

**BEFORE THE BOARD OF DISCIPLINARY APPEALS
APPOINTED BY
THE SUPREME COURT OF TEXAS**

**IN THE MATTER OF
MARLON BRENT MESSER
STATE BAR CARD NO. 24029725**

§
§
§

CAUSE NO. 57979

AGREED JUDGMENT OF FULLY PROBATED SUSPENSION

On this day, the above-styled and numbered reciprocal disciplinary action was called for hearing before the Board of Disciplinary Appeals. Petitioner appeared by attorney and Respondent appeared by attorney as indicated by their respective signatures below and announced that they agree to the findings of fact, conclusions of law and orders set forth below solely for the purposes of this proceeding which has not been fully adjudicated. The Board of Disciplinary Appeals, having reviewed the file and in consideration of the agreement of the parties, is of the opinion that Petitioner is entitled to entry of the following findings and orders:

Findings of Fact. The Board of Disciplinary Appeals finds that:

- (1) Respondent, Marlon Brent Messer, Bar Card No. is 24029725, is an attorney who is licensed and currently authorized to practice law in the State of Texas.
- (2) On or about May 4, 2016, a Consent Order of Discipline was entered Before the Disciplinary Hearing Commission of the North Carolina State Bar in a matter styled: The North Carolina State Bar, Plaintiff, v. Marlon Brent Messer, Defendant, in Case No. 15 DHC 53, which states in pertinent part as follows:

... 1. Defendant, Marlon Brent Messer, is hereby suspended from the practice of law for two years, effective ninety days from service of this order upon Defendant...3. The two year suspension is stayed for a period of two years as long as Defendant complies with the following conditions: ...

- (3) The Consent Order of Discipline established that Respondent violated the following North Carolina Rules of Professional Conduct: (a) By allowing the company of which he was named the president to provide legal services in North Carolina despite the company not being licensed or authorized to provide legal services in this State, Defendant aided in the unauthorized practice of law in violation of Rule 5.5(f); (b) By allowing the company of which he was named the president to hold out as acting as an intermediary between various individuals and their creditors for the purpose of reducing or altering the terms of their mortgage payments and receiving a fee for reducing or altering the terms of their mortgage payments in advance of the work having been completed, Defendant engaged in debt adjusting, a criminal act that reflects adversely on a lawyer's professional fitness in violation of Rule 8.4(b); (c) By allowing the company of which he was named the president to send unsolicited advertisements for legal services without including the requisite disclaimer, Defendant solicited professional employment from potential clients by written communication in violation of Rule 7.3; (d) By allowing the company of which he was named the president to recite in the contracts between LHG and various individuals that his corporation (LHG) was able to provide legal services in a jurisdiction where it was not authorized; and by promising various individuals that: (1) they would be approved for a mortgage reduction, (2) that their payments would be lowered within a certain amount of time by various amounts per month, and (3) that their interest rates would be reduced to various lower percentages, Defendant made false or misleading statements about his services in violation of Rule 7.1(a) and engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 8.4(c); (e) By allowing the company of which he was named the president to charge various individuals for loan modification services in a jurisdiction in which the company was not authorized to provide legal services, charge and collect money from various individuals to engage in illegal debt adjusting on their behalf, and charge the clients various amounts for loan modifications and yet provide them with no beneficial assistance, Defendant charged and collected illegal or clearly excessive fees in violation of Rule 1.5(a); (f) By allowing the company of which he was named the president to fail to provide various clients with the status of their cases despite numerous requests for the same, Defendant failed to keep his clients reasonably informed about the status of their cases or explain matters to the extent reasonably necessary to permit the clients to make informed decisions regarding their cases in violation of Rule 1.4(a) and (b); (g) By allowing nonlawyer assistants of the company of which he was named the president to make various claims to the company's clients and provide the clients with legal advice, Defendant failed to make reasonable efforts to ensure that the conduct of his nonlawyer assistants was compatible with the professional obligations of a lawyer in violation of Rule 5.3(b); (h) By allowing the company of which he was named the president to give a portion of the fee LHG collected from D. and K.D. to a

Virginia attorney, Defendant divided a fee between lawyers not in the same firm without the clients' knowledge or consent in violation of Rule 1.5(e); and (i) By allowing the company of which he was named the president to provide legal services in Virginia, a jurisdiction in which he was not authorized to practice law, Defendant engaged in the unauthorized practice of law in violation of Rule 5.5(a).

- (4) Respondent, Marlon Brent Messer, is the same person as the Marlon Brent Messer, who is the subject of the Consent Order of Discipline filed before the Disciplinary Hearing Commission of the North Carolina State Bar; and
- (5) The Consent Order of Discipline filed before the Disciplinary Hearing Commission of the North Carolina State Bar is final.

Conclusions of Law. Based upon the foregoing findings of facts the Board of Disciplinary Appeals makes the following conclusions of law:

- (1) This Board has jurisdiction to hear and determine this matter. Tex. R. Disciplinary P. 7.08(H) ("TRDP");
- (2) Reciprocal discipline identical, to the extent practicable, to that imposed by the Disciplinary Hearing Commission of the North Carolina State Bar is warranted in this case. TRDP 9.03
- (3) Respondent should be suspended for two years with the suspension probated on certain terms and conditions.
- (4) This Board retains jurisdiction during the full term of probation imposed by this judgment to hear a motion to revoke probation.

It is, accordingly, **ORDERED, ADJUDGED, and DECREED** that Respondent, Marlon Brent Messer, State Bar Card No. 24029725, is hereby **SUSPENDED** from the practice of law in Texas for a period of two years with the suspension being stayed and Respondent being placed on probation for a period of two years beginning August 22, 2016, and ending August 21, 2018, under the following terms and conditions:

- (1) Respondent shall not violate any of the provisions of the Texas Disciplinary Rules of Professional Conduct or any provision of the State Bar Rules.

- (2) Respondent shall not be found guilty of, or plead no contest to, any felony involving moral turpitude or any misdemeanor involving theft, embezzlement, or fraudulent misappropriation of money or other property.
- (3) Respondent must notify both the Office of Chief Disciplinary Counsel and the Membership Department of the State Bar of Texas of any change in Respondent's address within thirty (30) days of the change of address.
- (4) Respondent shall not violate any of the terms or conditions of probation imposed by the Disciplinary Hearing Commission of the North Carolina State Bar disciplinary judgment signed May 4, 2016, in Case No. 15 DHC 53.
- (5) Respondent shall timely comply with all requirements of the Disciplinary Hearing Commission of the North Carolina State Bar disciplinary judgment signed May 4, 2016, in Case No. 15 DHC 53.

Probation Revocation

Upon determination that Respondent has violated any term or condition of this judgment or of the disciplinary order or judgment entered in North Carolina, the Chief Disciplinary Counsel may, in addition to all other remedies available, file a motion to revoke probation pursuant to TRDP 2.23 with this Board and serve a copy of the motion on Respondent pursuant to Tex.R.Civ.P. 21a.

This Board will conduct an evidentiary hearing to determine by a preponderance of the evidence whether Respondent has materially violated any term or condition or requirement of any applicable disciplinary judgment. If this Board finds grounds for revocation, it will enter an order revoking probation and placing Respondent an active suspension from the date of such revocation order without 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

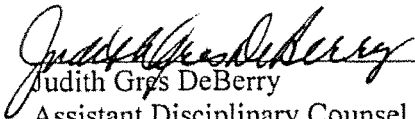
as allowed under the Texas Disciplinary Rules of Professional Conduct and Texas Rules of Disciplinary Procedure.

Signed this 22 day of August 2016.

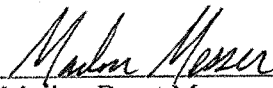


Chairman Presiding
Board of Disciplinary Appeals

APPROVED AS TO FORM AND CONTENT:



Assistant Disciplinary Counsel
State Bar Card No. 24040780
Attorney for Petitioner



Marlon Brent Messer
State Bar Card No. 24029725
Attorney for Respondent