorney **Perry Cortese**

[#00790508], 54. On October 20, 2017, Cortese was found guilty of conspiracy to commit mail and wire fraud in violation of 18 U.S.C. §§ 1341, 1343, and 1349 and conspiracy to commit money laundering in violation of 18 U.S.C. §§ 1956(a)(2)(A), 1956(a)(2)(B)(i), and 1956(h), intentional crimes as defined in the Texas Rules of Disciplinary Procedure, in the case styled *United States of America v. Perry Don Cortese*, Cause No. 8:15-CR-320-T-23TGW in the U.S. District Court for the Middle District of Florida, Tampa Division. He was sentenced to prison for 25 years. After release from prison, Cortese will be under supervised release for three years. He was also ordered to pay restitution of \$3,767,196. Cortese has appealed his criminal conviction. The board retains jurisdiction to enter a final judgment when the criminal appeal is final. BODA Cause No. 59813.

On January 26, 2018, the Board of Disciplinary Appeals signed an interlocutory order of suspension against Fort Bragg,

North Carolina, attorney **Erik James Burris** [#24061360], 42. On December 16, 2015, Burris was found guilty of assault, rape, sexual assault and other sexual misconduct, and sodomy in violation of the Uniform Code of Military Justice, intentional crimes as defined in the Texas Rules of Disciplinary Procedure, by General Court-Martial Order Number 10 and was dismissed from the service, confined for 20 years, and ordered to forfeit all pay and allowances. (Forfeiture waived for six months and paid to Burris' dependent children.) Burris has appealed his criminal conviction to the United States Court of Appeals for the Armed Forces. The board retains jurisdiction to enter a final judgment when the criminal appeal is final. BODA Cause No. 59817.

On January 26, 2018, the Board of Disciplinary Appeals signed an order of suspension against Odessa attorney **Rahul Malhotra** [#00797781], 47. On March 28, 2017, Malhotra pleaded guilty to false statement in violation of 18 U.S.C. § 1001(a)(2), an intentional crime as

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defined in the Texas Rules of Disciplinary Procedure, in the case styled *United States of America v. Rahul Malhotra*, Cause No. 5:16-CR-00460-OLG(1) in the U.S. District Court for the Western District of Texas, San Antonio Division, and was placed on community supervision for five years and ordered to pay an assessment of \$100 and a fine of \$7,500. Malhotra is suspended from the practice of law in Texas during the term of his criminal probation as originally assessed until March 22, 2022. BODA Cause No. 59097.

### DISBARMENTS

On November 9, 2017, **James C. Mulder** [#14634200], 68, of Richmond, was disbarred. An evidentiary panel of the District 4 Grievance Committee found that Mulder failed to hold funds belonging in whole or in part to his clients that were in his possession in connection with the representation separate from his own property, failed to render a full accounting regarding such funds upon request, and disbursed funds to persons who were not entitled to receive them by

virtue of the representation or by law. Mulder committed a serious crime or other criminal act that reflected adversely on his honesty, trustworthiness, or fitness as a lawyer in other respects and engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation. Mulder also 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.

Mulder violated Rules 1.14(a), 1.14(b), 1.14(c), 8.04(a)(2), 8.04(a)(3), and 8.04(a)(8). He was ordered to pay \$294,000 in restitution and \$1,750 in attorneys' fees and direct expenses.

### RESIGNATIONS

On January 23, 2018, the Supreme Court of Texas accepted the resignation, in lieu of discipline, of **David Alan Kennedy** [#00787819], 59, of Tyler. Kennedy allegedly neglected the legal matter entrusted to him, failed to keep the complainant advised of the status of the matter and respond to the complainant's requests for information, failed

to refund advance payments of fees that had not been earned, and failed to respond to the grievance.

Kennedy violated Rules 1.01(b)(1), 1.03(a), 1.15(d), and 8.04(a)(8).

On January 23, 2018, the Supreme Court of Texas accepted the resignation, in lieu of discipline, of **Kenneth Leigh Parker Jr.** [#00792739], 47, of Grand Island, Florida. At the time of his resignation, one pending disciplinary action alleged that while Parker represented his client on multiple cases, he failed to hold the client's funds in a separate trust account. Parker further fabricated work and forged multiple court orders and documents to secure payment and/or fees. In addition, Parker failed to refund unearned fees.

Parker violated Rules 1.14(a), 1.15(d), 8.04(a)(2), and 8.04(a)(3).

On January 23, 2018, the Supreme Court of Texas accepted the resignation, in lieu of discipline, of **Michael T. Swaim** [#19545320], 56, of Houston. At the time of Swaim's resignation, two pending grievances alleged that he neglected a legal matter entrusted to him, frequently failed to carry out completely the obligations he owed to a client, and failed to keep his clients reasonably informed about the status of their legal matters and promptly comply with reasonable requests for information. He also failed to provide, upon conclusion of a contingent fee matter, a written statement describing the outcome of the matter and, upon receiving funds in which his client had an interest, failed to promptly notify the client and promptly deliver to the client funds that the client was entitled to receive. Swaim also failed to furnish responses to disciplinary grievances.

Swaim violated Rules 1.01(b)(1), 1.01(b)(2), 1.03(a), 1.04(d), 1.14(b), and 8.04(a)(8).

### SUSPENSIONS

On November 28, 2017, **Jeffrey Earl Crews** [#24012475], 56, of Houston, received a one-year fully probated suspension effective January 1, 2018. An evidentiary panel of the District 4 Grievance Committee found that Crews neglected the legal matter entrusted to him, failed to keep his client reasonably informed about the status of his matter and to promptly comply with reasonable

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requests for information, and upon termination of representation, failed to refund advance payments of fees that had not been earned. In addition, Crews 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.

Crews violated Rules 1.01(b)(1), 1.03(a), 1.15(d), and 8.04(a)(8). He was ordered to pay \$2,300 in restitution and \$1,500 in attorneys' fees.

On August 18, 2017, **Evin G. Dugas** [#06172950], 57, of Lakeway, received a 10-year partially probated suspension effective November 1, 2017, with the first three years actively served and the remainder probated. The 57th District Court of Bexar County found that Dugas neglected the legal matter entrusted to him; failed to keep his client reasonably informed about the status of his matter and to promptly comply with reasonable requests for information; upon termination of representation, failed to surrender papers and property which belonged to the

client or to refund advance payments of fees that had not been earned; engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation; and 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.

Dugas violated Rules 1.01(b)(1), 1.03(a), 1.15(d), 8.04(a)(3), and 8.04(a)(8). He was ordered to pay \$31,623 in attorneys' fees and direct expenses.

A motion for a new trial has been filed by Dugas.

On December 14, 2017, **Xavier Duran** [#24015154], 46, of Dallas, received a six-month fully probated suspension effective December 8, 2017. An evidentiary panel of the District 6 Grievance Committee found that in or around 2008, a complainant hired Duran to represent him in a criminal matter. In representing the complainant, Duran neglected the legal matter entrusted to him, failed to keep the complainant reasonably informed about the status of his criminal

matter, and failed to promptly comply with reasonable requests for information.

Duran violated Rules 1.01(b)(1) and 1.03(a). He was ordered to pay \$2,405.25 in attorneys' fees and direct expenses.

On December 19, 2017, **Steven L. Eason** [#06360990], 57, of Dallas, received a two-year partially probated suspension effective January 17, 2018, with the first six months actively suspended and the remainder probated. The 134th District Court of Dallas County found that Eason neglected a legal matter entrusted to him.

Eason violated Rule 1.01(b)(1). He was ordered to pay \$309.67 in direct expenses.

On December 19, 2017, **Robert James Hayes** [#24057610], 45, of San Antonio, received a five-year active suspension effective December 13, 2017. An evidentiary panel of the District 10 Grievance Committee found that Hayes neglected clients' matters, failed to keep clients reasonably informed, failed to refund unearned fees, failed to return clients'

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files, and failed to respond to grievances in a timely manner.

Hayes violated Rules 1.01(b)(1), 1.01(b)(2), 1.03(a), 1.03(b), 1.15(d), and 8.04(a)(8). He was ordered to pay \$2,000 in restitution and \$2,400 in attorneys' fees and direct expenses.

On January 30, 2018, **Arthur G. Vega** [#20533600], 65, of San Antonio, accepted a two-year fully probated suspension effective February 1, 2018. An evidentiary panel of the District 10 Grievance Committee found that Vega

neglected clients' matters and failed to keep clients reasonably informed.

Vega violated Rules 1.01(b)(1), 1.03(a), and 1.03(b). He was ordered to pay \$2,500 in restitution and \$2,000 in attorneys' fees and direct expenses.

### PUBLIC REPRIMANDS

On October 25, 2017, **Robert Adren Swearingen** [#19563050], 62, of College Station, received a public reprimand. An evidentiary panel of the District 8 Grievance Committee found that Swearingen represented a mother in an original suit

affecting the parent-child relationship with her minor child. In the original SAPCR, Swearingen sought and obtained orders favorable to the mother. Thereafter, two suits occurred to modify orders affecting the parent-child relationship. Swearingen did not participate in the first modification proceeding. In the second modification proceeding, Swearingen represented the minor child's stepmother, adverse to his former client, the mother. Swearingen did not ask for, or receive, his former client's consent to adverse representation.

Swearingen violated Rule 1.09(a)(3). He was ordered to pay \$5,000 in attorneys' fees and direct expenses.

Swearingen has filed an appeal.

### PRIVATE REPRIMANDS

Listed here is a breakdown of Texas Disciplinary Rules of Professional Conduct violations for four attorneys, with the number in parentheses indicating the frequency of the 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 (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 (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 which belongs to the client (2).

3.05(b)(1)—A lawyer shall not, except as otherwise permitted by law and not prohibited by applicable rules of practice or procedure, communicate or cause another to communicate ex parte with a tribunal for the purpose of influencing that entity or person concerning a pending matter other than in the course of official proceedings in the cause (1).

8.04(a)(1)—A lawyer shall not violate these rules, knowingly assist or induce another to do so, or do so through the acts of another, whether or not such violation occurred in the course of a client-lawyer relationship (1).

8.04(a)(6)—A lawyer shall not knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law (1). **TBJ**

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