

**BEFORE THE BOARD OF DISCIPLINARY APPEALS  
APPOINTED BY  
THE SUPREME COURT OF TEXAS**

**IN THE MATTER OF** §  
**ERIC LEE FREDRICKSON,** § **CAUSE NO. 56588**  
**STATE BAR CARD NO. 00790715** §

**PETITION FOR RECIPROCAL DISCIPLINE**

**TO THE BOARD OF DISCIPLINARY APPEALS:**

Petitioner, the Commission for Lawyer Discipline (hereinafter called "Petitioner"), brings this action against Respondent, Eric Lee Fredrickson, (hereinafter called "Respondent"), showing as follows:

1. This action is commenced by Petitioner pursuant to Part IX of the Texas Rules of Disciplinary Procedure. Petitioner is also providing Respondent a copy of Section 7 of this Board's Internal Procedural Rules, relating to Reciprocal Discipline Matters.
2. Respondent is a member of the State Bar of Texas and is licensed but not currently authorized to practice law in Texas. Respondent may be served with a true and correct copy of this Petition for Reciprocal Discipline at 137 Amherst Street, Fircrest, Washington, 98466.
3. Attached hereto and made a part hereof for all intents and purposes as if the same were copied verbatim herein, is a true and correct copy of a set of documents in the Fredrickson matter consisting of a Notice of Resignation in Lieu of Discipline, Resignation Form of Eric Lee

Fredrickson along with a Statement of Alleged Misconduct (Exhibit 1). Petitioner expects to introduce a certified copy of Exhibit 1 at the time of hearing of this cause.

4. On or about April 7, 2015, a document entitled Notice of Resignation in Lieu of Discipline was filed Before the Disciplinary Board of the Washington State Bar Association in a matter styled, *In re Eric Lee Fredrickson, Lawyer, Bar No. 44759*, Proceeding No. 15#00020, that states in pertinent part as follows:

...Please take notice that Eric Lee Fredrickson, a Washington State attorney, has filed an Affidavit of Eric Lee Fredrickson, Resigning from Membership in Washington State Bar Association. Pursuant to ELC 9.3, this permanent resignation is effective on the date of filing. The Affidavit was filed Friday, April 3, 2015...

5. On or about April 2, 2015, the Resignation Form of Eric Lee Fredrickson with the Statement of Alleged Misconduct attached as Exhibit A was filed Before the Disciplinary Board of the Washington State Bar Association in a matter styled, *In re Eric Lee Fredrickson, Lawyer (Bar No. 44759)*, Proceeding No. 15#00020, ODC File Nos. 14-00505, 14-01618, 14-02104.

6. The Statement of Alleged Misconduct states that in matter 14-00505:

By failing to place Ms. Berry's \$3,500 advance fee into his trust account, Respondent violated RPC 1.15A(c) [A lawyer must hold property of clients and third persons separate from the lawyer's own property].

By keeping Ms. Berry's entire advance fee without having performed the work contemplated by the fee agreement, Respondent violated RPC 1.5(a) [A lawyer shall not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses].

By using Ms. Berry's advance fee for his own purposes without entitlement to it, Respondent violated RPC 1.15A(b) [A lawyer must not use, convert, borrow or pledge client or third person property for the lawyer's own use].

By failing to maintain a check register for his trust account and client ledgers, Respondent violated RPC 1.15A(h)(2) [A lawyer must comply with the following for all trust accounts - A lawyer must keep complete records as required by Rule 1.15B] and RPC 1.15B(a) [A lawyer must maintain current trust account records].

By failing to respond to Ms. Berry's requests for an accounting and a refund of the fee she had paid, Respondent violated RPC 1.4(a)(4) [A lawyer shall promptly comply with reasonable requests for information] and RPC 1.15A(e) [A lawyer must promptly provide a written accounting to a client or third person after distribution of property or upon request. A lawyer must provide at least annually a written accounting to a client or third person for whom the lawyer is holding funds].

By failing, upon termination of the representation, to refund any portion of Ms. Berry's advanced fee that had not been earned, Respondent violated RPC 1.5(a) [A lawyer shall not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses] and RPC 1.16(d) [Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of another legal practitioner, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred].

By failing to respond to written questions and produce documents as requested by Disciplinary Counsel during the investigation of Ms. Berry's grievance, Respondent failed to fulfill the duties imposed by ELC 1.5 and ELC 5.3(f) and (g), thereby violating RPC 8.4(l) [violate a duty or sanction imposed by or under the Rules for Enforcement of Lawyer Conduct in connection with a disciplinary matter].

7. The Statement of Alleged Misconduct established that in matter 14-01618:

By failing to take any legal action, either in Washington State or in Texas, to accomplish Ms. Chaney's objective of retaining primary custody of GAC, Respondent violated RPC 1.1 [A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation] and RPC 1.3 [A lawyer shall act with reasonable diligence and promptness in representing a client].

By keeping all of Ms. Chaney's advance fees without having performed the work contemplated, Respondent violated RPC 1.5(a) [A lawyer shall not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses].

By using Ms. Chaney's advance fees for his own purposes without entitlement to them, Respondent violated RPC 1.15A(b) [A lawyer must not use, convert, borrow or pledge client or third person property for the lawyer's own use].

By failing to respond to Ms. Chaney's communications and keep her reasonably informed about the status of her matter, and by failing to advise her that the suspension of his license to practice law in Texas would preclude him from taking any legal action there on her behalf, Respondent violated RPC 1.4 [A lawyer shall (1) promptly inform the client of any decision of circumstance with respect to which the client's informed consent, as defined in Rule 1.0A(e), is required by these Rules; (2) reasonably consult with the client about the means by which the

client's objectives are to be accomplished; (3) keep the client reasonably informed about the status of the matter; (4) promptly comply with reasonable requests for information; and (5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law, (b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation].

By advising Ms. Chaney that he would litigate the issue of GAC's custody in the Lincoln County, Washington court and then failing to take any such action, Respondent violated RPC 8.4(c) [It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation].

By failing to refund any unearned portion of Ms. Chaney's advanced fees to her upon termination of his services, Respondent violated RPC 1.16(d) [Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of another legal practitioner, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred].

By failing to respond to Ms. Chaney's grievance after receiving two written requests from Disciplinary Counsel that he do so, Respondent failed to fulfill the duties imposed by ELC 1.5 and ELC 5.3(f) and (g), thereby violating RPC 8.4(l) [violate a duty or sanction imposed by or under the Rules for Enforcement of Lawyer Conduct in connection with a disciplinary matter].

8. The Statement of Alleged Misconduct established that in matter 14-02104:

By agreeing to represent Ms. Park in her dissolution proceedings and then failing to take any action beyond filing a petition and effecting service on the defendant, Respondent violated RPC 1.1 [A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation], RPC 1.3 [A lawyer shall act with reasonable diligence and promptness in representing a client], and RPC 3.2 [A lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client].

By keeping all of Ms. Park's advanced fee without performing the work contemplated by the fee agreement, Respondent violated RPC 1.5(a) [A lawyer shall not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses].

By using Ms. Park's funds for his own purposes without entitlement to them, Respondent violated RPC 1.15A(b) [A lawyer must not use, convert, borrow or pledge client or third person property for the lawyer's own use].

By failing to respond to Ms. Park's communications over a protracted period of time, Respondent violated RPC 1.4 [A lawyer shall (1) promptly inform the client of any decision of circumstance with respect to which the client's informed consent, as defined in Rule 1.0A(e), is required by these Rules; (2) reasonably consult with the client about the means by which the

client's objectives are to be accomplished; (3) keep the client reasonably informed about the status of the matter; (4) promptly comply with reasonable requests for information; and (5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law, (b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation].

By failing to adhere to the case schedule the court had established for Ms. Park's case and failing to appear in court when ordered to do so, Respondent violated RPC 3.4(c) [Knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists]and RPC 8.4(d) [It is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice.

By failing to respond to communications from Ms. Park's successor counsel and failing to refund unearned portions of his advance fee, Respondent violated RPC 1.16(d) [Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of another legal practitioner, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred].

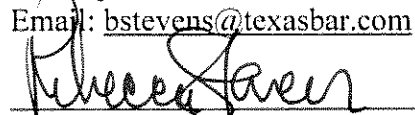
By failing to respond to Ms. Park's grievance after receiving two written requests from Disciplinary Counsel that he do so, Respondent failed to fulfill the duties imposed by ELC 1.5 and ELC 5.3(f) and (g), thereby violating RPC 8.4(l) [violate a duty or sanction imposed by or under the Rules for Enforcement of Lawyer Conduct in connection with a disciplinary matter].

9. Petitioner prays that, pursuant to Rule 9.02, Texas Rules of Disciplinary Procedure, that this Board issue notice to Respondent, containing a copy of this Petition with exhibits, and an order directing Respondent to show cause within thirty (30) days from the date of the mailing of the notice, why the imposition of the identical discipline in this state would be unwarranted. Petitioner further prays that upon trial of this matter that this Board enters a judgment imposing discipline identical with that imposed by the Disciplinary Board of the Washington State Bar and that Petitioner have such other and further relief to which it may be entitled.

Respectfully submitted,

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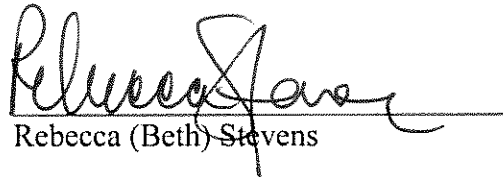


Rebecca (Beth) Stevens  
Bar Card No. 24065381  
ATTORNEYS FOR PETITIONER

#### CERTIFICATE OF SERVICE

I certify that upon receipt of the Order to Show Cause from the Board of Disciplinary Appeals, I will serve a copy of this Petition for Reciprocal Discipline and the Order to Show Cause on Eric Lee Fredrickson by personal service.

Eric Lee Fredrickson  
137 Amherst Street  
Fircrest, Washington, 98466



Rebecca (Beth) Stevens

# INTERNAL PROCEDURAL RULES

## Board of Disciplinary Appeals

*Effective February 19, 2015*

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## **SECTION 1: GENERAL PROVISIONS**

### **Rule 1.01 Definitions**

- (a) “BODA” is the Board of Disciplinary Appeals.
- (b) “Chair” is the member elected by BODA to serve as chair or, in the Chair’s absence, the member elected by BODA to serve as vice-chair.
- (c) “Classification” is the determination by the CDC under TRDP 2.10 or by BODA under TRDP 7.08(C) whether a grievance constitutes a “complaint” or an “inquiry.”
- (d) “BODA Clerk” is the executive director of BODA or other person appointed by BODA to assume all duties normally performed by the clerk of a court.
- (e) “CDC” is the Chief Disciplinary Counsel for the State Bar of Texas and his or her assistants.
- (f) “Commission” is the Commission for Lawyer Discipline, a permanent committee of the State Bar of Texas.
- (g) “Executive Director” is the executive director of BODA.
- (h) “Panel” is any three-member grouping of BODA under TRDP 7.05.
- (i) “Party” is a Complainant, a Respondent, or the Commission.
- (j) “TDRPC” is the Texas Disciplinary Rules of Professional Conduct.
- (k) “TRAP” is the Texas Rules of Appellate Procedure.
- (l) “TRCP” is the Texas Rules of Civil Procedure.
- (m) “TRDP” is the Texas Rules of Disciplinary Procedure.
- (n) “TRE” is the Texas Rules of Evidence.

### **Rule 1.02 General Powers**

Under TRDP 7.08, BODA has and may exercise all the powers of either a trial court or an appellate court, as the case may be, in hearing and determining disciplinary proceedings. But TRDP 15.01 applies to the enforcement of a judgment of BODA.

### **Rule 1.03 Additional Rules in Disciplinary Matters**

Except as varied by these rules and to the extent applicable, the TRCP, TRAP, and TRE apply to all disciplinary matters before BODA, except for appeals

from classification decisions, which are governed by TRDP 2.10 and by Section 3 of these rules.

### **Rule 1.04 Appointment of Panels**

- (a) BODA may consider any matter or motion by panel, except as specified in (b). The Chair may delegate to the Executive Director the duty to appoint a panel for any BODA action. Decisions are made by a majority vote of the panel; however, any panel member may refer a matter for consideration by BODA sitting en banc. Nothing in these rules gives a party the right to be heard by BODA sitting en banc.
- (b) Any disciplinary matter naming a BODA member as Respondent must be considered by BODA sitting en banc. A disciplinary matter naming a BODA staff member as Respondent need not be heard en banc.

### **Rule 1.05 Filing of Pleadings, Motions, and Other Papers**

- (a) **Electronic Filing.** All documents must be filed electronically. Unrepresented persons or those without the means to file electronically may electronically file documents, but it is not required.
  - (1) **Email Address.** The email address of an attorney or an unrepresented party who electronically files a document must be included on the document.
  - (2) **Timely Filing.** Documents are filed electronically by emailing the document to the BODA Clerk at the email address designated by BODA for that purpose. A document filed by email will be considered filed the day that the email is sent. The date sent is the date shown for the message in the inbox of the email account designated for receiving filings. If a document is sent after 5:00 p.m. or on a weekend or holiday officially observed by the State of Texas, it is considered filed the next business day.
  - (3) It is the responsibility of the party filing a document by email to obtain the correct email address for BODA and to confirm that the document was received by BODA in legible form. Any document that is illegible or that cannot be opened as part of an email attachment will not be considered filed. If a document is untimely due to a technical failure or a system outage, the filing party may seek appropriate relief from BODA.

- (4) **Exceptions.**
- (i) An appeal to BODA of a decision by the CDC to classify a grievance as an inquiry is not required to be filed electronically.
  - (ii) The following documents must not be filed electronically:
    - a) documents that are filed under seal or subject to a pending motion to seal; and
    - b) documents to which access is otherwise restricted by court order.
  - (iii) For good cause, BODA may permit a party to file other documents in paper form in a particular case.
- (5) **Format.** An electronically filed document must:
- (i) be in text-searchable portable document format (PDF);
  - (ii) be directly converted to PDF rather than scanned, if possible; and
  - (iii) not be locked.
- (b) A paper will not be deemed filed if it is sent to an individual BODA member or to another address other than the address designated by BODA under Rule 1.05(a)(2).
- (c) **Signing.** Each brief, motion, or other paper filed must be signed by at least one attorney for the party or by the party pro se and must give the State Bar of Texas card number, mailing address, telephone number, email address, and fax number, if any, of each attorney whose name is signed or of the party (if applicable). A document is considered signed if the document includes:
- (1) an “/s/” and name typed in the space where the signature would otherwise appear, unless the document is notarized or sworn; or
  - (2) an electronic image or scanned image of the signature.
- (d) **Paper Copies.** Unless required by BODA, a party need not file a paper copy of an electronically filed document.
- (e) **Service.** Copies of all documents filed by any party other than the record filed by the evidentiary panel clerk or the court reporter

must, at or before the time of filing, be served on all other parties as required and authorized by the TRAP.

#### **Rule 1.06 Service of Petition**

In any disciplinary proceeding before BODA initiated by service of a petition on the Respondent, the petition may be served by personal service; by certified mail with return receipt requested; or, if permitted by BODA, in any other manner that is authorized by the TRCP and reasonably calculated under all the circumstances to apprise the Respondent of the proceeding and to give him or her reasonable time to appear and answer. To establish service by certified mail, the return receipt must contain the Respondent’s signature.

#### **Rule 1.07 Hearing Setting and Notice**

- (a) **Original Petitions.** In any kind of case initiated by the CDC’s filing a petition or motion with BODA, the CDC may contact the BODA Clerk for the next regularly available hearing date before filing the original petition. If a hearing is set before the petition is filed, the petition must state the date, time, and place of the hearing. Except in the case of a petition to revoke probation under TRDP 2.23, the hearing date must be at least 30 days from the date that the petition is served on the Respondent.
- (b) **Expedited Settings.** If a party desires a hearing on a matter on a date earlier than the next regularly available BODA hearing date, the party may request an expedited setting in a written motion setting out the reasons for the request. Unless the parties agree otherwise, and except in the case of a petition to revoke probation under TRDP 2.23, the expedited hearing setting must be at least 30 days from the date of service of the petition, motion, or other pleading. BODA has the sole discretion to grant or deny a request for an expedited hearing date.
- (c) **Setting Notices.** BODA must notify the parties of any hearing date that is not noticed in an original petition or motion.
- (d) **Announcement Docket.** Attorneys and parties appearing before BODA must confirm their presence and present any questions regarding procedure to the BODA Clerk in the courtroom immediately prior to the time docket call is scheduled to begin. Each party with a matter on the docket must appear at the docket call to give an announcement of readiness, to give a time estimate for the

hearing, and to present any preliminary motions or matters. Immediately following the docket call, the Chair will set and announce the order of cases to be heard.

#### **Rule 1.08 Time to Answer**

The Respondent may file an answer at any time, except where expressly provided otherwise by these rules or the TRDP, or when an answer date has been set by prior order of BODA. BODA may, but is not required to, consider an answer filed the day of the hearing.

#### **Rule 1.09 Pretrial Procedure**

- (a) **Motions.**
  - (1) **Generally.** To request an order or other relief, a party must file a motion supported by sufficient cause with proof of service on all other parties. The motion must state with particularity the grounds on which it is based and set forth the relief sought. All supporting briefs, affidavits, or other documents must be served and filed with the motion. A party may file a response to a motion at any time before BODA rules on the motion or by any deadline set by BODA. Unless otherwise required by these rules or the TRDP, the form of a motion must comply with the TRCP or the TRAP.
  - (2) **For Extension of Time.** All motions for extension of time in any matter before BODA must be in writing, comply with (a)(1), and specify the following:
    - (i) if applicable, the date of notice of decision of the evidentiary panel, together with the number and style of the case;
    - (ii) if an appeal has been perfected, the date when the appeal was perfected;
    - (iii) the original deadline for filing the item in question;
    - (iv) the length of time requested for the extension;
    - (v) the number of extensions of time that have been granted previously regarding the item in question; and
    - (vi) the facts relied on to reasonably explain the need for an extension.
- (b) **Pretrial Scheduling Conference.** Any party may request a pretrial scheduling conference,

or BODA on its own motion may require a pretrial scheduling conference.

- (c) **Trial Briefs.** In any disciplinary proceeding before BODA, except with leave, all trial briefs and memoranda must be filed with the BODA Clerk no later than ten days before the day of the hearing.
- (d) **Hearing Exhibits, Witness Lists, and Exhibits Tendered for Argument.** A party may file a witness list, exhibit, or any other document to be used at a hearing or oral argument before the hearing or argument. A party must bring to the hearing an original and 12 copies of any document that was not filed at least one business day before the hearing. The original and copies must be:
  - (1) marked;
  - (2) indexed with the title or description of the item offered as an exhibit; and
  - (3) if voluminous, bound to lie flat when open and tabbed in accordance with the index.

All documents must be marked and provided to the opposing party before the hearing or argument begins.

#### **Rule 1.10 Decisions**

- (a) **Notice of Decisions.** The BODA Clerk must give notice of all decisions and opinions to the parties or their attorneys of record.
- (b) **Publication of Decisions.** BODA must report judgments or orders of public discipline:
  - (1) as required by the TRDP; and
  - (2) on its website for a period of at least ten years following the date of the disciplinary judgment or order.
- (c) **Abstracts of Classification Appeals.** BODA may, in its discretion, prepare an abstract of a classification appeal for a public reporting service.

#### **Rule 1.11 Board of Disciplinary Appeals Opinions**

- (a) BODA may render judgment in any disciplinary matter with or without written opinion. In accordance with TRDP 6.06, all written opinions of BODA are open to the public and must be made available to the public reporting services, print or electronic, for publishing. A majority of the members who participate in considering the disciplinary matter must determine if an opinion will be

written. The names of the participating members must be noted on all written opinions of BODA.

- (b) Only a BODA member who participated in the decision of a disciplinary matter may file or join in a written opinion concurring in or dissenting from the judgment of BODA. For purposes of this rule, in hearings in which evidence is taken, no member may participate in the decision unless that member was present at the hearing. In all other proceedings, no member may participate unless that member has reviewed the record. Any member of BODA may file a written opinion in connection with the denial of a hearing or rehearing en banc.
- (c) A BODA determination in an appeal from a grievance classification decision under TRDP 2.10 is not a judgment for purposes of this rule and may be issued without a written opinion.

#### **Rule 1.12 BODA Work Product and Drafts**

A document or record of any nature—regardless of its form, characteristics, or means of transmission—that is created or produced in connection with or related to BODA’s adjudicative decision-making process is not subject to disclosure or discovery. This includes documents prepared by any BODA member, BODA staff, or any other person acting on behalf of or at the direction of BODA.

#### **Rule 1.13 Record Retention**

Records of appeals from classification decisions must be retained by the BODA Clerk for a period of at least three years from the date of disposition. Records of other disciplinary matters must be retained for a period of at least five years from the date of final judgment, or for at least one year after the date a suspension or disbarment ends, whichever is later. For purposes of this rule, a record is any document, paper, letter, map, book, tape, photograph, film, recording, or other material filed with BODA, regardless of its form, characteristics, or means of transmission.

#### **Rule 1.14 Costs of Reproduction of Records**

The BODA Clerk may charge a reasonable amount for the reproduction of nonconfidential records filed with BODA. The fee must be paid in advance to the BODA Clerk.

#### **Rule 1.15 Publication of These Rules**

These rules will be published as part of the TDRPC and TRDP.

## **SECTION 2: ETHICAL CONSIDERATIONS**

### **Rule 2.01 Representing or Counseling Parties in Disciplinary Matters and Legal Malpractice Cases**

- (a) A current member of BODA must not represent a party or testify voluntarily in a disciplinary action or proceeding. Any BODA member who is subpoenaed or otherwise compelled to appear at a disciplinary action or proceeding, including at a deposition, must promptly notify the BODA Chair.
- (b) A current BODA member must not serve as an expert witness on the TDRPC.
- (c) A BODA member may represent a party in a legal malpractice case, provided that he or she is later recused in accordance with these rules from any proceeding before BODA arising out of the same facts.

### **Rule 2.02 Confidentiality**

- (a) BODA deliberations are confidential, must not be disclosed by BODA members or staff, and are not subject to disclosure or discovery.
- (b) Classification appeals, appeals from evidentiary judgments of private reprimand, appeals from an evidentiary judgment dismissing a case, interlocutory appeals or any interim proceedings from an ongoing evidentiary case, and disability cases are confidential under the TRDP. BODA must maintain all records associated with these cases as confidential, subject to disclosure only as provided in the TRDP and these rules.
- (c) If a member of BODA is subpoenaed or otherwise compelled by law to testify in any proceeding, the member must not disclose a matter that was discussed in conference in connection with a disciplinary case unless the member is required to do so by a court of competent jurisdiction.

### **Rule 2.03 Disqualification and Recusal of BODA Members**

- (a) BODA members are subject to disqualification and recusal as provided in TRCP 18b.
- (b) BODA members may, in addition to recusals under (a), voluntarily recuse themselves from any discussion and voting for any reason. The reasons that a BODA member is recused from a case are not subject to discovery.
- (c) These rules do not disqualify a lawyer who is a member of, or associated with, the law firm of

a BODA member from serving on a grievance committee or representing a party in a disciplinary proceeding or legal malpractice case. But a BODA member must recuse him- or herself from any matter in which a lawyer who is a member of, or associated with, the BODA member's firm is a party or represents a party.

### **SECTION 3: CLASSIFICATION APPEALS**

#### **Rule 3.01 Notice of Right to Appeal**

- (a) If a grievance filed by the Complainant under TRDP 2.10 is classified as an inquiry, the CDC must notify the Complainant of his or her right to appeal as set out in TRDP 2.10 or another applicable rule.
- (b) To facilitate the potential filing of an appeal of a grievance classified as an inquiry, the CDC must send the Complainant an appeal notice form, approved by BODA, with the classification disposition. The form must include the docket number of the matter; the deadline for appealing; and information for mailing, faxing, or emailing the appeal notice form to BODA. The appeal notice form must be available in English and Spanish.

#### **Rule 3.02 Record on Appeal**

BODA must only consider documents that were filed with the CDC prior to the classification decision. When a notice of appeal from a classification decision has been filed, the CDC must forward to BODA a copy of the grievance and all supporting documentation. If the appeal challenges the classification of an amended grievance, the CDC must also send BODA a copy of the initial grievance, unless it has been destroyed.

### **SECTION 4: APPEALS FROM EVIDENTIARY PANEL HEARINGS**

#### **Rule 4.01 Perfecting Appeal**

- (a) **Appellate Timetable.** The date that the evidentiary judgment is signed starts the appellate timetable under this section. To make TRDP 2.21 consistent with this requirement, the date that the judgment is signed is the "date of notice" under Rule 2.21.
- (b) **Notification of the Evidentiary Judgment.** The clerk of the evidentiary panel must notify the parties of the judgment as set out in TRDP 2.21.
  - (1) The evidentiary panel clerk must notify the Commission and the Respondent in writing of the judgment. The notice must

contain a clear statement that any appeal of the judgment must be filed with BODA within 30 days of the date that the judgment was signed. The notice must include a copy of the judgment rendered.

- (2) The evidentiary panel clerk must notify the Complainant that a judgment has been rendered and provide a copy of the judgment, unless the evidentiary panel dismissed the case or imposed a private reprimand. In the case of a dismissal or private reprimand, the evidentiary panel clerk must notify the Complainant of the decision and that the contents of the judgment are confidential. Under TRDP 2.16, no additional information regarding the contents of a judgment of dismissal or private reprimand may be disclosed to the Complainant.
- (c) **Filing Notice of Appeal.** An appeal is perfected when a written notice of appeal is filed with BODA. If a notice of appeal and any other accompanying documents are mistakenly filed with the evidentiary panel clerk, the notice is deemed to have been filed the same day with BODA, and the evidentiary panel clerk must immediately send the BODA Clerk a copy of the notice and any accompanying documents.
- (d) **Time to File.** In accordance with TRDP 2.24, the notice of appeal must be filed within 30 days after the date the judgment is signed. In the event a motion for new trial or motion to modify the judgment is timely filed with the evidentiary panel, the notice of appeal must be filed with BODA within 90 days from the date the judgment is signed.
- (e) **Extension of Time.** A motion for an extension of time to file the notice of appeal must be filed no later than 15 days after the last day allowed for filing the notice of appeal. The motion must comply with Rule 1.09.

#### **Rule 4.02 Record on Appeal**

- (a) **Contents.** The record on appeal consists of the evidentiary panel clerk's record and, where necessary to the appeal, a reporter's record of the evidentiary panel hearing.
- (b) **Stipulation as to Record.** The parties may designate parts of the clerk's record and the reporter's record to be included in the record

on appeal by written stipulation filed with the clerk of the evidentiary panel.

**(c) Responsibility for Filing Record.**

**(1) Clerk's Record.**

- (i) After receiving notice that an appeal has been filed, the clerk of the evidentiary panel is responsible for preparing, certifying, and timely filing the clerk's record.
- (ii) Unless the parties stipulate otherwise, the clerk's record on appeal must contain the items listed in TRAP 34.5(a) and any other paper on file with the evidentiary panel, including the election letter, all pleadings on which the hearing was held, the docket sheet, the evidentiary panel's charge, any findings of fact and conclusions of law, all other pleadings, the judgment or other orders appealed from, the notice of decision sent to each party, any postsubmission pleadings and briefs, and the notice of appeal.
- (iii) If the clerk of the evidentiary panel is unable for any reason to prepare and transmit the clerk's record by the due date, he or she must promptly notify BODA and the parties, explain why the clerk's record cannot be timely filed, and give the date by which he or she expects the clerk's record to be filed.

**(2) Reporter's Record.**

- (i) The court reporter for the evidentiary panel is responsible for timely filing the reporter's record if:
  - a) a notice of appeal has been filed;
  - b) a party has requested that all or part of the reporter's record be prepared; and
  - c) the party requesting all or part of the reporter's record has paid the reporter's fee or has made satisfactory arrangements with the reporter.
- (ii) If the court reporter is unable for any reason to prepare and transmit the reporter's record by the due date, he

or she must promptly notify BODA and the parties, explain the reasons why the reporter's record cannot be timely filed, and give the date by which he or she expects the reporter's record to be filed.

**(d) Preparation of Clerk's Record.**

**(1) To prepare the clerk's record, the evidentiary panel clerk must:**

- (i) gather the documents designated by the parties' written stipulation or, if no stipulation was filed, the documents required under (c)(1)(ii);
- (ii) start each document on a new page;
- (iii) include the date of filing on each document;
- (iv) arrange the documents in chronological order, either by the date of filing or the date of occurrence;
- (v) number the pages of the clerk's record in the manner required by (d)(2);
- (vi) prepare and include, after the front cover of the clerk's record, a detailed table of contents that complies with (d)(3); and
- (vii) certify the clerk's record.

**(2) The clerk must start the page numbering on the front cover of the first volume of the clerk's record and continue to number all pages consecutively—including the front and back covers, tables of contents, certification page, and separator pages, if any—until the final page of the clerk's record, without regard for the number of volumes in the clerk's record, and place each page number at the bottom of each page.**

**(3) The table of contents must:**

- (i) identify each document in the entire record (including sealed documents); the date each document was filed; and, except for sealed documents, the page on which each document begins;
- (ii) be double-spaced;

- (iii) conform to the order in which documents appear in the clerk's record, rather than in alphabetical order;
  - (iv) contain bookmarks linking each description in the table of contents (except for descriptions of sealed documents) to the page on which the document begins; and
  - (v) if the record consists of multiple volumes, indicate the page on which each volume begins.
- (e) **Electronic Filing of the Clerk's Record.** The evidentiary panel clerk must file the record electronically. When filing a clerk's record in electronic form, the evidentiary panel clerk must:
  - (1) file each computer file in text-searchable Portable Document Format (PDF);
  - (2) create electronic bookmarks to mark the first page of each document in the clerk's record;
  - (3) limit the size of each computer file to 100 MB or less, if possible; and
  - (4) directly convert, rather than scan, the record to PDF, if possible.
- (f) **Preparation of the Reporter's Record.**
  - (1) The appellant, at or before the time prescribed for perfecting the appeal, must make a written request for the reporter's record to the court reporter for the evidentiary panel. The request must designate the portion of the evidence and other proceedings to be included. A copy of the request must be filed with the evidentiary panel and BODA and must be served on the appellee. The reporter's record must be certified by the court reporter for the evidentiary panel.
  - (2) The court reporter or recorder must prepare and file the reporter's record in accordance with TRAP 34.6 and 35 and the Uniform Format Manual for Texas Reporters' Records.
  - (3) The court reporter or recorder must file the reporter's record in an electronic format by emailing the document to the email address designated by BODA for that purpose.
  - (4) The court reporter or recorder must
    - include either a scanned image of any required signature or "/s/" and name typed in the space where the signature would otherwise
- (6) In exhibit volumes, the court reporter or recorder must create bookmarks to mark the first page of each exhibit document.
- (g) **Other Requests.** At any time before the clerk's record is prepared, or within ten days after service of a copy of appellant's request for the reporter's record, any party may file a written designation requesting that additional exhibits and portions of testimony be included in the record. The request must be filed with the evidentiary panel and BODA and must be served on the other party.
- (h) **Inaccuracies or Defects.** If the clerk's record is found to be defective or inaccurate, the BODA Clerk must inform the clerk of the evidentiary panel of the defect or inaccuracy and instruct the clerk to make the correction. Any inaccuracies in the reporter's record may be corrected by agreement of the parties without the court reporter's recertification. Any dispute regarding the reporter's record that the parties are unable to resolve by agreement must be resolved by the evidentiary panel.
- (i) **Appeal from Private Reprimand.** Under TRDP 2.16, in an appeal from a judgment of private reprimand, BODA must mark the record as confidential, remove the attorney's name from the case style, and take any other steps necessary to preserve the confidentiality of the private reprimand.

#### **Rule 4.03 Time to File Record**

- (a) **Timetable.** The clerk's record and reporter's record must be filed within 60 days after the date the judgment is signed. If a motion for new trial or motion to modify the judgment is filed with the evidentiary panel, the clerk's record and the reporter's record must be filed within 120 days from the date the original judgment is signed, unless a modified judgment is signed, in which case the clerk's record and the reporter's record must be filed within 60 days of the signing of the modified judgment. Failure to file either the clerk's record or the reporter's record on time does not affect BODA's jurisdiction, but may result in BODA's exercising its discretion to dismiss the appeal, affirm the judgment appealed from,

disregard materials filed late, or apply presumptions against the appellant.

(b) **If No Record Filed.**

- (1) If the clerk's record or reporter's record has not been timely filed, the BODA Clerk must send notice to the party responsible for filing it, stating that the record is late and requesting that the record be filed within 30 days. The BODA Clerk must send a copy of this notice to all the parties and the clerk of the evidentiary panel.
- (2) If no reporter's record is filed due to appellant's fault, and if the clerk's record has been filed, BODA may, after first giving the appellant notice and a reasonable opportunity to cure, consider and decide those issues or points that do not require a reporter's record for a decision. BODA may do this if no reporter's record has been filed because:
  - (i) the appellant failed to request a reporter's record; or
  - (ii) the appellant failed to pay or make arrangements to pay the reporter's fee to prepare the reporter's record, and the appellant is not entitled to proceed without payment of costs.

(c) **Extension of Time to File the Reporter's Record.** When an extension of time is requested for filing the reporter's record, the facts relied on to reasonably explain the need for an extension must be supported by an affidavit of the court reporter. The affidavit must include the court reporter's estimate of the earliest date when the reporter's record will be available for filing.

(d) **Supplemental Record.** If anything material to either party is omitted from the clerk's record or reporter's record, BODA may, on written motion of a party or on its own motion, direct a supplemental record to be certified and transmitted by the clerk for the evidentiary panel or the court reporter for the evidentiary panel.

#### **Rule 4.04 Copies of the Record**

The record may not be withdrawn from the custody of the BODA Clerk. Any party may obtain a copy of the record or any designated part thereof by making a written request to the BODA Clerk and paying any charges for reproduction in advance.

#### **Rule 4.05 Requisites of Briefs**

- (a) **Appellant's Filing Date.** Appellant's brief must be filed within 30 days after the clerk's record or the reporter's record is filed, whichever is later.
- (b) **Appellee's Filing Date.** Appellee's brief must be filed within 30 days after the appellant's brief is filed.
- (c) **Contents.** Briefs must contain:
  - (1) a complete list of the names and addresses of all parties to the final decision and their counsel;
  - (2) a table of contents indicating the subject matter of each issue or point, or group of issues or points, with page references where the discussion of each point relied on may be found;
  - (3) an index of authorities arranged alphabetically and indicating the pages where the authorities are cited;
  - (4) a statement of the case containing a brief general statement of the nature of the cause or offense and the result;
  - (5) a statement, without argument, of the basis of BODA's jurisdiction;
  - (6) a statement of the issues presented for review or points of error on which the appeal is predicated;
  - (7) a statement of facts that is without argument, is supported by record references, and details the facts relating to the issues or points relied on in the appeal;
  - (8) the argument and authorities;
  - (9) conclusion and prayer for relief;
  - (10) a certificate of service; and
  - (11) an appendix of record excerpts pertinent to the issues presented for review.
- (d) **Length of Briefs; Contents Included and Excluded.** In calculating the length of a document, every word and every part of the document, including headings, footnotes, and quotations, must be counted except the following: caption, identity of the parties and counsel, statement regarding oral argument, table of contents, index of authorities, statement of the case, statement of issues presented, statement of the jurisdiction,



signature, proof of service, certificate of compliance, and appendix. Briefs must not exceed 15,000 words if computer-generated, and 50 pages if not, except on leave of BODA. A reply brief must not exceed 7,500 words if computer-generated, and 25 pages if not, except on leave of BODA. A computer-generated document must include a certificate by counsel or the unrepresented party stating the number of words in the document. The person who signs the certification may rely on the word count of the computer program used to prepare the document.

- (e) **Amendment or Supplementation.** BODA has discretion to grant leave to amend or supplement briefs.
- (f) **Failure of the Appellant to File a Brief.** If the appellant fails to timely file a brief, BODA may:
  - (1) dismiss the appeal for want of prosecution, unless the appellant reasonably explains the failure, and the appellee is not significantly injured by the appellant's failure to timely file a brief;
  - (2) decline to dismiss the appeal and make further orders within its discretion as it considers proper; or
  - (3) if an appellee's brief is filed, regard that brief as correctly presenting the case and affirm the evidentiary panel's judgment on that brief without examining the record.

#### **Rule 4.06 Oral Argument**

- (a) **Request.** A party desiring oral argument must note the request on the front cover of the party's brief. A party's failure to timely request oral argument waives the party's right to argue. A party who has requested argument may later withdraw the request. But even if a party has waived oral argument, BODA may direct the party to appear and argue. If oral argument is granted, the clerk will notify the parties of the time and place for submission.
- (b) **Right to Oral Argument.** A party who has filed a brief and who has timely requested oral argument may argue the case to BODA unless BODA, after examining the briefs, decides that oral argument is unnecessary for any of the following reasons:
  - (1) the appeal is frivolous;

- (2) the dispositive issue or issues have been authoritatively decided;
- (3) the facts and legal arguments are adequately presented in the briefs and record; or
- (4) the decisional process would not be significantly aided by oral argument.

- (c) **Time Allowed.** Each party will have 20 minutes to argue. BODA may, on the request of a party or on its own, extend or shorten the time allowed for oral argument. The appellant may reserve a portion of his or her allotted time for rebuttal.

#### **Rule 4.07 Decision and Judgment**

- (a) **Decision.** BODA may do any of the following:
  - (1) affirm in whole or in part the decision of the evidentiary panel;
  - (2) modify the panel's findings and affirm the findings as modified;
  - (3) reverse in whole or in part the panel's findings and render the decision that the panel should have rendered; or
  - (4) reverse the panel's findings and remand the cause for further proceedings to be conducted by:
    - (i) the panel that entered the findings; or
    - (ii) a statewide grievance committee panel appointed by BODA and composed of members selected from the state bar districts other than the district from which the appeal was taken.
- (b) **Mandate.** In every appeal, the BODA Clerk must issue a mandate in accordance with BODA's judgment and send it to the evidentiary panel and to all the parties.

#### **Rule 4.08 Appointment of Statewide Grievance Committee**

If BODA remands a cause for further proceedings before a statewide grievance committee, the BODA Chair will appoint the statewide grievance committee in accordance with TRDP 2.27. The committee must consist of six members: four attorney members and two public members randomly selected from the current pool of grievance committee members. Two alternates, consisting of one attorney and one public member, must also be selected. BODA will appoint the initial chair

who will serve until the members of the statewide grievance committee elect a chair of the committee at the first meeting. The BODA Clerk will notify the Respondent and the CDC that a committee has been appointed.

#### **Rule 4.09 Involuntary Dismissal**

Under the following circumstances and on any party's motion or on its own initiative after giving at least ten days' notice to all parties, BODA may dismiss the appeal or affirm the appealed judgment or order. Dismissal or affirmation may occur if the appeal is subject to dismissal:

- (a) for want of jurisdiction;
- (b) for want of prosecution; or
- (c) because the appellant has failed to comply with a requirement of these rules, a court order, or a notice from the clerk requiring a response or other action within a specified time.

### **SECTION 5: PETITIONS TO REVOKE PROBATION**

#### **Rule 5.01 Initiation and Service**

- (a) Before filing a motion to revoke the probation of an attorney who has been sanctioned, the CDC must contact the BODA Clerk to confirm whether the next regularly available hearing date will comply with the 30-day requirement of TRDP. The Chair may designate a three-member panel to hear the motion, if necessary, to meet the 30-day requirement of TRDP 2.23.
- (b) Upon filing the motion, the CDC must serve the Respondent with the motion and any supporting documents in accordance with TRDP 2.23, the TRCP, and these rules. The CDC must notify BODA of the date that service is obtained on the Respondent.

#### **Rule 5.02 Hearing**

Within 30 days of service of the motion on the Respondent, BODA must docket and set the matter for a hearing and notify the parties of the time and place of the hearing. On a showing of good cause by a party or on its own motion, BODA may continue the case to a future hearing date as circumstances require.

### **SECTION 6: COMPULSORY DISCIPLINE**

#### **Rule 6.01 Initiation of Proceeding**

Under TRDP 8.03, the CDC must file a petition for compulsory discipline with BODA and serve the

Respondent in accordance with the TRDP and Rule 1.06 of these rules.

#### **Rule 6.02 Interlocutory Suspension**

- (a) **Interlocutory Suspension.** In any compulsory proceeding under TRDP Part VIII in which BODA determines that the Respondent has been convicted of an Intentional Crime and that the criminal conviction is on direct appeal, BODA may suspend the Respondent's license to practice law by interlocutory order. In any compulsory case in which BODA has imposed an interlocutory order of suspension, BODA retains jurisdiction to render final judgment after the direct appeal of the criminal conviction is final. For purposes of rendering final judgment in a compulsory discipline case, the direct appeal of the criminal conviction is final when the appellate court issues its mandate.
- (b) **Criminal Conviction Affirmed.** If the criminal conviction made the basis of a compulsory interlocutory suspension is affirmed and becomes final, the CDC must file a motion for final judgment that complies with TRDP 8.05.
  - (1) If the criminal sentence is fully probated or is an order of deferred adjudication, the motion for final judgment must contain notice of a hearing date. The motion will be set on BODA's next available hearing date.
  - (2) If the criminal sentence is not fully probated:
    - (i) BODA may proceed to decide the motion without a hearing if the attorney does not file a verified denial within ten days of service of the motion; or
    - (ii) BODA may set the motion for a hearing on the next available hearing date if the attorney timely files a verified denial.
- (c) **Criminal Conviction Reversed.** If an appellate court issues a mandate reversing the criminal conviction while a Respondent is subject to an interlocutory suspension, the Respondent may file a motion to terminate the interlocutory suspension. The motion to terminate the interlocutory suspension must have certified copies of the decision and mandate of the reversing court attached. If the CDC does not file an opposition to the termination within ten

days of being served with the motion, BODA may proceed to decide the motion without a hearing or set the matter for a hearing on its own motion. If the CDC timely opposes the motion, BODA must set the motion for a hearing on its next available hearing date. An order terminating an interlocutory order of suspension does not automatically reinstate a Respondent's license.

## **SECTION 7: RECIPROCAL DISCIPLINE**

### **Rule 7.01 Initiation of Proceeding**

The Commission for Lawyer Discipline may initiate an action for reciprocal discipline by filing a petition with BODA under TRDP Part IX and these rules. The petition must request that the Respondent be disciplined in Texas and have attached to it any information concerning the disciplinary matter from the other jurisdiction, including a certified copy of the order or judgment rendered against the Respondent.

### **Rule 7.02 Order to Show Cause**

When a petition is filed, the Chair immediately issues a show cause order and a hearing notice and forwards them to the CDC, who must serve the order and notice on the Respondent. The CDC must notify BODA of the date that service is obtained.

### **Rule 7.03 Attorney's Response**

If the Respondent does not file an answer within 30 days of being served with the order and notice but thereafter appears at the hearing, BODA may, at the discretion of the Chair, receive testimony from the Respondent relating to the merits of the petition.

## **SECTION 8: DISTRICT DISABILITY COMMITTEE HEARINGS**

### **Rule 8.01 Appointment of District Disability Committee**

- (a) If the evidentiary panel of the grievance committee finds under TRDP 2.17(P)(2), or the CDC reasonably believes under TRDP 2.14(C), that a Respondent is suffering from a disability, the rules in this section will apply to the de novo proceeding before the District Disability Committee held under TRDP Part XII.
- (b) Upon receiving an evidentiary panel's finding or the CDC's referral that an attorney is believed to be suffering from a disability, the BODA Chair must appoint a District Disability Committee in compliance with TRDP 12.02 and designate a chair. BODA will reimburse District Disability Committee

members for reasonable expenses directly related to service on the District Disability Committee. The BODA Clerk must notify the CDC and the Respondent that a committee has been appointed and notify the Respondent where to locate the procedural rules governing disability proceedings.

- (c) A Respondent who has been notified that a disability referral will be or has been made to BODA may, at any time, waive in writing the appointment of the District Disability Committee or the hearing before the District Disability Committee and enter into an agreed judgment of indefinite disability suspension, provided that the Respondent is competent to waive the hearing. If the Respondent is not represented, the waiver must include a statement affirming that the Respondent has been advised of the right to appointed counsel and waives that right as well.
- (d) All pleadings, motions, briefs, or other matters to be filed with the District Disability Committee must be filed with the BODA Clerk.
- (e) Should any member of the District Disability Committee become unable to serve, the BODA Chair may appoint a substitute member.

### **Rule 8.02 Petition and Answer**

- (a) **Petition.** Upon being notified that the District Disability Committee has been appointed by BODA, the CDC must, within 20 days, file with the BODA Clerk and serve on the Respondent a copy of a petition for indefinite disability suspension. Service may be made in person or by certified mail, return receipt requested. If service is by certified mail, the return receipt with the Respondent's signature must be filed with the BODA Clerk.
- (b) **Answer.** The Respondent must, within 30 days after service of the petition for indefinite disability suspension, file an answer with the BODA Clerk and serve a copy of the answer on the CDC.
- (c) **Hearing Setting.** The BODA Clerk must set the final hearing as instructed by the chair of the District Disability Committee and send notice of the hearing to the parties.

### **Rule 8.03 Discovery**

- (a) **Limited Discovery.** The District Disability Committee may permit limited discovery. The

party seeking discovery must file with the BODA Clerk a written request that makes a clear showing of good cause and substantial need and a proposed order. If the District Disability Committee authorizes discovery in a case, it must issue a written order. The order may impose limitations or deadlines on the discovery.

- (b) **Physical or Mental Examinations.** On written motion by the Commission or on its own motion, the District Disability Committee may order the Respondent to submit to a physical or mental examination by a qualified healthcare or mental healthcare professional. Nothing in this rule limits the Respondent's right to an examination by a professional of his or her choice in addition to any exam ordered by the District Disability Committee.

(1) **Motion.** The Respondent must be given reasonable notice of the examination by written order specifying the name, address, and telephone number of the person conducting the examination.

(2) **Report.** The examining professional must file with the BODA Clerk a detailed, written report that includes the results of all tests performed and the professional's findings, diagnoses, and conclusions. The professional must send a copy of the report to the CDC and the Respondent.

- (c) **Objections.** A party must make any objection to a request for discovery within 15 days of receiving the motion by filing a written objection with the BODA Clerk. BODA may decide any objection or contest to a discovery motion.

#### **Rule 8.04 Ability to Compel Attendance**

The Respondent and the CDC may confront and cross-examine witnesses at the hearing. Compulsory process to compel the attendance of witnesses by subpoena, enforceable by an order of a district court of proper jurisdiction, is available to the Respondent and the CDC as provided in TRCP 176.

#### **Rule 8.05 Respondent's Right to Counsel**

- (a) The notice to the Respondent that a District Disability Committee has been appointed and the petition for indefinite disability suspension must state that the Respondent may request appointment of counsel by BODA to represent him or her at the disability hearing. BODA will reimburse appointed counsel for

reasonable expenses directly related to representation of the Respondent.

- (b) To receive appointed counsel under TRDP 12.02, the Respondent must file a written request with the BODA Clerk within 30 days of the date that Respondent is served with the petition for indefinite disability suspension. A late request must demonstrate good cause for the Respondent's failure to file a timely request.

#### **Rule 8.06 Hearing**

The party seeking to establish the disability must prove by a preponderance of the evidence that the Respondent is suffering from a disability as defined in the TRDP. The chair of the District Disability Committee must admit all relevant evidence that is necessary for a fair and complete hearing. The TRE are advisory but not binding on the chair.

#### **Rule 8.07 Notice of Decision**

The District Disability Committee must certify its finding regarding disability to BODA, which will issue the final judgment in the matter.

#### **Rule 8.08 Confidentiality**

All proceedings before the District Disability Committee and BODA, if necessary, are closed to the public. All matters before the District Disability Committee are confidential and are not subject to disclosure or discovery, except as allowed by the TRDP or as may be required in the event of an appeal to the Supreme Court of Texas.

### **SECTION 9: DISABILITY REINSTATEMENTS**

#### **Rule 9.01 Petition for Reinstatement**

- (a) An attorney under an indefinite disability suspension may, at any time after he or she has been suspended, file a verified petition with BODA to have the suspension terminated and to be reinstated to the practice of law. The petitioner must serve a copy of the petition on the CDC in the manner required by TRDP 12.06. The TRCP apply to a reinstatement proceeding unless they conflict with these rules.
- (b) The petition must include the information required by TRDP 12.06. If the judgment of disability suspension contained terms or conditions relating to misconduct by the petitioner prior to the suspension, the petition must affirmatively demonstrate that those terms have been complied with or explain why they have not been satisfied. The petitioner has

a duty to amend and keep current all information in the petition until the final hearing on the merits. Failure to do so may result in dismissal without notice.

- (c) Disability reinstatement proceedings before BODA are not confidential; however, BODA may make all or any part of the record of the proceeding confidential.

#### **Rule 9.02 Discovery**

The discovery period is 60 days from the date that the petition for reinstatement is filed. The BODA Clerk will set the petition for a hearing on the first date available after the close of the discovery period and must notify the parties of the time and place of the hearing. BODA may continue the hearing for good cause shown.

#### **Rule 9.03 Physical or Mental Examinations**

- (a) On written motion by the Commission or on its own, BODA may order the petitioner seeking reinstatement to submit to a physical or mental examination by a qualified healthcare or mental healthcare professional. The petitioner must be served with a copy of the motion and given at least seven days to respond. BODA may hold a hearing before ruling on the motion but is not required to do so.
- (b) The petitioner must be given reasonable notice of the examination by written order specifying the name, address, and telephone number of the person conducting the examination.
- (c) The examining professional must file a detailed, written report that includes the results of all tests performed and the professional's findings, diagnoses, and conclusions. The professional must send a copy of the report to the parties.
- (d) If the petitioner fails to submit to an examination as ordered, BODA may dismiss the petition without notice.
- (e) Nothing in this rule limits the petitioner's right to an examination by a professional of his or her choice in addition to any exam ordered by BODA.

#### **Rule 9.04 Judgment**

If, after hearing all the evidence, BODA determines that the petitioner is not eligible for reinstatement, BODA may, in its discretion, either enter an order denying the petition or direct that the petition be held in abeyance for a reasonable period of time until the

petitioner provides additional proof as directed by BODA. The judgment may include other orders necessary to protect the public and the petitioner's potential clients.

### **SECTION 10: APPEALS FROM BODA TO THE SUPREME COURT OF TEXAS**

#### **Rule 10.01 Appeals to the Supreme Court**

- (a) A final decision by BODA, except a determination that a statement constitutes an inquiry or a complaint under TRDP 2.10, may be appealed to the Supreme Court of Texas. The clerk of the Supreme Court of Texas must docket an appeal from a decision by BODA in the same manner as a petition for review without fee.
- (b) The appealing party must file the notice of appeal directly with the clerk of the Supreme Court of Texas within 14 days of receiving notice of a final determination by BODA. The record must be filed within 60 days after BODA's determination. The appealing party's brief is due 30 days after the record is filed, and the responding party's brief is due 30 days thereafter. The BODA Clerk must send the parties a notice of BODA's final decision that includes the information in this paragraph.
- (c) An appeal to the Supreme Court is governed by TRDP 7.11 and the TRAP.

BEFORE THE  
DISCIPLINARY BOARD  
OF THE  
WASHINGTON STATE BAR ASSOCIATION

In re:

ERIC LEE FREDRICKSON,

Lawyer.

Bar No. 44759

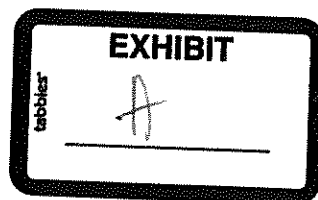
Proceeding No. 15#00020

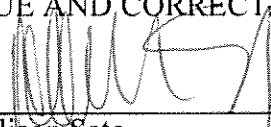
DECLARATION OF RECORDS  
CUSTODIAN

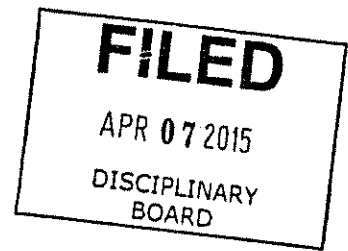
1. I am over the age of 18 years and am competent to testify if called as a witness in these proceedings. I make the statements in this declaration from personal knowledge.
2. I am the Clerk to the Disciplinary Board of the Washington State Bar Association. The Clerk to the Disciplinary Board is the custodian of the public disciplinary records of the Washington State Bar Association.
3. The attached records were filed in the above-captioned proceeding, which is now closed.
4. Attached is a true and correct copy of the Notice of Resignation in Lieu of Discipline, filed April 7, 2015 (Exhibit A) from the public discipline file of Eric L. Fredrickson.

Dated this 14<sup>th</sup> day of August, 2015.

THE UNDERSIGNED DECLARES UNDER PENALTY OF PERJURY  
UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE  
FOREGOING DECLARATION IS TRUE AND CORRECT.



  
Allison Sato  
Clerk to the Disciplinary Board



BEFORE THE  
DISCIPLINARY BOARD  
OF THE  
WASHINGTON STATE BAR ASSOCIATION

In re

**ERIC LEE FREDRICKSON,**

Lawyer.

Bar No. 44759

Proceeding No. 15#00020

NOTICE OF RESIGNATION IN LIEU OF  
DISCIPLINE

PLEASE TAKE NOTICE that Eric Lee Fredrickson, a Washington State attorney, has filed an Affidavit of Eric Lee Fredrickson Resigning from Membership in Washington State Bar Association. Pursuant to ELC 9.3, this permanent resignation is effective on the date of filing. The Affidavit was filed Friday, April 3, 2015.

A copy of the disciplinary materials (see ELC 3.5) is enclosed. This notice is provided pursuant to the Washington Rules for Enforcement of Lawyer Conduct (ELC).

DATED this 3rd day of April, 2015.

  
Paula C. Littlewood  
Executive Director

Attachments: Affidavit of Resignation

cc: ~~(X)~~ Presiding Judge, County of Pierce  
~~(X)~~ Supreme Court of Washington  
~~(X)~~ U.S. District Court, W.D. Washington  
~~(X)~~ U.S. District Court, E.D. Washington  
~~(X)~~ U.S. Court of Appeals, Ninth Circuit

NOTICE OF DISCIPLINARY ACTION  
Page 1

WASHINGTON STATE BAR ASSOCIATION  
1325 Fourth Avenue, Suite 600  
Seattle, WA 98101-2539  
(206) 727-8207



CERTIFICATE OF SERVICE,

I certify that I caused a copy of the NOTICE OF RESIGNATION in lieu of Discipline  
to be delivered to the Office of Disciplinary Counsel and to be mailed  
to ERIC FIZANICKSON at Respondent's Counsel  
at 2100 S. 38th St. Lakewood, WA 98409 by Certified/first class mail  
postage prepaid on the 7th day of April, 2015

[Signature]  
Clerk/Counselor to the Disciplinary Board



**FILED**

APR 03 2015

DISCIPLINARY  
BOARD

BEFORE THE  
DISCIPLINARY BOARD  
OF THE  
WASHINGTON STATE BAR ASSOCIATION

In re

**ERIC LEE FREDRICKSON,**  
Lawyer (Bar No. 44759).

Proceeding No. 15#00020  
ODC File Nos. 14-00505, 14-01618,  
14-02104

RESIGNATION FORM OF  
Eric Lee Fredrickson (ELC 9.3(b))

Eric Lee Fredrickson, being duly sworn, hereby attests to the following:

1. I am over the age of eighteen years and am competent. I make the statements in this affidavit from personal knowledge.

2. I was admitted to practice law in the State of Washington on May 18, 2012.

3. I have voluntarily decided to resign from the Washington State Bar Association (the Association) in Lieu of Discipline under Rule 9.3 of the Rules for Enforcement of Lawyer Conduct (ELC).

4. Attached hereto as Exhibit A is Disciplinary Counsel's statement of alleged misconduct for purposes of ELC 9.3(b). I am aware of the alleged misconduct stated in disciplinary counsel's statement but, rather than defend against the allegations, I wish to

001

1 permanently resign from membership in the Association.

2 5. I am submitting with this affidavit a Confession of Judgment in the amount of  
3 \$1,000 in favor of the Washington State Bar Association as payment for expenses and costs  
4 related to my disciplinary proceeding.

5 6. I understand that my resignation is permanent and that any future application by  
6 me for reinstatement as a member of the Association is currently barred. If the Supreme Court  
7 changes this rule or an application is otherwise permitted in the future, it will be treated as an  
8 application by one who has been disbarred for ethical misconduct, and that, if I file an  
9 application, I will not be entitled to a reconsideration or reexamination of the facts, complaints,  
10 allegations, or instances of alleged misconduct on which this resignation was based.

11 7. I agree to (a) notify all other states and jurisdictions in which I am admitted,  
12 including Texas, of this resignation in lieu of discipline; (b) seek to resign permanently from the  
13 practice of law in Texas; and (c) provide disciplinary counsel with copies of this notification  
14 and any response(s). I acknowledge that this resignation could be treated as a disbarment by all  
15 other jurisdictions.

16 8. I agree to (a) notify all other professional licensing agencies in any jurisdiction  
17 from which I have a professional license that is predicated on my admission to practice law of  
18 this resignation in lieu of discipline; (b) seek to resign permanently from any such license; and  
19 (c) provide disciplinary counsel with copies of any of these notifications and any responses.

20 9. I agree that when applying for any employment, I will disclose the resignation in  
21 lieu of discipline in response to any question regarding disciplinary action or the status of my  
22 license to practice law.

23 10. I understand that my resignation becomes effective on disciplinary counsel's

1 endorsement and filing of this document with the Clerk, and that under ELC 9.3(c) disciplinary  
2 counsel must do so promptly following receipt of this document and payment of costs and  
3 expenses.

4 11. When my resignation becomes effective, I agree to be subject to all restrictions that  
5 apply to a disbarred lawyer.

6 12. Upon filing of my resignation, I agree to comply with the same duties as a  
7 disbarred lawyer under ELC 14.1 through ELC 14.4.

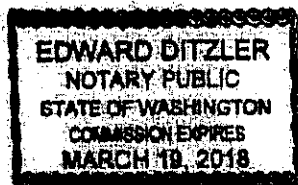
8 13. I understand that, after my resignation becomes effective, it is permanent. I will  
9 never be eligible to apply and will not be considered for admission or reinstatement to the  
10 practice of law nor will I be eligible for admission for any limited practice of law.

11 14. I certify under penalty of perjury under the laws of the State of Washington that  
12 the foregoing is true and correct.

13 4/2/2015, Fircrest, WA  
14 Date and Place

Eric Lee Fredrickson  
Eric Lee Fredrickson, Bar No. 44759

15 SUBSCRIBED AND SWORN to before me this 2 day of April, 2015.



Edward K. Ditzler  
NOTARY PUBLIC for the state of  
Washington, residing at 2424 1st Ave S  
St. W. Fircrest, WA 98466  
My commission expires: 3.19.18

20 ENDORSED BY:

Natalea Skvir  
21 Natalea Skvir, Disciplinary Counsel  
22 Bar No. 34335  
23  
24

Affidavit of Respondent  
Page 3

OFFICE OF DISCIPLINARY COUNSEL  
OF THE WASHINGTON STATE BAR ASSOCIATION  
1325 4th Avenue, Suite 600  
Seattle, WA 98101-2539  
(206) 727-8207

# **EXHIBIT A**

1  
2  
3  
4  
5  
6 BEFORE THE  
7 DISCIPLINARY BOARD  
8 OF THE  
9 WASHINGTON STATE BAR ASSOCIATION

10 In re

11 ERIC LEE FREDRICKSON,

12 Lawyer (Bar No. 44759).

ODC File Nos. 14-00505, 14-01618,  
14-02104

13 Proceeding No. IS#00070

14 STATEMENT OF ALLEGED  
15 MISCONDUCT UNDER ELC 9.3(b)(1)

16 The following constitutes a Statement of Alleged Misconduct under Rule 9.3(b)(1) of  
17 the Rules for Enforcement of Lawyer Conduct (ELC).

18 I. ADMISSION TO PRACTICE

19 1. Respondent Eric Lee Fredrickson was admitted to the practice of law in the State of  
20 Washington on May 18, 2012. He was admitted to practice in Texas in 1994, but his license to  
21 practice there is currently suspended.

22 II. ALLEGED FACTS

23 Berry matter-#14-00505

24 2. In September 2013, Beverly Berry and her husband were living separately and Ms.  
Berry planned to move to Connecticut by the end of the month.

1           3. On or about September 2, 2013, Ms. Berry contacted Respondent about representing  
2 her in connection with the sale of the marital home, where she still lived, and in dissolution  
3 proceedings that she or her husband might initiate.

4           4. Shortly thereafter, Ms. Berry signed a fee agreement for Respondent to represent her  
5 "in connection with divorce dissolution proceedings in Pierce County," and an authorization for  
6 his \$3,500 fee to be charged to her credit card.

7           5. The agreement described Respondent's fee as a "non-refundable retainer earned  
8 upon payment" that would be applied as an "offset credit" used to cover the divorce filing fee  
9 and up to the first 12 hours of legal work performed at a rate of \$250/hour, and it also provided  
10 that a monthly accounting statement might be sent to the client.

11           6. Because the language in this fee agreement did not comply with RPC 1.5(f), the fee  
12 could not be treated as Respondent's property upon receipt, but was required by RPC 1.15A(c)  
13 to be placed in a client trust account and withdrawn only after reasonable notice to the client  
14 through a billing statement or other document.

15           7. Respondent did not place Ms. Berry's fee in a trust account, but used it for his own  
16 purposes.

17           8. On September 4, 2013, Respondent notified counsel for Mr. Berry that he  
18 represented Ms. Berry and wished to discuss issues, the most pressing of which was reaching an  
19 agreement to lower the asking price of the marital home to facilitate its sale.

20           9. For the remainder of that month, Respondent exchanged e-mails and phone calls  
21 with Ms. Berry and her husband's counsel concerning the house's asking price and several other  
22 issues.

23           10. Neither Mr. Berry nor Ms. Berry filed for dissolution and Respondent's client file

1 contains no materials relating to dissolution proceedings.

2 11. Ms. Berry left Washington at the end of September 2013 and, in December 2013, she  
3 sent Respondent her new address, asked him to close her account and refund the unused portion  
4 of her retainer.

5 12. Respondent did not respond.

6 13. Ms. Berry wrote to Respondent again on February 12, 2014 and, on February 19,  
7 2014, he responded, "Refunds are sent by check and will go out this month on the 25<sup>th</sup>."

8 14. On March 21, 2014, Ms. Berry faxed Respondent a request for a bill and the unused  
9 portion of her retainer, and filed a grievance against Respondent.

10 15. Ms. Berry reiterated her request for a billing and refund on May 8, 2014, but has  
11 received neither.

12 16. Replying to Ms. Berry's grievance, Respondent informed ODC that Ms. Berry was  
13 owed nothing, and he had not sent her any invoices.

14 17. Respondent testified that he thought the money from Ms. Berry was his and he had  
15 no funds to return to her.

16 18. Respondent asserted that he kept no check register or client ledgers for his trust  
17 account at the time.

18 **Chaney matter-#14-01618**

19 19. Ralenda Chaney (formerly Ralenda Cooper) was married to Christopher Cooper and  
20 they had one daughter, GAC.

21 20. Ms. Chaney and Mr. Cooper's marriage was dissolved in 2006 in Lincoln County,  
22 Washington, Lincoln County Superior Court No. 06-3-01364-1.

23 21. Under the parenting plan entered by the court, GAC was to reside with Ms. Chaney,

1 with the exception of "the second half of vacation each year," when she was to reside with Mr.  
2 Cooper.

3 22. In 2007, Ms. Chaney married her current husband, Mr. Chaney, a member of the  
4 U.S. military.

5 23. In 2011, the Chaney's moved to Texas with GAC due to Mr. Chaney's duty  
6 assignment, and later Mr. Cooper also moved to Texas.

7 24. In June 2014, the military reassigned Mr. Chaney to Alaska and the Chaney's drove  
8 to Alaska, while GAC stayed with Mr. Cooper for the remainder of summer vacation.

9 25. As the Chaney's were in Washington State visiting family en route to Alaska, Mr.  
10 Cooper filed to register the Lincoln County, Washington dissolution documents in a county  
11 court in Belton, Texas.

12 26. While she was in Tacoma, Mr. Cooper had Ms. Chaney served with notice that  
13 indicated the Lincoln County papers were being registered in Texas.

14 27. Ms. Chaney searched the Internet for a divorce lawyer who practiced in both Texas  
15 and Washington State, and she located the Respondent, who was then practicing in Tacoma.

16 28. Ms. Chaney met with Respondent at his Tacoma office on July 15, 2014, seeking his  
17 advice regarding what, if anything, she should do about the papers she had been served.

18 29. Ms. Chaney's primary concern was to ensure that she retained primary custody of  
19 GAC as specified in the parenting plan that had been entered in 2006.

20 30. Without executing a written fee agreement, Respondent charged Ms. Chaney what  
21 he considered to be a flat fee of \$1,000, which she paid by credit card on or about July 16, 2014.

22 31. Because there was no written agreement regarding Respondent's "flat fee" in terms  
23 such as those described in RPC 1.5(f)(2), Respondent was required to deposit Ms. Chaney's fee



1 in trust and only withdraw it after establishing his entitlement to do so, by providing a billing  
2 statement or other written notice to his client.

3 32. Although Respondent testified he placed this \$1,000 fee into his trust account, he  
4 never provided Ms. Chaney any document establishing he had earned the money before he  
5 withdrew and expended it for his own purposes.

6 33. Respondent informed Ms. Chaney that Mr. Cooper was simply registering the  
7 dissolution papers in Texas, which permitted him to keep GAC with him until the end of  
8 summer vacation.

9 34. As the Chaney's resumed driving to Alaska, Ms. Chaney and Respondent stayed in  
10 contact by e-mail and continued their correspondence after the Chaney's arrived in Alaska in  
11 August.

12 35. In late July 2014, Ms. Chaney informed Respondent that Mr. Cooper had contacted  
13 her and suggested she sign temporary orders giving him custody of GAC for a year, but she did  
14 not do so.

15 36. Without executing a written fee agreement, Respondent requested an additional  
16 \$3,500 in legal fees, which Ms. Chaney also paid by credit card on or about August 2, 2014.

17 37. Because there was still no written agreement regarding Respondent's "flat fee" in  
18 terms such as those described in RPC 1.5(f)(2), Respondent was required to deposit Ms.  
19 Chaney's fee in trust and only withdraw it after establishing his entitlement to do so, by  
20 providing a billing statement or other written notice to his client.

21 38. Respondent used Ms. Chaney's \$3,500 for his own purposes without first  
22 establishing his entitlement to do so, through a billing or other written statement.

23 39. On August 4, 2014, Mr. Cooper obtained an order from a district court in Bell

1 County, Texas, that designated Bell County as GAC's primary residence, and Mr. Cooper as her  
2 custodial parent.

3 40. Ms. Chaney had received no prior notice or service of papers regarding this  
4 proceeding.

5 41. In or around mid-August 2014, Mr. Cooper indicated to Ms. Chaney that he would  
6 not be returning GAC to her, and she related this information to Respondent.

7 42. Respondent told Ms. Chaney he would seek to have the custody issue litigated in  
8 Lincoln County, Washington, he had had drawn up preliminary papers for filing, and he was in  
9 contact with the judge there to schedule a hearing.

10 43. Respondent did not draft or file any papers with the Lincoln County, Washington  
11 courts.

12 44. Respondent went to Texas in mid-August to attend to legal matters for other clients,  
13 but, while he was there, he performed no research and took no action concerning the issue of  
14 GAC's custody.

15 45. Respondent's communication with Ms. Chaney became sporadic.

16 46. In early September 2014, Ms. Chaney forwarded to Respondent copies of the orders  
17 that Mr. Cooper had obtained in Texas and recently mailed to her, as well as information that  
18 GAC was missing school in Texas.

19 47. The Texas orders gave Mr. Cooper custody of GAC until June 15, 2015.

20 48. On or about September 1, 2014, Respondent's license to practice law in Texas was  
21 suspended for nonpayment of his licensing fees, thus precluding him from taking any action on  
22 Ms. Chaney's behalf in courts there.

23 49. Respondent did not inform Ms. Chaney of the suspension.

1 50. Because Respondent had taken no action on Ms. Chaney's behalf, she notified him  
2 on September 9, 2014 that she was terminating the representation.

3 51. Respondent provided Ms. Chaney no billing statements or accounting to establish his  
4 entitlement to the \$4,500 she had paid him.

5 52. On September 10, 2014, Ms. Chaney also filed a grievance with ODC.

6 53. Disciplinary Counsel sent Respondent a copy of Ms. Chaney's grievance and twice  
7 sent him written requests for a response, but he did not comply.

8 54. Respondent did not refund any of the funds he had received from Ms. Chaney.

9 55. Ms. Chaney contested the credit card charges she had incurred for Respondent's fees  
10 but, when her bank contacted Respondent for an explanation and documentation of the charges,  
11 he did not respond.

12 **Park matter-#14-02104**

13 56. On or about April 18, 2014, Jacqueline Park and her father met with Respondent to  
14 discuss legal representation in the dissolution of her marriage to Jonathan Park.

15 57. Respondent had Ms. Park sign a fee agreement under which he would charge a non-  
16 refundable "earned retainer" of \$3,000, and a \$500 advance deposit for estimated filing fees,  
17 service fees and costs.

18 58. The retainer was to cover Respondent's work on the case through one mediation  
19 session or, if mediation was not required, an initial interim hearing, after which Respondent  
20 would charge \$250 an hour for all work thereafter.

21 59. Because the fee agreement did not include language that RPC 1.5(f)(1) or (f)(2)  
22 requires for a fee to constitute a "retainer" or a flat fee that is the lawyer's property upon receipt,  
23 Respondent was required to place the entire \$3,500 into a trust account and withdraw the funds

1 only after costs were incurred or the fees were earned and he established his entitlement to them  
2 through a billing statement or other document furnished to the client.

3 60. Ms. Park's father paid the entire \$3,500 fee.

4 61. Respondent used the funds for his own benefit.

5 62. Respondent did not establish his entitlement to any of these funds before he used  
6 them for his own purposes.

7 63. On May 28, 2014, Respondent filed Ms. Park's Petition for Dissolution and related  
8 documents in King County Superior Court, No. 14-3-03465-6, and the court set a case schedule.

9 64. Ms. Park last heard from Respondent in late May or early June, 2014.

10 65. At that time, Ms. Park spoke with Respondent about an acute need for funds and also  
11 voiced concerns about the children's well-being while in Mr. Parks' care, and she asked  
12 Respondent to address both concerns at the next court date.

13 66. Respondent apparently filed a proof of service on June 20, 2014.

14 67. After filing the proof of service, Respondent took no further action in the case and  
15 ceased all communication with Ms. Park.

16 68. For months after her last communication with Respondent, Ms. Park continued  
17 trying to contact him weekly by telephone, e-mail, text and Facebook, leaving him messages, to  
18 no avail.

19 69. On October 16, 2014, the judge in the case ordered Respondent to appear in court on  
20 December 22, 2014 due to his failure to follow the court's case schedule.

21 70. Respondent did not appear as ordered.

22 71. On November 22, 2014, Ms. Park filed a grievance against Respondent.

23 72. Disciplinary Counsel sent Respondent a copy of Ms. Parks' grievance and twice sent

1 him written requests for a response, but he did not reply.

2 73. Ms. Park hired other counsel, who wrote a letter to Respondent about filing a Notice  
3 of Withdrawal and Substitution, but he did not respond.

4 74. On December 22, 2014, successor counsel filed a notice of appearance and a set of  
5 amended pleadings.

6 75. On January 13, 2015, successor counsel filed a motion for default, which was  
7 granted on January 29, 2015.

8 76. On February 4, 2015, the court entered findings of fact, conclusions of law, a  
9 parenting plan and a dissolution decree ex parte.

10 77. Respondent provided no accounting to Ms. Park nor did he return any portion of his  
11 \$3,000 fee.

### 12 III. ALLEGED MISCONDUCT

13 78. By failing to place Ms. Berry's \$3,500 advance fee into his trust account,  
14 Respondent violated RPC 1.15A(c).

15 79. By keeping Ms. Berry's entire advance fee without having performed the work  
16 contemplated by the fee agreement, Respondent violated RPC 1.5(a).

17 80. By using Ms. Berry's advance fee for his own purposes without entitlement to it,  
18 Respondent violated RPC 1.15A(b).

19 81. By failing to maintain a check register for his trust account and client ledgers,  
20 Respondent violated RPC 1.15A(h)(2) and RPC 1.15B(a).

21 82. By failing to respond to Ms. Berry's requests for an accounting and a refund of the  
22 fee she had paid, Respondent violated RPC 1.4(a)(4) and RPC 1.15A(e).

23 83. By failing, upon termination of the representation, to refund any portion of Ms.

1 Berry's advanced fee that had not been earned, Respondent violated RPC 1.5(a) and RPC  
2 1.16(d).

3 84. By failing to respond to written questions and produce documents as requested by  
4 Disciplinary Counsel during the investigation of Ms. Berry's grievance, Respondent failed to  
5 fulfill the duties imposed by ELC 1.5 and ELC 5.3(f) and (g), thereby violating RPC 8.4(f).

6 85. By failing to take any legal action, either in Washington State or in Texas, to  
7 accomplish Ms. Chaney's objective of retaining primary custody of GAC, Respondent violated  
8 RPC 1.1 and RPC 1.3.

9 86. By keeping all of Ms. Chaney's advance fees without having performed the work  
10 contemplated, Respondent violated RPC 1.5(a).

11 87. By using Ms. Chaney's advance fees for his own purposes without entitlement to  
12 them, Respondent violated RPC 1.15A(b).

13 88. By failing to respond to Ms. Chaney's communications and keep her reasonably  
14 informed about the status of her matter, and by failing to advise her that the suspension of his  
15 license to practice law in Texas would preclude him from taking any legal action there on her  
16 behalf, Respondent violated RPC 1.4.

17 89. By advising Ms. Chaney that he would litigate the issue of GAC's custody in the  
18 Lincoln County, Washington court and then failing to take any such action, Respondent violated  
19 RPC 8.4(c).

20 90. By failing to refund any unearned portion of Ms. Chaney's advanced fees to her  
21 upon termination of his services, Respondent violated RPC 1.16(d).

22 91. By failing to respond to Ms. Chaney's grievance after receiving two written requests  
23 from Disciplinary Counsel that he do so, Respondent failed to fulfill the duties imposed by ELC

1 1.5 and ELC 5.3(f) and (g), thereby violating RPC 8.4(l).

2 92. By agreeing to represent Ms. Park in her dissolution proceedings and then failing to  
3 take any action beyond filing a petition and effecting service on the defendant, Respondent  
4 violated RPC 1.1, RPC 1.3, and RPC 3.2.

5 93. By keeping all of Ms. Park's advanced fee without performing the work  
6 contemplated by the fee agreement, Respondent violated RPC 1.5(a).

7 94. By using Ms. Park's funds for his own purposes without entitlement to them,  
8 Respondent violated RPC 1.15A(b).

9 95. By failing to respond to Ms. Park's communications over a protracted period of time,  
10 Respondent violated RPC 1.4.

11 96. By failing to adhere to the case schedule the court had established for Ms. Park's  
12 case and failing to appear in court when ordered to do so, Respondent violated RPC 3.4(c) and  
13 RPC 8.4(d).

14 97. By failing to respond to communications from Ms. Park's successor counsel and  
15 failing to refund unearned portions of his advance fee, Respondent violated RPC 1.16(d).

16 98. By failing to respond to Ms. Park's grievance after receiving two written requests  
17 from Disciplinary Counsel that he do so, Respondent failed to fulfill the duties imposed by ELC  
18 1.5 and ELC 5.3(f) and (g), thereby violating RPC 8.4(l).

19  
20 DATED this 3<sup>rd</sup> day of April, 2015.

21  
22 Natalea Skvir  
Natalea Skvir, Bar No. 34335  
Disciplinary Counsel