

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

**COMMISSION FOR LAWYER
DISCIPLINE,
Petitioner**

V.

**W. THOMAS FINLEY,
Respondent**

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CASE NO. 201706253

DEFAULT JUDGMENT OF ACTIVE SUSPENSION

Parties and Appearance

On December 13, 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, **W. THOMAS FINLEY** (Respondent), Texas Bar Number **07025500**, although duly served with the Evidentiary Petition and notice of this default and sanctions hearing, failed to appear.

Jurisdiction and Venue

The Evidentiary Panel 6-3, 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.

Default

The Evidentiary Panel finds Respondent was properly served with the Evidentiary Petition and that Respondent failed to timely file a responsive pleading to the Evidentiary Petition as required by Rule 2.17(B) of the Texas Rules of Disciplinary Procedure. Accordingly, the Evidentiary Panel finds Respondent in default and further finds that all

facts alleged in the Evidentiary Petition are deemed true pursuant to Rule 2.17(C) of the Texas Rules of Disciplinary Procedure.

Professional Misconduct

The Evidentiary Panel, having deemed all facts as alleged in the Evidentiary Petition true, 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 allegations as deemed true, 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. On or about October 4, 2017, Respondent, as legal counsel in a divorce case, communicated directly with the opposing party, Chad Lytle, who was represented by legal counsel, Julie Lucio (Complainant), and discussed a legal matter in connection with the pending divorce case. The communication occurred without Complainant's knowledge or consent.
4. Respondent failed to timely furnish to the Chief Disciplinary Counsel's office a response or other information as required by the Texas Rules of Disciplinary Procedure. Respondent did not in good faith timely assert a privilege or other legal ground for failure to do so.
5. 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 Nine Hundred Eighteen Dollars and No Cents (\$918.00).
6. 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 Fifty Dollars and No Cents (\$250.00).

Conclusions of Law

The Evidentiary Panel concludes that, based upon the foregoing findings of fact, the following Texas Disciplinary Rules of Professional Conduct have been violated: Rules 4.02(a) and 8.04(a)(8).

Sanction

The Evidentiary Panel, having found 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 an Active Suspension.

Accordingly, it is **ORDERED, ADJUDGED** and **DECREED** that Respondent be shall be actively suspended from the practice of law for a period of two (2) years beginning February 1, 2019, and ending January 31, 2021.

Terms of Active Suspension

It is further **ORDERED** that during the term of active suspension ordered herein, Respondent shall be prohibited from practicing law in Texas; holding himself 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 himself out to others or using his 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 February 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 February 1, 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 February 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 February 1, 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 February 1, 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.

Attorney's Fees and Expenses

It is further **ORDERED** Respondent shall pay all reasonable and necessary attorney's fees to the State Bar of Texas in the amount of Nine Hundred Eighteen Dollars and No Cents (\$918.00). The payment shall be due and payable on or before March 15, 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, 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** Respondent shall pay all direct expenses to the State Bar of Texas in the amount of Two Hundred Fifty Dollars and No Cents (\$250.00). The payment shall be due and payable on or before March 15, 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, 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.

It is further **ORDERED** that Respondent shall remain actively suspended from the practice of law as set out above until such time as Respondent has completely paid attorney's fees to the State Bar of Texas in the amount of Nine Hundred Eighteen Dollars and No Cents (\$918.00); and direct expenses to the State Bar of Texas in the amount of Two Hundred Fifty Dollars and No Cents (\$250.00).

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 8 day of January 2019 ~~December, 2018~~.

**EVIDENTIARY PANEL 6-3
DISTRICT NO. 6
STATE BAR OF TEXAS**



**Majed Nachawati
District 6, Panel 6-3 Presiding Member**