

**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. 201800820
CASE NO. 201801009
CASE NO. 201801401
CASE NO. 201801991**

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(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. In July 2015, Ruben Rivera (Rivera) was involved in a motorcycle accident and Rivera hired Respondent to represent him in connection with the personal injury claim resulting from the accident. On June 6, 2017, Respondent deposited Rivera's \$14,866.71 settlement funds into a non-IOLTA. Respondent sent Rivera a check for \$4,500 in September 2017, after multiple inquiries by Rivera about the status of the settlement. Upon conclusion of the continent fee matter, Respondent failed to provide Rivera a written statement reflecting the remittance of settlement funds to Rivera and the method of the determination. Respondent failed to keep Rivera reasonably informed about the status of his legal matter and failed to promptly comply with requests for information. Respondent failed to safeguard the funds and to promptly deliver them to Rivera. Further, Respondent failed to provide an accounting of the settlement funds.
4. On or about November 25, 2019, Respondent provided a settlement disbursement sheet and paid restitution to Ruben Rivera in the amount of Five Thousand One Hundred Seventy-Five and 00/100 Dollars (\$5,175.00).
5. In July 2014, Margaret Chance (Chance) was involved in a car accident and hired Respondent to represent her and her husband in connection with the personal injury claim resulting from the accident. The case settled for \$9,500 and Respondent sent Chance a check for \$5,000 in July 2015. Respondent claimed to be negotiating a reduction in an insurance subrogation claim and Chance made numerous attempts to communicate with Respondent regarding the status of the legal matter. Respondent failed to keep Complainant reasonably informed about the status of the settlement of her case. Upon conclusion of the continent fee matter, Respondent failed to provide Chance a written statement reflecting the remittance of settlement funds to Chance and the method of the determination. Further, Respondent failed to provide an accounting of the settlement funds.
6. Respondent owes restitution in the amount of One Thousand Six Hundred Fifty and 00/100 Dollars (\$1,650.00) payable to Margaret Chance.

7. On September 27, 2013, Lanesa McKee (McKee) was involved in a motor vehicle accident and retained Respondent on a contingency fee basis to represent her in the personal injury matter resulting from the accident. In September 2016, McKee agreed to a settlement offer of \$68,000. Respondent deposited the settlement funds into a non-IOLTA but did not notify McKee that he had received the funds. McKee sent numerous emails between September 2016 and August 2017 requesting an update on the settlement funds. On August 25, 2017, Respondent sent McKee a \$5,000 check as a "settlement advance" from another non-IOLTA. McKee continued to email for a resolution but received no response from Respondent. On November 1, 2017, Respondent represented to McKee that he was trying to settle post-settlement liens. McKee received no further communication from Respondent. Respondent failed to notify McKee that her settlement funds were received, failed to promptly deliver the settlement funds to McKee, failed to safeguard the funds, and failed to account for the settlement funds. Further, Respondent misrepresented to McKee that he was working to settle medical liens and could not disburse the settlement funds, even though McKee's medical bills had already been paid. Upon conclusion of the contingent fee matter, Respondent failed to provide McKee a written statement reflecting the remittance of settlement funds to McKee and the method of the determination. Respondent failed to communicate with McKee about the status of her settlement funds. Respondent was notified that McKee had filed a grievance against and Respondent failed to timely furnish a response or other information as required by the Texas Rules of Disciplinary Procedure.
8. Respondent owes restitution in the amount of Forty-Two Thousand Six Hundred and 00/100 Dollars (\$42,600.00) payable to Lanesa McKee.
9. On or about July 22, 2016, Respondent was hired to represent Stanley Weil (Weil) in connection with a personal injury claim for a contingency fee. After filing the lawsuit, Respondent failed to keep Weil informed about the status of the legal matter and would not respond to reasonable requests for information. Further, Respondent neglected the legal matter entrusted to him by failing to respond to the discovery requests, failing to notify Weil of a hearing and failing to appear at the hearing. During the representation, Respondent collected a PIP check from the insurance company and, despite Weil's requests for the funds to be released to him, Respondent failed to release the funds and has failed to account for the funds. Upon conclusion of the contingent fee matter, Respondent failed to provide Weil a written statement reflecting the remittance of settlement funds to Weil and the method of the determination. Respondent was that Weil 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.

10. Respondent owes restitution in the amount of Seven Thousand Two and 00/100 Dollars (\$7,002.00) payable to Stanley Weil.
11. 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), 1.03(a), 1.04(d), 1.14(a), 1.14(b), 8.04(a)(3), 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 Margaret Chance in the amount of One Thousand Six Hundred Fifty and 00/100 Dollars (\$1,650.00). Respondent shall pay the restitution by certified or cashier's check or money order made payable to Margaret Chance 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, on or before March 13, 2021, to Lanesa McKee in the amount of Forty-Two Thousand Six Hundred and 00/100 Dollars (\$42,600.00). Respondent shall pay the restitution by certified or cashier's check or money order made payable to Lanesa McKee 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, on or before March 13, 2021, to Stanley Weil in the amount of Seven Thousand Two and 00/100 Dollars (\$7,002.00). Respondent shall pay the restitution by certified or cashier's check or money order made payable to Stanley Weil 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 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(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 Margaret Chance in the amount of One Thousand Six Hundred Fifty and 00/100 Dollars (\$1,650.00); restitution to Lanesa McKee in the amount of Forty-Two

Thousand Six Hundred and 00/100 Dollars (\$42,600.00); restitution to Stanley Weil in the amount of Seven Thousand Two and 00/100 Dollars (\$7,002.00); 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 _____ 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**