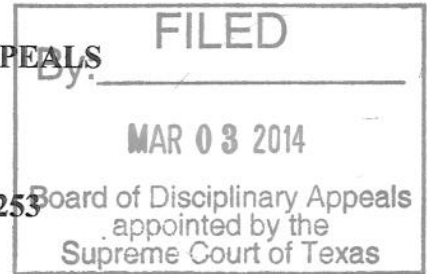


BEFORE THE BOARD OF DISCIPLINARY APPEALS
OF THE STATE BAR OF TEXAS



COMMISSION FOR LAWYER DISCIPLINE X
VS. X
WILLIAM L. BASKETTE X

201301253

RESPONDENT'S NOTICE OF APPEAL FROM PUBLIC REPRIMAND

Now comes WILLIAM L. BASKETTE, ESQ., who would respectfully show the
Following:

The Evidentiary Panel of the State Bar of Texas has entered a Judgment dated January 30, 2014, from a hearing held and decision reached on January 9, 2014, finding that Respondent violated TDRPC 1.03(a) 'failure to keep client reasonable informed of the status of a matter and promptly comply with reasonable requests for information,' and 1.15(d) "failure to return unearned funds upon termination of employment," but finding for the Respondent 1.01(b)(1) "neglecting matter entrusted to the lawyer."

Respondent was sanctioned with a Public Reprimand and assessed \$1,562.50 in attorney's fees payable to the CDC, restitution to Complainant in the (arbitrary) amount of \$695.00, and completion of six (6) additional ours of Ethics/Office Management.

Respondent gives NOTICE OF APPEAL.

(1) ALLEGATION OF NEGLIGENCE –FOUND BY THE EVIDENTIARY
COMMITTEE FOR THE RESPONDENT

Respondent denies that he violated Rule 1.01 (b) (1). The matter was never neglected, however, it was the Client's filing of a complaint that stopped the process after a mere 43 days, and the Evidentiary Committee agreed.

The Client did agree to hire Counsel to obtain visitation of her grandchildren. Counsel succeeded is obtaining visitation for the client. Client was aware as of June 14, 2012, that Counsel charged a Flat Fee and that "Fees paid to this office may be non-refundable while unused court costs are refundable".

The Client did pay a flat fee of \$2,000 and court costs of \$400.00 to Counsel, however it took the client from July 26, 2012 through December 14, 2013, to complete her payments. That is about 5 months. Counsel did not drop her case or take any

collection actions against her for her slow payments.

Despite not being paid in full, Counsel filed the lawsuit on October 2, 2012, and setting a temporary orders hearing for October 11, 2012. Counsel obtained the relief requested by the Client during Temporary Orders, and Client was able to start her visitations of her grandchild. The Temporary Orders were approved by Judge Littlejohn and remain in effect until a final order is submitted to the court.

On January 8, 2013, the final hearing was held and the Respondent did not appear, so a default was taken with an "Order to Come." Client informed Counsel that the visitation arranged by Counsel was working out as she had hoped under the Temporary Orders, so there was no need for Final Orders to be entered immediately.

Client filed her complaint with the State Bar on February 21, 2013, a mere 43 days after the final hearing. She alleges (1) "I realize there is a timeline for the filing of the permanent orders..." Counsel believes she intended to say that "there is not a timeline," because in fact there is no timeline for obtaining a final order. The only timeline that is enforced in Bexar County is when the District Clerk send a Notice of Intent to Dismiss for Want of Prosecution, which takes place about a year after the final hearing or last action of the court. Client began to harass Counsel seeking a final order. She was told that she **would be provided the final orders when ready**. Counsel had other cases and emergency cases that needed attention rather than a Client who has orders in place that are in her favor. At no time did Client inform Counsel that she was having any problems with the Temporary Orders or obtaining her visitations.

(2) FINDING THAT COUNSEL REFUSED TO REFUSED TO RETURN
UNEARNED FUNDS

After the Grievance was filed, Client attempted to obtain funds from Counsel, demanding \$1,000.00. The Evidentiary Committee awarded her \$695.00. When the grievance was filed counsel stopped work on the case. He was informed by the Chief Disciplinary Counsel that once a client terminates services no further actions are allowed. Once the grievance was filed counsel considered this a termination of services because from that point forward a conflict of interest arises. All that had to happen was a type written Final Order mirroring the handwritten agreed Temporary Orders. This is not worth \$1,000.00. The Complainant was attempting to gain from Respondent's work on

her case and withdraw half of the agreed to be paid flat fee to pay to someone else to do about \$50.00 worth of typing and entry of the Order. So, Counsel stopped work as he was previously told, and then penalized for not completing the work.

There are no unearned fees due the Client as the Client breached the attorney-client relationship by terminating employment without good cause. There is no hourly contract or a la carte agreement. Counsel stated in his original response to the May 14th Grievance letter that an order could be completed in about 30 days if he was allowed to proceed, however the Chief Counsel never responded and failed to provide to Counsel any direction whether to complete the order or allow the process to take place. Subsequently, after the grievance was filed Respondent Counsel offered to the Complainant to file the Final Orders if she would drop the complaint, and Ms. Head said she would rather have the \$1,000.00. Counsel believes Complainant was not entitled to any money back as she prematurely filed a Complaint for work note performed when she thought it needed to be done. She was not vindicated by the Evidentiary Committee but certain members of the Committee felt sorry for her and ordered \$695.00 to be paid.

(3) FINDING THAT RESPONDENT COUNSEL FAILED TO KEEP THE CLIENT REASONABLY INFORMED OF THE STATUS OF THE MATTER.

Respondent denies that he violated Rule 103 (a). Counsel did comply with a reasonable request regarding the status of the final order as evidenced by the email dated January 31, 2013 (23 days after the hearing), in which **Counsel stated the orders were not yet ready and the Client would be advised when they were by mailing a copy of the orders to her.**

There was no immediate need for FINAL ORDERS which mirrored the TEMPORARY ORDERS which were agreed and in force. Counsel testified that in the office of a solo practitioner with no staff that some cases take priority over others, and that hers was already resolved while others such as emergency cases, TRO's, Protective Orders and trials. There were no committee members who practice family law in a Solo Practitioner Office, the only previous member who understood the pressures of this kind of law was recused by the CDC.

In summary, Client Complainant complained the entry of a Final Order which

was the same and as enforceable as the Temporary Orders was taking too long, and she filed a grievance to get the State Bar to impose on Counsel a deadline for completion of work which was not immediately necessary. The Evidentiary Committee disagreed with the Chief Disciplinary Counsel and the Complainant and did not find a violation of the Rules of Disciplinary Procedure.

Then, there being no neglect, the Evidentiary Committee found that unearned monies had not been returned and ordered that \$695.00 be refunded the Complainant Client who demanded \$1,000.00, so, in part, the EC did not fully agree with the CDC. This \$695.00 was an arbitrary figure, there being no testimony that it would cost an attorney that amount to type up and file a FINAL ORDER that mirrored the previously agreed Temporary Orders. None of the committee members would know what it would have taken to file the Order and for what amount.

Third, there being no neglect and the Complainant's demand was not met in toto, the EC found Respondent failed to keep Complainant Client informed as to the status of the matter, when she was in fact informed that the matter was being tended to and would be filed when it was ready. She was not satisfied with this comment and instead of meeting with Counsel or expressing why she might need the FINAL ORDER so urgently, she filed the Complaint. When she did so, she in fact terminated the Attorney-Client relationship because then a conflict of interest arose with the Complaint. Counsel was not allowed to continue work on the case and felt the demand for \$1000.00 was not reasonable (as apparently agreed by the EC). Counsel did offer to complete the work once the complaint was withdrawn to remove the conflict, but it was the Complainant who refused, still demanding her \$1,000.00. She wanted to profit from Counsel's work and did in fact BREACH the CONTRACT with counsel. The Chief Disciplinary Counsel went along with her, despite the conflict.

Lastly, the Sanctions of attorney's fees and refund are disputed, but the stronger objection is to the Sanction of a Public Reprimand. The previous private reprimand was because counsel in an earlier case completed work on a case after a client terminated services via a grievance complaint. In fact, the work had been completed but the court lost the paperwork in Dallas and Counsel was able to have the court locate the judgment and file it. The Chief Disciplinary Counsel filed the previous action against Respondent

counsel because he did not cease work. In this case when counsel ceased work because of the Complaint, he was sanctioned.

Counsel attempted to explain to the EC the facts of the previous case as explained above, but the CDC objected and said the facts were irrelevant and that just the fact that a previous Complaint resulted in a private reprimand was enough for the entry of a public reprimand in this case. Respondent believes if he was permitted to explain the previous complaint and facts to the Evidentiary Committee, the result might have been different.

The EC was heavily weighted against the Respondent attorney. The Complainant, a black female, had the benefit of a public member who was of the same gender and race whose comments in the matter indicated not only that she did not understand the workings of the court system nor those of a solo practicing attorney. She was against Counsel from the start. There were no members who were solo practitioners or even family law attorneys who experienced the workings of the Presiding Court system and how matters are handled in the Bexar County Civil District Court system. The one attorney who was so qualified and experienced, Pamela Thompson, was recused. Not even the Chief Disciplinary Counsel was aware of the workings of the court system where Complainant's case was heard.

To issue a Public Reprimand when the actions of Counsel did not prejudice the Client, and the Committee did not find counsel neglected the matter, is too strong a sanction. Counsel is paying the \$695.00 and undertaking the additional ethics CLE hours. But the Public Reprimand absent evil or neglectful intent is beyond what is reasonable in this case.

PRAYER

That the Findings and Judgment of the Evidentiary Committee be reversed

Respectfully Submitted,



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