BEFORE THE DISTRICT 7 GRIEVANCE COMMITTEE
EVIDENTIARY PANEL 7-3
STATE BAR OF TEXAS

COMMISSION FOR LAWYER DISCIPLINE, **Petitioner**	§	
V.	§	**CASE NO. 201904176** **(Sparvero)**
THOMAS F. FLEISCHER, **Respondent**	§	

JUDGMENT OF DISBARMENT

Parties and Appearance

On May 24, 2021, 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, **THOMAS F. FLEISCHER**, Texas Bar Number **00784056** (Respondent), although duly served with the Evidentiary Petition and notice of this hearing, failed to appear.

Jurisdiction and Venue

The Evidentiary Panel 7-3, having been duly appointed to hear this complaint by the chair of the Grievance Committee for State Bar of Texas District 7, 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. Respondent resides in and maintains his principal place of practice in Tarrant County, Texas.

3. On January 31, 2017, Complainant Emily Sparvero (Sparvero) hired Respondent to represent her in the probate of the estate of her deceased father. Spavero was appointed the estate's administer and Respondent was entrusted with the estate's funds but failed to deposit the funds in an IOLTA or a designated trust account.

4. On April 24, 2017, the probate court authorized the disbursement of the estate's assets to the beneficiaries but Respondent failed to disburse the funds to the beneficiaries, which include Sparvero.

5. Sparvero requested reimbursement for estate-related expenses and to reimburse Teacher Retirement System (TRS) for overpayments made to the decedent. Respondent failed to reimburse Sparvero or TRS.

6. Over the course of the representation, Sparvero made multiple requests for information that went unanswered by Respondent. In April 2019, Sparvero requested an accounting of the estate funds, and Respondent represented that he would provide an accounting and proof that the estate funds were safeguarded but failed to provide the accounting or proof that the estate funds were in trust.

7. On May 20, 2019, Sparvero sent Respondent a certified letter requesting that the estate funds be returned to her or sent to her new attorney. Respondent did not respond to this request.

8. On July 23, 2019, Respondent was directed to provide a written response to Sparvero's allegations but failed to timely furnish a response.

9. Respondent owes restitution in the amount of Fourteen Thousand Five Hundred Seventy-Five and 33/100 Dollars ($14,575.33) payable to Emily Sparvero on behalf of the Estate of Luke Sparvero.

10. 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 Three Thousand Five Hundred Thirty-Four and 00/100 Dollars ($3,534.00).

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), 1.14(a), 1.14(b), 8.04(a)(3), and 8.04(a)(8).

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 sanction evidence and argument, the Evidentiary Panel finds that the proper discipline of the Respondent for each act of Professional Misconduct is **DISBARMENT**.

Disbarment

It is therefore **ORDERED, ADJUDGED** and **DECREED** that, effective May 24, 2021, Respondent, **THOMAS F. FLEISCHER**, State Bar Number **00784056**, is hereby **DISBARRED** from the practice of law in the State of Texas.

It is further **ORDERED** Respondent is 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 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."

Notification

It is further **ORDERED** Respondent shall immediately notify each of his current clients in writing of this disbarment. In addition to such notification, Respondent is

ORDERED to return any files, papers, unearned monies and other property belonging to clients and former clients in the Respondent's possession to the respective clients or former clients or to another attorney at the client's or former client's request.

Respondent is further **ORDERED** to 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) within thirty (30) days of the signing of this judgment by the Panel Chair, an affidavit stating that all current clients have been notified of Respondent's disbarment and that all files, papers, monies and other property belonging to all clients and former clients have been returned as ordered herein. If it is Respondent's assertion that at the time of disbarment he possessed no current clients and/or Respondent was not in possession of any files, papers, monies or other property belonging to clients, Respondent shall submit an affidavit attesting that, at the time of disbarment, Respondent had no current clients and did not possess any files, papers monies and other property belonging to clients.

It is further **ORDERED** Respondent shall, on or before thirty (30) days from the signing of this judgment by the Panel Chair, 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.

Respondent is further **ORDERED** to 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) within thirty (30) days of the signing of this judgment by the Panel Chair, an affidavit stating that each and every justice of the peace, judge, magistrate,

administrative judge or officer and chief justice has received written notice of the terms of this judgment. If it is Respondent's assertion that at the time of disbarment he was not currently listed as counsel or co-counsel in any matter pending before any justice of the peace, judge, magistrate, administrative judge or officer, or chief justice of any court or tribunal, Respondent shall submit an affidavit attesting to the absence of any such pending matter before any justice of the peace, judge, magistrate, administrative judge or officer, or chief justice.

Surrender of License

It is further **ORDERED** Respondent shall, within thirty (30) days of the signing of this judgment by the Panel Chair, 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 the State of Texas.

Restitution, Attorney's Fees and Expenses

It is further **ORDERED** Respondent shall pay restitution on or before June 1, 2021, in the amount of Fourteen Thousand Five Hundred Seventy-Five and 33/100 Dollars ($14,575.33) payable to Emily Sparvero on behalf of the Estate of Luke Sparvero. Respondent shall pay the restitution by certified or cashier's check or money order made payable to Emily Sparvero on behalf of the Estate of Luke Sparvero, 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 Three

Thousand Five Hundred Thirty-Four and 00/100 Dollars ($3,534.00). The payment shall be due and payable on or before June 1, 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 and 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.

Publication

It is further **ORDERED** this disbarment shall be made a matter of record and appropriately published in accordance with the Texas Rules of Disciplinary Procedure.

Conditions Precedent to Reinstatement

It is further **ORDERED** payment of the foregoing restitution and attorney's fees and expenses shall be a condition precedent to any consideration of reinstatement from disbarment as provided by Rules 2.18, 2.19 and 11.02(D) of the Texas Rules of Disciplinary Procedure.

Other Relief

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

SIGNED this 27th day of May, 2021.

EVIDENTIARY PANEL 7-3
DISTRICT NO. 7
STATE BAR OF TEXAS

Jeffrey Warren Cochran
District 7, Panel 7-3 Presiding Member