

FILE NO. 201805120

IN THE MATTER OF:

DEREK QUINATA,
BAR NO. 24072292

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INVESTIGATORY PANEL 17-1

DISTRICT 17

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 conducted an Investigatory Hearing on May 29, 2019 on the Complaint filed by Derek Orozco, 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's Professional Misconduct occurred, in whole or in part, in El Paso County, Texas.
3. Respondent neglected David Orozco's legal matter.

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4. Respondent failed to respond to David Orozco's requests for information about the status of her legal matter.
5. Upon termination of representation, Respondent failed to return the unearned portion of the fee.
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 \$1,000.00 payable to Norma Rascon.

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: 1.01 (b)(1); 1.03(a); 1.15(d).

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 years, with the suspension being fully probated pursuant to the terms stated below. The period of probated suspension shall begin on June 15, 2019 and shall end on June 14, 2022.

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 September 15, 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 June 28, 2019, to Norma Rascon in the amount of \$1,000.00. Respondent shall pay the restitution by certified or cashier's check or money order, made payable to Norma Rascon 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. In addition to complying with the Minimum Continuing Legal Education (MCLE) requirements of the State Bar of Texas, Respondent shall complete six additional hours of continuing legal education in the area of Law Practice Management. These additional hours of CLE are to be completed between June 15, 2019 and October 15, 2019. Within ten (10) days of the completion of these additional CLE hours, Respondent shall verify completion of the course to the State Bar of Texas, via USPS: Office of the CDC, State Bar of Texas, P.O. Box 12487, Austin, TX 78711-2487; or via Delivery: Office of the CDC, State Bar of Texas, 1414 Colorado St., Suite 200, Austin, TX 78701. This CLE requirement is not additive and runs concurrent with the CLE requirement in disciplinary case 201806042.
11. Not later than sixty (60) days after entry of the judgment, Respondent shall engage the services of an Independent Certified Public Accountant (the CPA), approved by the State Bar of Texas, to assist Respondent in implementing an accounting method to properly maintain trust account records, and to properly balance any and all of Respondent's trust accounts. Respondent shall insure that written confirmation of the implementation of such accounting method is provided directly by the CPA to the State Bar of Texas not later than ninety (90) days after entry of the judgment. Respondent shall take all necessary action, including the execution of a valid release of information, to allow and direct the CPA to provide such confirmation.
12. Additionally, not later than sixty (60) days after entry of the judgment, Respondent shall have a review of any and all of Respondent's trust accounts completed by the CPA. Not later than 30 days after completion of the review, Respondent shall insure that a report summarizing the results of the review, and specifically noting any irregularities in Respondent's handling of trust account funds, is provided by the CPA directly to the State Bar of Texas. Thereafter, reviews shall be completed every four (4) months, with reports provided by the CPA directly to the State Bar of Texas within

thirty (30) days of the completion of each review. Respondent shall take all necessary action, including the execution of a valid release of information, to allow and direct the CPA to provide such reports.

Respondent shall be responsible for all costs and expenses incurred in completing these terms and shall pay all reasonable costs and expenses to the CPA in the manner determined by the CPA.

All reports and verifications of compliance with the above shall be sent to the State Bar of Texas via USPS to: Compliance Monitor, Office of the CDC, State Bar of Texas, P.O. Box 12487, Austin, TX 78711-2487; or via Delivery: Office of the CDC, State Bar of Texas, 1414 Colorado St., Austin, TX 78701, or via FAX to: 512-427-4167.

13. 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 June 28, 2019, to Norma Rascon in amount of \$1,000.00. Respondent shall pay the restitution by certified or cashier's check or money order, made payable to Norma Rascon 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 September 15, 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

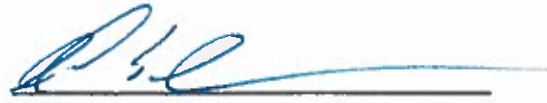
This suspension shall be made a matter of public record and appropriately published in accordance with the Texas Rules of Disciplinary Procedure.

Other Relief

All requested relief not expressly granted herein is expressly DENIED.

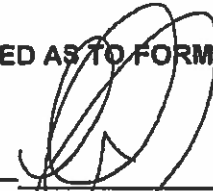
SIGNED this 18th day of June, 2019.

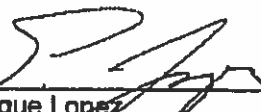
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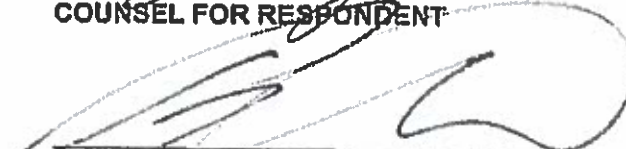


**Samuel E. Sprowles
PRESIDING MEMBER**

AGREED AS TO FORM AND SUBSTANCE:



Derek Quiñata
State Bar No. 072292
RESPONDENT

Enrique Lopez
State Bar No. 12563530
COUNSEL FOR RESPONDENT

Paul H. Anburg III
State Bar No. 09934050
ASSISTANT CHIEF DISCIPLINARY COUNSEL