

**BEFORE THE EVIDENTIARY PANEL OF THE  
STATE BAR DISTRICT NO. 3-2 GRIEVANCE COMMITTEE**

<b>COMMISSION FOR LAWYER DISCIPLINE,</b>	§	<b>201805898 [SAMUEL NEAL KENNEDY]</b>
	§	
<b>Petitioner,</b>	§	
	§	
<b>v.</b>	§	<b>MONTGOMERY COUNTY, TEXAS</b>
	§	
<b>ROBERT AARON MARKLE,</b>	§	
	§	
<b>Respondent.</b>	§	

**DEFAULT JUDGMENT OF PARTIALLY PROBATED SUSPENSION**

**Parties and Appearance**

On August 16, 2019, came to be heard the above-styled and numbered cause. Petitioner, the **COMMISSION FOR LAWYER DISCIPLINE**, appeared by and through its attorney of record, Melisa H. Jordan, Assistant Disciplinary Counsel, and announced ready. Respondent, **ROBERT AARON MARKLE**, Texas Bar Number 24098037, although duly served with the *Original Evidentiary Petition* and notice of this default and sanctions hearing, failed to appear.

**Jurisdiction and Venue**

The Evidentiary Panel 3-2, having been duly appointed to hear this complaint by the chair of the Grievance Committee for STATE BAR OF TEXAS District 3, 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 that Respondent was properly served with the *Original Evidentiary Petition* and that Respondent failed to timely file a responsive pleading to the *Original 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 *Original 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 that Respondent has committed Professional Misconduct as defined by Rule 1.06(CC) 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 Montgomery County, Texas. <sup>1</sup>
3. In representing Samuel Neal Kennedy, Respondent neglected the legal matter entrusted to him.
4. In representing Samuel Neal Kennedy, Respondent frequently failed to carry out completely the obligations Respondent owed to his client.
5. Respondent failed to keep Samuel Neal Kennedy reasonably informed about the status of his case.
6. Respondent failed to promptly comply with reasonable requests for information from Samuel Neal Kennedy about his case.
7. 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 and did not in good faith timely assert a privilege or other legal ground for failure to do so.
8. Respondent owes restitution in the amount of Two Thousand Four Hundred Four and No/100 Dollars (\$2,404.00) payable to Samuel Neal Kennedy.
9. 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

total amount of One Thousand Five Hundred Ninety-Seven and 90/100 Dollars (\$1,597.90).

### **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 1.01(b)(1)** [in representing a client, a lawyer shall not neglect a legal matter entrusted to the lawyer]; **1.01(b)(2)** [in representing a client, a lawyer shall not frequently fail to carry out completely the obligations that the lawyer owes to a client or clients]; **1.03(a)** [a lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information]; and **8.04(a)(8)** [a lawyer shall not fail to timely furnish to the Chief Disciplinary Counsel's Office or a district grievance committee a response or other information as required by the TEXAS RULES OF DISCIPLINARY PROCEDURE, unless he or she in good faith timely asserts a privilege or other legal ground for failure to do so].

### **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, the Evidentiary Panel finds that the proper discipline of the Respondent for each act of Professional Misconduct is a Partially Probated Suspension.

Accordingly, it is **ORDERED, ADJUDGED** and **DECREED** that Respondent be suspended from the practice of law for a period of four (4) years, beginning August 16, 2019, and ending August 15, 2023. Respondent shall be actively suspended from the practice of law for a period of two (2) years beginning August 16, 2019, and ending August 15, 2021. The two (2) year period of

probated suspension shall begin on August 16, 2021, and shall end on August 15, 2023. Respondent's partially probated suspension as outlined above shall run concurrently with Case No. 201806685, CFLD v. Robert Aaron Markle; Case No. 201805648, CFLD v. Robert Aaron Markle; and Case No. 201805067, CFLD v. Robert Aaron Markle.

#### **Terms of Active Suspension**

It is further **ORDERED** that during the term of active suspension ordered herein, or that may be imposed upon Respondent by the BOARD OF DISCIPLINARY APPEALS (BODA) as a result of a probation revocation proceeding, 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 Respondent shall immediately 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, Texas 78711-2487 (1414 Colorado St., Austin, Texas 78701) within thirty (30) days of the signing of this *Default Judgment*, 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 immediately 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 *Default 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, Texas 78711-2487 (1414 Colorado St., Austin, Texas 78701), within thirty (30) days of the signing of this *Default Judgment*, 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 within thirty (30) days of the signing of this *Default Judgment*, 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, Texas 78711-2487 (1414 Colorado St., Austin, Texas 78701), to be forwarded to the SUPREME COURT OF TEXAS.

#### **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 *Default 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 the 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 restitution within sixty (60) days of the signing of this *Default Judgment*, to Samuel Neal Kennedy in the amount of Two Thousand Four Hundred Four and No/100 Dollars (\$2,404.00). Respondent shall pay the restitution by certified or cashier's check or money order made payable to Samuel Neal Kennedy and delivered to the STATE BAR OF TEXAS, Chief Disciplinary Counsel's Office, P.O. Box 12487, Austin, Texas 78711-2487 (1414 Colorado St., Austin, Texas 78701).
9. Respondent shall pay all reasonable and necessary attorney's fees and direct expenses to the STATE BAR OF TEXAS in the total amount of One Thousand Five Hundred Ninety-Seven and 90/100 Dollars (\$1,597.90). The payment shall be due and payable within sixty (60) days of the signing of this *Default Judgment*, 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, Texas 78711-2487 (1414 Colorado St., Austin, Texas 78701).
10. In addition to complying with the Minimum Continuing Legal Education (MCLE) requirements of the STATE BAR OF TEXAS, Respondent shall complete forty (40) additional hours of continuing legal education in the area of Law Practice Management and Client Relations. These additional hours of CLE are to be completed between August 16, 2019 and August 17, 2020. 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 Chief Disciplinary Counsel, STATE BAR OF TEXAS, P.O. Box 12487, Austin, Texas 78711-2487; or via Delivery: Office of the Chief Disciplinary Counsel, STATE BAR OF TEXAS, 1414 Colorado St., Suite 200, Austin, Texas 78701.
11. 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 *Default Judgment* to coordinate Respondent's compliance.

### **Probation Revocation**

Upon information that Respondent has violated a term of this *Default 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 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 *Default 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, Attorneys' Fees and Expenses**

It is further **ORDERED** Respondent shall pay restitution within sixty (60) days of the signing of this *Default Judgment*, to Samuel Neal Kennedy in the amount of Two Thousand Four Hundred Four and No/100 Dollars (\$2,404.00). Respondent shall pay the restitution by certified or cashier's check or money order made payable to Samuel Neal Kennedy and delivered to the STATE BAR OF TEXAS, Chief Disciplinary Counsel's Office, P.O. Box 12487, Austin, Texas 78711-2487 (1414 Colorado St., Austin, Texas 78701).

It is further **ORDERED** Respondent shall pay all reasonable and necessary attorneys' fees and direct expenses to the STATE BAR OF TEXAS in the total amount of One Thousand Five Hundred Ninety-Seven and 90/100 Dollars (\$1,597.90). The payment shall be due and payable within sixty (60) days of the signing of this *Default Judgment*, 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, Texas 78711-2487 (1414 Colorado St., Austin, Texas 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.

It is further **ORDERED** that Respondent shall remain actively suspended from the practice of law as set out above from August 16, 2019 to August 15, 2021 and until such time as Respondent has completely paid restitution in the amount of Two Thousand Four Hundred Four and No/100 Dollars (\$2,404.00) to Samuel Neal Kennedy, attorneys' fees and direct expenses in the amount of One Thousand Five Hundred Ninety-Seven and 90/100 Dollars (\$1,597.90) to the STATE BAR OF TEXAS, and successful completion of the additional forty (40) hours of CLE.

#### **Publication**

This suspension shall be made a matter of record and appropriately published in accordance with the TEXAS RULES OF DISCIPLINARY PROCEDURE.

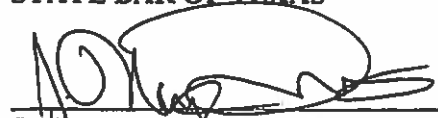
#### **Other Relief**

All requested relief not expressly granted herein is expressly **DENIED**.



SIGNED this 4<sup>th</sup> day of September, 2019.

**EVIDENTIARY PANEL3-2  
DISTRICT NO. 3  
STATE BAR OF TEXAS**

A handwritten signature in black ink, appearing to read "J. Wayne Little", written over a horizontal line.

**J. WAYNE LITTLE  
Presiding Member**