

General questions regarding attorney discipline should be directed to the chief disciplinary counsel's office, toll-free (877) 953-5535 or (512) 453-5535. The Board of Disciplinary Appeals may be reached at (512) 475-1578. Information and copies of actual orders are available at txboda.org. The State Commission on Judicial Conduct may be contacted toll-free (877) 228-5750 or (512) 463-5533. Please note that persons disciplined by the Commission on Judicial Conduct are not necessarily licensed attorneys.

BODA ACTIONS

On Feb. 28, 2013, the Board of Disciplinary Appeals signed an agreed judgment of indefinite disability suspension against **Alberto A. Peña** [#15741000], 70, of Corpus Christi, in accordance with Part XII of the Texas Rules of Disciplinary Procedure and Section 8 of the Internal Procedural Rules of the Board of Disciplinary Appeals. BODA Cause No. 51898.

On April 3, 2013, the Board of Disciplinary Appeals signed an agreed judgment of public reprimand against **Robin Jeffrey Gordon** [#08206200],

48, of Nashville, Tenn. Gordon was publicly censured by the Disciplinary District V of the Board of Professional Responsibility of the Supreme Court of Tennessee on or about Oct. 22, 2012, in *In re: Robin Jeffrey Gordon*, BPR No. 14618, File No. 34972-5-ES for employing an attorney, with a non-active Illinois law license and not licensed in Tennessee, and a paralegal in his office. The employee held himself as an attorney and Gordon billed for the employee's time at an unreasonable rate and failed to ensure that the employee did not engage in the practice of law without a license. BODA Cause No. 52070.

signed on Sept. 27, 2011, by the evidentiary panel of the State Bar of Texas District 3A Grievance Committee in Case Nos. H0070724770, H0090725125, and H0040826456. Smith did not file a brief and the board issued Orders to Show Cause to Smith on Feb. 14, 2013. The Show Cause Order gave him 30 days to respond and show cause as to why the appeal should not be dismissed for want of prosecution. Smith responded and requested his fifth extension of time to file his brief. His request was granted but no brief was filed. BODA Cause No. 49420.

On April 27, 2013, the Board of Disciplinary Appeals affirmed the judgment of active suspension of **Cyril O. Chukwurah** [#24048394], 56, of Houston, signed on Nov. 21, 2011, by the evidentiary panel of the State Bar of Texas 4D District Grievance Committee in Case No. H00411328161. The board affirmed the findings that Chukwurah violated TDRPC 1.14(a) and 1.14(b). Under this sanction, Chukwurah remains actively suspended from the practice of law until June 21, 2016. BODA Cause No. 51156.

On April 29, 2013, the Board of Disciplinary Appeals signed a judgment of disbarment against **Marc Manuel Ariza** [#01302250], of Houston. On or about July 17, 2009, Ariza pled guilty to making a false statement to obtain credit, a first-degree felony, an Intentional Crime as defined in the Texas Rules of Disciplinary Procedure, in Cause No. 110060642, styled *The State of Texas v. Marc Manuel Ariza*, in the 263rd District Court of Harris County. An order of deferred adjudi-

On April 25, 2013, the Board of Disciplinary Appeals dismissed for want of prosecution the appeals of **Jesus Armando Miranda** [#14199599], 51, of Dallas, from three judgments signed on July 23, 2012, by the evidentiary panel of the State Bar of Texas District 6-B2 Grievance Committee in Case Nos. D0091041199, disbarment, (BODA No. 51384); D0081143639, suspension, (BODA No. 51385); and D0031142697, suspension, (BODA No. 51386). Miranda did not file a brief in any of the cases, and the board issued Orders to Show Cause in all the appeals to Miranda on Feb. 11, 2013. The Show Cause Order gave him 30 days to respond and show cause as to why the appeals should not be dismissed for want of prosecution. Miranda did not respond.

On April 25, 2013, the Board of Disciplinary Appeals dismissed for want of prosecution the appeal of **Robert J. Smith** [#00789634], 47, of Beau-

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cation was entered and Ariza was placed on community supervision for 10 years and ordered to serve 90 days in the Harris County jail, perform 500 hours of community service, pay restitution in the amount of \$51,870, pay a fine in the amount of \$10,000, pay court costs of \$203, and ordered not to practice law in any real estate matters. BODA Cause No. 49553.

On April 29, 2013, the Board of Disciplinary Appeals signed a final judgment of disbarment against **John Phillip Bender** [#02126500], 54, of Austin. On Jan. 19, 2010, the Board of Disciplinary Appeals signed an interlocutory order of suspension against Bender. On or about Aug. 5, 2009, Bender was found guilty by a jury of aggregated theft, a first-degree felony, an Intentional Crime as defined in the Texas Rules of Disciplinary Procedure, in Cause No. D-1-DC-08904109, styled *The State of Texas v. John Bender*, in the 331st District Court of Travis County. Bender was sentenced to 20 years imprisonment in the Institutional Division of the Texas Department of Criminal Justice and ordered to pay court costs in the amount of \$242.25. Bender appealed the conviction and the Court of Appeals for the Third District of Texas issued a mandate on Oct. 12, 2012, affirming the district court judgment. Bender's criminal conviction is final. Bender filed a petition for writ of certiorari in the United States Supreme Court, and it was denied on Jan. 22, 2013. BODA Cause No. 45600.

DISBARMENTS

On March 26, 2013, **Bruce Everett Priddy** [#16322700], 49, of Dallas, was disbarred. An evidentiary panel of the District 6 Grievance Committee found that Priddy failed to pay any attorneys' fees and costs as required under a judgment imposed against Priddy. Priddy failed to surrender his

law license and permanent State Bar card to the State Bar of Texas as required under the judgment. Priddy failed to timely furnish to the chief disciplinary counsel's office a response or other information as required by the Texas Rules of Disciplinary Procedure. Priddy did not in good faith timely assert a privilege or other legal ground for failure to do so.

Priddy violated Rules 8.04(a)(7) and 8.04(a)(8). He was ordered to pay \$1,168.75 in attorneys' fees and \$474.13 in direct expenses.

On April 23, 2013, **Donald T. Smith** [#18568600], 53, of Fort Worth, was disbarred. An evidentiary panel of the District 7 Grievance Committee found that in representing complainant in a probate matter, Smith neglected the legal matter, failed to abide by his client's decision whether to accept an offer of settlement, failed to keep the client reasonably informed about the status of the matter, and failed to explain the matter to the extent reasonably necessary to permit his client to make informed decisions regarding the representation. Further, Smith failed to furnish to the chief disciplinary counsel's office a response to the grievance and did not in good faith timely assert a privilege or other legal ground for such failure.

Smith violated Rules 1.01(b)(1), 1.02(a)(2), 1.03(a), 1.03(b), and 8.04(a)(8). He was ordered to pay \$1,099.10 in attorneys' fees and direct expenses and \$5,000 in restitution.

On May 8, 2013, **Juan A. Vega** [#00795697], 44, of San Antonio, was disbarred. The District 10-3 Grievance Committee found that in connection with six complaints, Vega neglected client matters, failed to keep clients reasonably informed, failed to promptly respond to clients' reasonable requests for information, failed to surrender property to which

his client was entitled, engaged in the practice of law while his license was administratively suspended, and failed to respond to grievances.

Vega violated Rules 1.01(b)(1), 1.03(a), 1.03(b), 1.15(d), 8.04(a)(8), and 8.04(a)(11) and was ordered to pay \$13,820 in restitution and \$2,823.85 in attorneys' fees and direct expenses.

On May 24, 2013, **Charles Shavers Jr.** [#18138000], 73, of Dallas, was disbarred. The 14th Judicial District Court, Dallas County, found that Shavers committed professional misconduct by violating Rules 1.01(b)(1) [a lawyer shall not neglect a legal matter entrusted to the lawyer] and 8.04(a)(8) [a lawyer shall not fail to timely furnish to the chief disciplinary counsel's office or a district grievance committee a response or other information].



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Shavers was ordered to pay \$2,123.55 in attorneys' fees and direct expenses.

RESIGNATIONS

On April 29, 2013, the Supreme Court of Texas accepted the resignation, in lieu of discipline, of **John Williams Coates** [#04425001], 50, of Austin. At the time of Coates's resignation, a judgment of conviction by court had been entered in Case No. D-1-DC-12-900043, styled *The State of Texas v. John Williams Coates*, in the 167th District Court of Travis County, wherein Coates pled guilty to aggregated misapplication of fiduciary property, a first-degree felony. Coates was sentenced to 10 years with 180 days of shock probation in the Institutional Division of the Texas Department of Criminal Justice and was ordered to pay court costs in the amount of \$211.

This conviction would subject Coates to compulsory discipline.

On May 20, 2013, the Supreme Court of Texas accepted the resignation, in lieu of discipline, of **Clifford Gorman** [#08217500], 60, of Austin. At the time of Gorman's resignation, a petition for approval of unconditional guilty plea and disbarment on consent and for assessment of costs had been filed in the Supreme Court of Florida, in a matter styled *The Florida Bar, Complainant, v. Clifford Gorman, Respondent*, in Supreme Court Case No. SC12-324, Florida Bar File No. 2012-50,140. Gorman admitted to violating Rule 5-1.2(g) (Trust Accounts) of the Rules Regulating Trust Accounts. On March 8, 2012, the Supreme Court of Florida disbarred Gorman.

This resignation would subject Gorman to reciprocal discipline.

On May 20, 2013, the Supreme Court of Texas accepted the resignation, in lieu of compulsory discipline, of **Paul Lee Heath** [#24030780], 46, of San Antonio. At the time of Heath's resignation, there were four disciplinary matters pending alleging Heath failed to carry out completely the obligations owed to a client, failed to perform the representation as instructed by his client, failed to keep clients reasonably informed, failed to respond to reasonable requests for information, failed to refund unearned fees upon determination, made false statements to the court when he filed an affidavit, and failed to notify client of his disciplinary suspension.

Heath violated Rules 1.01(b)(2), 1.02(a)(1), 1.03(a), 1.03(b), 1.15(d), 3.03(a)(1), and 8.04(a)(11).

On April 29, 2013, the Supreme Court of Texas accepted the resignation, in lieu of discipline, of **Warren Alan Kirshenbaum** [#24049310],

47, of Sharon, Mass. At the time of Kirshenbaum's resignation, a judgment accepting affidavit of resignation as a disciplinary sanction and summary had been entered in the Commonwealth of Massachusetts, in a matter styled *Suffolk, SS., Supreme Judicial Court for Suffolk County, In re: Warren A. Kirshenbaum*, in No. BD-2012-058. Kirshenbaum and his client entered into a written fee agreement whereby Kirshenbaum agreed to draft and file with the appropriate governmental agency paperwork required for creating a private equity fund to purchase distressed commercial real estate. The fee agreement identified Kirshenbaum as the escrow agent for funds that were to be part of the equity fund. The client wire-transferred a total of \$100,000 into Kirshenbaum's IOLTA account as the client's initial investment in the equity fund. Kirshenbaum failed to deposit the funds to a separate interest-bearing account with interest payable to the client. Over the next three months, Kirshenbaum intentionally misused all of the client's funds. In the meantime, the client decided to abandon the creation of the fund and asked Kirshenbaum to return the funds. Kirshenbaum misrepresented to the client that he needed to confirm with the government agency that he was permitted to release the funds. Later, Kirshenbaum wire-transferred personal funds into his IOLTA account and used these funds to repay the client.

Kirshenbaum violated Mass. R. Prof. C. 1.15(e)(5), 1.15(b), 8.4(c), 8.4(h), 1.15(c), 1.4(a), 1.14(b), and 8.4(c).

This resignation would subject Kirshenbaum to reciprocal discipline.

On April 29, 2013, the Supreme Court of Texas accepted the resignation, in lieu of discipline, of **Kip Kevin Lamb** [#11837400], 57, of Beaumont. Lamb received \$1,094,611.02 into

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his trust account as his client's portion of a settlement, which he was to hold in trust. The client requested that the funds be wired into his bank account, but it was later revealed that Lamb had transferred said settlement funds into his various other bank accounts, including his operating account.

Lamb violated Rules 1.14(a), 1.14(b), 8.04(a)(2), and 8.04(a)(3).

On April 29, 2013, the Supreme Court of Texas accepted the resignation, in lieu of discipline, of **Donald Vaughn Phillips** [#15922600], 56, of Tallahassee, Fla. At the time of Phillips's resignation, a judgment of conviction by court had been entered in Case No. 33884, styled *The State of Texas v. Donald Vaughn Phillips*, in the 13th District Court of Navarro County, wherein Phillips pled guilty to possession of child pornography, a third-degree felony. Phillips was sentenced to 10 years confinement in the Institutional Division of the Texas Department of Criminal Justice with the confinement suspended and Phillips being placed on community supervision for seven years and ordered to pay a fine of \$7,000 and court costs in the amount of \$598. Phillips was further ordered to complete 350 hours of community service and surrender his law licenses in Texas and Florida.

This conviction would subject Phillips to compulsory discipline.

SUSPENSIONS

On Feb. 15, 2012, **Charles Shavers Jr.** [#18138000], 71, of Dallas, received a four-year active suspension effective Feb. 29, 2012. While representing a client in a civil matter, Shavers failed to make reasonable efforts to ensure that the conduct of his non-lawyer employee was compatible with Shavers's professional obligations as a lawyer.

Shavers violated Rule 5.03(a). He

was ordered to pay \$7,992.45 in attorneys' fees and \$8,300 in restitution.

Shavers's appeal was dismissed on April 22, 2013.

On Feb. 19, 2013, **Daniel J. Shea** [#18163850], 69, of Houston, received a four-year partially probated suspension effective April 1, 2013, with the first 18 months actively suspended and the remainder probated. The 295th District Court of Harris County found that Shea committed professional misconduct by violating Rule 1.04(d) [failure to provide a client in a contingency case with a written statement describing the outcome of the matter, the remittance to the client, and the method of its determination], Rule 1.08(a) [entering into a business transaction with a client (1) in which the terms are not fair and reasonable, (2) without giving the client a reasonable opportunity to seek the advice of independent counsel, and (3) without the client consenting in writing], Rule 1.14(a) [failure to keep funds belonging to a client in a trust account], and Rule 1.14(b) [failure to promptly deliver to a client funds the client is entitled to receive].

Shea was ordered to pay \$38,872.19 in restitution, \$6,250 in attorneys' fees, and \$1,642.67 in direct expenses.

Shea has filed an appeal.

On April 1, 2013, **Ben Boothe Jr.** [#24006871], 42, of Dallas, received a two-year probated suspension effective April 1, 2013. An evidentiary panel of the District 6 Grievance Committee found that Boothe failed to comply with the terms of a disciplinary judgment.

Boothe violated Rule 8.04(a)(7). He was ordered to pay \$349.11 in direct expenses.

On April 2, 2013, **Joyce Marie Leita** [#00789447], 64, of Victoria, received a one-year fully probated

suspension effective April 15, 2013. An evidentiary panel of the District 11 Grievance Committee found Leita failed to communicate with her client, failed to hold client funds in a trust account, failed to return unearned fees, and failed to respond to the grievances.

Leita violated Rules 1.03(a), 1.14(a), 1.15(d), and 8.04(a)(8) and was ordered to pay \$1,200 in restitution and \$1,000 in attorneys' fees and direct expenses.

On April 5, 2013, **John D. Herrick** [#24000478], 43, of San Antonio, accepted a five-year fully probated suspension effective April 15, 2013. The 45th Judicial District Court of Bexar County found that Herrick committed professional misconduct by violating Rule 1.01(b)(2) [failing to carry out completely the obliga-

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DISCIPLINARY ACTIONS

tions owed to a client] and 3.02 [a lawyer shall not take a position that unreasonably increases the costs or other burdens of the case or that unreasonably delays resolution of the matter].

Herrick was ordered to pay \$1,000 in attorneys' fees and expenses.

On April 8, 2013, **Martin Michael Guerra** [#24007285], 40, of San Antonio, accepted a six-month fully probated suspension, effective May 1, 2013. An evidentiary panel of the District 10 Grievance Committee found Guerra failed to carry out completely the obligations owed to his clients.

Guerra violated Rule 1.01(b)(2) and was ordered to pay \$200 in restitution.

On April 12, 2013, **Raul Hector Loya** [#00791142], 49, of Dallas, received a 24-month fully probated

suspension effective May 1, 2013. The 134th District Court of Dallas County found that Loya violated Rules 1.01(b)(1) [prohibiting a lawyer from neglecting a legal matter entrusted to the lawyer], 1.01(b)(2) [prohibiting a lawyer from frequently failing to carry out completely the obligations that the lawyer owes to a client], 1.03(a) [requiring a lawyer to keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information], 1.03(b) [requiring a lawyer to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation], 1.15(d) [requiring a lawyer to take steps to the extent reasonably practicable to protect a client's interests upon termination of representation], and 3.04(b) [pro-

hibiting a lawyer from falsifying evidence, counseling or assisting a witness to testify falsely, or paying, offering to pay, or acquiescing in the offer or payment of compensation to a witness or other entity contingent upon the content of the testimony of the witness or the outcome of the case].

Loya was ordered to pay \$7,500 in attorneys' fees and direct expenses.

On April 24, 2013, **Gilbert Torres** [#20143200], 64, of Texas City, agreed to a 90-day fully probated suspension effective April 15, 2013. An evidentiary panel of the District 5 Grievance Committee found that Torres neglected a legal matter entrusted to him. Torres failed to keep his client reasonably informed about the status of the matter and failed to promptly comply with the client's reasonable requests for information.

Torres violated Rules 1.01(b)(1) and 1.03(a). Torres was ordered to pay restitution in the amount of \$250 and attorneys' fees and costs in the amount of \$1,000.

On May 6, 2013, **George V. Garcia II** [#07634510], 56, of Laredo, agreed to an 18-month partially probated suspension effective May 15, 2013, with the first 16 months probated and the remainder actively suspended. An evidentiary panel of the District 12 Grievance Committee found Garcia failed to timely surrender the client file.

Garcia violated Rule 1.15(d) and was ordered to pay \$1,450.16 in attorneys' fees and direct expenses.

On May 7, 2013, **Raul Hector Loya** [#00791142], 49, of Dallas, received a six-month fully probated suspension effective May 15, 2013. The 298th District Court of Dallas County found that Loya violated Rule 1.01(b)(1) [prohibiting a lawyer from neglecting a legal matter entrusted to the lawyer], 1.03(a) [requiring a lawyer

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to keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information], and 1.15(d) [requiring a lawyer to take steps to the extent reasonably practicable to protect a client's interests upon termination of representation].

Loya was ordered to pay \$2,000 in attorneys' fees and direct expenses.

On May 7, 2013, **John H. Risley** [#16941150], 48, of Houston, agreed to a five-year partially probated suspension effective May 8, 2013, with the three-year active portion beginning May 9, 2014. An evidentiary panel of the District 4 Grievance Committee found that Risley failed to render a full accounting of third-party funds being held in his possession to that third party upon written request. Risley knowingly disobeyed a ruling by a tribunal, and Risley failed to timely furnish to the chief disciplinary counsel's office information requested.

Risley violated Rules 1.14(b), 3.04(d), and 8.04(a)(8). Risley was ordered to pay restitution in the amount of \$80,000 and attorneys' fees and costs in the amount of \$6,500.

On May 28, 2013, **Jeremy Davis Brown** [#24040675], 42, of Austin, received a three-year fully probated suspension effective June 1, 2013. An evidentiary panel of the District 9 Grievance Committee found that Brown committed misconduct in five cases. Brown failed to take any meaningful action on clients' cases, failed to respond to attempts by clients to contact him, failed to keep advanced fees separate from his own property, failed to return unearned fees, and failed to return clients' files. Brown further failed to furnish written responses to the complaints as directed.

Brown violated Rules 1.01(b)(1), 1.03(a), 1.14(a), 1.15(d), 8.04(a)(1), and 8.04(a)(8). He was ordered to

pay \$2,304.14 in attorneys' fees and direct expenses and restitution in the amount of \$4,300.

PRIVATE SANCTIONS

Listed below is a breakdown of Texas Disciplinary Rules of Professional Conduct violations for seven attorneys, with the number in parentheses indicating the frequency of violation. Please note that an attorney may be reprimanded for more than one rule violation.

1.01(b)(1)—for neglecting a legal matter entrusted to the lawyer (2).

1.03(a)—for failing to keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information (5).

1.03(b)—for failing to explain a matter to the extent reasonably necessary to permit the client to make

informed decisions regarding the representation (1).

1.04(d)—for entering into a contingent fee agreement prohibited by paragraph (e) or other law, and/or failing to enter into a written contingency fee agreement that states the method by which the fee is to be determined (1).

1.15(d)—for failing, upon termination of representation, to reasonably protect a client's interests, give notice to the client to seek other counsel, or surrender papers and property which belongs to the client (2).

3.03(a)(1)—for making a false statement of material fact or law to a tribunal (1).

5.03(a)—for failing to make reasonable efforts to ensure that the nonlawyer's conduct is compatible with the professional obligations of the lawyer (1). **TBJ**

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