

No. 58401

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FILED

August 14, 2017

Board of Disciplinary Appeals

**Before the Board of Disciplinary Appeals  
Appointed by  
The Supreme Court of Texas**

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**CHRISTOPHER L. GRAHAM,  
APPELLANT**

**V.**

**COMMISSION FOR LAWYER DISCIPLINE,  
APPELLEE**

---

*On Appeal from the Evidentiary Panel  
For the State Bar of Texas District 6-2  
No. 201306674*

---

**BRIEF OF APPELLEE  
COMMISSION FOR LAWYER DISCIPLINE**

---

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**BRIEF OF APPELLEE  
COMMISSION FOR LAWYER DISCIPLINE**

---

TO THE HONORABLE BOARD OF DISCIPLINARY APPEALS:

Appellee, the Commission for Lawyer Discipline, submits this brief in response to the brief filed by Appellant, Christopher L. Graham. For clarity, this brief refers to Appellant as “Graham” and Appellee as “the Commission.” References to the record are labeled CR (clerk’s record), RR (reporter’s record), Pet. Ex. (Petitioner’s exhibit to reporter’s record), Resp. Ex. (Respondent’s exhibit to

reporter's record), and App. (appendix to brief). References to rules refer to the Texas Disciplinary Rules of Professional Conduct unless otherwise noted.



STATEMENT OF THE CASE

*Type of Proceeding:* Attorney Discipline

*Petitioner/Appellee:* The Commission for Lawyer Discipline

*Respondent/Appellant:* Christopher L. Graham

*Evidentiary Panel:* 6-2

*Judgment:* Judgment of Public Reprimand

*Violations found (Texas  
Disciplinary Rules of  
Professional Conduct):*

**Rule 1.15(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 other counsel, surrendering papers and property to which the client is entitled and refunding any advance payments of fee that has not been earned. The lawyer may retain papers relating to the client to the extent permitted by other law only if such retention will not prejudice the client in the subject matter of the representation.

### STATEMENT OF THE ISSUES

1. There is more than a scintilla of evidence that Graham failed to refund unearned fees.
2. Graham's settlement with Thomas does not bar discipline.
3. There is more than a scintilla of evidence that Graham's "fee dispute procedure" was bad faith refusal to refund unearned fees.
4. There is more than a scintilla of evidence that the client received no valuable service.
5. In the sanctions phase of trial, admission of evidence of prior discipline was not an abuse of discretion; error, if any, was not harmful.

## STATEMENT OF FACTS

Nancy Thomas paid Christopher Graham to represent her son, Christopher Raspberry, in a criminal case in federal court. (RR 18.) Thomas provided information about a hearing date and paid Graham \$900.00 by money gram. (RR 17, 39.) Graham accepted the money and agreed to represent Raspberry. (RR 18, 39, 50.)

Thereafter, Graham missed the hearing, and did not file an appearance. (RR 18-19, 39-40.) Graham failed to file any motions, and never went to court. (RR 18-19, 39-40.) Graham did not meet with Raspberry, and failed to provide Raspberry legal services. (RR 18-19, 41, 57.)

Graham later denied that Raspberry was his client. (RR 56.) Graham argued at trial that he took the money as a consultation fee. (RR 53.) Thomas denied that Graham told her the money was for consultation. (RR 31-33.) Graham did not document why he took the money – he had no written fee agreement and failed to provide a receipt for services. (RR 40, 53-54, 67-68.)

In view of Graham's absence from the criminal case, a court-appointed attorney took responsibility to negotiate a plea agreement for Raspberry. (RR 39, 44.) Thomas asked Graham to return the unearned fee. (RR 58.) Graham initially told Thomas he would refund the money – but in his own words – he “backtracked on that.” (RR 43, 58.)

Thomas filed the grievance in 2014. (RR 21-22.) In response, Graham sued Thomas for more money, seeking recovery of the sum he claimed he should have been paid if he had handled all pretrial services, up through and including a plea deal. (RR 49, 63-64, Pet. Ex. 1.) Graham did not provide any of those services, despite having accepted the advance fee. (RR 18-19, 56.) Graham ended his lawsuit by paying Thomas \$1,400.00 – a sum paid not for refund, but as payment to Thomas not to pursue the grievance. (RR 77, Resp. Ex. 2.)

The Commission brought this disciplinary action, alleging Graham violated Rule 1.15(d). (CR 33, App. Tab 1.) After a full evidentiary hearing, the Evidentiary Panel found misconduct and ordered the sanction of public reprimand. (CR 667, App. Tab 2.)

### SUMMARY OF THE ARGUMENT

Graham was paid to represent Raspberry. Graham failed to follow through, and failed to provide legal service to the client. Graham later refused to return the unearned fee. The contention he engaged in “fee dispute procedure” is subterfuge. In reality, Graham agreed to refund the fee, “backtracked,” and then sued Thomas for more money. Graham ultimately paid Thomas – not for a refund – but to persuade Thomas not to pursue the grievance. Graham’s settlement does not shield him from discipline, and the record fully supports the sanction of public reprimand.

## ARGUMENT

### **I. The record supports the panel's decision that Graham violated Rule 1.15(d).**

The Commission produced evidence that Graham was hired to represent Thomas's son, received payment in advance, failed to follow through, and failed to refund unearned fees. The Commission alleged Graham violated Disciplinary Rule of Professional Conduct 1.15(d), which provides: "Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as ... *refunding any advance payments of fee that has not been earned.*" TEX. DISCIPLINARY RULES PROF'L CONDUCT R. 1.15(d) (emphasis added). The Evidentiary Panel found misconduct. The panel's findings meet the test of substantial evidence review.

#### **A. Standard of review.**

In disciplinary cases, the substantial evidence standard of review applies. TEX. GOV'T CODE ANN. § 81.072(b)(7) (West 2015) (State Bar Act); *Comm'n for Lawyer Discipline v. Schaefer*, 364 S.W.3d 831, 835 (Tex. 2012). Here, the panel's judgment sets forth Findings of Fact and Conclusions of Law. BODA reviews legal conclusions *de novo*; BODA reviews findings of fact under a substantial evidence standard. *Schultz v. Comm'n for Lawyer Discipline*, No. 55649, 2015 WL 9855916 (Tex. Bd. Discip. App. Dec. 17, 2015).

The substantial evidence standard focuses on whether there is *any* reasonable basis in the record for the administrative body's findings. *City of El Paso v. Pub. Util. Comm'n of Tex.*, 883 S.W.2d 179, 185 (Tex. 1994). Anything more than a scintilla of evidence is sufficient to support a finding. *Tex. Dep't of Pub. Safety v. Cuellar*, 58 S.W.3d 781, 783 (Tex.App.—San Antonio 2001, no pet.). The ultimate question is not whether a finding is correct, but only whether there is some reasonable basis for it. *City of El Paso*, 883 S.W.2d at 185. The reviewing tribunal may not substitute its judgment for that of the administrative body and must consider only the record upon which the decision is based. *R.R. Comm'n of Tex. v. Torch Operating Co.*, 912 S.W.2d 790, 792 (Tex. 1995); *Tex. State Bd. of Dental Exam'rs v. Sizemore*, 759 S.W.2d 114, 116 (Tex. 1988). BODA presumes the panel's findings, inferences, conclusions, and decisions are supported by substantial evidence, and Graham bears the burden to prove otherwise. *Schultz v. Comm'n for Lawyer Discipline*, No. 55649, 2015 WL 9855916.

**B. The record provides reasonable basis for the finding that Graham failed to refund unearned fees.**

The record demonstrates that Graham failed to refund unearned fees. The evidence shows:

1. Nancy Thomas paid Christopher Graham to represent her son, Christopher Raspberry, in a criminal case in federal court. (RR 18.)
2. Thomas paid Graham \$900.00 by money gram, and provided Graham information about a pending hearing date. (RR 17, 39.)

Graham accepted the money and agreed to represent Raspberry. (RR 18, 39, 50.)

3. Graham missed the hearing and failed to file any motions. (RR 18, 39-40.) Graham did not file an appearance, and never went to court. (RR 18, 56.) Graham did not meet with Raspberry, and failed to provide Raspberry legal services. (RR 18-19, 41.)
4. Graham later denied that Raspberry was his client. (RR 56.) Graham argued at trial that he took the money as a consultation fee. (RR 53.) Thomas denied that the money was for consultation. (RR 31-33.)
5. Graham did not document why he took the money – he had no written fee agreement and failed to provide a receipt for services. (RR 40, 53-54, 67-68.)
6. With no appearance by Graham in the criminal case, Raspberry was given a court-appointed attorney, who reached a plea deal. (RR 39, 44.)
7. Thomas asked Graham for a refund. (RR 58.) Graham initially agreed – but in his own words – he “backtracked on that.” (RR 43, 58.)
8. Thomas filed the grievance in 2014. (RR 21-22.) In response, Graham sued Thomas for breach of contract, alleging Thomas should pay \$2,500.00 for the full array of pretrial services that might have occurred, if Graham had not abandoned his role as counsel. (RR 49, 63-64, Pet. Ex. 1.)
9. In the petition to initiate his civil suit, Graham states that Raspberry consulted with him – this admission further establishes that Graham was retained to be Raspberry’s lawyer. (Pet. Ex. 1 at 2.)
10. Graham settled his lawsuit by paying Thomas \$1,400.00 – the payment was not a true refund; Graham paid Thomas not to pursue the grievance. (RR 77, Resp. Ex. 2.)

In contrast to this record proof, Graham summed up his defense in the following exchange:



\*\*\*

MR. GRAHAM: This situation had to do with a mistake as far as what the fee represents. In other words, I say it is a consultation fee, and she is claiming it is something else.

PANEL CHAIR: Whose mistake was it?

MR. GRAHAM: The mistake is on Mrs. Thomas.

\*\*\*

The principal failure of Graham's defense is that he had no written fee agreement – Graham's testimony merely contradicts the testimony of Thomas. The Evidentiary Panel had sole authority to determine which testimony to credit, and a reviewing tribunal cannot reverse the credibility determination. *Maritime Overseas Corp. v. Ellis*, 971 S.W.2d 402, 407 (Tex. 1998). The panel had a reasonable basis to find misconduct. The record passes the test of substantial evidence.

## **II. Graham's settlement does not bar discipline.**

Graham asserts there was no misconduct because he settled with Thomas. The settlement was not a refund – Graham concedes he paid Thomas \$1,400.00 not to pursue the grievance. (RR 77.) In any case, the payment does not shield Graham from discipline. Compromise between the Complainant and the Respondent – and Graham's payment of money to Thomas – do not justify discontinuance of the Commission's complaint. TEX. DISCIPLINARY RULES PROF'L CONDUCT R. 15.04.

### **III. Graham “backtracked” on the refund and wrongfully sued Thomas for unearned fees.**

Graham next contends there was no misconduct because he “followed the dispute resolution process in Tex. R. Disp. Conduct 1.14(d).”<sup>1</sup> Rule 1.14 pertains to “Safekeeping Property.” Subsection (c) provides that a lawyer is to keep separate any fund in which both the lawyer and another person claim interest. Funds in trust are not to be disbursed until there is an accounting and severance of interests. In the event of dispute, the disputed portion is to be kept separate until the dispute is resolved and the undisputed portion distributed appropriately.

Graham did none of the above. There is no evidence of trust accounting, no written fee agreement, and no invoice for services. On the other hand, there is more than a scintilla of evidence that Graham did not pursue a bona fide dispute under Rule 1.14(c).

Here, Graham accepted advance payment to defend Thomas’s son, and then did nothing for Raspberry, the accused. Raspberry’s plea deal was negotiated through a court-appointed attorney, and Thomas rightfully asked Graham for a refund. According to Graham’s testimony, he told Thomas he would refund the fee, then “backtracked on that.” (RR 58.) Instead of returning the money, Graham took the inexplicable step of suing Thomas for more money. (Pet. Ex. 1.) Graham

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<sup>1</sup> Rule 1.14 has no subsection (d); the issue presumably refers to subsection (c).

ultimately settled his lawsuit by paying Thomas \$1,400.00 – not for a refund – but to persuade Thomas not to pursue the grievance. (RR 77, Resp. Ex. 2.) None of this comports with Safekeeping Property under Rule 1.14(c). There is more than a scintilla of evidence that Graham engaged in deliberate, bad faith refusal to refund an unearned fee.

**IV. Quantum meruit does not apply because the client received no valuable service.**

Graham next argues he was entitled to keep the money pursuant to the doctrine of quantum meruit. Quantum meruit allows a plaintiff to recover the reasonable value of its goods or services the defendant used, accepted, or enjoyed, when the defendant had notice that the plaintiff expected to be paid for the goods or services. *Bortt Expl. Co. v. Chevron, Inc.*, 787 S.W.2d 942, 944 (Tex. 1990). Graham claims he has that right under *Shamoun & Norman, LLP v. Hill*, 483 S.W.3d 767 (Tex. App. – Dallas 2016, pet. granted).

In *Shamoun & Norman*, a law firm sought to recover under quantum meruit, based on an oral contingency fee contract. The case involved a network of commercial litigation and family business disputes. The court of appeals reasoned the law firm could recover if it provided “sufficient evidence to support the value of

the reasonable services provided.” *Shamoun & Norman, LLP v. Hill*, 483 S.W.3d at 780.<sup>2</sup>

Here, unlike *Shamoun & Norman*, the underlying matter involves the duty to defend against a criminal charge in federal court. Assuming without deciding that criminal defense affords quantum meruit, Graham failed to offer evidence to support value of reasonable services to the client, Raspberry. Graham loosely asserts he afforded value to Raspberry’s mother, Thomas. He reasons that the value bestowed was consultation. Thomas testified Graham never addressed consultation fees with her. (RR 32.) In point of fact, Thomas never set out to find a “consultant” – Thomas hired Graham to be the lawyer to defend her son against criminal charges in federal court. (RR 18-19.) Graham’s absence from the criminal case left nothing to use, accept, or enjoy. There is more than a scintilla of evidence that Graham failed to provide legal service of value to anyone.

## **V. The record supports the sanction of public reprimand.**

### **A. Standard of Review.**

The trial court’s determination of sanction is reviewed under the abuse of discretion standard. *State Bar of Texas v. Kilpatrick*, 874 S.W.2d 656 (Tex. 1994).

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<sup>2</sup> The Texas Supreme Court granted petition for review in *Shamoun & Norman* on June 16, 2017.

Likewise, the admission of evidence is reviewed for abuse of discretion. *Helena Chemical Co. v. Wilkins*, 47 S.W.3d 486, 499 (Tex. 2001).

A trial court abuses its discretion when its ruling is arbitrary, unreasonable, or without reference to any guiding rules or legal principles. *K-Mart Corp. v. Honeycutt*, 24 S.W.3d 357, 360 (Tex. 2000) (per curiam). Before reversing a judgment based on error in the admission or exclusion of evidence, an appellate court must conclude that the error was calculated to and probably did cause the rendition of an improper judgment. TEX. R. APP. P. 44.1; *Gee v. Liberty Mut. Fire Ins. Co.*, 765 S.W.2d 394, 396 (Tex. 1989). If testimony is erroneously admitted, its admission will not lead to reversal of the judgment if it is merely cumulative of other evidence. *Gee*, 765 S.W.2d at 396-97. Further, the erroneous admission of testimony is not reversible error unless the testimony is controlling on a material issue. *Id.*

**B. Admission of evidence of prior discipline was not an abuse of discretion; error, if any, was not harmful.**

Graham argues that the panel chair erroneously admitted evidence regarding his disciplinary history. The disciplinary rules explicitly authorize the admission of evidence regarding a respondent attorney's disciplinary record. *See* TEX. RULES DISCIPLINARY P. R. 2.18 ("the Respondent's disciplinary record, including any private reprimands, is admissible on the appropriate Sanction to be imposed"). In

light of the clear language of Rule 2.18, it was proper to consider Graham's disciplinary history.

Graham contends a prior Judgment of Fully Probated Suspension should have been excluded because the judgment was not yet final. The probated suspension order was signed on October 19, 2016; the present case was heard November 3, 2016. The probated suspension order was in Graham's record and came first. Additionally, even if the judgment of probated suspension was in the plenary period on the on the day of trial, Graham made no showing after trial that the judgment of probated suspension was ever modified or cancelled.

Further, even if the panel chair erred in admitting the evidence, there was no reversible error. Graham's burden on appeal is to prove error was calculated to and probably did cause the rendition of an improper judgment. TEX. R. APP. P. 44.1; *Gee v. Liberty Mut. Fire Ins. Co.*, 765 S.W.2d 394, 396 (Tex. 1989). Nothing in the order of probated suspension drove the outcome of the case.

Apart from the probated suspension, the Commission proved Graham had other prior discipline of private reprimand. (Pet. Ex. 2.) The panel also considered:

- The nature and degree of Graham's misconduct;
- The seriousness and circumstances of Graham's misconduct;
- The loss or damage to Raspberry;
- The damage to the profession;

- Assurance that other clients would be insulated from similar misconduct;
- The profit to Graham;
- The avoidance of repetition;
- The deterrent effect on others;
- The maintenance of respect for the profession; and
- The conduct of Graham during the course of the proceeding, including for example, the retaliatory lawsuit he brought against Thomas, the Complainant.

TEX. RULES DISCIPLINARY P. R. 2.18.

Evidence of the probated suspension order was merely cumulative and did not control a material issue. As a result, error, if any, is not reversible error. *Gee*, 765 S.W.2d at 396-97.

In sum, the record makes clear that Graham accepted a fee but did not perform the service. He initially agreed to refund the unearned fee, but then contrived a lawsuit to withhold it. Graham's lawsuit did not end well for him, and the settlement he paid does not bar discipline. The Evidentiary Panel was well within its discretion to order public reprimand.

**CONCLUSION AND PRAYER**

For these reasons, the Commission prays that the Board affirm the judgment of the District 6-2 Evidentiary Panel of the State Bar of Texas.

RESPECTFULLY SUBMITTED,

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/s/ Dean A. Schaffer  
DEAN A. SCHAFER  
STATE BAR CARD NO. 17723500  
ATTORNEY FOR APPELLEE



### **CERTIFICATE OF COMPLIANCE**

Pursuant to the Board of Disciplinary Appeals Internal Procedural Rules, the foregoing brief on the merits contains approximately 2,655 words (total for all sections of brief that are required to be counted), which is less than the total words permitted by the Board's Internal Procedural Rules. Counsel relies on the word count of the computer program used to prepare this petition.

/s/ Dean A. Schaffer  
DEAN A. SCHAFFER

### **CERTIFICATE OF SERVICE**

This is to certify that the above and foregoing brief of Appellee, the Commission For Lawyer Discipline has been served on Appellant, Christopher L. Graham, by email to [clgraham@lgi-law.com](mailto:clgraham@lgi-law.com) on the 14<sup>th</sup> day of August, 2017.

/s/ Dean A. Schaffer  
DEAN A. SCHAFFER  
ASSISTANT DISCIPLINARY COUNSEL  
STATE BAR OF TEXAS

No. 58401

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COMMISSION FOR LAWYER DISCIPLINE**

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APPENDIX TO BRIEF OF APPELLEE  
COMMISSION FOR LAWYER DISCIPLINE

---

TO THE HONORABLE BOARD OF DISCIPLINARY APPEALS:

The Commission for Lawyer Discipline attaches the following documents in support of the foregoing brief:

**TAB 1:** Evidentiary Petition and Request for Disclosure (CR 33-36)

**TAB 2:** Judgment of Public Reprimand (CR 667-671)

## **Tab 1**

JUL - 8 2014

EVIDENTIARY CLERK-STATE BAR OF TEXAS  
DALLAS/FORT WORTH

NO. 201306674

COMMISSION FOR LAWYER  
DISCIPLINE§  
§  
§  
§  
§  
§

EVIDENTIARY PANEL

v.

OF DISTRICT 7

CHRISTOPHER L. GRAHAM

GRIEVANCE COMMITTEE

**EVIDENTIARY PETITION AND REQUEST FOR DISCLOSURE**

COMES NOW, the Commission for Lawyer Discipline ("Petitioner"), and would respectfully show the following:

**I. Parties**

The Commission for Lawyer Discipline is a committee of the State Bar of Texas. Respondent, **CHRISTOPHER L. GRAHAM** ("Respondent"), State Bar No. **24047549**, is an attorney licensed to practice law in the State of Texas. Respondent may be served with process at 8551 Boat Club Road #121 #159, Fort Worth, Texas 76179.

**II. Jurisdiction & Venue**

This Disciplinary Proceeding is brought pursuant to the State Bar Act, Tex. Gov't. Code Ann. Sec. 81.001, et seq., the Texas Disciplinary Rules of Professional Conduct, and the Texas Rules of Disciplinary Procedure. The complaint that forms the basis of this Disciplinary Proceeding was filed by Nancy Thomas on or after January 1, 2004. Venue is proper in Tarrant County, Texas, pursuant to Rule 2.11(B) of the Texas Rules of Disciplinary Procedure, because Tarrant County is the county of Respondent's principal place of practice.

**III. Professional Misconduct**

The acts and omissions of Respondent, as hereinafter alleged, constitute professional misconduct.

#### **IV. Factual Allegations**

On or about October 2, 2013, Respondent was hired to represent Complainant's son, Chris Raspberry, ("Raspberry") in a criminal law matter. Respondent was paid \$900.00 for the representation. Thereafter, Respondent failed to provide legal services and failed to adequately represent Raspberry. Respondent's legal representation of Raspberry was terminated on or about the end of October 2013. Complainant, Nancy Thomas, made a demand for refund of unearned fees. Upon termination of representation, Respondent initially agreed to refund a portion of the fees but then failed to provide any refund. Respondent has failed to refund the fees that Respondent has not earned.

#### **V. Disciplinary Rules of Professional Conduct**

The conduct described above is in violation of the following Texas Disciplinary Rules of Professional Conduct:

- 1.15(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 other counsel, surrendering papers and property to which the client is entitled and refunding any advance payments of fee that has not been earned. The lawyer may retain papers relating to the client to the extent permitted by other law only if such retention will not prejudice the client in the subject matter of the representation.

#### **VI. Complaint**

The complaint that forms the basis of the cause of action hereinabove set forth was brought to the attention of the Office of the Chief Disciplinary Counsel of the State Bar of Texas by Nancy Thomas filing a complaint on or about November 14, 2013.

#### **VII. Prayer**

**WHEREFORE, PREMISES CONSIDERED,** Petitioner prays that a judgment of professional misconduct be entered against Respondent and that this Evidentiary Panel impose

an appropriate sanction against Respondent as warranted by the facts. Petitioner further prays to recover all reasonable and necessary attorney's fees and all costs associated with this proceeding. Petitioner further prays for such other and additional relief, general or specific, at law or in equity, to which it may show itself entitled.

#### **VIII. Request for Disclosure**

Pursuant to Rule 2.17(D) of the Texas Rules of Disciplinary Procedure, Petitioner requests that Respondent disclose, within fifty (50) days of the service of this request, the following information or material:


1. The correct names of the parties to the Disciplinary Proceeding.
2. In general, the factual bases of Respondent's claims or defenses.
3. The name, address, and telephone number of persons having knowledge of relevant facts, and a brief statement of each identified person's connection with this disciplinary matter.
4. For any testifying expert, the expert's name, address, and telephone number; subject matter on which the expert will testify, and the general substance of the expert's mental impressions and opinions and a brief summary of the basis of them.
5. Any witness statements.

Respectfully submitted,

**Linda A. Acevedo**  
Chief Disciplinary Counsel

**Laurie Guerra**  
Assistant Disciplinary Counsel

Office of the Chief Disciplinary Counsel  
State Bar of Texas  
The Princeton  
14651 Dallas Parkway, Suite 925  
Dallas, Texas 75254  
(972) 383-2900 Telephone  
(972) 383-2935 Facsimile



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**Laurie Guerra**  
State Bar No. 24050696

ATTORNEYS FOR PETITIONER



## **Tab 2**

**BEFORE THE DISTRICT 6 GRIEVANCE COMMITTEE  
EVIDENTIARY PANEL 6-2  
STATE BAR OF TEXAS**

**COMMISSION FOR LAWYER  
DISCIPLINE,  
Petitioner**

**V.**

**CHRISTOPHER L. GRAHAM,  
Respondent**

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**CASE NO. 201306674**

**JUDGMENT OF PUBLIC REPRIMAND**

**Parties and Appearance**

On November 3, 2016, came to be heard the above styled and numbered cause. Petitioner, Commission for Lawyer Discipline (Petitioner), appeared by and through its attorney of record and announced ready. Respondent, **CHRISTOPHER L. GRAHAM** (Respondent), Texas Bar Number **24047549**, appeared in person and announced ready.

**Jurisdiction and Venue**

The Evidentiary Panel 6-2, having been duly appointed to hear this complaint by the chair of the Grievance Committee for State Bar of Texas District 6, finds that it has jurisdiction over the parties and the subject matter of this action and that venue is proper.

**Professional Misconduct**

The Evidentiary Panel, having considered all of the pleadings, evidence, stipulations, and argument, finds Respondent has committed Professional Misconduct as defined by Rule 1.06(W) of the Texas Rules of Disciplinary Procedure.

**Findings of Fact**

The Evidentiary Panel, having considered the pleadings, evidence and argument of counsel, makes the following findings of fact and conclusions of law:

1. Respondent is an attorney licensed to practice law in Texas and is a member of the State Bar of Texas.
2. Respondent resides in and maintains his principal place of practice in Dallas County, Texas.
3. On or about October 2, 2013, Respondent was hired to represent Chris Rasberry (Rasberry), the son of Complainant, Nancy Thomas, in a criminal law matter. Upon termination of the legal representation of Rasberry, Respondent failed to refund unearned fees.
4. The Chief Disciplinary Counsel of the State Bar of Texas has incurred reasonable attorney's fees and direct expenses associated with this Disciplinary Proceeding in the amount of Five Thousand Seven Hundred Ninety-Seven Dollars and Seventy-Five Cents (\$5,797.75).

#### **Conclusions of Law**

The Evidentiary Panel concludes that, based on foregoing findings of fact, the following Texas Disciplinary Rule of Professional Conduct has been violated: Rule 1.15(d).

#### **Sanction**

The Evidentiary Panel, having found Respondent has committed Professional Misconduct, heard and considered additional evidence regarding the appropriate sanction to be imposed against Respondent. After hearing all evidence and argument and after having considered the factors in Rule 2.18 of the Texas Rule of Disciplinary Procedure, the Evidentiary Panel finds that the proper discipline of the Respondent for each act of Professional Misconduct is a Public Reprimand.

Accordingly, it is **ORDERED, ADJUDGED and DECREED** that a Public Reprimand be imposed against Respondent in accordance with the Texas Rules of Disciplinary Procedure. The Evidentiary Panel finds that the sanction imposed against Respondent is the appropriate sanction for each of the violations set forth in this judgment.

### **Judgment Terms**

It is further **ORDERED** that for the duration of this judgment, Respondent shall be under the following terms and conditions:

1. Respondent shall not violate any term of this judgment.
2. Respondent shall not engage in professional misconduct as defined by Rule 1.06(W) of the Texas Rules of Disciplinary Procedure.
3. Respondent shall not violate any state or federal criminal statutes.
4. Respondent shall keep State Bar of Texas membership department notified of current mailing, residence and business addresses and telephone numbers.
5. Respondent shall comply with Minimum Continuing Legal Education requirements.
6. Respondent shall comply with Interest on Lawyers Trust Account (IOLTA) requirements.
7. Respondent shall promptly respond to any request for information from the Chief Disciplinary Counsel in connection with any investigation of any allegations of professional misconduct.
8. After visiting the website for Texas Access to Justice Foundation ([www.teajf.org](http://www.teajf.org)) and reading "A Lawyer's Guide to Client Trust Accounts," Respondent shall submit an affidavit certifying completion of the task. Said affidavit shall be submitted to the State Bar of Texas, Chief Disciplinary Counsel's Office, P. O. Box 12487, Austin, TX 78711-2487 (1414 Colorado Street, Austin, TX 78701) no later than January 2, 2018.
9. Respondent shall have all client contracts be in writing and in compliance with the Texas Disciplinary Rules of Professional Conduct. Further, Respondent shall include as an attachment to each client contract a copy of The Texas Lawyer's Creed.
10. Respondent shall make contact with the Chief Disciplinary Counsel's Office's Compliance Monitor at 877-953-5535, ext. 1334 and Special Programs Coordinator at 877-953-5535, ext. 1323, not later than seven (7) days after receipt of a copy of this judgment to coordinate Respondent's compliance.

### **Attorney's Fees and Expenses**

It is further **ORDERED** Respondent shall pay all reasonable and necessary attorney's fees and direct expenses to the State Bar of Texas in the amount of Five Thousand Seven Hundred Ninety-Seven Dollars and Seventy-Five Cents (\$5,797.75). The payment of attorney's fees and expenses shall be made in twelve (12) monthly installments, with the first eleven (11) payments in the amount of Four Hundred Eighty-Three Dollars and Fourteen Cents (\$483.14) and the twelfth (12) and final payment in the amount of Four Hundred Eighty-Three Dollars and Twenty-One Cents (\$483.21). Each payment shall be due and payable on or before the second (2<sup>nd</sup>) day of each month, beginning January 2, 2018 and ending January 2, 2019. Respondent shall pay the attorney's fees and direct expenses by certified or cashier's check or money order made payable to the State Bar of Texas and delivered to the State Bar of Texas, Chief Disciplinary Counsel's Office, P.O. Box 12487, Austin, TX 78711-2487 (1414 Colorado Street, Austin, TX 78701).

It is further **ORDERED** that all amounts ordered herein are due to the misconduct of Respondent, are assessed as a part of the sanction in accordance with Rule 1.06(Z) of the Texas Rules of Disciplinary Procedure. Any amount not paid shall accrue interest at the maximum legal rate per annum until paid and the State Bar of Texas shall have all writs and other post-judgment remedies against Respondent in order to collect all unpaid amounts.

### **Publication**

This reprimand shall be made a matter of record and appropriately published in accordance with the Texas Rules of Disciplinary Procedure.

Other Relief

All requested relief not expressly granted herein is expressly DENIED.

SIGNED this 9<sup>th</sup> day of November, 2016.

EVIDENTIARY PANEL 6-2  
DISTRICT NO. 6  
STATE BAR OF TEXAS



Majed Nachawati  
District 6, Panel 6-2, Presiding Member