

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

**COMMISSION FOR LAWYER
DISCIPLINE,
Petitioner**

V.

**DANIEL ROBERT THERING,
Respondent**

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**CASE NO. 201805105
CASE NO. 201905145**

JUDGMENT OF ACTIVE SUSPENSION

Parties and Appearance

On March 13, 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** (Respondent), appeared via telephone and announced ready.

Jurisdiction and Venue

The Evidentiary Panel 1-1, 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(CC) 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 November 10, 2014, Respondent was retained on a contingency fee basis by Lisa Krause (Krause) to represent her claims relating to the death of her son, Zachary, who was killed in an automobile fire that was potentially caused by Zachary being illegally served alcohol by a restaurant (dram shop claim) and/or an alleged substandard fuel line in the Toyota vehicle (products liability claim).
4. On September 29, 2015, the dram shop claim was settled at mediation for \$115,000; \$93,650 was to be disbursed to Respondent and \$21,350 was to be held in trust by Respondent for one year, in case Zachary's father made a claim. If no claim was made, the funds were to be released to Krause. The settlement funds of \$93,650 were paid to Respondent on or about October 14, 2015.
5. Prior to mediation, Krause obtained loans from Fairworth, Inc. and Consciousness Foundation, Inc. (loan companies) and, upon settlement, would each receive \$10,000 to satisfy Krause's loans.
6. Upon conclusion of the contingent fee matter, Respondent failed to provide Krause a written statement reflecting the remittance of settlement funds to Krause and the method of the determination. Further, Respondent failed to provide Krause with a copy of settlement documents or an accounting of the disbursement of settlement funds.
7. On or about August 8, 2017, Krause and Respondent were sued by the loan companies for non-payment of the loans even though Krause directed Respondent to pay same from settlement proceeds.
8. Respondent failed to pay the loans and Respondent failed to promptly notify the loan companies that he had received funds in which they had an interest. Further, Respondent failed to promptly deliver the funds to the loan companies, and has failed to provide an accounting of the settlement funds.
9. In November 2016, there had been no claim by Zachary's father, and the remaining \$21,350 of the settlement funds were deposited in Respondent's trust account. Respondent began making partial distributions of the funds to Krause, but misled her to believe there were still some expenses that he was attempting to negotiate.

10. On December 30, 2016, Krause received a check from Respondent's operating account in the amount of \$6,798.00 which indicated full and final settlement. Krause made numerous requests for an itemized statement and accounting of the disbursement of the entire \$115,000 funds received in the dram shop case. Respondent failed to safeguard Krause's settlement funds and failed to provide an accounting to Krause.
11. On or about September 7, 2018, Respondent was notified by certified mail that Krause had filed a grievance against him alleging professional misconduct; Respondent failed 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.
12. On or about September 24, 2019, Respondent was notified by certified mail that Richard Wagner, who represented the loan companies, had filed a grievance against him alleging professional misconduct; Respondent failed 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.
13. Respondent owes restitution in the amount of Nineteen Thousand Nine Hundred Forty-Five and 00/100 Dollars (\$19,945.00) payable to Lisa Krause.
14. 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 and 00/100 Dollars (\$1,000.00).

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 1.04(d), 1.14(a), 1.14(b), 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 Rule of Disciplinary Procedure, the

Evidentiary Panel finds that the proper discipline of the Respondent for each act of Professional Misconduct is an active suspension.

Accordingly, it is **ORDERED, ADJUDGED** and **DECREEED** that Respondent shall be actively suspended from the practice of law for a period of forty-eight (48) months beginning March 15, 2020, and ending March 14, 2024.

Terms of Active Suspension

It is further **ORDERED** that during the term of active suspension ordered herein, 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 March 31, 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 March 31, 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 March 31, 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 March 31, 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 March 31, 2020, 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.

Restitution, Attorney's Fees and Expenses

It is further **ORDERED** Respondent shall pay restitution on or before March 13, 2021, to Lisa Krause in the amount of Nineteen Thousand Nine Hundred Forty-Five and 00/100 Dollars (\$19,945.00). Respondent shall pay the restitution by certified or cashier's

check or money order made payable to Lisa Krause 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 and 00/100 Dollars (\$1,000.00). The payment shall be due and payable on or before March 13, 2021, 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(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 until such time as Respondent has completely paid restitution to Lisa Krause in the amount of Nineteen Thousand Nine Hundred Forty-Five and 00/100 Dollars (\$19,945.00); and attorney's fees and direct expenses to the State Bar of Texas in the amount of One Thousand and 00/100 Dollars (\$1,000.00).

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 18 day of March, 2020.

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



**Rafael De La Garza, II
District 1, Panel 1-1 Presiding Member**