

ORIGINAL

CAUSE NO. 2017-51629

COMMISSION FOR LAWYER DISCIPLINE,	§	IN THE DISTRICT COURT OF
Petitioner,	§	
	§	
vs.	§	HARRIS COUNTY, TEXAS
	§	
THOMAS A. WILLBERN, III,	§	
[#201606335, 201606461]	§	
Respondent.	§	234 th JUDICIAL DISTRICT

AGREED JUDGMENT OF PARTIALLY PROBATED SUSPENSION

Parties and Appearance

On this day came to be heard the above-captioned cause. Petitioner, the Commission for Lawyer Discipline, through its attorney of record, Shannon Breaux Saucedo, and Respondent, Thomas A. Willbern, III, Texas Bar Number 21507700, through his attorney of record, David A. Bryant, Jr., announced that an agreement has been reached in the matter.

Jurisdiction and Venue

On the 25th day of July, 2017, pursuant to Rule 3.02 of the Texas Rules of Disciplinary Procedure, the Supreme Court of Texas appointed the Honorable Ken Molberg to preside over this disciplinary action. The Court finds that it has jurisdiction over the parties and the subject matter of this action, and that venue is proper. Both parties waived their right to trial by jury.

Professional Misconduct

The Court, having considered the pleadings and the agreement of the parties, finds that Respondent has committed Professional Misconduct as defined by Rule 1.06W of the Texas Rules of Disciplinary Procedure and in violation of Rule 1.01(b)(1), 1.03(a), 1.15(d), and 8.04(a)(8) of the Texas Disciplinary Rules of Professional Conduct; Article X, Section 9, of the State Bar Rules.

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 January 31, 2019 and ending January 31, 2022, provided Respondent complies with the following terms and conditions. Respondent shall be actively suspended from the practice of law for a period of two (2) months, beginning January 31, 2019 and ending March 31, 2019. If Respondent complies with all of the following terms and conditions timely, the 34-month period of probated suspension shall begin on April 1, 2019, and shall end on January 31, 2022:

1. Respondent shall pay all reasonable and necessary attorney's fees and direct expenses to the State Bar of Texas in the amount of \$550.00. The payment shall be due and payable on or before March 31, 2019, 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 March 31, 2019, to Christina Brewer, in the amount of \$2,000.00. Respondent shall pay the restitution by certified or cashier's check or money order made payable to Christina Brewer 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 make contact with the Chief Disciplinary Counsel's Offices' 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.

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 31, 2022, 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 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 January 1, 2019, 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 January 31, 2019, 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 January 1, 2019, 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 January 31, 2019, 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 January 31, 2019, Respondent shall surrender his law license and permanent State Bar Card to the State Bar of Texas, Chief Disciplinary Counsel's Office, P.O. Box 12487, Austin, TX 78711-2487 (1414 Colorado St., Austin, TX 78701), to be forwarded to the Supreme Court of Texas.

Terms of Probation

It is further ORDERED, that 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 3.13 of the Texas Rules of Disciplinary Procedure with this Court and serve a copy of the motion on Respondent pursuant to Tex.R.Civ.P. 21a.

The Court shall conduct an evidentiary hearing. At the hearing, the Court shall determine by a preponderance of the evidence whether Respondent has violated any term of this Judgment. If the Court finds grounds for revocation, an order shall be entered 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 March 31, 2019, to Christina Brewer, in the amount of \$2,000.00. Respondent shall pay the restitution by certified or cashier's check or money order made payable to Christina Brewer 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 \$550.00. The payment shall be due and payable on or before March 31, 2019, 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).

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. 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

IT IS FURTHER ORDERED that the Clerk of this Court shall forward a certified copy of the current Disciplinary Petition on file in this case along with a copy of this Judgment to the following: (1) Clerk of the Supreme Court of Texas, Supreme Court Building, Austin, Texas 78711; (2) the State Bar of Texas, Office of the Chief Disciplinary Counsel, P. O. Box 12487, Austin, Texas 78711; and (3) Respondent, through his attorney of record, David A. Bryant, Jr., 2751 S. Loop 336 West, Suite B, Conroe, Texas 77304.

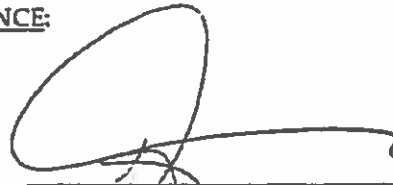
IT IS ORDERED that all costs of court incurred in the prosecution of this lawsuit shall be taxed against the party incurring same, for which the Clerk may have execution if they are not timely paid.

All requested relief not expressly granted herein is expressly DENIED.

SIGNED this 14th day of Dec., 2018.


HONORABLE KEN MOLBERG
Specially Assigned Judge


AGREED AS TO BOTH FORM AND SUBSTANCE:


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ATTORNEY FOR PETITIONER,
COMMISSION FOR LAWYER DISCIPLINE

ATTORNEY FOR RESPONDENT


THOMAS A. WILLBERN, III
Respondent
State Bar No. 21507700

All requested relief not expressly granted herein is expressly DENIED.

SIGNED this _____ day of _____, 2018.

HONORABLE KEN MOLBERG
Specially Assigned Judge

AGREED AS TO BOTH FORM AND SUBSTANCE:

Vanessa G. Windham

VANESSA G. WINDHAM

~~SILVANO BREAUX SAUCEDA~~
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ATTORNEY FOR RESPONDENT

THOMAS A. WILLBERN, III
Respondent
State Bar No. 21507700



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 10, 2019

Certified Document Number: 83326478 Total Pages: 8

Marilyn Burgess, DISTRICT CLERK
HARRIS COUNTY, TEXAS

In accordance with Texas Government Code 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