

BEFORE THE DISTRICT 6 GRIEVANCE COMMITTEE
EVIDENTIARY PANEL 6-2
STATE BAR OF TEXAS

COMMISSION FOR LAWYER
DISCIPLINE,
Petitioner

V.

RICHARD JOSEPH DEAGUERO,
Respondent

201701838

CASE NO. 201701838

JUDGMENT OF PROBATED SUSPENSION

Parties and Appearance

On April 5, 2018, came to be heard the above-styled and numbered cause. Petitioner, Commission for Lawyer Discipline, appeared by and through its attorney of record and announced ready. Respondent, **RICHARD JOSEPH DEAGUERO**, Texas Bar Number **05623500** (Respondent), appeared in person and announced ready.

Jurisdiction and Venue

The Evidentiary Panel 6-2, having been duly appointed to hear this complaint by the chair of the Grievance Committee for State Bar of Texas District 6, 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(W) of the Texas Rules of Disciplinary Procedure.

Findings of Fact

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 his principal place of practice in Dallas County, Texas.
3. In 2015, Complainant Brandy Bailey a/k/a Brandy Lynn Pierre (Pierre) hired Respondent to represent her in a criminal matter.
4. In representing Pierre, Respondent neglected the legal matter entrusted to him by failing to file a notice of appearance and by failing to notify the court and Pierre's court-appointed attorney that Pierre had retained his services.
5. Upon termination of representation, Respondent failed to refund advance payments of the fee that had not been earned.
6. Respondent owes restitution in the amount of One Thousand Five Hundred and no/100 Dollars (\$1,500.00) payable to Brandy Pierre.
7. The Chief Disciplinary Counsel of the State Bar of Texas has incurred reasonable attorney's fees associated with this Disciplinary Proceeding in the amount of Three Thousand and no/100 Dollars (\$3,000.00).
8. The Chief Disciplinary Counsel of the State Bar of Texas has incurred direct expenses associated with this Disciplinary Proceeding in the amount of Two Hundred and no/100 Dollars (\$200.00).

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) and 1.15(d).

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 that the proper discipline of the Respondent for each act of Professional Misconduct is a Probated Suspension.

Accordingly, it is **ORDERED, ADJUDGED** and **DECREED** that Respondent be suspended from the practice of law for a period of eighteen (18) months, with the suspension being fully probated pursuant to the terms stated below. The period of probated suspension shall begin on April 16, 2018, and shall end on October 15, 2019.

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(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.
8. Respondent shall pay restitution on or before June 1, 2018, to Brandy Pierre in the amount of One Thousand Five Hundred and no/100 Dollars (\$1,500.00). Respondent shall pay the restitution by certified or cashier's check or money order made payable to Brandy Pierre, 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).

9. Respondent shall pay all reasonable and necessary attorney's fees to the State Bar of Texas in the amount of Three Thousand and no/100 Dollars (\$3,000.00) and direct expenses in the amount of Two Hundred and no/100 Dollars (\$200.00). The payment of attorney's fees and expenses shall be made in thirty-two (32) monthly installments each in the amount of One Hundred and no/100 Dollars (\$100.00). Each payment is due on or before the sixteenth (16th) day of each month, beginning July 16, 2018, and ending February 16, 2021. The payment of attorney's fees and direct expenses shall be made by certified or cashier's check or money order and made payable to the State Bar of Texas, 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).
10. 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.

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 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 June 1, 2018, to Brandy Pierre in the amount of One Thousand Five Hundred and no/100 Dollars (\$1,500.00). Respondent shall pay the restitution by certified or cashier's check or money order made payable to Brandy Pierre, 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 to the State Bar of Texas in the amount of Three Thousand and no/100 Dollars (\$3,000.00) and direct expenses in the amount of Two Hundred and no/100 Dollars (\$200.00). The payment of attorney's fees and expenses shall be made in thirty-two (32) monthly installments each in the amount of One Hundred and no/100 Dollars (\$100.00). Each payment is due on or before the sixteenth (16th) day of each month, beginning July 16, 2018, and ending February 16, 2021. The payment of attorney's fees and direct expenses shall be made by certified or cashier's check or money order and made payable to the State Bar of Texas, 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** 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(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

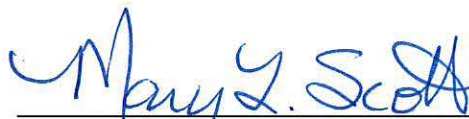
This suspension shall be made a matter of record and appropriately published in accordance with the Texas Rules of Disciplinary Procedure.

Other Relief

All requested relief not expressly granted herein is expressly DENIED.

SIGNED this 20th day of April, 2018.

**EVIDENTIARY PANEL 6-2
DISTRICT NO. 6
STATE BAR OF TEXAS**



Mary L. Scott
District 6, Panel 6-2 Presiding Member