



Houston Office
Chief Disciplinary Counsel

**BEFORE THE DISTRICT 4 GRIEVANCE COMMITTEE
 EVIDENTIARY PANEL 4-5
 STATE BAR OF TEXAS**

COMMISSION FOR LAWYER DISCIPLINE, Petitioner	§ 201900677 [ROBERT COOPER] § 201901481 [JIMMY R. SUTTON] § 201901559 [NICHOLAS K. MEADOR] § 201901802 [DANITRA C. MARSH]
V.	§ § §
JOHN VICTOR MASTRIANI, Respondent	§ §

AGREED JUDGMENT OF PARTIALLY PROBATED SUSPENSION

Parties and Appearance

On December 10, 2020, came to be heard the above styled and numbered cause. Petitioner and Respondent, John Victor Mastriani, Texas Bar Number 13184375, announce that an agreement has been reached on all matters including the imposition of a Partially Probated Suspension.

Jurisdiction and Venue

The Evidentiary Panel 4-5 having been duly appointed to hear this complaint by the chair of the Grievance Committee for State Bar of Texas District 4, finds that it has jurisdiction over the parties and the subject matter of this action, and that venue is proper.

Professional Misconduct

The Evidentiary Panel, having considered the pleadings, admissions, stipulations and agreements of the parties, finds Respondent has committed Professional Misconduct as defined by Rule 1.06(CC) 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 resides in and maintains his principal place of practice in Harris County, Texas.
3. In representing clients (Robert Cooper 201900677; Jimmy Sutton 201901481; Nicholas Meador 201901559 and Danitra Marsh 201901802), Respondent neglected the legal matters entrusted to him.
4. Respondent failed to keep clients (Robert Cooper 201900677; Jimmy Sutton 201901481; Nicholas Meador 201901559 and Danitra Marsh 201901802) reasonably informed about the status of their matters and promptly comply with reasonable requests for information.
5. Respondent failed to timely furnish to the Chief Disciplinary Councils office a response or other information as required by the Texas Rules of Disciplinary Procedure as to clients (Robert Cooper 201900677; Jimmy Sutton 201901481; Nicholas Meador 201901559 and Danitra Marsh 201901802).
6. Respondent failed to refund to clients (Robert Cooper 201900677; Jimmy Sutton 201901481; Nicholas Meador 201901559 and Danitra Marsh 201901802) advance payment of fees that had not been earned.
7. 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 \$6,290.00.
8. Respondent owes restitution in the amount of \$1,250.00 payable to Robert Cooper.
9. Respondent owes restitution in the amount of \$1,000.00 payable to Jimmy R. Sutton.
10. Respondent owes restitution in the amount of \$2,500.00 payable to Tonya Beaver and Darryl Beaver.
11. Respondent owes restitution in the amount of \$1,500.00 payable to Danitra Marsh.

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 the following Texas Disciplinary Rules of Professional Conduct have been violated: 1.01(b)(1), 1.03(a), 1.15(d), 8.04(a)(8).

Sanction

It is AGREED and ORDERED 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 ORDERED, ADJUDGED and DECREED that Respondent be suspended from the practice of law for a period of 24 months, beginning February 15, 2021 and ending February 15, 2023, provided Respondent complies with the following terms and conditions. Respondent shall be actively suspended from the practice of law for a period of 3 months beginning February 15, 2021 and ending May 15, 2021. The 21 month period of probated suspension shall begin on May 16, 2021 and shall end on February 15, 2023.

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 February 15, 2021, 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, on or before February 15, 2021, 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 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 February 15, 2021, 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. If it is Respondent's assertion that at the time of suspension he possessed no current clients and/or Respondent was not in possession of any files, papers, monies or other property belonging to clients, Respondent shall submit an affidavit attesting that, at the time of suspension, Respondent had not current clients and did not possess any files, papers monies and other property belonging to clients.

It is further ORDERED Respondent shall, on or before February 15, 2021, 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 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 February 15, 2021, 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. If it is Respondent's assertion that at the time of suspension he was not currently listed as counsel or co-counsel in any matter pending before any justice of the peace, judge, magistrate, administrative judge or officer, or chief justice of any court or tribunal, Respondent shall submit an affidavit attesting to the absence of any such pending matter before any justice of the peace, judge, magistrate, administrative judge or officer, or chief justice.

It is further ORDERED that, on or before February 15, 2021, 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:

1. Respondent shall not violate any term of this judgment.
2. Respondent shall not engage in professional misconduct as defined by Rule 1.06(CC) of the Texas Rules of Disciplinary Procedure.
3. Respondent shall not violate any state or federal criminal statutes.
4. Respondent shall keep State Bar of Texas membership department notified of current mailing, residence and business addresses and telephone numbers.
5. Respondent shall comply with Minimum Continuing Legal Education requirements.
6. Respondent shall comply with Interest on Lawyers Trust Account (IOLTA) requirements.
7. 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.
8. Respondent shall pay all reasonable and necessary attorney's fees and direct expenses to the State Bar of Texas in the amount of \$6,290.00. The payment shall be due and payable on or before February 15, 2021, and shall be made by certified or cashier's check or money order. Respondent shall forward the funds, made payable to the State Bar of Texas, Chief Disciplinary Counsel's Office, P.O. Box 12487, Austin, TX 78711-2487 (1414 Colorado St., Austin, TX 78701).
9. Respondent shall pay restitution on or before February 15, 2021, to Robert

- Cooper in the amount of \$1,250.00. Respondent shall pay the restitution by certified or cashier's check or money order made payable to Robert Cooper and delivered to the State Bar of Texas, Chief Disciplinary Counsel's Office, P.O. Box 12487, Austin, TX 78711-2487 (1414 Colorado St., Austin, TX 78701).
10. Respondent shall pay restitution on or before February 15, 2021, to Jimmy R. Sutton in the amount of \$1,000.00. Respondent shall pay the restitution by certified or cashier's check or money order made payable to Jimmy R. Sutton and delivered to the State Bar of Texas, Chief Disciplinary Counsel's Office, P.O. Box 12487, Austin, TX 78711-2487 (1414 Colorado St., Austin, TX 78701).
 11. Respondent shall pay restitution on or before February 15, 2021, to Tonya Beaver and Darryl Beaver in the amount of \$2,500.00. Respondent shall pay the restitution by certified or cashier's check or money order made payable to Tonya Beaver and Darryl Beaver and delivered to the State Bar of Texas, Chief Disciplinary Counsel's Office, P.O. Box 12487, Austin, TX 78711-2487 (1414 Colorado St., Austin, TX 78701).
 12. Respondent shall pay restitution on or before February 15, 2021, to Danitra Marsh in the amount of \$1,500.00. Respondent shall pay the restitution by certified or cashier's check or money order made payable to Danitra Marsh delivered to the State Bar of Texas, Chief Disciplinary Counsel's Office, P.O. Box 12487, Austin, TX 78711-2487 (1414 Colorado St., Austin, TX 78701).
 13. 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.

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 to revoke probation pursuant to Rule 2.22 of the Texas Rules of Disciplinary Procedure with the Board of Disciplinary Appeals ("BODA") and serve a copy of the motion on Respondent pursuant to 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 term of probation served prior to

revocation.

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

Restitution, Attorney's Fees and Expenses

It is further ORDERED Respondent shall pay restitution on or before February 15, 2021, to Robert Cooper in the amount of \$1,250.00. Respondent shall pay the restitution by certified or cashier's check or money order made payable to Robert Cooper and delivered to the State Bar of Texas, Chief Disciplinary Counsel's Office, P.O. Box 12487, Austin, TX 78711-2487 (1414 Colorado St., Austin, TX 78701).

It is further ORDERED Respondent shall pay restitution on or before February 15, 2021, to Jimmy R. Sutton in the amount of \$1,000.00. Respondent shall pay the restitution by certified or cashier's check or money order made payable to Jimmy R. Sutton and delivered to the State Bar of Texas, Chief Disciplinary Counsel's Office, P.O. Box 12487, Austin, TX 78711-2487 (1414 Colorado St., Austin, TX 78701).

It is further ORDERED Respondent shall pay restitution on or before February 15, 2021, to Tonya Beaver and Darryl Beaver in the amount of \$2,500.00. Respondent shall pay the restitution by certified or cashier's check or money order made payable to Tonya Beaver and Darryl Beaver and delivered to the State Bar of Texas, Chief Disciplinary Counsel's Office, P.O. Box 12487, Austin, TX 78711-2487 (1414 Colorado St., Austin, TX 78701).

It is further ORDERED Respondent shall pay restitution on or before February 15,

2021, to Danitra Marsh in the amount of \$1,500.00. Respondent shall pay the restitution by certified or cashier's check or money order made payable to Danitra Marsh and delivered to the State Bar of Texas, Chief Disciplinary Counsel's Office, P.O. Box 12487, Austin, TX 78711-2487 (1414 Colorado St., Austin, TX 78701).

It is further ORDERED Respondent shall pay all reasonable and necessary attorney's fees and direct expenses to the State Bar of Texas in the amount of \$6,290.00. The payment shall be due and payable on or before February 15, 2021, and shall be made by certified or cashier's check or money order. Respondent shall forward the funds, made payable to the State Bar of Texas, 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(FF) of the Texas Rules of Disciplinary Procedure. Any amount not paid shall accrue interest at the maximum legal rate per annum until paid and the State Bar of Texas shall have all writs and other post-judgment remedies against Respondent in order to collect all unpaid amounts.

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 attorney fees and direct expenses in the amount of \$6,290.00 to the State Bar of Texas; and restitution in the amount of \$1,250.00 to Robert Cooper; and restitution in the amount of \$1,000.00 to Jimmy R. Sutton; and restitution in the amount of \$2,500.00 to Tonya Beaver and Darryl Beaver; and restitution in the amount of \$1,500.00 to Danitra Marsh.

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 10th day of December, 2020.

**EVIDENTIARY PANEL 4-5
DISTRICT NO. 4
STATE BAR OF TEXAS**

Melissa pickett

Melissa Pickett
District 4-5 Presiding Member

AGREED AS TO BOTH FORM AND SUBSTANCE:

John Victor Mastriani
State Bar No. 13184375
Respondent

Patricia M. Redman

Patricia M. Redman
State Bar No. 24110799
Counsel for Petitioner

Frederick F. Hoelke
State Bar No. 09775600
Counsel for Respondent

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 attorney fees and direct expenses in the amount of \$6,290.00 to the State Bar of Texas; and restitution in the amount of \$1,250.00 to Robert Cooper; and restitution in the amount of \$1,000.00 to Jimmy R. Sutton; and restitution in the amount of \$2,500.00 to Tonya Beaver and Darryl Beaver; and restitution in the amount of \$1,500.00 to Danitra Marsh.

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 _____ day of _____, 20____.

**EVIDENTIARY PANEL 4-5
DISTRICT NO. 4
STATE BAR OF TEXAS**

Melissa Pickett
District 4-5 Presiding Member

AGREED AS TO BOTH FORM AND SUBSTANCE:

John Victor Mastriani
State Bar No. 13184375
Respondent

Patricia M. Redman
State Bar No. 24110799
Counsel for Petitioner

Patricia M. Redman
Attorney for Respondent