

**BEFORE THE DISTRICT 1 GRIEVANCE COMMITTEE
EVIDENTIARY PANEL 1-2
STATE BAR OF TEXAS**

**COMMISSION FOR LAWYER
DISCIPLINE,
Petitioner**

V.

**DANIEL ROBERT THERING,
Respondent**

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**CASE NO. 201801259
CASE NO. 201801244
CASE NO. 201801747**

JUDGMENT OF PARTIALLY PROBATED SUSPENSION

Parties and Appearance

On February 19, 2020, 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, **DANIEL ROBERT THERING**, Texas Bar Number **24042023**, appeared telephonically and announced ready.

Jurisdiction and Venue

The Evidentiary Panel 1-2, having been duly appointed to hear this complaint by the chair of the Grievance Committee for State Bar of Texas District 1, 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. At the time of the filing of this Disciplinary Proceeding, Respondent resided in and maintained his principal place of practice in Collin County, Texas.
3. On or about June 3, 2016, Complainant Christine Rodriguez (Rodriguez) filed a pro se divorce petition in Denton County. On or about June 28, 2017, Rodriguez retained Respondent for representation and paid Respondent \$2,250, which was deposited into a non-IOLTA. On July 7, 2017, Respondent filed a Notice of Appearance of Counsel. Thereafter, Respondent neglected the legal matter and did not perform any legal services for Rodriguez. The case was dismissed for want of prosecution on August 25, 2017. On August 25, 2017, Rodriguez notified Respondent by email that she was hiring new counsel and requested a refund of the fee paid. Respondent failed to refund the unearned fee and failed to communicate with Rodriguez about the matter. Further, Respondent was notified that Rodriguez had filed a grievance against him and Respondent failed to timely furnish a response or other information as required by the Texas Rules of Disciplinary Procedure.
4. Respondent owes restitution in the amount of Two Thousand Two Hundred Fifty and 00/100 Dollars (\$2,250.00) to Christine Rodriguez.
5. In December 2016, Respondent was hired to represent Complainant Alan M. Weiss (Weiss) in a breach of contract case and was paid a \$1,500 flat fee, with the agreement to pay 20% of any recovery. The fee was deposited into a non-IOLTA. Thereafter, Weiss sent multiple emails to Respondent and made phone calls encouraging Respondent to communicate with him and proceed with filing suit or scheduling mediation. Respondent failed to reply to Weiss' numerous requests for an update on the case and for action. Respondent failed to file the lawsuit as instructed by his client and failed to provide an accounting of Weiss' funds.
6. In February 2017, Complainant Willie Cole (Cole) retained Respondent to represent Cole in a divorce matter and paid Respondent a refundable retainer of \$1,500, which was deposited into a non-IOLTA. Once the divorce was final, Cole made numerous requests for an itemized bill, which went unanswered. Respondent failed to communicate with Cole and failed to provide an accounting of Cole's funds. Respondent was notified that Cole had filed a grievance against him and Respondent failed to timely furnish a response or other information as required by the Texas Rules of Disciplinary Procedure.
7. The Chief Disciplinary Counsel of the State Bar of Texas has incurred reasonable attorney's fees and direct expenses associated with this

Disciplinary Proceeding in the amount of One Thousand Five Hundred and 00/100 Dollars (\$1,500.00).

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: Rules 1.01(b)(1), 1.01(b)(2), 1.03(a), 1.14(a), 1.14(b), 1.15(d), 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 Rules of Disciplinary Procedure, 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 forty-eight (48) months, beginning January 15, 2023, and ending January 14, 2027. Respondent shall be actively suspended from the practice of law for a period of twenty (20) months, beginning January 15, 2023 and ending September 14, 2024. If Respondent complies with all of the following terms and conditions timely, the twenty-eight (28) month period of probated suspension shall begin on September 15, 2024, and shall end on January 14, 2027:

1. Respondent shall pay restitution on or before February 26, 2020, to Christine Rodriguez in the amount of Two Thousand Two Hundred Fifty and 00/100 Dollars (\$2,250.00). Respondent shall pay the restitution by certified or cashier's check or money order made payable to Christine Rodriguez, 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).

2. Respondent shall pay all reasonable and necessary attorney's fees and direct expenses to the State Bar of Texas in the amount of One Thousand Five Hundred and 00/100 Dollars (\$1,500.00). The payment shall be due and payable on or before April 1, 2020, 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, TX 78711-2487 (1414 Colorado St., Austin, TX 78701).

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 January 14, 2027, 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 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, on or before January 15, 2023, 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 January 15, 2023, 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 January 15, 2023, 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 January 15, 2023, 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 January 15, 2023, 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, 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 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.

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 on or before February 26, 2020, to Christine Rodriguez in the amount of Two Thousand Two Hundred Fifty and 00/100 Dollars (\$2,250.00). Respondent shall pay the restitution by certified or cashier's check or money order made payable to Christine Rodriguez 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 One Thousand Five Hundred and 00/100 Dollars (\$1,500.00). The payment shall be due and payable on or before April 1, 2020, 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, 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.

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 completely paid restitution to Christine Rodriguez in the amount of Two Thousand Two Hundred Fifty and 00/100 Dollars (\$2,250.00) and attorney's fees and direct expenses to the State Bar of Texas in the amount of One Thousand Five Hundred and 00/100 Dollars (\$1,500.00).

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 18th day of March, 2020.

**EVIDENTIARY PANEL 1-2
DISTRICT NO. 1
STATE BAR OF TEXAS**

/s/ Don Hoover
**Donald Keith Hoover
District 1, Panel 1-2 Presiding
Member**