



THE BOARD *of* DISCIPLINARY APPEALS
APPOINTED BY THE SUPREME COURT *of* TEXAS
REPORT 2017

THE BOARD of DISCIPLINARY APPEALS
APPOINTED BY THE SUPREME COURT OF TEXAS

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Jeanne C. "Cezy" Collins, *El Paso*

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Roland K. Johnson, *Fort Worth*

Kathy Kinser, *Dallas*

John J. "Mike" McKetta III, *Austin*

Mike Mills, *McAllen*

Deborah Pullum, *Tyler*

George A. Taylor, *San Antonio*

SUPREME COURT OF TEXAS LIAISON

The Honorable Justice Debra H. Lehrmann

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Gayle Vickers, *Deputy Director/Counsel*

Jackie L. Truitt, *Executive Assistant*

P.O. Box 12426
Austin TX 78711
(512) 427-1578
txboda.org
info@txboda.org



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

From the Chair
October, 2017



On behalf of the Board of Disciplinary Appeals, I am pleased to submit the Annual Report for Fiscal Year June 1, 2016 through May 31, 2017 to the Supreme Court of Texas and to the State Bar Board of Directors, pursuant to Texas Rules of Disciplinary Procedure 7.08B. The report recognizes BODA's members and describes its decisions, jurisdiction, cases filed and decided, hearings, and operations.

During the past year, BODA

- Disposed of 1,400 matters
- Issued one written opinion
- Decided 36 cases resulting in final judgments of discipline or disability
- Met en banc for conferences and hearings quarterly in Austin
- Met by telephone conference 52 times for hearings in three member panels
- Reversed 151 grievances dismissals and returned for just cause investigation

BODA continues to keep its dockets current. All appeals from BODA decisions to the Supreme Court decided in 2016–2017 were affirmed.

On behalf of all members we are grateful that the Supreme Court has appointed us to serve on BODA. In terms of self-regulation of our profession, the work of BODA is indispensable. The twelve BODA members have collectively several hundred years of experience in the practice of law. Each member is dedicated to their service on BODA, as is the BODA staff which provides us with invaluable support.

A handwritten signature in black ink that reads "David N. Kitner". The signature is written in a cursive, flowing style.

David N. Kitner
Chair of the Board of Disciplinary Appeals, 2016–2017



*Back row: David González, Kathy Kinser, Mike McKetta, Deborah Pullum, Roland Johnson, Wendy Humphrey, Mike Mills
Front row: Bob Black, George Taylor, David Kitner, Ray Echevarria, Cezy Collins*

Members 2016–2017

David N. Kitner, chair, is a partner in Strasburger & Price, LLP in Dallas, Texas. He also serves as his firm's general counsel. He received a B.A. from Rice University and graduated with honors from the University of Texas School of Law in 1973 where he was a member of the *Texas Law Review* and a member of the Order of the Coif. He served on the District 6A grievance committee of the State Bar of Texas from 2003–2009. He has been a fellow in the American College of Trial Lawyers since 1999 and served as chair of its Texas State Committee from 2012–2014. He is a life fellow of the Texas Bar Foundation and a senior life fellow of the Dallas Bar Foundation. He was appointed in September of 2012 and reappointed in 2015.

Ramon L. Echevarria II, vice chair, is counsel for the ExxonMobil law department, environmental and safety section in Houston. He joined the litigation section of ExxonMobil in 2000 and has represented the company regarding upstream environmental and well as compliance litigation issues. He is a 1993 graduate of the Texas Tech University School of Law and a graduate of the United States Military Academy, West Point, New York. Mr. Echevarria was appointed in September 2012 and appointed to a second term in 2015.

Members 2016–2017

Robert A. Black was appointed to BODA in September 2013 and reappointed to a second term in 2016. He is managing shareholder of Mehaffy Weber, P.C., where he practices mediation, arbitration, and civil litigation. He served as president of the State Bar of Texas from 2011–2012, chair of its Board of Directors, and has served on many other committees and subcommittees. Black is a past president of the Jefferson County Bar Association. He is a fellow of the Texas Bar Foundation (trustee) and a fellow of the American Bar Foundation. Black earned a B.A. from the University of Texas at El Paso and a J.D. *summa cum laude* from Texas Tech University School of Law.

Jeanne C. “Cezy” Collins serves as general counsel of the El Paso Independent School District. Ms. Collins is a former president of the National Conference of Women’s Bar Associations, Texas Women Lawyers, and the El Paso Women’s Bar Association, and a former State Bar of Texas director. In 2002–2003, she was voted Outstanding Lawyer of El Paso by the El Paso Young Lawyers Association. She received her B.A. from the University of Southern California in 1986 and her J.D. from the University of Arizona College of Law in 1991. She was appointed to BODA in 2013 and reappointed in 2016.

David M. González is a partner in Sumpter & González, L.L.P. in Austin. He is board certified in criminal law and serves as an adjunct professor in the Trial Advocacy Program at the University of Texas School of Law. He sits on the board of directors of the Capital Area Private Defender Service, serves on the executive committee of the Lloyd Lochridge Inn of Court, and is legislative counsel to the Texas Criminal Defense Lawyers Association. He has served as a special prosecutor for Travis County, Kendall County, Panola County, and the city of Cibolo. He is a member of the disciplinary committee of the U.S. District Court for the Western District of Texas and previously served on the District 9 grievance committee of the State Bar of Texas from 2012–2015. Mr. Gonzalez is a graduate of Dartmouth College and Stanford Law School. He was appointed to the Board in 2015.

Wendy-Adele Humphrey is an Associate Professor of Law, the interim Associate Dean of Admissions, and the Associate Dean for Educational Effectiveness at the Texas Tech University School of Law. She is also a director of the Texas Tech University Pre-Law Academy. Dean Humphrey served on the ACTL/TYLA National Trial Competition committee for 13 years and the TYLA Moot Court Competition committee for 10 years, and she is currently the chair of the national ABA Negotiation Competition committee. Dean Humphrey is a member of the TTU President’s Gender Equity Council, the president-elect of the Lubbock Area Bar Association, and the president of Law Focused Education, Inc. She also serves on the executive committee for the Legal Writing, Research, and Reasoning section of the AALS and is a co-chair for the Legal Writing Institute’s Pre-Law Outreach committee. Dean Humphrey has received numerous awards, including the TYLA President’s Award of Merit for five consecutive years and the university-wide Spencer A. Wells Creativity in Teaching Award. She earned her M.Ed. and J.D. from Texas Tech University. She was appointed to the Board in 2015.

Roland K. Johnson was appointed to BODA in September 2013 and appointed to a second term in 2016, and is a shareholder in Harris, Finley & Bogle, P. C., Fort Worth. He served as president of the State Bar of Texas from 2009–2010, president of the Tarrant County Bar Association, president of the Eldon B. Mahon Inn of Court, and as chair of the State Bar Professionalism Committee. He is a sustaining life fellow of the Texas Bar Foundation and is Board Certified in Civil Trial Law. He is a member of the American Law Institute and the American Board of Trial Advocates, and is a fellow in the College of Commercial Arbitrators. He earned his undergraduate and J.D. degrees from Baylor University with honors.

Members 2016–2017

Katherine A. Kinser is a partner in Kinser & Bates, LLP in Dallas. She graduated from the University of Arkansas at Little Rock and from Southern Methodist University School of Law. She holds a board certification in family law from the Texas Board of Legal Specialization. She is a fellow in the American Academy of Matrimonial Lawyers, a lifetime member of the American Academy of Matrimonial Lawyers Foundation, a sustaining life member of the Texas Family Law Foundation and a life fellow of the Texas Bar Foundation. She is a member of the Texas Academy of Family Law Specialists and received its Sam Emison Award in 2014. She served as president of the Academy from 2002 until 2003. She was appointed to the Board in 2014 and reappointed in 2017.

John J. “Mike” McKetta III is of counsel to Graves, Dougherty, Hearon & Moody, P.C. in Austin. He graduated from Harvard University and the University of Texas School of Law with high honors and was a member of the Order of the Coif and Chancellors. He is a member of the Lloyd Lochridge Inn of Court and served as president 2013–2014. He represents the Fifth Circuit on the ABA Standing Committee on the Federal Judiciary. He is a member of the American Law Institute and currently serves as chair of the Investment Committee. He chaired the Advertising Review Committee of the State Bar of Texas 2010–2014 and served as a member of the Disciplinary Committee of the U.S. District Court for the Western District of Texas. He is a fellow of the International Academy of Trial Lawyers, and the American College of Trial Lawyers. He is a fellow of the Texas Bar Foundation and was the recipient of organization’s Ronald D. Secrest Outstanding Trial Lawyer Award in 2010. He was appointed to the Board in 2014 and reappointed in 2017.

Mike Mills is a partner in Atlas, Hall & Rodriguez, L.L.P. in McAllen. He received his law degree from the University of Texas School of Law in 1976, and is a member of Phi Delta Phi honorary legal fraternity. He is a fellow, American College of Trial Lawyers; advocate, American Board of Trial Advocates; president, Hidalgo County Bar Association, 1990–1991; director, Hidalgo County Bar Association, 1988–1990; chairman, Hidalgo County Bar Association Pro Bono Project 1988–1995; State Bar of Texas District 15-B grievance committee, 1989–1995; vice chair, 1994–1995; director, Texas Association of Defense Counsel, 1994–1996; executive committee, University of Texas Law Alumni Association, 1995–2000; director, University of Texas Law Alumni Association, 1992–1995; Political Action Committee of the Texas Association of Defense Counsel, 2005–present; Texas Rio Grande Valley Legal Aid Advisory Council, 2005–present; member, American Bar Association. Mr. Mills was appointed in 2015.

Deborah G. Pullum is the City Attorney for the City of Tyler, Texas. She graduated from the College of William and Mary, Marshall-Wythe School of Law in 1996 after receiving a Bachelor of Science with honors from Florida A&M University. She received merit certification in municipal law from the Texas City Attorneys Association and was formally an Assistant District Attorney of Smith County, Texas. She is a member of the Smith County Bar Association and served as President of the SCBA from 2016 to 2017. She is a fellow of the Texas Bar Foundation and a member of the College of the State Bar of Texas. She served on the State Bar of Texas District 2 Grievance Committee from 2006 until 2012. She was appointed to the Board in 2014 and was reappointed in 2017.

George A. Taylor is principal of George A. Taylor, Attorney at Law in San Antonio. He graduated from St. Mary’s University School of Law in 1974. Taylor is a former first assistant district attorney of Victoria, Texas and was a director of the Texas Criminal Defense Lawyers’ Association for 2010–2016. He is also a member of the San Antonio Criminal Defense Lawyers’ Association, serving as president from 2007 until 2008. He is a fellow of the Texas Bar Foundation. He was appointed in September 2012 and appointed to a second term in 2015.

BODA Basics

The Board of Disciplinary Appeals is a tribunal of 12 attorneys appointed by the Supreme Court of Texas to serve up to two three-year terms. Since 2012, the Honorable Debra H. Lehrmann has served as the Supreme Court of Texas liaison to the Board. Members represent diverse geographic and law practice areas, from small firm to large multi-state firm, corporate counsel, family law practitioners, criminal defense lawyers, corporate and business litigators, complex commercial litigators, a city attorney, employment, and education lawyers.

The Board operates under the State Bar Act, the Texas Rules of Disciplinary Procedure, the Board of Disciplinary Procedure Internal Operating Rules, and case law. The Board has appellate and original jurisdiction and disposed of 1,398 matters in the last fiscal year consistently maintaining a current docket. The Board meets en banc quarterly and confers weekly in three-person panels by telephone conference with additional special settings as needed.

BODA's staff is composed of Christine E. McKeeman, executive director and general counsel, who is in charge of all operations, advises the Board, serves as the official records custodian and works with related groups in the disciplinary system and in other states; Gayle Vickers, deputy director and counsel, who assists with all operations and has primary responsibility for the disability docket, is the clerk for District Disability Committees and appeals from BODA to the Texas Supreme Court, produces the annual report, responds to inquiries from the public and attorneys, and designs and maintains the BODA website; and Jackie Truitt, executive assistant, who acts as office manager and is responsible for classification panels, case intake and management, docket control, hearings coordination, and requests for information and assistance from the public and attorneys. Each is a long term employee. Combined, the staff has 64 years of experience with BODA.

BODA maintains a website at txboda.org. In addition to all published opinions, the website provides information about members, jurisdiction, and operations. Copies of the annual report from 2005 to the present are available. The current hearings docket is posted and all recent and archived decisions since 2002 are fully searchable. Videos of en banc hearings and oral arguments are available for most public cases on the website and through the Board's YouTube channel. The



*Justice Debra H. Lehrmann
BODA Liaison*

website also has copies of the *Texas Disciplinary Rules of Professional Conduct*, the *Texas Rules of Disciplinary Procedure*, and the *BODA Internal Procedural Rules*.



*David Kitner, Chief Justice Nathan Hecht,
Justice Debra H. Lehrmann, and Ramon
Echevarria II*

BODA Jurisdiction

BODA has jurisdiction to decide six types of disciplinary matters, Tex. Gov't Code Sections 81.072-81.0751; TRDP Part VIII. "BODA shall have and exercise all the powers of either a trial court or an appellate court, as the case may be, in hearing and determining disciplinary proceedings." *In re State Bar of Texas*, 113 S.W.3d 730, 734 (Tex. 2003)(citing BODA IPR 1.02). With the exception of appeals from classification screening decisions, which are final, BODA decisions are appealable directly to the Supreme Court of Texas. BODA may decide any case other than classification appeals, with or without written opinion.

Original

Compulsory Discipline

BODA has exclusive original jurisdiction to hear petitions for compulsory discipline filed by the State Bar of Texas Chief Disciplinary Counsel's Office on behalf of the Commission for Lawyer Discipline when an attorney has been convicted of, or placed on deferred adjudication for, an "Intentional Crime." TRDP, Part VIII. Compulsory discipline results in suspension of the attorney's license for the term of the criminal sentence or disbarment.

Reciprocal Discipline

BODA has exclusive original jurisdiction to hear petitions for reciprocal discipline filed by the State Bar of Texas Chief Disciplinary Counsel's Office on behalf of the Commission for Lawyer Discipline. Texas attorneys who are licensed in another jurisdiction are subject to identical discipline in Texas following a disciplinary sanction in the second jurisdiction. TRDP, Part IX.

Revocations of Probation

BODA has exclusive original jurisdiction for the full term of a probated suspension imposed by a State Bar grievance committee to hear petitions to revoke the probation if the attorney violates a term or condition of probation. TRDP, Part II. If revoked, the attorney is suspended for the full term without credit for time served on probation.

Disability Cases and Reinstatements

BODA has exclusive original jurisdiction to suspend indefinitely an attorney who is suffering from a disability: any physical, mental, or emotional condition, with or without a substantive rule violation, which results in the attorney's inability to practice law or otherwise carry out his or her professional responsibilities to clients, the courts, the profession, or the public. A district disability committee appointed by BODA holds a hearing to determine whether the attorney is disabled and certifies its finding to BODA. BODA has concurrent jurisdiction with district courts to hear petitions for reinstatement to terminate an indefinite disability suspension. TRDP, Part XII.

BODA Jurisdiction

Appellate

Appeals from Evidentiary Judgments

Either the Commission for Lawyer Discipline or an attorney against whom discipline has been imposed by a State Bar grievance committee may appeal any judgment from an evidentiary proceeding, including dismissal, findings of professional misconduct, or sanction imposed. Appeals to BODA from evidentiary judgments proceed similarly to civil appeals. TRDP, Part II. BODA reviews evidentiary questions under substantial evidence and questions of law de novo. BODA may decide an evidentiary appeal with or without oral argument.

Grievance Screening and Classification Appeals

The State Bar of Texas Chief Disciplinary Counsel's Office screens every writing received that alleges professional misconduct to determine whether the writing describes conduct which, if true, would violate the Texas Disciplinary Rules of Professional Conduct. If the CDC determines that the writing does not allege misconduct and dismisses the grievance, the complainant can appeal that decision to BODA. TRDP, Part II.

BODA provides a one-page form in English and Spanish that CDC includes with the notice letter to complainants explaining that the grievance was dismissed. The complainant only has to sign the form and send it to BODA by email, regular mail, or fax within 30 days of his or her receipt of the notice.

BODA sends notice to the complainant and the attorney that an appeal was filed and requests a copy of the original grievance from the CDC and, if it is a second filing, the prior grievance. BODA considers only the information available to the CDC at screening and does not review additional information sent to CDC or BODA. If a complainant sends new information to BODA, the documents are returned and the complainant is informed that he or she may instead refile the grievance with the CDC to have the additional information considered.

If the attorney against whom a grievance is filed is disbarred, has resigned, or is deceased, BODA notifies the complainant that the disciplinary system no longer has jurisdiction.

Once BODA receives the original grievance from CDC, on average 16 days after the request, the grievance is assigned to a three-member panel for decision. The panel and a staff attorney discuss the grievance by telephone conference, on average 16 days after the original grievance is received from the CDC. Members vote to either affirm or grant the appeal (resulting in an upgrade of the writing from a grievance to a complaint). The granting of an appeal requires a finding that the complaint alleges one or more violations of a specific Texas Disciplinary Rule of Professional Conduct. During 2016–2017, BODA reversed approximately 11 percent of the appeals. BODA members can refer any appeal for consideration by the entire board en banc.

BODA notifies the complainant, the respondent attorney, and the CDC of its decision. If the appeal is granted, the notice includes the specific TRDPC alleged to have been violated and the complaint returns to the CDC for investigation as to just cause.

Once the dismissal is either affirmed or reversed, the appeal is complete and BODA closes its file.





25 years



BODA Case Statistics

June 1, 2016–May 31, 2017

BODA Cases

Total cases filed with BODA		1,435
Appeals from dismissed grievances	1,404	
Other cases filed	31	
Total BODA dispositions		1,398

Hearings and Conferences

En banc conferences and hearing dates		4
Special hearings		2
Weekly panel telephone conferences		52
Average panel docket	27 classification appeals	

Total BODA Dispositions

	Filed	Decided
Appeals from grievances dismissed	1,404	1,362
Appeals from evidentiary judgments	8	8
Compulsory discipline	8	13
Reciprocal discipline	9	9
Petitions to revoke probation	2	2
Disabilities	3	3
Reinstatement after disability suspension	1	0
Mandamus	0	0

Appeals from BODA decisions to Supreme Court of Texas

All BODA decisions appealed to Supreme Court during FY2016-2017 were affirmed

Total BODA decisions appealed		4
Appeals from evidentiary judgments		2
Compulsory discipline		2
Total Supreme Court dispositions		3
Evidentiary appeals		3

*Source: Office of the Chief Disciplinary Counsel, State Bar of Texas

**Source: State Bar of Texas Accounting Office

BODA Case Statistics

June 1, 2016–May 31, 2017

Classification Appeals to BODA

Grievances filed and screened by CDC*	7,368
Upgraded for investigation by CDC	2,125 (29%)
Dismissed by CDC	5,243 (71%)

Dismissed grievances appealed	1,404/5,243 (27%)
Appeals from classification dismissals decided	1,362
Appeals granted by BODA	151/1,362 (11%)

Classification Appeal Timeline

Average time to receive file from CDC	16 days
Average time to decide classification appeal after file received by BODA	16 days
Total time from filing to decision	32 days

Appeals granted by BODA: results after investigation by CDC*

Disciplinary judgment	7
Pending in litigation	6
Referred to Grievance Referral	1
Pending just cause determination	18
No just cause found – pending dismissal by Summary Disposition	30
Dismissed	155
At Summary Disposition	151
By Commission	3
Attorney deceased	1

Budget

Total annual budget FY 2016–2017	\$586,756
Actual funds expended**	\$563,120
Variance: favorable	4%

Dispositions

June 1, 2016–May 31, 2017

Compulsory Discipline

BODA has exclusive original jurisdiction to hear petitions for compulsory discipline filed by the State Bar of Texas Chief Disciplinary Counsel's Office on behalf of the Commission for Lawyer Discipline when an attorney has been convicted of, or placed on deferred adjudication for, an "Intentional Crime" as defined in TRDP 1.06T: that is, any Serious Crime that requires proof of knowledge or intent as an essential element or any crime involving misapplication of money or other property held as a fiduciary. Serious Crimes include barratry, any felony involving moral turpitude, any misdemeanor involving theft, embezzlement, or fraudulent or reckless misappropriation of money or other property, or any attempt, conspiracy or solicitation of another to commit any of these. TRDP, Part VIII.

If an attorney convicted of an Intentional Crime has been sentenced to prison, BODA must disbar the attorney. If the attorney's criminal sentence is fully probated, BODA has discretion to disbar the attorney or suspend for the term of the criminal probation. If an attorney convicted of an Intentional Crime has appealed the conviction and the appeal is pending at the time the Chief Disciplinary Counsel files the compulsory action, BODA will place the attorney on interlocutory suspension pending the outcome of the appeal. BODA retains jurisdiction to enter final judgment when the appeal of the conviction is final.

During the last fiscal year, BODA decided the following 13 petitions for compulsory discipline and motions for final judgment in compulsory cases. Additional case details are available at txboda.org.

Carolyn Barnes, State Bar of Texas card 01761550, was sentenced to three years in prison for aggravated assault with a deadly weapon. She was suspended from the practice of law during the appeal of her criminal conviction which was affirmed. Ms. Barnes is disbarred. Appealed to the Supreme Court of Texas, case 17-0392; appeal pending. BODA case 52457.

Jessica Lynn Siegel, State Bar of Texas card 24013509, was convicted of tampering with a governmental record. The Board signed an order of interlocutory suspension pending her appeal. The conviction was overturned and she was acquitted. The interlocutory order of suspension was terminated. BODA case 53875.

Jacques Evan Trevino, State Bar of Texas card 00797571, pled no contest to misapplication of fiduciary property and was placed on community supervision for ten years by an order of deferred adjudication. The Supreme Court of Texas accepted Mr. Trevino's resignation in lieu of discipline. BODA case 57320.

Martin Cantu Jr., State Bar of Texas card 03767440, was found guilty of conspiracy to commit securities fraud and securities fraud, aiding and abetting and sentenced to 35 months in prison. Although cited and noticed, Mr. Cantu did not answer or appear. He is disbarred. BODA case 57698.

Alfred L. Isassi, State Bar of Texas card 24010124, was convicted of tampering with a governmental record and sentenced to two years in a state jail facility, probated for four years. The sentence was amended and reduced to two years in a state jail facility, probated for one year. The sentence was then terminated early, the guilty verdict set aside, and the indictment dismissed. Mr. Isassi is disbarred. BODA issued an opinion in the matter. BODA case 57699.

Dispositions

June 1, 2016–May 31, 2017

Patrick Lanier, State Bar of Texas card 11933500, was convicted of one count of conspiracy to commit wire fraud, 13 counts of wire fraud, one count of harboring and concealing a person from arrest, and one count of assisting a federal offender and was sentenced to 204 months in prison. By agreement, Mr. Lanier is suspended from the practice of law pending the appeal of his criminal conviction. BODA case 57700.

Stephen Young Kang, State Bar of Texas card 24007465, pled guilty to wire fraud and tax evasion and was sentenced to 63 months in prison. Although cited and noticed, Mr. Kang did not answer or appear. He is suspended from the practice of law during the appeal of his criminal conviction. BODA case 57701.

Michael Garnet McGraw, State Bar of Texas card 00792686, pled guilty to injury to a child with serious bodily injury and mental injury and was sentenced to 20 years in prison. Although cited and noticed, Mr. McGraw did not answer or appear. He is disbarred. BODA case 57993.

Ikechukwu Nweze, State Bar of Texas card 00792725, pled guilty to insurance fraud and engaging in organized criminal activity and was placed on community supervision for four years by an order of deferred adjudication. He is disbarred. Appealed to the Supreme Court of Texas, case 17-0390; appeal pending. BODA case 58338.

Royal Mullins, State Bar of Texas card 14657750, was found guilty of murder and sentenced to prison for 60 years. By agreement, Mr. Mullins is suspended from the practice of law pending the appeal of his criminal conviction. BODA case 58339.

Mark Alan Greenberg, State Bar of Texas card 24076921, pled guilty to nine counts of sexual performance by a child and one count of computer pornography and was placed on probation for five years. The Supreme Court of Texas accepted Mr. Greenberg's resignation in lieu of discipline. BODA case 58353.

Barlow Smith, State Bar of Texas card 18536020, pled guilty to fraudulent delivery of a controlled substance/prescription schedule III/IV/V and was sentenced to five years in prison, probated for ten years. The Supreme Court of Texas accepted Mr. Smith's resignation in lieu of discipline. BODA case 58729.

Percy L. Isgitt, State Bar of Texas card 10433000, pled nolo contendere to misapplication of fiduciary property over \$200,000 and was placed on community supervision for ten years by an order of deferred adjudication. The Supreme Court of Texas accepted Mr. Isgitt's resignation in lieu of discipline. BODA case 58740.

Dispositions

June 1, 2016–May 31, 2017

Reciprocal Discipline

BODA has exclusive original jurisdiction under TRDP, Part IX to hear petitions for reciprocal discipline filed by the State Bar of Texas Chief Disciplinary Counsel's Office on behalf of the Commission for Lawyer Discipline. Attorneys licensed in Texas and in another jurisdiction are subject to reciprocal discipline in Texas following a disciplinary sanction in the second jurisdiction.

Arizona

A Texas Attorney was admonished by the Supreme Court of Arizona. The Board signed a judgment of private reprimand against the attorney. BODA case 58732.

Colorado

John William Tinder II, State Bar of Texas card 24003060 was suspended from the practice of law for one year and one day by the Supreme Court of Colorado. He was found to have violated Colorado Rules of Professional Conduct 1.1 (competence), 1.2 (abide by client's scope and objectives), 1.3 (diligence), 1.4(a)(3), 1.4(a)(4) (communication), 1.16(d) (termination of representation), 3.4(c) (disobeyed an order of the court), 3.4(d) (frivolous discovery request), and 8.4(c) (dishonesty, fraud, deceit, or misrepresentation). By agreement Mr. Tinder was suspended from the practice of law in Texas for one year and one day. BODA case 57703.

Illinois

Byron L. Landau, State Bar of Texas card 00789970 was suspended from the practice of law for three years by the Supreme Court of Illinois. He was found to have violated Illinois Rules of Professional Conduct 1.2(a)(abide by client's scope and objectives), 1.3 (diligence), 1.4(a)(1) through 1.4(a)(4); 1.4(b) (communication), 1.5(a)(1) through 1.5(a)(8) (fees), 1.16(d) (termination of representation), and 5.3(a) (non lawyer assistants) and 5.5(a) (unauthorized practice of law). By agreement Mr. Landau is suspended from the practice of law in Texas for three years. BODA case 57697.

Louisiana

Malcolm Brasseaux, State Bar of Texas card 02911000 resigned in lieu of discipline before the Supreme Court of the State of Louisiana. He was found to have violated Louisiana Rules of Professional Conduct 1.3 (diligence), 1.4(a), 1.4(b), 1.4(c) (communication), 1.8(e) (conflict of interest) and 8.4(a) (violate a rule of professional conduct). Mr. Brasseaux is disbarred in Texas. Although cited and noticed, he did not answer or appear. BODA case 57702.

Michael Stephen Sepcich, State Bar of Texas card 24056843 was disbarred by the Supreme Court of the State of Louisiana. He was found to have violated Louisiana Rules of Professional Conduct 8.4(c) (fraud, deceit, or misrepresentation). Mr. Sepcich is disbarred in Texas. Although cited and noticed, he did not answer or appear. BODA case 57696.

Heather Ree Slay, State Bar of Texas card 24027863 was publicly reprimanded by the Supreme Court of the State of Louisiana for practicing law in Louisiana without a license. Ms. Slay received a public reprimand in Texas. Although cited and noticed, she did not answer or appear. BODA case 58336.

Dispositions

June 1, 2016–May 31, 2017

Louis Jerome Stanley, State Bar of Texas card 00797734 was publicly reprimanded by the Supreme Court of the State of Louisiana. He was found to have violated Louisiana Rules of Professional Conduct 1.4 (communication), 1.15(d) (delivery of property belonging to a client), 8.4(a) (violation of a rule of professional conduct). By agreement, Mr. Stanley is publicly reprimanded in Texas. BODA case 58337.

Charles Marvin Bradshaw II, State Bar of Texas card 00790354 was publicly reprimanded by the Supreme Court of the State of Louisiana. He was found to have violated Louisiana Rules of Professional Conduct 1.3 (diligence), 1.4 (communication), and 8.4 (conduct prejudicial to the administration of justice). Mr. Bradshaw is publicly reprimanded in Texas. Although cited and noticed, he did not answer or appear. BODA case 58731.

North Carolina

Marlon Brent Messer, State Bar of Texas card 24029725, was placed on probated suspension from the practice of law for two years by the Disciplinary Hearing Commission of the State Bar of North Carolina. By agreement, BODA imposed the same sanction. BODA case 57979.

Revocations of Probation

BODA has exclusive original jurisdiction for the full term of a probated suspension imposed by a State Bar grievance committee to hear petitions to revoke the probation filed by the Chief Disciplinary Counsel of the State Bar of Texas if the attorney violates a term or condition of probation. TRDP, Part II.

John Rex Thompson, State Bar of Texas card 19956150, by agreement his probation was revoked and he was suspended from the practice of law for 18 months and the suspension was stayed conditioned upon his compliance with certain terms and conditions. BODA case 58071.

Michelle Rene'e Mladek, State Bar of Texas card 24046455, after she resigned in lieu of discipline the petition to revoke probation was dismissed as moot. BODA case 58072.

Disability Suspensions

BODA has exclusive original jurisdiction to suspend indefinitely an attorney who is suffering from a disability: any physical, mental, or emotional condition, with or without a substantive rule violation, which results in the attorney's inability to practice law or otherwise carry out his or her professional responsibilities to clients, the courts, the profession, or the public. A specialized District Disability Committee appointed by BODA first holds a hearing to determine whether the attorney is disabled and certifies its finding to BODA. BODA has concurrent jurisdiction with district courts to hear petitions for reinstatement to terminate an indefinite disability suspension. TRDP, Part XII.

Matthew Alan Sharp, State Bar of Texas card 24004403, agreed to an indefinite disability suspension. BODA case 57786.

Randolph Michael Nacol II, State Bar of Texas card 24042408 agreed to an indefinite disability suspension. BODA case 58211.

Paul Womack, State Bar of Texas card 21877500, agreed to an indefinite disability suspension. BODA case 58368.

Dispositions

June 1, 2016–May 31, 2017

Evidentiary Appeals

BODA has appellate jurisdiction to review a judgment by a State Bar of Texas District grievance committee evidentiary panel, including findings of professional misconduct, dismissal of a complaint, or sanction imposed. Either the Commission for Lawyer Discipline or an attorney against whom discipline has been imposed may appeal any judgment from an evidentiary proceeding. Appeals to BODA from evidentiary judgments proceed similarly to civil appeals with a notice of appeal, record, briefs, and oral argument. BODA may affirm in whole or in part, modify the judgment and affirm as modified, reverse the judgment in whole or in part and render the judgment it determines should have been entered, or reverse the judgment and remand the complaint for a new hearing. If oral argument is granted, the matter is heard en banc unless specially assigned to a three-member panel. TRDP, Part II.

Commission for Lawyer Discipline appealed a take-nothing judgment issued in favor of a Texas attorney by the District 1-2 grievance committee. BODA signed an Agreed Judgment of Private Reprimand upon the joint motion of the parties. The attorney was found to have violated TDRPC 1.01(b)(1) (neglected a matter) and 1.15(d) (failed to return an unearned fee). BODA case 58335.

Commission for Lawyer Discipline appealed a private reprimand issued against a Texas attorney by the District 13-1 grievance committee. The appeal was dismissed upon the motion of the Commission. BODA case 57819.

A Texas attorney appealed a judgment of private reprimand signed by the District 4-4 grievance committee. The appeal was dismissed for want of prosecution. BODA case 58502.

Daniel C. Little, State Bar of Texas card 24047534. Affirmed the judgments of disbarment signed by the District 7-1 grievance committee for violations of TDRPC 1.01(b)(1) (neglected a matter); 1.03(a) (failed to communicate with a client); 1.15(d) (failed to return an unearned fee); and, 8.04(a)(8) (failed to respond to request for information from the State Bar of Texas). Appealed to the Supreme Court of Texas, cases 17-0126 and 17-0127; appeal pending. BODA cases 55902 and 55903.

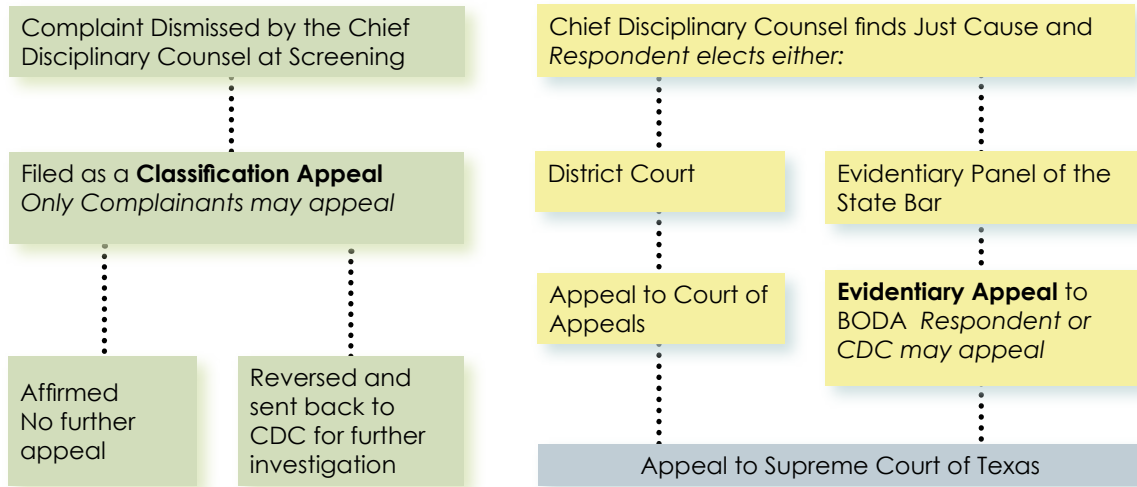
Jerry W. Scarbrough, State Bar of Texas card 17717500. Affirmed in part and reversed in part the judgment of partially probated suspension signed by the District 8-05 grievance committee. The Board affirmed the findings of violations of TDRPC 3.03(a)(1)(knowingly made a false statement to a tribunal), 8.04(a)(1)(violated the disciplinary rules) and 8.04(a)(3)(engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation) and reversed the finding that he violated TDRPC 3.04(a)(unlawfully destroy or conceal evidence). The Commission conceded error on the finding of a violation of TDRPC 3.04(d)(knowingly disobey or advise a client to disobey an obligation under the standing rules of or a ruling by a tribunal) and that finding was reversed. The matter was remanded to the evidentiary panel for rehearing on the sanctions. BODA case 56375.

Robert E. Fitzgerald, State Bar of Texas card 07088700. Affirmed judgment of partially probated suspension signed by the District 6-1 grievance committee for violations of TDRPC 1.01(b)(1) (neglected a matter); 1.03(a) (failed to communicate with a client); and 8.04(a)(3) (engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation) BODA case 57404.

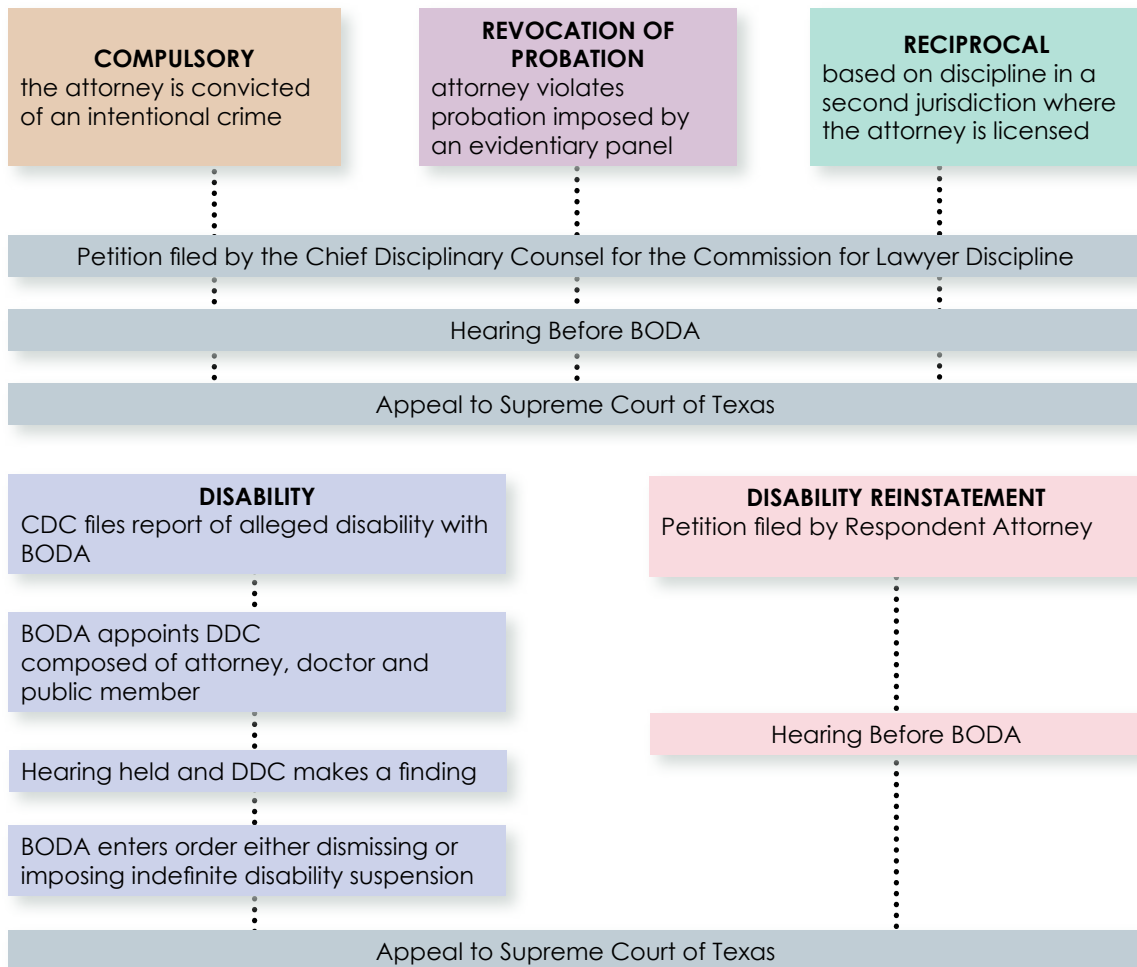
Jon Phillip Thomas, State Bar of Texas card 24037593. Affirmed the evidentiary panel amended modification of the modified default judgment to reduce active term of suspension signed by the District 4-6 grievance committee for violations of TDRPC 1.01(b)(1) (neglected a matter); 1.03(a) (failed to communicate with a client); 1.15(d) (failed to return an unearned fee); 5.05(a) (practiced law in a jurisdiction where not authorized); 8.04(a)(3) (engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation); and, 8.04(a)(8) (failed to respond to request for information from the State Bar of Texas). BODA case 56721.

Appellate Jurisdiction

Grievances Filed with State Bar of Texas



Original Jurisdiction



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