

**BEFORE THE DISTRICT 11 GRIEVANCE COMMITTEE
EVIDENTIARY PANEL 11-1
STATE BAR OF TEXAS**

COMMISSION FOR LAWYER
DISCIPLINE,
Petitioner

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§
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v.

FILE NO. 201802908

MARC ELLIOT VILLARREAL,
Respondent

AGREED JUDGMENT OF PARTIALLY PROBATED SUSPENSION

Parties and Appearance

On this date, came to be heard the above styled and numbered cause. Petitioner and Respondent, MARC ELLIOTT VILLARREAL, Texas Bar Number 00791856, announce that an agreement has been reached on all matters including the imposition of a Partially Probated Suspension.

Jurisdiction and Venue

The Evidentiary Panel 11, having been duly appointed to hear this complaint by the chair of the Grievance Committee for State Bar of Texas District 11-1, finds that it has jurisdiction over the parties and the subject matter of this action, and that venue is proper. The grievance which is the basis for this proceeding was filed prior to June 1, 2018.

Professional Misconduct

The Evidentiary Panel, having considered the pleadings, admissions, stipulations and agreements of the parties, finds Respondent has committed Professional Misconduct as defined by Rule 1.06(W) of the Texas Rules of Disciplinary Procedure.

Findings of Fact

Petitioner and Respondent agree to the following findings of fact. Accordingly, the Evidentiary Panel finds:

1. Respondent is an attorney licensed to practice law in Texas and is a member of the State Bar of Texas.
2. Respondent maintains his principal place of practice in Nueces County, Texas.
3. On November 15, 2016, Apollo MGA issued a settlement check for \$27,537.13 payable to Mariah Castillo and her attorneys and mailed the check to Respondent to deliver to the payees. Respondent endorsed and negotiated the settlement check payable to Mariah Castillo and her attorneys. Although Respondent initially deposited the settlement check into Respondent's IOLTA account, the settlement funds were used to fund a settlement check that Respondent issued to a different injured plaintiff and plaintiff's attorney.
4. The Chief Disciplinary Counsel of the State Bar of Texas has incurred reasonable attorneys' fees and direct expenses associated with this Disciplinary Proceeding in the amount of Ten Thousand and 00/00 Dollars (\$10,000.00).

Conclusions of Law

Petitioner and Respondent agree that, based on the foregoing findings of fact, the following Texas Disciplinary Rules of Professional Conduct have been violated. Accordingly, the Evidentiary Panel concludes that Respondent has violated Texas Disciplinary Rules of Professional Conduct 1.14(a) and 1.14(b).

Sanction

It is AGREED and ORDERED, ADJUDGED AND DECREED that the sanction of a Partially Probated Suspension shall be imposed against Respondent in accordance with the Texas Rules of Disciplinary Procedure. The Evidentiary Panel finds that the sanction imposed against Respondent is the appropriate sanction for each of the violations set forth in this judgment.

Accordingly, it is AGREED and ORDERED, ADJUDGED and DECREED that Respondent be suspended from the practice of law for a period of five years, beginning May 14, 2020 and ending May 13, 2025, provided Respondent complies with the following terms and conditions. Respondent shall be actively suspended from the practice of law for a period of one year beginning May 14, 2020 and ending May 13, 2021. If Respondent timely complies with all of the following terms and conditions, the four year period of probated suspension shall begin on May 14, 2021 and shall end on May 13, 2025:

1. Respondent shall pay all reasonable and necessary attorney's fees and direct expenses to the State Bar of Texas in the amount of Ten Thousand and 00/100 Dollars (\$10,000.00). The payment shall be due and payable on or before March 6, 2020, and shall be made by certified or cashier's check or money order. Respondent shall forward the funds, made payable to the State Bar of Texas, Chief Disciplinary Counsel's Office, P.O. Box 12487, Austin, TX 78711-2487 (1414 Colorado St., Austin, TX 78701).
2. Not later than June 15, 2020, Respondent shall engage the services of an independent Certified Public Accountant (the CPA), approved by the State Bar of Texas, to assist Respondent in implementing an accounting method to properly maintain trust account records, and to properly balance any and all of Respondent's trust accounts. Respondent shall ensure that written confirmation of the implementation of such accounting method is provided directly by the CPA to the State Bar of Texas not later than July 15, 2020. Respondent shall take all necessary action, including the execution of a valid release of information, to allow and direct the CPA to provide such confirmation.
3. Additionally, not later than July 14, 2020, Respondent shall have a review of any and all of Respondent's trust accounts completed by the CPA. Not later than August 14, 2020, Respondent shall ensure that a report summarizing the results of the review, and specifically noting any irregularities in Respondent's handling of trust account funds, is provided by the CPA directly to the State Bar of Texas. Respondent shall take all necessary action, including the execution of a valid release of information, to allow and direct the CPA to provide such reports.
4. Respondent shall be responsible for all costs and expenses incurred in completing these terms and shall pay all reasonable costs and expenses to the CPA in the manner determined by the CPA.
5. All reports and verifications of compliance with the above shall be sent to the State Bar of Texas via USPS to: Compliance Monitor, Office of the CDC, State Bar of Texas, P.O. Box 12487, Austin, TX 78711-2487; or via Delivery: Office of the CDC, State Bar of Texas, 1414 Colorado St., Austin, TX 78701, or via FAX to: 512-427-4167.

6. Respondent shall make contact with the Chief Disciplinary Counsel's Offices' Compliance Monitor at 877-953-5535, ext. 1334 and Special Programs Coordinator at 877-953-5535, ext. 1323, not later than seven (7) days after receipt of a copy of this judgment to coordinate Respondent's compliance.

Should Respondent fail to timely comply with all of the above terms and conditions, Respondent shall remain actively suspended until the date of compliance or until May 13, 2025, whichever occurs first.

Terms of Active Suspension

IT IS FURTHER ORDERED that during the term of active suspension ordered herein, or that may be imposed upon Respondent by the Board of Disciplinary Appeals as a result of a probation revocation proceeding, Respondent shall be prohibited from practicing law in Texas; holding himself out as an attorney at law; performing any legal services for others; accepting any fee directly or indirectly for legal services; appearing as counsel or in any representative capacity in any proceeding in any Texas or Federal court or before any administrative body; or holding himself out to others or using his name, in any manner, in conjunction with the words "attorney at law," "attorney," "counselor at law," or "lawyer."

IT IS FURTHER ORDERED that, on or before May 14, 2020, Respondent shall notify each of Respondent's current clients and opposing counsel in writing of this suspension. In addition to such notification, IT IS FURTHER ORDERED that Respondent shall return any files, papers, unearned monies and other property belonging to current clients in Respondent's possession to the respective clients or to another attorney at the client's request.

IT IS FURTHER ORDERED that Respondent shall file with the State Bar of Texas, Chief Disciplinary Counsel's Office, P.O. Box 12487, Austin, TX 78711-2487 (1414 Colorado St., Austin, TX 78701), on or before May 22, 2020, an affidavit stating all current clients and opposing counsel have been notified of Respondent's suspension and that all files, papers, monies and other property belonging to all current clients have been returned as ordered herein.

IT IS FURTHER ORDERED that Respondent shall, on or before May 14, 2020, notify in writing each and every justice of the peace, judge, magistrate, administrative judge or officer and chief justice of each and every court or tribunal in which Respondent has any matter pending of the terms of this judgment, the style and cause number of the pending matter(s), and the name, address and telephone number of the client(s) Respondent is representing.

IT IS FURTHER ORDERED that Respondent shall file with the State Bar of Texas, Chief Disciplinary Counsel's Office, P.O. Box 12487, Austin, TX 78711-2487 (1414 Colorado St., Austin, TX 78701), on or May 22, 2020, an affidavit stating Respondent has notified in writing each and every justice of the peace, judge, magistrate, and chief justice of each and every court in which Respondent has any matter pending of the terms of this judgment, the style and cause number of the pending matter(s), and the name, address and telephone number of the client(s) Respondent is representing in Court.

IT IS FURTHER ORDERED that, on or before May 14, 2020, Respondent shall surrender his law license and permanent State Bar Card to the State Bar of Texas, Chief Disciplinary Counsel's Office, P.O. Box 12487, Austin, TX 78711-2487 (1414 Colorado St., Austin, TX 78701), to be forwarded to the Supreme Court of Texas.

Terms of Probation

It is further ORDERED that during all periods of suspension, Respondent shall be under the following terms and conditions:

7. Respondent shall not violate any term of this judgment.
8. Respondent shall not engage in professional misconduct as defined by Rule 1.06(W) of the Texas Rules of Disciplinary Procedure.
9. Respondent shall not violate any state or federal criminal statutes.
10. Respondent shall keep State Bar of Texas membership department notified of current mailing, residence and business addresses and telephone numbers.
11. Respondent shall comply with Minimum Continuing Legal Education requirements.
12. Respondent shall comply with Interest on Lawyers Trust Account (IOLTA) requirements.
13. Respondent shall promptly respond to any request for information from the Chief Disciplinary Counsel in connection with any investigation of any allegations of professional misconduct.
14. No later than ninety (90) days after Respondent begins a period of probated suspension under the terms of this judgment, Respondent shall provide a quarterly report to the State Bar of Texas for each trust account that he maintains as part of his law license. Additional reports shall be filed every three months after the initial quarterly report with each report covering the three-month period ending on the last day of the previous month. The last report shall be filed by May 1, 2025. Each report shall include the records regarding Respondent's trust accounts for the applicable three-month period, including the checkbooks, canceled checks, check stubs, check registers, bank statements, vouchers, deposit slips, ledgers, journals, closing statements, accountings, and other statements of receipts and disbursements rendered to clients or other parties with regard to client trust funds, or other similar records clearly reflecting the date, amount, source, and explanation for all receipts, withdrawals, deliveries, and disbursements of the funds or other property of a client. The records regarding each trust account shall be grouped together. Respondent's obligation to provide these quarterly reports shall continue for three years after he begins a period of probated suspension under the terms of this judgment.
15. All reports, supporting documents and verifications of compliance with the above shall be sent to the State Bar of Texas via USPS to: Compliance Monitor, Office of the CDC, State Bar of Texas, P.O. Box 12487, Austin, TX 78711-2487; or via Delivery: Office of the CDC, State Bar of Texas, 1414 Colorado St., Austin, TX 78701, or via FAX to: 512-427-4167.

Probation Revocation

Upon information that Respondent has violated a term of this judgment, the Chief Disciplinary Counsel may, in addition to all other remedies available, file a motion with the Board of Disciplinary Appeals (“BODA”) to revoke Respondent’s probation pursuant to Rule 2.23 of the Texas Rules of Disciplinary Procedure. A copy of the motion shall be served on Respondent by a method permitted by Tex.R.Civ.P. 21a.

BODA shall conduct an evidentiary hearing. At the hearing, BODA shall determine by a preponderance of the evidence whether Respondent has violated any term of this Judgment. If BODA finds grounds for revocation, BODA shall enter an order revoking probation and placing Respondent on active suspension from the date of such revocation order. Respondent shall not be given credit for any period of probation served prior to revocation.

IT IS FURTHER ORDERED that any conduct on the part of Respondent which serves as the basis for a motion to revoke probation may also be brought as independent grounds for discipline as allowed under the Texas Disciplinary Rules of Professional Conduct and Texas Rules of Disciplinary Procedure.

Attorney’s Fees and Expenses

IT IS FURTHER ORDERED that Respondent shall pay all reasonable and necessary attorney’s fees and direct expenses to the State Bar of Texas in the amount of Ten Thousand and 00/100 Dollars (\$10,000.00). The payment shall be due and payable on or before March 6, 2020, and shall be made by certified or cashier’s check or money order. Respondent shall forward the funds, made payable to the State Bar of Texas, Chief Disciplinary Counsel’s Office, P.O. Box 12487, Austin, TX 78711-2487 (1414 Colorado St., Austin, TX 78701).

IT IS FURTHER ORDERED that all amounts ordered herein are due to the misconduct of Respondent, are assessed as a part of the sanction in accordance with Rule 1.06(Z) of the Texas Rules of Disciplinary Procedure. Any amount not paid shall accrue interest at the maximum legal rate per annum until paid and the State Bar of Texas shall have all writs and other post-judgment remedies against Respondent in order to collect all unpaid amounts.

IT IS FURTHER ORDERED that Respondent shall remain actively suspended from the practice of law as set out above until such time as Respondent has completely paid the attorney's fees and direct expenses in the amount of Ten Thousand and 00/100 Dollars (\$10,000.00) to the State Bar of Texas.

Publication

This suspension shall be made a matter of record and appropriately published in accordance with the Texas Rules of Disciplinary Procedure.

Other Relief

All requested relief not expressly granted herein is expressly DENIED.

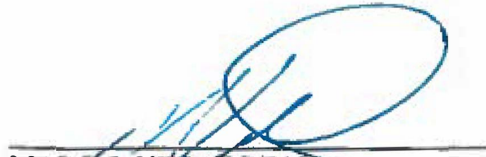
SIGNED this 18 day of February, 2020.

**EVIDENTIARY PANEL 11-1
DISTRICT NO. 11
STATE BAR OF TEXAS**

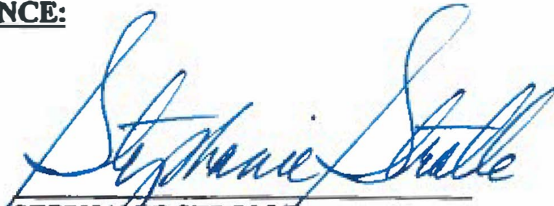


RUBEN R. LERMA, JR., Chair

AGREED AS TO BOTH FORM AND SUBSTANCE:



MARC E. VILLARREAL
State Bar No. 00791856
Respondent



STEPHANIE STROLLE
State Bar No. 00785069
Counsel for Petitioner

APPROVED AS TO FORM ONLY:



BRUCE A. CAMPBELL
State Bar No. 03694500
Counsel for Respondent
with permission
JAC

TERRY WAYNE SHAMSIE
State Bar No. 18089800
Counsel for Respondent