



F I L E D

May 24 2023

THE BOARD of DISCIPLINARY APPEALS
Appointed by the Supreme Court of Texas

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

IN THE MATTER OF §
RONALD RAY WILSON § **CAUSE NO. 67901**
STATE BAR CARD NO. 00785583 §

PETITION FOR COMPULSORY DISCIPLINE

TO THE BOARD OF DISCIPLINARY APPEALS:

Petitioner, the Commission for Lawyer Discipline (hereinafter called "Petitioner"), brings this action against Respondent, Ronald Ray Wilson, (hereinafter called "Respondent"), showing as follows:

1. This action is commenced by Petitioner pursuant to Part VIII of the Texas Rules of Disciplinary Procedure. Petitioner is providing Respondent a copy of this Board's procedures for handling a compulsory discipline matter by attaching a copy of such procedures to this petition.

2. Respondent, Ronald Ray Wilson, may be served with a true and correct copy of this Petition for Compulsory Discipline, its attachments, as well as a notice of hearing, at Ronald Ray Wilson, 4003 Redwin Circle, Houston, Texas 77047.

3. On or about October 18, 2022, Respondent was charged by Information (Exhibit 1) with Income Tax Evasion in violation of 26 U.S.C., Section 7201, in Case No. 1:22-cr-00230-LY, styled *United States of America v. Ronald Ray Wilson*, in the United States District Court, Western District of Texas, Austin Division.

4. On or about October 18, 2022, a Plea Bargain Agreement (Exhibit 2) was entered in Cause No. 1:22-cr-00230-LY, styled *United States of America v. Ronald Ray Wilson*, in the United States District Court, Western District of Texas, Austin Division. Respondent agreed to

plead guilty to Count One of an Information, which charges the Respondent with one count of income tax evasion (payment) in violation of Title 26, United States Code, Section 7201.

5. On or about January 20, 2023, a Judgment in a Criminal Case (Exhibit 3) was entered in Cause No. 1:22-cr-002300-LY, styled *United States of America v. Ronald Ray Wilson*, in the United States District Court, Western District of Texas, Austin Division, wherein Respondent pled guilty to Count One of the Information, on October 27, 2022, in violation of 26 U.S.C., § 7201 Income Tax Evasion. The defendant was placed on probation for a term of five (5) years as to count 1. The defendant shall pay restitution to the Internal Revenue Service in the amount of \$794,632.10. The defendant shall maintain a single checking account in his name. The defendant shall deposit into this account all income, monetary gains, or other pecuniary proceeds, and make use of this account for payment of all personal expenses. All other bank accounts must be disclosed to the probation office. The defendant shall disclose all assets and liabilities to the probation office and shall not transfer, sell, give away, or otherwise convey any asset, without first consulting with the probation office. The defendant shall apply all monies received from income tax refunds, lottery winnings, judgments, and other anticipated or unexpected financial gains to the outstanding court-ordered financial obligation. If the defendant maintains interest in any business or enterprise, he shall, upon request, surrender and make available for review any and all documents and records of said business or enterprise to the probation office. Respondent was further ordered to pay penalties of an assessment in the amount of \$100.00.

6. Respondent, Ronald Ray Wilson, whose bar card number is 00785583, is the same person as the Ronald Ray Wilson, who is the subject of the Information, Plea Bargain Agreement, and Judgment in a Criminal Case, described above, true and correct copies of which are attached hereto as Exhibits 1 through 3.

7. Attached hereto as Exhibit 4 and made a part hereof for all intents and purposes as if the same were copied verbatim herein is a true and correct copy of an affidavit of Judith Gres DeBerry, Attorney of Record for Petitioner herein, attesting to the fact that Respondent is the same person as the person who is the subject of the Information, Plea Bargain Agreement, and Judgment in a Criminal Case, entered in the Wilson criminal case. Petitioner expects to introduce the original of said affidavit at the time of hearing of this cause.

8. The offense for which Respondent was convicted is an intentional crime as defined by Rule 1.06(V), Texas Rules of Disciplinary Procedure. It is as well a serious crime as defined by Rule 1.06(GG), Texas Rules of Disciplinary Procedure.

9. Having been found guilty of an intentional crime, and such judgment being final, Respondent should be disbarred as provided in Rule 8.05, Texas Rules of Disciplinary Procedure.

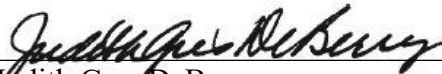
PRAYER

WHEREFORE, PREMISES CONSIDERED, Petitioner prays that Respondent be given notice of these proceedings as provided by law and, upon hearing of this matter, that the Board enter its order disbarring Respondent and for such other and further relief to which Petitioner may be entitled to receive, including costs of court and attorney's fees.

Respectfully submitted,

Seana Willing
Chief Disciplinary Counsel

Judith Gres DeBerry
Assistant Disciplinary Counsel
Office of the Chief Disciplinary Counsel
STATE BAR OF TEXAS
P.O. Box 12487, Capitol Station
Austin, Texas 78711-2487
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Email: jdeberry@texasbar.com



Judith Gres DeBerry
State Bar Card No. 24040780
ATTORNEYS FOR PETITIONER

CERTIFICATE OF SERVICE


I hereby certify that a true and correct copy of the foregoing instrument has been sent for personal Service on Ronald Ray Wilson, 4003 Redwin Circle, Houston, Texas 77047, on this 24th day of May, 2023.



Judith Gres DeBerry

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that a trial on the merits of the Petition for Compulsory Discipline heretofore sent to be filed with the Board of Disciplinary Appeals on this day, will be held in the courtroom of the Supreme Court of Texas, Tom C. Clark Building, 14th and Colorado Streets, Austin, Texas, at **9:00 a.m. on the 28th day of July, 2023**. The hearing location and format (in-person vs virtual) are subject to change based on conditions related to the COVID-19 pandemic. The Board of Disciplinary Appeals will notify the parties of any changes to the hearing location or format.



Judith Gres DeBerry

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

FILED
October 18, 2022
CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS

BY: AD
DEPUTY

UNITED STATES OF AMERICA)
)
v.)
)
RONALD RAY WILSON)

CRIMINAL NO.
1:22-cr-230-LY

INFORMATION

THE UNITED STATES ATTORNEY CHARGES:

At all times relevant to this Information:

GENERAL ALLEGATIONS

1. DEFENDANT RONALD RAY WILSON (“WILSON”) was a resident of Austin, Texas, within the Western District of Texas.

2. On or about April 9, 1993, WILSON became licensed to practice law in the State of Texas. In or around December 14, 1995, WILSON founded his law firm, Ron Wilson & Associates, P.C. (“Wilson & Associates”), which, maintained an Interest of Lawyer Trust Account (“IOLTA”). Pursuant to Article XI of the Texas State Bar Rules, an IOLTA is limited in use to hold client funds that are nominal in amount or are reasonably anticipated to be held for a short period of time.

3. Trust 1 was a trust established in California in May 2003 for the benefit of WILSON’s mother-in-law. On or about June 15, 2011, WILSON was appointed as trustee of Trust 1.



Wilson's Tax Liabilities

4. The Internal Revenue Service ("IRS") was an agency of the United States Department of the Treasury responsible for enforcing and administering the tax laws of the United States and collecting taxes owed to the United States.

5. WILSON failed to file federal income tax returns for tax years 2000, 2003, 2004, 2005, and 2006.

6. On or about September 11, 2008, WILSON stipulated to a Tax Court decision, entered on September 25, 2008, that he owed income taxes and associated penalties totaling \$31,359 for 2003 and \$125,081 for 2004. On or about November 24, 2008, the IRS entered assessments against WILSON for 2003 and 2004.

7. On or about February 3, 2011, WILSON stipulated to a Tax Court decision, entered on February 23, 2011, that he owed income taxes and associated penalties totaling \$57,562 for 2000, \$199,340 for 2005, and \$77,037 for 2006. On or about April 11, 2011, the IRS entered assessments against WILSON for 2000, 2005, and 2006.

8. WILSON made three voluntary payments to the IRS, of \$10,000 each, from on or about January 18, 2009, through March 16, 2009, which the IRS applied to his 2003 liability. WILSON did not voluntarily pay any additional amounts on his 2000, 2003, 2004, 2005, or 2006 tax liabilities.

Wilson's Income

9. On or about May 15, 2003, WILSON signed a settlement agreement ("2003 Settlement Agreement"), which established a schedule of legal fees that Wilson would receive through September 1, 2018.

10. From on or about January 11, 1977, through on or about July 31, 2004, WILSON served as a member of the Texas House of Representatives. After leaving the House of Representatives, WILSON received a monthly pension for his service.

11. From on or about July 1, 2012, through September 7, 2015, WILSON earned income through his employment as the Director of the Civil Rights Office for the Texas Department of Transportation (“TXDOT”).

COUNT ONE

12. From in or about May 23, 2011, through in or about October 23, 2019, in the Western District of Texas and elsewhere, the defendant, RONALD RAY WILSON, willfully attempted to evade and defeat the payment of income tax due and owing by him to the United States of America for the calendar years 2000, 2003, 2004, 2005, and 2006, by committing the following affirmative acts, among others:

- a. WILSON used the Wilson & Associates IOLTA account to conceal assets and income as follows:
 - i. From approximately 2011 through 2018, WILSON deposited fees he received from the 2003 Settlement Agreement into the Wilson & Associates IOLTA account.
 - ii. From on or about September 4, 2012, through on or about January 4, 2012, WILSON caused approximately \$154,169 of his TXDOT salary to be directly deposited into the Wilson & Associates IOLTA account.
 - iii. On or about December 4, 2013, WILSON deposited a personal check in the amount of \$12,696.88 into the Wilson & Associates IOLTA account. On

or about December 5, 2013, WILSON wrote a check from the IOLTA account to himself in the amount of \$11,196,88.

- b. On or about November 12, 2013, the IRS sent WILSON notice of intent to levy a personal bank account he held at J.P. Morgan Chase in order to collect his unpaid taxes. To avoid the IRS levy, WILSON ceased direct deposits of his pension checks into that account.
- c. On or about November 21, 2013, after the IRS sent notice of intent to levy WILSON's J.P. Morgan Chase account, he opted to receive physical pension checks instead of direct deposits.
- d. WILSON used Trust 1 to conceal personal funds by depositing checks into Trust 1 accounts and then converting the funds into cashier's checks. For example:
 - i. On or about January 17, 2014, WILSON used funds from a matured certificate of deposit held by Trust 1 to purchase a cashier's check for \$188,832.
 - ii. On or about March 13, 2014, WILSON deposited \$182,500 in proceeds from the sale of a Lamborghini into one of Trust 1's bank accounts.
 - iii. On or about March 25, 2014, WILSON deposited a 2003 Settlement Agreement check in the amount of \$26,832.90 into one of Trust 1's bank accounts.
 - iv. On or about July 9, 2014, WILSON purchased a cashier's check in the amount of \$275,000 from one of Trust 1's bank accounts.
- e. WILSON made false and misleading statements about his income to an IRS Revenue Officer including, among others, on or about November 20, 2015,

WILSON told an IRS Revenue Officer that his only source of income was his pension, thereby omitting his 2003 Settlement Agreement payments.

All in violation of Title 26, United States Code, Section 7201.

ASHLEY C. HOFF
United States Attorney

Ashley J. Stein

DAVID ZISSERSON
Assistant Chief
District of Columbia Bar No. 493772
ASHLEY J. STEIN
Trial Attorney
New York Registration No. 5379862

U.S. Department of Justice, Tax Division
Southern Criminal Enforcement Section
150 M Street, N.E.
Washington, D.C. 20002
202-514-6479 (DZ)
202-598-6118 (AJS)
david.zisseron@usdoj.gov
ashley.j.stein@usdoj.gov

A true copy of the original, I certify.
Clerk, U.S. District Court

By: *C. [Signature]*
Deputy Clerk

FILED

October 18, 2022

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

BY: AD
DEPUTY

UNITED STATES OF AMERICA

§
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§

CRIMINAL NO. 1:22-cr-230-LY

v.

RONALD RAY WILSON,

Defendant.

PLEA BARGAIN AGREEMENT

The United States Attorney for the Western District of Texas (“U.S. Attorney’s Office” or “government”), by and through the undersigned United States Department of Justice Trial Attorneys, and Defendant, Ronald Wilson (“Defendant” or Wilson”), personally and by and through ChiQuia Roberson, Attorney for Defendant, enter into the following Plea Bargain Agreement pursuant to Rule 11(c)(1)(A) and (B), Federal Rules of Criminal Procedure:

1. Defendant’s Agreement to Plead Guilty

Defendant agrees to plead guilty to Count One of an Information, which charges the Defendant with one count of income tax evasion (payment) in violation of Title 26, United States Code, Section 7201.

2. Penalty

The offense to which Defendant is pleading guilty carries the following penalties:

Count One: 26 U.S.C. § 7201:

Maximum possible prison term:	Five years
Term of supervised release:	Three years
Maximum fine:	\$250,000
Mandatory monetary assessment:	\$100

Any term of imprisonment imposed does not provide for parole.



3. Sentencing Matters

(a). **Court to Determine Sentence:** Regarding the imposition of sentence, Defendant understands that the Court decides the punishment that will be imposed. The Court shall determine the sentence to be imposed in accordance with 18 U.S.C. § 3553(a), after considering the application of the Sentencing Guidelines. The Guidelines are advisory and not binding, although the Court is required to consider them. Any prediction or estimate of the probable sentencing range or ultimate sentence that may be imposed, whether from the government, Defendant's attorney, or the Probation Office, is not a promise, is not binding, and is not an inducement for Defendant's guilty plea or waivers. Defendant will not be permitted to withdraw Defendant's guilty plea because the sentence imposed differs from the sentence Defendant expected or hoped for.

(b). **Reservation of Sentencing Rights:** Notwithstanding the above provisions, both the government and Defendant reserve the rights to: (1) inform the U.S. Probation Office and the Court of all information relevant to determining sentence; (2) dispute facts relevant to sentencing; (3) seek resolution of disputed facts or factors in conference with opposing counsel and the U.S. Probation Office; (4) allocute at sentencing (consistent with promises by the government concerning recommended findings and punishment); and (5) request the Court to depart from the applicable supervisory guideline range based upon aggravating or mitigating factors.

4. Defendant's Additional Obligations

This Plea Agreement does not require the Defendant to cooperate with law enforcement authorities in the investigation or prosecution of other criminal offenses. If the Defendant does cooperate by providing complete and truthful information about other criminal offenses, Defendant understands that it is within the sole and exclusive discretion of the government to determine whether (a) to inform the Court, at sentencing, about the Defendant's cooperation and (b) to move at sentencing for a reduced sentence below the advisory Guideline range of imprisonment (under USSG § 5K1.1 or otherwise) based on the Defendant's cooperation, and the extent of any reduction to be requested. If a motion for a reduced sentence is filed, Defendant understands that whether and to what extent to grant any such motion will be within the sole and exclusive discretion of the Court.

5. Factual Basis for the Guilty Plea

Defendant agrees that the government's evidence at trial would have established the following facts, which are true and correct, proving beyond a reasonable doubt that Defendant's actions constituted a willful violation of federal law, to wit, income tax evasion, in violation of Title 26 U.S.C. § 7201.

Wilson failed to file federal income tax returns for tax years 2000, 2003, 2004, 2005, and 2006. On September 25, 2008, the Tax Court issued a decision on assessments for Wilson for tax years 2003 and 2004. Wilson stipulated that he owed income taxes and associated penalties totaling \$31,359 for 2003 and \$125,081 for 2004, respectively. From on or about January 18, 2009, through on or about March 16, 2009, Wilson made three \$10,000 monthly tax payments to the Internal Revenue Service ("IRS"). The IRS credited the payments to Wilson's 2003 tax liability.

On February 23, 2011, the Tax Court issued a decision on assessments for Wilson for tax years 2000, 2005, and 2006. Wilson stipulated that he owed income taxes and associated penalties totaling \$57,562 for 2000, \$199,340 for 2005, and \$77,037 for 2006, respectively. Since March 16, 2009, Wilson has not made any voluntary payments towards his tax liability and has committed several acts to evade payment of the assessments.

- a. On or about April 9, 1993, Wilson was licensed to practice law in the State of Texas. In 1995, Wilson opened a law firm, Ron Wilson & Associates, PC. Wilson's law firm had an Interest of Lawyer Trust Account, commonly referred to as an "IOLTA." Pursuant to Article XI of the Texas State Bar Rules, an IOLTA is limited in use to hold client funds that are nominal in amount or are reasonably anticipated to be held for a short period of time.
- b. On or about May 15, 2003, Wilson and other members of a legal team signed a settlement agreement with the Houston Rockets ("Rockets Settlement"), which established a schedule of legal payments to Wilson through September 1, 2018.
- c. From approximately 1977 to 2004, Wilson served as a member of the Texas House of Representatives. Thereafter, Wilson received a monthly pension from his service as a Texas legislator.
- d. From approximately 2011 through 2018, Wilson deposited approximately \$100,000 that he received as legal fees from the Rockets Settlement into his law firm's IOLTA account.
- e. On or about May 23, 2011, Wilson told a J.P. Morgan Chase bank teller that he was using his IOLTA account to avoid taxes.
- f. On or about June 15, 2011, Wilson was appointed as trustee to a trust ("Delaney Trust") that had been previously formed for the benefit of his mother-in-law, Ann Delaney. Thereafter, Wilson used the Delaney Trust to conceal personal funds by depositing checks into the trust's accounts and then converting the funds into a cashier's check. Wilson would then cash the check, use the funds he needed to quickly pay personal expenses, and then purchase another cashier's check with the remaining balance.
- g. On or about July 1, 2012, Wilson began working as the Director of the Civil Rights Office for the Texas Department of Transportation ("TXDOT").
- h. On or about September 4, 2012, Wilson elected to direct deposit his TXDOT salary into his law firm's IOLTA account ending in -7201. From on or about September 4, 2012, and continuing through approximately January 4, 2014, Wilson received nineteen (19) payments totaling approximately \$154,169 into the IOLTA account ending in -7201.
- i. On or about November 12, 2013, the IRS sent Wilson notice of intent to levy his personal bank accounts at J.P. Morgan Chase. On or about November 21, 2013, in response to the IRS notice of intent to levy, Wilson arranged to stop the direct deposits of his pension checks from his service as a Texas legislator and receive physical checks instead.

- j. On or about December 4, 2013, Wilson deposited a personal check from USAA insurance company in the amount of \$12,696.88 into his law firm's IOLTA account. On December 5, 2013, Wilson wrote a check from the IOLTA account to himself in the amount of \$11,196.88, which he cashed at a bank.
- k. On or about January 17, 2014, Wilson used the funds from a matured certificate of deposit held by the Delaney Trust to purchase a cashier's check for \$188,832.
- l. On or about February 3, 2014, Wilson changed his election at TXDOT to cease his paychecks being direct deposited into his IOLTA account and elected to received physical checks instead.
- m. On or about March 13, 2014, Wilson deposited \$182,500 in proceeds from the sale of a Lamborghini into one of the Delaney Trust bank accounts.
- n. On or about March 25, 2014, Wilson deposited a \$26,832.90 Rockets Settlement legal fee check into one of the Delaney Trust bank accounts.
- o. On or about July 9, 2014, Wilson purchased a cashier's check in the amount of \$275,000 from one the Delaney Trust bank accounts. The cashier's check was partially funded by the sale of the Lamborghini.
- p. On or about October 21, 2014, Wilson purchased two empty lots in Austin, Texas, located at 2500 and 2502 Douglas Street ("the Douglas Street properties") for a total price of \$35,000. Wilson funded the purchase with an initial deposit of \$3,500 via a check written from a personal account. On or about October 29, 2014, Wilson paid the remainder of the purchase price with a cashier's check that he purchased with cash. Throughout the sale, Wilson represented to the real estate agent that he was purchasing the property for himself. On or about October 30, 2014, after the Douglas Street properties closing, Wilson told the real estate agent he wanted to gift the property to his adult son. On or about October 31, 2014, in an effort to avoid federal tax liens, and without using a title company, Wilson filed an unsigned warranty deed in Travis County purporting to transfer the property to his son.
- q. From on or about November 3, 2014, and continuing through approximately October 12, 2015, Wilson cashed thirteen (13) TXDOT paychecks, totaling approximately \$124,831.
- r. In December 2014, Wilson utilized a cashier's check to purchase a historic, antique gate – the "Texas Governor's Mansion gate and side fence panels" as an investment for \$17,000.
- s. On or about August 21, 2015, the IRS issued a levy to TXDOT. On or about September 7, 2015, Wilson left his employment with TXDOT.
- t. On or about November 20, 2015, Wilson was interviewed by Revenue Officer Rhonda Butler. In the interview, Wilson stated that he was let go from the TXDOT and his only source of income was his pension. Wilson concealed the legal fees he annually received from the Rockets settlement. When listing his assets, Wilson also failed to include the "Texas Governor's Mansion gate and side fence panels." As a result of the interview, the IRS deemed Wilson's tax debts uncollectible and removed all levies against him.

- u. On or about March 28, 2016, Wilson received \$35,308.80 as legal fees from the Rockets Settlement.
- v. On or about April 4, 2017, Wilson received \$24,516.65 as legal fees from the Rockets Settlement.
- w. On or about November 26, 2018, Wilson received \$30,912.35 as legal fees from the Rockets Settlement.
- x. On or about October 23, 2019, Wilson filed with the IRS a Form 12277, "Application for Withdrawal of Filed Form 688(y), Notice of Federal Tax Lien," requesting that the IRS withdraw the federal tax liens from the Douglas Street properties. Wilson stated on the form, signed under penalties or perjury, that the transfer was in compensation for work Wilson's son performed for the Delaney Trust.

6. Government's Agreement

In exchange for Defendant's agreement to plead guilty, to waive the rights listed in this Plea Bargain Agreement, and to cooperate, the United States Attorney's Office for the Western District of Texas and the U.S. Department of Justice, Tax Division agrees to the following:

Forebear Filing Charges: The government agrees that it shall dismiss any other pending federal charges against the defendant in the Western District of Texas, and not pursue additional charges against the Defendant that arise from the facts known or which reasonably could have been known to the U.S. Attorney's Office prior to entering this Plea Bargain Agreement, or which are disclosed by the Defendant during his truthful debriefing or cooperation with the U.S. Attorney's Office;

Acceptance of Responsibility: The government will recommend that the Defendant receive a three-level downward adjustment for acceptance of responsibility.

7. Defendant's Related Agreement

(a). **Advice of Trial Rights.** Defendant understands that Defendant has the following rights:

- (1) The right to plead not guilty, or having already so pleaded, to persist in that plea;
- (2) The right to a trial by jury;
- (3) The rights at trial to confront and cross-examine adverse witnesses; to be protected from compelled self-incrimination (the right to remain silent); to testify and present evidence; and to compel the attendance of witnesses;

- (4) The right to be represented by counsel – and, if necessary, to have the court appoint counsel at public expense – at trial and at every other stage of the proceeding.

(b). **Waiver of Trial Rights.** Defendant understands that, by pleading guilty, Defendant waives and gives up the following rights: the right to plead not guilty; the right to a jury trial; the right to confront and cross-examine adverse witnesses; the right to remain silent, or to testify; and the rights to present witnesses and to compel the attendance of witnesses at trial. In addition, the Court may require Defendant to answer truthfully questions about the offense(s), and Defendant may be prosecuted if Defendant knowingly makes false statements or gives false answers.

(c). **Waiver of Additional Rights.** In addition to giving up the rights described above, Defendant agrees to give up and waive the following:

Pretrial Motions: Defendant understands that Defendant could raise a number of issues and challenges by pretrial motion, including motions to suppress evidence and to dismiss the charges against Defendant. By entering into this agreement and pleading guilty, Defendant agrees to give up any and all claims Defendant has made or might have made by pretrial motion, and agrees to the dismissal of any motions that currently are pending.

Discovery: In addition to waiving pretrial motions, Defendant agrees to give up and waive any claims Defendant may have now or may acquire later to any information possessed by the prosecution team that might be subject to disclosure under discovery rules, including the Federal Rules of Criminal Procedure, the *Jencks* Act, local court rules, and Court Orders, including information that might be considered exculpatory or impeaching under *Brady v. Maryland* and *Giglio v. United States*. Defendant waives any continuing discovery request and additional discovery. Defendant also waives all rights to request from any department or agency of the United States any records pertaining to the investigation or prosecution of this case, including without limitation any records that may be sought under the Freedom of Information Act (5 U.S.C. § 552) or the Privacy Act (5 U.S.C. § 552a).

Appeal: Defendant knowingly and voluntarily waives and gives up the right to appeal Defendant's conviction or sentence on any ground, including but not limited to any challenges to the determination of any period of confinement, monetary penalty or obligation, term of supervision and conditions thereof, and including any appeal right conferred by 18 U.S.C. §3742, except in a case in which the sentence imposed by the Court is greater than the maximum sentence authorized by statute. Moreover, Defendant waives the right to challenge the sentence imposed, knowing that Defendant's sentence has not yet been determined by the Court. In sum, Defendant understands that Defendant cannot challenge the sentence imposed by the Court, even if it differs from any sentencing range or estimate made by Defendant's attorney, the attorney for the Government, or the Probation Officer. Realizing the uncertainty in estimating what sentence Defendant will ultimately

receive, Defendant knowingly and voluntarily waives the right to appeal the sentence or, as set forth below, to challenge it in any post-conviction proceeding, in exchange for the concessions made by the Government in this Agreement, except as otherwise provided herein.

Collateral Attack: Defendant agrees to waive and give up the right to challenge Defendant's conviction or sentence in a post-conviction collateral challenge, including but not limited to a proceeding pursuant to 28 U.S.C. §§ 2241 and 2255; except, Defendant does not waive the right to challenge Defendant's sentence based on ineffective assistance of counsel or prosecutorial misconduct. If the Defendant makes a claim of ineffective assistance of counsel, Defendant will waive any claim of attorney/client privilege arising from counsel's representation.

(e). **Attorney's Fees:** Defendant hereby stipulates and agrees that Defendant is not entitled to and shall not seek from the United States any attorney's fees Defendant incurred in connection with this prosecution.

(f). **Defendant's Financial Obligations.**

Restitution:

(1) Defendant agrees to pay restitution to the Internal Revenue Service in the total amount of \$794,632.10, pursuant to 18 U.S.C. § 3663(a)(3).

(2) The total amount of restitution consists of the following amounts for the following years:

2000: \$65,338.99
2004: \$226,064.13
2005: \$354,001.09
2006: \$149,227.89

(3) Defendant agrees that the total amount of restitution reflected in this agreement results from Defendant's fraudulent conduct. Defendant agrees to pay Title 26 interest on the restitution amount; interest runs from the last date prescribed for payment of the relevant tax liability until the IRS receives payment in full. The government will provide an updated interest figure at sentencing.

(4) Defendant agrees that restitution is due and payable immediately after the judgment is entered and is subject to immediate enforcement, in full, by the United States. If the Court imposes a schedule of payments, Defendant agrees that the schedule of payments is a schedule of the minimum payment due, and that the payment schedule does not prohibit or limit the methods by which the United States may immediately enforce the judgment in full. The IRS will use the amount of restitution ordered as the basis for a civil

assessment under 26 U.S.C. § 6201(a)(4). Defendant does not have the right to challenge the amount of this restitution-based assessment. See 26 U.S.C. § 6201(a)(4)(C). Neither the existence of a restitution payment schedule nor Defendant's timely payment of restitution according to that schedule will preclude the IRS from immediately collecting the full amount of the restitution-based assessment.

- (5) Defendant is entitled to receive credit for restitution paid pursuant to this plea agreement against those assessed civil tax liabilities due and owing for the same periods for which restitution was ordered. Defendant understands and agrees that the plea agreement does not resolve the Defendant's civil tax liabilities, that the IRS may seek additional taxes, interest and penalties from Defendant relating to the conduct covered by this plea agreement and for conduct relating to another time period, and that satisfaction of the restitution debt does not settle, satisfy, or compromise Defendant's obligation to pay any remaining civil tax liability. Defendant authorizes release of information to the IRS for purposes of making the civil tax and restitution-based assessments.
- (6) Defendant understands that he is not entitled to credit with the IRS for any payment until the payment is received by the IRS.
- (7) If full payment cannot be made immediately, Defendant agrees to make a complete and accurate financial disclosure to the IRS on forms prescribed by the IRS (including, but not limited to, IRS Form 433-A and Form 433-B, as appropriate), and to disclose to the IRS any and all additional financial information and financial statements provided to the probation office. Defendant also agrees to provide the above-described information to the probation office.
- (8) If Defendant makes a payment of the restitution agreed to in paragraph [3] prior to sentencing, the payment will be applied as a credit against the restitution ordered.
- (9) Defendant agrees to send all payments made pursuant to the court's restitution order to the Clerk of the Court at an address to be provided.
- (10) With each payment to the Clerk of the Court made pursuant to the District Court's restitution order, defendant will provide the following information:
 - A. Defendant's name and Social Security number;
 - B. The District Court and the docket number assigned to this case;
 - C. Tax year(s) or period(s) for which restitution has been ordered; and
 - D. A statement that the payment is being submitted pursuant to the District Court's restitution order.

- (11) Defendant agrees to include a request that the Clerk of the Court send the information, along with Defendant's payments, to the IRS address below:

IRS – RACS
Attn: Mail Stop 6261, Restitution
333 W. Pershing Ave.
Kansas City, MO 64108.

- (12) Defendant also agrees to send a notice of any payments made pursuant to this agreement, including the information listed in the previous paragraph, to the IRS at the following address:

IRS - RACS
Attn: Mail Stop 6261, Restitution
333 W. Pershing Ave.
Kansas City, MO 64108

Cooperation in Financial Obligations: Defendant will cooperate with the U.S. Attorney's Office, and with law enforcement agents as directed by the U.S. Attorney's Office, as follows:

- (1) Defendant will make a good faith effort to pay any fine, forfeiture, or restitution ordered by the Court.
- (2) Before or after sentencing, Defendant will provide, upon request by the Court, the U.S. Attorney's Office, the U.S. Department of Justice, Tax Division, or the U.S. Probation Office, in whatever form requested, accurate and complete financial information, and will submit sworn statements and give depositions under oath concerning all assets and Defendant's ability to pay.
- (3) Defendant will surrender and release any assets, money, or other property, whether or not derived from the commission of crimes, as well as any information about said assets, in order to satisfy any fine, forfeiture or restitution order entered by the Court. This includes signing any waivers, consents, or releases required by third parties.
- (4) Defendant will identify any transfer of assets made for the purpose of evading or defeating financial obligations, and refrain from making any such transfers.
- (5) If required to pay restitution, Defendant will immediately commence the sale of any properties that Defendant owns and apply the proceeds of those sales to any order of restitution. Defendant will take any and all reasonable actions requested by the government to facilitate payment of restitution.

8. Conclusion

a. Collateral Consequences

Defendant understands that in addition to the punishment described above, Defendant's guilty plea and conviction may have other or collateral consequences. These consequences may adversely affect such things as Defendant's right to possess firearms and the right to vote. Pursuant to the provisions of Fed. R. Crim. P. 11(b)(1)(O), Defendant still persists in his desire to plead guilty pursuant to this agreement. Defendant has discussed with Defendant's attorney the punishments and consequences of pleading guilty, understands that not all of the consequences can be predicted or foreseen, and still wants to plead guilty in this case.

b. Breach of Agreement

In the event Defendant violates or breaches any of the terms of the plea agreement, including Defendant's agreement to cooperate, the government will be released from its obligations under this agreement and in its sole discretion may do any or all of the following:

- (1) Move to set aside Defendant's guilty plea and proceed on charges previously filed and any additional charges;
- (2) Use against Defendant any statements or information Defendant provided during the course of cooperation, at sentencing or in any prosecution;
- (3) Seek additional charges based on false statements, perjury, obstruction of justice, or any other criminal acts committed by Defendant before or during Defendant's cooperation, including offenses disclosed during Defendant's cooperation;
- (4) Seek to revoke or modify conditions of release; and/or
- (5) Decline to file a motion for a reduced sentence.

c. Voluntariness

In entering into this Plea Bargain Agreement, agreeing to plead guilty, and waiving the rights set forth above, Defendant understands and affirms the following:

- (1) Defendant has discussed with Defendant's attorney the charge(s), the possible punishment upon conviction, the evidence and any defenses to the charge(s), and the benefits and risks of going to trial.
- (2) Defendant has a right to plead not guilty, and by entering this agreement and pleading guilty, Defendant is waiving or giving up a number of important rights, described above.

- (3) Defendant has had sufficient time to discuss the case with Defendant's attorney, and is satisfied with the advice given by counsel.
- (4) Defendant's good judgment and ability to understand this plea agreement and its consequences are not impaired or diminished due to the use of alcohol, drugs, or medications, nor to the effect of any physical, mental, or emotional illness, disease, or injury. Defendant understands the significance of the proceedings and the importance of the decision to plead guilty and waive rights.
- (5) Defendant enters this Agreement and decision to plead guilty voluntarily, and not on account of force, threats, promises or inducements, apart from the promises and inducements set forth in this agreement.
- (6) Defendant agrees to plead guilty because Defendant is guilty of the offense charged.

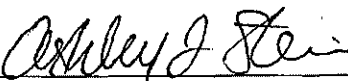
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d. Entire Agreement

This Plea Bargain Agreement constitutes the entire agreement between Defendant, the United States Attorney's Office for the Western District of Texas, and the U.S. Department of Justice, Tax Division, and is binding only upon those parties. The parties have not made any other promises or inducements, or entered into any other agreements. The Court may accept or reject this agreement, and may defer this decision until it has reviewed the presentence report. If the Court accepts the agreement, but declines to follow the government's sentencing recommendations, Defendant has no right to withdraw Defendant's guilty plea.

ASHLEY C. HOFF
United States Attorney

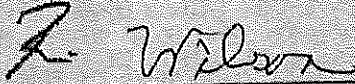
By:



DAVID ZISSERSON
Assistant Chief
District of Columbia Bar No. 493772
ASHLEY J. STEIN
Trial Attorney
New York Registration No. 5379862

U.S. Department of Justice, Tax Division
Southern Criminal Enforcement Section
150 M Street, N.E.
Washington, D.C. 20002
202-514-6479 (DZ)
202-598-6118 (AJS)
david.zisseron@usdoj.gov
ashley.j.stein@usdoj.gov

Defendant's Signature: I, RONALD RAY WILSON, have carefully read and reviewed the foregoing plea agreement in its entirety. After giving careful and mature consideration to the making of this Plea Bargain Agreement, thoroughly discussing the Plea Bargain Agreement with my attorney, and fully understanding my rights with respect to the pending criminal charge(s), and in reliance upon my own judgment and the advice of my attorney, I freely and voluntarily agree to the specific terms and conditions of the Plea Bargain Agreement. I admit that all of the facts contained in the Factual Basis are true and correct, and that I am guilty of the offense(s) to which I am pleading guilty. I have done so with the advice of counsel.



RONALD RAY WILSON
Defendant



Date

Defense Counsel Signature: I am counsel for Defendant, RONALD RAY WILSON, in this case. I have fully explained to Defendant all of Defendant's rights with respect to the pending criminal charge(s). I have carefully reviewed this Plea Bargain Agreement in its entirety with Defendant and provided Defendant with my best professional advice.



CHIQUIA ROBERSON
Attorney for Defendant



DATE

A true copy of the original, I certify
Clerk, U.S. District Court

By: 
Deputy Clerk

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

FILED
JAN 20 2023
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY *[Signature]*
DEPUTY

UNITED STATES OF AMERICA

V.

Case Number: 1:22-CR-00230-LY(1)
USM Number: 28904-510

RONALD RAY WILSON

Defendant.

JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed On or After November 1, 1987)

The defendant, RONALD RAY WILSON, was represented by ChiQuia J. Roberson.

The defendant pled guilty to Count One, of the Information on October 27, 2022. Accordingly, the defendant is adjudged guilty of such Count, involving the following offense:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
26 U.S.C. § 7201	Income Tax Evasion	10/23/2019	1

As pronounced on January 20, 2023, the defendant is sentenced as provided in pages 2 through 5 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the Court and United States Attorney of material changes in economic circumstances.

Signed this *[Signature]* day of January, 2023.

[Signature]
LIE YEAKEL
United States District Judge

EXHIBIT
3

DEFENDANT: RONALD RAY WILSON
CASE NUMBER: 1:22-CR-00230-LY(1)

PROBATION

The defendant is hereby placed on probation for a term of **FIVE (5) YEARS** as to count 1.

While on probation the defendant shall comply with the mandatory, standard and if applicable, the special conditions that have been adopted by this Court, and shall comply with the following additional conditions:

The defendant shall pay restitution to the Internal Revenue Service in the amount of \$794,632.10.

The defendant shall maintain a single checking account in his name. The defendant shall deposit into this account all income, monetary gains, or other pecuniary proceeds, and make use of this account for payment of all personal expenses. All other bank accounts must be disclosed to the probation office.

The defendant shall disclose all assets and liabilities to the probation office and shall not transfer, sell, give away, or otherwise convey any asset, without first consulting with the probation office.

The defendant shall apply all monies received from income tax refunds, lottery winnings, judgments, and other anticipated or unexpected financial gains to the outstanding court-ordered financial obligation.

If the defendant maintains interest in any business or enterprise, he shall, upon request, surrender and make available for review any and all documents and records of said business or enterprise to the probation office.

DEFENDANT: RONALD RAY WILSON
CASE NUMBER: 1:22-CR-00230-LY(1)

CONDITIONS OF PROBATION

Mandatory Conditions:

- [1] The defendant shall not commit another federal, state, or local crime during the term of probation.
- [2] The defendant shall not unlawfully possess a controlled substance.
- [3] The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release on probation and at least two periodic drug tests thereafter (as determined by the court), but the condition stated in this paragraph may be ameliorated or suspended by the court if the defendant's presentence report or other reliable sentencing information indicates low risk of future substance abuse by the defendant.
- [4] The defendant shall cooperate in the collection of DNA as instructed by the probation officer, if the collection of such a sample is authorized pursuant to section 3 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. § 14135a).
- [5] If applicable, the defendant shall comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, et. seq.) as instructed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which the defendant resides, works, is a student, or was convicted of a qualifying offense.
- [6] If convicted of a domestic violence crime as defined in 18 U.S.C. § 3561(b), the defendant shall participate in an approved program for domestic violence.
- [7] If the judgment imposes a fine or restitution, it is a condition of probation that the defendant pay in accordance with the Schedule of Payments sheet of the judgment.
- [8] The defendant shall pay the assessment imposed in accordance with 18 U.S.C. § 3013.
- [9] The defendant shall notify the court of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay restitution, fines or special assessments.

Standard Conditions:

- [1] The defendant shall report to the probation office in the federal judicial district where he or she is authorized to reside within 72 hours of release from imprisonment, unless the probation officer instructs the defendant to report to a different probation office or within a different time frame.
- [2] After initially reporting to the probation office, the defendant will receive instructions from the court or the probation officer about how and when to report to the probation officer, and the defendant shall report to the probation officer as instructed.
- [3] The defendant shall not knowingly leave the federal judicial district where he or she is authorized to reside without first getting permission from the court or the probation officer.
- [4] The defendant shall answer truthfully the questions asked by the probation officer.
- [5] The defendant shall live at a place approved by the probation officer. If the defendant plans to change where he or she lives or anything about his or her living arrangements (such as the people the defendant lives with), the defendant shall notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, the defendant shall notify the probation officer within 72 hours of becoming aware of a change or expected change.
- [6] The defendant shall allow the probation officer to visit the defendant at any time at his or her home or elsewhere, and the defendant shall permit the probation officer to take any items prohibited by the conditions of the defendant's probation that are observed in plain view.
- [7] The defendant shall work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses the defendant from doing so. If the defendant does not have full-time employment, he or she shall try to find full-

DEFENDANT: RONALD RAY WILSON
CASE NUMBER: 1:22-CR-00230-LY(1)

time employment, unless the probation officer excuses the defendant from doing so. If the defendant plans to change where the defendant works or anything about his or her work (such as the position or job responsibilities), the defendant shall notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, the defendant shall notify the probation officer within 72 hours of becoming aware of a change or expected change.

- [8] The defendant shall not communicate or interact with someone the defendant knows is engaged in criminal activity. If the defendant knows someone has been convicted of a felony, the defendant shall not knowingly communicate or interact with that person without first getting the permission of the probation officer.
- [9] If the defendant is arrested or questioned by a law enforcement officer, the defendant shall notify the probation officer within 72 hours.
- [10] The defendant shall not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified, for the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
- [11] The defendant shall not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
- [12] If the probation officer determines that the defendant poses a risk to another person (including an organization), the probation officer may require the defendant to notify the person about the risk and the defendant shall comply with that instruction. The probation officer may contact the person and confirm that the defendant has notified the person about the risk.
- [13] The defendant shall follow the instructions of the probation officer related to the conditions of probation.
- [14] If the judgment imposes other criminal monetary penalties, it is a condition of probation that the defendant pay such penalties in accordance with the Schedule of Payments sheet of the judgment.
- [15] If the judgment imposes a fine, special assessment, restitution, or other criminal monetary penalties, it is a condition of probation that the defendant shall provide the probation officer access to any requested financial information.
- [16] If the judgment imposes a fine, special assessment, restitution, or other criminal monetary penalties, it is a condition of probation that the defendant shall not incur any new credit charges or open additional lines of credit without the approval of the probation officer, unless the defendant is in compliance with the payment schedule.
- [17] If the defendant is excluded, deported, or removed upon release on probation, the term of probation shall be a non-reporting term of probation. The defendant shall not illegally re-enter the United States. If the defendant is released from confinement or not deported, or lawfully re-enters the United States during the term of probation, the defendant shall immediately report in person to the nearest U.S. Probation Office.

DEFENDANT: RONALD RAY WILSON
CASE NUMBER: 1:22-CR-00230-LY(1)

CRIMINAL MONETARY PENALTIES/SCHEDULE

The defendant shall pay the following total criminal monetary penalties in accordance with the schedule of payments set forth. Unless the Court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. Criminal Monetary Penalties, except those payments made through Federal Bureau of Prisons' Inmate Financial Responsibility Program, shall be paid through the Clerk, United States District Court, Attn: Mail Log, 501 West Fifth Street, Suite 1100, Austin, TX, 78701 or online by Debit (credit cards not accepted) or ACH payment (direct from Checking or Savings Account) through Pay.gov (link accessible on the landing page of the U.S. District Court's Website). **Your mail-in or online payment must include your case number in the exact format of DTXW122CR000230-001 to ensure proper application to your criminal monetary penalty.** The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

If the defendant is not now able to pay this indebtedness, the defendant shall cooperate fully with the office of the United States Attorney, the Bureau of Prisons and the United States Probation Office to make payment in full as soon as possible, including during any period of probation. Any unpaid balance at the commencement of a term of probation shall be paid on a schedule of monthly installments to be established by the United States Probation office and approved by the Court.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$100.00	\$0.00	\$794,632.10

SPECIAL ASSESSMENT

It is ordered that the defendant shall pay to the United States a special assessment of \$100.00. Payment of this sum shall begin immediately.

FINE

The fine is waived because of the defendant's inability to pay.

RESTITUTION

The defendant shall pay restitution in the amount of \$794,632.10 directly to the Department of Treasury in the total amount of \$794,632.10, in monthly installments of \$800. Restitution shall be mailed to the following address:

IRS-RACS
Attn: Mail Stop 6261 – Restitution
333 West Pershing Avenue Kansas City, Missouri 64108

The Court finds that the defendant does not have the ability to pay interest and will waive the interest requirement in this case.

A true copy of the original, I certify.
Clerk, U.S. District Court

By: C. Cordes
Deputy Clerk

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column above. However, pursuant to 18 U.S.C. § 3664(f), all non-federal victims must be paid before the United States is paid.

If the fine is not paid, the court may sentence the defendant to any sentence which might have been originally imposed. See 18 U.S.C. §3614.

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) community restitution, (6) fine interest, (7) penalties, and (8) costs, including cost of prosecution and court costs.

Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

AFFIDAVIT

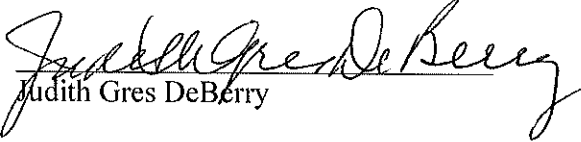
THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

BEFORE ME, the undersigned authority, on this day personally appeared Judith Gres DeBerry, Petitioner's attorney of record, who, being by me duly sworn, deposed as follows:

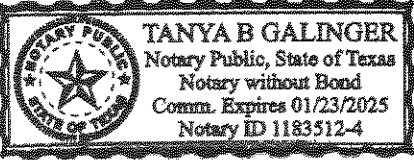
"My name is Judith Gres DeBerry. I am over the age of 18 years, of sound mind, capable of making this affidavit, and state the following:

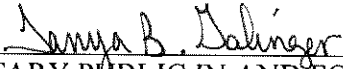
Based upon information and belief, Ronald Ray Wilson, whose Texas Bar Card Number is 00785583, is licensed as an attorney and counselor at law in the State of Texas. Based upon information and belief Ronald Ray Wilson, named as Respondent in the Petition for Compulsory Discipline filed with the Board of Disciplinary Appeals, is one and the same person as the Ronald Ray Wilson, who is the subject of the Judgment in a Criminal Case entered in Cause No. 1:22-cr-00230-LY, styled *United States of America v. Ronald Ray Wilson*, in the United States District Court, Western District of Texas, Austin Division, wherein Respondent pled guilty to Count One of the Information, on October 27, 2022, in violation of 26 U.S.C., § 7201 Income Tax Evasion. The defendant was placed on probation for a term of five (5) years as to count 1."

FURTHER Affiant saith not.


Judith Gres DeBerry

SWORN AND SUBSCRIBED before me on the 24th day of May 2023.




NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

INTERNAL PROCEDURAL RULES

BOARD OF DISCIPLINARY APPEALS

Current through June 21, 2018

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INTERNAL PROCEDURAL RULES

Board of Disciplinary Appeals

Current through June 21, 2018

I. GENERAL PROVISIONS

Rule 1.01. Definitions

- (a) “BODA” is the Board of Disciplinary Appeals.
- (b) “Chair” is the member elected by BODA to serve as chair or, in the Chair’s absence, the member elected by BODA to serve as vice-chair.
- (c) “Classification” is the determination by the CDC under TRDP 2.10 or by BODA under TRDP 7.08(C) whether a grievance constitutes a “complaint” or an “inquiry.”
- (d) “BODA Clerk” is the executive director of BODA or other person appointed by BODA to assume all duties normally performed by the clerk of a court.
- (e) “CDC” is the Chief Disciplinary Counsel for the State Bar of Texas and his or her assistants.
- (f) “Commission” is the Commission for Lawyer Discipline, a permanent committee of the State Bar of Texas.
- (g) “Executive Director” is the executive director of BODA.
- (h) “Panel” is any three-member grouping of BODA under TRDP 7.05.
- (i) “Party” is a Complainant, a Respondent, or the Commission.
- (j) “TDRPC” is the Texas Disciplinary Rules of Professional Conduct.
- (k) “TRAP” is the Texas Rules of Appellate Procedure.
- (l) “TRCP” is the Texas Rules of Civil Procedure.
- (m) “TRDP” is the Texas Rules of Disciplinary Procedure.
- (n) “TRE” is the Texas Rules of Evidence.

Rule 1.02. General Powers

Under TRDP 7.08, BODA has and may exercise all the powers of either a trial court or an appellate court, as the case may be, in hearing and determining disciplinary proceedings. But TRDP 15.01 [17.01] applies to the enforcement of a judgment of BODA.

Rule 1.03. Additional Rules in Disciplinary Matters

Except as varied by these rules and to the extent applicable, the TRCP, TRAP, and TRE apply to all disciplinary matters before BODA, except for appeals from classification decisions, which are governed by TRDP 2.10 and by Section 3 of these rules.

Rule 1.04. Appointment of Panels

- (a) BODA may consider any matter or motion by panel,

except as specified in (b). The Chair may delegate to the Executive Director the duty to appoint a panel for any BODA action. Decisions are made by a majority vote of the panel; however, any panel member may refer a matter for consideration by BODA sitting en banc. Nothing in these rules gives a party the right to be heard by BODA sitting en banc.

- (b) Any disciplinary matter naming a BODA member as Respondent must be considered by BODA sitting en banc. A disciplinary matter naming a BODA staff member as Respondent need not be heard en banc.

Rule 1.05. Filing of Pleadings, Motions, and Other Papers

- (a) **Electronic Filing.** All documents must be filed electronically. Unrepresented persons or those without the means to file electronically may electronically file documents, but it is not required.

- (1) Email Address. The email address of an attorney or an unrepresented party who electronically files a document must be included on the document.

- (2) Timely Filing. Documents are filed electronically by emailing the document to the BODA Clerk at the email address designated by BODA for that purpose. A document filed by email will be considered filed the day that the email is sent. The date sent is the date shown for the message in the inbox of the email account designated for receiving filings. If a document is sent after 5:00 p.m. or on a weekend or holiday officially observed by the State of Texas, it is considered filed the next business day.

- (3) It is the responsibility of the party filing a document by email to obtain the correct email address for BODA and to confirm that the document was received by BODA in legible form. Any document that is illegible or that cannot be opened as part of an email attachment will not be considered filed. If a document is untimely due to a technical failure or a system outage, the filing party may seek appropriate relief from BODA.

- (4) Exceptions.

- (i) An appeal to BODA of a decision by the CDC to classify a grievance as an inquiry is not required to be filed electronically.

- (ii) The following documents must not be filed electronically:

- a) documents that are filed under seal or subject to a pending motion to seal; and

- b) documents to which access is otherwise restricted by court order.

- (iii) For good cause, BODA may permit a party to file other documents in paper form in a particular case.

- (5) Format. An electronically filed document must:

- (i) be in text-searchable portable document format (PDF);
- (ii) be directly converted to PDF rather than scanned, if possible; and
- (iii) not be locked.

(b) A paper will not be deemed filed if it is sent to an individual BODA member or to another address other than the address designated by BODA under Rule 1.05(a)(2).

(c) **Signing.** Each brief, motion, or other paper filed must be signed by at least one attorney for the party or by the party pro se and must give the State Bar of Texas card number, mailing address, telephone number, email address, and fax number, if any, of each attorney whose name is signed or of the party (if applicable). A document is considered signed if the document includes:

- (1) an “/s/” and name typed in the space where the signature would otherwise appear, unless the document is notarized or sworn; or
- (2) an electronic image or scanned image of the signature.

(d) **Paper Copies.** Unless required by BODA, a party need not file a paper copy of an electronically filed document.

(e) **Service.** Copies of all documents filed by any party other than the record filed by the evidentiary panel clerk or the court reporter must, at or before the time of filing, be served on all other parties as required and authorized by the TRAP.

Rule 1.06. Service of Petition

In any disciplinary proceeding before BODA initiated by service of a petition on the Respondent, the petition must be served by personal service; by certified mail with return receipt requested; or, if permitted by BODA, in any other manner that is authorized by the TRCP and reasonably calculated under all the circumstances to apprise the Respondent of the proceeding and to give him or her reasonable time to appear and answer. To establish service by certified mail, the return receipt must contain the Respondent’s signature.

Rule 1.07. Hearing Setting and Notice

(a) **Original Petitions.** In any kind of case initiated by the CDC’s filing a petition or motion with BODA, the CDC may contact the BODA Clerk for the next regularly available hearing date before filing the original petition. If a hearing is set before the petition is filed, the petition must state the date, time, and place of the hearing. Except in the case of a petition to revoke probation under TRDP 2.23 [2.22], the hearing date must be at least 30 days from the date that the petition is served on the Respondent.

(b) **Expedited Settings.** If a party desires a hearing on a matter on a date earlier than the next regularly available BODA hearing date, the party may request an expedited setting in a written motion setting out the reasons for the

request. Unless the parties agree otherwise, and except in the case of a petition to revoke probation under TRDP 2.23 [2.22], the expedited hearing setting must be at least 30 days from the date of service of the petition, motion, or other pleading. BODA has the sole discretion to grant or deny a request for an expedited hearing date.

(c) **Setting Notices.** BODA must notify the parties of any hearing date that is not noticed in an original petition or motion.

(d) **Announcement Docket.** Attorneys and parties appearing before BODA must confirm their presence and present any questions regarding procedure to the BODA Clerk in the courtroom immediately prior to the time docket call is scheduled to begin. Each party with a matter on the docket must appear at the docket call to give an announcement of readiness, to give a time estimate for the hearing, and to present any preliminary motions or matters. Immediately following the docket call, the Chair will set and announce the order of cases to be heard.

Rule 1.08. Time to Answer

The Respondent may file an answer at any time, except where expressly provided otherwise by these rules or the TRDP, or when an answer date has been set by prior order of BODA. BODA may, but is not required to, consider an answer filed the day of the hearing.

Rule 1.09. Pretrial Procedure

(a) Motions.

(1) Generally. To request an order or other relief, a party must file a motion supported by sufficient cause with proof of service on all other parties. The motion must state with particularity the grounds on which it is based and set forth the relief sought. All supporting briefs, affidavits, or other documents must be served and filed with the motion. A party may file a response to a motion at any time before BODA rules on the motion or by any deadline set by BODA. Unless otherwise required by these rules or the TRDP, the form of a motion must comply with the TRCP or the TRAP.

(2) For Extension of Time. All motions for extension of time in any matter before BODA must be in writing, comply with (a)(1), and specify the following:

- (i) if applicable, the date of notice of decision of the evidentiary panel, together with the number and style of the case;
- (ii) if an appeal has been perfected, the date when the appeal was perfected;
- (iii) the original deadline for filing the item in question;
- (iv) the length of time requested for the extension;
- (v) the number of extensions of time that have been granted previously regarding the item in question; and

(vi) the facts relied on to reasonably explain the need for an extension.

(b) **Pretrial Scheduling Conference.** Any party may request a pretrial scheduling conference, or BODA on its own motion may require a pretrial scheduling conference.

(c) **Trial Briefs.** In any disciplinary proceeding before BODA, except with leave, all trial briefs and memoranda must be filed with the BODA Clerk no later than ten days before the day of the hearing.

(d) **Hearing Exhibits, Witness Lists, and Exhibits Tendered for Argument.** A party may file a witness list, exhibit, or any other document to be used at a hearing or oral argument before the hearing or argument. A party must bring to the hearing an original and 12 copies of any document that was not filed at least one business day before the hearing. The original and copies must be:

- (1) marked;
- (2) indexed with the title or description of the item offered as an exhibit; and
- (3) if voluminous, bound to lie flat when open and tabbed in accordance with the index.

All documents must be marked and provided to the opposing party before the hearing or argument begins.

Rule 1.10. Decisions

(a) **Notice of Decisions.** The BODA Clerk must give notice of all decisions and opinions to the parties or their attorneys of record.

(b) **Publication of Decisions.** BODA must report judgments or orders of public discipline:

- (1) as required by the TRDP; and
- (2) on its website for a period of at least ten years following the date of the disciplinary judgment or order.

(c) **Abstracts of Classification Appeals.** BODA may, in its discretion, prepare an abstract of a classification appeal for a public reporting service.

Rule 1.11. Board of Disciplinary Appeals Opinions

(a) BODA may render judgment in any disciplinary matter with or without written opinion. In accordance with TRDP 6.06, all written opinions of BODA are open to the public and must be made available to the public reporting services, print or electronic, for publishing. A majority of the members who participate in considering the disciplinary matter must determine if an opinion will be written. The names of the participating members must be noted on all written opinions of BODA.

(b) Only a BODA member who participated in the decision of a disciplinary matter may file or join in a written opinion concurring in or dissenting from the judgment of BODA. For purposes of this rule, in hearings in which evidence is taken, no member may participate in

the decision unless that member was present at the hearing. In all other proceedings, no member may participate unless that member has reviewed the record. Any member of BODA may file a written opinion in connection with the denial of a hearing or rehearing en banc.

(c) A BODA determination in an appeal from a grievance classification decision under TRDP 2.10 is not a judgment for purposes of this rule and may be issued without a written opinion.

Rule 1.12. BODA Work Product and Drafts

A document or record of any nature—regardless of its form, characteristics, or means of transmission—that is created or produced in connection with or related to BODA’s adjudicative decision-making process is not subject to disclosure or discovery. This includes documents prepared by any BODA member, BODA staff, or any other person acting on behalf of or at the direction of BODA.

Rule 1.13. Record Retention

Records of appeals from classification decisions must be retained by the BODA Clerk for a period of at least three years from the date of disposition. Records of other disciplinary matters must be retained for a period of at least five years from the date of final judgment, or for at least one year after the date a suspension or disbarment ends, whichever is later. For purposes of this rule, a record is any document, paper, letter, map, book, tape, photograph, film, recording, or other material filed with BODA, regardless of its form, characteristics, or means of transmission.

Rule 1.14. Costs of Reproduction of Records

The BODA Clerk may charge a reasonable amount for the reproduction of nonconfidential records filed with BODA. The fee must be paid in advance to the BODA Clerk.

Rule 1.15. Publication of These Rules

These rules will be published as part of the TDRPC and TRDP.

II. ETHICAL CONSIDERATIONS

Rule 2.01. Representing or Counseling Parties in Disciplinary Matters and Legal Malpractice Cases

(a) A current member of BODA must not represent a party or testify voluntarily in a disciplinary action or proceeding. Any BODA member who is subpoenaed or otherwise compelled to appear at a disciplinary action or proceeding, including at a deposition, must promptly notify the BODA Chair.

(b) A current BODA member must not serve as an expert witness on the TDRPC.

(c) A BODA member may represent a party in a legal malpractice case, provided that he or she is later recused in accordance with these rules from any proceeding before BODA arising out of the same facts.

Rule 2.02. Confidentiality

(a) BODA deliberations are confidential, must not be disclosed by BODA members or staff, and are not subject to disclosure or discovery.

(b) Classification appeals, appeals from evidentiary judgments of private reprimand, appeals from an evidentiary judgment dismissing a case, interlocutory appeals or any interim proceedings from an ongoing evidentiary case, and disability cases are confidential under the TRDP. BODA must maintain all records associated with these cases as confidential, subject to disclosure only as provided in the TRDP and these rules.

(c) If a member of BODA is subpoenaed or otherwise compelled by law to testify in any proceeding, the member must not disclose a matter that was discussed in conference in connection with a disciplinary case unless the member is required to do so by a court of competent jurisdiction

Rule 2.03. Disqualification and Recusal of BODA Members

(a) BODA members are subject to disqualification and recusal as provided in TRCP 18b.

(b) BODA members may, in addition to recusals under (a), voluntarily recuse themselves from any discussion and voting for any reason. The reasons that a BODA member is recused from a case are not subject to discovery.

(c) These rules do not disqualify a lawyer who is a member of, or associated with, the law firm of a BODA member from serving on a grievance committee or representing a party in a disciplinary proceeding or legal malpractice case. But a BODA member must recuse him or herself from any matter in which a lawyer who is a member of, or associated with, the BODA member's firm is a party or represents a party.

III. CLASSIFICATION APPEALS

Rule 3.01. Notice of Right to Appeal

(a) If a grievance filed by the Complainant under TRDP 2.10 is classified as an inquiry, the CDC must notify the Complainant of his or her right to appeal as set out in TRDP 2.10 or another applicable rule.

(b) To facilitate the potential filing of an appeal of a grievance classified as an inquiry, the CDC must send the Complainant an appeal notice form, approved by BODA, with the classification disposition. The form must include the docket number of the matter; the deadline for appealing; and information for mailing, faxing, or emailing the appeal notice form to BODA. The appeal notice form must be available in English and Spanish.

Rule 3.02. Record on Appeal

BODA must only consider documents that were filed with the CDC prior to the classification decision. When a notice of appeal from a classification decision has been filed, the CDC must forward to BODA a copy of the grievance and

all supporting documentation. If the appeal challenges the classification of an amended grievance, the CDC must also send BODA a copy of the initial grievance, unless it has been destroyed.

IV. APPEALS FROM EVIDENTIARY PANEL HEARINGS

Rule 4.01. Perfecting Appeal

(a) **Appellate Timetable.** The date that the evidentiary judgment is signed starts the appellate timetable under this section. To make TRDP 2.21 [2.20] consistent with this requirement, the date that the judgment is signed is the "date of notice" under Rule 2.21 [2.20].

(b) **Notification of the Evidentiary Judgment.** The clerk of the evidentiary panel must notify the parties of the judgment as set out in TRDP 2.21 [2.20].

(1) The evidentiary panel clerk must notify the Commission and the Respondent in writing of the judgment. The notice must contain a clear statement that any appeal of the judgment must be filed with BODA within 30 days of the date that the judgment was signed. The notice must include a copy of the judgment rendered.

(2) The evidentiary panel clerk must notify the Complainant that a judgment has been rendered and provide a copy of the judgment, unless the evidentiary panel dismissed the case or imposed a private reprimand. In the case of a dismissal or private reprimand, the evidentiary panel clerk must notify the Complainant of the decision and that the contents of the judgment are confidential. Under TRDP 2.16, no additional information regarding the contents of a judgment of dismissal or private reprimand may be disclosed to the Complainant.

(c) **Filing Notice of Appeal.** An appeal is perfected when a written notice of appeal is filed with BODA. If a notice of appeal and any other accompanying documents are mistakenly filed with the evidentiary panel clerk, the notice is deemed to have been filed the same day with BODA, and the evidentiary panel clerk must immediately send the BODA Clerk a copy of the notice and any accompanying documents.

(d) **Time to File.** In accordance with TRDP 2.24 [2.23], the notice of appeal must be filed within 30 days after the date the judgment is signed. In the event a motion for new trial or motion to modify the judgment is timely filed with the evidentiary panel, the notice of appeal must be filed with BODA within 90 days from the date the judgment is signed.

(e) **Extension of Time.** A motion for an extension of time to file the notice of appeal must be filed no later than 15 days after the last day allowed for filing the notice of appeal. The motion must comply with Rule 1.09.

Rule 4.02. Record on Appeal

(a) **Contents.** The record on appeal consists of the evidentiary panel clerk's record and, where necessary to the appeal, a reporter's record of the evidentiary panel hearing.

(b) **Stipulation as to Record.** The parties may designate parts of the clerk's record and the reporter's record to be included in the record on appeal by written stipulation filed with the clerk of the evidentiary panel.

(c) Responsibility for Filing Record.

(1) Clerk's Record.

(i) After receiving notice that an appeal has been filed, the clerk of the evidentiary panel is responsible for preparing, certifying, and timely filing the clerk's record.

(ii) Unless the parties stipulate otherwise, the clerk's record on appeal must contain the items listed in TRAP 34.5(a) and any other paper on file with the evidentiary panel, including the election letter, all pleadings on which the hearing was held, the docket sheet, the evidentiary panel's charge, any findings of fact and conclusions of law, all other pleadings, the judgment or other orders appealed from, the notice of decision sent to each party, any postsubmission pleadings and briefs, and the notice of appeal.

(iii) If the clerk of the evidentiary panel is unable for any reason to prepare and transmit the clerk's record by the due date, he or she must promptly notify BODA and the parties, explain why the clerk's record cannot be timely filed, and give the date by which he or she expects the clerk's record to be filed.

(2) Reporter's Record.

(i) The court reporter for the evidentiary panel is responsible for timely filing the reporter's record if:

- a) a notice of appeal has been filed;
- b) a party has requested that all or part of the reporter's record be prepared; and
- c) the party requesting all or part of the reporter's record has paid the reporter's fee or has made satisfactory arrangements with the reporter.

(ii) If the court reporter is unable for any reason to prepare and transmit the reporter's record by the due date, he or she must promptly notify BODA and the parties, explain the reasons why the reporter's record cannot be timely filed, and give the date by which he or she expects the reporter's record to be filed.

(d) Preparation of Clerk's Record.

(1) To prepare the clerk's record, the evidentiary panel clerk must:

- (i) gather the documents designated by the parties'

written stipulation or, if no stipulation was filed, the documents required under (c)(1)(ii);

(ii) start each document on a new page;

(iii) include the date of filing on each document;

(iv) arrange the documents in chronological order, either by the date of filing or the date of occurrence;

(v) number the pages of the clerk's record in the manner required by (d)(2);

(vi) prepare and include, after the front cover of the clerk's record, a detailed table of contents that complies with (d)(3); and

(vii) certify the clerk's record.

(2) The clerk must start the page numbering on the front cover of the first volume of the clerk's record and continue to number all pages consecutively—including the front and back covers, tables of contents, certification page, and separator pages, if any—until the final page of the clerk's record, without regard for the number of volumes in the clerk's record, and place each page number at the bottom of each page.

(3) The table of contents must:

(i) identify each document in the entire record (including sealed documents); the date each document was filed; and, except for sealed documents, the page on which each document begins;

(ii) be double-spaced;

(iii) conform to the order in which documents appear in the clerk's record, rather than in alphabetical order;

(iv) contain bookmarks linking each description in the table of contents (except for descriptions of sealed documents) to the page on which the document begins; and

(v) if the record consists of multiple volumes, indicate the page on which each volume begins.

(e) **Electronic Filing of the Clerk's Record.** The evidentiary panel clerk must file the record electronically. When filing a clerk's record in electronic form, the evidentiary panel clerk must:

(1) file each computer file in text-searchable Portable Document Format (PDF);

(2) create electronic bookmarks to mark the first page of each document in the clerk's record;

(3) limit the size of each computer file to 100 MB or less, if possible; and

(4) directly convert, rather than scan, the record to PDF, if possible.

(f) **Preparation of the Reporter's Record.**

(1) The appellant, at or before the time prescribed for

perfecting the appeal, must make a written request for the reporter's record to the court reporter for the evidentiary panel. The request must designate the portion of the evidence and other proceedings to be included. A copy of the request must be filed with the evidentiary panel and BODA and must be served on the appellee. The reporter's record must be certified by the court reporter for the evidentiary panel.

(2) The court reporter or recorder must prepare and file the reporter's record in accordance with TRAP 34.6 and 35 and the Uniform Format Manual for Texas Reporters' Records.

(3) The court reporter or recorder must file the reporter's record in an electronic format by emailing the document to the email address designated by BODA for that purpose.

(4) The court reporter or recorder must include either a scanned image of any required signature or "/s/" and name typed in the space where the signature would otherwise

(6¹) In exhibit volumes, the court reporter or recorder must create bookmarks to mark the first page of each exhibit document.

(g) **Other Requests.** At any time before the clerk's record is prepared, or within ten days after service of a copy of appellant's request for the reporter's record, any party may file a written designation requesting that additional exhibits and portions of testimony be included in the record. The request must be filed with the evidentiary panel and BODA and must be served on the other party.

(h) **Inaccuracies or Defects.** If the clerk's record is found to be defective or inaccurate, the BODA Clerk must inform the clerk of the evidentiary panel of the defect or inaccuracy and instruct the clerk to make the correction. Any inaccuracies in the reporter's record may be corrected by agreement of the parties without the court reporter's recertification. Any dispute regarding the reporter's record that the parties are unable to resolve by agreement must be resolved by the evidentiary panel.

(i) **Appeal from Private Reprimand.** Under TRDP 2.16, in an appeal from a judgment of private reprimand, BODA must mark the record as confidential, remove the attorney's name from the case style, and take any other steps necessary to preserve the confidentiality of the private reprimand.

¹ So in original.

Rule 4.03. Time to File Record

(a) **Timetable.** The clerk's record and reporter's record must be filed within 60 days after the date the judgment is signed. If a motion for new trial or motion to modify the judgment is filed with the evidentiary panel, the clerk's record and the reporter's record must be filed within 120 days from the date the original judgment is signed, unless

a modified judgment is signed, in which case the clerk's record and the reporter's record must be filed within 60 days of the signing of the modified judgment. Failure to file either the clerk's record or the reporter's record on time does not affect BODA's jurisdiction, but may result in BODA's exercising its discretion to dismiss the appeal, affirm the judgment appealed from, disregard materials filed late, or apply presumptions against the appellant.

(b) If No Record Filed.

(1) If the clerk's record or reporter's record has not been timely filed, the BODA Clerk must send notice to the party responsible for filing it, stating that the record is late and requesting that the record be filed within 30 days. The BODA Clerk must send a copy of this notice to all the parties and the clerk of the evidentiary panel.

(2) If no reporter's record is filed due to appellant's fault, and if the clerk's record has been filed, BODA may, after first giving the appellant notice and a reasonable opportunity to cure, consider and decide those issues or points that do not require a reporter's record for a decision. BODA may do this if no reporter's record has been filed because:

(i) the appellant failed to request a reporter's record; or

(ii) the appellant failed to pay or make arrangements to pay the reporter's fee to prepare the reporter's record, and the appellant is not entitled to proceed without payment of costs.

(c) Extension of Time to File the Reporter's Record.

When an extension of time is requested for filing the reporter's record, the facts relied on to reasonably explain the need for an extension must be supported by an affidavit of the court reporter. The affidavit must include the court reporter's estimate of the earliest date when the reporter's record will be available for filing.

(d) **Supplemental Record.** If anything material to either party is omitted from the clerk's record or reporter's record, BODA may, on written motion of a party or on its own motion, direct a supplemental record to be certified and transmitted by the clerk for the evidentiary panel or the court reporter for the evidentiary panel.

Rule 4.04. Copies of the Record

The record may not be withdrawn from the custody of the BODA Clerk. Any party may obtain a copy of the record or any designated part thereof by making a written request to the BODA Clerk and paying any charges for reproduction in advance.

Rule 4.05. Requisites of Briefs

(a) **Appellant's Filing Date.** Appellant's brief must be filed within 30 days after the clerk's record or the reporter's record is filed, whichever is later.

(b) **Appellee's Filing Date.** Appellee's brief must be filed

within 30 days after the appellant's brief is filed.

(c) Contents. Briefs must contain:

- (1) a complete list of the names and addresses of all parties to the final decision and their counsel;
- (2) a table of contents indicating the subject matter of each issue or point, or group of issues or points, with page references where the discussion of each point relied on may be found;
- (3) an index of authorities arranged alphabetically and indicating the pages where the authorities are cited;
- (4) a statement of the case containing a brief general statement of the nature of the cause or offense and the result;
- (5) a statement, without argument, of the basis of BODA's jurisdiction;
- (6) a statement of the issues presented for review or points of error on which the appeal is predicated;
- (7) a statement of facts that is without argument, is supported by record references, and details the facts relating to the issues or points relied on in the appeal;
- (8) the argument and authorities;
- (9) conclusion and prayer for relief;
- (10) a certificate of service; and
- (11) an appendix of record excerpts pertinent to the issues presented for review.

(d) Length of Briefs; Contents Included and Excluded.

In calculating the length of a document, every word and every part of the document, including headings, footnotes, and quotations, must be counted except the following: caption, identity of the parties and counsel, statement regarding oral argument, table of contents, index of authorities, statement of the case, statement of issues presented, statement of the jurisdiction, signature, proof of service, certificate of compliance, and appendix. Briefs must not exceed 15,000 words if computer-generated, and 50 pages if not, except on leave of BODA. A reply brief must not exceed 7,500 words if computer-generated, and 25 pages if not, except on leave of BODA. A computer generated document must include a certificate by counsel or the unrepresented party stating the number of words in the document. The person who signs the certification may rely on the word count of the computer program used to prepare the document.

(e) Amendment or Supplementation. BODA has discretion to grant leave to amend or supplement briefs.

(f) Failure of the Appellant to File a Brief. If the appellant fails to timely file a brief, BODA may:

- (1) dismiss the appeal for want of prosecution, unless the appellant reasonably explains the failure, and the appellee is not significantly injured by the appellant's

failure to timely file a brief;

(2) decline to dismiss the appeal and make further orders within its discretion as it considers proper; or

(3) if an appellee's brief is filed, regard that brief as correctly presenting the case and affirm the evidentiary panel's judgment on that brief without examining the record.

Rule 4.06. Oral Argument

(a) Request. A party desiring oral argument must note the request on the front cover of the party's brief. A party's failure to timely request oral argument waives the party's right to argue. A party who has requested argument may later withdraw the request. But even if a party has waived oral argument, BODA may direct the party to appear and argue. If oral argument is granted, the clerk will notify the parties of the time and place for submission.

(b) Right to Oral Argument. A party who has filed a brief and who has timely requested oral argument may argue the case to BODA unless BODA, after examining the briefs, decides that oral argument is unnecessary for any of the following reasons:

- (1) the appeal is frivolous;
- (2) the dispositive issue or issues have been authoritatively decided;
- (3) the facts and legal arguments are adequately presented in the briefs and record; or
- (4) the decisional process would not be significantly aided by oral argument.

(c) Time Allowed. Each party will have 20 minutes to argue. BODA may, on the request of a party or on its own, extend or shorten the time allowed for oral argument. The appellant may reserve a portion of his or her allotted time for rebuttal.

Rule 4.07. Decision and Judgment

(a) Decision. BODA may do any of the following:

- (1) affirm in whole or in part the decision of the evidentiary panel;
- (2) modify the panel's findings and affirm the findings as modified;
- (3) reverse in whole or in part the panel's findings and render the decision that the panel should have rendered; or
- (4) reverse the panel's findings and remand the cause for further proceedings to be conducted by:

- (i) the panel that entered the findings; or
- (ii) a statewide grievance committee panel appointed by BODA and composed of members selected from the state bar districts other than the district from which the appeal was taken.

(b) Mandate. In every appeal, the BODA Clerk must issue a mandate in accordance with BODA's judgment and send it to the evidentiary panel and to all the parties.

Rule 4.08. Appointment of Statewide Grievance Committee

If BODA remands a cause for further proceedings before a statewide grievance committee, the BODA Chair will appoint the statewide grievance committee in accordance with TRDP 2.27 [2.26]. The committee must consist of six members: four attorney members and two public members randomly selected from the current pool of grievance committee members. Two alternates, consisting of one attorney and one public member, must also be selected. BODA will appoint the initial chair who will serve until the members of the statewide grievance committee elect a chair of the committee at the first meeting. The BODA Clerk will notify the Respondent and the CDC that a committee has been appointed.

Rule 4.09. Involuntary Dismissal

Under the following circumstances and on any party's motion or on its own initiative after giving at least ten days' notice to all parties, BODA may dismiss the appeal or affirm the appealed judgment or order. Dismissal or affirmance may occur if the appeal is subject to dismissal:

- (a) for want of jurisdiction;
- (b) for want of prosecution; or
- (c) because the appellant has failed to comply with a requirement of these rules, a court order, or a notice from the clerk requiring a response or other action within a specified time.

V. PETITIONS TO REVOKE PROBATION

Rule 5.01. Initiation and Service

(a) Before filing a motion to revoke the probation of an attorney who has been sanctioned, the CDC must contact the BODA Clerk to confirm whether the next regularly available hearing date will comply with the 30-day requirement of TRDP. The Chair may designate a three-member panel to hear the motion, if necessary, to meet the 30-day requirement of TRDP 2.23 [2.22].

(b) Upon filing the motion, the CDC must serve the Respondent with the motion and any supporting documents in accordance with TRDP 2.23 [2.22], the TRCP, and these rules. The CDC must notify BODA of the date that service is obtained on the Respondent.

Rule 5.02. Hearing

Within 30 days of service of the motion on the Respondent, BODA must docket and set the matter for a hearing and notify the parties of the time and place of the hearing. On a showing of good cause by a party or on its own motion, BODA may continue the case to a future hearing date as circumstances require.

VI. COMPULSORY DISCIPLINE

Rule 6.01. Initiation of Proceeding

Under TRDP 8.03, the CDC must file a petition for compulsory discipline with BODA and serve the Respondent in accordance with the TRDP and Rule 1.06 of these rules.

Rule 6.02. Interlocutory Suspension

(a) **Interlocutory Suspension.** In any compulsory proceeding under TRDP Part VIII in which BODA determines that the Respondent has been convicted of an Intentional Crime and that the criminal conviction is on direct appeal, BODA must suspend the Respondent's license to practice law by interlocutory order. In any compulsory case in which BODA has imposed an interlocutory order of suspension, BODA retains jurisdiction to render final judgment after the direct appeal of the criminal conviction is final. For purposes of rendering final judgment in a compulsory discipline case, the direct appeal of the criminal conviction is final when the appellate court issues its mandate.

(b) **Criminal Conviction Affirmed.** If the criminal conviction made the basis of a compulsory interlocutory suspension is affirmed and becomes final, the CDC must file a motion for final judgment that complies with TRDP 8.05.

(1) If the criminal sentence is fully probated or is an order of deferred adjudication, the motion for final judgment must contain notice of a hearing date. The motion will be set on BODA's next available hearing date.

(2) If the criminal sentence is not fully probated:

- (i) BODA may proceed to decide the motion without a hearing if the attorney does not file a verified denial within ten days of service of the motion; or
- (ii) BODA may set the motion for a hearing on the next available hearing date if the attorney timely files a verified denial.

(c) **Criminal Conviction Reversed.** If an appellate court issues a mandate reversing the criminal conviction while a Respondent is subject to an interlocutory suspension, the Respondent may file a motion to terminate the interlocutory suspension. The motion to terminate the interlocutory suspension must have certified copies of the decision and mandate of the reversing court attached. If the CDC does not file an opposition to the termination within ten days of being served with the motion, BODA may proceed to decide the motion without a hearing or set the matter for a hearing on its own motion. If the CDC timely opposes the motion, BODA must set the motion for a hearing on its next available hearing date. An order terminating an interlocutory order of suspension does not automatically reinstate a Respondent's license.

VII. RECIPROCAL DISCIPLINE

Rule 7.01. Initiation of Proceeding

To initiate an action for reciprocal discipline under TRDP Part IX, the CDC must file a petition with BODA and request an Order to Show Cause. The petition must request that the Respondent be disciplined in Texas and have attached to it any information concerning the disciplinary matter from the other jurisdiction, including a certified copy of the order or judgment rendered against the Respondent.

Rule 7.02. Order to Show Cause

When a petition is filed, the Chair immediately issues a show cause order and a hearing notice and forwards them to the CDC, who must serve the order and notice on the Respondent. The CDC must notify BODA of the date that service is obtained.

Rule 7.03. Attorney's Response

If the Respondent does not file an answer within 30 days of being served with the order and notice but thereafter appears at the hearing, BODA may, at the discretion of the Chair, receive testimony from the Respondent relating to the merits of the petition.

VIII. DISTRICT DISABILITY COMMITTEE HEARINGS

Rule 8.01. Appointment of District Disability Committee

(a) If the evidentiary panel of the grievance committee finds under TRDP 2.17(P)(2), or the CDC reasonably believes under TRDP 2.14(C), that a Respondent is suffering from a disability, the rules in this section will apply to the de novo proceeding before the District Disability Committee held under TRDP Part XII.

(b) Upon receiving an evidentiary panel's finding or the CDC's referral that an attorney is believed to be suffering from a disability, the BODA Chair must appoint a District Disability Committee in compliance with TRDP 12.02 and designate a chair. BODA will reimburse District Disability Committee members for reasonable expenses directly related to service on the District Disability Committee. The BODA Clerk must notify the CDC and the Respondent that a committee has been appointed and notify the Respondent where to locate the procedural rules governing disability proceedings.

(c) A Respondent who has been notified that a disability referral will be or has been made to BODA may, at any time, waive in writing the appointment of the District Disability Committee or the hearing before the District Disability Committee and enter into an agreed judgment of indefinite disability suspension, provided that the Respondent is competent to waive the hearing. If the Respondent is not represented, the waiver must include a statement affirming that the Respondent has been advised of the right to appointed counsel and waives that right as well.

(d) All pleadings, motions, briefs, or other matters to be filed with the District Disability Committee must be filed with the BODA Clerk.

(e) Should any member of the District Disability Committee become unable to serve, the BODA Chair must appoint a substitute member.

Rule 8.02. Petition and Answer

(a) **Petition.** Upon being notified that the District Disability Committee has been appointed by BODA, the CDC must, within 20 days, file with the BODA Clerk and serve on the Respondent a copy of a petition for indefinite disability suspension. Service must comply with Rule 1.06.

(b) **Answer.** The Respondent must, within 30 days after service of the petition for indefinite disability suspension, file an answer with the BODA Clerk and serve a copy of the answer on the CDC.

(c) **Hearing Setting.** The BODA Clerk must set the final hearing as instructed by the chair of the District Disability Committee and send notice of the hearing to the parties.

Rule 8.03. Discovery

(a) **Limited Discovery.** The District Disability Committee may permit limited discovery. The party seeking discovery must file with the BODA Clerk a written request that makes a clear showing of good cause and substantial need and a proposed order. If the District Disability Committee authorizes discovery in a case, it must issue a written order. The order may impose limitations or deadlines on the discovery.

(b) **Physical or Mental Examinations.** On written motion by the Commission or on its own motion, the District Disability Committee may order the Respondent to submit to a physical or mental examination by a qualified healthcare or mental healthcare professional. Nothing in this rule limits the Respondent's right to an examination by a professional of his or her choice in addition to any exam ordered by the District Disability Committee.

(1) Motion. The Respondent must be given reasonable notice of the examination by written order specifying the name, address, and telephone number of the person conducting the examination.

(2) Report. The examining professional must file with the BODA Clerk a detailed, written report that includes the results of all tests performed and the professional's findings, diagnoses, and conclusions. The professional must send a copy of the report to the CDC and the Respondent.

(c) **Objections.** A party must make any objection to a request for discovery within 15 days of receiving the motion by filing a written objection with the BODA Clerk. BODA may decide any objection or contest to a discovery motion.

Rule 8.04. Ability to Compel Attendance

The Respondent and the CDC may confront and cross-examine witnesses at the hearing. Compulsory process to compel the attendance of witnesses by subpoena, enforceable by an order of a district court of proper jurisdiction, is available to the Respondent and the CDC as provided in TRCP 176.

Rule 8.05. Respondent's Right to Counsel

(a) The notice to the Respondent that a District Disability Committee has been appointed and the petition for indefinite disability suspension must state that the Respondent may request appointment of counsel by BODA to represent him or her at the disability hearing. BODA will reimburse appointed counsel for reasonable expenses directly related to representation of the Respondent.

(b) To receive appointed counsel under TRDP 12.02, the Respondent must file a written request with the BODA Clerk within 30 days of the date that Respondent is served with the petition for indefinite disability suspension. A late request must demonstrate good cause for the Respondent's failure to file a timely request.

Rule 8.06. Hearing

The party seeking to establish the disability must prove by a preponderance of the evidence that the Respondent is suffering from a disability as defined in the TRDP. The chair of the District Disability Committee must admit all relevant evidence that is necessary for a fair and complete hearing. The TRE are advisory but not binding on the chair.

Rule 8.07. Notice of Decision

The District Disability Committee must certify its finding regarding disability to BODA, which will issue the final judgment in the matter.

Rule 8.08. Confidentiality

All proceedings before the District Disability Committee and BODA, if necessary, are closed to the public. All matters before the District Disability Committee are confidential and are not subject to disclosure or discovery, except as allowed by the TRDP or as may be required in the event of an appeal to the Supreme Court of Texas.

IX. DISABILITY REINSTATEMENTS

Rule 9.01. Petition for Reinstatement

(a) An attorney under an indefinite disability suspension may, at any time after he or she has been suspended, file a verified petition with BODA to have the suspension terminated and to be reinstated to the practice of law. The petitioner must serve a copy of the petition on the CDC in the manner required by TRDP 12.06. The TRCP apply to a reinstatement proceeding unless they conflict with these rules.

(b) The petition must include the information required by TRDP 12.06. If the judgment of disability suspension

contained terms or conditions relating to misconduct by the petitioner prior to the suspension, the petition must affirmatively demonstrate that those terms have been complied with or explain why they have not been satisfied. The petitioner has a duty to amend and keep current all information in the petition until the final hearing on the merits. Failure to do so may result in dismissal without notice.

(c) Disability reinstatement proceedings before BODA are not confidential; however, BODA may make all or any part of the record of the proceeding confidential.

Rule 9.02. Discovery

The discovery period is 60 days from the date that the petition for reinstatement is filed. The BODA Clerk will set the petition for a hearing on the first date available after the close of the discovery period and must notify the parties of the time and place of the hearing. BODA may continue the hearing for good cause shown.

Rule 9.03. Physical or Mental Examinations

(a) On written motion by the Commission or on its own, BODA may order the petitioner seeking reinstatement to submit to a physical or mental examination by a qualified healthcare or mental healthcare professional. The petitioner must be served with a copy of the motion and given at least seven days to respond. BODA may hold a hearing before ruling on the motion but is not required to do so.

(b) The petitioner must be given reasonable notice of the examination by written order specifying the name, address, and telephone number of the person conducting the examination.

(c) The examining professional must file a detailed, written report that includes the results of all tests performed and the professional's findings, diagnoses, and conclusions. The professional must send a copy of the report to the parties.

(d) If the petitioner fails to submit to an examination as ordered, BODA may dismiss the petition without notice.

(e) Nothing in this rule limits the petitioner's right to an examination by a professional of his or her choice in addition to any exam ordered by BODA.

Rule 9.04. Judgment

If, after hearing all the evidence, BODA determines that the petitioner is not eligible for reinstatement, BODA may, in its discretion, either enter an order denying the petition or direct that the petition be held in abeyance for a reasonable period of time until the petitioner provides additional proof as directed by BODA. The judgment may include other orders necessary to protect the public and the petitioner's potential clients.

X. APPEALS FROM BODA TO THE SUPREME COURT OF TEXAS

Rule 10.01. Appeals to the Supreme Court

(a) A final decision by BODA, except a determination that a statement constitutes an inquiry or a complaint under TRDP 2.10, may be appealed to the Supreme Court of Texas. The clerk of the Supreme Court of Texas must docket an appeal from a decision by BODA in the same manner as a petition for review without fee.

(b) The appealing party must file the notice of appeal directly with the clerk of the Supreme Court of Texas within 14 days of receiving notice of a final determination by BODA. The record must be filed within 60 days after BODA's determination. The appealing party's brief is due 30 days after the record is filed, and the responding party's brief is due 30 days thereafter. The BODA Clerk must send the parties a notice of BODA's final decision that includes the information in this paragraph.

(c) An appeal to the Supreme Court is governed by TRDP 7.11 and the TRAP.