



FILED  
Dec 01 2025

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

**THE BOARD of DISCIPLINARY APPEALS**  
*Appointed by the Supreme Court of Texas*

**IN THE MATTER OF  
CHARLES D. HOPPER,  
STATE BAR CARD NO. 00794938**

§  
§  
§

**CAUSE NO. 71705**

**FIRST AMENDED PETITION FOR RECIPROCAL DISCIPLINE**

**TO THE BOARD OF DISCIPLINARY APPEALS:**

The Commission for Lawyer Discipline, (hereinafter referred to as the "Commission"), brings this action against Respondent, Charles D. Hopper, and would show the following:

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

2. Respondent is a licensed member of the State Bar of Texas who has been administratively suspended and not currently authorized to practice law in Texas. Respondent may be served with a true and correct copy of this First Amended Petition for Reciprocal Discipline at Charles D. Hopper, 700 Easy Street, Las Vegas, Nevada 89107-3821.

3. On or about April 25, 2024, a Complaint (Exhibit 1) was filed in Case No. SBN23-00973; styled *State Bar of Nevada, Complainant, vs. Charles D. Hopper., Bar No. 6346, Respondent*, before the State Bar of Nevada, Southern Nevada Disciplinary Board, that states, in pertinent part, as follows:

**GENERAL ALLEGATIONS**

1. Charles Hopper, Esq. ("Respondent"), Nevada Bar

No. 6346, is an administratively suspended member of the State Bar, was licensed to practice law in the State of Nevada on October 13, 1997, and-at all times pertinent to this Complaint-had a principal place of business for the practice of law located in Clark County, Nevada.

**RESPONDENT'S REPRESENTATION OF ERICH MAHAN**

2. Erich Mahan ("Mr. Mahan") retained Respondent after a misdemeanor arrest around or about September 15, 2021.

3. Mr. Mahan paid Respondent a retainer.

4. In 2022, Respondent did not file his annual disclosures with the State Bar, including the Certification of Compliance and Consent, Professional Liability Insurance Disclosure, Child Support Information, and Mandatory Report of Pro Bono.

5. The State Bar provided notice to Respondent of his failure to file the annual disclosures and pending administrative suspension.

6. In response to this notice, Respondent contacted the State Bar on June 8, 2022, about the pending administrative suspension.

7. Respondent did not cure the deficits to his annual disclosures.

8. On June 30, 2022, the Board of Governors voted unanimously to administratively suspend Respondent.

9. The State Bar notified Respondent of the administrative suspension.

10. On or about August 29, 2022, Respondent confirmed as attorney of record for Mr. Mahan's case in the Las Vegas Justice Court and entered a not guilty plea on Mr. Mahan's behalf.

11. Respondent did not tell Mr. Mahan he was administratively suspended before Mr. Mahan's August 29, 2022, court date.

12. The court set a misdemeanor bench trial date for Mr. Mahan's case for December 1, 2022.

13. On December 1, 2022, the court continued Mr. Mahan's misdemeanor trial and set a status check on negotiations for January 5, 2023.

14. On January 5, 2023, the court continued Mr. Mahan's case for another status check on negotiations for February 9, 2023.

15. Around or about January 2023, Respondent sent Mr. Mahan an admonishment and stated that if Mr. Mahan signed the admonishment, the court would reduce his case to a lesser charge.

16. On February 9, 2023, neither Respondent nor Mr. Mahan were present for the status check on negotiations and the court issued a bench warrant for Mr. Mahan.

17. Respondent did not tell Mr. Mahan about the bench warrant.

18. Mr. Mahan attempted to contact Respondent several times from January 2023 to July 2023.

19. Respondent did not reply to Mr. Mahan's attempts to contact him from January 2023 to July 2023.

20. Around or about July 2023, Mr. Mahan learned of the warrant after traveling to Las Vegas, Nevada.

21. Around or about July 2023, Mr. Mahan first learned that the State Bar suspended Respondent.

22. On or about July 26, 2023, Respondent apologized to Mr. Mahan for not attending the February 9, 2023, court appearance and stated he was attempting to reschedule the hearing and provide Mr. Mahan with new counsel.

23. Around or about July 2023, Mr. Mahan retained the services of Damian Sheets to resolve the bench warrant.

24. On or about July 31, 2023, Mr. Sheets filed a motion to quash.

25. On or about August 2, 2023, the court granted Mr. Sheets' motion to quash and set a status check for negotiations for October 4, 2023.

26. On or about October 4, 2023, Mr. Mahan pled guilty

to a misdemeanor.

27. On or about January 3, 2024, the court closed Mr. Mahan's case.

**MR. MAHAN'S GRIEVANCE & THE STATE BAR'S  
INVESTIGATION**

28. On or about July 26, 2023, Mr. Mahan filed a grievance with the State Bar.

29. SCR 79 requires Respondent provide a permanent mailing address, permanent telephone number, and current email address to the State Bar.

30. Respondent provided a SCR 79 permanent mailing address to the State Bar.

31. Respondent provided a SCR 79 permanent telephone number to the State Bar.

32. Respondent provided a SCR 79 current email address to the State Bar.

33. SCR 79 also requires Respondent inform the State Bar of any changes to his SCR 79 contact information within thirty (30) days after any such change occurs.

34. On or about July 28, 2023, the State Bar sent a letter of inquiry to Respondent at his SCR 79 permanent mailing address lawfully demanding a response to the grievance filed by Mr. Mahan.

35. On or about July 28, 2023, the State Bar sent a letter of inquiry to Respondent to his SCR 79 current email address lawfully demanding a response to the grievance filed by Mr. Mahan.

36. Respondent failed to respond to these July 28, 2023, lawful demands for information from the State Bar.

37. On or about August 17, 2023, the State Bar sent a letter of inquiry to Respondent at his SCR 79 permanent mailing address lawfully demanding a response to Mr. Mahan's grievance.

38. On or about August 17, 2023, the State Bar sent a letter of inquiry to Respondent at his SCR 79 current email address lawfully demanding a response to Mr. Mahan's grievance.

39. On or about September 18, 2023, the August 17, 2023, letter of inquiry returned to the State Bar as "not deliverable" and "unable to forward."

40. On or about September 28, 2023, the State Bar sent a certified letter of inquiry to Respondent at his SCR 79 permanent mailing address lawfully demanding a response to Mr. Mahan's grievance.

41. On or about October 25, 2023, the September 28, 2023, letter of inquiry returned to the State Bar as "not deliverable" and "unable to forward."

42. On or about November 6, 2023, the State Bar sent a letter of inquiry to Respondent at another address, that upon information and belief was associated with Respondent, lawfully demanding a response to Mr. Mahan's grievance.

43. On or about November 29, 2023, Respondent acknowledged receipt of the November 6, 2023 letter of inquiry and asked for more time to respond to the grievance.

44. The State Bar provided Respondent until December 13, 2023, to respond to the grievance.

45. On or about December 21, 2023, Respondent called the State Bar, left a voicemail with reception, and asked for January 5, 2024, to respond to the grievance.

46. On or about January 11, 2024, the State Bar called Respondent about his response to Mr. Mahan's grievance but Respondent did not answer.

47. On or about February 2, 2024, Respondent did not substantively respond to the State Bar's lawful demand for information, but instead sent an email to the State Bar stating that he and Mr. Mahan had reached a settlement and "I hope that this will not only satisfy your demand for information but will result in the closing of the instant grievance file."

48. Mr. Mahan and Respondent attempted to reach a settlement in November 2022 regarding repayment of Mr. Mahan's retainer but Respondent failed to make payments towards the settlement by February 2024.

49. On or about February 28, 2024, Respondent again

offered to make payments towards repaying Mr. Mahan's retainer.

### **COUNT ONE**

#### **RPC 1.3 (Diligence)**

50. The State Bar repeats and realleges the allegations contained in Paragraphs 1 through 49 as if fully incorporated herein.

51. RPC 1.3 states in relevant part the following: "[a] lawyer shall act with reasonable diligence and promptness in representing a client."

52. Respondent failed to act with reasonable diligence and promptness while representing Mr. Mahan by failing to appear for a status check on negotiations, which resulted in the court to issue a bench warrant on February 9, 2023.

53. Respondent failed to act with reasonable diligence and promptness by not terminating representation with Mr. Mahan after the State Bar administratively suspended Respondent and he could no longer represent Mr. Mahan without engaging in the unauthorized practice of law.

54. In light of the foregoing, including without limitation paragraphs 1 through 53 Respondent has violated RPC 1.3.

### **COUNT TWO**

#### **RPC 1.4(a) (Communication)**

55. The State Bar repeats and realleges the allegations contained in Paragraphs 1 through 54 as if fully incorporated herein.

56. RPC 1.4(a) states in relevant part the following: A lawyer shall:

- (1) Promptly inform the client of any decision or circumstance with respect to which the client's informed consent is required by these Rules;
- (2) Reasonably consult with the client about the means by which the client's objectives are to be accomplished;
- (3) Keep the client reasonably informed about the status of the matter; [and]
- (4) Promptly comply with reasonable requests for

information;

57. Respondent did not respond to Mr. Mahan's multiple attempts to obtain an update from January 2023 to July 2023.

58. Respondent never notified Mr. Mahan that the court issued a bench warrant on February 9, 2023.

59. Respondent failed to reasonably consult with Mr. Mahan about the means to obtain his objectives after the State Bar administratively suspended Respondent and he and could no longer represent Mr. Mahan without engaging in the unauthorized practice of law.

60. In light of the foregoing, including without limitation paragraphs 1 through 59 Respondent has violated RPC 1.4(a).

### **COUNT THREE**

#### **RPC 1.16(a)(1) (Declining or Terminating Representation)**

61. The State Bar repeats and realleges the allegations contained in Paragraphs 1 through 60 as if fully incorporated herein.

62. RPC 1.16(a)(1) states in relevant part the following: "a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if ... [t]he representation will result in violation of the Rules of Professional Conduct or other law. . . "

63. Respondent failed to withdraw from representation when continued representation of Mr. Mahan would result in him engaging in unauthorized practice of law after the State Bar administratively suspended Respondent from the practice of law on June 30, 2022.

64. In light of the foregoing, including without limitation paragraphs 1 through 63, Respondent has violated RPC 1.16(a)(1).

### **COUNT FOUR**

#### **RPC 1.16(d) (Declining or Terminating Representation)**

65. The State Bar repeats and realleges the allegations contained in Paragraphs 1 through 64 as if fully incorporated herein.

66. RPC 1.16(d) states in relevant part the following:

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 payment of fee or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by other law.

67. Respondent failed to take steps to the extent reasonably practicable to protect Mr. Mahan's interests by not refunding the retainer upon Mr. Mahan's termination of representation and demand for return of any unearned portion of the retainer.

68. In light of the foregoing, including without limitation paragraphs 1 through 67, Respondent has violated RPC 1.16(d).

#### **COUNT FIVE**

##### **RPC 5.5(a)(1) (Unauthorized Practice of Law)**

69. The State Bar repeats and realleges the allegations contained in Paragraphs 1 through 68 as if fully incorporated herein.

70. RPC 5.5(a)(1) states in relevant part the following: "[a] lawyer shall not . . . practice law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction . . ."

71. After the State Bar administratively suspended Respondent on June 30, 2022, Respondent engaged in the unauthorized practice of law when he confirmed as attorney of record for Mr. Mahan's case on September 15, 2022, and continued to represent Mr. Mahan until at least February 9, 2023, when he sent Mr. Mahan an admonishment and stated that if Mr. Mahan signed the admonishment, the court would reduce his case to a lesser charge.

72. In light of the foregoing, including without limitation paragraphs 1 through 71, Respondent has violated 5.5(a)(1).

#### **COUNT SIX**

##### **RPC 8.1(b) (Bar Admission and Disciplinary Matters)**



73. The State Bar repeats and realleges the allegations contained in Paragraphs 1 through 72 as if fully incorporated herein.

74. RPC 8.1(b) states in relevant part the following: "a lawyer in connection with . . . a disciplinary matter, shall not . . . knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority. . ."

75. Respondent acknowledged receipt of a November 6, 2023, letter of inquiry by asking for more time to file a response to Mr. Mahan's grievance.

76. Respondent failed to provide a response to a lawful demand for information after not responding to multiple letters of inquiry and emails from the State Bar.

77. In light of the foregoing, including without limitation paragraphs 1 through 76, Respondent has violated 8.1(b).

### **COUNT SEVEN**

#### **RPC 8.4(c) (Misconduct)**

78. The State Bar repeats and realleges the allegations contained in Paragraphs 1 through 77 as if fully incorporated herein.

79. RPC 8.4(c) states in relevant part the following: "[i]t is professional misconduct for a lawyer to . . . [e]ngage in conduct involving dishonesty, fraud, deceit or misrepresentation. . ."

80. Respondent told Mr. Mahan the court would reduce his case to a lesser charge if Mr. Mahan signed an admonishment.

81. Respondent failed to disclose his administrative suspension to Mr. Mahan, the prosecuting attorney, and the court as required by SCR 115(3) and knew that failing to withdraw would result in the unauthorized practice of law.

82. Respondent offered to pay back the retainer to Mr. Mahan and then failed to adhere to a settlement agreement with Mr. Mahan.

83. Respondent told the State Bar that the matter was resolved with Mr. Mahan and asked to close the grievance because he had a repayment plan with Mr. Mahan.

84. In light of the foregoing, including without limitation paragraphs 1 through 83, Respondent has violated 8.4(c).

### **COUNT EIGHT**

#### **RPC 8.4(d) (Misconduct)**

85. The State Bar repeats and realleges the allegations contained in Paragraphs 1 through 84 as if fully incorporated herein.

86. RPC 8.4(d) states in relevant part the following: "[i]t is professional misconduct for a lawyer to . . . engage in conduct that is prejudicial to the administration of justice. . ."

87. Respondent failed to notify Mr. Mahan, the prosecuting attorney, and the court of his June 30, 2022, administrative suspension.

88. Respondent failed to withdraw from Mr. Mahan's case, engaged in the unauthorized practice of law, and the court issued a bench warrant for Mr. Mahan after neither he nor Mr. Mahan appeared for the status check on negotiations on February 9, 2023.

89. In light of the foregoing, including without limitation paragraphs 1 through 88, Respondent has violated 8.4(d).

### **COUNT NINE**

#### **SCR79 (Disclosures by members of the bar)**

90. The State Bar repeats and realleges the allegations contained in Paragraphs 1 through 89 as if fully incorporated herein.

91. SCR 79 states in relevant part the following: "[e]very member of the state bar, including both active and inactive members regardless of residency in Nevada . . . shall provide to the state bar, for the purposes of state bar communications, the following: (a) A permanent mailing address; (b) A permanent telephone number; and (c) A current email address."

92. The State Bar sent uncertified and certified letters of inquiry to Respondent's 79 permanent mailing address on different dates but all letters returned to the State Bar as "not deliverable" and "unable to forward."

93. Respondent did not provide a permanent mailing address to the State Bar for the purpose of receiving State Bar communications.

94. In light of the foregoing, including without limitation paragraphs 1 through 93, Respondent has [sic] SCR 79.

### **COUNT TEN**

#### **SCR115(3) (Notice of change in license status; winding down of practice)**

95. The State Bar repeats and realleges the allegations contained in Paragraphs 1 through 94 as if fully incorporated herein.

96. SCR 115(3) states in relevant part the following:

An attorney barred from the active practice of law . . . shall immediately notify, by registered or certified mail, return receipt requested, (1) each of the attorney's clients who is involved in pending litigation . . . or other similar proceedings, (2) the attorney(s) for each adverse party in such matters, and (3) the court . . . over such proceeding of his . . . suspension. . . . The notice to the client shall state the desirability of prompt substitution of another attorney of the client's own choice and shall list any upcoming appearances and deadlines. . . . In the event the client does not obtain substitute counsel within 30 days of the attorney's notice to the client, it shall be the responsibility of the attorney to move in the court, agency or other forum in which the proceeding is pending for leave to withdraw, if leave is required.

97. Respondent failed to notify Mr. Mahan, the prosecuting attorney, and the court of his June 30, 2022, administrative suspension.

98. Respondent appeared and confirmed as attorney of record for Mr. Mahan's case on or about August 29, 2022, and continued representing Mr. Mahan until at least February 9, 2023.

99. In light of the foregoing, including without limitation paragraphs 1 through 98, Respondent has violated SCR 115(3).

4. On or about June 11, 2024, a Conditional Admission Agreement in Exchange for a Stated Form of Discipline (Exhibit 2) was filed in Case No. SBN23-00973; styled *State Bar of Nevada, Complainant, vs. Charles D. Hopper, Esq., NV Bar No. 6346, Respondent*, before the State Bar of Nevada, Southern Nevada Disciplinary Board, that states in pertinent part as follows:

...

### **I. CONDITIONAL ADMISSION**

Respondent hereby admits that he violated 1.16(a)(1), 1.16(d), 5.5(a)(1), 8.1(b), and 8.4(d) of the Nevada Rules of Professional Conduct ("RPC").

### **II. STIPULATION OF FACTS**

Respondent understands that by making this admission, Respondent also admits to the following facts to support all elements of the misconduct for which Respondent tenders this agreement:

1. Charles Hopper, Esq. ("Respondent"), Nevada Bar No. 6346, is an administratively suspended member of the State Bar, was licensed to practice law in the State of Nevada on October 13, 1997, and-at all times pertinent to this Complaint-had a principal place of business for the practice of law located in Clark County, Nevada.

2. Erich Mahan ("Mr. Mahan") retained Respondent after a misdemeanor arrest around or about September 15, 2021.

3. Mr. Mahan paid Respondent a \$1,000 retainer.

4. Respondent did not file his annual disclosures with the State Bar in 2022, including the Certification of Compliance and Consent, Professional Liability Insurance Disclosure, Child Support Information, and Mandatory Report of Pro Bono.

5. The State Bar provided notice to Respondent of his failure to file the annual disclosures and pending administrative suspension.

6. In response to this notice, Respondent contacted the State Bar on June 8, 2022 about the pending administrative suspension.

7. Respondent did not cure the deficits to his annual disclosures.

8. On June 30, 2022, the Board of Governors voted unanimously to administratively suspend Respondent.

9. The State Bar provided notice to Respondent of the administrative suspension.

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10. On or about August 29, 2022, Respondent confirmed as attorney of record for Mr. Mahan's case in the Las Vegas Justice Court and entered a not guilty plea on Mr. Mahan's behalf.

11. Respondent did not tell Mr. Mahan he was administratively suspended before Mr. Mahan's August 29, 2022 court date.

12. The court set a misdemeanor bench trial date for Mr. Mahan's case for December 1, 2022.

13. On December 1, 2022, the court continued Mr. Mahan's misdemeanor trial and set a status check on negotiations for January 5, 2023.

14. On January 5, 2023, the court continued Mr. Mahan's case for another status check on negotiations for February 9, 2023.

15. On February 9, 2023, neither Respondent nor Mr. Mahan were present for the status check on negotiations and the court issued a bench warrant for Mr. Mahan.

16. Respondent did not tell Mr. Mahan about the bench warrant.

17. Mr. Mahan attempted to contact Respondent several times from January 2023 to July 2023.

18. Respondent did not reply to Mr. Mahan's attempts to contact him from January 2023 to July 2023.

19. Around or about July 2023, Mr. Mahan learned of the warrant after traveling to Las Vegas, Nevada.

20. Around or about July 2023, Mr. Mahan first learned that the State Bar suspended Respondent.

21. On or about July 26, 2023, Respondent apologized to Mr. Mahan for not attending the February 9, 2023 court appearance and stated he was attempting to reschedule the hearing and provide Mr. Mahan with new counsel.

22. Around or about July 2023, Mr. Mahan retained the services of Damian Sheets to resolve the bench warrant.

23. On or about July 31, 2023, Mr. Sheets filed a motion to quash.

24. On or about August 2, 2023, the court granted Mr. Sheets' motion to quash and set a status check for negotiations for October 4, 2023.

25. On or about October 4, 2023, Mr. Mahan pled guilty to a misdemeanor.

26. On or about January 3, 2024, the court closed Mr. Mahan's case.

27. On or about July 26, 2023, Mr. Mahan filed a grievance with the State Bar.

28. SCR 79 requires Respondent to provide a permanent mailing address, permanent telephone number, and current email address to the State Bar.

29. Respondent provided a SCR 79 permanent mailing address to the State Bar.

30. Respondent provided a SCR 79 permanent telephone number to the State Bar.

31. Respondent provided a SCR 79 current email address to the State Bar.

32. SCR 79 also requires Respondent inform the State Bar of any changes to his SCR 79 contact information within thirty (30) days after any such change occurs.

33. On or about July 28, 2023, the State Bar sent a letter of inquiry to Respondent to his SCR 79 permanent mailing address

lawfully demanding a response to the grievance filed by Mr. Mahan.

34. On or about July 28, 2023, the State Bar sent a letter of inquiry to Respondent to his SCR 79 current email address lawfully demanding a response to the grievance filed by Mr. Mahan.

35. Respondent failed to respond to these July 28, 2023 lawful demands for information from the State Bar.

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36. On or about August 17, 2023, the State Bar sent a letter of inquiry to Respondent to his SCR 79 permanent mailing address lawfully demanding a response to Mr. Mahan's grievance.

37. On or about August 17, 2023, the State Bar sent a letter of inquiry to Respondent to his SCR 79 current email address lawfully demanding a response to Mr. Mahan's grievance.

38. On or about September 28, 2023, the State Bar sent a certified letter of inquiry to Respondent to his SCR 79 permanent mailing address lawfully demanding a response to Mr. Mahan's grievance.

39. On or about November 6, 2023, the State Bar sent a letter of inquiry to Respondent at another address, that upon information and belief was associated with Respondent, lawfully demanding a response to Mr. Mahan's grievance.

40. On or about November 29, 2023, Respondent acknowledge [sic] receipt of the November 6, 2023 letter of inquiry and asked for more time to respond to the grievance.

41. The State Bar provided Respondent until December 13, 2023 to respond to the grievance.

42. On or about December 21, 2023, Respondent called the State Bar, left a voicemail with [sic] reception, and asked for January 5, 2024 to respond to the grievance.

43. On or about January 11, 2024, the State Bar called Respondent about his response to Mr. Mahan's grievance but Respondent did not answer.

44. On or about February 2, 2024, Respondent did not

substantively respond to the State Bar's lawful demand for information, but instead sent an email to the State Bar stating that he and Mr. Mahan had reached a settlement and "I hope that this will not only satisfy your demand for information, but will result in the closing of the instant grievance file."

45. Mr. Mahan and Respondent attempted to reach a settlement in November 2022 regarding repayment of Mr. Mahan's retainer but Respondent failed to make payments towards the settlement by February 2024.

46. On or about February 28, 2024, Respondent again offered to make payments towards repaying Mr. Mahan's retainer.

### **III. VIOLATIONS OF THE RULES OF PROFESSIONAL CONDUCT**

1. RPC 1.16(a)(1) states in relevant part the following: "a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if ... [t]he representation will result in violation of the Rules of Professional Conduct or other law . . ."

2. Respondent knowingly violated RPC 1.16(a)(1) after the State Bar administratively suspended him for failing to file his annual disclosures and Respondent then failed to withdraw from Mr. Mahan's case when continued representation would result in the unauthorized practice of law.

3. RPC 1.16(d) states in relevant part the following: "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 payment of fee or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by other law."

4. Respondent knowingly violated RPC 1.16(d) after he failed to refund Mr. Mahan's retainer upon Mr. Mahan's termination of representation and demand for return of any unearned portion of the retainer.

5. RPC 5.5(a)(1) states in relevant part the following: "[a] lawyer shall not . . . practice law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction . . ."



6. Respondent knowingly violated RPC 5.5(a)(1) after the State Bar administratively suspended Respondent for failing to file his annual disclosures, but Respondent then confirmed as attorney of record for Mr. Mahan's case and then continued to represent Mr. Mahan in this matter.

7. RPC 8.1(b) states in relevant part the following: "a lawyer in connection with . . . a disciplinary matter, shall not . . . knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority . . ."

8. Respondent knowingly violated RPC 8.1(b) after acknowledging receipt of the State Bar's letter of inquiry and then failing to provide a response to the State Bar's lawful demand for information.

9. RPC 8.4(d) (Misconduct) states that "[i]t is professional misconduct for a lawyer to . . . [e]ngage in conduct that is prejudicial to the administration of justice . . ."

10. Respondent knowingly violated RPC 8.4(d) after he failed to notify Mr. Mahan, the prosecuting attorney, and the court of his administrative suspension pursuant to SCR 115(3). Respondent then failed to withdraw from Mr. Mahan's case, engaged in the unauthorized practice of law, and the court issued a bench warrant for Mr. Mahan after neither he nor Mr. Mahan appeared for a court ordered status check.

#### **IV. MENTAL STATE & INJURY/ POTENTIAL INJURY**

The parties stipulate and agree that Respondent acted "knowingly." Respondent acted with "conscious awareness of the nature or attendant circumstances of the conduct but without the conscious objective or purpose to accomplish a particular result." ABA Standards for Imposing Lawyer Sanctions (2d ed. 2019), p. xxi ("ABA Standard" [sic]).

The parties stipulate and agree that Respondent's misconduct resulted in injury or potential injury to the legal system by engaging in conduct prejudicial to the administration of justice; and the profession by failing to withdraw from representation after the State Bar administratively suspended him for failing to file his annual disclosures, failing to take steps to the extent reasonably practicable to protect Mr. Mahan's interests, engaging in the unauthorized practice of law; and failing to respond to the State Bar's lawful demands for information.

## **V. ABA BASELINE STANDARD FOR IMPOSING LAWYER SANCTIONS**

The parties stipulate and agree that the following standards for baseline sanctions should apply to Respondent's admission and the agreed upon stated form of discipline:

ABA Standard 6.22 states that suspension is generally appropriate when a lawyer knows that he or she is violating a court order or rule and causes injury or potential injury to a client or a party or causes interference or potential interference with a legal proceeding.

ABA Standard 7.2 states that suspension is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional, and causes injury or potential injury to a client, the public or the legal system.

## **VI. AGGRAVATING AND MITIGATING CIRCUMSTANCES**

The parties stipulate and agree that the following aggravating circumstances are relevant to Respondent's admission and the agreed upon stated form of discipline:

Multiple offenses and substantial experience in the practice of law. SCR 102.5(3).

The parties stipulate and agree that the following mitigating circumstances are relevant to Respondent's admission and the agreed upon stated form of discipline:

Absence of a prior disciplinary record, personal or emotional problems, and remorse. SCR 102.5(4).

The parties stipulate and agree that these aggravating and mitigating circumstances do not justify an increase or decrease to any ABA baseline sanction.

## **VII. STATED FORM OF DISCIPLINE**

Pursuant to Respondent's admission and the stipulation of facts set forth above, Respondent agrees to the following stated form of discipline:

1. Respondent shall be suspended for six (6) months

and one (1) day. The period of suspension shall be effective upon the issuance of the Nevada Supreme Court's Order approving and accepting Respondent's admission but run from June 30, 2022 with credit for the time since Respondent's administrative suspension began for failure to file his annual disclosures. Respondent shall seek reinstatement pursuant to SCR 116.

2. As criteria for seeking reinstatement, Respondent shall pay restitution in the amount of \$1,000 to Erich Mahan. Respondent shall remit restitution to the Clients Security Fund pursuant to RPC 1.15(f) and attach such remittance to any application for reinstatement.

3. Respondent shall pay costs, provided for in SCR 120, in the amount of \$2,500 plus the hard costs of these proceedings. Respondent shall tender payment no later than thirty (30) day [sic] after the issuance of the Nevada Supreme Court's Order Approving Conditional Admission Agreement.

#### **VIII. CONDITIONAL APPROVAL AND AGREEMENT BY STATE BAR**

Conditional to Respondent's execution of this admission and final ratification of this agreement at the formal hearing for this matter, the State Bar accepts this admission and recommends approval of the stated form of punishment by the disciplinary panel.

#### **IX. APPROVAL OF RESPONDENT**

Respondent certifies and acknowledges the following:

Respondent has read the Conditional Admission Agreement in Exchange for a Stated Form of Discipline and understands that by making this admission, Respondent also admits the facts that support all elements of the offenses.

Respondent discussed this admission with counsel or chose not to speak with counsel despite the opportunity and fully understands the terms and conditions set forth herein and the consequences of this admission.

Respondent is signing this admission freely, voluntarily, and intelligently and is not acting under duress or coercion or by virtue of any promises of leniency except as set forth herein.

Respondent further understands that a failure to fully adhere to any of the subject terms and conditions of this admission shall constitute grounds upon which the State Bar may directly seek relief from the Nevada Supreme Court or the Southern Nevada Disciplinary Board for said noncompliance.

5. On August 26, 2024, Findings of Fact, Conclusions of Law, and Recommendation (Exhibit 3) were filed in Case No. SBN23-00973, styled *State Bar of Nevada, Complainant, vs. Charles Hopper, Esq., Bar No. 6346, Respondent*, before the State Bar of Nevada, Southern Nevada Disciplinary Board, which states, in pertinent part, as follows:

This matter involving attorney Charles Hopper, Esq., ("Respondent") came before a designated Formal Hearing Panel ("Panel") of the Southern Nevada Disciplinary Board at 9:00 a.m. on July 22, 2024, via remote audio/visual appearance using "Zoom" platform, hosted from the State Bar of Nevada ("State Bar") office in Las Vegas, Nevada. The Panel consisted of Chair Mike Lee, Esq.; James Chrisman, Esq.; and lay member Anne Kingsley. Assistant Bar Counsel Brian Vasek, Esq., appeared and represented the State Bar. Respondent appeared and represented himself.

The State Bar presented materials consisting of (i) Exhibit 1, a "Hearing Packet," that included pleadings, other procedural documents, and Respondent's Conditional Admission Agreement in Exchange for a Stated Form of Discipline; (ii) Exhibit 2, a declaration of the State Bar's custodian of records, that included a copy of Respondent's prior disciplinary history; and (iii) Exhibit 3, the State Bar's investigative file.

The Panel also heard statements from both parties and testimony from Respondent.

The Panel unanimously issues the following Findings of Fact, Conclusions of Law, and Recommendation based upon the pleadings, Conditional Admission Agreement for a Stated Form of Discipline ("CAA"), all documentary evidence and exhibits, argument by counsel, and sworn statement by Respondent.

### **FINDINGS OF FACT**

1. On April 25, 2024, the State Bar filed a disciplinary Complaint and charged Respondent with ten (10) violations of the Nevada Rules of Professional Conduct ("RPC") and the Nevada

Supreme Court Rules ("SCR"), to wit: Count 1 – RPC 1.3 (Diligence); Count 2 – RPC 1.4(a) (Communication); Count 3 – RPC 1.16(a)(1) (Declining or Terminating Representation); Count 4 – RPC 1.16(d) (Declining or Terminating Representation); Count 5 – RPC 5.5(a)(1) (Unauthorized Practice of Law); Count 6 – RPC 8.1(b) (Bar Admission and Disciplinary Matters); Count 7 – RPC 8.4(c) (Misconduct); Count 8 – RPC 8.4(d) (Misconduct); Count 9 – SCR79 (Disclosures by members of the bar); and Count 10 – SCR 115(3) (Notice of change in license status; winding down of practice). *See Complaint*, Exhibit 1, 12-23.

2. On June 11, 2024, Respondent electronically signed a CAA. Respondent acknowledged fully reading and understanding the terms and conditions set forth in the CAA and signing the CAA freely, voluntarily, and intelligently. Respondent was provided an opportunity to speak with counsel and acknowledged that he was not acting under duress or coercion or by virtue of any promise of leniency except as set forth in the CAA. Respondent stipulated to the facts necessary to support the elements of the offenses and to application of Standard 6.22 (Abuse of the Legal Process) and Standard 7.2 (Violations of Duties Owed as a Professional) of the ABA Standards for Imposing Lawyer Sanctions (2d ed. 2019), which provided a baseline sanction of law practice suspension. *See CAA*, Exhibit 1, 1-10.

3. On July 5, 2024, the State Bar and Respondent were scheduled to conduct an initial case conference. Since Respondent signed a CAA, the State Bar and Respondent waived all disclosure and motion deadlines and the parties set a formal hearing by email with the Panel Chair. The parties consented to a formal hearing on July 22, 2024 at 9:00AM via remote appearance. *See Scheduling Order*, Exhibit 1, 35-36.

4. On July 22, 2024, the State Bar and Respondent appeared via remote audio/visual appearance for the formal hearing. *See generally Transcript from the Formal Hearing of Charles Hopper, Esq., dated July 22, 2024* ("Transcript").

5. The State Bar and Respondent presented a summary of the facts and argument in support of the CAA. The Panel considered admitted documentary evidence proffered by the State Bar without objection by Respondent. Respondent proffered no exhibits for consideration and made an oral statement to the Panel. *See generally Id.*; *CAA*, Exhibit 1, 1-10; Exhibit 3, 1-50.

6. The summary of facts, argument in support, the State

Bar's exhibits, Respondent's oral statement, and Stipulation of Facts, as set forth in paragraphs 1 through 46 of the CAA accurately reflected the Panel's deliberations and findings regarding the facts and circumstances. *See Transcript*, 33-35.

7. Respondent agreed to the following aggravating circumstances: Prior disciplinary offenses, a pattern of misconduct, multiple offenses, and substantial experience in the practice of law. *See CAA*, Exhibit 1, 8.

8. Respondent agreed to the following mitigating circumstances: Absence of a dishonest or selfish motive, personal or emotional problems, and remorse. *See Id.*

### **CONCLUSIONS OF LAW**

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

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

2. Venue is proper in Clark County.

3. The State Bar must prove that Respondent violated any Rules of Professional Conduct by clear and convincing evidence. SCR 105(2)(f); *In re Stuhff*, 108 Nev. 629, 633-34, 837 P.2d 853, 856 (1992); *Gentile v. State Bar*, 106 Nev. 60, 62, 787 P.2d 386, 387 (1990).

4. The appropriate level of discipline must be determined considering "all relevant factors and mitigating circumstances on a case-by-case basis." *State Bar of Nevada v. Claiborne*, 104 Nev. 115, 219, 756 P.2d 464, 531 (1988). "We evaluate The American Bar Association Standards for Imposing Lawyer Sanctions' four factors to be considered in determining the appropriate disciplinary sanction: the duty violated, the lawyer's mental state, the potential or actual injury caused by the lawyer's misconduct, and the existence of aggravating or mitigating factors." *In re Discipline of Lerner*, 124 Nev. 1232, 1246, 197 P.3d 1067, 1078 (2008).

5. The Panel concluded that Respondent's admissions to the charged rule violations and his consent to the state form of discipline were made freely, voluntarily, and intelligently. *See*

Transcript, 27-30, 34-35.

6. The Panel concluded that clear and convincing evidence existed to prove that Respondent violated the following duties owed to a the legal system and the profession: RPC 1.16(a)(1) (Declining or Terminating Representation), RPC 1.16(d) (Declining or Terminating Representation), RPC 5.5(a)(1) (Unauthorized Practice of Law), RPC 8.1(b) (Bar Admission and Disciplinary Matters), RPC 8.4(d) (Misconduct). *See Id.* at 33-35.

7. The Panel concluded that clear and convincing evidence existed to prove that Respondent committed all acts with a knowing mental state. *See Id.* at 34.

8. The Panel concluded that clear and convincing evidence existed that the nature of injury caused by Respondent's charged conduct was an actual injury to the legal system and the profession. The degree of actual injury was moderate. *See Id.*

9. The Panel concluded that the baseline sanction was law practice suspension consistent with Standard 6.22 (Abuse of the Legal Process) and Standard 7.2 (Violations of Duties Owed as a Professional). *See Id.*

10. The Panel found the following aggravating circumstances by clear and convincing evidence: Prior disciplinary offenses, a pattern of misconduct, multiple offenses, and substantial experience in the practice of law. *See Id.*

11. The Panel found the following mitigating circumstances by clear and convincing evidence: Absence of a dishonest or selfish motive, personal or emotional problems, and remorse. *See Id.*

12. The Panel concluded that a qualitative weighing of the aggravating and mitigating circumstances did not warrant an upward or downward deviation from the recommended baseline sanction. *See Id.*

### **RECOMMENDATION**

Based upon the foregoing Findings of Fact and Conclusions of Law, the Panel concluded to adopt the recommended stated form of discipline. The Panel hereby recommends:

1. Respondent shall be suspended for six (6) months

and one (1) day. The period of suspension shall be effective upon the issuance of the Nevada Supreme Court's Order approving and accepting Respondent's admission but run from June 30, 2022 with credit for the time since Respondent's administrative suspension began for failure to file his annual disclosures. Respondent shall seek reinstatement pursuant to SCR 116.

2. As criteria for seeking reinstatement, Respondent shall pay restitution in the amount of \$1,000 to Erich Mahan. Respondent shall remit restitution to the Clients Security Fund pursuant to RPC 1.15(f) and attach such remittance to any application for reinstatement.

3. Respondent shall pay costs, provided for in SCR 120, in the amount of \$2,500 plus the hard costs of these proceedings. Respondent shall tender payment no later than thirty (30) day [sic] after the issuance of the Nevada Supreme Court's Order Approving Conditional Admission Agreement.

6. On June 6, 2025, an Order Approving Conditional Admission Agreement (Exhibit 4) was filed in Case No. 89343, styled *In the Matter of Discipline of Charles D. Hopper, Bar No. 6346*, in the Supreme Court of the State of Nevada, which approved the Findings of Fact, Conclusions of Law, and Recommendation, as set forth above.

7. Accordingly, the Supreme Court of Nevada entered an Order suspending Respondent for a period of six months and one day, retroactive to June 30, 2022, in Case No. 89343, styled *In the Matter of Discipline of Charles D. Hopper, Bar No. 6346*, in the Supreme Court of the State of Nevada.

8. True and correct copies of the Complaint, Conditional Admission Agreement in Exchange for a Stated Form of Discipline, Findings of Fact, Conclusions of Law, and Recommendation, and Order Approving Conditional Admission Agreement are attached hereto as the Commission's Exhibits 1 through 4. The Commission expects to introduce certified copies of Exhibits 1 through 4 at the time of hearing of this cause.

9. The Commission brings this disciplinary action in accordance with the Chief



Disciplinary Counsel's mandatory administrative obligations, as set forth in TRDP 9.01.

10. Respondent was disciplined in another jurisdiction withing the meaning of TRDP 9.01. The Supreme Court of Nevada found that Respondent violated Rules 1.16(a)(1) (declining or terminating representation), 1.16(d) (declining or terminating representation), 5.5(a)(1) (unauthorized practice of law), 8.1(b) (bar admission and disciplinary matters), and 8.4(d) (misconduct) of the Nevada Rules of Professional Conduct ("RPC").

11. One or more of Respondent's agreed upon violation of the Nevada Rules of Professional Conduct corresponds to similar obligations in the Texas Disciplinary Rules of Professional Conduct ("TRDCP"). Those are:

a. RPC 1.16(a)(1) and 1.16(d) (declining or terminating representation), which provides that "... a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if: (1) the representation will result in violation of the Rules of Professional conduct or other law;" and "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 payment of fee or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by other law." See TDRPC 1.16(a)(1) and 1.16(d). TEX. DISCIPLINARY R. PROF'L CONDUCT 1.16(a)(1) and 1.16(d).

b. RPC 5.5(a)(1) (unauthorized practice of law), which provides “A lawyer shall not: (1) Practice law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction ...” See TDRPC 5.05(a)(1). TEX. DISCIPLINARY R. PROF’L CONDUCT 5.05(a)(1).

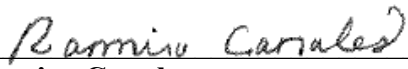
c. RPC 8.1(b) (bar admission and disciplinary matters), which states that “An applicant for admission to the bar, or a lawyer in connection with a bar admission application or in connection with a disciplinary matter, shall not: ... (b) Fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter, or knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6.” See TDRPC 8.01(b). TEX. DISCIPLINARY R. PROF’L CONDUCT 8.01(b).

12. The Commission prays that, pursuant to Rule 9.02, Texas Rules of Disciplinary Procedure, that this Board issue notice to Respondent, containing a copy of this First Amended Petition with exhibits, and an order directing Respondent to show cause within thirty (30) days from the date of the mailing of the notice, why the imposition of reciprocal discipline in this state would be unwarranted. The Commission also prays that upon trial of this matter that this Board enters a judgment imposing discipline identical with that imposed by the Supreme Court of the State of Nevada, unless the Respondent proves by clear and convincing evidence that a Rule 9.04 defense applies. Further, the Commission requests such other relief to which it may be entitled.

Respectfully submitted,

**Seana Willing**  
Chief Disciplinary Counsel

**Ramiro Canales**  
Assistant Disciplinary Counsel  
Office of the Chief Disciplinary Counsel  
State Bar of Texas  
P.O. Box 12487  
Austin, Texas 78711  
Telephone: 512.427.1350  
Telecopier: 512.427.4253  
Email: ramiro.canales@texasbar.com

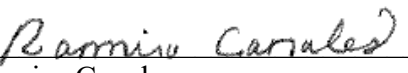
  
**Ramiro Canales**  
Bar Card No. 24012377

ATTORNEYS FOR THE COMMISSION

**CERTIFICATE OF SERVICE**

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

Charles D. Hopper  
700 Easy Street  
Las Vegas, Nevada 89107-3821

  
Ramiro Canales



**FILED**

Apr 25, 2024

STATE BAR OF NEVADA

BY: *[Signature]*  
OFFICE OF BAR COUNSEL

**STATE BAR OF NEVADA**

**SOUTHERN NEVADA DISCIPLINARY BOARD**

STATE BAR OF NEVADA, )  
)  
Complainant, )  
vs. )  
CHARLES D. HOPPER, )  
BAR NO. 6346 )  
Respondent. )

**COMPLAINT**

TO: Charles Hopper  
408 Virginia Place  
Fort Worth, TX 76107  
vivalastexas@yahoo.com  
(SCR 79 address and email)

And to:

Charles Hopper  
6121 Edgewood Cir  
Las Vegas, NV 89107

PLEASE TAKE NOTICE that pursuant to Rule 105(2) of the Nevada Supreme Court Rules ("SCR") you must file a VERIFIED RESPONSE OR ANSWER to this Complaint with the Office of Bar Counsel, State Bar of Nevada, 3100 West Charleston Blvd., Suite 100, within twenty-one (21) days of service of this Complaint. You will find the rules regarding service contained in SCR 109.

Complainant, State Bar of Nevada ("State Bar"), by and through Assistant Bar Counsel Brian J. Vasek, Esq. alleges the following:

**EXHIBIT**

**1**

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**RESPONDENT’S REPRESENTATION OF ERICH MAHAN**

2. Erich Mahan (“Mr. Mahan”) retained Respondent after a misdemeanor arrest around or about September 15, 2021.

3. Mr. Mahan paid Respondent a retainer.
4. In 2022, Respondent did not file his annual disclosures with the State Bar, including the Certification of Compliance and Consent, Professional Liability Insurance Disclosure, Child Support Information, and Mandatory Report of Pro Bono.

6. In response to this notice, Respondent contacted the State Bar on June 8, 2022, about the pending administrative suspension.

8. On June 30, 2022, the Board of Governors voted unanimously to administratively suspend Respondent.

10. On or about August 29, 2022, Respondent confirmed as attorney of record for Mr. Mahan's case in the Las Vegas Justice Court and entered a not guilty plea on Mr. Mahan's behalf.

- 2 -

1           12.     The court set a misdemeanor bench trial date for Mr. Mahan's case for December  
2 1, 2022.

3           13.     On December 1, 2022, the court continued Mr. Mahan's misdemeanor trial and  
4 set a status check on negotiations for January 5, 2023.

5           14.     On January 5, 2023, the court continued Mr. Mahan's case for another status  
6 check on negotiations for February 9, 2023.

7           15.     Around or about January 2023, Respondent sent Mr. Mahan an admonishment  
8 and stated that if Mr. Mahan signed the admonishment, the court would reduce his case to a  
9 lesser charge.

10          16.     On February 9, 2023, neither Respondent nor Mr. Mahan were present for the  
11 status check on negotiations and the court issued a bench warrant for Mr. Mahan.

12          17.     Respondent did not tell Mr. Mahan about the bench warrant.

13          18.     Mr. Mahan attempted to contact Respondent several times from January 2023  
14 to July 2023.

15          19.     Respondent did not reply to Mr. Mahan's attempts to contact him from January  
16 2023 to July 2023.

17          20.     Around or about July 2023, Mr. Mahan learned of the warrant after traveling to  
18 Las Vegas, Nevada.

19          21.     Around or about July 2023, Mr. Mahan first learned that the State Bar  
20 suspended Respondent.

21          22.     On or about July 26, 2023, Respondent apologized to Mr. Mahan for not  
22 attending the February 9, 2023, court appearance and stated he was attempting to reschedule  
23 the hearing and provide Mr. Mahan with new counsel.

24          23.     Around or about July 2023, Mr. Mahan retained the services of Damian Sheets  
25 to resolve the bench warrant.

1           24.    On or about July 31, 2023, Mr. Sheets filed a motion to quash.

2           25.    On or about August 2, 2023, the court granted Mr. Sheets' motion to quash and  
3 set a status check for negotiations for October 4, 2023.

4           26.    On or about October 4, 2023, Mr. Mahan pled guilty to a misdemeanor.

5           27.    On or about January 3, 2024, the court closed Mr. Mahan's case.

6           **MR. MAHAN'S GRIEVANCE & THE STATE BAR'S INVESTIGATION**

7           28.    On or about July 26, 2023, Mr. Mahan filed a grievance with the State Bar.

8           29.    SCR 79 requires Respondent provide a permanent mailing address, permanent  
9 telephone number, and current email address to the State Bar.

10          30.    Respondent provided a SCR 79 permanent mailing address to the State Bar.

11          31.    Respondent provided a SCR 79 permanent telephone number to the State Bar.

12          32.    Respondent provided a SCR 79 current email address to the State Bar.

13          33.    SCR 79 also requires Respondent inform the State Bar of any changes to his SCR  
14 79 contact information within thirty (30) days after any such change occurs.

15          34.    On or about July 28, 2023, the State Bar sent a letter of inquiry to Respondent  
16 at his SCR 79 permanent mailing address lawfully demanding a response to the grievance filed  
17 by Mr. Mahan.

18          35.    On or about July 28, 2023, the State Bar sent a letter of inquiry to Respondent  
19 to his SCR 79 current email address lawfully demanding a response to the grievance filed by  
20 Mr. Mahan.

21          36.    Respondent failed to respond to these July 28, 2023, lawful demands for  
22 information from the State Bar.

23          37.    On or about August 17, 2023, the State Bar sent a letter of inquiry to Respondent  
24 at his SCR 79 permanent mailing address lawfully demanding a response to Mr. Mahan's  
25 grievance.

1           38.    On or about August 17, 2023, the State Bar sent a letter of inquiry to Respondent  
2 at his SCR 79 current email address lawfully demanding a response to Mr. Mahan's grievance.

3           39.    On or about September 18, 2023, the August 17, 2023, letter of inquiry returned  
4 to the State Bar as "not deliverable" and "unable to forward."

5           40.    On or about September 28, 2023, the State Bar sent a certified letter of inquiry  
6 to Respondent at his SCR 79 permanent mailing address lawfully demanding a response to  
7 Mr. Mahan's grievance.

8           41.    On or about October 25, 2023, the September 28, 2023, letter of inquiry returned  
9 to the State Bar as "not deliverable" and "unable to forward."

10          42.    On or about November 6, 2023, the State Bar sent a letter of inquiry to  
11 Respondent at another address, that upon information and belief was associated with  
12 Respondent, lawfully demanding a response to Mr. Mahan's grievance.

13          43.    On or about November 29, 2023, Respondent acknowledged receipt of the  
14 November 6, 2023 letter of inquiry and asked for more time to respond to the grievance.

15          44.    The State Bar provided Respondent until December 13, 2023, to respond to the  
16 grievance.

17          45.    On or about December 21, 2023, Respondent called the State Bar, left a voicemail  
18 with reception, and asked for January 5, 2024, to respond to the grievance.

19          46.    On or about January 11, 2024, the State Bar called Respondent about his  
20 response to Mr. Mahan's grievance but Respondent did not answer.

21          47.    On or about February 2, 2024, Respondent did not substantively respond to the  
22 State Bar's lawful demand for information, but instead sent an email to the State Bar stating  
23 that he and Mr. Mahan had reached a settlement and "I hope that this will not only satisfy your  
24 demand for information but will result in the closing of the instant grievance file."  
25





- (1) Promptly inform the client of any decision or circumstance with respect to which the client's informed consent is required by these Rules;
- (2) Reasonably consult with the client about the means by which the client's objectives are to be accomplished;
- (3) Keep the client reasonably informed about the status of the matter; [and]
- (4) Promptly comply with reasonable requests for information; . . .

57. Respondent did not respond to Mr. Mahan's multiple attempts to obtain an update from January 2023 to July 2023.

58. Respondent never notified Mr. Mahan that the court issued a bench warrant on February 9, 2023.

59. Respondent failed to reasonably consult with Mr. Mahan about the means to obtain his objectives after the State Bar administratively suspended Respondent and he and could no longer represent Mr. Mahan without engaging in the unauthorized practice of law.

60. In light of the foregoing, including without limitation paragraphs 1 through 59 Respondent has violated RPC 1.4(a).

### **COUNT THREE**

#### **RPC 1.16(a)(1) (Declining or Terminating Representation)**

61. The State Bar repeats and realleges the allegations contained in Paragraphs 1 through 60 as if fully incorporated herein.

62. RPC 1.16(a)(1) states in relevant part the following: "a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if . . . [t]he representation will result in violation of the Rules of Professional Conduct or other law. . ."

63. Respondent failed to withdraw from representation when continued representation of Mr. Mahan would result in him engaging in unauthorized practice of law after the State Bar administratively suspended Respondent from the practice of law on June 30, 2022.

64. In light of the foregoing, including without limitation paragraphs 1 through 63, Respondent has violated RPC 1.16(a)(1).

**COUNT FOUR**

**RPC 1.16(d) (Declining or Terminating Representation)**

65. The State Bar repeats and realleges the allegations contained in Paragraphs 1 through 64 as if fully incorporated herein.

66. RPC 1.16(d) states in relevant part the following:

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 payment of fee or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by other law.

67. Respondent failed to take steps to the extent reasonably practicable to protect Mr. Mahan's interests by not refunding the retainer upon Mr. Mahan's termination of representation and demand for return of any unearned portion of the retainer.

68. In light of the foregoing, including without limitation paragraphs 1 through 67, Respondent has violated RPC 1.16(d).

**COUNT FIVE**

**RPC 5.5(a)(1) (Unauthorized Practice of Law)**

69. The State Bar repeats and realleges the allegations contained in Paragraphs 1 through 68 as if fully incorporated herein.

70. RPC 5.5(a)(1) states in relevant part the following: "[a] lawyer shall not . . . practice law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction. . ."

71. After the State Bar administratively suspended Respondent on June 30, 2022, Respondent engaged in the unauthorized practice of law when he confirmed as attorney of

1 record for Mr. Mahan's case on September 15, 2022, and continued to represent Mr. Mahan  
2 until at least February 9, 2023, when he sent Mr. Mahan an admonishment and stated that if  
3 Mr. Mahan signed the admonishment, the court would reduce his case to a lesser charge.

4 72. In light of the foregoing, including without limitation paragraphs 1 through 71,  
5 Respondent has violated 5.5(a)(1).

#### 6 **COUNT SIX**

##### 7 **RPC 8.1(b) (Bar Admission and Disciplinary Matters)**

8 73. The State Bar repeats and realleges the allegations contained in Paragraphs 1  
9 through 72 as if fully incorporated herein.

10 74. RPC 8.1(b) states in relevant part the following: "a lawyer in connection with . . .  
11 a disciplinary matter, shall not . . . knowingly fail to respond to a lawful demand for  
12 information from an admissions or disciplinary authority. . ."

13 75. Respondent acknowledged receipt of a November 6, 2023, letter of inquiry by  
14 asking for more time to file a response to Mr. Mahan's grievance.

15 76. Respondent failed to provide a response to a lawful demand for information after  
16 not responding to multiple letters of inquiry and emails from the State Bar.

17 77. In light of the foregoing, including without limitation paragraphs 1 through 76,  
18 Respondent has violated 8.1(b).

#### 19 **COUNT SEVEN**

##### 20 **RPC 8.4(c) (Misconduct)**

21 78. The State Bar repeats and realleges the allegations contained in Paragraphs 1  
22 through 77 as if fully incorporated herein.

23 79. RPC 8.4(c) states in relevant part the following: "[i]t is professional misconduct  
24 for a lawyer to . . . [e]ngage in conduct involving dishonesty, fraud, deceit or  
25 misrepresentation. . ."



1 **COUNT NINE**

2 **SCR79 (Disclosures by members of the bar)**

3 90. The State Bar repeats and realleges the allegations contained in Paragraphs 1  
4 through 89 as if fully incorporated herein.

5 91. SCR 79 states in relevant part the following: “[e]very member of the state bar,  
6 including both active and inactive members regardless of residency in Nevada . . . shall provide  
7 to the state bar, for the purposes of state bar communications, the following: (a) A permanent  
8 mailing address; (b) A permanent telephone number; and (c) A current email address.”

9 92. The State Bar sent uncertified and certified letters of inquiry to Respondent’s 79  
10 permanent mailing address on different dates but all letters returned to the State Bar as “not  
11 deliverable” and “unable to forward.”

12 93. Respondent did not provide a permanent mailing address to the State Bar for the  
13 purpose of receiving State Bar communications.

14 94. In light of the foregoing, including without limitation paragraphs 1 through 93,  
15 Respondent has SCR 79.

16 **COUNT TEN**

17 **SCR115(3) (Notice of change in license status; winding down of practice)**

18 95. The State Bar repeats and realleges the allegations contained in Paragraphs 1  
19 through 94 as if fully incorporated herein.

20 96. SCR 115(3) states in relevant part the following:

21 An attorney barred from the active practice of law . . . shall immediately notify,  
22 by registered or certified mail, return receipt requested, (1) each of the attorney’s  
clients who is involved in pending litigation . . . or other similar proceedings, (2)  
23 the attorney(s) for each adverse party in such matters, and (3) the court . . . over  
such proceeding of his . . . suspension. . . . The notice to the client shall state the  
24 desirability of prompt substitution of another attorney of the client’s own choice  
and shall list any upcoming appearances and deadlines. . . . In the event the client  
25 does not obtain substitute counsel within 30 days of the attorney’s notice to the  
client, it shall be the responsibility of the attorney to move in the court, agency

1 or other forum in which the proceeding is pending for leave to withdraw, if leave  
2 is required.

3 97. Respondent failed to notify Mr. Mahan, the prosecuting attorney, and the court  
4 of his June 30, 2022, administrative suspension.

5 98. Respondent appeared and confirmed as attorney of record for Mr. Mahan's case  
6 on or about August 29, 2022, and continued representing Mr. Mahan until at least February  
7 9, 2023.

8 99. In light of the foregoing, including without limitation paragraphs 1 through 98,  
9 Respondent has violated SCR 115(3).

10 **WHEREFORE**, the State Bar prays as follows:

- 11 1. That a hearing be held pursuant to Nevada Supreme Court Rule 105;  
12 2. That Respondent be assessed the costs of the disciplinary proceeding pursuant  
13 to SCR 120; and  
14 3. That pursuant to SCR 102, such disciplinary action be taken by the Southern  
15 Nevada Disciplinary Board against Respondent as may be deemed appropriate under the  
16 circumstances.

17 Dated this 25 day of April 2024.

18 STATE BAR OF NEVADA  
19 DANIEL M. HOOGE, Bar Counsel

20 Brian J. Vasek

Brian J. Vasek (Apr 25, 2024 13:14 PDT)

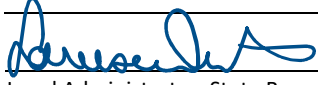
21 BRIAN J. VASEK, Assistant Bar Counsel  
22 Nevada Bar No. 13976  
23 3100 West Charleston Blvd., Suite 100  
24 Las Vegas, NV 89102

25 *Attorneys for the State Bar of Nevada*



I hereby certify that the document to which this certificate is affixed is a full, true and correct copy of the original on file at the State Bar.

DATE: July 8, 2025

BY:   
Legal Administrator, State Bar of Nevada



Case No. SBN23-00973



**FILED**

Jun 11, 2024

STATE BAR OF NEVADA

BY:   
OFFICE OF BAR COUNSEL

**STATE BAR OF NEVADA**  
**SOUTHERN NEVADA DISCIPLINARY BOARD**

STATE BAR OF NEVADA, )  
)  
Complainant, )  
)  
vs. )  
)  
CHARLES HOPPER, ESQ., )  
NV Bar No. 6346 )  
)  
Respondent. )  
)

**CONDITIONAL ADMISSION  
AGREEMENT IN EXCHANGE FOR  
A STATED FORM OF DISCIPLINE**

Charles Hopper, Esq., (“Respondent”) hereby tenders to Bar Counsel for the State Bar of Nevada (“State Bar”) this Conditional Admission Agreement pursuant to Nevada Supreme Court Rule (“SCR”) 113(1) in exchange for the imposition of a stated form of discipline as more fully set forth herein.

**I. CONDITIONAL ADMISSION**

Respondent hereby admits that he violated 1.16(a)(1), 1.16(d), 5.5(a)(1), 8.1(b), and 8.4(d) of the Nevada Rules of Professional Conduct (“RPC”).

///

///



1 **II. STIPULATION OF FACTS**

2 Respondent understands that by making this admission, Respondent also admits  
3 to the following facts to support all elements of the misconduct for which Respondent  
4 tenders this agreement:

5 1. Charles Hopper, Esq. ("Respondent"), Nevada Bar No. 6346, is an  
6 administratively suspended member of the State Bar, was licensed to practice law in the  
7 State of Nevada on October 13, 1997, and—at all times pertinent to this Complaint—had a  
8 principal place of business for the practice of law located in Clark County, Nevada.

9 2. Erich Mahan ("Mr. Mahan") retained Respondent after a misdemeanor  
10 arrest around or about September 15, 2021.

11 3. Mr. Mahan paid Respondent a \$1,000 retainer.

12 4. Respondent did not file his annual disclosures with the State Bar in 2022,  
13 including the Certification of Compliance and Consent, Professional Liability Insurance  
14 Disclosure, Child Support Information, and Mandatory Report of Pro Bono.

15 5. The State Bar provided notice to Respondent of his failure to file the annual  
16 disclosures and pending administrative suspension.

17 6. In response to this notice, Respondent contacted the State Bar on June 8,  
18 2022 about the pending administrative suspension.

19 7. Respondent did not cure the deficits to his annual disclosures.

20 8. On June 30, 2022, the Board of Governors voted unanimously to  
21 administratively suspend Respondent.

22 9. The State Bar provided notice to Respondent of the administrative  
23 suspension.

24 ///

25 ///

1           10.     On or about August 29, 2022, Respondent confirmed as attorney of record  
2 for Mr. Mahan's case in the Las Vegas Justice Court and entered a not guilty plea on Mr.  
3 Mahan's behalf.

4           11.     Respondent did not tell Mr. Mahan he was administratively suspended  
5 before Mr. Mahan's August 29, 2022 court date.

6           12.     The court set a misdemeanor bench trial date for Mr. Mahan's case for  
7 December 1, 2022.

8           13.     On December 1, 2022, the court continued Mr. Mahan's misdemeanor trial  
9 and set a status check on negotiations for January 5, 2023.

10          14.     On January 5, 2023, the court continued Mr. Mahan's case for another  
11 status check on negotiations for February 9, 2023.

12          15.     On February 9, 2023, neither Respondent nor Mr. Mahan were present for  
13 the status check on negotiations and the court issued a bench warrant for Mr. Mahan.

14          16.     Respondent did not tell Mr. Mahan about the bench warrant.

15          17.     Mr. Mahan attempted to contact Respondent several times from January  
16 2023 to July 2023.

17          18.     Respondent did not reply to Mr. Mahan's attempts to contact him from  
18 January 2023 to July 2023.

19          19.     Around or about July 2023, Mr. Mahan learned of the warrant after  
20 traveling to Las Vegas, Nevada.

21          20.     Around or about July 2023, Mr. Mahan first learned that the State Bar  
22 suspended Respondent.

23          21.     On or about July 26, 2023, Respondent apologized to Mr. Mahan for not  
24 attending the February 9, 2023 court appearance and stated he was attempting to  
25 reschedule the hearing and provide Mr. Mahan with new counsel.

1           22.    Around or about July 2023, Mr. Mahan retained the services of Damian  
2 Sheets to resolve the bench warrant.

3           23.    On or about July 31, 2023, Mr. Sheets filed a motion to quash.

4           24.    On or about August 2, 2023, the court granted Mr. Sheets' motion to quash  
5 and set a status check for negotiations for October 4, 2023.

6           25.    On or about October 4, 2023, Mr. Mahan pled guilty to a misdemeanor.

7           26.    On or about January 3, 2024, the court closed Mr. Mahan's case.

8           27.    On or about July 26, 2023, Mr. Mahan filed a grievance with the State Bar.

9           28.    SCR 79 requires Respondent to provide a permanent mailing address,  
10 permanent telephone number, and current email address to the State Bar.

11          29.    Respondent provided a SCR 79 permanent mailing address to the State Bar.

12          30.    Respondent provided a SCR 79 permanent telephone number to the State  
13 Bar.

14          31.    Respondent provided a SCR 79 current email address to the State Bar.

15          32.    SCR 79 also requires Respondent inform the State Bar of any changes to his  
16 SCR 79 contact information within thirty (30) days after any such change occurs.

17          33.    On or about July 28, 2023, the State Bar sent a letter of inquiry to  
18 Respondent to his SCR 79 permanent mailing address lawfully demanding a response to  
19 the grievance filed by Mr. Mahan.

20          34.    On or about July 28, 2023, the State Bar sent a letter of inquiry to  
21 Respondent to his SCR 79 current email address lawfully demanding a response to the  
22 grievance filed by Mr. Mahan.

23          35.    Respondent failed to respond to these July 28, 2023 lawful demands for  
24 information from the State Bar.

25 ///

1           36.    On or about August 17, 2023, the State Bar sent a letter of inquiry to  
2 Respondent to his SCR 79 permanent mailing address lawfully demanding a response to  
3 Mr. Mahan's grievance.

4           37.    On or about August 17, 2023, the State Bar sent a letter of inquiry to  
5 Respondent to his SCR 79 current email address lawfully demanding a response to Mr.  
6 Mahan's grievance.

7           38.    On or about September 28, 2023, the State Bar sent a certified letter of  
8 inquiry to Respondent to his SCR 79 permanent mailing address lawfully demanding a  
9 response to Mr. Mahan's grievance.

10          39.    On or about November 6, 2023, the State Bar sent a letter of inquiry to  
11 Respondent at another address, that upon information and belief was associated with  
12 Respondent, lawfully demanding a response to Mr. Mahan's grievance.

13          40.    On or about November 29, 2023, Respondent acknowledge receipt of the  
14 November 6, 2023 letter of inquiry and asked for more time to respond to the grievance.

15          41.    The State Bar provided Respondent until December 13, 2023 to respond to  
16 the grievance.

17          42.    On or about December 21, 2023, Respondent called the State Bar, left a  
18 voicemail with reception, and asked for January 5, 2024 to respond to the grievance.

19          43.    On or about January 11, 2024, the State Bar called Respondent about his  
20 response to Mr. Mahan's grievance but Respondent did not answer.

21          44.    On or about February 2, 2024, Respondent did not substantively respond to  
22 the State Bar's lawful demand for information, but instead sent an email to the State Bar  
23 stating that he and Mr. Mahan had reached a settlement and "I hope that this will not  
24 only satisfy your demand for information, but will result in the closing of the instant  
25 grievance file."

1           45.     Mr. Mahan and Respondent attempted to reach a settlement in November  
2 2022 regarding repayment of Mr. Mahan's retainer but Respondent failed to make  
3 payments towards the settlement by February 2024.

4           46.     On or about February 28, 2024, Respondent again offered to make  
5 payments towards repaying Mr. Mahan's retainer.

6           **III. VIOLATIONS OF THE RULES OF PROFESSIONAL CONDUCT**

7           1.     RPC 1.16(a)(1) states in relevant part the following: "a lawyer shall not  
8 represent a client or, where representation has commenced, shall withdraw from the  
9 representation of a client if . . . [t]he representation will result in violation of the Rules of  
10 Professional Conduct or other law. . ."

11          2.     Respondent knowingly violated RPC 1.16(a)(1) after the State Bar  
12 administratively suspended him for failing to file his annual disclosures and Respondent  
13 then failed to withdraw from Mr. Mahan's case when continued representation would  
14 result in the unauthorized practice of law.

15          3.     RPC 1.16(d) states in relevant part the following: "Upon termination of  
16 representation, a lawyer shall take steps to the extent reasonably practicable to protect a  
17 client's interests, such as giving reasonable notice to the client, allowing time for  
18 employment of other counsel, surrendering papers and property to which the client is  
19 entitled and refunding any advance payment of fee or expense that has not been earned or  
20 incurred. The lawyer may retain papers relating to the client to the extent permitted by  
21 other law."

22          4.     Respondent knowingly violated RPC 1.16(d) after he failed to refund Mr.  
23 Mahan's retainer upon Mr. Mahan's termination of representation and demand for return  
24 of any unearned portion of the retainer.

1           5.       RPC 5.5(a)(1) states in relevant part the following: “[a] lawyer shall not . . .  
2 practice law in a jurisdiction where doing so violates the regulation of the legal profession  
3 in that jurisdiction. . .”

4           6.       Respondent knowingly violated RPC 5.5(a)(1) after the State Bar  
5 administratively suspended Respondent for failing to file his annual disclosures, but  
6 Respondent then confirmed as attorney of record for Mr. Mahan’s case and then  
7 continued to represent Mr. Mahan in this matter.

8           7.       RPC 8.1(b) states in relevant part the following: “a lawyer in connection with  
9 . . . a disciplinary matter, shall not . . . knowingly fail to respond to a lawful demand for  
10 information from an admissions or disciplinary authority. . .”

11          8.       Respondent knowingly violated RPC 8.1(b) after acknowledging receipt of  
12 the State Bar’s letter of inquiry and then failing to provide a response to the State Bar’s  
13 lawful demand for information.

14          9.       RPC 8.4(d) (Misconduct) states that “[i]t is professional misconduct for a  
15 lawyer to . . . [e]ngage in conduct that is prejudicial to the administration of justice. . .”

16          10.      Respondent knowingly violated RPC 8.4(d) after he failed to notify Mr.  
17 Mahan, the prosecuting attorney, and the court of his administrative suspension pursuant  
18 to SCR 115(3). Respondent then failed to withdraw from Mr. Mahan’s case, engaged in the  
19 unauthorized practice of law, and the court issued a bench warrant for Mr. Mahan after  
20 neither he nor Mr. Mahan appeared for a court ordered status check.

#### 21                   **IV. MENTAL STATE & INJURY / POTENTIAL INJURY**

22           The parties stipulate and agree that Respondent acted “knowingly.” Respondent  
23 acted with “conscious awareness of the nature or attendant circumstances of the conduct  
24 but without the conscious objective or purpose to accomplish a particular result.” ABA  
25 Standards for Imposing Lawyer Sanctions (2d ed. 2019), p. xxi (“ABA Standard”).

1 The parties stipulate and agree that Respondent's misconduct resulted in injury or  
2 potential injury to the legal system by engaging in conduct prejudicial to the  
3 administration of justice; and the profession by failing to withdraw from representation  
4 after the State Bar administratively suspended him for failing to file his annual  
5 disclosures, failing to take steps to the extent reasonably practicable to protect Mr.  
6 Mahan's interests, engaging in the unauthorized practice of law; and failing to respond to  
7 the State Bar's lawful demands for information.

8 **V. ABA BASELINE STANDARD FOR IMPOSING LAWYER SANCTIONS**

9 The parties stipulate and agree that the following standards for baseline sanctions  
10 should apply to Respondent's admission and the agreed upon stated form of discipline:

11 ABA Standard 6.22 states that suspension is generally appropriate when a lawyer  
12 knows that he or she is violating a court order or rule and causes injury or potential injury  
13 to a client or a party or causes interference or potential interference with a legal  
14 proceeding.

15 ABA Standard 7.2 states that suspension is generally appropriate when a lawyer  
16 knowingly engages in conduct that is a violation of a duty owed as a professional, and  
17 causes injury or potential injury to a client, the public or the legal system.

18 **VI. AGGRAVATING AND MITIGATING CIRCUMSTANCES**

19 The parties stipulate and agree that the following aggravating circumstances are  
20 relevant to Respondent's admission and the agreed upon stated form of discipline:  
21 Multiple offenses and substantial experience in the practice of law. SCR 102.5(3).

22 The parties stipulate and agree that the following mitigating circumstances are  
23 relevant to Respondent's admission and the agreed upon stated form of discipline:  
24 Absence of a prior disciplinary record, personal or emotional problems, and remorse.  
25 SCR 102.5(4).



1 The parties stipulate and agree that these aggravating and mitigating  
2 circumstances do not justify an increase or decrease to any ABA baseline sanction.

3 **VII. STATED FORM OF DISCIPLINE**

4 Pursuant to Respondent's admission and the stipulation of facts set forth above,  
5 Respondent agrees to the following stated form of discipline:

6 1. Respondent shall be suspended for six (6) months and one (1) day. The  
7 period of suspension shall be effective upon the issuance of the Nevada Supreme Court's  
8 Order approving and accepting Respondent's admission but run from June 30, 2022 with  
9 credit for the time since Respondent's administrative suspension began for failure to file  
10 his annual disclosures. Respondent shall seek reinstatement pursuant to SCR 116.

11 2. As criteria for seeking reinstatement, Respondent shall pay restitution in  
12 the amount of \$1,000 to Erich Mahan. Respondent shall remit restitution to the Clients  
13 Security Fund pursuant to RPC 1.15(f) and attach such remittance to any application for  
14 reinstatement.

15 3. Respondent shall pay costs, provided for in SCR 120, in the amount of  
16 \$2,500 plus the hard costs of these proceedings. Respondent shall tender payment no  
17 later than thirty (30) day after the issuance of the Nevada Supreme Court's Order  
18 Approving Conditional Admission Agreement.

19 **VIII. CONDITIONAL APPROVAL AND AGREEMENT BY STATE BAR**

20 Conditional to Respondent's execution of this admission and final ratification of  
21 this agreement at the formal hearing for this matter, the State Bar accepts this admission  
22 and recommends approval of the stated form of punishment by the disciplinary panel.

23 **IX. APPROVAL OF RESPONDENT**

24 Respondent certifies and acknowledges the following:

25 ///


Respondent has read the Conditional Admission Agreement in Exchange for a Stated Form of Discipline and understands that by making this admission, Respondent also admits the facts that support all elements of the offenses.

Respondent discussed this admission with counsel or chose not to speak with counsel despite the opportunity and fully understands the terms and conditions set forth herein and the consequences of this admission.

Respondent is signing this admission freely, voluntarily, and intelligently and is not acting under duress or coercion or by virtue of any promises of leniency except as set forth herein.


Respondent further understands that a failure to fully adhere to any of the subject terms and conditions of this admission shall constitute grounds upon which the State Bar may directly seek relief from the Nevada Supreme Court or the Southern Nevada Disciplinary Board for said noncompliance.

DATED this 11 day of June, 2024.

  
Charles Hopper (Jun 11, 2024 14:02 PDT)

Charles Hopper, Esq.  
Nevada Bar No. 6346  
Respondent

STATE BAR OF NEVADA  
Daniel M. Hooge, Bar Counsel

By:   
Brian J. Vasek (Jun 11, 2024 13:07 PDT)  
Brian J. Vasek, Assistant Bar Counsel  
Nevada Bar No. 13976  
3100 W. Charleston, Blvd., Ste. 100  
Las Vegas, NV 89102  
Attorney for State Bar of Nevada

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies a true and correct copy of the **CONDITIONAL  
ADMISSION AGREEMENT IN EXCHANGE FOR A STATED FORM OF DISCIPLINE** was  
electronically served upon:

1. Charles Hopper, Esq. (Respondent): [vivalastexas@yahoo.com](mailto:vivalastexas@yahoo.com)
2. Brian Vasek, Esq. (Assistant Bar Counsel): [brianv@nvbar.org](mailto:brianv@nvbar.org)

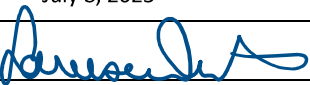
DATED this 11th day of June, 2024.

*Sonia Del Rio*

Sonia Del Rio an employee of  
the State Bar of Nevada.



I hereby certify that the document to which this certificate is affixed  
is a full, true and correct copy of the original on file at the State Bar.

DATE: July 8, 2025  
BY:   
Legal Administrator, State Bar of Nevada



FILED

Aug 26, 2024

STATE BAR OF NEVADA

BY:   
OFFICE OF BAR COUNSEL

STATE BAR OF NEVADA

SOUTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA

Complainant,

vs.

CHARLES HOPPER, ESQ.,  
BAR NO. 6346

Respondent.

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND RECOMMENDATION**

This matter involving attorney Charles Hopper, Esq., (“Respondent”) came before a designated Formal Hearing Panel (“Panel”) of the Southern Nevada Disciplinary Board at 9:00 a.m. on July 22, 2024, via remote audio/visual appearance using “Zoom” platform, hosted from the State Bar of Nevada (“State Bar”) office in Las Vegas, Nevada. The Panel consisted of Chair Mike Lee, Esq.; James Chrisman, Esq.; and lay member Anne Kingsley. Assistant Bar Counsel Brian Vasek, Esq., appeared and represented the State Bar. Respondent appeared and represented himself.

The State Bar presented materials consisting of (i) Exhibit 1, a “Hearing Packet,” that included pleadings, other procedural documents, and Respondent’s Conditional Admission Agreement in Exchange for a Stated Form of Discipline; (ii) Exhibit 2, a declaration of the State Bar’s custodian of records, that included a copy of Respondent’s prior disciplinary history; and (iii) Exhibit 3, the State Bar’s investigative file.

EXHIBIT

3

1 The Panel also heard statements from both parties and testimony from Respondent.

2 The Panel unanimously issues the following Findings of Fact, Conclusions of Law, and  
3 Recommendation based upon the pleadings, Conditional Admission Agreement for a Stated  
4 Form of Discipline (“CAA”), all documentary evidence and exhibits, argument by counsel, and  
5 sworn statement by Respondent.

6 **FINDINGS OF FACT**

7 1. On April 25, 2024, the State Bar filed a disciplinary Complaint and charged  
8 Respondent with ten (10) violations of the Nevada Rules of Professional Conduct (“RPC”) and  
9 the Nevada Supreme Court Rules (“SCR”), to wit: Count 1 - RPC 1.3 (Diligence); Count 2 - RPC  
10 1.4(a) (Communication); Count 3 - RPC 1.16(a)(1) (Declining or Terminating Representation);  
11 Count 4 - RPC 1.16(d) (Declining or Terminating Representation); Count 5 - RPC 5.5(a)(1)  
12 (Unauthorized Practice of Law); Count 6 - RPC 8.1(b) (Bar Admission and Disciplinary  
13 Matters); Count 7 - RPC 8.4(c) (Misconduct); Count 8 - RPC 8.4(d) (Misconduct); Count 9 -  
14 SCR79 (Disclosures by members of the bar); and Count 10 - SCR 115(3) (Notice of change in  
15 license status; winding down of practice). *See Complaint*, Exhibit 1, 12–23.

16 2. On June 11, 2024, Respondent electronically signed a CAA. Respondent  
17 acknowledged fully reading and understanding the terms and conditions set forth in the CAA  
18 and signing the CAA freely, voluntarily, and intelligently. Respondent was provided an  
19 opportunity to speak with counsel and acknowledged that he was not acting under duress or  
20 coercion or by virtue of any promise of leniency except as set forth in the CAA. Respondent  
21 stipulated to the facts necessary to support the elements of the offenses and to application of  
22 Standard 6.22 (Abuse of the Legal Process) and Standard 7.2 (Violations of Duties Owed as a  
23 Professional) of the ABA Standards for Imposing Lawyer Sanctions (2d ed. 2019), which  
24 provided a baseline sanction of law practice suspension. *See CAA*, Exhibit 1, 1–10.

1           3.     On July 5, 2024, the State Bar and Respondent were scheduled to conduct an  
2 initial case conference. Since Respondent signed a CAA, the State Bar and Respondent waived  
3 all disclosure and motion deadlines and the parties set a formal hearing by email with the Panel  
4 Chair. The parties consented to a formal hearing on July 22, 2024 at 9:00AM via remote  
5 appearance. *See Scheduling Order*, Exhibit 1, 35–36.

6           4.     On July 22, 2024, the State Bar and Respondent appeared via remote  
7 audio/visual appearance for the formal hearing. *See generally Transcript from the Formal*  
8 *Hearing of Charles Hopper, Esq., dated July 22, 2024* (“Transcript”).

9           5.     The State Bar and Respondent presented a summary of the facts and argument  
10 in support of the CAA. The Panel considered admitted documentary evidence proffered by the  
11 State Bar without objection by Respondent. Respondent proffered no exhibits for  
12 consideration and made an oral statement to the Panel. *See generally Id.*; CAA, Exhibit 1, 1–  
13 10; Exhibit 3, 1–50.

14          6.     The summary of facts, argument in support, the State Bar’s exhibits,  
15 Respondent’s oral statement, and Stipulation of Facts, as set forth in paragraphs 1 through 46  
16 of the CAA accurately reflected the Panel’s deliberations and findings regarding the facts and  
17 circumstances. *See Transcript*, 33–35.

18          7.     Respondent agreed to the following aggravating circumstances: Prior  
19 disciplinary offenses, a pattern of misconduct, multiple offenses, and substantial experience in  
20 the practice of law. *See CAA*, Exhibit 1, 8.

21          8.     Respondent agreed to the following mitigating circumstances: Absence of a  
22 dishonest or selfish motive, personal or emotional problems, and remorse. *See Id.*

23 ///

24 ///

25 ///

## CONCLUSIONS OF LAW

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

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

2. Venue is proper in Clark County.

3. The State Bar must prove that Respondent violated any Rules of Professional Conduct by clear and convincing evidence. SCR 105(2)(f); *In re Stuhff*, 108 Nev. 629, 633–34, 837 P.2d 853, 856 (1992); *Gentile v. State Bar*, 106 Nev. 60, 62, 787 P.2d 386, 387 (1990).

4. The appropriate level of discipline must be determined considering “all relevant factors and mitigating circumstances on a case-by-case basis.” *State Bar of Nevada v. Claiborne*, 104 Nev. 115, 219, 756 P.2d 464, 531 (1988). “We evaluate The American Bar Association Standards for Imposing Lawyer Sanctions’ four factors to be considered in determining the appropriate disciplinary sanction: the duty violated, the lawyer’s mental state, the potential or actual injury caused by the lawyer’s misconduct, and the existence of aggravating or mitigating factors.” *In re Discipline of Lerner*, 124 Nev. 1232, 1246, 197 P.3d 1067, 1078 (2008).

5. The Panel concluded that Respondent's admissions to the charged rule violations and his consent to the state form of discipline were made freely, voluntarily, and intelligently. See Transcript, 27-30, 34-35.

6. The Panel concluded that clear and convincing evidence existed to prove that Respondent violated the following duties owed to a the legal system and the profession: RPC 1.16(a)(1) (Declining or Terminating Representation), RPC 1.16(d) (Declining or Terminating Representation), RPC 5.5(a)(1) (Unauthorized Practice of Law), RPC 8.1(b) (Bar Admission and Disciplinary Matters), RPC 8.4(d) (Misconduct). *See Id.* at 33–35.

7. The Panel concluded that clear and convincing evidence existed to prove that Respondent committed all acts with a knowing mental state. *See Id* at 34.

8. The Panel concluded that clear and convincing evidence existed that the nature of injury caused by Respondent's charged conduct was an actual injury to the legal system and the profession. The degree of actual injury was moderate. *See Id.*

9. The Panel concluded that the baseline sanction was law practice suspension consistent with Standard 6.22 (Abuse of the Legal Process) and Standard 7.2 (Violations of Duties Owed as a Professional). *See Id.*

10. The Panel found the following aggravating circumstances by clear and convincing evidence: Prior disciplinary offenses, a pattern of misconduct, multiple offenses, and substantial experience in the practice of law. *See Id.*

11. The Panel found the following mitigating circumstances by clear and convincing evidence: Absence of a dishonest or selfish motive, personal or emotional problems, and remorse. *See Id.*

12. The Panel concluded that a qualitative weighing of the aggravating and mitigating circumstances did not warrant an upward or downward deviation from the recommended baseline sanction. *See Id.*

## RECOMMENDATION

Based upon the foregoing Findings of Fact and Conclusions of Law, the Panel concluded to adopt the recommended stated form of discipline. The Panel hereby recommends:

1. Respondent shall be suspended for six (6) months and one (1) day. The period of suspension shall be effective upon the issuance of the Nevada Supreme Court's Order approving and accepting Respondent's admission but run from June 30, 2022 with credit for the time since Respondent's administrative suspension began for failure to file his annual disclosures. Respondent shall seek reinstatement pursuant to SCR 116.



2. As criteria for seeking reinstatement, Respondent shall pay restitution in the amount of \$1,000 to Erich Mahan. Respondent shall remit restitution to the Clients Security Fund pursuant to RPC 1.15(f) and attach such remittance to any application for reinstatement.

3. Respondent shall pay costs, provided for in SCR 120, in the amount of \$2,500 plus the hard costs of these proceedings. Respondent shall tender payment no later than thirty (30) day after the issuance of the Nevada Supreme Court's Order Approving Conditional Admission Agreement.

DATED this 23 day of August, 2024.

By: Mike Lee (Aug 23, 2024 09:06 PDT)  
MIKE LEE, ESQ.,  
Formal Hearing Panel Chair  
Southern Nevada Disciplinary Board

1 **CERTIFICATE OF SERVICE**

2 The undersigned hereby certifies a true and correct copy of the foregoing **FINDINGS**  
3 **OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION** was electronically  
4 served upon:

- 5 1. Mike Lee, Esq. (Panel Chair): [mike@mblnv.com](mailto:mike@mblnv.com)  
6 2. Brian Vasek, Esq. (Assistant Bar Counsel): [brianv@nvbar.org](mailto:brianv@nvbar.org)  
7 3. Charles Hopper, Esq. (Respondent): [vivalastexas@yahoo.com](mailto:vivalastexas@yahoo.com)  
8

9 DATED this 26th day of August, 2024.

10 *Sonia Del Rio*

11 Sonia Del Rio, an employee  
12 of the State Bar of Nevada  
13  
14  
15  
16  
17  
18  
19  
20



I hereby certify that the document to which this certificate is affixed  
is a full, true and correct copy of the original on file at the State Bar.

23 DATE: July 8, 2025

24 BY:

*[Signature]*  
25 Legal Administrator, State Bar of Nevada

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF DISCIPLINE OF  
CHARLES D. HOPPER, BAR NO. 6346

No. 89343

**FILED**

JUN 06 2025

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
CHIEF DEPUTY CLERK

*ORDER APPROVING CONDITIONAL ADMISSION AGREEMENT*

This is an automatic review of a Southern Nevada Disciplinary Board hearing panel's recommendation that this court approve, under SCR 113(1), a conditional admission agreement in exchange for a stated form of discipline for attorney Charles D. Hopper. Under this agreement, Hopper admitted to violating RPC 1.16(a)(1) (declining or terminating representation), RPC 1.16(d) (declining or terminating representation), RPC 5.5(a)(1) (unauthorized practice of law), RPC 8.1(b) (bar admission and disciplinary matters), and RPC 8.4(d) (misconduct). Hopper agreed to a six-month-and-one-day suspension, retroactive to June 30, 2022, when Hopper was administratively suspended.

Hopper has admitted to the facts and violations alleged in the complaint. The record therefore establishes that Hopper violated the above-listed rules by failing to file required annual disclosures; failing to withdraw from a client's case after being administratively suspended; failing to timely inform the client and the prosecuting attorney of the administrative suspension; failing to appear for a court-ordered status check, which resulted in the district court issuing a bench warrant for the client's arrest; failing to refund the client's retainer upon demand after

EXHIBIT

4

25-25166



termination of representation; and failing to respond to the State Bar's lawful demand for information.

The issue for this court is whether the agreed-upon discipline sufficiently protects the public, the courts, and the legal profession. *See In re Discipline of Arabia*, 137 Nev. 568, 571, 495 P.3d 1103, 1109 (2021) (explaining purpose of attorney discipline). In determining the appropriate discipline, we weigh four factors: "the duty violated, the lawyer's mental state, the potential or actual injury caused by the lawyer's misconduct, and the existence of aggravating or mitigating factors." *In re Discipline of Lerner*, 124 Nev. 1232, 1246, 197 P.3d 1067, 1077 (2008).

Hopper admitted to knowingly violating duties owed to the legal system and the profession. Hopper's misconduct resulted in injury or potential injury to a client. Hopper further admitted that his actions resulted in injury or potential injury to the legal system by engaging in conduct prejudicial to the administration of justice and to the profession by failing to withdraw from representation after an administrative suspension, failing to take steps to the extent reasonably practicable to protect his client's interests; engaging in the unauthorized practice of law; and failing to respond to the State Bar's lawful demands for information.


The baseline sanction before considering aggravating or mitigating factors is suspension. *See Standards for Imposing Lawyer Sanctions, Compendium of Professional Responsibility Rules and Standards*, Standard 7.2 (Am. Bar Ass'n 2023) ("Suspension is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional and causes injury or potential injury to a client, the public, or the legal system."). The record supports three of the panel's findings of aggravating factors (pattern of misconduct, multiple

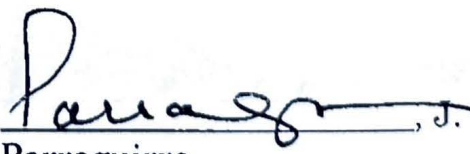
offenses, and substantial experience in the practice of law) and three mitigating factors (absence of a dishonest or selfish motive, personal or emotional problems, and remorse). The record does not support the panel's finding that Hopper had prior disciplinary offenses, and thus, we do not consider that aggravating factor. Considering all the factors, we conclude that the agreed-upon discipline sufficiently protects the public, the courts, and the legal profession.

Accordingly, we suspend attorney Charles D. Hopper for six months and one day retroactive to June 30, 2022. Hopper shall pay restitution in the amount of \$1,000 to the client identified in the conditional admission agreement. Hopper shall remit payment of this restitution to the Clients Security Fund under RPC 1.15(f). Hopper shall also pay the actual costs of the disciplinary proceedings, including \$2,500 under SCR 120, within 30 days of the date of this order. The parties shall comply with SCR 115 and SCR 121.1.

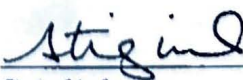
It is so ORDERED.

  
\_\_\_\_\_, C.J.  
Herndon

  
\_\_\_\_\_, J.  
Pickering

  
\_\_\_\_\_, J.  
Parraguirre

  
\_\_\_\_\_, J.  
Bell

  
\_\_\_\_\_, J.  
Stiglich

  
\_\_\_\_\_, J.  
Cadish

  
\_\_\_\_\_, J.  
Lee



cc: Chair, Southern Nevada Disciplinary Board  
Charles D. Hopper  
Bar Counsel, State Bar of Nevada  
Executive Director, State Bar of Nevada  
Admissions Office, U.S. Supreme Court

**CERTIFIED COPY**

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

DATE: July 10<sup>TH</sup> 2025

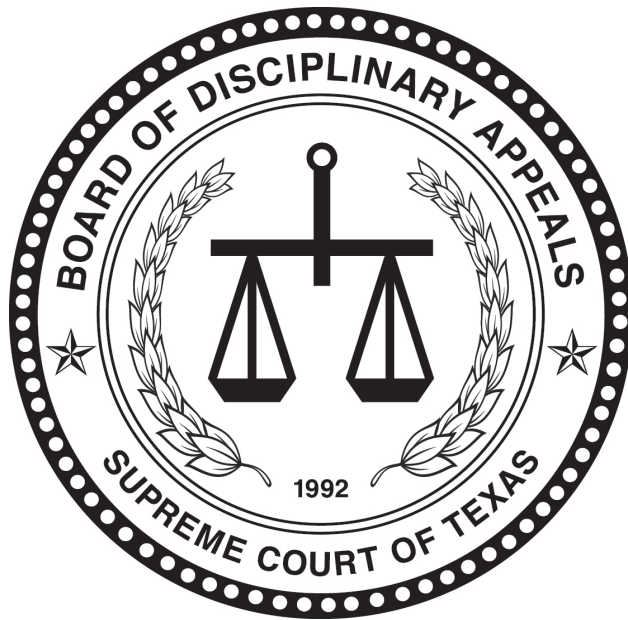
Supreme Court Clerk, State of Nevada

By  Deputy

**THE BOARD *of* DISCIPLINARY APPEALS**  
APPOINTED BY THE SUPREME COURT *of* TEXAS



**INTERNAL PROCEDURAL RULES**  
(EFFECTIVE SEPTEMBER 24, 2024)



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**INTERNAL PROCEDURAL RULES**

**BOARD OF DISCIPLINARY APPEALS**

*Current through September 24, 2024*

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# INTERNAL PROCEDURAL RULES

## Board of Disciplinary Appeals

*Current through September 24, 2024*

### I. GENERAL PROVISIONS

#### Rule 1.01. Definitions

- (a) “BODA” is the Board of Disciplinary Appeals.
- (b) “Chair” is the member elected by BODA to serve as chair or, in the Chair’s absence, the member elected by BODA to serve as vice-chair.
- (c) “Classification” is the determination by the CDC under TRDP 2.10 or by BODA under TRDP 7.08(C) whether a grievance constitutes a “complaint” or an “inquiry.”
- (d) “BODA Clerk” is the executive director of BODA or other person appointed by BODA to assume all duties normally performed by the clerk of a court.
- (e) “CDC” is the Chief Disciplinary Counsel for the State Bar of Texas and his or her assistants.
- (f) “Commission” is the Commission for Lawyer Discipline, a permanent committee of the State Bar of Texas.
- (g) “Executive Director” is the executive director of BODA.
- (h) “Panel” is any three-member grouping of BODA under TRDP 7.05.
- (i) “Party” is a Complainant, a Respondent, or the Commission.
- (j) “TDRPC” is the Texas Disciplinary Rules of Professional Conduct.
- (k) “TRAP” is the Texas Rules of Appellate Procedure.
- (l) “TRCP” is the Texas Rules of Civil Procedure.
- (m) “TRDP” is the Texas Rules of Disciplinary Procedure.
- (n) “TRE” is the Texas Rules of Evidence.

#### Rule 1.02. General Powers

Under TRDP 7.08, BODA has and may exercise all the powers of either a trial court or an appellate court, as the case may be, in hearing and determining disciplinary proceedings. But TRDP 15.01 [17.01] applies to the enforcement of a judgment of BODA.

#### Rule 1.03. Additional Rules in Disciplinary Matters

Except as varied by these rules and to the extent applicable, the TRCP, TRAP, and TRE apply to all disciplinary matters before BODA, except for appeals from classification decisions, which are governed by TRDP 2.10 and by Section 3 of these rules.

#### Rule 1.04. Appointment of Panels

- (a) BODA may consider any matter or motion by panel,

except as specified in (b). The Chair may delegate to the Executive Director the duty to appoint a panel for any BODA action. Decisions are made by a majority vote of the panel; however, any panel member may refer a matter for consideration by BODA sitting en banc. Nothing in these rules gives a party the right to be heard by BODA sitting en banc.

- (b) Any disciplinary matter naming a BODA member as Respondent must be considered by BODA sitting en banc. A disciplinary matter naming a BODA staff member as Respondent need not be heard en banc.

- (c) BODA may, upon decision of the Chair, conduct any business or proceedings—including any hearing, pretrial conference, or consideration of any matter or motion—remotely.

#### Rule 1.05. Filing of Pleadings, Motions, and Other Papers

- (a) **Electronic Filing.** All documents must be filed electronically. Unrepresented persons or those without the means to file electronically may electronically file documents, but it is not required.

- (1) Email Address. The email address of an attorney or an unrepresented party who electronically files a document must be included on the document.

- (2) Timely Filing. Documents are filed electronically by emailing the document to the BODA Clerk at the email address designated by BODA for that purpose. A document filed by email will be considered filed the day that the email is sent. The date sent is the date shown for the message in the inbox of the email account designated for receiving filings. If a document is sent after 5:00 p.m. or on a weekend or holiday officially observed by the State of Texas, it is considered filed the next business day.

- (3) It is the responsibility of the party filing a document by email to obtain the correct email address for BODA and to confirm that the document was received by BODA in legible form. Any document that is illegible or that cannot be opened as part of an email attachment will not be considered filed. If a document is untimely due to a technical failure or a system outage, the filing party may seek appropriate relief from BODA.

- (4) Exceptions.

- (i) An appeal to BODA of a decision by the CDC to classify a grievance as an inquiry or a complaint is not required to be filed electronically.

- (ii) The following documents must not be filed electronically:

- a) documents that are filed under seal or subject to a pending motion to seal; and

- b) documents to which access is otherwise restricted by court order.

(iii) For good cause, BODA may permit a party to file other documents in paper form in a particular case.

(5) **Format.** An electronically filed document must:

(i) be in text-searchable portable document format (PDF);

(ii) be directly converted to PDF rather than scanned, if possible; and

(iii) not be locked.

(b) A paper will not be deemed filed if it is sent to an individual BODA member or to another address other than the address designated by BODA under Rule 1.05(a)(2).

(c) **Signing.** Each brief, motion, or other paper filed must be signed by at least one attorney for the party or by the party pro se and must give the State Bar of Texas card number, mailing address, telephone number, email address, and fax number, if any, of each attorney whose name is signed or of the party (if applicable). A document is considered signed if the document includes:

(1) an “/s/” and name typed in the space where the signature would otherwise appear, unless the document is notarized or sworn; or

(2) an electronic image or scanned image of the signature.

(d) **Paper Copies.** Unless required by BODA, a party need not file a paper copy of an electronically filed document.

(e) **Service.** Copies of all documents filed by any party other than the record filed by the evidentiary panel clerk or the court reporter must, at or before the time of filing, be served on all other parties as required and authorized by the TRAP.

#### **Rule 1.06. Service of Petition**

In any disciplinary proceeding before BODA initiated by service of a petition on the Respondent, the petition must be served by personal service; by certified mail with return receipt requested; or, if permitted by BODA, in any other manner that is authorized by the TRCP and reasonably calculated under all the circumstances to apprise the Respondent of the proceeding and to give him or her reasonable time to appear and answer. To establish service by certified mail, the return receipt must contain the Respondent’s signature.

#### **Rule 1.07. Hearing Setting and Notice**

(a) **Original Petitions.** In any kind of case initiated by the CDC’s filing a petition or motion with BODA, the CDC may contact the BODA Clerk for the next regularly available hearing date before filing the original petition. If a hearing is set before the petition is filed, the petition must state the date, time, and place of the hearing. Except in the case of a petition to revoke probation under TRDP 2.23 [2.22], the hearing date must be at least 30 days from the date that the petition is served on the Respondent.

(b) **Expedited Settings.** If a party desires a hearing on a matter on a date earlier than the next regularly available BODA hearing date, the party may request an expedited setting in a written motion setting out the reasons for the request. Unless the parties agree otherwise, and except in the case of a petition to revoke probation under TRDP 2.23 [2.22], the expedited hearing setting must be at least 30 days from the date of service of the petition, motion, or other pleading. BODA has the sole discretion to grant or deny a request for an expedited hearing date.

(c) **Setting Notices.** BODA must notify the parties of any hearing date that is not noticed in an original petition or motion.

(d) **Announcement Docket.** Attorneys and parties appearing before BODA must confirm their presence and present any questions regarding procedure to the BODA Clerk in the courtroom immediately prior to the time docket call is scheduled to begin. Each party with a matter on the docket must appear at the docket call to give an announcement of readiness, to give a time estimate for the hearing, and to present any preliminary motions or matters. Immediately following the docket call, the Chair will set and announce the order of cases to be heard.

#### **Rule 1.08. Time to Answer**

The Respondent may file an answer at any time, except where expressly provided otherwise by these rules or the TRDP, or when an answer date has been set by prior order of BODA. BODA may, but is not required to, consider an answer filed the day of the hearing.

#### **Rule 1.09. Pretrial Procedure**

(a) **Motions.**

(1) Generally. To request an order or other relief, a party must file a motion supported by sufficient cause with proof of service on all other parties. The motion must state with particularity the grounds on which it is based and set forth the relief sought. All supporting briefs, affidavits, or other documents must be served and filed with the motion. A party may file a response to a motion at any time before BODA rules on the motion or by any deadline set by BODA. Unless otherwise required by these rules or the TRDP, the form of a motion must comply with the TRCP or the TRAP.

(2) For Extension of Time. All motions for extension of time in any matter before BODA must be in writing, comply with (a)(1), and specify the following:

(i) if applicable, the date of notice of decision of the evidentiary panel, together with the number and style of the case;

(ii) if an appeal has been perfected, the date when the appeal was perfected;

(iii) the original deadline for filing the item in question;

(iv) the length of time requested for the extension;

(v) the number of extensions of time that have been granted previously regarding the item in question; and

(vi) the facts relied on to reasonably explain the need for an extension.

(b) **Pretrial Scheduling Conference.** Any party may request a pretrial scheduling conference, or BODA on its own motion may require a pretrial scheduling conference.

(c) **Trial Briefs.** In any disciplinary proceeding before BODA, except with leave, all trial briefs and memoranda must be filed with the BODA Clerk no later than ten days before the day of the hearing.

(d) **Hearing Exhibits, Witness Lists, and Exhibits Tendered for Argument.** A party may file a witness list, exhibit, or any other document to be used at a hearing or oral argument before the hearing or argument. A party must bring to the hearing an original and 12 copies of any document that was not filed at least one business day before the hearing. The original and copies must be:

(1) marked;

(2) indexed with the title or description of the item offered as an exhibit; and

(3) if voluminous, bound to lie flat when open and tabbed in accordance with the index.

All documents must be marked and provided to the opposing party before the hearing or argument begins.

#### **Rule 1.10. Decisions**

(a) **Notice of Decisions.** The BODA Clerk must give notice of all decisions and opinions to the parties or their attorneys of record.

(b) **Publication of Decisions.** BODA must report judgments or orders of public discipline:

(1) as required by the TRDP; and

(2) on its website for a period of at least ten years following the date of the disciplinary judgment or order.

(c) **Abstracts of Classification Appeals.** BODA may, in its discretion, prepare an abstract of a classification appeal for a public reporting service.

#### **Rule 1.11. Board of Disciplinary Appeals Opinions**

(a) BODA may render judgment in any disciplinary matter with or without written opinion. In accordance with TRDP 6.06, all written opinions of BODA are open to the public and must be made available to the public reporting services, print or electronic, for publishing. A majority of the members who participate in considering the disciplinary matter must determine if an opinion will be written. The names of the participating members must be noted on all written opinions of BODA.

(b) Only a BODA member who participated in the

decision of a disciplinary matter may file or join in a written opinion concurring in or dissenting from the judgment of BODA. For purposes of this rule, in hearings in which evidence is taken, no member may participate in the decision unless that member was present at the hearing. In all other proceedings, no member may participate unless that member has reviewed the record. Any member of BODA may file a written opinion in connection with the denial of a hearing or rehearing en banc.

(c) A BODA determination in an appeal from a grievance classification decision under TRDP 2.10 is not a judgment for purposes of this rule and may be issued without a written opinion.

#### **Rule 1.12. BODA Work Product and Drafts**

A document or record of any nature—regardless of its form, characteristics, or means of transmission—that is created or produced in connection with or related to BODA's adjudicative decision-making process is not subject to disclosure or discovery. This includes documents prepared by any BODA member, BODA staff, or any other person acting on behalf of or at the direction of BODA.

#### **Rule 1.13. Record Retention**

Records of appeals from classification decisions must be retained by the BODA Clerk for a period of at least three years from the date of disposition. Records of other disciplinary matters must be retained for a period of at least five years from the date of final judgment, or for at least one year after the date a suspension or disbarment ends, whichever is later. For purposes of this rule, a record is any document, paper, letter, map, book, tape, photograph, film, recording, or other material filed with BODA, regardless of its form, characteristics, or means of transmission.

#### **Rule 1.14. Costs of Reproduction of Records**

The BODA Clerk may charge a reasonable amount for the reproduction of nonconfidential records filed with BODA. The fee must be paid in advance to the BODA Clerk.

#### **Rule 1.15. Publication of These Rules**

These rules will be published as part of the TDRPC and TRDP.

## **II. ETHICAL CONSIDERATIONS**

#### **Rule 2.01. Representing or Counseling Parties in Disciplinary Matters and Legal Malpractice Cases**

(a) A current member of BODA must not represent a party or testify voluntarily in a disciplinary action or proceeding. Any BODA member who is subpoenaed or otherwise compelled to appear at a disciplinary action or proceeding, including at a deposition, must promptly notify the BODA Chair.

(b) A current BODA member must not serve as an expert witness on the TDRPC.

(c) A BODA member may represent a party in a legal

malpractice case, provided that he or she is later recused in accordance with these rules from any proceeding before BODA arising out of the same facts.

#### **Rule 2.02. Confidentiality**

(a) BODA deliberations are confidential, must not be disclosed by BODA members or staff, and are not subject to disclosure or discovery.

(b) Classification appeals, appeals from evidentiary judgments of private reprimand, appeals from an evidentiary judgment dismissing a case, interlocutory appeals or any interim proceedings from an ongoing evidentiary case, and disability cases are confidential under the TRDP. BODA must maintain all records associated with these cases as confidential, subject to disclosure only as provided in the TRDP and these rules.

(c) If a member of BODA is subpoenaed or otherwise compelled by law to testify in any proceeding, the member must not disclose a matter that was discussed in conference in connection with a disciplinary case unless the member is required to do so by a court of competent jurisdiction

#### **Rule 2.03. Disqualification and Recusal of BODA Members**

(a) BODA members are subject to disqualification and recusal as provided in TRCP 18b.

(b) BODA members may, in addition to recusals under (a), voluntarily recuse themselves from any discussion and voting for any reason. The reasons that a BODA member is recused from a case are not subject to discovery.

(c) These rules do not disqualify a lawyer who is a member of, or associated with, the law firm of a BODA member from serving on a grievance committee or representing a party in a disciplinary proceeding or legal malpractice case. But a BODA member must recuse him or herself from any matter in which a lawyer who is a member of, or associated with, the BODA member's firm is a party or represents a party.

### **III. CLASSIFICATION APPEALS**

#### **Rule 3.01. Notice of Right to Appeal**

(a) If a grievance filed by the Complainant under TRDP 2.10 is classified as an inquiry, the CDC must notify the Complainant of his or her right to appeal as set out in TRDP 2.10 or another applicable rule. If a grievance is classified as a complaint, the CDC must notify both the Complainant and the Respondent of the Respondent's right to appeal as set out in TRDP 2.10 or another applicable rule.

(b) To facilitate the potential filing of an appeal of a grievance classified as an inquiry, the CDC must send the Complainant an appeal notice form, approved by BODA, with the classification disposition. For a grievance classified as a complaint, the CDC must send the Respondent an appeal notice form, approved by BODA, with notice of the classification disposition. The form must

include the docket number of the matter; the deadline for appealing; and information for mailing, faxing, or emailing the appeal notice form to BODA. The appeal notice form must be available in English and Spanish.

#### **Rule 3.02. Record on Appeal**

BODA must not consider documents or other submissions that the Complainant or Respondent filed with the CDC or BODA after the CDC's classification. When a notice of appeal from a classification decision has been filed, the CDC must forward to BODA a copy of the grievance and all supporting documentation. If the appeal challenges the classification of an amended grievance, the CDC must also send BODA a copy of the initial grievance, unless it has been destroyed.

#### **Rule 3.03. Disposition of Classification Appeal**

(a) BODA may decide a classification appeal by doing any of the following:

(1) affirm the CDC's classification of the grievance as an inquiry and the dismissal of the grievance;

(2) reverse the CDC's classification of the grievance as an inquiry, reclassify the grievance as a complaint, and return the matter to the CDC for investigation, just cause determination, and further proceedings in accordance with the TRDP;

(3) affirm the CDC's classification of the grievance as a complaint and return the matter to the CDC to proceed with investigation, just cause determination, and further proceedings in accordance with the TRDP; or

(4) reverse the CDC's classification of the grievance as a complaint, reclassify the grievance as an inquiry, and dismiss the grievance.

(b) When BODA reverses the CDC's inquiry classification and reclassifies a grievance as a complaint, BODA must reference any provisions of the TDRPC under which BODA concludes professional misconduct is alleged. When BODA affirms the CDC's complaint classification, BODA may reference any provisions of the TDRPC under which BODA concludes professional misconduct is alleged. The scope of investigation will be determined by the CDC in accordance with TRDP 2.12.

(c) BODA's decision in a classification appeal is final and conclusive, and such decision is not subject to appeal or reconsideration.

(d) A classification appeal decision under (a)(1) or (4), which results in dismissal, has no bearing on whether the Complainant may amend the grievance and resubmit it to the CDC under TRDP 2.10.

### **IV. APPEALS FROM EVIDENTIARY PANEL HEARINGS**

#### **Rule 4.01. Perfecting Appeal**

(a) **Appellate Timetable.** The date that the evidentiary

judgment is signed starts the appellate timetable under this section. To make TRDP 2.21 [2.20] consistent with this requirement, the date that the judgment is signed is the “date of notice” under Rule [TRDP] 2.21 [2.20].

**(b) Notification of the Evidentiary Judgment.** The clerk of the evidentiary panel must notify the parties of the judgment as set out in TRDP 2.21 [2.20].

(1) The evidentiary panel clerk must notify the Commission and the Respondent in writing of the judgment. The notice must contain a clear statement that any appeal of the judgment must be filed with BODA within 30 days of the date that the judgment was signed. The notice must include a copy of the judgment rendered.

(2) The evidentiary panel clerk must notify the Complainant that a judgment has been rendered and provide a copy of the judgment, unless the evidentiary panel dismissed the case or imposed a private reprimand. In the case of a dismissal or private reprimand, the evidentiary panel clerk must notify the Complainant of the decision and that the contents of the judgment are confidential. Under TRDP 2.16, no additional information regarding the contents of a judgment of dismissal or private reprimand may be disclosed to the Complainant.

**(c) Filing Notice of Appeal.** An appeal is perfected when a written notice of appeal is filed with BODA. If a notice of appeal and any other accompanying documents are mistakenly filed with the evidentiary panel clerk, the notice is deemed to have been filed the same day with BODA, and the evidentiary panel clerk must immediately send the BODA Clerk a copy of the notice and any accompanying documents.

**(d) Time to File.** In accordance with TRDP 2.24 [2.23], the notice of appeal must be filed within 30 days after the date the judgment is signed. In the event a motion for new trial or motion to modify the judgment is timely filed with the evidentiary panel, the notice of appeal must be filed with BODA within 90 days from the date the judgment is signed.

**(e) Extension of Time.** A motion for an extension of time to file the notice of appeal must be filed no later than 15 days after the last day allowed for filing the notice of appeal. The motion must comply with Rule 1.09.

#### **Rule 4.02. Record on Appeal**

**(a) Contents.** The record on appeal consists of the evidentiary panel clerk’s record and, where necessary to the appeal, a reporter’s record of the evidentiary panel hearing.

**(b) Stipulation as to Record.** The parties may designate parts of the clerk’s record and the reporter’s record to be included in the record on appeal by written stipulation filed with the clerk of the evidentiary panel.

#### **(c) Responsibility for Filing Record.**

##### **(1) Clerk’s Record.**

(i) After receiving notice that an appeal has been filed, the clerk of the evidentiary panel is responsible for preparing, certifying, and timely filing the clerk’s record.

(ii) Unless the parties stipulate otherwise, the clerk’s record on appeal must contain the items listed in TRAP 34.5(a) and any other paper on file with the evidentiary panel, including the election letter, all pleadings on which the hearing was held, the docket sheet, the evidentiary panel’s charge, any findings of fact and conclusions of law, all other pleadings, the judgment or other orders appealed from, the notice of decision sent to each party, any postsubmission pleadings and briefs, and the notice of appeal.

(iii) If the clerk of the evidentiary panel is unable for any reason to prepare and transmit the clerk’s record by the due date, he or she must promptly notify BODA and the parties, explain why the clerk’s record cannot be timely filed, and give the date by which he or she expects the clerk’s record to be filed.

##### **(2) Reporter’s Record.**

(i) The court reporter for the evidentiary panel is responsible for timely filing the reporter’s record if:

- a) a notice of appeal has been filed;
- b) a party has requested that all or part of the reporter’s record be prepared; and
- c) the party requesting all or part of the reporter’s record has paid the reporter’s fee or has made satisfactory arrangements with the reporter.

(ii) If the court reporter is unable for any reason to prepare and transmit the reporter’s record by the due date, he or she must promptly notify BODA and the parties, explain the reasons why the reporter’s record cannot be timely filed, and give the date by which he or she expects the reporter’s record to be filed.

#### **(d) Preparation of Clerk’s Record.**

(1) To prepare the clerk’s record, the evidentiary panel clerk must:

- (i) gather the documents designated by the parties’ written stipulation or, if no stipulation was filed, the documents required under (c)(1)(ii);
- (ii) start each document on a new page;
- (iii) include the date of filing on each document;
- (iv) arrange the documents in chronological order, either by the date of filing or the date of occurrence;
- (v) number the pages of the clerk’s record in the manner required by (d)(2);

(vi) prepare and include, after the front cover of the clerk's record, a detailed table of contents that complies with (d)(3); and

(vii) certify the clerk's record.

(2) The clerk must start the page numbering on the front cover of the first volume of the clerk's record and continue to number all pages consecutively—including the front and back covers, tables of contents, certification page, and separator pages, if any—until the final page of the clerk's record, without regard for the number of volumes in the clerk's record, and place each page number at the bottom of each page.

(3) The table of contents must:

(i) identify each document in the entire record (including sealed documents); the date each document was filed; and, except for sealed documents, the page on which each document begins;

(ii) be double-spaced;

(iii) conform to the order in which documents appear in the clerk's record, rather than in alphabetical order;

(iv) contain bookmarks linking each description in the table of contents (except for descriptions of sealed documents) to the page on which the document begins; and

(v) if the record consists of multiple volumes, indicate the page on which each volume begins.

(e) **Electronic Filing of the Clerk's Record.** The evidentiary panel clerk must file the record electronically. When filing a clerk's record in electronic form, the evidentiary panel clerk must:

(1) file each computer file in text-searchable Portable Document Format (PDF);

(2) create electronic bookmarks to mark the first page of each document in the clerk's record;

(3) limit the size of each computer file to 100 MB or less, if possible; and

(4) directly convert, rather than scan, the record to PDF, if possible.

(f) **Preparation of the Reporter's Record.**

(1) The appellant, at or before the time prescribed for perfecting the appeal, must make a written request for the reporter's record to the court reporter for the evidentiary panel. The request must designate the portion of the evidence and other proceedings to be included. A copy of the request must be filed with the evidentiary panel and BODA and must be served on the appellee. The reporter's record must be certified by the court reporter for the evidentiary panel.

(2) The court reporter or recorder must prepare and file the reporter's record in accordance with TRAP 34.6 and

35 and the Uniform Format Manual for Texas Reporters' Records.

(3) The court reporter or recorder must file the reporter's record in an electronic format by emailing the document to the email address designated by BODA for that purpose.

(4) The court reporter or recorder must include either a scanned image of any required signature or "/s/" and name typed in the space where the signature would otherwise

(6<sup>1</sup>) In exhibit volumes, the court reporter or recorder must create bookmarks to mark the first page of each exhibit document.

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

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

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

<sup>1</sup> So in original.

#### **Rule 4.03. Time to File Record**

(a) **Timetable.** The clerk's record and reporter's record must be filed within 60 days after the date the judgment is signed. If a motion for new trial or motion to modify the judgment is filed with the evidentiary panel, the clerk's record and the reporter's record must be filed within 120 days from the date the original judgment is signed, unless a modified judgment is signed, in which case the clerk's record and the reporter's record must be filed within 60 days of the signing of the modified judgment. Failure to file either the clerk's record or the reporter's record on time does not affect BODA's jurisdiction, but may result in BODA's exercising its discretion to dismiss the appeal, affirm the judgment appealed from, disregard materials filed late, or apply presumptions against the appellant.

(b) **If No Record Filed.**

(1) If the clerk's record or reporter's record has not been



timely filed, the BODA Clerk must send notice to the party responsible for filing it, stating that the record is late and requesting that the record be filed within 30 days. The BODA Clerk must send a copy of this notice to all the parties and the clerk of the evidentiary panel.

(2) If no reporter's record is filed due to appellant's fault, and if the clerk's record has been filed, BODA may, after first giving the appellant notice and a reasonable opportunity to cure, consider and decide those issues or points that do not require a reporter's record for a decision. BODA may do this if no reporter's record has been filed because:

- (i) the appellant failed to request a reporter's record; or
- (ii) the appellant failed to pay or make arrangements to pay the reporter's fee to prepare the reporter's record, and the appellant is not entitled to proceed without payment of costs.

**(c) Extension of Time to File the Reporter's Record.**

When an extension of time is requested for filing the reporter's record, the facts relied on to reasonably explain the need for an extension must be supported by an affidavit of the court reporter. The affidavit must include the court reporter's estimate of the earliest date when the reporter's record will be available for filing.

**(d) Supplemental Record.** If anything material to either party is omitted from the clerk's record or reporter's record, BODA may, on written motion of a party or on its own motion, direct a supplemental record to be certified and transmitted by the clerk for the evidentiary panel or the court reporter for the evidentiary panel.

**Rule 4.04. Copies of the Record**

The record may not be withdrawn from the custody of the BODA Clerk. Any party may obtain a copy of the record or any designated part thereof by making a written request to the BODA Clerk and paying any charges for reproduction in advance.

**Rule 4.05. Requisites of Briefs**

**(a) Appellant's Filing Date.** Appellant's brief must be filed within 30 days after the clerk's record or the reporter's record is filed, whichever is later.

**(b) Appellee's Filing Date.** Appellee's brief must be filed within 30 days after the appellant's brief is filed.

**(c) Contents.** Briefs must contain:

- (1) a complete list of the names and addresses of all parties to the final decision and their counsel;
- (2) a table of contents indicating the subject matter of each issue or point, or group of issues or points, with page references where the discussion of each point relied on may be found;
- (3) an index of authorities arranged alphabetically and

indicating the pages where the authorities are cited;

(4) a statement of the case containing a brief general statement of the nature of the cause or offense and the result;

(5) a statement, without argument, of the basis of BODA's jurisdiction;

(6) a statement of the issues presented for review or points of error on which the appeal is predicated;

(7) a statement of facts that is without argument, is supported by record references, and details the facts relating to the issues or points relied on in the appeal;

(8) the argument and authorities;

(9) conclusion and prayer for relief;

(10) a certificate of service; and

(11) an appendix of record excerpts pertinent to the issues presented for review.

**(d) Length of Briefs; Contents Included and Excluded.**

In calculating the length of a document, every word and every part of the document, including headings, footnotes, and quotations, must be counted except the following: caption, identity of the parties and counsel, statement regarding oral argument, table of contents, index of authorities, statement of the case, statement of issues presented, statement of the jurisdiction, signature, proof of service, certificate of compliance, and appendix. Briefs must not exceed 15,000 words if computer-generated, and 50 pages if not, except on leave of BODA. A reply brief must not exceed 7,500 words if computer-generated, and 25 pages if not, except on leave of BODA. A computer generated document must include a certificate by counsel or the unrepresented party stating the number of words in the document. The person who signs the certification may rely on the word count of the computer program used to prepare the document.

**(e) Amendment or Supplementation.** BODA has discretion to grant leave to amend or supplement briefs.

**(f) Failure of the Appellant to File a Brief.** If the appellant fails to timely file a brief, BODA may:

- (1) dismiss the appeal for want of prosecution, unless the appellant reasonably explains the failure, and the appellee is not significantly injured by the appellant's failure to timely file a brief;
- (2) decline to dismiss the appeal and make further orders within its discretion as it considers proper; or
- (3) if an appellee's brief is filed, regard that brief as correctly presenting the case and affirm the evidentiary panel's judgment on that brief without examining the record.

**Rule 4.06. Oral Argument**

**(a) Request.** A party desiring oral argument must note the

request on the front cover of the party's brief. A party's failure to timely request oral argument waives the party's right to argue. A party who has requested argument may later withdraw the request. But even if a party has waived oral argument, BODA may direct the party to appear and argue. If oral argument is granted, the clerk will notify the parties of the time and place for submission.

(b) **Right to Oral Argument.** A party who has filed a brief and who has timely requested oral argument may argue the case to BODA unless BODA, after examining the briefs, decides that oral argument is unnecessary for any of the following reasons:

- (1) the appeal is frivolous;
- (2) the dispositive issue or issues have been authoritatively decided;
- (3) the facts and legal arguments are adequately presented in the briefs and record; or
- (4) the decisional process would not be significantly aided by oral argument.

(c) **Time Allowed.** Each party will have 20 minutes to argue. BODA may, on the request of a party or on its own, extend or shorten the time allowed for oral argument. The appellant may reserve a portion of his or her allotted time for rebuttal.

#### **Rule 4.07. Decision and Judgment**

(a) **Decision.** BODA may do any of the following:

- (1) affirm in whole or in part the decision of the evidentiary panel;
- (2) modify the panel's findings and affirm the findings as modified;
- (3) reverse in whole or in part the panel's findings and render the decision that the panel should have rendered; or
- (4) reverse the panel's findings and remand the cause for further proceedings to be conducted by:
  - (i) the panel that entered the findings; or
  - (ii) a statewide grievance committee panel appointed by BODA and composed of members selected from the state bar districts other than the district from which the appeal was taken.

(b) **Mandate.** In every appeal, the BODA Clerk must issue a mandate in accordance with BODA's judgment and send it to the evidentiary panel and to all the parties.

#### **Rule 4.08. Appointment of Statewide Grievance Committee**

If BODA remands a cause for further proceedings before a statewide grievance committee, the BODA Chair will appoint the statewide grievance committee in accordance with TRDP 2.27 [2.26]. The committee must consist of six members: four attorney members and two public members

randomly selected from the current pool of grievance committee members. Two alternates, consisting of one attorney and one public member, must also be selected. BODA will appoint the initial chair who will serve until the members of the statewide grievance committee elect a chair of the committee at the first meeting. The BODA Clerk will notify the Respondent and the CDC that a committee has been appointed.

#### **Rule 4.09. Involuntary Dismissal**

Under the following circumstances and on any party's motion or on its own initiative after giving at least ten days' notice to all parties, BODA may dismiss the appeal or affirm the appealed judgment or order. Dismissal or affirmance may occur if the appeal is subject to dismissal:

- (a) for want of jurisdiction;
- (b) for want of prosecution; or
- (c) because the appellant has failed to comply with a requirement of these rules, a court order, or a notice from the clerk requiring a response or other action within a specified time.

### **V. PETITIONS TO REVOKE PROBATION**

#### **Rule 5.01. Initiation and Service**

(a) Before filing a motion to revoke the probation of an attorney who has been sanctioned, the CDC must contact the BODA Clerk to confirm whether the next regularly available hearing date will comply with the 30-day requirement of TRDP. The Chair may designate a three-member panel to hear the motion, if necessary, to meet the 30-day requirement of TRDP 2.23 [2.22].

(b) Upon filing the motion, the CDC must serve the Respondent with the motion and any supporting documents in accordance with TRDP 2.23 [2.22], the TRCP, and these rules. The CDC must notify BODA of the date that service is obtained on the Respondent.

#### **Rule 5.02. Hearing**

Within 30 days of service of the motion on the Respondent, BODA must docket and set the matter for a hearing and notify the parties of the time and place of the hearing. On a showing of good cause by a party or on its own motion, BODA may continue the case to a future hearing date as circumstances require.

### **VI. COMPULSORY DISCIPLINE**

#### **Rule 6.01. Initiation of Proceeding**

Under TRDP 8.03, the CDC must file a petition for compulsory discipline with BODA and serve the Respondent in accordance with the TRDP and Rule 1.06 of these rules.

#### **Rule 6.02. Interlocutory Suspension**

(a) **Interlocutory Suspension.** In any compulsory proceeding under TRDP Part VIII in which BODA

determines that the Respondent has been convicted of an Intentional Crime and that the criminal conviction is on direct appeal, BODA must suspend the Respondent's license to practice law by interlocutory order. In any compulsory case in which BODA has imposed an interlocutory order of suspension, BODA retains jurisdiction to render final judgment after the direct appeal of the criminal conviction is final. For purposes of rendering final judgment in a compulsory discipline case, the direct appeal of the criminal conviction is final when the appellate court issues its mandate.

(b) **Criminal Conviction Affirmed.** If the criminal conviction made the basis of a compulsory interlocutory suspension is affirmed and becomes final, the CDC must file a motion for final judgment that complies with TRDP 8.05.

(1) If the criminal sentence is fully probated or is an order of deferred adjudication, the motion for final judgment must contain notice of a hearing date. The motion will be set on BODA's next available hearing date.

(2) If the criminal sentence is not fully probated:

(i) BODA may proceed to decide the motion without a hearing if the attorney does not file a verified denial within ten days of service of the motion; or

(ii) BODA may set the motion for a hearing on the next available hearing date if the attorney timely files a verified denial.

(c) **Criminal Conviction Reversed.** If an appellate court issues a mandate reversing the criminal conviction while a Respondent is subject to an interlocutory suspension, the Respondent may file a motion to terminate the interlocutory suspension. The motion to terminate the interlocutory suspension must have certified copies of the decision and mandate of the reversing court attached. If the CDC does not file an opposition to the termination within ten days of being served with the motion, BODA may proceed to decide the motion without a hearing or set the matter for a hearing on its own motion. If the CDC timely opposes the motion, BODA must set the motion for a hearing on its next available hearing date. An order terminating an interlocutory order of suspension does not automatically reinstate a Respondent's license.

## **VII. RECIPROCAL DISCIPLINE**

### **Rule 7.01. Initiation of Proceeding**

To initiate an action for reciprocal discipline under TRDP Part IX, the CDC must file a petition with BODA and request an Order to Show Cause. The petition must request that the Respondent be disciplined in Texas and have attached to it any information concerning the disciplinary matter from the other jurisdiction, including a certified copy of the order or judgment rendered against the Respondent.

### **Rule 7.02. Order to Show Cause**

When a petition is filed, the Chair immediately issues a show cause order and a hearing notice and forwards them to the CDC, who must serve the order and notice on the Respondent. The CDC must notify BODA of the date that service is obtained.

### **Rule 7.03. Attorney's Response**

If the Respondent does not file an answer within 30 days of being served with the order and notice but thereafter appears at the hearing, BODA may, at the discretion of the Chair, receive testimony from the Respondent relating to the merits of the petition.

## **VIII. DISTRICT DISABILITY COMMITTEE HEARINGS**

### **Rule 8.01. Appointment of District Disability Committee**

(a) If the evidentiary panel of the grievance committee finds under TRDP 2.17(P)(2), or the CDC reasonably believes under TRDP 2.14(C), that a Respondent is suffering from a disability, the rules in this section will apply to the de novo proceeding before the District Disability Committee held under TRDP Part XII.

(b) Upon receiving an evidentiary panel's finding or the CDC's referral that an attorney is believed to be suffering from a disability, the BODA Chair must appoint a District Disability Committee in compliance with TRDP 12.02 and designate a chair. BODA will reimburse District Disability Committee members for reasonable expenses directly related to service on the District Disability Committee. The BODA Clerk must notify the CDC and the Respondent that a committee has been appointed and notify the Respondent where to locate the procedural rules governing disability proceedings.

(c) A Respondent who has been notified that a disability referral will be or has been made to BODA may, at any time, waive in writing the appointment of the District Disability Committee or the hearing before the District Disability Committee and enter into an agreed judgment of indefinite disability suspension, provided that the Respondent is competent to waive the hearing. If the Respondent is not represented, the waiver must include a statement affirming that the Respondent has been advised of the right to appointed counsel and waives that right as well.

(d) All pleadings, motions, briefs, or other matters to be filed with the District Disability Committee must be filed with the BODA Clerk.

(e) Should any member of the District Disability Committee become unable to serve, the BODA Chair must appoint a substitute member.

### **Rule 8.02. Petition and Answer**

(a) **Petition.** Upon being notified that the District Disability Committee has been appointed by BODA, the

CDC must, within 20 days, file with the BODA Clerk and serve on the Respondent a copy of a petition for indefinite disability suspension. Service must comply with Rule 1.06.

(b) **Answer.** The Respondent must, within 30 days after service of the petition for indefinite disability suspension, file an answer with the BODA Clerk and serve a copy of the answer on the CDC.

(c) **Hearing Setting.** The BODA Clerk must set the final hearing as instructed by the chair of the District Disability Committee and send notice of the hearing to the parties.

#### **Rule 8.03. Discovery**

(a) **Limited Discovery.** The District Disability Committee may permit limited discovery. The party seeking discovery must file with the BODA Clerk a written request that makes a clear showing of good cause and substantial need and a proposed order. If the District Disability Committee authorizes discovery in a case, it must issue a written order. The order may impose limitations or deadlines on the discovery.

(b) **Physical or Mental Examinations.** On written motion by the Commission or on its own motion, the District Disability Committee may order the Respondent to submit to a physical or mental examination by a qualified healthcare or mental healthcare professional. Nothing in this rule limits the Respondent's right to an examination by a professional of his or her choice in addition to any exam ordered by the District Disability Committee.

(1) Motion. The Respondent must be given reasonable notice of the examination by written order specifying the name, address, and telephone number of the person conducting the examination.

(2) Report. The examining professional must file with the BODA Clerk a detailed, written report that includes the results of all tests performed and the professional's findings, diagnoses, and conclusions. The professional must send a copy of the report to the CDC and the Respondent.

(c) **Objections.** A party must make any objection to a request for discovery within 15 days of receiving the motion by filing a written objection with the BODA Clerk. BODA may decide any objection or contest to a discovery motion.

#### **Rule 8.04. Ability to Compel Attendance**

The Respondent and the CDC may confront and cross-examine witnesses at the hearing. Compulsory process to compel the attendance of witnesses by subpoena, enforceable by an order of a district court of proper jurisdiction, is available to the Respondent and the CDC as provided in TRCP 176.

#### **Rule 8.05. Respondent's Right to Counsel**

(a) The notice to the Respondent that a District Disability Committee has been appointed and the petition for

indefinite disability suspension must state that the Respondent may request appointment of counsel by BODA to represent him or her at the disability hearing. BODA will reimburse appointed counsel for reasonable expenses directly related to representation of the Respondent.

(b) To receive appointed counsel under TRDP 12.02, the Respondent must file a written request with the BODA Clerk within 30 days of the date that Respondent is served with the petition for indefinite disability suspension. A late request must demonstrate good cause for the Respondent's failure to file a timely request.

#### **Rule 8.06. Hearing**

The party seeking to establish the disability must prove by a preponderance of the evidence that the Respondent is suffering from a disability as defined in the TRDP. The chair of the District Disability Committee must admit all relevant evidence that is necessary for a fair and complete hearing. The TRE are advisory but not binding on the chair.

#### **Rule 8.07. Notice of Decision**

The District Disability Committee must certify its finding regarding disability to BODA, which will issue the final judgment in the matter.

#### **Rule 8.08. Confidentiality**

All proceedings before the District Disability Committee and BODA, if necessary, are closed to the public. All matters before the District Disability Committee are confidential and are not subject to disclosure or discovery, except as allowed by the TRDP or as may be required in the event of an appeal to the Supreme Court of Texas.

### **IX. DISABILITY REINSTATEMENTS**

#### **Rule 9.01. Petition for Reinstatement**

(a) An attorney under an indefinite disability suspension may, at any time after he or she has been suspended, file a verified petition with BODA to have the suspension terminated and to be reinstated to the practice of law. The petitioner must serve a copy of the petition on the CDC in the manner required by TRDP 12.06. The TRCP apply to a reinstatement proceeding unless they conflict with these rules.

(b) The petition must include the information required by TRDP 12.06. If the judgment of disability suspension contained terms or conditions relating to misconduct by the petitioner prior to the suspension, the petition must affirmatively demonstrate that those terms have been complied with or explain why they have not been satisfied. The petitioner has a duty to amend and keep current all information in the petition until the final hearing on the merits. Failure to do so may result in dismissal without notice.

(c) Disability reinstatement proceedings before BODA are not confidential; however, BODA may make all or any part of the record of the proceeding confidential.

**Rule 9.02. Discovery**

The discovery period is 60 days from the date that the petition for reinstatement is filed. The BODA Clerk will set the petition for a hearing on the first date available after the close of the discovery period and must notify the parties of the time and place of the hearing. BODA may continue the hearing for good cause shown.

**Rule 9.03. Physical or Mental Examinations**

(a) On written motion by the Commission or on its own, BODA may order the petitioner seeking reinstatement to submit to a physical or mental examination by a qualified healthcare or mental healthcare professional. The petitioner must be served with a copy of the motion and given at least seven days to respond. BODA may hold a hearing before ruling on the motion but is not required to do so.

(b) The petitioner must be given reasonable notice of the examination by written order specifying the name, address, and telephone number of the person conducting the examination.

(c) The examining professional must file a detailed, written report that includes the results of all tests performed and the professional's findings, diagnoses, and conclusions. The professional must send a copy of the report to the parties.

(d) If the petitioner fails to submit to an examination as ordered, BODA may dismiss the petition without notice.

(e) Nothing in this rule limits the petitioner's right to an examination by a professional of his or her choice in addition to any exam ordered by BODA.

**Rule 9.04. Judgment**

If, after hearing all the evidence, BODA determines that the petitioner is not eligible for reinstatement, BODA may, in its discretion, either enter an order denying the petition or direct that the petition be held in abeyance for a reasonable period of time until the petitioner provides additional proof as directed by BODA. The judgment may include other orders necessary to protect the public and the petitioner's potential clients.

**X. APPEALS FROM BODA TO THE SUPREME COURT OF TEXAS****Rule 10.01. Appeals to the Supreme Court**

(a) A final decision by BODA, except a determination that a statement constitutes an inquiry or a complaint under TRDP 2.10, may be appealed to the Supreme Court of Texas. The clerk of the Supreme Court of Texas must docket an appeal from a decision by BODA in the same manner as a petition for review without fee.

(b) The appealing party must file the notice of appeal directly with the clerk of the Supreme Court of Texas within 14 days of receiving notice of a final determination by BODA. The record must be filed within 60 days after

BODA's determination. The appealing party's brief is due 30 days after the record is filed, and the responding party's brief is due 30 days thereafter. The BODA Clerk must send the parties a notice of BODA's final decision that includes the information in this paragraph.

(c) An appeal to the Supreme Court is governed by TRDP 7.11 and the TRAP.