

BEFORE THE BOARD OF DISCIPLINARY APPEALS
Appointed By
THE SUPREME COURT OF TEXAS

ANDREW PIEKALKIEWICZ

V.

**COMMISSION FOR
LAWYER DISCIPLINE OF THE
STATE BAR OF TEXAS**

§
§
§
§
§
§
§

CAUSE NO. 36831

**ORDER GRANTING JOINT MOTION TO REVERSE AND REMAND
FOR RENDITION AND ENTRY OF AN AGREED JUDGMENT**

On this day the Board of Disciplinary Appeals considered the Joint Motion to Reverse and Remand for Rendition and Entry of an Agreed Judgment filed by Appellant Andrew Piekalkiewicz and Appellee Commission for Lawyer Discipline of the State Bar of Texas. The Board finds that the parties have reached an agreement settling the issues in dispute and therefore finds that good cause exists to grant the motion.

The Board **ORDERS** that the Judgment of Disbarment signed April 16, 2007 in Cause No. H0010621722, H0080520650, and H0110521386 be, and hereby is, **REVERSED**.

The Board further **ORDERS** that the cause be **REMANDED** to the evidentiary panel of the State Bar of Texas District 4C06 grievance committee and that the committee **RENDER** judgment in accordance with the agreement of the parties as set out in the Agreed Judgment of Active Suspension attached hereto and incorporated herein by reference as if set out in full.

SIGNED this 6th day of December 2007.



CHAIR PRESIDING

**BEFORE THE EVIDENTIARY PANEL FOR STATE BAR
DISTRICT NO. 4C06, THE STATE BAR OF TEXAS**

**COMMISSION FOR LAWYER
DISCIPLINE,
Petitioner**

v.

**ANDREW PIEKALKIEWICZ,
Respondent**

§
§
§
§
§
§
§
§

H0010621722

H0080520650

H0110521386

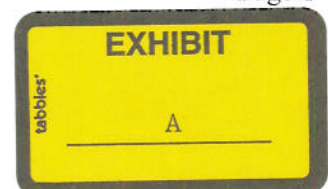
HARRIS COUNTY, TEXAS

AGREED JUDGMENT OF ACTIVE SUSPENSION

On this day, this matter was brought before an Evidentiary Panel for State Bar District 4C06. The Evidentiary Panel previously heard this matter and entered a Judgment of Disbarment on April 16, 2007. Thereafter, Respondent appealed this matter to the Board of Disciplinary Appeals. An Agreed Order of Reversal and Remand was entered by the Board of Disciplinary Appeals, resulting in the rendition and entry of this Agreed Judgment of Active Suspension. Petitioner, the Commission for Lawyer Discipline, and Respondent, Andrew Piekalkiewicz, Texas Bar Number 00789766, have agreed to all terms of this Agreed Judgment of Active Suspension as set forth below.

JURISDICTION AND VENUE

Respondent is an attorney licensed to practice law in Texas and is a member of the State Bar of Texas. Respondent's principal place of practice at the time venue attached was Harris County, Texas. Therefore, the Evidentiary Panel finds that it has jurisdiction over the parties and the subject matter of this action and that venue is proper in Harris County, Texas.



PROFESSIONAL MISCONDUCT

The Commission for Lawyer Discipline and Respondent agree to the Findings of Fact and Conclusions of Law set forth below. By reason of said agreed findings and conclusions, the Evidentiary Panel finds that Respondent has committed professional misconduct as defined by Rule 1.06V of the TEXAS RULES OF DISCIPLINARY PROCEDURE and should be suspended from the practice of law.

FINDINGS OF FACT

1. Respondent is an attorney licensed to practice law in Texas and is a member of the State Bar of Texas.
2. Respondent currently resides and maintains his principal place of practice in Douglas County, Kansas. At the time venue attached in this matter, Respondent's principal place of practice was Harris County, Texas.

HOO10621722 (KINDRED)

3. On January 14, 2004, Tina D. Kindred hired Respondent to represent her in a personal injury suit. Kindred signed a Power of Attorney giving Respondent the authority to enter into settlement negotiations on her behalf.
4. Between January 2004 and April 2005, Kindred attempted to contact Respondent regarding the status of her case. During this period of time, Respondent failed to return Kindred's calls and failed to provide Kindred with any information regarding the status of her case.

5. Respondent performed little or no work on Kindred's behalf.
6. On January 26, 2006, Respondent received notice from the State Bar of Texas of Kindred's pending grievance. Said notice informed Respondent that he must file a written response to the allegations of professional misconduct within thirty (30) days of receipt. Respondent failed to respond.

H0110521386 (O'BRYANT)

7. On February 14, 2001, Rachel B. O'Bryant hired Respondent to represent him in a personal injury case.
8. After O'Bryant hired Respondent, he attempted to contact Respondent to find out about the progress of his case. Respondent failed to return O'Bryant's calls and failed to provide O'Bryant with any information regarding the status of his case.
9. Respondent failed to perform any meaningful work on O'Bryant's case.
10. O'Bryant contacted the Client-Attorney Assistance Program (CAAP) regarding Respondent's representation of O'Bryant. On October 11, 2005, CAAP sent a letter to O'Bryant stating that CAAP had mailed a letter to Respondent on August 12, 2005, but Respondent failed to respond to CAAP's inquiry. CAAP advised O'Bryant that he might wish to proceed by filing a grievance with the State Bar of Texas.
11. The Chief Disciplinary Counsel has incurred reasonable attorneys' fees and direct expenses associated with this Disciplinary Proceeding in the amount of \$1,524.62.

CONCLUSIONS OF LAW

The foregoing findings of fact support conclusions that Respondent violated the following TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT, Article X, Section 9, STATE BAR RULES:

H0010621722 (KINDRED)

Rule 1.01(b)(1) [in representing client, lawyer shall not neglect legal matter entrusted to lawyer];

Rule 1.03(a) [lawyer shall keep client reasonably informed about status of matter and promptly comply with reasonable requests for information];

Rule 8.04(a)(8) [lawyer shall not fail to timely furnish to Chief Disciplinary Counsel's office response or other information as required by Texas Rules of Disciplinary Procedure];

H0110521386 (O'BRYANT)

Rule 1.01(b)(1) [in representing client, lawyer shall not neglect legal matter entrusted to lawyer]; and

Rule 1.03(a) [lawyer shall keep client reasonably informed about status of matter and promptly comply with reasonable requests for information].

SANCTION¹

¹ During the pendency of his appeal, Respondent was enjoined from practicing law due to the Judgment of Disbarment entered by the Evidentiary Panel. As a result, the suspension dates listed herein reflect a suspension that began prior to the entry date of this Agreed Judgment of Active Suspension. In addition, Respondent has paid attorneys' fees and direct expenses of \$1,524.62 as ordered herein, surrendered his law license and permanent State Bar Card, and filed an affidavit

By reason of the settlement agreement between the Commission for Lawyer Discipline and Respondent, the Evidentiary Panel hereby imposes the following sanction:

SUSPENSION

IT IS ORDERED that Respondent be suspended from the practice of law for thirty-six (36) months beginning April 16, 2007, and ending April 15, 2010.

IT IS ORDERED that during the period of suspension as set forth in this Agreed Judgment of Active Suspension, Respondent shall be enjoined from practicing law in Texas, holding himself out as an attorney, 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 court or before any Texas administrative body, or holding himself out to others or using his name in any matter in conjunction with the words "attorney," "counselor," "counselor at law," or "lawyer."

IT IS ORDERED that Respondent shall, **no later than thirty (30) days after the signing of this Agreed Judgment of Active Suspension**, surrender his law license and permanent State Bar Card to the **STATE BAR OF TEXAS, Office of the Chief Disciplinary Counsel, 6300 La Calma, Suite 300, Austin, Texas 78752**, for forwarding to the Supreme Court of Texas.

IT IS ORDERED that Respondent shall immediately notify each of his current clients in writing of the suspension set forth herein. In addition to such notification, Respondent is

stating that he had no current clients in Texas and had no money or other property belonging to any former client.

ORDERED to return any files, papers, unearned monies, and other property belonging to clients in Respondent's possession to the respective client or to another attorney at the client's request. Respondent is **ORDERED** to file with the **STATE BAR OF TEXAS, Office of the Chief Disciplinary Counsel, 6300 La Calma, Suite 300, Austin, Texas 78752, no later than thirty (30) days after the signing of this Agreed Judgment of Active Suspension**, an affidavit stating that all current clients have been notified of the suspension and that all files, papers, monies, and other property belonging to all clients has been returned as ordered herein.

IT IS ORDERED that Respondent shall immediately notify 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 suspension set forth herein, the style and cause number(s) of the pending matter(s), and the name, address, and telephone number of each and every client Respondent is representing in court. Respondent is **ORDERED** to file with the **STATE BAR OF TEXAS, Office of the Chief Disciplinary Counsel, 6300 La Calma, Suite 300, Austin, Texas 78752, no later than thirty (30) days after the signing of this Agreed Judgment of Active Suspension**, an affidavit stating that he 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 suspension, the style and cause number(s) of the pending matter(s), and the name, address, and telephone number of each and every client Respondent is representing in court.

RESTITUTION

IT IS ORDERED that Respondent pay restitution to Rachel O'Bryant in the amount of **Two Thousand Five Hundred Dollars (\$2,500.00)**. The payment of restitution shall be made by money order, certified check, or cashier's check made payable to Rachel O'Bryant and delivered to the **STATE BAR OF TEXAS, Office of the Chief Disciplinary Counsel, 6300 La Calma, Suite 300, Austin, Texas 78752**, no later than **thirty (30) days after the signing of this Agreed Judgment of Active Suspension**.

ATTORNEYS' FEES AND DIRECT EXPENSES

IT IS ORDERED that Respondent pay reasonable and necessary attorneys' fees and direct expenses in the amount of **One Thousand Five Hundred Twenty-Four and 62/100 Dollars (\$1,524.62)**. All payments are to be remitted to the **STATE BAR OF TEXAS, Office of the Chief Disciplinary Counsel, 6300 La Calma, Suite 300, Austin, Texas 78752**, no later than **thirty (30) days after the signing of this Agreed Judgment of Active Suspension**, by money order, certified check, or cashier's check.

All attorneys' fees and direct expenses ordered herein are due to the misconduct of the attorney, assessed as part of the sanction in accordance with Rule 1.06Y of the TEXAS RULES OF DISCIPLINARY PROCEDURE. In the event any amount of attorneys' fees and/or direct expenses is not paid as specified in this Agreed Judgment of Active Suspension, all past due amounts shall bear interest in the amount of six and one-half percent (6.5%) per annum until

paid, and the State Bar of Texas shall have all writs and other post-judgment remedies against Respondent in order to collect all unpaid amounts.

IT IS FURTHER ORDERED that this sanction is to be made a matter of public record and shall be appropriately recorded in accordance with the TEXAS RULES OF DISCIPLINARY PROCEDURE.

OTHER RELIEF

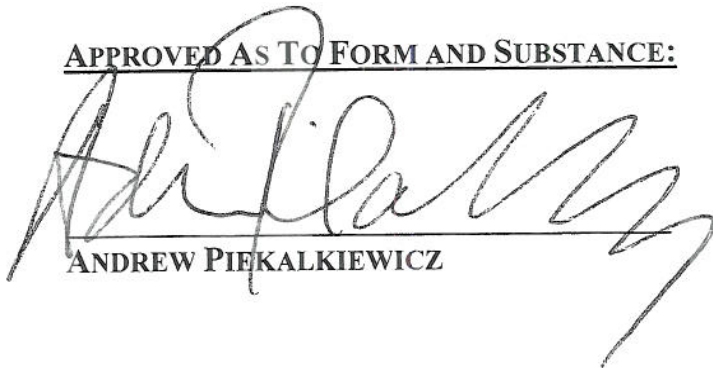
All relief not expressly granted in this Agreed Judgment of Active Suspension is **DENIED.**

SIGNED this _____ day of _____ 2007.

**EVIDENTIARY PANEL
DISTRICT NO. 4C06
STATE BAR OF TEXAS**

BY: PRESIDING MEMBER

APPROVED AS TO FORM AND SUBSTANCE:


ANDREW PIEKALKIEWICZ

Nov. 30, 2007
DATE

LINDA A. ACEVEDO
FIRST ASSISTANT DISCIPLINARY COUNSEL

CYNTHIA W. HAMILTON
ASSISTANT DISCIPLINARY COUNSEL

OFFICE OF THE CHIEF DISCIPLINARY COUNSEL
STATE BAR OF TEXAS
P.O. BOX 12487
AUSTIN, TEXAS 78711
TELEPHONE: 512.453.5535; 1.877.953.5535
FAX: 512.453.6667

A handwritten signature in black ink, appearing to read 'Cynthia W. Hamilton', is written over a horizontal line. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

CYNTHIA W. HAMILTON
STATE BAR CARD No. 00790419
ATTORNEY FOR APPELLEE
COMMISSION FOR LAWYER DISCIPLINE