

FILE NO. 201803491

IN THE MATTER OF:	§	INVESTIGATORY PANEL 17-1
	§	
DEREK ALFONSO QUINATA,	§	DISTRICT 17
BAR NO. 24072292)	§	
	§	GRIEVANCE COMMITTEE

**AGREED JUDGMENT OF PROBATED SUSPENSION**

**Parties and Appearance**

Chief Disciplinary Counsel and Respondent, Derek Alfonso Quinata, Texas Bar Number 24072292, announce that an agreement has been reached on all matters including the imposition of a Probated Suspension.

**Jurisdiction and Venue**

The Investigatory Panel 17-1 having been duly appointed to hear this Complaint by the chair of the Grievance Committee for State Bar of Texas District 17, finds that it has jurisdiction over the parties and the subject matter of this action, and that venue is proper.

**Professional Misconduct**

The Investigatory Panel, having considered the admissions, stipulations and agreements of the parties, finds Respondent has committed Professional Misconduct as defined by Rule 1.06(CC) of the Texas Rules of Disciplinary Procedure.

**Findings of Fact**

Petitioner and Respondent agree to the following findings of fact. Accordingly, the Investigatory 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 his principal place of practice in El Paso County, Texas.
3. Upon termination of representation, Respondent failed to refund advance

- payments of fee that had not been earned.
4. Respondent failed to hold client funds separate from his own property.
  5. Respondent failed to promptly deliver to Selma Tombosky funds that Ms. Tombosky was entitled to receive.
  6. 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 amount of \$1,000.00.
  7. Respondent owes restitution in the amount of \$700.00 payable to Selma Tombosky.

### **Conclusions of Law**

Based on the agreed foregoing findings of fact, the Investigatory Panel finds that the following Texas Disciplinary Rules of Professional Conduct have been violated: 1.15(d); 1.14(a); 1.14(b).

### **Sanction**

It is AGREED and ORDERED that the sanction of a Probated Suspension shall be imposed against Respondent and is in accordance with Part XV of 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 months, with the suspension being fully probated pursuant to the terms stated below. The period of probated suspension shall begin on January 15, 2019 and shall end on April 14, 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(CC) 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, on or before January 31, 2019, to the State Bar of Texas in the amount of \$1,000.00. The payment shall be by certified or cashier's check or money order, 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).
9. Respondent shall pay restitution, on or before January 31, 2019, to Selma Tombosky in the amount of \$700.00. Respondent shall pay the restitution by certified or cashier's check or money order, made payable to Selma Tombosky 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 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 January 31, 2019, to Selma Tombosky in amount of \$700.00. Respondent shall pay the restitution by certified or cashier's check or money order, made payable to Selma Tombosky 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, on or before January 31, 2019, to the State Bar of Texas in the amount of \$1,000.00. The payment shall be made by certified or cashier's check or money order, 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(FF) 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 public record and appropriately published in accordance with the Texas Rules of Disciplinary Procedure.

**Other Relief**

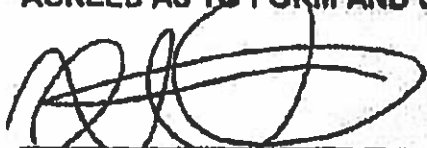
All requested relief not expressly granted herein is expressly DENIED.

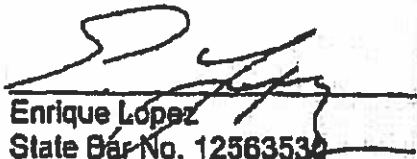
SIGNED this 10<sup>th</sup> day of January, 2019.


**INVESTIGATORY PANEL 17-1  
DISTRICT 17**

  
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**SAMUEL B. SPROWLES  
PRESIDING MEMBER**

**AGREED AS TO FORM AND SUBSTANCE:**

  
\_\_\_\_\_  
**Derek Alfonso Quinata  
State Bar No. 24072292  
RESPONDENT**

  
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**Enrique Lopez  
State Bar No. 12563530  
RESPONDENT'S COUNSEL**

  
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**George Smith  
State Bar No. 24041940  
ASSISTANT CHIEF DISCIPLINARY COUNSEL**