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Appointed by the Supreme Court of Texas

No. 66402

**Before the Board of Disciplinary Appeals
Appointed by
The Supreme Court of Texas**

CRYSTAL DANIELLE HENDERSON
STATE BAR OF TEXAS CARD NO. 24050742,
APPELLANT

V.

COMMISSION FOR LAWYER DISCIPLINE,
APPELLEE

*On Appeal from the Evidentiary Panel
For the State Bar of Texas District 4-3
No. 202001583[Mays]*

BRIEF OF APPELLEE
COMMISSION FOR LAWYER DISCIPLINE

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*On Appeal from the Evidentiary Panel
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**BRIEF OF APPELLEE
COMMISSION FOR LAWYER DISCIPLINE**

TO THE HONORABLE BOARD OF DISCIPLINARY APPEALS:

Appellee, the Commission for Lawyer Discipline, submits this brief in response to the brief filed by Appellant, Crystal Danielle Henderson. For clarity, this brief refers to Appellant as “Henderson” and Appellee as “the Commission.” References to the record are labeled CR (clerk’s record), RR (reporter’s record), Pet. Ex. (Petitioner’s exhibit to reporter’s record), Resp. Ex. (Respondent’s exhibit to

reporter's record), and App. (appendix to brief). References to rules refer to the Texas Disciplinary Rules of Professional Conduct¹.

¹ *Reprinted in* TEX. GOV'T CODE ANN., tit. 2, subtit. G app A. (West 2022).

STATEMENT OF THE CASE

Type of Proceeding: Attorney Discipline

Petitioner/Appellee: The Commission for Lawyer Discipline

Respondent/Appellant: Crystal Danielle Henderson

Evidentiary Panel: 4-3

Judgment: Judgment of Public Reprimand

Violation found (Texas Disciplinary Rules of Professional Conduct): **Rule 8.04(a)(3):** A lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

STATEMENT OF JURISDICTION

The Board of Disciplinary Appeals has jurisdiction over this appeal from the decision of an Evidentiary Panel of the State Bar of Texas District 4 Grievance Committee pursuant to Rules 2.23 and 7.08(D) of the Texas Rules of Disciplinary Procedure.

STATEMENT AS TO ORAL ARGUMENT

Appellant has requested the opportunity to conduct oral argument. Pursuant to Rule 4.06(b) of the Board's Internal Procedural Rules, Appellee believes oral argument is unnecessary in this case as the facts and legal arguments are adequately presented in the briefs and record, and the Board's decisional process would not be significantly aided by oral argument. However, should the Board grant oral argument to Appellant, Appellee requests the opportunity to respond.

STATEMENT OF THE ISSUES

- I. Does substantial evidence support the Evidentiary Panel's conclusion that Henderson violated Rule 8.04(a)(3) with respect to:
 - (1) Henderson's dealings with her client, Moses Mays, Jr., regarding a fee arrangement that contemplated, in part, Henderson's possession and use of, and ultimately receipt of title to a BMW in lieu of monetary payment for Henderson's representation of Mr. Mays; and/or
 - (2) Henderson's initial response to the grievance filed by Mr. Mays and/or her discovery responses in the disciplinary proceeding?
- II. Did the Evidentiary Panel act within its discretion in assessing a Public Reprimand in light of Henderson's conduct?

STATEMENT OF FACTS

I. Procedural History

On February 25, 2020, Moses Mays, Jr., (“Moses”) filed a grievance against Appellant, Crystal Danielle Henderson, which was subsequently upgraded to a complaint by the Office of the Chief Disciplinary Counsel (“CDC”). [Pet. Ex. 1; RR pp. 38-39]. The allegations against Henderson pertained to her representation of Moses in three matters from 2018 through 2021: (1) a theft by check case; (2) a DWI case; and (3) efforts to negotiate a favorable payment arrangement for past-due commercial lease payments related to Moses and his wife Connie’s trucking business (“Moses’s Cases”). [RR pp. 19, 51-52 & 177-178; Resp. Exs. 1-4, 6, 8, 11, 14-15, 19-20 & 22-23]. Henderson’s initial response to the complaint consisted of a one paragraph letter stating she had reviewed her records and that neither Moses nor his wife Connie were her clients. Henderson also stated the complaint did not contain her *correct* office information, and she could not answer any allegations in the grievance “because none were name[d].” [Pet. Ex. 2; App. 1; RR pp. 143-144].

After preliminary investigation, the CDC notified Henderson it had determined that her alleged behavior, including her initial response to the grievance, constituted potential violations of Rules 1.01(b), 1.03 and 1.15(d) of the Texas Disciplinary Rules of Professional Conduct. [CR 6-13]. The complaint was assigned to proceed before an evidentiary panel of the District 4 Grievance

Committee. [CR 15-30]. The Commission for Lawyer Discipline (the “Commission”) filed its original evidentiary petition on September 18, 2020. [CR 34-40]. Henderson’s counsel filed an answer on October 9, 2020. [CR 44-45]. Henderson’s disciplinary matter was subsequently set and re-set, leading to a final evidentiary hearing set for February 2, 2022. [CR 81-84].

Prior to the evidentiary hearing, the parties filed a Rule 11 Agreement with the evidentiary panel agreeing that Rule 8.04(a)(3) of the Texas Disciplinary Rules of Professional Conduct was to be considered as a potential rule violation based on the allegations set forth in the evidentiary petition. [CR 167]. The parties also entered an Agreed Order of Dismissal without prejudice, of allegations relating to Henderson’s representation of Moses in an Occupational Driver’s License matter. [CR 169]. The evidentiary hearing was held on February 2, 2022. [CR 171-173; RR]. During the hearing, disciplinary counsel stipulated that the only rule violation it was still pursuing was for Rule 8.04(a)(3)

II. The Evidence

Henderson has known Moses personally and professionally for over ten years, at least since she obtained her Texas law license in 2005. [RR pp. 72 & 145]. In August of 2018, Moses met with Henderson and another attorney, Michael Driver (“Driver”) regarding Moses’s Cases and a fee agreement for representation in those matters. [RR pp. 51-52 & 177-178; Resp. Ex. 23]. Moses and Henderson verbally

agreed to a fee agreement that consisted of cash payment(s) by Moses of \$3,000.00, and the possession and use of, and ultimately title to, a BMW vehicle valued by Moses at approximately \$9,000.00, in lieu of any other cash payments. [RR pp. 52-53 & 127-128]. Henderson was then supposed to draft a written agreement memorializing the terms of the fee arrangement, but she never did. [RR p. 55].

With respect to the BMW, the agreement required Moses and his wife to continue making payments on the outstanding note on the vehicle until it was paid off and to continue to maintain insurance on the vehicle while Henderson had possession and use of the vehicle. [RR pp. 52-53]. Moses turned over possession of the BMW to Henderson the day of their August 2018 meeting, and she and/or Driver had use of the vehicle from that point forward. [RR pp. 56-57, 151-156 & 177-178; App. 2; Resp. Ex. 23]. Moses and his wife continued to make payments on the BMW while it was in Henderson's possession, until the vehicle was paid off. [RR. pp. 52-53].

The agreement also required Henderson to pay any other costs associated with the BMW while it was in her possession, including for any mechanical issues, storage, and toll charges. [RR pp. 58-59]. During the time Henderson and/or Driver

were using the car, Moses ended up paying \$400-500 in toll charges.² [RR pp. 58-59]. Eventually, the BMW began having transmission issues and Henderson took it to an auto repair business, A-1 Transmissions (“A-1”), for repairs and represented to Moses she would “take care of it” as to payment for the necessary work on the vehicle. [RR pp. 57-58].

While Henderson testified on the one hand that Moses expected her to pay for the repairs to the BMW, she also testified that when the car “broke down” he told her he would pay for it because he knew the people at A-1 and would negotiate a price. [RR p. 154]. Ultimately, Henderson did not pay for the transmission work performed by A-1, who subsequently placed a mechanic’s lien on the car and placed it in a storage facility. The storage facility later placed its own lien on the vehicle for storage charges. [RR pp. 57-58 & 154-155]. The BMW remains in storage with liens on it from both A-1 and the storage facility totaling in excess of \$11,000.00. [RR p. 58].

Henderson represented Moses in both the theft by check case and the DWI case. [Resp. Exs. 6, 8, 14, 19-20 & 22]. Regarding the theft by check case, the pleadings in that matter refer to Moses interchangeably as both “Moses Mays” and

² Driver testified that Moses asked him to pay for tolls that were incurred while he (Driver) was using the BMW, that he was unable to pay it through his own toll account as Moses’s son already had a toll account on the vehicle, but that he “went ahead and paid for the tolls” that he used. [RR p. 179, lines 16-23]. The record is not clear as to whom Driver paid any such charges or whether they were included in the \$400-500 in toll charges paid by Moses.

“Moses Mays, Jr.” [Resp. Exs. 5-10 & 12; App. 3]. Further, the date of birth listed for Moses in pleadings in both the theft by check case *and* the DWI case is April 1, 1953. [Resp. Exs. 5, 7-10, 13-14 & 18; App. 3 & 4]. For his part, Moses testified unequivocally that he had always represented himself to Henderson as “Moses Mays” or “Moses Mays, Jr.” [RR p. 41]. When asked by her counsel whether her testimony was that she *didn’t* know Moses as “Moses Mays, Jr.” Henderson equivocated, stating, “Well, I guess. I didn’t know him as Moses Mays, Jr., so much...” [RR p. 145]. But upon cross-examination, Henderson acknowledged she had met Moses’s son, whose name is Brent Aasgaard, at a credit union to deal with the BMW. [RR pp. 158-159].

At the completion of the evidentiary hearing the Evidentiary Panel found that Henderson violated Rule 8.04(a)(3). [CR 171-173; RR pp. 185-186]. The Chair of the Evidentiary Panel signed a Judgment of Public Reprimand on February 11, 2022. [CR 175-177; App. 5]. This appeal followed. [CR 179].

III. Appellant’s False Statement Regarding Prior Complaints

Finally, Henderson asserts in her Statement of Facts, without reference to support in the record, that “Prior to the filing of this Petition, [Henderson] had no prior disciplinary complaints from the Commission for Lawyer Discipline.” [Appellant’s Brief, p. 2]. This statement is untrue, as is set forth more fully in argument, below.

SUMMARY OF THE ARGUMENT

This case is based on Henderson's dishonesty in; (1) dealing with Moses's Cases with respect to their fee arrangement, which included partial compensation in the form of possession and use of a BMW provided by Moses; and (2) Henderson's initial response to the complaint in this matter. It is undisputed that Henderson and/or her partner/co-counsel Michael Driver obtained possession and use of the BMW while Henderson was representing Moses in the underlying matters. What is disputed is the nature of the fee arrangement between Henderson and Moses, the BMW's place in that arrangement, and Henderson's honesty, or lack thereof, with respect to that arrangement. Henderson asserts there is not substantial evidence in the record to support the panel's finding of a violation of Rule 8.04(a)(3) regarding her dealings with her client in this respect.

It is also undisputed that Henderson represented Moses in the underlying matters at issue, and that Henderson had never represented Moses's son in **any** matter, much less any of those three matters. Despite those facts, when initially responding to the grievance, Henderson stated she did not have a client named "Moses Mays, Jr." she had represented in connection with the three, specific matters concerned therein. And, when given the opportunity to clarify her response once the Commission had filed its evidentiary petition, in both discovery and the hearing before the evidentiary panel, Henderson dissembled, claiming her response was not

dishonest as she believed the complaint had been filed by Moses's son, who she thought was "Moses Mays, Jr.," whom she had never represented. But even if Moses's son *had* filed the grievance, there was only ever one Moses Mays that she had represented on the three specific matters concerned in the grievance and the petition. Nevertheless, Henderson also asserts there is not substantial evidence in the record to support the panel's finding of a violation of Rule 8.04(a)(3) regarding her response to the grievance in this matter.

Henderson's sufficiency arguments fail. There is ample evidence in the record to support the evidentiary panel's finding of a violation of Rule 8.04(a)(3) with respect to both her dealings with Moses related to the BMW, **and** her initial response to the complaint in this matter. Courts have interpreted Rule 8.04(a)(3) to apply to conduct that denotes a lack of honesty, probity, integrity, or straightforwardness. The rule is particularly applicable where the attorney's action is taken in order to further her own self-interest, as in this case. Substantial evidence supports the panel's finding that Henderson failed to live up to this standard, and the panel's judgment should be affirmed.

ARGUMENT

I. Substantial evidence supports the panel’s finding of violations of Rule 8.04(a)(3).

A. Standard of Review

Evidentiary panels of district grievance committees hear evidence and adjudicate grievances against attorneys accused of misconduct at the election of such attorneys, and evidentiary panel proceedings are akin to administrative adjudications. TEX. RULES DISCIPLINARY P. R. 2.15 & 2.17; *Comm’n for Lawyer Discipline v. Schaefer*, 364 S.W.3d 831, 833 (Tex. 2012); *In re Allison*, 288 S.W.3d 413, 415 (Tex. 2009). The substantial-evidence standard of review applies to the Board’s review of the decisions of evidentiary panels. TEX. GOV’T CODE ANN. §81.072(b)(7) (West 2022); TEX. RULES DISCIPLINARY P. R. 2.23.

The focus under the substantial-evidence standard is whether the record provides some reasonable basis for the action taken by an administrative body. *City of El Paso v. Pub. Util. Comm’n of Tex.*, 883 S.W.2d 179, 185 (Tex. 1994). The reviewing tribunal “must determine whether the evidence as a whole is such that reasonable minds could have reached the conclusion the [administrative body] must have reached in order to take the disputed action.” *Id.* at 186, citing *Texas State Bd. of Dental Examiners v. Sizemore*, 759 S.W.2d 114, 116 (Tex. 1988), *cert. denied*, 490 U.S. 1080 (1989). Moreover, the “findings, inferences, conclusions, and decisions of [the administrative body] are presumed to be supported by substantial

evidence,” and the party challenging the decision bears the burden of proving otherwise. *Id.* (citations omitted).

“Substantial evidence requires only more than a mere scintilla, and ‘the evidence on the record actually may preponderate against the decision of [the administrative body] and nonetheless amount to substantial evidence.’” *R.R. Comm’n of Tex. v. Torch Operating Co.*, 912 S.W.2d 790, 792 (Tex. 1995), citing *Texas Health Facilities Comm’n v. Charter Medical – Dallas, Inc.*, 665 S.W.2d 446, 452 (Tex. 1984); *see also Wilson v. Comm’n for Lawyer Discipline*, BODA Case No. 46432, 2011 WL 683809, at *2 (January 30, 2011). In determining whether there is substantial evidence to support the findings and conclusions of the administrative body, the reviewing court may not substitute its judgment for that of the administrative body and must consider only the record upon which the decision is based. *R.R. Comm’n of Tex.*, 912 S.W.2d at 792; *Tex. State Bd. of Dental Exam’rs*, 759 S.W.2d at 116. The ultimate question is not whether the panel’s decision is correct, but only whether the record demonstrates a reasonable basis for its decision. *City of El Paso*, 883 S.W.2d at 185.

B. The record supports the Panel’s conclusion that Henderson engaged in conduct involving dishonesty, fraud, deceit or misrepresentation, in violation of Rule 8.04(a)(3), with regard to her dealings with Moses involving the BMW.

Rule 8.04(a)(3) provides, “A lawyer shall not . . . [e]ngage in conduct involving dishonesty, fraud, deceit, or misrepresentation.” TEX. DISCIPLINARY R.

PROF'L CONDUCT 8.04(a)(3). The disciplinary rules define "fraud" as "conduct having a purpose to deceive and not merely negligent misrepresentation or failure to apprise another of relevant information." TEX. DISCIPLINARY R. PROF'L CONDUCT, Terminology.

The disciplinary rules do not define the terms "dishonesty," "deceit," and "misrepresentation." However, courts have concluded that, consistent with their ordinary meanings, the terms "dishonesty," "deceit," or "misrepresentation" denote "a lack of honesty, probity, or integrity in principle" and a "lack of straightforwardness," particularly where an attorney's lack of candor acts to promote her own interests. *Olsen v. Comm'n for Lawyer Discipline*, 347 S.W.3d 876, 882-83 (Tex.App. – Dallas 2011, pet. denied); *Rosas v. Comm'n for Lawyer Discipline*, 335 S.W.3d 311, 319 (Tex.App. – San Antonio 2010, no pet.); *Brown v. Comm'n for Lawyer Discipline*, 980 S.W.2d 675, 680 (Tex.App. – San Antonio 1998, no pet.); see also, *Robins v. Comm'n for Lawyer Discipline*, No. 01-19-00011-CV, 2020 WL 101921 (Tex.App. – Houston [1st Dist.] Jan. 9, 2020, pet. denied) (mem. op.). "Furthermore, any conduct involving dishonesty, deceit, or misrepresentation is prohibited by Rule 8.04(a)(3)." *Onwuteaka v. Comm'n for Lawyer Discipline*, No. 14-07-00544-CV, 2009 WL 620253, *7 (Tex.App. – Houston [14th Dist.] March 12, 2009, pet. denied) (mem. op.).

Henderson cites a memorandum opinion from the 5th Court of Appeals in support of her contention that “Courts have interpreted 8.04(a)(3) to require an intentional falsehood.” [Appellant’s Brief, p. 9, citing *Walter v. Comm’n for Lawyer Discipline*, No. 05-03-01779-CV, 2005 WL 1039970 (Tex.App. – Dallas May 5, 2005, pet. denied) (mem. op.).] But the 5th Court’s opinion in *Walter* cites to no authority for this proposition, save the language of Rule 8.04(a)(3) itself, which contains no such express intent requirement. Moreover, the 5th Court and others have repeatedly analyzed Rule 8.04(a)(3) outside the context of allegations of “fraud” with reference to the general meanings of “dishonesty,” “deceit,” and “misrepresentation” as discussed above.³

Furthermore, Part 15 of the Texas Rules of Disciplinary Procedure provides guidelines for appropriate sanctions when professional misconduct is found to have occurred that contemplate distinct levels of sanction depending on the attorney’s culpability:

In cases where a lawyer engages in dishonesty, fraud, deceit or misrepresentation toward a client, disbarment or suspension may be appropriate when an attorney *knowingly* deceives a client and causes injury or serious injury, or potential injury or serious injury to the client,

³ E.g., *Olsen*, 347 S.W.3d at 882-83; *Rosas*, 335 S.W.3d at 319 (“[R]osas engaged in conduct involving dishonesty because his actions lacked probity, integrity, and straightforwardness.”); and *Robins*, 2020 WL 101921, *12-13 (finding attorney’s conduct in attempting to continue to represent a client after her death, as though she were still living, exhibited a “lack of straightforwardness” demonstrating violations of Rule 8.04(a)(3), while noting that Rule 3.03(a)(2) also addresses dishonesty but expressly includes that a lawyer not “knowingly” engage in a violation of *that* Rule, demonstrating its requirement of “more than a lack of straightforwardness”).

whereas a public or private reprimand may be appropriate when an attorney *is negligent* in determining the accuracy or completeness of information provided to a client, and causes injury, potential injury, or little or no actual or potential injury to a client; and,

In cases where a lawyer's conduct involves dishonesty, fraud, deceit or misrepresentation to a court or another, disbarment or suspension may be appropriate when an attorney *intentionally or knowingly* deceives the court or another and causes serious or potentially serious injury to a party, or adverse legal effect on a legal proceeding, whereas a public or private reprimand may be appropriate when an attorney *is negligent* in determining whether information provided to a court or another is false and causes injury, potential injury, or little or no potential injury to a party, or adverse, potentially adverse or little or no adverse or potentially adverse effect on a legal proceeding.

-- TEX. DISCIPLINARY R. PROF'L CONDUCT 15.04(E)(1-4) and 15.05(A)(1-4), respectively. (emphasis added)

Here, the record contains abundant evidence that Henderson engaged in conduct lacking in honesty, probity, integrity and/or straightforwardness with respect to the fee arrangement with Moses and the BMW's part in same. Henderson agreed to take the BMW in lieu of monetary payments, as part of her compensation for providing representation in Moses's Cases. She was supposed to draft a written agreement memorializing that fee arrangement but did not. Henderson was supposed to pay for costs associated with the car, other than payments on the outstanding note and for insurance, including toll charges and costs associate with any mechanical issues, but did not. Moses and his wife paid off the outstanding note on the car, over the course of nearly a year, while Henderson and/or her then partner/co-counsel Driver had possession and use of the BMW. When the car

encountered transmission issues, Henderson took it to an auto repair shop, A-1 Transmissions, but did not pay for the mechanical repairs as contemplated. Ultimately, the BMW was placed in storage by A-1 Transmissions and remains in storage with liens totaling over \$11,000.00. Further, Moses expressly testified that Henderson was dishonest with him in their dealings regarding the BMW and its part in Henderson's fee agreement. See *Curtis v. Comm'n for Lawyer Discipline*, 20 S.W.3d 227, 234 (Tex.App. – Houston, [14th Dist.] 2000, no pet.).

Rather than address this substantial evidence directly, Henderson incorrectly asserts that the Commission's trial counsel "conceded" a failure to meet the Commission's burden as to Henderson's conduct regarding the BMW by acknowledging a potential credibility determination by the evidentiary panel as to the witness testimony. Of course, a trial court, in this case the evidentiary panel, is the sole judge of witness credibility and the weight to be given testimony. *Allison v. Comm'n for Lawyer Discipline*, 374 S.W.3d 520, 525 (Tex.App. – Houston [14th Dist.] 2012, no pet.), citing *Curtis*, 20 S.W.3d at 231; see also, *Ponce v. Comm'n for Lawyer Discipline*, No. 04-20-00267-CV, 2022 WL 1652147, *6 (Tex.App. – San Antonio, May 25, 2022, no pet. h.) (mem. op.). And a recognition that there may be competing witness testimony for the factfinder to review is hardly a concession that a burden has not been met.

Henderson suggests the contested evidence demonstrated that Moses was the one who was “deceptive, deceitful, and manipulative.” She further states, without reference to any support in the record, that she was “[n]ot compensated for the work she did prior to the filing of the grievance.” [Appellant’s Brief, p. 11]. This despite the undisputed testimony that she was paid at least \$3,000.00 in cash, and her and/or Driver obtained possession and use of the BMW from August of 2018 through at least July of 2019.

But as noted above, the weighing of the evidence was solely within the province of the panel, and the Board may not substitute its judgment for decisions within the panel’s discretion, provided a reasonable basis exists in the record for the action taken. *R.R. Comm’n of Tex.*, 912 S.W.2d at 792. Here, substantial evidence underlies the panel’s ruling that Henderson engaged in conduct involving dishonesty, fraud, deceit or misrepresentation, in her dealings with Moses related to the BMW.

C. The record supports the Panel’s conclusion that Henderson engaged in conduct involving dishonesty, fraud, deceit or misrepresentation, in violation of Rule 8.04(a)(3), with regard to her initial response to the grievance and/or her discovery responses in the disciplinary proceeding.

Rule 1.06(G) defines “Complaint” to include those written matters received by the CDC, “[o]n the face thereof or upon screening or preliminary investigation” of such matters. TEX. RULES DISCIPLINARY P. R. 1.06(G). Some courts have held that the Commission’s original evidentiary petition in an attorney disciplinary

proceeding may join **all** claims the Commission may have against a respondent attorney, whether such claims were addressed in the CDC's investigation or not, pursuant to the joinder of claims rule in the Texas Rules of Civil Procedure. *Diaz v. Comm'n for Lawyer Discipline*, 953 S.W.2d 435, 437 (Tex.App. – Austin 1997, no pet.); *Hawkins v. Comm'n for Lawyer Discipline*, 988 S.W.2d 927, 939 (Tex.App. – El Paso 1999, pet. denied); *WorldPeace v. Comm'n for Lawyer Discipline*, 183 S.W.3d 451, 456-57 (Tex.App. – Houston [14th Dist.] 2005, pet. denied); TEX. R. CIV. P. 51(a). Others have seemed to view such joinder of claims in an original evidentiary petition slightly more narrowly, interpreting such situations without reference to Rule 51(a) and holding that the petition may contain allegations that are part of the original complaint as well as those that arise during CDC's preliminary investigation. *Weiss v. Comm'n for Lawyer Discipline*, 981 S.W.2d 8, 14 (Tex.App. – San Antonio 1998, pet. denied); *Comm'n for Lawyer Discipline v. Stern*, 355 S.W.3d 129, 137-38 (Tex.App. – Houston [1st Dist.] 2011, pet. denied). In either case, the conduct at issue here, Henderson's initial response to Moses's complaint, was properly pled in the Commission's original evidentiary petition as it arose during CDC's preliminary investigation of these matters.

Again, the record contains ample evidence that Henderson engaged in conduct lacking in honesty, probity, integrity and/or straightforwardness with respect to her initial response to the grievance. It is undisputed that Moses and Henderson have

known each other for ten years or more, that Moses retained Henderson to represent him in the commercial lease negotiation and the theft by check and DWI cases. Henderson never represented Moses's son, Brent Aasgaard, in **any** capacity. Further, there was evidence in the record that Moses had always represented himself to Henderson as "Moses Mays" and/or "Moses Mays, Jr.," that documents in the theft by check case alternately referred to the defendant therein as "Moses Mays" and/or "Moses Mays, Jr.," and that the defendant "Moses Mays" in both the theft by check and DWI cases was born in April 1953. It is also undisputed that Henderson's initial response to the grievance included her statement that after her review of her records she had determined neither Moses nor his wife was her client.

After the Commission filed its original evidentiary petition, Henderson again had the opportunity to clarify her response to the grievance in discovery, but again represented that she did not know Moses by the name "Moses Mays, Jr.," and stated the "allegation was the result of a misunderstanding/miscommunication between [CDC] and [Henderson]." [Pet. Ex. 13, pp. 23-24]. Henderson essentially invited the panel to disbelieve all evidence to the contrary, and instead to believe her assertion that she had not represented the same "Moses Mays," junior or otherwise, in each of the three referenced matters. There were multiple, reasonable bases in the record for the panel to decline Henderson's invitation in this respect, which it did.

Moreover, adoption of an attitude of being above the disciplinary process is problematic in itself. *Rangel v. State Bar of Texas*, 898 S.W.2d 1, 3-4 (Tex.App. – San Antonio 1995, no writ). Courts have held that the total failure to respond during the investigatory process, as well as responding but making misrepresentations to a grievance committee, can even support disbarment. *Id.*, at 4 (Tex.App. – San Antonio 1995, no writ); *Weiss*, 981 S.W.2d at 24-25. As the Court noted in *Rangel*, “Allowing complaining clients to see lawyers fail to respond to disciplinary proceedings without any serious consequence to the attorney could seriously damage the credibility of the profession and its ability to police itself.” *Rangel*, 898 S.W.2d at 3. Similarly, allowing a complaining client to see a lawyer dissembling when responding to the basic, preliminary inquiry as to whether he was a client of hers - in the face of overwhelming evidence - without serious consequence, would damage the credibility of the profession.

Here again, substantial evidence underlies the panel’s ruling that Henderson engaged in conduct involving dishonesty, fraud, deceit or misrepresentation, as relates to her initial response to Moses’s complaint and subsequent discovery responses regarding same.

II. The panel acted within its discretion in assessing a Public Reprimand.

While Henderson did not brief a challenge to the propriety of the level of sanction assessed by the evidentiary panel, her requested relief includes,

alternatively, a request for a modification of the sanction to a Private Reprimand. That request should be rejected.

Evidentiary panels are afforded discretion in assessing sanctions. The Board reviews the sanction imposed for professional misconduct for abuse of discretion. *McIntyre v. Commission for Lawyer Discipline*, 169 S.W.3d 803, 807 (Tex. App.—Dallas 2005, no pet.). Trial courts (and, as in this case, evidentiary panels) have broad discretion to impose discipline, but a sanction may be so light or heavy as to constitute an abuse of discretion. *Molina v. Commission for Lawyer Discipline of The State Bar of Texas*, BODA No. 35426, 2006 WL 6242393, at *4 (March 31, 2006) (citing *State Bar of Texas v. Kilpatrick*, 874 S.W.2d 656, 659 (Tex. 1994)). A court abuses its discretion when it acts in an unreasonable and arbitrary manner, without reference to any guiding principles. *McIntyre*, 169 S.W.3d at 807. The court or evidentiary panel must consider the factors set out in the Texas Rules of Disciplinary Procedure. *Eureste v. Commission for Lawyer Discipline*, 75 S.W.3d 184, 202 (Tex. App.—Houston [14th Dist.] 2002, no pet.). The fact that an appellate court might impose a sanction different from that imposed by the trial court does not show an abuse of discretion. *Love v. State Bar of Texas*, 982 S.W.2d 939, 944 (Tex. App.—Houston [14th Dist.] 2002, no pet.).

As explained above, Part 15 of the Texas Rules of Disciplinary Procedure provides guidelines to consider in determining appropriate sanctions for professional

misconduct. General factors to be considered include the duty violated, the respondent attorney's level of culpability, the potential or actual injury caused by the misconduct, and the existence of aggravating or mitigating factors. TEX. RULES DISCIPLINARY P. R. 15.02.

More specifically, Rules 15.04(E)(1-4) and 15.05(A)(1-4) set forth guidelines for determining appropriate sanctions in circumstances involving an attorney engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation that span the gamut, from private reprimand to disbarment. TEX. RULES DISCIPLINARY P. R. 15.04(E)(1-4) and 15.05(A)(1-4). Here, the panel's sanction of a Public Reprimand is supported by ample evidence demonstrating Henderson's dishonesty in dealing with Moses with respect to the BMW in their fee agreement, as well as in her dishonesty in responding to the grievance itself. The panel acted within its discretion in issuing a Public Reprimand and the Board should affirm that sanction without modification.

III. Judicial Notice of another court's records – Henderson's false statement regarding prior disciplinary complaints.

Finally, in an effort to address an untrue statement in Henderson's "Statement of Facts," the Commission requests, per Tex. R. Evid. 201, the Board take judicial notice of the attached records from a prior disciplinary proceeding involving Henderson in the 190th Judicial District Court of Harris County, Texas. A reviewing court may take judicial notice of another court's records for the first time on appeal

and must do so when requested and supplied with the necessary information. See *Office of Pub. Util. Counsel v. Pub. Util. Comm'n of Tex.*, 878 S.W.2d 598, 600 (Tex. 1994) (per curiam); *Freedom Communications, Inc. v. Coronado*, 372 S.W.3d 621, 623 (Tex. 2012); TEX. R. EVID. 201(c)(2).

Henderson's assertion that prior to the filing of the original evidentiary petition in this matter she had "no prior disciplinary complaints from the [Commission]" is false. [Appellant's Brief, p. 2]. As noted above, the Commission's original evidentiary petition in this matter was filed on September 18, 2020.

On or about August 9, 2019, the Commission filed an original disciplinary petition against Henderson in Cause No. 2019-55008, in the 190th Judicial District Court of Harris County, Texas (the "2019 Case"). [App. 6]. On March 4, 2020, following a bench trial held February 19, 2020, the Honorable W. Kent Walston entered a Judgment of Active Suspension in the 2019 Case, imposing a three (3) year active suspension against Henderson for violations of Rules 1.04(c), 1.14(a), 1.14(b), 1.14(c), 8.04(a)(2), 8.04(a)(3), and 8.04(b) of the Texas Disciplinary Rules of Professional Conduct. [App. 7].

On April 14, 2020, Judge Walston entered an Order granting Henderson's motion for new trial in the 2019 Case, vacating the Judgment of Suspension, and again setting the case for trial. [App. 8]. Ultimately, the 2019 Case proceeded to a

jury trial on July 26, 2022, and on August 1, 2022, Judge Walston entered a Judgment of Active Suspension in accordance with the jury's verdict, imposing a five (5) year active suspension against Henderson for violations of Rules 1.01(b)(1), 1.03(a), 1.14(a), 1.14(b), 1.15(d), 8.04(a)(2) and 8.04(a)(3). [App. 9]. On August 18, 2022, Henderson filed a Notice of Appeal, and on September 18, 2022, she filed a First Amended Motion for New Trial in the 2019 Case. [App. 10 & 11]. Henderson's post-judgment motion for new trial in the 2019 Case is pending, and her appellate remedies in that case have not been exhausted.

To be clear, Henderson represented to the Board that she had "no...disciplinary complaints from the [Commission]" prior to the instant complaint, filed on September 18, 2020, despite knowing full well: (1) she was the subject of a complaint filed by the Commission in August 2019; (2) that complaint initially led to a Judgment of Active Suspension entered in March of 2020; and (3) the case was still pending on September 18, 2020, after her motion for new trial was granted in the August 2019 disciplinary action in April of 2020.

CONCLUSION AND PRAYER

For these reasons, the Commission prays that the Board affirm the judgment of the District 4-3 Evidentiary Panel of the State Bar of Texas.

RESPECTFULLY SUBMITTED,

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CHIEF DISCIPLINARY COUNSEL

ROYCE LEMOINE
DEPUTY COUNSEL FOR ADMINISTRATION

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STATE BAR CARD No. 24113581
ATTORNEY FOR APPELLEE

CERTIFICATE OF COMPLIANCE

Pursuant to the Board of Disciplinary Appeals Internal Procedural Rules, the foregoing brief on the merits contains approximately 5,020 words (total for all sections of brief that are required to be counted), which is less than the total words permitted by the Board's Internal Procedural Rules. Counsel relies on the word count of the computer program used to prepare this petition.



MICHAEL G. GRAHAM
APPELLATE COUNSEL
STATE BAR OF TEXAS

CERTIFICATE OF SERVICE

This is to certify that the above and foregoing brief of Appellee, the Commission for Lawyer Discipline has been served on Appellant, Crystal Danielle Henderson, by and through her counsel of record, Mr. Brandon R. Cammack, Cammack Friedman, PLLC, 4265 San Felipe Street, Suite 1100, Houston, Texas 77027, by email to brandon@cammackfriedman.com on the 31st day of October, 2022.



MICHAEL G. GRAHAM
APPELLATE COUNSEL
STATE BAR OF TEXAS

No. 66402

**Before the Board of Disciplinary Appeals
Appointed by
The Supreme Court of Texas**

**CRYSTAL DANIELLE HENDERSON,
APPELLANT**

V.

**COMMISSION FOR LAWYER DISCIPLINE,
APPELLEE**

*On Appeal from the Evidentiary Panel
For the State Bar of Texas District 4-3
No. 202001583[Mays]*

**APPENDIX TO BRIEF OF APPELLEE
COMMISSION FOR LAWYER DISCIPLINE**

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No. 66402

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**APPENDIX TO BRIEF OF APPELLEE
COMMISSION FOR LAWYER DISCIPLINE**

TO THE HONORABLE BOARD OF DISCIPLINARY APPEALS:

The Commission for Lawyer Discipline attaches the following documents in support of the foregoing brief:

APPENDIX 1: Henderson's initial response to the grievance. (Pet. Ex. 2)

APPENDIX 2: Unsworn Declaration of Michael Driver. (Resp. Ex. 23)

APPENDIX 3: Pleadings filed in the theft by check case. (Resp. Exs. 5-10 & 12)

APPENDIX 4: Pleadings filed in the DWI case. (Resp. Exs. 13-14 & 18)

APPENDIX 5: Judgment of Public Reprimand. (CR 175-177)

APPENDIX 6: Original Disciplinary Petition and Requests for Disclosure filed August 9, 2019, in Cause No. 2019-55008, *Commission for Lawyer Discipline v. Crystal Danielle Henderson*, in the 190th Judicial District Court, Harris County, Texas.

APPENDIX 7: Judgment of Active Suspension filed March 4, 2020, in Cause No. 2019-55008, *Commission for Lawyer Discipline v. Crystal Danielle Henderson*, in the 190th Judicial District Court, Harris County, Texas.

APPENDIX 8: Order on Amended Motion for New Trial entered April 14, 2020, in Cause No. 2019-55008, *Commission for Lawyer Discipline v. Crystal Danielle Henderson*, in the 190th Judicial District Court, Harris County, Texas.

APPENDIX 9: Judgment of Active Suspension filed August 2, 2022, in Cause No. 2019-55008, *Commission for Lawyer Discipline v. Crystal Danielle Henderson*, in the 190th Judicial District Court, Harris County, Texas.

APPENDIX 10: Notice of Appeal filed August 18, 2022, in Cause No. 2019-55008, *Commission for Lawyer Discipline v. Crystal Danielle Henderson*, in the 190th Judicial District Court, Harris County, Texas.

APPENDIX 11: First Amended Motion for New Trial filed September 18, 2022, in Cause No. 2019-55008, *Commission for Lawyer Discipline v. Crystal Danielle Henderson*, in the 190th Judicial District Court, Harris County, Texas.

App. 1

April 13,2020

Sent via Email: houcducresponses@texasbar.com

RE: 202001583-Mr./Ms. Moses Mays Jr.-Crystal D. Henderson

Dear Office of Chief Disciplinary Counsel,

In reference to the above named grievance I have reviewed my records and neither of the above are my clients. Also, the information on the form isn't even my office information. Further, I cannot answer any and each allegation(s) because none were name. Therefore, this concludes my response to the above name alleged grievance.

Respectfully,

Crystal D. Henderson.

CC: Attorney General of Texas

EXHIBIT PX - 2

From: [Crystal Henderson](#)
To: [houcdcreponses](#)
Subject: Response: 202001583- Moses Mays, Jr-Crystal D.Henderson
Date: Monday, April 13, 2020 4:39:17 PM
Attachments: [202001583-Mays.pdf](#)

*** *State Bar of Texas* External Message *** - Use Caution Before Responding or Opening Links/Attachments

Dear Office of Chief Disciplinary Counsel,

Please see the attached for the response of the above alleged grievance.

Respectfully,

Crystal D. Henderson, Esq.

App. 2

**BEFORE EVIDENTIARY PANEL 4-3 OF THE
STATE BAR DISTRICT NO. 4 GRIEVANCE COMMITTEE**

COMMISSION FOR LAWYER DISCIPLINE,	§	202001583 [MAYS]
Petitioner,	§	
	§	
v.	§	
	§	
CRYSTAL DANIELLE HENDERSON,	§	
Respondent.	§	HARRIS COUNTY, TEXAS

**UNSWORN DECLARATION PURSUANT TO TEXAS CIVIL
PRACTICE AND REMEDIES CODE § 132.001**

My name is Michael Driver, my date of birth is August 26, 1980, I am an attorney licensed by the State of Texas and my address is 405 Main St., Houston, TX 77002, Harris County and United States of America. I declare under penalty of perjury that the following is true and correct.

“I first met Moses Mays through Crystal Henderson. She scheduled a meeting with Mr. Mays at his house on August 21, 2018. At that meeting he discussed the trucking company’s financial problems due to mismanagement by a third party. Mr. Mays said he wanted a “white male lawyer” to help try and negotiate a settlement with the trucking company he was leasing the trucks from. He offered the use of his son’s vehicle in lieu of payment for legal services. He informed me that his son still owed about \$7,000.00 on the car, but he couldn’t sign a letter of protection on the car because it was still in his son’s name.

“Between August 24 and September 20, 2018 I discussed the renegotiation for the contract between 19th Capital and Mr. Mays’ company, May 3rd. I managed to extend the deadline for him to make payments to keep the contract in place, however Mr. Mays never made the payment. He told me he wanted me to fly to Indianapolis with him to negotiate with 19th Capital in person, however that never materialized. He informed me that he did that in person after losing contact with me.

“Between September 20, 2018 and January 4, 2019 Mr. Mays and I had limited contact. The contact we had concerned him repossessing his son’s car, citing toll costs, which were in his son’s name. Mr. Mays also had criminal legal proceedings in Fort Bend County and he asked me to handle them. During this time Mr. Mays made one payment for legal services.

“Concerning the Fort Bend County cases, I reached out to the court to handle the outstanding criminal warrant for his failure to appear on one of his cases, and the court asked me to approach when I signed onto the new case. I appeared on his case on January 25, 2019 and I negotiated a dismissal of the first charge and picked up discovery for the new case and reset him.

“Sometime between January 24 and February 21, 2019 Mr. Mays approached both me and Crystal for the purpose of starting a debt collection firm. However, my relationship between both Mr. Mays and Ms. Henderson soured during this time and I withdrew from his second case in Ft. Bend on March 8, 2019, and Ms. Henderson took over representation. This being said, there were a few casual encounters with Mr. Mays through August 2019. These meetings were sporadic and unplanned. The only thing we talked about during any interaction after I withdrew from representation was the planned debt collection firm. That idea never materialized because Mr. Mays never signed the lease for the office space he planned on moving the collection firm into. The lease was supposed to begin October 1, 2019.”

Executed in Harris County, State of Texas, on the 6th day of August, 2019.

/S/ Mike Driver

Michael Driver

App. 3

Respondent's Exhibit 5

13-CCR-170712
COM
Complaint
2790072



NO. 13JTC411835

DEFENDANT: Mays, Moses, Jr
ADDRESS: 323 South Richmond
Chicago IL 60612

DATE OF BIRTH: 04/01/1953
DL/ID: TX-09371318

Gender	Race	Eye Color	Hair Color	Height	Weight
Male	Black	Brown	Brown	6 Ft. 3 In.	250 Lbs.

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS

BEFORE ME, PERSONALLY APPEARED THE UNDERSIGNED AFFAIANT, an employee of Fort Bend County District Attorney's Office, who, after being by me duly sworn, deposes and says that she has good reason to believe and does believe, the following allegations are true and correct, that **MOSES MAYS, JR**, Defendant herein, and before the making and filing of this complaint, in the County of Fort Bend and the State of Texas, intentionally and knowingly, on or about the 26th day of March, 2013, the defendant did then and there intentionally and knowingly by deception and false token secure performance of a service, namely, Service and Merchandise, of the value of \$20.00 or more but less than \$500.00, from the service provider, Kelly Fitch, with intent to avoid payment and knowing that the service is provided only for compensation, by issuing and passing to the service provider; (13-698-TBC) :

CHECK DATE	MERCHANT	CHECK #	CHECK AMOUNT	RETURN TYPE
3/26/2013	Quail Valley Golf Course	1032	\$449.17	Insufficient Funds

Said check was deposited within 30 days of receipt and later returned by the bank unpaid. Further, a letter demanding payment of said checks was mailed to the defendant.

AGAINST THE PEACE AND DIGNITY OF THE STATE.

Dolley Martinez
AFFAIANT

SWORN TO AND SUBSCRIBED BEFORE ME, THIS 29th DAY OF October, 2013

J. A. Rude
ASSISTANT DISTRICT ATTORNEY
FORT BEND COUNTY, TEXAS

2013 NOV 12 AM 10:22
FILED
CLERK
FORT BEND COUNTY TEXAS

Respondent's Exhibit 6

CAUSE NO.: 13-CCR-170712

The State of Texas)	
)	IN THE COUNTY COURT
)	
vs.)	
)	AT LAW NO. 4
)	
MOSES MAYS)	
)	OF FORT BEND, TEXAS
)	

NOTICE OF APPEARANCE

Notice is hereby given of the entry of the undersigned as counsel for MOSES MAYS. All further notice and copies of pleadings, papers, and other material relevant to this action should be directed to and served upon:

Crystal Danielle Henderson, SBN 24050742
2310 Blodgett St.
Houston, TX 77004
Attorney for Defendant

DATED : 7/03/2018

/s/Crystal Danielle Henderson

Crystal Danielle Henderson, SBN 24050742

ALIAS CAPIAS
CAUSE NO. 13-CCR-170712



THE STATE OF TEXAS

TO ANY PEACE OFFICER OF THE STATE OF TEXAS, GREETING:

YOU ARE HEREBY COMMANDED TO ARREST:

Moses Mays Jr

Chicago IL 60612

D.O.B: 04/01/1953, TDL: TX-NA, HAIR:NA, EYES:NA, WGT:NA, HGT:NA, SEX:NA, RACE:NA
TRN#: 9245385701

and to safely keep, so that you have HIM before that Honorable County Court of Fort Bend County, Texas at the Courthouse of said County in Richmond, Texas, on the - Instanter day of , then and there to answer THE STATE OF TEXAS upon a charge by information (indictment) pending in County Court at Law 4, wherein said Defendant charged with the offense of THEFT PROP>=\$20<\$500 BY CHECK CLASS "B" (BF) NEW BOND SET AT \$1,000.00.

HEREIN FAIL NOT, but of this Writ made due return, showing how you have executed the same.

GIVEN UNDER MY HAND AND SEAL OF SAID COURT, at office in Richmond Texas this the 12th day of July, 2018

LAURA RICHARD, COUNTY CLERK
FORT BEND COUNTY, TEXAS

BY 
Joanna Vasquez, Deputy

OFFICER'S OR AUTHORIZED PERSON'S RETURN

CAME to hand on the ____ day of _____, _____ at ____ o'clock _____.M. and *EXECUTED on the ____ day of _____, _____ at ____ o'clock _____.M. by arresting the within named _____ at _____ in Fort Bend County, Texas, and taking _____ bond, which is herewith returned, placing _____ in County jail of _____, Texas.

**NOT EXECUTED, the diligence used to execute being _____; for the following reason _____, the above named may be found _____.

TO CERTIFY WHICH WITNESS MY HAND OFFICIALLY.

_____, Sheriff
_____, County, Texas

By _____
Deputy

**I, _____, swear that the above is true.
_____, Authorized Person

SWORN BEFORE ME, this ____ day of _____, _____.

Notary Public

*STRIKE IF NOT APPLICABLE

**USE ONLY IF A PERSON OTHER THAN SHERIFF OR CONSTABLE SERVED PROCESS.

ALIAS CAPIAS
I:\MISDEMEANOR\CAPIAS\ALIAS.DOC

FILE COPY

ORIGINAL

Respondent's Exhibit 8



BAIL BOND

THE STATE OF TEXAS
FORT BEND COUNTY

13 CCR 170712

Arrest Date: 8/24/2018

Arresting Officer/ Agency: FBCSO

Cause/Case#: 13-JTC411835

B
Race

M
Sex

04 1953
D.O.B.

KNOW ALL MEN BY THESE PRESENTS:

That we, MOSES MAYS JR, as Principal, also referred to as "Defendant", and the undersigned ATTORNEY BOND BY CRYSTAL PARCELL-HENDERSON will appear in the proper court or before the appropriate Magistrate to answer the accusation(s), and as Surety are held and firmly bound unto the STATE OF TEXAS in the penal sum of (\$ 1000.00) ONE THOUSAND Dollars, and in addition thereto, we are bound for prejudgment interest at the rate of ten (10%) on the face amount of this bond for the payment of all fees and expenses that may be incurred by any peace officer in re-arresting the said Principal (Defendant) in the event any of the stated conditions of this bond are violated. We do hereby bind ourselves, our heirs, executors, and administrator to pay all of such sums upon any violation of such condition(s). Defendant is not to leave the state of Texas without prior written consent of the Trial Judge.

The Defendant is charged with a: () Felony (☒) Misdemeanor

TO WIT: THEFT PROP >=\$20<\$500 BY CHECK (BF)

The defendant is to appear before the below listed Court in Fort Bend County, Texas, or the appropriate court in _____ County **INSTANTER**. NOW, THEREFORE, if the said Defendant shall make personal appearance before said Court, **INSTANTER**, as well as before any other Court to which such Defendant may be transferred, and for any and all subsequent proceedings that may be had relative to said charge, or in the course of any criminal action based upon such charge, and if the Defendant shall there remain from day to day and from term to term of said Court(s) to answer said accusation against the Defendant until the Defendant is discharged by due course of law, this obligation shall become null and void, otherwise, to remain in full force and effect.

Signed and Dated this, the 24 day of AUGUST, 2018

X Cybil D. H.
SURETY

(Attach copy of POA)

LICENSE # 24050742 EXP DATE _____

2310 BLODGETT
ADDRESS

HOUSTON, YX 77004 281-780-5014
CITY/STATE/ZIP

Moses Mays
PRINCIPAL (DEFENDANT)
[REDACTED]
PRINCIPAL
[REDACTED]
Missouri City, TX 77459
CITY/STATE/ZIP
[REDACTED]
PHONE# [REDACTED]

INDEMNITOR

INDEMNITOR'S STREET ADDRESS

CITY/STATE/ZIP

PHONE#

Taken and approved this the 24 day of Aug, 2018

BY: Sgt. V. J. [Signature]
Deputy Sheriff, Fort Bend County Sheriff's Office

****For out of County Bonds****

THE STATE OF TEXAS
COUNTY OF FORT BEND

I certify that the above surety is licensed and in good standing in Fort Bend County. if this bond was presented to me, I would accept the same.

SHERIFF OF FORT BEND COUNTY, TEXAS

BY: _____
DEPUTY

COURT APPEARANCE INFORMATION:

DATE: 12/14/2018 TIME: 8:30 AM COURT: COUNTY

ADDRESS: 1422 EUGENE HEIMANN CIRCLE RICHMOND, TX 77469 281-238-1900

**Additional information or Bond Conditions:

Official Government document of Fort Bend County. Alteration in any form is prohibited by law and subject to pr

mm
~~me~~

Respondent's Exhibit 9

ALIAS CAPIAS
CAUSE NO. 13-CCR-170712

13-CCR-170712
WARS1
Warrant Returned Served - Active Status
5447157



THE STATE OF TEXAS

TO ANY PEACE OFFICER OF THE STATE OF TEXAS, GREETING:

YOU ARE HEREBY COMMANDED TO ARREST:

MOSES MAYS JR

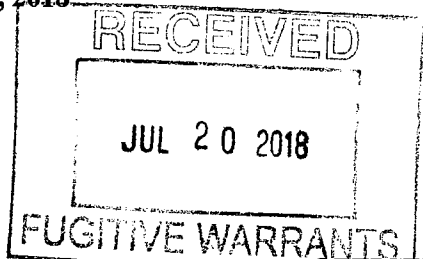
CHICAGO IL 60612

D.O.B: 04-1953, TDLTX-NA, HAIR:NA, EYES:NA, WGT:NA, HGT:NA, SEX:NA, RACE:NA, TRN
NUMBER: 9245385701

and to safely keep, so that you have HIM before that Honorable County Court of Fort Bend County, Texas at the
Courthouse of said County in Richmond, Texas, on the - Instanter day of , then and there to answer THE STATE OF
TEXAS upon a charge by information (indictment) pending in County Court at Law 4, wherein said Defendant charged
with the offense of THEFT PROP>=\$20<\$500 BY CHECK CLASS "B" (BF)NEW BOND SET AT \$1,000.00.

HEREIN FAIL NOT, but of this Writ made due return, showing how you have executed the same.

GIVEN UNDER MY HAND AND SEAL OF SAID COURT, at office in Richmond Texas this the 12th day of
July, 2018



LAURA RICHARD, COUNTY CLERK
FORT BEND COUNTY, TEXAS

BY *Joanna Vasquez*
JOANNA VASQUEZ, Deputy

OFFICER'S OR AUTHORIZED PERSON'S RETURN

CAME to hand on the 20TH day of JULY, 2018 at o'clock M. and *EXECUTED on the
24TH day of AUGUST, 2018 at o'clock M. by arresting the within named
MOSES MAYS JR. at 1410 WILLIAMS WAY in Fort Bend
County, Texas, and taking HES bond, which is herewith returned, placing HEM in County jail of
FORT BEND Texas.

**NOT EXECUTED, the diligence used to execute being ; for the following reason
, the above named may be found

TO CERTIFY WHICH WITNESS MY HAND OFFICIALLY.

TROY E. NEHLS, Sheriff
Fort Bend County Sheriff's Office, Sheriff
1410 Williams Way County, Texas
By *Troy E. Nehls* 469
Deputy

**I, , swear that the above is true.

Authorized Person

SWORN BEFORE ME, this day of ,

Notary Public

*STRIKE IF NOT APPLICABLE

**USE ONLY IF A PERSON OTHER THAN SHERIFF OR CONSTABLE SERVED PROCESS.

ALIAS CAPIAS
I:\MISDEMEANOR\CAPIAS\ALIAS.DOC

ORIGINAL

FILED

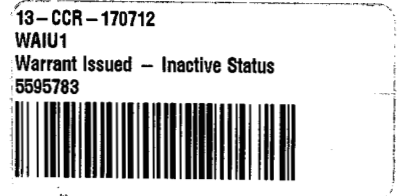
2018 AUG 29 AM 8:18

Joanna Richard
COUNTY CLERK
FORT BEND COUNTY, TEXAS

RB
RB

Respondent's Exhibit 10

ALIAS CAPIAS
CAUSE NO. 13-CCR-170712



THE STATE OF TEXAS

TO ANY PEACE OFFICER OF THE STATE OF TEXAS, GREETING:

YOU ARE HEREBY COMMANDED TO ARREST:

MOSES MAYS JR

[REDACTED]

MISSOURI CITY TX 77459

D.O.B: 04/ [REDACTED] /1953, TDL: N/A, SS#: N/A, HAIR: N/A, EYES: N/A, WGT: N/A, HGT: N/A, SEX:MALE, RACE:BLACK, TRN NUMBER: 9245385701

and to safely keep, so that you have HIM before that Honorable County Court of Fort Bend County, Texas at the Courthouse of said County in Richmond, Texas, on the - Instanter day of, then and there to answer THE STATE OF TEXAS upon a charge by information (indictment) pending in County Court at Law 4, wherein said Defendant charged with the offense of THEFT PROP>=\$20<\$500 BY CHECK CLASS B (BF)NEW BOND SET AT \$2,000.00.

HEREIN FAIL NOT, but of this Writ made due return, showing how you have executed the same.

GIVEN UNDER MY HAND AND SEAL OF SAID COURT, at office in Richmond Texas this the 27th day of December, 2018

LAURA RICHARD, COUNTY CLERK
FORT BEND COUNTY, TEXAS

BY 
SELENA WAGNER, Deputy

OFFICER'S OR AUTHORIZED PERSON'S RETURN

CAME to hand on the _____ day of _____, _____ at _____ o'clock _____ M. and *EXECUTED on the _____ day of _____, _____ at _____ o'clock _____ M. by arresting the within named _____ at _____ in Fort Bend County, Texas, and taking _____ bond, which is herewith returned, placing _____ in County jail of _____, Texas.

**NOT EXECUTED, the diligence used to execute being _____; for the following reason _____, the above named may be found _____.

TO CERTIFY WHICH WITNESS MY HAND OFFICIALLY.

_____, Sheriff
_____, County, Texas

By _____
Deputy

**I, _____, swear that the above is true.
_____, Authorized Person

SWORN BEFORE ME, this _____ day of _____, _____.

Notary Public

*STRIKE IF NOT APPLICABLE

**USE ONLY IF A PERSON OTHER THAN SHERIFF OR CONSTABLE SERVED PROCESS.

ALIAS CAPIAS
I:\MISDEMEANOR\CAPIAS\ALIAS.DOC

FILE COPY

THE STATE OF TEXAS
VS.
Mays, Moses Jr

Cause No. 13CCR-170712
IN THE County Court at Law # 4
FORT BEND COUNTY, TEXAS

MOTION TO DISMISS
TO THE HONORABLE JUDGE OF SAID COURT

NOW COMES the State of Texas by and through her Attorney, and respectfully requests the Court to dismiss the above entitled and numbered criminal action in which the defendant is charged with the offense of Theft, for the reason:

- ☐ The evidence is insufficient; to prove this case beyond a reasonable doubt;
 - ☐ The defendant was convicted in another case;
 - ☐ The complaining witness has requested dismissal;
 - ☐ The case has been refiled;
 - ☐ The defendant is unapprehended;
 - ☐ The defendant is deceased;
 - ☐ The defendant has been granted immunity in light of his testimony;
 - ☒ The defendant has paid check, fees, and court costs; waived
 - ☐ Other;
- and for cause would show the Court the following:

13 - CCR - 170712
DIOT
Dismissal Other
1630627



FILED FOR RECORD
NO. _____ TIME _____ A.M.
P.M.

JAN 25 2013

Anna Richard
County Clerk Fort Bend Co. Texas

WHEREFORE, it is prayed that the above entitled and numbered cause be dismissed with leave to refile.

Respectfully submitted

Chimadot Akwankwo
Attorney for the State

ORDER

The foregoing motion having been presented to me on this the 25th day of January, A.D. 2013, and the same having been considered, it is, therefore, **ORDERED, ADJUDGED** and **DECREED** that said above entitled and numbered cause be and the same is hereby dismissed with leave to refile.

[Signature]
Judge of the County Court at Law # 4
Fort Bend County, Texas

App. 4

Respondent's Exhibit 13
THE STATE OF TEXAS

Monica Nunez-Garza
49.04
54040009

VS

MOSES MAYS

D.O.B.: 04/ /1953	DA CONTROL NO: 18-013179
CHARGE: DRIVING WHILE INTOXICATED/ MB-VIDEO	ARREST DATE: 10/02/2018
CAUSE NO: 18-CCR-205084	OFFENSE DATE: October 02, 2018
COUNTY COURT AT LAW NO: 5	AGENCY/ AGENCY NO: DEPARTMENT OF PUBLIC SAFETY/ 0000
RELATED CASES:	CO-DEF:

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS:

Before me, the undersigned Assistant District Attorney of Fort Bend County, Texas, this day appeared the undersigned affiant, who under oath says he has good reason to believe and does believe that in Fort Bend County, Texas, **MOSES MAYS**, hereafter styled the Defendant heretofore on or about **October 02, 2018**, did then and there operate a motor vehicle in a public place while the said defendant was intoxicated;

18-CCR-205084
COM
Complaint
5603576



FILED
2018 JAN -2 AM 10:52
Janae Richard
CLERK OF DISTRICT CLERK
FORT BEND COUNTY, TEXAS
MC/lt

AGAINST THE PEACE AND DIGNITY OF THE STATE.

SWORN TO AND SUBSCRIBED BEFORE ME ON 12/31/18


AFFIANT


ASSISTANT DISTRICT ATTORNEY
FORT BEND COUNTY, TEXAS

MISDEMEANOR COMPLAINT (ORIGINAL/DA/AGENCY)



ORIGINAL

BAIL BOND
THE STATE OF TEXAS
FORT BEND COUNTY

18 CCR 205084

Arrest Date: 10/2/18

Arresting Officer/ Agency: DPS

Cause/Case#:

B
RaceM
Sex4/53
D.O.B.**KNOW ALL MEN BY THESE PRESENTS:**

That we, MOSES MAYS, as Principal, also referred to as "Defendant", and the undersigned ATTORNEY BOND BY: CRYSTAL D HENDERSON will appear in the proper court or before the appropriate Magistrate to answer the accusation(s), and as Surety are held and firmly bound unto the STATE OF TEXAS in the penal sum of (\$ 500.00) FIVE HUNDRED Dollars, and in addition thereto, we are bound for prejudgment interest at the rate of ten (10%) on the face amount of this bond for the payment of all fees and expenses that may be incurred by any peace officer in re-arresting the said Principal (Defendant) in the event any of the stated conditions of this bond are violated. We do hereby bind ourselves, our heirs, executors, and administrator to pay all of such sums upon any violation of such condition(s). Defendant is not to leave the state of Texas without prior written consent of the Trial Judge.

The Defendant is charged with a: () Felony (☒) Misdemeanor**TO WIT: DRIVING WHILE INTOXICATED**

The defendant is to appear before the below listed Court in Fort Bend County, Texas, or the appropriate court in _____ County **INSTANTER**. NOW, THEREFORE, if the said Defendant shall make personal appearance before said Court, **INSTANTER**, as well as before any other Court to which such Defendant may be transferred, and for any and all subsequent proceedings that may be had relative to said charge, or in the course of any criminal action based upon such charge, and if the Defendant shall there remain from day to day and from term to term of said Court(s) to answer said accusation against the Defendant until the Defendant is discharged by due course of law, this obligation shall become null and void, otherwise, to remain in full force and effect.

Signed and Dated this, the 3 day of OCTOBER, 20 18

SURETY

(Attach copy of POA)

LICENSE # 24050742 EXP DATE _____2310 BLODGETT
ADDRESSHOUSTON, TX 77004 713-874-1750
CITY/STATE/ZIP****For out of County Bonds****THE STATE OF TEXAS
COUNTY OF FORT BEND

I certify that the above surety is licensed and in good standing in Fort Bend County. if this bond was presented to me, I would accept the same.

SHERIFF OF FORT BEND COUNTY, TEXAS

BY: _____
DEPUTY

PRINCIPAL (DEFENDANT)

PRINCIPAL'S STREET ADDRESS

CITY/STATE/ZIP

PHONE#

INDEMNITOR

INDEMNITOR'S STREET ADDRESS

CITY/STATE/ZIP

PHONE#

Taken and approved this the 3 day of Oct 20 18BY: _____
Deputy Sheriff, Fort Bend County Sheriff's Office**COURT APPEARANCE INFORMATION:**DATE: 1/25/19 TIME: 8:30 AM COURT: COUNTYADDRESS: 1422 EUGENE HEIMANN CIRCLE RICHMOND, TX 77469 281-238-1900****Additional information or Bond Conditions:**Thumb
Print

2018 OCT -4 AM 9:4
F
H
COUNTY CLERK
FORT BEND COUNTY, TEXAS
mm/

Please note that this affidavit is sworn to under penalty of perjury.
False statements can submit you to criminal prosecution.

**AFFIDAVIT FOR ATTORNEY BOND UNDER
TEXAS OCCUPATIONS CODE §1704.163**

THE STATE OF TEXAS

§

COUNTY OF FORT BEND

§

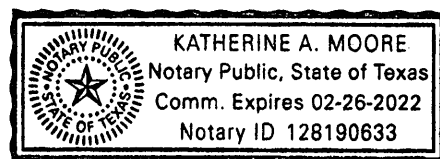
BEFORE ME, the undersigned authority, personally appeared the undersigned affiant, who swore under oath that the following facts are true:

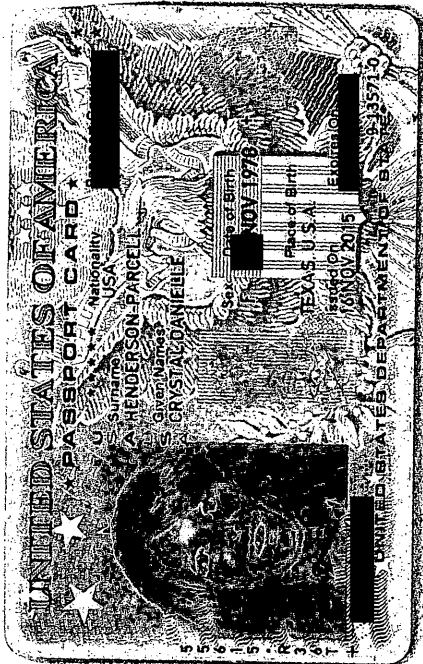
1. "My name is Crystal Henderson. I am over eighteen (18) years of age, of sound mind, and capable of making this Affidavit. I have personal knowledge of the facts stated herein, and they are true and correct.
2. My business address is: 2310 Blodgett street, and my phone number is (713) 80 5014 (cell)
281
3. I am a licensed attorney in good standing with the State Bar of Texas. My bar number is: 24050742.
4. I am the attorney of record for: Moses Mays in criminal case number TBA.
5. I currently represent the defendant on the pending charge(s) for which I have executed bond.

Crystal O. Heck
Attorney Signature

GIVEN UNDER MY HAND AND SEAL OF OFFICE ON THIS THE 3rd DAY OF October, 2018.

Katherine A. Moore
NOTARY PUBLIC





CRYSTAL D. HENDERSON
Attorney and Counselor at Law

THE LAW OFFICE OF CRYSTAL D. HENDERSON, PLLC
2310 Blodgett
Houston, Texas 77004

Office (713) 874-1750
Cell (281) 780-5014
Fax (713) 904-2460

crystal@cdhlawoffice.net
www.cdhlawoffice.net

Anna Richard
COUNTY CLERK
FORT BEND COUNTY, TEXAS
mm/4

2018 OCT -4 AM 9:43

FILED



ALIAS CAPIAS
CAUSE NO. 18-CCR-205084

THE STATE OF TEXAS

TCIC

TO ANY PEACE OFFICER OF THE STATE OF TEXAS, GREETING:

YOU ARE HEREBY COMMANDED TO ARREST:

MOSES MAYS

MISSOURI CITY TX 77459

D.O.B: 04/1953, TDLTX- N/A, HAIR: N/A, EYES: N/A, WGT: N/A, HGT: N/A, SEX: MALE,
RACE:BLACK, TRN NUMBER: 9245444120

and to safely keep, so that you have HIM before that Honorable County Court of Fort Bend County, Texas at the Courthouse of said County in Richmond, Texas, on the - Instanter day of , then and there to answer THE STATE OF TEXAS upon a charge by information (indictment) pending in County Court at Law 4, wherein said Defendant charged with the offense of DRIVING WHILE INTOXICATED CLASS "B" (BF)NEW BOND SET AT \$1,000.00.

HEREIN FAIL NOT, but of this Writ made due return, showing how you have executed the same.

GIVEN UNDER MY HAND AND SEAL OF SAID COURT, at office in Richmond Texas this the 12th day of March, 2019

MAR 15 2019

LAURA RICHARD, COUNTY CLERK
FORT BEND COUNTY, TEXAS

BY

GLORIA CORTEZ, Deputy

OFFICER'S OR AUTHORIZED PERSON'S RETURN

CAME to hand on the 15 day of march, 2019 at o'clock M. and *EXECUTED on the 3 day of September, 2019 at o'clock M. by arresting the within named Moses Mays at Refugio Co SO in Fort Bend County, Texas, and taking \$1000 bond, which is herewith returned, placing him in County jail of Refugio Co, Texas. * OAC Bond dated 8/23/19 recd

**NOT EXECUTED, the diligence used to execute being ; for the following reason , the above named may be found .

TO CERTIFY WHICH WITNESS MY HAND OFFICIALLY.

JOSE L. RIVERA, Sheriff
Fort Bend County, Texas
By Melinda Mican
Deputy Warrant Clerk

**I, , swear that the above is true.

Authorized Person

SWORN BEFORE ME, this day of .

Notary Public

*STRIKE IF NOT APPLICABLE

**USE ONLY IF A PERSON OTHER THAN SHERIFF OR CONSTABLE SERVED PROCESS.

ALIAS CAPIAS
i:\MISDEMEANOR\CAPIAS\ALIAS.DOC

ORIGINAL

FILED
2019 SEP -4 AM 8:20
Jesse Richard
(14)/(14)

App. 5

02/11/2022

**BEFORE EVIDENTIARY PANEL 4-3 OF THE
STATE BAR DISTRICT NO. 4 GRIEVANCE COMMITTEE**



COMMISSION FOR LAWYER DISCIPLINE,	§	202001583 [MAYS]
Petitioner,	§	
	§	
v.	§	
	§	
CRYSTAL DANIELLE HENDERSON,	§	
Respondent.	§	HARRIS COUNTY, TEXAS

**Houston Office
Chief Disciplinary Counsel**

JUDGMENT OF PUBLIC REPRIMAND

Parties and Appearance

On February 2, 2022, came to be heard the above styled and numbered cause. Petitioner, Commission for Lawyer Discipline, appeared by and through its attorney of record, **John S. Brannon**, and announced ready. Respondent, **Crystal Danielle Henderson**, Texas Bar Number 24050742, appeared in person and through her attorney of record, **Brandon R. Cammack**, Texas Bar Number 24097452, and announced ready.

Jurisdiction and Venue

The Evidentiary Panel 4-3 having been duly appointed to hear this complaint by the chair of the Grievance Committee for State Bar of Texas District 4, finds that it has jurisdiction over the parties and the subject matter of this action and that venue is proper.

Professional Misconduct

The Evidentiary Panel, having considered all of the pleadings, evidence, stipulations, and argument, finds Respondent has committed Professional Misconduct as defined by Rule 1.06(CC) of the Texas Rules of Disciplinary Procedure.

Findings of Fact

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

1. Respondent is an attorney licensed to practice law in Texas and is a member of the State Bar of Texas.
2. Respondent resides in and maintains her principal place of practice in Harris County, Texas.
3. Respondent engaged in conduct involving dishonesty, deceit, or misrepresentation

Conclusions of Law

The Evidentiary Panel concludes that, based on foregoing findings of fact, the following Texas Disciplinary Rules of Professional Conduct have been violated: **8.04(a)(3)**.

Sanction

The Evidentiary Panel, having found Respondent has committed Professional Misconduct, imposed a sanction against Respondent. After hearing all evidence and argument, the Evidentiary Panel finds that the proper discipline of the Respondent for each act of Professional Misconduct is a Public Reprimand.

Accordingly, it is **ORDERED, ADJUDGED and DECREED** that a **Public Reprimand** be imposed against Respondent in accordance with the Texas Rules of Disciplinary Procedure. The Evidentiary Panel finds that the sanction imposed against Respondent is the appropriate sanction for each of the violations set forth in this judgment.

Publication

This reprimand shall be made a matter of record and appropriately published in accordance with the Texas Rules of Disciplinary Procedure.

Other Relief

All requested relief not expressly granted herein is expressly DENIED.

SIGNED this 11th day of February, 2022.

**EVIDENTIARY PANEL 4-3
DISTRICT NO. 4
STATE BAR OF TEXAS**



**David A. Nachtigall
District 4-3 Presiding Member**

App. 6

2019-55008 / Court: 190

CAUSE NO. _____

COMMISSION FOR LAWYER DISCIPLINE,	§	IN THE DISTRICT COURT OF
Petitioner,	§	
	§	
vs.	§	HARRIS COUNTY, TEXAS
	§	
CRYSTAL DANIELLE HENDERSON,	§	
(SBOT#: 201807619)	§	
Respondent.	§	_____ JUDICIAL DISTRICT

ORIGINAL DISCIPLINARY PETITION AND REQUESTS FOR DISCLOSURE

TO THE HONORABLE SPECIALLY ASSIGNED JUDGE OF SAID COURT:

COMES NOW Petitioner, the COMMISSION FOR LAWYER DISCIPLINE, a committee of the STATE BAR OF TEXAS, and would respectfully show unto the Court as follows:

I. DISCOVERY CONTROL PLAN

Because Petitioner seeks a sanction pursuant to Rule 1.06FF of the TEXAS RULES OF DISCIPLINARY PROCEDURE, therefore, this case is not governed by the expedited provisions of Rule 169 of the TEXAS RULES OF CIVIL PROCEDURE (TRCP), Petitioner intends that discovery be conducted under a Level 2 Discovery Control Plan pursuant to TRCP 190.1 and 190.3.

II. PARTIES

Petitioner is the COMMISSION FOR LAWYER DISCIPLINE (hereinafter referred to as "Petitioner"), a committee of the STATE BAR OF TEXAS.

Respondent is CRYSTAL DANIELLE HENDERSON (hereinafter referred to as "Respondent"), Texas Bar Card No. 24050742, a licensed attorney and a member of the STATE BAR OF TEXAS.

Respondent may be served by and through her attorney of record, Chip B. Lewis, 1207 S. Shepherd Drive, Houston, Texas 77019.

III. NATURE OF PROCEEDING

Petitioner brings this disciplinary action pursuant to the STATE BAR ACT, TEXAS GOVERNMENT CODE ANNOTATED §81.001, *et seq.* (West 2013); the TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT; and the TEXAS RULES OF DISCIPLINARY PROCEDURE. The Complaint that forms the basis of this cause of action was filed on or after June 1, 2018.

IV. VENUE

Respondent's principal place of practice is Harris County, Texas; therefore, venue is appropriate in Harris County, Texas, pursuant to Rule 3.03 of the TEXAS RULES OF DISCIPLINARY PROCEDURE.

V. PROFESSIONAL MISCONDUCT

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

VI. CAUSE OF ACTION

1. Crystal Danielle Henderson ("Respondent") was retained by Fritz Zephir ("Zephir") on October 16, 2018 to serve as a Paymaster, or escrow agent, to receive \$35,000 from Zephir, hold the funds in escrow, and to make payments to third parties as directed by Zephir. The goal of the transaction was to register and fund an unincorporated association in the state of California (the "Paymaster Transaction"). On October 16, 2018, Zephir transferred \$35,000 into Respondent's attorney Bank of America IOLTA Account with instructions to Respondent to effect various payments.
2. On October 17, 2018, Respondent properly effected some of the payments totaling \$9,200. On October 31, 2018, Respondent received a final set of instructions to effect payments totaling the remainder of \$25,800. Respondent failed to properly

make any of these payments. Instead, upon information and belief, Respondent stole the \$25,800 and diverted the funds for personal and business use.

3. Respondent failed to respond to numerous communication efforts by Zephir to contact her to determine why the payments were never made. Respondent's main phone line was disconnected and none of her 3 phone numbers were answering Zephir's calls. Likewise, Respondent failed to reply to Respondent's numerous email efforts to contact Respondent.
4. On December 6, 2018, Zephir filed a grievance against Respondent with the Texas State Bar for her unprofessional and illegal conduct on the Paymaster Transaction.
5. In an effort to try to cover up her misconduct, upon information and belief, Respondent concocted a story that Zephir hired her on an immigration matter, not a Paymaster Transaction as described above. When Respondent was pressed for information about the Paymaster Transaction, Respondent claims that she withdrew from representation after her suspicion that Zephir might be perpetrating a fraud to obtain a visa. Interestingly, Respondent had this epiphany on the same day she filed her grievance response on February 4, 2019.
6. When asked why Respondent did not withdraw sooner, Respondent replied that these things usually get worked out with Tanae Bolton, a non-lawyer involved in the Paymaster Transaction, but that Respondent had no choice but to withdraw after Zephir filed his grievance. When Respondent was asked if she thought it was odd that Zephir never mentioned in his grievance complaint about hiring Respondent for an EB5 immigration visa, Respondent replied that she did not think it was odd.
7. Further evidence of Respondent's false immigration story is Respondent's "RETAINER AGREEMENT FOR EB5," a document which Zephir says he never received. Respondent sets out that her fee is \$150,000, to be paid in three installments. Respondent confirmed that "Any Partial Retainer received is NON REFUNDABLE," and that all of Respondent's fee is earned upon receipt. Respondent goes on to add, "Additionally, please note that you are paying a non-refundable flat fee at the beginning of each stage. The Lawyers Board requires us to advise you that the flat fee will not be deposited into a trust account and that

you will not receive a refund even if you choose to terminate our services. RETAINER AGREEMENT FOR EB5." Respondent was asked what and who is this "Lawyers Board?" Respondent paused, and then asked the CDC Investigator, "Is that the State Bar?" Respondent was asked why she would imply to a client that the State Bar of Texas mandated or condoned this contract language, when in fact the ethical rules and case law, (CLUCK v. CFLD) hold the exact opposite position. That fees are not earned upon receipt, that the fee is not non-refundable, that the fee must be deposited into the attorney's approved IOLTA trust account until it is earned, and that unearned fees must be refunded to the client.

8. Respondent states that she was unaware of these ethical rules, or that this language regarding the "Lawyers Board" was in her retainer agreement. Respondent states that she never read the retainer agreement, and that she borrowed the document from some unidentified attorney. Respondent argued that there has never been a problem previously with her retainer agreement, and more importantly, the language was just standard "boiler plate." Respondent was instructed to turn over all information regarding the deposit of Zephir's \$35,000 retainer, how the funds were distributed by date and invoice, and supported with work product. Respondent's response includes an invoice, dated October 16, 2018, the same date as the EB5 retainer agreement, and the deposit of Zephir's initial \$35,000. Respondent could not explain each charge on the invoice, or explain how she earned \$15,000 for "Legal Research and Consultation" on the same day. Respondent could not explain what "Product, Wire for Company Products, one Unit, and Unit Price \$9,200" meant.
9. Respondent explained that the last four invoice entries are what Respondent paid her private investigator, someone named Tim, for due diligence, totaling \$10,800. It was requested that Respondent produce all the work product to support these charges, and the accompanying financial records within seven days. Respondent failed to respond or produce such records. When questioned about funds transferred from Respondent's trust account to her operating account, Respondent stated that she has no operating account or any other bank accounts other than her IOLTA account. When asked how Respondent pays out funds, including her own

fee, Respondent responded that she has no checks and withdraws cash from her trust account. When asked if Respondent withdrew the \$15,000 fee in cash, and what Respondent did with the money, Respondent responded that she paid bills.

VII. RULE VIOLATIONS

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

1.14(a) - A lawyer shall hold funds and other property belonging in whole or in part to clients or third persons that are in a lawyer's possession in connection with a representation separate from the lawyer's own property. Such funds shall be kept in a separate account, designated as a "trust" or "escrow" account, maintained in the state where the lawyer's office is situated, or elsewhere with the consent of the client or third person. Other client property shall be identified as such and appropriately safeguarded. Complete records of such account funds and other property shall be kept by the lawyer and shall be preserved for a period of five years after termination of the representation.

1.14(b) - Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. Except as stated in this rule or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such property.

1.15(d) - Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payments of fee that has not been earned. The lawyer may retain papers relating to the client to the extent permitted by other law only if such retention will not prejudice the client in the subject matter of the representation.

8.04(a)(2) - A lawyer shall not commit a serious crime or commit any other criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects.

8.04(a)(3) - A lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

VIII. COMPLAINT

The Complaint that forms the basis of this cause of action was brought to the attention of the Office of the Chief Disciplinary Counsel of the STATE BAR OF TEXAS by Fritz Zephir's filing of a grievance on or about December 6, 2018.

IX. REQUESTS FOR DISCLOSURE

Pursuant to Rule 194 of the TEXAS RULES OF CIVIL PROCEDURE (TRCP), you are requested to disclose, within 50 days of service of this request, the information or material described in TRCP Rules 194.2(a); 194.2(b); 194.2(c); 194.2(d), 194.2(e), 194.2(f), 194.2(g), 194.2(h), and 194.2(i).

These *Requests for Disclosure* shall be deemed continuing so as to require supplemental responses if Respondent or Respondent's counsel obtains further information between the time the responses are served and the time of trial. Respondent's responses and documents should be delivered to John S. Brannon, Assistant Disciplinary Counsel, Office of the Chief Disciplinary Counsel, STATE BAR OF TEXAS, 4801 Woodway Drive, Suite 315-W, Houston, Texas, 77056, within fifty (50) days of service of these *Requests for Disclosure*.

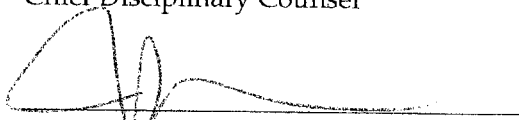
PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, Petitioner, the COMMISSION FOR LAWYER DISCIPLINE, respectfully prays that this Court discipline Respondent, CRYSTAL DANIELLE HENDERSON, by reprimand, suspension or disbarment, as the facts shall warrant; order restitution to Fritz Zephir, if applicable; and grant all other relief, general or specific, at law or in equity, to which Petitioner may show itself to be justly entitled including, without limitation, expenses, costs of court, and attorneys' fees.

Respectfully submitted,

STATE BAR OF TEXAS
Office of the Chief Disciplinary Counsel

SEANA B. WILLING
Chief Disciplinary Counsel

A handwritten signature in dark ink, appearing to read 'John S. Brannon', is written over a horizontal line.

JOHN S. BRANNON
Assistant Disciplinary Counsel
State Bar No. 02895500
4801 Woodway Drive, Suite 315-W
Houston, Texas 77056
Phone: (713) 758-8200
Fax: (713) 758-8292
Email: jbrannon@texasbar.com
**ATTORNEYS FOR PETITIONER,
COMMISSION FOR LAWYER DISCIPLINE**

App. 7

CAUSE NO. 2019-55008

COMMISSION FOR LAWYER
DISCIPLINE,
Petitioner

V.

CRYSTAL DANIELLE HENDERSON,
(SBOT#: 201807619)
Respondent

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IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

190TH JUDICIAL DISTRICT

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P6
SANCX
ATFEX.
DC
FILED
Marilyn Burgess
District Clerk
Time: MAR - 4 2020 3:59 PM
By: [Signature]
Harris County, Texas
Deputy

JUDGMENT OF ACTIVE SUSPENSION

Parties and Appearance

On February 19, 2020, came to be heard the above styled and numbered cause. Petitioner, Commission for Lawyer Discipline, appeared by and through its attorney of record, John S. Brannon, and announced ready. Respondent, Crystal Danielle Henderson, Texas Bar Number 24050742, appeared in person and reasserted her motion for continuance, which was previously denied by the Court. Respondent then asserted an objection based upon her attorney's failure to appear at trial, to which the Court overruled based upon Respondent's prior knowledge of her counsel's intent to withdraw. Notwithstanding the foregoing, Respondent fully participated in the trial and was provided great latitude by the Court.

Jurisdiction and Venue

On the 2nd day of August, 2019, pursuant to Rule 3.02 of the Texas Rules of Disciplinary Procedure, the Supreme Court of Texas appointed the Honorable W. Kent Walston to preside over this disciplinary action. The Court finds that it has jurisdiction

over the parties and the subject matter of this action, and that venue is proper. Both Parties waived their rights to trial by jury.

Professional Misconduct

After considering the testimony and documentary evidence, arguments of counsel, and applicable law, the Court finds and concludes:

1. Respondent is an attorney licensed to practice law in Texas and is a member of the STATE BAR OF TEXAS. Respondent's principal place of practice is Houston, Harris County, Texas. Therefore, this Court has jurisdiction over the parties and subject matter of this case, and venue is appropriate in Harris County, Texas;
2. Respondent has committed professional misconduct as defined by Rule 1.06CC of the TEXAS RULES OF DISCIPLINARY PROCEDURE and in violation of one or more of the TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT; and
3. Respondent violated the following Texas Disciplinary Rules of Professional Conduct: Rules 1.04(c), 1.14(a), 1.14(b), 1.14(c), 8.04(a)(2), 8.04(b), and 8.04(a)(3).

Sanction

It is ORDERED that the sanction of an **Active Suspension** shall be imposed against Respondent in accordance with the Texas Rules of Disciplinary Procedure.

Accordingly, it is ORDERED, ADJUDGED and DECREED that Respondent shall be actively suspended from the practice of law for a period of **three (3) years** beginning **March 2, 2020** and ending **March 1, 2023**.

Terms of Active Suspension

It is further ORDERED that during the term of active suspension ordered herein, Respondent shall be prohibited from practicing law in Texas; holding herself out as an

attorney at law; performing any legal services for others; accepting any fee directly or indirectly for legal services; appearing as counsel or in any representative capacity in any proceeding in any Texas or Federal court or before any administrative body; or holding herself out to others or using her name, in any manner, in conjunction with the words "attorney at law," "attorney," "counselor at law," or "lawyer."

It is further ORDERED that, on or before **March 6, 2020**, Respondent shall notify each of Respondent's current clients in writing of this suspension.

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

It is further ORDERED Respondent shall file with the State Bar of Texas, Chief Disciplinary Counsel's Office, P. O. Box 12487, Austin, Texas 78711-2487 (1414 Colorado Street, Austin, Texas 78701), on or before **March 31, 2020**, an affidavit stating all current clients have been notified of Respondent's suspension and that all files, papers, monies and other property belonging to all current clients have been returned as ordered herein.

It is further ORDERED Respondent shall, on or before **March 6, 2020**, notify in writing each and every justice of the peace, judge, magistrate, administrative judge or officer and chief justice of each and every court or tribunal in which Respondent has any matter pending of the terms of this judgment, the style and cause number of the pending matter(s), and the name, address and telephone number of the client(s) Respondent is representing.

It is further ORDERED Respondent shall file with the State Bar of Texas, Chief Disciplinary Counsel's Office, P. O. Box 12487, Austin, Texas 78711-2487 (1414 Colorado Street, Austin, Texas 78701), on or before **March 31, 2020**, an affidavit stating Respondent has notified in writing each and every justice of the peace, judge, magistrate, administrative judge or officer, and chief justice of each and every court in which Respondent has any matter pending of the terms of this judgment, the style and cause number of the pending matter(s), and the name, address and telephone number of the client(s) Respondent is representing in Court.

It is further ORDERED that, on or before **March 6, 2020**, Respondent shall surrender her law license and permanent State Bar Card to the State Bar of Texas, Chief Disciplinary Counsel's Office, P. O. Box 12487, Austin, Texas 78711-2487 (1414 Colorado Street, Austin, Texas 78701), to be forwarded to the Supreme Court of Texas.

Restitution, Attorney's Fees and Expenses

It is further ORDERED that Respondent shall pay restitution in the amount of \$25,800 on or before **March 1, 2023**. Respondent shall pay the restitution by certified or cashier's check or money order made payable to Fritz Zephir and delivered to the State Bar of Texas, Chief Disciplinary Counsel's Office, P. O. Box 12487, Austin, Texas 78711-2487 (1414 Colorado Street, Austin, Texas 78701).

It is further ORDERED, ADJUDGED, and DECREED pursuant to Rule 3.11 of the Texas Rules of Disciplinary Procedure that Respondent shall remain actively suspended (with no probation) from the practice of law until such time as she pays the restitution ordered herein.

It is further ORDERED that Respondent shall pay all reasonable and necessary

attorney's fees and direct expenses to the State Bar of Texas in the amount of \$8,270.88 on or before **November 30, 2020**, and shall be made by certified or cashier's check or money order. Respondent shall forward the funds, made payable to the State Bar of Texas, to the State Bar of Texas, Chief Disciplinary Counsel's Office, P. O. Box 12487, Austin, Texas 78711-2487 (1414 Colorado Street, Austin, Texas 78701).

It is further ORDERED that all amounts ordered herein are due to the misconduct of Respondent, and are assessed as a part of the sanction in accordance with Rule 1.06(FF) of the Texas Rules of Disciplinary Procedure. Any amount not paid shall accrue interest at the maximum legal rate per annum until paid and the State Bar of Texas shall have all writs and other post-judgment remedies against Respondent in order to collect all unpaid amounts.

Publication

This suspension shall be made a matter of record and appropriately published in accordance with the Texas Rules of Disciplinary Procedure.

Other Relief

IT IS FURTHER ORDERED that the Clerk of this Court shall forward a certified copy of the current *Disciplinary Petition* on file in this case, along with a copy of this *Judgment* to the following: (1) CLERK OF THE SUPREME COURT OF TEXAS, Supreme Court Building, P. O. Box 12248, Austin, Texas 78711; (2) The STATE BAR OF TEXAS, Office of the Chief Disciplinary Counsel, P. O. Box 12487, Austin, Texas 78711-2487; and (3) Respondent, Crystal Danielle Henderson, 2310 Blodgett Street, Floor 1, Houston, Texas 77004-5252.

IT IS ORDERED that all costs of court incurred in the prosecution of this lawsuit shall be taxed against Respondent, for which the Clerk may have execution if they are not timely paid.

All requested relief not expressly granted herein is expressly DENIED.

SIGNED this 21st day of February, 2020.



HONORABLE W. KENT WALSTON,
JUDGE PRESIDING

App. 8

FILED

Marilyn Burgess
District Clerk

APR 14 2020

Time: 4:20 PM
Harris County, Texas
By: [Signature]
Deputy

P-2
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CAUSE NO. 2019-55008

COMMISSION FOR LAWYER DISCIPLINE,) IN THE DISTRICT COURT OF
)
Petitioner,)
) HARRIS COUNTY, TEXAS
v.)
)
CRYSTAL DANIELLE HENDERSON,) 190th JUDICIAL DISTRICT
(SBOT #201807619))
)
Respondent.)

~~XXXXXXXXXX~~
PROPOSED ORDER ON AMENDED MOTION FOR NEW TRIAL

On this date, the Court heard Respondent Crystal Danielle Henderson's Amended Motion for New Trial. The Court, after reviewing the motion, the response, the reply, argument from counsel for both parties, is of the opinion that the motion should be GRANTED, based upon the lack of Record notice of the trial setting. It is therefore, ORDERED, ADJUDGED, and DECREED that Respondent Henderson's Amended Motion for New Trial is hereby GRANTED. It is further ORDERED that Judgment of Active Suspension entered February 21, 2020 is VACATED. The new trial date is scheduled for July 28, 2020 at 10 am.

SIGNED: April 14, 2020



Honorable W. Kent Walston
190th Judicial District Court
Harris County, Texas
By Appointment,
Supreme Court of Texas

Yocom Rine Law Offices

Jana Rine
SBN 11081400
2150 S. Central Expressway
Suite 200
McKinney, Texas 75072
Irine@yocomrinelaw.com
972-439-2761

Attorney for Crystal Danielle Henderson

APPROVED AS TO FORM:
Office of Chief Disciplinary Counsel
/s/ John Brannon

John Brannon
SBN 02895500
Assistant Disciplinary Counsel
State Bar of Texas
4801 Woodway Drive, Suite 315-W
Houston, Texas 77056
jbrannon@texasbar.com
713-758-8200

Attorney for Commission for Lawyer Discipline

App. 9

Marilyn Burgess
District Clerk

10:00 AM

Time: 10:00 AM
Harris County, Texas
By: [Signature]
Deputy
CLERK OF COURT

§ IN THE DISTRICT COURT OF Deputy

www.ck12.org

HARRIS COUNTY, TEXAS

190th JUDICIAL DISTRICT

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Petitioner moved for judgment on the verdict. The court considered the motion and renders judgment for Petitioner.

Professional Misconduct

After considering the verdict of the jury, testimony and documentary evidence, arguments of counsel, and applicable law, the Court finds and concludes:

1. Respondent is an attorney licensed to practice law in Texas and is a member of the STATE BAR OF TEXAS. Respondent's principal place of practice is Houston, Harris County, Texas. Therefore, this Court has jurisdiction over the parties and subject matter of this case, and venue is appropriate in Harris County, Texas;
2. Respondent has committed professional misconduct as defined by Rule 1.06(CC) of the TEXAS RULES OF DISCIPLINARY PROCEDURE and in violation of one or more of the TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT;
3. Respondent violated the following Texas Disciplinary Rules of Professional Conduct:
 - a. **Rule 1.01(b)(1)** – in representing a client, the lawyer shall not neglect a legal matter entrusted to the lawyer;
 - b. **Rule 1.03(a)** – a lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information;
 - c. **Rule 1.14(a)** – a lawyer shall hold funds and other property belonging in whole or in part to clients or third persons that are in a lawyer's possession in connection with a representation separate from the lawyer's own property. Such funds shall be kept in a separate account, designated as a "trust" or "escrow" account, maintained in the state where the lawyer's office is situated, or elsewhere with the consent of the client or third person. Other client property shall be identified as such and appropriately safeguarded. Complete records of such account funds and other property shall be kept by the lawyer and shall be preserved for a period of five years after termination of the representation;
 - d. **Rule 1.14(b)** – upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. Except as stated in this rule or otherwise

permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such property;

- e. **Rule 1.15(d)** – upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payments of fee that has not been earned. The lawyer may retain papers relating to the client to the extent permitted by other law only if such retention will not prejudice the client in the subject matter of the representation;
 - f. **Rule 8.04(a)(2)** – a lawyer shall not commit a serious crime or commit any other criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects; and
 - g. **Rule 8.04(a)(3)** – a lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation.
4. The Court further finds that the Respondent's conduct involved the misapplication of funds and Respondent cannot be reinstated until the restitution to Fritzgerald Zephir in the amount of \$25,800.00 has been satisfied.

Sanction

After the verdict, a separate sanctions hearing was held where additional testimony was received. Upon consideration of the guidelines for imposing sanctions set forth in the Texas Rules of Disciplinary Procedure, it is further:

ORDERED that the sanction of an Active Suspension shall be imposed against Respondent in accordance with the Texas Rules of Disciplinary Procedure.

Accordingly, it is **ORDERED, ADJUDGED and DECREED** that Respondent shall be actively suspended from the practice of law for a period of **5 years** beginning **July 29, 2022** and ending **July 28, 2027**.

Terms of Active Suspension

It is further **ORDERED** that during the term of active suspension ordered herein, Respondent shall be prohibited from practicing law in Texas; holding herself out as an attorney at law; performing any legal services for others; accepting any fee directly or indirectly for legal services; appearing as counsel or in any representative capacity in any proceeding in any Texas or Federal court or before any administrative body; or holding herself out to others or using her name, in any manner, in conjunction with the words "attorney at law," "attorney," "counselor at law," or "lawyer."

It is further **ORDERED** that, on or before **August 12, 2022**, Respondent shall notify each of Respondent's current clients in writing of this suspension.

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

It is further **ORDERED** Respondent shall file with the **State Bar of Texas, P.O. Box 12487, Austin, Texas 78711-2487**, on or before **August 12, 2022**, an affidavit stating all current clients have been notified of Respondent's suspension and that all files, papers, monies and other property belonging to all current clients have been returned as ordered herein.

It is further **ORDERED** Respondent shall, on or before **August 12, 2022**, notify in writing each and every justice of the peace, judge, magistrate, administrative judge or officer and chief justice of each and every court or tribunal in which Respondent has any matter pending of the terms of this judgment, the style and cause number of the pending matter(s), and the name, address and telephone number of the client(s) Respondent is representing.

It is further **ORDERED** Respondent shall file with the **State Bar of Texas, P.O. Box 12487, Austin, Texas 78711-2487**, on or before **August 12, 2022**, an affidavit stating Respondent has notified in writing each and every justice of the peace, judge, magistrate, administrative judge or officer, and chief justice of each and every court in which Respondent has any matter pending of the terms of this judgment, the style and cause number of the pending matter(s), and the name, address and telephone number of the client(s) Respondent is representing in Court.

It is further **ORDERED** that, on or before **August 5, 2022**, Respondent shall surrender her law license and permanent State Bar Card; or in the alternative, an affidavit stating the Respondent is no longer in possession of her law license and permanent State Bar Card; to the State Bar of Texas, Chief Disciplinary Counsel, **State Bar of Texas, P.O. Box 12487, Austin, Texas 78711-2487**, to be forwarded to the Supreme Court of Texas.

Restitution, Attorney's Fees and Expenses

It is further **ORDERED** Respondent shall pay restitution on or before **July 27, 2027**, to Fitzgerald Zephir in the amount of **\$25,800.00**. Respondent shall pay the restitution by certified or cashier's check or money order made payable to Fitzgerald Zephir and delivered to the **State Bar of Texas, Chief Disciplinary Counsel, P.O. Box 12487, Austin, Texas 78711-2487**.

Respondent's conduct involved the misapplication of funds and Respondent cannot be reinstated until the restitution to Fitzgerald Zephir in the amount of **\$25,800.00** has been satisfied.

It is further **ORDERED, ADJUDGED, and DECREED** pursuant to Rule 3.11 Texas Rules of Disciplinary Procedure that Respondent shall remain actively suspended (with no probation) from the practice of law until such time as she pays the restitution ordered herein.

It is further **ORDERED** Respondent shall pay all reasonable and necessary attorney's fees and direct expenses to the State Bar of Texas in the amount of **\$14,700.00**. The payment shall be due and payable on or before **July 28, 2027**, and shall be made by certified or cashier's check or money order. Respondent shall forward the funds, made payable to the **State Bar of Texas, to the State Bar of Texas, Chief Disciplinary Counsel, P.O. Box 12487, Austin, Texas 78711-2487**.

It is further **ORDERED** that all amounts ordered herein are due to the misconduct of Respondent, are assessed as a part of the sanction in accordance with Rule 1.06(F) of the Texas Rules of Disciplinary Procedure. Any amount not paid shall accrue interest at the maximum legal rate per annum until paid and the State Bar of Texas shall have all writs and other post-judgment remedies against Respondent in order to collect all unpaid amounts.

Publication

This suspension shall be made a matter of record and appropriately published in accordance with the Texas Rules of Disciplinary Procedure.

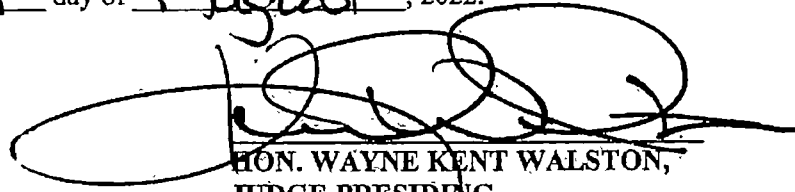
Other Relief

IT IS FURTHER ORDERED that the Clerk of this Court shall forward a certified copy of the current *Disciplinary Petition* on file in this case, along with a copy of this *Judgment* to the following: (1) CLERK OF THE SUPREME COURT OF TEXAS, Supreme Court Building, Austin, Texas 78711; (2) The STATE BAR OF TEXAS, Office of the Chief Disciplinary Counsel, P. O. Box 12487, Austin, Texas 78711; and (3) Respondent, by and through his attorney of record Tristan N. LeGrande, 1021 Main St., Ste. 1275, Houston, Texas 77002.

IT IS ORDERED that all costs of court incurred in the prosecution of this lawsuit shall be taxed against Respondent, for which the Clerk may have execution if they are not timely paid.

All requested relief not expressly granted herein is expressly DENIED.

SIGNED this 1 day of August, 2022.



HON. WAYNE KENT WALSTON,
JUDGE PRESIDING

FILED
Marilyn Burgess
District Clerk

JUL 28 2022

Time:

8:43 AM

Harris County

Deputy

CAUSE NO. 2019-55008

COMMISSION FOR LAWYER
DISCIPLINE,
[SBOT #201807619]

Petitioner,

vs.

CRYSTAL DANIELLE HENDERSON,

Respondent.

IN THE DISTRICT COURT

HARRIS COUNTY, TEXAS

190th

270th JUDICIAL DISTRICT

P-15

COURT'S CHARGE TO THE JURY

LADIES AND GENTLEMEN OF THE JURY:

After the closing arguments, you will go to the jury room to decide the case, answer the questions that are attached, and reach a verdict. You may discuss the case with other jurors only when you are all together in the jury room.

Remember my previous instructions: Do not discuss the case with anyone else, either in person or by any other means. Do not do any independent investigation about the case or conduct any research. Do not look up any words in dictionaries or on the Internet. Do not post information about the case on the Internet. Do not share any special knowledge or experiences with the other jurors. Do not use your phone or any other electronic device during your deliberations for any reason. I will give you a number where others may contact you in case of an emergency.

Any notes you have taken are for your own personal use. You may take your notes back into the jury room and consult them during deliberations, but do not show or read your notes to your fellow jurors during your deliberations. Your notes are not evidence. Each of you should rely on your independent recollection of the evidence and not be influenced by the fact that another juror has or has not taken notes.

EXHIBIT

A

RECORDER'S MEMORANDUM
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You must leave your notes with the bailiff when you are not deliberating. The bailiff will give your notes to me promptly after collecting them from you. I will make sure that your notes are kept in a safe, secure location and not disclosed to anyone. After you complete your deliberations, the bailiff will collect your notes. When you are released from jury duty, the bailiff will promptly destroy your notes so that nobody can read what you wrote.

Here are the instructions for answering the questions.

1. Do not let bias, prejudice, or sympathy play any part in your decision.
2. Base your answers only on the evidence admitted in court and on the law that is in these instructions and questions. Do not consider or discuss any evidence that was not admitted in the courtroom.
3. You are to make up your own minds about the facts. You are the sole judges of the credibility of the witnesses and the weight to give their testimony. But on matters of law, you must follow all of my instructions.
4. If my instructions use a word in a way that is different from its ordinary meaning, use the meaning I give you, which will be a proper legal definition.
5. All the questions and answers are important. No one should say that any question or answer is not important.
6. Answer "yes" or "no" to all questions unless you are told otherwise. A "yes" answer must be based on a preponderance of the evidence. Whenever a question requires an answer other than "yes" or "no," your answer must be based on a preponderance of the evidence.

The term "preponderance of the evidence" means the greater weight of credible evidence presented in this case. If you do not find that a preponderance of the evidence supports a "yes" answer, then answer "no." A preponderance of the evidence is not measured by the number of witnesses or by the number of documents admitted in evidence. For a fact to be proved by a preponderance of the evidence, you must find that the fact is more likely true than not true.

7. Do not decide who you think should win before you answer the questions and then just answer the questions to match your decision. Answer each question carefully without considering who will win. Do not discuss or consider the effect your answers will have.

8. Do not answer questions by drawing straws or by any method of chance.
9. Do not trade your answers. For example, do not say, "I will answer this question your way if you answer another question my way."
10. The answers to the questions must be based on the decision of at least 10 of the 12 jurors. The same 10 jurors must agree on every answer. Do not agree to be bound by a vote of anything less than 10 jurors, even if it would be a majority.

As I have said before, if you do not follow these instructions, you will be guilty of jury misconduct, and I might have to order a new trial and start this process over again. This would waste your time and the parties' money, and would require the taxpayers of this county to pay for another trial. If a juror breaks any of these rules, tell that person to stop and report it to me immediately.¹

INSTRUCTION

A fact may be established by direct evidence or by circumstantial evidence or both. A fact is established by direct evidence when proved by documentary evidence or by witnesses who saw the act done or heard the words spoken. A fact is established by circumstantial evidence when it may be fairly and reasonably inferred from other facts proved.²

8.04(a)(3)

QUESTION NO. 1

Do you find that Crystal Henderson engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in connection with the matter in this disciplinary action?³

Answer "Yes" or "No."

Answer: Yes

You are instructed that, for purpose of this question, "dishonesty" is defined as 'lack of honesty, probity, or integrity in principle' and 'lack of straightforwardness.'" *Brown v. Comm'n for Lawyer Discipline*, 980 S.W.2d 675, 682 (Tex. App. – San Antonio 1998, no pet.). You are further instructed that a "yes" answer to any of the four forms of misconduct results in a "yes" response to this question.

1.03(a)

QUESTION NO. 2

Do you find that Crystal Henderson kept Fritzgerald Zephir reasonably informed about the status of the matter and promptly complied with reasonable requests for information?⁴

Answer "Yes" or "No."

Answer: No

1.14(a)

QUESTION NO. 3

Do you find that Crystal Henderson held funds belonging in whole or in part to Fritzgerald Zephir, JD Euoway Distribution (USA), LLC, or any other third person that were in Crystal Henderson's possession in connection with this representation separate from Crystal Henderson's own property in a separate account designated as a "trust" or "escrow" account?⁵

Answer "Yes" or "No."

Answer: Yes

If and only if you answered "Yes" to the preceding question, then answer the following question. Otherwise, do not answer the following question.

Do you find that Crystal Henderson promptly delivered to Fritzgerald Zephir, JD Euoway Distribution (USA), LLC, or other third person any funds or other property that Fritzgerald Zephir, JD Euoway Distribution (USA), LLC, or other third person was entitled to receive?

Answer "Yes" or "No."

Answer: No

1.14(b)

QUESTION NO. 4

Do you find that the funds were disbursed by Crystal Henderson only to those persons entitled to receive them by virtue of the representation or by law?⁶

Answer "Yes" or "No."

Answer: No

1.15(d)

QUESTION NO. 5

Do you find that upon termination of representation that Crystal Henderson failed to take steps to the extent reasonably practicable to protect Fitzgerald Zephyr's or JD Euroway Distribution (USA), LLC interests, such as refunding any advance payments of fee that had not been earned?⁷

Answer "Yes" or "No."

Answer: Yes

1.01(b)(1)

QUESTION NO. 6

Do you find that in representing Fritzgerald Zephir, Crystal Henderson neglected a legal matter entrusted to her?⁸

Answer "Yes" or "No."

Answer: Yes

You are instructed that the term "neglect" as used here means inattentiveness involving a conscious disregard for the responsibilities owed to Fritzgerald Zephir.⁹

8.04(a)(2)

QUESTION NO. 7

Do you find that in the course of representing Fritzgerald Zephir, Crystal Henderson committed a serious crime or committed any other criminal act that reflects adversely on Crystal Henderson's honesty, trustworthiness, or fitness as a lawyer in other respects?¹⁰

Answer "Yes" or "No."

Answer: Yes

You are instructed that, as used in subsection (a)(2) of this Rule, "serious crime" means...any misdemeanor involving theft...or fraudulent or reckless misappropriation of money or other property.¹¹

Instructions for Presiding Juror:

1. When you go into the jury room to answer the questions, the first thing you will need to do is choose a presiding juror.
2. The presiding juror has these duties:
 - a. have the complete charge read aloud if it will be helpful to your deliberations;
 - b. preside over your deliberations, meaning manage the discussions, and see that you follow these instructions;
 - c. give written questions or comments to the bailiff who will give them to the judge;
 - d. write down the answers you agree on;
 - e. get the signatures for the verdict certificate; and
 - f. notify the bailiff that you have reached a verdict.

Do you understand the duties of the presiding juror? If you do not, please tell me now.¹²

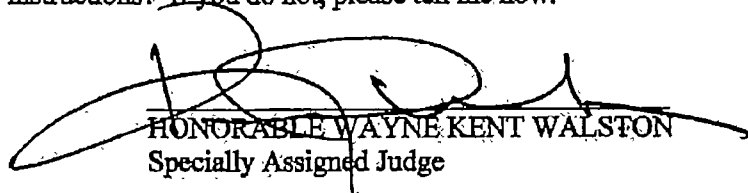
Instructions for Signing the Verdict Certificate:

1. You may answer the questions on a vote of 10 jurors. The same 10 jurors must agree on every answer in the charge. This means you may not have one group of 10 jurors agree on one answer and a different group of 10 jurors agree on another answer.
2. If 10 jurors agree on every answer, those 10 jurors sign the verdict.

If 11 jurors agree on every answer, those 11 jurors sign the verdict.

If all 12 of you agree on every answer, you are unanimous and only the presiding juror signs the verdict.
3. All jurors should deliberate on every question. You may end up with all 12 of you agreeing on some answers, while only 10 or 11 of you agree on other answers. But when you sign the verdict, only those 10 or 11 of you who agree on every answer will sign the verdict.

Do you understand these instructions? If you do not, please tell me now.¹³

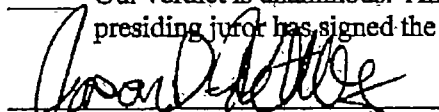


HONORABLE WAYNE KENT WALSTON
Specially Assigned Judge

VERDICT CERTIFICATE

Check one:

☐ Our verdict is unanimous. All 12 of us have agreed to each and every answer. The presiding juror has signed the certificate for all 12 of us.


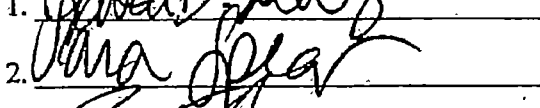
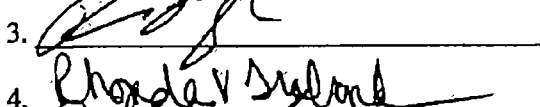
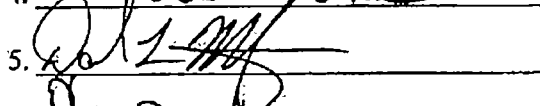
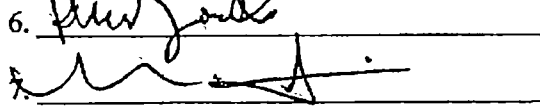
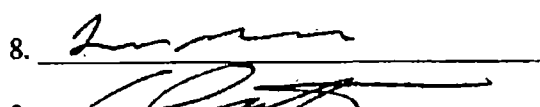
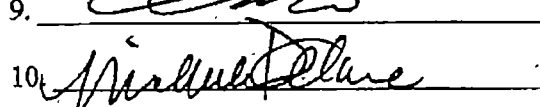
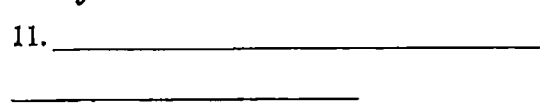
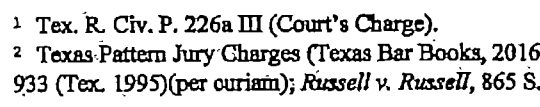


Signature of Presiding Juror

Jason D Kihlberg
Printed Name of Presiding Juror

☐ Our verdict is not unanimous. Eleven of us have agreed to each and every answer and have signed the certificate below.

☒ Our verdict is not unanimous. Ten of us have agreed to each and every answer and have signed the certificate below.¹⁴

Signature:

1. 
2. 
3. 
4. 
5. 
6. 
7. 
8. 
9. 
10. 
11. _____

Name Printed:

1. Jason D. Kihlberg
2. SARA SPEAR
3. Rachael Radabaugh
4. Rhonda V. Traband
5. Daniel L. Matzke Jr
6. Pheddie Jenkins
7. Monica Trevino
8. Tony Nobles
9. OSCAR TOVAR
10. Michelle Delaune
11. _____

¹ Tex. R. Civ. P. 226a III (Court's Charge).

² Texas Pattern Jury Charges (Texas Bar Books, 2016), PJC 1.8, citing: *Blount v. Borden, Inc.*, 910 S.W.2d 931, 933 (Tex. 1995)(per curiam); *Russell v. Russell*, 865 S.W.2d 929, 933 (Tex. 1993).

-
- ³ Tex. Disciplinary R. Prof'l Conduct 8.04(a)(3).
 - ⁴ Tex. Disciplinary R. Prof'l Conduct 1.03(a).
 - ⁵ Tex. Disciplinary R. Prof'l Conduct 1.14(a).
 - ⁶ Tex. Disciplinary R. Prof'l Conduct 1.14(b).
 - ⁷ Tex. Disciplinary R. Prof'l Conduct 1.15(d).
 - ⁸ Tex. Disciplinary R. Prof'l Conduct 1.01(b)(1).
 - ⁹ Tex. Disciplinary R. Prof'l Conduct 1.01(b)(c).
 - ¹⁰ Tex. Disciplinary R. Prof'l Conduct 8.04(a)(2).
 - ¹¹ Tex. Disciplinary R. Prof'l Conduct 8.04(b).
 - ¹² Tex. R. Civ. P. 226a III (Court's Charge - Presiding Juror).
 - ¹³ Tex. R. Civ. P. 226a III (Court's Charge - Instructions for Signing the Verdict Certificate).
 - ¹⁴ Tex. R. Civ. P. 226a III (Court's Charge - Verdict Certificate).

App. 10

CAUSE NO. 201955008

COMMISSION FOR LAWYER	§	IN THE DISTRICT COURT
DISCIPLINE	§	
	§	
VS.	§	190 JUDICIAL DISTRICT
	§	
CRYSTAL HENDERSON	§	OF HARRIS COUNTY, TEXAS

NOTICE OF APPEAL

Pursuant to Rule 25.1 of the Texas Rules of Appellate Procedure, Crystal Henderson, Defendant in the trial-court proceeding, files this Notice of Appeal.

Crystal Henderson desires to appeal and seeks to alter the judgment or other appealable order rendered on July 27, 2022 by the 190 District Court, Harris County, Texas in the suit between Commission for lawyer discipline, Plaintiff, and Crystal Henderson, Defendant.

This appeal will be filed with the 190 in Harris, Texas.

Crystal D. Henderson
2310 Blodgett Street
Houston, TX 77004

/S/ Crystal D. Henderson
Phone: (281) 780-5014
Fax: (713) 583-4528
Email: crystaldhlaw@gmail.com

Certificate of Service

I certify that a true copy of this document was served in accordance with Rule 21a of the Texas Rules of Civil Procedure on the following on August 17, 2022.

/S/ Crystal D. Henderson
Crystal D. Henderson
PROSE

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Crystal Henderson on behalf of Crystal Henderson

Bar No. 24050742

crystaldhlaw@gmail.com

Envelope ID: 67440812

Status as of 8/18/2022 5:03 PM CST

Case Contacts

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Crystal Henderson		Crystaldhlaw@gmail.com	8/18/2022 2:55:22 PM	SENT
Jana Rine		jrine@yocomrinelaw.com	8/18/2022 2:55:22 PM	SENT
Sydney Moreau		smoreau@co.jefferson.tx.us	8/18/2022 2:55:22 PM	SENT

App. 11

CAUSE NO. 201955008

COMMISSION FOR LAWYER	§	IN THE DISTRICT COURT
DISCIPLINE	§	
	§	
VS.	§	190 JUDICIAL DISTRICT
	§	
CRYSTAL HENDERSON	§	OF HARRIS COUNTY, TEXAS

FIRST AMENDED MOTION FOR NEW TRIAL

To the Honorable Judge of Said Court

Pursuant to Texas Rule of Civil Procedure 320, Respondent Crystal Danielle Henderson, by her undersigned attorney, files this Amended Motion for New Trial.

1. On July 21, 2022, the respondent filed a motion to allow remote testimony in accordance with the Supreme Court of Texas' 52nd Emergency Order regarding the state of the Covid-19 disaster.
2. On July 22, 2022 the Court held a remote hearing on Respondent's motion to allow remote testimony where it ruled that remote testimony would not be allowed.
3. Based on the Emergency Order, Respondent did not anticipate the Court not permitting remote testimony for witnesses properly noticed. At this hearing Respondent explained the need for the witnesses based on the provisions entered by the Supreme Court of Texas to specifically permits a court to make reasonable efforts to allow witnesses or parties to participate in hearings of any kind remotely.

4. On July 25, 2022, the Respondent filed a motion for continuance based on the need for witnesses not allowed to testify vial remote access. (See exhibit 1)

ARGUMENT

5. Tex. Rule of Civil Procedure 190.5 requires the court to allow additional discovery in the interest of justice if: (1) [amended] pleadings...were made after the deadline for completion of discovery...and (2) the adverse party would be unfairly prejudiced without such additional discovery. Tex. R. Civ. P. 190.5.
6. The granting or denial of a continuance rests within the sound discretion of the trial court. *Olivares v. State*, 693 S.W.2d 486, 490 (Tex. App.—San Antonio 1985). Where a party seeks a continuance in order to obtain testimony, he must show due diligence. *Id.* In *Olivares*, the appellant did not discharge his burden of discovery during the twelve- month period preceding trial. *Id.*
7. Questions of procedural due process require an analysis of (1) whether the interest asserted is “within the Fourteenth Amendments protection of liberty and property,” and (2) if so, what process is due to sufficiently protect that interest. *Bd of Regents of State Colleges v. Roth*, 408 U.S. 564, 569–71 (1972); see also *Logan v. Zimmerman Brush Co.*, 455 U.S. 422, 428 (1982); *Univ. of Tex. Med. Sch. v. Than*, 901 S.W.2d 926, 930 (Tex.1995).
8. A primary requirement of due process in any proceeding which is to be accorded finality, is notice reasonably calculated under all the

circumstances, to apprise interested parties of the pendency of the action and to afford them an opportunity to be heard. *Armstrong v. Manzo*, 380 U.S. 545, 550 (1965), *H.P.F. v. B.D.P.*, 479 S.W.2d 124, 127v(Tex.App.-- San Antonio 1974).

9. It is settled that attorneys facing disciplinary proceedings are protected by the Due Process Clause of the federal Constitution. See U.S. Const. amend. XIV, § 1; *In re Ruffalo*, 390 U.S. 544, 550 (1968); *Tirrez v. Commission for Lawyer Discipline*, 2018 WL454723 *4 (Tex.App.—Austin 2018); *Galindo v. State*, 535 S.W.2d 923, 927 (Tex.App.-- Corpus Christi 1976); see also *Sercy v. State Bar of Texas*, 604 S.W.2d 256, 260 (Tex.App.— San Antonio 1980) (Due process not violated where respondent did not allege that he did not have adequate notice or that he did not have an opportunity to be heard).*Galindo v. State*, 535 S.W.3d 923, 927 (Tex.App.-Corpus Christi 1976).
10. The purpose of professional disciplinary proceedings is to enforce civil statutes; issues of fact are resolved from a preponderance of the evidence. *Pretzer v. Motor Vehicle Bd.*, 125 S.W.3d 23, 39 (Tex. App.—Austin 2003), *aff'd in part, rev'd in part*, 138 S.W.3d 908 (Tex. 2004)
11. The lawyer representing the Commission for Lawyer Discipline is an advocate, not a prosecutor. 48A Tex. Prac., Tex. Lawyer & Jud, Ethics §18.9, Applicable case lawThe Commission incorrectly applied the applicable standard and interfered with Henderson's requests for access to reasonable due process as provided in the 52nd Emergency Order.

12. The distinction between the role of the lawyer representing the Commission and the prosecutor representing the State highlights the need to allow time for discovery and trial

CONCLUSION

Henderson was not seeking to delay the trial. She was merely requesting access to protections created by the unique circumstances giving rise to the 52nd Emergency Order of the Texas Supreme Court. The denial of witnesses and denial of the time needed to present the testimonial evidence of the denied witnesses in the form of a short continuance is the foundation upon which this motion for new trial now rests.

As a result, Texas Rules of Disciplinary Procedure 2.12, 2.09, 3.07, 3.08, 3.09, 3.10, 3.11 are unconstitutional as applied. Wherefore, Respondent Henderson respectfully requests that this Court grant a new trial to allow Respondent to fully present this matter for consideration as a matter of due process. Respondent prays for protections available in equity and in law.

Prayer

Movant prays that the Court set this matter for hearing and, at the conclusion thereof, the Court enter an order vacating the judgment in this cause and grant Movant a new trial. Movant additionally prays for such other and further relief as the Court may deem appropriate.

Respectfully submitted,

The Law Office of Crystal D. Henderson, PLLC.
2310 Blodgett Street

Houston, TX 77004

/S/ Crystal D. Henderson

Crystal D. Henderson

PROSE

Phone: (281) 780-5014

Fax: (713) 583-4528

Email: crystaldhlaw@gmail.com

VERIFICATION

STATE OF TEXAS

§

COUNTY OF HARRIS

§

BEFORE ME, THE UNDERSIGNED AUTHORITY, on this day personally appeared the person known by me to be Crystal D. Henderson who, after being by me duly sworn, testified as follows:

“My name is Crystal D. Henderson, I am over 18 years of age, and have personal knowledge of the matters stated herein.

“I am the counsel for Crystal Henderson in the above Motion for New Trial. I have personal knowledge of all facts stated therein and all such facts are true and correct.”

/S/ Crystal D. Henderson

Crystal D. Henderson, PROSE

Certificate of Service

I certify that a true copy of this document was served in accordance with Rule 21a of the Texas Rules of Civil Procedure on the following on September 17, 2022.

/S/ Crystal D. Henderson

Crystal D. Henderson

Attorney for Defendant

Automated Certificate of eService

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Status as of 9/19/2022 9:19 AM CST

Case Contacts

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