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

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

IN THE MATTER OF §
TRICIA STEELE BOUTROS § **CAUSE NO. 66335**
STATE BAR CARD NO. 24045535 §

PETITION FOR COMPULSORY DISCIPLINE

TO THE BOARD OF DISCIPLINARY APPEALS:

Petitioner, the Commission for Lawyer Discipline (hereinafter called "Petitioner"), brings this action against Respondent, Tricia Steele Boutros, (hereinafter called "Respondent"), showing as follows:

1. This action is commenced by Petitioner pursuant to Part VIII of the Texas Rules of Disciplinary Procedure. Petitioner 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, Tricia Steele Boutros, may be served with a true and correct copy of this Petition for Compulsory Discipline, its attachments, as well as a notice of hearing, at Tricia Steele Boutros, #35608-016, Federal Bureau of Prisons Residential Reentry Management Field Office, Old NC 75 Highway, Butner, NC 27509.

3. On or about October 24, 2019, Respondent was charged by Criminal Complaint (Exhibit 1) with Wire Fraud, in violation of 18 U.S.C. § 1343, and Aggravated Identity Theft, in violation of 18 U.S.C. § 1028A, in Magistrate No. 1:19-mj-00264-GMH, styled *United States of America v. Tricia Steele Boutros*, in the United States District Court for the District of Columbia.

4. On or about October 24, 2019, Respondent was charged by Criminal Complaint (Exhibit 2) with Wire Fraud, in violation of 18 U.S.C. § 1343, and Aggravated Identity Theft, in

violation of 18 U.S.C. § 1028A, in Cause No. 1:20-cr-00082-APM, styled *United States of America v. Tricia Steele Boutros*, in the United States District Court for the District of Columbia.

5. On or about April 29, 2020, Respondent was charged by Information (Exhibit 3) with Count One Bank Fraud in violation of 18 U.S.C. § 1344(1), 1344(2), in Magistrate No. 19-mj-00264, Cause No. 1:20-cr-00082-APM, styled *United States of America v. Tricia Steele Boutros*, in the United States District Court for the District of Columbia.

6. On or about October 7, 2020, a Judgment in a Criminal Case (Exhibit 4) was entered in Cause No. 1:20-cr-00082-APM, styled *United States of America v. Tricia Steele Boutros*, in the United States District Court for the District of Columbia, wherein Respondent pleaded guilty to Count 1 of the Information, 18 U.S.C. §§ 1344(1), 1344(2). The defendant was committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of thirty (30) months as to Count 1. The court makes the following recommendations to the Bureau of Prisons: placement at FPC Alderson. The Court also recommends placement in the following programs: revolve program, female integrated treatment (FIT) program, and residential drug abuse program (RDAP). Upon release from imprisonment, Defendant will be on supervised release for a term of sixty (60) months on Count 1. Respondent was further ordered to pay penalties of an assessment in the amount of \$100.00.

7. On or about November 12, 2020, a Memorandum Opinion and Order (Exhibit 5) was entered in Cause No. 1:20-cr-00082-APM, styled *United States of America v. Tricia Steele Boutros*, in the United States District Court for the District of Columbia, wherein Defendant was ordered to pay restitution totaling \$2.1 million to the following victims in the bracketed amounts: Blue Pay (\$598,965), BB&T (\$378,545), Plooto, Inc. (\$186,270), Coin Café (\$31,675), P.C. (\$42,000), and JPMC (\$862,545). In addition, Ms. Boutros shall forfeit a money judgment in the

amount of \$1,603,945.59 (\$2.1 million - \$496,054.41). The Judgment entered on October 5, 2020, shall be amended to reflect these sums.

8. On or about November 17, 2020, an Amended Judgment in a Criminal Case (Exhibit 6) was entered in Cause No. Cause No. 1:20-cr-00082-APM, styled *United States of America v. Tricia Steele Boutros*, in the United States District Court for the District of Columbia, wherein Respondent pleaded guilty to Count 1 of the Information, 18 U.S.C. §§ 1344(1), 1344(2). The defendant was committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of thirty (30) months as to Count 1. The court makes the following recommendations to the Bureau of Prisons: placement at FPC Alderson. The Court also recommends placement in the following programs: revolve program, female integrated treatment (FIT) program, and residential drug abuse program (RDAP). Upon release from imprisonment, Defendant will be on supervised release for a term of sixty (60) months on Count 1. Respondent was further ordered to pay penalties of an assessment in the amount of \$100.00, and restitution in the amount of \$2,100,000.00.

9. Respondent, Tricia Steele Boutros, whose bar card number is 24045535, is the same person as the Tricia Steele Boutros, who is the subject of the Criminal Complaint filed in Cause No. 1:19-mj-00264-GMH, the Criminal Complaint filed in Cause No. 1:20-cr-00082-APM, Information, Plea Agreement, Judgment in a Criminal Case, Memorandum Opinion and Order, and Amended Judgment in a Criminal Case, described above, true and correct copies of which are attached hereto as Exhibits 1 through 6.

10. Attached hereto as Exhibit 7 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 Judith Gres DeBerry, Attorney of Record for Petitioner herein, attesting to the fact that Respondent is the same

person as the person who is the subject of the Criminal Complaint filed in Cause No. 1:19-mj-00264-GMH, the Criminal Complaint filed in Cause No. 1:20-cr-00082-APM, Information, Judgment in a Criminal Case, Memorandum Opinion and Order, and Amended Judgment in a Criminal Case, entered in the Boutros criminal case. Petitioner expects to introduce the original of said affidavit at the time of hearing of this cause.

11. The offense for which Respondent was convicted is an intentional crime as defined by Rule 1.06(V), Texas Rules of Disciplinary Procedure. They are as well serious crimes as defined by Rule 1.06(GG), Texas Rules of Disciplinary Procedure.

12. Having been found guilty of an intentional crime, and such judgment being final, Respondent should be disbarred as provided in Rule 8.05, Texas Rules of Disciplinary Procedure.

PRAYER

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

Respectfully submitted,

Seana Willing
Chief Disciplinary Counsel

Judith Gres DeBerry
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: 512.427.4167
Email: jdeberry@texasbar.com



Judith Gres DeBerry

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been sent for personal Service on Tricia Steele Boutros, #35608-016, Federal Bureau of Prisons Residential Reentry Management Field Office, Old NC 75 Highway, Butner, NC 27509, on this 17th day of February, 2022.


Judith Gres DeBerry

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that a trial on the merits of the 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 29th day of April, 2022.** The hearing location and format (in-person vs virtual) are subject to change based on conditions related to the COVID-19 pandemic. The Board of Disciplinary Appeals will notify the parties of any changes to the hearing location or format.


Judith Gres DeBerry

UNITED STATES DISTRICT COURT

for the
District of ColumbiaUnited States of America
v.
TRICIA STEELE BOUTROS)
)
)
)
)
)

Case No.

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of August 6, 2017 in the county of _____ in the
_____ District of Columbia, the defendant(s) violated:*Code Section*18 U.S.C. § 1343
18 U.S.C. § 1028A*Offense Description*Wire Fraud
Aggravated Identify Theft

This criminal complaint is based on these facts:

SEE AFFIDAVIT

☐ Continued on the attached sheet.**EXHIBIT****1**

Complainant's signature

Cassidy Clayton, Special Agent

Printed name and title

Sworn to before me and signed in my presence.

Date: 10/24/2019

Judge's signatureCity and state: Washington, D.C.

G. Michael Harvey

Printed name and title

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA	:	Case No:
	:	
v.	:	VIOLATIONS:
	:	
TRICIA STEELE BOUTROS,	:	18 U.S.C. § 1343
	:	(Wire Fraud)
	:	
Defendant.	:	18 U.S.C. § 1028A
	:	(Aggravated Identity Theft)
	:	
	:	<u>FILED UNDER SEAL</u>

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Cassidy Clayton, being first duly sworn, hereby depose and state as follows:

PURPOSE OF AFFIDAVIT

1. This Affidavit is submitted in support of a Criminal Complaint charging TRICIA STEELE BOUTROS (“STEELE”) with Wire Fraud, in violation of 18 U.S.C. § 1343 and Aggravated Identify Theft, in violation of 18 U.S.C. § 1028A. I respectfully submit that this Affidavit establishes probable cause to believe that STEELE participated in a scheme to defraud D.R. and V.R., and during and in relation to that scheme, knowingly transferred, possessed, and used, without lawful authority, a means of identification of another person. I request that the Court issue an arrest warrant for STEELE, pursuant to Federal Rule of Criminal Procedure 4(a).

BACKGROUND OF AFFIANT

2. I have been employed as a Special Agent of the Federal Bureau of Investigation (“FBI”) since September 2018. I am assigned to a white-collar crime squad at the FBI’s Washington Field Office. As a federal agent, I am authorized to investigate violations of laws of the United States and execute search and arrest warrants. Prior to my employment with the FBI, I

was employed as a Special Agent of the United States Secret Service (“USSS”), where I was assigned to the Financial Crimes Task Force. During my employment with the FBI and USSS, I have investigated fraud committed against financial institutions, private businesses, and individuals. I have investigated financial crimes such as wire fraud, bank fraud, and money laundering. I have training and experience in the enforcement of the laws of the United States, including the preparation and execution of search and arrest warrants.

3. Unless otherwise stated, the information in this Affidavit is either personally known to me, has been provided to me by other individuals, or is based on a review of various documents, records, and reports. In the course of the investigation, I have, among other things, interviewed witnesses and reviewed financial records and public records. Because this Affidavit is submitted for the limited purpose of establishing probable cause to support an application for an arrest warrant, it does not contain every fact known by me or the United States. The dates listed in this Affidavit should be read as “on or about” dates.

SUMMARY OF THE INVESTIGATION

4. The FBI has been investigating allegations that STEELE has participated in various schemes to defraud individual victims and businesses in violation of 18 U.S.C. § 1343 (Wire Fraud), 18 U.S.C. § 1344 (Bank Fraud), 18 U.S.C. § 1349 (Conspiracy to Commit Wire Fraud/Bank Fraud), 18 U.S.C. § 1028A (Aggravated Identity Theft), and 18 U.S.C. §§ 1956 and 1957 (Money Laundering).

5. On May 18, 2018, Magistrate Judge G. Michael Harvey of the United States District Court for the District of Columbia issued a search warrant for information associated with the domain @steelelegal.org and all associated email accounts, stored at premises controlled by Google (case number 18-sc-01763).

6. On May 24, 2019, Magistrate Judge Harvey issued a search warrant for Steele's residence, located at 475 K Street, NW, Unit 1103, Washington, DC (case number SW 19-199).

INDIVIDUALS AND ENTITIES

7. STEELE is an attorney who resides in the District of Columbia. She is licensed to practice law in the District of Columbia and Texas. She is an active member of the District of Columbia Bar and is in inactive status with the Texas Bar.

8. In October 2016, STEELE registered STEELE LEGAL PLLC ("STEELE LEGAL") with the District of Columbia Department of Consumer and Regulatory Affairs. The address for STEELE LEGAL is 1629 K Street NW, Suite 300, Washington, D.C.

9. D.R. and Y.R. are husband and wife. They are victims of STEELE's fraud. D.R. and Y.R. do not know STEELE and have no knowledge of STEELE LEGAL.

10. On July 28, 2017, STEELE LEGAL applied to lease space at 1629 K Street, NW, Suite 300, Washington, DC. The application asks for a business name and "personal name(s)." The personal names listed were Tricia Steele Boutros, D.R., and Y.R.

11. On May 29, 2019, FBI agents executed the search warrant for STEELE's residence and interviewed STEELE. STEELE stated that STEELE LEGAL was a "cloud-based" law firm that did not have employees or a payroll system.

12. "Chris" is an individual that STEELE communicated with via Google text and chat messages.

STATEMENT OF FACTS SUPPORTING PROBABLE CAUSE

A. The Scheme

13. In April 2019, the FBI interviewed D.R. D.R. explained that in 2017, he and Y.R. had their identities stolen. D.R. advised that he was a signatory on Bank of America account ending

in -5604 (Bank of America account -5604) and JPMorgan Chase account ending in -0589 (JPMorgan Chase account -0589) that had numerous unauthorized ACH withdrawals made from the accounts. Additionally, there were several fraudulent checks drawn from the accounts made payable to D.R. and Y.R. These checks were deposited into accounts at other financial institutions fraudulently opened in their names. As discussed in further detail below, there is probable cause to believe that STEELE fraudulently opened accounts at Ally Bank, Betterment, and TIAA in the names of D.R. and Y.R., and transferred or attempted to transfer funds from Bank of America account -5604 and JPMorgan Chase account -0589 to those accounts.

Ally Bank

14. On August 2, 2017, an Ally Bank checking account ending in -0203 (“Ally Bank account -0203”) was fraudulently opened with Y.R.’s personal information. The address utilized for the account was 1629 K Street NW, Suite 300, Washington, D.C., the registered address for STEELE LEGAL.

15. On August 3, 2017, an unauthorized check was written from D.R.’s JPMorgan Chase account -0589 for \$4,800 and made payable to Y.R. This check was deposited into Ally Bank account -0203.

16. As previously discussed, D.R. and Y.R. have never met STEELE and have never heard of her or STEELE LEGAL.

17. During STEELE’s interview with the FBI, she stated she was unfamiliar with both D.R. and Y.R. However, during the execution of the search warrant of STEELE’s residence located at 475 K Street NW, Unit 1103, Washington, D.C., several checkbooks for Ally Bank account -0203 were seized. These checks displayed Y.R.’s name and STEELE’s home address in Washington, D.C.

Betterment Account

18. On August 2, 2017, the same day that Ally Bank account -0203 was fraudulently opened with Y.R.'s personal information, a Betterment joint account ending in -8804 ("Betterment account -8804") was fraudulently opened with D.R. and Y.R.'s personal information. Betterment is an online investment company.

19. The person opening the account entered the information for D.R.'s Bank of America account -5604 so that funds could be transferred from Bank of America account -5604 into the Betterment account via ACH deposit. On August 2, 2017, an unauthorized ACH transfer for \$2,000 was initiated from D.R.'s Bank of America account -5604 for deposit into Betterment account -8804.

20. On August 2, 2017, the same day that the fraudulent accounts at Ally and Betterment were opened, STEELE sent a text message to "Chris" in which she stated that D.R. was her "new target." The next day, August 3, 2017, STEELE sent another text message to "Chris" in which she stated that D.R. "is the most valuable practically speaking b/c I already have a drop and one account at chase fully profiled and all his family info."¹

21. Your affiant believes that "chase" in STEELE's text message referred to JPMorgan Chase Bank based on the fact that, as discussed in paragraph 15, on August 3, 2017, an unauthorized \$4,800 check was written from D.R.'s JPMorgan Chase account -0589 payable to Y.R. and deposited into Ally Bank account -0203.

22. On August 8, 2017, an unauthorized transfer for \$40,000 was initiated from D.R.'s Bank of America account -5604 to Betterment account -8804. That same day, STEELE sent a

¹ Based on training and experience, your affiant understands a "drop" or "drop account" is a bank or financial account opened using a third party's identifying information through which fraud proceeds are laundered.

Google chat message to “Chris” stating “i [sic] just have the one betterment [sic] account and [Y.R.] is the primary and [D.R.] and her have a joint one.” On August 10, 2017, STEELE sent another Google chat message to “Chris” that stated that she had spoken with Betterment and “convinced them” that she was D.R.’s wife.

TIAA Accounts

23. On August 6, 2017, TIAA received fraudulent account opening applications for an individual account using D.R.’s personal information, and for a joint account using D.R. and Y.R.’s personal information. TIAA is a financial services company. The applications for both accounts listed STEELE’s home address, 475 K Street NW, Unit 1103, Washington, D.C., as the address for D.R. and Y.R.

24. On August 9, 2017, TIAA opened two accounts as a result of the fraudulent applications, an account ending in -8012 (“TIAA account -8012”) in the name of D.R, and a joint account ending in -1415 (“TIAA account -1415”) in the name of D.R. and Y.R. Betterment account -8804 was linked to TIAA account -8012 so that funds could be transferred from TIAA account -8012 into the Betterment account via ACH deposit.

25. On August 9, 2017, STEELE sent a text message to “Chris” stating that “i [sic] opened up a TIAA account for [D.R.] today.”

26. On August 9, 2017, D.R. closed his account with Bank of America account -5604, due to numerous unauthorized ACH transfers and fraudulent checks written from the account. On that same day, STEELE sent a text message to “Chris” that D.R. and Y.R. “totally caught on.”

27. On August 10, 2017, an ACH transfer for \$10,000 was attempted from D.R.’s Bank of America account -5604 for deposit into D.R.’s fraudulently opened TIAA account -8012. Because the Bank of America account -5604 was closed, this ACH transfer was reversed on the

same day it was initiated.

28. On August 28, 2017, a \$1 check written from the fraudulently opened TIAA account -8012, payable to STEELE LEGAL, was deposited into the STEELE LEGAL's PNC business bank account ending in -4351 ("PNC account -4351"). STEELE is the sole signatory on the account.

B. Wire Transmission

29. The internet protocol ("IP") address² 96.231.222.29 was used on August 6, 2017, to apply to open the TIAA account in the name of D.R. and the joint account in the names of D.R. and Y.R. The IP address 96.231.220.242 was used on August 9, 2017, to access TIAA accounts -8012 and -1415.

30. These two IP addresses belonged to Verizon and were assigned to STEELE's residence, 475 K Street NW, Unit 1103, Washington, D.C., on those specified dates. During STEELE's interview with FBI agents, STEELE said that she lived alone.

31. TIAA does not have a server located in the District of Columbia.

CONCLUSIONS OF AFFIANT

32. Based on my training and experience, and the information provided in this Affidavit, your Affiant believes there is probable cause to believe that STEELE knowingly devised, intended to devise, and participated in a scheme and artifice to defraud and to obtain money and property from D.R. and Y.R by means of materially false and fraudulent pretenses, representations, and promises, and that on or about August 6, 2019, in the District of Columbia and elsewhere, for the purpose of executing the scheme and artifice, did transmit and cause to be transmitted by means of

² An Internet Protocol address is a numerical label assigned to each device connected to a computer network that uses the Internet Protocol for communication. An IP address serves two main functions: host or network interface identification and location addressing.

wire communication in interstate commerce writings, signs, signals, and sounds, in violation of 18 U.S.C. § 1343.

33. Based on my training and experience, and the information provided in this Affidavit, your Affiant believes there is probable cause to believe that STEELE, during and in relation to the scheme described above, in the District of Columbia, knowingly transferred, possessed, and used, without lawful authority, a means of identification of another person, in violation of 18 U.S.C. § 1028A.

34. As such, I respectfully request that the court issue an arrest warrant for STEELE.

The statements above are true and accurate to the best of my knowledge and belief.

Cassidy Clayton
Special Agent
Federal Bureau of Investigation

Subscribed and sworn before me on October 24, 2019

G. Michael Harvey
United States Magistrate Judge

UNITED STATES DISTRICT COURT

for the
District of ColumbiaUnited States of America
v.
TRICIA STEELE BOUTROS)
)
)
)
)
)

Case No.

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of August 6, 2017 in the county of _____ in the
_____ District of Columbia, the defendant(s) violated:*Code Section*18 U.S.C. § 1343
18 U.S.C. § 1028A*Offense Description*Wire Fraud
Aggravated Identify Theft

This criminal complaint is based on these facts:

SEE AFFIDAVIT

EXHIBIT**2**☐ Continued on the attached sheet.

Complainant's signature

Cassidy Clayton, Special Agent

Printed name and title

Sworn to before me and signed in my presence.

Date: 10/24/2019

Judge's signatureCity and state: Washington, D.C.

G. Michael Harvey

Printed name and title

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA	:	Case No:
	:	
v.	:	VIOLATIONS:
	:	
TRICIA STEELE BOUTROS,	:	18 U.S.C. § 1343
	:	(Wire Fraud)
	:	
Defendant.	:	18 U.S.C. § 1028A
	:	(Aggravated Identity Theft)
	:	
	:	<u>FILED UNDER SEAL</u>

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

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PURPOSE OF AFFIDAVIT

1. This Affidavit is submitted in support of a Criminal Complaint charging TRICIA STEELE BOUTROS (“STEELE”) with Wire Fraud, in violation of 18 U.S.C. § 1343 and Aggravated Identify Theft, in violation of 18 U.S.C. § 1028A. I respectfully submit that this Affidavit establishes probable cause to believe that STEELE participated in a scheme to defraud D.R. and V.R., and during and in relation to that scheme, knowingly transferred, possessed, and used, without lawful authority, a means of identification of another person. I request that the Court issue an arrest warrant for STEELE, pursuant to Federal Rule of Criminal Procedure 4(a).

BACKGROUND OF AFFIANT

2. I have been employed as a Special Agent of the Federal Bureau of Investigation (“FBI”) since September 2018. I am assigned to a white-collar crime squad at the FBI’s Washington Field Office. As a federal agent, I am authorized to investigate violations of laws of the United States and execute search and arrest warrants. Prior to my employment with the FBI, I

was employed as a Special Agent of the United States Secret Service (“USSS”), where I was assigned to the Financial Crimes Task Force. During my employment with the FBI and USSS, I have investigated fraud committed against financial institutions, private businesses, and individuals. I have investigated financial crimes such as wire fraud, bank fraud, and money laundering. I have training and experience in the enforcement of the laws of the United States, including the preparation and execution of search and arrest warrants.

3. Unless otherwise stated, the information in this Affidavit is either personally known to me, has been provided to me by other individuals, or is based on a review of various documents, records, and reports. In the course of the investigation, I have, among other things, interviewed witnesses and reviewed financial records and public records. Because this Affidavit is submitted for the limited purpose of establishing probable cause to support an application for an arrest warrant, it does not contain every fact known by me or the United States. The dates listed in this Affidavit should be read as “on or about” dates.

SUMMARY OF THE INVESTIGATION

4. The FBI has been investigating allegations that STEELE has participated in various schemes to defraud individual victims and businesses in violation of 18 U.S.C. § 1343 (Wire Fraud), 18 U.S.C. § 1344 (Bank Fraud), 18 U.S.C. § 1349 (Conspiracy to Commit Wire Fraud/Bank Fraud), 18 U.S.C. § 1028A (Aggravated Identity Theft), and 18 U.S.C. §§ 1956 and 1957 (Money Laundering).

5. On May 18, 2018, Magistrate Judge G. Michael Harvey of the United States District Court for the District of Columbia issued a search warrant for information associated with the domain @steelelegal.org and all associated email accounts, stored at premises controlled by Google (case number 18-sc-01763).

6. On May 24, 2019, Magistrate Judge Harvey issued a search warrant for Steele's residence, located at 475 K Street, NW, Unit 1103, Washington, DC (case number SW 19-199).

INDIVIDUALS AND ENTITIES

7. STEELE is an attorney who resides in the District of Columbia. She is licensed to practice law in the District of Columbia and Texas. She is an active member of the District of Columbia Bar and is in inactive status with the Texas Bar.

8. In October 2016, STEELE registered STEELE LEGAL PLLC ("STEELE LEGAL") with the District of Columbia Department of Consumer and Regulatory Affairs. The address for STEELE LEGAL is 1629 K Street NW, Suite 300, Washington, D.C.

9. D.R. and Y.R. are husband and wife. They are victims of STEELE's fraud. D.R. and Y.R. do not know STEELE and have no knowledge of STEELE LEGAL.

10. On July 28, 2017, STEELE LEGAL applied to lease space at 1629 K Street, NW, Suite 300, Washington, DC. The application asks for a business name and "personal name(s)." The personal names listed were Tricia Steele Boutros, D.R., and Y.R.

11. On May 29, 2019, FBI agents executed the search warrant for STEELE's residence and interviewed STEELE. STEELE stated that STEELE LEGAL was a "cloud-based" law firm that did not have employees or a payroll system.

12. "Chris" is an individual that STEELE communicated with via Google text and chat messages.

STATEMENT OF FACTS SUPPORTING PROBABLE CAUSE

A. The Scheme

13. In April 2019, the FBI interviewed D.R. D.R. explained that in 2017, he and Y.R. had their identities stolen. D.R. advised that he was a signatory on Bank of America account ending

in -5604 (Bank of America account -5604) and JPMorgan Chase account ending in -0589 (JPMorgan Chase account -0589) that had numerous unauthorized ACH withdrawals made from the accounts. Additionally, there were several fraudulent checks drawn from the accounts made payable to D.R. and Y.R. These checks were deposited into accounts at other financial institutions fraudulently opened in their names. As discussed in further detail below, there is probable cause to believe that STEELE fraudulently opened accounts at Ally Bank, Betterment, and TIAA in the names of D.R. and Y.R., and transferred or attempted to transfer funds from Bank of America account -5604 and JPMorgan Chase account -0589 to those accounts.

Ally Bank

14. On August 2, 2017, an Ally Bank checking account ending in -0203 (“Ally Bank account -0203”) was fraudulently opened with Y.R.’s personal information. The address utilized for the account was 1629 K Street NW, Suite 300, Washington, D.C., the registered address for STEELE LEGAL.

15. On August 3, 2017, an unauthorized check was written from D.R.’s JPMorgan Chase account -0589 for \$4,800 and made payable to Y.R. This check was deposited into Ally Bank account -0203.

16. As previously discussed, D.R. and Y.R. have never met STEELE and have never heard of her or STEELE LEGAL.

17. During STEELE’s interview with the FBI, she stated she was unfamiliar with both D.R. and Y.R. However, during the execution of the search warrant of STEELE’s residence located at 475 K Street NW, Unit 1103, Washington, D.C., several checkbooks for Ally Bank account -0203 were seized. These checks displayed Y.R.’s name and STEELE’s home address in Washington, D.C.

Betterment Account

18. On August 2, 2017, the same day that Ally Bank account -0203 was fraudulently opened with Y.R.'s personal information, a Betterment joint account ending in -8804 ("Betterment account -8804") was fraudulently opened with D.R. and Y.R.'s personal information. Betterment is an online investment company.

19. The person opening the account entered the information for D.R.'s Bank of America account -5604 so that funds could be transferred from Bank of America account -5604 into the Betterment account via ACH deposit. On August 2, 2017, an unauthorized ACH transfer for \$2,000 was initiated from D.R.'s Bank of America account -5604 for deposit into Betterment account -8804.

20. On August 2, 2017, the same day that the fraudulent accounts at Ally and Betterment were opened, STEELE sent a text message to "Chris" in which she stated that D.R. was her "new target." The next day, August 3, 2017, STEELE sent another text message to "Chris" in which she stated that D.R. "is the most valuable practically speaking b/c I already have a drop and one account at chase fully profiled and all his family info."¹

21. Your affiant believes that "chase" in STEELE's text message referred to JPMorgan Chase Bank based on the fact that, as discussed in paragraph 15, on August 3, 2017, an unauthorized \$4,800 check was written from D.R.'s JPMorgan Chase account -0589 payable to Y.R. and deposited into Ally Bank account -0203.

22. On August 8, 2017, an unauthorized transfer for \$40,000 was initiated from D.R.'s Bank of America account -5604 to Betterment account -8804. That same day, STEELE sent a

¹ Based on training and experience, your affiant understands a "drop" or "drop account" is a bank or financial account opened using a third party's identifying information through which fraud proceeds are laundered.

Google chat message to “Chris” stating “i [sic] just have the one betterment [sic] account and [Y.R.] is the primary and [D.R.] and her have a joint one.” On August 10, 2017, STEELE sent another Google chat message to “Chris” that stated that she had spoken with Betterment and “convinced them” that she was D.R.’s wife.

TIAA Accounts

23. On August 6, 2017, TIAA received fraudulent account opening applications for an individual account using D.R.’s personal information, and for a joint account using D.R. and Y.R.’s personal information. TIAA is a financial services company. The applications for both accounts listed STEELE’s home address, 475 K Street NW, Unit 1103, Washington, D.C., as the address for D.R. and Y.R.

24. On August 9, 2017, TIAA opened two accounts as a result of the fraudulent applications, an account ending in -8012 (“TIAA account -8012”) in the name of D.R, and a joint account ending in -1415 (“TIAA account -1415”) in the name of D.R. and Y.R. Betterment account -8804 was linked to TIAA account -8012 so that funds could be transferred from TIAA account -8012 into the Betterment account via ACH deposit.

25. On August 9, 2017, STEELE sent a text message to “Chris” stating that “i [sic] opened up a TIAA account for [D.R.] today.”

26. On August 9, 2017, D.R. closed his account with Bank of America account -5604, due to numerous unauthorized ACH transfers and fraudulent checks written from the account. On that same day, STEELE sent a text message to “Chris” that D.R. and Y.R. “totally caught on.”

27. On August 10, 2017, an ACH transfer for \$10,000 was attempted from D.R.’s Bank of America account -5604 for deposit into D.R.’s fraudulently opened TIAA account -8012. Because the Bank of America account -5604 was closed, this ACH transfer was reversed on the

same day it was initiated.

28. On August 28, 2017, a \$1 check written from the fraudulently opened TIAA account -8012, payable to STEELE LEGAL, was deposited into the STEELE LEGAL's PNC business bank account ending in -4351 ("PNC account -4351"). STEELE is the sole signatory on the account.

B. Wire Transmission

29. The internet protocol ("IP") address² 96.231.222.29 was used on August 6, 2017, to apply to open the TIAA account in the name of D.R. and the joint account in the names of D.R. and Y.R. The IP address 96.231.220.242 was used on August 9, 2017, to access TIAA accounts -8012 and -1415.

30. These two IP addresses belonged to Verizon and were assigned to STEELE's residence, 475 K Street NW, Unit 1103, Washington, D.C., on those specified dates. During STEELE's interview with FBI agents, STEELE said that she lived alone.

31. TIAA does not have a server located in the District of Columbia.

CONCLUSIONS OF AFFIANT

32. Based on my training and experience, and the information provided in this Affidavit, your Affiant believes there is probable cause to believe that STEELE knowingly devised, intended to devise, and participated in a scheme and artifice to defraud and to obtain money and property from D.R. and Y.R by means of materially false and fraudulent pretenses, representations, and promises, and that on or about August 6, 2019, in the District of Columbia and elsewhere, for the purpose of executing the scheme and artifice, did transmit and cause to be transmitted by means of

² An Internet Protocol address is a numerical label assigned to each device connected to a computer network that uses the Internet Protocol for communication. An IP address serves two main functions: host or network interface identification and location addressing.

wire communication in interstate commerce writings, signs, signals, and sounds, in violation of 18 U.S.C. § 1343.

33. Based on my training and experience, and the information provided in this Affidavit, your Affiant believes there is probable cause to believe that STEELE, during and in relation to the scheme described above, in the District of Columbia, knowingly transferred, possessed, and used, without lawful authority, a means of identification of another person, in violation of 18 U.S.C. § 1028A.

34. As such, I respectfully request that the court issue an arrest warrant for STEELE.

The statements above are true and accurate to the best of my knowledge and belief.

Cassidy Clayton
Special Agent
Federal Bureau of Investigation

Subscribed and sworn before me on October 24, 2019

G. Michael Harvey
United States Magistrate Judge

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA	:	Criminal No. 20-cr-
	:	
v.	:	Magistrate No. 19-mj-00264
	:	
TRICIA STEELE BOUTROS,	:	Violation:
	:	
Defendant.	:	18 U.S.C. § 1344(1), 1344(2)
	:	(Bank Fraud)
	:	
	:	Forfeiture:
	:	18 U.S.C. § 982(a)(2)(A),
	:	21 U.S.C. § 853(p)

INFORMATION

The United States Attorney charges that:

COUNT ONE
(Bank Fraud)

At times material to this Information:

Background

1. Defendant Tricia Steele Boutros (Defendant Boutros) resided in the District of Columbia.
2. Defendant Boutros was licensed to practice law in the District of Columbia.
3. On or about October 19, 2016, Defendant Boutros registered Steele Legal, PLLC (Steele Legal), in the District of Columbia. Defendant Boutros used SL Global Partners and SLG Partners as trade names for Steele Legal. Steele Legal was a “cloud-based” law firm that had no employees.



4. On or about February 28, 2018, Defendant Boutros opened BB&T account number x4559 in the name Steele Legal. The account was not designated as an Interest on Lawyer Trust Account (IOLTA) or any other type of trust account.

5. JPMorgan Chase Bank (Chase) was a financial institution within the meaning of 18 U.S.C. § 20. Chase's deposits were insured by the Federal Deposit Insurance Corporation.

6. C.W. was a Chase account holder. C.W. was the account holder for Chase account number x3001.

7. Automated Clearing House (ACH) was a network that coordinates electronic payments and money transfers.

The Scheme to Defraud

8. From in or about October 2016 through in or about November 2019, within the District of Columbia and elsewhere, Defendant Boutros and others, known and unknown to the United States Attorney, participated in a scheme and artifice to defraud financial institutions, including Chase, and to obtain any of the moneys, funds, credits, assets, securities, and other property owned by, and under the custody and control of financial institutions, including Chase, by means of materially false and fraudulent pretenses, representations, and promises.

The Purpose of the Scheme

9. The purpose of the scheme to defraud was for Defendant Boutros to unlawfully enrich herself by illegally accessing bank accounts and transferring funds from those accounts to accounts that she controlled and to pay her personal expenses.

The Manner and Means of the Scheme

10. It was a part of the scheme that Defendant Boutros illegally obtained usernames and passwords for account holders at various banks.

11. It was a further part of the scheme that Defendant Boutros illegally accessed bank accounts utilizing the account holder usernames and passwords.

12. It was a further part of the scheme that Defendant Boutros fraudulently caused ACH transfers and checks to be issued from the illegally accessed accounts to accounts that she controlled and to pay her personal expenses.

13. It was a further part of the scheme that Defendant Boutros obtained the means of identification of other persons and used this information to open accounts in their names without their authorization.

14. It was a further part of the scheme that Defendant Boutros transferred funds from accounts that she illegally accessed to the accounts that she unlawfully opened using the means of identification of other persons.

15. It was a further part of the scheme that Defendant Boutros opened accounts in the name of “Tricia Steele” but with false additional identifying information, such as a different middle name.

16. It was a further part of the scheme that Defendant Boutros created counterfeit identification documents for “Tricia Steele” to open these accounts.

17. It was a further part of the scheme that Defendant Boutros transferred fraudulently obtained funds to the accounts she created in the name of “Tricia Steele” with counterfeit identification documents.

18. It was a further part of the scheme that Defendant Boutros illegally accessed C.W.’s Chase account number x3001.

19. It was a further part of the scheme that on or about the following dates, Defendant Boutros caused ACH transfers to be initiated from C.W.’s account to BB&T Steele Legal account number x4559 without C.W.’s authorization:

DATE	ACH TRANSFER AMOUNT
August 3, 2018	\$3,750
August 6, 2018	\$8,600
August 7, 2018	\$8,200
August 7, 2018	\$13,000
August 8, 2018	\$6,600
August 9, 2018	\$6,800
August 9, 2018	\$8,800
Total:	\$55,750

The Execution of the Scheme

20. On or about August 7, 2018, in the District of Columbia, Defendant Boutros knowingly executed and attempted to execute the above-described scheme by initiating a \$13,000 ACH transfer from Chase account number x3001 held in the name of C.W. to BB&T account number x4559 held in the name of Steele Legal.

(Bank Fraud, in violation of Title 18, United States Code, Section 1344(1), 1344(2))

FORFEITURE NOTICE

1. Upon conviction of the offense alleged in Count One, Defendant Boutros shall forfeit to the United States, pursuant to 18 U.S.C. § 982(a)(2)(A), any property constituting, or derived from, proceeds Defendant Boutros obtained directly or indirectly, as the result of the offense. The United States will seek a forfeiture money judgment equal to the value of any property constituting, or derived from, proceeds Defendant Boutros obtained directly or indirectly, as the result of the offense.

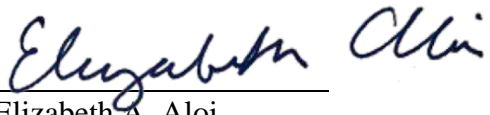
2. If any of the property described above as being subject to forfeiture, as a result of any act or omission of Defendant Boutros:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property that cannot be divided without difficulty;

Defendant Boutros shall forfeit to the United States any other property of Defendant Boutros, up to the value of the property described above, pursuant to 21 U.S.C. § 853(p).

**(Criminal Forfeiture, pursuant to Title 18, United States Code, Section 982(a)(2)(A),
and Title 21, United States Code, Section 853(p))**

TIMOTHY J. SHEA
United States Attorney
for the District of Columbia

By: 
Elizabeth A. Aloï
Assistant United States Attorney
Fraud and Public Corruption Section
U.S. Attorney's Office for the District of Columbia
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Washington, D.C. 20530
Elizabeth.Aloi@usdoj.gov
202-252-7212

UNITED STATES DISTRICT COURT

District of Columbia

UNITED STATES OF AMERICA

v.

TRICIA STEELE BOUTROS

JUDGMENT IN A CRIMINAL CASE

Case Number: 20-cr-82 (APM)

USM Number: 35608-016

William Zapf and Jonathan Jeffress

Defendant's Attorney

THE DEFENDANT:☒ pleaded guilty to count(s) 1 of the Information☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.☐ was found guilty on count(s) _____
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 U.S.C. §§ 1344(1), and 1344(2)	Bank Fraud	11/30/2019	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) _____☐ Count(s) _____ ☐ is ☐ 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.

10/5/2020

Date of Imposition of Judgment

Amit P. MehtaDigitally signed by Amit P. Mehta
Date: 2020.10.07 09:13:16 -04'00'

Signature of Judge

Amit P. Mehta, U.S. District Judge

Name and Title of Judge

Date



DEFENDANT: TRICIA STEELE BOUTROS
CASE NUMBER: 20-cr-82 (APM)

IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of:
thirty (30) months on Count 1.

☒ The court makes the following recommendations to the Bureau of Prisons:
placement at FPC Alderson. The court also recommends placement in the following programs: resolve program, female integrated treatment (FIT) program, and residential drug abuse program (RDAP).

☐ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at _____ ☐ a.m. ☐ p.m. on _____ .

☐ as notified by the United States Marshal.

☒ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on _____ .

☐ as notified by the United States Marshal.

☒ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____ , with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: TRICIA STEELE BOUTROS

CASE NUMBER: 20-cr-82 (APM)

SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of:

sixty (60) months on Count 1.

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 make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
5. ☒ You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
6. ☐ 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 the location where you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
7. ☐ You must participate in an approved program for domestic violence. *(check if applicable)*

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

DEFENDANT: TRICIA STEELE BOUTROS
CASE NUMBER: 20-cr-82 (APM)

STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, 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. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions*, available at: www.uscourts.gov.

Defendant's Signature _____

Date _____

DEFENDANT: TRICIA STEELE BOUTROS
CASE NUMBER: 20-cr-82 (APM)

SPECIAL CONDITIONS OF SUPERVISION

Mental Health Treatment - The defendant must participate in a mental health treatment program and follow the rules and regulations of that program. The probation officer, in consultation with the treatment provider, will supervise her participation in the program.

Substance Abuse Testing - The defendant must submit to substance abuse testing to determine if she has used a prohibited substance. The defendant must not attempt to obstruct or tamper with the testing methods.

Substance Abuse Treatment - The defendant must participate in an inpatient and/or outpatient substance abuse treatment program and follow the rules and regulations of that program. The probation officer will supervise her participation in the program.

Computer Monitoring - The defendant must allow the probation officer to install computer monitoring software on any computer (as defined in 18 U.S.C. § 1030(e)(1)) she uses.

Computer Monitoring/Search - To ensure compliance with the computer monitoring condition, the defendant must allow the probation officer to conduct initial and periodic unannounced searches of any computers (as defined in 18 U.S.C. § 1030 (e)(1)) subject to computer monitoring. These searches shall be conducted to determine whether the computer contains any prohibited data prior to installation of the monitoring software, whether the monitoring software is functioning effectively after its installation, and whether there have been attempts to circumvent the monitoring software after its installation. The defendant must warn any other people who use these computers that the computers may be subject to searches pursuant to this condition.

Re-Entry Progress Hearing - Within sixty days of release from incarceration or placement on supervision, the defendant will appear before the Court for a re-entry progress hearing. Prior to the hearing, the probation officer will submit a report summarizing her status and compliance with release conditions. If the defendant is supervised by a district outside of the Washington DC metropolitan area, the United States Probation Office in that district will submit a progress report to the court within 60 days of the commencement of supervision.

Restitution Obligation – The defendant must pay the balance of any restitution owed at a rate of no less than \$250 each month.

Financial Information Disclosure - The defendant must provide the probation officer access to any requested financial information and authorize the release of any financial information. The probation office may share financial information with the United States Attorney's Office.

Financial Restrictions - The defendant must not incur new credit charges, or open additional lines of credit without the approval of the probation officer.

DEFENDANT: TRICIA STEELE BOUTROS
CASE NUMBER: 20-cr-82 (APM)

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Restitution</u>	<u>Fine</u>	<u>AVAA Assessment*</u>	<u>JVTA Assessment**</u>
TOTALS	\$ 100.00	\$	\$	\$	\$

☒ The determination of restitution is deferred until 1/3/2021. An *Amended Judgment in a Criminal Case (AO 245C)* 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, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss***</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
----------------------	----------------------	----------------------------	-------------------------------

TOTALS	\$	<u>0.00</u>	\$	<u>0.00</u>
---------------	----	-------------	----	-------------

☐ 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 Sheet 6 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: TRICIA STEELE BOUTROS
CASE NUMBER: 20-cr-82 (APM)

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 payment of \$ 100.00 due immediately, balance due
- ☐ not later than _____, or
☐ in accordance with ☐ 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 _____ (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 the date of this judgment; or
- D ☐ Payment in equal _____ (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:
The special assessment is immediately payable to the Clerk of the Court for the U.S. District Court, 333 Constitution Ave NW, Washington, DC 20001. Within 30 days of any change of address, the defendant shall notify the Clerk of the Court of the change until such time as the financial obligation is paid in full.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during the period of 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

Case Number Defendant and Co-Defendant Names (including defendant number)	Total Amount	Joint and Several Amount	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:
Pursuant to Rule 32.2(a) of the Fed. Rules of Crim. Proc., the defendant shall forfeit a money judgment of not less than \$1.3 million in an amount to be determined.

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) JVT assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA

v.

TRICIA STEELE BOUTROS,

Defendant.

)
)
)
)
)
)
)
)
)
)

Criminal No. 20-cr-0082 (APM)

MEMORANDUM OPINION AND ORDER

On October 5, 2020, the court entered judgment against Defendant Tricia Steele Boutros after she pleaded guilty to one count of bank fraud under 18 U.S.C. §§ 1344(1) and (2). As part of her plea agreement, Ms. Boutros agreed that the victims in this case suffered an actual pecuniary loss of at least \$1.3 million and no more than \$2.2 million,¹ and she agreed to forfeit a money judgment within that range. *See* Presentence Investigative Report, ECF No. 45, at 4. The parties, however, disputed the actual loss amount. As a consequence, at sentencing, the court ordered Ms. Boutros to forfeit a money judgment of not less than \$1.3 million, *see* Judgment, ECF No. 66, but left open the final forfeiture order, as permitted by Rule 32.2(b)(2)(C) of the Federal Rules of Criminal Procedure. The court also deferred entering a final restitution order, as allowed by 18 U.S.C. § 3664(d)(5). The court requested, and received, further briefing from the parties on the actual loss amount. *See* United States' Suppl. Mem. in Supp. of Restitution, ECF No. 68 [hereinafter Gov't's Mem.]; Resp. in Opp'n to the Gov't's Suppl. Mem. in Supp. of Restitution, ECF No. 69 [hereinafter Def.'s Resp.].

¹ Ms. Boutros agreed to a higher intended loss amount of \$3.5 million.



The United States initially asserted an actual loss of \$2,266,753.57. *See* Reply Br. in Supp. of the United States’ Mem. in Aid of Sentencing, ECF No. 57, at 5. It therefore sought a restitution order at the top of the agreed-upon range, \$2.2 million, *see id.*, and a money judgment in the amount of \$1,703,945.59, which represented the full loss amount minus the value of cash assets seized from Ms. Boutros (\$496,054.41) ($\$2,200,000 - \$496,054.41 = \$1,703,945.59$), *see* United States’ Mem. in Aid of Sentencing, ECF No. 52, at 7–8. In its supplemental filing, the United States revised the actual loss amount slightly downward to \$2,254,076.57, which does not change the restitution or money judgment amounts sought since it still exceeds the agreed-upon \$2.2 million cap. Gov’t’s Mem. at 3; *id.*, Ex. A, Decl. in Supp. of Restitution, ECF No. 68-1 [hereinafter Frazier Decl.], ¶¶ 28–29. For her part, Ms. Boutros asserts that the government has failed to prove an actual loss of greater than \$1.3 million. *See* Def.’s Mem. in Aid of Sentencing, ECF 53-1 [hereinafter Def.’s Mem.], at 54–55. Accordingly, consistent with her plea agreement, she concedes a restitution order of \$1.3 million and money judgment in that amount less the value of the assets seized. *See id.* at 55–56.

For the reasons that follow, the court finds an actual loss of \$2.1 million. Consequently, the court orders restitution of \$2.1 million and orders Ms. Boutros to forfeit a money judgment of \$1,603,945.59.

I.

Restitution. Bank Fraud is “an offense against property” under Title 18, and thus restitution is governed by the Mandatory Victims Restitution Act (“MVRA”). *See* 18 U.S.C. § 3663A. Under the MVRA, “[a]ny dispute as to the proper amount or type of restitution shall be resolved by the court by the preponderance of the evidence’ with the government bearing the burden to establish the amount of loss suffered by the victim.” *See In re Sealed Case*, 702 F.3d

59, 66 (D.C. Cir. 2012) (quoting 18 U.S.C. § 3664(e)). The MVRA defines “victim” as “a person directly and proximately harmed as a result of the commission of an offense for which restitution may be ordered.” 18 U.S.C. § 3663(a)(2). The amount of restitution owed to each victim “must be based on the amount of loss *actually* caused by the defendant’s conduct.” *United States v. Huff*, 609 F.3d 1240, 1247 (11th Cir. 2010) (internal quotation marks and citation omitted).

“[O]nce the Government has satisfied its burden to offer evidence supporting its restitution calculation, the burden shifts to the defendant to dispute that amount with her own evidence.” *United States v. Stone*, 866 F.3d 219, 227 (4th Cir. 2017); *see also United States v. Bikundi*, 926 F.3d 761, 791 (D.C. Cir. 2019), *cert. denied*, No. 19-1020, 2020 WL 3405990 (U.S. June 22, 2020), and *cert. denied*, No. 20-5235, 2020 WL 5883832 (U.S. Oct. 5, 2020). Because “the determination of the restitution amount is by nature an inexact science,” *Huff*, 609 F.3d at 1248 (cleaned up), “the amount of restitution [need not] be proven with exactitude,” *Sealed Case*, 702 F.3d at 66. “The preponderance standard must be applied in a practical, common-sense way,” *United States v. Gushlak*, 728 F.3d 184, 196 (2d Cir. 2013), and the court should “resolv[e] uncertainties with a view toward achieving fairness to the victim,” *Huff*, 609 F.3d at 1248 (cleaned up).

Especially in cases where factual uncertainties arise, a district court may “estimate, based upon the facts in the record, the amount of [the] victim’s loss with some reasonable certainty.” *Sealed Case*, 702 F.3d at 66; *see also United States v. Seignious*, 757 F.3d 155, 163–64 (4th Cir. 2014) (holding that restitution was adequately supported where “district court’s account of the evidence [wa]s plausible in light of the record viewed in its entirety”); *United States v. Salas-Fernandez*, 620 F.3d 45, 48 (1st Cir. 2010) (finding that, in determining the amount of restitution,

a “modicum of reliable evidence” will suffice). This is because “[t]he law cannot be blind to the fact that criminals rarely keep detailed records of their lawless dealings, totaling up every column and accounting for every misbegotten dollar.” *United States v. Savoie*, 985 F.2d 612, 617 (1st Cir. 1993). “So long as the basis for reasonable approximation is at hand, difficulties in achieving exact measurements will not preclude a trial court from ordering restitution.” *Id.*

Forfeiture. With respect to forfeiture, a person convicted of bank fraud must “forfeit to the United States any property constituting, or derived from, proceeds the person obtained directly or indirectly, as the result of” the crime. 18 U.S.C. § 982(a)(2). As with restitution, the government bears the burden to establish the forfeiture amount and “must establish the nexus between the offense and the forfeiture request by a preponderance of the evidence.” *United States v. Peters*, 732 F.3d 93, 98 (2d Cir. 2013). The burden then “shifts to the defendant to prove the inaccuracy of the loss calculation.” *United States v. Dickerson*, 909 F.3d 118, 129–30 (5th Cir. 2018).

II.

The court begins with the amounts not in dispute. Ms. Boutros has agreed to pay restitution totaling \$1.3 million. Of that amount, \$1,237,455 is attributed to the loss suffered by the following specific victims: Blue Pay (\$598,965), BB&T (\$378,545), Plooto, Inc. (\$186,270), Coin Café (\$31,675), and P.C. (\$42,000). *See* Def.’s Resp. at 2; *see also* Frazier Decl. ¶ 3. The remaining \$62,545 of the \$1.3 million, Ms. Boutros has agreed, is for the court to apportion “to unspecified restitution victims in the [c]ourt’s discretion.” Def.’s Resp. at 2. As for the government, in its supplemental filing, it concedes that it is no longer seeking the \$5,727 associated with JP Morgan Chase Bank (“JPMC”) account holder N.D., *see* Frazier Decl. ¶ 28, or all but \$74 of the \$7,024 associated with A.S., *see id.* ¶ 29, bringing the proposed actual loss total to \$2,254,076.57.

As for the amount in dispute, the government requests \$954,076.57 for loss suffered as a result of various account intrusions occurring at JPMC. Ms. Boutros challenges that sum on two primary grounds: (1) that the government has not met its burden to show actual loss for transactions annotated as “reversed” on bank statements the government supplied as evidence, and (2) that the government has not met its burden to show that Ms. Boutros was the “direct and proximate cause of the harm suffered” for transactions that are not facially linked to her. *See* Def.’s Resp. 4–12; Gov’t’s Mem. at 2. The court addresses each of these arguments in turn.

Reversed Transactions. For several transactions where the government provides bank statements as evidence and alleges that JPMC suffered a loss, Ms. Boutros argues “that the transactions either did not go through, were reversed back, and/or were frozen at the destination institution before she was able to access any funds.” Def.’s Reply Mem. in Aid of Sentencing, ECF No. 56-1 [hereinafter Def.’s Reply], at 7. In support of that claim, Ms. Boutros points to annotations on the statements showing that the transactions were “reversed,” indicating a credit on the account. *Id.* at 7–11; Def.’s Resp. at 4–5, 7–12. Ms. Boutros also provides email evidence that several disputed transactions associated with JPMC account holder I.H.T.W. were blocked and reversed. Def.’s Resp. at 10–11; *id.*, Ex. 1, ECF No. 69-1 [hereinafter Def.’s Resp. Ex. 1].

By the court’s calculation, Ms. Boutros has credibly shown that approximately \$148,783.05 of the restitution amount requested by the government was either reversed or is otherwise lacking substantiation in the record evidence. *See* Notice of Sealed Filing, ECF No. 55 [hereinafter Gov’t’s Sealed Filing], Attach. 7, ECF No. 55-4 [hereinafter Attach. 7], at 14 (showing at least \$3,837.12 in claimed transactions associated with M.A. were reversed); *id.* at 12–13 (showing \$7,500 in reversed transactions associated with E.S.); *id.* at 43–44 (showing reversed transactions totaling \$33,150 associated with A.E. and H.E.); *id.* at 40 (showing \$15,000 Keybank

transaction for S.D. was reversed and credited); Def.’s Resp. Ex. 1 (showing that at least \$19,066.11 of the “GUSTO” transactions associated with I.H.T.W. were blocked and never credited to Ms. Boutros); Def.’s Resp. at 7–8 (explaining the lack of evidence supporting the claimed \$19,433.85 with respect to H.S., including the statement provided by Ms. Boutros showing the transactions were reversed); Gov’t’s Sealed Filing, Attach. 6, ECF No. 55-3 (showing reversed transactions for \$50,795.97 associated with H.S.G.).

In response, the government offers a declaration from Gary Frazier, a forensic accountant with the Federal Bureau of Investigation. He asserts that “the government is only seeking restitution for transactions in which [JPMC] . . . has represented to the government that they suffered a loss.” Frazier Decl. ¶ 5. But this contention only underscores that it is not possible to tell from the face of a bank statement whether a transaction annotated as “reversed” represents an actual loss for the bank. *Id.* ¶ 4. Surely if JPMC suffered a loss for specific fraudulent transactions, it must have received some notice that those funds were unavailable when it tried to recover the fraudulently transferred funds from the receiving bank. In other words, JPMC should have some evidence to corroborate its claim that a reversed transaction resulted in a loss for the bank. Yet, the government has made no attempt to offer such evidence, relying only on its own (and in some places contradictory) affidavits even after being placed on notice at the sentencing hearing of the possible insufficiency of the evidence. *See* Hr’g Tr. (draft), Oct. 5, 2020, at 35–40. Accordingly, in light of the credible challenges raised by Ms. Boutros, the court concludes that the government has failed to satisfy its burden of establishing JPMC suffered \$148,783.05 in losses from reversed or otherwise unsubstantiated transactions.

Linkage to Ms. Boutros. Ms. Boutros next argues that for many transactions, including the government’s request for \$683,159.66 in restitution for “[a]dditional JPMC account

intrusions,” the government has failed to show that she was the direct and proximate cause of the loss. *See* Def.’s Resp. 5–6. Regarding the account intrusions for which the government provided bank statements, Ms. Boutros takes issue with the transactions reflected on those statements that lack a clear connection to her. *See, e.g., id.* at 8. Although some transactions bear some variation of her name in the transaction description (e.g., those indicating payment to “Wav*Steele Legal,” “Www.Steelemounta,” etc.)—as to which she offers no objections—others bear only the names of a third-party institution such as Paypal or Veem. *See, e.g., Attach. 7* at 42. Ms. Boutros denies responsibility for all such transactions, arguing that she has no recollection of them and that the government has failed to prove her connection to them. *See* Def.’s Resp. at 8; Def.’s Reply at 6. The government answers that Ms. Boutros’s unwillingness to accept responsibility for those transactions “flies in the face of the evidence,” Gov’t’s Mem. at 2, given both their temporal proximity and overall similarity to the fraudulent transactions she has admitted to causing, and the fact that forensic review of her computer identified joint accounts with victims at the relevant institutions, *see, e.g., Frazier Decl.* ¶¶ 13, 18. The court agrees with the government.

Although it is unclear why the government did not provide supporting information from its forensic analysis of Ms. Boutros’s computer or otherwise link that information to the transactions listed on the JPMC statements, this deficiency is not fatal. In all instances, Ms. Boutros has admitted to other fraudulent transactions associated with the same accounts. The fact that she claims to have no recollection of particular transactions is unpersuasive considering the sheer magnitude of Ms. Boutros’s fraudulent activity, her diminished mental capacity, and her contemporaneous substance abuse. Although it is indeed *possible* that someone else with access to the stolen account information could have hacked into these same accounts, it seems highly unlikely that they would have done so in the exact same manner, and at the exact same time, as

Ms. Boutros. Thus, in light of the record viewed in its entirety, the court finds it is reasonable to infer that Ms. Boutros is responsible for the loss associated with these disputed transactions.

That same reasoning applies to the “additional account intrusions” for which the government claims loss. Mr. Frazier explains that the amount claimed is the result of a JPMC query for losses during the time period for which Ms. Boutros engaged in fraud in accounts to which Ms. Boutros was known to have access. *See Frazier Decl.* ¶¶ 35–36. Ms. Boutros’s point that absent additional proof of these transactions there is no way to know if they were reversed or otherwise unsubstantiated is a fair one. *See Def.’s Resp.* at 6. But considering the record in its entirety, and the fact that the court need not achieve an exact measurement of loss, the court is satisfied that the government has met its burden of showing that Ms. Boutros was the direct and proximate cause of these losses. *See Sealed Case*, 702 F.3d at 66 (“[T]he district court’s charge is ‘to estimate, based upon facts in the record, the amount of [the] victim’s loss with some reasonable certainty.’”).

* * *


Accordingly, when the court subtracts from the originally estimated actual loss of \$2,266,753.57 (1) the \$148,784.03 in challenged “reversed” transactions and (2) the \$12,677 that the government concedes Ms. Boutros is not responsible for, it arrives at a final actual loss approximating \$2.1 million.

III.

For the foregoing reasons, Ms. Boutros is hereby ordered to pay restitution totaling \$2.1 million to the following victims in the bracketed amounts: Blue Pay (\$598,965), BB&T (\$378,545), Plooto, Inc. (\$186,270), Coin Café (\$31,675), P.C. (\$42,000), and JPMC (\$862,545). In addition, Ms. Boutros shall forfeit a money judgment in the amount of \$1,603,945.59 (\$2.1

million – \$496,054.41). The Judgment entered on October 5, 2020 shall be amended to reflect these sums.

Dated: November 12, 2020


Amit P. Mehta
United States District Court Judge

UNITED STATES DISTRICT COURT

District of Columbia

UNITED STATES OF AMERICA

v.

TRICIA STEELE BOUTROS

Date of Original Judgment: 10/7/2020
(Or Date of Last Amended Judgment)

AMENDED JUDGMENT IN A CRIMINAL CASE

Case Number: 20-cr-82 (APM)

USM Number: 35608-016

William Zapf and Jonathan Jeffress
Defendant's Attorney

THE DEFENDANT:

☒ pleaded guilty to count(s) 1 of the Information

☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.

☐ was found guilty on count(s) _____
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 U.S.C. §§ 1344(1), and 1344(2)	Bank Fraud	11/30/2019	1

The defendant is sentenced as provided in pages 2 through 8 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) _____

☐ Count(s) _____ ☐ is ☐ 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.

10/5/2020

Date of Imposition of Judgment

Amit P. Mehta

Digitally signed by Amit P. Mehta
Date: 2020.11.17 09:38:49 -05'00'

Signature of Judge

Amit P. Mehta

U.S. District Judge

Name and Title of Judge

Date



DEFENDANT: TRICIA STEELE BOUTROS
CASE NUMBER: 20-cr-82 (APM)

IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of :
thirty (30) months on Count 1.

- ☒ The court makes the following recommendations to the Bureau of Prisons:
placement at FPC Alderson. The court also recommends placement in the following programs: resolve program, female integrated treatment (FIT) program, and residential drug abuse program (RDAP).
- ☐ The defendant is remanded to the custody of the United States Marshal.
- ☐ The defendant shall surrender to the United States Marshal for this district:
- ☐ at _____ ☐ a.m. ☐ p.m. on _____ .
- ☐ as notified by the United States Marshal.
- ☒ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:
- ☐ before 2 p.m. on _____ .
- ☐ as notified by the United States Marshal.
- ☒ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____ with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: TRICIA STEELE BOUTROS
CASE NUMBER: 20-cr-82 (APM)

SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of :

sixty (60) months on Count 1.

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 make restitution in accordance with 18 U.S.C. § 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
5. ☒ You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
6. ☐ 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 the location where you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
7. ☐ You must participate in an approved program for domestic violence. *(check if applicable)*

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

DEFENDANT: TRICIA STEELE BOUTROS

CASE NUMBER: 20-cr-82 (APM)

STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, 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. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions*, available at: www.uscourts.gov.

Defendant's Signature _____

Date _____

DEFENDANT: TRICIA STEELE BOUTROS
CASE NUMBER: 20-cr-82 (APM)

SPECIAL CONDITIONS OF SUPERVISION

Mental Health Treatment - The defendant must participate in a mental health treatment program and follow the rules and regulations of that program. The probation officer, in consultation with the treatment provider, will supervise her participation in the program.

Substance Abuse Testing - The defendant must submit to substance abuse testing to determine if she has used a prohibited substance. The defendant must not attempt to obstruct or tamper with the testing methods.

Substance Abuse Treatment - The defendant must participate in an inpatient and/or outpatient substance abuse treatment program and follow the rules and regulations of that program. The probation officer will supervise her participation in the program.

Computer Monitoring - The defendant must allow the probation officer to install computer monitoring software on any computer (as defined in 18 U.S.C. § 1030(e)(1)) she uses.

Computer Monitoring/Search - To ensure compliance with the computer monitoring condition, the defendant must allow the probation officer to conduct initial and periodic unannounced searches of any computers (as defined in 18 U.S.C. § 1030 (e)(1)) subject to computer monitoring. These searches shall be conducted to determine whether the computer contains any prohibited data prior to installation of the monitoring software, whether the monitoring software is functioning effectively after its installation, and whether there have been attempts to circumvent the monitoring software after its installation. The defendant must warn any other people who use these computers that the computers may be subject to searches pursuant to this condition.

Re-Entry Progress Hearing - Within sixty days of release from incarceration or placement on supervision, the defendant will appear before the Court for a re-entry progress hearing. Prior to the hearing, the probation officer will submit a report summarizing her status and compliance with release conditions. If the defendant is supervised by a district outside of the Washington DC metropolitan area, the United States Probation Office in that district will submit a progress report to the court within 60 days of the commencement of supervision.

Restitution Obligation – The defendant must pay the balance of any restitution owed at a rate of no less than \$250 each month.

Financial Information Disclosure - The defendant must provide the probation officer access to any requested financial information and authorize the release of any financial information. The probation office may share financial information with the United States Attorney's Office.

Financial Restrictions - The defendant must not incur new credit charges, or open additional lines of credit without the approval of the probation officer.

DEFENDANT: TRICIA STEELE BOUTROS

CASE NUMBER: 20-cr-82 (APM)

CRIMINAL MONETARY PENALTIES

The defendant must pay the following total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Restitution</u>	<u>Fine</u>	<u>AVAA Assessment*</u>	<u>JVTA Assessment**</u>
TOTALS	\$ 100.00	\$ 2,100,000.00	\$	\$	\$

☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case (AO 245C)* will be entered after such determination.

☒ The defendant shall 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, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss***</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
Bluepay (Fiserv) Attn: Legal Papers 3975 120th Avenue Coral Springs, FL 33065	\$598,965.00	\$598,965.00	

Plooto Attn: Stephen H. Marcus, Esq. The Marcus Law Firm, PLLC 1730 Rhode Island NW Suite 713 Washington, DC 20036	\$186,270.00	\$186,270.00	
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TOTALS	\$ <u>2,100,000.00</u>	\$ <u>2,100,000.00</u>	
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☐ 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 Sheet 6 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 ☐ 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: TRICIA STEELE BOUTROS
CASE NUMBER: 20-cr-82 (APM)

ADDITIONAL RESTITUTION PAYEES

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
BB&T Attn: Gigi Frio 101 Catoctin Circle SE Leesburg, VA 20175	\$378,545.00	\$378,545.00	
Coin Café Attn: John Ha 66 Meserole Ave #220372 Brooklyn, NY 11222	\$31,675.00	\$31,675.00	
	\$42,000.00	\$42,000.00	
JPMC Attn: Asset Recovery/Terry Kirk PO Box 781220 Detroit, MI 48278-1220	\$862,545.00	\$862,545.00	

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

DEFENDANT: TRICIA STEELE BOUTROS
CASE NUMBER: 20-cr-82 (APM)

SCHEDULE OF PAYMENTS

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

- A ☐ Lump sum payment of \$ _____ due immediately, balance due
- ☐ not later than _____, or
☐ in accordance with ☐ 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 promptly (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal _____ (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:
- Restitution payments shall be made to the Clerk of the Court for the United States District Court, District of Columbia, for disbursement to the victims. The financial obligations are immediately payable to the Clerk of the Court for the U.S. District Court, 333 Constitution Ave NW, Washington, DC 20001. Within 30 days of any change of address, the defendant shall notify the Clerk of the Court of the change until such time as the financial obligations are paid in full.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during the period of 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

Case Number Defendant and Co-Defendant Names (including defendant number)	Total Amount	Joint and Several Amount	Corresponding Payee, if appropriate.
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- ☐ 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:
The defendant, Tricia Steele Boutros, shall forfeit a money judgment in the amount of \$1,603,945.59

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) JVT A 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 Judith Gres DeBerry, Petitioner's attorney of record, who, being by me duly sworn, deposed as follows:

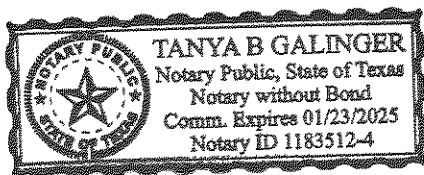
"My name is Judith Gres DeBerry. I am over the age of 18 years, of sound mind, capable of making this affidavit, and state the following:


Based upon information and belief, Tricia Steele Boutros, whose Texas Bar Card Number is 24045535, is licensed as an attorney and counselor at law in the State of Texas. Based upon information and belief Tricia Steele Boutros, named as Respondent in the Petition for Compulsory Discipline filed with the Board of Disciplinary Appeals, is one and the same person as the Tricia Steele Boutros, who is the subject of the Amended Judgment in a Criminal Case entered in Cause No. 1:20-cr-00082-APM, styled *United States of America v. Tricia Steele Boutros*, in the United States District Court for the District of Columbia, wherein Respondent pleaded guilty to Count 1 of the Information, 18 U.S.C. §§ 1344(1), 1344(2) and was committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of thirty (30) months as to Count 1."

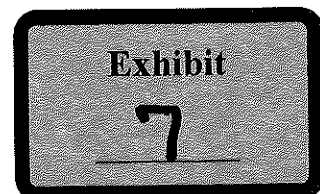
FURTHER Affiant saith not.


Judith Gres DeBerry

SWORN AND SUBSCRIBED before me on the 8th day of February 2022.




NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS



INTERNAL PROCEDURAL RULES

BOARD OF DISCIPLINARY APPEALS

Current through June 21, 2018

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INTERNAL PROCEDURAL RULES

Board of Disciplinary Appeals

Current through June 21, 2018

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.

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 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.

(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. 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 only consider documents that were filed with the CDC prior to the classification decision. 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.

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 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.

(1) 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

(6¹) 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 affirmance 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.