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Board of Disciplinary Appeals appointed by the Supreme Court of Texas

NO. 52661

BEFORE THE BOARD OF DISCIPLINARY APPEALS

APPOINTED BY

THE SUPREME COURT OF TEXAS

STEPHEN CARRIGAN

Appellant,

v.

COMMISSION FOR LAWYER DISCIPLINE

Appellee.

**BRIEF OF APPELLANT
(ON APPEAL FROM THE EVIDENTIARY
PANEL FOR THE STATE BAR DISTRICT
NO. 4-5 GRIEVANCE COMMITTEE, NOS.
S0110922865, S0061023869, S0071024008)**

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ORAL ARGUMENT REQUESTED

NAMES OF ALL PARTIES

The following is a complete list of the names and addresses of all parties to the final disciplinary decision and their counsel, pursuant to Rule 4.06 (c)(1), *Internal Procedural Rules, Board of Disciplinary Appeals*.

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**BRIEF GENERAL STATEMENT OF THE NATURE OF THE CAUSE OR
OFFENSE AND THE RESULT**

Pursuant to Rule 4.06(c)(3), *Internal Procedural Rules, Board of Disciplinary*

Appeals, Appellant states:

Type of Proceeding: Attorney Discipline

Petitioner/Appellee: Commission for Lawyer Discipline

Respondent/Appellant: Stephen Carrigan

Evidentiary Panel: No. 4-5, Grievance Committee

Judgment: Modified Judgment of Partially Probated Suspension

Violations: Rule 5.03(a) [with respect to a non-lawyer employed or retained by or associated with a lawyer, a lawyer having direct supervisory authority over the non-lawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer] Rule 5.03(b)(1) [with respect to a non-lawyer employed or retained by or associated with a lawyer, a lawyer shall be subject to discipline for the conduct of such person that would be a violation of these rules if engaged in by a lawyer, if the lawyer orders, encourages or permits the conduct involved] (C.R. 900).

ISSUES PRESENTED FOR REVIEW

1. Whether or not there was any evidence adduced to support the findings of fact in the Modified Judgment of Partially Probated Suspension since there was no Rule 2.17L, Texas Rules Disciplinary Procedure, Hearing and only a Rule 2.18, Texas Rules of Disciplinary Procedure, Separate Hearing on Sanctions?
2. Whether or not the law stipulation made was supported by any findings of fact, when based upon a mistake as to what Appellant was stipulating to?
3. Whether or not the alleged Rule 11 Agreement supporting the stipulation was based upon a mistake as to the basis of the Agreement and whether the Evidentiary Panel was notified of such before the entry of the Modified Judgment of Partially Probated Suspension?

STATEMENT OF FACTS

On August 10, 2010, Appellee, Commission for Lawyer Discipline, filed an Original Evidentiary Petition against Respondent before the Evidentiary Panel of the State Bar District No. 4E, Grievance Committee, alleging that Appellant Carrigan committed professional misconduct in violation of Rules 7.03(a), 7.03(c) and 7.06(a), *Texas Disciplinary Rules of Professional Conduct* (TDRPC), based upon a complaint filed by Melissa Castillo on November 9, 2009. (C.R. 41-47). Appellant filed his Original Answer on September 7, 2010, representing himself pro-se (C.R. 52-59). On April 12, 2011 the Appellee, Commission for Lawyer Discipline, filed its First Amended Evidentiary Petition, adding two (2) additional causes of action and alleging that Appellant Carrigan committed additional professional misconduct in violation of Rules 5.03(a), 5.03(b)(1) and 8.04(a)(9) TDRPC (C. R. 119-126). On December 28, 2012 Diane St. Yves filed a notice of appearance as co-counsel for Appellant Carrigan (C.R. 336-337). On April 12, 2013 the Evidentiary Panel of the State Bar District 4-5 Grievance Committee convened an Evidentiary Panel Hearing to hear the case (C.R.R. 4-6 – April 12, 2013). One day before the hearing, on April 11, 2013, Appellants *co-counsel* signed a letter, dated April 11, 2013, which was filed in the Clerk's Record on April 12, 2013, was not offered or identified in the hearing of April 12, 2013, was

referred to as a stipulation in the hearing of April 12, 2013 and later referred to as a Rule 11 Agreement (C.R. 665-666). Apparently, based upon this letter, Appellee's counsel convinced the Evidentiary Panel, that the only hearing to be held on April 12, 2013 was a sanctions hearing under Rule 2.18, *Texas Rules of Disciplinary Procedure* (TRDP) (C.R. 665-666, 724) (C.R.R. 6, lines 8-15, 7, lines 1-3, 16, lines 22-25, 22, lines 19-25, 23, lines 1-5, April 12, 2013). However, when asked during the sanctions hearing, Appellant, representing himself, stated that he was only stipulating to certain allegations made in the Petition (paragraphs 12, 13, and 14) and *not misconduct* (C.R.R. 17, lines 13-20, 28, lines 12-15, 29, lines 10-14 lines 22-24). Notwithstanding these statements, the Evidentiary Panel continued on with only a sanctions hearing under Rule 2.18 TRDP and the Chair signed a Judgment of Partially Probated Suspension on May 3, 2013 (C.R. 696-702). That judgment contained findings of fact that were not stipulated to in the letter of April 11, 2013 (C.R. 665-666, 697).

Appellant Carrigan timely filed a motion for reconsideration and new trial, through new counsel. A hearing was held on June 14, 2013 (C.R.R. 3, lines 3-4, June 14, 2013). At the new trial hearing it was pointed out to the Evidentiary Panel that Appellant only stipulated to some facts in the pleadings and not misconduct and therefore liability was still in question and that the Evidentiary Panel should grant a new trial upon the merits of the case, with stipulations only as to certain

facts plead (C.R.R. 4, lines 18-25, 5, lines 1-14, 7, lines 13-16, 8, lines 9-11, 9, lines 23-25, 10, lines 1-3, lines 23-25, 11, lines 1-6, lines 13-15, 14, lines 1-23, 17, lines 8-15, June 14, 2013). Notwithstanding this motion, the argument, and clear references in the record, the Evidentiary Panel denied the motion for new trial (C.R. 896). The Evidentiary Panel then entered a Modified Judgment of Partially Probated Suspension, dated June 14, 2013 (C.R. 898-905).

In a motion for stay hearing of July 12, 2013, Appellant Carrigan explained what he stipulated to in the hearing of April 12, 2013. Carrigan agreed with the Evidentiary Hearing Chair Person that Carrigan thought the Chair was asking if he was stipulating to several facts in the pleading and not a violation of rules (C.R.R. 32, lines 15-21, 33 lines 6-13, July 12, 2013). He testified that he had not reviewed the letter agreement before the co-counsel signed it, that he thought he was stipulating to certain facts in the petition, and that his position was that he had not violated any of the disciplinary rules (C.R.R. 34, lines 10-12, 36, lines 5-12, lines 12-19, July 12, 2013). Given this testimony, the Evidentiary Panel granted a motion to stay the Modified Judgment of Partially Probated Suspension on July 16, 2013 (C.R. 982). Appellant duly perfected his appeal (C.R. 961).

BRIEF OF THE ARGUMENT

A. Standard of Review

Normally, appeals from judgments of evidentiary panels must be on the record, determined under the standard of substantial evidence Rule 2.44 *Tex. R. Dis. P.* (“TRDP”). In an attorney disciplinary case, regarding appeals to the Board of Disciplinary Appeals, the substantial evidence standard applies *Commission for Lawyer Discipline v. Schaefer*, 364 S.W.3d 831, 835 (Tex. 2012). In reviewing the order of the administrative agency under the substantial evidence rule, the reviewing court may go no further than to examine the evidence to determine whether such evidence is not substantial because it is incredible, perjured, or unreasonable, unless there is simply no evidence for the trial court to analyze and apply the law directly and thus there is a legal abuse of discretion *Walker v. Packer*, 827 S.W.2d 833, 840 (Tex.1992) *Warehouse Partners v. Gardner*, 910 S.W.2d 19,247 (Tex. App.-Dallas 1995). The trial court’s decision on whether a settlement agreement should be enforced as an agreed judgment or must be the subject of a contract action, requiring additional pleadings and proof is subject to the abuse of discretion standard of review *Stanley v. Herblin*, 188 S.W. 3d 344, 336 (Tex. App.-Dallas 2006, pet denied). Because the trial court has no discretion in determining what the law is or in applying the law to the facts, the trial court’s

failure to analyze or apply the law correctly is an abuse of discretion *In re American Homestar of Lancaster, Inc.* 50 S.W.3d 480, 483 (Tex. 2001).

B.

There is no evidence to support the findings of fact in the Modified Judgment of Partially Probated Suspension since there was no Rule 2.17L TRDP hearing, but only a Rule 2.18 TRDP separate hearing on sanctions

The Evidentiary Hearing Report in this case makes it crystal clear that the only hearing held in this case on April 12, 2013 was a separate hearing on sanctions only. Rule 2.18 TRDP (C.R. 724) (C.R.R. 6, lines 8-10 – April 10, 2013). Accordingly, since there was no evidentiary hearing in which any evidence was adduced under Rule 2.17L, TRDP, there was no evidence to support any *fact finding* made in the Modified Judgment of Partially Probated Suspension that is recited under *Findings of Fact*, 2-6 Page 2 and *Professional Misconduct* on page 2 of said judgment (C.R. 899). A recitation that “ 1. the parties stipulate that Respondent engaged in professional misconduct in violation of Texas Disciplinary Rules of Professional Conduct under *Findings of Fact* or that the Evidentiary Panel considered a “...stipulation...” is a law conclusion and not facts adduced at any Evidentiary Panel hearing under Rule 2.17L TRDP. The stipulation spoken to was entirely based upon a conclusion of law, as no facts were stipulated to by Appellant in an evidentiary hearing. (C.R.665).

Indeed, while Appellant tried to stipulate to certain facts set out in the petition, in lieu of any legal stipulation, such could only have occurred in an evidentiary hearing and not in a sanctions hearing under Rule 2.18 TRDP, or in a Rule 11 Agreement, as a matter of law. Accordingly, there are no evidentiary facts to support the Modified Judgment of Partially Probated Suspension (C.R. 669-702). The most that can be said of the Modified Judgment of Partially Probated Suspension is that it may be classified as a “consent agreement or consent judgment” as to liability, based upon a law conclusion that Appellant engaged in professional misconduct in violation of Rules 5.03(a) and 5.03(b)(1) TDRPC, that it was based upon a stipulation in a letter agreement in the record, never signed by the lead counsel lawyer, the Appellant, and that it was signed by a co-counsel under a misunderstanding by Appellant that he was stipulating to certain *facts* in the petition in order to streamline the liability case. *Fireman’s and Policiman’s Civil Service Commission v. Brink Meyer* 662 S.W.2d 953, 956 (Tex.1984). Trial court findings of fact are reviewed on a no-evidence point by considering only the evidence and inferences that support the challenged finding *Gregory v. Sunbelt Savings, F.S.B.*, 835 S.W.2d 155, 158 (Tex. App.-Dallas 1992, writ denied).

However, challenges to the trial court’s conclusions of law are reviewed as a matter of law, not on sufficiency of evidence grounds *McLendon v. McLendon*, 862 S.W.2d 662, 674 (Tex. App.-Dallas 1993, writ denied). An erroneous conclusion

of law is not binding on the appellate court *Banterella v. Williams*, 667 S.W.2d 810,818 (Tex. App.-Dallas 1983, write ref., n.a.e.). A failure to streamline the evidentiary trial under Rule 2.17L. TRDP, never occurred. Instead, only a sanctions hearing occurred.

There are no facts to review under the substantial evidence rule in this case because there were no facts adduced in an Evidentiary Panel hearing. The review is limited to a law question on abuse of discretion as a matter of law.

C.

The Law Stipulation made was based upon a Mistake to what Appellant was Stipulating to and Notice was given to the Evidentiary Panel of such Mistake.

A stipulation is an agreement, admission, or other concession made in a judicial proceeding by the parties or their attorneys. It constitutes a binding contract between the parties, may be used to limit or exclude the issues to be tried, and even obviates the need for proof on a litigable issue. In construing a stipulation, a court must determine the intent of the parties from the language used in the entire agreement, examining the surrounding circumstances, including the state of the pleadings, the allegations made therein and the attitude of the parties with respect to an issue. A stipulation should not be given greater effect than the parties intended *ExxonMobil Corporation v. Valence Operating Company*, 174 S.W.3d 303, 311 (Tex. App.-Houston [1st Dist.] 2005). In construing the intent and

attitude of Appellant, it is obvious that he did not intend to stipulate to misconduct, but only certain facts in the petition in order to streamline his trial. He stated this in the sanctions hearing on several different occasions (C.R.R. 9.17, lines 1-9, lines 13-20, p.28, lines 1-15, p.29, lines 10-14, lines 22-24, p.30, lines 19-22. – April 12, 2013). This notice was brought home several times to the Evidentiary Panel. The purported Rule 11 Agreement that was the alleged basis for the “stipulation” was not introduced in the sanctions hearing and appellant was not questioned about it.

When a consent judgment is rendered after consent is withdrawn, the judgment must be set aside. Consent to the agreement must also exist at the time an agreed judgment is rendered. A withdrawal of consent must be effectively communicated to the trial court. The proper inquiry is whether the information in the trial court’s possession is clearly sufficient and of such a nature as to put the trial court on notice that the parties consent is lacking. *Baylor College of Medicine v. Camberg*, 247 S.W.3d 342, 346-347 (Tex. App-Houston [14th Dist.] 2008). Generally, the appellate remedy for a trial court’s entry of an agreed judgment when the court is or should be aware that the parties no longer consent, is to reverse and remand for a new trial. *Baylor*, supra, at 346. This Board should invoke such remedy. When the Evidentiary Panel was put on notice that consent had been withdrawn by Appellant, it had two remedies available, either to reinstate a Rule 2.17 L. hearing or to recess and let Appellee file a petition to enforce and to

try the stipulation as Rule 11 Agreement and as a contract enforcement matter. The panel did neither and later overruled a motion for new trial when the point was again raised. This Board should reverse and remand for either remedy to be pursued. It was clear here that there were competing interpretations of what was being stipulated to and the Evidentiary Panel erroneously entered a consent judgment based upon Appellee's interpretation *Baylor*, supra, at 347.

D.

The Purported Rule 11 Agreement Supporting the Stipulation was based Upon a Mistake as to the Basis of the Agreement and the Evidentiary Panel was Notified of such before the Entry of the Modified Judgment of Partially Probated Suspension

In the landmark case of *Burnaman v. Heaton*, 240 S.W.2d 288 (Tex. 1951) the Supreme Court of Texas held that a judgment should not have been entered in accordance with a settlement agreement because the district court was put on notice that Plaintiff's consent might be wanting. The court found that the judgment entered on an agreement under Rule 11, Texas Rules of Civil Procedure (TRCP) of the attorneys was a consent judgment and a valid consent judgment cannot be rendered by a court when consent of one of the parties thereto is lacking. It is not sufficient to support the judgment that a party's consent thereto may at one time have been given, consent must exist at the very moment the court undertakes to make the agreement the judgment of the court. Further, when a trial court has knowledge that one of the parties does not consent to a judgment, agreed to by his

attorney, the trial court should refuse give the agreement the sanction of the court so as to make it the judgment of the court. Any judgment rendered on agreement under such circumstances will be set aside. *Burnaman* at 291-292. This principle has been consistently followed by the courts of this state *Kennedy v. Hyde*, 682 S.W.2d 525, 528-529 (Tex. 1984). An agreement or stipulation that is in compliance with Rule 11, TRCP, is subject to attack on the grounds of mistake. *Kennedy* at 529.

In the case at bar there is no doubt that the parties had a disagreement as to the interpretation and/or intent of what Appellant Carrigan had stipulated to. Several times in the sanctions hearing Appellant stated he was not stipulating as to liability, only as to certain facts set out in the pleadings in order to streamline the case (C.R.R. 17, lines 13-20, 28, lines 12-15, 29, lines 10-14, lines 22-24- April 12, 2013). Indeed, based upon these statements, Appellant thought he was in Rule 217 L, TDRP evidentiary trial, and not a Rule 2.18 TDRP sanctions hearing. These interpretations were brought to the knowledge of the trial court (C.R.R. 17, lines 13-20, 28, lines 12-15, 29, lines 10-14, lines 22-24 – April 12, 2013). Generally, the appellate remedy for a trial court's entry of an agreed judgment when the court is or should be aware that the parties no longer consent is to reverse and remand for a new trial *Baylor College of Medicine v. Camberg*, *supra*, at 346. Upon a remand, the Appellee may seek to enforce the settlement agreement or opt to set it

aside and try the case on the merits. In the case that Appellee seeks to enforce the settlement agreement, contract law applies and the inquiry requires full resolution of the surrounding facts and circumstances. This was not accomplished in the motion for stay hearing. *ExxonMobil Corporation v. Valence Operating Company*, supra, at 309, *Padilla v. LaFrance*, 907 S.W.2d 454, 462 Tex. 1995); *Quintero v. Jim Walter Homes, Inc.*, 654 S.W.2d 442, 444 (Tex. 1983).

The trial court's decision that the settlement agreement (Rule 11, TRCP) should be enforced as an agreed judgment or must be the subject of a contract action requiring additional pleadings and proof is subject to the abuse of discretion standard of review. But because the trial court has *no discretion* in determining what the law is or applying the law to the facts, the trial court's failure to analyze or apply the law correctly is an abuse of discretion *Baylor College of Medicine*, supra, at 345. This is the case here, once the Evidentiary Panel was given notice of non-consent. Therefore, the Modified Judgment of Partially Probated Suspension should be reversed and remanded by this Board for a new trial on either the enforcement of the alleged Rule 11 Agreement or on the merits of the case under a proper Rule 2.17L, TRDP, hearing.

PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, Appellant prays the Board of Disciplinary Appeals reverse the Modified Judgment of Partially Probated Suspension and remand this case to the Evidentiary Panel 4-5, Grievance Committee, for additional proceedings. Appellant also prays for costs and such other relief as may be appropriate.

Respectfully submitted,



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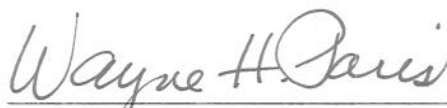
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Brief of Appellant has been sent to Cynthia C. Hamilton, Assistant Disciplinary Counsel, State Bar of Texas, P.O. Box 12487, Austin, Texas 78711 via certified mail, return receipt requested, on this 7th day of October 2013.



Wayne H. Paris

Via CM/RRR: 7009 1410 0000 2195 7536

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APPENDIX

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COMMISSION FOR LAWYER DISCIPLINE,	§ S0110922865 [MELISSA CASTILLO]	
	§ S0061023869 [WILLIAM R. EDWARDS]	
Petitioner,	§ S0071024008 [WILLIAM R. EDWARDS]	
	§	
v.	§ HARRIS COUNTY, TEXAS	
	§	
STEPHEN CARRIGAN,	§	FILED
	§	
Respondent.	§	APR 12 2011
	§	

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APR 12 2011

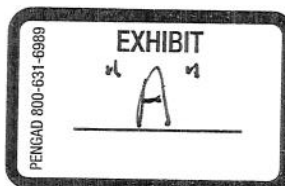
STATE BAR OF TEXAS
HOUSTON CDC

COMES NOW Petitioner, the COMMISSION FOR LAWYER DISCIPLINE, a

I. PARTIES

Respondent is **STEPHEN CARRIGAN** (hereinafter referred to as "Respondent"), Texas Bar Card No. 03877000, a licensed attorney and a member of the STATE BAR OF TEXAS.

Petitioner brings this disciplinary proceeding pursuant to the STATE BAR ACT, TEXAS GOVERNMENT CODE ANNOTATED §81.001, *et seq.* (Vernon 2003); the TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT; and the TEXAS RULES OF DISCIPLINARY PROCEDURE. The Complaint that forms the basis of this cause of action was filed on or after January 1, 2004.



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III. VENUE

Respondent's principal place of practice is Harris County, Texas; therefore, venue is appropriate in Harris County, Texas, pursuant to Rule 2.11B of the TEXAS RULES OF DISCIPLINARY PROCEDURE. **Respondent may be served at Three Riverway, Suite 1140, Houston, Texas 77056, or any place he may be found.**

IV. PROFESSIONAL MISCONDUCT

The acts and omissions of Respondent, as hereinafter alleged, constitute professional misconduct as defined by Rule 1.06V of the TEXAS RULES OF DISCIPLINARY PROCEDURE.

V. FIRST CAUSE OF ACTION

1. On or about May 12, 2007, **MELISSA CASTILLO'S** (hereinafter referred to as "**CASTILLO**") daughter, **MARYIA**, died in a drowning accident.
2. Later, on May 16, 2007, and while at the funeral home, **ARNOLD MEDINA, RON DOMINGUEZ**, and **JESSE DOMINGUEZ** made direct contact with **CASTILLO** with the intent of securing her representation on behalf of Respondent.
3. At all times material, **ARNOLD MEDINA, RON DOMINGUEZ**, and **JESSE DOMINGUEZ** were acting as employees and/or representatives of Respondent.
4. In order to secure **CASTILLO'S** representation, Respondent guaranteed the payment of the funeral bill.
5. On May 16, 2007, **CASTILLO** signed a contract and hired Respondent.

VI. SECOND CAUSE OF ACTION

6. On or about April 5, 2010, **BONNIE FAHRENTHOLD** (hereinafter referred to as "**BONNIE**") and **SILVERIO DIAZ, JR.** were involved in a fatal automobile accident.

-)
-)
7. On or about April 6, 2010, **CECIL RUNK** (hereinafter referred to as "**CECIL**"), brother of **BONNIE**, received a call from the funeral home stating that someone had offered to pay for **BONNIE'S** funeral. **CECIL** then called the phone number and spoke to **RICHARD DOMINGUEZ** (hereinafter referred to as "**DOMINGUEZ**"), father of Respondent's paralegal, **RON DOMINGUEZ**, to find out why he would want to pay for the funeral. **DOMINGUEZ** informed Cecil that he would need to see them and ask for help.
 8. Because **CECIL** was not **BONNIE'S** next of kin, he passed **DOMINGUEZ'** phone number to **BONNIE'S** son, **ZACHARY FAHRENTHOLD** (hereinafter referred to as "**ZACHARY**"). **ZACHARY** called **DOMINGUEZ** and later, with his grandmother, **LULA RUNK** (hereinafter referred to as "**LULA**"), met at **DOMINGUEZ'** house.
 9. While at the meeting, Respondent made an appearance with the intent to solicit the case. Respondent handed out his business card and showed off several magazines where he was named a "Super Lawyer."
 10. **DOMINGUEZ** gave **ZACHARY** and **LULA** a check in the amount of One Hundred and No/100 Dollars (\$100.00) as an enticement to hiring Respondent.
 11. **ZACHARY** and **LULA** declined to hire Respondent.

VII. THIRD CAUSE OF ACTION

12. On or about March 11, 2010, **ROBERTO CHAPA, JR.** (hereinafter referred to as "**CHAPA**") and his family were involved in an automobile accident.
13. While still at the scene of the accident, **CHAPA** was approached by the tow truck driver and solicited on behalf of Respondent. Specifically, the tow truck driver made a telephone call to **ISRAEL ZAVALA** (hereinafter referred to as "**ZAVALA**"), an

employee of Respondent, and then gave the phone to **CHAPA**, who then proceeded to a have a conversation with **ZAVALA** wherein they made an appointment at Respondent's office.

14. On or about March 13, 2010, **CHAPA** went to Respondent's office and hired him for representation in his personal injury claim.

VIII. RULE VIOLATIONS

The acts and/or omissions of Respondent described above constitute conduct in violation of the following Rules of the TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT:

- **5.03(a)** with respect to a non-lawyer employed or retained by or associate with a lawyer, a lawyer having direct supervisory authority over the non-lawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer [3 counts];
- **5.03(b)(1)** with respect to a non-lawyer employed or retained by or associate with a lawyer, a lawyer shall be subject to discipline for the conduct of such a person that would be a violation of these rules if engaged in by a lawyer if the lawyer orders, encourages, or permits the conduct involved [3 counts];
- **7.03(a)** a lawyer shall not by in-person contact, or by regulated telephone or other electronic contact, seek professional employment concerning a matter arising out of a particular occurrence or event, or series of occurrences or events, from a prospective client or nonclient who has not sought the lawyer's advice regarding employment or with whom the lawyer has no family or past or present attorney-client relationship when a significant motive for the lawyer's doing so is the lawyer's pecuniary gain [3 counts];
- **7.03(c)** a lawyer, in order to solicit professional employment, shall not pay, give, advance, or offer to pay, give, or advance anything of value, other than actual litigation expenses and other financial assistance as permitted by Rule 1.08(d), to a prospective client [2 counts – **CASTILLO and EDWARDS (869)**];
- **7.06(a)** a lawyer shall not accept or continue employment in a matter when that employment was procured by conduct prohibited by any of Rules 7.01 through 7.05, 8.04(a)(2), or 8.04(a)(9), engaged in by

that lawyer personally or by any other person whom the lawyer ordered, encouraged, or knowingly permitted to engage in such conduct [2 counts – CASTILLO and EDWARDS (008)]; and

- 8.04(a)(9) a lawyer shall not engage in conduct that constitutes barratry as defined by the law of this State [2 counts].

IX.

The Complaints that form the basis of these causes of action were brought to the attention of the Office of the Chief Disciplinary Counsel of the STATE BAR OF TEXAS by **MELISSA CASTILLO'S** filing of a grievance on or about November 9, 2009; and **WILLIAM R. EDWARDS'** filing of grievances on or about June 28, 2010, and July 26, 2010, respectively.

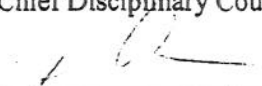
PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, Petitioner, the **COMMISSION FOR LAWYER DISCIPLINE**, respectfully prays that this Evidentiary Panel discipline Respondent, **STEPHEN CARRIGAN**, by reprimand, suspension or disbarment, as the facts shall warrant; order restitution to Complainants, if applicable; and grant all other relief, general or specific, at law or in equity, to which Petitioner may show itself to be justly entitled including, without limitation, costs and attorneys' fees.

Respectfully submitted,

STATE BAR OF TEXAS
Office of the Chief Disciplinary Counsel

LINDA A. ACEVEDO
Chief Disciplinary Counsel


SHANNON BREAU SAUCEDA
Assistant Disciplinary Counsel
State Bar No. 24002896
600 Jefferson, Suite 1000
Houston, Texas 77002
Phone: (713) 758-8200
Fax: (713) 758-8292

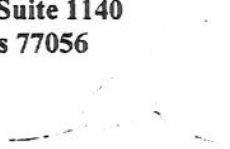
**ATTORNEYS FOR PETITIONER,
COMMISSION FOR LAWYER
DISCIPLINE**

CERTIFICATE OF SERVICE

I hereby certify that on April 15, 2011, a true and correct copy of the *First Amended Evidentiary Petition* was delivered to the following:

Via Certified Mail
No. 7004 0750 0000 6728 2213

Stephen Carrigan
Three Riverway, Suite 1140
Houston, Texas 77056


SHANNON BREAU SAUCEDA

- c. As to Paragraph V-3, Respondent admits that Arnold Medina, Ron Dominguez and Jesse Dominguez, were employees of Respondent at the time of the alleged incident.
- d. As to Paragraph V-4, Respondent denies that Respondent or any member of Respondent's staff guaranteed the payment of the funeral bill.
- e. As to Paragraph V-5, Respondent admits that Castillo signed a contract and hired Respondent on or about May 16, 2007.

As to Paragraph VI, Respondent denies each and every allegation of professional misconduct alleged thereunder.

III.

PRAYER

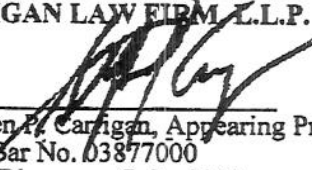
Respondent prays that Petitioner take nothing and that Respondent be granted all relief requested in this Original Answer.

Respondent prays for general relief.

Respectfully submitted,

THE CARRIGAN LAW FIRM, L.L.P.

By: _____


Stephen P. Carrigan, Appearing Pro Se
State Bar No. 03877000
Three Riverway, Suite 1140
Houston, Texas 77056
713-739-0810
713-739-0821 (facsimile)

APPEARING PRO SE

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing instrument was forwarded to all interested parties as indicated below by certified mail, facsimile and/or hand delivery, return receipt requested in accordance with the Texas Rules of Civil Procedure on this the 7th day of September, 2010.

State Bar of Texas
Office of The Chief Disciplinary Counsel
Linda A. Acevedo
Chief Disciplinary Counsel
Shannon Breaux Saucedo
Assistant Disciplinary Counsel
600 Jefferson, Suite 1000
Houston, Texas 77002

Via Facsimile: (713) 758-8200

Stephen P. Carrigan



STATE BAR OF TEXAS



Office of the Chief Disciplinary Counsel

April 11, 2013

FILED

APR 12 2013

STATE BAR OF TEXAS
HOUSTON CDO

By fax (832) 553-7977, and
email diane@styveslaw.com

Diane St. Yves
5100 Westheimer, Suite 200
Houston, Texas 77056

RE: Case Nos. S0110922865 [Melissa Castillo], S0061023869 [William R. Edwards], and
S0071024008 [William R. Edwards]; *Commission for Lawyer Discipline v. Stephen Carrigan*;
Before the Evidentiary Panel of the State Bar District 4-5 Grievance Committee

Dear Ms. St. Yves:

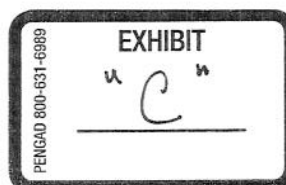
Pursuant to our recent communications, the parties in the above referenced disciplinary matter agree to the following:

1. Petitioner abandons and dismisses the allegations of professional misconduct related to grievances S0110922865 [Melissa Castillo] and S0061023869 [William R. Edwards/Farenthold].
2. As to matter S0071024008 [William R. Edwards/Chapa], the parties stipulate that Stephen Carrigan engaged in professional misconduct in violation of TEXAS DISCIPLINARY RULE OF PROFESSIONAL CONDUCT 5.03(a) and (b)(1).
3. Pursuant to TEXAS RULE OF DISCIPLINARY PROCEDURE 2.18, the Evidentiary Panel will conduct a hearing to determine the appropriate disciplinary sanction for Respondent's violation of the above stipulated Rule. Evidence and/or testimony may be presented for the Evidentiary Panel's consideration in rendering an appropriate disciplinary sanction.
4. The Sanctions Hearing will be held on April 12, 2013, beginning at 1:00 p.m., subject to the availability of the panel or any orders issued by the panel affecting the date or time of hearing.

Please return a signed copy of this letter indicating your agreement to the terms of agreement set forth herein.

Sincerely,

500 Jefferson, Suite 1000 Houston, Texas 77002
Phone: (713) 758-8200 Fax: (713) 758-8292

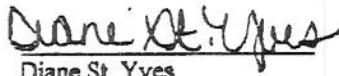


000665



Shannon Breaux Saucedo
Assistant Disciplinary Counsel

Agreed:



Diane St. Yves
Counsel for Respondent

4/11/13

Date

713 758 8295

State Bar of Texas

09:50:59 a.m. 05-02-2013

3 / 5

EVIDENTIARY HEARING REPORT

PANEL: 4 COMMITTEE: 5 HEARING DATE: April 12, 2013
S0110922865
S0061023869
CASE NO: S0071024008 STYLE: Commission for Lawyer Discipline v. Stephen Carrigan
LOCATION: STATE BAR OF TEXAS, 600 Jefferson, Suite 1000, Houston, Texas 77002
COURT REPORTER: DEPOTEXAS

PANEL MEMBERS (INDICATE ATTY OR PUBLIC). Please note presiding member with an asterisk (*).

1. Troy D. Chandler (Atty)*	Present / Absent / Recused
2. Doris T. Abston (Public)	Present / Absent / Recused
3. John M. Barrera (Public)	Present / Absent / Recused
4. Dinesh Singhal (Atty)	Present / Absent / Recused
5. Brian Trachtenberg (Atty)	Present / Absent / Recused
6. Kirstan H. Wilson (Atty)	Present / Absent / Recused

I. TYPE OF HEARING: (Check One)

☐ Evidentiary and Sanction
☐ Continued Evidentiary and Sanction
☒ Sanction Only
☐ Default

II. HEARING RESULT: (Check One)

☐ Hearing Continued
☐ Dismissed
☐ Default Granted
☐ Default Denied

☒ Professional Misconduct Found¹ (If selected, please continue)

☐ Private Reprimand
☐ Public Reprimand
☐ Disbarment

Suspension: (If selected, please choose either Fully Active, Fully Probated or Partially Probated)

☐ Fully Active Suspension: Length: _____
Beginning: _____

☐ Fully Probated Suspension: Length: _____
Beginning: _____

☐ Partially Probated Suspension: _____
Length of Active Portion: 90 Days

Beginning: June 1, 2013

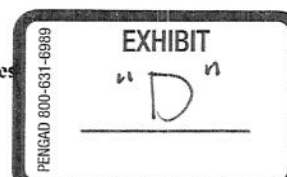
Length of Probated Portion: 21 months

Beginning: September 1, 2013

_____: Probated portion conditioned upon:

RECEIVED**MAY 02 2013****STATE BAR OF TEXAS
HOUSTON CDC**

¹Violation of TDRPC 5.03(n) and 5.07(b)(1), per stipulation of the parties



000724

713 758 8295

State Bar of Texas

09:51:14 a.m. 05-02-2013

4 / 5

____ Payment of restitution

____ Payment of attorney's fees/cost

____ Other: _____

☒ CFLD attorney's fees:Amount: \$3,500.00² Payable: _____
(Date)☒ CFLD Costs:Amount: \$814.20³ Payable: _____
(Date)N/A Restitution payable to: _____Amount: _____ Payable: _____
(Date)**TERMS AND CONDITIONS OF PROBATION**

Please check all terms and conditions the Panel finds appropriate for this probation:

- ☒ Respondent shall not engage in professional misconduct during term of probation.
- ☒ Respondent shall not violate any state or federal criminal statutes during term of probation.
- ☒ Respondent shall keep State Bar of Texas membership notified of current address and telephone number.
- ☒ Respondent shall comply with Minimum Continuing Legal Education requirements during term of probation.
- ☒ Respondent shall comply with IOLTA requirements during term of probation.
- ☒ Respondent shall respond to any request for information from the Grievance Committee or Chief Disciplinary Counsel during term of probation.

☒ ADDITIONAL CONTINUING LEGAL EDUCATION COURSES AS FOLLOWS:

Areas of Law	No. of Hours	Deadline

☐ PSYCHOLOGICAL EVALUATION REPORTS (Utilize only if supported by evidence of Mental Illness)

Evaluation Deadline	Frequency

☐ SUBSTANCE ABUSE TESTING (Utilize only if supported by evidence of Substance Abuse)

Start Date	End Date	Frequency

² Per stipulation of the parties.³ Per stipulation of the parties.

713 758 8295

State Bar of Texas

09:51:28 a.m. 05-02-2013

5 / 5

____ LAW OFFICE MANAGEMENT PROGRAM EDUCATION COURSES

No. of Seminar Hours	Deadline
----------------------------	----------

8 hours, June 1, 2015.	
------------------------	--

____ LAW OFFICE MANAGEMENT PROGRAM CONSULTATION

Deadline

____ TRUST ACCOUNT REPORTING (Utilize only if supported by evidence of Trust Account Violation)

Start Date	Frequency
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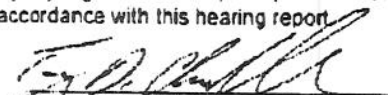
____ TRUST ACCOUNT AUDIT (Utilize only if supported by evidence of Trust Account Violation)

Deadline

____ OTHER: _____

PROFESSIONAL MISCONDUCTThe Panel finds the following Disciplinary Rules were violated: TDRPC: 5.03(a) and 5.03(b)(1)

By my signature below, I request the Office of the Chief Disciplinary Counsel to prepare a Judgment in accordance with this hearing report.


TROY D. CHANDLERDistrict No. 4-5
Presiding Member

000726

BEFORE THE EVIDENTIARY PANEL OF THE
STATE BAR DISTRICT NO. 4-5 GRIEVANCE COMMITTEE

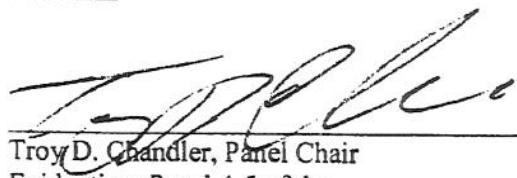
COMMISSION FOR LAWYER DISCIPLINE,	§ S0110922865
	§ S0061023869
Petitioner,	§ S0071024008
	§
v.	§ HARRIS COUNTY, TEXAS
	§
STEPHEN CARRIGAN,	§
	§
Respondent.	§

ORDER DENYING RESPONDENT'S MOTION FOR NEW HEARING (NEW TRIAL)

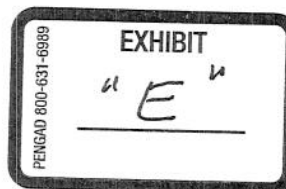
On the 14 day of JUNE, 2013, came on to be heard *Respondent's Motion for New Hearing (New Trial)* in the above-entitled and numbered cause of action. After considering the pleadings, evidence, and arguments of counsel, if any, the Evidentiary Panel is of the opinion that *Respondent's Motion for New Hearing (New Trial)* should be, and is hereby **DENIED** in its entirety.

All relief not expressly granted herein is **DENIED**.

SIGNED this 14 day of JUNE, 2013.



Troy D. Chandler, Panel Chair
Evidentiary Panel 4-5 of the
District 4 Grievance Committee



000896

BEFORE THE EVIDENTIARY PANEL OF THE
STATE BAR DISTRICT NO. 4-5 GRIEVANCE COMMITTEE

COMMISSION FOR LAWYER DISCIPLINE,	§	S0110922865
	§	S0061023869
Petitioner,	§	S0071024008
	§	
v.	§	HARRIS COUNTY, TEXAS
	§	
STEPHEN CARRIGAN,	§	
	§	
Respondent.	§	

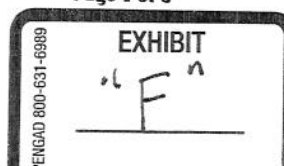
MODIFIED JUDGMENT OF PARTIALLY PROBATED SUSPENSION

Parties and Appearance

On April 12, 2013, came to be heard the above-styled and numbered cause. Petitioner, the COMMISSION FOR LAWYER DISCIPLINE, appeared by and through its attorney of record, Shannon Breaux Saucedo, Assistant Disciplinary Counsel, and announced ready. Respondent, STEPHEN CARRIGAN (hereinafter referred to as "Respondent"), Texas Bar Number 03877000, appeared in person and through his attorney of record, Diane St. Yves, and announced ready. On June 14, 2013, *Respondent's Motion For New Hearing (New Trial) Or, Alternative Motion to Modify Judgment* [filed May 17, 2013], was heard by the Evidentiary Panel. In presenting his motion, Respondent appeared in person and through his attorney of record, Wayne Paris. Petitioner was represented by Shannon Breaux Saucedo, Assistant Disciplinary Counsel. After due consideration of Respondent's *Motion* and argument of the Parties, the Evidentiary Panel enters this Modified Judgment of Partially Probated Suspension.

Jurisdiction and Venue

The Evidentiary Panel 4-5 (formerly 4E), having been duly appointed to hear this complaint by the chair of the Grievance Committee for STATE BAR OF TEXAS District 4, finds that it has



jurisdiction over the parties and the subject matter of this action and that venue is proper.

Professional Misconduct

The Evidentiary Panel, having considered all of the pleadings, evidence, stipulations, and argument, finds Respondent has committed Professional Misconduct as defined by Rule 1.06(V) of the TEXAS RULES OF DISCIPLINARY PROCEDURE.

Findings of Fact

The Evidentiary Panel, having considered the pleadings, evidence and argument of counsel, makes the following findings of fact and conclusions of law:

1. The parties stipulate that Respondent engaged in professional misconduct in violation of TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT 5.03(a) and 5.03(b)(1).
2. Respondent is an attorney licensed to practice law in Texas and is a member of the STATE BAR OF TEXAS.
3. At the time of the filing of this Disciplinary Proceeding, Respondent resided in and maintained his principal place of practice in Harris County, Texas.
4. On or about March 11, 2010, Roberto Chapa, Jr. (hereinafter referred to as "Chapa") and his family were involved in an automobile accident.
5. While still at the scene of the accident, Chapa was approached by the tow truck driver and solicited on behalf of Respondent. Specifically, the tow truck driver made a telephone call to Israel Zavala (hereinafter referred to as "Zavala"); an employee of Respondent, and then gave the phone to Chapa, who then proceeded to have a conversation with Zavala wherein they made an appointment at Respondent's office.
6. On or about March 13, 2010, Chapa went to Respondent's office and hired him for representation in his personal injury claim.
7. The Chief Disciplinary Counsel of the STATE BAR OF TEXAS has incurred reasonable attorneys' fees and direct expenses associated with this Disciplinary Proceeding in the amount of Four Thousand Three Hundred Fourteen and 20/100 Dollars (\$4,314.20), as stipulated to by the parties.

Conclusions of Law

The Evidentiary Panel concludes that, based on foregoing findings of fact, the following TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT have been violated: 5.03(a) [with respect to a non-lawyer employed or retained by or associate with a lawyer, a lawyer having direct supervisory authority over the non-lawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer]; and 5.03(b)(1) [with respect to a non-lawyer employed or retained by or associate with a lawyer, a lawyer shall be subject to discipline for the conduct of such a person that would be a violation of these rules if engaged in by a lawyer if the lawyer orders, encourages, or permits the conduct involved.

Sanction

The Evidentiary Panel, having found that Respondent has committed professional misconduct, heard and considered additional evidence regarding the appropriate sanction to be imposed against Respondent. After hearing all evidence and argument and after having considered the factors in Rule 2.18 of the TEXAS RULE OF DISCIPLINARY PROCEDURE, the Evidentiary Panel finds that the proper discipline of the Respondent for each act of Professional Misconduct is a ~~Partially Probated Suspension.~~

Accordingly, it is **ORDERED, ADJUDGED and DECREED** that Respondent be suspended from the practice of law for a period of two (2) years, beginning July 1, 2013, and ending June 30, 2015. Respondent shall be actively suspended from the practice of law for a period of three (3) months beginning July 1, 2013, and ending September 30, 2013. The one (1) year, nine (9) month period of probated suspension shall begin on October 1, 2013, and shall end on June 30, 2015.

Terms of Active Suspension

It is further **ORDERED** that during the term of active suspension ordered herein, or that may be imposed upon Respondent by the BOARD OF DISCIPLINARY APPEALS (hereinafter referred to as "BODA") as a result of a probation revocation proceeding, Respondent shall be prohibited from practicing law in Texas; holding himself out as an attorney at law; performing any legal services for others; accepting any fee directly or indirectly for legal services; appearing as counsel or in any representative capacity in any proceeding in any Texas or Federal court or before any administrative body; or holding himself out to others or using his name, in any manner, in conjunction with the words "attorney at law," "attorney," "counselor at law," or "lawyer."

It is further **ORDERED** that, on or before July 1, 2013, Respondent shall notify each of Respondent's current clients and opposing counsel in writing of this suspension.

In addition to such notification, it is further **ORDERED** Respondent shall return any files, papers, unearned monies and other property belonging to current clients in Respondent's possession to the respective clients or to another attorney at the client's request.

It is further **ORDERED** Respondent shall file with the STATE BAR OF TEXAS, Chief Disciplinary Counsel's Office, P.O. Box 12487, Austin, Texas 78711-2487 (1414 Colorado St., Austin, Texas 78701) on or before July 1, 2013, an affidavit stating all current clients and opposing counsel have been notified of Respondent's suspension and that all files, papers, monies and other property belonging to all current clients have been returned as ordered herein.

It is further **ORDERED** Respondent shall, on or before July 1, 2013, notify in writing each and every justice of the peace, judge, magistrate, administrative judge or officer and chief justice of each and every court or tribunal in which Respondent has any matter pending of the terms of this *Judgment*, the style and cause number of the pending matter(s), and the name, address and telephone

number of the client(s) Respondent is representing.

It is further **ORDERED** Respondent shall file with the STATE BAR OF TEXAS, Chief Disciplinary Counsel's Office, P.O. Box 12487, Austin, Texas 78711-2487 (1414 Colorado St., Austin, Texas 78701) on or before July 1, 2013, an affidavit stating Respondent has notified in writing each and every justice of the peace, judge, magistrate, and chief justice of each and every court in which Respondent has any matter pending of the terms of this *Judgment*, the style and cause number of the pending matter(s), and the name, address and telephone number of the client(s) Respondent is representing in Court.

It is further **ORDERED** that, on or before July 1, 2013, Respondent shall surrender his law license and permanent State Bar Card to the STATE BAR OF TEXAS, Chief Disciplinary Counsel's Office, P.O. Box 12487, Austin, Texas 78711-2487 (1414 Colorado St., Austin, Texas 78701), to be forwarded to the SUPREME COURT OF TEXAS.

Terms of Probation

It is further **ORDERED** that during all periods of suspension, Respondent shall be under the following terms and conditions:

1. Respondent shall not violate any term of this *Judgment*.
2. Respondent shall not engage in professional misconduct as defined by Rule 1.06(V) of the TEXAS RULES OF DISCIPLINARY PROCEDURE.
3. Respondent shall not violate any state or federal criminal statutes.
4. Respondent shall keep the STATE BAR OF TEXAS membership department notified of current mailing, residence and business addresses and telephone numbers.
5. Respondent shall comply with Minimum Continuing Legal Education requirements.
6. Respondent shall comply with Interest on Lawyers Trust Account (IOLTA) requirements.
7. Respondent shall promptly respond to any request for information from the Chief

Disciplinary Counsel in connection with any investigation of any allegations of professional misconduct.

8. Respondent shall pay all reasonable and necessary attorneys' fees and direct expenses, as stipulated to by the parties, to the STATE BAR OF TEXAS in the amount of Four Thousand Three Hundred Fourteen and 20/100 Dollars (\$4,314.20). The payment shall be due and payable on or before July 1, 2013, and shall be made by certified or cashier's check or money order. Respondent shall forward the funds, made payable to the STATE BAR OF TEXAS, to the Chief Disciplinary Counsel's Office, P.O. Box 12487, Austin, Texas 78711-2487 (1414 Colorado St., Austin, Texas 78701).
9. In addition to complying with the Minimum Continuing Legal Education (MCLE) requirements of the STATE BAR OF TEXAS, Respondent shall complete eight (8) additional hours of continuing legal education during each year of Respondent's probation. These additional hours of MCLE shall be in the field of Law Practice Management. However, if Respondent elects, he may complete up to one-half (1/2) of the additional hours of MCLE each year in Ethics. Within ten (10) days of the completion of these additional MCLE hours, Respondent shall verify completion of the course to the STATE BAR OF TEXAS, via USPS: Office of the Chief Disciplinary Counsel, STATE BAR OF TEXAS, P.O. Box 12487, Austin, Texas 78711-2487; or via Delivery: Office of the Chief Disciplinary Counsel, STATE BAR OF TEXAS, 1414 Colorado St., Suite 200, Austin, Texas 78701.

Respondent shall make contact with the Chief Disciplinary Counsel's Office's Compliance Monitor at 877-953-5535, ext. 1334 and Special Programs Coordinator at 877-953-5535, ext. 1323, not later than seven (7) days after receipt of a copy of this *Judgment* to coordinate Respondent's compliance.

Probation Revocation

Upon information that Respondent has violated a term of this *Judgment*, the Chief Disciplinary Counsel may, in addition to all other remedies available, file a motion to revoke probation pursuant to Rule 2.23 of the TEXAS RULES OF DISCIPLINARY PROCEDURE with BODA and serve a copy of the motion on Respondent pursuant to Tex.R.Civ.P. 21a.

BODA shall conduct an evidentiary hearing. At the hearing, BODA shall determine by a preponderance of the evidence whether Respondent has violated any term of this *Judgment*. If BODA finds grounds for revocation, BODA shall enter an order revoking probation and placing Respondent on active suspension from the date of such revocation order. Respondent shall not be

given credit for any term of probation served prior to revocation.

It is further **ORDERED** that any conduct on the part of Respondent which serves as the basis for a motion to revoke probation may also be brought as independent grounds for discipline as allowed under the TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT and TEXAS RULES OF DISCIPLINARY PROCEDURE.

Attorneys' Fees and Expenses

It is further **ORDERED** Respondent shall pay all reasonable and necessary attorneys' fees and direct expenses, as stipulated by the parties, to the STATE BAR OF TEXAS in the amount of Four Thousand Three Hundred Fourteen and 20/100 Dollars (\$4,314.20). The payment shall be due and payable on or before July 1, 2013, and shall be made by certified or cashier's check or money order. Respondent shall forward the funds, made payable to the STATE BAR OF TEXAS, to the Chief Disciplinary Counsel's Office, P.O. Box 12487, Austin, Texas 78711-2487 (1414 Colorado St., Austin, Texas 78701).

It is further **ORDERED** that all amounts ordered herein are due to the misconduct of Respondent, are assessed as a part of the sanction in accordance with Rule 1.06(Y) of the TEXAS RULES OF DISCIPLINARY PROCEDURE. Any amount not paid shall accrue interest at the maximum legal rate per annum until paid and the STATE BAR OF TEXAS shall have all writs and other post-judgment remedies against Respondent in order to collect all unpaid amounts.

Publication

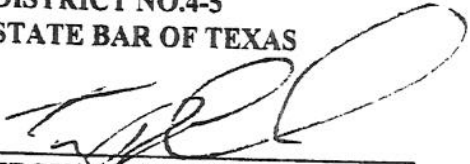
This suspension shall be made a matter of record and appropriately published in accordance with the TEXAS RULES OF DISCIPLINARY PROCEDURE.

Other Relief

All requested relief not expressly granted herein is expressly **DENIED**.

SIGNED this 14 day of June, 2013.

EVIDENTIARY PANEL
DISTRICT NO.4-5
STATE BAR OF TEXAS



TROY CHANDLER
District 4-5 Presiding Member

BEFORE THE EVIDENTIARY PANEL OF THE
STATE BAR DISTRICT NO. 4-5 GRIEVANCE COMMITTEE

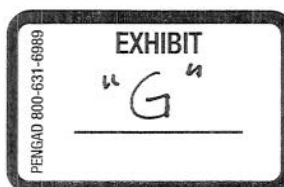
COMMISSION FOR LAWYER DISCIPLINE,	§	S0110922865
	§	S0061023869
Petitioner,	§	S0071024008
	§	
v.	§	HARRIS COUNTY, TEXAS
	§	
STEPHEN CARRIGAN,	§	
	§	
Respondent.	§	

**ORDER GRANTING RESPONDENT'S MOTION TO STAY
MODIFIED JUDGMENT OF PARTIALLY PROBATED SUSPENSION**

On the 12th day of July, 2013, came on to be heard *Respondent's Motion to Stay Modified Judgment of Partially Probated Suspension* [signed June 14, 2013] in the above-entitled and numbered cause of action. After considering the pleadings, evidence, and arguments of counsel, if any, the Evidentiary Panel is of the opinion that the order of suspension in the Modified Judgment of Partially Probated Suspension [signed June 14, 2013] in matter S0110922865, S0061023869, S0071024008, is hereby stayed, beginning retroactively on July 1, 2013 and throughout the pendency of any appeals therefrom.

It is further ORDERED that during the pendency of any aforementioned appeals (the period of stay), the following conditions apply:

Any new client contracts entered into by Respondent or Respondent's firm during the period of stay must contain a statement, signed by the client, explaining how the client came to the firm.

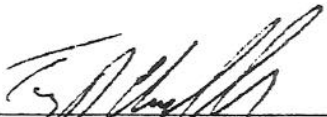


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Respondent shall submit, at the request of the Chief Disciplinary Counsel, to an audit of client records for clients who hired Respondent or Respondent's firm during the period of stay, including contracts entered into by Respondent or Respondent's firm.

It is acknowledged that Respondent has not served any portion of the partially probated suspension because the parties agreed to a temporary stay of the Modified Judgment of Partially Probated Suspension [signed June 14, 2013] pending hearing of Respondent's Motion for Stay by the Evidentiary Panel. In the event that the Modified Judgment of Partially Probated Suspension [signed June 14, 2013] is affirmed, Respondent shall then serve the entire period of suspension ordered by this Evidentiary Panel.

SIGNED this 16 day of July, 2013.



Troy D. Chandler, Panel Chair
Evidentiary Panel 4-5 of the
District 4 Grievance Committee

BEFORE THE EVIDENTIARY PANEL OF THE
STATE BAR DISTRICT NO. 4-5 GRIEVANCE COMMITTEE

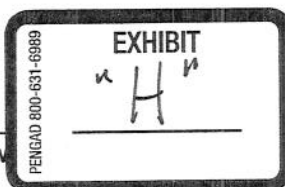
COMMISSION FOR	)	S0110922865 [Melissa Castillo]
LAWYER DISCIPLINE,	)	S0061023869 [William R. Edwards]
	)	S0071024008 [William R. Edwards]
Petitioner,)	
)	
v.	)	HARRIS COUNTY, TEXAS
)	
STEPHEN CARRIGAN,)	
)	
Respondent.)	

STATE BAR GRIEVANCE COMMITTEE HEARING

STEPHEN CARRIGAN

April 12, 2013

STATE BAR GRIEVANCE HEARING OF STEPHEN CARRIGAN,
produced as a witness at the instance of the Commission
for Lawyer Discipline, and duly sworn, was taken in the
above-styled and numbered cause on the 12th of April,
2013, from 1:52 p.m. to 5:09 p.m., before Keith McCabe,
CSR in and for the State of Texas, reported by machine
shorthand, at the offices of the State Bar of Texas,
Office of the Chief Disciplinary Counsel, 600 Jefferson
Street, Suite 1000, Houston, Texas, pursuant to the Texas
Rules of Civil Procedure and the provisions stated on the
record or attached hereto.



1 evidence and on any objections. Pursuant to rule 2.16 of
2 the Texas Rules of Disciplinary Procedure this hearing is
3 a confidential proceeding. This hearing is being reported
4 by a certified court reporter, cameras or tape records are
5 not allowed into this room. The panel will conduct its
6 deliberations in private. At this time I ask anyone
7 present who will give testimony today to rise and be
8 sworn.

9 MS. ST. YVES: We have two additional
10 witnesses.

11 MR. CHANDLER: Bring them in. We'll swear
12 everybody in at the same time. Does the state have
13 anybody here live? The Commission?

14 MR. CARRIGAN: Mr. Chandler, I'm a lawyer and
15 it's a bad habit. I'm also representing myself just so
16 the panel knows. And there's also one witness, one more
17 live witness enroute.

18 MR. CHANDLER: Thank you. When they get here
19 we'll have to swear them in separately then. I'm going to
20 give you the oath, you're going to identify yourself say
21 yes or no to the court reporter. So here's the oath.

22 (Whereupon SHANNON BREAU SAUCEDA, DIANE ST.
23 YVES, STEPHEN CARRIGAN, JOHN ZEIGLER, BRIAN
24 JOHNSON were duly sworn by the Panel Chair.)

25 MR. CHANDLER: Thank you. Is the Commission

1 ready to proceed?

2 MS. SAUCEDA: We are.

3 MR. CHANDLER: Is the respondent ready to
4 proceed?

5 MS. ST. YVES: We are. Yes, sir.

6 MR. CHANDLER: Ms. Saucedo, you may proceed.

7 MS. SAUCEDA: Before we get started the
8 parties have entered into an agreement, stipulations. We
9 have agreed that we are going forward today with one of
10 the causes of action that were plead, the Chapa matter.
11 And it is stipulated that Mr. Carrigan engaged with
12 professional misconduct as to rules 5.03A and B1. So the
13 evidence that we are going to be putting on today we're
14 asking the panel to determine what appropriate sanctions
15 would be for violation of those rules.

16 MR. CHANDLER: Okay. There were three
17 matters. You're proceeding on one of them today? The
18 Chapa matter?

19 MS. SAUCEDA: Yes.

20 MS. ST. YVES: They're being dismissed.

21 MR. CHANDLER: They're being dismissed?

22 MS. SAUCEDA: Yes.

23 MS. ST. YVES: Yes.

24 MR. CHANDLER: Okay. So those are going to
25 be resolved after today. There's one pending matter is

1 the evidence that goes to damages. That's what we're
2 really talking about?

3 MS. ST. YVES: Correct. Just the same.

4 MR. CHANDLER: We're going to talk about that
5 with everybody out of the room. The impact of the ruling
6 given the stipulation on liability.

7 MR. CARRIGAN: Just real quick, Mr. Chandler,
8 good question. I am not stipulating to any facts that
9 this was true or that there was --

10 MR. CHANDLER: No. We understand. We're
11 going to have a long discussion without you here on rules
12 5.03A and B1.

13 MR. CARRIGAN: And the last thing I will say
14 and thank you for your patience with me, is if you will
15 look at the allegations in their petition they made
16 against me on this Chapa that is very close to what I am
17 stipulating to and the reason for the stipulation. There
18 is nothing in their petition about a hundred dollars or
19 this conversation so that's why we argue it's beyond the
20 petition.

21 MR. CHANDLER: Okay. Thank you. Let's get
22 to the other what I'll call pretrial even though they're
23 not matters. Pages 9 through 12 I assume it begins with
24 line 4 on page 9?

25 MS. ST. YVES: 23.

1 purposes of, what is the pronoun "this." First amended
2 evidentiary petition?

3 MS. ST. YVES: Correct.

4 MR. CARRIGAN: Third cause of action on Chapa
5 paragraph 12, 13, and 14. There is absolutely nothing --
6 no notice of anything about this alleged hundred dollars
7 or these conversations. It's just not in there.

8 MR. CHANDLER: Okay. But what you have
9 agreed is what they claim in here, that's the violation.
10 You agreed to what they say.

11 MS. ST. YVES: Failure to supervise.

12 MR. CARRIGAN: I agree 12, 13, and 14 they
13 claimed happen, I'm his employer. Bottom line the -- it
14 stops with me. But if there is something wrong in 12, 13,
15 and 14, those facts and circumstances --

16 MR. CHANDLER: Do you think that the offer of
17 money is relevant to the determination about whether this
18 happened?

19 MR. CARRIGAN: I think that's the only
20 reason -- not --

21 MR. CHANDLER: Answer my question. Do you
22 think the offer of money is relevant to whether these
23 happened? That may not be relevant to you because you
24 said I did fail to supervise. But my question is when we
25 determine punishment, is the fact that there was money

1 involved relevant to how egregious we think the conduct
2 you did stipulate to is?

3 MR. CARRIGAN: No, I don't believe.

4 MR. TRACTENBERG: Just so I'm clear, may I?
5 12, 13, and 14 that you just pointed us to. You're
6 stipulating to those facts, aren't you?

7 MS. ST. YVES: Yes.

8 MR. TRACHTENBERG: I just want to make sure
9 I'm clear on that.

10 MR. CARRIGAN: I'm stipulating to those
11 facts, I'm not necessarily stipulating that that
12 constitutes misconduct. But I'm stipulating -- but I will
13 stipulate to those facts and those facts only --

14 MR. TRACTENBERG: As I understand it though
15 you've also stipulated to two misconduct.

16 MR. CARRIGAN: About supervising over these
17 particular facts.

18 MR. CHANDLER: Your stipulation of a
19 violation of rule 5.03A and B1 is because you agree those
20 facts are true. And because you agree those facts are
21 true, you've said, "Yes, I did violate 5.03A and B1."

22 MR. CARRIGAN: But I'm not stipulating that
23 that constitutes misconduct. I'm not stipulating anything
24 there is wrong.

25 MR. CHANDLER: Time out. Because I thought

BEFORE THE EVIDENTIARY PANEL OF THE
STATE BAR DISTRICT NO. 4-5 GRIEVANCE COMMITTEE

COMMISSION FOR	)	S0110922865 [Melissa Castillo]
LAWYER DISCIPLINE,	)	S0061023869 [William R. Edwards]
	)	S0071024008 [William R. Edwards]
Petitioner,)	
)	
v.	)	HARRIS COUNTY, TEXAS
)	
STEPHEN CARRIGAN,)	
)	
Respondent.)	

HEARING ON SEVERAL MOTIONS OF
STEPHEN CARRIGAN

June 14, 2013

HEARING ON SEVERAL MOTIONS OF STEPHEN CARRIGAN,
produced as a witness at the instance of the Commission
for Lawyer Discipline was taken in the above-styled and
numbered cause on the 14th of June, 2013, from 1:18 p.m.
to 2:35 p.m., before Keith McCabe, CSR in and for the
State of Texas, reported by machine shorthand, at the
offices of the State Bar of Texas, Office of the Chief
Disciplinary Counsel, 600 Jefferson Street, Suite 1000,
Houston, Texas, pursuant to the Texas Rules of Civil
Procedure and the provisions stated on the record or
attached hereto.

PEMGAD 800-631-6999

EXHIBIT

11

1 I think there was confusion on Mr. Carrigan's
2 behalf. I think there was confusion on his lawyer's
3 behalf. And from the transcript it appears that what he
4 meant to do -- if you need to ask him that's fine. But
5 what he meant to do was to stipulate to these facts that
6 are set out in the pleadings. So there wouldn't be any
7 need for the proof of those facts but not stipulate to the
8 fact that there had been misconduct that occurred under a
9 rule.

10 I think that this particular panel moved on
11 to a sanctions hearing without proof of liability thinking
12 that he was stipulating to that misconduct. I'm just
13 telling you there's a lot of confusion about that, and I
14 can cite to you the pages on that in the transcript.

15 MR. CHANDLER: Please. It was clearly my
16 understanding of what Mr. Carrigan was stipulating to was
17 a rule violation. Does anybody else have an understanding
18 -- other different understanding?

19 MR. TRACHTENBERG: I would like you to find a
20 place in the transcript where I asked him about this very
21 issue, and I am certain that we absolutely clarified it
22 and that what I said to both parties as I understand it
23 there's a deal on the table. They're dropping some claims
24 and he's copping to a claim. That's what was presented to
25 us and I'm certain --

1 503A and B1."

2 Mr. Carrigan says, "And the last thing I will
3 say -- and thank you for your patience with me -- is that
4 if you will look at the allegations in their petition they
5 made against me on the Chapa matter, on this Chapa, that
6 this is very close to what I am stipulating to and the
7 reason for the stipulation. There is nothing in their
8 position about a hundred dollars or this conversation, so
9 that's why we argue it's beyond the petition."

10 And then the next one. This is page 29 is
11 Mr. Trachtenberg. "I just want to make sure I'm clear on
12 that."

13 Mr. Carrigan: "I'm stipulating to those
14 facts. I'm not stipulating that that constitutes
15 misconduct. But I'm stipulating -- but I will stipulate
16 to those facts and to those facts only."

17 MR. TRACHTENBERG: Keep going.

18 MR. PARIS: Okay.

19 MR. TRACHTENBERG: I find it hard to believe
20 I stopped there. Keep going for me.

21 MR. PARIS: You didn't because there are
22 another couple of sentences, okay?

23 MR. TRACHTENBERG: Uh-huh.

24 MR. PARIS: "As I understand it though you've
25 also stipulated to two misconduct."

1 Mr. Carrigan: "About supervising over these
2 particular facts."

3 Mr. Chandler: "Your stipulation as to the
4 violation of rule 503 and B1 is because you agreed those
5 facts are true, and because you agree those facts are true
6 you said, 'Yes, I did violate 503A and B1.'"

7 And Mr. Carrigan responds -- and this is
8 after your question, sir. But we're back to Mr. Chandler
9 now. Mr. Carrigan responds, "But I'm not stipulating to
10 that, that that constitutes misconduct. I'm not
11 stipulating anything there is wrong."

12 So what I'm saying is --

13 MR. TRACHTENBERG: Keep going. Is that where
14 it ends?

15 MR. PARIS: That's where that thought ends.

16 MR. TRACHTENBERG: Sir, here's my problem
17 with what you're doing right now is it wasn't in your
18 motion. Your motion raised hearsay. Your motion didn't
19 raise this issue of stipulations which I feel we beat
20 pretty hard at the original hearing. You've got evidence
21 that's not before us in the form of this transcript that I
22 don't have. You're reading segments which we can all take
23 a transcript and have lots of fun cutting and pasting and
24 reading segments and I have no idea if you're being fair
25 with them, and your opponent doesn't have the opportunity

1 of optional completeless to put the transcript in because
2 as I understand it they don't have it.

3 MR. PARIS: I'm just saying there's
4 statements both ways in the transcript of Mr. Carrigan.

5 MR. TRACHTENBERG: You know what? Good
6 enough.

7 MR. PARIS: Is that fair enough?

8 MR. TRACHTENBERG: If you're going to say
9 there's statements both ways, that is fair enough.

10 MR. CHANDLER: Brian's point is well taken
11 and that is the motion for retrial grounds was I thought
12 based on the fact that we considered improper hearsay.

13 MR. PARIS: It is.

14 MR. CHANDLER: Is that the grounds of the
15 motion?

16 MR. PARIS: It is. But this is a law matter
17 that touches the basis for evidence that supports the
18 facts that were found as findings of fact to get to
19 conclusions of law in the first place.

20 MR. CHANDLER: So is your contention that
21 there was no stipulation on a rule violation? Is that
22 what you're saying now?

23 MR. PARIS: I'm telling you that the
24 transcript appears to -- Mr. Carrigan appears in the
25 transcript to say that he is stipulating the facts. But

1 two or three times in the transcript where he's asked
2 about whether or not he is stipulating to misconduct that
3 would be a basis for a sanction, he says no he's not.

4 MR. CHANDLER: Is it your position that that
5 stipulation as to misconduct was never agreed to?

6 MR. PARIS: I think it can be -- you could
7 argue that it was agreed to by the transcript, and you can
8 argue that it's not agreed to by the transcript.

9 MR. CHANDLER: What is your position today?

10 MR. PARIS: My position is it wasn't.
11 Whether there's confusion as to whether or not it's agreed
12 to -- and that's a liability basis for your sanction --
13 then I would request that be considered in granting a new
14 trial and a new hearing along with the fact that the basic
15 deposition contained almost total hearsay.

16 MR. CHANDLER: Is it also your position that
17 the Bar is foreclosed from proceeding on the other rule
18 violations that we originally had in front of us but that
19 there was an agreement on? The ones related to the
20 mortuary and barratry claims involving the funeral home
21 directors? Are those now -- are you retracting an
22 agreement with the State that those are not live?

23 MR. PARIS: I'm not retracting anything, sir.
24 What I'm saying is he gave you -- the Bar a stipulation.
25 He is going to stick to that stipulation. His

1 understanding of the stipulation was that he was
2 stipulating to facts in the pleading. And whether or not
3 the Bar says, "Well, if you're going to set aside that
4 stipulation, we're going to set aside any dismissal of the
5 other claims," that's up to them. We'll challenge that
6 when that comes up.

7 MR. CHANDLER: So you believe our decision
8 was based on a improper understanding of the stipulation,
9 and then Mr. Carrigan did not stipulate to a rule
10 violation? We believed he did, and so our punishment was
11 based on our understanding that there was a rule violation
12 stipulation.

13 MR. PARIS: I think you're punishment was
14 based upon the fact that you understood that you -- that
15 liability was out of the question.

16 MR. CHANDLER: That's correct.

17 MR. PARIS: And I think that it's confusing
18 in the transcript as to whether or not liability was out
19 of the question based upon three of four statements that
20 he made. And so I would argue that liability was not out
21 of the question as a basis for a motion for new trial
22 along with the idea of hearsay.

23 MR. TRACHTENBERG: If it's confusing in the
24 transcript and he was represented by counsel and he had
25 every opportunity to make it not confusing, and we as the

1 there that she's produced, first time I've seen it.
2 Apparently it was in the clerk's record according to her
3 statement today was not introduced here in the hearing.

4 MR. CHANDLER: That's because it was a
5 sanctions hearing, not a liability hearing. Doesn't
6 surprise me that something that went to liability wasn't
7 admitted in a post-liability sanction.

8 MR. PARIS: I understand what a Rule 11
9 Agreement is, and I understand what it says. All I'm
10 saying is Mr. Carrigan obviously based upon his testimony
11 at the hearing was confused as to the nature of what he
12 was stipulating to and what he was not stipulating to.
13 And I think that is pointed up by the fact that he pointed
14 out that three times that he wasn't stipulating to
15 misconduct. That's my only argument.

16 MR. CHANDLER: Understood. Do you have any
17 questions for the petitioner?

18 MR. TRACHTENBERG: No. Let me ask you this.
19 Do we want to confer motion by motion, get rid of things
20 as we go? Or do we want to take it all and have our --

21 MR. CHANDLER: I prefer to just do it all at
22 once, hear all of them. Okay. What's your next --

23 MR. PARIS: Subject to your ruling on the
24 motion for a new trial or new hearing, we have a complaint
25 about the terms of the judgment. We've asked for a

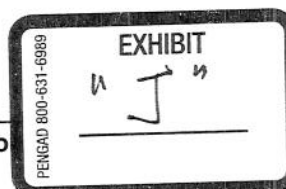
BEFORE THE EVIDENTIARY PANEL OF THE
STATE BAR DISTRICT NO. 4-5 GRIEVANCE COMMITTEE

COMMISSION FOR	)	S0110922865 [Melissa Castillo]
LAWYER DISCIPLINE,	)	S0061023869 [William R. Edwards]
	)	S0071024008 [William R. Edwards]
Petitioner,)	
)	
v.	)	HARRIS COUNTY, TEXAS
)	
STEPHEN CARRIGAN,)	
)	
Respondent.)	

GRIEVANCE COMMITTEE MEETING OF
STEPHEN CARRIGAN

July 12, 2013

GRIEVANCE COMMITTEE MEETING OF STEPHEN CARRIGAN,
produced as a witness at the instance of the Commission
for Lawyer Discipline was taken in the above-styled and
numbered cause on the 12th of July, 2013, from 1:32 p.m.
to 2:49 p.m., before Keith McCabe, CSR in and for the
State of Texas, reported by machine shorthand, at the
offices of the State Bar of Texas, Office of the Chief
Disciplinary Counsel, 600 Jefferson Street, Suite 1000,
Houston, Texas, pursuant to the Texas Rules of Civil
Procedure and the provisions stated on the record or
attached hereto.



1 that say you failed to supervise. Not that you were out
2 there and you committed barratry yourself, but that
3 somebody under your charge had done something that, if you
4 had done it yourself, would have been wrong. And so
5 therefore you failed to supervise them.

6 So when I asked you for the record, you
7 stipulate you violated 5.03A and 5.03B1 based on the facts
8 alleged in the first amended evidentiary petition at the
9 third cause of action paragraphs 12, 13, and 14, true.
10 And you answered, "Correct." What you thought what I was
11 asking was you're stipulating to these facts in the
12 petition at those paragraphs?

13 MR. CARRIGAN: That is correct.

14 MR. CHANDLER: I understand your position
15 now.

16 MR. CARRIGAN: Thank you.

17 MR. CHANDLER: Here's my concern. We
18 conducted that hearing based on all of our beliefs in the
19 room that day, and certainly the Commission's, that we had
20 a stipulation to a rule violation. So there are a lot of
21 questions I would have had about your supervisory role and
22 the conduct at the scene that I didn't ask because I
23 thought that's not an issue. We had this down there.

24 MR. CARRIGAN: And I thought those were going
25 to be covered, and I remember some were covered. And I

1 apologize. I certainly didn't mean to prohibit any
2 questions by --

3 MR. CHANDLER: Do you have, Ms. Saucedo, the
4 written stipulation from between Ms. St. Yves and the
5 Commission with you today?

6 MS. SAUCEDA: Yes, I do.

7 MR. CHANDLER: Will you hand that to
8 Mr. Carrigan, please? Mr. Carrigan, don't disclose any
9 conversations you had with Ms. St. Yves. Did you review a
10 written stipulation, though? Did you personally review
11 the stipulation Ms. St. Yves signed before she signed it?

12 MR. CARRIGAN: It was -- as I recall
13 Mr. Chandler, it was handed to me minutes before the
14 hearing was supposed to start.

15 MR. CHANDLER: So it had already been
16 executed?

17 MR. CARRIGAN: By her I believe. Yes, sir.

18 MR. CHANDLER: So are you telling us that
19 prior to Ms. St. Yves signing off on the stipulation that
20 Ms. Saucedo is about to hand you, you did not -- you
21 hadn't reviewed it?

22 MR. CARRIGAN: I believe that is correct,
23 Mr. Chandler. It's been a while. But I believe that's
24 correct.

25 MS. SAUCEDA: Can I show it to Mr. Paris

1 if you want to enter it today.

2 MR. CHANDLER: Yes, please. I want it as
3 part of this record. What I hear Mr. Carrigan saying is I
4 didn't review this prior to it being done, true?

5 MR. CARRIGAN: That is correct.

6 MR. CHANDLER: What I also hear you saying is
7 when you I asked you those questions about stipulation,
8 what you thought in your mind I was asking -- because it
9 was compound question and I get that -- is you thought I
10 was asking about a stipulation facts, not a "stipping" of
11 rules, a stipulation of rules violation?

12 MR. CARRIGAN: That is correct, sir.

13 MR. CHANDLER: I thought I was being clear
14 when I asked that, and that's why I used the words. You
15 stipulate you violated 5.03A and 5.03B1. But then I go on
16 to ask about the facts alleged the petition, so I get
17 that. So just so we're clear today it's still -- it's
18 your position today you haven't violated any disciplinary
19 rules, right?

20 MR. CARRIGAN: As I understand it now, yes,
21 sir.

22 MR. TRACHTENBERG: Mr. Carrigan, you had two
23 attorneys at the last -- at the underlying trial, did you
24 not?

25 MR. CARRIGAN: I did participate in

1 Ms. St. Yves, "Yes."

2 Two lawyers on your side, nobody's objecting
3 to the idea that this was a stipulated violation of rules
4 and that all we were going to have was a hearing on
5 damages.

6 MR. CHANDLER: Let me interject --

7 MR. TRACHTENBERG: Hang on. Can I get an
8 answer? Correct? That's what you just heard in what I
9 read, isn't it?

10 MR. CARRIGAN: I heard what you read.

11 MR. TRACHTENBERG: And did I fairly
12 characterize it just now? Nobody objected, correct?

13 MR. CARRIGAN: What I remember is that I
14 tried a number of times. I don't have the transcript in
15 front of me, and I read it last night, but I tried to
16 explain myself probably inarticulate several times during
17 the hearing that what I was doing was I did not believe
18 that I was stipulating to the set of facts. I remember
19 even pulling out the petition and saying, "Yes. I am
20 agreeing to these things."

21 And, in fact, as I remember, sir, there was a
22 part about solicitation other than that there was any
23 solicitation involved. I remember doing that. My memory
24 may be wrong. But I remember doing that and saying that.
25 And a number of times, both as a lawyer foolishly and as a

1 witness explaining that I was agreeing to the set of
2 facts, that not that it was necessarily wrong, but that I
3 was definitely agreeing that I was the supervisor.

4 MR. CHANDLER: Mr. Carrigan, at page 7, line
5 1, the very next sentence after Brian finished reading
6 says, from me, "What I hear you saying is the respondent
7 has stipulated to misconduct in violation of rules 5.03A
8 and B1, correct?"

9 Ms. Saucedo says, "Correct."

10 And I say, "And what you're asking today is
11 punishment, correct?"

12 And you and Ms. St. Yves were in the room
13 when all of that happened. Help me understand how when
14 Ms. Saucedo reads the stipulation and we ask two or three
15 times this is a stipulation to a rule violation, nothing
16 at that time is tried -- Ms. St. Yves nor you tried to
17 clear up any miscommunication or misunderstanding when
18 that he happened. Help me understand that.

19 MR. CARRIGAN: A couple things. It all came
20 up, and I'm not saying it's an excuse, but it was all last
21 minute. There were phone conversations the night before.
22 There were conversations. And as I recall the stipulation
23 being discussed and handed to me right before the hearing
24 was to start. Ms. St. Yves was speaking as my lawyer at
25 that time early on. And then as it kind of came to me as

1 to, you know, what was going -- what was maybe being
2 interpreted and maybe happening, I tried my very best as I
3 remember, Mr. Chandler, as both foolishly as a lawyer and
4 as a witness to explain myself what I understood I was
5 agreeing to and tried to articulate my position.

6 And, again, I remember I thought several
7 times saying I stipulate to the facts and that I am the
8 supervisor, and that if something was wrong with those
9 facts then I am at fault. The buck stops with me. And I
10 remember trying to explain that on a number of occasions.
11 Without numbers and reference to statutes, but what I
12 honestly believed. And --

13 MR. CHANDLER: What did you believe the
14 petitioner, the Commission, was getting by dismissing
15 those two other claims? Because if what you're saying is
16 I didn't have a stipulation to a rule violation, and I
17 find it very hard to believe Ms. Saucedo would agree to
18 dismiss two other causes of actions if everybody didn't
19 understand she got something out of the deal and that was
20 a stipulation to a rule violation. So is it -- what was
21 your understanding about what the Commission was getting
22 out of the stipulation if all you were doing was
23 stipulating to facts?

24 MR. CARRIGAN: That we didn't have a longer
25 Friday afternoon hearing on facts with a whole bunch of

1 fact witnesses that bang, bang, bang, right in their
2 petition -- and, again, I pointed out several times I
3 think there was an objection when Ms. Saucedo tried to go
4 beyond that, there was a motion to limine just limiting it
5 to that set of facts, so we didn't have a whole bunch of
6 witnesses going into it. And that's what I believed she
7 got out of it. And honestly, Mr. Chandler, I believe the
8 other two claims which obviously weren't supposed to be
9 considered were meritless. And I don't believe there were
10 any witnesses to back any of that up.

11 MR. CHANDLER: So you're saying you didn't
12 think she wasn't giving anything up anyway because they
13 were meritless anyway?

14 MR. CARRIGAN: Absolutely.

15 MR. CHANDLER: And what she got out of your
16 deal was a much more streamlined trial because you were
17 going to agree to facts as are alleged were true and those
18 are uncontroverted, now let's move to whether those facts
19 are a rule violation.

20 MR. CARRIGAN: Absolutely. That's what I
21 honestly believe, Mr. Chandler.

22 MR. PARIS: Let me interject.

23 MR. CHANDLER: Yes, sir.

24 MR. PARIS: Something here also I think that
25 there were probably a number of hearsay objections that

1 were probably waived by the stipulation. I'm just
2 inserting that because of the nature of the testimony that
3 was presented through deposition.

4 MR. CHANDLER: You mean Mr. Carrigan would
5 have waived objections to hearsay?

6 MR. PARIS: On a stipulation of the facts,
7 correct.

8 MR. CHANDLER: On a stipulation to the
9 facts. So the Commission got the ability to show those
10 facts as true as alleged without having to overcome some
11 hearsay objection that would have been made otherwise?

12 MR. PARIS: Many. Based upon deposition
13 testimony that was read at Mr. Edwards' office and what
14 have you.

15 MR. CHANDLER: Dinesh, do you have a
16 question?

17 MR. SINGHAL: If you're done.

18 MR. CHANDLER: I'm finished. Did any other
19 panel members have any other questions?

20 MR. SINGHAL: I think my understanding is
21 that we tried that case only on damages or sanctions
22 basically. We did not obviously decide the merits of the
23 stipulation as such. We basically took it at face value
24 that what's written here and what Mr. Carrigan testified
25 that even if the stipulation is very clear as to matter --

1 the Chapa matter that the parties stipulate that Stephen
2 Carrigan engaged in professional misconduct in violation
3 of Texas Disciplinary Rules of Professional Conduct 5.03A
4 and B1.

5 So I think this committee basically decided
6 on sanctions solely based on that understanding that he
7 had admitted to this violation of this rule. And
8 that's -- I think it's just -- this confusion seems --
9 because if we had known that there was some -- that there
10 was some limited stipulation of stipulation -- some
11 technical stipulation related to only certain facts but
12 not misconduct then, you know, obviously we did not fairly
13 consider all of that. So that's the thing I face. And
14 the stipulation is what it is.

15 MR. CHANDLER: I have a question to ask.

16 MR. PARIS: Page 29 of the transcript is what
17 it is also in which twice Mr. Carrigan stated on page 29
18 of the transcript. "I'm stipulating to the facts only.
19 I'm not stipulating I did anything wrong." So, you know,
20 for that confusion that will be point on an appeal and
21 that goes back to the initial question that Ms. Roth asked
22 me.

23 MR. CHANDLER: This is a statement in the
24 record where he says, "I am not stipulating I did anything
25 wrong."