

BEFORE THE DISTRICT 6 GRIEVANCE COMMITTEE  
EVIDENTIARY PANEL 3  
STATE BAR OF TEXAS

COMMISSION FOR LAWYER  
DISCIPLINE,  
Petitioner

v.

RICHARD JOSEPH DEAGUERO,  
Respondent

CASE NO. 201704963

**JUDGMENT OF PROBATED SUSPENSION**

**Parties and Appearance**

On November 8, 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, appeared in person and announced ready.

**Jurisdiction and Venue**

The Evidentiary Panel 3, 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 June 2017, Farmer's Branch Police Detective Richard Willborn (Willborn) was investigating a criminal charge involving Respondent's client Jena Harpst (Harpst). During the investigation, Willborn obtained a search warrant for Harpst's cell phone, after which he discovered a series of text messages exchanged between Harpst and Respondent.
4. Respondent offered to pay money to Harpst, who is not licensed to practice law, for referring clients or prospective clients to Respondent.
5. By offering to pay money for prospective clients, Respondent engaged in barratry as defined by the law of this state.
6. The Chief Disciplinary Counsel of the State Bar of Texas has incurred reasonable attorney's fees and direct expenses associated with this Disciplinary Proceeding in the amount of One Thousand One Hundred Nine-Two Dollars and Fifty Cents (\$1,192.50).

#### **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 7.03(b) and 8.04(a)(9).

#### **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 three (3) years, with the suspension

being fully probated pursuant to the terms stated below. The period of probated suspension shall begin on November 8, 2018, and shall end on November 7, 2021.

**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 all reasonable and necessary attorney's fees and direct expenses to the State Bar of Texas in the amount of One Thousand One Hundred Nine-Two Dollars and Fifty Cents (\$1,192.50). The payment shall be due and payable on or before December 7, 2018, 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 make contact with the Chief Disciplinary Counsel 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.

### **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.

### **Attorney's Fees and Expenses**

It is **ORDERED** Respondent shall pay all reasonable and necessary attorney's fees and direct expenses to the State Bar of Texas in the amount of One Thousand One Hundred Nine-Two Dollars and Fifty Cents (\$1,192.50). The payment shall be due and payable on or before December 7, 2018, 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(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 27<sup>th</sup> day of November, 2018.

EVIDENTIARY PANEL 3  
DISTRICT NO. 6  
STATE BAR OF TEXAS

  
Majed Nachawati  
District 6, Panel 3 Presiding Member