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Dec. 14, 2021

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

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

**IN THE MATTER OF  
JAMES ROBERT MASON,  
STATE BAR CARD NO. 24094822**

§  
§  
§

**CAUSE NO. 66185**

**PETITION FOR RECIPROCAL DISCIPLINE**

**TO THE BOARD OF DISCIPLINARY APPEALS:**

Petitioner, the Commission for Lawyer Discipline (hereinafter called "Petitioner"), brings this action against Respondent, James Robert Mason, (hereinafter called "Respondent"), showing as follows:

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

2. Respondent is a member of the State Bar of Texas and is licensed but unauthorized to practice law in Texas. Respondent may be served with a true and correct copy of this Petition for Reciprocal Discipline at James Robert Mason, 400 Village Circle, Unit 304, Willow Springs, Illinois 60480.

3. Attached hereto and made a part hereof for all intents and purposes as if the same were copied verbatim herein, is a true and correct copy of a set of documents in the Mason matter consisting of the Administrator's Complaint filed on June 14, 2021; Petition to Impose Discipline on Consent Pursuant to Supreme Court Rule 762(b) filed October 14, 2021, and Supreme Court Order entered on November 16, 2021, in the State of Illinois, Supreme Court

M.R. 030993, James Robert Mason, Attorney Registration and Disciplinary Commission 2021PR00045, (Exhibit 1). Petitioner expects to introduce a certified copy of Exhibit 1 at the time of hearing of this cause.

4. On or about June 14, 2021, a Complaint was entered before the Hearing Board of the Illinois Attorney Registration and Disciplinary Commission in a matter styled, *In the Matter of James Robert Mason, Attorney-Respondent, No. 6331196*, Commission No. 2021PR00045; alleging that Respondent has engaged in the following conduct which subjects him to discipline pursuant to Supreme Court Rule 770: Count I (Unauthorized Use of Law Firm Bank Account to Pay Registration Fees) in violation of Rule 8.4(c) of the Illinois Rules of Professional Conduct, and Count II (Misrepresentation to the Administrator) in violation of Rule 8.1(a) of the Illinois Rules of Professional Conduct.

5. On or about October 14, 2021, a Petition to Impose Discipline on Consent Pursuant to Supreme Court Rule 762(b) was entered *In the Matter of James Robert Mason, Attorney-Respondent, No. 6331196*, Supreme Court No. Commission No. 2021PR00045, which states in pertinent part as follows:

. . . By reason of the conduct described above, Respondent has engaged in the following misconduct:

- a. knowingly making false statements of material fact in connection with a disciplinary proceeding, by conduct including making false statements during the Administrator's investigation of his conduct in a letter to the Administrator dated November 19, 2019, in sworn testimony on April 8, 2021, and in an email to the Administrator on April 8, 2021, in violation of Rule 8.1(a) of the Illinois Rules of Professional Conduct (2010); and
- b. conduct involving dishonesty, fraud, deceit or misrepresentation, by conduct including knowingly and without authority using funds from his former firm's bank account to pay his registration fees and making false statements to the Administrator during the Administrator's investigation of his conduct, in violation of Rule 8.4(c) of the Illinois Rules of Professional Conduct (2010).

WHEREFORE, the Administrator, with the consent of Respondent, James Robert Mason, and the approval of a panel of the Hearing Board, requests that the Court enter an order suspending Respondent from the practice of law in Illinois for five months.

6. On or about November 16, 2021, a Supreme Court Order was entered in the Supreme Court of Illinois in a matter styled, *In re: James Robert Mason, M.R. 030993*, Attorney Registration and Disciplinary Commission No. 2021PR00045, that states in pertinent part as follows:

Petition by the Administrator of the Attorney Registration and Disciplinary Commission to impose discipline on consent pursuant to Supreme Court Rule 762(b). Allowed. Respondent James Robert Mason is suspended from the practice of law for five (5) months.

Suspension effective December 7, 2021.

Respondent James Robert Mason shall reimburse the Client Protection Program Trust Fund for any Client Protection payments arising from his conduct prior to the termination of the period of suspension.

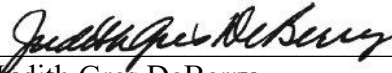
7. Petitioner prays that, pursuant to Rule 9.02, Texas Rules of Disciplinary Procedure, that this Board issue notice to Respondent, containing a copy of this Petition with exhibits, and an order directing Respondent to show cause within thirty (30) days from the date of the mailing of the notice, why the imposition of the identical discipline in this state would be unwarranted. Petitioner further prays that upon trial of this matter that this Board enters a judgment imposing discipline identical with that imposed by the District of Columbia Court of Appeals and that Petitioner have such other and further relief to which it may be entitled.

Respectfully submitted,

**Seana Willing**  
Chief Disciplinary Counsel

**Judith Gres DeBerry**  
Assistant Disciplinary Counsel

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\_\_\_\_\_  
Judith Gres DeBerry  
Bar Card No. 24040780

ATTORNEYS FOR PETITIONER

**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 Petition for Reciprocal Discipline and the Order to Show Cause on James Robert Mason by personal service.

James Robert Mason  
400 Village Circle, Unit 304  
Willow Springs, Illinois 60480

  
\_\_\_\_\_  
Judith Gres DeBerry



ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION  
of the  
SUPREME COURT OF ILLINOIS

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130 East Randolph Drive, Suite 1500  
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3161 West White Oaks Drive  
Suite 301  
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(217) 546-3523 (800) 252-8048  
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**CERTIFICATION**

I, Andrea L. Watson, Deputy Clerk of the Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois, hereby certify that the following are true and correct copies of the Administrator's Complaint filed on June 14, 2021, the Administrator's Petition to Impose Discipline on Consent Pursuant to Supreme Court Rule 762(b) filed on October 14, 2021, and the Supreme Court Order and Mandate entered on November 16, 2021, relating to the matter entitled **In re: James Robert Mason**, Supreme Court No. M.R.30993, Commission No. 2021PR00045.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that she verily believes the same to be true.

Michelle M. Thome, Clerk  
Attorney Registration and  
Disciplinary Commission

By: /s/ Andrea L. Watson  
Andrea L. Watson

BEFORE THE HEARING BOARD  
OF THE  
ILLINOIS ATTORNEY REGISTRATION  
AND  
DISCIPLINARY COMMISSION

In the Matter of:

JAMES ROBERT MASON,

Attorney-Respondent,

No. 6331196.

Commission No. 2021PR00045

COMPLAINT

Jerome Larkin, Administrator of the Attorney Registration and Disciplinary Commission, by his attorney, Albert S. Krawczyk, pursuant to Supreme Court Rule 753(b), complains of Respondent, James Robert Mason, who was licensed to practice law in the State of Illinois on April 25, 2019, and alleges that Respondent has engaged in the following conduct which subjects Respondent to discipline pursuant to Supreme Court Rule 770:

COUNT I

*(Unauthorized Use of Law Firm Bank Account to Pay Registration Fees)*

1. On April 30, 2015, Respondent was admitted to the practice of law in Texas. On January 2, 2019, Respondent began employment as a non-attorney with the law firm then known as Dicker & Dicker, and later known as Dicker Dicker & Ruiz (“the Firm”), located in Chicago. Thereafter, beginning in or about April 2019, after his admission to the practice of law in Illinois on motion pursuant to Illinois Supreme Court Rule 705, Respondent remained employed with the Firm as an associate attorney, handling plaintiff’s personal injury matters, until October 2019.

2. Beginning May 1, 2019, following his admission to the practice of law in Illinois, Respondent’s registration status with the Attorney Registration and Disciplinary Commission (“Commission”) was active but not registered. Sometime after, Respondent received notice that

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he was required to register and pay annual registration fees to the Commission, and in July and August 2019, Respondent logged onto his profile on the Commission's website and provided data to register with the Commission, but he did not make any payment for the registration fees.

3. In 2019, at various times, Respondent asked attorney Steven M. Dicker ("Dicker"), a founding and managing partner of the Firm, to pay on behalf of Respondent the registration fees due to the Commission for the years 2019 and 2020, totaling \$770. While Dicker agreed to give the matter some thought, at no time did Dicker or the Firm authorize payment of Respondent's registration fees.

4. In 2019 and at other times, the Firm maintained a checking account at the Northern Trust Bank ending in the numbers 2193. The account ("the Firm's business account") was used by Dicker and the Firm as a depository of funds used primarily for business purposes. At no time was Respondent an authorized signatory on the account, and, during the time that he was an associate with the Firm, he was only authorized to use the account for legitimate business expenses relating to the Firm or its clients.

5. In or before October 2019, Respondent used the Firm's business account with authorization to pay the costs of a process server or other expenses relating to one or more of the Firm's cases. As a result of his authorized use of the Firm's business account, Respondent had access to the routing number and account number relating to the account, and information relating to the account was stored on the personal laptop that Respondent used for the Firm's business.

6. In early October 2019, Respondent advised Dicker that he was leaving the Firm for a legal position with another law firm. Thereafter, Respondent's last day of employment with the Firm was October 10, 2019.

7. On October 11, 2019, after he was no longer employed at the Firm, Respondent logged onto his profile on the Commission's website and updated the data he had previously provided, including the name of his new employer and a new business telephone number and email address.

8. On October 11, 2019, Respondent also knowingly and dishonestly paid the registration fees that were due, in the amount of \$770, using the account name "Dicker & Dicker," and, using the autofill function on the personal laptop that he had used for the Firm's business, the routing number and account number ending in 2193 for the Firm's business account. As a result of the payment, Respondent's registration status with the Commission was updated to active status.

9. On October 11, 2019, as a result of his use of the Firm's business account that he was not entitled to use, Respondent used \$770 of the funds deposited into the account to which Dicker and the Firm had an interest, for Respondent's own personal or business purposes.

10. At no time did Dicker or the Firm authorize Respondent to use any portion of the \$770 in funds, described in paragraph nine above, for Respondent's own personal or business purposes.

11. At no time did Respondent advise Dicker or the Firm that he paid his registration fees using funds from the Firm's business account.

12. On October 23, 2019, Respondent logged onto his profile on the Commission's website and updated his business email. At or about that time, he started employment as an associate attorney with his new law firm.

13. On November 8, 2019, Dicker reviewed a monthly statement relating to the Firm's business account and discovered the \$770 payment to the Commission, which had been debited to the account on October 15, 2019. At or about that time, Dicker contacted the Northern Trust Bank



to learn that the transaction had been made by a person using the routing number and account number for the Firm's business account, and thereafter, Dicker contacted a Deputy Registrar at the Commission, to learn that the funds had been used to pay for Respondent's registration fees.

14. On or about November 12, 2019, at Dicker's request, the Commission reversed the October 11, 2019, payment and refunded \$770 to the Firm's business account.

15. On November 12, 2019, a Deputy Registrar at the Commission contacted Respondent by email to advise him that the prior registration payment was being refunded to the Firm and that his registration status with the Commission resumed to active but not registered status, and, on November 21, 2019, Respondent paid \$770 to the Commission for the payment of registration fees from his own funds. As a result of the payment, Respondent's registration status with the Commission was updated once again to active status.

16. By reason of the conduct described above, Respondent has engaged in the following misconduct:

conduct involving dishonesty, fraud, deceit or misrepresentation, by conduct including knowingly using funds from his former firm's bank account to pay his registration fees without authority, in violation of Rule 8.4(c) of the Illinois Rules of Professional Conduct (2010).

COUNT II  
*(Misrepresentations to the Administrator)*

17. The Administrator realleges the facts set forth in paragraphs 1 through 15 of Count I, above.

18. On November 12, 2019, the Administrator received a request for investigation of Respondent from Dicker reporting that he had discovered the October 2019 payment of Respondent's registration fees, which he did not authorize. The Administrator docketed the matter as Commission number 2019IN04292.

19. On November 14, 2019, counsel for the Administrator sent a copy of Dicker's request for investigation in Commission number 2019IN04292, along with a letter to Respondent requesting that Respondent send a letter within fourteen days setting forth the material facts relating to the matters raised by Dicker.

20. On November 21, 2019, the Administrator received a letter from Respondent dated November 19, 2019. In the letter, Respondent stated, among other things, as follows:

It is my belief based on my conversations with Mr. Dicker, that he did intend to pay the fees and that he did arrange to make payment for the fees during my employment. . . . Finally, I will state that at no time during or after my employment with Mr. Dicker was I ever given Mr. Dicker's account information, nor did I ever acquire Mr. Dicker's account information, and at no point did I authorize or issue payment for the fees.

21. Respondent's statements in his letter to the Administrator dated November 19, 2019, as set forth in paragraph 20, above, were false because Respondent knew that Dicker had not arranged payment of Respondent's registration fees, Respondent acquired the information relating to the Firm's business account during his employment at the Firm when he had used the account in connection with one or more of the Firm's cases, and Respondent knowingly made the October 11, 2019, payment for his registration fees from the Firm's account.

22. Respondent knew that the statements he made to the Administrator in his November 19, 2019, letter, were false at the time that he made them.

23. On April 8, 2021, at the Administrator's request, Respondent appeared remotely by Webex to answer questions under oath in connection with the Administrator's investigation in Commission number 2019IN04292.

24. On April 8, 2021, during his sworn testimony, Respondent was asked the following questions and gave the following answers:

QUESTION: Did you also state that you believed that at no time during or after employment with Mr. Dicker you were given Mr. Dicker's account information?

ANSWER: That's correct.

QUESTION: Do you stand by that?

ANSWER: Absolutely.

QUESTION: And would that include any account information related to the firm rather than Mr. Dicker himself.

ANSWER: That's correct.

.....

QUESTION: Did you come to know who would have made the payment on October 11<sup>th</sup>, 2019?

ANSWER: Well, no. That's what I initially said was I assumed it was Steve Dicker who made the payment, and then I had registered, but at the time that I registered, I didn't see that there was a payment; so, now, that I see that it was made, I'm assuming it was me when I was updating my registration, that that's how the payment was processed by me, so I think – I think I ended up making that payment on October 11<sup>th</sup> now now [sic] that I see the time stamp here for the payment.

QUESTION: And what information would you use to make the payment?

ANSWER: Well, I would have – I would have had to include this, but I didn't put this in there. I don't know what this account is. . . .

QUESTION: You didn't submit any kind of account number?

ANSWER: No.

QUESTION: Or –

ANSWER: No. Absolutely not. No. There was no account submission because I didn't have that. It must have already been there, but, no, there was no – there was no active processing of a payment since, you know, in my mind, I didn't think the payment had even been made yet until I saw this yesterday when it was e-mailed to me.

.....

QUESTION: I know I asked you several times but just to give you every opportunity to explain how do you think this came about that if you were the one getting online October 11<sup>th</sup>, 2019 and perhaps you said you acknowledge you may have – you did make that payment, is that your explanation?

ANSWER: I believe – yeah. I believe now as soon as I received this yesterday that that's the time stamp for the payment, I believe that I must have been the one to do it. Originally, I was going off of this letter that said it was done I think a few days later, and I assumed it had to be him or it had to have been Melissa [Dicker's assistant] or someone, but, yeah, it was – it had to have been done by me. Now, I know that, but at no point was it – was there any act of putting in account information or any attempt to make payment was never done on my part.

QUESTION: So you didn't put in any kind of routing number or account number associated with the Dicker firm?

ANSWER: Correct.

QUESTION: Is that your explanation?

ANSWER: That is correct.

25. Respondent's statements during his sworn testimony on April 8, 2021, as set forth in paragraph 24, above, were false because Respondent acquired the information relating to the Firm's business account during his employment at the Firm when he had used the account in connection with one or more of the Firm's cases, and because Respondent made the October 11, 2019, payment for his registration fees by knowingly inputting the account name, routing number and account number from the Firm's account.

26. Respondent knew that the statements he made to the Administrator in his sworn testimony on April 8, 2021, were false at the time that he made them.

27. On April 8, 2021, in an email to Counsel for the Administrator, in response to an email requesting clarification of matters raised during his sworn testimony, Respondent stated, among other things, the following:

I did not see the account information nor did I know that the Dicker account was being used to make payment. . . .

The use of the Dicker account on 10/11/2021 [sic] was not a conscious decision on my part.

28. Respondent's statements in his email to the Administrator on April 8, 2021, as set forth in paragraph 27, above, were false because Respondent made the October 11, 2019, payment for his registration fees by knowingly inputting the account name, routing number and account number from the Firm's account.

29. Respondent knew that the statements he made to the Administrator in his April 8, 2021, email were false at the time that he made them.

30. On April 12, 2021, after Respondent was advised that the Commission website did not store payment information and that it appeared that Respondent would have had to have inputted the Firm's account information to make payment on October 11, 2019, Respondent admitted that he had used the Firm's business account without authority and that he had misled the Administrator. In a follow up email to the Administrator on April 12, 2021, Respondent stated the following:

This is to confirm that I did input the Dicker & Dicker account information in as stated as it had been previously been put in my laptop by staff at Mr. Dicker's office. ....

This was a mistake I made that I regret sincerely, and I wish to atone for and fully accept whatever comes next for me from the commission.

31. By reason of the conduct described above, Respondent has engaged in the following misconduct:

- a. knowingly making false statements of material fact in connection with a disciplinary proceeding, by conduct including making false statements in a letter to the Administrator dated November 19, 2019, as described in paragraph 20, above, in sworn testimony on April 8, 2021, as described in paragraph 24, above, and in an email to the Administrator on April 8, 2021, as described in paragraph 27, above, during the Administrator's investigation of his conduct, in violation of Rule 8.1(a) of the Illinois Rules of Professional Conduct (2010); and
- b. conduct involving dishonesty, fraud, deceit or misrepresentation, by conduct including making false statements in a letter to the Administrator dated November 19, 2019, as described in paragraph 20, above, in sworn testimony on April 8, 2021, as described in paragraph 24, above, and in an email to the Administrator on April 8, 2021, as described in paragraph 27, above, during the Administrator's investigation of his conduct, in violation of Rule 8.4(c) of the Illinois Rules of Professional Conduct (2010).

WHEREFORE, the Administrator requests that this matter be referred to a panel of the Hearing Board of the Commission, that a hearing be conducted, and that the Hearing Panel make findings of fact, conclusions of fact and law, and a recommendation for such discipline as is warranted.

Respectfully submitted,

Jerome Larkin, Administrator  
Attorney Registration and  
Disciplinary Commission

By: /s/Albert S. Krawczyk  
Albert S. Krawczyk

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Counsel for Administrator  
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October 14, 2021

## IN THE SUPREME COURT OF ILLINOIS

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In the Matter of:

JAMES ROBERT MASON,

Attorney-Respondent,

No. 6331196.

Supreme Court No.

Commission No. 2021PR00045

PETITION TO IMPOSE DISCIPLINE ON CONSENT  
PURSUANT TO SUPREME COURT RULE 762(b)

Jerome Larkin, Administrator of the Attorney Registration and Disciplinary Commission, by his attorney, Albert S. Krawczyk, pursuant to Supreme Court Rule 762(b), with the consent of Respondent, James Robert Mason, and with the approval of a panel of the Hearing Board, petitions the Court to enter an order suspending Respondent from the practice of law in Illinois for five months. In support, the Administrator states:

## I. BACKGROUND AND SUMMARY OF PETITION

1. Respondent is a 33-year old attorney who was admitted to practice law in Texas in 2015 and in Illinois in 2019. He is not currently employed as a lawyer. In October 2019, after his last day of employment as an associate attorney at the Chicago law firm of Dicker & Dicker, Respondent used that firm's bank account information without permission to pay his registration fees to the Attorney Registration and Disciplinary Commission ("Commission") for the years 2019 and 2020, totaling \$770. Thereafter, during the Administrator's investigation of Respondent's conduct, Respondent made misrepresentations to the Administrator in writing and during his testimony at a sworn statement. Respondent's misconduct is presented more fully in Section II of this petition.

2. In mitigation, Respondent has not been previously disciplined, has admitted his misconduct and has expressed remorse for that conduct. In aggravation, Respondent's conduct

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Carolyn Taft Grosboll  
SUPREME COURT CLERK

was motivated by his own self-interest and involved several instances of dishonesty. Additional details concerning these, and other factors are contained in Section II of this petition.

3. Respondent's suspension for five months is consistent with the sanctions imposed in cases involving comparable conduct, including the cases of *In re Bromden*, M.R.22065, 07 CH 51 (January 23, 2008); *In re Ellis*, M.R. 18053, 01 CH 107 (May 24, 2002); *In re Schiller*, M.R. 15876, 98 CH 132 (May 25, 1999); and *In re Ho*, M.R. 24554, 2009PR00129 (May 18, 2011). A full discussion of the recommendation for discipline and precedent involving similar misconduct is contained in Section III of this petition.

4. At the time this petition was prepared, a two-count complaint was pending against Respondent before the Hearing Board of the Commission. The members of the panel assigned to consider that matter have, as required by Supreme Court Rule 762(b)(1)(b), reviewed this petition and approved its filing with the Court. Respondent's affidavit is attached as Exhibit One. A copy of the panel's order approving the submission of this matter to the Court is attached as Exhibit Two. A copy of the report of proceedings before the Hearing Board is attached as Exhibit Three.

## II. FACTUAL BASIS FOR RECOMMENDATION

### A. *Background Information*

5. In 2015, Respondent was admitted to the practice of law in Texas. In January 2019, Respondent began employment as a non-attorney with the Chicago law firm then known as Dicker & Dicker ("the Firm"). Thereafter, beginning in about April 2019, after his admission to the practice of law in Illinois on motion pursuant to Illinois Supreme Court Rule 705, Respondent remained employed with the Firm as an associate attorney, handling plaintiff's personal injury matters, until October 2019.

6. In and before October 2019, Respondent had access to the routing number and account number for the Firm's business account as a result of his authorized use of the account for



the payment of expenses relating to the Firm's cases, and information relating to that account was stored on the personal laptop that Respondent used for the Firm's business.

B. *Unauthorized Use of Law Firm Bank Account to Pay Registration Fees*

7. In May 2019, following his admission to the practice of law in Illinois, Respondent's registration status with the Commission was active but not registered. After receiving notice that he was required to register and pay annual registration fees to the Commission, Respondent logged onto his profile on the Commission's website and provided data to register with the Commission. Thereafter, at various times, Respondent asked the managing partner of the Firm to pay Respondent's registration fees due to the Commission for the years 2019 and 2020, totaling \$770.

8. In early October 2019, Respondent advised the Firm's managing partner that he was leaving the Firm for another legal position. As of Respondent's last day of employment at the Firm on October 10, 2019, the Firm had not paid Respondent's registration fees.

9. On October 11, 2019, after Respondent was no longer employed at the Firm, Respondent logged onto his profile on the Commission's website and updated the data he had previously provided. At that time, Respondent, without authority, paid the registration fees that were due, in the amount of \$770, using the account name "Dicker & Dicker" and the routing number and account number for the Firm's business account. As a result of the payment, Respondent's registration status with the Commission was updated to active status.

10. At no time did Respondent advise the managing partner or the Firm that he paid his registration fees using funds from the Firm's business account.

11. In November 2019, after the Firm's managing partner discovered that the \$770 payment had been made to the Commission, and at the managing partner's request, the Commission reversed the October 11, 2019, payment and refunded \$770 to the Firm's business

account. Upon being notified that his status with the Commission had resumed to active but not registered, Respondent paid \$770 to the Commission for the payment of registration fees from his own funds. As a result of that payment, Respondent's registration status with the Commission was updated once again to active status.

C. *Misrepresentations to the Administrator*

12. On November 14, 2019, in response to the Firm's managing partner's request for an investigation of Respondent, Respondent falsely stated in a letter to the Administrator that at no time during or after his employment at the Firm was he given nor did he acquire the Firm's bank account information and at no point did Respondent authorize or issue the October 2019, payment of his registration fees.

13. On April 8, 2021, in response to questions during a sworn statement conducted by the Administrator, Respondent falsely stated under oath that he had not been given the Firm's bank account information. At that time, he acknowledged that he must have been the one who made the October 2019, payment of his registration fees, but he falsely testified that he had not inputted any routing number or account number associated with the Firm and that the information must have been previously inputted.

14. On April 8, 2021, in an email to the Administrator following the sworn statement, Respondent falsely stated that he had not known that the Firm's account had been used to pay the registration fees and that the use of the account was not a conscious decision on his part.

15. On April 12, 2021, after Respondent was advised that the Commission website did not store payment information and that it appeared that Respondent would have had to have inputted the Firm's account information to make payment on October 11, 2019, Respondent admitted that he had used the Firm's business account without authority and that he had attempted

to mislead the Administrator by providing incorrect information in response to the Administrator's requests for information. In a subsequent email to the Administrator on April 12, 2021, Respondent admitted that he did input the Firm's account information at the time of payment from information that had been stored on his laptop.

#### D. *Conclusions of Misconduct*

16. By reason of the conduct described above, Respondent has engaged in the following misconduct:

- a. knowingly making false statements of material fact in connection with a disciplinary proceeding, by conduct including making false statements during the Administrator's investigation of his conduct in a letter to the Administrator dated November 19, 2019, in sworn testimony on April 8, 2021, and in an email to the Administrator on April 8, 2021, in violation of Rule 8.1(a) of the Illinois Rules of Professional Conduct (2010); and
- b. conduct involving dishonesty, fraud, deceit or misrepresentation, by conduct including knowingly and without authority using funds from his former firm's bank account to pay his registration fees and making false statements to the Administrator during the Administrator's investigation of his conduct, in violation of Rule 8.4(c) of the Illinois Rules of Professional Conduct (2010).

#### E. *Mitigating and Aggravating Evidence*

17. In mitigation, Respondent has not been previously disciplined, he has acknowledged his misconduct, and he has expressed remorse for it. Also, Respondent has been involved in charitable work with his church, and had this matter resulted in a contested hearing, Respondent would have presented favorable character witness testimony from various judges, attorneys, and former employers and co-workers. In aggravation, Respondent's conduct involved a pattern that included the misuse of the Firm's bank account information and several instances of false statements, and was motivated by his resentment that the Firm had not paid his registration fees and his own self-interest in concealing his dishonest conduct.

## III. RECOMMENDATION FOR DISCIPLINE AND DISCUSSION OF PRECEDENT

18. The Administrator respectfully requests that the Court enter an order suspending Respondent from the practice of law in Illinois for five months.

19. The recommended sanction is consistent with the discipline imposed by this Court for similar misconduct. For example, in *In re Bromden*, M.R.22065, 07 CH 51 (January 23, 2008), this Court suspended the respondent from the practice of law for five months. The respondent in *Bromden*, while an associate with a law firm, used the firm's credit card number to make five unauthorized purchases of eight items over the internet, totaling \$1,629.23. In *Bromden*, the respondent, like Respondent here, had not been previously disciplined and was not practicing law at the time discipline was imposed. Unlike here, the respondent in *Bromden* was criminally charged with unlawful use of credit card over \$300 and was accepted into the Kane County second chance program, in which he paid restitution and was required, among other things, to complete community service and obtain anger management counseling before criminal charges were to be dismissed.

20. This Court suspended the respondent in *In re Ellis*, M.R. 18053, 01 CH 107 (May 24, 2002), for five months and until restitution in the amount of \$2,000 had been paid. For a period of about six months, while employed by the American Bar Association ("ABA"), the respondent in *Ellis* fraudulently obtained \$3,060 from the ABA by submitting requests for payment for copyediting or other work she falsely claimed had been performed by a freelancer. The attorney then used the money to pay personal debts. Like here, the respondent in *Ellis* had not been previously disciplined, admitted her misconduct and expressed remorse for her actions. Unlike here, the respondent in *Ellis* forged a freelancer's endorsement to checks that the respondent requested and was motivated by a poor financial condition.

21. The Court also suspended the respondent from the practice of law for five months in *In re Schiller*, M.R. 15876, 98 CH 132 (May 25, 1999). There, over a period of two years, the attorney caused six false expense reimbursement requests to be submitted to his firm, and, in four of those cases, he obtained firm funds totaling \$4,586.48 for reimbursement of expenses which he had not actually incurred. As with Respondent in this matter, the respondent in *Schiller* had not been previously disciplined and expressed remorse. Unlike here, the respondent in *Schiller* had experienced financial problems due, at least in part, to losses sustained in gambling on sporting events, but he disclosed his actions to his firm, resigned his position and reported his conduct to the Administrator.

22. Likewise, in *In re Ho*, M.R. 24554, 2009PR00129 (May 18, 2011), the Court suspended the respondent for five months for communicating with a person represented by counsel by causing her client to present documents to his wife for her signature, knowing the wife was represented in the divorce by another lawyer, and for providing false information to the Commission about her conduct. Like here, the respondent in *Ho* made false statements to the Administrator in response to the complainant's request for investigation and made additional false statements in a subsequent letter to the Administrator and at a sworn statement. Similar to here, the respondent in *Ho* was 32 years old, had not been previously disciplined and expressed remorse.

23. While Respondent's unauthorized use of law firm funds was not as extensive as the misdeeds in the cases cited above, considering the totality of Respondent's misconduct, a similar five-month suspension is appropriate in this case.

WHEREFORE, the Administrator, with the consent of Respondent, James Robert Mason, and the approval of a panel of the Hearing Board, requests that the Court enter an order suspending Respondent from the practice of law in Illinois for five months.

Respectfully submitted,

Jerome Larkin, Administrator  
Attorney Registration and  
Disciplinary Commission

By: /s/Albert S. Krawczyk  
Albert S. Krawczyk

Albert S. Krawczyk  
Counsel for the Administrator  
One Prudential Plaza  
130 East Randolph Drive, Suite 1500  
Chicago, Illinois 60601  
Telephone: (312) 565-2600  
Email: [akrawczyk@iadc.org](mailto:akrawczyk@iadc.org)  
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## **EXHIBIT 1**

## IN THE SUPREME COURT OF ILLINOIS

In the Matter of:

JAMES ROBERT MASON,  
 Attorney-Respondent,  
 No. 6331196.

Supreme Court No.  
 Commission No. 2021PR00045

RESPONDENT'S AFFIDAVIT  
 PURSUANT TO SUPREME COURT RULE 762(b)

James Robert Mason ("Affiant"), being first duly sworn, states as follows:

1. Affiant has read the Administrator's Petition to Impose Discipline on Consent (the "Petition") to which this Affidavit is attached.

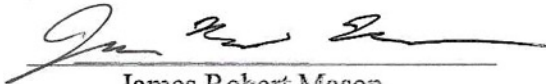
2. The assertions in the Petition are true and complete.

3. Affiant joins in the Petition freely and voluntarily.

4. Affiant understands the nature and consequences of the Petition.

5. Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and, as to such matters, the undersigned certifies as aforesaid that he verily believes the same to be true.

09/07/2021  
 Date

  
 James Robert Mason

Adrian Vuckovich  
 Kathryne Hayes  
 Counsel for Respondent  
 Collins Bargione & Vuckovich  
 One North LaSalle Street, Suite 300  
 Chicago, IL 60602  
 Telephone: (312) 372-7813  
 Email: [av@cb-law.com](mailto:av@cb-law.com)  
 Email: [khayes@cb-law.com](mailto:khayes@cb-law.com)



## **EXHIBIT 2**

**BEFORE THE HEARING BOARD  
OF THE  
ILLINOIS ATTORNEY REGISTRATION  
AND  
DISCIPLINARY COMMISSION**

In the Matter of:

**JAMES ROBERT MASON,**

Attorney-Respondent,

No. 6331196.

Commission No. 2021PR00045

**ORDER**

Upon the joint motion to approve the submission of this matter to the Court as an agreed matter by way of petition to impose discipline on consent:

**IT IS ORDERED THAT** the motion is allowed, and the panel approves the submission of this matter to the Court as an agreed matter, pursuant to Supreme Court Rule 762(b)(1)(b), by way of the attached petition to impose discipline on consent.

Respectfully submitted,

Brigid A. Duffield  
Ricardo Meza  
Marilynn Kelly Gardner

**CERTIFICATION**

I, Michelle M. Thome, Clerk of the Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois and keeper of the records, certify that the foregoing is a true copy of the order, approved by each Panel member of the Hearing Board, entered in the above entitled cause of record filed in my office on October 6, 2021.

\_\_\_\_\_  
/s/ Michelle M. Thome  
Michelle M. Thome,  
Clerk of the Attorney Registration and  
Disciplinary Commission of the  
Supreme Court of Illinois

**FILED**

October 06, 2021

**ARDC CLERK**

**PROOF OF SERVICE**

I, Michelle M. Thome, hereby certify that I served a copy of this Order on Counsel for Respondent listed at the e-mail addresses shown below on October 6, 2021, at or before 5:00 p.m. At the same time, a copy of this Order was sent to Counsel for the Administrator by e-mail service.

Adrian M. Vuckovich  
Kathryne R. Hayes  
Counsel for Respondent  
av@cb-law.com  
khayes@cb-law.com

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that she verily believes the same to be true.

\_\_\_\_\_  
/s/ Michelle M. Thome  
Michelle M. Thome

**EXHIBIT 3**

BEFORE THE HEARING BOARD  
OF THE  
ILLINOIS ATTORNEY REGISTRATION  
AND  
DISCIPLINARY COMMISSION

IN THE MATTER OF: )  
 )  
JAMES ROBERT MASON, ) Commission No. 2021PR00045  
 )  
Attorney-Respondent, )  
 )  
No. 6331196 )

REPORT OF PROCEEDINGS had in the  
above-entitled matter before a Panel of the Hearing  
Board of the Attorney Disciplinary Commission, on the  
6th day of October, 2021, commencing at the hour of  
9:00 o'clock a.m.

Members of Hearing Panel:

Ms. Brigid A. Duffield, Chairperson  
Mr. Ricardo Meza  
Ms. Marilyn K. Gardner

1 APPEARANCES:

2 ATTORNEY REGISTRATION AND DISCIPLINARY  
3 COMMISSION, by  
4 MR. ALBERT S. KRAWCZYK  
5 One Prudential Plaza  
6 130 East Randolph Drive  
7 Chicago, Illinois 60601

8 appeared on behalf of the Administrator;

9 COLLINS, BARGIONE & VUCKOVICH, by  
10 MS. KATHRYNE R. HAYES  
11 One North LaSalle Street  
12 Suite 300  
13 Chicago, Illinois 60602

14 appeared on behalf of the Attorney-Respondent.

15 Also Present:

16 Ms. M. Jacqueline Walther,  
17 counsel for Adjudication.

18 ---  
19  
20  
21  
22  
23  
24

I N D E XWITNESSPAGE

JAMES ROBERT MASON

Examination - Mr. Krawczyk

12

Examination - Mr. Meza

14

Examination - Chairperson Duffield

15

1 MS. WALTHER: Please be advised that this matter  
2 is being recorded. This is Jacky Walther, counsel for  
3 Adjudication. I am going to remain in the meeting,  
4 but I'm going to turn my video and microphone off.

5 CHAIRPERSON DUFFIELD: Thank you.

6 Good morning, everyone. I have a  
7 couple of announcements to make before we get started,  
8 and then I'll have everybody identify themselves for  
9 the record.

10 Just so you know, this is in the  
11 matter of James Robert Mason, Commission  
12 No. 2021PR00045.

13 My name is Brigid Duffield. I am  
14 the chair of this panel. I am going to have the panel  
15 members identify themselves as well.

16 This hearing is being conducted  
17 pursuant to the rules of the Supreme Court and the  
18 Rules of Civil Procedure.

19 What we're going to do is we're  
20 going to ask everybody once we get started to mute  
21 themselves unless they're speaking. That way it will  
22 eliminate some of the background noise that we might  
23 have.

24 We're also going to make sure that



1 everybody's face is on during the course of this  
2 hearing so we're able to see everyone.

3 Mr. Doran is not, and we know that  
4 Miss Walther is going to be off. As you look at your  
5 screen, you will be able to see that everybody is  
6 identified.

7 Please remember just as a common  
8 courtesy not to speak over each other, and we're going  
9 to let everybody talk one at a time.

10 This is a formal proceeding so  
11 we're going to give it the same amount of decorum as  
12 we would in a normal court hearing.

13 With that being said, does anybody  
14 have any questions?

15 (No response.)

16 CHAIRPERSON DUFFIELD: I'm going to start. I  
17 don't know that all of our squares are the same, but  
18 we will have everybody identify themselves for the  
19 record, please. We'll start with the Administrator.

20 MR. MEZA: My name is Ricardo Meza, M-e-z-a. I am  
21 a panel member.

22 CHAIRPERSON DUFFIELD: Thank you, Mr. Meza.

23 MR. KRAWCZYK: Good morning. This is Albert  
24 Krawczyk for the Administrator.

1 MS. HAYES: Good morning. My name is Kathryne  
2 Hayes. I represent the Respondent, James Mason, who  
3 is also appearing via WebEx.

4 MS. GARDNER: Good morning. My name is Marilynn  
5 Gardner, and I am a panel member.

6 CHAIRPERSON DUFFIELD: Good morning. Okay.

7 As I said, this is Case  
8 No. 2021PR00045. Mr. Krawczyk, if you would like to  
9 begin, we will go ahead and start this hearing.

10 MR. KRAWCZYK: May it please the Board, in  
11 October, 2019, after his last day of employment as an  
12 associate attorney at the Chicago law firm of Dicker &  
13 Dicker, Respondent used that firm's bank account  
14 information without permission to pay his registration  
15 fees to the Attorney Registration and Disciplinary  
16 Commission for the years 2019 and 2020 totaling \$770.

17 Thereafter, during the  
18 Administrator's investigation of his conduct,  
19 Respondent made misrepresentations to the  
20 Administrator in writing and at a sworn statement.

21 The parties have agreed to  
22 recommend to the Court that Respondent be suspended  
23 from the practice of law for five months.

24 A two-count complaint is now before

1 this panel. The substance of Respondent's misconduct  
2 is described in Section II of the petition.

3 Briefly, Respondent was admitted to  
4 the practice of law in Texas in 2015 and in Illinois  
5 on a reciprocal basis, what is known as admission on  
6 motion based on his Texas license, in Illinois in  
7 2019. His first attorney job in Illinois was with the  
8 Chicago firm of Dicker & Dicker.

9 Once he obtained the Illinois  
10 license, he was notified that he had to register with  
11 the ARDC and pay the registration fees for 2019 and  
12 also for the upcoming year of 2020 for a total of  
13 \$770.

14 During this period, he was employed  
15 by the Dicker firm for less than a year. Several  
16 times during his employment, he had asked the managing  
17 partner of the firm for the firm to pay the  
18 registration fees on his behalf, but the firm never  
19 did.

20 In early October of 2019,  
21 Respondent left the Dicker firm for a new job. His  
22 last day of employment at the firm was October 10th,  
23 2019. The very next day, which was October 11th,  
24 2019, after Respondent had left the Dicker firm, he

1    went Online to the ARDC website and changed his  
2    registration information to reflect his new  
3    employment.    He also paid the registration fees that  
4    were due using the firm's -- the Dicker firm's bank  
5    account without the Dicker firm's knowledge or  
6    permission.

7                    In November, 2019, once the  
8    managing partner of the Dicker firm learned that the  
9    money had been taken out of the firm's account, he  
10   contacted the ARDC.    The ARDC returned the funds to  
11   the Dicker firm, and Respondent thereafter paid the  
12   \$770 to the Commission with his own funds.

13                   At the request of the managing  
14   partner, the Administrator initiated an investigation.  
15   During the course of our investigation, Respondent had  
16   multiple opportunities to be honest and explain what  
17   happened.    However, he tried to hide his misconduct.

18                   In his initial response to the  
19   Administrator, Respondent falsely denied having the  
20   law firm's banking information and claimed that he did  
21   not make the registration payment.

22                   During his sworn statement, after  
23   he was told that the Registration Department was able  
24   to determine from what is called the IP address for

1 his Online registration on October 11th, which was  
2 associated with the location in Woodridge, Illinois  
3 where Respondent was living at the time, at that point  
4 Respondent acknowledged that he had inputted the  
5 registration information and must have made the  
6 payment, but he falsely claimed that the banking  
7 information must have already been on his ARDC profile  
8 and that he did not know that he had used the firm's  
9 account.

10 In an e-mail that followed the  
11 sworn statement, he doubled down and again falsely  
12 claimed that he did not know that the Dicker account  
13 information had been used to make the payment, and it  
14 was not a conscious decision on his part.

15 Afterwards Respondent was advised  
16 that the Registration Department confirmed that it did  
17 not store banking information and that Respondent must  
18 have inputted the banking account information at the  
19 time that he made the payment.

20 At that point he finally admitted  
21 that he used the banking information related to the  
22 firm, that it had been stored in his laptop from a  
23 case he had handled for the firm, that he did not have  
24 authority to use the account, and that he had misled

1 the Administrator.

2 In recommending a five-month  
3 suspension, the Administrator considered among the  
4 several factors that Respondent has not been  
5 previously disciplined. Ever since he admitted  
6 misleading the Administrator, he has cooperated in the  
7 disciplinary proceedings and has expressed remorse.

8 We are mindful, however, that the  
9 dishonesty was both in the use of the account and how  
10 he responded to the Administrator, and it involved  
11 several instances.

12 We've also considered that while  
13 his former employer was wronged, the ARDC returned the  
14 registration payment. Respondent readily paid the  
15 registration fees, and there is no long-lasting  
16 financial harm to his former firm.

17 Respondent's suspension appears to  
18 be an appropriate balance of aggravating and  
19 mitigating factors. It adequately takes into  
20 consideration the seriousness of the misconduct, and  
21 it is consistent with the cases we have cited in our  
22 petition for discipline on consent.

23 Under the circumstances, we ask  
24 that the hearing panel approve the filing of the

1 petition with the Court. I'm available to answer any  
2 questions.

3 Thank you.

4 CHAIRPERSON DUFFIELD: Thank you, Mr. Krawczyk.

5 Miss Hayes.

6 MS. HAYES: Good morning again, members of the  
7 panel, Mr. Krawczyk.

8 I have nothing to add based on  
9 Mr. Krawczyk's opening. I would like to thank the  
10 Administrator for working with us to hopefully resolve  
11 this matter and the panel for their time this morning  
12 and their consideration.

13 CHAIRPERSON DUFFIELD: Thank you.

14 Mr. Krawczyk, I don't know if you  
15 want to call Mr. Mason, or, Miss Hayes, if you're  
16 going to be calling Mr. Mason this morning.

17 Mr. Krawczyk, I will turn that back  
18 to you then.

19 MR. KRAWCZYK: I could briefly call him if he  
20 could be sworn.

21 CHAIRPERSON DUFFIELD: Sure. Mr. Mason, we're  
22 going to call you as a witness in this case. I don't  
23 know if you have a driver's license or any form of  
24 identification. If you do, if you could hold it up to

1 the camera.

2 Thank you so much. I'm going to  
3 have you raise your right hand, and I'm going to swear  
4 you in.

5 (The oath was duly administered to the  
6 witness by the reporter.)

7 CHAIRPERSON DUFFIELD: Thank you.

8 Mr. Krawczyk, you may proceed.

9 JAMES ROBERT MASON,  
10 called as a witness by the Administrator herein,  
11 having been first duly sworn, was examined and  
12 testified as follows:

13 E X A M I N A T I O N

14 By Mr. Krawczyk

15 Q. Would you please state your full name?

16 A. James Robert Mason.

17 Q. And are you the Respondent in this  
18 proceeding?

19 A. Yes, sir.

20 Q. Are you currently practicing law?

21 A. I am not.

22 Q. Are you represented by counsel in this  
23 proceeding?

24 A. Yes, sir. Miss Kathryne Hayes.



1           Q.    Have you read the proposed petition for  
2 discipline on consent?

3           A.    I have, yes, sir.

4           Q.    Is your signature on the affidavit that was  
5 attached to the petition?

6           A.    Yes, sir, it is.

7           Q.    Do you join in the motion to approve the  
8 petition freely and voluntarily?

9           A.    I do.

10          Q.    Do you understand if the petition is accepted  
11 by the Hearing Board and then the Illinois Supreme  
12 Court, the Court will enter an order suspending you  
13 from the practice of law for five months?

14          A.    I do, yes.

15          Q.    Do you understand and agree to the proposed  
16 sanction?

17          A.    I do understand, and I do agree.

18          MR. KRAWCZYK:  Thank you.  I have nothing further.

19          CHAIRPERSON DUFFIELD:  Thank you, Mr. Krawczyk.

20                       Miss Hayes.

21          MS. HAYES:  I have no questions for Mr. Mason, but  
22 he is available, of course, to answer any questions  
23 that the panel members may have for him.

24          CHAIRPERSON DUFFIELD:  Thank you.

1 I'm going to begin with Mr. Meza to  
2 see if he has any questions of Mr. Mason.

3 Mr. Meza, do you have any questions  
4 of Mr. Mason?

5 E X A M I N A T I O N

6 By Mr. Meza

7 Q. My only question of Mr. Mason would be  
8 whether he paid it because he had been told by the  
9 firm that they would pay it. I think it was due  
10 January 1st, 2019. Isn't that due the first day of  
11 the year?

12 A. Yes. In our discussions, it was told that it  
13 was going to be paid. It was just a question of when.  
14 I don't know when it was due. I wasn't ever -- I  
15 never did figure out a date as to when it was due,  
16 but, yeah, it was based on conversations I had had  
17 with the managing partner.

18 MR. MEZA: Thank you.

19 CHAIRPERSON DUFFIELD: Thank you, Mr. Meza.

20 Miss Gardner?

21 MS. GARDNER: I have no questions for Mr. Mason.  
22 Thank you.

23 CHAIRPERSON DUFFIELD: Thank you. I just have  
24 one.

1                               E X A M I N A T I O N

2                               By Chairperson Duffield

3               Q.    I know, Mr. Mason, that you indicated that  
4   you had signed that freely and voluntarily.  I just  
5   want to confirm that you were not under the influence  
6   of any drugs or alcohol, and you were competent at the  
7   time that you executed that discipline on consent?

8               A.   Yes, ma'am, I can confirm that I was not  
9   under any influence of drugs or alcohol and that I do  
10  freely acknowledge that that was my signature.

11              CHAIRPERSON DUFFIELD:  Thank you.

12                           Mr. Krawczyk, any questions based  
13  on Mr. Meza's question?  I think you might be muted,  
14  Mr. Krawczyk.

15              MR. KRAWCZYK:  Thank you.

16                           I just want to address Mr. Meza's  
17  question directly.

18                           My understanding is that Mr. Mason  
19  was admitted on reciprocity in April of 2019.  He  
20  started working at the firm as a non-lawyer, and then  
21  while there, he was able to get his license.  The  
22  question being whether it was due at the beginning of  
23  the year because he was not licensed until April, that  
24  wasn't the case under these circumstances.

1           MR. MEZA: I understand now. Thank you. I was a  
2 little confused on the dates. That makes sense.  
3 Thank you.

4           MR. KRAWCZYK: The other item I might just want to  
5 raise is Steven Dicker, who was the managing partner  
6 and the reporting attorney in this case, if he were to  
7 be called to testify at a contested hearing, he would  
8 acknowledge that there had been discussions with  
9 Mr. Mason about paying the registration fees, but he  
10 would say at no time did he or the firm agree to pay  
11 them.

12          MR. MEZA: Thank you.

13          CHAIRPERSON DUFFIELD: Thank you.

14                       Miss Hayes.

15          MS. HAYES: I have no questions for Mr. Mason.

16          CHAIRPERSON DUFFIELD: Okay. Thank you.

17                       Mr. Mason, I'm sure Miss Hayes has  
18 advised you of this, but I just want to go through a  
19 few procedural things with you.

20                       First of all, thank you for your  
21 participation here today. We appreciate that this is  
22 a difficult thing for any attorney to have to appear  
23 in front of this panel, and we appreciate your  
24 cooperation and the fact that you have participated

1 fully in this process so thank you for that.

2 Our job here today now is to  
3 determine whether or not the petition on discipline on  
4 consent falls within the parameters and the sanctions  
5 that are proposed based on the conduct that has been  
6 provided here today.

7 Part of that will involve the  
8 panel, the three of us, Miss Gardner, Mr. Meza, and  
9 myself, deliberating after this hearing concludes and  
10 determining whether or not we agree or disagree with  
11 the proposed petition on discipline on consent.

12 If we agree, you will be notified,  
13 and the order will then be submitted to the Supreme  
14 Court for approval. If we decide that we don't agree,  
15 then this panel will submit that order, and our panel  
16 will be disbanded, and a new panel will be assigned.  
17 The hearing will begin anew so it will start all over  
18 from scratch with a new panel and a new chairperson.

19 We would anticipate that we will be  
20 able to conclude that matter today. I'm not sure how  
21 the clerk will notify the attorneys and how quickly  
22 that information will come to you, but it won't be a  
23 several month-type of process. Hopefully you will  
24 have some information from the Clerk's Office, I would

1 say, definitely within the next 30 days, if not  
2 sooner.

3 Do you have any questions regarding  
4 either your participating here today or the process?

5 ATTORNEY-RESPONDENT MASON: No questions. I just  
6 wanted to express how sorry I am for what I did. As  
7 it was stated in the petition, I do admit to the  
8 wrongdoing, and I wish very much that I had done the  
9 right thing and not gone ahead and paid the fee with  
10 the firm's account. I'm certainly determined never  
11 to, you know, let anything like this or engage in  
12 anything like this ever again.

13 CHAIRPERSON DUFFIELD: Thank you, and thank you  
14 for your statement. Whatever happens, I want to say  
15 on behalf of the panel that should you elect in the  
16 future to practice law in the State of Illinois, we  
17 would wish you a long and successful career and that  
18 this might be just one of those bonehead things that  
19 happened as part of your career never to happen, you  
20 know, again.

21 Again, thank you for your  
22 participation here this morning.

23 Before I conclude, I'm just going  
24 to run around the panel members and counsel one more

1 time to make sure that all the bases have been touched  
2 and there's nothing else that we need to do before I  
3 adjourn and send the panel to deliberation.

4 Mr. Meza, I'll begin with you.

5 MR. MEZA: I have no questions. Thank you.

6 CHAIRPERSON DUFFIELD: Thank you.

7 Miss Gardner?

8 MS. GARDNER: Nothing further. Thank you.

9 CHAIRPERSON DUFFIELD: Mr. Krawczyk?

10 MR. KRAWCZYK: I have nothing further. Thank you.

11 CHAIRPERSON DUFFIELD: Thank you.

12 Miss Hayes?

13 MS. HAYES: Nothing further. Thank you, Miss  
14 Duffield.

15 CHAIRPERSON DUFFIELD: Thank you.

16 That will conclude our hearing this  
17 morning. What we are going to do is ask that  
18 Mr. Krawczyk, Miss Hayes, and Mr. Mason be dismissed  
19 or sign off from this panel. We then, the three of  
20 us, will deliberate, and we hope to conclude our  
21 deliberations shortly.

22 Thank you all for participating  
23 here this morning, and that is the end of this  
24 hearing.

1 MS. HAYES: Thank you. Have a nice day.

2 CHAIRPERSON DUFFIELD: Thank you. You, too.

3 MR. KRAWCZYK: Thank you.

4 (Which were all of the proceedings had  
5 and testimony taken at the hearing of  
6 the above-entitled cause, this date.)  
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1 STATE OF ILLINOIS )  
2 ) SS:  
3 COUNTY OF DU PAGE )

4 I, Deborah J. Roberts, do hereby  
5 certify that I transcribed the proceedings had at the  
6 hearing of the above-entitled cause and that the  
7 foregoing Report of Proceedings, Pages 4 through 20,  
8 inclusive, is a true, correct, and complete transcript  
9 transcribed to the best of my ability at the time and  
10 place aforesaid.

11 I further certify that I am not  
12 counsel for nor in any way related to any of the  
13 parties to this suit, nor am I in any way, directly or  
14 indirectly interested in the outcome thereof.

15 This certification applies only to  
16 those transcripts, original and copies, produced under  
17 my direction and control; and I assume no  
18 responsibility for the accuracy of any copies which  
19 are not so produced.

20 IN WITNESS WHEREOF I have hereunto  
21 set my hand this 9th day of October, 2021.

22  
23 Deborah J. Roberts  
24 Certified Shorthand Reporter

IN THE SUPREME COURT OF ILLINOIS

In the Matter of:

JAMES ROBERT MASOP.

Attorney-Respondent,

No. 6331196.

Commission No. 2021PR00045

NOTICE OF FILING

TO: Adrian M. Vuckovich  
Kathryne R. Hayes  
Counsel for Respondent  
Collins Bargione & Vuckovich  
One North LaSalle St., Suite 300  
Chicago, IL 60602  
Via Email: [av@cb-law.com](mailto:av@cb-law.com) and [khayes@cb-law.com](mailto:khayes@cb-law.com)

PLEASE TAKE NOTICE that on October 14, 2021, electronic copies of the Petition to Impose Discipline on Consent Pursuant to Supreme Court Rule 762(b), were submitted to the Clerk of the Supreme Court for filing. On that same date, copies were served on Counsel for Respondent by e-mail at [av@cb-law.com](mailto:av@cb-law.com) and [khayes@cb-law.com](mailto:khayes@cb-law.com) at or before 5:00 p.m.

Respectfully submitted,  
Jerome Larkin, Administrator  
Attorney Registration and  
Disciplinary Commission

By: /s/ Albert S. Krawczyk  
Albert S. Krawczyk

Albert S. Krawczyk  
Counsel for Administrator  
One Prudential Plaza  
130 East Randolph Drive, Suite 1500  
Chicago, Illinois 60601  
Telephone: (312) 565-2600  
Email: [akrawczyk@iadc.org](mailto:akrawczyk@iadc.org)

## PROOF OF SERVICE

The undersigned, an attorney, hereby certifies, pursuant to Illinois Code of Civil Procedure, 735-ILCS-5/109, that the Administrator served a copy of the Notice of Filing and the Petition to Impose Discipline on Consent Pursuant To Supreme Court Rule 762(b) and Notice of Filing, on the individuals on the foregoing Notice of Filing, sent via e-mail at [av@cb-law.com](mailto:av@cb-law.com) and [khayes@cb-law.com](mailto:khayes@cb-law.com) on October 14, 2021, at or before 5:00 p.m.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

By: /s/ Albert S. Krawczyk  
Albert S. Krawczyk

IN THE SUPREME COURT OF ILLINOIS

In the Matter of:

JAMES ROBERT MASON,  
Attorney-Respondent,  
No. 6331196.

Commission No. 2021PR00045

NOTICE OF FILING

TO: Adrian M. Vuckovich  
Kathryne R. Hayes  
Counsel for Respondent  
Collins Bargione & Vuckovich  
One North LaSalle St., Suite 300  
Chicago, IL 60602  
Via Email: [av@cb-law.com](mailto:av@cb-law.com) and [khayes@cb-law.com](mailto:khayes@cb-law.com)

PLEASE TAKE NOTICE that on October 14, 2021, electronic copies of the Petition to Impose Discipline on Consent Pursuant to Supreme Court Rule 762(b), were submitted to the Clerk of the Supreme Court for filing. On that same date, copies were served on Counsel for Respondent by e-mail at [av@cb-law.com](mailto:av@cb-law.com) and [khayes@cb-law.com](mailto:khayes@cb-law.com) at or before 5:00 p.m.

Respectfully submitted,  
Jerome Larkin, Administrator  
Attorney Registration and  
Disciplinary Commission

By: /s/ Albert S. Krawczyk  
Albert S. Krawczyk

Albert S. Krawczyk  
Counsel for Administrator  
One Prudential Plaza  
130 East Randolph Drive, Suite 1500  
Chicago, Illinois 60601  
Telephone: (312) 565-2600  
Email: [akrawczyk@iardc.org](mailto:akrawczyk@iardc.org)

E-FILED  
10/14/2021 11:31 AM  
Carolyn Taft Grosboll  
SUPREME COURT CLERK

FILED

October 14, 2021

ARDC CLERK

PROOF OF SERVICE

The undersigned, an attorney, hereby certifies, pursuant to Illinois Code of Civil Procedure, 735-ILCS-5/109, that the Administrator served a copy of the Notice of Filing and the Motion Pursuant To Supreme Court Rule 762(b) and Notice of Filing, on the individuals on the forgoing Notice of Filing, sent via e-mail at [av@cb-law.com](mailto:av@cb-law.com) and [khayes@cb-law.com](mailto:khayes@cb-law.com) on October 14, 2021, at or before 5:00 p.m.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

By: /s/ Albert S. Krawczyk  
Albert S. Krawczyk

E-FILED  
10/14/2021 11:31 AM  
Carolyn Taft Grosboll  
SUPREME COURT CLERK

FILED

October 14, 2021

ARDC CLERK



# SUPREME COURT OF ILLINOIS

SUPREME COURT BUILDING  
200 East Capitol Avenue  
SPRINGFIELD, ILLINOIS 62701-1721

CAROLYN TAFT GROSBOLL  
Clerk of the Court

(217) 782-2035  
TDD: (217) 524-8132

November 16, 2021

FIRST DISTRICT OFFICE  
160 North LaSalle Street, 20th Floor  
Chicago, IL 60601-3103  
(312) 793-1332  
TDD: (312) 793-6185

Albert S. Krawczyk  
Attorney Registration and Disciplinary Commission  
One Prudential Plaza, Suite 1500  
130 East Randolph Drive  
Chicago, IL 60601-6207

In re: In re: James Robert Mason  
M.R.030993

Today the following order was entered in the captioned case:

Petition by the Administrator of the Attorney Registration and Disciplinary Commission to impose discipline on consent pursuant to Supreme Court Rule 762(b). Allowed. Respondent James Robert Mason is suspended from the practice of law for five (5) months.

Suspension effective December 7, 2021.

Respondent James Robert Mason shall reimburse the Client Protection Program Trust Fund for any Client Protection payments arising from his conduct prior to the termination of the period of suspension.

Order entered by the Court.

Very truly yours,

A handwritten signature in cursive script that reads "Carolyn Taft Grosboll".

Clerk of the Supreme Court

cc: Adrian Michael Vuckovich  
James Robert Mason  
Kathryne Rae Hayes  
Michelle Thome

**FILED**

November 16, 2021

**ARDC CLERK**

STATE OF ILLINOIS  
SUPREME COURT

At a Term of the Supreme Court, begun and held in Springfield, on Monday, the 8th day of November, 2021.

Present: Anne M. Burke, Chief Justice  
Justice Rita B. Garman  
Justice P. Scott Neville, Jr.  
Justice David K. Overstreet  
Justice Mary Jane Theis  
Justice Michael J. Burke  
Justice Robert L. Carter

---

On the 16th day of November, 2021, the Supreme Court entered the following judgment:

M.R.030993

M.R.

James Robert Mason.

Attorney Registration & Disciplinary  
Commission

2021PR00045

Petition by the Administrator of the Attorney Registration and Disciplinary Commission to impose discipline on consent pursuant to Supreme Court Rule 762(b). Allowed. Respondent James Robert Mason is suspended from the practice of law for five (5) months.

Suspension effective December 7, 2021.

Respondent James Robert Mason shall reimburse the Client Protection Program Trust Fund for any Client Protection payments arising from his conduct prior to the termination of the period of suspension.

As Clerk of the Supreme Court of the State of Illinois and keeper of the records, files and Seal thereof, I certify that the foregoing is a true copy of the final order entered in this case.



IN TESTIMONY WHEREOF, I have set my hand  
and affixed the seal of said Supreme Court, in  
Springfield, in said State, this 16th day of  
November, 2021.

*Carolyn Taft Gussbelle* Clerk,  
Supreme Court of the State of Illinois

FILED

November 16, 2021

ARDC CLERK

# INTERNAL PROCEDURAL RULES

## BOARD OF DISCIPLINARY APPEALS

*Current through June 21, 2018*

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# INTERNAL PROCEDURAL RULES

## Board of Disciplinary Appeals

*Current through June 21, 2018*

### 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.

#### 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 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.

(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. 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 only consider documents that were filed with the CDC prior to the classification decision. 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.

## **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 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.