

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

**IN THE MATTER OF**

**MIKE HERNANDEZ  
STATE BAR CARD  
NUMBER 09519300**

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§  
§  
§

**CASE NO. 35614**

**AGREED JUDGMENT TERMINATING INDEFINITE  
DISABILITY SUSPENSION AND  
ORDER OF DISABILITY PROBATION**

On August 19, 2005, came on to be heard in the above numbered and styled cause the Petitioner, Mike Hernandez's, Petition for Termination of Suspension. Petitioner and his Counsel and the Chief Disciplinary Counsel for the State Bar of Texas have entered into and submit this Agreed Judgment to terminate the indefinite disability suspension previously ordered by the Board of Disciplinary Appeals in its Judgment of July 21, 2004, in Cause No. 27214, *In the Matter of Mike Hernandez, State Bar Card No. 09519300*, and to place the Petitioner on Disability Probation, pursuant to Rule 12.06(F) *et seq.* of the Texas Rules of Disciplinary Procedure.

It is the agreement of the parties, and the Board so finds after considering the pleadings, evidence and argument of counsel, that the reasons for the Petitioner's suspension no longer exist and that the termination of the indefinite suspension would be without danger to the public and the profession.

It is therefore **ORDERED** that pursuant to Part XII of the Texas Rules of Disciplinary Procedure the period of indefinite disability suspension as ordered in Cause No. 27214, *In the*

*matter of Mike Hernandez, State Bar Card No. 09519300*, is hereby **TERMINATED** immediately upon entry of this Judgment.

It is further **ORDERED** that Mike Hernandez, State Bar Card No. 09519300, is hereby reinstated to the practice of law in the State of Texas immediately upon entry of this Judgment and continuing thereafter subject to the terms and conditions of the Disability Probation ordered herein.

It is further **ORDERED** that the State Bar of Texas shall return to the Petitioner, at his request, his Texas law license and reissue to Petitioner his State Bar Card.

It is the further agreement of the parties, and the Board of Disciplinary Appeals so finds, that upon entry of this Judgment Petitioner, Mike Hernandez, shall be placed on Disability Probation for a period of thirty-six (36) months under the terms and conditions ordered herein below.

It is therefore **ORDERED** that in accordance with the provisions of Rule 12.06(F) *et seq.* of the Texas Rules of Disciplinary Procedure the Petitioner, Mike Hernandez, be and hereby is placed on Disability Probation for a period of thirty-six (36) months beginning upon the Chairman of the Board of Disciplinary Appeals signing this Judgment and ending thirty-six (36) months thereafter, under the following terms and conditions:

1. Petitioner shall not violate any provision of the Texas Disciplinary Rules of Professional Conduct or any provision of the State Bar Rules;
2. Petitioner shall not violate the laws of the United States, the State of Texas, or any other state, other than minor traffic regulations;
3. Petitioner shall maintain a current status regarding membership fees in accordance with Article III of the State Bar Rules;
4. Petitioner shall comply with Minimum Continuing Legal Education (MCLE) requirements in accordance with Article III of the State Bar Rules;

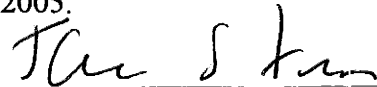
5. Petitioner shall keep the Membership Department of the State Bar of Texas notified of his current business and home addresses and telephone numbers, and shall immediately notify the Chief Disciplinary Counsel of any change of address or telephone numbers;
6. Petitioner shall abstain from the use of alcohol and drugs, other than medication drugs prescribed by a licensed medical practitioner, and shall during the thirty-six (36) month period of Disability Probation submit to monthly random drug analysis as requested by the Chief Disciplinary Counsel;
7. Petitioner shall meet with an attorney monitor at least monthly who shall monitor Petitioner's law practice during his Disability Probation, and who shall counsel Petitioner regarding his handling of clients' cases and compliance with court schedules, rules and orders. The monitor will report on the Petitioner and his compliance with the terms of this probated disability suspension to the Chief Disciplinary Counsel at least once every three months. The Monitoring Agreement is attached and incorporated here in as Exhibit "A." The Oath of the Monitor is attached hereto and incorporated herein as Exhibit "B";
8. Petitioner shall continue counseling with his current drug and/or alcohol abuse counselor, who shall supervise Petitioner's chemical dependency recovery program for the entire term of his Disability Probation; any subsequent change or substitution of Petitioner's drug and/or alcohol abuse counselor must be immediately reported to the Chief Disciplinary Counsel;
9. Petitioner shall waive all claim of confidentiality concerning any information that may be provided by his drug and/or alcohol abuse counselor to the Chief Disciplinary Counsel; Petitioner shall direct his drug and/or alcohol abuse Counselor to file with the Chief Disciplinary Counsel on a quarterly basis during the entire term of his Disability Probation written reports relating to Petitioner's compliance or failure to comply with the requirements of his recovery program;
10. Petitioner shall permit the Chief Disciplinary Counsel to periodically review his records pertaining to his office and trust accounts to ensure his compliance with the Texas Disciplinary Rules of Professional Conduct and fulfillment of his obligations to his clients during the term of his Disability Probation;
11. Petitioner shall fully cooperate with the Office of Chief Disciplinary Counsel in its efforts to monitor compliance with the terms of this Judgment and in its investigation of any allegation of Professional Misconduct that may arise during the term of Disability Probation; and
12. Petitioner shall pay to the Office of Chief Disciplinary Counsel reasonable attorneys' fees and expenses in the amount of \$750.00 within sixty (60) days of the date the Chairman of the Board of Disciplinary Appeals signs this Judgment;

such payment shall be by cashier's or certified check, money order, or other form of guaranteed payment.

It is further **ORDERED** that upon determination that Petitioner, Mike Hernandez, has violated any of the terms or conditions of his disability probation, the Board of Disciplinary Appeals shall enter an order revoking the Disability Probation and imposing an active disability suspension of Petitioner from the practice of law, commencing on or after the date of revocation, upon the following conditions:

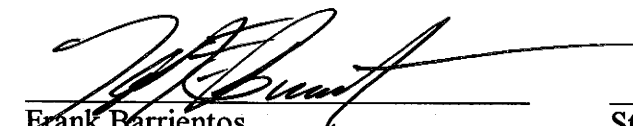
1. The Chief Disciplinary Counsel of the State Bar of Texas may apply for revocation to the Board of Disciplinary Appeals by filing a written motion to revoke probation;
2. A copy of the Motion to Revoke Probation and Notice of Hearing on such Motion shall be delivered to Petitioner in accordance with the provisions of Rule 2.23, Texas Rules of Disciplinary Procedure, at Petitioner's last known address on the membership rolls for the Supreme Court of Texas; and
3. The Board shall hear the Motion to Revoke Probation within thirty (30) days of service upon Petitioner, and shall determine whether Petitioner has violated any of the terms or conditions of probation by a preponderance of the evidence.

Signed this 2<sup>nd</sup> day of September 2005.

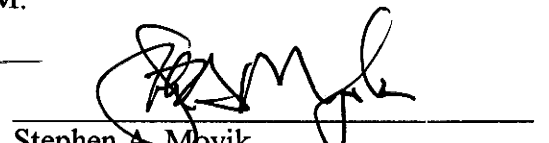


JAMES S. FROST, CHAIRMAN  
SUPREME COURT OF TEXAS  
BOARD OF DISCIPLINARY APPEALS

APPROVED AND AGREED AS TO FORM:

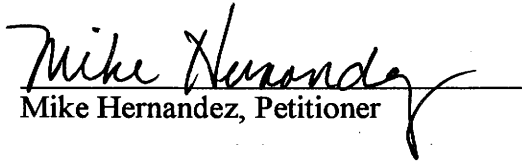


Frank Barrientos  
Attorney for Petitioner



Stephen A. Moyik  
Assistant Disciplinary Counsel  
Office of the Chief Disciplinary Counsel

AGREED AS TO BOTH FORM AND SUBSTANCE:

  
Mike Hernandez, Petitioner

## **MONITORING AGREEMENT**

I, Mike Hernandez, am executing this Monitoring Agreement pursuant to the terms of the Agreed Judgment Terminating Indefinite Disability Suspension and Order of Disability Probation issued by the Board of Disciplinary Appeals on August 19, 2005, and agree to comply with all the terms and conditions herein. I further agree and understand that any leniency I may receive from the State Bar of Texas, Commission for Lawyer Discipline or the Board of Disciplinary Appeals is in consideration of such compliance.

### **ATTORNEY MONITOR**

I agree to submit to supervision by the Attorney Monitor appointed by the Board of Disciplinary Appeals ("BODA"). I understand that my Attorney Monitor will supervise my compliance with this agreement and, to that end, will make written quarterly progress reports under oath to the Office of the Chief Disciplinary Counsel of the State Bar of Texas and is under a duty to immediately report to the Office of the Chief Disciplinary Counsel any non-compliance on my part with the terms and conditions of this Agreement. I further understand my Attorney Monitor is **not** my advocate in any disciplinary action or proceeding. The Board of Disciplinary Appeals may appoint a substitute monitor at any time.

I understand that my appointed Monitor is Antonio Balderas, Jr.  
Attorney at Law, and that failure of the monitor to perform his duties under this agreement or provide any services called for herein shall not relieve me of the obligations imposed in the Judgment of Probated Disability Suspension.

I agree to contact my Attorney Monitor in person or by telephone monthly, or more frequently if required by my Attorney Monitor, throughout the duration of this Agreement. My Attorney Monitor may require, from time to time, that such contact be made in person rather than by telephone.

### **ABSTINENCE**

I agree to remain abstinent from all alcohol and other mind altering drugs except on rare occasions when medications are prescribed and/or approved by an attending addictionist/physician or attending psychiatrist. On such occasions when such drugs are prescribed or approved, I agree to immediately inform my Attorney Monitor of the name of the drug prescribed or approved, the name and phone number of the prescribing or approving physician, and the medical condition necessitating the use of the medication. I further agree, upon request of my Attorney Monitor, to take any action or execute any documents necessary to allow my Attorney Monitor and the Office of the Chief Disciplinary Counsel of the State Bar of Texas to obtain information directly from such attending addictionist/physician or attending psychiatrist.

**RANDOM DRUG SCREENS**

I agree to submit to and pay for any random drug screen immediately upon request by the Office of the Chief Disciplinary Counsel or my Attorney Monitor at the drug-testing center specified in the request. Failure to complete a random drug screen within 36 hours of any request shall be a violation of this Agreement. Copies of results of any drug screen will be delivered immediately to the Office of the Chief Disciplinary Counsel and to my Attorney Monitor.

**ACKNOWLEDGMENT AND RELEASE OF INFORMATION**

I acknowledge receiving executed copies of the Judgment of Probated Disability Suspension, Monitoring Agreement, and Oath of Monitor, and I agree to execute a Release of Information and to cooperate in providing all information relevant to this Agreement and my compliance or non-compliance with its terms and conditions to the Office of the Chief Disciplinary Counsel and to my Attorney Monitor.

**DURATION OF AGREEMENT**

This Agreement shall remain in effect throughout the term of my probated suspension from the practice of law as set forth in the Judgment of Probated Disability Suspension signed August 19, 2005.

**I UNDERSTAND THAT FAILURE TO COMPLY WITH ANY OF THE TERMS OF THIS AGREEMENT OR OF THE ORDER OF PROBATED DISABILITY SUSPENSION IS GROUNDS FOR REVOCATION OF MY PROBATION.**

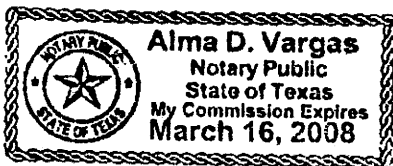
EXECUTED: August 1, 2005

Mike Hernandez  
Mike Hernandez

State of Texas  
County of Harris

SUBSCRIBED AND SWORN TO BEFORE ME on this 1 day of August 2005.

Alma D. Vargas  
Notary Public



**OATH OF MONITOR**

STATE OF TEXAS

COUNTY OF Harris

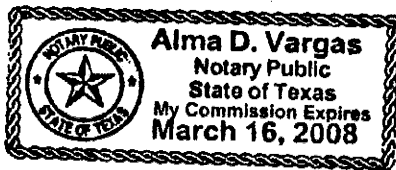
BEFORE ME, the undersigned authority, personally appeared Antonio Balderas, Jr. who, after being duly sworn, on oath stated:

I am acquainted with Mike G. Hernandez and have agreed to become his/her monitor under the Agreed Judgment, attached hereto and incorporated herein. I hereby voluntarily accept and undertake all the powers and duties of a monitor as stated in the Agreed Judgment. I further agree to file quarterly reports on Mike G. Hernandez's progress and to immediately report any evidence of Mike G. Hernandez's noncompliance with the terms and conditions of the Agreed Judgment.

Signed this 3 day of August, 2005.

Antonio Balderas, Jr.  
Attorney Monitor

SUBSCRIBED AND SWORN TO BEFORE ME on this 3 day of August 2005.



Alma D. Vargas  
Notary Public, State of Texas  
Name Printed: Alma D. Vargas

EX. B