

STATE BAR OF TEXAS



Office of the Chief Disciplinary Counsel

FILED
12.12.25

THE BOARD of DISCIPLINARY APPEALS
Appointed by the Supreme Court of Texas

December 12, 2025

Ms. Jenny Hodgkins
Board of Disciplinary Appeals
Supreme Court of Texas
P. O. Box 12426
Austin, Texas 78711

Via e-filing to filing@txboda.org

Re: 71154; *In the Matter of Thelma M. Anderson, State Bar Card No. 24091728*; Before the Board of Disciplinary Appeals, Appointed by the Supreme Court of Texas.

Dear Ms. Hodgkins:

Attached for filing please find Proof of Service regarding the above-styled case. This filing includes a copy of the United States Postal Service tracking history of the Second Amended Petition for Compulsory Discipline that was sent to Ms. Anderson via certified mail (CMRR# 70220410000282921998) on September 10, 2025. Also included is a copy of the front and back of the green card Ms. Anderson signed acknowledging receipt of the Second Amended Petition for Compulsory Discipline that was returned to our office on October 2, 2025.

Please file-mark and return a copy to me. A copy of this correspondence is being provided to Ms. Anderson as set forth below.

Thank you for your assistance in this matter. Please do not hesitate to call if you have any questions.

Sincerely,

Ramiro Canales

Ramiro Canales
Assistant Disciplinary Counsel
State Bar of Texas

RC/tbg
Attachments

cc: Thelma M. Anderson
3416 Country Club Drive W., Apt. 122
Irving, Texas 75038-8182
Via Regular Mail and Via Email to thelma.anderson10@gmail.com

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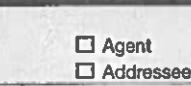
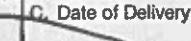
FAQs



FILED

12.12.25

THE BOARD of DISCIPLINARY APPEALS
Appointed by the Supreme Court of Texas

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| SENDER: COMPLETE THIS SECTION | | COMPLETE THIS SECTION ON DELIVERY | |
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| <p>1. Article Addressed to:</p> <p>Thelma Anderson 3416 Country Club Dr Apt. 122 Irving TX 75038-8182</p> <p></p> <p>9590 9402 9221 4295 8997 54</p> | | <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> <p>3. Service Type</p> <p><input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery</p> <p><input type="checkbox"/> Priority Mail Express® <input checked="" type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery</p> | |
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CHIEF Disciplinary Counsel
1200 State Bar of Texas
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STATE BAR OF TEXAS
CHIEF DISCIPLINARY COUNSEL
PO BOX 12487
AUSTIN TX 78711

TBG Anderson / AM, Amendment to Rule 11 from Computation Disc

STATE BAR OF TEXAS



Office of the Chief Disciplinary Counsel

September 10, 2025

CMRRR #7022 0410 0002 8292 1998

Thelma M. Anderson
3416 Country Club Drive W
Apt. 122
Irving, Texas 75038-8182

Re: 71154; *In the Matter of Thelma M. Anderson, State Bar Card No. 24091728*, Before the Board of Disciplinary Appeals, Appointed by the Supreme Court of Texas

Dear Ms. Anderson:

Attached please find a Second Amended Petition for Compulsory Discipline, which includes the Board of Disciplinary Appeals Internal Procedural Rules and a Notice of Hearing setting this matter for 9:00 a.m., Friday, October 24, 2025, in the courtroom of the Supreme Court of Texas, Tom C. Clark Building, 14th and Colorado Streets, Austin, Texas.

Please contact me if you wish to discuss this matter further at ramiro.canales@texasbar.com or 512.427.1328.

Sincerely,

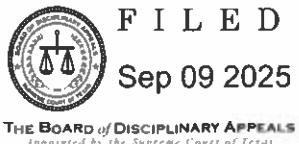
Ramiro Canales

Ramiro Canales
Assistant Disciplinary Counsel
Office of the Chief Disciplinary Counsel
State Bar of Texas

RC/tbg

Attachments: Second Amended Petition for Compulsory Discipline

STATE BAR OF TEXAS



Office of the Chief Disciplinary Counsel

September 9, 2025

Ms. Jenny Hodgkins
Board of Disciplinary Appeals
Supreme Court of Texas
P. O. Box 12426
Austin, Texas 78711

Via e-filing filing@txboda.org

Re: 71154; *In the Matter of Thelma M. Anderson, State Bar Card No. 24091728*; Before the Supreme Court of Texas Board of Disciplinary Appeals.

Dear Ms. Hodgkins:

Attached please find the Second Amended Petition for Compulsory Discipline of Respondent, Thelma M. Anderson, which includes a Notice of Hearing. Please file the Second Amended Petition with the Board. Additionally, please file-mark and acknowledge the cause number and return a copy to me.

A true and correct copy of this letter, and a file-marked copy of the Second Amended Petition for Compulsory Discipline and Notice of Hearing will be served on Ms. Anderson.

Please do not hesitate to call if you have any questions.

Sincerely,

Ramiro Canales

Ramiro Canales
Assistant Disciplinary Counsel
State Bar of Texas

RAH/tbg
Attachment

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

IN THE MATTER OF
THELMA M. ANDERSON, §
STATE BAR CARD NO. 24091728 §
§ CAUSE NO. 71154

SECOND AMENDED PETITION FOR COMPULSORY DISCIPLINE

TO THE BOARD OF DISCIPLINARY APPEALS:

The Commission for Lawyer Discipline (hereinafter referred to as "the Commission"), brings this compulsory discipline action against attorney Thelma M. Anderson (hereinafter referred to as "Respondent"), showing as follows:

1. This action is commenced by the Commission pursuant to Part VIII of the Texas Rules of Disciplinary Procedure. The Commission is providing Respondent a copy of this Board's procedures for handling a compulsory discipline matter by attaching a copy of such procedures to this petition.

2. Respondent may be served with a true and correct copy of this Second Amended Petition for Compulsory Discipline and its attachments, as well as a notice of hearing, at Thelma M. Anderson, 3416 Country Club Drive W, Apt. 122, Irving, Texas 75038-8182.

3. On or about May 21, 2024, Respondent was charged by Indictment (Exhibit 1) in Cause No. 3:24-CR-00191-K, styled *United States of America v. Thelma Marshall Anderson*, in the United States District Court for the Northern District of Texas, Dallas Division, which states in pertinent part as follows:

General Allegations

1. The Paycheck Protection Program ("PPP"), implemented by the Small Business Administration, was a COVID-19 relief program that, among other things, provided small businesses with forgivable loans to pay for payroll and certain other

expenses. Under the PPP, participating third-party lenders approved loan applications and disbursed PPP loans to qualifying businesses.

2. To obtain a PPP loan, a business was required to submit a PPP loan application to a third-party lender. In the PPP loan application, the business was required to state, among other things, the business's average monthly payroll expenses and its number of employees. This payroll information was used to calculate the amount of funds the business was eligible to receive as a PPP loan.

3. Liberty SBF Holdings, LLC ("Liberty SBF Holdings") was a commercial real estate finance company that acted as a third-party lender for PPP loans.

4. Between on or about July 5, 2016, and on or about March 25, 2022, defendant **Thelma Marshell Anderson** was employed full-time as an Assistant District Attorney for the Dallas County District Attorney's Office. Pursuant to her role as an Assistant District Attorney, **Anderson** was prohibited from having outside employment without express authorization from the Dallas County District Attorney's Office. **Anderson** did not request nor receive any such authorization while employed as an Assistant District Attorney.

5. On or about November 30, 2018, defendant **Thelma Marshell Anderson** opened a JPMorgan Chase Bank, NA ("JPMorgan Chase Bank") business checking account ending in 9086 in the name of Thelma Lou Limited Liability Company ("Thelma Lou") at the JPMorgan Chase Bank in Grand Prairie, Texas. JPMorgan Chase was a financial institution, the deposits of which were insured by the Federal Deposit Insurance Corporation ("FDIC").

6. On or about February 17, 2021, defendant **Thelma Marshell Anderson** opened a Navy Federal Credit Union ("NFCU") business checking account ending in 5721 and a NFCU business savings account ending in 9192 in the name of Thelma Lou. NFCU was a financial institution, the deposits of which were insured by the National Credit Union Administration.

7. On or about February 4, 2021, a PPP loan application was submitted to Liberty SBH Holdings for the entity Thelma Lou. Defendant **Thelma Marshell Anderson** was identified as the sole member of the entity Thelma Lou that was purportedly doing business in Irving, Texas.

Count One
Wire Fraud

[Violation of 18 U.S.C. § 1343]

8. Paragraphs 1 through 7 of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

9. On or about February 18, 2021, in the Dallas Division of the Northern District of Texas and elsewhere, defendant **Thelma Marshell Anderson** did knowingly and willfully devise and intend to devise a scheme to defraud for obtaining money and property by means of material false and fraudulent pretenses, representations, and promises, and for the purpose of executing such scheme, did cause a wire communications to be transmitted in interstate commerce, that is, the wire transfer of approximately \$20,817 in PPP loan proceeds from Liberty SBF Holdings's bank account to the Thelma Lou JPMorgan Chase Bank account ending in 9086.

The Scheme to Defraud

10. On or about February 4, 2021, defendant **Thelma Marshell Anderson** submitted, and caused to be submitted, to Liberty SBF Holdings, via the internet, an application for a PPP loan on behalf of Thelma Lou, that misrepresented Thelma Lou's payroll and gross sales information.

11. It was further part of the scheme that defendant **Thelma Marshell Anderson** falsely claimed in the loan application that Thelma Lou had average monthly payroll expenses of \$8,327. In support of the fraudulent application, **Anderson** also submitted, and caused to be submitted, to Liberty SBF Holdings, a fraudulent Internal Revenue Service ("IRS") Form 1040, Schedule C, for Thelma Lou claiming that Thelma Lou had gross sales of \$142,773 in 2019.

12. Thereafter, on or about February 18, 2021, approximately \$20,817, consisting of the fraudulent PPP loan proceeds, was wired via ACH transfer from Liberty SBF Holdings's bank account in Virginia to the Thelma Lou JPMorgan Chase Bank account ending in 9086.

13. Subsequent to the \$20,8017 ACH transfer into the Thelma Lou JPMorgan Chase Bank account, the defendant **Thelma Marshell Anderson** transferred \$17,000 from the Thelma Lou JPMorgan Chase Bank account to the Thelma Lou NFCU business checking account ending 5721. That is, on or about April 13, 2021, **Anderson** withdrew \$5,000 from the Thelma Lou JPMorgan Chase Bank account, and thereafter deposited it into the Thelma Lou NFCU business checking account ending in 5721.

Then, on or about April 23, 2021, **Anderson** withdrew \$12,000 from the Thelma Lou JPMorgan Chase Bank account, and thereafter deposited it into the Thelma Lou NFCU business checking account ending in 5721.

14. On or about April 26, 2021, defendant **Thelma Marshell Anderson** transferred the \$17,000 in PPP loan proceeds from the Thelma Lou NFCU business checking account ending in 5721 to the Thelma Lou NFCU business savings account ending in 9192. Thereafter, **Anderson** used the funds for personal expenses including rent, food, and entertainment.

15. On or about October 4, 2021, defendant **Thelma Marshell Anderson** applied to have her PPP loan forgiven. As part of that application, **Anderson** falsely claimed that she spent \$17,500 of the original PPP loan amount on payroll costs. The full amount of **Anderson**'s PPP loan was subsequently forgiven.

All in violation of 18 U.S.C. § 1343.

Count Two

Engaging in Monetary Transactions in Property
Derived from Specified Unlawful Activity
[Violation of 18 U.S.C. § 1957)]

16. Paragraphs 1 through 7 of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

17. On or about April 23, 2021, in the Dallas Division of the Northern District of Texas and elsewhere, defendant **Thelma Marshell Anderson** did knowingly engage and attempt to engage in a monetary transaction affecting interstate and foreign commerce in criminally derived property of a value greater than \$10,000, that is, a withdrawal of \$12,000, from the Thelma Lou JPMorgan Chase account ending in 9086, such property having been derived from a specified unlawful activity, that is, wire fraud, a violation of 18 U.S.C. § 1343.

All in violation of 18 U.S.C. § 1957.

Count Three

Engaging in Monetary Transactions in Property
Derived from Specified Unlawful Activity
[Violation of 18 U.S.C. § 1957)]

18. Paragraphs 1 through 7 of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

19. On or about April 26, 2021, in the Dallas Division of the Northern District of Texas and elsewhere, defendant **Thelma Marshell Anderson** did knowingly engage and attempt to engage in a monetary transaction affecting interstate and foreign commerce in criminally derived property of a value greater than \$10,000, that is, an transfer of \$17,000 from the Thelma Lou NFCU business checking account ending in 5721 to the Thelma Lou NFCU business savings account ending in 9192, such property having been derived from a specified unlawful activity, that is wire fraud, a violation of 18 U.S.C. § 1343.

All in violation of 18 U.S.C. § 1957.

4. On or about July 1, 2024, a Factual Resume (Exhibit 2) was entered in Cause No. 3:24-CR-00191-K, styled *United States of America v. Thelma Marshell Anderson*, in the United States District Court for the Northern District of Texas, Dallas Division, which states in pertinent part as follows:

In support of defendant Thelma Marshell Anderson's plea of guilty to the offense in Count One of the indictment, Anderson, the defendant; Nick Oberheiden and Lynette S. Byrd, the defendant's attorneys; and the United States of America (the government) stipulate and agree to the following:

ELEMENTS OF THE OFFENSE

To prove the offense alleged in Count One of the indictment, charging a violation of 18 U.S.C. § 1343, that is, Wire Fraud, the government must prove each of the following elements beyond a reasonable doubt:¹

First. That the defendant knowingly devised or intended to devise a scheme to defraud as described in the indictment;

Second. That the scheme to defraud employed false material representations, pretenses, and promises;

¹ Fifth Circuit Pattern Jury Instructions § 2.57 (2019)
2nd Amended Petition for Compulsory Discipline - Anderson
Page 5

Third.

That the defendant transmitted or caused to be transmitted by means of wire communications, in interstate commerce, any writing, sign, signal, picture, or sound for the purpose of executing the scheme; and

Fourth.

That the defendant acted with a specific intent to defraud.

STIPULATED FACTS

1. Defendant Thelma Marshell Anderson admits and agrees that the Paycheck Protection Program ("PPP"), implemented by the Small Business Administration ("SBA"), was a COVID- 19 relief initiative that, among other things, provided small businesses with forgivable loans to pay for payroll and certain other expenses. Under the PPP, participating third-party lenders approved loan applications and disbursed PPP loans to qualifying businesses. Anderson admits she knew that, to obtain a PPP loan, a business was required to submit a PPP loan application to a lender. In the PPP loan application, the business was required to state, among other things, the business's average monthly payroll and its number of employees. This payroll information was used to calculate the amount of funds that the business was eligible to receive as a PPP loan. Liberty SBF Holdings, LLC ("Liberty SBF Holdings") was a commercial real estate finance company that acted as a third-party lender for PPP loans.

2. Anderson agrees and admits that, on or about November 30, 2018, she opened a JPMorgan Chase Bank, NA ("JPMorgan Chase Bank") business checking account ending in 9086 in the name of Thelma Lou Limited Liability Company ("Thelma Lou") at the JPMorgan Chase Bank in Grand Prairie, Texas, which is located in the Dallas Division of the Northern District of Texas. Thereafter, on or about February 17, 2021, Anderson opened a Navy Federal Credit Union ("NFCU") business checking account ending in 5721 and a NFCU business savings account ending in 9192 in the name of Thelma Lou.

3. Anderson further agrees and admits that, on or about February 4, 2021, she submitted, and caused to be submitted, to Liberty SBF Holdings, via the internet, an application for a PPP loan on behalf of Thelma Lou. Anderson admits that she is the sole member of Thelma Lou. In the PPP loan application, Anderson misrepresented Thelma Lou's payroll and gross sales information. Specifically, Anderson falsely claimed in the loan application that Thelma Lou had average monthly payroll expenses of \$8,327.

Anderson admits that she made this misrepresentation with the specific intent to defraud the PPP.

4. Anderson further admits that, in support of this fraudulent application, she submitted, and caused to be submitted, to Liberty SBF Holdings, a fraudulent Internal Revenue Service Form 1040, Schedule C, for Thelma Lou claiming that Thelma Lou had gross sales of \$142,773 in 2019.

5. Thereafter, Anderson's fraudulent PPP loan application was approved and, on or about February 18, 2021, Liberty SBF Holding wired via ACH transfer \$20,817, in fraudulent PPP proceeds, from its bank account in Virginia to the Thelma Lou JPMorgan Chase Bank account ending in 9086. Thereafter, Anderson transferred the funds into the Thelma Lou NFCU accounts.

6. Subsequent thereto, on or about October 4, 2021, Anderson applied to have her PPP loan forgiven. As part of that application, Anderson falsely claimed that she spent \$17,500 of the original PPP loan amount on payroll costs. As a result, Anderson's PPP loan was forgiven.

7. The defendant agrees that she committed all the essential elements of the offense. This factual resume is not intended to be a complete accounting of all the facts and events related to the offense charged in this case. The limited purpose of this statement of facts is to demonstrate that a factual basis exists to support the defendant's guilty to plea to Count One of the indictment.

5. On or about July 1, 2024, a Plea Agreement (Exhibit 3) was entered in Cause No. 3:24-CR-00191-K, styled *United States of America v. Thelma Marshell Anderson*, in the United States District Court for the Northern District of Texas, Dallas Division, wherein Respondent pleaded guilty to the offense alleged in Count One of the Indictment, charging a violation of 18 U.S.C. § 1343, that is, Wire Fraud.

6. On or about March 5, 2025, a Judgment in a Criminal Case (Exhibit 4) was entered in Cause No. 3:24-CR-00191-K(1), styled *United States of America v. Thelma Marshell Anderson*, in the United States District Court for the Northern District of Texas, Dallas Division, wherein Respondent pleaded guilty to Count 1 of the 3-Count Indictment, filed on May 21, 2024, 18 U.S.C.

§ 1343 Wire Fraud. The defendant was sentenced to probation for a term of four (4) years.

Additional Special Conditions of Probation are as follows:

Respondent was further ordered to pay restitution to the U.S. Small Business Administration (SBA) in the amount of \$20,871.00.

If the restitution has not been paid in full within 30 days of the date of this judgment, the defendant shall make payments on such unpaid balance in monthly installments of not less than 10 percent of the defendant's gross monthly income, or at a rate of not less than \$250 per month, whichever is greater, until the balance is paid in full. In addition, at least 50 percent of the receipts received from gifts, tax refunds, inheritances, bonuses, lawsuit awards, and any other receipt of money shall be paid toward the unpaid balance within 15 days of receipt. This payment plan shall not affect the ability of the United States to immediately collect payment in full through garnishment, the Treasury Offset Program, the Federal Debt Collection Procedures Act of 1990 or any other means available under federal or state law. Furthermore, it is ordered that interest on the unpaid balance is waived pursuant to 18 U.S.C. § 3612(f)(3).

The defendant shall pay any remaining balance of restitution as set out in this Judgment.

The defendant shall provide to the probation officer complete access to all business and personal financial information.

The defendant shall maintain not more than one business and/or one personal checking account, and shall not open, maintain, be a signatory on, or otherwise use any other financial institution account without the prior approval of the probation officer.

The defendant shall not incur new credit charges or open additional lines of credit without approval of the probation officer unless the probation officer makes a determination that the defendant has fully satisfied the restitution obligations.

The defendant shall participate in outpatient mental health treatment services as directed by the probation officer until successfully discharged. These services may include medications prescribed by a licensed physician. You shall contribute to the costs of services rendered (copayment) at a rate of at least \$25 per month.

The defendant during the first three months of being placed on probation shall contact Warden Dr. Hall, of the female prison located at the Federal Correctional Institution (FCI) in Bryan, Texas. In addition, the defendant shall notify Warden Hall that she has been

ordered by Judge Kinkeade to take tour of the Bureau of Prisons (BOP) facility at FCI Bryan.

7. Respondent, Thelma M. Anderson, whose bar card number is 24091728, is the same person as the Thelma Marshell Anderson who is the subject of the Indictment, Factual Resume, Plea Agreement, and Judgment in a Criminal Case, described above. True and correct copies of the Indictment, Factual Resume, Plea Agreement, and Judgment in a Criminal Case are attached to this Petition for Compulsory Discipline.

8. Attached hereto as Exhibit 5 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 an affidavit of Ramiro Canales, Attorney of Record for the Commission herein, attesting to the fact that Respondent is the same person as the person who is the subject of the Indictment, Factual Resume, Plea Agreement, and Judgment in a Criminal Case, entered in Cause No. 3:24-CR-00191-K, styled *United States of America v. Thelma Marshell Anderson*. The Commission expects to introduce the original of said affidavit at the time of hearing of this cause.

9. The offense for which Respondent was convicted is an Intentional Crime (as defined by Rule 1.06(V) of the Texas Rules of Disciplinary Procedure) because Respondent's offense is a Serious Crime (as defined by Rule 1.06(GG) of the Texas Rules of Disciplinary Procedure) requiring knowledge or intent as an essential element.

10. Having pleaded guilty of intentional and serious crimes and such conviction currently being appealed, Respondent should be suspended as an attorney licensed to practice law in Texas during the pendency of the appeal. Further, upon a showing by the Commission that the judgment has become final after determination of the appeal, Respondent should be disbarred as provided by Rule 8.05, Texas Rules of Disciplinary Procedure.

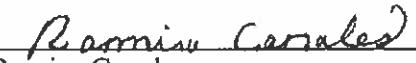
PRAYER

WHEREFORE, PREMISES CONSIDERED, the Commission prays that Respondent be given notice of these proceedings as provided by law and, upon hearing of this matter, that the Board enter an order imposing compulsory discipline on Respondent and for such other and further relief to which the Commission may be entitled to receive, including costs of court and attorney's fees.

Respectfully submitted,

Seana Willing
Chief Disciplinary Counsel

Ramiro Canales
Assistant Disciplinary Counsel
Office of the Chief Disciplinary Counsel
STATE BAR OF TEXAS
P.O. Box 12487, Capitol Station
Austin, Texas 78711-2487
Telephone: 512.427.1350
Facsimile: 512.427.4253
Email: ramiro.canales@texasbar.com



Ramiro Canales
State Bar Card No. 24012377

ATTORNEYS FOR THE COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been sent for service on Thelma M. Anderson, 3416 Country Club Drive W, Apt. 122, Irving, Texas 75038-8182, Via Personal Service on this 9th day of September, 2025.



Ramiro Canales

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that a trial on the merits of the Second Amended Petition for Compulsory Discipline heretofore sent to be filed with the Board of Disciplinary Appeals on this day, will be held in the courtroom of the Supreme Court of Texas, Tom C. Clark Building, 14th and Colorado Streets, Austin, Texas, at 9:00 a.m. on the **24th day of October, 2025**. The Board of Disciplinary Appeals will notify the parties of any changes to the hearing location or format.



Ramiro Canales

FILED-USDC-NDTX-DA
'24 MAY 21 PM4:56IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA

v.

THELMA MARSELL ANDERSON

NO. 3-24CR-191-K

INDICTMENT

The Grand Jury charges:

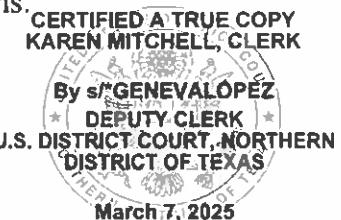
At times relevant to this Indictment:

General Allegations

1. The Paycheck Protection Program ("PPP"), implemented by the Small Business Administration, was a COVID-19 relief program that, among other things, provided small businesses with forgivable loans to pay for payroll and certain other expenses. Under the PPP, participating third-party lenders approved loan applications and disbursed PPP loans to qualifying businesses.

2. To obtain a PPP loan, a business was required to submit a PPP loan application to a third-party lender. In the PPP loan application, the business was required to state, among other things, the business's average monthly payroll expenses and its number of employees. This payroll information was used to calculate the amount of funds the business was eligible to receive as a PPP loan.

3. Liberty SBF Holdings, LLC ("Liberty SBF Holdings") was a commercial real estate finance company that acted as a third-party lender for PPP loans.



4. Between on or about July 5, 2016, and on or about March 25, 2022, defendant **Thelma Marshell Anderson** was employed full-time as an Assistant District Attorney for the Dallas County District Attorney's Office. Pursuant to her role as an Assistant District Attorney, **Anderson** was prohibited from having outside employment without express authorization from the Dallas County District Attorney's Office. **Anderson** did not request nor receive any such authorization while employed as an Assistant District Attorney.

5. On or about November 30, 2018, defendant **Thelma Marshell Anderson** opened a JPMorgan Chase Bank, NA ("JPMorgan Chase Bank") business checking account ending in 9086 in the name of Thelma Lou Limited Liability Company ("Thelma Lou") at the JPMorgan Chase Bank in Grand Prairie, Texas. JPMorgan Chase was a financial institution, the deposits of which were insured by the Federal Deposit Insurance Corporation ("FDIC").

6. On or about February 17, 2021, defendant **Thelma Marshell Anderson** opened a Navy Federal Credit Union ("NFCU") business checking account ending in 5721 and a NFCU business savings account ending in 9192 in the name of Thelma Lou. NFCU was a financial institution, the deposits of which were insured by the National Credit Union Administration.

7. On or about February 4, 2021, a PPP loan application was submitted to Liberty SBH Holdings for the entity Thelma Lou. Defendant **Thelma Marshell Anderson** was identified as the sole member of the entity Thelma Lou that was purportedly doing business in Irving, Texas.

Count One
Wire Fraud
[Violation of 18 U.S.C. § 1343]

8. Paragraphs 1 through 7 of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

9. On or about February 18, 2021, in the Dallas Division of the Northern District of Texas and elsewhere, defendant **Thelma Marshell Anderson** did knowingly and willfully devise and intend to devise a scheme to defraud for obtaining money and property by means of material false and fraudulent pretenses, representations, and promises, and for the purpose of executing such scheme, did cause a wire communications to be transmitted in interstate commerce, that is, the wire transfer of approximately \$20,817 in PPP loan proceeds from Liberty SBF Holdings's bank account to the Thelma Lou JPMorgan Chase Bank account ending in 9086.

The Scheme to Defraud

10. On or about February 4, 2021, defendant **Thelma Marshell Anderson** submitted, and caused to be submitted, to Liberty SBF Holdings, via the internet, an application for a PPP loan on behalf of Thelma Lou, that misrepresented Thelma Lou's payroll and gross sales information.

11. It was further part of the scheme that defendant **Thelma Marshell Anderson** falsely claimed in the loan application that Thelma Lou had average monthly payroll expenses of \$8,327. In support of the fraudulent application, **Anderson** also submitted, and caused to be submitted, to Liberty SBF Holdings, a fraudulent Internal

Revenue Service (“IRS”) Form 1040, Schedule C, for Thelma Lou claiming that Thelma Lou had gross sales of \$142,773 in 2019.

12. Thereafter, on or about February 18, 2021, approximately \$20,817, consisting of the fraudulent PPP loan proceeds, was wired via ACH transfer from Liberty SBF Holdings’s bank account in Virginia to the Thelma Lou JPMorgan Chase Bank account ending in 9086.

13. Subsequent to the \$20,8017 ACH transfer into the Thelma Lou JPMorgan Chase Bank account, the defendant **Thelma Marshell Anderson** transferred \$17,000 from the Thelma Lou JPMorgan Chase Bank account to the Thelma Lou NFCU business checking account ending 5721. That is, on or about April 13, 2021, **Anderson** withdrew \$5,000 from the Thelma Lou JPMorgan Chase Bank account, and thereafter deposited it into the Thelma Lou NFCU business checking account ending in 5721. Then, on or about April 23, 2021, **Anderson** withdrew \$12,000 from the Thelma Lou JPMorgan Chase Bank account, and thereafter deposited it into the Thelma Lou NFCU business checking account ending in 5721.

14. On or about April 26, 2021, defendant **Thelma Marshell Anderson** transferred the \$17,000 in PPP loan proceeds from the Thelma Lou NFCU business checking account ending in 5721 to the Thelma Lou NFCU business savings account ending in 9192. Thereafter, **Anderson** used the funds for personal expenses including rent, food, and entertainment.

15. On or about October 4, 2021, defendant **Thelma Marshell Anderson** applied to have her PPP loan forgiven. As part of that application, **Anderson** falsely

claimed that she spent \$17,500 of the original PPP loan amount on payroll costs. The full amount of **Anderson's** PPP loan was subsequently forgiven.

All in violation of 18 U.S.C. § 1343.

Count Two
Engaging in Monetary Transactions in Property
Derived from Specified Unlawful Activity
[Violation of 18 U.S.C. § 1957)]

16. Paragraphs 1 through 7 of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

17. On or about April 23, 2021, in the Dallas Division of the Northern District of Texas and elsewhere, defendant **Thelma Marshell Anderson** did knowingly engage and attempt to engage in a monetary transaction affecting interstate and foreign commerce in criminally derived property of a value greater than \$10,000, that is, a withdrawal of \$12,000, from the Thelma Lou JPMorgan Chase account ending in 9086, such property having been derived from a specified unlawful activity, that is, wire fraud, a violation of 18 U.S.C. § 1343.

All in violation of 18 U.S.C. § 1957.

Count Three

Engaging in Monetary Transactions in Property
Derived from Specified Unlawful Activity
[Violation of 18 U.S.C. § 1957)]

18. Paragraphs 1 through 7 of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

19. On or about April 26, 2021, in the Dallas Division of the Northern District of Texas and elsewhere, defendant **Thelma Marshell Anderson** did knowingly engage and attempt to engage in a monetary transaction affecting interstate and foreign commerce in criminally derived property of a value greater than \$10,000, that is, an transfer of \$17,000 from the Thelma Lou NFCU business checking account ending in 5721 to the Thelma Lou NFCU business savings account ending in 9192, such property having been derived from a specified unlawful activity, that is wire fraud, a violation of 18 U.S.C. § 1343.

All in violation of 18 U.S.C. § 1957.

Forfeiture Notice
[18 U.S.C. § 982(a)(2)(A) and 18 U.S.C. § 982(a)(1)]

20. Paragraphs 1 through 18 of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

21. Upon conviction for the offense alleged in Count One of this Indictment, and pursuant to 18 U.S.C. § 982(a)(2)(A), defendant **Thelma Marshell Anderson** shall forfeit to the United States any property constituting, or derived from, proceeds obtained directly or indirectly as a result of the offense.

22. Upon conviction for any of the offenses alleged in Counts Two and Three of this Indictment, and pursuant to 18 U.S.C. § 982(a)(1), defendant **Thelma Marshell Anderson** shall forfeit to the United States any property, real or personal, involved in, or traceable to property involved in, the respective offense.

23. Pursuant to 21 U.S.C. § 853(p), as incorporated by 18 U.S.C. § 982(b), if any of the above property subject to forfeiture, as a result of any act or omission of the defendant, cannot be located upon the exercise of due diligence; has been transferred or sold to, or deposited with, a third person; has been placed beyond the jurisdiction of the Court; has been substantially diminished in value; or has been commingled with other property which cannot be subdivided without difficulty, it is the intent of the United States of America to seek forfeiture of any other property of the defendant up to the value of the above described property subject to forfeiture.

A TRUE BILL:



LEIGHA SIMONTON
FOREPERSON

LEIGHA SIMONTON
UNITED STATES ATTORNEY



RYAN P. NIEDERMAIR
Assistant United States Attorney
Texas Bar No. 24116828
1100 Commerce, Third Floor
Dallas, TX 75242
Telephone: 214-659-8600
Facsimile: 214-659-8805
E-mail: ryan.niedermair@usdoj.gov

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

THE UNITED STATES OF AMERICA

v.

THELMA MARSELL ANDERSON

INDICTMENT

18 U.S.C. § 1343
Wire Fraud
(Count 1)

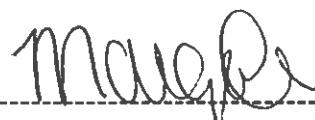
18 U.S.C. § 1957
Engaging in Monetary Transactions in Property
Derived from Specified Unlawful Activity
(Counts 2 and 3)

18 U.S.C. § 982(a)(2)(A) and 18 U.S.C. § 982(a)(1)
Forfeiture Notice

3 Counts

A true bill rendered

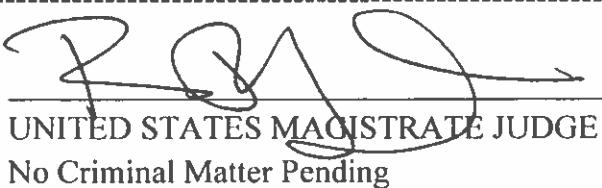
DALLAS



FOREPERSON

Filed in open court this 21st day of May, 2024.

Summons to Issue



UNITED STATES MAGISTRATE JUDGE
No Criminal Matter Pending

CONFIDENTIAL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

FILED-USDC-NDTX-DA
24 JUL 1 2025
KMB

UNITED STATES OF AMERICA

NO. 3:24-CR-191-K

v.

THELMA MARSHELL ANDERSON

FACTUAL RESUME

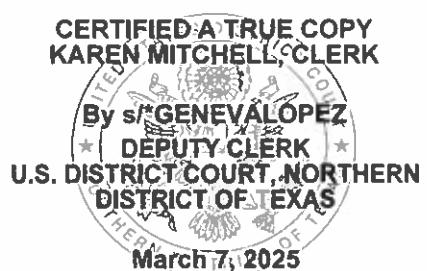
In support of defendant Thelma Marshell Anderson's plea of guilty to the offense in Count One of the indictment, Anderson, the defendant; Nick Oberheiden and Lynette S. Byrd, the defendant's attorneys; and the United States of America (the government) stipulate and agree to the following:

ELEMENTS OF THE OFFENSE

To prove the offense alleged in Count One of the indictment, charging a violation of 18 U.S.C. § 1343, that is, Wire Fraud, the government must prove each of the following elements beyond a reasonable doubt:¹

- First.* That the defendant knowingly devised or intended to devise a scheme to defraud as described in the indictment;
- Second.* That the scheme to defraud employed false material representations, pretenses, and promises;
- Third.* That the defendant transmitted or caused to be transmitted by means of wire communications, in interstate commerce, any writing, sign, signal, picture, or sound for the purpose of executing the scheme; and
- Fourth.* That the defendant acted with a specific intent to defraud.

¹ Fifth Circuit Pattern Jury Instructions § 2.57 (2019)



STIPULATED FACTS

1. Defendant Thelma Marshell Anderson admits and agrees that the Paycheck Protection Program (“PPP”), implemented by the Small Business Administration (“SBA”), was a COVID-19 relief initiative that, among other things, provided small businesses with forgivable loans to pay for payroll and certain other expenses. Under the PPP, participating third-party lenders approved loan applications and disbursed PPP loans to qualifying businesses. Anderson admits she knew that, to obtain a PPP loan, a business was required to submit a PPP loan application to a lender. In the PPP loan application, the business was required to state, among other things, the business’s average monthly payroll and its number of employees. This payroll information was used to calculate the amount of funds that the business was eligible to receive as a PPP loan. Liberty SBF Holdings, LLC (“Liberty SBF Holdings”) was a commercial real estate finance company that acted as a third-party lender for PPP loans.

2. Anderson agrees and admits that, on or about November 30, 2018, she opened a JPMorgan Chase Bank, NA (“JPMorgan Chase Bank”) business checking account ending in 9086 in the name of Thelma Lou Limited Liability Company (“Thelma Lou”) at the JPMorgan Chase Bank in Grand Prairie, Texas, which is located in the Dallas Division of the Northern District of Texas. Thereafter, on or about February 17, 2021, Anderson opened a Navy Federal Credit Union (“NFCU”) business checking account ending in 5721 and a NFCU business savings account ending in 9192 in the name of Thelma Lou.

3. Anderson further agrees and admits that, on or about February 4, 2021, she submitted, and caused to be submitted, to Liberty SBF Holdings, via the internet, an application for a PPP loan on behalf of Thelma Lou. Anderson admits that she is the sole member of Thelma Lou. In the PPP loan application, Anderson misrepresented Thelma Lou's payroll and gross sales information. Specifically, Anderson falsely claimed in the loan application that Thelma Lou had average monthly payroll expenses of \$8,327. Anderson admits that she made this misrepresentation with the specific intent to defraud the PPP.

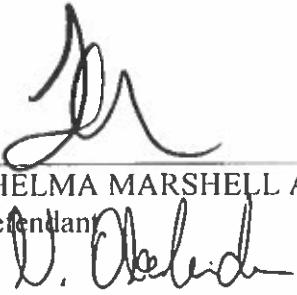
4. Anderson further admits that, in support of this fraudulent application, she submitted, and caused to be submitted, to Liberty SBF Holdings, a fraudulent Internal Revenue Service Form 1040, Schedule C, for Thelma Lou claiming that Thelma Lou had gross sales of \$142,773 in 2019.

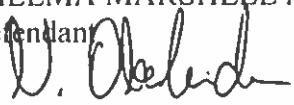
5. Thereafter, Anderson's fraudulent PPP loan application was approved and, on or about February 18, 2021, Liberty SBF Holding wired via ACH transfer \$20,817, in fraudulent PPP proceeds, from its bank account in Virginia to the Thelma Lou JPMorgan Chase Bank account ending in 9086. Thereafter, Anderson transferred the funds into the Thelma Lou NFCU accounts.

6. Subsequent thereto, on or about October 4, 2021, Anderson applied to have her PPP loan forgiven. As part of that application, Anderson falsely claimed that she spent \$17,500 of the original PPP loan amount on payroll costs. As a result, Anderson's PPP loan was forgiven.

7. The defendant agrees that she committed all the essential elements of the offense. This factual resume is not intended to be a complete accounting of all the facts and events related to the offense charged in this case. The limited purpose of this statement of facts is to demonstrate that a factual basis exists to support the defendant's guilty plea to Count One of the indictment.

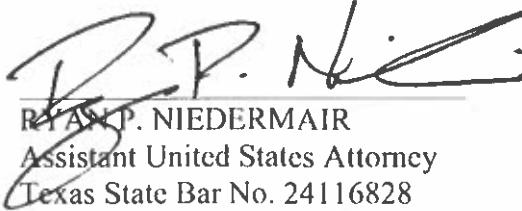
AGREED TO AND STIPULATED on this 1st day of July, 2024.


THELMA MARSHELL ANDERSON
Defendant


NICK OBERHEIDEN
Attorney for Defendant


LYNETTE S. BYRD
Attorney for Defendant

LEIGHA SIMONTON
UNITED STATES ATTORNEY


RYAN P. NIEDERMAIR
Assistant United States Attorney
Texas State Bar No. 24116828
1100 Commerce Street, Third Floor
Dallas, Texas 75242-1699
Tel: 214-659-8600
Fax: 214-659-8812
Email: ryan.niedermair@usdoj.gov

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

FILED - USDC-N.D.TX-24
'24 JUL 1 PM2024
EWS

UNITED STATES OF AMERICA

v.

NO. 3:24-CR-191-K

THELMA MARSHELL ANDERSON

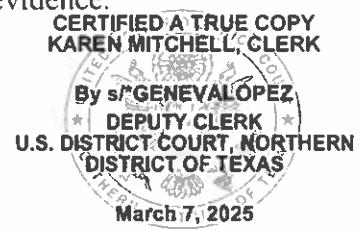
PLEA AGREEMENT

Thelma Marshell Anderson, the defendant; Nick Oberheiden and Lynette S. Byrd, the defendant's attorneys; and the United States of America (the government) agree as follows:

1. **Rights of the defendant:** The defendant understands that the defendant has the rights:

- a. to plead not guilty;
- b. to have a trial by jury;
- c. to have the defendant's guilt proven beyond a reasonable doubt;
- d. to confront and cross-examine witnesses and to call witnesses in the defendant's defense; and
- e. against compelled self-incrimination.

2. **Waiver of rights and plea of guilty:** The defendant waives these rights and pleads guilty to the offense alleged in Count One of the indictment, charging a violation of 18 U.S.C. § 1343, that is, Wire Fraud. The defendant understands the nature and elements of the crime to which the defendant is pleading guilty, and agrees that the factual resume the defendant has signed is true and will be submitted as evidence.



3. **Sentence:** The maximum penalties the Court can impose include:
 - a. imprisonment for a period not to exceed 20 years;
 - b. a fine not to exceed \$250,000, or twice any pecuniary gain to the defendant or loss to the victim(s);
 - c. a term of supervised release of not more than 3 years, which may be mandatory under the law and will follow any term of imprisonment. If the defendant violates the conditions of supervised release, the defendant could be imprisoned for the entire term of supervised release;
 - d. a mandatory special assessment of \$ 100;
 - e. restitution to victims or to the community, which may be mandatory under the law, and which the defendant agrees may include restitution arising from all relevant conduct, not limited to that arising from the offense of conviction alone;
 - f. costs of incarceration and supervision; and
 - g. forfeiture of property.

4. **Immigration consequences:** The defendant recognizes that pleading guilty may have consequences with respect to the defendant's immigration status if the defendant is not a citizen of the United States. Under federal law, a broad range of crimes are removable offenses. The defendant understands this may include the offense to which the defendant is pleading guilty, and for purposes of this plea agreement, the defendant assumes the offense is a removable offense. Removal and other immigration consequences are the subject of a separate proceeding, however, and the defendant understands that no one, including the defendant's attorney or the district court, can predict to a certainty the effect of the defendant's conviction on the defendant's immigration status. The defendant nevertheless affirms that the defendant wants to plead

guilty regardless of any immigration consequences that the defendant's plea of guilty may entail, even if the consequence is the defendant's automatic removal from the United States.

5. Court's sentencing discretion and role of the Guidelines: The defendant understands that the sentence in this case will be imposed by the Court after consideration of the United States Sentencing Guidelines. The guidelines are not binding on the Court, but are advisory only. The defendant has reviewed the guidelines with the defendant's attorney, but understands no one can predict with certainty the outcome of the Court's consideration of the guidelines in this case. The defendant will not be allowed to withdraw the defendant's plea if the defendant's sentence is higher than expected. The defendant fully understands that the actual sentence imposed (so long as it is within the statutory maximum) is solely in the discretion of the Court.

6. Defendant's agreement. The defendant shall not knowingly provide false information to the U.S. Probation Office (USPO), the Court, or the government relating to the offense(s) of conviction and all relevant conduct, or any information the defendant must provide related to this agreement.

7. Mandatory special assessment: The defendant agrees to pay the U.S. District Clerk the amount of \$100 in satisfaction of the mandatory special assessment(s) prior to sentencing.

8. Financial Obligations: The defendant understands that any financial obligation imposed by the Court for restitution, fines, or special assessments is due and payable immediately. In the event the Court imposes a schedule for payment, the

defendant agrees that such a schedule represents a minimum payment obligation and does not preclude the U.S. Attorney's Office from pursuing any other means by which to satisfy the defendant's full and immediately enforceable financial obligation. The defendant understands that the defendant has a continuing obligation to pay in full as soon as possible any financial obligation imposed by the Court. The defendant further agrees as follows:

- a. The defendant agrees that the financial statement, with any supporting documents, the defendant provides to the USPO may be shared with the Court and the government.
- b. The defendant shall submit to interviews by the government and the USPO regarding the defendant's capacity to satisfy any fine, restitution, or special assessment.
- c. The defendant expressly authorizes the United States Attorney's Office to immediately obtain a credit report on the defendant to evaluate the defendant's ability to satisfy any financial obligation imposed by the Court.

9. **Restitution:** The defendant agrees that the Court is authorized to order, and the defendant agrees to pay, restitution for all loss resulting from the offense(s) of conviction and all relevant conduct, in an amount to be determined by the Court. Defendant agrees that, for purposes of this paragraph, restitution for relevant conduct shall include all acts and omissions described in USSG § 1B1.3(a)(1)(A) and (1)(B), as well as all acts and omissions that were part of the same course of conduct or common

scheme or plan, regardless whether the grouping rules in USSG § 3D1.2 might apply to computation of the advisory imprisonment range. The defendant understands that should the Court order that restitution be paid jointly and severally with others who are required to pay restitution for the same loss to victims that credit may not be received for all payments made by any other person with joint and several liability. The defendant agrees that any restitution ordered to be paid jointly and severally remains the responsibility of the defendant until the defendant has paid the defendant's ordered amount of restitution in full or the respective victim has been paid in full.

10. Government's agreement: The government will not bring any additional charges against the defendant based upon the conduct underlying and related to the defendant's plea of guilty. The government will file a Supplement in this case, as is routinely done in every case, even though there may or may not be any additional terms. The government will dismiss, after sentencing, any remaining charges in the pending indictment. This agreement is limited to the United States Attorney's Office for the Northern District of Texas and does not bind any other federal, state, or local prosecuting authorities, nor does it prohibit any civil or administrative proceeding against the defendant or any property.

11. Violation of agreement: The defendant understands that if the defendant violates any provision of this agreement, or if the defendant's guilty plea is vacated or withdrawn, the government will be free from any obligations of the agreement and free to prosecute the defendant for all offenses of which it has knowledge, including the reinstatement of charges dismissed pursuant to this plea agreement. In the event of such

a violation, vacatur, or withdrawal, the defendant waives all objections based upon delay in prosecution. If the plea is vacated or withdrawn for any reason other than a finding that it was involuntary, the defendant also waives all objections to the use against the defendant of any information or statements the defendant has provided to the government, and any resulting leads.

12. **Voluntary plea:** This plea of guilty is freely and voluntarily made and is not the result of force or threats, or of promises apart from those set forth in this plea agreement. There have been no guarantees or promises from anyone as to what sentence the Court will impose.

13. **Waiver of right to appeal or otherwise challenge sentence:** The defendant waives the defendant's rights, conferred by 28 U.S.C. § 1291 and 18 U.S.C. § 3742, to appeal the conviction, sentence, fine and order of restitution or forfeiture in an amount to be determined by the Court. The defendant further waives the defendant's right to contest the conviction, sentence, fine and order of restitution or forfeiture in any collateral proceeding, including proceedings under 28 U.S.C. § 2241 and 28 U.S.C. § 2255. The defendant, however, reserves the rights (a) to bring a direct appeal of (i) a sentence exceeding the statutory maximum punishment, or (ii) an arithmetic error at sentencing, (b) to challenge the voluntariness of the defendant's plea of guilty or this waiver, and (c) to bring a claim of ineffective assistance of counsel.

14. **Representation of counsel:** The defendant has thoroughly reviewed all legal and factual aspects of this case with the defendant's attorney and is fully satisfied with that attorney's legal representation. The defendant has received from the

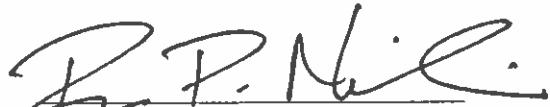
defendant's attorney explanations satisfactory to the defendant concerning each paragraph of this plea agreement, each of the defendant's rights affected by this agreement, and the alternatives available to the defendant other than entering into this agreement. Because the defendant concedes that the defendant is guilty, and after conferring with the defendant's attorney, the defendant has concluded that it is in the defendant's best interest to enter into this plea agreement and all its terms, rather than to proceed to trial in this case.

15. **Entirety of agreement:** This document, including any Supplement filed contemporaneously, is a complete statement of the parties' agreement and may not be modified unless the modification is in writing and signed by all parties. This agreement supersedes any and all other promises, representations, understandings, and agreements that are or were made between the parties at any time before the guilty plea is entered in court. No promises or representations have been made by the United States except as set forth in writing in this plea agreement.

[NOTHING FURTER ON THIS PAGE]

AGREED TO AND SIGNED this 1st day of July, 2024.

LEIGHA SIMONTON
UNITED STATES ATTORNEY



RYAN P. NIEDERMAIR
Assistant United States Attorney
Texas Bar No. 24116828
1100 Commerce Street, Third Floor
Dallas, Texas 75242-1699
Tel: 214-659-8600
Fax: 214-659-8812
Email: ryan.niedermair@usdoj.gov



Tiffany H. Eggers
Criminal Chief

I have read or had read to me this plea agreement and have carefully reviewed every part of it with my attorney. I fully understand it and voluntarily agree to it.



06/27/2024

THELMA MARSHELL ANDERSON
Defendant

Date

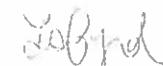
I am the defendant's attorney. I have carefully reviewed every part of this plea agreement with the defendant. To my knowledge and belief, my client's decision to enter into this plea agreement is an informed and voluntary one.



07.01.24

NICK OBERHEIDEN
Attorney for Defendant

Date



06/28/2024

LYNETTE S. BYRD
Attorney for Defendant

Date

United States District Court
Northern District of Texas Dallas Division

UNITED STATES OF AMERICA

v.

THELMA MARSHELL ANDERSON

JUDGMENT IN A CRIMINAL CASE

§

§

§ Case Number: 3:24-CR-00191-K(1)

§ USM Number: 18120-511

§

§ **Nick Oberheiden**

§ Defendant's Attorney

THE DEFENDANT:

| | | |
|-------------------------------------|---|--|
| <input type="checkbox"/> | pleaded guilty to count(s) | |
| <input checked="" type="checkbox"/> | pleaded guilty to count(s) before a U.S. Magistrate Judge, which was accepted by the court. | To Count 1 of the 3-Count Indictment, filed on May 21, 2024. |
| <input type="checkbox"/> | pleaded nolo contendere to count(s) which was accepted by the court | |
| <input type="checkbox"/> | was found guilty on count(s) after a plea of not guilty | |

The defendant is adjudicated guilty of these offenses:

| <u>Title & Section / Nature of Offense</u> | <u>Offense Ended</u> | <u>Count</u> |
|--|----------------------|--------------|
| 18 U.S.C. § 1343 Wire Fraud | 02/18/2021 | 1 |

The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

The defendant has been found not guilty on count(s)
 Counts 2 and 3 of the Indictment, filed on May 21, 2024 are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

March 5, 2025

Date of Imposition of Judgment



Signature of Judge

Ed Kinkeade, United States District Judge

Name and Title of Judge

March 5, 2025

Date

CERTIFIED A TRUE COPY
KAREN MITCHELL, CLERK

By s/GENEVALÓPEZ

DEPUTY CLERK
U.S. DISTRICT COURT, NORTHERN DISTRICT OF TEXAS

March 7, 2025



DEFENDANT: THELMA MARSELL ANDERSON
CASE NUMBER: 3:24-CR-00191-K(1)

PROBATION

The defendant is hereby sentenced to probation for a term of:

FOUR (4) Years.

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.
 - The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check if applicable)*
4. You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
5. You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, et seq.) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
6. You must participate in an approved program for domestic violence. *(check if applicable)*
7. You must make restitution in accordance with 18 U.S.C. §§ 2248, 2259, 2264, 2327, 3663, 3663A, and 3664. *(check if applicable)*
8. You must pay the assessment imposed in accordance with 18 U.S.C. § 3013.
9. If this judgment imposes a fine, you must pay in accordance with the Schedule of Payments sheet of this judgment.
10. You must notify the court of any material change in your economic circumstances that might affect your ability to pay restitution, fines, or special assessments.

You must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

DEFENDANT: THELMA MARSELL ANDERSON
CASE NUMBER: 3:24-CR-00191-K(1)

STANDARD CONDITIONS OF PROBATION

As part of your probation, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.

U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. I understand additional information regarding these conditions is available at www.txnp.uscourts.gov.

Defendant's Signature _____ Date _____

DEFENDANT: THELMA MARSHELL ANDERSON
CASE NUMBER: 3:24-CR-00191-K(1)

SPECIAL CONDITIONS OF PROBATION

Pursuant to the Mandatory Victims Restitution Act of 1996, the defendant is ordered to pay restitution in the amount of \$20,871, payable to the U.S. District Clerk, 1100 Commerce Street, Room 1452, Dallas, Texas 75242. Restitution shall be payable immediately and shall be disbursed to:

U.S. Small Business Administration (SBA)
\$20,871.00
Re: Thelma Marshell Anderson
3:24-CR-191
SBA Loan No. 3772408410

If the restitution has not been paid in full within 30 days of the date of this judgment, the defendant shall make payments on such unpaid balance in monthly installments of not less than 10 percent of the defendant's gross monthly income, or at a rate of not less than \$250 per month, whichever is greater, until the balance is paid in full. In addition, at least 50 percent of the receipts received from gifts, tax refunds, inheritances, bonuses, lawsuit awards, and any other receipt of money shall be paid toward the unpaid balance within 15 days of receipt. This payment plan shall not affect the ability of the United States to immediately collect payment in full through garnishment, the Treasury Offset Program, the Federal Debt Collection Procedures Act of 1990 or any other means available under federal or state law. Furthermore, it is ordered that interest on the unpaid balance is waived pursuant to 18 U.S.C. § 3612(f)(3).

The defendant shall pay any remaining balance of restitution as set out in this Judgment.

The defendant shall provide to the probation officer complete access to all business and personal financial information.

The defendant shall maintain not more than one business and/or one personal checking account, and shall not open, maintain, be a signatory on, or otherwise use any other financial institution account without the prior approval of the probation officer.

The defendant shall not incur new credit charges or open additional lines of credit without approval of the probation officer unless the probation officer makes a determination that the defendant has fully satisfied the restitution obligations.

The defendant shall participate in outpatient mental health treatment services as directed by the probation officer until successfully discharged. These services may include medications prescribed by a licensed physician. You shall contribute to the costs of services rendered (copayment) at a rate of at least \$25 per month.

DEFENDANT: THELMA MARSHELL ANDERSON
CASE NUMBER: 3:24-CR-00191-K(1)

SPECIAL CONDITIONS OF PROBATION CONTINUED

The defendant during the first three months of being placed on probation shall contact Warden Dr. Hall, of the female prison located at the Federal Correctional Institution (FCI) in Bryan, Texas. In addition, the defendant shall notify Warden Hall that she has been ordered by Judge Kinkeade to take tour of the Bureau of Prisons (BOP) facility at FCI Bryan.

DEFENDANT: THELMA MARSHELL ANDERSON
CASE NUMBER: 3:24-CR-00191-K(1)

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the Schedule of Payments page.

| | Assessment | Restitution | Fine | AVAA Assessment* | JVTA Assessment** |
|---------------|------------|-------------|--------|------------------|-------------------|
| TOTALS | \$100.00 | \$20,871.00 | \$0.00 | \$0.00 | \$0.00 |

The determination of restitution is deferred until An *Amended Judgment in a Criminal Case (AO245C)* will be entered after such determination.
 The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

U.S. Small Business Administration (SBA)

\$20,871.00

Re: Thelma Marshell Anderson
3:24-CR-191
SBA Loan No. 3772408410

Restitution amount ordered pursuant to plea agreement \$

The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on the Schedule of Payments page may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

The court determined that the defendant does not have the ability to pay interest and it is ordered that:

the interest requirement is waived for the fine restitution

the interest requirement for the fine restitution is modified as follows:

* Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Pub. L. No. 115-299.

** Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22

*** Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: THELMA MARSELL ANDERSON
CASE NUMBER: 3:24-CR-00191-K(1)

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

A Lump sum payments of \$ _____ due immediately, balance due
 not later than _____, or
 in accordance C, D, E, or F below; or

B Payment to begin immediately (may be combined with C, D, or F below); or

C Payment in equal monthly (e.g., weekly, monthly, quarterly) installments of \$ \$250.00 over a period of (e.g., months or years), to commence 60 days (e.g., 30 or 60 days) after the date of this judgment; or

D Payment in equal 20 (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or

E Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or

F Special instructions regarding the payment of criminal monetary penalties:
It is ordered that the Defendant shall pay to the United States a special assessment of \$100.00 for Count 1, which shall be due immediately. Said special assessment shall be paid to the Clerk, U.S. District Court.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

Joint and Several
See above for Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

The defendant shall pay the cost of prosecution.
 The defendant shall pay the following court cost(s):
 The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) AVAA assessment, (5) fine principal, (6) fine interest, (7) community restitution, (8) JVTA assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.

AFFIDAVIT

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

BEFORE ME, the undersigned authority, on this day personally appeared Ramiro Canales, the Commission's attorney of record, who, being by me duly sworn, deposed as follows:

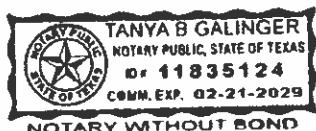
"My name is Ramiro Canales. I am over the age of 18 years, of sound mind, capable of making this affidavit, and state the following:

Based upon information and belief, Thelma M. Anderson, whose Texas Bar Card Number is 24091728, is licensed as an attorney and counselor at law in the State of Texas. Based upon information and belief Thelma M. Anderson, named as Respondent in the Petition for Compulsory Discipline filed with the Board of Disciplinary Appeals is one and the same person as the Thelma Marshall Anderson who is the subject of the Judgment in a Criminal Case entered in Cause No. 3:24-CR-00191-K, styled *United States of America v. Thelma Marshall Anderson*, in the United States District Court for the Northern District of Texas, Dallas Division, wherein Respondent was found guilty of Count One Wire Fraud, in violation of 18 U.S.C. § 1343. The defendant was sentenced to probation for a term of four (4) years. Respondent was further ordered to pay restitution to the U.S. Small Business Administration (SBA) in the amount of \$20,871.00 along with other terms of probation."

FURTHER Affiant saith not.

Ramiro Canales
Ramiro Canales

SWORN AND SUBSCRIBED before me on the 28th day of May 2025.

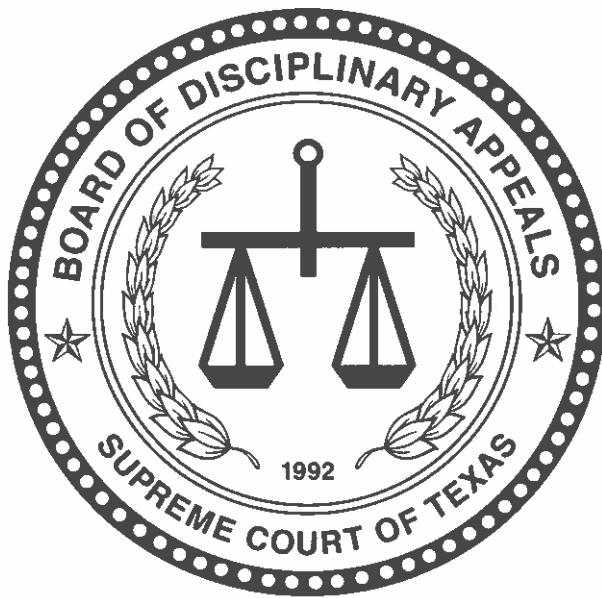


Tanya B. Galinger
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

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



INTERNAL PROCEDURAL RULES
(EFFECTIVE SEPTEMBER 24, 2024)



Mailing Address:
P.O. Box 12426
Austin TX 78711

1414 Colorado, Suite 610
Austin TX 78701

Tel: 512 427-1578
FAX: 512 427-4130
website: txboda.org

INTERNAL PROCEDURAL RULES

BOARD OF DISCIPLINARY APPEALS

Current through September 24, 2024

Contents

| | |
|---|----------|
| I. General Provisions | 1 |
| Rule 1.01. Definitions | 1 |
| Rule 1.02. General Powers | 1 |
| Rule 1.03. Additional Rules in Disciplinary Matters | 1 |
| Rule 1.04. Appointment of Panels | 1 |
| Rule 1.05. Filing of Pleadings, Motions, and Other Papers | 1 |
| Rule 1.06. Service of Petition | 2 |
| Rule 1.07. Hearing Setting and Notice | 2 |
| Rule 1.08. Time to Answer | 2 |
| Rule 1.09. Pretrial Procedure | 2 |
| Rule 1.10. Decisions | 3 |
| Rule 1.11. Board of Disciplinary Appeals Opinions | 3 |
| Rule 1.12. BODA Work Product and Drafts | 3 |
| Rule 1.13. Record Retention | 3 |
| Rule 1.14. Costs of Reproduction of Records | 3 |
| Rule 1.15. Publication of These Rules | 3 |
| II. Ethical Considerations | 3 |
| Rule 2.01. Representing or Counseling Parties in Disciplinary Matters and Legal Malpractice Cases | 3 |
| Rule 2.02. Confidentiality | 4 |
| Rule 2.03. Disqualification and Recusal of BODA Members | 4 |
| III. Classification appeals | 4 |
| Rule 3.01. Notice of Right to Appeal | 4 |
| Rule 3.02. Record on Appeal | 4 |
| Rule 3.03. Disposition of Classification Appeal | 4 |
| IV. Appeals from Evidentiary Panel Hearings | 4 |
| Rule 4.01. Perfecting Appeal | 4 |
| Rule 4.02. Record on Appeal | 5 |
| Rule 4.03. Time to File Record | 6 |
| Rule 4.04. Copies of the Record | 7 |
| Rule 4.05. Requisites of Briefs | 7 |
| Rule 4.06. Oral Argument | 7 |
| Rule 4.07. Decision and Judgment | 8 |
| Rule 4.08. Appointment of Statewide Grievance Committee | 8 |
| Rule 4.09. Involuntary Dismissal | 8 |
| V. Petitions to Revoke Probation | 8 |
| Rule 5.01. Initiation and Service | 8 |

| | |
|--|-----------|
| Rule 5.02. Hearing | 8 |
| VI. Compulsory Discipline | 8 |
| Rule 6.01. Initiation of Proceeding | 8 |
| Rule 6.02. Interlocutory Suspension | 8 |
| VII. Reciprocal Discipline | 9 |
| Rule 7.01. Initiation of Proceeding | 9 |
| Rule 7.02. Order to Show Cause | 9 |
| Rule 7.03. Attorney's Response | 9 |
| VIII. District Disability Committee hearings | 9 |
| Rule 8.01. Appointment of District Disability Committee | 9 |
| Rule 8.02. Petition and Answer | 9 |
| Rule 8.03. Discovery | 10 |
| Rule 8.04. Ability to Compel Attendance | 10 |
| Rule 8.05. Respondent's Right to Counsel | 10 |
| Rule 8.06. Hearing | 10 |
| Rule 8.07. Notice of Decision | 10 |
| Rule 8.08. Confidentiality | 10 |
| IX. Disability reinstatements | 10 |
| Rule 9.01. Petition for Reinstatement | 10 |
| Rule 9.02. Discovery | 11 |
| Rule 9.03. Physical or Mental Examinations | 11 |
| Rule 9.04. Judgment | 11 |
| X. Appeals from BODA to the Supreme Court of Texas..... | 11 |
| Rule 10.01. Appeals to the Supreme Court..... | 11 |

INTERNAL PROCEDURAL RULES

Board of Disciplinary Appeals

Current through September 24, 2024

I. 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 [17.01] 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.

- (c) BODA may, upon decision of the Chair, conduct any business or proceedings—including any hearing, pretrial conference, or consideration of any matter or motion—remotely.

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 or a complaint 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 must 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 [2.22], 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 [2.22], 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.

II. 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.

III. 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. If a grievance is classified as a complaint, the CDC must notify both the Complainant and the Respondent of the Respondent's 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. For a grievance classified as a complaint, the CDC must send the Respondent an appeal notice form, approved by BODA, with notice of 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 not consider documents or other submissions that the Complainant or Respondent filed with the CDC or BODA after the CDC's classification. 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.

Rule 3.03. Disposition of Classification Appeal

(a) BODA may decide a classification appeal by doing any of the following:

(1) affirm the CDC's classification of the grievance as an inquiry and the dismissal of the grievance;

(2) reverse the CDC's classification of the grievance as an inquiry, reclassify the grievance as a complaint, and return the matter to the CDC for investigation, just cause determination, and further proceedings in accordance with the TRDP;

(3) affirm the CDC's classification of the grievance as a complaint and return the matter to the CDC to proceed with investigation, just cause determination, and further proceedings in accordance with the TRDP; or

(4) reverse the CDC's classification of the grievance as a complaint, reclassify the grievance as an inquiry, and dismiss the grievance.

(b) When BODA reverses the CDC's inquiry classification and reclassifies a grievance as a complaint, BODA must reference any provisions of the TDRPC under which BODA concludes professional misconduct is alleged. When BODA affirms the CDC's complaint classification, BODA may reference any provisions of the TDRPC under which BODA concludes professional misconduct is alleged. The scope of investigation will be determined by the CDC in accordance with TRDP 2.12.

(c) BODA's decision in a classification appeal is final and conclusive, and such decision is not subject to appeal or reconsideration.

(d) A classification appeal decision under (a)(1) or (4), which results in dismissal, has no bearing on whether the Complainant may amend the grievance and resubmit it to the CDC under TRDP 2.10.

IV. 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 [2.20] consistent with this requirement, the date that the judgment is signed is the “date of notice” under Rule [TRDP] 2.21 [2.20].

(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 [2.20].

(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 [2.23], 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.

(i) 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.

¹ So in original.

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 [2.26]. 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.

V. 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 [2.22].

(b) Upon filing the motion, the CDC must serve the Respondent with the motion and any supporting documents in accordance with TRDP 2.23 [2.22], 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.

VI. 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 must 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.

VII. RECIPROCAL DISCIPLINE

Rule 7.01. Initiation of Proceeding

To initiate an action for reciprocal discipline under TRDP Part IX, the CDC must file a petition with BODA and request an Order to Show Cause. 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.

VIII. 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 must 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 must comply with Rule 1.06.

(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.

IX. 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.

X. 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.