

Board of Disciplinary Appeals

**IN THE MATTER OF
MARLON BRENT MESSER
STATE BAR CARD NO. 24029725**

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CAUSE NO. 57979

Marlon Brent Messer - Petition for Reciprocal Discipline
Page 1 of 4

4. The Consent Order of Discipline established that Respondent violated the following North Carolina Rules of Professional Conduct: (a) By allowing the company of which he was named the president to provide legal services in North Carolina despite the company not being licensed or authorized to provide legal services in this State, Defendant aided in the unauthorized practice of law in violation of Rule 5.5(f); (b) By allowing the company of which he was named the president to hold out as acting as an intermediary between various individuals and their creditors for the purpose of reducing or altering the terms of their mortgage payments and receiving a fee for reducing or altering the terms of their mortgage payments in advance of the work having been completed, Defendant engaged in debt adjusting, a criminal act that reflects adversely on a lawyer's professional fitness in violation of Rule 8.4(b); (c) By allowing the company of which he was named the president to send unsolicited advertisements for legal services without including the requisite disclaimer, Defendant solicited professional employment from potential clients by written communication in violation of Rule 7.3; (d) By allowing the company of which he was named the president to recite in the contracts between LHG and various individuals that his corporation (LHG) was able to provide legal services in a jurisdiction where it was not authorized; and by promising various individuals that: (1) they would be approved for a mortgage reduction, (2) that their payments would be lowered within a certain amount of time by various amounts per month, and (3) that their interest rates would be reduced to various lower percentages, Defendant made false or misleading statements about his services in violation of Rule 7.1(a) and engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 8.4(c); (e) By allowing the company of which he was named the president to charge various individuals for loan modification services in a jurisdiction in which the company was not authorized to provide legal services, charge and collect money from various individuals to engage

in illegal debt adjusting on their behalf, and charge the clients various amounts for loan modifications and yet provide them with no beneficial assistance, Defendant charged and collected illegal or clearly excessive fees in violation of Rule 1.5(a); (f) By allowing the company of which he was named the president to fail to provide various clients with the status of their cases despite numerous requests for the same, Defendant failed to keep his clients reasonably informed about the status of their cases or explain matters to the extent reasonably necessary to permit the clients to make informed decisions regarding their cases in violation of Rule 1.4(a) and (b); (g) By allowing nonlawyer assistants of the company of which he was named the president to make various claims to the company's clients and provide the clients with legal advice, Defendant failed to make reasonable efforts to ensure that the conduct of his nonlawyer assistants was compatible with the professional obligations of a lawyer in violation of Rule 5.3(b); (h) By allowing the company of which he was named the president to give a portion of the fee LHG collected from D. and K.D. to a Virginia attorney, Defendant divided a fee between lawyers not in the same firm without the clients' knowledge or consent in violation of Rule 1.5(e); and (i) By allowing the company of which he was named the president to provide legal services in Virginia, a jurisdiction in which he was not authorized to practice law, Defendant engaged in the unauthorized practice of law in violation of Rule 5.5(a).

5. A copy of Petitioner's Exhibit 1 is attached hereto and made a part hereof for all intents and purposes as if the same were copied verbatim herein. Petitioner expects to introduce a certified copy of Exhibit 1 at the time of the hearing in this case.


6. 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 enter a judgment imposing discipline identical with that imposed by the Disciplinary Hearing Commission of the North Carolina State Bar and that Petitioner have such other and further relief to which it may be entitled.

Respectfully submitted,

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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 Marlon Brent Messer, by personal service.

Marlon Brent Messer
2294 Navarro Ave.
Altadena, California 91101


Judith Gres DeBerry

INTERNAL PROCEDURAL RULES

Board of Disciplinary Appeals

Effective February 19, 2015

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SECTION 1: 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 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 may 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, 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, 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.

SECTION 2: 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.

SECTION 3: 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.

SECTION 4: 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 consistent with this requirement, the date that the judgment is signed is the "date of notice" under Rule 2.21.

- (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.

- (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, 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 appear.
- (5) A court reporter or recorder must not lock any document that is part of the record.
- (6) 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.

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. 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.

SECTION 5: 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.
- (b) Upon filing the motion, the CDC must serve the Respondent with the motion and any supporting documents in accordance with TRDP 2.23, 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.

SECTION 6: 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 may 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.

SECTION 7: RECIPROCAL DISCIPLINE

Rule 7.01 Initiation of Proceeding

The Commission for Lawyer Discipline may initiate an action for reciprocal discipline by filing a petition with BODA under TRDP Part IX and these rules. 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.

SECTION 8: 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 may 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 may be made in person or by certified mail, return receipt requested. If service is by certified mail, the return receipt with the Respondent's signature must be filed with the BODA Clerk.
- (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.

SECTION 9: 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.

SECTION 10: 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.

STATE OF NORTH CAROLINA

WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
15 DHC 53

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

MARLON BRENT MESSER, Attorney,

Defendant

CONSENT ORDER
OF
DISCIPLINE

This matter was considered by a hearing panel of the Disciplinary Hearing Commission composed of Fred M. Morelock, Chair, Irvin W. Hankins, III, and Bradley Lail, pursuant to North Carolina Administrative Code, Title 27, Chapter 1, Subchapter B, § .0114(h). Margaret Cloutier and Joshua Walthall represented Plaintiff, the North Carolina State Bar. Defendant Marlon B. Messer was represented by F. Lane Williamson of Charlotte. Defendant waives a formal hearing in the above referenced matter. The parties stipulate and agree to the findings of fact and conclusions of law recited in this consent order. The parties consent to the discipline imposed by this order. Defendant knowingly, freely and voluntarily waives his right to appeal this consent order or to challenge in any way the sufficiency of the findings by consenting to entry of this order.

Based on the foregoing and on the consent of the parties, the Hearing Panel hereby makes by clear, cogent and convincing evidence the following:

FINDINGS OF FACT

1. Plaintiff, the North Carolina State Bar ("North Carolina State Bar" or "State Bar"), is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Chapter 84 of the General Statutes of North Carolina, and the rules and regulations of the North Carolina State Bar promulgated thereunder.

2. Defendant, Marlon Brent Messer ("Messer" or "Defendant"), was admitted to the North Carolina State Bar in 2004, and is, and was at all times referred to herein, an attorney at

Exhibit

1

law licensed to practice in North Carolina, subject to the laws of the State of North Carolina, the Rules and Regulations of the North Carolina State Bar and the North Carolina Rules of Professional Conduct.

3. Defendant is also a licensed attorney in Texas and California.

4. At all times relevant to this complaint, Defendant maintained an address in California.

5. On July 9, 2013, Defendant, at the instruction and direction of Brent Phillips ("Phillips"), a California attorney, executed a "Certificate of Formation" to incorporate a professional corporation named "Legal Help Group, APC," ("LHG") in Texas.

6. Defendant nominally served as the president and sole owner of LHG throughout the corporation's existence.

7. Phillips served as the beneficial owner of LHG, receiving the majority of the profits made by LHG; making all decisions regarding the direction and actions of the company; supervising the day-to-day operations of LHG; and hiring, firing, and supervising all of LHG's employees.

8. LHG advertised via a website (www.lhgadvisors.com) as able to provide citizens of North Carolina, Texas, Arizona, Virginia, Maryland, and Florida with a variety of legal services including loan modification and foreclosure defense representation.

9. LHG held out on its website and in its contracts with customers that it was a North Carolina law firm and that it had law offices in California, Arizona and North Carolina, although the corporation was only registered in Texas and had only a virtual office space in North Carolina.

10. From July 2013 to November 2014, LHG provided legal services to 103 Florida residents, seventeen North Carolina residents, forty-one Virginia residents, five Texas residents, and eight Maryland residents.

11. Defendant is not authorized to provide legal services in Florida, Virginia, Arizona or Maryland.

12. LHG is not authorized to provide legal services in North Carolina, Florida, Virginia, Arizona, or Maryland.

13. At the instruction and direction of Phillips, Defendant executed a "declaration," drafted by Phillips, on August 19, 2014 wherein Defendant stated that he "was personally responsible for representing Legal Help Group's clients in the state of North Carolina."

R.J.E. of Raleigh, North Carolina

14. In or around March 2014, LHG sent R.J.E., a resident of Raleigh, North Carolina, an unsolicited flyer that stated that R.J.E. was eligible to have his monthly mortgage interest rate reduced. This flyer did not include a disclaimer that it was an advertisement for legal services.

15. R.J.E. responded to the flyer by visiting LHG's website and calling the number on the advertisement in an effort to obtain help in lowering his monthly mortgage payment and interest rate.

16. LHG guaranteed R.J.E. that he would be approved for a mortgage reduction and that his payments would be lowered by \$579.00 per month and that his interest rate would be reduced to 3% within ninety days.

17. On March 18, 2014, LHG contracted to provide R.J.E. with legal representation in obtaining a loan modification of his home mortgage.

18. LHG charged and collected approximately \$5,000.00 from R.J.E. to negotiate with his lender and obtain a loan modification and payment reduction on his behalf.

19. After contracting with LHG for legal representation, R.J.E. received emails and legal advice from various employees of LHG, though none of these employees were attorneys.

20. In nearly all of the communications sent to R.J.E., LHG held itself out as a law firm able to provide legal services in North Carolina.

21. Nonattorney employees at LHG gave R.J.E. legal advice on completing and drafting various forms and documents that LHG was to then submit to R.J.E.'s lender in an attempt to obtain a loan modification on his behalf.

22. R.J.E. never spoke with an attorney, and all services provided to R.J.E. were provided by nonattorneys.

23. From April 1, 2014 to June 10, 2014, R.J.E. made numerous attempts to contact various employees at LHG by phone and email but received no responses or answers to his questions.

24. On June 10, 2014, R.J.E. demanded that LHG resolve the matter in two weeks or return his money.

25. In response to R.J.E.'s June 10, 2014 demand, Judy Plovie, a nonattorney employee at LHG, stated to R.J.E. that she had already begun negotiating with R.J.E.'s lender regarding his mortgage modification but that she needed additional information to complete the process.

26. After approximately three months of receiving no beneficial assistance from LHG, R.J.E. terminated his relationship with LHG.

27. LHG did not refund any of the fees it collected from R.J.E.

S.T. of Hubert, North Carolina

28. In March of 2014, LHG sent S.T., a resident of Hubert, North Carolina, an unsolicited flyer that stated that S.T. was eligible to have her monthly mortgage interest rate reduced. This flyer did not include a disclaimer that it was an advertisement for legal services.

29. S.T. responded to the flyer by visiting LHG's website and calling the number on the advertisement in an effort to obtain help in lowering her monthly mortgage payment and interest rate.

30. LHG guaranteed S.T. that she would be approved for a mortgage reduction and that S.T.'s interest rate would be reduced from 9.9% to 2.9%.

31. On or around May 1, 2014, LHG contracted with S.T. to provide S.T. with legal representation in obtaining a loan modification of S.T.'s home mortgage.

32. LHG charged and collected approximately \$6,000.00 from S.T. to negotiate with S.T.'s lender and obtain a loan modification and payment reduction on S.T.'s behalf.

33. S.T. was current on her mortgage at the time she contracted with LHG, but LHG instructed S.T. to stop paying her monthly mortgage payments while LHG negotiated a reduced interest rate with S.T.'s lender.

34. Nonattorney employees at LHG gave S.T. legal advice on completing and drafting various forms and documents that LHG was to then submit to S.T.'s lender in an attempt to obtain a loan modification on S.T.'s behalf.

35. After approximately six months of receiving no beneficial assistance from LHG, S.T. was informed that her mortgage would not be modified in any way.

36. LHG did not refund any of the fees it collected from S.T.

J.T.S. of Holly Springs, North Carolina

37. In or around March 2014, LHG sent J.T.S., a resident of Holly Springs, North Carolina, an unsolicited flyer that stated that J.T.S. was eligible to have his monthly mortgage interest rate reduced. This flyer did not include a disclaimer that it was an advertisement for legal services.

38. J.T.S. responded to the flyer by visiting LHG's website and calling the number on the advertisement in an effort to obtain help in lowering his monthly mortgage payment and interest rate.

39. LHG guaranteed J.T.S. that J.T.S. would be approved for a mortgage reduction and that J.T.S.'s mortgage interest rate would be reduced to 2% and that J.T.S.'s new mortgage payment would be \$983.40 per month.

40. On or around April 3, 2014, LHG contracted with J.T.S. to provide J.T.S. with legal representation in obtaining a loan modification of J.T.S.'s home mortgage.

41. LHG collected approximately \$3,800.00 from J.T.S. to negotiate with J.T.S.'s mortgage lender and obtain a loan modification and payment reduction on J.T.S.'s behalf.

42. J.T.S. was current on his mortgage at the time he enrolled with LHG, but LHG instructed J.T.S. to stop paying his monthly mortgage payments while LHG negotiated a reduced mortgage interest rate with J.T.S.'s mortgage lender.

43. After contracting with LHG for legal representation, J.T.S. received emails and legal advice from various employees of LHG, though none of these employees were attorneys.

44. In nearly all of the communications sent to J.T.S., LHG held itself out as a law firm able to provide legal services in North Carolina.

45. Nonattorney employees at LHG gave J.T.S. legal advice on completing and drafting various forms and documents that LHG was to then submit to J.T.S.'s mortgage lender in an attempt to obtain a loan modification.

46. J.T.S. never spoke with an attorney, and all services provided to J.T.S. were provided by nonattorneys.

47. From April 2014 to June 2014, J.T.S. made numerous attempts to contact various employees at LHG by phone and email but nearly all of J.T.S.'s calls were not returned.

48. On June 2, 2014, after approximately ten phone calls to LHG were unreturned, J.T.S. contacted his bank to stop payment on a check he had written to LHG.

49. J.T.S. later learned that his mortgage lender, Bank of America, had never heard from LHG and that LHG had made no attempts to negotiate with Bank of America regarding a modification of J.T.S.'s mortgage payments or rate.

50. After approximately two months of receiving no beneficial assistance from LHG, J.T.S. terminated his relationship with LHG.

51. LHG did not refund any of the fees it collected from J.T.S.

S.M. of Matthews, North Carolina

52. In or around March 2014, LHG sent S.M., a resident of Matthews, North Carolina, an unsolicited flyer that stated that S.M. was eligible to have his monthly mortgage interest rate reduced. This flyer did not include a disclaimer that it was an advertisement for legal services.

53. S.M. responded to the flyer by visiting LHG's website and calling the number on the advertisement in an effort to obtain help in lowering his monthly mortgage payment and interest rate.

54. LHG guaranteed to S.M. that they would lower his mortgage interest rate and reduce S.M.'s monthly mortgage payments by \$255.34 within ninety days.

55. Nonattorney employees guaranteed S.M. that S.M. qualified for a restructuring of S.M.'s mortgage through the "Home Affordability Act" and that there was no way S.M. could be denied under federal law. These employees also promised S.M. that they would lower the principal amount of S.M.'s loan.

56. In or around February 2014, LHG contracted with S.M. to provide S.M. with legal representation in obtaining a loan modification of S.M.'s home mortgage.

57. LHG charged and collected approximately \$2,995.00 from S.M. to negotiate with S.M.'s lender and obtain a loan modification and payment reduction on S.M.'s behalf.

58. Nonattorney employees at LHG gave S.M. legal advice on completing and drafting various forms and documents that LHG was to then submit to S.M.'s lender in an attempt to obtain a loan modification on S.M.'s behalf.

59. After seven months, LHG informed S.M. that it would be unable to fulfill the promises it made to S.M.

60. S.M. then began complaining to LHG, filling out complaints and "resolution department claim forms."

61. After submitting numerous complaints via phone, email, and form submissions, S.M. finally reached Defendant for the first time. Defendant apologized on behalf of LHG and paid S.M. a full refund out of Defendant's personal funds, not out of LHG's funds.

E.S. of Calabash, North Carolina

62. In or around December 2014, LHG sent E.S., a resident of Calabash, North Carolina, an unsolicited flyer that stated that E.S. was eligible to have his monthly mortgage interest rate reduced. This flyer did not include a disclaimer that it was an advertisement for legal services.

63. On January 16, 2015, E.S. responded to the flyer by calling the number on the advertisement in an effort to obtain help in lowering his monthly mortgage payment and interest rate.

64. LHG told E.S. that they would lower E.S.'s mortgage interest rate and reduce E.S.'s monthly mortgage payments.

65. On or around January 26, 2015, LHG contracted with E.S. to provide E.S. with legal representation in obtaining a loan modification of E.S.'s home mortgage.

66. LHG charged and collected approximately \$2,995.00 from E.S. to negotiate with E.S.'s lender and obtain a loan modification and payment reduction on E.S.'s behalf.

67. Nonattorney employees at LHG gave E.S. legal advice on completing and drafting various forms and documents that LHG was to then submit to E.S.'s lender in an attempt to obtain a loan modification on E.S.'s behalf.

68. After approximately four months of receiving no beneficial assistance from LHG, E.S. stopped paying LHG and sought legal help elsewhere.

69. LHG did not refund any of the fees they collected from E.S.

C.F.D. of Emerald Isle, North Carolina

70. In May 2014, LHG sent C.F.D., a resident of Emerald Isle, North Carolina, an unsolicited flyer that stated that C.F.D. was eligible to have his monthly mortgage interest rate reduced. This flyer did not include a disclaimer that it was an advertisement for legal services.

71. C.F.D. responded to the flyer by calling the number on the advertisement in an effort to obtain help in lowering his monthly mortgage payment and interest rate.

72. LHG held out to C.F.D. as able to lower C.F.D.'s mortgage interest rate and reduce C.F.D.'s monthly mortgage payments.

73. In May 2014, LHG contracted with C.F.D. to provide C.F.D. with legal representation in obtaining a loan modification of C.F.D.'s home mortgage.

74. LHG charged and collected approximately \$3,500.00 from C.F.D. to negotiate with C.F.D.'s lender and obtain a loan modification and payment reduction on C.F.D.'s behalf.

75. Nonattorney employees at LHG gave C.F.D. legal advice on completing and drafting various forms and documents that LHG was to then submit to C.F.D.'s lender in an attempt to obtain a loan modification on C.F.D.'s behalf.

76. After approximately ten months of receiving no beneficial assistance from LHG, LHG informed C.F.D. that LHG could not help C.F.D.

77. C.F.D. hired another mortgage assistance company and received favorable results in thirty days.

78. LHG did not refund any of the fees they collected from C.F.D.

D. and K.D. of Williamsburg, Virginia

79. On November 5, 2013, LHG contracted to provide two Virginia residents, D. and K.D., with legal representation in obtaining a loan modification of their home mortgage.

80. LHG charged and collected approximately \$3,000.00 from D. and K.D. to negotiate with their lender and obtain a loan modification and payment reduction on their behalf.

81. LHG sent D. and K.D. a contract that recited that the firm was a North Carolina law firm.

82. The contract required that all fee disputes with LHG be arbitrated by the Orange County Bar Association in California and that any claims against LHG, including claims for malpractice, also be arbitrated in California.

83. LHG indicated to D. and K.D. that the corporation would provide them with an attorney licensed in their jurisdiction who would furnish them with all of the necessary legal services to help them reduce their monthly payments and obtain a loan modification on their home mortgage.

84. LHG gave a portion of the fee they collected from D. and K.D. to a Virginia attorney to provide D. and K.D. with legal services. D. and K.D. did not agree to this division of fees.

85. Neither Defendant nor his corporation was or is authorized to provide legal services in Virginia, even by associating with a local Virginia attorney.

86. Throughout the representation, D. and K.D. were told that "Brent Phillips" was their attorney; they never spoke with Defendant or a Virginia attorney despite numerous requests for legal advice.

87. D. and K.D. called LHG over fifty times for legal advice and information regarding LHG's negotiation efforts; their calls were rarely returned and they never spoke with an attorney licensed in their jurisdiction.

88. D. and K.D. became dissatisfied after the lack of communication from LHG and cancelled the contract with LHG and demanded a refund.

Based upon the consent of the parties and the foregoing Findings of Fact, the Hearing Panel enters the following:

CONCLUSIONS OF LAW

1. All parties are properly before the Hearing Panel and the Panel has jurisdiction over Defendant, Marlon B. Messer, and over the subject matter.

2. Defendant's conduct as set forth in the Findings of Fact above, constitutes grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) in that Defendant violated the Rules of Professional Conduct as follows:

(a) By allowing the company of which he was named the president to provide legal services in North Carolina despite the company not being licensed or authorized to provide legal services in this State, Defendant aided in the unauthorized practice of law in violation of Rule 5.5(f);

(b) By allowing the company of which he was named the president to hold out as acting as an intermediary between various individuals and their creditors for the purpose of reducing or altering the terms of their mortgage payments and receiving a fee for reducing or altering the terms of their mortgage payments in advance of the work having been completed,

Defendant engaged in debt adjusting, a criminal act that reflects adversely on a lawyer's professional fitness in violation of Rule 8.4(b);

(c) By allowing the company of which he was named the president to send unsolicited advertisements for legal services without including the requisite disclaimer, Defendant solicited professional employment from potential clients by written communication in violation of Rule 7.3;

(d) By allowing the company of which he was named the president to recite in the contracts between LHG and various individuals that his corporation (LHG) was able to provide legal services in a jurisdiction where it was not authorized; and by promising various individuals that: (1) they would be approved for a mortgage reduction, (2) that their payments would be lowered within a certain amount of time by various amounts per month, and (3) that their interest rates would be reduced to various lower percentages, Defendant made false or misleading statements about his services in violation of Rule 7.1(a) and engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 8.4(c);

(e) By allowing the company of which he was named the president to charge various individuals for loan modification services in a jurisdiction in which the company was not authorized to provide legal services, charge and collect money from various individuals to engage in illegal debt adjusting on their behalf, and charge the clients various amounts for loan modifications and yet provide them with no beneficial assistance, Defendant charged and collected illegal or clearly excessive fees in violation of Rule 1.5(a);

(f) By allowing the company of which he was named the president to fail to provide various clients with the status of their cases despite numerous requests for the same, Defendant failed to keep his clients reasonably informed about the status of their cases or explain matters to the extent reasonably necessary to permit the clients to make informed decisions regarding their cases in violation of Rule 1.4(a) and (b);

(g) By allowing nonlawyer assistants of the company of which he was named the president to make various claims to the company's clients and provide the clients with legal advice, Defendant failed to make reasonable efforts to ensure that the conduct of his nonlawyer assistants was compatible with the professional obligations of a lawyer in violation of Rule 5.3(b);

(h) By allowing the company of which he was named the president to give a portion of the fee LHG collected from D. and K.D. to a Virginia attorney, Defendant divided a fee between lawyers not in the same firm without the clients' knowledge or consent in violation of Rule 1.5(e); and

(i) By allowing the company of which he was named the president to provide legal services in Virginia, a jurisdiction in which he was not authorized to practice law, Defendant engaged in the unauthorized practice of law in violation of Rule 5.5(a).

Based upon the foregoing Findings of Fact and Conclusions of Law and the consent of the parties, the Hearing Panel hereby makes by clear, cogent and convincing evidence the following:

ADDITIONAL FINDINGS OF FACT REGARDING DISCIPLINE

1. Defendant was not aware at the time that the individuals referred to herein were clients of LHG. The only client with whom he had any contact was "S.M." Defendant was not aware of LHG's interactions with the other clients referred to herein nor the extent of the harm they incurred until this action was commenced.

2. Defendant has fully cooperated with the State Bar's investigation into the company's activities in North Carolina and other states.

3. Defendant has acknowledged his conduct violated the Rules of Professional Conduct from the outset of the State Bar's investigation in this matter. Throughout the investigation of the grievance and in these proceedings before the DHC, Defendant has been particularly candid and forthright in his responses and in his admissions of wrongdoing and violations of the Rules of Professional Conduct. Defendant has demonstrated genuine remorse throughout the process.

4. There is no evidence that Defendant intended to harm his clients or that he exhibited a dishonest or selfish motive.

5. Defendant has no prior discipline in his nearly fifteen years of practice in three states.

6. Based upon Defendant's lack of discipline in nearly fifteen years of practice, his candid admissions throughout these proceedings, his remorse and efforts to rectify the effects on his clients, and his experience in the practice of law, there is little likelihood of repetition of this misconduct.

7. While Defendant nominally served as the president and owner of LHG throughout the corporation's existence and executed a "declaration" on August 19, 2014 wherein he stated that he "was personally responsible for representing Legal Help Group's clients in the state of North Carolina," these representations overstate Defendant's involvement with LHG. In substance and practice, though not in name, the beneficial owner and director of LHG was Phillips. Defendant signed and executed various documents at the direction of Phillips that made it appear Defendant was the owner of LHG. However, Defendant believed he was merely a minority partner with Phillips. Phillips received the majority of the financial profits made by LHG; made all decisions regarding the direction and actions of the company; supervised the day-to-day operations of LHG; and hired, fired, and supervised all of LHG's employees.

8. In instances where clients who paid LHG for legal services contacted Defendant personally and made him aware of their damages, Defendant promptly and fully refunded the clients' money. These efforts to rectify were taken prior to the State Bar's investigation into Defendant.

9. Defendant was unaware that Phillips had incorporated LHG and named Defendant as the president and sole owner of LHG until Phillips presented him with the "declaration" on August 19, 2014.

10. Defendant was unaware of the harm LHG was causing to members of the public; as soon as he was informed of the harm LHG was causing, Defendant immediately took steps to disassociate with LHG and mitigate the damages suffered by the victims of LHG about whom he was aware.

Based upon the Findings of Fact and Conclusions of Law above and the Additional Findings of Fact Regarding Discipline, and with the consent of the parties, the Hearing Panel makes the following:

CONCLUSIONS OF LAW REGARDING DISCIPLINE

1. The Hearing Panel has considered all of the factors contained in 27 N.C. Admin. Code 1B § .0114(w)(1) and concludes that the following factor that warrants suspension or disbarment is present:

(a) Negative impact of defendant's actions on client's or public's perception of the profession.

2. The Hearing Panel has considered all of the factors contained in 27 N.C. Admin. Code 1B § .0114(w)(2) and concludes that no factors that warrant disbarment are present.

3. The Hearing Panel has considered all of the factors contained in 27 N.C. Admin. Code 1B § .0114(w)(3) and concludes that the following are applicable in this matter:

(a) Absence of dishonest or selfish motive;

(b) Multiple offenses;

(c) Defendant's full and free disclosure to the hearing panel and cooperative attitude toward the proceedings; and

(d) Defendant's remorse.

4. Defendant has caused harm to his clients by aiding in the unauthorized practice of law and debt adjusting.

5. The Hearing Panel has considered all lesser sanctions including: censure, reprimand and admonition, and finds that discipline less than suspension would not adequately protect the public from Defendant's future misconduct because of the gravity of potential significant harm to his clients.

6. Under other circumstances, the misconduct in this case would warrant more serious discipline. The misconduct caused substantial harm to the clients of LHG and potential harm to the public's confidence in the integrity of the legal profession. However, the Hearing Panel concludes that the public will be adequately protected by the discipline imposed given the specific circumstances of this case, including the lack of evidence that Defendant intentionally harmed the clients, Defendant's lack of professional discipline, Defendant's favorable professional and personal reputation in the community, Defendant's candid acceptance of personal responsibility for his actions from the outset of the State Bar's investigation, Defendant's acknowledgement of the wrongfulness and seriousness of his misconduct, Defendant's lack of control over LHG, Defendant's efforts to rectify the harm caused by LHG, Defendant's lack of awareness of the harm caused by LHG, and Defendant's genuine remorse.

Based upon the foregoing Findings of Fact, Conclusions of Law, Additional Findings of Fact Regarding Discipline and Conclusions of Law Regarding Discipline, and on the consent of the parties, the Hearing Panel enters the following:

ORDER OF DISCIPLINE

1. Defendant, Marlon Brent Messer, is hereby suspended from the practice of law for two years, effective ninety days from service of this order upon Defendant.
2. Defendant shall pay, within ninety days of service of the statement of fees and costs upon him by the Secretary of the State Bar, the administrative fees and costs of this proceeding.
3. The two year suspension is stayed for a period of two years as long as Defendant complies with the following conditions:
 - (a) Defendant pays the administrative fees and costs of this proceeding as assessed by the Secretary of the State Bar within 90 days of service of the statement of fees and costs upon him;
 - (b) Within six months of the effective date of this order, Defendant shall complete six hours of continuing legal education (CLE) courses on the subject of ethics or professional responsibility. This CLE requirement is in addition to the CLE requirements set out in 27 N.C. Admin. Code 1D § .1518;
 - (c) Defendant shall keep the State Bar Membership Department advised of his current business address. Defendant shall notify the State Bar of any change of address within ten days of such change. His current business address must be a street address, not a post office box or drawer;
 - (d) Defendant shall respond to all communications from the State Bar, including communications from the Attorney Client Assistance Program, within thirty days

of receipt of such communication or by the deadline stated in the communication, whichever is sooner;

- (e) Defendant shall timely comply with all State Bar continuing legal education requirements and will pay all fees and costs assessed by the applicable deadline;
- (f) Defendant will pay all State Bar and judicial district membership dues, Client Security Fund assessments, and any other related dues, fees, and/or costs by the applicable deadline;
- (g) Defendant shall not violate any of the Rules of Professional Conduct in effect during the period of the stay;
- (h) Defendant shall not violate any laws of the United States or of any state or local government, other than minor traffic violations, during the period of the stay; and
- (i) Defendant shall not participate or be associated with any business entity or law firm engaged in providing legal services in more than one state without first providing written notice of such to the North Carolina State Bar Office of Counsel and thereafter providing the State Bar with any documents the State Bar requests pursuant to that association.

4. Unless Defendant's obligations under this Order are modified by further order of the DHC, Defendant's obligations under this Order end two years from the effective date of the Order provided there are no motions or show cause proceedings pending alleging lack of compliance with the conditions of the stay of the suspension. Pursuant to 27 N.C. Admin. Code 1B § .0114(x), the DHC retains jurisdiction until all conditions of the stay of the suspension have been met. If a motion or show cause proceeding alleging lack of compliance with the conditions for the stay of the suspension is pending when the period of the stay of the suspension would otherwise have terminated, the DHC retains the jurisdiction and ability to lift the stay of the suspension and activate the two year suspension in whole or in part if it finds that any of the conditions of the stay have not been met. The stay of the suspension and Defendant's obligation to comply with the conditions for the stay will continue until resolution of any such pending motion or show cause proceeding.

5. If Defendant fails to comply with any one or more of the conditions set out above in this Order of Discipline, then the stay of the suspension may be lifted and the suspension activated in accordance with 27 N.C. Admin. Code 1B § .0114(x).

6. If the stay of the suspension is lifted and the suspension is activated for any reason, the Disciplinary Hearing Commission may enter an order imposing such conditions as it deems proper for the reinstatement of Defendant's license at the end of the suspension. Additionally, Defendant must establish the following by clear, cogent and convincing evidence prior to being reinstated to the practice of law after any period of active suspension:

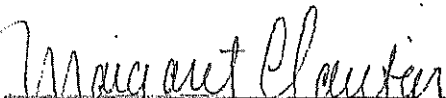
- (a) That Defendant submitted his law license and membership card to the Secretary of the State Bar within thirty days of the date of the order lifting the stay and/or activating the suspension of his law license;
- (b) That Defendant complied with the provisions of 27 N.C. Admin. Code 1B § .0124 following entry of the order lifting the stay and/or activating the suspension of his law license;
- (c) That Defendant timely paid all administrative fees and costs assessed against him in this proceeding as reflected on the statement of costs served upon him by the Secretary of the State Bar;
- (d) That within 15 days of the effective date of the order activating the suspension, Defendant provided the State Bar with an address and telephone number at which clients seeking return of files could communicate with Defendant to obtain such files;
- (e) That Defendant provided within ten days client files to all clients who made a request for return of their files;
- (f) That Defendant has kept the State Bar Membership Department advised of his current business street addresses (not post office box or drawer addresses) and notified the State Bar of any change in address within ten days of such change;
- (g) That Defendant has responded to all communications from the State Bar, including communications from the Attorney Client Assistance Program, within thirty days of receipt or by the deadline stated in the communication, whichever is sooner;
- (h) That Defendant has not participated or been associated with any business entity or law firm engaged in providing legal services in more than one state without first providing written notice of such to the North Carolina State Bar Office of Counsel and thereafter providing the State Bar with any documents the State Bar requests pursuant to this association;
- (i) That, at the time of his petition for reinstatement, Defendant is current in payment of all membership dues, fees and costs, including all Client Security Fund assessments, and other charges or surcharges the State Bar is authorized to collect from him, including all judicial district dues and assessments;
- (j) That, at the time of his petition for reinstatement, there is no deficit in Defendant's completion of mandatory CLE hours in reporting of such hours or in payment of any fees associated with attendance at CLE programs;

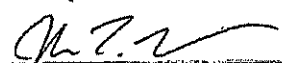
- (k) That at the time of his petition for reinstatement, Defendant had completed six hours of CLE courses on the subject of ethics or professional responsibility within six months of the effective date of this order;
- (l) That Defendant did not violate any of the Rules of Professional Conduct in effect during the period of the suspension; and
- (m) That Defendant did not violate the laws of the United States, or the laws of any state or local government, other than minor traffic violations, during the period of the suspension.

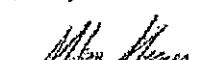
7. The Disciplinary Hearing Commission will retain jurisdiction of this matter pursuant to 27 N.C. Admin. Code 1B § .0114(x) of the North Carolina State Bar Discipline and Disability Rules until all conditions of the stay of suspension are satisfied.

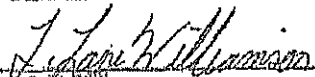
Signed by the Chair with the consent of the other Hearing Panel members this the 4th day of May, 2016.


 Fred M. Morelock, Chair
 Disciplinary Hearing Panel

 5/4/16
 Margaret Cloutier
 Attorney for Plaintiff Date

 5/4/16
 Joshua T. Walihall
 Attorney for Plaintiff Date

 4-29-16
 Marlon B. Messer
 Defendant Date

 5/02/16
 F. L. Williams
 Attorney for Defendant Date

The foregoing 15 pages are true and accurate copies of the official records of the N.C. State Bar


 Secretary N.C. State Bar