



Sep. 28, 2018

Board of Disciplinary Appeals

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

IN THE MATTER OF	§	
ARRON BURT NESBITT	§	CAUSE NO. 60520
STATE BAR CARD NO. 24049737	§	

AGREED JUDGMENT OF PARTIALLY PROBATED SUSPENSION

On this day, the above-styled and numbered reciprocal disciplinary action was called for hearing before the Board of Disciplinary Appeals. Petitioner appeared by attorney and Respondent appeared in person as indicated by their respective signatures below and announced that they agree to the findings of fact, conclusions of law and orders set forth below solely for the purposes of this proceeding which has not been fully adjudicated. The Board of Disciplinary Appeals, having reviewed the file and in consideration of the agreement of the parties, is of the opinion that Petitioner is entitled to entry of the following findings and orders:

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

- (1) Respondent, Arron Burt Nesbitt, Bar Card No. is 24049737, is an attorney who is licensed but not currently authorized to practice law in the State of Texas.
- (2) On or about September 29, 2017, a Complaint was filed in the Supreme Court of Colorado, Before the Presiding Disciplinary Judge in a matter styled, *Complainant: The People of the State of Colorado, Respondent: Arron Burt Nesbitt, #40610, 17 PDJ 068.*
- (3) On or about March 6, 2018, a Stipulation, Agreement and Affidavit Containing the Respondent's Conditional Admission of Misconduct was filed in the Supreme Court of Colorado, Before the Presiding Disciplinary Judge in a matter styled, *Complainant: The People of the State of Colorado, Respondent: Arron Burt Nesbitt, #40610, Case Number: 17PDJ068.*
- (4) On or about March 9, 2018, an Order Approving Conditional Admission of Misconduct and Imposing Sanctions was entered in the Supreme Court of Colorado, Before the Office of the Presiding Disciplinary Judge in a matter styled, *Complainant: The People of the State of Colorado, Respondent: Arron Burt Nesbitt, #40610, Case Number 17PDJ068, that states in pertinent part as follows:*

...ARRON BURT NESBITT, attorney registration number 40610, is SUSPENDED from the practice of law for a period of ONE YEAR AND ONE DAY, WITH NINE MONTHS TO BE SERVED AND THE REMAINDER TO BE STAYED upon the successful completion of a TWO-YEAR period of PROBATION, subject to the conditions set forth in paragraph 19 of the stipulation...

- (5) In the Stipulation, Agreement and Affidavit Containing the Respondent's Conditional Admission of Misconduct, it was established that while acting as counsel for an insurance company involved in a probate matter, Respondent received a report detailing review of Plaintiff's depositions and medical records. Respondent sent the same report, with minor changes, to the insurance company claiming it to be his own work, for which Respondent ultimately billed 6.9 hours, amounting to \$2,380.50. Similarly, Respondent billed \$1,587 for review of deposition transcripts; work already done, and billed for, by co-counsel. In time, it was discovered that the two reports detailing the depositions and medical records were substantially similar. When questioned why the reports were so similar, Respondent had no substantive reply, and denied any plagiarism. Further, Respondent billed for attending a deposition which he never in fact attended, and, when asked about this, Respondent stated that he monitored the deposition from his cell phone while in his office.
- (6) In a subsequent matter, Respondent again billed for attending depositions that he never attended, billing \$2,104.50 in fees. Respondent again stated that he monitored the depositions from his cell phone. However, a review of Respondent's cell phone bill indicates that he did not use his cell phone to monitor the deposition. Respondent's billing for these depositions was ultimately refunded by the insurance company he represented. Respondent admits that he did not attend these depositions and that he improperly billed for review and creations of reports in violation of the following Colorado Rules of Professional Conduct:
 - 1.5(a) A lawyer shall not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses; and
 - 8.4(c) It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.
- (7) Respondent, Arron Burt Nesbitt, is the same person as the Arron Burt Nesbitt, who is the subject of the Order Approving Conditional Admission of Misconduct and Imposing Sanctions filed before the Supreme Court of the State of Colorado.
- (8) The Order Approving Conditional Admission of Misconduct and Imposing Sanctions filed before Supreme Court of Colorado is final.

Conclusions of Law: Based upon the foregoing findings of facts the Board of Disciplinary

Appeals makes the following conclusions of law:

- (1) This Board has jurisdiction to hear and determine this matter. Tex. R. Disciplinary P. 7.08(H) ("TRDP"):
- (2) Reciprocal discipline identical, to the extent practicable, to that imposed by the Supreme Court of the State of Colorado is warranted in this case. TRDP 9.03
- (3) Respondent should be suspended from the practice of law for a period of one year and one day with nine months to be served and the remainder to be stayed upon the successful completion of a two-year period of probation.
- (4) This Board retains jurisdiction during the full term of probation imposed by this judgment to hear a motion to revoke probation.

It is, accordingly, **ORDERED, ADJUDGED, and DECREED** that Respondent, Arron Burt Nesbitt, State Bar Card No. 24049737, is hereby suspended from the practice of law for a period of nine (9) months beginning Oct. 2, 2018, and ending July 1, 2019, followed by a two (2) year period of probated suspension beginning on July 2, 2019 and ending on July 1, 2021, under the following terms and conditions:

Terms of Active Suspension

It is further **ORDERED** that during the term of active suspension ordered herein, or that may be imposed upon Respondent by the Board of Disciplinary Appeals as a result of a probation revocation proceeding, Respondent shall be prohibited from practicing law in Texas; holding himself out as an attorney at law; performing any legal services for others; accepting any fee directly or indirectly for legal services; appearing as counsel or in any representative capacity in any proceeding in any Texas or Federal court or before any administrative body; or holding himself out to others or using his] name, in any manner, in conjunction with the words "attorney at law," "attorney," "counselor at law," or "lawyer."

It is further ORDERED that, within ten (10) days of the signing of this judgment, Respondent shall notify each of Respondent's current clients and opposing counsel in writing of this suspension.

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

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

It is further ORDERED Respondent shall, within ten (10) days of the signing of this judgment, notify in writing each and every justice of the peace, judge, magistrate, administrative judge or officer and chief justice of each and every court or tribunal in which Respondent has any matter pending of the terms of this judgment, the style and cause number of the pending matter(s), and the name, address and telephone number of the client(s) Respondent is representing.

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

telephone number of the client(s) Respondent is representing in Court.

It is further ORDERED that, within ten (10) days of the signing of this judgment, Respondent shall surrender his law license and permanent State Bar Card to the State Bar of Texas, Chief Disciplinary Counsel's Office, P.O. Box 12487, Austin, TX 78711-2487 (1414 Colorado St., Austin, TX 78701), to be forwarded to the Supreme Court of Texas.

Terms of Probation

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

1. Respondent shall not violate any term of this judgment.
2. Respondent shall not engage in professional misconduct as defined by Rule 1.06(W) of the Texas Rules of Disciplinary Procedure.
3. Respondent shall not violate any state or federal criminal statutes.
4. Respondent shall keep State Bar of Texas membership department notified of current mailing, residence and business addresses and telephone numbers.
5. Respondent shall comply with Minimum Continuing Legal Education requirements.
6. Respondent shall comply with Interest on Lawyers Trust Account (IOLTA) requirements.
7. Respondent shall promptly respond to any request for information from the Chief Disciplinary Counsel in connection with any investigation of any allegations of professional misconduct.

Probation Revocation

Upon determination that Respondent has violated any term or condition of this judgment or of the disciplinary order or judgment entered in Colorado, the Chief Disciplinary Counsel may, in addition to all other remedies available, file a motion to revoke probation pursuant to TRDP 2.23 with this Board and serve a copy of the motion on Respondent pursuant to Tex.R.Civ.P. 21a.

This Board will conduct an evidentiary hearing to determine by a preponderance of the evidence whether Respondent has materially violated any term or condition or requirement of

any applicable disciplinary judgment. If this Board finds grounds for revocation, it will enter an order revoking probation and placing Respondent an active suspension from the date of such revocation order without credit for any term of probation served prior to revocation.

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

Signed this 2 day of October 2018.

Robert A. Block

Chair Presiding
Board of Disciplinary Appeals

APPROVED AS TO FORM AND CONTENT:

Amanda M. Kates

Amanda M. Kates
Assistant Disciplinary Counsel
State Bar Card No. 24075987
Attorney for Petitioner

Arron Burt Nesbitt

Arron Burt Nesbitt
State Bar Card No. 24049737
Respondent