

**BEFORE THE EVIDENTIARY PANEL OF THE
STATE BAR DISTRICT NO. 4-2 GRIEVANCE COMMITTEE**

COMMISSION FOR LAWYER DISCIPLINE,	§	201701898 [LINDSAY ANN GRICE]
	§	201703887 [CRYSTAL VELAZQUEZ]
Petitioner,	§	201800405 [THEODORE GORDON]
	§	201802419 [JOSE A. HURTADO]
	§	201805306 [GLORIA BALDERRAMA]
	§	
v.	§	HARRIS COUNTY, TEXAS
	§	
THOMAS A. WILLBERN, III	§	
	§	
Respondent.	§	

AGREED JUDGMENT OF PARTIALLY PROBATED SUSPENSION

Parties and Appearance

On this date, came to be heard the above styled and numbered cause. Petitioner and Respondent, Thomas A. Willbern, III, Texas Bar Number 21507700, announce that an agreement has been reached on all matters including the imposition of a Partially Probated Suspension.

Jurisdiction and Venue

The Evidentiary Panel 4-2, 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 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

Petitioner and Respondent agree to the following findings of fact. Accordingly, 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 her principal place of practice in Harris County, Texas.
3. In representing five (5) clients, Respondent frequently failed to carry out completely the obligations Respondent owed to those clients.
4. In representing one (1) client, Respondent failed to hold funds belonging in whole or in part to the client in a trust account, appropriately safeguarded and separate from the lawyer's own property.
5. Respondent failed to keep two (2) clients reasonably informed about the status of their cases.
6. Upon termination of his representation four (4) clients, Respondent failed to refund advance payments of fee that had not been earned.
7. Respondent failed to timely furnish to the Chief Disciplinary Counsel's Office a response to four (4) grievances filed as required by the TEXAS RULES OF DISCIPLINARY PROCEDURE.
8. Respondent owes restitution in the amount of \$400.00 payable to Crystal Velazquez, \$2,000.00 payable to Theodore Gordon, \$100.00 to Jose A. Hurtado, and \$1,000.00 to Gloria Balderrama.
9. 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 total amount of \$550.00.

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. Accordingly, the Evidentiary Panel concludes that the following Texas Disciplinary Rules of Professional Conduct have been violated: 1.01(b)(2), 1.14(a), 1.03(a), 1.15(d), 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 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 Crystal Velazquez, in the amount of \$400.00; to Theodore Gordon, in the amount of \$2,000.00; to Jose A. Hurtado, in the amount of \$100.00; and to Gloria Balderrama, in the amount of \$1,000.00. Respondent shall pay the restitution by certified or cashier's checks or money orders made payable to each named individual 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 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 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 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 March 31, 2019, to Crystal Velazquez, in the amount of \$400.00; to Theodore Gordon, in the amount of \$2,000.00; to Jose A. Hurtado, in the amount of \$100.00; and to Gloria Balderrama, in the amount of \$1,000.00. Respondent shall pay the restitution by certified or cashier's checks or money orders made payable to each named individual 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

All requested relief not expressly granted herein is expressly DENIED.

SIGNED this _____ day of _____, 20__.

**EVIDENTIARY PANEL 4-2
DISTRICT NO. 4
STATE BAR OF TEXAS**

**Ruben R. Perez
District 4-2 Presiding Member**

AGREED AS TO BOTH FORM AND SUBSTANCE:

**STATE BAR OF TEXAS
*Office of the Chief Disciplinary Counsel***

**LINDA A. ACEVEDO
Chief Disciplinary Counsel**

Vanessa G. Windham
Vanessa G. Windham

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COMMISSION FOR LAWYER DISCIPLINE**

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ATTORNEY FOR RESPONDENT

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

Other Relief

All requested relief not expressly granted herein is expressly DENIED.

SIGNED this 4th day of December, 2018.

**EVIDENTIARY PANEL 4-2
DISTRICT NO. 4
STATE BAR OF TEXAS**



Ruben R. Perez
District 4-2 Presiding Member


AGREED AS TO BOTH FORM AND SUBSTANCE:

STATE BAR OF TEXAS
Office of the Chief Disciplinary Counsel

LINDA A. ACEVEDO
Chief Disciplinary Counsel


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ATTORNEY FOR RESPONDENT



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

Other Relief

All requested relief not expressly granted herein is expressly DENIED.

SIGNED this 4th day of December, 2018.

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DISTRICT NO. 4
STATE BAR OF TEXAS**




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State Bar No. 21507700