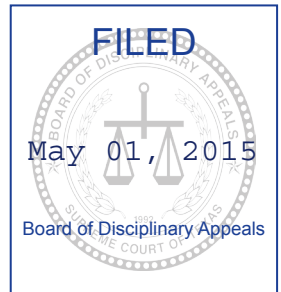


No. 56016



**Before the Board of Disciplinary Appeals
Appointed by
The Supreme Court of Texas**

JOE DANIEL STOKES, III

APPELLANT

V.

**COMMISSION FOR LAWYER DISCIPLINE,
APPELLEE**

*On Appeal from the Evidentiary Panel
For the State Bar of Texas District 9-4
No. 201307247*

**JOINT MOTION TO REMAND FOR
RENDITION OF AN AGREED JUDGMENT**

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No. 56016

**Before the Board of Disciplinary Appeals
Appointed by
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JOE DANIEL STOKES, III,

APPELLANT

V.

COMMISSION FOR LAWYER DISCIPLINE,

APPELLEE

*On Appeal from the Evidentiary Panel
For the State Bar of Texas District 9-4
No. 201307247*

**JOINT MOTION TO REMAND FOR
RENDITION OF AN AGREED JUDGMENT**

Appellee, the Commission for Lawyer Discipline, a committee of the State Bar of Texas, and Appellant, Joe Daniel Stokes, III, file this Joint Motion to Remand for Rendition of an Agreed Judgment and ask the Board of Disciplinary Appeals, pursuant to Rule 43.2(d) of the Texas Rules of Appellate Procedure, to set aside the Judgment of Partially Probated Suspension Nunc Pro Tunc without regard to the merits and remand this case to the Evidentiary Panel for State Bar District 9-4 for rendition of judgment in accordance with their agreement.

The parties have entered into a settlement agreement by which they agree to a new judgment that would dispose of the controversy that is the basis of this disciplinary action. A copy of an Agreed Judgment of Partially Probated Suspension, approved by the parties, is attached hereto as Exhibit A.

PRAYER

Because they have reached an agreement to settle this matter, the parties respectfully ask the Board of Disciplinary Appeals to set aside the Judgment of Partially Probated Suspension Nunc Pro Tunc without regard to the merits and remand this case to the Evidentiary Panel for rendition of judgment in accordance with their agreement through entry of the Agreed Judgment attached hereto as Exhibit A.

RESPECTFULLY SUBMITTED,

LINDA A. ACEVEDO
CHIEF DISCIPLINARY COUNSEL

LAURA BAYOUTH POPPS
DEPUTY COUNSEL FOR ADMINISTRATION

CYNTHIA CANFIELD HAMILTON
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JIM ARNOLD, JR.
STATE BAR CARD NO. 01352500
ATTORNEY FOR APPELLANT

BEFORE THE DISTRICT 9 GRIEVANCE COMMITTEE
EVIDENTIARY PANEL 9-4
STATE BAR OF TEXAS

COMMISSION FOR LAWYER
DISCIPLINE,
Petitioner

V.

JOE DANIEL STOKES, III,
Respondent

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§

201307247

AGREED JUDGMENT OF PARTIALLY PROBATED SUSPENSION
(Following Remand from the Board of Disciplinary Appeals)

Parties and Appearance

On this day came to be heard the above styled and numbered cause. Petitioner and Respondent, Joe Daniel Stokes, III, Texas Bar Number 19274500, announce that an agreement has been reached on all matters including the imposition of a Partially Probated Suspension.

Jurisdiction and Venue

The Evidentiary Panel 9-4, having been duly appointed to hear this complaint by the chair of the Grievance Committee for State Bar of Texas District 9, finds that it has jurisdiction over the parties and the subject matter of this action, and that venue is proper.

Professional Misconduct

The Evidentiary Panel, having considered the pleadings, admissions, stipulations and agreements of the parties, finds Respondent has committed Professional Misconduct as defined by Rule 1.06(W) of the Texas Rules of Disciplinary Procedure.

Findings of Fact

Upon stipulation and agreement by Petitioner and Respondent, the Evidentiary

Panel finds:

1. Respondent is an attorney licensed to practice law in Texas and is a member of the State Bar of Texas.
2. Respondent resides in and maintains his principal place of practice in Travis County, Texas.
3. In March 2011, Complainant, Henry Kelbaugh, hired Respondent, Joe Daniel Stokes, III, to probate Complainant's mother's estate. Respondent failed to timely file the Inventory, Appraisement and List of Claims. On February 21, 2012, and again on March 16, 2012, the Probate Court One of Travis County, Texas sent Respondent a notice that the inventory was overdue and set the matter for a Compliance Hearing. A year later, when Respondent had not complied with the requirement to file the inventory, the Probate Court served Complainant and Respondent with an Order to Show Cause why Complainant should not be removed as Independent Executor for failing to file an inventory and ordering all costs associated with the citation taxed against Complainant. Prior to the scheduled show cause hearing, Respondent filed an inventory for the estate. The estate received a refund check for \$67.50 that was given to Respondent. Without Complainant's knowledge or consent, Respondent lost or misplaced the check and failed to give the funds to Complainant for the estate. Respondent failed to respond to Complainant's numerous requests for information from July 2013 through December 2013. Complainant, through his new counsel, requested his file from Respondent but Respondent failed to surrender the file as requested.
4. Respondent was given notice of the Henry Kelbaugh complaint by the Chief Disciplinary Counsel on or about January 15, 2014. Respondent was directed to furnish a written response to the complaint within thirty days. Respondent failed to furnish a written response to the complaint as directed.
5. The Chief Disciplinary Counsel of the State Bar of Texas has incurred reasonable attorneys' fees and direct expenses associated with this Disciplinary Proceeding in the amount of \$2,133.20.
6. Respondent owes restitution in the amount of \$67.50 payable to Henry Kelbaugh, Executor of the Estate of Virginia Kelbaugh.¹

Conclusions of Law

Petitioner and Respondent agree that, based on the foregoing findings of fact, the following Texas Disciplinary Rules of Professional Conduct have been violated.

¹ After a default judgment entered on December 17, 2014, Respondent returned the client's file on February 24, 2015, paid restitution on January 17, 2015, and paid attorney's fees and expenses on March 25, 2015.

Accordingly, the Evidentiary Panel concludes that the following Texas Disciplinary Rules of Professional Conduct have been violated: 1.01(b)(1), 1.03(a), 1.14(b), 1.15(d), 3.02, 8.04(a)(1), and 8.04(a)(8).

Sanction

It is AGREED and ORDERED that the sanction of a Partially Probated Suspension shall be imposed against Respondent in accordance with the Texas Rules of Disciplinary Procedure.

Accordingly, it is ORDERED, ADJUDGED and DECREED that Respondent be suspended from the practice of law for a period of three (3) years, beginning December 18, 2014, and ending January 7, 2018, provided that from April 13, 2015, through May 4, 2015, the suspension has been and is stayed, and further provided Respondent complies with the following terms and conditions. Respondent shall be actively suspended from the practice of law for a period of six (6) months beginning December 18, 2014, and ending July 7, 2015, provided that from April 13, 2015, through May 4, 2015, the active suspension has been and is stayed. If Respondent complies with all of the following terms and conditions timely, the thirty (30) month period of probated suspension shall begin on July 8, 2015, and shall end on January 7, 2018:

1. Respondent shall pay all reasonable and necessary attorney's fees and direct expenses to the State Bar of Texas in the amount of \$2,133.20. The payment shall be due and payable on or before January 17, 2015, and shall be made by certified or cashier's check or money order. Respondent shall forward the funds, made payable to the State Bar of Texas, Chief Disciplinary Counsel's Office, P.O. Box 12487, Austin, TX 78711-2487 (1414 Colorado St., Austin, TX 78701).
2. Respondent shall pay restitution on or before January 17, 2015, to Henry Kelbaugh, Executor of the Estate of Virginia Kelbaugh in the amount of \$67.50. Respondent shall pay the restitution by certified or cashier's check or money order made payable to Henry Kelbaugh, Executor of the Estate of Virginia Kelbaugh, and delivered to the State Bar of Texas, Chief Disciplinary

Counsel's Office, P.O. Box 12487, Austin, TX 78711-2487 (1414 Colorado St., Austin, TX 78701).

3. Respondent shall return the file for the Estate of Virginia Kelbaugh to Henry Kelbaugh within thirty (30) days of the date of this judgment by certified mail, return receipt requested or Federal Express in order to permit tracking.
4. During Respondent's probated suspension, July 8, 2016, to January 7, 2018, Respondent shall submit to monthly monitoring of his practice by a monitor acceptable to the State Bar of Texas, in the manner set out in paragraph 13 of the Terms of Probation, at p. 6 herein.
5. Respondent shall make contact with the Chief Disciplinary Counsel's Office's Compliance Monitor at 877-953-5535, ext. 1334 and Special Programs Coordinator at 877-953-5535, ext. 1323, not later than seven (7) days after receipt of a copy of this judgment to coordinate Respondent's compliance.
6. Respondent shall make contact with the Texas Lawyers' Assistance Program (TLAP) at its hotline number, 800-343-8527, not later than seven (7) days after receipt of a copy of this judgment to inquire as to services and referrals offered by that program to aid in Respondent's rehabilitation. Respondent shall additionally send verification of contact with TLAP to the State Bar of Texas within fifteen (15) days such contact.
7. Respondent shall submit to supervision for the period of his active and probated suspension by a rehabilitation monitor acceptable to the State Bar of Texas and selected by the monitoring program of the Texas Lawyers' Assistance Program. The monitor shall supervise Respondent's compliance with the requirements of the rehabilitation conditions and is under a duty to immediately report to the Chief Disciplinary Counsel's Office State Bar of Texas any noncompliance on the part of Respondent. The monitor shall report the status of Respondent's compliance with these conditions on a monthly basis, with the report due by the 5th day of each month for the duration of the monitoring period.
8. During the first six months of monitoring, Respondent shall meet with the monitor a minimum of two times per month. If Respondent's performance and compliance is satisfactory during this six-month period, the frequency of such meetings will thereafter be no less than once per month, as determined by the monitor. The initial meeting shall be held not later than ten (10) days after Respondent receives written notification from the State Bar of Texas of the name and phone number of Respondent's assigned monitor. Such meetings shall be in person at a place and time determined by the monitor. Exceptions must be approved in advance by the monitor and noted on the monthly report.
9. Within ten (10) days of Respondent's receipt of a copy of this judgment, Respondent shall schedule a full psychological assessment to be conducted by a mental health professional licensed in Texas as a psychiatrist, a psychologist, a master's level social worker (LCSW), or a licensed professional counselor (LPC). Respondent shall complete the assessment at the earliest practicable date, but in no event later than sixty (60) days after receipt of a copy of this judgment. Although the details of information

disclosed during the assessment shall remain confidential, the conclusions, diagnosis and treatment plan recommendations of the mental health professional shall be reported to the State Bar of Texas within ten (10) days of the completion of the assessment. Respondent shall take all necessary action, including the execution of a valid release of information, to allow and direct the mental health professional to report such results and recommendations.²

10. If recommended as part of the above assessment, Respondent shall remain under the care of one or more mental health professionals at the frequency recommended by the treatment plan for the duration of the supervision period or until released in writing by the treatment provider. Each treating mental health professional shall provide written quarterly reports to the State Bar of Texas verifying Respondent's attendance at the sessions and good faith participation in the treatment plan. The initial report(s) shall be due on or before August 5, 2015, with subsequent reports due quarterly thereafter. Respondent shall take all necessary action, including the execution of a valid release of information, to permit any treating mental health professional to provide written or oral reports for the duration of the supervision period.
11. Respondent shall be responsible for all costs and expenses incurred, directly or indirectly, by compliance with these terms and shall pay all such costs and expenses as required by the provider, but in no event later than the final day of the supervision period.
12. Any and all reports and evaluations required by these terms of probation shall be sent to the State Bar of Texas, via USPS: Office of the CDC, State Bar of Texas, P.O. Box 12487, Austin, TX 78711-2487; or via Delivery: Office of the CDC, State Bar of Texas, 1414 Colorado St., Suite 200, Austin, TX 78701.
13. Respondent shall submit to monitoring of his law practice for the period of his probated suspension by an attorney monitor acceptable to the State Bar of Texas. The practice monitor shall have no personal or professional relationship with the Respondent that would interfere with the monitor's ability to exercise independent judgment regarding Respondent's compliance with the terms of this judgment. The monitor shall report the status of Respondent's compliance on a monthly basis on the form provided by the State Bar of Texas, with the initial report due by the 5th day of the month following the initial meeting. Subsequent reports shall be due by the 5th day of each month for the duration of the monitoring period and shall be sent to the State Bar of Texas, Office of Chief Disciplinary Counsel, P.O. Box 12487, Austin, TX 78711-2487, or via delivery to the State Bar of Texas, 1414 Colorado St., Austin, TX 78701.
14. Respondent shall meet with the attorney monitor a minimum of once per month. The initial meeting shall be held not later than fifteen (15) days after Respondent receives written notification from the State Bar of Texas of the name and phone number of Respondent's assigned monitor. Such meetings shall be in person at a place and time as determined by the monitor. If the

² Respondent completed a full psychological evaluation on March 9, 2015.

rehabilitation monitor referenced in paragraph 8 above and the attorney monitor are the same person, this paragraph 14 shall control with regard to the frequency of meetings. Exceptions must be approved in advance by the monitor and noted on the monthly report.

Should Respondent fail to comply with all of the above terms and conditions timely, Respondent shall remain actively suspended until the date of compliance or until January 7, 2018, whichever occurs first.

Terms of Active Suspension

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

It is further ORDERED that, on or before May 5, 2015, Respondent shall notify each of Respondent's current clients and opposing counsel in writing of this suspension.

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

It is further ORDERED Respondent shall file with the State Bar of Texas, Chief Disciplinary Counsel's Office, P.O. Box 12487, Austin, TX 78711-2487 (1414 Colorado St., Austin, TX 78701), on or before May 15, 2015, an affidavit stating all current clients and opposing counsel have been notified of Respondent's suspension and that all files, papers, monies and other property belonging to all current clients have been returned as ordered herein.

It is further ORDERED Respondent shall, on or before May 5, 2015, notify in writing each and every justice of the peace, judge, magistrate, administrative judge or officer and chief justice of each and every court or tribunal in which Respondent has any matter pending of the terms of this judgment, the style and cause number of the pending matter(s), and the name, address and telephone number of the client(s) Respondent is representing.

It is further ORDERED Respondent shall file with the State Bar of Texas, Chief Disciplinary Counsel's Office, P.O. Box 12487, Austin, TX 78711-2487 (1414 Colorado St., Austin, TX 78701), on or before May 15, 2015, an affidavit stating Respondent has notified in writing each and every justice of the peace, judge, magistrate, and chief justice of each and every court in which Respondent has any matter pending of the terms of this judgment, the style and cause number of the pending matter(s), and the name, address and telephone number of the client(s) Respondent is representing in Court.

It is further ORDERED that, on or before May 5, 2015, Respondent shall surrender his law license and permanent State Bar Card to the State Bar of Texas,

Chief Disciplinary Counsel's Office, P.O. Box 12487, Austin, TX 78711-2487 (1414 Colorado St., Austin, TX 78701), to be forwarded to the Supreme Court of Texas.³

Terms of Probation

It is further ORDERED, that if Respondent has complied with all terms and conditions set forth above in a timely manner entitling Respondent to a period of this suspension being probated, Respondent shall be under the following terms and conditions:

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

Probation Revocation

Upon information that Respondent has violated a term of this judgment, the Chief Disciplinary Counsel may, in addition to all other remedies available, file a motion to revoke probation pursuant to Rule 2.23 of the Texas Rules of Disciplinary Procedure with the Board of Disciplinary Appeals ("BODA") and serve a copy of the motion on Respondent pursuant to Tex.R.Civ.P. 21a.

BODA shall conduct an evidentiary hearing. At the hearing, BODA shall determine by a preponderance of the evidence whether Respondent has violated any term of this Judgment. If BODA finds grounds for revocation, BODA shall enter an

³ Respondent surrendered his law license and permanent State Bar Card on April 7, 2015.

order revoking probation and placing Respondent on active suspension from the date of such revocation order. Respondent shall not be given credit for any term of probation served prior to revocation.

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

Restitution, Attorney's Fees and Expenses

Respondent has made the required restitution to Henry Kelbaugh, Executor of the Estate of Virginia Kelbaugh, in the amount of \$67.50, therefore, no further orders on the same are necessary.

Respondent has paid all reasonable and necessary attorney's fees and direct expenses to the State Bar of Texas in the amount of \$2,133.20, therefore, no further orders on the same are necessary.

It is further ORDERED that all amounts ordered herein are due to the misconduct of Respondent and are assessed as a part of the sanction in accordance with Rule 1.06(Z) of the Texas Rules of Disciplinary Procedure.

Publication

This suspension shall be made a matter of record and appropriately published in accordance with the Texas Rules of Disciplinary Procedure.

Other Relief

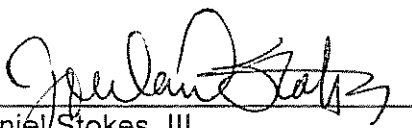
All requested relief not expressly granted herein is expressly DENIED.

SIGNED this _____ day of _____, 2015.

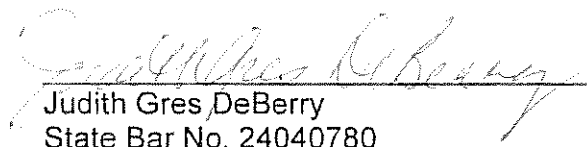
**EVIDENTIARY PANEL 9-4
DISTRICT NO. 9
STATE BAR OF TEXAS**

Robert I. Howell
District 9-4 Presiding Member


AGREED AS TO BOTH FORM AND SUBSTANCE:



Joe Daniel Stokes, III
State Bar No. 19274500
Respondent



Judith Gres DeBerry
State Bar No. 24040780
Counsel for Petitioner



Jim Arnold, Jr.
State Bar No. 01352500
Counsel for Respondent