

By: FILED
JUN 25 2013
Board of Disciplinary Appeals
appointed by the
Supreme Court of Texas

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

IN THE MATTER OF
KRISTIN DIANE WILKINSON
STATE BAR CARD NO. 24037708

§
§
§
§
§

CAUSE NO. 52540

PETITION FOR REVOCATION OF PROBATION

TO THE BOARD OF DISCIPLINARY APPEALS:

Petitioner, the Commission for Lawyer Discipline, brings this action against Respondent, Kristin Diane Wilkinson, and would respectfully show the following:

I. RULES APPLICABLE/CONDITIONS PRECEDENT

This action is commenced by Petitioner pursuant to Rule 2.23 of the Texas Rules of Disciplinary Procedure and Rule 5 of the Board of Disciplinary Appeals' Internal Procedural Rules. All conditions precedent to the relief sought herein have been performed or fulfilled.

II. RESPONDENT

Respondent, Kristin Diane Wilkinson, State Bar No. 24037708, may be served with process and notices in this matter at 907 Maple Branch, Pearland, Texas 77584.

III. DISCIPLINARY JUDGMENT

On January 21, 2011, in a case styled, *Commission for Lawyer Discipline, Petitioner, v. Kristin D. Wilkinson, Respondent*, Case No. H0080827321, an Evidentiary Panel of the State Bar of Texas District 4E Grievance Committee found that Respondent had committed violations of Texas Disciplinary Rules of Professional Conduct 1.01(b)(1), 1.04(a), 1.14(a), 1.15(d) and 8.04(a)(3). A true and correct copy of the judgment is attached as Exhibit 1. The panel handed

down a sanction of a forty-eight month partially probated suspension beginning May 1, 2011, and ending May 1, 2015, with twenty-four months active suspension starting May 1, 2011, and ending April 30, 2013, and twenty-four months probated suspension beginning May 1, 2013, and ending May 1, 2015. State Bar attorney's fees and direct expenses in the amount of \$15,458.59 were awarded and ordered payable on or before March 1, 2013. Restitution to Adrienne U. West in the amount of \$25,000.00 was awarded and ordered payable on or before December 31, 2011.

In addition to the requirements noted above, Respondent was also ordered, as specific requirements of her probation, not to violate any term of the judgment.

Respondent acknowledged in her Notice of Appeal filed with the Board of Disciplinary Appeals ("BODA") that she received a copy of the Judgment of Partially Probated Suspension on February 9, 2011.

IV. VIOLATIONS OF TERMS OF JUDGMENT

Respondent violated the following terms of probation contained in the Judgment of Partially Probated Suspension:

1. Respondent shall not violate any term of this judgment.
8. Respondent shall pay all reasonable and necessary attorney's fees and direct expenses to the State Bar of Texas in the amount of \$15,458.59. The payment shall be due and payable on or before March 1, 2013, 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, to the Chief Disciplinary Counsel's Office, P.O. Box 12487, Austin, TX 78711-2487 (1414 Colorado St., Austin, TX 78701).
9. Respondent shall pay restitution on or before December 31, 2011, to Adrienne U. West in the amount of \$25,000.00. Respondent shall pay the restitution by certified or cashier's check or money order made payable to Adrienne U. West 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).

Respondent violated the above-noted terms of probation in the following manner:

Respondent did not pay attorney's fees and direct expenses in the amount of \$15,458.59 to the State Bar of Texas on or before March 1, 2013, and did not do so by certified nor cashier's check, nor money order, made payable to the State Bar of Texas, to the Chief Disciplinary Counsel's Office, P.O. Box 12487, Austin, TX 78711-2487 (1414 Colorado St., Austin, TX 78701), thus violating Term of Probation Number 8.

Respondent did not pay restitution on or before December 31, 2011, to Adrienne U. West in the amount of \$25,000.00. Respondent did not pay such restitution by certified nor cashier's check, nor money order made payable to Adrienne U. West 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), thus violating Term of Probation Number 9.

These inactions result in violations of Probationary Term Number 1.

As detailed above, Respondent violated probationary terms of her judgment.

V. REVOCATION

Pursuant to Rule 2.23 of the Texas Rules of Disciplinary Procedure, the Board of Disciplinary Appeals is granted jurisdiction for the full term of suspension, including any probationary period, to hear a motion to revoke probation. "Upon proof, by a preponderance of the evidence, of a violation of probation, the same shall be revoked and the attorney suspended from the practice of law for the full term of the suspension without credit for any probationary time served." Tex.R.Discipl.P. 2.23.

PRAYER


WHEREFORE, PREMISES CONSIDERED, Petitioner prays Respondent be given notice of these proceedings as provided by law and upon final hearing of this matter, that this Honorable Board enter orders suspending Respondent's license to practice law for the full term of her suspension, and for such other and additional relief to which Petitioner may be entitled.

Respectfully submitted,

LINDA A. ACEVEDO
Chief Disciplinary Counsel

Judith Gres DeBerry
Assistant Disciplinary Counsel

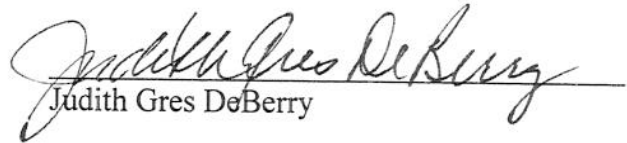
Office of the Chief Disciplinary Counsel
State Bar of Texas
P.O. Box 12487
Austin, Texas 78711
Telephone: 512.427.1350
FAX: 512.427.4167

By: 
JUDITH GRES DEBERRY
State Bar No. 24040780

ATTORNEYS FOR PETITIONER

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that a trial on the merits of the Petition for Revocation of Probation 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 26th day of July 2013.**


Judith Gres DeBerry

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

COMMISSION FOR LAWYER	§	
DISCIPLINE,	§	
Petitioner	§	
	§	
V.	§	H0080827321 [WEST]
	§	
KRISTIN D. WILKINSON,	§	
Respondent	§	HARRIS COUNTY, TEXAS

JUDGMENT OF PARTIALLY PROBATED SUSPENSION

Parties and Appearance

On December 10, 2010, came to be heard the above styled and numbered cause. Trial commenced on December 10, 2010, was continued and was completed January 14, 2011. Petitioner, Commission for Lawyer Discipline, appeared by and through its attorney of record, J. G. Molleston and announced ready. Respondent, Kristin D. Wilkinson, Texas Bar Number 24037708, appeared in person, pro se, and announced ready.

Jurisdiction and Venue

The Evidentiary Panel 4E having been duly appointed to hear this complaint by the chair of the Grievance Committee for State Bar of Texas District 4, 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 all of the pleadings, evidence, stipulations, and argument, finds Respondent has committed Professional Misconduct as defined by Rule 1.06(V) of the Texas Rules of Disciplinary Procedure.

Findings of Fact

Exhibit
1

The Evidentiary Panel, having considered the pleadings, evidence and argument of counsel, makes the following findings of fact and conclusions of law:

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 her principal place of practice in Harris County, Texas.
3. On December 27, 2007, Adrienne U. West hired Kristin D. Wilkinson for representation regarding a civil matter arising out of a residential property boundary dispute. Complainant paid Respondent \$25,000.00. The parties signed an employment contract.
4. In July 2008, Adrienne U. West terminated Kristin D. Wilkinson.
5. Kristin D. Wilkinson neglected Adrienne U. West's legal matter
6. Kristin D. Wilkinson charged Adrienne U. West an unconscionable fee to prosecute a residential property boundary dispute.
7. Kristin D. Wilkinson failed to hold funds and other property belonging in whole or part to Adrienne U. West in Wilkinson's possession separate from her own property.
8. Upon termination of representation, Kristin D. Wilkinson failed to refund an advance payment of fees that had not been earned.
9. Kristin D. Wilkinson engaged in conduct involving dishonesty, fraud, deceit or misrepresentation.
10. 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 \$15,458.59.
11. Kristin D. Wilkinson owes restitution in the amount of \$25,000.00 payable to Adrienne U.

West.

Conclusions of Law

The Evidentiary Panel concludes that, based on foregoing findings of fact, the following Texas Disciplinary Rules of Professional Conduct have been violated: Rules: 1.01(b)(1), 1.04(a), 1.14(a), 1.15(d) and 8.04(a)(3).

Sanction

The Evidentiary Panel, having found that Respondent has committed professional misconduct, heard and considered additional evidence regarding the appropriate sanction to be imposed against Respondent. After hearing all evidence and argument and after having considered the factors in Rule 2.18 of the Texas Rule of Disciplinary Procedure, the Evidentiary Panel finds said findings and conclusions support a Judgment of Partially Probated Suspension.

Accordingly, it is ORDERED, ADJUDGED and DECREED that Respondent be suspended from the practice of law for a period of forty-eight (48) months, beginning May 1, 2011 and ending May 1, 2015. Respondent shall be actively suspended from the practice of law for a period of twenty-four (24) months beginning May 1, 2011 and ending April 30, 2013. The twenty-four (24) month period of probated suspension shall begin on May 1, 2013 and shall end on May 1, 2015.

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 herself out as an attorney at law; performing any legal services for others; accepting any fee directly or indirectly for legal services; appearing as counsel or in any representative capacity in any proceeding in any Texas or Federal court or before any administrative body; or holding herself out to others or

using her 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 1, 2011, Respondent shall notify each of Respondent's current clients 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 1, 2011, an affidavit stating all current clients 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 1, 2011 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 1, 2011, 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 1, 2011, Respondent shall surrender her law license and permanent State Bar Card to the State Bar of Texas, Chief Disciplinary Counsel's Office, P.O. Box 12487, Austin, TX 78711-2487 (1414 Colorado St., Austin, TX 78701), to be forwarded to the Supreme Court of Texas.

Terms of Probation

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

1. Respondent shall not violate any term of this judgment.
2. Respondent shall not engage in professional misconduct as defined by Rule 1.06(V) 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.
8. Respondent shall pay all reasonable and necessary attorney's fees and direct expenses to the State Bar of Texas in the amount of \$15,458.59. The payment shall be due and payable on or before March 1, 2013, 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, to the Chief Disciplinary Counsel's

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

9. Respondent shall pay restitution on or before December 31, 2011, to Adrienne U. West in the amount of \$25,000.00. Respondent shall pay the restitution by certified or cashier's check or money order made payable to Adrienne U. West 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).

Probation Revocation

It is further ORDERED that, if Respondent violates any term of this judgment, the Board of Disciplinary Appeals ("BODA") shall enter an order revoking the probation and imposing the active suspension of Respondent from the practice of law to commence on the date of revocation.

Upon determination that Respondent has violated any term of this judgment, the Chief Disciplinary Counsel may, in addition to all other remedies available, file a motion to revoke probation with BODA and serve a photocopy 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 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

It is further ORDERED Respondent shall pay restitution on or before December 31, 2011, to Adrienne U. West in the amount of \$25,000.00. Respondent shall pay the restitution by certified or cashier's check or money order made payable to Adrienne U. West 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).

It is further ORDERED Respondent shall pay all reasonable and necessary attorney's fees and direct expenses to the State Bar of Texas in the amount of \$15,458.59. The payment shall be due and payable on or before, March 1, 2013, 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, to the Chief Disciplinary Counsel's Office, P.O. Box 12487, Austin, TX 78711-2487 (1414 Colorado St., Austin, TX 78701).

It is further ORDERED that all amounts ordered herein are due to the misconduct of Respondent, are assessed as a part of the sanction in accordance with Rule 1.06(Y) of the Texas Rules of Disciplinary Procedure. Any amount not paid shall accrue interest at the maximum legal rate per annum until paid and the State Bar of Texas shall have all writs and other post-judgment remedies against Respondent in order to collect all unpaid amounts.

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 21st day of January, 2011.

EVIDENTIARY PANEL
DISTRICT NO. 4E
STATE BAR OF TEXAS

Catherine Wylie
CATHERINE WYLIE
District 4E Presiding Member