

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

<b>IN THE MATTER OF</b>	§	
<b>DANIEL OLEN BARHAM,</b>	§	<b>CAUSE NO. 72719</b>
<b>STATE BAR CARD NO. 24133655</b>	§	

**AGREED JUDGMENT OF PUBLIC REPRIMAND**

On this day the above-styled and numbered reciprocal disciplinary action was called for hearing before the Board of Disciplinary Appeals. The Commission for Lawyer Discipline, (hereinafter the "Commission") appeared by attorney and Respondent appeared in person as indicated by their respective signatures below and announced that they agree to the findings of fact, conclusions of law, and orders set forth below solely for the purposes of this proceeding which has not been fully adjudicated. Respondent waives any and all defenses that could be asserted under Rule 9.04 of the Texas Rules of Disciplinary Procedure. The Board of Disciplinary Appeals, having reviewed the file and in consideration of the agreement of the parties, is of the opinion that Petitioner is entitled to entry of the following findings, conclusions, and orders:

**Findings of Fact.** The Board of Disciplinary Appeals finds that:

- (1) Respondent, Daniel Olen Barham, State Bar Card number 240133655, is an attorney licensed and authorized by the Supreme Court of Texas to practice law in the State of Texas.
- (2) On or about March 20, 2025, a Public Censure was entered in FILE NO. 73450-6-MB styled, *In Re: Daniel Olen Barham, #034103, Respondent, an attorney licensed to practice law in Tennessee (Williamson County)*, in Disciplinary District III of the Board of Professional Responsibility of the Supreme Court of Tennessee, that states in pertinent part as follows:

In or about June 2020, Mr. Barham, Respondent, along with two other attorneys in his firm, was retained by Abacus Pharma International, LLC ("API") and its president (collectively "Defendants") to represent them in a breach of contract action filed by Lumley Enterprise, LLC (Lumley) in

the Circuit Court of the 11th Judicial Circuit in and for Miami-Dade County, Florida. On July 3, 2020, Judge Hanzman entered an Order (the "Order") appointing a Custodian to take possession of certain Test Kits and enjoined Defendants from dissipating any corporate assets of API outside the ordinary course of business until and unless 300,000 Test Kits were delivered to, and in the physical custody of, the Custodian or further Order of the Court. The Order further required all persons, corporations or other entities now or hereafter in possession of the Test Kits, or any part thereof, as well as any profits collected or derived from the Test Kits to forthwith and without further order of the Court surrender such possession to the Custodian. At no time material to the complaint did the Custodian take possession of 300,000 Test Kits.

In or about *February 2021*, Defendants received \$700,000.00 in partial settlement of a claim against a third party related to 80,000 Test Kits that had been sold prior to the entry of the July 3, 2020, Order. Respondent, believing the Order did not apply to the 80,000 Test Kits, deposited the \$700,000.00 into the law firm's trust account without disclosing the same to the Custodian, counsel for Lumley, or Judge Hanzman. *Upon learning of the \$700,000.00 settlement, counsel for Lumley filed a Motion for Contempt Against Defendants on January 18, 2022.*

At the April 6, 2022, hearing on the Motion for Contempt, Respondent acknowledged the 80,000 Test Kits were part of the original 600,000 Test Kits that were the subject of the original hearing on plaintiff's motion to appoint a receiver. In response to questions from the Court, Respondent argued the July 3, 2020, Order was unclear as to whether the \$700,000.00 settlement proceeds were within the scope of the Order and required to be delivered to the Custodian, and represented he did not believe the Order included the 80,000 Test Kits or the \$700,000.00 settlement proceeds derived from those Test Kits. In response to counsel's argument, Judge Hanzman stated he was unpersuaded that there was anything confusing about the Order.

Shortly thereafter a recess was taken by the parties during which Respondent's client and Lumley agreed to resolve the litigation, including the contempt motion, based on the disbursement to Lumley of a second set of settlement funds owed to Defendants and previously disclosed to all parties but interpleaded by another law firm on behalf of a third party. The terms of the settlement were announced to the Court on the record, and a Stipulated Final Judgment was entered April 13, 2022, stipulating the settlement funds held by the third party were payable to the Custodian pursuant to Judge Hanzman's July 3, 2020, Order prior to the Custodian's discharge and were now payable to Lumley.

The Board of Professional Responsibility has determined that Respondent did not timely notify the Court, the Custodian and opposing counsel of the receipt of an asset subject to the Order entered by the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida on July 3, 2020, and request authorization from the Court to deposit the settlement funds in the law firm's trust account for Defendants use in the ordinary course of business.

By the above conduct, Respondent violated Rules of Professional Conduct, 3.4 (Fairness to Opposing Party and Counsel) and 8.4(d) (Misconduct) and is Publicly Censured.

- (3) Respondent was disciplined in another jurisdiction within the meaning of TRDP 9.01. The Tennessee Board of Professional Responsibility of the Supreme Court of Tennessee found that Respondent violated Rule 8.4(d) of the Tennessee Rules of Professional Conduct, which provides, “[i]t is professional misconduct for a lawyer to . . . (d) engage in conduct that is prejudicial to the administration of justice”, as well as Rule 3.4, which provides:

A lawyer shall not:

- (a) unlawfully obstruct another party's access to evidence or unlawfully alter, destroy, or conceal a document or other material having potential evidentiary value. A lawyer shall not counsel or assist another person to do any such act; or
- (b) falsify evidence, counsel or assist a witness to offer false or misleading testimony; or
- (c) knowingly disobey an obligation under the rules of a tribunal, except for an open refusal based on an assertion that no valid obligation exists; or
- (d) in pretrial procedure, make a frivolous discovery request or fail to make a reasonably diligent effort to comply with a legally proper discovery request by an opposing party; or
- (e) in trial,
  - (1) allude to any matter that the lawyer does not reasonably believe is relevant or that will not be supported by admissible evidence; or
  - (2) assert personal knowledge of facts in issue except when testifying as a witness; or
  - (3) state a personal opinion as to the justness of a cause, the credibility of a witness, the culpability of a civil litigant or the guilt or innocence of an accused; or
- (f) request a person other than a client to refrain from voluntarily giving relevant information to another party unless:
  - (1) the person is a relative or an employee or other agent of a client; and
  - (2) the lawyer reasonably believes that the person's interests will not be adversely affected by refraining from giving such information; or
- (g) request or assist any person to take action that will render the person

unavailable to appear as a witness by way of deposition or at trial; or  
(h) offer an inducement to a witness that is prohibited by law; or pay, offer to pay, or acquiesce in the payment of compensation to a witness contingent on the content of his or her testimony or the outcome of the case. A lawyer may advance, guarantee, or acquiesce in the payment of:

- (1) expenses reasonably incurred by a witness in attending or testifying;
- (2) reasonable compensation to a witness for that witness's loss of time in attending or testifying; or
- (3) a reasonable fee for the professional services of an expert witness.”

(4) Both of Respondent’s violations of the Tennessee Rules of Professional Conduct (“TRCP”) correspond to similar obligations in the Texas Disciplinary Rules of Professional Conduct (the “TDRPCs”).

a. TRCP Rule 8.4(d) (Misconduct) corresponds to TDRPC Rule 8.04(a)(4) (Misconduct), which provides: “A lawyer shall not engage in conduct constituting obstruction of justice.” TEX. DISCIPLINARY R. PROF’L CONDUCT 8.04(a)(4).

b. TRCP Rule 3.4 (Fairness to Opposing Party and Counsel) corresponds to TDRPC Rule 3.04 (Fairness in Adjudicatory Proceedings), which provides in relevant part: “A lawyer shall not: (a) unlawfully obstruct another party's access to evidence; in anticipation of a dispute unlawfully alter, destroy or conceal a document or other material that a competent lawyer would believe has potential or actual evidentiary value; or counsel or assist another person to do any such act. ... [and] (d) knowingly disobey, or advise the client to disobey, an obligation under the standing rules of or a ruling by a tribunal except for an open refusal based either on an assertion that no valid obligation exists or on the client's willingness to accept any sanctions arising from such disobedience.” TEX. DISCIPLINARY R. PROF’L CONDUCT 3.04(a) and (d).

(5) Specifically, the Public Censure sets forth that Respondent failed to inform the Custodian and the court (between February 2021 and January 18, 2022), that \$700,000 had been deposited in Respondent’s trust account as required by Judge Hanzman’s July 3, 2020, order. Said censure also indicates that the Custodian and court did not learn of the deposit until on or about January 18, 2022; when “Upon learning of the \$700,000.00 settlement, counsel for Lumley filed a Motion for Contempt Against Defendants on January 18, 2022.”

(6) Because Respondent failed to inform the Custodian and the court (between February 2021 and January 18, 2022), that \$700,000 had been deposited in Respondent’s trust account as required by Judge Hanzman’s July 3, 2020, order, this disciplinary action is timely under the Texas Disciplinary Rule of Procedure 17.06(D), which provides:

Where fraud or concealment is involved, the time periods stated in this rule do not begin to run until the Complainant discovered, or in the exercise of reasonable diligence should have discovered, the Professional Misconduct.

Rule 17.06(D), Texas Rules of Disciplinary Procedure. Respondent's failure to inform the Custodian and the court concealed until January 18, 2022, information that Respondent was required to disclose in February 2021 by court order. The Commission first received notice of Respondent's Public Censure on April 30, 2025. Under Rules 17.06(A) and (D), Texas Rules of Disciplinary Procedure, Respondent may be sanctioned for conduct that occurred after May 20, 2021.

- (7) Respondent, Daniel Olen Barham, is the same person as the Daniel Olen Barham who is the subject of the Public Censure entered in a matter styled, FILE No. 73450-6-MB, *In Re: Daniel Olen Barham, #034103, Respondent, an attorney licensed to practice law in Tennessee (Williamson County)*, in Disciplinary District III of the Board of Professional Responsibility of the Supreme Court of Tennessee.
- (8) The public censure entered by the Disciplinary District III of the Board of Professional Responsibility of the Supreme Court of Tennessee, is final.

**Conclusions of Law.** Based upon the foregoing findings of facts the Board of Disciplinary Appeals makes the following conclusions of law:

- (1) This Board has jurisdiction to hear and determine this matter. TEX. RULES DISCIPLINARY P. R. 7.08(H).
- (2) Reciprocal discipline identical, to the extent practicable, to that imposed by the Disciplinary District III of the Board of Professional Responsibility of the Supreme Court of Texas, is warranted in this case.

It is, accordingly, **ORDERED, ADJUDGED, AND DECREED** that Respondent, Daniel Olen Barham, State Bar Card No. 24133655, is hereby **PUBLICLY REPRIMANDED** as an attorney at law in the State of Texas.

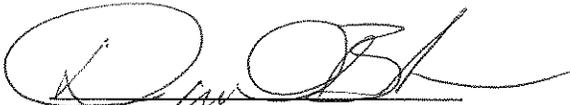
Signed this 19th day of March 2026.



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CHAIR PRESIDING

APPROVED AS TO FORM AND CONTENT:



Daniel Olen Barham  
State Bar No. 24133655  
Respondent



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Richard A. Huntpalmer  
Assistant Disciplinary Counsel  
State Bar No. 24097857  
Attorney for the Commission