



FILED
May 06 2026

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

IN THE MATTER OF §
RICO C. REYES § CAUSE NO. 73069
STATE BAR CARD NO. 00786855 §

PETITION FOR COMPULSORY DISCIPLINE

TO THE BOARD OF DISCIPLINARY APPEALS:

The Commission for Lawyer Discipline (hereinafter referred to as “the "Commission"), brings this compulsory discipline action against attorney Rico C. Reyes ("Respondent"), and would show the following:

1. This action is commenced by the Commission pursuant to Part VIII of the Texas Rules of Disciplinary Procedure. The Commission is providing Respondent a copy of this Board's procedures for handling a compulsory discipline matter by attaching a copy of such procedures to this petition.

2. Respondent may be served with a true and correct copy of this Petition for Compulsory Discipline and its attachments, as well as a notice of hearing, at Rico C. Reyes, 9555 W Sam Houston Parkway, S, Ste. 340, Houston, Texas 77099-2270.

3. On or about July 27, 2017, Respondent was charged by Indictment (Exhibit 1) with Misapplication of Fiduciary Property, in Cause Number 1559982, styled *The State of Texas vs. Rico C. Reyes*, in the 179th District Court, Harris County, Texas, which states in pertinent part as follows:

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS:

The duly organized Grand Jury of Harris County, Texas, presents in the District Court of Harris County, Texas, that in Harris County, Texas, RICO C REYES, hereafter styled the Defendant, heretofore on or about

JANUARY 9, 2012 CONTINUING THROUGH SEPTEMBER 17, 2012, and pursuant to one scheme and continuing course of conduct, did then and there unlawfully, while a fiduciary, namely, AN ATTORNEY intentionally and knowingly misapply property, to-wit MONEY of the value of at least one hundred thousand dollars and less than two hundred thousand dollars by DEALING WITH SAID PROPERTY CONTRARY TO AN AGREEMENT UNDER WHICH THE DEFENDANT HELD THE PROPERTY and in a manner that involved substantial risk of loss to DR. ALICE A LIM THE PERSON FOR WHOSE BENEFIT THE PROPERTY WAS HELD

AGAINST THE PEACE AND DIGNITY OF THE STATE.

4. On June 11, 2024, the State of Texas filed a “Motion for Leave to Amend the Indictment.” (Exhibit 2). The purpose of the motion was “to reduce the alleged level and degree of offense and change the NCIC code.” *Id.*

5. On or about October 8, 2024, a Waiver of Constitutional Rights, Agreement to Stipulate, and Judicial Confession (Exhibit 3) was filed in Cause Number 155998201010, styled *The State of Texas vs. Reyes, Rico C*, in the 179th District Court, Harris County, Texas, that states in pertinent part as follows:

...

I understand the above allegations and I confess that they are true and that the acts alleged above were committed on or about January 9, 2012 and continuing through September 17, 2012.

In open court I consent to the oral and written stipulation of evidence in this case and to the introduction of affidavits, written statements, of witnesses, and other documentary evidence. I am satisfied that the attorney representing me today in court has properly represented me and I have fully discussed this case with him. I waive any further time to prepare for trial to which I or my attorney may be entitled.

Open Guilty Plea:

I intend to enter a plea of guilty without an agreed recommendation of punishment from the prosecutor and request that my punishment should be set by the judge. I understand that I have not reached an agreement with the prosecutor as to punishment, and the prosecution reserves the right to argue

for any sentence within the available range of punishment at my sentencing hearing. Further, in exchange for the state waiving its right to a jury trial which then includes within the permissible range of sentence deferred adjudication community supervision, I agree that I have knowingly, intentionally, and voluntarily waived any right of appeal which I may have.

The parties agree that the trial court should assess sentence after a presentence investigation report and hearing.

...

6. On or about November 19, 2024, an Order of Deferred Adjudication (Exhibit 4) was filed in Cause Number 155998201010, styled *The State of Texas v. Reyes, Rico C*, in the 179th District Court, Harris County, Texas, wherein Respondent pleaded guilty to Misapplication/Fiduciary/Finance 100k-200k, a 2nd Degree Felony. Respondent was placed on Deferred Adjudication Community Supervision for a period of ten (10) years. Respondent was further ordered to pay restitution in the amount of \$200,000.00, court costs in the amount of \$290.00, and a reimbursement fee in the amount of \$1070.00.

7. Respondent, Rico C. Reyes, whose bar card number is 00786855, is the same person as the Rico C. Reyes who is the subject of the Indictment, Waiver of Constitutional Rights, Agreement to Stipulate, and Judicial Confession, State's Motion to Amend the Indictment, and Order of Deferred Adjudication described above. True and correct copies of which are attached hereto as Exhibits 1 through 4.

8. Attached hereto as Exhibit 5 is a true and correct copy of an affidavit of Ramiro Canales, Attorney of Record for the Commission herein, attesting to the fact that Respondent is the same person as the person who is the subject of the Indictment, Waiver of Constitutional Rights, Agreement to Stipulate, and Judicial Confession, State's Motion to Amend the Indictment, and Order of Deferred Adjudication entered in Cause No. 155998201010, styled *The State of Texas v. Reyes, Rico C*. The Commission expects to introduce the original of said affidavit at the time of

hearing of this cause.

9. The offense for which Respondent was convicted is an Intentional Crime (as defined by Rule 1.06(V) of the Texas Rules of Disciplinary Procedure).

10. Having pled guilty to an Intentional Crime, and such judgment being final, Respondent is subject to compulsory discipline as provided in Part VIII of the Texas Rules of Disciplinary Procedure.

PRAYER

WHEREFORE, PREMISES CONSIDERED, the Commission prays that Respondent be given notice of these proceedings as provided by law and, upon hearing of this matter, that the Board enter an order imposing compulsory discipline on Respondent and for such other and further relief to which the Commission may be entitled to receive.

Respectfully submitted,

Seana Willing

Chief Disciplinary Counsel

Ramiro Canales

Assistant Disciplinary Counsel

Office of the Chief Disciplinary Counsel

STATE BAR OF TEXAS

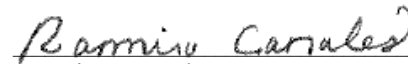
P.O. Box 12487, Capitol Station

Austin, Texas 78711-2487

Telephone: 512.427.1350

Facsimile: 512.427.4253

Email: ramiro.canales@texasbar.com



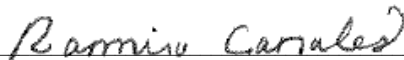
Ramiro Canales

State Bar Card No. 24012377

ATTORNEYS FOR THE COMMISSION

CERTIFICATE OF SERVICE

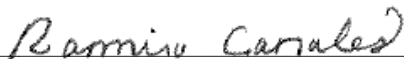
I hereby certify that a true and correct copy of the foregoing instrument has been sent for service on Rico C. Reyes, 9555 W Sam Houston Parkway, S, Ste. 340, Houston, Texas 77099-2270, Via Personal Service on this 6th day of May, 2026.



Ramiro Canales

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that a trial on the merits of the Petition for Compulsory Discipline heretofore sent to be filed with the Board of Disciplinary Appeals on this day, will be held in the courtroom of the Supreme Court of Texas, Tom C. Clark Building, 14th and Colorado Streets, Austin, Texas, at 9:00 a.m. on the **31st day of July, 2026**. The Board of Disciplinary Appeals will notify the parties of any changes to the hearing location or format.



Ramiro Canales

THE STATE OF TEXAS
VS

RICO C REYES
9555 W. SAM HOUSTON PKWY
SOUTH #340
HOUSTON, TX 77099

SPN 02914177
DOB WM 05/14/1952
DATE PREPARED 7/27/2017

D A LOG NUMBER 2372895
CJIS TRACKING NO
BY DSM DA NO 052495100
AGENCY HARRIS COUNTY D.A.
O/R NO 1620377
ARREST DATE

NCIC CODE 269905

RELATED CASES

FELONY CHARGE MISAPPLICATION OF FIDUCIARY PROPERTY
CAUSE NO 1559982
HARRIS COUNTY DISTRICT COURT NO 179
FIRST SETTING DATE

BAIL \$50,000
PRIOR CAUSE NO

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS:

The duly organized Grand Jury of Harris County, Texas, presents in the District Court of Harris County, Texas, that in Harris County, Texas, RICO C REYES, hereafter styled the Defendant, heretofore on or about JANUARY 9, 2012 CONTINUING THROUGH SEPTEMBER 17, 2012, and pursuant to one scheme and continuing course of conduct, did then and there unlawfully, while a fiduciary, namely, AN ATTORNEY intentionally and knowingly misapply property, to-wit MONEY of the value of at least one hundred thousand dollars and less than two hundred thousand dollars by DEALING WITH SAID PROPERTY CONTRARY TO AN AGREEMENT UNDER WHICH THE DEFENDANT HELD THE PROPERTY and in a manner that involved substantial risk of loss to DR. ALICE A LIM THE PERSON FOR WHOSE BENEFIT THE PROPERTY WAS HELD

FILED

Chris Daniel
District Clerk

JUL 27 2017

Time: 3:00
By: [Signature]
Harris County, Texas
Deputy

Foreman

177th

[Signature]

AGAINST THE PEACE AND DIGNITY OF THE STATE.

EXHIBIT

1

FOREMAN OF THE GRAND JURY

INDICTMENT

RECORDER'S MEMORANDUM
This instrument is of poor quality
at the time of imaging.



I, Marilyn Burgess, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office this January 5, 2026

Certified Document Number: 122160233 Total Pages: 1

Marilyn Burgess, DISTRICT CLERK
HARRIS COUNTY, TEXAS

In accordance with Texas Government Code 51.301 and 406.013 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail support@hcdistrictclerk.com

CAUSE NO. 155998201010

THE STATE OF TEXAS

VS.

REYES, RICO C

§
§
§
§
§

IN THE 179TH DISTRICT COURT

OF

HARRIS COUNTY, TEXAS

ADDO
TRMAIN
995

STATE'S MOTION FOR LEAVE TO AMEND THE INDICTMENT

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW THE STATE OF TEXAS, by and through her undersigned Assistant District Attorney, and moves the Court, pursuant to TEX. CODE CRIM. PROC., art. 28.10 for leave to amend the INDICTMENT in the above captioned and numbered cause. The State respectfully requests this Court for leave to amend the INDICTMENT to reduce the alleged level and degree of offense and change the NCIC code.

Therefore, the State requests that the NCIC code be changed to 269905 and INDICTMENT read in pertinent part as follows:

The duly organized Grand Jury of Harris County, Texas, presents in the District Court of Harris County, Texas, that in Harris County, Texas, RICO C REYES, hereafter styled the Defendant, heretofore on or about JANUARY 9, 2012 CONTINUING THROUGH SEPTEMBER 17, 2012, and pursuant to one scheme and continuing course of conduct, did then and there unlawfully, while a fiduciary, namely, AN ATTORNEY intentionally and knowingly misapply property, to-wit MONEY of the value of at least one hundred thousand dollars and less than two hundred thousand dollars by DEALING WITH SAID PROPERTY CONTRARY TO AN AGREEMENT UNDER WHICH THE DEFENDANT HELD THE PROPERTY and in a manner that involved substantial risk of loss to DR. ALICE A LIM THE PERSON FOR WHOSE BENEFIT THE PROPERTY WAS HELD

WHEREFORE, PREMISES CONSIDERED, the State of Texas respectfully moves the Court to amend the INDICTMENT in the above numbered and entitled cause so that justice may be done.

Respectfully submitted,

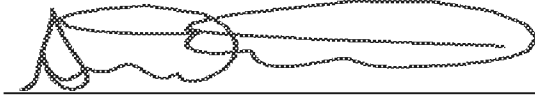


DRIVER, STEPHEN
Assistant District Attorney
Harris County District Attorney's Office
TBC No. 24058663
DRIVER_STEPHEN@DAO.HCTX.NET



CERTIFICATE OF SERVICE

I, the undersigned attorney, hereby certify that a true and correct copy of the State's Motion for leave to amend the INDICTMENT was e-mailed to counsel for the Defendant (if any such counsel existed as attorney of record) on this date by electronic service using his State Bar of Texas official address for electronic service.



DRIVER, STEPHEN

Assistant District Attorney

Harris County District Attorney's Office

TBC No. 24058663

DRIVER_STEPHEN@DAO.HCTX.NET

CAUSE NO. 155998201010

THE STATE OF TEXAS

VS.

REYES, RICO C

§
§
§
§
§

IN THE 179TH DISTRICT COURT

OF

HARRIS COUNTY, TEXAS

ORDER

BE IT REMEMBERED that on this day, after proper and timely notice to the Defendant, by and through his attorney of record, came on to be heard and considered the State's Motion for Leave to Amend the INDICTMENT, and in which the State requests leave to amend the INDICTMENT in the above captioned and numbered cause. The Court having considered said Motion, it is hereby--

ORDERED that said Motion for Leave to Amend the INDICTMENT is GRANTED.

SIGNED AND ENTERED on .

Signed:
6/12/2024



JUDGE PRESIDING
Harris County, Texas



I, Marilyn Burgess, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office this January 5, 2026

Certified Document Number: 114886515 Total Pages: 3

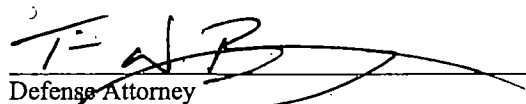
Marilyn Burgess, DISTRICT CLERK
HARRIS COUNTY, TEXAS

In accordance with Texas Government Code 51.301 and 406.013 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail support@hcdistrictclerk.com

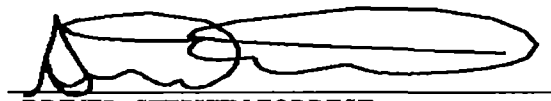
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RECORDER'S MEMORANDUM
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at the time of imaging

I represent the defendant in this case and I believe that this document was executed by him knowingly and voluntarily and after I fully discussed it and its consequences with him. I believe that he is competent to stand trial. I waive any further time to prepare for trial to which I or the defendant may be entitled.


Defense Attorney
BALLENBEE, TIMOTHY WELSH

I consent to and approve the above waiver of trial by jury and stipulation of evidence


DRIVER, STEPHEN FORREST
Assistant District Attorney
Harris County, Texas
TBC No. 24058663
DRIVER_STEPHEN@dao.hctx.net

This document was executed by the defendant, his attorney, and the attorney representing the State, and then filed with the papers of the case. The defendant then came before me and I approved the above and the defendant entered a plea of guilty. After I admonished the defendant of the consequences of his plea, I ascertained that he entered it knowingly and voluntarily after discussing the case with his attorney. It appears that the defendant is mentally competent and the plea is free and voluntary. I find that the defendant's attorney is competent and has effectively represented the defendant in this case.


Judge Presiding
Harris County 179th District Court
Signed on 10/8/2024

PLEA OF GUILTY

CAUSE NO. 155998201010

STATE OF TEXAS

VS.

REYES, RICO C

§ IN THE 179TH DISTRICT COURT

§ OF

§ HARRIS COUNTY, TEXAS

ADMONISHMENTS

Pursuant to article 26.13(d), Code of Criminal Procedure, the court admonishes you, the defendant, as follows and instructs you to place your initials by each item if you fully understand it.

X RM

You are charged with the felony offense of:
MISAPP/FIDUC/FINAN OVER 200K (269906)

The State moves to reduce such charge to:
MISAPP/FIDUC/FINAN 100K-200K (269905)

If convicted, you face the following range of punishment:

X RM

Second Degree Felony: A term of not more than 20 years or less than 2 years in the Correctional Institutions Division of the Texas Department of Criminal Justice and, in addition, a fine not to exceed \$10,000.00 may be assessed.

X RM

PLEA BARGAINS: If no plea bargain agreement exists, the recommendation of the prosecuting attorney is not binding on the Court. If a plea bargain agreement does exist, the Court will inform you whether or not it will follow that plea bargain agreement before making any finding on your plea. Should the Court reject the plea bargain agreement, you will be permitted to withdraw your plea, if you so desire.

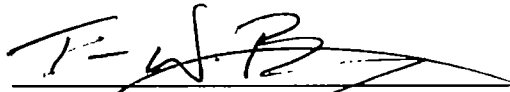
X RM

PERMISSION TO APPEAL: If the punishment assessed by the court does not exceed the punishment recommended by the prosecutor and agreed to by you and your attorney, the court must give its permission to you before you may prosecute an appeal on any matter in this case except for those matters raised by you by written motion filed prior to trial.

X RM

CITIZENSHIP: If you are not a citizen of the United State of America, a plea of guilty or nolo contendere for the offense with which you are charged in this case may result in your deportation, your exclusion from admission to this country, or your denial of naturalization under federal law; **My attorney has advised me that this plea will result in the following immigration consequences for me:**

I have advised my client and my client understands the immigration admonition above and is aware of the consequences of the plea.


BALLENLEE, TIMOTHY WELSH
Attorney for Defendant (signature)


DEFERRED ADJUDICATION: I understand that if the court defers entering a finding of guilt and places me on deferred adjudication community supervision:

- Upon a violation of a condition of community supervision, I may be arrested and detained.
- I will be entitled to a hearing limited to the determination by the Court of whether to proceed with an adjudication of guilt on the original charge. If the Court determines that I violated a condition of probation, the Court may assess my punishment within the full range of punishment for this offense.
- After an adjudication, all proceedings, including the assessment of punishment, pronouncement of sentence, and granting of community supervision, continue as if the adjudication of guilt had not been deferred.
- If I successfully complete this deferred adjudication, I may be eligible to petition the Court for non-disclosure of the criminal history record information related to this case in accordance with Texas Government Code Sec. 411.081. Otherwise it will remain a public record.

STATEMENTS AND WAIVERS OF DEFENDANT


I am mentally competent, that I understand the nature of the charges against me;


I understand the admonishments of the trial court set out herein;


I hereby WAIVE the right to have the trial court orally admonish me;


I WAIVE the right to have a court reporter record my plea;


I represent to the trial court that the State will make the plea bargain agreement or recommendation, if any, set forth in the Waiver of Constitutional Rights, Agreement to Stipulate, and Judicial confession herein and I understand the consequences, as set out above, should the trial court accept or refuse to accept the plea bargain or plea without an agreed recommendation;


I further state my plea is freely, knowingly and voluntarily made;

KLK

If my counsel was appointed, I waive and give up any time provided me by law to prepare for trial;

KLK

I am totally satisfied with the representation provided by my counsel and I received effective and competent representation;

KLK

I waive and give up my right to a jury in this case and my right to require the appearance, confrontation, and cross-examination of the witnesses;

KLK

I understand that before sentence may be imposed, the Court must order preparation of a Presentence Investigation Report by the probation officer pursuant to Article 42A.252 TEX CODE CRIM. P. I have thoroughly discussed this matter with my attorney and believe that for the Court to compel me to participate in the preparation of such a report would abridge the protection provided me by the Constitution of the United States and the Constitution and laws of the State of Texas and could result in further prejudice to me. Therefore, I hereby in writing respectfully decline to participate in the preparation of a Presentence Investigation Report and request that said report not be made prior to the imposition of sentence herein. I further knowingly, voluntarily, and intelligently waive any right which I may have to the preparation of said report either under Article 42A.252, TEX CODE CRIM. P., or under Article 42.09, Sec 8. TEX CODE CRIM. P.;

KLK

I fully understand the consequences of my plea herein, and after having fully consulted with my attorney, and I hereby request that the trial court accept said plea;

KLK

I waive and give up under Article 1.14 of the Texas Code of Criminal Procedure any and all rights given to me by law whether of form, substance, or procedure;

KLK

I have freely, knowingly, and voluntarily executed this statement in open court with the consent of and approval of my attorney;

KLK

I read and write English. I have read and I understand this document, the Waiver of Constitutional Rights, Agreement to Stipulate, Judicial Confession and Plea of Guilty filed In this case;

~~I speak English, this document, the Waiver of Constitutional Rights, Agreement to Stipulate, Judicial Confession and Plea of Guilty filed in this case were read to me by _____ I understand their content;~~

~~I speak _____. And this document, the Waiver of Constitutional Rights, Agreement to Stipulate, Judicial Confession and Plea of Guilty filed in this case were translated for me by _____. I understand their Content;~~

KLK

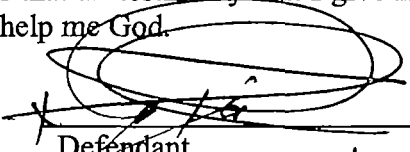
I understand that if the trial court accepts my plea of Guilty to the above-listed offense, and I have elected to have a jury assess punishment that the trial court will instruct the jury to return a verdict of guilty and will then instruct the jury to assess punishment in my case following the presentation of any evidence relevant to the issue of punishment, unless I have waived my right to trial by jury pursuant to Articles 1.13 and 37.07 of the Texas Code of Criminal Procedure;

KLK

I hereby swear to all the foregoing, and I further swear that all testimony that I give in this case will be the truth, the whole truth and nothing but the truth, so help me God. I hereby state that I have read or have been read the indictment or information filed in this case, and

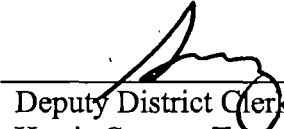
UWA I confess and admit that I committed each and every allegation contained therein. I state that I am guilty of the offense alleged, as well as any and all lesser included offenses.

I hereby swear to all the foregoing, and I further swear that all testimony that I give in this case will be the truth, the whole truth, and nothing but the truth, so help me God.

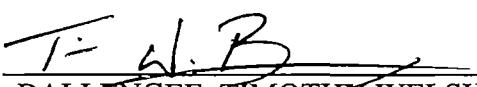

Defendant

SWORN TO AND SUBSCRIBED BEFORE ME ON THIS DATE:

10/8/2024


Deputy District Clerk
Harris County, Texas

We join and approve the waiver of jury trial pursuant to Article 1.13 of the Texas Code of Criminal Procedure and the stipulations of evidence pursuant to Article 1.15 of the Texas Code of Criminal Procedure.


BALLENLEE, TIMOTHY WELSH
Attorney for Defendant


DRIVER, STEPHEN FORREST
Assistant District Attorney
Harris County District Attorney's Office
TBC No. 24058663
DRIVER_STEPHEN@dao.hctx.net

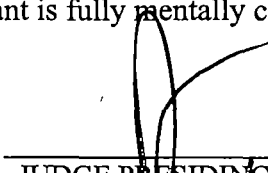
FILED
Marilyn Burgess
District Clerk

OCT 08 2024

Time: _____
Harris County, Texas

By _____
Deputy

In addition, the Court hereby finds that the defendant is fully mentally competent, and that his or her plea is freely, knowingly and voluntarily entered.


JUDGE PRESIDING

Signed on 10/8/2024
179th

Harris County, Texas

CAUSE NO. 155998201010

THE STATE OF TEXAS

VS.

REYES, RICO C

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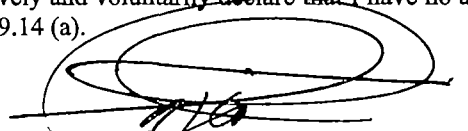
IN THE 179TH DISTRICT COURT

OF

HARRIS COUNTY, TEXAS

ACKNOWLEDGMENT OF COMPLIANCE WITH
TEXAS CODE OF CRIMINAL PROCEDURE ARTICLE 39.14 (a)

Comes now the defendant and hereby withdraws any requests made in the above numbered cause for further discovery pursuant to Texas Code of Criminal Procedure Article 39.14 (a). My attorney has fully and completely explained to me my right to request discovery under Texas Code of Criminal Procedure Article 39.14 (a) and I understand that right. I am satisfied with the State's compliance and I affirmatively and voluntarily declare that I have no additional requests for discovery of items pursuant to Texas Code of Criminal Procedure Article 39.14 (a).

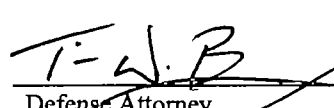

REYES, RICO C

SUBSCRIBED AND SWORN TO before me on

10/8/2024


Harris County Deputy District Clerk

I represent the defendant in this case, and I believe that this document was executed by him freely, knowingly, and voluntarily. My client and I have fully discussed his right to discovery under Texas Code of Criminal Procedure Article 39.14 (a), and I believe that he understands this right and the consequences of executing this document. It is my opinion that he is competent to make this acknowledgment, and along with him and at his instruction I also withdraw any pending or additional discovery requests made pursuant to Texas Code of Criminal Procedure Article 39.14(a).


Defense Attorney

WELSH, TIMOTHY WELSH

This document was executed by the defendant, his attorney, and then filed with the papers of the case. The defendant came before me and I approved the above acknowledgment along with the defendant's plea of guilty. It appears that the defendant is mentally competent to withdraw any request he may have made for further discovery pursuant to Texas Code of Criminal Procedure Article 39.14 (a), and is doing so freely and voluntarily. I find that the defendant's attorney adequately informed him of his right to discovery under Texas Code of Criminal Procedure Article 39.14 (a) and the effects of this acknowledgment.

NOTHING HEREIN SHALL ABRIDGE THE STATE'S ONGOING DUTY TO DISCLOSE TO THE DEFENDANT ANY EXCULPATORY, IMPEACHMENT OR MITIGATING INFORMATION IN THE POSSESSION, CUSTODY OR CONTROL OF THE STATE THAT TENDS TO NEGATE THE GUILT OF THE DEFENDANT OR WOULD TEND TO REDUCE THE PUNISHMENT FOR THE OFFENSE CHARGED.

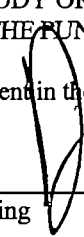
The Court hereby **ORDERS** the District Clerk of Harris County, Texas to file this document in the Court's record in this cause.

FILED
Marilyn Burgess
District Clerk

OCT 08 2024

Time: _____
Harris County, Texas

By _____
Deputy


Judge Presiding

THE STATE OF TEXAS

§
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§
§
§

IN THE 179TH DISTRICT COURT

VS.

OF

REYES, RICO C

HARRIS COUNTY, TEXAS

TEXAS CODE OF CRIMINAL PROCEDURE ARTICLE 39.14
JOINT LIST OF RELEASED DISCOVERY

COMES NOW, the State of Texas by and through the undersigned assistant district attorney and the undersigned attorney for the above named defendant and would jointly show the Court the following:

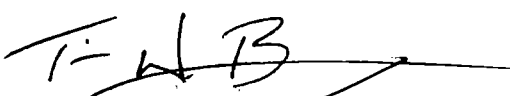
Pursuant to Texas Code of Criminal Procedure Article 39.14(j) this document and the attached pages encompass the discoverable documents and evidence requested by the defendant and released by the State. Additionally, the below signed Assistant District Attorney declares that he/she permitted inspection of the entire Harris County District Attorney's Office file for this cause with the exception of items privileged by law or designated as work product of the District Attorney or her investigators. The signatures included on this document represent a declaration of release and receipt on the dates and in the forms therein related. The parties also incorporate by reference all notices on file in the Clerk's Record under this cause number provided in compliance with the requirements of the Texas Code of Criminal Procedure and the Texas Penal Code. Based on the signatures provided in this document and the documents incorporated by reference, the below signed Assistant District Attorney and defense counsel do hereby acknowledge that all the designated items thereby referenced were released pursuant to Texas Code of Criminal Procedure Article 39.14, and that the State has produced all the discoverable items requested by the defense as of the entry of the plea or commencement of trial. This document and the attached log are the acknowledgment required by article 39.14(j), and act as a written record of the documents, items, and information requested by and provided to the defendant in relation to this cause number, as is hereby witnessed to by our signatures as counsel for the parties.

ASSISTANT DISTRICT ATTORNEY
HARRIS COUNTY, TEXAS



DRIVER, STEPHEN FORREST
Assistant District Attorney
TBC No. 24058663
DRIVER_STEPHEN@dao.hctx.net

DEFENSE ATTORNEY



BALLENGEE, TIMOTHY WELSH
Defense Attorney
TBC No. 24063798

LIST OF RELEASED DISCOVERY ORDER

On this date the Harris County District Attorney and the attorney for the Defendant in the above Cause presented to the Court this *Texas Code of Criminal Procedure Article 39.14 Joint List of Requested and Released Discovery*. The Court hereby **ORDERS** the District Clerk of Harris County, Texas, to file the entirety of this *Joint List of Requested and Released Discovery* in the Court's record in this Cause.

Signed and Ordered this 10/8/2024.

JUDGE PRESIDING



JOINT LIST OF RELEASED DISCOVERY (Cont'd)

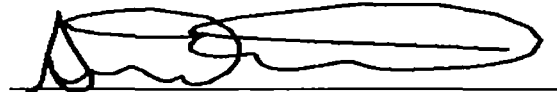
DATE

RELEASED ITEM DESCRIPTION

03/06/2020 REYES R (DocumentID: 5185063)
03/09/2020 OR (DocumentID: 5191428)
03/25/2022 SB737185F1 21Jun161458 (DocumentID: 10316678)
03/25/2022 Chase 1st Production SB737185F1 (DocumentID: 10316680)
03/25/2022 Chase 2nd Production SB737185F2 (DocumentID: 10316720)
03/25/2022 SB737185F1 21Jun161456 (DocumentID: 10316721)
03/25/2022 SB737185F1 21Jun161457 (DocumentID: 10316722)
03/25/2022 Encrypted EIF 01170088 (DocumentID: 10316723)
03/25/2022 Checks paid to Reyes (DocumentID: 10316725)
03/25/2022 Another Lawsuit against Reyes 1 (DocumentID: 10316726)
03/25/2022 Another Lawsuit against Reyes (DocumentID: 10316727)
03/25/2022 Original Petition (DocumentID: 10316728)
03/25/2022 Final Judgment (DocumentID: 10316729)
03/25/2022 Final Judgment_1 (DocumentID: 10316730)
03/25/2022 Correspondence_Akers Reyes_Quit Claim Deed 2 (DocumentID: 10316731)
03/25/2022 Initial Contract_Reyes Lim (DocumentID: 10316732)
03/25/2022 Major Fraud Complaint (DocumentID: 10316733)
03/25/2022 Agreement_Quit Claim Deed 1 (DocumentID: 10316734)
03/25/2022 Attempts to contact Reyes (DocumentID: 10316735)
03/25/2022 Checks (DocumentID: 10316736)
03/25/2022 State Bar of Texas_Find A Lawyer_Rico C (DocumentID: 10316738)
03/25/2022 Phar PD Report (DocumentID: 10316750)
03/25/2022 65350747 001_M_20150508_8A FINAL JUDGMENT SIGNED_65350747 (DocumentID: 10316752)
03/25/2022 Email to Tim Ballengee RE Discovery (DocumentID: 10316782)
06/11/2024 16-20377 Rico Reyes Offense Report.pdf (DocumentID: 10371410)
10/16/2023 20159610 Offense (DocumentID: 15062013)
10/16/2023 20159610 Supplement (DocumentID: 15062014)
10/16/2023 20159610 Offense (DocumentID: 15062051)
10/16/2023 20159610 Supplement (DocumentID: 15062052)
02/26/2024 FW PSI Rico Reyes 02914177 (DocumentID: 19518787)
02/26/2024 FW PSI Rico Reyes 02914177 (DocumentID: 19518788)
01/06/2022 RIP Call on 01/06/2022 (CallID: 5873)

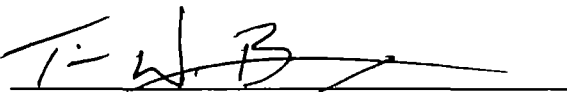
The below signatures of the State and defendant hereby acknowledge the disclosure and receipt of all reports, documents, and items listed herein and provided to the defendant pursuant to Article 39.14 of the Texas Code of Criminal Procedure.

**ASSISTANT DISTRICT ATTORNEY
HARRIS COUNTY, TEXAS**



DRIVER, STEPHEN FORREST
Assistant District Attorney
TBC No. 24058663
DRIVER_STEPHEN@dao.hctx.net

DEFENSE ATTORNEY



BALLENGEE, TIMOTHY WELSH
Defense Attorney
TBC No. 24063798

THE STATE OF TEXAS

VS.

REYES, RICO C

§
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§
§
§

IN THE 179TH DISTRICT COURT

OF

HARRIS COUNTY, TEXAS

ADVICE OF DEFENDANT'S RIGHT OF APPEAL

The Court, pursuant to TEX. R. APP. P. 25.2, advises the Defendant as follows:

1. Texas law gives a defendant convicted of a crime the right to appeal his conviction.
2. If you **pled guilty** or **no contest** and accepted the punishment recommended by the prosecutor, you cannot appeal your conviction unless this Court gives you permission. If you **waived** or gave up your right to appeal, you **cannot** appeal your conviction.
3. If you did not plead guilty, you may have the right to appeal. If you want to appeal, you must give notice of appeal **in writing** to this Court's clerk within **30 days**.
4. If an attorney represents you in the court of appeals, your attorney must mail a copy of the court of appeals judgment and opinion to your last known address. You must tell your attorney, in writing, of any **change in your address**.
5. If you are not satisfied with your appeal's result, you can ask the Court of Criminal Appeals to review your case by filing a petition for discretionary review within **30 days** of the opinion's issuance in the court of appeals. If you fail to inform your attorney of any change in your address, you may lose the opportunity to seek discretionary review.

The Defendant declares the following to the Court (choose one)

- ☒ I read and write English. I have read and I understand this document. or
- ☐ I speak English. _____ read this document to me. I understand its contents. or
- ☐ I do not speak English. _____ translated this document for me. I understand its contents.

Sworn and subscribed to me before on

10/8/2024

Harris County Deputy District Clerk

FILED
Marilyn Burgess
District Clerk

OCT 08 2024

Time: _____
Harris County, Texas

By _____
Deputy

Defendant

Judge
Harris County 179th District Court
Harris County, Texas

THE STATE OF TEXAS

VS.

REYES, RICO C

§
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§
§

IN THE 179TH DISTRICT COURT

OF

HARRIS COUNTY, TEXAS

TRIAL COURT'S CERTIFICATION OF DEFENDANT'S RIGHT OF APPEAL*

I, judge of the trial court, certify this criminal case:

- ☐ Is not a plea-bargain case, and the defendant has the right of appeal [or]
- ☐ Is a plea-bargain case, but matters were raised by written motion filed and ruled on before trial, and not withdrawn or waived, and the defendant has the right of appeal [or]
- ☐ Is a plea-bargain case, but the trial court has given permission to appeal, and the defendant has the right of appeal [or]
- ☐ Is a plea-bargain case, and the defendant has NO right of appeal [or]
- ☒ The defendant has waived the right of appeal.

Judge

Date Signed

I have received a copy of this certification. I have also been informed of the rights concerning an appeal of this criminal case, including any right to file a *pro se* petition for discretionary review pursuant to Rule 68 of the Texas Rules of Appellate Procedure. I have been admonished that my attorney must mail a copy of the court of appeals' judgement and opinion to my last known address and that I have only 30 days in which to file a *pro se* petition for discretionary review in the Court of Criminal Appeals. TEX. R. APP. P. 68.2 I acknowledge that, if I wish to appeal this case and if I am entitled to do so, it is my duty to inform my appellate attorney, by written communication of any change in the address at which I am currently living or any change in my current prison unit. I understand that, because of appellate deadline, if I fail to timely inform my appellate attorney of any change in my address, I may lose the opportunity to file a *pro se* petition for discretionary review.

Defendant REYES, RICO C

Mailing address:

Telephone number:

Fax number (if any):

FILED
Marilyn Burgess
District Clerk

OCT 08 2024

Time: _____
Harris County, TexasBy _____
Deputy

Defendant's Counsel BALLENGEE, TIMOTHY WELSH

State Bar of Texas ID number: 24063798

Mailing Address: 2500 E. T.C. JESTER., HOUSTON, TX 77008

Telephone number: 7134894700

Fax or Email (if any): tim@ballengeelawfirm.com

* "A defendant in a criminal case has the right of appeal under these rules. The trial court shall enter a certification of the defendant's right to appeal in every case in which it enters a judgement of guilt or other appealable order. In a plea bargain case—that is, a case in which a defendant's plea was guilty or *nolo contendere* and the punishment did not exceed the punishment recommended by the prosecutor and agreed to by the defendant—a defendant may appeal only: (A) those matters that were raised by a written motion filed and ruled on before trial, or (B) after getting the trial court's permission to appeal." Texas Rules of Appellate Procedure 25.2(a)(2).



I, Marilyn Burgess, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office this January 5, 2026

Certified Document Number: 116893662 Total Pages: 11

Marilyn Burgess, DISTRICT CLERK
HARRIS COUNTY, TEXAS

In accordance with Texas Government Code 51.301 and 406.013 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail support@hcdistrictclerk.com



THE STATE OF TEXAS

§ IN THE 179TH DISTRICT

Pgs-7

V.

§ COURT

DIDADJ

REYES, RICO C

§ HARRIS COUNTY, TEXAS

(993-

ADDO

(992)

STATE ID NO.: TX18545268

§

ORDER OF DEFERRED ADJUDICATION

Judge Presiding: ANA MARTINEZ

Date Proceedings
Deferred: 11/19/2024

Attorney for State: STEPHEN DRIVER

Attorney for
Defendant: BALLENGEE, TIMOTHY WELSH

Offense:

MISAPP/FIDUC/FINAN 100K-200K (269905)

Charging Instrument:

INDICTMENT

Statute for Offense:

Date of Offense:

1/9/2012 CONTINUING THROUGH 09-17-12

Defendant waived the right to trial by jury and entered the plea below:

GUILTY

Degree of Offense:

2ND DEGREE FELONY

Findings on Deadly Weapon:

N/A

1st Enhancement Paragraph:

N/A

Finding on 1st Enhancement Paragraph:

N/A

2nd Enhancement Paragraph:

N/A

Findings on 2nd Enhancement Paragraph:

N/A

Terms of Plea Bargain (if any): or ☐ Terms of Plea Bargain are attached and incorporated herein by this reference.

WITHOUT AN AGREED RECOMMENDATION

REDUCED FROM 1ST DEGREE

ADJUDICATION OF GUILT DEFERRED;

DEFENDANT PLACED ON DEFERRED ADJUDICATION COMMUNITY SUPERVISION.

PERIOD OF DEFERRED ADJUDICATION COMMUNITY SUPERVISION: 10 YEARS.

CONFINEMENT AS A CONDITION OF DEFERRED ADJUDICATION COMMUNITY SUPERVISION:

☐ The Court **ORDERS** Defendant confined _____ DAYS in ☐ THE COUNTY JAIL ☐ A STATE JAIL FACILITY as a condition of deferred adjudication community supervision. The period of confinement as a condition of community supervision starts when Defendant arrives at the designated facility, absent a special order to the contrary.

Fines:

\$ N/A

Court Costs:

\$ 290.00

Reimbursement Fees:

\$ 1070.00

Restitution:

\$ 200,000 (see Cond. C.S.)

Restitution Payable to: N/A

(See special finding or order of restitution which is incorporated herein by this reference.)

☐ Defendant is required to register as sex offender in accordance with Chapter 62, Tex. Code Crim. Proc.

(For sex offender registration purposes only) The age of the victim at the time of the offense was N/A .

Was the victim impact statement returned to the attorney representing the State? N/A

This cause was called and the parties appeared. The State appeared by her District Attorney as named above.

Counsel / Waiver of Counsel (select one)

☒ Defendant appeared with Counsel.

☐ Defendant appeared without counsel and knowingly, intelligently, and voluntarily waived the right to representation by counsel in writing in open court.

Both parties announced ready for trial. Defendant waived the right of trial by jury and entered the plea indicated above. The Court admonished Defendant. It appeared to the Court that Defendant was mentally competent to stand trial, made the plea freely and voluntarily, and was aware of the consequences of the plea. The Court received the plea and entered it of record. Having heard the evidence submitted, the Court **FINDS** that such evidence

EXHIBIT

4

substantiates Defendant's guilt. However, the Court **FINDS** that it is in the best interest of society and Defendant to defer proceedings without entering an adjudication of guilt and to place Defendant on deferred adjudication community supervision.

Therefore, the Court **ORDERS** no judgment entered at this time. The Court further **ORDERS** Defendant placed on deferred adjudication community supervision for the period of time indicated above as long as Defendant abides by the conditions of the deferred adjudication community supervision.

The Court **FINDS** that the Presentence Investigation, if so ordered, was done according to the applicable provisions of Subchapter F, Chapter 42A, Tex. Code Crim. Proc.

The Court **ORDERS** Defendant to pay the fines, court costs, reimbursement fees, and restitution as indicated above and further detailed below.

The document setting forth the conditions of deferred adjudication community supervision is attached and incorporated herein by this reference.

Fines Imposed Include (check each fine and enter each amount as pronounced by the court):

- ☐ General Fine (§12.32, 12.33, 12.34, or 12.35, Penal Code, Transp. Code, or other Code) \$ (not to exceed \$10,000)
- ☐ Add'l Monthly Fine for Sex Offenders (Art. 42A.653, Code Crim. Proc.) \$ As assessed as a Cond. CS (\$5.00/per month of community supervision)
- ☐ Child Abuse Prevention Fine (Art. 102.0186, Code Crim. Proc.) **\$100**
- ☐ EMS, Trauma Fine (Art. 102.0185, Code Crim. Proc.) **\$100**
- ☐ Family Violence Fine (Art. 42A.504 (b), Code Crim. Proc.) **\$100**
- ☐ Juvenile Delinquency Prevention Fine (Art. 102.0171(a), Code Crim. Proc.) **\$50**
- ☐ State Traffic Fine (§ 542.4031, Transp. Code) **\$50**
- ☐ Children's Advocacy Center Fine - as Cond of CS (Art. 42A.455, Code Crim. Proc.) \$ As assessed in Cond of CS (not to exceed \$50)
- ☐ Repayment of Reward Fine - as Cond of CS (Art. 42A.301 (b) (20), Code Crim. Proc.) \$ As assessed as a Cond. CS. (not to exceed \$50)
- ☐ Payment of Fine to Crime Stoppers Organization - as Cond of CS (Art. 42A.104, Code Crim. Proc.) \$ (not to exceed \$50)

Furthermore, the following special findings or orders apply:

☐ **Weapon Forfeiture:** The Court Finds that a law enforcement agency, namely, , seized a weapon, namely, , in connection with an offense involving the use of a weapon or an offense under Chapter 46 of the Penal Code. Accordingly the Court Orders the weapon is forfeited to the State of Texas to be destroyed or used by the law enforcement agency. TEX. CCP. Art 18.18 or 18.19.

Signed on 11/19/2024

X

ANA MARTINEZ
JUDGE PRESIDING

Clerk: B CALLAWAY

Notice of Appeal Filed: _

Mandate Received: _____ Type of Mandate: _____

After Mandate Received, Sentence to Begin Date is: _____

Jail Credit: _____ DAYS

Case Number: 1559982 Court: 179TH Defendant: **REYES, RICO C**



Thumbprint

STATE OF TEXAS
VS.
RICO C REYES

179TH DISTRICT COURT
OF
HARRIS COUNTY, TEXAS

CONDITIONS OF COMMUNITY SUPERVISION

On this the 19th day of November, 2024, you are granted 10 years community supervision for the FELONY - LEVEL 1 offense of MISAPP FIDUC/FINAN PROP>=\$200K in accordance with Article 42A, Texas Code of Criminal Procedure, in the 179TH DISTRICT COURT of Harris County, Texas, by the Honorable Ana Martinez Judge Presiding. It is the order of this Court that you abide by the following Conditions of Community Supervision:

1. Commit no offense against the laws of this or any other State or of the United States. You are to report any arrests within 24 hours.
2. Not use, possess, or consume any illegal drug or prescription drug not currently prescribed to you by a medical professional. You shall bring all current prescription containers to your Community Supervision Officer. If new medication is prescribed, you must bring the new prescription containers by your next scheduled report date.
3. Report to the Community Supervision Officer as directed for the remainder of the supervision term unless so ordered differently by the Court.
4. Permit a Community Supervision Officer to visit you at your home, place of employment or elsewhere.
5. Work at suitable employment and/or attend school full-time. Present either verification of employment or provide a log of all attempts to secure employment to your Community Supervision Officer as directed. You must notify HCCSCD of any change in your employment status by your next scheduled reporting date.
6. Abide by the rules and regulations of the Harris County Community Supervision and Corrections Department (hereinafter referred to as HCCSCD).
7. Remain within Harris County, Texas or any counties directly touching Harris County, Texas. You may not travel outside these locations unless you receive prior written permission from the Court through your Community Supervision Officer.
8. Notify HCCSCD by your next report date of any change in residence.
9. Submit a non-diluted, valid, unaltered sample for the purpose of alcohol/drug monitoring at the request of the HCCSCD.
10. Support your dependents as required by law. Provide your Community Supervision Officer with proof that you are in compliance with all court-ordered support of dependents.
11. Submit to an evaluation of your Educational skill level by 12/19/2024. If it is determined that you have not attained the average skill of students who have completed the sixth grade in public schools in this State, you shall participate in a program that teaches functionally illiterate persons to read. If you are

CONDITIONS OF COMMUNITY SUPERVISION

Defendant **Rico C Reyes**

Cause **155998201010**

non-English speaking, you will participate in English as a Second Language (ESL) program, if it is determined there is a need in order for you to meet the state mandate beginning upon referral until successfully discharged or released by further order of the Court.

12. Not ship, transport, possess, receive, or purchase a firearm, altered firearm, or ammunition, or attempt to ship, transport, possess, receive, or purchase a firearm, altered firearm, or ammunition.
13. Pay all fees through HCCSCD. All payments **MUST** be in the form of a Money Order, Cashier's Check or credit card. Online payments may be made with a credit card at **PAYCSCD.COM**. A \$2.00 transaction fee will be charged by HCCSCD to process each payment.
14. Pay a fine of \$.00 and Court Costs at the rate of \$30.00 per month beginning 12/19/2024 to Harris County through HCCSCD. Court grants credit for 0 days served.
15. Submit to an assessment through HCCSCD Assessment Unit as directed. Participate and successfully complete any program(s) as indicated by the assessment or until further order of the court.
16. Pay \$200,000.00 Restitution at the rate of \$2,100.00 per month beginning 12/19/2024 through HCCSCD.
17. The Court will approve of your request to transfer your community supervision to FLORIDA if the transfer request is approved in accordance with ICAOS Rules by FLORIDA through Texas Interstate Compact. Pay an Application Fee To HCCSCD in the amount of \$500.00 to be paid in monthly installments of \$25.00 beginning 03/19/2025. Comments: TRANSFER FEE.

CONDITIONS OF COMMUNITY SUPERVISION

Defendant Rico C Reyes

Cause 155998201010

I understand that under the laws of this State, the Court shall determine the terms and conditions of Community Supervision, and may alter or modify said conditions during the period of Community Supervision. I further understand that failure to abide by these Conditions of Community Supervision may result in the revocation of Community Supervision or an adjudication of guilt.

Court Directive for Release

Community Supervision expires on November 18, 2034.



SIGN

Rico C Reyes
Defendant

11/19/2024
Date Signed

Signed this the November 19, 2024.



SIGN

Ana Martinez
Presiding Judge



Pablo Villa
Court Liaison Officer

11/19/2024
Date Signed

SPN 02914177

Plea Guilty

STATE OF TEXAS
VS.
RICO C REYES

179TH DISTRICT COURT
OF
HARRIS COUNTY, TEXAS

1ST AMENDED CONDITIONS OF COMMUNITY SUPERVISION

In the above entitled and numbered cause, it appearing to the court that the above-named defendant was placed on community supervision for the offense of MISAPP FIDUC/FINAN 100K-200K under certain terms and conditions set down by the court in the original supervision order dated 11/19/2024.

And it further appearing to the court that the best interest of the public and of the defendant as well will be served by the modification of the terms of supervision;

It is therefore ordered, adjudged and decreed by the court that the previous supervision order(s) be modified, to wit:

18. Amended to correct the Offense.

I understand that under the laws of this State, the Court shall determine the terms and conditions of Community Supervision, and may alter or modify said conditions during the period of Community Supervision. I further understand that failure to abide by these Conditions of Community Supervision may result in the revocation of Community Supervision or an adjudication of guilt.

I have read or had read to me by the CLO/CSO Officer the conditions the Judge has added or changed. I also understand that if I do not accept these changes to my Conditions of Community Supervision, I must make a timely and specific objection and request to appear before the Judge. I understand that if I refuse to accept these amendments, the Judge may issue a warrant for my arrest and I have a right to be represented by counsel. If I am indigent, the Court shall appoint counsel for me. I also understand that I may voluntarily and knowingly accept this modification.

Court Directive for Release

Amended to correct the offense

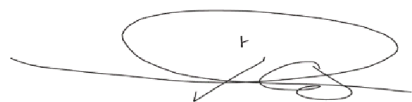
Community Supervision currently expires on November 18, 2034.

Acceptance and Waiver

☒ I understand the terms and consequences for failing to comply with these Conditions of Community Supervision and I knowingly and voluntarily agree to this modification of my conditions. I further understand that by signing these conditions I am affirmatively accepting the terms and I waive any right to object or be represented by counsel.

Objection and Request for Immediate Hearing

☐ I object to this modification of my conditions of Community Supervision and request an immediate hearing before the Judge.



SIGN

11/20/24

Date

Rico C Reyes
Defendant



SIGN

November 20, 2024

Date

Ana Martinez
Judge Presiding



11/20/2024

Court Liaison Officer



I, Marilyn Burgess, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office this January 5, 2026

Certified Document Number: 117650026 Total Pages: 7

Marilyn Burgess, DISTRICT CLERK
HARRIS COUNTY, TEXAS

In accordance with Texas Government Code 51.301 and 406.013 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail support@hcdistrictclerk.com

AFFIDAVIT

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

BEFORE ME, the undersigned authority, on this day personally appeared Ramiro Canales, the Commission's attorney of record, who, being by me duly sworn, deposed as follows:

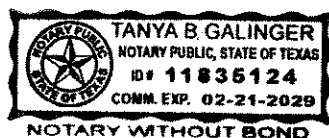
"My name is Ramiro Canales. I am over the age of 18 years, of sound mind, capable of making this affidavit, and state the following:

Based upon information and belief, Rico C. Reyes, whose Texas Bar Card Number is 00786855, is licensed as an attorney and counselor at law in the State of Texas. Based upon information and belief, Rico C. Reyes, named as Respondent in the Petition for Compulsory Discipline filed with the Board of Disciplinary Appeals is one and the same person as the Rico C. Reyes, who is the subject of the Order of Deferred Adjudication filed in Cause Number 155998201010, styled *The State of Texas v. Reyes, Rico C*, in the 179th District Court, Harris County, Texas, wherein Respondent pleaded guilty to Misapplication/Fiduciary/Finance 100k-200k, a 2nd Degree Felony. Respondent was placed on Deferred Adjudication Community Supervision for a period of ten (10) years. Respondent was further ordered to pay restitution in the amount of \$200,000.00, court costs in the amount of \$290.00, and a reimbursement fee in the amount of \$1070.00."

FURTHER Affiant saith not.

Ramiro Canales
Ramiro Canales

SWORN AND SUBSCRIBED before me on the 6th day of May, 2026.

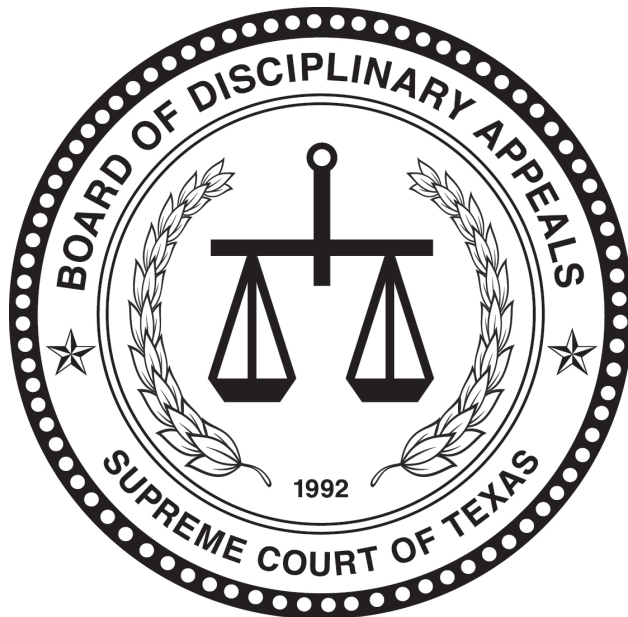


Tanya B. Galinger
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

THE BOARD *of* DISCIPLINARY APPEALS
APPOINTED BY THE SUPREME COURT *of* TEXAS



INTERNAL PROCEDURAL RULES
(EFFECTIVE SEPTEMBER 24, 2024)



Mailing Address:
P.O. Box 12426
Austin TX 78711

1414 Colorado, Suite 610
Austin TX 78701

Tel: 512 427-1578
FAX: 512 427-4130
website: txboda.org

INTERNAL PROCEDURAL RULES

BOARD OF DISCIPLINARY APPEALS

Current through September 24, 2024

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INTERNAL PROCEDURAL RULES

Board of Disciplinary Appeals

Current through September 24, 2024

I. GENERAL PROVISIONS

Rule 1.01. Definitions

- (a) “BODA” is the Board of Disciplinary Appeals.
- (b) “Chair” is the member elected by BODA to serve as chair or, in the Chair’s absence, the member elected by BODA to serve as vice-chair.
- (c) “Classification” is the determination by the CDC under TRDP 2.10 or by BODA under TRDP 7.08(C) whether a grievance constitutes a “complaint” or an “inquiry.”
- (d) “BODA Clerk” is the executive director of BODA or other person appointed by BODA to assume all duties normally performed by the clerk of a court.
- (e) “CDC” is the Chief Disciplinary Counsel for the State Bar of Texas and his or her assistants.
- (f) “Commission” is the Commission for Lawyer Discipline, a permanent committee of the State Bar of Texas.
- (g) “Executive Director” is the executive director of BODA.
- (h) “Panel” is any three-member grouping of BODA under TRDP 7.05.
- (i) “Party” is a Complainant, a Respondent, or the Commission.
- (j) “TDRPC” is the Texas Disciplinary Rules of Professional Conduct.
- (k) “TRAP” is the Texas Rules of Appellate Procedure.
- (l) “TRCP” is the Texas Rules of Civil Procedure.
- (m) “TRDP” is the Texas Rules of Disciplinary Procedure.
- (n) “TRE” is the Texas Rules of Evidence.

Rule 1.02. General Powers

Under TRDP 7.08, BODA has and may exercise all the powers of either a trial court or an appellate court, as the case may be, in hearing and determining disciplinary proceedings. But TRDP 15.01 [17.01] applies to the enforcement of a judgment of BODA.

Rule 1.03. Additional Rules in Disciplinary Matters

Except as varied by these rules and to the extent applicable, the TRCP, TRAP, and TRE apply to all disciplinary matters before BODA, except for appeals from classification decisions, which are governed by TRDP 2.10 and by Section 3 of these rules.

Rule 1.04. Appointment of Panels

- (a) BODA may consider any matter or motion by panel,

except as specified in (b). The Chair may delegate to the Executive Director the duty to appoint a panel for any BODA action. Decisions are made by a majority vote of the panel; however, any panel member may refer a matter for consideration by BODA sitting en banc. Nothing in these rules gives a party the right to be heard by BODA sitting en banc.

- (b) Any disciplinary matter naming a BODA member as Respondent must be considered by BODA sitting en banc. A disciplinary matter naming a BODA staff member as Respondent need not be heard en banc.

- (c) BODA may, upon decision of the Chair, conduct any business or proceedings—including any hearing, pretrial conference, or consideration of any matter or motion—remotely.

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 or a complaint is not required to be filed electronically.

- (ii) The following documents must not be filed electronically:

- a) documents that are filed under seal or subject to a pending motion to seal; and

- b) documents to which access is otherwise restricted by court order.

(iii) For good cause, BODA may permit a party to file other documents in paper form in a particular case.

(5) **Format.** An electronically filed document must:

(i) be in text-searchable portable document format (PDF);

(ii) be directly converted to PDF rather than scanned, if possible; and

(iii) not be locked.

(b) A paper will not be deemed filed if it is sent to an individual BODA member or to another address other than the address designated by BODA under Rule 1.05(a)(2).

(c) **Signing.** Each brief, motion, or other paper filed must be signed by at least one attorney for the party or by the party pro se and must give the State Bar of Texas card number, mailing address, telephone number, email address, and fax number, if any, of each attorney whose name is signed or of the party (if applicable). A document is considered signed if the document includes:

(1) an “/s/” and name typed in the space where the signature would otherwise appear, unless the document is notarized or sworn; or

(2) an electronic image or scanned image of the signature.

(d) **Paper Copies.** Unless required by BODA, a party need not file a paper copy of an electronically filed document.

(e) **Service.** Copies of all documents filed by any party other than the record filed by the evidentiary panel clerk or the court reporter must, at or before the time of filing, be served on all other parties as required and authorized by the TRAP.

Rule 1.06. Service of Petition

In any disciplinary proceeding before BODA initiated by service of a petition on the Respondent, the petition must be served by personal service; by certified mail with return receipt requested; or, if permitted by BODA, in any other manner that is authorized by the TRCP and reasonably calculated under all the circumstances to apprise the Respondent of the proceeding and to give him or her reasonable time to appear and answer. To establish service by certified mail, the return receipt must contain the Respondent’s signature.

Rule 1.07. Hearing Setting and Notice

(a) **Original Petitions.** In any kind of case initiated by the CDC’s filing a petition or motion with BODA, the CDC may contact the BODA Clerk for the next regularly available hearing date before filing the original petition. If a hearing is set before the petition is filed, the petition must state the date, time, and place of the hearing. Except in the case of a petition to revoke probation under TRDP 2.23 [2.22], the hearing date must be at least 30 days from the date that the petition is served on the Respondent.

(b) **Expedited Settings.** If a party desires a hearing on a matter on a date earlier than the next regularly available BODA hearing date, the party may request an expedited setting in a written motion setting out the reasons for the request. Unless the parties agree otherwise, and except in the case of a petition to revoke probation under TRDP 2.23 [2.22], the expedited hearing setting must be at least 30 days from the date of service of the petition, motion, or other pleading. BODA has the sole discretion to grant or deny a request for an expedited hearing date.

(c) **Setting Notices.** BODA must notify the parties of any hearing date that is not noticed in an original petition or motion.

(d) **Announcement Docket.** Attorneys and parties appearing before BODA must confirm their presence and present any questions regarding procedure to the BODA Clerk in the courtroom immediately prior to the time docket call is scheduled to begin. Each party with a matter on the docket must appear at the docket call to give an announcement of readiness, to give a time estimate for the hearing, and to present any preliminary motions or matters. Immediately following the docket call, the Chair will set and announce the order of cases to be heard.

Rule 1.08. Time to Answer

The Respondent may file an answer at any time, except where expressly provided otherwise by these rules or the TRDP, or when an answer date has been set by prior order of BODA. BODA may, but is not required to, consider an answer filed the day of the hearing.

Rule 1.09. Pretrial Procedure

(a) **Motions.**

(1) Generally. To request an order or other relief, a party must file a motion supported by sufficient cause with proof of service on all other parties. The motion must state with particularity the grounds on which it is based and set forth the relief sought. All supporting briefs, affidavits, or other documents must be served and filed with the motion. A party may file a response to a motion at any time before BODA rules on the motion or by any deadline set by BODA. Unless otherwise required by these rules or the TRDP, the form of a motion must comply with the TRCP or the TRAP.

(2) For Extension of Time. All motions for extension of time in any matter before BODA must be in writing, comply with (a)(1), and specify the following:

(i) if applicable, the date of notice of decision of the evidentiary panel, together with the number and style of the case;

(ii) if an appeal has been perfected, the date when the appeal was perfected;

(iii) the original deadline for filing the item in question;

(iv) the length of time requested for the extension;

(v) the number of extensions of time that have been granted previously regarding the item in question; and

(vi) the facts relied on to reasonably explain the need for an extension.

(b) **Pretrial Scheduling Conference.** Any party may request a pretrial scheduling conference, or BODA on its own motion may require a pretrial scheduling conference.

(c) **Trial Briefs.** In any disciplinary proceeding before BODA, except with leave, all trial briefs and memoranda must be filed with the BODA Clerk no later than ten days before the day of the hearing.

(d) **Hearing Exhibits, Witness Lists, and Exhibits Tendered for Argument.** A party may file a witness list, exhibit, or any other document to be used at a hearing or oral argument before the hearing or argument. A party must bring to the hearing an original and 12 copies of any document that was not filed at least one business day before the hearing. The original and copies must be:

(1) marked;

(2) indexed with the title or description of the item offered as an exhibit; and

(3) if voluminous, bound to lie flat when open and tabbed in accordance with the index.

All documents must be marked and provided to the opposing party before the hearing or argument begins.

Rule 1.10. Decisions

(a) **Notice of Decisions.** The BODA Clerk must give notice of all decisions and opinions to the parties or their attorneys of record.

(b) **Publication of Decisions.** BODA must report judgments or orders of public discipline:

(1) as required by the TRDP; and

(2) on its website for a period of at least ten years following the date of the disciplinary judgment or order.

(c) **Abstracts of Classification Appeals.** BODA may, in its discretion, prepare an abstract of a classification appeal for a public reporting service.

Rule 1.11. Board of Disciplinary Appeals Opinions

(a) BODA may render judgment in any disciplinary matter with or without written opinion. In accordance with TRDP 6.06, all written opinions of BODA are open to the public and must be made available to the public reporting services, print or electronic, for publishing. A majority of the members who participate in considering the disciplinary matter must determine if an opinion will be written. The names of the participating members must be noted on all written opinions of BODA.

(b) Only a BODA member who participated in the

decision of a disciplinary matter may file or join in a written opinion concurring in or dissenting from the judgment of BODA. For purposes of this rule, in hearings in which evidence is taken, no member may participate in the decision unless that member was present at the hearing. In all other proceedings, no member may participate unless that member has reviewed the record. Any member of BODA may file a written opinion in connection with the denial of a hearing or rehearing en banc.

(c) A BODA determination in an appeal from a grievance classification decision under TRDP 2.10 is not a judgment for purposes of this rule and may be issued without a written opinion.

Rule 1.12. BODA Work Product and Drafts

A document or record of any nature—regardless of its form, characteristics, or means of transmission—that is created or produced in connection with or related to BODA's adjudicative decision-making process is not subject to disclosure or discovery. This includes documents prepared by any BODA member, BODA staff, or any other person acting on behalf of or at the direction of BODA.

Rule 1.13. Record Retention

Records of appeals from classification decisions must be retained by the BODA Clerk for a period of at least three years from the date of disposition. Records of other disciplinary matters must be retained for a period of at least five years from the date of final judgment, or for at least one year after the date a suspension or disbarment ends, whichever is later. For purposes of this rule, a record is any document, paper, letter, map, book, tape, photograph, film, recording, or other material filed with BODA, regardless of its form, characteristics, or means of transmission.

Rule 1.14. Costs of Reproduction of Records

The BODA Clerk may charge a reasonable amount for the reproduction of nonconfidential records filed with BODA. The fee must be paid in advance to the BODA Clerk.

Rule 1.15. Publication of These Rules

These rules will be published as part of the TDRPC and TRDP.

II. ETHICAL CONSIDERATIONS

Rule 2.01. Representing or Counseling Parties in Disciplinary Matters and Legal Malpractice Cases

(a) A current member of BODA must not represent a party or testify voluntarily in a disciplinary action or proceeding. Any BODA member who is subpoenaed or otherwise compelled to appear at a disciplinary action or proceeding, including at a deposition, must promptly notify the BODA Chair.

(b) A current BODA member must not serve as an expert witness on the TDRPC.

(c) A BODA member may represent a party in a legal

malpractice case, provided that he or she is later recused in accordance with these rules from any proceeding before BODA arising out of the same facts.

Rule 2.02. Confidentiality

(a) BODA deliberations are confidential, must not be disclosed by BODA members or staff, and are not subject to disclosure or discovery.

(b) Classification appeals, appeals from evidentiary judgments of private reprimand, appeals from an evidentiary judgment dismissing a case, interlocutory appeals or any interim proceedings from an ongoing evidentiary case, and disability cases are confidential under the TRDP. BODA must maintain all records associated with these cases as confidential, subject to disclosure only as provided in the TRDP and these rules.

(c) If a member of BODA is subpoenaed or otherwise compelled by law to testify in any proceeding, the member must not disclose a matter that was discussed in conference in connection with a disciplinary case unless the member is required to do so by a court of competent jurisdiction

Rule 2.03. Disqualification and Recusal of BODA Members

(a) BODA members are subject to disqualification and recusal as provided in TRCP 18b.

(b) BODA members may, in addition to recusals under (a), voluntarily recuse themselves from any discussion and voting for any reason. The reasons that a BODA member is recused from a case are not subject to discovery.

(c) These rules do not disqualify a lawyer who is a member of, or associated with, the law firm of a BODA member from serving on a grievance committee or representing a party in a disciplinary proceeding or legal malpractice case. But a BODA member must recuse him or herself from any matter in which a lawyer who is a member of, or associated with, the BODA member's firm is a party or represents a party.

III. CLASSIFICATION APPEALS

Rule 3.01. Notice of Right to Appeal

(a) If a grievance filed by the Complainant under TRDP 2.10 is classified as an inquiry, the CDC must notify the Complainant of his or her right to appeal as set out in TRDP 2.10 or another applicable rule. If a grievance is classified as a complaint, the CDC must notify both the Complainant and the Respondent of the Respondent's 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. For a grievance classified as a complaint, the CDC must send the Respondent an appeal notice form, approved by BODA, with notice of 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 not consider documents or other submissions that the Complainant or Respondent filed with the CDC or BODA after the CDC's classification. 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.

Rule 3.03. Disposition of Classification Appeal

(a) BODA may decide a classification appeal by doing any of the following:

(1) affirm the CDC's classification of the grievance as an inquiry and the dismissal of the grievance;

(2) reverse the CDC's classification of the grievance as an inquiry, reclassify the grievance as a complaint, and return the matter to the CDC for investigation, just cause determination, and further proceedings in accordance with the TRDP;

(3) affirm the CDC's classification of the grievance as a complaint and return the matter to the CDC to proceed with investigation, just cause determination, and further proceedings in accordance with the TRDP; or

(4) reverse the CDC's classification of the grievance as a complaint, reclassify the grievance as an inquiry, and dismiss the grievance.

(b) When BODA reverses the CDC's inquiry classification and reclassifies a grievance as a complaint, BODA must reference any provisions of the TDRPC under which BODA concludes professional misconduct is alleged. When BODA affirms the CDC's complaint classification, BODA may reference any provisions of the TDRPC under which BODA concludes professional misconduct is alleged. The scope of investigation will be determined by the CDC in accordance with TRDP 2.12.

(c) BODA's decision in a classification appeal is final and conclusive, and such decision is not subject to appeal or reconsideration.

(d) A classification appeal decision under (a)(1) or (4), which results in dismissal, has no bearing on whether the Complainant may amend the grievance and resubmit it to the CDC under TRDP 2.10.

IV. APPEALS FROM EVIDENTIARY PANEL HEARINGS

Rule 4.01. Perfecting Appeal

(a) **Appellate Timetable.** The date that the evidentiary

judgment is signed starts the appellate timetable under this section. To make TRDP 2.21 [2.20] consistent with this requirement, the date that the judgment is signed is the “date of notice” under Rule [TRDP] 2.21 [2.20].

(b) Notification of the Evidentiary Judgment. The clerk of the evidentiary panel must notify the parties of the judgment as set out in TRDP 2.21 [2.20].

(1) The evidentiary panel clerk must notify the Commission and the Respondent in writing of the judgment. The notice must contain a clear statement that any appeal of the judgment must be filed with BODA within 30 days of the date that the judgment was signed. The notice must include a copy of the judgment rendered.

(2) The evidentiary panel clerk must notify the Complainant that a judgment has been rendered and provide a copy of the judgment, unless the evidentiary panel dismissed the case or imposed a private reprimand. In the case of a dismissal or private reprimand, the evidentiary panel clerk must notify the Complainant of the decision and that the contents of the judgment are confidential. Under TRDP 2.16, no additional information regarding the contents of a judgment of dismissal or private reprimand may be disclosed to the Complainant.

(c) Filing Notice of Appeal. An appeal is perfected when a written notice of appeal is filed with BODA. If a notice of appeal and any other accompanying documents are mistakenly filed with the evidentiary panel clerk, the notice is deemed to have been filed the same day with BODA, and the evidentiary panel clerk must immediately send the BODA Clerk a copy of the notice and any accompanying documents.

(d) Time to File. In accordance with TRDP 2.24 [2.23], the notice of appeal must be filed within 30 days after the date the judgment is signed. In the event a motion for new trial or motion to modify the judgment is timely filed with the evidentiary panel, the notice of appeal must be filed with BODA within 90 days from the date the judgment is signed.

(e) Extension of Time. A motion for an extension of time to file the notice of appeal must be filed no later than 15 days after the last day allowed for filing the notice of appeal. The motion must comply with Rule 1.09.

Rule 4.02. Record on Appeal

(a) Contents. The record on appeal consists of the evidentiary panel clerk’s record and, where necessary to the appeal, a reporter’s record of the evidentiary panel hearing.

(b) Stipulation as to Record. The parties may designate parts of the clerk’s record and the reporter’s record to be included in the record on appeal by written stipulation filed with the clerk of the evidentiary panel.

(c) Responsibility for Filing Record.

(1) Clerk’s Record.

(i) After receiving notice that an appeal has been filed, the clerk of the evidentiary panel is responsible for preparing, certifying, and timely filing the clerk’s record.

(ii) Unless the parties stipulate otherwise, the clerk’s record on appeal must contain the items listed in TRAP 34.5(a) and any other paper on file with the evidentiary panel, including the election letter, all pleadings on which the hearing was held, the docket sheet, the evidentiary panel’s charge, any findings of fact and conclusions of law, all other pleadings, the judgment or other orders appealed from, the notice of decision sent to each party, any postsubmission pleadings and briefs, and the notice of appeal.

(iii) If the clerk of the evidentiary panel is unable for any reason to prepare and transmit the clerk’s record by the due date, he or she must promptly notify BODA and the parties, explain why the clerk’s record cannot be timely filed, and give the date by which he or she expects the clerk’s record to be filed.

(2) Reporter’s Record.

(i) The court reporter for the evidentiary panel is responsible for timely filing the reporter’s record if:

- a) a notice of appeal has been filed;
- b) a party has requested that all or part of the reporter’s record be prepared; and
- c) the party requesting all or part of the reporter’s record has paid the reporter’s fee or has made satisfactory arrangements with the reporter.

(ii) If the court reporter is unable for any reason to prepare and transmit the reporter’s record by the due date, he or she must promptly notify BODA and the parties, explain the reasons why the reporter’s record cannot be timely filed, and give the date by which he or she expects the reporter’s record to be filed.

(d) Preparation of Clerk’s Record.

(1) To prepare the clerk’s record, the evidentiary panel clerk must:

- (i) gather the documents designated by the parties’ written stipulation or, if no stipulation was filed, the documents required under (c)(1)(ii);
- (ii) start each document on a new page;
- (iii) include the date of filing on each document;
- (iv) arrange the documents in chronological order, either by the date of filing or the date of occurrence;
- (v) number the pages of the clerk’s record in the manner required by (d)(2);

(vi) prepare and include, after the front cover of the clerk's record, a detailed table of contents that complies with (d)(3); and

(vii) certify the clerk's record.

(2) The clerk must start the page numbering on the front cover of the first volume of the clerk's record and continue to number all pages consecutively—including the front and back covers, tables of contents, certification page, and separator pages, if any—until the final page of the clerk's record, without regard for the number of volumes in the clerk's record, and place each page number at the bottom of each page.

(3) The table of contents must:

(i) identify each document in the entire record (including sealed documents); the date each document was filed; and, except for sealed documents, the page on which each document begins;

(ii) be double-spaced;

(iii) conform to the order in which documents appear in the clerk's record, rather than in alphabetical order;

(iv) contain bookmarks linking each description in the table of contents (except for descriptions of sealed documents) to the page on which the document begins; and

(v) if the record consists of multiple volumes, indicate the page on which each volume begins.

(e) **Electronic Filing of the Clerk's Record.** The evidentiary panel clerk must file the record electronically. When filing a clerk's record in electronic form, the evidentiary panel clerk must:

(1) file each computer file in text-searchable Portable Document Format (PDF);

(2) create electronic bookmarks to mark the first page of each document in the clerk's record;

(3) limit the size of each computer file to 100 MB or less, if possible; and

(4) directly convert, rather than scan, the record to PDF, if possible.

(f) **Preparation of the Reporter's Record.**

(1) The appellant, at or before the time prescribed for perfecting the appeal, must make a written request for the reporter's record to the court reporter for the evidentiary panel. The request must designate the portion of the evidence and other proceedings to be included. A copy of the request must be filed with the evidentiary panel and BODA and must be served on the appellee. The reporter's record must be certified by the court reporter for the evidentiary panel.

(2) The court reporter or recorder must prepare and file the reporter's record in accordance with TRAP 34.6 and

35 and the Uniform Format Manual for Texas Reporters' Records.

(3) The court reporter or recorder must file the reporter's record in an electronic format by emailing the document to the email address designated by BODA for that purpose.

(4) The court reporter or recorder must include either a scanned image of any required signature or "/s/" and name typed in the space where the signature would otherwise

(6¹) 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.

¹ So in original.

Rule 4.03. Time to File Record

(a) **Timetable.** The clerk's record and reporter's record must be filed within 60 days after the date the judgment is signed. If a motion for new trial or motion to modify the judgment is filed with the evidentiary panel, the clerk's record and the reporter's record must be filed within 120 days from the date the original judgment is signed, unless a modified judgment is signed, in which case the clerk's record and the reporter's record must be filed within 60 days of the signing of the modified judgment. Failure to file either the clerk's record or the reporter's record on time does not affect BODA's jurisdiction, but may result in BODA's exercising its discretion to dismiss the appeal, affirm the judgment appealed from, disregard materials filed late, or apply presumptions against the appellant.

(b) **If No Record Filed.**

(1) If the clerk's record or reporter's record has not been

timely filed, the BODA Clerk must send notice to the party responsible for filing it, stating that the record is late and requesting that the record be filed within 30 days. The BODA Clerk must send a copy of this notice to all the parties and the clerk of the evidentiary panel.

(2) If no reporter's record is filed due to appellant's fault, and if the clerk's record has been filed, BODA may, after first giving the appellant notice and a reasonable opportunity to cure, consider and decide those issues or points that do not require a reporter's record for a decision. BODA may do this if no reporter's record has been filed because:

- (i) the appellant failed to request a reporter's record; or
- (ii) the appellant failed to pay or make arrangements to pay the reporter's fee to prepare the reporter's record, and the appellant is not entitled to proceed without payment of costs.

(c) Extension of Time to File the Reporter's Record.

When an extension of time is requested for filing the reporter's record, the facts relied on to reasonably explain the need for an extension must be supported by an affidavit of the court reporter. The affidavit must include the court reporter's estimate of the earliest date when the reporter's record will be available for filing.

(d) Supplemental Record. If anything material to either party is omitted from the clerk's record or reporter's record, BODA may, on written motion of a party or on its own motion, direct a supplemental record to be certified and transmitted by the clerk for the evidentiary panel or the court reporter for the evidentiary panel.

Rule 4.04. Copies of the Record

The record may not be withdrawn from the custody of the BODA Clerk. Any party may obtain a copy of the record or any designated part thereof by making a written request to the BODA Clerk and paying any charges for reproduction in advance.

Rule 4.05. Requisites of Briefs

(a) Appellant's Filing Date. Appellant's brief must be filed within 30 days after the clerk's record or the reporter's record is filed, whichever is later.

(b) Appellee's Filing Date. Appellee's brief must be filed within 30 days after the appellant's brief is filed.

(c) Contents. Briefs must contain:

- (1) a complete list of the names and addresses of all parties to the final decision and their counsel;
- (2) a table of contents indicating the subject matter of each issue or point, or group of issues or points, with page references where the discussion of each point relied on may be found;
- (3) an index of authorities arranged alphabetically and

indicating the pages where the authorities are cited;

(4) a statement of the case containing a brief general statement of the nature of the cause or offense and the result;

(5) a statement, without argument, of the basis of BODA's jurisdiction;

(6) a statement of the issues presented for review or points of error on which the appeal is predicated;

(7) a statement of facts that is without argument, is supported by record references, and details the facts relating to the issues or points relied on in the appeal;

(8) the argument and authorities;

(9) conclusion and prayer for relief;

(10) a certificate of service; and

(11) an appendix of record excerpts pertinent to the issues presented for review.

(d) Length of Briefs; Contents Included and Excluded.

In calculating the length of a document, every word and every part of the document, including headings, footnotes, and quotations, must be counted except the following: caption, identity of the parties and counsel, statement regarding oral argument, table of contents, index of authorities, statement of the case, statement of issues presented, statement of the jurisdiction, signature, proof of service, certificate of compliance, and appendix. Briefs must not exceed 15,000 words if computer-generated, and 50 pages if not, except on leave of BODA. A reply brief must not exceed 7,500 words if computer-generated, and 25 pages if not, except on leave of BODA. A computer generated document must include a certificate by counsel or the unrepresented party stating the number of words in the document. The person who signs the certification may rely on the word count of the computer program used to prepare the document.

(e) Amendment or Supplementation. BODA has discretion to grant leave to amend or supplement briefs.

(f) Failure of the Appellant to File a Brief. If the appellant fails to timely file a brief, BODA may:

- (1) dismiss the appeal for want of prosecution, unless the appellant reasonably explains the failure, and the appellee is not significantly injured by the appellant's failure to timely file a brief;
- (2) decline to dismiss the appeal and make further orders within its discretion as it considers proper; or
- (3) if an appellee's brief is filed, regard that brief as correctly presenting the case and affirm the evidentiary panel's judgment on that brief without examining the record.

Rule 4.06. Oral Argument

(a) Request. A party desiring oral argument must note the

request on the front cover of the party's brief. A party's failure to timely request oral argument waives the party's right to argue. A party who has requested argument may later withdraw the request. But even if a party has waived oral argument, BODA may direct the party to appear and argue. If oral argument is granted, the clerk will notify the parties of the time and place for submission.

(b) **Right to Oral Argument.** A party who has filed a brief and who has timely requested oral argument may argue the case to BODA unless BODA, after examining the briefs, decides that oral argument is unnecessary for any of the following reasons:

- (1) the appeal is frivolous;
- (2) the dispositive issue or issues have been authoritatively decided;
- (3) the facts and legal arguments are adequately presented in the briefs and record; or
- (4) the decisional process would not be significantly aided by oral argument.

(c) **Time Allowed.** Each party will have 20 minutes to argue. BODA may, on the request of a party or on its own, extend or shorten the time allowed for oral argument. The appellant may reserve a portion of his or her allotted time for rebuttal.

Rule 4.07. Decision and Judgment

(a) **Decision.** BODA may do any of the following:

- (1) affirm in whole or in part the decision of the evidentiary panel;
- (2) modify the panel's findings and affirm the findings as modified;
- (3) reverse in whole or in part the panel's findings and render the decision that the panel should have rendered; or
- (4) reverse the panel's findings and remand the cause for further proceedings to be conducted by:
 - (i) the panel that entered the findings; or
 - (ii) a statewide grievance committee panel appointed by BODA and composed of members selected from the state bar districts other than the district from which the appeal was taken.

(b) **Mandate.** In every appeal, the BODA Clerk must issue a mandate in accordance with BODA's judgment and send it to the evidentiary panel and to all the parties.

Rule 4.08. Appointment of Statewide Grievance Committee

If BODA remands a cause for further proceedings before a statewide grievance committee, the BODA Chair will appoint the statewide grievance committee in accordance with TRDP 2.27 [2.26]. The committee must consist of six members: four attorney members and two public members

randomly selected from the current pool of grievance committee members. Two alternates, consisting of one attorney and one public member, must also be selected. BODA will appoint the initial chair who will serve until the members of the statewide grievance committee elect a chair of the committee at the first meeting. The BODA Clerk will notify the Respondent and the CDC that a committee has been appointed.

Rule 4.09. Involuntary Dismissal

Under the following circumstances and on any party's motion or on its own initiative after giving at least ten days' notice to all parties, BODA may dismiss the appeal or affirm the appealed judgment or order. Dismissal or affirmance may occur if the appeal is subject to dismissal:

- (a) for want of jurisdiction;
- (b) for want of prosecution; or
- (c) because the appellant has failed to comply with a requirement of these rules, a court order, or a notice from the clerk requiring a response or other action within a specified time.

V. PETITIONS TO REVOKE PROBATION

Rule 5.01. Initiation and Service

(a) Before filing a motion to revoke the probation of an attorney who has been sanctioned, the CDC must contact the BODA Clerk to confirm whether the next regularly available hearing date will comply with the 30-day requirement of TRDP. The Chair may designate a three-member panel to hear the motion, if necessary, to meet the 30-day requirement of TRDP 2.23 [2.22].

(b) Upon filing the motion, the CDC must serve the Respondent with the motion and any supporting documents in accordance with TRDP 2.23 [2.22], the TRCP, and these rules. The CDC must notify BODA of the date that service is obtained on the Respondent.

Rule 5.02. Hearing

Within 30 days of service of the motion on the Respondent, BODA must docket and set the matter for a hearing and notify the parties of the time and place of the hearing. On a showing of good cause by a party or on its own motion, BODA may continue the case to a future hearing date as circumstances require.

VI. COMPULSORY DISCIPLINE

Rule 6.01. Initiation of Proceeding

Under TRDP 8.03, the CDC must file a petition for compulsory discipline with BODA and serve the Respondent in accordance with the TRDP and Rule 1.06 of these rules.

Rule 6.02. Interlocutory Suspension

(a) **Interlocutory Suspension.** In any compulsory proceeding under TRDP Part VIII in which BODA

determines that the Respondent has been convicted of an Intentional Crime and that the criminal conviction is on direct appeal, BODA must suspend the Respondent's license to practice law by interlocutory order. In any compulsory case in which BODA has imposed an interlocutory order of suspension, BODA retains jurisdiction to render final judgment after the direct appeal of the criminal conviction is final. For purposes of rendering final judgment in a compulsory discipline case, the direct appeal of the criminal conviction is final when the appellate court issues its mandate.

(b) **Criminal Conviction Affirmed.** If the criminal conviction made the basis of a compulsory interlocutory suspension is affirmed and becomes final, the CDC must file a motion for final judgment that complies with TRDP 8.05.

(1) If the criminal sentence is fully probated or is an order of deferred adjudication, the motion for final judgment must contain notice of a hearing date. The motion will be set on BODA's next available hearing date.

(2) If the criminal sentence is not fully probated:

(i) BODA may proceed to decide the motion without a hearing if the attorney does not file a verified denial within ten days of service of the motion; or

(ii) BODA may set the motion for a hearing on the next available hearing date if the attorney timely files a verified denial.

(c) **Criminal Conviction Reversed.** If an appellate court issues a mandate reversing the criminal conviction while a Respondent is subject to an interlocutory suspension, the Respondent may file a motion to terminate the interlocutory suspension. The motion to terminate the interlocutory suspension must have certified copies of the decision and mandate of the reversing court attached. If the CDC does not file an opposition to the termination within ten days of being served with the motion, BODA may proceed to decide the motion without a hearing or set the matter for a hearing on its own motion. If the CDC timely opposes the motion, BODA must set the motion for a hearing on its next available hearing date. An order terminating an interlocutory order of suspension does not automatically reinstate a Respondent's license.

VII. RECIPROCAL DISCIPLINE

Rule 7.01. Initiation of Proceeding

To initiate an action for reciprocal discipline under TRDP Part IX, the CDC must file a petition with BODA and request an Order to Show Cause. The petition must request that the Respondent be disciplined in Texas and have attached to it any information concerning the disciplinary matter from the other jurisdiction, including a certified copy of the order or judgment rendered against the Respondent.

Rule 7.02. Order to Show Cause

When a petition is filed, the Chair immediately issues a show cause order and a hearing notice and forwards them to the CDC, who must serve the order and notice on the Respondent. The CDC must notify BODA of the date that service is obtained.

Rule 7.03. Attorney's Response

If the Respondent does not file an answer within 30 days of being served with the order and notice but thereafter appears at the hearing, BODA may, at the discretion of the Chair, receive testimony from the Respondent relating to the merits of the petition.

VIII. DISTRICT DISABILITY COMMITTEE HEARINGS

Rule 8.01. Appointment of District Disability Committee

(a) If the evidentiary panel of the grievance committee finds under TRDP 2.17(P)(2), or the CDC reasonably believes under TRDP 2.14(C), that a Respondent is suffering from a disability, the rules in this section will apply to the de novo proceeding before the District Disability Committee held under TRDP Part XII.

(b) Upon receiving an evidentiary panel's finding or the CDC's referral that an attorney is believed to be suffering from a disability, the BODA Chair must appoint a District Disability Committee in compliance with TRDP 12.02 and designate a chair. BODA will reimburse District Disability Committee members for reasonable expenses directly related to service on the District Disability Committee. The BODA Clerk must notify the CDC and the Respondent that a committee has been appointed and notify the Respondent where to locate the procedural rules governing disability proceedings.

(c) A Respondent who has been notified that a disability referral will be or has been made to BODA may, at any time, waive in writing the appointment of the District Disability Committee or the hearing before the District Disability Committee and enter into an agreed judgment of indefinite disability suspension, provided that the Respondent is competent to waive the hearing. If the Respondent is not represented, the waiver must include a statement affirming that the Respondent has been advised of the right to appointed counsel and waives that right as well.

(d) All pleadings, motions, briefs, or other matters to be filed with the District Disability Committee must be filed with the BODA Clerk.

(e) Should any member of the District Disability Committee become unable to serve, the BODA Chair must appoint a substitute member.

Rule 8.02. Petition and Answer

(a) **Petition.** Upon being notified that the District Disability Committee has been appointed by BODA, the

CDC must, within 20 days, file with the BODA Clerk and serve on the Respondent a copy of a petition for indefinite disability suspension. Service must comply with Rule 1.06.

(b) **Answer.** The Respondent must, within 30 days after service of the petition for indefinite disability suspension, file an answer with the BODA Clerk and serve a copy of the answer on the CDC.

(c) **Hearing Setting.** The BODA Clerk must set the final hearing as instructed by the chair of the District Disability Committee and send notice of the hearing to the parties.

Rule 8.03. Discovery

(a) **Limited Discovery.** The District Disability Committee may permit limited discovery. The party seeking discovery must file with the BODA Clerk a written request that makes a clear showing of good cause and substantial need and a proposed order. If the District Disability Committee authorizes discovery in a case, it must issue a written order. The order may impose limitations or deadlines on the discovery.

(b) **Physical or Mental Examinations.** On written motion by the Commission or on its own motion, the District Disability Committee may order the Respondent to submit to a physical or mental examination by a qualified healthcare or mental healthcare professional. Nothing in this rule limits the Respondent's right to an examination by a professional of his or her choice in addition to any exam ordered by the District Disability Committee.

(1) Motion. The Respondent must be given reasonable notice of the examination by written order specifying the name, address, and telephone number of the person conducting the examination.

(2) Report. The examining professional must file with the BODA Clerk a detailed, written report that includes the results of all tests performed and the professional's findings, diagnoses, and conclusions. The professional must send a copy of the report to the CDC and the Respondent.

(c) **Objections.** A party must make any objection to a request for discovery within 15 days of receiving the motion by filing a written objection with the BODA Clerk. BODA may decide any objection or contest to a discovery motion.

Rule 8.04. Ability to Compel Attendance

The Respondent and the CDC may confront and cross-examine witnesses at the hearing. Compulsory process to compel the attendance of witnesses by subpoena, enforceable by an order of a district court of proper jurisdiction, is available to the Respondent and the CDC as provided in TRCP 176.

Rule 8.05. Respondent's Right to Counsel

(a) The notice to the Respondent that a District Disability Committee has been appointed and the petition for

indefinite disability suspension must state that the Respondent may request appointment of counsel by BODA to represent him or her at the disability hearing. BODA will reimburse appointed counsel for reasonable expenses directly related to representation of the Respondent.

(b) To receive appointed counsel under TRDP 12.02, the Respondent must file a written request with the BODA Clerk within 30 days of the date that Respondent is served with the petition for indefinite disability suspension. A late request must demonstrate good cause for the Respondent's failure to file a timely request.

Rule 8.06. Hearing

The party seeking to establish the disability must prove by a preponderance of the evidence that the Respondent is suffering from a disability as defined in the TRDP. The chair of the District Disability Committee must admit all relevant evidence that is necessary for a fair and complete hearing. The TRE are advisory but not binding on the chair.

Rule 8.07. Notice of Decision

The District Disability Committee must certify its finding regarding disability to BODA, which will issue the final judgment in the matter.

Rule 8.08. Confidentiality

All proceedings before the District Disability Committee and BODA, if necessary, are closed to the public. All matters before the District Disability Committee are confidential and are not subject to disclosure or discovery, except as allowed by the TRDP or as may be required in the event of an appeal to the Supreme Court of Texas.

IX. DISABILITY REINSTATEMENTS

Rule 9.01. Petition for Reinstatement

(a) An attorney under an indefinite disability suspension may, at any time after he or she has been suspended, file a verified petition with BODA to have the suspension terminated and to be reinstated to the practice of law. The petitioner must serve a copy of the petition on the CDC in the manner required by TRDP 12.06. The TRCP apply to a reinstatement proceeding unless they conflict with these rules.

(b) The petition must include the information required by TRDP 12.06. If the judgment of disability suspension contained terms or conditions relating to misconduct by the petitioner prior to the suspension, the petition must affirmatively demonstrate that those terms have been complied with or explain why they have not been satisfied. The petitioner has a duty to amend and keep current all information in the petition until the final hearing on the merits. Failure to do so may result in dismissal without notice.

(c) Disability reinstatement proceedings before BODA are not confidential; however, BODA may make all or any part of the record of the proceeding confidential.

Rule 9.02. Discovery

The discovery period is 60 days from the date that the petition for reinstatement is filed. The BODA Clerk will set the petition for a hearing on the first date available after the close of the discovery period and must notify the parties of the time and place of the hearing. BODA may continue the hearing for good cause shown.

Rule 9.03. Physical or Mental Examinations

(a) On written motion by the Commission or on its own, BODA may order the petitioner seeking reinstatement to submit to a physical or mental examination by a qualified healthcare or mental healthcare professional. The petitioner must be served with a copy of the motion and given at least seven days to respond. BODA may hold a hearing before ruling on the motion but is not required to do so.

(b) The petitioner must be given reasonable notice of the examination by written order specifying the name, address, and telephone number of the person conducting the examination.

(c) The examining professional must file a detailed, written report that includes the results of all tests performed and the professional's findings, diagnoses, and conclusions. The professional must send a copy of the report to the parties.

(d) If the petitioner fails to submit to an examination as ordered, BODA may dismiss the petition without notice.

(e) Nothing in this rule limits the petitioner's right to an examination by a professional of his or her choice in addition to any exam ordered by BODA.

Rule 9.04. Judgment

If, after hearing all the evidence, BODA determines that the petitioner is not eligible for reinstatement, BODA may, in its discretion, either enter an order denying the petition or direct that the petition be held in abeyance for a reasonable period of time until the petitioner provides additional proof as directed by BODA. The judgment may include other orders necessary to protect the public and the petitioner's potential clients.

X. APPEALS FROM BODA TO THE SUPREME COURT OF TEXAS

Rule 10.01. Appeals to the Supreme Court

(a) A final decision by BODA, except a determination that a statement constitutes an inquiry or a complaint under TRDP 2.10, may be appealed to the Supreme Court of Texas. The clerk of the Supreme Court of Texas must docket an appeal from a decision by BODA in the same manner as a petition for review without fee.

(b) The appealing party must file the notice of appeal directly with the clerk of the Supreme Court of Texas within 14 days of receiving notice of a final determination by BODA. The record must be filed within 60 days after

BODA's determination. The appealing party's brief is due 30 days after the record is filed, and the responding party's brief is due 30 days thereafter. The BODA Clerk must send the parties a notice of BODA's final decision that includes the information in this paragraph.

(c) An appeal to the Supreme Court is governed by TRDP 7.11 and the TRAP.