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

IN THE MATTER OF	§	
GEORGE R. CARTER	§	**CAUSE NO. 60162**
STATE BAR CARD NO. 00785388	§	

FIRST AMENDED PETITION FOR RECIPROCAL DISCIPLINE

TO THE BOARD OF DISCIPLINARY APPEALS:

Petitioner, the Commission for Lawyer Discipline (hereinafter called "Petitioner"), brings this action against Respondent, George R. Carter, (hereinafter called "Respondent"), showing as follows:

1. This action is commenced by Petitioner pursuant to Part IX of the Texas Rules of Disciplinary Procedure. Petitioner is also providing Respondent a copy of Section 7 of this Board's Internal Procedural Rules, relating to Reciprocal Discipline Matters.

2. Respondent is a member of the State Bar of Texas and is licensed and authorized to practice law in Texas. Respondent may be served with a true and correct copy of this Petition for Reciprocal Discipline at George R. Carter, 1623 Xanadu, Henderson, Nevada 89104.

3. On or about August 13, 2015, a Complaint (Exhibit 1) was filed with the State Bar of Nevada, Southern Nevada Disciplinary Board, in a matter styled: *State Bar of Nevada, Complainant, vs. George R. Carter, Esq., NV Bar No. 169, Respondent,* in Case Nos. SG14-0788, SG14-0789, SG14-1244, SG14-1056.

4. On or about January 15, 2016, a Conditional Guilty Plea in Exchange for a Stated Form of Discipline (Exhibit 2) was filed with the State Bar of Nevada, Southern Nevada Disciplinary Board, in a matter styled: *State Bar of Nevada, Complainant, vs. George R. Carter,*

Esq., NV Bar No. 169, Respondent, in Case Nos. SG14-0788, SG14-0789, SG14-1244, SG14-1056.

5. On or about July 26, 2016, Findings of Fact, Conclusions of Law and Panel Recommendation for Discipline (Exhibit 3) were filed with the State Bar of Nevada, Southern Nevada Disciplinary Board, in a matter styled: *State Bar of Nevada, Complainant, vs. George R. Carter, Esq., NV Bar No. 169, Respondent,* in Case Nos. SG14-0788, SG14-0789, SG14-1244, SG14-1056.

6. On or about May 18, 2017, an Order of Suspension (Exhibit 4) was entered in the Supreme Court of the State of Nevada, in a matter styled: *In the Matter of Discipline of George R. Carter, Bar No. 169,* in Case No. 70907, that states in pertinent part as follows:

> ... We hereby suspend attorney George R. Carter from the practice of law in Nevada for a period of 4 years commencing from the date of this order....

7. The Order of Suspension found that under the agreement, Carter admitted that he knowingly violated RPC 1.15 (safekeeping property) by improperly distributing client funds to a nonlawyer, and RPC 5.4 (professional independence) and RPC 5.5 (unauthorized practice. of law) by allowing a nonlawyer to perform legal services under his auspices. Carter agreed to a 4-year suspension, to pay $206,879.51 in total restitution, and to pay the actual costs of the disciplinary proceedings, including a $750 assessment for staff salaries and costs.

8. Certified copies of the Complaint, Opinion and Decision Imposing Sanctions Under C.R.C.P. 251.19(b), and Order and Notice of Disbarment are attached hereto as Petitioner's Exhibits 1 through 3, and made a part hereof for all intents and purposes as if the same were copied verbatim herein. Petitioner expects to introduce certified copies of Exhibits 1 through 3 at the time of the hearing in this case.

9. Petitioner prays that, pursuant to Rule 9.02, Texas Rules of Disciplinary Procedure, that this Board issue notice to Respondent, containing a copy of this Petition with exhibits, and an order directing Respondent to show cause within thirty (30) days from the date of the mailing of the notice, why the imposition of the identical discipline in this state would be unwarranted. Petitioner further prays that upon trial of this matter that this Board enter a judgment imposing discipline identical with that imposed by the Supreme Court of the State of Nevada and that Petitioner have such other and further relief to which it may be entitled.

Respectfully submitted,

Linda A. Acevedo
Chief Disciplinary Counsel

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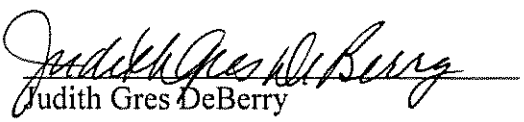
Judith Gres DeBerry
Bar Card No. 24040780
ATTORNEYS FOR PETITIONER

CERTIFICATE OF SERVICE

I certify that upon receipt of the Order to Show Cause from the Board of Disciplinary Appeals, I will serve a copy of this First Amended Petition for Reciprocal Discipline and the Order to Show Cause on George R. Carter, by personal service.

George R. Carter
1623 Xanadu
Henderson, Nevada 89104



Judith Gres DeBerry

INTERNAL PROCEDURAL RULES

Board of Disciplinary Appeals

Effective February 19, 2015 and amended September 20, 2016

Contents

SECTION 1: 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 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, 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, 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) **A**bstracts 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.

SECTION 2: 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.

SECTION 3: 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.

SECTION 4: 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 consistent with this requirement, the date that the judgment is signed is the "date of notice" under Rule 2.21.

(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.

(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, 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 post submission 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 appear.

(5) A court reporter or recorder must not lock any document that is part of the record.

(6) In exhibit volumes, the court reporter or recorder must create bookmarks to mark the first page of each exhibit document.

(g) **Other Requests.** At any time before the clerk's record is prepared, or within ten days after service of a copy of appellant's request for the reporter's record, any party may file a written designation requesting that additional exhibits and portions of testimony be included in the record. The request must be filed with the evidentiary panel and BODA and must be served on the other party.

(h) **Inaccuracies or Defects.** If the clerk's record is found to be defective or inaccurate, the BODA Clerk must inform the clerk of the evidentiary panel of the defect or inaccuracy and instruct the clerk to make the correction. Any inaccuracies in the reporter's record may be corrected by agreement of the parties without the court reporter's recertification. Any dispute regarding the reporter's record that the parties are unable to resolve by agreement must be resolved by the evidentiary panel.

(i) **Appeal from Private Reprimand.** Under TRDP 2.16, in an appeal from a judgment of private reprimand, BODA must mark the record as confidential, remove the attorney's name from the case style, and take any other steps necessary to preserve the confidentiality of the private reprimand.

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. 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.

SECTION 5: 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.

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

SECTION 6: 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.

SECTION 7: 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.

SECTION 8: 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.

SECTION 9: 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.

SECTION 10: 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.

Case Nos.: SG14-0788, SG14-0789, SG14-1244, SG14-1056,

FILED
AUG 13 2015
STATE BAR OF NEVADA
BY:
OFFICE OF BAR COUNSEL

STATE BAR OF NEVADA

SOUTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,

Complainant,

vs.

GEORGE R. CARTER, ESQ.,
NV BAR No. 169

Respondent.

COMPLAINT

TO: George R. Carter, Esq.
1040 E. Sahara Ave Suite 104
Las Vegas, Nevada 89104

PLEASE TAKE NOTICE that pursuant to Supreme Court Rule 105(2), a ***VERIFIED RESPONSE OR ANSWER*** to this Complaint must be filed with the Office of Bar Counsel, State Bar of Nevada, 3100 W. Charleston Boulevard, Las Vegas, Nevada 89102, **within twenty (20) days of service of this Complaint**. Procedure regarding service is addressed in Supreme Court Rule 109.

1. Complainant, State Bar of Nevada ("State Bar"), alleges that the George R. Carter, Bar No. 169 ("Respondent"), is now and at all times pertinent herein was a licensed attorney in the State of Nevada and that he engaged in acts of misconduct in Clark County, Nevada, warranting the imposition of professional discipline as set out herein.

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EXHIBIT 1

COUNT 1
SG14-0788/ Ivo Hurvitz

2. Ivo Hurvitz ("Ivo") retained Respondent on or about May 6, 2011 to represent him in two personal injury matters resulting from separate two motor vehicle accidents. The first of these two occurred on December 13, 2009, and the second that occurred on December 06, 2011. Ivo had previously worked for Respondent several years prior to this incident.

3. The parties agreed that these matters would be handled on a contingency basis with varied rates depending on the aspect of the claim.

4. According to settlement sheets provided by Respondent, Ivo's first case settled on or about August 2011. This settlement was broken down into four different parts with the first representing the bodily injury claim. The amount of this settlement was $15,000. Of this Respondent collected $1050 in attorney fees, paid $6450.62 in medical payments and disbursed $8549.38 to Ivo.

5. The second settlement was for Ivo's undisputed uninsured/underinsured insurance claim from the December 2009 accident. This settlement was for $15,283.34. Of this $3,820.83 was paid to Respondent as attorney fees. Respondent then purportedly set aside $8,000 to pay for medical fees and associated litigation costs. $3,462.51 was then disbursed to Ivo.

6. The third settlement which followed the December 2009 first accident was the undisputed amount from Ivo's UIM claim and was subsequent to an arbitration. This portion of the settlement resulted in a payment of $24,429.40. Of this, Respondent kept $6,107.35 for attorney fees, retained $12,000 in escrow for the various lien holders, and disbursed $6,322.05 to Ivo.

7. The forth portion of the December 2009 settlement was for $30,064.68 and represented the disputed portion of the UIM claim. Of this settlement, Respondent kept $7,516.17 as attorney fees, he kept $12,548.51 in escrow for expenses, and disbursed $10,000 to Ivo.

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8. From the December 2009 accident, Respondent collected $84,777.59. He paid himself, $18,493.52, paid $6,450.62 in medical bills, retained $32,548.51 to pay other medical bills, and disbursed $28,333.94 to Ivo.

9. Because there were four portions of the settlement from the December 2009 accident, there are four separate dispersion sheets. Each of the provided dispersion sheets bears the signature of Ivo indicating that he acquiesced to the settlement.

10. Ivo's second accident occurred in December 2011. This case was in litigation at the time this investigation was initiated. Nonetheless, it appears that there was at least portion of the case which was settled. This was the Medical Pay Offset portion of the claim which resulted in a payment of $23,934.78. Of this payment, $5,983.69 was retained as attorney fees, $14,000 was placed into escrow for arbitration and expert witness fees, and $3,951.09 was given to Ivo. In the second accident there are approximately $24,234.78 in outstanding medical bills and there does not appear to have been any funds set aside for these costs as the $14,000 in escrowed monies were set aside for arbitration related expenses.

11. With regard to the second accident, Ivo ultimately terminated Respondent's representation prior to the arbitration and retained James Ream Esq. to represent him. Respondent has failed to account for the $14,000 in monies set aside in escrow to handle the arbitration.

12. Respondent acknowledged that Ivo's total medical bills from the first accident were $69,333.66 and that only $32,548.51 was retained to pay these bills despite the fact that $28,333.94 was dispersed to Ivo before the lien holders were paid.

13. Respondent indicates that he did not pay the medical providers because Ivo requested that he not pay them.

14. Respondent further states that Ivo retained Respondent with the understanding and "upon the exclusive condition that Mr. Ron Brown [has] primary decision-making process of [Ivo's] personal injury claims, including negotiation and payment of all medical liens."

15. Ron Brown ("Brown") is a non-lawyer convicted felon and was previously involved in a disciplinary matter with another Las Vegas attorney, Cuthbert Mac, wherein Brown had a stamp made of Mac's signature and was independently signing up clients and settling cases without Mac's knowledge.

16. There is no proof that Brown paid the liens as he was supposed to do or if there were any remaining monies after the liens were negotiated if in fact they were. There is also no explanation given as to why Respondent abdicated his role as an attorney by allowing non-lawyer Brown to have access to these settlement funds or why Respondent believes it is appropriate for a non-lawyer to be negotiating medical liens on behalf of Respondent's clients.

17. In light of the foregoing, Respondent violated Rule of Professional Conduct ("RPC") 1.1 (Competence), RPC 1.3 (Diligence), RPC 1.5(Fees), RPC 1.15 (Safekeeping property), RPC 5.4 (Professional Independence), RPC 5.5 (Unauthorized Practice of Law), and RPC 8.4 (Misconduct).

Count 2
SG14-0789/Kita Hurvitz

18. Kita Hurvitz ("Kita") is the mother of Ivo Hurvitz, the Grievant in the above case.

19. Kita's settlement was broken down into four parts. The first part was her bodily injury claim. This settlement was for $15,000. Of this, $1,875 was retained by Respondent for attorney fees, $107.30 was paid for various office costs such as postage and copy fees, and $13,017.70 was paid to Kita.

20. The second portion of Kita's settlement was for $15,710. Of this, $3,927 was retained by Respondent for his fees, $8,700 was set aside for expert fees for an upcoming arbitration, and $3,082.50 was disbursed to Kita,

21. Respondent failed to provide any other disbursement sheets for Kita, but indicated that she received a nonbinding arbitration award of $124,110.18. Of this amount, there was a $15,000 offset for monies received from the third party insurance carrier, a $15,000 offset for monies received from her undisputed UIM claim, and $4,942.88 paid from Kita's insurance company

directly to medical providers. The offsets totaled $34,942.88 which when deducted from the arbitration award left $89,167.30

22. Kita negotiated with Ron Brown and Respondent that after all the liens were resolved she would receive $40,000 in the settlement proceeds, and Respondent did pay Kita checks which indicate that Respondent was paying interest payments on the promised $40,000. Kita received no other monies other than those highlighted above.

23. Kita's total medical bills were $99,195.63 which is $10,028.33 more than the remaining arbitration award.

24. As in Ivo's case, Respondent indicates that Kita retained Respondent with the understanding and "upon the exclusive condition that Mr. Ron Brown [has] primary decision-making process of [Kita's] personal injury claims, including negotiation and payment of all medical liens."

25. The Bar re-alleges the allegations contained in Paragraph 14 of this complaint regarding Brown.

26. As in Ivo's matter, there is no proof that Brown paid the liens as he was supposed to do or if there were any remaining monies after the liens were negotiated if in fact they were. There is also no explanation given as to why Respondent abdicated his role as an attorney by allowing non-lawyer Brown to have access to these settlement funds or why Respondent believes it is appropriate for a non-lawyer to be negotiating medical liens on behalf of Respondent's clients.

27. In light of the foregoing, Respondent violated Rule of Professional Conduct ("RPC") 1.1 (Competence), RPC 1.3 (Diligence), RPC 1.5(Fees), RPC 1.15 (Safekeeping property), RPC 5.4 (Professional Independence), RPC 5.5 (Unauthorized Practice of Law), and RPC 8.4 (Misconduct).

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SG14-1056/ Dr. Steven Holper

28. In August 2014, Dr. Holper grieved about numerous unpaid medical liens with Carter's office, most signed by Carter himself, all confirmed received by him, two of which are the Hurvitzs'. The patients Dr. Holper claims owe money are:

Kita Hurvitz, 2009/2011, $5,715	Debra Bogard, 9-12-07, $4732
Ivo Hurvitz, 2009/2011, Unknown	Danna Arnold, 9-18-08, $2496
Latrisa Young, 1-21-10, $2089	Leigh-Ann Styles, 4-23-13, $3,460
Henock Yimer, 10-27-10, $1,003	Karina Ruiz, 6-25-13, $1,075
Cheryl Wolak,1-24-11, $2,857	Gloria, Ruiz, 6-25-13, $600
Kova Vassil, 5-25-11, $650	Luis Ruiz, 6-25-14, $500
Elia Solyero, 9-9-08, $3,516	Maria Ortiz, 1-10-13, $850
Azziem Shah, 12-1-10, $1,897	Lyndsey Mccomas, 11-15-2012, $1,225
Dolly Rowan, 4-19-11, $450	Justin Hill, 6-20-13, $500
Veronica Newhouse, 1-19-11, $14,353	Gilad Gafni, 1-12-14, $4,860
Quanisha Neal, 1-12-09, $915	Jennifer DeJesus, 6-18-13, $735
Rena Molina, 1-15-10, $1,839	Marivic Sidhm, 3-14-14, $1,010
Larry McInnis, 8-11-08, $4,620	Enrique Tejeda, 10-21-11, $1,310
Vanette Harris, 1-18-11, $6,400	Adella Logan, 3-11-14, $800
Kyler Harris, 1-20-11, $1,952	Martin, Landeros, 8-24-11, $637
Quiana Gibson, 1-22-10, $1,154	Christopher Landeros, 8-24-11, $582
Christina Delgado, 6-28-11, $2,377	Alessandro Landeros, 8-24-11, $637

29. Dr. Holper's information is that all these claims have settled with insurance. In total the liens represent approximately $77,796 owed to Dr. Holper.

30. On November 24, 2014 the State Bar sent a letter to Respondent to respond to these allegations. Included in the letter was erroneous language from a different matter. The Respondent sent a letter indicating that he had no knowledge of the facts referenced in the original letter sent by the State Bar. Once the Bar realized that the original letter contained the error an investigator from the State Bar called Respondent on at least two occasions asked Respondent to answer Dr. Holper's allegations. Respondent continued to answer the erroneous allegations contained in the letter and ignored the request for more information.

31. On May 6, 2015 the Bar sent Respondent another letter specifically asking him to address the allegations of Dr. Holper. In the last week of May, Respondent called Assistant Bar Counsel Jason Dworin ("Dworin") and asked for more specifics as to the liens that were allegedly

outstanding. Dworin confirmed Respondent's email address with him and emailed the list to Carter as requested.

32. On June 17, 2015 the Bar received a letter from Respondent indicating that he has not received the list of names of the unpaid liens despite having been emailed on at least two occasions.

33. On June 23, 2015 the Bar sent Respondent another letter this time specifically outlining the above liens which Dr. Holper purports are outstanding. On July 23, 2015 Respondent sent a letter back to the Bar. In this letter Respondent explains that "Mr. Ron Brown my associated paralegal who operates Professional Paralegals, has handled all referrals to Dr. Holper's office, and has negotiated with Dr. Holper over the last 10-15 years regarding case settlements and lien reductions."

34. Respondent then states that Mr. Brown can provide greater details of his relationship and negotiations with Dr. Holper.

35. In light of the foregoing, Respondent violated Rule of Professional Conduct ("RPC") 1.1 (Competence), RPC 1.3 (Diligence), RPC 1.5(Fees), RPC 1.15 (Safekeeping property), RPC 5.4 (Professional Independence), RPC 5.5 (Unauthorized Practice of Law), and RPC 8.4 (Misconduct).

COUNT 3
SG14-1244/Michael Comorre Esq. (on behalf of Brent Puterbaugh)

36. Carter was retained by Brent Puterbaugh to negotiate a partial settlement of future structured settlement payments owed to him as set forth in a Petition duly filed in District Court on June 29, 2004 (Case No. A487967). Puterbaugh was 19 years of age in 2004.

37. A second Petition was filed on March 23, 2005 under Case No. A501394 in the same matter with the same heading. Puterbaugh did not realize this occurred until 2014 at which time he hired attorney Michael Comorre to sort this out. Puterbaugh never authorized the second petition, never signed any of the documents contained therein which purport to bear his signature, and he never received any funds pursuant to the second Petition.

38. In this second petition, Carter notarized Puterbaugh's forged signature. The falsified affidavit also claims Puterbaugh consulted with his independent attorney, George Carter.

39. Respondent alleges that he worked for J.G. Wentworth several years ago assisting in the purchase of structured settlements. He believes that Puterbaugh's matter was one of these cases. He however does not have any recollection of this matter and does not have any of the files since they are approximately ten (10) years old.

40. In light of the foregoing, Respondent violated Rule of Professional Conduct ("RPC") 1.1(Competence), RPC 1.6(Confidentiality), RPC 1.15 (Safekeeping property), and RPC 8.4 (Misconduct).

WHEREFORE, Complainant prays as follows:

1. That a hearing be held pursuant to Nevada Supreme Court Rule 105;

2. That Respondent be assessed the costs of the disciplinary proceeding pursuant to Supreme Court Rule 120(1); and

3. That pursuant to Supreme Court Rule 102, such disciplinary action be taken by the Southern Nevada Disciplinary Board against Respondent as may be deemed appropriate under the circumstances.

Dated this 13th day of August, 2015.

STATE BAR OF NEVADA

By: _____

Jason R. Dworin, Assistant Bar Counsel
3100 W. Charleston Boulevard
Las Vegas, Nevada 89102
(702) 382-2200
Attorney for State Bar of Nevada

I certify that this document is a true copy of the original

Signed: Julie Young

Date: 2.6.18

Case Nos.: SG14-0788, SG14-0789,
SG14-1244, SG14-1056

FILED

JAN 15

STATE BAR OF NEVADA
OFFICE OF BAR COUNSEL

STATE BAR OF NEVADA

SOUTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,

Complainant,

vs.

GEORGE R. CARTER, ESQ.,
Nevada Bar No. 169
Respondent.

CONDITIONAL GUILTY PLEA IN EXCHANGE FOR A STATED FORM OF DISCIPLINE

George R. Carter ("Respondent"), Bar No. 169, hereby tenders to Bar Counsel for the State Bar of Nevada a Revised Conditional Guilty Plea ("Plea") pursuant to Supreme Court Rule ("SCR") 113(1) and agrees to the imposition of the following Stated Form of Discipline in the above-captioned case.

I.
CONDITIONAL GUILTY PLEA

Through the instant Plea, Respondent agrees and admits as follows:

1. Respondent is now and at all times pertinent herein was a licensed attorney in the State of Nevada, having had his principal place of business for the practice of law in Clark County, Nevada.

2. The State Bar filed a Formal Complaint on the above referenced case on August 14, 2015.

3. Respondent filed a Verified Answer to Complaint on September 8, 2015.

4. In accordance with the Stipulation of Facts herein, Respondent pleads guilty and admits that he violated Rules of Professional Conduct ("RPC"), as follows:

EXHIBIT 2

Count 1: SG14-0788 / Ivo Hurvitz

- RPC 1.15 (Safekeeping Property),
- RPC 5.4 (Professional Independence of a Lawyer),
- RPC 5.5 (Unauthorized Practice of Law).

Count 2: SG14-0789 / Kita Hurvitz

- RPC 1.15 (Safekeeping Property),
- RPC 5.4 (Professional Independence of a Lawyer),
- RPC 5.5 (Unauthorized Practice of Law).

Count 3: SG14-1056 / Dr. Stephen Holper

- RPC 1.15 (Safekeeping Property),
- RPC 5.4 (Professional Independence of a Lawyer),
- RPC 5.5 (Unauthorized Practice of Law).

II.
STIPULATION OF FACTS

The facts stipulated to and agreed upon between Respondent and the State Bar of Nevada in support of this conditional plea are as follows:

COUNT 1
SG14-0788/ Ivo Hurvitz

1. Ivo Hurvitz ("Ivo") retained Respondent on or about May 6, 2011 to represent him in two personal injury matters resulting from two separate motor vehicle accidents. The first of these two occurred on December 13, 2009, and the second that occurred on December 06, 2011. Ivo had previously worked for Respondent several years prior to this incident.

2. The parties agreed that this matter would be handled on a contingency basis with varied rates depending on the aspect of the claim.

3. According to settlement sheets provided by Respondent, Ivo's first case settled on or about August 2011. This settlement was broken down into four different parts with the first representing the bodily injury claim. The amount of this settlement was

$15,000. Of this Respondent collected $1050 in attorney fees, paid $6450.62 in medical payments and disbursed $8549.38 to Ivo.

4. The second settlement was for Ivo's undisputed uninsured/underinsured insurance claim from the December 2009 accident. This settlement was for $15,283.34. Of this $3,820.83 was paid to Respondent as attorney fees. Respondent then purportedly set aside $8,000 to pay for medical fees and associated litigation costs. $3,462.51 was then disbursed to Ivo.

5. The third settlement which followed the December 2009 first accident was the undisputed amount from Ivo's UIM claim and was subsequent to an arbitration. This portion of the settlement resulted in a payment of $24,429.40. Of this, Respondent kept $6,107.35 for attorney fees, sent $12,000 to Ron Brown ("Brown") ostensibly to pay various lien holders, and disbursed $6,322.05 to Ivo.

6. The fourth portion of the December 2009 settlement was for $30,064.68 and represented the disputed portion of the UIM claim. Of this settlement, Respondent kept $7,516.17 as attorney fees, he sent $12,548.51 to Brown for expenses, and disbursed $10,000 to Ivo.

7. From the December 2009 accident, Respondent collected a total of $84,777.59. He paid himself $18,493.52, paid $6,450.62 in medical bills, sent $32,548.51 to Brown to pay medical liens, and disbursed $28,333.94 to Ivo.

8. Because there were four portions of the settlement from the December 2009 accident, there are four separate dispersal sheets. Each of the provided dispersal sheets bears the signature of Ivo indicating that he acquiesced to the settlement.

9. Ivo's second accident occurred in December 2011. This case was in litigation at the time this investigation was initiated. Nonetheless, it appears that there was at least portion of the case which was settled. This was the Medical Pay Offset

portion of the claim which resulted in a payment of $23,934.78. Of this payment, $5,983.69 was retained as attorney fees, $14,000 was supposed to have been placed into escrow for arbitration and expert witness fees, and $3,951.09 was given to Ivo. In the second accident there is approximately $24,234.78 in outstanding medical bills and there does not appear to have been any funds set aside for these costs as the $14,000 in escrowed monies were set aside for arbitration related expenses.

10. With regard to the second accident, Ivo ultimately terminated Respondent's representation prior to the arbitration and retained James Ream Esq. to represent him. Respondent does not have the $14,000 in monies set aside in escrow to handle the arbitration as it was sent to Brown. The arbitration for this second matter is still pending.

11. Respondent acknowledged that Ivo's total medical bills from the first accident were $69,333.66 and that only $32,548.51 was retained to pay these bills despite the fact that $28,333.94 was dispersed to Ivo before the lien holders were paid.

12. Respondent indicates that he did not pay the medical providers because Ivo requested that he not pay them.

13. Respondent further states that Ivo retained Respondent with the understanding and "upon the exclusive condition that Mr. Ron Brown [has] primary decision-making process of [Ivo's] personal injury claims, including negotiation and payment of all medical liens."

14. Brown is a non-lawyer convicted felon and was previously involved in a disciplinary matter with other Las Vegas attorneys

15. There is no proof that Brown paid the liens as he was supposed to do or if there were any remaining monies after the liens were negotiated if in fact they were. Respondent acknowledges that he abdicated his role as an attorney by allowing non-lawyer Brown to have access to settlement funds.

16. In light of the foregoing, Respondent's conduct violated RPC 1.15 (Safekeeping) for failing to safeguard his client's funds which were supposed to be maintained in trust and allowing nonlawyer Ron Brown to have access to these funds which should have been held in trust. Respondent also violated RPC 5.4 (Professional Independence of Lawyer) for engaging in a business relationship with Brown wherein Brown had the exclusive right to negotiate on behalf of clients. Respondent further violated RPC 5.5 assisting Brown in the unauthorized practice of law by allowing Brown to have "primary decision making" authority to negotiate Ivo's personal injury claims.

COUNT 2
Case No. SG14-0789/Kita Hurvitz

17. Kita Hurvitz (Kita) is the mother of Ivo Hurvitz, the Grievant in the above case.

18. Kita's settlement was broken down into four parts. The first part was her bodily injury claim. This settlement was for $15,000. Of this, $1,875 was retained by Respondent for attorney fees, $107.30 was paid for various office costs such as postage and copy fees, and $13,017.70 was paid to Kita.

19. The second portion of Kita's settlement was for $15,710. Of this, $3,927 was retained by Respondent for his fees, $8,700 was set aside for expert fees for an upcoming arbitration, and $3,082.50 was disbursed to Kita,

20. Respondent failed to provide any other disbursement sheets for Kita, but indicated that she received a nonbinding arbitration award of $124,110.18. Of this amount, there was a $15,000 offset for monies received from the third party insurance carrier, a $15,000 offset for monies received from her undisputed UIM claim, and $4,942.88 paid from Kita's insurance company directly to medical providers. The offsets totaled $34,942.88 which when deducted from the arbitration award left $89,167.30

21. Kita negotiated with Ron Brown and Respondent that after all the liens were resolved she would receive $40,000 in the settlement proceeds, and Respondent did pay Kita checks which indicate that Respondent was paying interest payments on the promised $40,000. Kita received no other monies other than those highlighted above other than $1,567.28 to pay an unrelated Justice Court matter..

22. Kita's total medical bills were $99,195.63 which is $10,028.33 more than the remaining arbitration award.

23. As in Ivo's case, Respondent indicates that Kita retained Respondent with the understanding and "upon the exclusive condition that Mr. Ron Brown [has] primary decision-making process of [Kita's] personal injury claims, including negotiation and payment of all medical liens."

24. The Bar re-alleges the allegations contained in Paragraph 14 of this complaint regarding Brown.

25. As in Ivo's matter, there is no proof that Brown paid the liens as he was supposed to do or if there were any remaining monies after the liens were negotiated if in fact they were. Respondent acknowledges that he abdicated his role as an attorney by allowing non-lawyer Brown to have access to settlement funds and negotiate on behalf or Respondent's clients.

26. In light of the foregoing, Respondent's conduct violated RPC 1.15 (Safekeeping) for failing to safeguard his client's funds which were supposed to be maintained in trust and allowing nonlawyer Ron Brown to have access to these funds which should have been held in trust. Respondent also violated RPC 5.4 (Professional Independence of Lawyer) for engaging in a business relationship with Brown wherein Brown had the exclusive right to negotiate on behalf of clients. Respondent further

violated RPC 5.5 assisting Brown allowing Brown to have "primary decision making" authority to negotiate Kita's personal injury claims.

COUNT 3
Case No. SG14-1056 / Dr. Steven Holper

27. In August 2014, Dr. Holper grieved to the State Bar about numerous unpaid medical liens with Carter's office, most signed by Carter himself, all confirmed received by him, two of which are the Hurvitzs'. The patients Dr. Holper claims owe money are:

Kita Hurvitz, 2009/2011, $5,715
Ivo Hurvitz, 2009/2011, Unknown
Latrisa Young, 1-21-10, $2089
Henock Yimer, 10-27-10, $1,003
Cheryl Wolak,1-24-11, $0
Kova Vassil, 5-25-11, $0
Elia Solyero, 9-9-08, $3,516
Azziem Shah, 12-1-10, $1,897
Dolly Rowan, 4-19-11, $0
Veronica Newhouse, 1-19-11, $14,353
Quanisha Neal, 1-12-09, $915
Rena Molina, 1-15-10, $1,839
Larry McInnis, 8-11-08, $4,620
Vanette Harris, 1-18-11, $6,400
Kyler Harris, 1-20-11, $1,952
Quiana Gibson, 1-22-10, $1,154
Christina Delgado, 6-28-11, $2,377
Debra Bogard, 9-12-07, $4732
Danna Arnold, 9-18-08, $2496
Leigh-Ann Styles, 4-23-13, $3,460
Karina Ruiz, 6-25-13, $0
Gloria, Ruiz, 6-25-13, $0
Luis Ruiz, 6-25-14, $0
Maria Ortiz, 1-10-13, $850
Lyndsey Mccomas, 11-15-2012, $1,225
Justin Hill, 6-20-13, $0
Gilad Gafni, 1-12-14, $4,860
Jennifer DeJesus, 6-18-13, $735
Marivic Sidhm, 3-14-14, $1,010
Enrique Tejeda, 10-21-11, $1,310
Adella Logan, 3-11-14, $800
Martin, Landeros, 8-24-11, $637
Christopher Landeros, 8-24-11, $582
Alessandro Landeros, 8-24-11, $637

28. Holper's information is that all these claims have settled with insurance. In total the liens represent approximately $71,164 owed to Dr. Holper. It should be noted that Dr. Holper has agreed to reduce the monies owed to him and has written a letter on behalf of Respondent seeking leniency.

29. On May 6, 2015 the Bar sent Respondent a letter specifically asking him to address the allegations of Dr. Holper. In the last week of May, Respondent called Assistant Bar Counsel Jason Dworin (Dworin) and asked for more specifics as to the liens that were allegedly outstanding. Dworin confirmed Respondent's email address with him and emailed the list to Carter as requested.

30. On June 17, 2015 the Bar received a letter from Respondent indicating that he has not received the list of names of the unpaid liens despite having been emailed on at least two occasions.

31. On June 23, 2015 the Bar sent Respondent another letter this time specifically outlining the above liens which Dr. Holper purports are outstanding. On July 23, 2015 Respondent sent a letter back to the Bar. In this letter Respondent explains that "Mr. Ron Brown my associated paralegal who operates Professional Paralegals, has handled all referrals to Dr. Holper's office, and has negotiated with Dr. Holper over the last 10-15 years regarding case settlements and lien reductions."

32. Respondent then states that Mr. Brown can provide greater details of his relationship and negotiations with Dr. Holper.

33. In light of the foregoing, Respondent's conduct violated RPC 1.15 (Safekeeping) for failing to safeguard the which were supposed to be maintained in trust to pay Respondent's client's liens and allowing nonlawyer Ron Brown to have access to these funds which should have been held in trust. Respondent also violated RPC 5.4 (Professional Independence of Lawyer) for engaging in a business relationship with Brown wherein Brown had the exclusive right to negotiate these liens on behalf of Respondent's clients. Respondent further violated RPC 5.5 assisting Brown allowing Brown to handle all referrals from Respondent's office to Dr. Holper's

COUNT 4
SG14-1244/Michael Comorre Esq. (on behalf of Brent Puterbaugh)

34. Pursuant to negotiations, this Count is to be dismissed in its entirety.

III.
STATED FORM OF DISCIPLINE

Therefore, based upon the above, Respondent and his counsel agree to the following imposition of Discipline and related conditions:

Pursuant to the Conditional Guilty Plea and Stipulation of Facts set forth above, Respondent, his counsel and the State Bar agree that, Respondent shall receive a **FOUR (4) YEAR SUSPENSION.**

1. Respondent agrees that as a condition precedent to applying for reinstatement he shall:

2. Pay Restitution: Respondent shall pay $46,548.51 restitution in case number SG14-0788. The restitution is to be paid to the medical lienholders and once those lienholders are paid then the remaining portion is to be paid to grievant Ivo Hurvitz. Respondent shall pay $89,167 to resolve case SG14-0789. The restitution is to be paid to the medical lien providers and once the outstanding liens are paid the remainder is to be paid to Kita Hurvitz. Finally, Respondent is to pay Dr. Holper $71,164 to resolve the outstanding liens owed to his office. If Respondent is able to negotiate the liens to amounts lower than listed he must reimburse the named clients and show proof thereof. If respondent is unable to ascertain the location of the clients he is to pay the outstanding amount to the Nevada State Bar Client Security Fund.

3. The agreement to pay restitution does not bind any of the above named individuals from taking any legal action they deem appropriate to recover money from Respondent individually.

4. Respondent shall pay the actual costs of the disciplinary proceedings, including a $750 assessment for staff salaries and costs.

IV.
LEGAL GROUNDS IN SUPPORT OF SANCTION

1. In determining an appropriate sanction, the parties considered the American Bar Associations *Standards for Imposing Lawyer Sanctions (Standards)*. While

these standards have not been adopted in the State of Nevada, they are included for persuasive purposes only.

2. In determining an appropriate sanction consideration should be given to the duty violated, the lawyers mental state, the actual or potential injury caused by the misconduct and the existence of aggravating and mitigating factors.

3. For purposes of this agreement the parties agree that Respondent knowingly violated RPC 1.15, RPC 5.4 (Professional Independence), and RPC 5.5 (Unauthorized Practice of Law) in all cases.

4. As described above Respondent's conduct violated his duty to his clients, the profession, and the legal system. For purposes of this agreement, the parties agree that there was actual and potential harm to clients, the legal profession, and the legal system.

- *Standard 4.12* (RPC 1.15 Safekeeping) indicates that a suspension is generally appropriate when a lawyer knows or should know that he is dealing improperly with client property and causes injury to a client. In this matter it is agreed that Respondent knew or should have known that distributing client funds to a nonlawyer was improper.
- *Standard 7.1* (RPC 5.4 Professional Independence, and RPC 5.5 Unauthorized Practice of Law) indicates that a suspension is generally appropriate when a lawyer allows an individual to perform legal services under his or her auspices.

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AGGRAVATION / MITIGATION

1. Pursuant to SCR 102.5(1) (Aggravation and mitigation), the Parties considered the following subsections as ***aggravating*** factors in considering the discipline to be imposed:

(c) A pattern of misconduct,
(d) Multiple offenses, and;
(i) Substantial experience in the practice of law.

2. Pursuant to SCR 102.5(2) (Aggravation and mitigation), the Parties considered the following subsections as ***mitigating*** factors in considering the discipline to be imposed:

(d) Timely good faith effort to make restitution or rectify consequences,
(e) Full and free disclosure to disciplinary authority or cooperative attitude, and;
(m) Remorse.

Each of the violations of the Rules has a suspension as the suggested sanction. Furthermore the parties acknowledge the egregious nature of the allegations and despite the fact that Respondent does not have a significant discipline history a suspension is warranted.

V.
CONDITIONAL AGREEMENT BY THE STATE BAR

Conditional to Respondent's execution of the instant Plea, the State Bar agrees to:

1. Dismiss Count 4 in its entirety.

2. Dismiss allegations of violations of RPC 1.1 (Competence), RPC 1.3 (Diligence), and RPC 8.4 (Misconduct) in all counts.

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VI.
APPROVAL OF RESPONDENT

Having read the Plea and being satisfied with it, the same is hereby approved by Respondent.

Respondent has discussed the Plea with counsel and fully understands the terms and conditions set forth herein.

DATED this 15 day of January 2016.

George R. Carter, Esq.
Nevada Bar No. 129
1040 E. Sahara Ave Suite 104
Las Vegas, NV 89104
Respondent

DATED this 15 day of January 2016.

Mitchell L. Posin, Esq.
Nevada Bar No. 2840
1645 Village Center Circle Suite 200
Las Vegas NV, 89134-6372
Counsel for Respondent

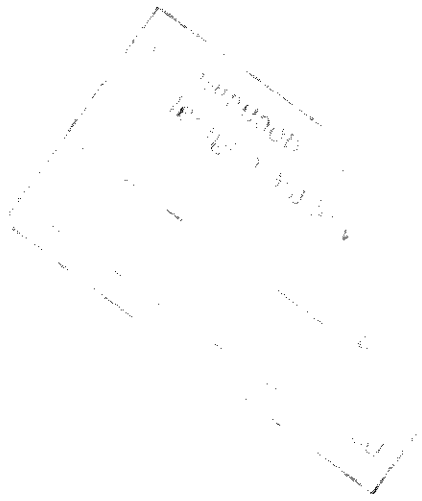
VII.
APPROVAL OF BAR COUNSEL

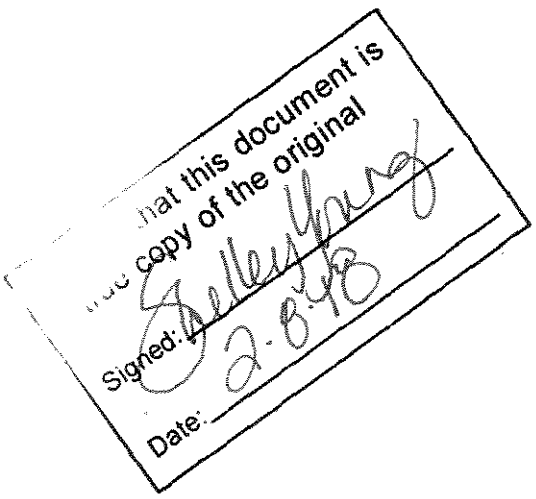
Having read the Plea tendered by Respondent and being satisfied with the contents therein, I hereby approve and recommend the Plea for approval by the Formal Hearing Panel.

DATED this __day of January, 2016.

STATE BAR OF NEVADA

Jason Dworin, Assistant Bar Counsel
Nevada Bar No. 9006
3100 W. Charleston Boulevard, Suite 100
Las Vegas, Nevada 89102

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Date:
2-8-18

Case Nos.: SG14-0788, SG14-0789,
SG14-1244, SG14-1056

FILED
JUL 26 2016
STATE BAR OF NEVADA
BY: OFFICE OF BAR COUNSEL

STATE BAR OF NEVADA

SOUTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA, Complainant, vs. GEORGE R. CARTER, Nevada Bar No. 169 Respondent.	**FINDINGS OF FACT, CONCLUSIONS OF LAW AND PANEL RECOMMENDATION FOR DISCIPLINE**

TO: George R. Carter
c/o Mitchell L. Posin, Esq.
1645 Village Center Circle, Suite 200
Las Vegas, NV 89134-6372

This matter came before a designated Formal Hearing Panel of the Southern Nevada Disciplinary Board (Panel) on Thursday, January 15, 2016, at 9:00 a.m. The Panel consisted of Jeffrey S. Posin, Esq., Chair; Ellen J. Bezian, Esq. Panel Member; and Carrie C. Taylor, CPA, Laymember.

Assistant Bar Counsel Jason R. Dworin, Esq., represented the State Bar of Nevada (State Bar). Mitchell L. Posin, Esq. represented George R. Carter, Esq. ("Respondent"). Respondent was present at the hearing, provided testimony, and through his counsel submitted evidence.

The State Bar called the Respondent and the Panel admitted upon stipulation of the parties State Bar's Exhibit 1 (hearing packet containing pages SB 1 through SB 45), Exhibit 2 (affidavit of

EXHIBIT 3

Respondent's prior disciplinary history), and Exhibit 3 (Conditional Guilty Plea). Respondent submitted no evidence on his behalf.

Based upon the pleadings on file herein, the testimony given, and the evidence admitted during the hearing, the Panel issues the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. Respondent filed timely Verified Answer on September 8, 2015. (*Hearing Exhibit 1, Hearing Packet, Answer)*

2. Respondent entered into the Conditional Guilty Plea on January 15, 2016 voluntarily and was not subject to any duress or coercion in doing so.

3. Respondent had the opportunity to consult with counsel of his choosing and in fact was represented at all pertinent times by Mitchell L. Posin Esq.

4. The Conditional Guilty Plea is hereby adopted as amended.

5. The Stipulation of Facts as set forth in Part II of the Conditional Guilty Plea attached hereto is incorporated fully herein by reference.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Panel hereby issues the following Conclusions of Law:

1. The Southern Nevada Disciplinary Board has jurisdiction over Respondent and the subject matter of these proceedings pursuant to Supreme Court Rule 99;

2. The Panel approves the Conditional Guilty Plea as stipulated in Exhibit 3, with the addendum that Respondent be forbidden from having a trust account for a two year period following reinstatement which would effectively prohibit him from engaging in personal injury cases unless Respondent was working for another attorney. The Conditional Guilty Plea is submitted in accordance with SCR 105(2)(d) and SCR 113;

3. The State Bar proved by clear and convincing evidence that Respondent violated any Rules of Professional Conduct as alleged in the Conditional Guilty Plea. *See* Nev. Sup. Ct. R. 105(2)(f); *In re Stuhff*, 108 Nev. At 633-634, 837 P.2d at 856; *Gentile v. State Bar*, 106 Nev. 60, 62, 787 P.2d 386, 387 (1990).

4. The Panel unanimously finds that the foregoing findings of fact prove by clear and convincing evidence that:

5. With regard to Count 1, Respondent violated RPC 1.15 (Safekeeping) for failing to safeguard his client's funds which were supposed to be maintained in trust and allowing nonlawyer Ron Brown to have access to these funds which should have been held in trust. Respondent also violated RPC 5.4 (Professional Independence of Lawyer) for engaging in a business relationship with Brown wherein Brown had the exclusive right to negotiate on behalf of clients. Respondent further violated RPC 5.5 assisting Brown in the unauthorized practice of law by allowing Brown to have "primary decision making" authority to negotiate Ivo's personal injury claims.

6. With regard to Count 2, Respondent's conduct violated RPC 1.15 (Safekeeping) for failing to safeguard his client's funds which were supposed to be maintained in trust and allowing nonlawyer Ron Brown to have access to these funds which should have been held in trust. Respondent also violated RPC 5.4 (Professional Independence of Lawyer) for engaging in a business relationship with Brown wherein Brown had the exclusive right to negotiate on behalf of clients. Respondent further violated RPC 5.5 assisting Brown and allowing Brown to have "primary decision making" authority to negotiate Kita's personal injury claims.

7. With regard to Count 3, Respondent's conduct violated RPC 1.15 (Safekeeping) for failing to safeguard the funds which were supposed to be maintained in trust to pay Respondent's client's liens and allowing nonlawyer Ron Brown to have access to these funds which should have been held in trust. Respondent also violated RPC 5.4 (Professional Independence of Lawyer) for engaging in a business relationship with Brown wherein Brown had the exclusive right to negotiate

these liens on behalf of Respondent's clients. Respondent further violated RPC 5.5 assisting Brown allowing Brown to handle all referrals from Respondent's office to Dr. Holper's

AGGRAVATION AND MITIGATION

1. In determining an appropriate sanction, the Panel considered the American Bar Associations *Standards for Imposing Lawyer Sanctions (Standards)*.

2. The Panel found that the key factual determination that the Panel used were that in Counts 1, 2, and 3, Respondent acted with conscious disregard for how Respondent's actions would affect his clients. One key factor that the Panel found was that Respondent "gave up basically total control of [Respondent's] trust account and client funds to a nonlawyer, making it even worse was that the nonlawyer was a convicted felon in Ron Brown." *See Transcript* pps. 68-69.

3. The Panel unanimously found that the injury caused by Respondent's conduct was profound and that there were substantial monies for numerous clients unaccounted for as Respondent had turned over an unknown amount of client funds to Ron Brown which was subsequently stolen. *See Transcript* pps. 70-71.

4. The Panel finds the following aggravating factors pursuant to SCR 102.5(1):

a) *Prior disciplinary offenses* §(a);

b) *Pattern of misconduct* §(c);

c) *Multiple offenses* §(d); and,

d) *Substantial experience in the practice of law* §(i).

5. The Panel finds the following mitigating factors pursuant to SCR 102.5(2):

a) *Timely good faith effort to make restitution or rectify consequences* §(d);

b) *Full and free disclosure to disciplinary authority or cooperative attitude* §(e); and,

c) *Remorse* §(m).

6. The Panel was especially mindful of the pattern of misconduct and the substantial experience in the practice of law. *See Transcript* pp. 72.

DECISION AND RECOMMENDATION

Based upon the foregoing Findings of Fact and Conclusions of Law, the Panel hereby approves the Conditional Plea Agreement in full and recommends that the following discipline be imposed:

1. Respondent shall receive a four year suspension.

2. Respondent agrees that for two years after he is reinstated that he will have no trust account and shall exercise no control over any client trust monies. Respondent acknowledges that this will prohibit him from engaging in personal injury cases unless he is working under another attorney who has control of any and all trust funds.

3. Respondent shall pay $46,548.51 restitution in case number SG14-0788. The restitution is to be paid to the medical lienholders and once those lienholders are paid then the remaining portion is to be paid to grievant Ivo Hurvitz. Respondent shall pay $89,167 to resolve case SG14-0789. The restitution is to be paid to the medical lien providers and once the outstanding liens are paid the remainder is to be paid to Kita Hurvitz. Finally, Respondent is to pay Dr. Holper $67,287 in case number SG14-1056 to resolve the outstanding liens owed to his office. If Respondent is able to negotiate the liens to amounts lower than listed he must reimburse the named clients and show proof thereof. If respondent is unable to ascertain the location of the clients he is to pay the outstanding amount to the Nevada State Bar Client Security Fund. The parties further agree to work together as to the final restitution amount should Respondent provide documentation of restitution having been previously paid.

4. Respondent acknowledges that the full payment of any and all restitution shall be a condition precedent which shall be met prior to any application for reinstatement.

5. Respondent shall pay the actual costs of the disciplinary proceedings, including a $750 assessment for staff salaries and costs prior to any petition for reinstatement.

DATED this 22 day of July, 2016

Jeffrey S. Posin, Esq.
Formal Hearing Panel Chair
Southern Nevada Disciplinary Board


I certify that this document is
a true copy of the original
Signed:
Date:
2-8-18

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF DISCIPLINE OF GEORGE R. CARTER, BAR NO. 169.

No. 70907

FILED

MAY 18 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY
CHIEF DEPUTY CLERK

ORDER OF SUSPENSION

This is an automatic review of a Southern Nevada Disciplinary Board hearing panel's recommendation that this court approve, pursuant to SCR 113, a conditional guilty plea agreement in exchange for a stated form of discipline for attorney George R. Carter. Under the agreement, Carter admitted that he knowingly violated RPC 1.15 (safekeeping property) by improperly distributing client funds to a nonlawyer, and RPC 5.4 (professional independence) and RPC 5.5 (unauthorized practice of law) by allowing a nonlawyer to perform legal services under his auspices. Carter agreed to a 4-year suspension, to pay $206,879.51 in total restitution, and to pay the actual costs of the disciplinary proceedings, including a $750 assessment for staff salaries and costs.

Based on our review of the record and weighing "the dut[ies] violated, [Carter's] mental state, the potential or actual injury caused by [Carter's] misconduct, and the existence of aggravating or mitigating factors," *In re Discipline of Lerner*, 124 Nev. 1232, 1246, 197 P.3d 1067, 1077 (2008), we conclude that the guilty plea agreement should be approved. *See* SCR 113(1). In particular, Carter knowingly violated duties owed to his clients and to the profession, resulting in actual or

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potential injury to both. *See* Standards for Imposing Lawyer Sanctions, *Compendium of Professional Responsibility Rules and Standards*, Standards 4.12 and 7.2 (Am. Bar Ass'n 2015) (providing that, absent mitigating circumstances, suspension is the appropriate discipline for improperly dealing with client property and knowingly enabling the unauthorized practice of law). The record supports three aggravating circumstances (pattern of misconduct, multiple offenses, and substantial experience in the practice of law) and three mitigating circumstances (timely good faith effort to make restitution or rectify consequences, full and free disclosure to disciplinary authority or cooperative attitude, and remorse). Considering all of these circumstances, as well as Carter's prior disciplinary record, the agreed-upon discipline is sufficient to serve the purpose of attorney discipline—to protect the public, the courts, and the legal profession.[1] *State Bar of Nev. v. Claiborne*, 104 Nev. 115, 213, 756 P.2d 464, 527-28 (1988).

We hereby suspend attorney George R. Carter from the practice of law in Nevada for a period of 4 years commencing from the date of this order. Further, as a condition precedent to seeking reinstatement, Carter shall pay $46,548.51 in restitution to the medical lienholders in case number SG14-0788 and $89,167 in case number SG14-0789, and if any of these amounts is remaining after the outstanding liens are paid the remainder is to be paid to Ivo and Kita Hurvitz. Carter shall further pay Dr. Holper $71,164 in restitution to resolve the outstanding liens owed to Dr. Holper's office prior to seeking reinstatement. Lastly, Carter shall pay

[1]We have considered the arguments addressed by Carter in his opening and reply briefs and conclude that they do not warrant any change in Carter's stipulated discipline.

the actual costs of the disciplinary proceedings, including a $750 assessment for staff salaries and costs, within 30 days from the date of this order or of receipt of the State Bar's bill of costs, whichever is later. *See* SCR 120. The parties shall comply with SCR 115 and SCR 121.1.

It is so ORDERED.

_____, C.J.
Cherry

_____, J.
Douglas

_____, J.
Gibbons

_____, J.
Pickering

_____, J.
Hardesty

_____, J.
Parraguirre

_____, J.
Stiglich

cc: Chair, Southern Nevada Disciplinary Board
George R. Carter
C. Stanley Hunterton, Bar Counsel, State Bar of Nevada
Kimberly K. Farmer, Executive Director, State Bar of Nevada
Perry Thompson, Admissions Office, U.S. Supreme Court

CERTIFIED COPY
This document is a full, true and correct copy of the original on file and of record in my office.

DATE: Feb. 12, 2018

Supreme Court Clerk, State of Nevada

By _____ Deputy