

**BEFORE THE DISTRICT 12 GRIEVANCE COMMITTEE  
EVIDENTIARY PANEL 12-3  
STATE BAR OF TEXAS**

**COMMISSION FOR LAWYER  
DISCIPLINE,  
Petitioner**

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**V.**

**201601332**

**ALBERTO POSADA,  
Respondent**

**JUDGMENT OF PROBATED SUSPENSION**

**Parties and Appearance**

On February 21, 2019, 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, ALBERTO POSADA, Texas Bar Number 24039360, appeared in person and announced ready.

**Jurisdiction and Venue**

The Evidentiary Panel 12-3 having been duly appointed to hear this complaint by the chair of the Grievance Committee for State Bar of Texas District 12, 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 Cameron County, Texas.
3. Alberto Posada was ordered, by Judgment in disciplinary case number D0051245815, on September 26, 2013, to pay \$2,664.94 in attorney fees and costs on or before March 31, 2014.
4. Alberto Posada was ordered, by Judgment in disciplinary case number D0031142509, on October 31, 2013, to pay restitution to Guadalupe Galvan in the amount of \$5,000.00 on or before June 30, 2014 and to pay \$2,278.37 in attorney fees and costs on or before November 30, 2014.
5. Alberto Posada has failed to comply with either judgment in that he has failed to timely pay restitution and attorney fees in both cases by the dates required.
6. Alberto Posada has failed to timely file a response to the Chief Disciplinary Counsel's office in this grievance.
7. 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 \$1,700.00
8. The Chief Disciplinary Counsel of the State Bar of Texas has incurred reasonable attorneys' fees and direct expenses associated with the Disciplinary Proceedings in case number D0051245815, in the amount of \$ \$2,664.94
9. The Chief Disciplinary Counsel of the State Bar of Texas has incurred reasonable attorneys' fees and direct expenses associated with the Disciplinary Proceedings in case number D0031142509, in the amount of \$ \$2,278.37
10. Respondent owes restitution in the amount of \$5,000.00 payable to Guadalupe Galvan.

#### **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: 8.04(a)(7) and 8.04(a)(8).

#### **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 2 years and 6 months, with the suspension being fully probated pursuant to the terms stated below. The period of probated suspension shall begin on March 1, 2019 and shall end on August 31, 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 \$6,646.31. Respondent shall pay the attorney fees and expenses in three payments. The first \$2,500.00 payment shall be due and payable on or before September 1, 2020, the second \$2,500.00 payment shall be due and payable on or before March 1, 2021, and the third \$1,646.31 payment shall be due and payable on or before August 31, 2021. All payments 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 pay restitution to Guadalupe Galvan in the amount of \$5,000.00. Respondent shall pay the restitution in two payments of \$2,500.00 each. The first payment shall be due and payable on or before September 1, 2019 and the second payment shall be due and payable on or before March 1, 2020. All payments 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).

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 to Guadalupe Galvan in the amount of \$5,000.00. Respondent shall pay the restitution in two payments of \$2,500.00 each. The first payment shall be due and payable on or before September 1, 2019, and the

second payment shall be due and payable on or before March 1, 2020. Respondent shall pay the restitution 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 Respondent shall pay all reasonable and necessary attorney's fees and direct expenses to the State Bar of Texas in the amount of \$6,646.31. Respondent shall pay the attorney fees and expenses in three payments. The first \$2,500.00 payment shall be due and payable on or before September 1, 2020, the second \$2,500.00 payment shall be due and payable on or before March 1, 2020 and the third \$1,646.31 payment shall be due and payable on or before August 31, 2021. All payments 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 13<sup>th</sup> day of March, 2019.

**EVIDENTIARY PANEL  
DISTRICT NO. 12  
STATE BAR OF TEXAS**



**CYNTHIA RENTERIA  
District 12-3 Presiding Member**