

**BEFORE THE DISTRICT 9 GRIEVANCE COMMITTEE
EVIDENTIARY PANEL 9-1
STATE BAR OF TEXAS**

COMMISSION FOR LAWYER DISCIPLINE, Petitioner	§ § § § § § § § § §	A0011214264 A0041214472 A0041214473 A0111114139
V. LESTER L. HOOD, III, Respondent		

JUDGMENT OF PARTIALLY PROBATED SUSPENSION

Parties and Appearance

On November 6, 2013, and December 4, 2013, came to be heard the above styled and numbered cause. Petitioner, Commission for Lawyer Discipline, appeared by and through its attorney of record and announced ready. Respondent, Lester L. Hood, III, Texas Bar Number 09943410, appeared by phone and in person and announced ready.

Jurisdiction and Venue

The Evidentiary Panel 9-1, having been duly appointed to hear this complaint by the chair of the Grievance Committee for State Bar of Texas District 9, finds that it has jurisdiction over the parties and the subject matter of this action and that venue is proper.

Default

The Evidentiary Panel finds Respondent was properly served with the Evidentiary Petition and that Respondent failed to timely file a responsive pleading to the Evidentiary Petition as required by Rule 2.17(B) of the Texas Rules of Disciplinary Procedure. Accordingly, the Evidentiary Panel finds Respondent in default and further finds that all

facts alleged in the First Amended Evidentiary Petition are deemed true pursuant to Rule 2.17(C) of the Texas Rules of Disciplinary Procedure.

Professional Misconduct

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

Findings of Fact

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

1. Respondent is an attorney licensed to practice law in Texas and is a member of the State Bar of Texas.
2. Respondent resides in and maintains his principal place of practice in Travis County, Texas.
3. In September 2010, Complainant, Waller Burns, II, hired Respondent, Lester Hood, III, to represent him in a driving while intoxicated case. In September 2011, the matter was resolved when Complainant accepted a deferred prosecution plea agreement. Complainant attempted to contact Respondent regarding the finality of his case and for information regarding mandatory counseling sessions, but Respondent failed to respond. Complainant terminated the representation, hired alternate counsel, and requested that Respondent return his file. Respondent failed to return Complainant's file.
4. Respondent was given notice of the complaint of Waller Burns by the Chief Disciplinary Counsel on or about May 18, 2012. Respondent was directed to furnish a written response to the complaint within thirty days. Respondent failed to furnish a written response to the complaint as directed.
5. On February 5, 2011, Complainant, Damien Gilbertson, hired Respondent, Lester Hood, III, to represent him in a misdemeanor criminal case. Complainant paid Respondent \$2,750 in legal fees. Complainant made numerous attempts to contact Respondent via telephone, e-mail, and Facebook regarding the status of his case, but Respondent failed to respond. On June 27, 2011, Complainant received notice that the court had issued a warrant for his arrest for failing to appear at a March 1, 2011, setting. After finally succeeding in contacting Respondent, Respondent assured Complainant that he would take care of the matter. Respondent failed to take any additional action on Complainant's case. Complainant hired alternate counsel to complete his case and left voicemail messages on Respondent's telephone regarding a refund. Respondent failed to respond or return unearned fees.

6. Respondent was given notice of the complaint of Damien Gilbertson by the Chief Disciplinary Counsel on or about May 18, 2012. Respondent was directed to furnish a written response to the complaint within thirty days. Respondent failed to furnish a written response to the complaint as directed.
7. In January 2012, Complainant's son, Adrian Morales, hired Respondent, Lester Hood, III, to represent him in a criminal case. Adrian Morales later requested that Respondent withdraw from his case and allow the court to appoint counsel. The court granted Morales's request.
8. Respondent was given notice of the complaint of Deanna Morales by the Chief Disciplinary Counsel on or about May 18, 2012. Respondent was directed to furnish a written response to the complaint within thirty days. Respondent failed to furnish a written response to the complaint as directed.
9. In August 2011, Complainant, Julio Vasquez, hired Respondent, Lester Hood III, to represent him in a criminal case. Complainant paid a \$250 down payment toward a total fee of \$3,000 at the time of the initial consultation. Two weeks later, Complainant was arrested on a separate offense and the court appointed an attorney to represent Complainant on both charges.
10. Respondent was given notice of the complaint of Julio Vasquez by the Chief Disciplinary Counsel on or about December 28, 2011. Respondent was directed to furnish a written response to the complaint within thirty days. Respondent failed to furnish a written response to the complaint as directed.
11. The Chief Disciplinary Counsel of the State Bar of Texas has incurred reasonable attorney's fees and direct expenses associated with this Disciplinary Proceeding in the amount of \$6,238.32.
12. Respondent owes restitution in the amount of \$2,500 payable to Damien Gilbertson.

Conclusions of Law

The Evidentiary Panel concludes that, based on foregoing findings of fact, the following Texas Disciplinary Rules of Professional Conduct have been violated:

In connection with the grievance filed by Waller Burns, II, Rules 1.03(a), 1.15(d), 8.04(a)(1), and 8.04(a)(8);

In connection with the grievance filed by Damian Gilbertson, Rules 1.01(b)(1), 1.03(a), 1.15(d), 8.04(a)(1), and 8.04(a)(8);

In connection with the grievance filed by Deanna Morales, Rules 8.04(a)(1) and 8.04(a)(8); and

In connection with the grievance filed by Julio Vasquez, Rules 8.04(a)(1) and 8.04(a)(8).

Sanction

The Evidentiary Panel, having found that Respondent has committed Professional Misconduct, heard and considered additional evidence regarding the appropriate sanction to be imposed against Respondent. After hearing all evidence and argument and after having considered the factors in Rule 2.18 of the Texas Rules of Disciplinary Procedure, the Evidentiary Panel finds that the proper discipline of the Respondent for each act of Professional Misconduct is a Partially Probated Suspension.

Accordingly, it is ORDERED, ADJUDGED and DECREED that Respondent be suspended from the practice of law for a period of six (6) years, beginning January 15, 2014, and ending January 14, 2020. Respondent shall be actively suspended from the practice of law for a period of one (1) year beginning January 15, 2014, and ending January 14, 2015. If Respondent complies with all of the following terms and conditions timely, the five (5) year period of probated suspension shall begin on January 15, 2015, and shall end on January 14, 2020:

1. Respondent shall pay all reasonable and necessary attorney's fees and direct expenses to the State Bar of Texas in the amount of \$6,238.32. The payment shall be due and payable on or before January 1, 2016, and shall be made by certified or cashier's check or money order. Respondent shall forward the funds, made payable to the State Bar of Texas, Chief Disciplinary Counsel's Office, P.O. Box 12487, Austin, TX 78711-2487 (1414 Colorado St., Austin, TX 78701).
2. Respondent shall pay restitution on or before January 15, 2015, to Damien Gilbertson in the amount of \$2,500. Respondent shall pay the restitution by certified or cashier's check or money order made payable to Damien Gilbertson and delivered to the State Bar of Texas, Chief Disciplinary Counsel's Office, P.O. Box 12487, Austin, TX 78711-2487 (1414 Colorado St., Austin, TX 78701).

It is ORDERED that during all periods of suspension, Respondent shall be under the following terms and conditions:

3. Respondent shall make contact with the Chief Disciplinary Counsel's Office's Compliance Monitor at 877-953-5535, ext. 1334 and Special Programs Coordinator at 877-953-5535, ext. 1323, not later than seven (7) days after receipt of a copy of this judgment to coordinate Respondent's compliance.
4. Respondent shall make contact with the Texas Lawyers' Assistance Program (TLAP) at its hotline number, 800-343-8527, not later than seven (7) days after receipt of a copy of this judgment to inquire as to services and referrals offered by that program to aid in Respondent's rehabilitation. Respondent shall additionally send verification of contact with TLAP to the State Bar of Texas within fifteen (15) days such contact.
5. Respondent shall submit to supervision for a period of six (6) years by a rehabilitation monitor acceptable to the State Bar of Texas and selected by the monitoring program of the Texas Lawyers' Assistance Program. The monitor shall supervise Respondent's compliance with the requirements of the rehabilitation conditions and is under a duty to immediately report to the Chief Disciplinary Counsel's Office State Bar of Texas any noncompliance on the part of Respondent. The monitor shall report the status of Respondent's compliance with these conditions on a monthly basis, with the report due by the 5th day of each month for the duration of the monitoring period.
6. Respondent shall meet with the monitor a minimum of two times per month. The initial meeting shall be held not later than ten (10) days after Respondent receives written notification from the State Bar of Texas of the name and phone number of Respondent's assigned monitor. Such meetings shall be in person at a place and time determined by the monitor. Exceptions must be approved in advance by the monitor and noted on the monthly report.
7. Within ten (10) days of Respondent's receipt of a copy of this judgment, Respondent shall schedule a full psychological assessment to be conducted by a mental health professional licensed in Texas as a psychiatrist, a psychologist, a master's level social worker (LCSW), or a licensed professional counselor (LPC). Respondent shall complete the assessment at the earliest practicable date, but in no event later than sixty (60) days after receipt of a copy of this judgment. Although the details of information disclosed during the assessment shall remain confidential, the conclusions, diagnosis and treatment plan recommendations of the mental health professional shall be reported to the State Bar of Texas within ten (10) days of the completion of the assessment. Respondent shall take all necessary action, including the execution of a valid release of information, to allow and direct the mental health professional to report such results and recommendations.
8. If recommended as part of the above assessment, Respondent shall remain under the care of one or more mental health professionals at the frequency recommended by the treatment plan for the duration of the supervision period or

until released in writing by the treatment provider. Each treating mental health professional shall provide written quarterly reports to the State Bar of Texas verifying Respondent's attendance at the sessions and good faith participation in the treatment plan. The initial report(s) shall be due ninety (90) days after completion of the assessment, with subsequent reports due quarterly thereafter. Respondent shall take all necessary action, including the execution of a valid release of information, to permit any treating mental health professional to provide written or oral reports for the duration of the supervision period.

9. Respondent shall be responsible for all costs and expenses incurred, directly or indirectly, by compliance with these terms and shall pay all such costs and expenses as required by the provider, but in no event later than the final day of the supervision period.
10. Any and all reports and evaluations required by these terms of probation shall be sent to the State Bar of Texas, via USPS: Office of the CDC, State Bar of Texas, P.O. Box 12487, Austin, TX 78711-2487; or via Delivery: Office of the CDC, State Bar of Texas, 1414 Colorado St., Suite 200, Austin, TX 78701.
11. Respondent shall remain abstinent from all alcohol and other mind-altering substances, except when such are prescribed by a treating physician or psychiatrist and taken in accordance with such prescription. Respondent shall provide copies of such prescriptions if requested to do so by the monitor referred to below or by the Chief Disciplinary Counsel's Office's Special Programs Coordinator.
12. Respondent shall submit to random drug screens in accordance with the drug screen protocol of the Texas Lawyers' Assistance Program or at the request of the monitor or at the request of the Chief Disciplinary Counsel's Office's Special Programs Coordinator. On the required days for testing Respondent shall complete all steps of the protocol by the lab's normal close of business day.
13. For the first ninety (90) days after receipt of a copy of this judgment, Respondent shall attend at least one Alcoholics Anonymous or other appropriate 12-Step recovery program meeting per day. Any exception to this condition must be approved in writing by the monitor.
14. For the remaining duration of the suspension period, Respondent shall attend at least three Alcoholics Anonymous or other appropriate 12-Step recovery program meetings per week. Any exception to this condition must be approved in writing by the monitor.
15. For the duration of the suspension, Respondent shall also attend a Lawyers Concerned for Lawyers support group meeting if such a group meets within thirty miles of Respondent's home or work, and shall document this attendance on the log referred to below.

16. Respondent shall document his/her recovery program meeting attendance with an attendance log prescribed by the Chief Disciplinary Counsel's Office. Respondent shall deliver this recovery program attendance log to the monitor at each of their meetings for attachment to the monitor's monthly report.
17. Any and all reports and evaluations required by these rehabilitative terms of probation shall be sent to the Chief Disciplinary Counsel's Office, via USPS: Office of the CDC, State Bar of Texas, P.O. Box 12487, Austin, TX 78711-2487; or via Delivery: Office of the CDC, State Bar of Texas, 1414 Colorado St., Suite 200, Austin, TX 78701.
18. In addition to complying with the Minimum Continuing Legal Education (MCLE) requirements of the State Bar of Texas, Respondent shall complete ten (10) additional hours of continuing legal education in the area of Law Practice Management. These additional hours of CLE are to be completed between on or before January 1, 2015. Within ten (10) days of the completion of these additional CLE hours, Respondent shall verify completion of the course to the State Bar of Texas, via USPS: Office of the CDC, State Bar of Texas, P.O. Box 12487, Austin, TX 78711-2487; or via Delivery: Office of the CDC, State Bar of Texas, 1414 Colorado St., Suite 200, Austin, TX 78701.
19. Respondent shall comply with all Conditions of Community Supervision in Cause No. D-1-DC-11-203315, *State of Texas v. Lester Hood*, in the 147th Judicial District Court of Travis County, Texas, and with all terms and conditions in the Order of Deferred Adjudication in Cause No. 2012-2410-C2, *State of Texas v. Lester Floyd [sic] Hood III*, in the 54th Judicial District Court of McLennan County, Texas.
20. Respondent shall make contact with the Chief Disciplinary Counsel's Offices' Compliance Monitor at 877-953-5535, ext. 1334 and Special Programs Coordinator at 877-953-5535, ext. 1323, not later than seven (7) days after receipt of a copy of this judgment to coordinate Respondent's compliance.

Should Respondent fail to comply with all of the above terms and conditions timely, Respondent shall remain actively suspended until the date of compliance or until January 14, 2020, of suspension, whichever occurs first.

Terms of Active Suspension

It is further ORDERED that during the term of active suspension ordered herein, or that may be imposed upon Respondent by the Board of Disciplinary Appeals as a result of a probation revocation proceeding, Respondent shall be prohibited from practicing law in

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

It is further ORDERED that, on or before December 31, 2013, Respondent shall notify each of Respondent's current clients and opposing counsel in writing of this suspension.

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

It is further ORDERED Respondent shall file with the State Bar of Texas, Chief Disciplinary Counsel's Office, P.O. Box 12487, Austin, TX 78711-2487 (1414 Colorado St., Austin, TX 78701) on or before January 15, 2014, an affidavit stating all current clients and opposing counsel have been notified of Respondent's suspension and that all files, papers, monies and other property belonging to all current clients have been returned as ordered herein.

It is further ORDERED Respondent shall, on or before December 31, 2013, notify in writing each and every justice of the peace, judge, magistrate, administrative judge or officer and chief justice of each and every court or tribunal in which Respondent has any matter pending of the terms of this judgment, the style and cause number of the pending

matter(s), and the name, address and telephone number of the client(s) Respondent is representing.

It is further ORDERED Respondent shall file with the State Bar of Texas, Chief Disciplinary Counsel's Office, P.O. Box 12487, Austin, TX 78711-2487 (1414 Colorado St., Austin, TX 78701) on or before January 15, 2014, an affidavit stating Respondent has notified in writing each and every justice of the peace, judge, magistrate, and chief justice of each and every court in which Respondent has any matter pending of the terms of this judgment, the style and cause number of the pending matter(s), and the name, address and telephone number of the client(s) Respondent is representing in Court.

It is further ORDERED that, on or before January 15, 2014, Respondent shall surrender his law license and permanent State Bar Card to the State Bar of Texas, Chief Disciplinary Counsel's Office, P.O. Box 12487, Austin, TX 78711-2487 (1414 Colorado St., Austin, TX 78701), to be forwarded to the Supreme Court of Texas.

Terms of Probation

It is further ORDERED that during all periods of suspension or probation, Respondent shall be under the following terms and conditions:

1. Respondent shall not violate any term of this judgment.
2. Respondent shall not engage in professional misconduct as defined by Rule 1.06(V) of the Texas Rules of Disciplinary Procedure.
3. Respondent shall not violate any state or federal criminal statutes.
4. Respondent shall comply with all Conditions of Community Supervision in Cause No. D-1-DC-11-203315, *State of Texas v. Lester Hood*, in the 147th Judicial District Court of Travis County, Texas, and with all terms and conditions in the Order of Deferred Adjudication in Cause No. 2012-2410-C2, *State of Texas v. Lester Floyd [sic] Hood III*, in the 54th Judicial District Court of McLennan County, Texas.
5. Respondent shall keep State Bar of Texas membership department notified of current mailing, residence and business addresses and telephone numbers.
6. Respondent shall comply with Minimum Continuing Legal Education requirements.

7. Respondent shall comply with Interest on Lawyers Trust Account (IOLTA) requirements.
8. Respondent shall promptly respond to any request for information from the Chief Disciplinary Counsel in connection with any investigation of any allegations of professional misconduct.
9. Respondent shall pay all reasonable and necessary attorney's fees and direct expenses to the State Bar of Texas in the amount of \$6,238.32. The payment shall be due and payable on or before January 1, 2016, and shall be made by certified or cashier's check or money order. Respondent shall forward the funds, made payable to the State Bar of Texas, to the Chief Disciplinary Counsel's Office, P.O. Box 12487, Austin, TX 78711-2487 (1414 Colorado St., Austin, TX 78701).
10. Respondent shall pay restitution on or before January 15, 2015, to Damien Gilbertson in the amount of \$2,500. Respondent shall pay the restitution by certified or cashier's check or money order made payable to Damien Gilbertson and delivered to the State Bar of Texas, Chief Disciplinary Counsel's Office, P.O. Box 12487, Austin, TX 78711-2487 (1414 Colorado St., Austin, TX 78701).
11. Respondent shall make contact with the Chief Disciplinary Counsel's Offices' Compliance Monitor at 877-953-5535, ext. 1334 and Special Programs Coordinator at 877-953-5535, ext. 1323, not later than seven (7) days after receipt of a copy of this judgment to coordinate Respondent's compliance.

Probation Revocation

Upon information that Respondent has violated a term of this judgment, the Chief Disciplinary Counsel may, in addition to all other remedies available, file a motion to revoke probation pursuant to Rule 2.23 of the Texas Rules of Disciplinary Procedure with the Board of Disciplinary Appeals ("BODA") and serve a copy of the motion on Respondent pursuant to Tex.R.Civ.P. 21a.

BODA shall conduct an evidentiary hearing. At the hearing, BODA shall determine by a preponderance of the evidence whether Respondent has violated any term of this Judgment. If BODA finds grounds for revocation, BODA shall enter an order revoking probation and placing Respondent on active suspension from the date of such revocation order. Respondent shall not be given credit for any term of probation served prior to revocation.

It is further ORDERED that any conduct on the part of Respondent which serves as the basis for a motion to revoke probation may also be brought as independent grounds for discipline as allowed under the Texas Disciplinary Rules of Professional Conduct and Texas Rules of Disciplinary Procedure.

Restitution, Attorney's Fees and Expenses

It is further ORDERED Respondent shall pay restitution on or before January 15, 2015, to Damien Gilbertson in the amount of \$2,500. Respondent shall pay the restitution by certified or cashier's check or money order made payable to Damien Gilbertson and delivered to the State Bar of Texas, Chief Disciplinary Counsel's Office, P.O. Box 12487, Austin, TX 78711-2487 (1414 Colorado St., Austin, TX 78701).

It is further ORDERED Respondent shall pay all reasonable and necessary attorney's fees and direct expenses to the State Bar of Texas in the amount of \$6,238.32. The payment shall be due and payable on or before January 1, 2016, and shall be made by certified or cashier's check or money order. Respondent shall forward the funds, made payable to the State Bar of Texas, to the Chief Disciplinary Counsel's Office, P.O. Box 12487, Austin, TX 78711-2487 (1414 Colorado St., Austin, TX 78701).

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

Publication

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

Other Relief

All requested relief not expressly granted herein is expressly DENIED.

SIGNED this 20 day of December, 2013.

**EVIDENTIARY PANEL
DISTRICT NO. 9
STATE BAR OF TEXAS**



**Brian J. Roark
District 9-1 Presiding Member**