

BEFORE THE DISTRICT 7 GRIEVANCE COMMITTEE
EVIDENTIARY PANEL 7-2
STATE BAR OF TEXAS

COMMISSION FOR LAWYER
DISCIPLINE,
Petitioner

V.

BRIAN SCOTT HOLK,
Respondent

201904101013

CASE NO. 201801013

DEFAULT JUDGMENT OF PUBLIC REPRIMAND

Parties and Appearance

On April 10, 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. **BRIAN SCOTT HOLK** ("Respondent"), Texas Bar Number **24033728**, although duly served with the Evidentiary Petition and notice of this default and sanctions hearing, failed to appear.

Jurisdiction and Venue

The Evidentiary Panel 7-2, having been duly appointed to hear this complaint by the chair of the Grievance Committee for State Bar of Texas District 7, 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 Tarrant County, Texas.
3. On January 19, 2007, Complainant Bruce Wesley Nichol ("Nichol") hired Brian J. Tehan ("Tehan") and Respondent to represent him in a divorce involving children and later a civil lawsuit against his child's school for interference with his parental rights.
4. Upon termination of representation, Respondent failed to surrender papers and property to which Nichol was entitled.
5. 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.
6. 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 One Thousand One Hundred Thirty-One Dollars and No Cents (\$1,131.00).
7. The Chief Disciplinary Counsel of the State Bar of Texas has incurred direct expenses associated with this Disciplinary Proceeding in the amount of Four Hundred Ninety-Two Dollars and No Cents (\$492.00).

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 1.15(d) 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 a Public Reprimand.

Accordingly, it is **ORDERED, ADJUDGED** and **DECREED** that a Public Reprimand be imposed against Respondent in accordance with the Texas Rules of Disciplinary Procedure. The Evidentiary Panel finds that the sanction imposed against Respondent is the appropriate sanction for each of the violations set forth in this judgment.

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 One Thousand One Hundred Thirty-One Dollars and No Cents (\$1,131.00). The payment shall be due and payable on or before October 15, 2019, shall be made by certified or cashier's check or money order, and made payable to the State Bar of Texas. Respondent shall forward the funds 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 direct expenses to the State Bar of Texas in the amount of Four Hundred Ninety-Two Dollars and No Cents (\$492.00). The payment shall be due and payable on or before October 15, 2019, shall be made by certified or cashier's check or money order, and made payable to the State Bar of Texas. Respondent shall forward the funds 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(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 reprimand 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 15th day of May, 2019.

**EVIDENTIARY PANEL 7-2
DISTRICT NO. 7
STATE BAR OF TEXAS**



CHRIS NICKELSON
District 7, Panel 7-2 Presiding Member