



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

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AGREED JUDGMENT OF SUSPENSION

Findings of Fact. The Board of Disciplinary Appeals finds that:

- Upon review of the report of the hearing officer, the Honorable Robert C. Reiling, Jr., who was appointed by this Court to hear evidence on the Indiana Supreme Court Disciplinary Commission’s “Disciplinary Complaint,” and the briefs of the parties, the Court finds that Respondent

engaged in professional misconduct and imposes discipline on Respondent.

Facts: At all relevant times, Respondent was the managing attorney, and either the executive director or the chief executive officer, of Charitable Allies, Inc. (“CA”). CA markets itself as a “nonprofit for nonprofits” that provides “low bono” legal services for nonprofits.

In October 2019, the Down Syndrome Association of Northwest Indiana, Inc. (“DSA”), by its interim executive director (“Longo”), retained CA after discovering that DSA’s former executive director and his wife (collectively “the Buckleys”) had misappropriated funds from DSA. DSA made clear to CA that its ability to pay legal fees would be limited given its small operating budget and cash reserves.

The retainer agreement provided that CA would represent DSA in various matters. The hourly rates contemplated by the retainer agreement were \$130-245 for attorney and consultant time, \$100-150 for legal intern and paralegal time, and \$50-95 for legal assistant time. These rates ostensibly represented about 50% of fair market value. The agreement also included a fee-shifting provision that allowed CA to pursue, where applicable and “upon successful completion of the matter,” an attorney fee award “against the government.” The provision indicated “any such fees and costs recovered belong to Attorney, sans any payment(s) made by Client to Attorney under this contract.”

In June 2020, criminal charges were filed against the Buckleys. In December 2020, Respondent filed a “State Action” on behalf of DSA and against the Buckleys. In May 2021, Respondent appeared on behalf of DSA in a “Federal Action” filed by the Buckleys’ insurer seeking a declaratory judgment. Neither the State nor the Federal Action was particularly complex.

During the summer of 2021, CA sent monthly invoices to DSA, and Longo repeatedly raised concerns about the high amounts being billed, which were in excess of the monthly amount Longo had indicated DSA could afford. In September 2021, Respondent wrote to Longo, “Recall that you will receive an award of attorney fees as a part of the litigation, so all state court civil attorney fees should be reimbursed as a part of the judgement.”

Respondent also sent Longo a “Litigation Report” that stated DSA had been billed \$28,667.40 for work on the State Action and \$8,635 for work on the Federal Action, both of which were still in the early stages of litigation. The report estimated future fees of \$60,000 and \$47,500 respectively to see the State and Federal Actions through to completion.

Longo fired CA in October 2021 and retained successor counsel. After the dust settled on this transition, DSA had paid all fees due to CA except for about \$1,200.

In January 2022, and without prior notice to DSA, Respondent filed a notice of attorney fee lien in the State Action claiming an equitable lien “up to and including \$56,341.44” plus interest. This sum purportedly represented the difference between what CA had already billed DSA and the alleged fair market of CA’s fees that CA would have pursued as a fee award if the State Action were successful. The notice of lien relied on the fee-shifting provision of the retainer agreement, but the notice did not directly quote or accurately paraphrase that provision and did not mention that the provision only applied to claims “against the government.”

DSA’s successor counsel moved to remove the lien, and Respondent responded by moving to disqualify successor counsel. Following a hearing, the court denied the motion to disqualify and granted the motion to remove the lien. Respondent initiated an appeal of that interlocutory order. As that appeal was pending, DSA and the Buckleys reached a settlement and moved to dismiss the State Action. Meanwhile, Respondent filed an appellant’s brief arguing the notice of lien was proper and the trial court lacked personal and subject matter jurisdiction to remove the lien. In November 2022, the Court of Appeals issued a memorandum decision finding Respondent’s arguments lacked cogent reasoning, affirming the trial court’s order, and remanding with instructions for the trial court to determine and award DSA a reasonable amount for appellate attorney fees. *Charitable Allies, Inc. v. Down Syndrome Association of Northwest Indiana, Inc.*, 22A-PL-1111 (Ind. Ct. App. Nov. 1, 2022), *trans. not sought*. On remand, CA paid DSA the agreed sum of \$10,740 in appellate attorney fees and an additional sanction of \$7,320 imposed by the trial court.

CA, by Respondent, separately sued DSA's successor counsel for having allegedly interfered with DSA's purported obligation to pursue fair-market-value fees on CA's behalf. CA dismissed its claims after the Court of Appeals issued its decision in *Charitable Allies*. Successor counsel's counterclaims against CA were resolved by a mediated settlement.

In April 2023, DSA sued Respondent and CA. That suit was settled for \$75,000.

Violations: The Court finds that Respondent violated these Indiana Professional Conduct Rules prohibiting the following misconduct:

- 1.5(a): Charging and collecting an unreasonable fee.
- 3.1: Asserting a position for which there is no non-frivolous basis in law or fact.
- 8.4(a): Attempting to charge or collect an unreasonable fee.
- 8.4(d): Engaging in conduct prejudicial to the administration of justice.

Discipline: For Respondent's professional misconduct, the Court **suspends Respondent from the practice of law for a period of 60 days, effective October 1, 2025**. Respondent shall not undertake any new legal matters between service of this order and the effective date of the suspension, and Respondent shall fulfill all the duties of a suspended attorney under Admission and Discipline Rule 23(26). At the conclusion of the period of suspension, provided there are no other suspensions then in effect, Respondent shall be automatically reinstated to the practice of law, subject to the conditions of Admission and Discipline Rule 23(18)(a).

The costs of this proceeding are assessed against Respondent. The hearing officer appointed in this case is discharged with the Court's appreciation.

- (3) The Published Order Finding Misconduct and Imposing Discipline entered September 26, 2025, suspended Respondent for a period of sixty (60) days.
- (4) Respondent, Zachary Scott Kester, is the same person as the Zachary S. Kester, who is the subject of the Published Order Finding Misconduct and Imposing Discipline entered by the Supreme Court of Indiana.

- (5) The Published Order Finding Misconduct and Imposing Discipline entered by the Supreme Court of Indiana is final.

Conclusions of Law. Based upon the foregoing findings of facts, the Board of Disciplinary Appeals makes the following conclusions of law:

- (1) This Board has jurisdiction to hear and determine this matter. TEX. RULES DISCIPLINARY P. R. 7.08(H).
- (2) Reciprocal discipline identical, to the extent practicable, to that imposed by the Supreme Court of Indiana is warranted in this case for Respondent's professional misconduct occurring after December 1, 2021.
- (3) Respondent should be actively suspended from the practice of law for a period of sixty (60) days.

It is, accordingly, **ORDERED, ADJUDGED, and DECREED** that Respondent, Zachary Scott Kester, State Bar Card No. 24126475, is hereby **SUSPENDED** from the practice of law in Texas for a period of sixty (60) days beginning January 5, 2026, and extending through March 6, 2026.

It is further **ORDERED, ADJUGED, and DECREED** that Respondent, Zachary Scott Kester, during said suspension, is prohibited from practicing law in Texas. Such includes holding himself out as an attorney at law, performing any legal service for others, accepting any fee directly or indirectly for legal services, appearing as counsel or in any representative capacity in any court or before any administrative body in the state of Texas.

It is further **ORDERED** that Respondent, Zachary Scott Kester, within thirty (30) days of the signing of this judgment, shall notify each of his current clients and opposing counsel, if any, in writing, of this suspension. In addition to such notification, Respondent is **ORDERED** to return all files, papers, unearned fees paid in advance, and all other monies and properties which are in his possession but which belong to current or former clients, if any, to those respective clients or former clients, or to another attorney designated by such client or former client, within thirty (30)

days of the date of this judgment, if requested.

It is further **ORDERED** that Respondent shall file with the State Bar of Texas, Statewide Compliance Monitor, P.O. Box 12487, Austin, TX 78711-2487 (1414 Colorado St., Austin, TX 78701), within thirty (30) days of the date of this judgment, 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. If Respondent should be unable to return any file, papers, money or other property requested by any client or former client, Respondent's affidavit shall state with particularity the efforts made by Respondent with respect to each particular client and the cause of his inability to return to said client any file, paper, money or other property.

It is further **ORDERED** that Respondent, Zachary Scott Kester, within thirty (30) days of the date of this judgment, shall notify in writing each and every justice of the peace, judge, magistrate, administrative judge or officer, and chief justice of each and every court, if any, in which Respondent, Zachary Scott Kester, has any matter pending, of his suspension, of the style and cause number of the pending matter(s), and the name, address, and telephone number of the client(s) Respondent is representing. Respondent is also **ORDERED** to mail copies of all such notifications to the Statewide Compliance Monitor, Office of the Chief Disciplinary Counsel, State Bar of Texas, P.O. Box 12487, Capitol Station, Austin, Texas 78711.

It is further **ORDERED** that Respondent shall file with the State Bar of Texas, Statewide Compliance Monitor, P.O. Box 12487, Austin, TX 78711-2487 (1414 Colorado St., Austin, TX 78701), within thirty (30) days of the date of this judgment, an affidavit stating Respondent has notified in writing each and every justice of the peace, judge, magistrate, administrative judge or officer, and chief justice of each and every court in which Respondent has any matter pending of

the terms of this judgment, the style and cause number of the pending matter(s), and the name, address, and telephone number of the client(s) Respondent is representing in Court.

It is further **ORDERED** that, within thirty (30) days of the date of this judgment, Respondent shall surrender his law license and permanent State Bar Card to the Statewide Compliance Monitor, Office of the Chief Disciplinary Counsel, State Bar of Texas, P.O. Box 12487, Capitol Station, Austin, Texas 78711, for transmittal to the Clerk of the Supreme Court of Texas.

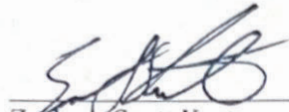
It is further **ORDERED** that this Judgment of Suspension shall be made a matter of public record and be published in the *Texas Bar Journal*.

Signed this 5th day of January 2026.



CHAIR PRESIDING

APPROVED AS TO FORM AND CONTENT:



Zachary Scott Kester
Bar No. 24126475
Respondent



Ramiro Canales
Bar No. 24012377
Attorney for the Commission