

**JUDGMENT OF PARTIALLY PROBATED SUSPENSION AFFIRMED.**

Opinion and Judgment Signed and Delivered Aug. 21, 2008.



**BEFORE THE BOARD OF DISCIPLINARY APPEALS**

**APPOINTED BY  
THE SUPREME COURT OF TEXAS**

**No. 41135**

**BOMA O. ALLISON, APPELLANT**

**v.**

**COMMISSION FOR LAWYER DISCIPLINE, APPELLEE**

**On Appeal from the Evidentiary Panel  
for the State Bar of Texas,  
District 4D07  
No. H0120419086**

**Opinion and Order**

**Heard En Banc June 20, 2008**

**COUNSEL:**

For Appellant, Wayne H. Paris, Houston, Texas.

For Appellee, Commission for Lawyer Discipline of the State Bar of Texas, Linda A. Acevedo, First Assistant Disciplinary Counsel, and Cynthia W. Hamilton, Assistant Disciplinary Counsel, Austin, Texas.

**OPINION AND ORDER:**

Appellant, attorney Ms. Boma O. Allison, appeals from a Judgment of Partially Probated Suspension, alleging (1) that the Evidentiary Panel rendering judgment lacked a proper quorum thus making the judgment void; and (2) that the parties had settled the case prior to the hearing conducted by the Evidentiary Panel.

Because we find (1) that the Evidentiary Panel rendered judgment pursuant to the vote of a proper quorum; and (2) that there is substantial evidence to support the conclusion that the parties had not settled the case prior to the Evidentiary Panel hearing, we affirm the Judgment of Partially Probated Suspension signed on August 17, 2007.

I.

JUDGMENT OF EVIDENTIARY PANEL

**Composition of Evidentiary Panel Generally vs. Quorum of Panel**

Ms. Allison's disciplinary proceeding was heard by a State Bar of Texas grievance committee pursuant to Part II of the Texas Rules of Disciplinary Procedure. Texas Rules of Disciplinary Procedure, *reprinted* in TEX. GOV'T CODE, tit. 2, subtit. G, app. A-1 (Vernon 2005) ("TRDP"). The parties do not dispute the fact that the Chairman of the Grievance Committee appointed an Evidentiary Panel consisting of four attorney members and two public members to hear Ms. Allison's case. The Evidentiary Panel, as appointed, satisfied the requirement that panels must be composed of two attorney members for each public member. TRDP 2.07. Accordingly, Appellant does not assert any error in the number or mix of members assigned to the Evidentiary Panel.

Because not all members of the panel participated in the evidentiary hearing and subsequent decision, we are left with the question of whether a proper quorum of the Evidentiary

Panel was present to hear the case. Although we held in *Cafiero v. Commission for Lawyer Discipline* (BODA No. 37,811; May 10, 2007), that a judgment rendered by a panel (of four attorney members and one public member) which did not satisfy the composition requirement of TRDP 2.07 was void, we have not addressed whether a mix of three attorney members and one public member may constitute a proper quorum.<sup>1</sup> We address that question now.

### **Quorum of an Evidentiary Panel**

TRDP 2.07 provides that a properly appointed Evidentiary Panel may act through less than all its members (a quorum of the panel). The relevant language of TRDP 2.07 reads as follows: “A quorum must include at least one public member for every two attorney members present....”<sup>2</sup>

In analyzing the Texas Rules of Disciplinary Procedure, we note that, under the Texas Constitution and the State Bar Act, the Texas Supreme Court has the power to regulate the practice of law. Tex. Const. art. II, § 1; Tex. Gov’t Code Ann. § 81.011(c) (Vernon 2005) (the “State Bar Act”); *In re State Bar of Texas*, 113 S.W. 3d 730, 732 (Tex. 2003). Moreover, the TRDP have the force and effect of statute. *O’Quinn v. State Bar of Texas*, 763 S.W.2d 397, 399 (Tex. 1988). The State Bar Act provides a statutory mechanism whereby the Court promulgates regulations governing the practice of law. *In re State Bar*, 113 S.W. 3d at 732. Accordingly, we take guidance from the State Bar Act on the definition of a quorum.

Section 81.072(j) of the State Bar Act states the relevant quorum requirement as follows:

“A quorum of a panel of a district grievance committee of the state bar must include one public

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<sup>1</sup> As we discussed in *Cafiero*, the State Bar Act, TEX. GOV’T CODE § 81.001 *et seq.* (Vernon 2005) and the TRDP mandate the required composition of the grievance committee, panels of the committee, and a quorum of the panel. A quorum must meet not only a numerical majority requirement, but it must also satisfy a composition requirement, which is at issue in this case.

<sup>2</sup> Although the dissent focuses much attention on the word “must” in TRDP 2.07, the majority does not dispute that certain action is required, not suggested. The majority and dissenting opinions diverge, however, on exactly what is required by TRDP 2.07 and the State Bar Act.

member for each two attorney members.” A review of the history of this particular provision leads us to confirm that the Legislature’s definition of a quorum existed at the time the Texas Supreme Court promulgated the present Rules of Disciplinary Procedure. Further, we conclude that the Texas Supreme Court would have been guided by the legislation existing at the time it promulgated the Rule of Disciplinary Procedure.

Against this background, we determine whether a quorum must consist of no more than two attorneys for each public member (as suggested by Appellant), or whether at least one public member must be present at the hearing for each two attorney members present (the wording of the State Bar Act). To illustrate, the parties would agree that a six-member panel that had two attorney members and one public member present hearing the case would satisfy the attorney/public member requirement but would not constitute a quorum because those present do not constitute a majority of the panel members appointed. *See* TRDP 2.07, State Bar Act § 81.072(j). In this example, the addition of one public member would satisfy the quorum requirement that a majority of a six-member panel be present for the hearing. The addition of one public member in this example also would satisfy the requirement that at least one public member for each two attorney members participate. In this example, the quorum would consist of four public members: two public members and two attorney members. *See* State Bar Act § 81.072(j). If, as in the case at bar, an attorney member joined a group of three (consisting of two attorney members and one public member), do the TRDP require the addition of a public member? We conclude that the Rules do not so require.

The TRDP and the State Bar Act expressly provide that, to constitute a quorum, there must be one public member for each instance where there are two attorney members. TRDP 2.07; State Bar Act § 81.072(j). For purposes of a quorum, we have concluded that, not until

four attorney members participate is there a requirement that two public members participate (one public member for each two attorney members). If the Texas Supreme Court intended a different result (as proposed by Appellant), the Court could have required that no more than two attorneys participate for every public member participating. The Court did not so provide. If the Court had included such language in the Rules, three attorney members and one public member would not satisfy the requirement, because more than two attorney members (three in this example) would have participated for each public member (one in this example). Notably, however, neither the Texas Supreme Court nor the Texas Legislature promulgated the language that is necessary to support Appellant's position. Rather than requiring *no more than* two attorney members for each public member, the TRDP required "*at least*" one public member for "every two attorney members" present. These two requirements are not the same.<sup>3</sup>

In the TRDP rules relating to composition of a panel (but not a quorum), the Texas Supreme Court referred to a ratio of "two attorney members for each public member." *See* TRDP 2.07. The Texas Supreme Court also used a ratio of two attorney members for each public member in other rules. *See* TRDP 2.17 (requirements for an Evidentiary Panel) at 2.02 (requirements for a district grievance committee). But when the Texas Supreme Court set the requirements for a quorum, the Court reversed the order of the constituent members, so that the reference to public members preceded the reference to attorney members. The requirements for a quorum of an Evidentiary Panel are different than the requirements for the composition of an Evidentiary Panel itself -- the quorum requirements are expressed in terms of a minimum number of public members for every group of two attorney members.

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<sup>3</sup> The dissent suggests a similar wording where a quorum would exist only when the group consists of not less than 1/3 public members. TRDP 2.07 similarly does not use this language. If the Texas Supreme Court or the Texas Legislature intended the result suggested by the dissent, they could have easily used the language suggested therein.

When comparing the quorum requirement set forth in the State Bar Act to the TRDP, we note that the only difference is that the State Bar Act requires “at least one public member for *each* two attorney members” while the TRDP requires “at least one public member for *every* two attorney members.” (emphasis added). We conclude the language of the State Bar Act and the TRDP to be synonymous, and that for each group<sup>4</sup> of two attorney members, there must be at least one public member. The definitions of “each” and “every” in BLACK’S LAW DICTIONARY confirm that the terms are synonymous:

**Each.** A distributive adjective pronoun, which denotes or refers to every one of the persons or things mentioned; every one of two or more persons or things, composing the whole, separately considered. The effect of this word, used in the covenants of a bond, is to create a several obligation. The word “any” is equivalent to “each.”

**Every.** Each one of all; all the separate individuals who constitute the whole, regarded one by one. The term is sometimes equivalent to “all”; and sometimes to “each.”

455, 498 (5<sup>th</sup> ed. 1979).

In the instant case, although there were three attorney members present, there was not more than one group of two attorneys. Accordingly, for purposes of the necessary quorum,<sup>5</sup> only one public member was required to be present. Because a quorum existed for the Evidentiary Panel that heard and decided this matter, the judgment was not void.

In reaching the conclusion set forth herein, we have determined that the rule in question is not ambiguous. Nevertheless, we note that the Commission for Lawyer Discipline has previously interpreted the rule in a manner consistent with this opinion. The Board notes that in construing the TRDP and the State Bar Act, it may consider the administrative construction of

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<sup>4</sup> We do not suggest that the word “group” should be inserted into either Rule 2.07 or the State Bar Act. Clearly, however, the phrases “for each two attorney members” and “for every two attorney members” make reference to a group of two attorney members.

<sup>5</sup> The concept of a quorum connotes action by a group of less than all members. A rule that would require attendance by all public members (as proposed by Appellant and the dissent and applied to panels of 6) seems inconsistent with the meaning of the word quorum. As interpreted by Appellant and the dissent, TRDP 2.07 would not allow a panel of 6 to hear evidence and decide matters unless all public members are present and voting.

the relevant provisions. TEX. GOV. CODE ANN. § 311.023 (Vernon 2005). See also *O'Quinn v. State Bar of Texas*, 763 S.W.2d at 399. Further, the Board may consider the objective to be obtained by the relevant provisions. *Id.* Although not relying on an administrative construction, we have concluded that the construction given herein is consistent with the objective to be obtained, namely a requirement that a decision by an Evidentiary Panel cannot be reached without the involvement of one or more public members.

## II.

### SETTLEMENT ISSUE

#### **Alleged Settlement by Proposed Agreed Judgment**

Appellant argues that, prior to the hearing before the Evidentiary Panel, she settled the claims raised by the Commission for Lawyer Discipline. BODA reviews the evidence whether a prior agreed judgment existed under the substantial evidence standard. TRDP 2.24. In deciding whether substantial evidence exists to support findings, the reviewing body determines whether reasonable minds could have reached the same conclusion. *Texas Health Facilities Commission v. Charter Medical - Dallas, Inc.*, 665 S.W.2d 446, 453 (Tex. 1984) (applying the substantial evidence standard under the APA). The reviewing court may not substitute its judgment for the decisions within the lower court's discretion and is not bound by the reasons stated in the order for the result, provided that some reasonable basis exists in the record for the action taken. *Railroad Comm'n of Texas v. Torch Operating Co.*, 912 S.W.2d 790, 792 (Tex. 1995). Under substantial evidence review, the findings, conclusions, and decisions of the lower court are presumed to be supported, and the burden is on the appellant to prove otherwise. Substantial evidence is something more than a mere scintilla, but the evidence in the record may



preponderate against the decision and still amount to substantial evidence. *City of El Paso v. Pub. Util. Comm'n of Tex.*, 883 S.W.2d 179, 185 (Tex. 1994).

In support of her argument, Appellant directs the Board's attention to an Agreed Judgment executed only by Appellant. The only evidence before the Board of an alleged agreement is evidence that Appellant agreed to a proposed Agreed Judgment. Appellant does not argue, nor can she argue, that the Evidentiary Panel somehow became bound by an agreement that may or may not have been reached between Appellant and Appellee. In fact, Appellant states that she first brought the existence of the alleged agreement to the Evidentiary Panel's attention in a Motion for New Hearing (New Trial). Appellant waited until the Evidentiary Panel heard the evidence and announced its decision before arguing for an Agreed Judgment which contained a more favorable disposition than the judgment rendered against her.

We note that (1) the Evidentiary Panel would not necessarily have been bound by a proposed Agreed Judgment; (2) the "Agreed Judgment" referred to by Appellant expressly adopts Rule 11 of the Texas Rules of Civil Procedure (requiring execution by all parties); (3) no evidence supports the existence of an Agreed Judgment executed by an attorney for the Commission for Lawyer Discipline; and (4) Appellant did not raise the existence of an alleged Agreed Judgment until after the presentation of evidence and rendition of a decision (creating serious doubt as to the existence of such alleged agreement). Based on this evidence, we conclude that Appellant has failed to meet her burden and that the Judgment entered by the Evidentiary Panel must not be reversed on the basis of an alleged prior settlement between the parties. We therefore affirm the Judgment of the Evidentiary Panel in all respects.

**IT IS SO ORDERED.**



*Paul D Clote*

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Paul D. Clote, Chair

*Jose I. Gonzalez-Falla*

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Jose I. Gonzalez-Falla, Vice Chairman

*Clement H. Osimetha*

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Clement H. Osimetha

*Alice A. Brown*

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Alice A. Brown

*Deborah J. Race*

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Deborah J. Race

*W. Clark Lea*

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W. Clark Lea

Board Members Yolanda De Leon and Ben Selman not participating.



**BEFORE THE BOARD OF DISCIPLINARY APPEALS**

**APPOINTED BY  
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**No. 41135**

**BOMA O. ALLISON, APPELLANT**

**v.**

**COMMISSION FOR LAWYER DISCIPLINE**

**ON APPEAL FROM THE EVIDENTIARY PANEL  
FOR THE STATE BAR OF TEXAS  
DISTRICT 4D07  
NO. H0120419086**

**Heard En Banc April 4, 2008**

**Members Thomas E. Pitts, Vice Chairman, Carol E. Prater, Charles L. Smith, and Thomas J. Williams, dissenting:**

After numerous delays, a quorum of the evidentiary panel heard this case on July 2, August 1, and August 13, 2007. The quorum consisted of three attorneys and one public member. It found that Boma Allison violated specific provisions of the Texas Disciplinary Rules of Professional Conduct and sanctioned her.

Allison subsequently submitted a timely Motion for New Hearing, claiming that an improper statutory ratio of attorney members (3) and public member (1) had heard and decided the case. Significantly, at the time of the hearing of the Motion for New Hearing on November

13, 2007, three attorney members and two public members were present for a quorum. Based on the *Cafiero* case, which this Board decided on March 23, 2007,<sup>1</sup> Allison contended that the make-up of the evidentiary panel that heard the case and rendered the sanction was improperly constituted and hence was without jurisdiction to hear and decide the case. The newly constituted quorum, however, overruled the motion for rehearing.

Allison has appealed this matter. The majority of this Board has held that the language of the State Bar Act, Section 81.072(j) and Rules 2.02, 2.07, and 2.17 of the Texas Rules of Disciplinary Procedure (“TRDP”) can be interpreted to permit a quorum of three attorneys and one public member to make up the evidentiary panel to hear and decide this case, and it has affirmed the decision of the evidentiary panel in this case. We respectfully dissent from our distinguished colleagues’ decision. In doing so, we would hold that the provisions of the above-mentioned statute and TRDP are clear and that the quorum of the evidentiary panel which conducted the hearing with three attorneys and only one public member violated the statutory requirements, and, therefore, its decision is void and should be vacated.

Before 2001, the TRDP allowed an evidentiary panel to conduct business without public members as long as a majority of the panel’s members were present. Therefore, in order to ensure a certain ratio of public members to attorney members at hearings, the legislature in 2001 amended Section 81.072 to read in part as follows:

*(j) a quorum of a panel of a district grievance committee of the State Bar must include one public member for each two attorney members. [Emphasis added]*

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<sup>1</sup> This case is not the Board’s first review of this problem. In March, 2007, the Board rendered an Opinion in *Cafiero v. Commission for Lawyer Discipline*, which involved the actions of a panel quorum consisting of four attorneys and one public member. Under those circumstances, the Board unanimously held that when the panel conducted the hearing, the quorum did not include one public member for every two attorney members present, and therefore its decision was void.

The TRDP was amended and promulgated by the Texas Supreme Court. Following the lead of the legislature, the Texas Supreme Court promulgated the following applicable Rules. Rule 2.02 relates to the composition of members of the District Grievance Committees. It provides in part as follows:

Each committee **must** consist of no fewer than nine members, two-thirds of whom **must** be attorneys licensed to practice law in the State of Texas and in good standing, and one-third of whom **must** be public members. All Committee panels **must** be composed of two-thirds attorneys and one-third public members.<sup>2</sup> [Emphasis added]

Rule 2.07 deals with committees and quorums. It provides in part as follows:

Committees shall act through panels, . . . to conduct summary disposition dockets and evidentiary hearings. No panel may consist of more than one-half of all members of the committee or fewer than three members. . . . Panels **must** be composed of two attorney members for each public member. A quorum **must** include **at least** one public member for every two attorney members present. [Emphasis added]

Finally, Rule 2.17<sup>3</sup> is relevant to evidentiary hearings and evidentiary panels. It provides in part as follows:

Each Evidentiary Panel **must** have a ratio of two attorney members for every public member. [Emphasis added]

Our task is to construe the Rules as written and arrive at the intention of the legislature and the Supreme Court in promulgating the State Bar Act and TRDP. In order to do so, we are required to begin with the word “must.” The term “must” in a statute is generally recognized as mandatory, creating a duty or obligation and is a condition precedent. Tex. Gov’t Code § 311-016(3); *City of Laredo v. Almagar*, 179 S.W.3d 132, 135 (Tex. App.—San Antonio 2005, no

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<sup>2</sup> These two sentences predate the 2001 legislative addition of part (j) to the Texas Government Code § 81.072 and were not amended afterwards.

<sup>3</sup> The language of Rules 2.07 and 2.17 were changed after the 2001 legislative addition of part (j) to § 81.072.

pet.). The term “condition precedent” is not defined by any legislative act or the Rules, and therefore the common usage of that word must be used. Tex. Gov’t Code § 311.011(a); *Dornbush v. State*, 156 S.W.3d 859, 870 (Tex. App.—Corpus Christi 2005, pet. ref’d.); *Delgado v. Jim Wells County*, 82 S.W.3d 640, 642 (Tex. App.—San Antonio 2002, no pet.). The term “condition precedent” means something that must be done before the rule becomes effective; a prerequisite; something indispensable to the occurrence of something else. *Webster’s New Collegiate Dictionary* 909 (1977). And the term “at least” means “not less than.” *Commercial Union Ins. Co. of New York v. Mabry*, 442 S.W.2d 413, 414 (Tex. App.—Houston [1<sup>st</sup> Dist.] 1969, no writ).

In construing the State Bar Act and the TRDP, it must be presumed that they were intended to be consistent and to operate in harmony with each other. In determining the intent of the legislature in promulgating Section 81.072(j) of the State Bar Act, we must keep in mind that in passing the Act, the legislature intended to ensure a certain ratio of attorney members to public members at hearings. *Cafero v. Commission for Lawyer Discipline*. It consequently was mandating as a condition precedent (with the word “must”) that a quorum of a panel include one public member for each two attorney members. When this is done, the plain and common meaning of the legislative intent was that a quorum of an evidentiary panel must include 33½ percent public members.

The same thing is true with respect with TRDP 2.02. When the plain and common meaning of the words “all committee panels **must** be composed of two-thirds attorneys and one-third public members,” it means exactly what it says. This is particularly true when Section 2.02 is coupled with Section 2.17 which says that “each evidentiary panel **must** have a ratio of two attorney members for every public member.” There can be no doubt about the meaning of these

words – it mandates that each evidentiary panel must be made up of 66⅔ percent attorney members and 33⅓ percent public members.

The same requirement is made in Rule 2.07 when it says “Panels **must** be composed of two attorney members for each public member” and that “a quorum **must** include **at least** one public member for every two attorney members present. When all of the above are read together – that is, the State Bar Act and the above-discussed Rules – it must be presumed that they were intended to be consistent and to operate in harmony. When this is done, and the words are given their plain and common meaning with the mandatory emphasis mentioned above, the only conclusion that can be arrived at is that the quorum of every evidentiary panel must be composed of at least (no less than) 33⅓ percent public members. In light of this, there can be no doubt that the evidentiary panel which heard this case violated the intent and spirit of the statute and TRDP.

Rather than accepting the plain and common meaning of the Statute and of the Rules, the majority has engaged in a forced, strained or even a contrived construction of the Statute and the Rules to find that Rule 2.07 means that the number of public members required for a quorum is based on how many multiples of two attorneys are present. Thus, in the majority’s reasoning, for a six-member evidentiary panel, if three attorneys are present, only one public member is necessary to achieve a valid quorum, because when three attorneys are present, there is only a single set of two attorneys. In essence, it appears as if the majority is attempting to rewrite or amend the Rules to support the conclusion it desires.

In response, we would point out that when statutes and rules are subject to construction, it is not within our province to indulge in acts of legislation or rule writing. We may direct the attention of the rule makers to any defect or omission, but we must take the words as we find them. It is for the legislators and the rule makers, not this Board, to remedy defects or supply a

deficiency in the rules, and to give relief from unjust and unwise legislation and rules. Accordingly, since the primary objective of this Board is to give effect to the intent of the legislature and the Court by looking at the plain and common meaning of the words to determine their intent, we cannot engage in forced or strained construction of the Statute and Rules as the majority has done; instead, this Board must yield to the plain sense of the chosen words. *Powell v. Stover*, 165 S.W.3d 322, 326 (Tex. 2005); *In re Entergy Corp.*, 142 S.W.3d 316, 322 (Tex. 2004); *City of San Antonio v. City of Boerne*, 111 S.W.3d 22, 25 (Tex. 2003); *Fitzgerald v. Advanced Spine Fixation Sys., Inc.*, 996 S.W.2d 864, 866 (Tex. 1999); *Ramco Oil & Gas, Ltd. v. Anglo Dutch (Tenge) LLC*, 171 S.W.3d 905, 913 (Tex. App.—Houston [14<sup>th</sup> Dist.] 2005, no pet.). A major flaw in the majority’s interpretation is that it fails to recognize the distinction between the requirements for the evidentiary panel and the requirements for a quorum of a panel. Rules 2.07 and 2.17 permit no flexibility whatsoever in determining the composition of the panel itself—it must contain exactly two attorneys, no more and no less, for every one public member. Thus, if there is one public member on the panel, there must be exactly two attorneys—not one and not three; if there are two public members on the panel, there must be exactly four attorneys, not three and not five, and so on.

With respect to the quorum requirement, however, the Supreme Court, presumably recognizing that volunteer members of a local grievance committee will not always be able to attend every hearing, allowed some flexibility by providing that there must be **at least** one (not exactly one) public member for every two attorneys present. Thus, if the panel itself consists of four attorneys and two public members and two attorney members are unable to hear a particular case, the panel may proceed with the remaining two attorneys and the two public members, because there would be “at least” one public member for every two attorney members.



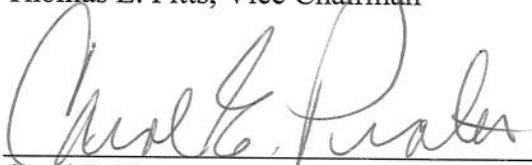
The majority holds that for a quorum to be valid there must be one public member for every “group” of two attorneys. The rule, however, says nothing about “groups” – it says that there must be “at least one public member for every two attorney members present.” If three attorneys are present, an exact one-to-two ratio would mean that there would be 1½ public members present. Therefore, in order to have “at least” one public member for every two attorneys, there must be two public members present if three attorney members are present.

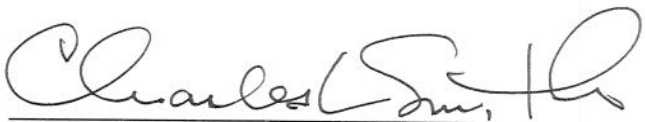
Another flaw in the majority’s opinion is this: The courts should not give undefined statutory language (*i.e.* “a quorum must include at least one public member for every two attorney members present”) a meaning out of harmony or inconsistent with the other provisions, although the language may be susceptible of such a construction if standing alone. *See Barr v. Bernhard*, 562 S.W.2d 844, 849 (Tex. 1978); *Dallas Indep. Sch. Dist. v. Finlan*, 27 S.W.3d 220, 228 (Tex. App.—Dallas 2002, *pet denied*). In ascertaining statutory meaning, we must look primarily to how the words are used throughout the statute as a whole. *See Barr*, 562 S.W.2d at 849; *Finlan*, 27 S.W.3d at 228. Statutory language should be interpreted consistently in every part of an act. *See Finlan*, 27 S.W.3d at 228; *Tex. Dept. of Transportation v. Needham*, 82 S.W.3d 314, 318 (Tex. 2002). In view of the above, to adopt the majority’s construction would mean that although it is mandatory that all grievance committees, committee panels and evidentiary panels must be composed of at least one-third public members, the quorum of an evidentiary panel—arguably the most important body in the entire grievance system, which must listen to the evidence and decide the guilt or innocence of an attorney and the type and duration of any sanctions—can be made up with less than one-third public members—25 percent in this case. In light of the clear mandatory language of the statute and the Rules, and the intent of the legislature to ensure that a quorum of an evidentiary panel include at least (no less than) one

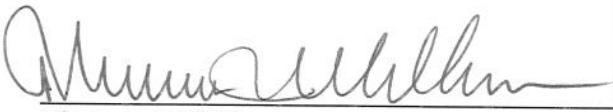
public member for every two attorneys, the majority's interpretation is clearly out of harmony and inconsistent with the other provisions and is consequently untenable.

We would thus hold that the quorum of the evidentiary panel which heard this case was in violation of the statutory requirements and therefore its decision is void and should be vacated.

  
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Thomas E. Pitts, Vice Chairman

  
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Carol E. Prater

  
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Charles L. Smith

  
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Thomas J. Williams