

**BEFORE THE DISTRICT 9 GRIEVANCE COMMITTEE
EVIDENTIARY PANEL 9-2
STATE BAR OF TEXAS**

COMMISSION FOR LAWYER DISCIPLINE, Petitioner	§ § § §	
V.	§	201700154
	§	201701327
NANCY L. PERRY, Respondent	§ §	201705763

AGREED JUDGMENT OF PARTIALLY PROBATED SUSPENSION

Parties and Appearance

On this day came to be heard the above styled and numbered cause. Petitioner and Respondent, Nancy L. Perry, Texas Bar Number 24041680, announce that an agreement has been reached on all matters including the imposition of a Partially Probated Suspension.

Jurisdiction and Venue

The Evidentiary Panel 9-2 having been duly appointed to hear this complaint by the chair of the Grievance Committee for State Bar of Texas District 9, 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 the pleadings, admissions, stipulations and agreements of the parties, finds Respondent has committed Professional Misconduct as defined by Rule 1.06(W) of the Texas Rules of Disciplinary Procedure.

Findings of Fact

Petitioner and Respondent agree to the following findings of fact. Accordingly, the

Evidentiary 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 her principal place of practice in Travis County, Texas.
3. On February 18, 2015, Complainant, Debra Elliott, hired Respondent, Nancy L. Perry, to represent her interests as a creditor in a bankruptcy case. In January 2016, Complainant terminated Respondent's services by letter which Respondent received on January 22, 2016. The letter requested that Respondent provide Complainant with the case file. On August 26, 2016, Complainant sent Respondent an email which stated, in part, "I'm tired of chasing my belongings around. Ive (sic) been requesting them since January if not longer." Respondent has failed to provide the case file to Complainant.
4. On April 3, 2017, Respondent received notice that Complainant filed a complaint with the Office of the Chief Disciplinary Counsel. Respondent was further notified that she was required to furnish a written response within thirty days. Thereafter, Respondent failed to provide a response to the complaint.
5. On August 27, 2016, Complainant, Betsy Bender, hired Respondent, Nancy L. Perry, to represent her in an uncontested divorce. Complainant paid an advance fee to Respondent in the amount of \$1,500. Respondent prepared and filed a petition for divorce on August 29, 2016. Subsequently, on September 1, 2016, Respondent's license to practice law was administratively suspended due to her failure to pay dues to the State Bar of Texas. Respondent did not notify Complainant that she was no longer eligible to practice law.
6. While still under an administrative suspension, Respondent sent an email to Complainant on October 25, 2016, advising Complainant that Respondent would begin to draft a divorce decree the following weekend, and hoped that the matter could be finalized in November 2016. Respondent failed to mention that she was administratively suspended. Thereafter, Complainant had no further contact or communication from Respondent. Respondent did not complete the work she was paid to do and did not return any unearned fees to Complainant.
7. On March 29, 2017, Respondent received notice that Complainant filed a complaint with the Office of the Chief Disciplinary Counsel. Respondent was further notified that she was required to furnish a written response within thirty days. Thereafter, Respondent failed to provide a response to Complaint 201701327.
8. In December 2016, Complainant, Sharlene Grogan, hired Respondent, Nancy L. Perry, to represent her as the petitioner in a divorce. Complainant paid Respondent an advanced fee of \$4,000 for the representation. Thereafter, Respondent failed to file the divorce petition or complete any substantive work

- on behalf of Complainant. At the time that Respondent accepted the advanced fee and agreed to represent Complainant, Respondent was not authorized to practice law in the State of Texas. On September 1, 2016, Respondent's law license was administratively suspended and has thereafter remained suspended.
9. On October 21, 2017, Respondent received notice that Complainant filed a complaint with the Office of the Chief Disciplinary Counsel. Respondent was further notified that she was required to furnish a written response within thirty days. Thereafter, Respondent failed to provide a response to complaint.
 10. 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 \$120,57.
 11. Respondent owes restitution in the amount of \$950 payable to Betsy Hall Bender and restitution to Sharlene Grogan in the amount of \$4,000.

Conclusions of Law

Petitioner and Respondent agree that, based on the foregoing findings of fact, the following Texas Disciplinary Rules of Professional Conduct have been violated. Accordingly, the Evidentiary Panel concludes that the following Texas Disciplinary Rules of Professional Conduct have been violated:

201700154 Elliott – 1.15(d), 8.04(a)(8)

201701327 Bender – 1.01(b)(1), 1.03(a), 1.15(d), 8.04(a)(8), 8.04(a)(11)

201705763 Grogan – 1.01(b)(1), 8.04(a)(8), 8.04(a)(11)

Sanction

It is AGREED and ORDERED that the sanction of a Partially Probated Suspension shall be imposed against Respondent in accordance with 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 one (1) year, beginning April 1, 2020, and ending March 30, 2021, provided Respondent complies with the following terms and conditions. Respondent shall be actively suspended from the practice of law for a period

of one (1) month beginning April 1, 2020, and ending April 30, 2020. If Respondent complies with all of the following terms and conditions timely, the eleven (11) month period of probated suspension shall begin on May 1, 2020, and shall end on March 30, 2021:

1. Respondent shall pay all reasonable and necessary direct expenses to the State Bar of Texas in the amount of \$120.57. Payment shall be due as stated below in Restitution and Direct Expenses, 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, Chief Disciplinary Counsel's Office, P.O. Box 12487, Austin, TX 78711-2487 (1414 Colorado St., Austin, TX 78701).
2. Respondent shall pay restitution to Betsy Hall Bender in the amount of \$950. Payment shall be due as stated below in Restitution and Direct Expenses. The first payment shall be due on or before the date the judgment is signed. Respondent shall pay the restitution by certified or cashier's check or money order made payable to Betsy Hall Bender 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).
3. Respondent shall pay restitution to Sharlene Grogan in the amount of \$4,000. Payment shall be due as stated below in Restitution and Direct Expenses. Respondent shall pay the restitution by certified or cashier's check or money order made payable to Sharlene Grogan 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).
4. Respondent shall remain under the care of one or more mental health professionals at the frequency recommended by the treatment plan for the duration of the supervision period or until released in writing by the treatment provider. Each treating mental health professional shall provide written quarterly reports to the State Bar of Texas verifying Respondent's attendance at the sessions and good faith participation in the treatment plan. The initial report(s) shall be due ninety (90) days after completion of the assessment, with subsequent reports due quarterly thereafter. Respondent shall take all necessary action, including the execution of a valid release of information, to permit any treating mental health professional to provide written or oral reports for the duration of the supervision period.
5. Respondent shall be responsible for all costs and expenses incurred, directly or indirectly, by compliance with these terms and shall pay all such costs and expenses as required by the provider, but in no event later than the final day of the supervision period.
6. Any and all reports and evaluations required by these terms of probation **shall be sent 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.**

7. 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.

Should Respondent fail to comply with all of the above terms and conditions timely, Respondent shall remain actively suspended until the date of compliance or until March 30, 2021, whichever occurs first.

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 as a result of a probation revocation proceeding, Respondent shall be prohibited from practicing law in Texas; holding herself 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 herself out to others or using her name, in any manner, in conjunction with the words "attorney at law," "attorney," "counselor at law," or "lawyer."

It is further ORDERED that, on or before April 1, 2020, Respondent shall 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, TX 78711-2487 (1414 Colorado

St., Austin, TX 78701), on or before April 15, 2020, 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, on or before April 1, 2020, 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 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, TX 78711-2487 (1414 Colorado St., Austin, TX 78701), on or before April 15, 2020, 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, on or before April 1, 2020, Respondent shall surrender her law license and permanent State Bar Card 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), to be forwarded to the Supreme Court of Texas.

Terms of Probation

It is further ORDERED, that if Respondent has complied with all terms and

conditions set forth above in a timely manner entitling Respondent to a period of this suspension being probated, 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.

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 and Direct Expenses

It is further ORDERED Respondent shall pay restitution to Betsy Hall Bender in the amount of \$950. The payments shall be in monthly installments due the first day of each month as follows:

1. \$507.05 on or before the date the judgment is presented to the Evidentiary Panel for execution;
2. \$442.95 made payable to Betsy Hall Bender on or before May 1, 2020;

All payments shall be made by certified or cashier's check or money order made payable to Betsy Hall Bender 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 restitution to Sharlene Grogan in the amount of \$4,000. The payments shall be in monthly installments due the first day of each month as follows:

3. \$64.10 on or before May 1, 2020;
4. \$507.05 on or before June 1, 2020;
5. \$507.05 on or before July 1, 2020;
6. \$507.05 on or before August 1, 2020;
7. \$507.05 on or before September 1, 2020;
8. \$507.05 on or before October 1, 2020;
9. \$507.05 on or before November 1, 2020;
10. \$507.05 on or before December 1, 2020;

11. \$386.55 on or before January 1, 2021; and

All payments shall be made by certified or cashier's check or money order made payable to Sharlene Grogan 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 direct expenses to the State Bar of Texas in the amount of \$120.57.

The payments shall be in monthly installments due the first day of each month as follows:

12. \$120.57 on or before January 1, 2021.

Payment of direct expenses 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 and 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.

It is further ORDERED that Respondent shall remain actively suspended from the practice of law as set out above until such time as Respondent has made the payments as required in the Restitution and Direct Expenses section of this judgment.

Publication

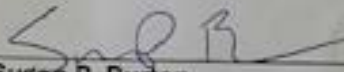
This suspension shall be made a matter of record and appropriately published in accordance with the Texas Rules of Disciplinary Procedure.

Other Relief

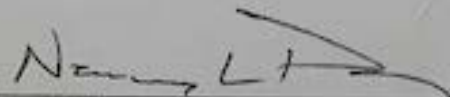
All requested relief not expressly granted herein is expressly DENIED.

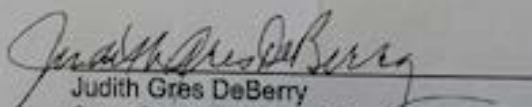
SIGNED this 29th day of March, 2020.

EVIDENTIARY PANEL 9-2
DISTRICT NO. 9
STATE BAR OF TEXAS


Susan P. Burton
District 9-2 Presiding Member

AGREED AS TO BOTH FORM AND SUBSTANCE:


Nancy L. Perry
State Bar No. 24041680
Respondent


Judith Gres DeBerry
State Bar No. 24040780
Counsel for Petitioner

Publication

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

Other Relief

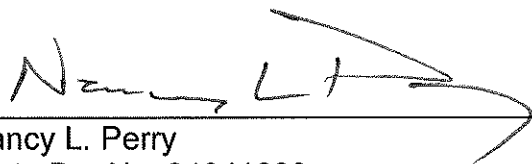
All requested relief not expressly granted herein is expressly DENIED.

SIGNED this _____ day of _____, 2020.

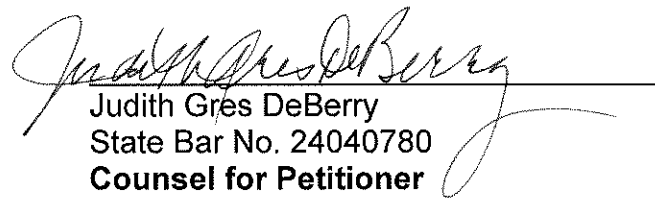
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DISTRICT NO. 9
STATE BAR OF TEXAS**

**Susan P. Burton
District 9-2 Presiding Member**

AGREED AS TO BOTH FORM AND SUBSTANCE:



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State Bar No. 24041680
Respondent



Judith Gres DeBerry
State Bar No. 24040780
Counsel for Petitioner