January 24, 2020
Consent Agenda Materials

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BYLAWS OF THE TAX SECTION OF THE STATE BAR OF TEXAS

(Revised January 10, 2020)

ARTICLE I

Name and Purpose

Section 1.1 **Name.** This Section shall be known as the Tax Section of the State Bar of Texas.

Section 1.2 **Purpose.** The purpose of the Section shall be to promote the objectives of the State Bar of Texas within the field of taxation, provide leadership in the practice of tax law, create a better understanding and cooperation between attorneys engaged in the practice of tax law, improve the education of attorneys and related professionals in the laws of taxation, promote the economic and professional interests of the members of the Section and serve the public good.

ARTICLE II

Membership

Section 2.1 **Dues.** Any member of the State Bar of Texas, upon registering his or her name with the Secretary of the Section and payment for the then current year of dues as set from time to time by the Council, shall be enrolled as a member. For each succeeding year, said dues shall be payable by the member in advance. Any member whose annual dues shall be more than six months delinquent or who ceases to be a member in good standing of the State Bar of Texas shall thereupon cease to be a member of the Section. Persons so enrolled shall constitute the membership of the Section.

Section 2.2 **Newly Licensed Attorney.** A two-year free membership shall be provided to each attorney newly admitted to the State Bar of Texas. The first year allowed for the free membership shall begin the year during which such attorney is admitted to the State Bar of Texas.

Section 2.3 **Selected Free Memberships.** The Council may vote to provide a licensed attorney or a specifically identified group of licensed attorneys admitted to the State Bar of Texas or law students in an accredited Texas law school free membership to the Section for a specified time period as determined by the Council.

ARTICLE III

Officers and Council

Section 3.1 **Officers.** The Officers of the Section shall be a Chair, Chair-Elect, Secretary, and Treasurer.

Section 3.2 **Council.** There shall be a Council, which shall consist of the Officers of the Section, together with nine elected Council members (the "Elected Council"), Appointed Council members (as hereinafter provided), and ex officio Council members (as hereinafter provided). The nine Elected Council members shall be elected by the Section as hereinafter provided. In addition, appointed Council members (the "Appointed Council") may be, but are not required to be, appointed by the Officers of the Section to serve as (i) Newsletter Editor or Co-Newsletter Editor(s); (ii) Chair or Co-Chair(s) of the Continuing Legal Education Committee; (iii) Chair or Co-Chair(s) of the Government Submissions Committee; (iv) Chair or Co-Chair(s) of the Pro Bono Committee; (v) Program Director or Co-Program Director for the Leadership Academy; and (vi) Chair or Co-Chair(s) of the Sponsorship Committee. One or more of these Appointed Council members also may be serving as an Elected Council member. In addition, ex-officio Council members (the "ex-officio Council members") shall include the Chair of the Section for the immediately preceding year and may consist of such additional ex-officio members as may be appointed by the current Chair to serve during the Chair's term. The additional ex-officio Council members who may be appointed by the Chair shall only consist of attorneys who are (i) professors of tax law at accredited law schools; (ii) employees of the Internal Revenue Service; (iii) employees of the State of Texas Comptroller's Office; and (iv) employees of Appraisal Districts.

Section 3.3 **Terms of Officers.** All Officers except the incoming Chair shall be nominated and elected in the manner hereinafter provided, to hold office for a term beginning with the fiscal year of the Section (as determined from time to time) for which they shall have been elected, and ending at the close of such fiscal year or, if later, when their successors shall have been elected and qualify. The Chair-Elect shall, at the end of the Chair-Elect's term of office, become the incoming Chair for the next succeeding year. The term of office typically shall be the term between the annual meetings of the Section.

Section 3.4 **Terms of Elected Council Members.** Three members of the Council shall be elected at each annual meeting of the Section, for terms of three years beginning at the close of the annual meeting of the Section at which they were elected and ending upon the earlier of such member's election as an Officer or the close of the third succeeding annual meeting of the Section. No person shall be eligible for election as a member of the Elected Council if such person is then a member of the Elected Council and has been a member of the Elected Council continuously for a period of two years or more.

Section 3.5 **Removal.** If any Officer or Elected Council member shall fail to participate (in person or by telephone) in two consecutive meetings of the Council without reason acceptable to the Chair or Council, such member shall be automatically removed from the Council or, if applicable, as an Officer.

Section 3.6 **Vacancies.** If any Officer or Elected Council member at any time after election shall be removed as provided in Section 3.5 or shall die, resign or cease to be a member of the Section, the office of such member shall automatically be vacated without any action other than to note such fact in the minutes of the Council. During the time between annual elections of the Section, the Council may fill vacancies in its own membership or that of the Officers, other than the office of Chair, which shall be filled by the Chair-Elect. Persons so selected shall serve for the unexpired term of the office vacated.

ARTICLE IV

Nomination and Election of Officers and Council

Section 4.1 **Nominations.** Within 90 days following each annual meeting of the Section, the Chair shall appoint a nominating committee (the "Nominating Committee") consisting of the Chair as an ex officio member and not less than three additional members of the Section who are not members of the Council (provided, however, that the Chair of the Section for the immediately preceding year may serve on the Nominating Committee). Notice by electronic mail, U.S. mail, overnight delivery service, posting on the Section's website, or publication in the first issue of the Texas Tax Lawyer (if published) following the annual meeting of the Section shall identify the members of the Nominating Committee. If the Chair does not appoint such a Nominating Committee and provide such notice, then the Nominating Committee shall consist of the Chair as an ex officio member and the three most recent past Chairs of the Section who are able and willing to serve on the Nominating Committee. Any member of the Section may submit nominations for the offices of Chair-Elect, Secretary, Treasurer and the three Elected Council members for the succeeding year. Nominations may be submitted to any member of the Nominating Committee or to any Officer. The Nominating Committee shall confirm whether any person whose name is submitted as a candidate on or before March 1st of the year following the annual meeting wishes to be considered for election as an Officer or Elected Council member and is a qualified candidate (within the meaning of Section 4.4.2). The Nominating Committee may also require that nominees complete a candidate questionnaire (which shall be in such form as determined from time to time by the Nominating Committee). From the qualified candidates who are nominated and, if required, submit timely completed candidate questionnaires, and any additional qualified candidates deemed appropriate by the members of the Nominating Committee, the Nominating Committee shall make nominations for the offices of Chair-Elect, Secretary and Treasurer and the three Elected Council members to succeed those whose term will expire at the close of the Section's fiscal year. The Nominating Committee shall prepare a written report of recommended nominations for Officers and the three Elected Council members. The written report shall also identify all other qualified candidates for such positions who were nominated, submitted timely candidate questionnaires if required, and wish to stand for election. The Nominating Committee's written report shall be delivered to the Council by electronic mail, U.S. mail, or overnight delivery service, or a combination of the above, at least ten days before a regular or special meeting of the Council that precedes by at least 30 days the Section's annual meeting for the year. The Council, at that meeting, shall elect the Chair-Elect, Secretary, and Treasurer to succeed those whose terms will expire at the close of the Section's fiscal year. The Nominating Committee's written report also shall be delivered to the Section members by electronic mail, U.S. mail, overnight delivery service, or posting on the Section's website (or combination thereof) at least 20 days before the Section's annual meeting. No other nominations for the office of Officers or the Elected Council members can be made except through this process.

Section 4.2 **Appointed Council Members.** The Appointed Council members shall be appointed to serve in one of the six capacities identified in Section 3.2 of these Bylaws by the Chair and confirmed by an affirmative vote of the Officers. An Appointed Council member may be appointed from the ranks of the Elected Council members.

Section 4.3 **Elections.** At the annual meeting of the Section, the members of the Section present in person shall by plurality vote (which may be determined at the discretion of the Chair to be a voice vote, visible vote, or written ballot) elect the members of the Elected Council to succeed those whose terms will expire at the close of that annual meeting.

ARTICLE V

Duties of Officers

Section 5.1 **Chair.** The Chair shall preside at all meetings of the Section and of the Council and shall formulate and present at the annual meeting of the State Bar of Texas a report of the work of the Section for the immediately preceding year. The Chair shall plan and supervise the agenda of the Section during the current year and shall supervise all activities of the Section. The Chair shall select for approval by the Council all chairs and vice-chairs and any Council liaisons for each committee. The Chair shall perform such other duties and acts as usually pertain to the office. The Chair shall serve as liaison to the staff of the State Bar of Texas. The Chair shall communicate periodically with the Chair Advisory Board, which shall consist of the former chairs of the Section who have accepted the Chair's invitation to be members. Such communication may include requesting the input and advice of the Chair Advisory Board on select issues, keeping the Chair Advisory Board informed of upcoming events and projects, and responding to issues raised by the Chair Advisory Board.

Section 5.2 **Chair-Elect.** If no task force or other group is appointed for such purpose, the Chair-Elect shall plan the annual meeting of the Section for the conclusion of the Chair-Elect's term of office, including the arrangement of any presentations and speakers to the annual meeting, and shall submit all such plans and arrangements to the Chair for approval. The Chair-Elect also shall supervise the committees of the Section and report to the Council on the activities of each committee. During the disability of the Chair or upon the Chair's absence or inability to act, the Chair-Elect shall perform the duties of the Chair. If the Chair-Elect also is under a disability, is absent or refuses to act, the Council shall designate another person to perform the duties of the Chair. The Chair-Elect shall assist the Chair with the performance of such responsibilities as the Chair may request.

Section 5.3 **Secretary.** The Secretary shall be custodian of all the books, reports and records of the Section with the exception of the financial records. The Secretary shall keep a correct record of the proceedings of all meetings of the Section and the Council and shall maintain the roster of members of the Section and the committees within the Section. In conjunction with the Chair, as authorized by the Council, the Secretary shall attend generally to the business of the Section.

Section 5.4 **Treasurer.** The Treasurer shall be custodian of all financial reports of the Section and shall receive all dues and other funds paid to the Section. With the Chair, the Treasurer shall have full authority to appoint depositories of the funds of the Section, to make deposits thereto and to withdraw funds therefrom. The Treasurer shall have the responsibility to provide required financial information to the State Bar of Texas. The authority of the Treasurer to invest funds of the Section shall be limited by the requirements of section 6.02.06 of the Policy Manual of the

Board of Directors of the State Bar of Texas (the "Board Policy Manual") which requires that Section funds must be invested in accordance with the parameters of Section 10.05 of the Board Policy Manual.

ARTICLE VI

Duties and Powers of the Council

Section 6.1 **Authority.** The Council shall have the power and authority to take such action as is necessary and proper to carry out the objectives of the Section, subject to the provisions of the Charter and Bylaws of the State Bar of Texas and other applicable provisions of these Bylaws. The Council shall have general supervision and control of the affairs of the Section to assure that the Purpose of the Section as expressed in Section 1.2 of these Bylaws is carried out, subject to the provisions of the Charter and Bylaws of the State Bar of Texas and other applicable provisions of these Bylaws. It shall supervise the expenditure of monies received as dues or from other Section activities such as continuing legal education by the Section and appropriated for the use or benefit of the Section. It shall not, however, authorize commitments to contracts which shall entail the payment of any money during any fiscal year beyond the current fiscal year unless the money shall have been previously appropriated to the Section for that fiscal year by the Board of Directors of the State Bar of Texas.

Section 6.2 **Committees.** The Council may, or may authorize the Chair to, appoint committees from Section members to perform such duties and exercise such power as the Council may direct, subject to the limitations of other provisions of these Bylaws and the Constitution and Bylaws of the State Bar of Texas. The chairs, vice chairs and any Council liaison of each committee designated by the Chair-Elect shall be approved by the Council. Until otherwise determined by action of the Council or pursuant to action of the Chair authorized by the Council, the standing committees of the Section shall be as follows:

- Annual Meeting;
- Communications;
- Continuing Legal Education;
- Corporate Tax;
- Employee Benefits;
- Energy and Natural Resources;
- Estate and Gift Tax;
- Government Submissions;
- General Tax Issues;
- International Tax;
- Law School Outreach
- Leadership Academy;
- Partnership and Real Estate Tax;
- Pro Bono;
- Property Tax;
- Solo and Small Firm;
- Sponsorship

- State and Local Tax;
- Tax Controversy;
- Tax-Exempt Finance; and
- Tax Exempt Organizations; and
- Tax Law in a Day

Section 6.3 **Committee Oversight.** The Council shall monitor the committees of the Section through the reports of the Chair-Elect. The Chair-Elect with the Council's approval shall determine the type and number of publications and governmental submissions that shall be required of each committee and communicate that requirement to the chair and vice chairs of each committee. Publication and Submission requirements among committees may vary in the discretion of the Chair-Elect and the Council. The Chair-Elect along with the Council shall make an annual determination regarding the establishment of new committees and termination of existing committees.

Section 6.4 **Quorum; Actions.** A quorum of the Council for the conduct of business shall require that a majority of the Council members then serving be present either in person or through telephonic means. Except as otherwise provided herein, binding actions of the Council shall require a majority vote by the members of the Council then serving.

Section 6.5 **Voting.** All members of the Council, including all ex officio Council members, shall have a vote on matters considered by the Council. Members of the Council not participating in a quorum either in person or by telephonic means, may vote by written ballot to the Secretary and may have their vote counted with the same effect as if cast personally at such meeting.

Section 6.6 **Outstanding Texas Tax Lawyer Award.** The Council may award the designation to one or more qualified nominees as frequently as once each year. The award may be granted posthumously.

6.6.1 **Definitions**

(a) A "qualified nominee" means:

(i) A member in good standing of the State Bar of Texas; or

(ii) An inactive member thereof; or

(iii) A former full time professor of tax law who taught in an accredited Texas law school; or

(iv) A full time professor of tax law who is currently teaching at an accredited Texas Law School.

In addition, qualified nominees must have (1) devoted at least 75% of his or her law practice to taxation law, and (2) been licensed to practice law in Texas or another jurisdiction for at least ten years.

(b) "Law practice" means work performed primarily for the purpose of rendering legal advice or providing legal representation including:

(i) Private client service;

(ii) Service as a judge of any court of record;

(iii) Corporate or government service if the work performed was legal in nature and primarily for the purpose of providing legal advice to, or legal representation of, the corporation or government agency or individuals connected therewith; and

(iv) The activity of teaching at an accredited law school.

(c) "Taxation Law" includes, but is not limited to:

(i) "Tax Law" as defined by the standards for attorney certification in Tax Law as determined by the Texas Board of Legal Specialization;

(ii) Tax controversy;

(iii) Employee benefits and executive compensation practice;

(iv) Criminal defense or prosecution relating to taxation;

(v) Taxation practice in the public and private sectors, including nonprofit sector; and

(vi) Teaching taxation law or related subjects at an accredited law school.

6.6.2 Nomination Procedures. Current members of the Section may submit nominations to the Secretary. The Council may select one or more award recipients each year to receive the designation from among the qualified nominees. The number of award recipients, if any, to be selected in a particular year, the method of voting thereof, and the number of votes to be taken (including whether to use "run-off" votes and whether to use cumulative voting) shall be determined by the Council each year; provided, however, that all nominees who are awarded the designation must receive the affirmative vote of at least a majority of all members of the Council then serving. In selecting award recipients, the Council shall consider the following:

(a) A nominee's reputation for expertise and professionalism within the community of tax professionals specifically and the broader legal community;

(b) Authorship of scholarly works relating to taxation law;

(c) Significant participation in the State Bar of Texas, American Bar Association, local bar association, or other legal organizations;

(d) Significant contributions to the general welfare of the community;

(e) Significant pro bono activities;

(f) Reputation for ethics;

(g) Mentorship of other tax professionals;

(h) Experience on the bench relating to taxation law;

(i) Experience in academia relating to taxation law; and

(j) Other significant contributions or experience in relation to taxation law.

6.6.3 Award. The Council may authorize the purchase of a suitable plaque, trophy, or similar symbol to acknowledge each award recipient. The Council may designate the time and place of any ceremony for the presentation of the award(s). The Council may reimburse the award recipient's expenses incurred in connection with attending such a ceremony. The Council may authorize the waiver of an award recipient's registration fees associated with minimum continuing legal education programs sponsored by the Section for a period of one year after and including the date of the award ceremony.

ARTICLE VII

Meetings

Section 7.1 Annual Meeting of Section. The annual meeting of the Section shall be held at such time and place as determined by the Chair and approved by the Council. The annual meeting of the Section may be held during the annual meeting of the State Bar of Texas, or at such other time and place as the Chair and the Council shall agree, with such program and order of business as may be determined by the Chair and approved by the Council. Notice of the annual meeting shall be delivered to the Section members by electronic mail, U.S. mail, overnight delivery service, or posting on the Section's website (or combination thereof) at least 20 days prior to the date designated for such annual meeting.

Section 7.2 Special Meetings of Section. Special meetings of the Section may be held at such time and place as determined by the Chair and approved by the Council. Notice of a special meeting shall be delivered to the Section members by electronic mail, U.S. mail, overnight delivery service, or posting on the Section's website (or combination thereof) at least ten days prior to the date designated for such special meeting. The notice of a special meeting should describe the general purpose or purposes for the meeting.

Section 7.3 **Voting at Section Meetings.** The voting members of the Section present at any meeting of the Section membership shall constitute a quorum for the transaction of business. Except as provided in Section 4.3, all binding action of the Section membership shall be by a majority vote of the Section members present at the meeting.

Section 7.4 **Meetings of the Council**. Regular meetings of the Council shall be had in the fall, winter and spring at such time and place as determined by the Chair. Notice of regular meetings shall be delivered to the Council members by electronic mail, U.S. mail, overnight delivery service, or posting on the Section's website (or combination thereof) at least ten days prior to the date designated for such regular meeting. Special meetings of the Council may be held at such time and place as determined by the Chair. Notice of a special meeting shall be delivered to the Council members by electronic mail, U.S. mail, or overnight delivery service (or combination thereof) at least three days prior to the date designated for such special meeting if time permits. Otherwise the time notification requirement may be waived by an affirmative vote of the Council.

Section 7.5 **Council Voting by Proposition or Electronic Mail.** The Chair may submit or cause to be submitted in writing (including by fax or e-mail, to each of the Council members, any proposition upon which the Council may be authorized to act, and the Council may vote thereon, in writing (including by fax or e-mail) over their respective signature (however, in the case of e-mail, no signature is required as long as an e-mail is received from the recognized e-mail address of the member), to the Secretary or Chair, who shall record upon the minutes each proposition so submitted, when, how, at whose request same was submitted, and the vote of each Council member thereon, and keep on file such votes. If the votes of a majority of the Council so recorded shall be in favor of such proposition, such majority vote shall constitute the binding action of the Council.

ARTICLE VIII

Miscellaneous

Section 8.1 **Fiscal Year.** The fiscal year of the Section shall begin upon the close of the annual meeting of the Section and end at the close of the next succeeding annual meeting.

Section 8.2 **Prohibition on Compensation.** No salary or compensation shall be paid to any Officer, Council member or member of a committee unless by approval of the Council such person is compensated for work done outside the meetings of the Council on a special study or project.

Section 8.3 **Reimbursement of Expenses.** Council members and other persons requested to attend a Council meeting or any other meeting on behalf of the Section shall be reimbursed for actual out-of-pocket costs incurred in attending any such meeting subject to the applicable requirements of the State Bar. Members of any committee may be reimbursed for actual out-of-pocket costs incurred in attending any meeting of the committee or any other meeting on behalf of the Section, provided the Chair has approved reimbursement before such meeting and subject to the applicable requirements of the State Bar.

Section 8.4 **Amendment.** These Bylaws may be amended by the Council at any meeting of the Council or through the procedure set out in Section 7.5 above, subject to approval by the Board of Directors of the State Bar of Texas.

Section 8.5 **Notice by Electronic Mail.** Any notice, report, or communication required or permitted to be given by e-mail under these Bylaws will be deemed to have been duly and properly given for all purposes if such notice, report, or communication is transmitted to the e-mail address then on file with the State Bar of Texas. Each Section member shall be solely responsible for ensuring that he or she has provided the State Bar of Texas with a correct and current e-mail address.

Section 8.6 **Website Copyright Policy.** Programs, seminars, and symposia (collectively, "Program" or "Programs") shall be encouraged as a means to facilitate continuing legal education and to promote the purposes of the Section. The Section acknowledges the author's right to copyright his or her work, articles, or other written materials used in or at Section-sponsored Programs. The Section encourages the Program director of all Section-sponsored Programs to obtain from each author permission to reproduce, distribute and display the author's work either by itself or in a collection of works on computer disk or on the Section's website, and use such other means of distribution and display in disseminating the author's work to Section members and the public. Nothing contained in this Section 8.6 shall prohibit or prevent the reproduction, distribution and display of tax-related works from sources other than Section-sponsored Programs provided that permission is first obtained from the authors creating such work.

Section 8.7 **State of Texas.** No action, policy determination, or recommendation of the Section or any committee thereof shall be deemed to be, or be referred to as, the action of the State Bar of Texas prior to submission of the same to, and approval by, the Board of Directors of the State Bar of Texas, the General Assembly of the State Bar of Texas in annual convention, or duly authorized referendum of the State Bar of Texas. Any resolution adopted or action taken by the Section may be reported by the Chair to the annual meeting of the State Bar of Texas for action thereon upon request for such action by the Council or a majority of the members of the Section present at any meeting of the Section.

Section 8.8 Confidentiality of Section Member Information. All information concerning any Section member that is deemed confidential by state or federal law, including Tex. Govt. Code Ch. 552 and Tex. Occ. Code Ch. 59, including email addresses, may be used only for official section business and may not be disclosed to the public or any third party. The Section will take reasonable and necessary precautions to protect the confidentiality of all such information.

ARTICLE IX

Financial Provisions

Section 9.1. Depositories and Investments. Section funds must be invested consistent with the State Bar's Investment Policy as set forth in the State Bar Board of Directors Policy Manual, as the same may be amended from time to time. Section funds must be deposited into either a branch of the State Bar banking depository or an alternative banking depository meeting the requirements of the of the State Bar's Investment Policy.

Section 9.2. Financial Books, Records and Reports. The Section must maintain accurate financial books and records and have appropriate controls on the maintenance and disbursement of the Section's funds, all in a fashion that permits the inclusion of the Section's financial information in the State Bar's financial statements and audit. The Section must provide to the State Bar such financial information as may be required for compliance with the requirements for the independent financial and/or internal audits of the State Bar as required by applicable law, rules and regulations, and pursuant to the State Bar's procedures for reporting section financial reporting, as such procedures may be amended from time to time. The Section will submit to the Executive Director of the State Bar by July 15th of each year a budget for the then current fiscal year.

Section 9.3. Sales Tax. To the extent required by law, the Section will collect sales tax on goods or services that it sells, and will remit monthly to the State Bar all sales tax collected during the immediately preceding month, along with a report listing the price, quantity and description of the goods or services so sold in such detail as the State Bar Accounting Department reasonably may require to ensure compliance with applicable law, rules and regulations.

Section 9.4. State Bar Assistance. The Section may request the State Bar Accounting Department to manage Section funds, including depositing dues, managing operating expenses, issuing checks and preparing financial reports and budgets.

BYLAWS OF THE TAX SECTION
OF THE STATE BAR OF TEXAS

(Revised January 10, 2020)

Deleted: April 5, 2019

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ARTICLE IV

Nomination and Election of Officers and Council

Section 4.1 **Nominations.** Within 90 days following each annual meeting of the Section, the Chair shall appoint a nominating committee (the "Nominating Committee") consisting of the Chair as an ex officio member and not less than three additional members of the Section who are not members of the Council (provided, however, that the Chair of the Section for the immediately preceding year may serve on the Nominating Committee). Notice by electronic mail, U.S. mail, overnight delivery service, posting on the Section's website, or publication in the first issue of the Texas Tax Lawyer (if published) following the annual meeting of the Section shall identify the members of the Nominating Committee. If the Chair does not appoint such a Nominating Committee and provide such notice, then the Nominating Committee shall consist of the Chair as an ex officio member and the three most recent past Chairs of the Section who are able and willing to serve on the Nominating Committee. Any member of the Section may submit nominations for the offices of Chair-Elect, Secretary, Treasurer and the three Elected Council members for the succeeding year. Nominations may be submitted to any member of the Nominating Committee or to any Officer. The Nominating Committee shall confirm whether any person whose name is submitted as a candidate on or before March 1st of the year following the annual meeting wishes to be considered for election as an Officer or Elected Council member and is a qualified candidate (within the meaning of Section 4.4.2). The Nominating Committee may also require that nominees complete a candidate questionnaire (which shall be in such form as determined from time to time by the Nominating Committee). From the qualified candidates who are nominated and, if required, submit timely completed candidate questionnaires, and any additional qualified candidates deemed appropriate by the members of the Nominating Committee, the Nominating Committee shall make nominations for the offices of Chair-Elect, Secretary and Treasurer and the three Elected Council members to succeed those whose term will expire at the close of the Section's fiscal year. The Nominating Committee shall prepare a written report of recommended nominations for Officers and the three Elected Council members. The written report shall also identify all other qualified candidates for such positions who were nominated, submitted timely candidate questionnaires if required, and wish to stand for election. The Nominating Committee's written report shall be delivered to the Council by electronic mail, U.S. mail, or overnight delivery service, or a combination of the above, at least ten days before a regular or special meeting of the Council that precedes by at least 30 days the Section's annual meeting for the year. The Council, at that meeting, shall elect the Chair-Elect, Secretary, and Treasurer to succeed those whose terms will expire at the close of the Section's fiscal year. The Nominating Committee's written report also shall be delivered to the Section members by electronic mail, U.S. mail, overnight delivery service, or posting on the Section's website (or combination thereof) at least 20 days before the Section's annual meeting. No other nominations for the office of Officers or the Elected Council members can be made except through this process.

Section 4.2 **Appointed Council Members.** The Appointed Council members shall be appointed to serve in one of the six capacities identified in Section 3.2 of these Bylaws by the Chair and confirmed by an affirmative vote of the Officers. An Appointed Council member may be appointed from the ranks of the Elected Council members.

Section 4.3 **Elections.** At the annual meeting of the Section, the members of the Section present in person shall by plurality vote (which may be determined at the discretion of the Chair to be a voice vote, visible vote, or written ballot) elect the members of the Elected Council to succeed those whose terms will expire at the close of that annual meeting.

ARTICLE V

Duties of Officers

Section 5.1 **Chair.** The Chair shall preside at all meetings of the Section and of the Council and shall formulate and present at the annual meeting of the State Bar of Texas a report of the work of the Section for the immediately preceding year. The Chair shall plan and supervise the agenda of the Section during the current year and shall supervise all activities of the Section. The Chair shall select for approval by the Council all chairs and vice-chairs and any Council liaisons for each committee. The Chair shall perform such other duties and acts as usually pertain to the office. The Chair shall serve as liaison to the staff of the State Bar of Texas. The Chair shall communicate periodically with the Chair Advisory Board, which shall consist of the former chairs of the Section who have accepted the Chair's invitation to be members. Such communication may include requesting the input and advice of the Chair Advisory Board on select issues, keeping the Chair Advisory Board informed of upcoming events and projects, and responding to issues raised by the Chair Advisory Board.

Section 5.2 **Chair-Elect.** If no task force or other group is appointed for such purpose, the Chair-Elect shall plan the annual meeting of the Section for the conclusion of the Chair-Elect's term of office, including the arrangement of any presentations and speakers to the annual meeting, and shall submit all such plans and arrangements to the Chair for approval. The Chair-Elect also shall supervise the committees of the Section and report to the Council on the activities of each committee. During the disability of the Chair or upon the Chair's absence or inability to act, the Chair-Elect shall perform the duties of the Chair. If the Chair-Elect also is under a disability, is absent or refuses to act, the Council shall designate another person to perform the duties of the Chair. The Chair-Elect shall assist the Chair with the performance of such responsibilities as the Chair may request.

Section 5.3 **Secretary.** The Secretary shall be custodian of all the books, reports and records of the Section with the exception of the financial records. The Secretary shall keep a correct record of the proceedings of all meetings of the Section and the Council and shall maintain the roster of members of the Section and the committees within the Section. In conjunction with the Chair, as authorized by the Council, the Secretary shall attend generally to the business of the Section.

Section 5.4 **Treasurer.** The Treasurer shall be custodian of all financial reports of the Section and shall receive all dues and other funds paid to the Section. With the Chair, the Treasurer shall have full authority to appoint depositories of the funds of the Section, to make deposits thereto and to withdraw funds therefrom. The Treasurer shall have the responsibility to provide required financial information to the State Bar of Texas. The authority of the Treasurer to invest funds of the Section shall be limited by the requirements of section 6.02.06 of the Policy Manual of the

Board of Directors of the State Bar of Texas (the "Board Policy Manual") which requires that Section funds must be invested in accordance with the parameters of Section 10.05 of the Board Policy Manual.

ARTICLE VI

Duties and Powers of the Council

Section 6.1 **Authority.** The Council shall have the power and authority to take such action as is necessary and proper to carry out the objectives of the Section, subject to the provisions of the Charter and Bylaws of the State Bar of Texas and other applicable provisions of these Bylaws. The Council shall have general supervision and control of the affairs of the Section to assure that the Purpose of the Section as expressed in Section 1.2 of these Bylaws is carried out, subject to the provisions of the Charter and Bylaws of the State Bar of Texas and other applicable provisions of these Bylaws. It shall supervise the expenditure of monies received as dues or from other Section activities such as continuing legal education by the Section and appropriated for the use or benefit of the Section. It shall not, however, authorize commitments to contracts which shall entail the payment of any money during any fiscal year beyond the current fiscal year unless the money shall have been previously appropriated to the Section for that fiscal year by the Board of Directors of the State Bar of Texas.

Section 6.2 **Committees.** The Council may, or may authorize the Chair to, appoint committees from Section members to perform such duties and exercise such power as the Council may direct, subject to the limitations of other provisions of these Bylaws and the Constitution and Bylaws of the State Bar of Texas. The chairs, vice chairs and any Council liaison of each committee designated by the Chair-Elect shall be approved by the Council. Until otherwise determined by action of the Council or pursuant to action of the Chair authorized by the Council, the standing committees of the Section shall be as follows:

- Annual Meeting;
- Communications;
- Continuing Legal Education;
- Corporate Tax;
- Employee Benefits;
- Energy and Natural Resources;
- Estate and Gift Tax;
- Government Submissions;
- General Tax Issues;
- International Tax;
- Law School Outreach
- Leadership Academy;
- Partnership and Real Estate Tax;
- Pro Bono;
- Property Tax;
- Solo and Small Firm;
- Sponsorship

- State and Local Tax;
- Tax Controversy;
- Tax-Exempt Finance; and
- Tax Exempt Organizations; and
- Tax Law in a Day

Section 6.3 **Committee Oversight.** The Council shall monitor the committees of the Section through the reports of the Chair-Elect. The Chair-Elect with the Council's approval shall determine the type and number of publications and governmental submissions that shall be required of each committee and communicate that requirement to the chair and vice chairs of each committee. Publication and Submission requirements among committees may vary in the discretion of the Chair-Elect and the Council. The Chair-Elect along with the Council shall make an annual determination regarding the establishment of new committees and termination of existing committees.

Section 6.4 **Quorum; Actions.** A quorum of the Council for the conduct of business shall require that a majority of the Council members then serving be present either in person or through telephonic means. Except as otherwise provided herein, binding actions of the Council shall require a majority vote by the members of the Council then serving.

Section 6.5 **Voting.** All members of the Council, including all ex officio Council members, shall have a vote on matters considered by the Council. Members of the Council not participating in a quorum either in person or by telephonic means, may vote by written ballot to the Secretary and may have their vote counted with the same effect as if cast personally at such meeting.

Section 6.6 **Outstanding Texas Tax Lawyer Award.** The Council may award the designation to one or more qualified nominees as frequently as once each year. The award may be granted posthumously.

6.6.1 **Definitions**

(a) A "qualified nominee" means:

(i) A member in good standing of the State Bar of Texas; or

(ii) An inactive member thereof; or

(iii) A former full time professor of tax law who taught in an accredited Texas law school; or

(iv) A full time professor of tax law who is currently teaching at an accredited Texas Law School.

In addition, qualified nominees must have (1) devoted at least 75% of his or her law practice to taxation law, and (2) been licensed to practice law in Texas or another jurisdiction for at least ten years.

(b) "Law practice" means work performed primarily for the purpose of rendering legal advice or providing legal representation including:

(i) Private client service;

(ii) Service as a judge of any court of record;

(iii) Corporate or government service if the work performed was legal in nature and primarily for the purpose of providing legal advice to, or legal representation of, the corporation or government agency or individuals connected therewith; and

(iv) The activity of teaching at an accredited law school.

(c) "Taxation Law" includes, but is not limited to:

(i) "Tax Law" as defined by the standards for attorney certification in Tax Law as determined by the Texas Board of Legal Specialization;

(ii) Tax controversy;

(iii) Employee benefits and executive compensation practice;

(iv) Criminal defense or prosecution relating to taxation;

(v) Taxation practice in the public and private sectors, including nonprofit sector; and

(vi) Teaching taxation law or related subjects at an accredited law school.

6.6.2 Nomination Procedures. Current members of the Section may submit nominations to the Secretary. The Council may select one or more award recipients each year to receive the designation from among the qualified nominees. The number of award recipients, if any, to be selected in a particular year, the method of voting thereof, and the number of votes to be taken (including whether to use "run-off" votes and whether to use cumulative voting) shall be determined by the Council each year; provided, however, that all nominees who are awarded the designation must receive the affirmative vote of at least a majority of all members of the Council then serving. In selecting award recipients, the Council shall consider the following:

(a) A nominee's reputation for expertise and professionalism within the community of tax professionals specifically and the broader legal community;

(b) Authorship of scholarly works relating to taxation law;

(c) Significant participation in the State Bar of Texas, American Bar Association, local bar association, or other legal organizations;

(d) Significant contributions to the general welfare of the community;

(e) Significant pro bono activities;

(f) Reputation for ethics;

(g) Mentorship of other tax professionals;

(h) Experience on the bench relating to taxation law;

(i) Experience in academia relating to taxation law; and

(j) Other significant contributions or experience in relation to taxation law.

6.6.3 Award. The Council may authorize the purchase of a suitable plaque, trophy, or similar symbol to acknowledge each award recipient. The Council may designate the time and place of any ceremony for the presentation of the award(s). The Council may reimburse the award recipient's expenses incurred in connection with attending such a ceremony. The Council may authorize the waiver of an award recipient's registration fees associated with minimum continuing legal education programs sponsored by the Section for a period of one year after and including the date of the award ceremony.

ARTICLE VII

Meetings

Section 7.1 Annual Meeting of Section. The annual meeting of the Section shall be held at such time and place as determined by the Chair and approved by the Council. The annual meeting of the Section may be held during the annual meeting of the State Bar of Texas, or at such other time and place as the Chair and the Council shall agree, with such program and order of business as may be determined by the Chair and approved by the Council. Notice of the annual meeting shall be delivered to the Section members by electronic mail, U.S. mail, overnight delivery service, or posting on the Section's website (or combination thereof) at least 20 days prior to the date designated for such annual meeting.

Section 7.2 Special Meetings of Section. Special meetings of the Section may be held at such time and place as determined by the Chair and approved by the Council. Notice of a special meeting shall be delivered to the Section members by electronic mail, U.S. mail, overnight delivery service, or posting on the Section's website (or combination thereof) at least ten days prior to the date designated for such special meeting. The notice of a special meeting should describe the general purpose or purposes for the meeting.

Section 7.3 **Voting at Section Meetings.** The voting members of the Section present at any meeting of the Section membership shall constitute a quorum for the transaction of business. Except as provided in Section 4.3, all binding action of the Section membership shall be by a majority vote of the Section members present at the meeting.

Section 7.4 **Meetings of the Council**. Regular meetings of the Council shall be had in the fall, winter and spring at such time and place as determined by the Chair. Notice of regular meetings shall be delivered to the Council members by electronic mail, U.S. mail, overnight delivery service, or posting on the Section's website (or combination thereof) at least ten days prior to the date designated for such regular meeting. Special meetings of the Council may be held at such time and place as determined by the Chair. Notice of a special meeting shall be delivered to the Council members by electronic mail, U.S. mail, or overnight delivery service (or combination thereof) at least three days prior to the date designated for such special meeting if time permits. Otherwise the time notification requirement may be waived by an affirmative vote of the Council.

Section 7.5 **Council Voting by Proposition or Electronic Mail.** The Chair may submit or cause to be submitted in writing (including by fax or e-mail, to each of the Council members, any proposition upon which the Council may be authorized to act, and the Council may vote thereon, in writing (including by fax or e-mail) over their respective signature (however, in the case of e-mail, no signature is required as long as an e-mail is received from the recognized e-mail address of the member), to the Secretary or Chair, who shall record upon the minutes each proposition so submitted, when, how, at whose request same was submitted, and the vote of each Council member thereon, and keep on file such votes. If the votes of a majority of the Council so recorded shall be in favor of such proposition, such majority vote shall constitute the binding action of the Council.

ARTICLE VIII

Miscellaneous

Section 8.1 **Fiscal Year.** The fiscal year of the Section shall begin upon the close of the annual meeting of the Section and end at the close of the next succeeding annual meeting.

Section 8.2 **Prohibition on Compensation.** No salary or compensation shall be paid to any Officer, Council member or member of a committee unless by approval of the Council such person is compensated for work done outside the meetings of the Council on a special study or project.

Section 8.3 **Reimbursement of Expenses.** Council members and other persons requested to attend a Council meeting or any other meeting on behalf of the Section shall be reimbursed for actual out-of-pocket costs incurred in attending any such meeting subject to the applicable requirements of the State Bar. Members of any committee may be reimbursed for actual out-of-pocket costs incurred in attending any meeting of the committee or any other meeting on behalf of the Section, provided the Chair has approved reimbursement before such meeting and subject to the applicable requirements of the State Bar.

Section 8.4 **Amendment.** These Bylaws may be amended by the Council at any meeting of the Council or through the procedure set out in Section 7.5 above, subject to approval by the Board of Directors of the State Bar of Texas.

Section 8.5 **Notice by Electronic Mail.** Any notice, report, or communication required or permitted to be given by e-mail under these Bylaws will be deemed to have been duly and properly given for all purposes if such notice, report, or communication is transmitted to the e-mail address then on file with the State Bar of Texas. Each Section member shall be solely responsible for ensuring that he or she has provided the State Bar of Texas with a correct and current e-mail address.

Section 8.6 **Website Copyright Policy.** Programs, seminars, and symposia (collectively, "Program" or "Programs") shall be encouraged as a means to facilitate continuing legal education and to promote the purposes of the Section. The Section acknowledges the author's right to copyright his or her work, articles, or other written materials used in or at Section-sponsored Programs. The Section encourages the Program director of all Section-sponsored Programs to obtain from each author permission to reproduce, distribute and display the author's work either by itself or in a collection of works on computer disk or on the Section's website, and use such other means of distribution and display in disseminating the author's work to Section members and the public. Nothing contained in this Section 8.6 shall prohibit or prevent the reproduction, distribution and display of tax-related works from sources other than Section-sponsored Programs provided that permission is first obtained from the authors creating such work.

Section 8.7 **State of Texas.** No action, policy determination, or recommendation of the Section or any committee thereof shall be deemed to be, or be referred to as, the action of the State Bar of Texas prior to submission of the same to, and approval by, the Board of Directors of the State Bar of Texas, the General Assembly of the State Bar of Texas in annual convention, or duly authorized referendum of the State Bar of Texas. Any resolution adopted or action taken by the Section may be reported by the Chair to the annual meeting of the State Bar of Texas for action thereon upon request for such action by the Council or a majority of the members of the Section present at any meeting of the Section.

Section 8.8 Confidentiality of Section Member Information. All information concerning any Section member that is deemed confidential by state or federal law, including Tex. Govt. Code Ch. 552 and Tex. Occ. Code Ch. 59, including email addresses, may be used only for official section business and may not be disclosed to the public or any third party. The Section will take reasonable and necessary precautions to protect the confidentiality of all such information.

ARTICLE IX

Financial Provisions

Section 9.1. Depositories and Investments. Section funds must be invested consistent with the State Bar's Investment Policy as set forth in the State Bar Board of Directors Policy Manual, as the same may be amended from time to time. Section funds must be deposited into either a branch of the State Bar banking depository or an alternative banking depository meeting the requirements of the of the State Bar's Investment Policy.

Section 9.2. Financial Books, Records and Reports. The Section must maintain accurate financial books and records and have appropriate controls on the maintenance and disbursement of the Section's funds, all in a fashion that permits the inclusion of the Section's financial information in the State Bar's financial statements and audit. The Section must provide to the State Bar such financial information as may be required for compliance with the requirements for the independent financial and/or internal audits of the State Bar as required by applicable law, rules and regulations, and pursuant to the State Bar's procedures for reporting section financial reporting, as such procedures may be amended from time to time. The Section will submit to the Executive Director of the State Bar by July 15th of each year a budget for the then current fiscal year.

Section 9.3. Sales Tax. To the extent required by law, the Section will collect sales tax on goods or services that it sells, and will remit monthly to the State Bar all sales tax collected during the immediately preceding month, along with a report listing the price, quantity and description of the goods or services so sold in such detail as the State Bar Accounting Department reasonably may require to ensure compliance with applicable law, rules and regulations.

Section 9.4. State Bar Assistance. The Section may request the State Bar Accounting Department to manage Section funds, including depositing dues, managing operating expenses, issuing checks and preparing financial reports and budgets.

Yellow Tab B

STATE BAR OF TEXAS

M E M O R A N D U M

TO: Board of Directors

FROM: Human Resources

DATE: December 6, 2019

Re: Holiday Schedule – FY20-21

The following is a list of holidays for FY 2020-2021, for which we are seeking approval.

Friday	July 3, 2020	Independence Day
Monday	September 7, 2020	Labor Day
Wednesday	November 11, 2020	Veterans Day
Thursday	November 26, 2020	Thanksgiving Day
Friday	November 27, 2020	Day after Thanksgiving
Thursday	December 24, 2020	Christmas Eve
Friday	December 25, 2020	Christmas Day
Friday	January 1, 2021	New Year's Day
Monday	January 18, 2021	Martin Luther King, Jr. Day
Monday	February 15, 2021	Presidents' Day
Monday	May 31, 2021	Memorial Day

P.O. Box 12487, Capitol Station, Austin, Texas 78711-2487, (512) 427-1463

Yellow Tab C

STATE BAR OF TEXAS
LEGISLATIVE TIMETABLE
2020-2021

Pursuant to State Bar Board policy governing Legislative Actions (§8.01) the following timetable is submitted for approval by the Board of Directors. This timetable is offered to sections that plan to propose legislation in the 2021 session of the Texas Legislature.

2020

January 24:

Board of Directors vote on the legislative timetable.

February 3:

Copies of the legislative timetable and legislative policy are sent to all section chairs. 8.01.08(C)

March 6:

Notice is sent to all section chairs of the **June 29** deadline for submission of proposed legislation to the board of directors for the 2021 State Bar Legislative Program. ***Proposals must be in final bill form and must include the information as set out in 8.01.06(C)(1-6) of the State Bar of Texas Legislative Policy as follows:***

(1) A brief narrative explanation of the legislation.
(2) Identification of, reference to, or copies of similar legislation, if any, proposed to or being considered by the same legislative or administrative body.
(3) A verification that all sections and committees of the State Bar have been sent the legislation for comment and the comments received (copy of form letter and copy of return receipt from each committee and section).
(4) A statement indicating whether the proposed legislation had been introduced in either the House or Senate during prior legislative sessions, as well as a statement of any amendments proposed to the proposed legislation during the prior legislative sessions and the status of the proposed legislation.
(5) A statement of the known position on the legislative proposal taken by any section or committee of the State Bar that has considered the same proposal, including the principal reasons for support of or opposition to the proposal.
(6) Such other information as the Executive Director may reasonably request from time to time.

April:

Legislative timetable is published in the *Texas Bar Journal.* 8.01.08(D)

June 29:

Deadline for submission of proposed legislation for inclusion in the Bar's legislative program. *All proposals must be in final bill form and must contain the information outlined in 8.01.06(C)(1-6) of the Legislative Policy* or the proposal will not be considered for inclusion in the State Bar's legislative program. **Proposals may only be submitted by Sections and not Committees of the State Bar.** Committees wishing to submit proposals must do so through a section of the State Bar having cognizance of the subject matter of the proposed legislation. Sections may submit proposals for inclusion in the State Bar's legislative program or to be sponsored in the Section's own name. **Proposals must have been distributed to all other sections and committees of the State Bar for comment.** Proposals should also be mailed to other parties and entities that have a direct interest in the subject matter of the proposal along with an invitation to comment. Comments received should be forwarded with proposals at this time. **8.01.06(A)(1) - at least forty-five days before the Legislative Policy Subcommittee meeting)**

July:

Notice of the Legislative Policy Subcommittee Meeting published in the *Texas Bar Journal*. 8.01.08(B)

July 30:

Executive Director prepares and forwards to each member of the Legislative Policy Subcommittee a copy of each item of proposed legislation together with the explanatory material required. (8.01.08(G) - not less than fourteen days before Legislative Policy Subcommittee meeting)

August 3:

Deadline for filing written objections to any legislative proposals to be considered by the Legislative Policy Subcommittee. Objections must be filed in order to appear in opposition before the committee. If no objection is timely filed, the Legislative Policy Subcommittee will enter a position of "no objection" on the proposals being considered. (8.01.06(D) – not less than ten days before Legislative Policy Subcommittee meeting)

August 13-14 (Tentative):

Meeting of the Legislative Policy Subcommittee to consider proposed legislation that has been properly submitted.

August 24 (Tentative):

Appeal deadline for any proponent whose legislative proposal is not recommended by the Legislative Policy Subcommittee for inclusion in the State Bar's legislative program and who wishes to appeal to the Board of Directors by giving written notice to the Executive Director. (8.01.06(I) – within ten days after the date of action.)

August 28 (Tentative):

Second meeting of Legislative Policy Subcommittee.

September 8 (Tentative):

Deadline for appeal from decision (if any) made at second Legislative Policy Subcommittee meeting. (8.01.06(I) – within ten days after the date of action.)

September 11:

Report of the Legislative Policy Subcommittee and copies of legislative proposals sent to the Board of Directors. (8.01.08(H) – not less than fourteen days before Board meeting)

September 25:

Board of Directors Meeting - consider recommendations of the Legislative Policy Subcommittee and adopt the 2021 State Bar Legislative Program.

November 9:

Pre-filing of bills for the 87th Legislative Session begins.

November 13:

Deadline for sections supporting legislative proposals to submit to the Executive Director or designee a suggested **list of legislative sponsors** for each proposal. (8.01.09(E) – not less than sixty days before the Texas Legislature convenes in regular session)

2021

January 12:

87th Legislative Session begins.

May 31:

87th Legislative Session ends.

Yellow Tab D

TIMETABLE - 2020 GENERAL & RUN-OFF ELECTIONS
For President-elect & District Directors

July 2019	Nominations & Elections Subcommittee co-chairs to notify Texas bar associations, committees, sections/divisions that President-elect Nominee selections process has begun.
July	Publication of ad soliciting President-elect Nominees in Texas Bar Journal.
August 28	Nominations and Elections Subcommittee conducts interviews of potential nominees.
September 1	Per State Bar Rules, first day petitions may be signed for potential candidates running for President-elect and District Director 2020 election.
September 20	At BOD meeting – nomination of two or more members to be candidates and to stand for election to the office of President-elect (upon recommendation by Nominations & Elections Subcommittee). Any other qualified member shall be privileged to stand for election when a written petition is signed by no less than five percent of the active members of the State Bar who are in good standing is filed with the Executive Director on or before March 1 and is certified by the Executive Director.
March 1	Filing deadline for accepting petitions of candidates for President-elect and district director.
March 5	10*:30 a.m.:* Drawing for position on ballots at State Bar office.
April 1	Date for distributing State Bar paper and electronic election ballots (with campaign brochures included).
April 30	*5:00 p.m.*: Deadline for receipt of all election ballots; begin tabulating ballots.
April 30	Results released after certification of results.

<u>Run-Off Elections</u>

May 12	Run-off ballots distributed, if necessary.
May 26	*5:00 p.m.:* Deadline for receipt of all run-off ballots; run-off ballots tabulated. Run-off results released.

Yellow Tab E

A Resolution Honoring Keri D. Brown

Whereas Keri D. Brown graduated from South Texas College of Law Houston and has been a licensed Texas attorney since November 2006,

Whereas Ms. Brown is a partner at Baker Botts, where she handles complex federal estate, gift, and income tax litigation and controversy matters,

Whereas Ms. Brown is board certified in estate planning and probate law by the Texas Board of Legal Specialization,

Whereas Ms. Brown chairs the pro bono committee of the Baker Botts Houston office, where she coordinates and helps manage the office's pro bono matters,

Whereas Ms. Brown's tireless efforts to ensure access to justice for Hurricane Harvey survivors were featured in the Wall Street Journal, ABA Journal, Texas Bar Journal, Texas Lawyer, Houston Business Journal, and the Houston Lawyer,

Whereas Ms. Brown is a member of the State Bar of Texas Legal Services to the Poor in Civil Matters Committee, is secretary of the Houston Volunteer Lawyers Board of Directors, and has served on several Houston Bar Association committees and sections,

Whereas Ms. Brown has received numerous awards for her service to the legal profession, including the Houston Bar Association President's Award in 2010 and 2013, the State Bar of Texas Pro Bono Coordinator Award in 2018, and the Texas Appleseed Pro Bono Leadership Award in 2019,

Be It Therefore Resolved that the State Bar of Texas honors Keri D. Brown with this resolution for her tireless service to the State Bar, the Houston Bar Association, the legal profession as a whole, and Texas residents to whom she has offered a helping hand in their times of greatest need.

Resolution Adopted this 24th day of January 2020 by the State Bar of Texas Board of Directors in Houston, Texas.

Randall O. Sorrels, President
State Bar of Texas

Jerry C. Alexander, Chair of the Board
State Bar of Texas

Larry P. McDougal, President-Elect
State Bar of Texas

witnessed by

Trey Apffel, Executive Director
State Bar of Texas

A Resolution Honoring Tobias A. "Toby" Cole

Whereas Tobias A. "Toby" Cole has been a licensed Texas attorney since November 1998,

Whereas Mr. Cole overcame a catastrophic injury to pursue his dream of becoming a lawyer, graduate from the University of Houston Law Center, and start his law practice as a defense lawyer for multinational corporations,

Whereas Mr. Cole now represents personal injury victims as the founding attorney of Cole Law Firm, where he uses his firsthand knowledge and experience to serve clients with catastrophic injuries,

Whereas Mr. Cole has extensive litigation experience across Texas state and federal courts helping clients recover compensation for injuries sustained as a result of defective products, vehicle accidents, and other catastrophes,

Whereas Mr. Cole is board certified in personal injury trial law by the Texas Board of Legal Specialization and a member of the American Bar Association, the Houston Young Lawyers Association, the Houston Bar Association, and the Texas Trial Lawyers Association,

Whereas Mr. Cole's leadership positions in the legal profession include service as 2019-2020 president of the Houston Trial Lawyers Association and 2019-2020 vice chair of the State Bar of Texas Disability Issues Committee,

Whereas Mr. Cole has volunteered with a number of community groups including United Spinal Association of Houston, the Institute for Rehabilitation and Research Foundation, Memorial Hermann Health System, Houston Commission on Disabilities, Houston City Council Accessibility Task Force, and Living Hope Wheelchair Association,

Be It Therefore Resolved that the State Bar of Texas honors Tobias A. "Toby" Cole with this resolution for his service to the State Bar of Texas, his volunteerism to the greater Houston community, and his dedication to the legal profession.

Resolution Adopted this 24th day of January 2020 by the State Bar of Texas Board of Directors in Houston, Texas.

Randall O. Sorrels, President
State Bar of Texas

Jerry C. Alexander, Chair of the Board
State Bar of Texas

Larry P. McDougal, President-Elect
State Bar of Texas

witnessed by

Trey Apffel, Executive Director
State Bar of Texas

A Resolution Honoring Tara Shockley

Whereas Tara Shockley has served the Houston Bar Association, its members, and the general public for a remarkable 40 years,

Whereas Ms. Shockley joined the bar association just a year after graduating in 1979 with a Bachelor of Science degree in mass communication from Lamar University in Beaumont,

Whereas After decades of faithful service, Ms. Shockley was promoted to associate executive director for the HBA in 2019,

Whereas During her years as Communications Director for the HBA, Ms. Shockley served as director for all internal and external communications for the 11,000-member HBA,

Whereas in addition to her expanded duties as associate executive director, Ms. Shockley continues to serve as managing editor for The Houston Lawyer, the bar's bi-monthly magazine, and to oversee all member communication including web and social media content for the association,

Whereas Ms. Shockley serves as staff liaison to the HBA's Law & the Media Committee, Judicial Polls Committee, Gender Fairness Committee, and Historical Committee,

Whereas Ms. Shockley serves as planner for many of the association's events, including assisting with the coordination of and securing funding for approximately 22 yearly clinics for the HBA's Veterans Legal Initiative that provide crucial assistance to veterans,

Whereas Those who know her best speak of Ms. Shockley's kind manner, helpful nature, complete dedication to the mission of the HBA, and her desire to make a difference in the community,

Be It Therefore Resolved that the State Bar of Texas honors Tara Shockley with this resolution for her decades of dedication to the Houston Bar Association, its members, the greater Houston community, and the legal profession as a whole.

Resolution Adopted this 24th day of January 2020 by the State Bar of Texas Board of Directors in Houston, Texas.

_____
Randall O. Sorrels, President
State Bar of Texas

_____
Jerry C. Alexander, Chair of the Board
State Bar of Texas

_____
Larry P. McDougal, President-Elect
State Bar of Texas

witnessed by

_____
Trey Apffel, Executive Director
State Bar of Texas

A Resolution Honoring Christine E. McKeeman

Whereas Christine E. McKeeman has been a licensed Texas attorney since November 1982 after earning her Doctor of Jurisprudence from the University of Texas School of Law,

Whereas Ms. McKeeman spent nine years in private practice in Austin, concentrating on residential and commercial real estate law, before joining the Board of Disciplinary Appeals shortly after it became fully operational in 1992 as its first executive director,

Whereas Ms. McKeeman is executive director and general counsel for the Board of Disciplinary Appeals and has served the board for nearly three decades,

Whereas Ms. McKeeman once served as a briefing attorney to Chief Justice Joe R. Greenhill of the Supreme Court of Texas,

Whereas Ms. McKeeman was appointed to the Supreme Court of Texas Task Force on the Texas Disciplinary Rules of Professional Conduct in 2003 and served from 2001 to 2005 on the State Bar's Texas Disciplinary Rules of Professional Conduct Committee,

Whereas Ms. McKeeman is a member of the National Council of Lawyer Disciplinary Boards and was instrumental in its creation and served as its president from 2011 to 2012,

Whereas Ms. McKeeman is a member of the American Bar Association, the ABA Center for Professional Responsibility, and the State Bar of Texas Appellate Practice Section,

Be It Therefore Resolved that the State Bar of Texas honors Christine E. McKeeman with this resolution for her decades of dedication to the Board of Disciplinary Appeals and her service to the Supreme Court of Texas, State Bar of Texas, and the legal profession as a whole.

Resolution Adopted this 24th day of January 2020 by the State Bar of Texas Board of Directors in Houston, Texas.

Randall O. Sorrels, President
State Bar of Texas

Jerry C. Alexander, Chair of the Board
State Bar of Texas

Larry P. McDougal, President-Elect
State Bar of Texas

witnessed by

Trey Apffel, Executive Director
State Bar of Texas

Exhibits to the January 24, 2020 Minutes EXHIBIT A

All materials can be found at:
www.texasbar.com/bodmaterials

LOOKING BACK ON A YEAR OF IMPROVEMENTS

This month's *Texas Bar Journal* highlights major developments in the law in 2019. We asked a variety of attorneys to recap significant trends and court decisions from the past year that affected their practice areas. Their reports are informative for all Texas lawyers, and we are happy to publish them in our "Year in Review" starting on page 29.

The past year also brought a number of improvements at the State Bar of Texas to better serve our members and the public. I've summarized some of them below, but for a more comprehensive look at State Bar operations, I encourage you to read our 2018-2019 annual report at texasbar.com/annualreport.

Lawyer well-being

Lawyer wellness is a top priority for the State Bar, and we redoubled our efforts to promote well-being and suicide prevention in 2019. The Texas Lawyers' Assistance Program, or TLAP, released *It's Good to Get Help,* a video that aims to end the stigma lawyers may face when seeking help for substance use and other mental health issues. I encourage you to watch the video at youtube.com/statebaroftexas and help us share the message. TLAP also produced an excellent free ethics CLE webcast titled "What Lawyers Need to Know About Depression and Suicide," which is available at texasbarcle.com.

GOVERNANCE INFORMATION

The State Bar of Texas Board of Directors will hold its quarterly meeting at 9 a.m. CST January 24, 2020, at the Four Seasons Hotel Houston, 1300 Lamar St. All are welcome to attend. The agenda and background materials will be available at texasbar.com/board at least seven days before the meeting.

Member benefits and services

The State Bar launched or enhanced a number of member benefits and services. Among other initiatives, the bar:

- added staff to the toll-free Ethics Helpline (800-532-3947) to help ensure members receive prompt answers to questions;
- launched TexasBarCLE's Flash CLE Silver program to help lawyers 70 and older meet their MCLE requirements at a discounted rate; and
- opened the Texas Opportunity & Justice Incubator (txoji.com) to attorneys across the state via online learning.

We also expanded our member discount program (texasbar.com/benefits) with new vendors, including MetLife, Credible, Smith.ai, and four new practice management providers. Four complimentary benefits are now provided through the Texas Bar Private Insurance Exchange when obtaining health insurance, and the exchange's new Health Advocate benefit helps you with claims and with coordinating care.

Fiscal responsibility

Under the leadership of President Randy Sorrels and Immediate Past President Joe K. Longley, the bar has continued its efforts to control spending while increasing its reserves in line with sound financial practices. Also, as featured in my October column, the bar shifted to 100% online membership fee payments, which resulted in cost savings, increased security, and other efficiencies. The bar's most recent financial audit opinion remains unmodified, or "clean," which is the best opinion available.

Transparency

The State Bar continued its commitment to open government by working to implement 10 recommendations from an independent transparency review (texasbar.com/weaverreport). When federal litigation was filed in March challenging the mandatory bar structure in Texas, we created a webpage (texasbar.com/mcdonaldvsorrels) to keep our members and the public up to date on the case. Also, in June the State Bar launched an online portal to hundreds of archived documents and photos, making 80 years of bar history easily available to all. Go to texasbar.com/digitalarchives to browse these records.

More to come

We're also working hard on initiatives you'll hear more about in 2020. A board work group on succession planning is developing recommendations for programs to help attorneys protect their businesses, families, and clients in the event of their death or inability to practice law.

Also, the State Bar Committee on Disciplinary Rules and Referenda continues to consider potential rule changes that could proceed to a vote by members in 2020. You can review the committee's work and provide comments at texasbar.com/CDRR.

I look forward to updating you on these and other State Bar initiatives throughout the new year.

Sincerely,

TREY APFFEL
Executive Director, State Bar of Texas
Editor-in-Chief, *Texas Bar Journal*
512-427-1500
@ApffelT on Twitter

Have a question for Trey? Email it to trey.apffel@texasbar.com and he may answer it in a future column.

A MISSION-FOCUSED BAR

Many people think of the State Bar of Texas as the group that handles MCLE and grievances. Granted, MCLE compliance and attorney discipline are two of the State Bar's major responsibilities, but they are not the whole story.

The complete story becomes clearer when you read our mission statement, which appears below. Everything the State Bar of Texas does—every action taken or not taken—goes back to our mission, which is based on the bar's governing documents.[1] In short, the State Bar exists to protect the public, to serve Texas lawyers, and to help lawyers better serve their clients.

The State Bar of Texas is not an association or trade group—designed simply to benefit a profession—although serving lawyers is one of our core commitments. By statute, the bar is an administrative agency of the Texas Supreme Court with mandatory membership and seven defined purposes related to improving the administration of justice, advancing the quality of legal services to the public, maintaining high standards of conduct in the profession, and providing services to attorneys.[2]

Many people have a role in overseeing the State Bar—from the Supreme Court, which approves the bar budget and exercises administrative control; to the Legislature, which reviews bar operations under the Texas Sunset Act; to the 60-member State Bar of Texas Board of Directors, which develops and implements bar policy and hires an executive director to manage day-to-day operations.

> *The mission of the State Bar of Texas is to support the administration of the legal system, assure all citizens equal access to justice, foster high standards of ethical conduct for lawyers, enable its members to better serve their clients and the public, educate the public about the rule of law, and promote diversity in the administration of justice and the practice of law.*
>
> —State Bar of Texas Mission Statement

State Bar board members volunteer their time. Other volunteers include the Commission for Lawyer Discipline, a 12-person standing committee (with an equal number of public and attorney members) that provides oversight to the chief disciplinary counsel, which administers the attorney discipline system with help from volunteer grievance panels located across the state.

More than 44,400 Texas lawyers belong to voluntary State Bar sections. Nearly 600 volunteers serve the State Bar through standing committees, where they work on a variety of issues affecting our profession. More than 260 lawyers from across the state volunteer through our SOLACE program to assist attorneys or their families when catastrophic events or health situations take place. And another 930 lawyers support peers in crisis as volunteers for the Texas Lawyers' Assistance Program.

The 26,311-member Texas Young Lawyers Association acts as the bar's public service arm, under the leadership of its 48-member, all-volunteer board of directors. And nearly 10,000 lawyers donated a total of $1.4 million in voluntary access to justice contributions on their dues statements in fiscal year 2018-2019.

Have you noticed a key word here is "volunteer"?

Yes, the State Bar has a professional staff, and I am proud to work with them every day. But what makes attorneys unique among professionals in Texas is our system of self-governance, which gives all bar members the right to vote on the people who represent us, the rules that regulate us, and the dues we pay for the right and privilege to practice law. The State Bar of Texas is all of us, and this system doesn't work without volunteers.

If you are one of those volunteers, I extend a sincere thank you. If you're not, I encourage you to get involved.

Join a section of lawyers who practice in your specialty area. Volunteer for a standing committee or a pro bono program. Become a mentor to new lawyers. Seek election to the bar board or appointment to a local grievance panel. If you're not sure how to get involved, please reach out and I'll help you get connected.

There are 105,125 active members of the State Bar of Texas. My hope is that all of us can work together in pursuit of the State Bar's mission.

Sincerely,

TREY APFFEL
Executive Director, State Bar of Texas
Editor-in-Chief, *Texas Bar Journal*
512-427-1500, trey.apffel@texasbar.com
@ApffelT on Twitter

NOTES

1. Go to texasbar.com/governingdocuments to read the State Bar Act (Tex. Gov't Code § 81), State Bar Rules, State Bar Board Policy Manual, and other documents that guide bar operations.
2. Tex. Gov't Code § 81.012.

BY THE NUMBERS 2018-2019

The State Bar of Texas collects the following information pursuant to section 81.0215 of the Texas Government Code chapter 81 (the State Bar Act), which requires the State Bar to adopt a strategic plan every two years that includes measureable goals and a system of performance measures. The State Bar Act further requires the bar to report to the Texas Supreme Court the outcomes of these strategic plan performance measures.

As the basis of its current strategic plan, the State Bar identified six broad strategic categories guiding its goals and performance measures: 1) Service to the Public; 2) Service to Members; 3) Protection of the Public; 4) Access to Justice; 5) Sound Administration and Resources; and 6) Financial Management. The following data reflect results and outcomes of State Bar core services for the 2018-2019 bar year.

SERVICE TO THE PUBLIC

Distribution of information regarding legal issues of interest to the public: **34,992** pamphlets or printed materials

Distribution of multimedia information regarding legal issues and topics of particular relevance to the public: **45** news releases, media advisories, and op-eds

Visits to page on State Bar website relating to disaster relief resources for the public: **6,033** page views

Visits to page on State Bar website relating to disaster relief resources for attorneys: **1,574** page views

Visits to pages on State Bar-related websites containing legal information on issues of importance to the public: **33,838** pamphlets page hits, **1,629** media page hits, **20,550,473** total hits to the SBOT website, and **14,460,105** unique page views

Traffic to Texas Bar Blog on legal issues of importance to the public: **132,539** page views

Traffic to State Bar social media sites on legal issues of importance to the public: **151,283** engagements, **73,953** clicks, and **4,193,021** impressions

Courses provided to teachers by the Law-Related Education Department: **149** Law-Focused Education teacher training sessions and **5,553** participants trained by LRE

Degree of satisfaction: **99%** would recommend LRE training to other teachers

Students taught by LRE-trained teachers: **230,726** students impacted by teacher training sessions

Traffic to LRE/LFEI website and related sites and social media: **358,419** visits

Traffic to the After the Bar Exam *online resource:* **8,533** watched segments; **3,383** downloaded segments

Traffic to the TYLA Ten Minute Mentor *online resource:* **75,442** watched segments; **35,487** downloaded segments

Traffic to the TYLA Ten Minute Mentor Goes to Law School *online resource:* **5,935** watched segments; **2,304** downloaded segments

Number of TYLA presentations given at law schools: **7**

Number of TYLA presentations by attorneys and judges in public schools: **11** presentations, including *Vote America!, I Was the First. You Can Be a Lawyer Too!,* and *What Do Lawyers Do?*

Distribution of TYLA resources and information regarding legal issues of interest to the public through community service and education: **1,917** project distributions

Number of those helped by Texas Lawyers for Texas Veterans: Since 2010, over **11,000** volunteer attorneys, paralegals, and law students have assisted more than **32,000** veterans through local bar associations and other attorney volunteer organizations

Number of veterans clinics provided by TLTV partners: Approximately **298**

Number of "Clinic in a Box" packages distributed to local clinics: **24**

Number of people who received a referral through the Lawyer Referral and Information Service: **64,627** callers helped and **71,499** referrals made

SERVICE TO MEMBERS

Attendance for TexasBarCLE webcasts: Offerings—**141**, Attendance—**6,768**

Attendance for TexasBarCLE online CLE: Offerings—**927**, Attendance—**84,813**

Attendance for TexasBarCLE video courses: Offerings—**59**, Attendance—**2,974**

Attendance for TexasBarCLE live courses: Offerings—**101**, Attendance—**16,134**

Number of registrants for TexasBarCLE free 1/2-hour online classes: **21,850**

Number of low-cost offerings: More than **60**

Number of publications offered by TexasBarCLE: **245** course book titles for sale

Number of CLE scholarships given to members: **501**

Sales of books by TexasBarBooks: **14,456** print, electronic, and DVD sales; **9,930** online subscription sales; **24,386** total sales

Number of CLE ethics publications offered by TexasBarBooks: **18** TexasBarBooks publications that include ethics topics; **12,555** Law Practice Management CLEs with an ethics component

Diversity of SBOT membership: **64%** male and **36%** female; **79%** White, **10%** Hispanic/Latino, **6%** Black/African-American, **4%** Asian/Pacific Islander, less than **1%** American Indian/Alaska Native, and **2%** all others (numbers may not sum to 100% due to rounding)

Diversity of SBOT section membership: **63%** male and **37%** female; **81%** White, **9%** Hispanic/Latino, **5%** Black/African-American, **3%** Asian/Pacific Islander, **0%** American Indian/Alaska Native, and **2%** all others (numbers may not sum to 100% due to rounding)

Diversity of SBOT committee membership: **55%** male and **45%** female; **73%** White, **12%** Hispanic/Latino, **8%** Black/African-American, **4%** Asian/Pacific Islander, **0%** American Indian/Alaska Native, and **3%** all others (numbers may not sum to 100% due to rounding)

The State Bar remains committed to offering its members unique access to resources, goods, and services to help them in their professional as well as personal lives. In the 2018-2019 bar year, a total of **43** contracted benefits were offered through the State Bar Member Benefits Program. Goods and services offered include lawyer-specific programs, financial services, travel discounts, car rentals, office supplies, health insurance through the Texas Bar Private Insurance Exchange, and professional liability insurance through TLIE.

Statistics related to the aging lawyer population: The median age of Texas attorneys increased from **48** to **49** between 2008 and 2018; during that same period, attorneys 65 and older went from making up **10%** of the attorney population to **17%**

Visits to SBOT Member Benefits homepage: **46,063** page views

Visits to Texas Bar Private Insurance Exchange website: **122,095** page views

Number of members enrolled in one or more insurance products through the Texas Bar Private Insurance Exchange: **18,316**

Number of members enrolled in major medical insurance: **11,378**

Number of attorneys, law firms, and legal departments attending and participating in the Texas Minority Attorney Program: **96**

Number of attorneys, law firms, and legal departments attending and participating in the Texas Minority Counsel Program: **580** attendees, **22** interviewing corporations, and **112** sponsoring firms/organizations

Attendee satisfaction with the Texas Minority Counsel Program: Through a conference evaluation survey, the overall course was given a positive rating of **98%**; all respondents stated they are likely to recommend the conference to others

Attendee satisfaction with the Texas Minority Attorney Program: Evaluation form results show an overall event rating of **3.7** out of **4**

The Texas Lawyers' Assistance Program handled a total of **652** consultations—**55%** were related to mental health, **42%** were related to substance use, and **3%** were related to cognitive issues. TLAP's website—tlaphelps.org—garnered **8,615** users and **16,427** page views. TLAP made **102** educational outreach presentations, including at law schools.

Number of distributed publications: **4** articles written by TLAP have been distributed

Number of views of TLAP videos via the website: **3,283** plays of *Courage, Hope, Help—TLAP Is There,* the four-minute excerpt of *Courage, Hope, Help—TLAP Is There,* the short TLAP promo, *Practicing From the Shadows,* and *Practicing Law and Wellness*

Number of attorneys and volunteers/mentors participating in the Texas Opportunity & Justice Incubator, or TOJI: **94** volunteers/mentors, including **56** lawyers and **13** law students

Number of TOJI-created resources shared with the State Bar membership at large: TOJI made **11** public presentations with supplemental materials

Number of hours of training to TOJI participants: **112**

Number of users and page views to TOJI website: **2,529** users and **6,603** page views

Number of counties served by participants: As a Central Texas-based program, TOJI has served clients in **48** of Texas' **254** counties

Number of page views to the Law Practice Management Program webpage: **34,390**

Number of lawyers who attended live, video, webcast, or online CLE courses on law practice management topics: **8,646**

Number of phone calls and emails the Law Practice Management Program responded to: **118** phone calls and **160** emails

Number who voted in the 2019 SBOT elections: **24,758** (**24%** of the **103,456** ballots sent)

Visits to page on State Bar's website related to lawyer succession planning: **912** page views

Visits to pages on State Bar of Texas Law Practice Management Program's website related to lawyer succession planning: **7,354** page views

PROTECTION OF THE PUBLIC

Contacts the Client-Attorney Assistance Program, or CAAP, received: **22,626** via mail, email, and phone

Dispute resolutions conducted by CAAP: **1,126**, with productive communication successfully re-established in **87%** of the cases

Number of referrals by the Office of Chief Disciplinary Counsel to the CAAP program: **322**

Number of submissions reviewed by the Advertising Review Committee: more than **3,000**

ATTORNEY DISCIPLINE SYSTEM (CHIEF DISCIPLINARY COUNSEL)

Information regarding disciplinary trends: The number of barratry-related grievances filed with CDC increased by more than **50%**

Number of barratry-related complaints filed: **49** (number includes grievances that were pending classification at the end of the bar year)

Number of grievances filed: **8,015**

Number of grievances classified as complaints: **2,315**

Number of grievances dismissed as inquiries: **5,561**

Number of investigatory hearings held by CDC: **160**

BAR YEAR 2018-2019

Total Complaints Resolved	**589**
Total Sanctions	**414**
Disbarments	**14**
Resignations	**17**
Suspensions	**152**
Public Reprimands	**32**
Private Reprimands	**124**
Grievance Referral Program	**75**

Eligible applications reviewed by the Client Security Fund: **178**

Eligible applications approved by the Client Security Fund: **115**

Total amount of grants approved by the Client Security Fund: **$664,143.78**

Efforts to publicize the Client Security Fund to eligible recipients and to discourage theft of clients' funds by their attorneys: CDC continues to provide information on the Client Security Fund to complainants who have filed attorney grievances and to publicize the fund via the media

The ethics attorneys on the Ethics Helpline returned about **6,000** calls.

Number of continuing legal education ethics offerings: TexasBarCLE programs provided **6,063** total MCLE hours and of those hours, **1,440** hours (**24%**) were for ethics credit

Number of ethics publications by TexasBarBooks: **18** books

ACCESS TO JUSTICE

Legal aid and pro bono attorneys using free legal research: **475** attorneys; **90** paralegals

Legal aid referrals made by the State Bar of Texas Legal Access Division staff to members of the public and to inmates: **5,378**

Legal aid and pro bono attorneys using free malpractice insurance offered through the State Bar of Texas Legal Access Division: **65**

Legal aid and pro bono attorneys who used the joint TexasBarCLE and Legal Access Division tuition waiver program: **113**

Legal aid and pro bono attorneys who participated in the Language Access Fund: **8,097** interpreted phone calls; **71** translated documents; **129** on-site interpreter reimbursements; served clients speaking **69** languages

For 2018-2019, the Texas Student Loan Repayment Assistance Program approved **211** legal aid lawyers for up to **$4,800** a year in repayment support.

Attendees at Legal Access Division annual seminars: **460** attended the Poverty Law Conference; **76** attended the Pro Bono Coordinators Retreat pre-conference only

Number of Justice For All Calendars distributed: **56,358** in English; **27,840** in Spanish; **5,000** in Vietnamese

Number of those helped by Texas Lawyers for Texas Veterans: Since 2010, over **11,000** attorneys, paralegals, and law students have assisted more than **32,000** veterans through local bar associations and other attorney volunteer organizations

Number of sections that have pro bono initiatives: **24** sections have pro bono initiatives, which include grants, CLE scholarships for legal aid providers, internships, or other support programs

Number of lawyers and law students participating in pro bono initiatives (including grants, CLE scholarships, and internships): **824**

Total voluntary ATJ contributions through membership fee statements: **$1,391,066** from **9,908** attorneys

Number of access to justice presentations made to attorneys and groups: **33**

Number of pro bono legal clinic resources, such as toolkits, provided by the Legal Access Division and the Texas Access to Justice Commission: **13** Limited Scope Representation Toolkits

Total amounts funded to legal assistance to the poor: Federal funding—**$35.07 million** to the Legal Services Corporation. State funding—**$20 million** in general revenue over the biennium in basic civil legal services funds; **$6 million** in general revenue over the biennium to provide legal services to veterans and their immediate families; **$10 million** in general revenue for the Legal Aid for Survivors of Sexual Assault (LASSA) Program; an increase in the cap of the Chief Justice Jack Pope Act from **$50 million** over a biennium to **$50 million** annually

Traffic to and usage of probonotexas.org: **7,813** users; **19,655** page views

Utilization of Texas Legal Answers (texas.freelegalanswers.org): **2,747** clients served

Participation in New Opportunities Volunteer Attorney (NOVA) Pro Bono Program: **47** participants

Types of services and number of hours of legal services provided to low-income and modest means persons by participants in the Texas Opportunity & Justice Incubator: TOJI lawyers represented **1,745** clients in **28** areas of law, including **158** pro bono clients and **654** modest-income clients, which equates to **6,052** modest-income hours and **1,901** pro bono hours (saving Texans **$985,169** in legal fees)

Visits to page on State Bar website relating to disaster relief resources for the public: **6,033** page views

Utilization of online disaster preparation and recovery resources on texasbarcle.com: **10,410**

SOUND ADMINISTRATION AND RESOURCES

Trainings provided to staff: Mandatory EEO/harassment training for all new hires; all employees received mandatory EEO/harassment training; unconscious bias/harassment training for managers and staff; employees offered extensive online training through the Employees Assistance Program service; customer service training offered to employees responsible for providing direct phone customer service; tuition assistance offered to staff for professional development in current or future position at the State Bar; **3** full staff meetings were held

Statistics regarding staff retention and attrition: **9.9%** turnover rate

Number of customer service complaints received via the "Contact Us" page on the SBOT website: **21** and all resolved successfully

Implementation of disaster preparedness plan to assure continuity of State Bar administration and services in the event of any disaster affecting the State Bar: The State Bar makes every effort to stress test the approved Disaster Recovery and Communications plan

Effectiveness of disaster preparedness plan: The State Bar can be at normal operations in under **3** days at an off-site location

Number of periodic tests conducted of disaster preparedness plan and results of such test: Biannual tests prove all major systems can be operational in under **3** days

Ethnic and gender diversity of SBOT staff: **231** (**76%**) female and **71** (**24%**) male; **186** (**62%**) White, **80** (**26%**) Hispanic/Latino, **28** (**9%**) Black/African-American, **5** (**2%**) Asian/Pacific Islander, **1** (**.3%**) American Indian/Alaska Native, and **2** (**.7%**) Other

FINANCIAL MANAGEMENT

Financial audit: The result of the most recent financial audit (FY2018) was an unmodified auditor's opinion, considered the highest and best opinion; the FY2019 financial audit began August 1, 2019

Annual internal control audit: The annual internal control audit issued **4** reports and examined Finance, Office of Chief Disciplinary Counsel, Minimum Continuing Legal Education, and Human Resources and found that control over operations was generally effective

Amount SBOT has set aside in general fund reserves: **$11,059,004**, which represents **3** months of operating expenditures

Success of cost-saving measures implemented by the State Bar: The State Bar's submitted budgets for FY2020 contained **$94,563** in budget reductions primarily from the transition of membership fees to an online process

Expenditure Protest Policy

The purpose of the State Bar of Texas is to engage in those activities enumerated at § 81.012 of the State Bar Act. The expenditure of funds by the State Bar of Texas is limited both as set forth at § 81.034 of the State Bar Act and in *Keller v. State Bar of California,* 496 U.S. 1 (1990). If any member feels that any actual or proposed expenditure is not within such purposes of, or limitations on, the State Bar, then such member may object thereto and seek a refund of a pro rata portion of his or her dues expended, plus interest, by filing a written objection with the executive director. The objection must be made in writing, addressed to the executive director of the State Bar, P.O. Box 12487, Austin, TX 78711, and postmarked no later than 90 days after the conclusion of the challenged activity.

Upon receipt of a member's objection, the executive director shall promptly review such objection together with the allocation of dues monies spent on the challenged activity and, in consultation with the president, shall have the discretion to resolve the objection, including refunding a pro rata portion of the member's dues, plus interest. Refund of a pro rata share of the member's dues shall be for the convenience of the State Bar and shall not be construed as an admission that the challenged activity was or would not have been within the purposes of, or limitations on, the State Bar.

Timeline of *McDonald* Litigation

• March 6, 2019	Plaintiffs filed complaint
• March 25	Plaintiffs filed motion for preliminary injunction and motion for partial summary judgment on liability
• April 25 – July 22	Amicus briefs filed in support of Plaintiffs: • Texas Attorney General Ken Paxton • Goldwater Institute Amicus briefs filed in support of the State Bar: • Texas Legal Ethics Counsel • Former Presidents of the State Bar of Texas, Former Chairs of the Texas Bar College, and Former Chairs of the State Bar of Texas Council of Chairs • Texas Access to Justice Commission • Concerned Lawyers of Color
• May 13	State Bar filed responsive briefs, cross-motion for summary judgment, and motion to dismiss for lack of subject-matter jurisdiction
• May 23	Status conference held; Court scheduled summary-judgment merits hearing for August 1. Plaintiffs agreed to pay their 2019-2020 State Bar dues.
• May 31	Plaintiffs filed responses and replies. Plaintiffs amended the complaint in response to the State Bar's motion to dismiss, and added the Chief Disciplinary Counsel of the State Bar and the members of the State Bar Commission for Lawyer Discipline as defendants to the case
• June 4	Court dismissed without prejudice the State Bar's motion to dismiss
• June 18	State Bar filed reply in support of cross-motion for summary judgment
• July 15	Plaintiffs and Defendants filed a joint stipulation regarding the defendants in the action
• August 1	Summary-judgment merits hearing held; motion for preliminary injunction dismissed
• August 30 & September 4	State Bar filed notice of supplemental authority informing the Court of the Eighth Circuit's favorable decision in *Fleck v. Wetch*, and Plaintiffs filed response

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State Bar Arguments on Cross-Motion for Summary Judgment

Count I

The State Bar argues that Plaintiffs' facial challenge to membership in the State Bar is clearly foreclosed by binding Supreme Court precedent in *Keller* and *Lathrop*.

Count II

The State Bar argues that Plaintiffs' challenge to specific State Bar expenditures fails because all of the State Bar's expenditures are consistent with *Keller* as they relate to regulating the legal profession and improving the quality of legal services.

Count III

The State Bar argues that Plaintiffs' challenge to the State Bar's procedures for providing members with a refund for expenditures with which they disagree fails because all of the State Bar's expenditures are germane under *Keller*.

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Related Lawsuits Against State Bars

Eighth Circuit *Fleck v. Wetch* (North Dakota Bar)	• **April 2019** – Amicus briefs filed in support of the State Bar of North Dakota: • Chuck Herring for Texas Legal Ethics Counsel; State Bar of California; joint brief of several integrated state bars (Alaska, Michigan, etc.); Missouri Bar • **August 30** – Eighth Circuit issued decision again affirming the district court's grant of summary judgment for the defendants on remand from the Supreme Court • **November 21** – Fleck filed a petition for writ of certiorari with the U.S. Supreme Court • **December 2019** – Four amicus briefs filed in support of Fleck: Liberty Justice Center; Pacific Legal Foundation; joint brief of National Right to Work Legal Defense Foundation, Inc. and Reason Foundation; 1889 Institute • **February 3, 2020** – North Dakota Bar's response to Fleck's cert. petition due
Oregon *Gruber v. Oregon State Bar* *Crowe v. Oregon State Bar*	• **April 1 and May 24, 2019** – Magistrate judge issued findings and recommendation. Magistrate judge recommended dismissal of the suits and rejected many of the same claims and legal arguments that the *McDonald* Plaintiffs assert. The district court adopted the magistrate judge's findings and dismissed both cases • **May 29-30** – Plaintiffs in both cases filed a notice of appeal to the Ninth Circuit. *Crowe* lawsuit sponsored by Goldwater Institute, the same organization that is sponsoring *Fleck* • **September – November 2019** – Appellate briefs filed in both cases. Amicus briefs in support of Oregon Bar filed by Arizona Bar, California Bar, and the State of Oregon
Oklahoma *Schell v. Gurich* (Oklahoma Bar)	• **March 26, 2019** – Complaint filed; lawsuit sponsored by Goldwater Institute

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	• **April 24** – Defendant filed motion to dismiss under 12(b)(1) and 12(b)(6) • **May 15** – Plaintiff amended the complaint to add justices of the Oklahoma Supreme Court and members of the Bar Board of Governors • **May 21** – Judge Friot recused himself and Judge Heaton is now presiding over the case • **June 21** – Board of Governors, Executive Director, individual Board of Governors defendant, and OK Supreme Court justices filed separate motions to dismiss • **September 18** – Defendants' motions to dismiss granted in part and denied in part; only plaintiff's third claim (Bar procedures) remains • **October 2** – Defendants filed answers to complaint • **January 8, 2020** – Scheduling conference held; tentative trial set for July 2020
Wisconsin *Jarchow v. State Bar of Wisconsin*	• **April 8, 2019** – Complaint filed • **May 21** – Defendants filed a motion to dismiss under 12(b)(1) and 12(b)(6), and a motion to stay the proceedings pending a resolution in *Fleck v. Wetch* (as an alternative to dismissal) • **June** – All motion to dismiss briefing completed • **December 2019** – District court granted 12(b)(6) motion to dismiss and plaintiffs appealed the decision to the Seventh Circuit. The plaintiffs moved for summary affirmance of the district court's decision. • **December 23** – Seventh Circuit affirmed district court's dismissal of the case under *Keller* • **December 31** – Plaintiffs filed a petition for writ of certiorari with the U.S. Supreme Court • **February 3, 2020** – Wisconsin Bar's response to plaintiffs' cert. petition due

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File v. Kastner et al.	• **July 25, 2019** – Complaint filed against State Bar officers, Wisconsin Supreme Court justices • **November 2019** – Defendants filed motions to dismiss and a motion to stay the case pending resolution of the motions to dismiss • **December 2019** – Briefing on defendants' motions to dismiss and stay complete
Louisiana *Boudreaux v. Louisiana State Bar Ass'n et al.*	• **August 1, 2019** – Complaint filed against Louisiana Bar, the Louisiana Supreme Court and justices; lawsuit sponsored by Goldwater Institute • **September 30** – Defendants filed motions to dismiss under 12(b)(6) and 12(b)(1) • **November 2019** – Briefing on defendants' motions to dismiss complete • **January 13, 2020** – District court granted defendants' 12(b)(2) and 12(b)(6) motions to dismiss, dismissing all three of plaintiff's claims against all defendants
Michigan *Taylor v. State Bar of Michigan et al.*	• **August 22, 2019** – Complaint filed against the State Bar of Michigan, and President and other officers of the State Bar of Michigan Board of Commissioners • **September 19** – Defendants filed answer to complaint • **February 28, 2020** – Plaintiffs' opening brief in support of cross-motion for summary judgment due (pursuant to a case management order entered November 2019)

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Client Security Fund
10-Year History of Revenues and Expenditures

	Fiscal Year 2008-2009	Fiscal Year 2009-2010	Fiscal Year 2010-2011	Fiscal Year 2012-2013	Fiscal Year 2013-2014	Fiscal Year 2014-2015	Fiscal Year 2015-2016	Fiscal Year 2016-2017	Fiscal Year 2017-2018	Fiscal Year 2018-2019
Beginning Fund Balance	$ 3,045,532	$ 3,000,000	$ 3,715,787	$ 3,358,507	$ 3,009,204	$ 2,488,216	$ 3,397,366	$ 3,195,121	$ 2,583,689	$ 2,029,906
Revenues/Transfers:										
Transfers from General Fund	309,430	1,290,570	300,000	300,000	800,000	1,504,305	500,000	300,000	300,000	1,100,000
Investments	75,271	19,919	22,312	14,011	8,583	9,773	15,400	21,352	31,200	66,701
Restitutions Received	27,891	17,446	54,372	12,769	13,983	18,153	81,654	10,476	2,874	72,153
Total Revenues/Transfers	412,592	1,327,935	376,684	326,780	822,566	1,532,231	597,054	331,828	334,074	1,238,854
Expenditures & Other Debits:										
Claims Paid	458,124	612,148	740,329	576,450	1,346,389	622,878	797,014	934,585	894,456	660,980
Bank Fees					30	175	140	230	343	180
Unrealized Net (Gain)/Loss on Investments			(6,365)	4,658	(2,865)	28	2,145	8,445	(6,942)	(946)
Total Expenditures	458,124	612,148	733,964	581,108	1,343,554	623,081	799,299	943,260	887,857	660,214
Increase (Decrease) in Fund Balance	(45,532)	715,787	(357,280)	(254,328)	(520,988)	909,150	(202,245)	(611,432)	(553,783)	578,640
Ending Fund Balance	3,000,000	3,715,787	3,358,507	3,104,179	2,488,216	3,397,366	3,195,121	2,583,689	2,029,906	2,608,546

EXHIBIT B

THE McCRAW LAW GROUP

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December 11th, 2019

Jerry Alexander
State Bar of Texas Board of Directors
Passman & Jones
2500 Renaissance Tower
Dallas, Texas 75270-2599

Re: Nomination for Chair of Board of Directors of the State Bar of Texas

Dear Chair Alexander:

Please allow this letter to serve as my formal request to be nominated for the position of Chair of the Board of Directors for the State Bar of Texas for the year 2020-2021.

Participating as a member of this board has been a great privilege. If given the honor of being elected and serving as Chair, my vision for the year would focus on the following goals:

1. ***To continue to promote healing and understanding between the Public, the Attorneys of Texas, and the State Bar of Texas.*** Our Bar, and by extension the Board Members, perform services that are underappreciated and often unknown by the attorneys they are designed to benefit. This is not a fault of the Bar, but it is something that we strive to fix. We live in a world that does not have accountability regarding false information. I want to showcase our Directors and the services they provide. We have the greatest leaders in Texas. By focusing on presenting our Directors, I hope to demonstrate the wonderful programs and benefits that the State Bar of Texas offers. My goal is that by doing this we build confidence and trust that the State Bar of Texas is here to protect Texas families and enable its attorneys.

2. ***To encourage, support, and enable our Board.*** Our board is comprised of some of the most impressive men and women in Texas. I want us to take advantage of our strengths to pursue the mission statement of the State Bar of Texas. In order to achieve this goal we must rely on open communication and dialogue. We need each of our Directors critically thinking about

crucial issues with the freedom to speak openly and with questions. I want to rely on our Board Members to serve in the areas where they hold interest; therefore appointments can be made in the most strategic areas.

3. ***To prioritize the mission statement of the State Bar of Texas***. I want to ensure every decision and action we take as a board falls within the mission of the State Bar of Texas. We are a board comprised of volunteers. Our Board Members are here because they are servant leaders. Our ability to govern ourselves is under attack. I want our Board to work together to ensure that everything is done to preserve our right and privilege to self-govern.

4. ***To establish mentorship programs for Law Students throughout Texas.*** I want to work alongside TYLA to build upon the programs already established to help Texas law students. I hope to develop a mentor program designed to illustrate the ways our Bar can benefit them as attorneys and to provide access to men and women who have paved the path these students will walk.

5. ***To work with purpose, efficiency, and unity.*** My goal is to run the meetings with efficiency and in a manner that is respectful of our Board Members' time. The role of Chair is not a public role. I am ready to work with President – Elect McDougal, Board Members, and staff. I want to showcase our Board Members. I want to give our Board Members a platform during meetings and in our daily walks that will inspire others to recognize the great service that the State Bar of Texas does on a daily basis.

Thank you for considering this letter and the goals that I have presented. I look forward to the opportunity to serve this Board.

Very Truly Yours,

John C. (Charlie) Ginn

TEXAS TECH UNIVERSITY
School *of* Law™

December 4, 2019

Mr. Jerry C. Alexander
Chair, State Bar of Texas Board of Directors
1201 Elm Street, Suite 2500
Dallas, Texas 75270-2599
Via email to alexanderj@passmanjones.com

RE: Intent to Seek Nomination for the 2020-21 Chair of the State Bar of Texas Board of Directors

Dear Chair Alexander:

I am overjoyed to seek a nomination to serve as the 2020-21 Chair of the State Bar of Texas (SBOT) Board of Directors, and I submit this letter pursuant to Sections 1.11.02–.03 of the State Bar Board Policy Manual. As outlined below, my commitment to the legal profession, the State Bar of Texas, and the Board of Directors illustrates why I am especially qualified to serve as Chair. Thank you in advance for your thoughtful consideration.

COMMITMENT TO THE LEGAL PROFESSION

After earning my M.Ed. and J.D. at Texas Tech University, I gained valuable practice experience at a respected plaintiffs' firm in Amarillo and became a partner after only five years. I then had the rare opportunity to combine my passions for law and education by joining the faculty at Texas Tech University School of Law. Thirteen years later, and I am a tenured, full professor at the law school, where I wear many hats. Among other things, I teach in the law school's nationally ranked Legal Practice Program and serve as Director of the program. I also serve as the Associate Dean for Assessment & Strategic Initiatives and the Chair of the Gender Equity Task Force. In August 2020, I will shift into the role of Associate Dean for Academic Affairs. Notably, Dean Jack Wade Nowlin fully supports my aspiration to become the next Chair of the Board of Directors.

I am also fortunate to serve the legal profession by volunteering my time and energy to national organizations dedicated to improving legal education and the profession. I currently hold national leadership positions in the American Bar Association (ABA), the Association of Legal Writing Directors (ALWD), the Association of American Law Schools (AALS) Section on Legal Writing, Reasoning, and Research (LWRR), and the Legal Writing Institute (LWI). Under my leadership as the 2019 Chair of the LWRR Section, the Section was selected—from more than 100 sections—as the AALS Section of the Year. I am also a conference co-chair for the largest legal writing conference in the nation, the LWI Biennial Conference, which will be held at Georgetown Law in July 2020.

Being an "academic" who is still highly invested in the legal profession imparts me with a distinct perspective. An inclusive board should reflect diversity in practice areas, gender, race/ethnicity, thought, and experience, and as Chair, my perspective would bring such diversity to this key leadership role.

COMMITMENT TO THE STATE BAR OF TEXAS

My dedication to the State Bar of Texas has spanned my entire legal career. As an eager young lawyer, I quickly became involved in the Texas Young Lawyers Association (TYLA). I also became actively involved in local bar associations and the State Bar of Texas. Below, I highlight some of my noteworthy contributions to the State Bar of Texas.

- Appointed by the Supreme Court of Texas to serve a three-year term on the Texas Board of Disciplinary Appeals, 2015-18;
- Served six years on the Law-Focused Education, Inc. Board of Directors, including a two-year term as President, 2016-18;
- Served three years as an officer in the Amarillo Area Bar Association and eight years as an officer or director in the Lubbock Area Bar Association (LABA), including a term as LABA President in 2017-18 (Under my leadership, LABA was awarded five SBOT awards that year.);
- Served two terms on the Local Bar Services Committee;
- Attended the Bar Leaders Conference fourteen times;
- Served on the Texas Minority Counsel Program steering committee;
- Served as a Director on the TYLA Board of Directors (also served fourteen years on the National Trial Competition Committee and ten years on the State Moot Court Competition Committee); and
- Received the TYLA President's Award of Merit for five consecutive years and the 2016-17 SBOT Judge Sam Williams Award.

My involvement in the State Bar of Texas has helped me gain a deep appreciation for its long history and its Mission. It has been eighty years since the Texas Legislature created the State Bar through the State Bar Act, and arguably, it is the premier bar association in the nation. To remain the premier bar association, it is imperative for us to continue listening to the desires and needs of our membership. As you have stressed as our current Chair, we should always use our Mission as a guide and continue asking our membership, "What can we do to better serve you?"

We should also continue to be lawyer-centric and to communicate effectively with our membership. It is important for our membership to be fully aware of the tremendous amount the State Bar of Texas offers. Among the many benefits and resources, members have access to quality Continued Legal Education, the Texas Lawyers' Assistance Program and other lawyer well-being initiatives, innovative solutions such as the Texas Opportunity & Justice Incubator, stellar TYLA public service projects, and even disaster relief assistance—the list goes on and on! Of course, achieving these goals entails a myriad of ongoing bar-focused efforts. These efforts include the following: maintaining an appropriate

level of transparency; continuing to build trust among the SBOT leadership and the general membership; engaging with all members of our State Bar, including the "disenfranchised" members; continuing to effectively use technology and social media platforms to communicate with our membership; embracing our law students and young lawyers; continuing to raise awareness about the ongoing challenges in the profession, including access to justice; and striving for more diversity, equity, and inclusion in both the profession and bar leadership. We can accomplish these objectives by continuing to strongly defend our unified bar and protecting our self-regulated profession.

COMMITMENT TO THE BOARD OF DIRECTORS

Through my service as an at-large member on the Board of Directors, including my service as a member of the Executive Committee and a committee chair, I have demonstrated that I will "walk the walk." While the primary task of any board chair is to lead the board to enable it to function efficiently as the highest decision-making body, a truly effective chair will go above and beyond this primary task. As your Chair, I will cultivate a board culture that promotes an engaged, diplomatic forum for expressing opinions. Indeed, fostering dialogue and a respectful group process is vital when building consensus and nurturing the individual strengths of each member on the Board. Further, as your Chair, I will be a responsive, open-minded, supportive ambassador who will work closely with Executive Director Trey Apffel and President-Elect Larry McDougal, and who will value and respect the input of my State Bar family—the wonderful staff.

In conclusion, I am grateful for the opportunity to submit my name for the position of Chair of the SBOT Board of Directors, and I have attached my curriculum vitae for your review. My work experience, success record, and volunteer efforts make me uniquely qualified to serve as the next Chair. Moreover, I believe I have the vision, energy, positivity, and enthusiasm to motivate others for all of the hard and important work ahead. I am hopeful that my commitment to the legal profession, my commitment to the State Bar of Texas, and my commitment to this Board will lead you to support me for the 2020-21 Chair position.

I look forward to addressing the SBOT Board of Directors at the January Board meeting. In the meantime, if you have any questions, please contact me at wendy.humphrey@ttu.edu or (806) 559-5995.

Sincerely,

Wendy-Adele Humphrey
SBOT At-large Director

xc: Randall Sorrels, SBOT President, *RSorrels@awtxlaw.com*
Larry McDougal, SBOT President-Elect, *larry@larrymcdougal.com*
Trey Apffel, SBOT Executive Director, *trey.apffel@texasbar.com*

Wendy-Adele Humphrey

Texas Tech University School of Law, 3311 18th Street, Lubbock, Texas 79409
wendy.humphrey@ttu.edu, (806) 834-4446

PROFESSIONAL EXPERIENCE

Academic Experience:

Professor of Law, Texas Tech University School of Law, Lubbock, Texas

Assistant Professor of Legal Practice, 2007-11; Associate Professor of Legal Practice, 2011-14; Associate Professor of Law, 2014-17 Professor of Law, September 2017-present

▪ Selected for a Dean's Distinguished Service Professorship

▪ Teach in the nationally ranked Legal Practice Program that covers legal analysis, research, objective and persuasive writing, client interviewing and counseling, negotiation skills, alternative dispute resolution, contract drafting, appellate advocacy, and professionalism/ethics in a two-semester, six-credit course.

Director, Legal Practice Program

Acting Director of Legal Practice, Fall 2011; Interim Director of Legal Practice, 2018-19; Director of Legal Practice, 2019-present

▪ Direct the nationally ranked Legal Practice Program by coordinating program activities and initiatives, creating marketing materials, completing administrative tasks, and representing the program at the regional level and national level.

Associate Dean for Assessment & Strategic Initiatives, August 2018-present

Assistant Dean for Educational Effectiveness, June 2015-July 2016; Associate Dean for Education Effectiveness, August 2016-July 2018

▪ As a key member of the administration, work closely with the Dean and the Senior Associate Dean on a variety of significant law school initiatives and projects related to diversity, equity, and inclusion; strategic planning; recruitment and admissions; finances; curriculum; and assessment.

▪ Drafted the law school's 2019-2021 operational plan.

▪ Responsible for compliance with ABA and SACSCOC accreditation standards related to student learning outcomes; prepare and submit annual assessment reporting to SACSCOC using Nuventive Improve software.

▪ Provide assessment-related education and training for law school faculty including assessment in online courses.

▪ Regularly present on the topic of assessment.

▪ Serve on the Texas Tech Institutional Effectiveness Committee, the Outreach & Engagement Committee, and the Assessment Liaison Committee.

▪ Prepared the winning award application for the university-wide 2018 Provost's Institutional Effectiveness Excellence Award.

Interim Associate Dean of Admissions, August 2016-August 2018

▪ Oversaw all recruitment and admissions efforts in the Office of Admissions.

▪ Prepared the annual budget for the Office of Admissions.

▪ Developed objective scholarship criteria and awarded merit-based scholarships.

▪ Created new marketing strategies to recruit a more diverse entering class.

▪ Increased the LSAT median two points and the GPA median .15 in only one year.

Wendy-Adele Humphrey

Texas Tech University School of Law, 3311 18th Street, Lubbock, Texas 79409
wendy.humphrey@ttu.edu, (806) 834-4446

PROFESSIONAL EXPERIENCE, cont'd

Director, Texas Tech University Pre-Law Academy, 2012-present

- Developed and implemented the TTU Pre-Law Academy, which is a rigorous summer program for selected undergraduate students.
- Create all marketing materials for the Academy.
- Teach four credit hours in the Academy during Summer I.
- Arrange for and administer internships during Summer II.

Other Experience:

Attorney, Lovell, Lovell, Newsom & Isern, L.L.P (now Lovell, Lovell, Isern & Farabourgh, L.L.P.)
Amarillo, Texas; Associate, September 2001-June 2006; Partner, July 2006-July 2007
Litigation practice focused on commercial law, personal injury law, and appellate law; selected by Texas Monthly as a 2007 Rising Star in the area of general litigation.

Teacher, Lubbock Independent School District
Lubbock, Texas, August 1997-May 1998
Honors Texas History teacher in the academic magnet program at O.L. Slaton Junior High; coached the seventh grade Future Problem Solvers team.

UNIVERSITY AWARDS & SERVICE

Texas Tech University Awards and Service:

- Recipient of the 2018-19 President's Excellence in Diversity & Equity Award
- Recipient of the 2018 "Guns Up" Distinguished Staff Award (for service as the interim Associate Dean of Admissions)
- Recipient of the 2017 Chancellor's Council Distinguished Teaching Award, which is the highest teaching honor at Texas Tech University
- Recipient of the 2014 Spencer A. Wells Creativity in Teaching Award from the Texas Tech University Parents Association
- Affiliated Faculty in the Women's & Gender Studies department
- TTU President's Gender Equity Council, 2016-19; Vice-Chair, 2018-19; Chair 2017-18
- Co-founder, TTU Women Full Professors Network
- Co-organizer, 2018 Texas Tech University "Ending Sexual Harassment in the Academy" Summit
- Division of Diversity, Equity & Inclusion, College Development Grant Committee, 2018
- Texas Tech University Teaching Academy; Schovanac Teaching Development Committee, 2017-present; Chair, 2018-19 and 2019-20
- SACSCOC Fifth-Year Interim Report, Team for Core Requirement 8.1 (Student Achievement)
- Distinguished Staff Awards Selection Committee, 2019
- Texas Tech University Campus Climate Discussion Group (Office of the Provost), 2019
- Texas Tech Institutional Effectiveness Committee, 2015-present; Outreach & Engagement Sub-committee; Assessment Liaison Sub-committee

Wendy-Adele Humphrey

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UNIVERSITY AWARDS & SERVICE, cont'd

Texas Tech University Awards and Service (cont'd):

- 2018 Search Committee member for the TTU Vice-President of Diversity, Equity & Inclusion
- Law school representative on the TTU Quality Enhancement Plan (QEP) Topic Committee, 2013
- Harry S. Truman Scholarship Selection Committee, 2015-present
- Rhodes Scholar and Marshall Scholarship Review Committee, 2018

School of Law Awards and Service:

- Recipient of the 2018 D. Murray Hensley Service Award for dedication to the advocacy program
- Recipient of 2018 Award of Appreciation from the Black Law Students Association
- Recipient of the 2008 W. Frank Newton Service Award for dedication to the advocacy program
- Selected Committees at the School of Law
    - Assessment Committee, Chair, 2015-present
    - Admissions Committee, 2016-present
    - Advanced Students Scholarship & Awards Committee, 2016-present
    - Gender Equity Task Force, 2017-present, Chair 2019-20
    - Budget Task Force, 2019-20
    - Diversity and Inclusion Committee, 2019-20
    - Strategic Planning Committee, 2018-19
    - ABA Site Visit Committee, 2016-18
    - Curriculum Committee, 2012-16
    - Honor Council, 2009-11
- Faculty advisor for the Organization of Women Law Students and the Red Raider Bar Association
- Advocacy team coach
    - Entertainment Law national negotiation team, 2010-12 and 2014
        - National champions in 2011
        - Second place at the 2010 national competition
        - Third place at the 2014 national competition
    - American Bar Association (ABA) negotiation team, 2007-13
        - Regional champions in 2008
        - Regional champions in 2009
        - Second place at the 2010 national competition
        - 2010 International Negotiation champions (Queensland, Australia)
        - Regional champions in 2010
        - Regional champions in 2011
        - Semi-finalists at the 2012 national competition
    - Government Contracts negotiation team, Second place at the 2013 national competition
    - Black Law Students Association (BLSA) national negotiation team, 2019
    - Sports Law national negotiation team, 2015, 2019, and 2020
    - ABA Representation in Mediation national team, 2017
- Brief Judge, Hassell National Constitutional Law Moot Court Competition, 2011-14 and 2016

Wendy-Adele Humphrey

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wendy.humphrey@ttu.edu, (806) 834-4446

PUBLICATIONS

Law Review Articles:

#MeToo and Gender Equity in the Legal Profession, work in progress

Two-Stepping Around a Minor's Constitutional Right to Abortion, 38 CARDOZO L. REV. 1769 (2017). (Top 50 law review placement)

"Let's Talk About Sex": Legislating and Educating on the Affirmative Consent Standard, 50 U.S.F.L. REV. 35 (2016). (Top 100 law review placement)

"But I'm Brain-Dead and Pregnant": Advance Directive Pregnancy Exclusions and End-of-Life Wishes, 21 WM. & MARY J. WOMEN & L. 669 (2015).

Other Contributions:

THE MEDIA METHOD: TEACHING LAW WITH POPULAR CULTURE, contributing author (authored section on copyright/fair use considerations) (Carolina Press 2019).

Review of Wolters Kluwer textbook draft, Terrill Pollman et al., EXAMPLES & EXPLANATIONS: LEGAL RESEARCH (2016).

Overview of Legal Documents, ADVANCED MANUAL FOR THE LAWYER'S ASSISTANT, NALS (12th ed. West) (2015).

John G. Browning & Wendy A. Humphrey, *The Millennial Juror*, 75 TEX. B. J. 275 (2012).

SELECTED PRESENTATIONS

Connecting at the Crossroads: Sustaining Alliances in Tough Times, Association of American Law Schools (AALS) Annual Meeting, Section on Associate Deans for Academic Affairs and Research, Washington, DC (panelist, forthcoming January 2020)

Barriers to Gender Equity in the Legal Profession, Lubbock County Women Lawyers Association, Lubbock, Texas (forthcoming January 2020)

Creating a Culture that Supports Teaching and Scholarship, American Bar Association, Associate Deans Conference, Chicago, Illinois (panelist, June 2019)

Whipping Up Wellness: Promoting the Well-Being of LRW Faculty and Students for a Successful Program, Association of Legal Writing Directors Biennial Conference, Suffolk University Law School, Boston, Massachusetts (co-presenter, May 2019)

Wendy-Adele Humphrey

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SELECTED PRESENTATIONS, cont'd

"We Go Together": Strategic Partnerships Between Legal Writing Programs and Law Library Faculty, Rocky Mountain Legal Writing Conference, UNLV William S. Boyd School of Law, Las Vegas, Nevada (co-presenter, March 2019)

The Three C's of Effective Negotiation, Lubbock County Women Lawyers Association, Lubbock, Texas (November 2018)

Legally Blonde Meets Law School Assessment, National Network of Law School Officers Regional Meeting, Campbell University School of Law, Raleigh, North Carolina (October 2018)

Big Foot, UFOs, and a Prestigious Legal Pedigree: Busting the Myths About Article Writing and Publication, Legal Writing Institute Biennial Conference, Marquette University Law School, Milwaukee, Wisconsin (co-presenter, July 2018)

Words of Wisdom from the Baking Unicorn: Gender Stereotypes in the Workplace, Texas Women of Higher Education Regional Conference, Texas Tech University, Lubbock, Texas (March 2018)

Embracing Your Inner Negotiator, Women's Professional Network, Lubbock, Texas (February 2018)

Uncovering the Mystery of the Texas Grievance System, Amarillo Area Bar Association, Amarillo, Texas (November 2017)

Character in the Classroom, Southeastern Association of Law Schools (SEALS) Annual Conference, Boca Raton, Florida (panelist, August 2017)

The Scholarship Submission Process, Legal Writing Institute national webinar (co-presenter, May 2017)

Step It Up: Becoming an Effective Negotiator, Texas Tech Women's Leadership Institute, Lubbock, Texas (April 2017)

Tips for Successful Negotiation, Texas Tech University "TechTalk" Series, Lubbock, Texas and satellite campuses (April 2017)

GRIEVANCE! An Overview of the Texas Attorney Grievance System, American Inns of Court, Texas Tech University School of Law chapter, Lubbock, Texas (co-presenter, March 2017)

Got Professionalism? Rocky Mountain Legal Writing Conference, Arizona State University School of Law, Phoenix, Arizona (co-presenter, March 2017)

Assessment, Southeastern Association of Law Schools (SEALS) Annual Conference, Amelia Island, Florida (discussion group, August 2016)

Wendy-Adele Humphrey

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SELECTED PRESENTATIONS, cont'd

"Let's Talk About Sex": Legislating and Educating on the Affirmative Consent Standard, Annual Conference on the Advancement of Women, Texas Tech University, Lubbock, Texas (April 2016)

Conflict Resolution & Negotiation, Lessons, Life & Leadership Seminar Series for Women Faculty in Academic Medicine, TTU School of Medicine, Lubbock, Texas (January 2016)

Conflict Resolution in the Workplace, West Texas Paralegal Seminar, Lubbock, Texas (March 2016)

Assessment in Legal Writing, Southeastern Association of Law Schools (SEALS) Annual Conference, Boca Raton, Florida (panelist, July 2015)

The 'Yes Means Yes' Affirmative Consent Standard: A Good Thing or A Bad Thing?, Honors College Speaker Series, Texas Tech University (April 2015)

The Art of Negotiating as an Inherent Principle in Successful Advocacy, Rocky Mountain Legal Writing Conference, University of New Mexico, Albuquerque, New Mexico (March 2015)

Letterman and Legal Writing: The Top Ten Legal Writing Tips, Annual Conference of the Texas Association of Legal Professionals, Lubbock, Texas (May 2014)

From Tattoos to Technology: Understanding the Dynamics of a Multi-Generational Jury, Texas Trial Lawyers Association, Lubbock, Texas (February 2014)

We've All Been There: Bridging the Multi-generational Gap in the Legal Profession, American Inns of Court, Texas Tech University School of Law chapter, Lubbock, Texas (co-presenter, November 2013)

Training Students for Gold: Diary of a First Time Live Commenter, Western States Legal Writing Conference, University of Oregon School of Law, Eugene, Oregon (August 2012)

Cooking Up Good Legal Research and Writing, State Bar of Texas, District 7 of the Paralegal Division, Amarillo, Texas (February 2012)

Sybil in the LRW Classroom: The Use of Multiple Personalities (a/k/a Role-Playing) to Help Students Become More Practice Ready, Central States Legal Writing Conference, John Marshall School of Law, Chicago, Illinois, (September 2011)

Two Worlds Collide: Teaching Real-World Professionalism in the World of Legal Writing, Rocky Mountain Legal Writing Conference, UNLV School of Law, Las Vegas, Nevada (March 2011)

Intersection of Heart and Head: Emotional Intelligence as a Component of the Legal Writing Curriculum, Southeastern Legal Writing Conference, Stetson University School of Law, Gulfport, Florida (September 2009)

Wendy-Adele Humphrey

Texas Tech University School of Law, 3311 18th Street, Lubbock, Texas 79409
wendy.humphrey@ttu.edu; (806) 834-4446

EDUCATION

Texas Tech University, Lubbock, Texas
J.D., May 2001; Recipient of the Judge Ken G. Spencer Award; Board of Barristers, Vice-Chair Negotiations; Teaching Assistant for the Legal Practice Program
M.Ed., Curriculum & Instruction, May 1997, *summa cum laude*

Westminster College, Fulton, Missouri
B.A., Psychology, May 1995, *magna cum laude*; Rhodes Scholar Finalist (New Mexico), 1994
Selected as a 2020 "*40 Years, 40 Women*" award recipient

▪ Licensed to practice law in Texas (2001) and New Mexico (2002).
▪ Admitted to practice before the U.S. District Courts for the Northern District of Texas and the District of New Mexico, and the U.S. Courts of Appeals for the Fifth Circuit and the Tenth Circuit.

SERVICE IN LAW-RELATED ORGANIZATIONS

Association of American Law Schools (AALS)
- ▪ Member of the AALS Sections Committee, 2019-22
- ▪ Member of the Teaching Methods section, the Women in the Profession section, and the Legal Writing, Reasoning, and Research (LWRR) section
- ▪ LWRR section Executive Committee, Chair, 2019; Chair-Elect, 2018; Secretary, 2017; Member-at-Large, 2015 and 2016
- ▪ Q&A Session Leader for the 2019 AALS Faculty Recruitment Conference
- ▪ Co-Chair, 2014-15 Program Committee for the LWRR section
- ▪ Chair, 2013-14 Awards Committee for the LWRR section

Legal Writing Institute (LWI)
- ▪ Co-Chair, 2020 Biennial Legal Writing Conference (Georgetown University Law Center)
- ▪ Co-Chair, Program Committee, 2018 LWI Biennial Legal Writing Conference (Marquette University Law School)
- ▪ New Member Outreach Committee, 2018-20
- ▪ One-Day Workshops Committee, 2018-20
- ▪ Co-Chair, national Pre-Law Outreach Committee, 2016-18
- ▪ Program Committee, 2016 LWI Biennial Legal Writing Conference
- ▪ Co-Chair, Program Committee for the 2015 and the 2018 Rocky Mountain Legal Writing Conference

Association of Legal Writing Directors (ALWD)
- ▪ Member and voting Delegate
- ▪ Scholarship Grants Committee, 2017-present

American Bar Association
- ▪ American Bar Foundation, Fellow
- ▪ ABA Negotiation Competition Committee, 2015-present; Chair 2016-18
- ▪ ABA/YLD Sub-grants and Awards Committee, 2004-07

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SERVICE IN LAW-RELATED ORGANIZATIONS, cont'd

American Inns of Court

- Member of the Texas Tech University School of Law chapter, 2014-18
- National Program Awards Committee, 2013-15

State Bar of Texas

- Board of Directors, At-large Director, 2018-2021

  2019-20 – Executive Committee; Chair of the Ad hoc Committee to Select At-large Directors Litigation and Contracts Committee; Nominations & Elections Committee; Advisor to the Alternative Dispute Resolution Section; Advisor to the Intellectual Property Law Section; Alternate Advisor to the School Law Section; Advisor to the Law Focused Education Committee; Alternate Advisor to the Local Bar Services Committee

  2018-19 – Executive Committee; Member of the Ad hoc Committee to Select At-large Directors; Committee Review Task Force; Advisor to the Disability Issues Committee; Advisor to the Women and the Law Section; Alternate Advisor to the Judicial Section
- Recipient of the 2016-17 Judge Sam Williams Award for service to the State Bar of Texas
- Board of Disciplinary Appeals, Board member, 2015-18 (BODA is an independent adjudicatory body appointed by the Supreme Court of Texas to hear certain attorney discipline cases and to promote consistency in interpretation and application of the Texas Disciplinary Rules of Professional Conduct and the Texas Rules of Disciplinary Procedure.)
- Law-Focused Education, Inc., 2012-18; President, 2016-18; Treasurer, 2014-16; Board Member, 2012-14 (This non-profit advisory board helps oversee SBOT efforts and funding for K-12 law-related education.)
- Texas Bar Foundation, Fellow
- Local Bar Services Committee, 2010-17 (responsible for assisting with the annual Texas Bar Leaders conference and judging statewide bar association awards)
- Texas Minority Counsel Program Steering Committee, 2013 and 2014
- Diversity & Inclusion Strategic Planning Committee, 2013
- Women and the Law Section member
- SBOT Mentoring Network, designated mentor for the Northern District

Texas Young Lawyers Association

- TYLA President's Award of Merit, 2008-09, 2009-10, 2010-11, 2011-12, and 2012-13
- District 3 Director, 2011-13
- National Trial Competition Committee, 2003-17; Co-Chair, 2012-13; Co-Chair, 40th Anniversary sub-committee, 2014-15
- State Moot Court Competition Committee 2004-13
- Vice-Chair, Law Student Outreach Committee, 2012-13
- Vice-Chair, Community Education Committee, 2011-12

Texas Trial Lawyers Association, Member

Texas Women Lawyers, Sustaining member

Lubbock Area Bar Association, 2007-present

- Immediate Past President, 2018-19; President, 2017-18; President-Elect, 2016-17; Treasurer, 2015-16; Director, 2012-15; Secretary, 2010-11
- Chair, Nominations Committee, 2018-19
- Chair, Bylaws Committee, 2011-12 and 2014-15

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LEGAL ORGANIZATIONS, cont'd

Lubbock Area Bar Association, cont'd
- 2015-16 President's Award of Merit
- 2012 LABA Outstanding Young Lawyer Award

Lubbock County Women's Bar Association, Member
Lubbock County Young Lawyers Association, 2007-13
- TYLA Liaison, 2012-13; Director, 2008-12; Chair, Bylaws Committee, 2009-10

Amarillo Area Bar Association, 2001-07; Secretary/Treasurer, 2005-07
Amarillo Area Young Lawyers Association,
- Vice-President, 2006-07; Treasurer, 2005-06; Secretary, 2004-05; Director, 2002-04

South Plains Center for Dispute Resolution, Trained Mediator

COMMUNITY INVOLVEMENT

"Bookshelves in Courtrooms" Public Service Coordinator, 2018-19
Judge Carruth's Court Camp Volunteer, 2019
Make-A-Wish of Northwest Texas, Trained Wish Granter, 2017-present
YWCA "Wine, Women & Shoes" Auction Committee, 2018
Susan G. Komen Race for the Cure Committee, 2015
American Cancer Society Cattle Baron's Ball, Auction Committee, 2013-14
Court Appointed Special Advocate (CASA) of the South Plains, Board of Directors, 2010-12
Lubbock Junior Women's Club, 2007-present
- President 2015-16; President-Elect 2014-15; Vice-President 2013-14

Junior League of Lubbock, Inc.
- Sustainer, 2014-present
- Active member 2008-14

Young Professionals of Greater Lubbock, Recipient of 2010 Lubbock's "Top 20 Under 40" Award
Kappa Alpha Theta women's fraternity
- Life Loyal member
- Lubbock Alumnae Chapter, 2007-present
- Facility Corporation Board member, 2009-16
- Finance Advisor for the Gamma Phi chapter at Texas Tech University, 2009-16

C | R
CARMEN ROE LAW FIRM
Exceeding Expectations

December 11, 2019

Jerry C. Alexander
Passman & Jones
2500 Renaissance Tower
1201 Elm Street
Dallas, Texas 75270-299

Mission Statement: **Professionalism and unity with a focus on bar assistance to ensure lawyers are able to best help the public.**

Jerry,

Please accept this as notification of my intention to seek the position of Chair of the State Bar of Texas Board of Directors for the term 2020-21. Below, I submit my statement of beliefs and strategies in the context of the State Bar of Texas strategic plan for 2020-21.

It has been my privilege to serve on the Board after working hard to win a runoff and be seated as one of the only Directors whose practice is exclusively criminal defense. Since that time, I have received growing support and encouragement from my peers who assert that criminal attorneys can, and should, have a greater presence through greater participation in State Bar of Texas initiatives. Leading by example, I am proud to say that several of my colleagues have since run for and accepted positions with the State Bar of Texas. I will bring this same leadership and passion as Chair to further my overall goal of ensuring unity and diversity within our profession.

It is my belief that the most important function of the Board of Directors is to advance our mission statement while serving our members and the public through professionalism and unity. Over the past few years, our outstanding leadership has demonstrated that this incredible undertaking can be achieved. I believe we must

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recognize these efforts to maintain stability and growth, while continuing to present new ideas which meet the ever-changing needs our members.

My commitment to service is further evidenced through the leadership roles that I have successfully undertaken. I am a past President of the Harris County Criminal Lawyers Association – the largest local criminal bar association in the country – and am currently on the Board of Directors for the Texas Criminal Defense Lawyers Association (TCDLA). As Chair of the TCDLA Membership Committee, I successfully redesigned the membership outreach program resulting in a substantial increase in membership and member involvement. I was also on the State Bar Planning Committee for several years and was nominated to be the Course Director for the Advanced Criminal Law Course, the largest State Bar sponsored criminal law seminar responsible for educating judges, prosecutors and criminal defense attorneys statewide. The seminar where I served as Course Director was recognized as having the highest attendance and the highest ratings when compared to past seminars for over a decade. As Chair of the State Bar of Texas, I will serve with leadership and vigor.

Service is a calling, and one that I have been passionate about since I was licensed to practice law. Since 2005, I have served the legal community in many capacities – leading by example, learning from my peers, and giving back to my colleagues and the communities we serve.

As Chair, I will focus on the key items identified in our Strategic Plan which includes:

- Expanding opportunities for lawyers, judges, and law students to become more involved in volunteer activities such as community service and education.
- Enhancing awareness of pro bono work and other charitable contributions of lawyers to both the legal profession and the public.
- Actively encouraging pro bono reporting by all lawyers to enhance awareness.

- Identifying and employing new methods and technologies to ensure pro bono training is made accessible and available to all lawyers.
- Providing greater outreach and support for pro se litigants in all areas of the law.
- Encouraging the Board of Directors to speak at high-profile CLE events about State Bar programs and services, and videotape these presentations for future use and maximum impact.
- Developing and providing resources for succession planning.
- Providing greater resources for disaster preparation and recovery, including the creation of a disaster relief fund to help improve services available to the public during and after emergency situations.
- Adding surveys to Director update emails and as part of presentations to allow members to indicate how they would like to get involved in the State Bar.
- Developing and proving services and support to senior lawyers, including information on mentoring and practice opportunities as well as addressing end-of-career issues.
- Highlighting contributions of law firms and attorneys who provide pro bono legal services.
- Increasing efforts to engage the media to share what bar associations and lawyers are doing to support access to justice.
- Acting as a clearinghouse for local bar associations to help increase communication about legal aid efforts.
- Exploring the use of zero-based budgeting and multi-year budgeting.

Serving as Chair is an incredible honor and a tremendous responsibility. My breadth of experience in leadership and in this great profession makes uniquely qualified to serve as Chair of the State Bar of Texas. I look forward to the challenges it will bring. My service with the State Bar of Texas has enriched my life, my practice, and my ability to be a better leader. I look forward to sharing all that I have learned with my Board of Directors and to proudly representing my Bar in the year ahead!

RESPECTFULLY SUBMITTED,

/s/ Carmen Roe

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Carmen is a seasoned criminal defense attorney who represents clients in both state and federal court and is Board Certified in Criminal Appellate Law. She manages a successful law practice in Downtown Houston and has participated in the defense of high-profile clients such as Andrea Yates, Quannel X, Ashley Benton, Susan Wright, Todd Burke, Jeffrey Stern and Tom Delay. She is a respected member of the legal community, known for her professionalism, tenacity and integrity. As an adjunct professor of criminal appellate procedure at the University of Houston Law Center, she is honored to serve as both a teacher and mentor to future lawyers. Carmen received her bachelor's degree in History from the University of Houston and law degree, with a concentration on criminal law, from St. Mary's University School of Law.

Leadership:

State Bar of Texas, Board of Directors, District 4, Place 5	2018-2021
American Leaders Forum, Houston Gulf-Coast Region, Class of XLVIII	2019-2020
Chair Elect, Criminal Defense Lawyers Project, Texas Criminal Defense Lawyers Association	2020-2021
Chair, Membership Committee Texas Criminal Defense Lawyers Association	2018-2020
Board of Directors, Texas Criminal Defense Lawyers Association	2015-2019
Course Director, Texas Criminal Defense Lawyers Association "Rusty Duncan"	June 2020
Course Director, State Bar of Texas Advanced Criminal Law Course	July 2017
Fellow, Texas Bar Foundation	2015-Present
Chairman of the Board, Anthony Graves Foundation	2016-2017
President, Harris County Criminal Lawyers Association	2014-2015
President Elect, Harris County Criminal Lawyers Association	2013-2014
Secretary, Harris County Criminal Lawyers Association	2011-2013
Continuing Legal Education ("CLE") Director, Harris County Criminal Lawyers Association	2010-2013
Chairman, HCCLA New Members Committee Chair	2008-2013
Board of Directors, Harris County Criminal Lawyers Association	2007-2011

Honors & Awards:

Texas Super Lawyer Honoree	2016 to 2019
Texas Super Lawyers Rising Star Honoree	2014, 2015, 2016
Texas Board of Legal Specialization, Criminal Appeals	2013-2023
Member of the Year, Harris County Criminal Lawyers Association	2012, 2013
Legal Analyst, Fox 26 Houston	2014 to Present
Guest Legal Analyst, MSNBC	2014 to Present

Professional Associations & Memberships:

State Bar College, Excellence in Continuing Legal Education	Since 2012
State Bar of Texas, Appellate and Criminal Justice Section	Since 2005
National Association of Criminal Defense Lawyers, Member	Since 2012
Houston Bar Association	Since 2012
Southern District of Texas	Since 2005
Eastern District of Texas	Since 2010
Fifth Circuit Court of Appeals	Since 2008

Speaking Engagements and Publications

Advanced Criminal Law Course, State Bar of Texas, Pretrial Investigations	2020
Advanced Criminal Law Course, State Bar of Texas, Appellate Breakout Director	2020
Advanced Criminal Law Course, State Bar of Texas, Planning Committee	2019-2020
Advanced Criminal Law Course, State Bar of Texas, Pretrial Investigations	2019
Advanced Criminal Law Course, State Bar of Texas, Motions for New Trial	2019
UT Law Conference on Criminal Appeals, Ineffective Assistance of Counsel	2019
Advanced Criminal Law Course, State Bar of Texas, Appellate Breakout Director	2018
Advanced Criminal Law Course, State Bar of Texas, Motions for New Trial	2018
UT Law Conference on Criminal Appeals, Motions for New Trial	2018
Advanced Criminal Law Course, State Bar of Texas, Course Director	2017
Advanced Criminal Law Course, State Bar of Texas, Appellate Breakout Director	2016
Advanced Criminal Law Course, State Bar of Texas, Motions for New Trial	2016
Advanced Criminal Law Course, State Bar of Texas, Motions for New Trial	2015
Rusty Duncan Advanced Course, Texas Criminal Defense Lawyers Association, Pretrial Investigation	2015
Criminal Law Bootcamp, Texas Southern University, Motions for New Trial	2012
Grand Jury Service: A Lawyer's Perspective, Defender Magazine, Harris County Criminal Lawyers Association	2012
Appellate Seminar, Texas Criminal Defense Lawyers Association, Motions for New Trial	2012
Criminal Law Bootcamp, Texas Southern University, Systematic Trial Preparation	2011

EXHIBIT C

State Bar Board Social Media Engagement Team 2019-2020				
First Name	**Last Name**	**Team Role**	**Company**	**City**
Randy	Sorrels	President	Abraham, Watkins, Nichols, Sorrels, Agosto & Aziz	Houston
Larry	McDougal	President-elect	Law Office of Larry P. McDougal	Richmond
Shelby	Jean	Director Member	Legal Aid of NorthWest Texas	Fort Worth
Carmen	Roe	Director Member	Carmen Roe Law Firm	Houston
Charlie	Ginn	Director Member	McGraw Law Group	McKinney
Diane	St. Yves	Director Member	Law Office of Diane St. Yves	Houston
Yolanda	Cortes Mares	Director Member	Yolanda Cortes Mares, Attorney at Law	Temple
David	Sergi	Director Member	Sergi & Associates	San Marcos
Amy	Welborn	Director Member	Hawkins Parnell Thackston & Young	Austin
Michelle	Cheng	Non-Director Member	Whitehurst Harkness Brees Cheng Alsaffar Higginbotham & Jacob	Austin
Scott	Rothenberg	Non-Director Member	Law Offices of Scott Rothenberg	Houston
Jason	Rowe	Non-Director Member	Rowe Law Firm	Houston
Andrew	Tolchin	Non-Director Member	Tolchin Law Firm and 713 Mediator	Houston
John	Sirman	Staff Representative	State Bar of Texas	Austin
Seana	Willing	Staff Representative	State Bar of Texas/Chief Disciplinary Counsel	Austin
Lowell	Brown	Staff Liaison	State Bar of Texas	Austin

EXHIBIT D

State Bar of Texas
2020-2021 PROPOSED COMBINED BUDGET

The State Bar proposed budgets for the 2020-2021 fiscal year are included here for your information. If you would like a copy of the budget summary, contact the State Bar finance division director at 800-204-2222, ext. 1481. All interested persons are invited to a public hearing on the proposed budgets scheduled for 9 a.m. Tuesday, April 7, 2020, in Room 101 at the Texas Law Center, 1414 Colorado, Austin, TX 78701. The General Fund is the operating fund for the State Bar of Texas. The Texas Bar Books Fund is considered an Enterprise Fund, which is defined as a proprietary fund that is used to account for goods/services provided to the general public on a user-charge basis. The Special Revenue Funds are independent funds and do not use any membership dues or revenues from the General Fund for operations. Capital Projects Funds are used to account for the acquisition and construction of the State Bar's major capital facilities and other capital expenditures.

	GENERAL FUND	TEXAS BAR BOOKS FUND	SPECIAL REVENUE & CAPITAL PROJECTS FUNDS	TOTAL PROPOSED COMBINED BUDGET
REVENUES & RECEIPTS				
Membership Dues	$21,348,853	$0	$0	$21,348,853
Fees	17,867,561	55,000	2,035,450	19,958,011
Advertising	801,000	0	0	801,000
Sales	1,023,295	2,475,237	26,300	3,524,832
Investments	400,000	9,000	140,500	549,500
Grants	0	0	341,000	341,000
Contributions	740,066	0	360,000	1,100,066
Administrative Fees	648,800	0	0	648,800
Rent	172,673	0	0	172,673
Other Revenue	1,389,304	1,329,922	15,000	2,734,226
TOTAL REVENUES	**$44,391,552**	**$3,869,159**	**$2,918,250**	**$51,178,961**
Receipts from Reserves	3,698,359	0	0	3,698,359
TOTAL REVENUES & RECEIPTS	**$48,089,911**	**$3,869,159**	**$2,918,250**	**$54,877,320**
EXPENDITURES				
Salaries	$18,371,208	$1,293,330	$577,069	$20,241,607
Benefits	6,848,804	453,168	217,218	7,519,190
Travel	2,175,291	46,950	217,150	2,439,391
Meetings & Conferences	4,605,071	1,800	666,460	5,273,331
Professional Services	2,936,791	212,189	294,250	3,443,230
Court Fees	99,300	0	0	99,300
Publicity/Advertising	689,578	81,000	216,500	987,078
Dues/Subscriptions/Licenses	715,762	119,200	32,420	867,382
Education/Training	206,819	12,435	3,150	222,404
Supplies/Awards/Gifts/Spec. Items	588,038	30,500	120,135	738,673
Rentals—Office, Equipment, Storage	1,169,751	164,376	185,990	1,520,117
Maintenance/Repair	700,774	30,600	0	731,374
Utilities	248,960	0	0	248,960
Postage & Freight	766,143	167,913	50,918	984,974
Telephone	393,206	3,900	25,700	422,806
Insurance	464,050	6,600	0	470,650
Administrative	425,791	713,487	1,211,513	2,350,791
Fixed Assets	42,000	12,000	1,130,000	1,184,000
Printing & Copying	1,305,415	507,855	61,610	1,874,880
Reserve for Contingencies	150,000	0	0	150,000
TOTAL EXPENDITURES	**$42,902,752**	**$3,857,303**	**$5,010,083**	**$51,770,138**
Board Commitments (In)/Out	3,698,359	0	(1,573,333)	2,125,026
Transfers (In)/Out	1,488,800	0	(1,488,800)	0
TOTAL EXPENDITURES, BOARD COMMITMENTS & TRANSFERS	**$48,089,911**	**$3,857,303**	**$1,947,950**	**$53,895,164**
NET REVENUES & RECEIPTS OVER EXPENDITURES, BOARD COMMITMENTS & TRANSFERS	**$0**	**$11,856**	**$970,300**	**$982,156**
TOTAL BUDGETED FULL-TIME EQUIVALENTS	**263.63**	**19.75**	**8.88**	**292.26**

State Bar of Texas
2020-2021 PROPOSED GENERAL FUND BUDGET

REVENUES & RECEIPTS

Attorney Membership Dues	$21,348,853
Accounting/Management Fees	658,255
Bar Journal Revenue	632,545
MCLE Fees	3,460,950
TexasBarCLE Revenue	14,251,844
Website Revenue	445,000
CDC Disciplinary Fees	564,853
Advertising Review Fees	368,000
Member Benefit Fees	911,308
Other Revenue	1,749,944
TOTAL REVENUES	**$44,391,552**
Receipts from Reserves	3,698,359
TOTAL REVENUES & RECEIPTS	**$48,089,911**

EXPENDITURES, BOARD COMMITMENTS & TRANSFERS

EXECUTIVE DIVISION	BUDGET	FTEs
Executive	$684,300	2.88
Associate Executive Director/Legal Counsel	700,889	3
Deputy Executive Director	236,649	1
Deputy Executive Director/External Affairs	265,280	1
Officers & Directors	970,817	–
Human Resources	308,161	2
Training/Tuition	71,133	–
MEMBER & PUBLIC SERVICES DIVISION		
Center for Legal History	$160,623	2
Law-Related Education	523,895	3
Government Relations	311,496	2
Texas Young Lawyers Association	1,022,902	3
LeadershipSBOT	98,672	–
Sections	343,782	4
Local Bars	459,225	4
Special Events	73,604	–
Law Student Division	20,266	–
Volunteer Committees	317,812	1
LEGAL & ATTORNEY SERVICES DIVISION		
Legal & Attorney Services	$237,184	1
Texas Lawyers' Assistance Program	496,731	5
Legal Access Division	1,539,040	7.5
ACCESS TO JUSTICE COMMISSION	$752,981	3
LAW PRACTICE MANAGEMENT DIVISION	$182,184	1
PROFESSIONAL DEVELOPMENT DIVISION		
TexasBarCLE	$10,101,604	39
Minority Affairs	523,115	3

(FTE—Full-Time Equivalent)

EXPENDITURES, BOARD COMMITMENTS & TRANSFERS CONTINUED

ATTORNEY COMPLIANCE DIVISION	BUDGET	FTEs
Attorney Compliance	$190,181	1
Advertising Review	151,275	2
Client Attorney Assistance Program	545,713	8
Lawyer Referral	376,086	4
MCLE	628,338	7
OPERATIONS/SECURITY DIVISION		
Purchasing & Facilities	$1,294,796	5.75
Customer Service	404,132	3
RESEARCH & ANALYSIS	$239,952	1
MEMBER BENEFITS	$172,585	1
FINANCE DIVISION		
Accounting	$1,049,448	12
Membership	612,834	7
Other Administrative	2,042,188	–
IT DEPARTMENT		
Information Technology	$1,252,657	8
COMMUNICATIONS DIVISION		
Communications	$265,364	2
Bar Journal	1,298,114	4.5
Printing & Graphics	346,721	4.5
Public Information	171,568	1.5
Website	421,753	2
PUBLIC PROTECTION DIVISION		
Chief Disciplinary Counsel	$10,085,552	96
Statewide Committees	230,800	–
Ombudsman	87,932	1
Board of Disciplinary Appeals	632,418	3
BOARD COMMITMENTS	$3,698,359	1
TRANSFERS TO SPECIAL REVENUE & CAPITAL PROJECTS FUNDS		
Texas Law Center Fund	$288,800	
Technology Fund	500,000	
Client Security Fund	700,000	
TOTAL EXPENDITURES, BOARD COMMITMENTS & TRANSFERS	**$48,089,911**	
TOTAL REVENUES & RECEIPTS OVER EXPENDITURES BOARD COMMITMENTS & TRANSFERS	**$0**	
TOTAL BUDGETED GENERAL FUND FTEs	**263.63**	

State Bar of Texas
2020-2021 PROPOSED BUDGETS FOR SPECIAL REVENUE & CAPITAL PROJECTS FUNDS

	LAW FOCUSED GRANTS	TEXAS BOARD OF LEGAL SPECIALIZATION	TEXAS BAR COLLEGE	CONVENTION FUND	TEXAS LAW CENTER	TECHNOLOGY FUND	CLIENT SECURITY FUND	TOTAL
REVENUES								
Fees	$0	$1,470,250	$265,200	$300,000	$0	$0	$0	$2,035,450
Sales	0	0	1,300	25,000	0	0	0	26,300
Investments	0	35,000	1,000	0	64,500	0	40,000	140,500
Grants	341,000	0	0	0	0	0	0	341,000
Contributions	0	0	0	360,000	0	0	0	360,000
Restitution	0	0	0	0	0	0	15,000	15,000
TOTAL REVENUES	**$341,000**	**$1,505,250**	**$267,500**	**$685,000**	**$64,500**	**$0**	**$55,000**	**$2,918,250**
Receipts from Reserves	0	0	0	0	0	0	0	0
TOTAL REVENUES & RECEIPTS	**$341,000**	**$1,505,250**	**$267,500**	**$685,000**	**$64,500**	**0**	**$55,000**	**$2,918,250**
EXPENDITURES								
Salaries	$0	$505,134	$71,935	$0	$0	$0	$0	$577,069
Benefits	0	190,293	26,925	0	0	0	0	217,218
Travel	111,850	55,000	40,000	10,300	0	0	0	217,150
Meetings & Conferences	32,100	75,000	14,000	545,360	0	0	0	666,460
Professional Services	103,250	165,000	17,000	9,000	0	0	0	294,250
Publicity/Advertising	0	175,000	5,000	36,500	0	0	0	216,500
Dues/Subscriptions/Licenses	0	30,000	2,000	420	0	0	0	32,420
Education/Training	0	1,650	1,500	0	0	0	0	3,150
Supplies/Awards/Gifts/Spec. Items	71,135	12,000	20,000	17,000	0	0	0	120,135
Rentals—Office, Equipment, Storage	4,240	170,000	9,000	2,750	0	0	0	185,990
Postage & Freight	6,225	7,833	13,860	23,000	0	0	0	50,918
Telephone	0	25,000	700	0	0	0	0	25,700
Administrative	6,600	76,600	31,580	8,400	0	0	1,088,333	1,211,513
Fixed Assets	0	7,000	0	0	0	1,123,000	0	1,130,000
Printing & Copying	5,600	9,740	14,000	32,270	0	0	0	61,610
TOTAL EXPENDITURES	**$341,000**	**$1,505,250**	**$267,500**	**$685,000**	**$0**	**$1,123,000**	**$1,088,333**	**$5,010,083**
Board Commitments - Transfers In	0	0	0	0	0	(1,240,000)	(333,333)	(1,573,333)
Transfers (In)/Out	0	0	0	0	(288,800)	(500,000)	(700,000)	(1,488,800)
TOTAL EXPENDITURES, BOARD COMMITMENTS & TRANSFERS	**$341,000**	**$1,505,250**	**$267,500**	**$685,000**	**(288,800)**	**(617,000)**	**55,000**	**$1,947,950**
EXCESS (DEFICIT) OF REVENUES OVER EXPENDITURES, BOARD COMMITMENTS & TRANSFERS	**$0**	**$0**	**$0**	**$0**	**$353,300**	**$617,000**	**$0**	**$970,300**
FULL-TIME EQUIVALENTS	**0**	**7.88**	**1.00**	**0**	**0**	**0**	**0**	**8.88**

The purpose of the State Bar of Texas is to engage in those activities enumerated in section 81.012 of the State Bar Act. The expenditure of funds by the State Bar of Texas is limited as set forth in both section 81.034 of the State Bar Act and in *Keller v. State Bar of California*, 496 U.S. 1 (1990). If any member thinks that any actual or proposed expenditure is not within such purposes of, or limitations on, the State Bar, then such member may object thereto and seek a refund of a pro rata portion of his or her dues expended, plus interest, by filing an objection with the executive director. The objection must be made in writing, addressed to the executive director of the State Bar of Texas, P.O. Box 12487, Austin, TX 78711, and postmarked not later than 90 days after the conclusion of the challenged activity.

Upon receipt of a member's objection, the executive director shall promptly review such objection together with the allocation of dues monies spent on the challenged activity and, in consultation with the president, shall have the discretion to resolve the objection, including refunding a pro rata portion of the member's dues, plus interest. Refund of a pro rata share of the member's dues shall be for the convenience of the State Bar and shall not be construed as an admission that the challenged activity was or would not have been within the purposes of, or limitations on, the State Bar.

State Bar of Texas
Minimum Reserves / Commitment of Increase in Fund Balance
FY 2018-2019 Audited Financial Results

The total General Fund audited fund balance at the end of fiscal year 2018-2019 is $17,749,877.

The amount shown below as available for Board Commitment. The Board Commitments and non-spendable amounts are as follows:

Total General Fund Balance at May 31, 2019	**$17,749,877**
Current Board Commitments:	
Minimum operating expenditures	(11,059,004)
Texas Opportunity and Justice Incubator Program	(571,088)
Legal Access Division Programs	(44,251)
-Westlaw Legal Research	
-Malpractice Insurance	
-Language Line	
TATJF Student Loan Repayment Assistance Program	(515,000)
Presidential initiatives	(126,641)
Run-off Election Reserve	(70,000)
Statewide Pro Bono Campaign	(148,161)
Referendum Reserve	(100,000)
Archives Digitization Project	(75,500)
Professionalism & ethics initiative	(11,943)
Law Focused Education Programs	(79,500)
Technology Fund Transfer	(150,000)
Law Center Renovations	(100,000)
Non-Spendable Funds:	
Prepaid expenditures	(847,384)
Inventories	(12,070)
Fair market value adjustments of investments	(59,630)
Amount Available for Board Commitment	**$3,779,705**

In 2005, the State Bar of Texas Board adopted a minimum reserve policy. That policy specifies certain areas that should be considered when addressing the minimum reserve needs of the State Bar. The items to be considered are the following:

1) Operating Expenditures – Consider committing money for 2-4 months of budgeted expenditures.

   - The current $11,059,004 designated for this purpose represents 3.0 months of budgeted operating expenditures based on the current FY 2019-2020 budget. An increase of $81,346 will maintain the level of 3.0 months and result in a minimum reserve amount of $11,140,350.

2) Litigation Expenditures – Consider setting-aside monies to cover any contingent liabilities for litigation expenditures that are known, but not yet accrued, and expected to require funding within 12-24 months of budgeting.

- Per the State Bar Legal Counsel's recommendation, additional reserves of $100,000 should be set aside with the designation for litigation expenditures and held separately from the amount of minimum reserves maintained by the State Bar.

3) Capital Assets Replacement/Construction – Consider large capital asset replacement or construction projects planned for the next 1-3 years.

   - In FY 2004-2005, the State Bar Board developed a five year real estate strategic plan to include remodeling and redesigning the interior of the Texas Law Center which has been completed. Pursuant to Section 3.08.03 of the Board Policy Manual, a permanent building or maintenance fund has been established to maintain the Texas Law Center. According to Board policy (see Attachment A), the General Fund shall make an annual transfer to the building fund in an amount representing 80% to 100% of the annual capital equipment straight-line depreciation of those items replaced (see Attachment B) during the remodeling of the Texas Law Center. The FY 2020-2021 General Fund budget includes a transfer of $288,800 to the building fund which is 80% of the annual capital equipment straight-line depreciation.

4) New Programs - Consider committing money for new programs or research and development.

   - The amounts necessary to fund the new programs for the FY 2020-2021 budget year are either funded in the operating budget or will be the subject of a request for funding based on a Board Commitment. Therefore, no additional budget funds are necessary to be set aside in the minimum reserves.

The Executive Director makes the following recommendations to the Budget Committee for the best use of the $3,779,705 available for Board commitment:

- Commit $81,346 to maintain the level of minimum reserves 3.0 months. The goal to reach a minimum reserve amount of 3 months of budgeted expenditures and operating transfers was met during the FY 2019-2020 budget. This level of reserves is in line with auditor recommendations to have between 2 to 4 months of operating reserves available.

- Commit $73,359 to raise the balance maintained as a reserve for future Presidential initiatives to $200,000. The balance in the Presidential initiatives account is not reflective of money to be spent in any given year; but is maintained to ensure that money is set aside and available for future initiatives.

- Commit $1,200,000 consisting of $333,333 in additional funding to the Client Security Fund and commit $866,667 to a reserve for future board commitments. Discussion is ongoing concerning administering future payouts from the Client Security Fund. The $866,667 commitment will be held in contingency, pending future decisions by the Board of Directors. If approved by the Board, the amount committed for the Client Security Fund for fiscal year 20-21 will be $333,333, which, in addition to the $700,000 annual transfer from the General Fund, would make the amount available for payment of claims during FY20-21 equal to $1,033,333.

- Commit $100,000 to fund a legal reserve account. This commitment will establish a reserve for possible payments to outside legal counsel for the State Bar of Texas.

- Commit $225,000 to the Sheeran Crowley Memorial Trust. The Patrick D. Sheeran & Michael J. Crowley Memorial Trust provides financial help to Texas attorneys, judges, and law students who need treatment for substance use, depression, and other mental health issues. These attorneys often find themselves without health insurance and without the means to pay for services. Created in 1995, the trust is administered by volunteer trustees who are members of Texas Lawyers Concerned for Lawyers, an organization that works closely with the Texas Lawyers' Assistance Program of the State Bar of Texas. Applicants must be receiving services from TLAP and demonstrate financial need. Once the trustees approve an individual's application for assistance, a grant is made payable directly to the treatment provider. All applicants are asked to make a moral commitment to repay the grant.

- Commit $75,000 of contingency fund for hosting the Southern Conference of Bar Presidents in October 2020. The State Bar's responsibility for hosting this Bar President educational event reoccurs every 15 years. The host state is responsible for paying deposits, down-payments, etc. prior to attendees paying registration fees that will ultimately cover a majority of the cost.

- Commit $50,000 to increase reserves maintained for future membership rules votes. The current reserve for referendum totals $100,000. This board commitment would bring the reserve to a total amount of $150,000 to cover the travel and meeting costs associated with the upcoming membership rules votes.

- Commit $20,000 for a Public Information campaign. The Public Information Department is requesting a board commitment of $20,000 to fund a comprehensive educational marketing campaign to be titled "SBOT4ME". The campaign will be designed to inspire pride in State Bar members for the legal profession and the overall agency while informing the public of the many ways the State Bar serves the state of Texas. The main deliverable will be a video campaign that could be turned into print ads and graphics usable across a variety of social and traditional mediums.

- Commit $200,000 to fund the Law Practice Resource Management and Texas Bar Books website project. The goal of the new Law Practice Resources website ("Practice.com") is to provide valuable Law Practice Management resources information to Texas attorneys as a benefit of their State Bar membership, to convert book and subscriptions sales for TexasBarBooks, and convert visitors to account-holding customers. Access to the free Law Practice Management resources will be marketed as a benefit and will provide Texas lawyers with useful technical and practice knowledge for starting, growing, maintaining, and closing a practice. Currently, many LPR resources exist on different websites, making information harder to find and the e-commerce experience more difficult to understand and trust. The new website will bring the information and resources under a common, cohesive user experience. Improved website tools and communications will allow TexasBarBooks to improve sales conversions, payment collections, and subscription retention. In addition to the request for a $200,000 board commitment for this project, the TexasBarBooks Department will also contribute $100,000.

- Commit $515,000 to the Texas Access to Justice Foundation – Student Loan Repayment Assistance Program (SLRAP). Attorneys are eligible for the SLRAP if they work full-time for any Texas legal aid program that is: a) a recipient of Texas Access to Justice Foundation funds, b) a recipient of Legal Services Corporation funds, or c) a Texas non-profit that provides civil legal services - if at least 50% of the services provided are free to Texans whose income

is 200% of federal poverty guidelines or less. For the 2019-2020 Texas Student Loan Repayment Assistance Program (SLRAP) year, 211 legal aid lawyers were awarded some level of assistance. All qualifying applicants receive payments ranging from $37 per month up to the maximum monthly loan amount of $400.

- Commit $1,240,000 to the State Bar's Technology Fund: This commitment will fund, in part, the purchase and maintenance of the State Bar's technological hardware and software including computers, printers, software and software maintenance/upgrades. In addition, it will fund the following special capital projects:

  (1) Texas Law Center Audio/Visual (estimated $200,000)

  This project is intended to upgrade the historic Stewart Morris Board Room and Room 101 to support high definition video, update existing Audio/Visual control systems, update room audio and install video conferencing. In addition, Room 101 will be fitted with new confidence monitors for speakers.

  (2) Client Attorney Assistance Program – Case Management System (estimated $50,000)

  This project is to replace the Client Attorney Assistance Program's 15+ year old case management system. This system is used to assist clients and attorneys in resolving client/attorney issues. This project will replace the legacy system with modern technology to streamline business processes, improve staff efficiency and improve reporting. This is the next scheduled project on the 5 year technology plan.

  (3) Texasbar.com Website Redesign (estimated $150,000)

  This project is to refresh and enhance the existing State Bar of Texas website, texasbar.com. Every 5 years there is a review the existing site to determine what enhancements are needed to improve service and message delivery to the public and members. This includes a refresh of the site's graphics and layout to stay relevant with current design trends.

EXHIBIT E

STATE BAR OF TEXAS – BOARD OF DIRECTORS
DISTRICT ELECTIONS – 2020

BAR DISTRICTS	PRESENT DIRECTORS	CERTIFIED CANDIDATES	COUNTIES INCLUDED IN THE DISTRICT
District 4 *Place 2:* *Place 4:* *Place 6:*	**2: Neil D. Kelly (Houston)** **4: Dinesh H. Singhal (Houston)** **6: K. Nicole Voyles (Houston)**	**2: Benny Agosto, Jr. (Houston)** **4: Lucy Forbes (Houston)** **6: Andrew Tolchin (Houston)**	Harris
District 6 *Place 3:* *Place 4:*	**3: Jerry C. Alexander (Dallas)** **4: David C. Kent (Dallas)**	 **4: Chad Baruch (Dallas)**	Dallas
District 9 *Place 1:*	**1: Leslie W. Dippel (Austin)**		Travis
District 11	**Robert E. McKnight, Jr. (Victoria)**		Aransas, Bee, Calhoun, DeWitt, Goliad, Gonzalez, Guadalupe, Jim Wells, Karnes, Kleberg, Live Oak, Nueces, Refugio, San Patricio, **(Victoria)**, and Wilson Counties
District 12	**Allison W. Colvin (Brownville)**	**Lydia Mount (McAllen)**	Atascosa, Brooks, **(Cameron)**, Dimmit, Duval, Frio, Hidalgo, Jim Hogg, Kenedy, LaSalle, Maverick, McMullen, Star, Webb, Willacy, Zapata, and Zavala Counties
District 14	**Amie S. Peace (Denton)**		Archer, Baylor, Brown, Callahan, Clay, Coleman, Comanche, Cooke, **(Denton)**, Eastland, Erath, Haskell, Hood, Jack, Jones, Montague, Palo, Pinto, Parker, Runnels, Shackelford, Somervell, Stephens, Taylor, Throckmorton, Wichita, Wilbarger, Wise, and Young Counties
District 17	**Aldo R. Lopez (El Paso)**	**Steve Fischer (El Paso)**	Brewster, Culberson, El Paso, Hudspeth, Jeff Davis and Presidio Counties

 # - Counties in bold print are ineligible for campaign during the 2020 elections. See State Bar Rules Article IV, Section 5(3)(b), which addresses the issue of succession, and Article I (5), which defines metropolitan areas. Districts 4, 6, 9, 12, and 14 require 100 signatures. District 11 requires 80 signatures and District 17 requires 67 signatures.

EXHIBIT G

COMMISSION FOR LAWYER DISCIPLINE

REPORT

TO THE BOARD OF DIRECTORS
ON
ATTORNEY DISCIPLINE

JANUARY 2020

Disciplinary Sanctions
09/01/2019 - 11/30/2019

DISBARMENTS	District	# of Complaints Resolved
Strong, Staci Jennifer	6	1
Total:	1	1

RESIGNATIONS IN LIEU OF DISCIPLINE	District	# of Complaints Resolved
Brady, James P.	4	2
Norman, Christopher James	8	7
Pearson, Melynda G.	1	17
Total:	3	26

SUSPENSIONS	District	# of Complaints Resolved
Alamia, Richard R.	12	1
Austin, Kelley Lavone	5	1
Brooks, Steven Wayne	6	1
Carter, Kenavon Tramayne	9	1
Cheadle, William Kauper	4	2
Coker, Simeon Olumide	6	1
Exley, Elizabeth A.	4	1
Fiegel, Beauregard Driller	10	1
Gooden, Elijah III	4	2
Guidry, Kerry Michael	4	6
Guzman, Arturo A. "Art"	15	1
Hollis, Barata Roy	6	1
Lambert, L. Bruce	7	1
Lambert, L. Bruce	7	1
Lilly, Curtis	6	1
Marion, W. David	5	3
Markle, Robert Aaron	3	1
Markle, Robert Aaron	3	1
Markle, Robert Aaron	3	1
Markle, Robert Aaron	3	1

Mason, Jonathan Paul	10	1
Massar, Antonius B. "Ton"	6	1
Mattson, Michael Lake	4	1
McDermed, Breccia M.	8	1
McMaster, Douglas Matthew	6	1
Milks, John David	7	1
Munoz, Rodolfo R.	10	1
Murray, Patrick Cameron	16	2
Nance, Jami Kay Shrader	10	4
Quinata, Derek Alfonso	17	1
Rodriguez, Brigida	6	1
Sanchez, Zenaida	11	1
Scaramucci, Brittany Lea	8	1
Seeberger, David M.	6	1
Smith, Robert Ray	9	1
Spagnoletti, Francis I.	4	2
Stanfield, Shanon Keith	9	1
Teeter, Greggory Allen	11	6
Vaughn, Andrew David	1	1
Vaughn, Andrew David	1	1
Vega, Arthur G.	10	1

Board of Disciplinary Appeals:

Taylor, Tallion Kyle	BODA	1
Total:	42	61

PUBLIC REPRIMANDS	District	# of Complaints Resolved
Carter, Kenavon Tramayne	9	1
Chatmon, Jonathan Lee	4	1
Elam, Tyesha Yvette	5	1
King, Jeffery Charles	6	1
Lewis, Thomas Christopher	6	1
Lindsay, David Christian	4	1
Mejias, Carlos Dantes Jr.	4	1

Nnaka, Kenneth Aghadi	4	1
O'Neal, Byron R.	4	1
Pettie, Nemuel E.	7	1
Seeberger, David M.	6	1
Van Cleave, Gregory Thomas	17	1
Van Orman, Mary Elizabeth	3	1
Total:	13	13

PRIVATE REPRIMANDS

Grievance Comm.	# of Sanctions	# of Complaints Resolved
1	2	2
3	3	3
4	1	1
6	5	5
7	5	5
8	2	3
10	4	4
11	1	1
12	5	5
14	3	3
15	3	4
17	2	2
Total:	36	38
Grievance Referral Program	22	22
Grand Total:	117	161

Disciplinary Actions - Current Bar Year

BAR YEARS 2019-2020	Total Sanctions	Total Complaints Resolved
DISBARMENTS	10	10
RESIGNATIONS IN LIEU OF DISCIPLINE	6	33
SUSPENSIONS	77	101
PUBLIC REPRIMANDS	24	24
PRIVATE REPRIMANDS	63	69
GRIEVANCE REFERRAL PROGRAM	39	41
Total:	219	278

*does not reflect year-end figures/summary data includes ytd

Disciplinary Actions - Previous Bar Year

BAR YEARS 2018-2019	Total Sanctions	Total Complaints Resolved
DISBARMENTS	14	38
RESIGNATIONS IN LIEU OF DISCIPLINE	17	89
SUSPENSIONS	152	209
PUBLIC REPRIMANDS	32	39
PRIVATE REPRIMANDS	124	138
GRIEVANCE REFERRAL PROGRAM	74	81
Total:	413	594

BAR YEARS 2017-2018	Total Sanctions	Total Complaints Resolved
DISBARMENTS	21	48
RESIGNATIONS IN LIEU OF DISCIPLINE	23	102
SUSPENSIONS	115	162
PUBLIC REPRIMANDS	25	29
PRIVATE REPRIMANDS	70	74
GRIEVANCE REFERRAL PROGRAM	79	80
Total:	333	495

BAR YEARS 2016-2017	Total Sanctions	Total Complaints Resolved
DISBARMENTS	21	61
RESIGNATIONS IN LIEU OF DISCIPLINE	28	123
SUSPENSIONS	126	182
PUBLIC REPRIMANDS	30	37
PRIVATE REPRIMANDS	90	98
GRIEVANCE REFERRAL PROGRAM	50	50
Total:	345	551

BAR YEARS 2015-2016	Total Sanctions	Total Complaints Resolved
DISBARMENTS	22	61
RESIGNATIONS IN LIEU OF DISCIPLINE	27	146
SUSPENSIONS	132	205
PUBLIC REPRIMANDS	30	33
PRIVATE REPRIMANDS	67	72
GRIEVANCE REFERRAL PROGRAM	47	47
Total:	325	564

BAR YEARS 2014-2015	Total Sanctions	Total Complaints Resolved
DISBARMENTS	27	55
RESIGNATIONS IN LIEU OF DISCIPLINE	19	56
SUSPENSIONS	113	147
PUBLIC REPRIMANDS	32	36
PRIVATE REPRIMANDS	66	72
GRIEVANCE REFERRAL PROGRAM	63	71
Total:	320	437

BAR YEARS 2013-2014	Total Sanctions	Total Complaints Resolved
DISBARMENTS	22	41
RESIGNATIONS IN LIEU OF DISCIPLINE	17	59
SUSPENSIONS	130	169
PUBLIC REPRIMANDS	31	35
PRIVATE REPRIMANDS	63	70
GRIEVANCE REFERRAL PROGRAM	58	58
Total:	321	432

BAR YEARS 2012-2013	Total Sanctions	Total Complaints Resolved
DISBARMENTS	39	51
RESIGNATIONS	24	46
SUSPENSIONS	122	160
PUBLIC REPRIMANDS	37	40
PRIVATE REPRIMANDS	89	91
GRIEVANCE REFERRAL PROGRAM	56	56
Total:	367	444

BAR YEARS 2011-2012	Total Sanctions	Total Complaints Resolved
DISBARMENTS	38	45
RESIGNATIONS	27	87
SUSPENSIONS	137	174
PUBLIC REPRIMANDS	40	41
PRIVATE REPRIMANDS	106	115
GRIEVANCE REFERRAL PROGRAM	54	54
Total:	402	516

BAR YEARS 2010-2011		Total Sanctions	Total Complaints Resolved
	DISBARMENTS	28	52
	RESIGNATIONS	23	101
	SUSPENSIONS	157	254
	PUBLIC REPRIMANDS	40	50
	PRIVATE REPRIMANDS	77	82
	GRIEVANCE REFERRAL PROGRAM	46	46
	Total:	371	584

BAR YEARS 2009-2010		Total Sanctions	Total Complaints Resolved
	DISBARMENTS	25	33
	RESIGNATIONS	22	40
	SUSPENSIONS	111	169
	PUBLIC REPRIMANDS	37	47
	PRIVATE REPRIMANDS	81	89
	GRIEVANCE REFERRAL PROGRAM	39	39
	Total:	315	417

BAR YEARS 2008-2009		Total Sanctions	Total Complaints Resolved
	DISBARMENTS	32	43
	RESIGNATIONS	26	104
	SUSPENSIONS	127	189
	PUBLIC REPRIMANDS	46	54
	PRIVATE REPRIMANDS	68	73
	GRIEVANCE REFERRAL PROGRAM	36	36
	Total:	335	499

BAR YEARS 2007-2008		Total Sanctions	Total Complaints Resolved
DISBARMENTS		24	63
RESIGNATIONS		24	90
SUSPENSIONS		121	224
PUBLIC REPRIMANDS		28	35
PRIVATE REPRIMANDS		69	73
GRIEVANCE REFERRAL PROGRAM		33	33
	Total:	299	518

BAR YEARS 2006-2007		Total Sanctions
DISBARMENTS		30
RESIGNATIONS		31
SUSPENSIONS		110
PUBLIC REPRIMANDS		62
PRIVATE REPRIMANDS		87
	Total:	320

DISTRICT 1:

Pearson, Melynda G.: #00787534
10/01/2019-Resignation in lieu of Discipline

On October 1, 2019, the Supreme Court of Texas accepted the resignation, in lieu of discipline, of **Melynda G. Pearson** [#00787534], 51, of Texarkana. At the time of Pearson's resignation, there were 14 pending matters against her alleging Pearson neglected cases, failed to communicate, failed to return clients' files, failed to return unearned fees, and engaged in conduct involving dishonesty, fraud, deceit or misrepresentation. Pearson also failed to file responses to Complainants' grievances with the State Bar of Texas.

Pearson Violated Rules 1.01(b)(1), 1.03(a), 1.03(b), 1.14(a), 1.14(b), 1.15(d), 3.03(a)(5), 8.04(a)(3), 8.04(a)(7), 8.04(a)(8), and 8.04(a)(11).

Dallas Attorney
09/19/2019-Agreed Private Reprimand

Rule 1.15(d)

> Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payments of fee that has not been earned. The lawyer may retain papers relating to the client to the extent permitted by other law only if such retention will not prejudice the client in the subject matter of the representation.

Dallas Attorney
10/24/2019-Agreed Private Reprimand

Rule 1.01(b)(1)

> In representing a client, a lawyer shall not neglect a legal matter entrusted to the lawyer.

Vaughn, Andrew David: #24056764
09/09/2019-Partially Probated Suspension
03/01/2020-02/28/2021: SUSPENSION
03/01/2021-02/28/2022: PROBATED

On September 9, 2019, **Andrew David Vaughn** [#24056764], 38, of Canton, received a two-year, partially probated suspension, with one year active (March 1, 2020 , through February 28, 2021) and one year probated (March 1, 2021, through February 28, 2022). An evidentiary panel of the District 1 Grievance Committee found that Vaughn neglected the legal matter entrusted to him by failing to complete any legal work on behalf of his client, failing to keep his client reasonably informed about the status of his case, and failing to promptly comply with reasonable requests for information from his client. Vaughn failed to hold funds belonging to his client that was in Vaughn's possession in connection with the representation separate from his own property. Vaughn represented his client while he was actively suspended from the practice of law and failed to notify his client that his license to practice law was suspended.

Vaughn violated Rules 1.01(b)(1), 1.03(a), 1.14(a), 8.04(a)(7), and 8.04(a)(10). He was ordered to pay $1,600.00 in attorneys' fees and $603.00 in direct expenses.

Vaughn, Andrew David: #24056764
09/19/2019-Partially Probated Suspension
10/13/2019-10/12/2020: SUSPENSION
10/13/2020-10/12/2022: PROBATED

On September 19, 2019, **Andrew David Vaughn** [#24056764], 38, of Canton, received a three-year, partially probated suspension, with one year active (October 13, 2019 , through October 12, 2020) and two years probated (October 13, 2020 , through October 12, 2022). An evidentiary panel of the District 1 Grievance Committee found that Vaughn neglected the legal matter entrusted to him, failed to keep his client reasonably informed about the status of her case, and failed to promptly comply with reasonable requests for information from his client. Vaughn failed to surrender papers and property to which his client was entitled. Vaughn represented his client while he was actively suspended from the practice of law and failed to notify his client that his license to practice law was suspended.

Vaughn violated Rules 1.01(b)(1), 1.03(a), 1.15(d), 8.04(a)(7), and 8.04(a)(10). He was ordered to pay $1,980.00 in attorneys' fees and $822.00 in direct expenses.

DISTRICT 3:

Houston Attorney
09/17/2019-Agreed Private Reprimand

Rule 1.02(a)(1)
for failing to abide by a client's decisions concerning the objectives and general methods of representation

Houston Attorney
10/17/2019-Agreed Private Reprimand

Rule 1.03(a)

> a lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information

Markle, Robert Aaron: #24098037
09/04/2019-Default Active Suspension
08/16/2019-08/15/2023: SUSPENSION

On September 4, 2019, **Robert Aaron Markle** [#24098037], 51, of The Woodlands, received a four-year, active suspension, effective August 16, 2019. An evidentiary panel of the District 3 Grievance Committee found that Markle neglected his client's case and frequently failed to carry out completely the obligations he owed to his client. Markle further failed to keep his client reasonably informed about the status of her case, failed to promptly comply with his client's reasonable requests for information, and failed to explain the case to the extent reasonably necessary to permit his client to make informed decisions regarding the representation. Additionally, Markle failed to file a written response to the grievance.

Markle violated Rules 1.01(b)(1), 1.01(b)(2), 1.03(a), 1.03(b), and 8.04(a)(8). He was ordered to pay $2,500.00 in restitution and $1,691.00 in attorneys' fees and direct expenses. Markle has filed a notice of appeal.

Markle, Robert Aaron: #24098037
09/30/2019-Default Partially Probated Suspension
08/16/2019-08/15/2021: SUSPENSION
08/16/2021-08/15/2023: PROBATED

On September 30, 2019, **Robert Aaron Markle** [#24098037], 51, of The Woodlands, received a four-year, partially probated suspension, effective August 16, 2019, with the first two years actively suspended and the remainder probated. An evidentiary panel of the District 3 Grievance Committee found that Markle neglected his client's case and frequently failed to carry out completely the obligations he owed to his client. Markle further failed to keep his client reasonably informed about the status of her case, failed to promptly comply with his client's reasonable requests for information, and failed to explain the case to the extent reasonably necessary to permit his client to make informed decisions regarding the representation. Markle also failed to refund any advance payments of fee that had not been earned. Additionally, Markle failed to file written response to the grievance.

Markle violated Rules 1.01(b)(1), 1.01(b)(2), 1.03(a), 1.03(b), 1.15(d), and 8.04(a)(8). He was ordered to pay $2,500.00 in restitution and $1,691.00 in attorneys' fees and direct expenses. Markle has filed a notice of appeal.

Markle, Robert Aaron: #24098037
09/04/2019-Default Partially Probated Suspension
09/16/2019-08/15/2021: SUSPENSION
08/16/2021-08/15/2023: PROBATED

On September 4, 2019, **Robert Aaron Markle** [#24098037], 51, of The Woodlands, received a four-year, partially probated suspension, effective August 16, 2019, with the first two years actively suspended and the remainder probated. An evidentiary panel of the District 3 Grievance Committee found that Markle neglected his client's case and frequently failed to carry out completely the obligations he owed to his client. Markle further failed to keep his client reasonably informed about the status of his case and failed to promptly comply with his client's reasonable requests for information. Additionally, Markle failed to file written response to the grievance.

Markle violated Rules 1.01(b)(1), 1.01(b)(2), 1.03(a), and 8.04(a)(8). He was ordered to pay $2,404.00 in restitution and $1,597.90 in attorneys' fees and direct expenses. Markle has filed a notice of appeal.

Markle, Robert Aaron: #24098037
09/04/2019-Default Partially Probated Suspension
08/16/2019-08/15/2021: SUSPENSION
08/16/2021-08/15/2023: PROBATED

On September 4, 2019, **Robert Aaron Markle** [#24098037], 51, of The Woodlands, received a four-year, partially probated suspension, effective August 16, 2019, with the first two years actively suspended and the remainder probated. An evidentiary panel of the District 3 Grievance Committee found that Markle neglected his client's case and frequently failed to carry out completely the obligations he owed to his client. Markle further failed to keep his client reasonably informed about the status of his case and failed to promptly comply with his client's reasonable requests for information. Additionally, Markle failed to file written response to the grievance.

Markle violated Rules 1.01(b)(1), 1.01(b)(2), 1.03(a), and 8.04(a)(8). He was ordered to pay $2,500.00 in restitution and $1,672.60 in attorneys' fees and direct expenses. Markle has filed a notice of appeal.

Van Orman, Mary Elizabeth: #00788762
09/17/2019-Agreed Public Reprimand

On September 17, 2019, **Mary Elizabeth Van Orman** [#00788762], 54, of The Woodlands, accepted an agreed judgment of public reprimand. An evidentiary panel of the District 3 Grievance Committee found that Van Orman frequently failed to carry out completely the obligations owed to her client. Van Orman further failed to keep her client reasonably informed about the status of the case and failed to promptly comply with her client's reasonable requests for information. Additionally, Van Orman failed to refund advance payments of fee that had not been earned. Payment was eventually made to the client.

Van Orman violated Rules 1.01(b)(2), 1.03(a), and 1.15(d). Van Orman was ordered to pay $500.00 in attorneys' fees and direct expenses.

Houston Attorney
10/09/2019-Agreed Private Reprimand

Rule 1.01(b)(1)
for neglecting a legal matter entrusted to the lawyer

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

DISTRICT 4:

Brady, James P.: #02847400
11/12/2019-Resignation in lieu of Discipline

On November 12, 2019, the Supreme Court of Texas accepted the resignation, in lieu of discipline, of **James P. Brady** [#02847400], 73, of Houston. At the time of Brady's resignation, he had two pending grievances. In both matters, Brady neglected the legal matters entrusted to him, frequently failed to carry out completely the obligations he owed to his client, and failed to hold funds belonging to his clients that were in his possession in connection with the representation separate from his own property. In addition, upon termination of representation, Brady failed to refund advance payments of fee that had not been earned and failed to timely furnish to the Chief Disciplinary Counsel's office a response or other information as required by the Texas Rules of Disciplinary Procedure.

In one of those two matters, Brady also failed to keep his client reasonably informed about the status of their legal matter and to promptly comply with reasonable requests for information and failed to explain a legal matter to the extent reasonably necessary to permit his client to make informed decisions regarding the representation. Brady violated Rules 1.01(b)(1), 1.01(b)(2), 1.03(a), 1.03(b), 1.14(a), 1.15(d), and 8.04(a)(8).

Chatmon, Jonathan Lee: #24068666
09/11/2019-Agreed Public Reprimand

On September 11, 2019, **Jonathan Lee Chatmon** [#24068666], 36, of Houston, accepted an agreed judgment of public reprimand. An evidentiary panel of the District 4 Grievance Committee found that Chatmon failed to keep his client reasonably informed about the status of her personal injury matter. Additionally, upon Chatmon's receipt of settlement funds, he failed to promptly notify his client and/or her medical providers and, further failed to promptly deliver said settlement funds to his client and/or her medical providers.

Chatmon violated Rules 1.03(a), and 1.14(b). He was ordered to pay $500.00 in attorneys' fees and direct expenses.

Cheadle, William Kauper: #04162950
11/04/2019-Agreed Fully Probated Suspension
11/01/2019-04/30/2022: PROBATED

On November 4, 2019, **William Kauper Cheadle** [#04162950], 62, of Houston, received an agreed judgment of fully probated suspension. An evidentiary panel of the District 4 Grievance Committee found that, while representing one client, Cheadle frequently failed to carry out completely the obligations he owed to his client, failed to keep his client reasonably informed about the status of their legal matter and to promptly comply with reasonable requests for information, and failed to explain a legal matter to the extent reasonably necessary to permit his client to make informed decisions regarding the representation. While representing another client, Cheadle failed to explain a legal matter to the extent reasonably necessary to permit his client to make informed decisions regarding the representation and failed to hold funds belonging in whole or in part to his client that was in his possession in connection with the representation separate from his own property. In addition, upon termination of representation, Cheadle failed to refund advance payments of fee that had not been earned and he engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation.

Cheadle violated Rules 1.01(b)(1), 1.03(a), 1.03(b), 1.14(a), 1.15(d), and 8.04(a)(3). He was ordered to pay $1,500.00 in attorneys' fees and direct expenses.

Exley, Elizabeth A.: #24008031
10/24/2019-Agreed Fully Probated Suspension
11/01/2019-01/29/2020: PROBATED

On October 24, 2019, **Elizabeth A. Exley** [#24008031], 48, of Houston, received a 90-day, fully probated suspension, effective November 1, 2019. The 190th District Court of Harris County found that in 2010, Exley failed to disclose to the defense her willingness to give favorable sentencing recommendations on behalf of two testifying witnesses with pending criminal charges based on their cooperation during a murder trial, in violation of Texas Disciplinary Rule of Professional Conduct 3.09(d). Exley was ordered to pay $1,265.15 in attorneys' fees and direct expenses.

Gooden, Elijah III: #08146400
10/14/2019-Agreed Fully Probated Suspension
11/01/2019-10/31/2022: PROBATED

On October 14, 2019, **Elijah Gooden, III** [#08146400], 58, of Houston, accepted an agreed judgment of a three-year, fully probated suspension, effective November 1, 2019. An evidentiary panel of the District 4 Grievance Committee found that Gooden failed to hold funds belonging in whole or in part to his client in a separate trust account; failed to promptly deliver entitled funds to his client and third persons; failed to keep funds that both he and third persons claimed an interest in, separate until there was an accounting and severance of their interest. During his representation of his client, Gooden engaged in conduct involving dishonesty, fraud, deceit or misrepresentation.

Gooden violated Rules 1.14(a), 1.14(b), 1.14(c), and 8.04(a)(3). He was ordered to pay $1,000.00 in attorneys' fees and direct expenses.

Guidry, Kerry Michael: #24045993
09/11/2019-Agreed Active Suspension
01/01/2020-12/31/2024: SUSPENSION

On September 11, 2019, **Kerry Michael Guidry** [#24045993], 40, of Houston, accepted a five-year, active suspension, effective January 1, 2020. An evidentiary panel of the District 4 Grievance Committee found that Guidry failed to keep his clients reasonably informed about the status of their cases and failed to promptly comply with reasonable requests for information. Guidry also failed to provide his clients with a written statement describing the outcome of the cases. Additionally, Guidry failed to hold funds belonging in whole or in part to clients or third persons in a separate trust account, failed to promptly deliver funds to clients or third persons, and failed to keep funds, in which both he and clients claimed interests, separate. Guidry further engaged in conduct involving dishonesty, fraud, deceit or misrepresentation.

Guidry violated Rules 1.03(a), 1.04(d), 1.14(a), 1.14(b), 1.14(c), and 8.04(a)(3). He agreed to pay $60,000.00 in restitution and $1,500.00 in attorneys' fees and direct expenses.

Lindsay, David Christian: #24092703
11/14/2019-Agreed Public Reprimand

On September 26, 2019, **David C. Lindsay** [#24092703], 31, of Houston, accepted an agreed judgment of public reprimand. An evidentiary panel of the District 4 Grievance Committee found that Lindsay assisted or counseled his client to engage in conduct that Lindsay knew was criminal or fraudulent. Lindsay further failed to hold funds belonging in whole or in part to his client in a separate trust or escrow account. Lindsay violated Rules 1.02(c), and 1.14(a). He was ordered to pay $1,000.00 in attorneys' fees and direct expenses.

UPDATE: On November 14, 2019, an amended agreed judgment of public reprimand was entered to add a deadline for the monitoring of Lindsay's trust account.

Mattson, Michael Lake: #24030007
09/27/2019-Agreed Fully Probated Suspension
10/01/2019-09/30/2020: PROBATED

On September 27, 2019, **Michael Lake Mattson** [#24030007], 49, of Houston, accepted a one-year, fully probated suspension, effective October 1, 2019. An evidentiary panel of the District 4 Grievance Committee found that Mattson failed to keep his client reasonably informed about the status of his legal matter and to promptly comply with reasonable requests for information and failed to withdraw from representing his client when Mattson's psychological condition materially impaired his fitness to represent his client. Mattson violated Rules 1.03(a), and 1.15(a)(2).

Mejias, Carlos Dantes Jr.: #24094841
11/13/2019-Agreed Public Reprimand

On October 7, 2019, **Carlos Dantes Mejias, Jr.** [#24094841], 31, of Houston, accepted an agreed judgment of public reprimand. An evidentiary panel of the District 4 Grievance Committee found that Mejias assisted or counseled his client to engage in conduct that Mejias knew was criminal or fraudulent. Furthermore, Mejias failed to hold funds belonging in whole or in part to his client in a separate trust or escrow account and failed to promptly deliver funds to his client that the client was entitled to receive. Mejias violated Rules 1.02(c), 1.14(a), and 1.14(b). He was ordered to pay $1,000.00 in attorneys' fees and direct expenses.

UPDATE: On November 13, 2019, an amended agreed judgment of public reprimand was entered to add a deadline for the monitoring of Mejias' trust account.

Nnaka, Kenneth Aghadi: #24032796
10/16/2019-Agreed Public Reprimand

On October 16, 2019, **Kenneth Aghadi Nnaka** [#24032796], 50, of Houston, accepted an agreed judgment of public reprimand. An evidentiary panel of the District 4 Grievance Committee found that Nnaka entered into an arrangement for, charged, or collected an unconscionable fee from his client. Nnaka violated Rule 1.04(a). He was ordered to pay $750.00 in attorneys' fees.

O'Neal, Byron R.: #24046546
09/24/2019-Agreed Public Reprimand

On September 24, 2019, **Byron R. O'Neal** [#24046546], 42, of Houston, accepted an agreed judgment of public reprimand. An investigatory panel of the District 4 Grievance Committee found that O'Neal failed to abide by his client's decision and he accepted an offer of settlement without his client's approval; and O'Neal failed to keep his client informed about the status of his case and he did not comply with reasonable requests for information. O'Neal violated Rules 1.02(a), and 1.03. He was ordered to pay $1,140.00 in restitution.

Houston Attorney
11/13/2019-Agreed Private Reprimand

Rule 1.03(a)

for failing to keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information

Rule 1.03(b)

for failing to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation

Spagnoletti, Francis I.: #18869600
09/30/2019-Agreed Partially Probated Suspension
10/01/2019-09/30/2020: SUSPENSION
10/01/2020-09/30/2023: PROBATED

On September 30, 2019, **Francis I. Spagnoletti** [#18869600], 65, of Houston, accepted a four-year, partially probated suspension, effective October 1, 2019, with the first 12 months actively served and the remainder probated. An evidentiary panel of the District 4 Grievance Committee found that in representing certain of his clients, Spagnoletti failed to make reasonable efforts to ensure that the conduct of a nonlawyer at his firm was compatible with his professional obligations, and Spagnoletti permitted the nonlawyer's conduct, that if engaged in by a lawyer, would have been a violation of the Texas Disciplinary Rules of Professional Conduct.

Spagnoletti violated Rules 5.03(a), and 5.03(b)(1). He was ordered to pay $8,722.50 in attorneys' fees and direct expenses.

DISTRICT 5:

Austin, Kelley Lavone: #24042529
10/07/2019-Agreed Fully Probated Suspension
10/21/2019-04/20/2020: PROBATED

On October 7, 2019, **Kelley Lavone Austin** [#24042529], 47, of Sugar Land, accepted a six-month, fully probated suspension. An evidentiary panel of the District 5 Grievance Committee found that Austin failed to promptly deliver to a third person funds that the third person was entitled to receive.

Austin violated Rule 1.14(b). She was ordered to pay $1,000.00 in attorneys' fees.

Elam, Tyesha Yvette: #24026819
09/23/2019-Agreed Public Reprimand

On September 23, 2019, **Tyesha Yvette Elam** [#24026819], 47, of Houston, accepted a judgment of public reprimand. An investigatory panel of the District 5 Grievance Committee found that Elam failed to keep her client reasonably informed about the status of the matter and failed to abide by her client's decisions concerning the objectives and general methods of representation, as well as whether to accept an offer of settlement.

Elam violated Rules 1.02(a)(1), 1.02(a)(2), and 1.03(a). She was ordered to pay $1,000.00 in attorneys' fees.

Marion, W. David: #00792667
09/14/2019-Agreed Fully Probated Suspension
09/01/2019-08/31/2021: PROBATED

On September 14, 2019, **W. David Marion** [#00792667], 52, of Galveston, accepted a two-year, fully probated suspension, effective September 1, 2019. An evidentiary panel of the District 5 Grievance Committee found that, while representing three clients, Marion neglected the legal matters entrusted to him, failed to keep his clients reasonably informed about the status of their legal matters and failed to promptly comply with reasonable requests for information. In addition, upon termination of representation, Marion failed to refund advance payments of fee that had not been earned and failed to timely furnish to the Chief Disciplinary Counsel's office responses or other information as required by the Texas Rules of Disciplinary Procedure. In one of those matters, Marion also failed to explain a legal matter to the extent reasonably necessary to permit his client to make informed decisions regarding the representation.

Marion violated Rules 1.01(b)(1), 1.03(a), 1.03(b), 1.15(d), and 8.04(a)(8). He was ordered to pay $650.00 in attorneys' fees.

DISTRICT 6:

Dallas Attorney
10/29/2019-Agreed Private Reprimand

Rule 1.08(a)

> A lawyer shall not enter into a business transaction with a client unless the transaction and terms on which the lawyer acquires the interest are fair and reasonable to the client and are fully disclosed in a manner which can be reasonably understood by the client; the client is given a reasonable opportunity to seek the advice of independent counsel in the transaction; and the client consents in writing thereto.

Brooks, Steven Wayne: #00793397
10/17/2019-Fully Probated Suspension
10/15/2019-10/14/2021: PROBATED

On October 17, 2019, **Steven Wayne Brooks** [#00793397], 52, of Dallas, received a two-year, fully probated suspension, effective October 15, 2019. An evidentiary panel of the District 6 Grievance Committee found that in May of 2018, Brooks was retained by the complainant to handle a family law matter. Brooks failed to keep the client's fee in a separate trust account. Upon termination of representation, Brooks failed to refund advance payments of the fee that had not been earned.

Brooks violated Rules 1.14(a), and 1.15(d). He was ordered to pay $766.25 in restitution and $747.00 in attorneys' fees and direct expenses.

Coker, Simeon Olumide: #24049013
09/16/2019-Agreed Active Suspension
10/01/2019-09/30/2020: SUSPENSION

On September 16, 2019, **Simeon Olumide Coker** [#24049013], 43, of Dallas, agreed to a 12-month, active suspension, effective October 1, 2019. The District 6 Grievance Committee found that in June 2017, Complainant hired Coker to represent him in a personal injury matter. During Coker's representation of Complainant, Coker misrepresented the status of the matter, including but not limited to, the date he filed the petition in Complainant's matter. Further, in responding to the grievance filed by Complainant, Coker misrepresented facts and was otherwise dishonest with the State Bar of Texas.

Coker violated Rule 8.04(a)(3). He was ordered to pay $850.00 in attorneys' fees and direct expenses.

Dallas Attorney
09/18/2019-Agreed Private Reprimand

Rule 1.01(b)(1)

> In representing a client, a lawyer shall not neglect a legal matter entrusted to the lawyer.

Rule 1.03(a)

> A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

Hollis, Barata Roy: #24057584
11/19/2019-Agreed Fully Probated Suspension
12/01/2019-11/30/2020: PROBATED

On November 19, 2019, **Barata Roy Hollis** [#24057584], 48, of Frisco, received a 12-month, fully probated suspension (December 1, 2019 through November 30, 2020). An investigatory panel of the District 6 Grievance Committee found that Hollis neglected several legal matters entrusted to her by a client. Hollis failed to keep the client reasonably informed about the status of the legal matters, failed to promptly comply with reasonable requests for information from the client, and failed to explain the legal matters to the extent reasonably necessary to permit her client to make informed decisions regarding the representation. Hollis misrepresented the status and/or details of several legal matters to her client.

Hollis violated Rules 1.01(b)(1), 1.03(a), 1.03(b), and 8.04(a)(3). She was ordered to pay $675.00 in attorneys' fees and direct expenses.

King, Jeffery Charles: #24038039
11/04/2019-Agreed Public Reprimand

On November 4, 2019, **Jeffery Charles King** [#24038039], 43, of Dallas, entered into an agreed judgment of public reprimand. An evidentiary panel of the District 6 Grievance Committee found that in December of 2014 the complainant hired King to file an administrative appeal on his behalf. In representing the complainant, King neglected the legal matter entrusted to him by failing to file the administrative appeal. King violated Rule 1.01(b)(1).

Lewis, Thomas Christopher: #24059224
10/07/2019-Agreed Public Reprimand

On October 7, 2019, **Thomas Christopher Lewis** [#24059224], 49, of Dallas, agreed to a public reprimand. The District 6 Grievance Committee found that in October 2016, Lewis was hired to represent Complainant in a guardianship matter pertaining to Complainant's father. Lewis failed to keep Complainant reasonably informed about the status of her legal matter.

Lewis violated Rule 1.03(a). He was ordered to pay attorneys' fees and direct expenses in the sum of $2,000.00.

Lilly, Curtis: #24030063
10/16/2019-Fully Probated Suspension
10/15/2019-07/14/2020: PROBATED

On October 16, 2019, **Curtis Lilly** [#24030063], 47, of Fort Worth, received a nine-month, fully probated suspension, effective October 15, 2019. The District 6 Grievance Committee found that in representing Complainant, Lilly neglected the legal matter entrusted to him by failing to appear at numerous court hearings. Lilly knowingly disobeyed an obligation under a ruling by a tribunal by failing to appear at an October 27, 2017 hearing for which Lilly had been ordered to appear by the presiding judge. On November 2, 2017, Lilly filed a motion to recuse the presiding judge in Complainant's legal matter in which Lilly knowingly made several false statements of material fact to the tribunal. Lilly engaged in conduct involving dishonesty, fraud, deceit or misrepresentation.

Lilly violated Rules 1.01(b)(1), 3.03(a)(1), 3.04(d) and 8.04(a)(3). He was ordered to pay $1,192.50 in attorney's fees and $474.00 in direct expenses

Massar, Antonius B. "Ton": #13164200
09/27/2019-Agreed Fully Probated Suspension
10/01/2019-03/31/2020: PROBATED

On September 27, 2019, **Antonius B. Massar** [#13164200], 63, of Garland, received a six-month, fully probated suspension (October 1, 2019 through March 31, 2020). An investigatory panel of the District 6 Grievance Committee found that Massar, in representing a client, failed to explain the legal matter to the extent reasonably necessary to permit his client to make informed decisions regarding the representation and continued to represent the client when it reasonably appeared to become adversely limited by Massar's own interests. Massar entered into an arrangement for, charged, or collected an unconscionable fee and accepted payment of legal services from an individual on behalf of the client without his client's consent. Massar released discovery to a third party in violation of Article 39.14 of the Texas Code of Criminal Procedure.

Massar violated Rule 1.03(b), 1.04(a), 1.06(b)(2), 1.08(e), and 8.04(a)(12). He was ordered to pay $675.00 in attorneys' fees and direct expenses.

Dallas Attorney
08/13/2019-Agreed Private Reprimand

Rule 4.02(a)

> In representing a client, a lawyer shall not communicate or cause or encourage another to communicate about the subject of the representation with a person, organization or entity of government the lawyer knows to be represented by another lawyer regarding that subject, unless the lawyer has the consent of the other lawyer or is authorized by law to do so.

Rule 4.04(a)

> In representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person, or use methods of obtaining evidence that violate the legal rights of such a person.

Rule 4.04(b)(2)

> A lawyer shall not present, participate in presenting, or threaten to present civil, criminal or disciplinary charges against a complainant, a witness, or a potential witness in a bar disciplinary proceeding solely to prevent participation by the complainant, witness or potential witness therein.

McMaster, Douglas Matthew: #13786020
10/07/2019-Agreed Partially Probated Suspension
08/15/2019-08/14/2023: SUSPENSION
08/14/2023-08/14/2027: PROBATED

On October 7, 2019, **Douglas Matthew McMaster** [#13786020], 56, of Brownsville, agreed to an eight-year, partially probated suspension, effective August 15, 2019, with the first four years actively served and the remainder probated. The District 6 Grievance Committee found that McMaster neglected a client's matter, failed to keep a client reasonably informed, failed to return the unearned portion of a fee and engaged in the practice of law while his law license was suspended.

McMaster violated Rules 1.01(b)(1), 1.03(a), 1.15(d), and 8.04(a)(11), was order to pay $1,050.00 in restitution and $800.00 in attorneys' fees and direct expenses.

Dallas Attorney
11/04/2019-Agreed Private Reprimand

Rule 1.03(a)

> A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

Rule 1.04(c)

> When the lawyer has not regularly represented the client, the basis or rate of the fee shall be communicated to the client, preferably in writing, before or within a reasonable time after commencing the representation.

Rule 1.14(a)

> A lawyer shall hold funds and other property belonging in whole or in part to clients or third persons that are in a lawyer's possession in connection with a representation separate from the lawyer's own property. Such funds shall be kept in a separate account, designated as a trust or escrow account, maintained in the state where the lawyers office is situated, or elsewhere with the consent of the client or third person. Other client property shall be identified as such and appropriately safeguarded. Complete records of such account funds and other property shall be kept by the lawyer and shall be preserved for a period of five years after termination of the representation.

Dallas Attorney
09/18/2019-Agreed Private Reprimand

Rule 1.14(b)

> Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. Except as stated in this Rule or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such property.

Rule 1.15(d)

> Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payments of fee that has not been earned. The lawyer may retain papers relating to the client to the extent permitted by other law only if such retention will not prejudice the client in the subject matter of the representation.

Rule 8.04(a)(8)

> A lawyer shall not fail to timely furnish to the Chief Disciplinary Counsel's Office a response unless he/she in good faith timely asserts a privilege or other legal ground for failure to do so.

Rodriguez, Brigida: #24046743
08/16/2019-Partially Probated Suspension
09/01/2019-05/31/2020: SUSPENSION
06/01/2020-08/31/2021: PROBATED

On August 16, 2019, **Brigida Rodriguez** [#24046743], 64, of Dallas, received a 24-month, partially probated suspension, with nine month active (September 1, 2019, through May 31, 2020) and 15 month probated (June 1, 2020, through August 31, 2021). An evidentiary panel of the District 6 Grievance Committee found that Rodriguez frequently failed to carry out completely the obligations she owed to her client, failed to keep her client reasonably informed about the status of her case, and failed to promptly comply with reasonable requests for information from her client.

Rodriguez failed to respond to the grievance. Rodriguez violated Rules 1.01(b)(2), 1.03(a), and 8.04(a)(8). She was ordered to pay $1,780.00 in attorneys' fees and $645.00 in direct expenses.

Seeberger, David M.: #17979300
09/25/2019-Agreed Public Reprimand

On September 25, 2019, **David M. Seeberger** [#17979300], 63, of Dallas, received an agreed judgment of public reprimand. An evidentiary panel of the District 6 Grievance Committee found that Seeberger's client hired him for an ongoing breach of contract lawsuit. In representing his client, Seeberger neglected the legal matter entrusted to him and failed to keep his client reasonably informed about the status of the case. Seeberger violated Rules 1.01(b)(1), and 1.03(a). He was ordered to pay $2,832.50 in attorneys' fees and direct expenses.

Seeberger, David M.: #17979300
09/25/2019-Agreed Fully Probated Suspension
10/01/2019-09/30/2020: PROBATED

On September 25, 2019, **David M. Seeberger** [#17979300], 63, of Dallas, received an agreed judgment of fully probated suspension, effective October 1, 2019, and ending on September 30, 2020. An evidentiary panel of the District 6 Grievance Committee found that Seeberger was retained by his clients for representation in a civil matter. In representing his clients, Seeberger neglected the legal matter entrusted to him. Seeberger failed to keep his clients reasonably informed about the status of their case, and failed to promptly comply with reasonable requests for information from the clients.

Seeberger violated Rules 1.01(b)(1), and 1.03(a). He was ordered to pay $1,315.00 in attorneys' fees and direct expenses.

Strong, Staci Jennifer: #24037564
09/19/2019-Disbarment

On September 19, 2019, **Staci Jennifer Strong** [#24037564], 46, of McKinney, was disbarred, effective September 13, 2019. The District 1 Grievance Committee found that beginning in 2011, Strong represented her husband in a collection suit filed by The Highlands Bank of Dallas, which resulted in a judgment being entered against Strong's husband. During the course of post-judgment collection efforts by the Bank, Strong engaged in conduct involving dishonesty, fraud, deceit or misrepresentation.

Strong violated Rule 8.04(a)(3). She was ordered to pay $1,262.50 in attorneys' fees and $399.50 in direct expenses.

DISTRICT 7:

Dallas Attorney
10/18/2019-Agreed Private Reprimand

Rule 1.04(a)

> A lawyer shall not enter into an arrangement for, charge, or collect an illegal fee or unconscionable fee. A fee is unconscionable if a competent lawyer could not form a reasonable belief that the fee is reasonable.

Rule 1.15(d)

> Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payments of fee that has not been earned. The lawyer may retain papers relating to the client to the extent permitted by other law only if such retention will not prejudice the client in the subject matter of the representation.

Dallas Attorney
10/24/2019-Agreed Private Reprimand

Rule 5.01(a)

> A lawyer shall be subject to discipline because of another lawyer's violation of these rules of professional conduct if the lawyer is a partner or supervising lawyer and orders encourages, or knowingly permits the conduct involved.

Lambert, L. Bruce: #00792973
09/27/2019-Fully Probated Suspension
09/04/2019-03/03/2020: PROBATED

On September 27, 2019, **L. Bruce Lambert** [#00792973], 63, of Fort Worth, received a six-month, fully probated suspension, effective September 4, 2019. The District 7 Grievance Committee found that in representing Complainant in a divorce case, Lambert neglected the legal matter entrusted to him. Lambert failed to keep Complainant reasonably informed about the status of her legal matter and failed to promptly comply with reasonable requests for information from Complainant. Lambert violated Rules 1.01(b)(1), and 1.03(a). He was ordered to pay $2,000.00 in attorneys' fees and direct expenses.

Lambert, L. Bruce: #00792973
09/27/2019-Fully Probated Suspension
09/04/2019-09/03/2021: PROBATED

On September 27, 2019, **L. Bruce Lambert** [#00792973], 63, of Fort Worth, received a 24-month, fully probated suspension, effective September 4, 2019. The District 7 Grievance Committee found that Lambert failed to timely furnish to the Chief Disciplinary Counsel's office a response or other information as required by the Texas Rules of Disciplinary Procedure. Lambert did not in good faith timely assert a privilege or other legal ground for failure to do so. Lambert violated Rules 8.04(a)(8). He was ordered to pay $3,000.00 in attorneys' fees and direct expenses.

Milks, John David: #24045106
10/29/2019-Agreed Fully Probated Suspension
11/01/2019-01/31/2020: PROBATED

On October 29, 2019, **John David Milks** [#24045106], 41, of Grand Prairie, received a three-month, probated suspension, effective November 1, 2019. An investigatory panel of the District 7 Grievance Committee found that Complainant hired Milks to appeal a civil suit from a Justice of the Peace Court. During the representation, Milks neglected the legal matter, and failed to explain the appeal process to the extent reasonably necessary to permit Complainant to make informed decisions regarding the representation. Milks violated Rules 1.01(b)(1), and 1.03(b). He was ordered to pay $1,500.00 in restitution and $500.00 in attorneys' fees and costs.

Pettie, Nemuel E.: #15858440
10/15/2019-Agreed Public Reprimand

On October 15, 2019, **Nemuel E. Pettie** [#15858440], 64, of Fort Worth, received a public reprimand. An investigatory panel of the District 7 Grievance Committee found that in July of 2014, Complainant hired Pettie for representation in a personal injury matter. Pettie prepared a letter of representation, on or about September 8, 2014, requesting records related to Complainant's personal injury matter. In representing Complainant, Pettie thereafter neglected the legal matter entrusted to him by failing to perform legal work on Complainant's case.

Pettie violated Rule 1.01(b)(1). He was ordered to pay $500.00 in attorneys' fees and direct expenses.

Dallas Attorney
11/22/2019-Agreed Private Reprimand

Rule 1.14(a)

> A lawyer shall hold funds and other property belonging in whole or in part to clients or third persons that are in a lawyer's possession in connection with a representation separate from the lawyer's own property. Such funds shall be kept in a separate account, designated as a "trust" or "escrow" account, maintained in the state where the lawyer's office is situated, or elsewhere with the consent of the client or third person. Other client property shall be identified as such and appropriately safeguarded. Complete records of such account funds and other property shall be kept by the lawyer and shall be preserved for a period of five years after termination of the representation.

Rule 1.15(d)

> Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payments of fee that has not been earned. The lawyer may retain papers relating to the client to the extent permitted by other law only if such retention will not prejudice the client in the subject matter of the representation.

Dallas Attorney
10/24/2019-Agreed Private Reprimand

Rule 1.14(a)

> A lawyer shall hold funds and other property belonging in whole or in part to clients or third persons that are in a lawyer's possession in connection with a representation separate from the lawyer's own property. Such funds shall be kept in a separate account, designated as a "trust" or "escrow" account, maintained in the state where the lawyer's office is situated, or elsewhere with the consent of the client or third person. Other client property shall be identified as such and appropriately safeguarded. Complete records of such account funds and other property shall be kept by the lawyer and shall be preserved for a period of five years after termination of the representation.

Dallas Attorney
10/01/2019-Agreed Private Reprimand

Rule 8.04(a)(8)

> A lawyer shall not fail to timely furnish to the Chief Disciplinary Counsel's office or a district grievance committee a response or other information as required by the Texas Rules of Disciplinary Procedure, unless he or she in good faith timely asserts a privilege or other legal ground for failure to do so.

DISTRICT 8:

McDermed, Breccia M.: #24052206
11/18/2019-Agreed Fully Probated Suspension
12/01/2019-11/30/2021: PROBATED

On November 18, 2019, **Breccia M. McDermed** [#24052206], 43, of Waco, accepted a two-year, fully probated suspension, effective December 1, 2019. An investigatory panel of the District 8 Grievance Committee found that while representing a client in a divorce matter, McDermed failed to timely provide documents to, and communicate with, her client. The panel also found that after McDermed was subsequently terminated by the client, McDermed failed to return the client's file and billed for services after she was terminated. In addition, in her response to Complainant's grievance, McDermed provided the Office of the Chief Disciplinary Counsel with an email purportedly sent to her client with a copy of a pleading in his case. The email was dated December 12, 2019. McDermed submitted her response to the grievance on April 17, 2019, eight months prior to the date of the email.

McDermed violated Rules 1.03(a), 1.15(a)(3), 1.15(d), 8.01(a), and 8.04(a)(3).

Norman, Christopher James: #24060342
10/01/2019-Resignation in lieu of Discipline

On October 1, 2019, the Supreme Court of Texas accepted the resignation, in lieu of discipline, of **Christopher James Norman** [#24060342], 37, of Killeen. At the time of Norman's resignation, nine disciplinary cases were pending against him. In the first case, Complainant filed a complaint against Norman on behalf of his company, Prime Case Funding ("PCF"). Norman contacted PCF purportedly on behalf of a personal injury client who Norman claimed sustained injuries in a 2018 automobile accident. Norman requested a cash advance in exchange for any potential settlement that his alleged client would recover from the accident. In order to secure funds from PCF, Norman provided PCF with documents purporting to be a police report relating to the 2018 accident, an MRI report, a report from an orthopedic medical provider, and an offer of settlement from an insurance carrier. However, these documents were not authentic but taken from a prior accident involving other individuals and altered. Subsequently, the purported client denied being involved in a car accident in 2018, and seeking an advance from PCF. In his response to the complaint, Norman asserted that this purported client requested the legal funding advance. He further falsely claimed that he received a check from this purported client's insurance carrier and repaid the advanced funds. In a second case, Complainant hired Norman in June 2012 to represent her in a wrongful death claim related to the death of her mother. Thereafter, Complainant's five siblings also hired Norman related to the same matter. Norman failed to file any claim against any potential responsible third party or with any responsible party's insurance carrier. Additionally, Norman failed to file a lawsuit

before the expiration of the statute of limitations. In early 2016, Norman represented to the clients that the case had settled when it had not. Even though Norman received no settlement funds in the matter, he distributed funds in various amounts to the clients from his trust account between February 2016 and April 2017. In his communications with the Office of the Chief Disciplinary Counsel, Norman denied advancing funds to any of the clients. A review of Norman's trust account statements indicated that Norman commingled personal and client funds and that the clients were paid from monies not related to their wrongful death claim. There were also several instances of insufficient funds in his trust account. Further, there were multiple deposits of settlement funds into Norman's operating account rather than in his trust account. In a third case, Complainant hired Norman to represent him on a personal injury claim after sustaining injuries in a motor vehicle accident. The case settled for $24,900.00. Norman negotiated with Complainant's medical providers to reduce the amount owed for services rendered to Complainant. Although Norman paid Complainant the amount he was entitled to receive, he failed to pay two of Complainant's medical providers a total of $10,700.00. In a fourth case, Complainant hired Norman to represent him in lawsuit against a rental company in November of 2017. Complainant paid Norman an advanced fee of $1,550.00. Although Norman had Complainant appear for two court dates, when Complainant appeared Norman admitted he had not filed the lawsuit. In the remaining five cases, Norman neglected his clients' legal matters; failed to keep clients reasonably informed about the status of a matter; failed to promptly reply to reasonable requests for information; and further failed to return client files and unearned fees. Norman violated Rules 1.01(b)(1), 1.03(a), 1.14(a), 1.14(b), 1.14(c), 8.01(a), 8.04(a)(2), and 8.04(a)(3).

Austin Attorney
10/07/2019-Agreed Private Reprimand

Rule 1.01(b)(1)
for neglecting a legal matter entrusted to the lawyer

Scaramucci, Brittany Lea: #24061388
10/28/2019-Agreed Fully Probated Suspension
11/01/2019-10/31/2020: PROBATED

On October 28, 2019, **Brittany Lea Scaramucci** [#24061388], 36, of Valley Mills, received a one-year, fully probated suspension. An investigatory panel of the District 8 Grievance Committee found that Complainant hired Scaramucci to represent him in a divorce. In preparing for trial, Complainant agreed to provide a potential witness with a copy of a journal his wife kept regarding her prior marriage. Scaramucci sent the witness a link to Complainant's entire DropBox file, rather than providing only the journal. As a result, the witness had access to Complainant's confidential information, including financial records, credit card numbers, bank account information, and social security numbers. In addition, Complainant gave Scaramucci a check in the amount equal to the parties' 2017 Income Tax Refund. The funds were to be held in trust until the court determined how the refund was to be divided between the parties. However, prior to the final hearing on November 2, 2018, Scaramucci withdrew the funds from her trust account and applied the funds to the attorney fees she claimed Complainant owed her without Complainant's affirmative consent. Complainant terminated Scaramucci on December 4, 2018, and requested Scaramucci return the funds, as his wife had already received her half. Scaramucci failed to return the funds to Complainant. Scaramucci violated Rules 1.05(a), 1.14(b), and 1.14(c) of the Texas Disciplinary Rules of Professional Conduct, Article X, Section 9, State Bar Rules. Scaramucci 1033 was ordered to pay $1,693.00 in restitution and $1,915.41 in attorneys' fees and expenses.

Austin Attorney
10/09/2019-Agreed Private Reprimand

Rule 1.14(b)

for failing, upon receiving funds or other property in which a client or third person has an interest, to promptly notify the client or third person and render a full accounting upon request

Rule 8.04(a)(8)

for failing to timely furnish a district grievance committee a response or other information as required unless he/she timely asserts a privilege or other legal ground for failure to do so

DISTRICT 9:

Carter, Kenavon Tramayne: #24044913
11/07/2019-Agreed Fully Probated Suspension
12/01/2019-11/30/2020: PROBATED

On November 7, 2019, **Kenavon Tramayne Carter** [#24044913], 46, of Austin, accepted a 12-month, fully probated suspension, effective December 1, 2019. An investigatory panel of the District 9 Grievance Committee found that Carter failed to timely return an unearned fee in a criminal matter. Carter also failed to provide the Chief Disciplinary Counsel with a response to the grievance, as required by the Texas Rules of Disciplinary Procedure. Carter violated Rules 1.14(b), and 8.04(a)(8) and was ordered to pay $450.62 in attorneys' fees and direct expenses.

Carter, Kenavon Tramayne: #24044913
11/07/2019-Agreed Public Reprimand

On November 7, 2019, **Kenavon Tramayne Carter** [#24044913], 46, of Austin, accepted a public reprimand. An investigatory panel of the District 9 Grievance Committee found that while representing a client in a criminal matter, Carter failed to explain the matter to the extent reasonably necessary to permit his client to make informed decisions. Carter also failed to provide the Chief Disciplinary Counsel with a response to the grievance, as required by the Texas Rules of Disciplinary Procedure. Carter violated Rules 1.03(b), and 8.04(a)(8) and was ordered to pay $653.52 in attorneys' fees and direct expenses.

Smith, Robert Ray: #18678070
09/24/2019-Agreed Active Suspension
10/11/2019-10/10/2024: SUSPENSION

On September 24, 2019, **Robert Ray Smith** [#18678070], 60, of Georgetown, accepted a five-year, active suspension, beginning October 11, 2019. An evidentiary panel of the District 9 Grievance Committee found that Smith was hired to represent a client to obtain four non-disclosure orders and one expunction order in five criminal cases. Smith guaranteed the client that the cases would be finished within two months. After some time, Smith informed the client that he had not filed anything on her behalf, and needed more time. After nine months, the client went to Smith's office to obtain her case files. At the time, Smith informed her he obtained one non-disclosure order and one expunction order, and provided her with copies of these allegedly file-stamped documents. The next week, the client appeared at

the Travis County Courthouse to obtain certified copies of these orders and learned that the orders provided to her by Smith were fraudulent. Upon further investigation, it was determined that Respondent forged the judge's signatures on both orders and created the fraudulent file stamps. Smith violated Rules 1.01(b)(1), 1.03(a), 8.04(a)(2), and 8.04(a)(3) and was ordered to pay $2,709.27 in attorneys' fees and costs.

Stanfield, Shanon Keith: #24056738
10/28/2019-Agreed Fully Probated Suspension
11/01/2019-01/31/2020: PROBATED

On October 28, 2019, **Shanon Keith Stanfield** [#24056738], 36, of Austin, accepted a three-month, fully probated suspension, effective November 1, 2019. An evidentiary panel of the District 9 Grievance Committee found that while representing a client in a civil litigation matter, Stanfield failed to communicate with his client and failed provide his client with any updates concerning the matter. Stanfield violated Rule 1.03(a) and was ordered to pay $587.50 in attorneys' fees and direct expenses.

DISTRICT 10:

San Antonio Attorney
10/16/2019-Agreed Private Reprimand

Rule 5.01(a)

> A lawyer shall be subject to discipline because of another lawyer's violation of these rules of professional conduct if the lawyer is a partner or supervising lawyer and orders, encourages, or knowingly permits the conduct involved.

Fiegel, Beauregard Driller: #24086782
11/26/2019-Agreed Fully Probated Suspension
01/01/2020-01/01/2023: PROBATED

On November 26, 2019, **Beauregard Driller Fiegel** [#24086782], 34, of San Antonio, accepted a three-year, fully probated suspension, effective January 1, 2020. The District 9 Grievance Committee found that Fiegel neglected a client's matter, failed to keep a client reasonably informed and failed to respond to the grievance. Fiegel violated Rules 1.01(b)(1), 1.03(a), 8.04(a)(8) and was ordered to pay $500.00 in attorneys' fees and direct expenses.

San Antonio Attorney
10/16/2019-Agreed Private Reprimand

Rule 1.15(d)

> for failing, upon termination of representation, to reasonably protect a client's interests, give notice to the client to seek other counsel, surrender papers and property which belong to the client, or refund any advance payments of fees that have not been earned. 7.01(f) - For using a firm name, letterhead, or other professional designation that violates Rule 7.02(a).

Mason, Jonathan Paul: #24089842
10/24/2019-Agreed Fully Probated Suspension
11/15/2019-11/14/2020: PROBATED

On October 24, 2019, **Jonathan Paul Mason** [#03737200], 42, of San Antonio, accepted a 12-month, fully probated suspension, effective November 15, 2019. The District 10 Grievance Committee found that Mason failed to hold client's funds in trust account, failed to deliver client's funds, and failed to take reasonable remedial actions to mitigate the consequences of another lawyer's misconduct. Mason violated Rules 1.14(a)&(b) and 5.01(a)&(b).

Munoz, Rodolfo R.: #14670250
05/24/2019-Partially Probated Suspension
06/01/2019-05/31/2021: SUSPENSION
06/01/2021-05/31/2023: PROBATED

On May 24, 2019, **Rodolfo R. Munoz** [#14670250], 74, of San Antonio, received a four-year, partially probated suspension, effective June 1, 2019, with the first two years actively served and the remainder probated. The 73rd Judicial District Court of Bexar County found that Munoz committed professional misconduct by violating Rule(s) 1.15(a)(3) [failing to withdraw from representation when discharged by the client]; 3.01 [frivolous claim]; 3.02 [taking a position that unreasonably increases the costs or other burdens of the case or that unreasonably delays resolution of the matter]; 3.04(c)(5) [engage in conduct intended to disrupt the proceedings]; 4.04(a) [using means that have no substantial purpose other than to embarrass, delay, or burden a third person].

Nance, Jami Kay Shrader: #24069057
11/02/2019-Agreed Fully Probated Suspension
11/15/2019-11/13/2020: PROBATED

On November 2, 2019, **Jami Kay Shrader Nance** [#24069057], 42, of El Paso, accepted a one-year, fully probated suspension, effective November 15, 2019. The District 10 Grievance Committee found that Nance failed to hold client's funds in trust account, failed to deliver client's funds, and failed to take reasonable remedial actions to mitigate the consequences of another lawyer's misconduct. Nance violated Rules 1.14(a)&(b), and 5.01(a)&(b).

San Antonio Attorney
09/18/2019-Agreed Private Reprimand

Rule 5.01(b)

> The lawyer is a partner in the law firm in which the other lawyer practices, is the general counsel of a government agency's legal department in which the other lawyer is employed, or has direct supervisory authority over the other lawyer, and with knowledge of the other lawyers violation of these rules knowingly fails to take reasonable remedial action to avoid or mitigate the consequences of the other lawyers violation.

San Antonio Attorney
09/03/2019-Agreed Private Reprimand

Rule 1.03(a)

A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

Rule 1.04(d)

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

Vega, Arthur G.: #20533600
08/07/2019-Partially Probated Suspension
09/01/2019-02/29/2020: SUSPENSION
03/01/2020-08/31/2021: PROBATED

On August 7, 2019, **Arthur G. Vega** [#20533600], 67, of San Antonio, received a 24-month, partially probated suspension, effective September 1, 2019, with the first six months actively served and the remainder probated. The District 10 Grievance Committee found that Vega failed to hold client's funds in a trust account, failed to deliver client's funds and, upon termination of the representation, failed to refund the unearned portion of the fee.

Vega violated Rules 1.14(a), (b)&(c), and 1.15(d), and was ordered to pay $11,000.00 in restitution and $7,747.95 in attorneys' fees and direct expenses.

DISTRICT 11:

San Antonio Attorney
10/04/2019-Agreed Private Reprimand

Rule 1.01(a)

for accepting or continuing employment in a legal matter which the lawyer knew or should have known was beyond lawyer's competence

Rule 1.03(b)

for failing to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding representation

Rule 1.15(d)

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

Sanchez, Zenaida: #17573800
10/28/2019-Agreed Fully Probated Suspension
11/15/2019-08/14/2020: PROBATED

On October 28, 2019, **Zenaida Sanchez** [#17573800], 59, of Alice, accepted a nine-month, fully probated suspension, effective November 15, 2019. The District 11 Grievance Committee found that Sanchez failed to respond to a grievance timely. Sanchez violated Rule 8.04(a)(8).

Teeter, Greggory Allen: #24033264
10/31/2019-Agreed Partially Probated Suspension
11/01/2019-04/30/2022: SUSPENSION
05/01/2022-10/31/2024: PROBATED

On October 31, 2019, **Greggory Allen Teeter** [#24033264], 50, of Corpus Christi, agreed to a five-year, partially probated suspension, effective November 1, 2019, with the first 30 months actively served and the remainder probated. The District 11 Grievance Committee found that Teeter neglected client's matters, failed to keep clients reasonably informed, failed to return a client's file, failed to hold funds in trust and separate from his own property, failed to promptly notify and deliver funds to parties entitled to receive funds, failed to abide by a client's decisions and failed to respond to four grievances.

Teeter violated Rules 1.01(b)(1), 1.02(a)(2), 1.03(a), 1.14(a), 1.14(b), 1.14(c), 1.15(d), 8.04(a)(3), and 8.04(a)(8) and was order to pay $4,000.00 in attorneys' fees and direct expenses.

DISTRICT 12:

San Antonio Attorney
09/23/2019-Agreed Private Reprimand

Rule 1.01(b)(1)

> In representing a client, a lawyer shall not neglect a legal matter entrusted to the lawyer.

Rule 1.03(a)

> A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

San Antonio Attorney
08/21/2019-Agreed Private Reprimand

Rule 5.03(b)(1)

> A lawyer shall be in violation if the lawyer orders, encourages, or permits the conduct involved of a non-lawyer to be in violation of the rules of the Texas Disciplinary rules of Professional Conduct.

Alamia, Richard R.: #00964200
09/26/2019-Agreed Fully Probated Suspension
08/01/2020-07/31/2021: PROBATED

On September 26, 2019, **Richard R. Alamia** [#00964200], 72, of Edinburg, accepted a 12-month, fully probated suspension, effective August 1, 2020. The District 12 Grievance Committee found that Alamia failed to keep a client reasonably informed, failed to safeguard client's funds in a trust or escrow account and failed to render a full accounting of client funds.

Alamia violated Rules 1.03(b), and 1.14(a)&(b) and agreed to pay $1,800.00 in restitution.

San Antonio Attorney
10/28/2019-Agreed Private Reprimand

Rule 1.03(a)

> A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

Rule 1.15(a)

> A lawyer shall decline to represent a client or, where representation has commenced, shall withdraw, except as stated in paragraph (c), from the representation of a client.

San Antonio Attorney
10/17/2019-Private Reprimand

Rule 5.03(b)

> With respect to a non-lawyer employed or retained by or associated with a lawyer a lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the persons conduct is compatible with the professional obligations of the lawyer.

San Antonio Attorney
10/17/2019-Agreed Private Reprimand

Rule 5.03 (a)

> A lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the persons conduct is compatible with the professional obligations of the lawyer.

Rule 7.3(a)

> A lawyer shall not by in-person contact, or by regulated telephone or other electronic contact as defined in paragraph (f), seek professional employment concerning a matter arising out of a particular occurrence or event, or series of occurrences or events, from a prospective client or nonclient who has not sought the lawyer's advice regarding employment or with whom the lawyer has no family or past or present attorney-client relationship when a significant motive for the lawyer's doing so is the lawyer's pecuniary gain.

DISTRICT 14:

Dallas Attorney
09/24/2019-Agreed Private Reprimand

Rule 1.03(a)

A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

Rule 5.03(a)

With respect to a nonlawyer employed or retained by or associated with a lawyer a lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer.

Rule 5.03(b)(2)

With respect to a nonlawyer employed or retained by or associated with a lawyer a lawyer shall be subject to discipline for the conduct of such a person that would be a violation of these rules if engaged in by a lawyer if the lawyer is a partner in the law firm in which the person is employed, retained by, or associated with; or is the general counsel of a government agency's legal department in which the person is employed, retained by or associated with; or has direct supervisory authority over such person; and with knowledge of such misconduct by the nonlawyer knowingly fails to take reasonable remedial action to avoid or mitigate the consequences of that person's misconduct.

Dallas Attorney
11/22/2019-Agreed Private Reprimand

Rule 1.06(b)(2)

In other situations and except to the extent permitted by paragraph (c), a lawyer shall not represent a person if the representation of that person reasonably appears to be or become adversely limited by the lawyer's or law firm's responsibilities to another client or to a third person or by the lawyer's or law firm's own interests.

Rule 1.08(h)

A lawyer shall not acquire a proprietary interest in the cause of action or subject matter of litigation the lawyer is conducting for a client, except that the lawyer may acquire a lien granted by law to secure the lawyer's fee or expenses; and contract in a civil case with a client for a contingent fee that is permissible under Rule 1.04.

Dallas Attorney
11/12/2019-Agreed Private Reprimand

Rule 1.14(a)

A lawyer shall hold funds and other property belonging in whole or in part to clients or third persons that are in a lawyer's possession in connection with a representation separate from the lawyer's own property. Such funds shall be kept in a separate account, designated as a "trust" or "escrow" account, maintained in the state where the lawyer's office is situated, or elsewhere with the consent of the client or third person. Other client property shall be identified as such and appropriately safeguarded. Complete records of such account funds and other property shall be kept by the lawyer and shall be preserved for a period of five years after termination of the representation.

Rule 1.14(b)

Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. Except as stated in this rule or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such property.

Rule 1.15(d)

Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payments of fee that has not been earned. The lawyer may retain papers relating to the client to the extent permitted by other law only if such retention will not prejudice the client in the subject matter of the representation**.**

DISTRICT 15:

San Antonio Attorney
10/22/2019-Agreed Private Reprimand

Rule 1.01(b)(1)

In representing a client, a lawyer shall not neglect a legal matter entrusted to the lawyer.

Rule 1.03(a)

A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

San Antonio Attorney
09/25/2019-Agreed Private Reprimand

Rule 1.15(d)

> Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payments of fee that has not been earned. The lawyer may retain papers relating to the client to the extent permitted by other law only if such retention will not prejudice the client in the subject matter of the representation.

Rule 8.04(a)(8)

> A lawyer shall not fail to timely furnish to the Chief Disciplinary Counsel's office or a district grievance committee a response or other information as required by the Texas Rules of Disciplinary Procedure, unless he or she in good faith timely asserts a privilege or other legal ground for failure to do so.

San Antonio Attorney
11/19/2019-Agreed Private Reprimand

Rule 1.01(b)

> In representing a client, a lawyer shall not neglect a legal matter entrusted to the lawyer.

Rule 1.03(a)

> A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

Rule 8.04(a)(8)

> A lawyer shall not fail to timely furnish to the Chief Disciplinary Counsel's office or a district grievance committee a response or other information as required by the Texas Rules of Disciplinary Procedure, unless he or she in good faith timely asserts a privilege or other legal ground for failure to do so.

Guzman, Arturo A. "Art": #08654525
09/26/2019-Fully Probated Suspension
10/01/2019-09/30/2020: PROBATED

On September 26, 2019, **Arturo A. Guzman** [#08654525], 55, of San Marcos, received a one-year, fully probated suspension, effective October 1, 2019. The District 15 Grievance Committee found that Guzman neglected a client's matter, failed to keep client reasonably informed, failed to keep client's funds in a trust or escrow account, failed to respond to lawful demands for information from a disciplinary authority, failed to deliver client's funds, upon termination, failed to refund unearned fees and engaged in conduct involving misrepresentation.

Guzman violated Rules 1.01(b)(1), 1.03(a), 1.14(a)&(b), 1.15(d), 8.01(b), and 8.04(a)(3), and is ordered to pay $753.37 in restitution, and $7,140.57 in attorneys' fees and direct expenses.

DISTRICT 16:

Murray, Patrick Cameron: #24094862
09/09/2019-Agreed Fully Probated Suspension
09/16/2019-09/15/2021: PROBATED

On September 9, 2019, **Patrick Cameron Murray** [#24094862], 32, of Lubbock, agreed to a two-year, fully probated suspension, effective September 16, 2019. The District 16 Grievance Committee Panel found that Murray failed to keep a client reasonably informed and failed to respond to the grievance.

Murray violated Rules 1.03(a), 8.04(a)(8) and was ordered to pay $800.00 in attorneys' fees and direct expenses.

DISTRICT 17:

San Antonio Attorney
10/08/2019-Agreed Private Reprimand

Rule 1.03(b)

> A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

San Antonio Attorney
09/13/2019-Agreed Private Reprimand

Rule 1.04 (a)

> A lawyer shall not enter into an arrangement for, charge, or collect an illegal fee or unconscionable fee. A fee is unconscionable if a competent lawyer could not form a reasonable belief that the fee is reasonable.

Quinata, Derek Alfonso: #24072292
10/17/2019-Agreed Fully Probated Suspension
09/20/2019-09/19/2022: PROBATED

On October 17, 2019, **Derek Alfonso Quinata** [#24072292], 38, of El Paso, agreed to a three-year, fully probated suspension, effective September 20, 2019. The District 17 Grievance Committee found that Quinata failed to respond to the grievance. Quinata violated Rule 8.04(a)(8) and was ordered to pay $400.00 in attorneys' fees and direct expenses.

Van Cleave, Gregory Thomas: #24037881
10/17/2019-Agreed Public Reprimand

On October 17, 2019, **Gregory Thomas Van Cleave** [#24037881], 41, of San Antonio, agreed to a public reprimand. The District 10 Grievance Committee found that Van Cleave neglected a client's matter and failed to keep a client reasonably informed.

Van Cleave violated Rules 1.01(b)(1), 1.03(a) and was ordered to pay $800.00 in attorneys' fees and direct expenses.

BOARD OF DISCIPLINARY APPEALS:

Taylor, Tallion Kyle: #24033263
09/18/2019-Interlocutory Suspension

On September 18, 2019, the Board of Disciplinary Appeals signed an agreed interlocutory order of suspension against Austin, attorney **Tallion Kyle Taylor**, 45, State Bar of Texas Card No. 24033263. On January 31, 2019, Taylor was convicted by a jury of possession of child pornography in three separate judgments, an Intentional Crime as defined in the Texas Rules of Disciplinary Procedure, in the case styled, The State of Texas v. Tallion Kyle Taylor,cause no. 15-2925-K368 in the 368th District Court of Williamson County, Texas. Mr. Brannan was sentenced to prison for 10 years. The sentence suspended and he was placed on community supervision for 10 years for each judgment of conviction. Taylor has appealed his criminal conviction. The Board retains jurisdiction to enter a final judgment when the criminal appeal is final.

Grievance Panel Member Nominations
What You Should Know

- **This is a 1 day per month commitment**
  - Members need to commit to 1 full day/month (it's the same day every month)
  - Members need to be responsive to requests from CDC, especially about attendance
  - Last-minute cancelations and no-shows = no quorum = no hearing
    - CDC has to absorb cost of canceled hearing: cost of renting room; cost of hiring security; travel costs for witnesses, staff, other members
    - Hearing will be pushed off another month or more causing delay in resolution
  - Members with a conflict can ask to serve on another panel (for the year; not month-to-month)
  - Members can be removed for lack of attendance (last resort)

- **Panel members need to commit to reading materials/being prepared**
  - Meeting packets will be sent out a few weeks in advance of the hearing
  - Materials may be voluminous and might require commitment of an evening or a weekend to review
  - It's not a good look to show up not knowing what the case(s) is about
  - Requiring CDC Staff to fully brief the panel/lay out the case before a hearing is time-consuming; causes hearing to go longer than necessary; causes other hearings to be delayed

- **Grievance Committees and Panels need to be more balanced and diverse:**
  - Objections by respondents/their counsel to lack of diversity on panels are on the rise
  - Look for more members in under-represented areas of practice (i.e., immigration, probate, criminal)
  - Look at demographics of District to ensure racial, ethnic, gender diversity on Grievance Committees and Panels
  - Diversity is expressly encouraged in Board of Director's Policy Manual [6.4.2(A)]

- **If a potential nominee is reluctant, move on to someone else who can/will commit to serve**
  - Maybe **now** is not the right time for that person, but next year will be
  - If you are twisting their arm now, it is likely CDC will be pleading with them throughout the year to attend hearings/trials

GRIEVANCE COMMITTEE MEMBER APPOINTMENT GUIDE

- Overview 1
- Eligibility Guidelines 3
- Commonly asked Questions 5
- Timeline for Appointments 7
- Nomination Form 8

1. OVERVIEW

One of your important duties as a Director of the State Bar of Texas is to nominate attorney and public members to Grievance Committees in your District. This packet is designed to guide you through that process by:

(1) Setting out your duties and responsibilities under the Texas Rules of Disciplinary Procedure and Board Policy,

(2) Setting forth the timeline by which your nominations should be completed,

(3) Offering logistical assistance through the Chief Disciplinary Counsel's Regional Office serving your Bar District, and

(4) Providing you with the appropriate forms to make your nominations.

With each Director's consent, the Chief Disciplinary Counsel's Office provides logistical assistance in the administration of committee nomination process. The Chief Disciplinary Counsel's Office is the primary record-keeper for the nomination and appointment of committee members. The Regional Counsel serving your area will notify you of upcoming vacancies in accordance with the enclosed timeline. The Regional Counsel serving your area will notify you of any vacancies that may occur at other times during your term.

The responsibility for the nomination of grievance committee members is solely that of the Directors. However, the Chief Disciplinary Counsel provides a variety of services to assist you in that task. Each potential attorney nomination will be screened for prior attorney discipline. All would-be nominees are asked to consent to a criminal background check.

The Regional Counsel for your District will coordinate with you to assure that the appropriate forms are signed by both Directors and nominees. The Chief Disciplinary Counsel will then forward the nomination to the President for formal appointment, have appointment certificates executed, and send each new member a grievance committee handbook introducing the member to the grievance system. The Regional Counsel will provide a very thorough orientation for new members and training to familiarize new members with the grievance process and applicable rules. If you would like a copy of the grievance committee handbook, please contact the Regional Counsel in your area.

As a member of the Board of Directors, you are prohibited from having or acquiring knowledge about disciplinary matters beyond what is knowable in the public domain. Stated simply, confidentiality extends from the inception of the disciplinary process until either a public sanction is imposed against the respondent lawyer in the evidentiary process or a lawsuit is filed in an open forum, such as a district court or BODA. Even in instances where a Director may have knowledge acquired elsewhere about a disciplinary matter pending at a confidential stage or a matter dismissed as an inquiry, because of the confidentiality rules, the Office of Chief Disciplinary Counsel will be unable to confirm such information or provide any information with regard to confidential

matters.

Both the Chief Disciplinary Counsel and the Commission for Lawyer Discipline periodically report to the Board of Directors regarding the state of the attorney discipline system and annually present for approval a recommended budget for the disciplinary system to the Board as a part of the overall Bar's budget.

ELIGIBILITY FOR GRIEVANCE COMMITTEE MEMBERS

ATTORNEYS:

Any attorney with an active Texas law license in good standing and who has not been convicted of a misdemeanor involving theft, a felony, or a crime involving moral turpitude is eligible for service, provided that he or she resides in or maintains his or her principal place of practice within the District. However, lawyers with prior discipline are usually not nominated. Likewise, lawyers with a history of administrative suspension for non-payment of bar dues or non-compliance with MCLE may not make good candidates. No person may serve as a grievance committee member while he or she is a member of the Board or an active judge subject to Canon 4H of the Code of Judicial Conduct.

PUBLIC MEMBERS:

Any member of the public is eligible to serve on a grievance committee provided he or she meets the following qualifications:

(1) Must be representative of the general public;

(2) Have not been convicted of a misdemeanor involving theft, a felony, or a crime involving moral turpitude;

(3) Is not a member of the State Bar Board of Directors; and

(4) Does not have, other than as a consumer, a financial interest in the practice of law. "Financial interest in the practice of law" is specifically defined in State Bar Board of Directors Policy as:

    (a) the spouse of a lawyer;

    (b) any employee of a lawyer, private law firm, or professional legal corporation;

    (c) any person who acquires the majority of his or her annual gross income from or through a lawyer, law firm, professional legal corporation by way of professional or consultant fees;

(d) the spouse of any person listed in (b) through (c) above.

In making nominations every Director is requested to consider the following goal set out in Board of Directors Policy:

> "It is in the best interest of the public and the lawyers of Texas for the racial, ethnic, and gender makeup of the district grievance committees to fairly represent, as closely as reasonably practicable, the racial, ethnic, and gender makeup of the district they serve. Directors are encouraged to make their district grievance committee appointments so as to continue the fulfillment of this goal and to ensure that lawyer members reflect the various sizes of practice groups."

ALL POTENTIAL NOMINEES:

Each person seeking to serve as a grievance committee member shall, prior to nomination, submit to the Chief Disciplinary Counsel a written consent to the performance of a criminal background check as a prerequisite to nomination.

COMMONLY ASKED QUESTIONS

How will I know how many new committee members to nominate and how many current members could be re-nominated for another term?

Answer: The Regional Counsel serving your district will advise you in February of each year of the number of new members needed for the next term to begin July 1. You may choose to nominate a current member whose term is expiring for another three-year term, if the member is eligible. Members may serve two consecutive three-year terms. Nominations should be submitted to the Regional Counsel who services your region by April 1, utilizing the form included in this manual. Regional Counsel will assist you in the completion of the required forms to implement your nominations.

What information can I obtain about a respondent lawyer or pending grievance case?

Answer: You are not entitled to obtain any information regarding matters dismissed as inquiries, complaints dismissed by summary disposition panels, or disciplinary actions pending before an evidentiary panel. You can get information with respect to any public discipline of an attorney or any lawsuit pending in an open forum, such as a district court or the Board of Disciplinary Appeals.

How do I remove a committee member?

Answer: A committee member who fails or neglects to fulfill the duties of office, including unexcused absences at two or more meeting, may be removed for cause. Rule 4.06(H), Texas Rules of Disciplinary Procedure, provides that the Commission for Lawyer Discipline may recommend removal of a member to the Board of Directors. If a member is no longer eligible because he/she no longer qualifies (either under the TDRP or Board policy) you should notify the President and our office, and the President shall remove the member. Many times a member can be persuaded to resign rather than be removed. Please work with your Regional Counsel to resolve these problems.

What if a committee member becomes ineligible?

Answer: Committee members are requested to notify the Chief Disciplinary Counsel's Office if they become ineligible to serve due to relocation outside the District, change in employment or otherwise. They are given a grievance committee notebook outlining responsibilities and eligibility. An ineligible member should resign the appointment and usually can be persuaded to do so. If an ineligible member refuses to resign, that member can be removed as set out above.

What happens if a grievance is filed against a committee member?

Answer: It is very unlikely that a Director would ever know of such an occurrence because the Director is not privy to that information. By way of information, however, the filing of a grievance does not disqualify an attorney member from service. Any information provided to the Chief Disciplinary Counsel's office about alleged attorney misconduct will proceed in accordance with the protocol as established by the State Bar Act and the Texas Rules of Disciplinary Procedure. If the grievance is classified as a complaint, the committee member will be asked to cease sitting as a grievance committee member until the matter is resolved. The State Bar grievance/discipline process will follow due course.

What is the Director's continuing responsibility with respect to grievance committees in his or district?

Answer: On occasion, a Director may be called upon to assist either district grievance committee chairs or the Chief Disciplinary Counsel in encouraging members to regularly attend called panel meetings. In cases of frequent or habitual absence, a Director may be asked to participate in seeking removal of a grievance committee member.

GRIEVANCE COMMITTEE NOMINATION AND APPOINTMENT TIMELINE

FEBRUARY
Letters to Directors from Regional Counsel informing them of July reappointment eligibility

APRIL
Completed nomination forms due to the CDC Regional Office from Directors

JUNE 1
Deadline for presidential appointments to grievance committees

JULY 1
New grievance committee terms begin

JULY 15
Organizational meeting of the committees should be held by this date. The meeting is called by outgoing chair. At this meeting, the new chair is elected and the oath is given to new and reappointed members. Director(s) may attend this meeting.

GRIEVANCE COMMITTEE MEMBER NOMINEE FORM

1. TO BE COMPLETED BY DISTRICT DIRECTOR:

TERM: 1st____
2nd____
Unexpired_____

I nominate _____ for appointment as a **PUBLIC/ATTORNEY** (circle one) member of the District _____ Grievance Committee.

RESIDING AT:_____
(Street, City, County, and Zip Code)

BUSINESS ADDRESS:_____
(Street, P.O. Box, and/or Building, Suite, City, and Zip Code)

HOME TELEPHONE: (___)_____ BUSINESS TELEPHONE: (___)_____

FAX: (_____)_____ E-MAIL ADDRESS: _____

DATE OF BIRTH:_____ DRIVER LICENSE #:_____

PROPOSED TERM TO BEGIN:_____EXPIRE:_____

_____
DISTRICT DIRECTOR

2. TO BE SIGNED BY ALL NOMINEES:

I have not been convicted of a misdemeanor involving theft, a felony or a crime involving moral turpitude. I am not under indictment or other legal accusation of a misdemeanor involving theft, a felony or a crime involving moral turpitude. I hereby consent to a criminal background check as a prerequisite to my nomination.

I am not currently the subject of a disciplinary proceeding or investigation and am a member in good standing.

I have not served as a member of the grievance committee for two consecutive three-year terms immediately prior to this nomination or three years have passed since my last service.

If appointed, I agree to serve and to actively participate as a member of the State Bar of Texas district grievance committee.

The District Director has explained to me the importance of this position.

I understand that Board Policy prohibits me from counseling or representing any Respondent, Complainant, or any attorney representing any Respondent or Complainant in any disciplinary matter pending or filed while I am serving on the grievance committee.

I understand that Board Policy prohibits me from serving as a grievance committee member while I am a member of the State Bar Board of Directors or while I am serving as an active judge.

I understand that Board Policy prohibits me from sitting on a panel for either a summary disposition hearing or evidentiary hearing if the Respondent or Complainant is represented by a member, associate, employee or shareholder of the law firm or professional corporation of the director who nominated me.

I understand that Board Policy prohibits me from testifying in any capacity in connection with any disciplinary matter pending or filed while I am serving on the grievance committee.

I understand that if I am absent from more than two meetings during the course of a year, I am subject

to removal from office.

I agree to abide by the provisions of the Texas Rules of Disciplinary Procedure, the State Bar Act, and the policies established from time to time by the Board of Directors of the State Bar of Texas relating to grievance committees.

I agree that if at any time during my service I am charged with or indicted for a misdemeanor involving theft, a felony or a crime involving moral turpitude I will immediately notify the Chief Disciplinary Counsel.

_____
NOMINEE

GRIEVANCE COMMITTEE MEMBER NOMINEE FORM FOR:_____
(NAME)

3. TO BE COMPLETED AND SIGNED BY **PUBLIC MEMBER** NOMINEE:

OCCUPATION OR PROFESSION:_____

EMPLOYER:_____

I am not a licensed attorney and, except as a consumer, I have no financial interest in the practice of law. Financial interest includes:

(1) the spouse of a lawyer;

(2) an employee of a lawyer, private law firm, or professional legal corporation;

(3) any person who acquires the majority of his or her annual gross income from or through a lawyer, law firm, or professional legal corporation by way of professional or consultant fees; and

(4) spouse of any person listed in (2) through (3) above.

_____
PUBLIC MEMBER NOMINEE

4. Furnishing the following information is voluntary on the part of the member. We would like to have this data for the purpose of achieving balanced representation in compliance with Board policy as set forth below:

> "The Board of Directors of the State Bar of Texas reaffirms that it is in the best interest of the public and the lawyers of Texas for the racial, ethnic, and gender makeup of the district grievance committees to fairly represent, as closely as reasonably practicable, the racial, ethnic, and gender makeup of the district they serve. Members of the Board are encouraged to make their district grievance committee nominations so that lawyer representatives reflect the various size of practice groups."

GENDER: _____

ETHNICITY: (Please Circle One)

Native American Asian White/Caucasian

African-American/Black Hispanic Other:_____

ATTORNEY NOMINEE: LAW FIRM SIZE (number of attorneys):_____

PRIMARY AREA OF PRACTICE: _____

EXHIBIT H

STATE BAR OF TEXAS - FINANCE DIVISION

Dashboard of Key Financial Trends

General Fund Operating Results for the Six Months Ended November 30, 2019

Chart A contains the State Bar's General Fund Budget to Actual Variance for the financial period. This indicates the overall earnings incurred from current year operations.

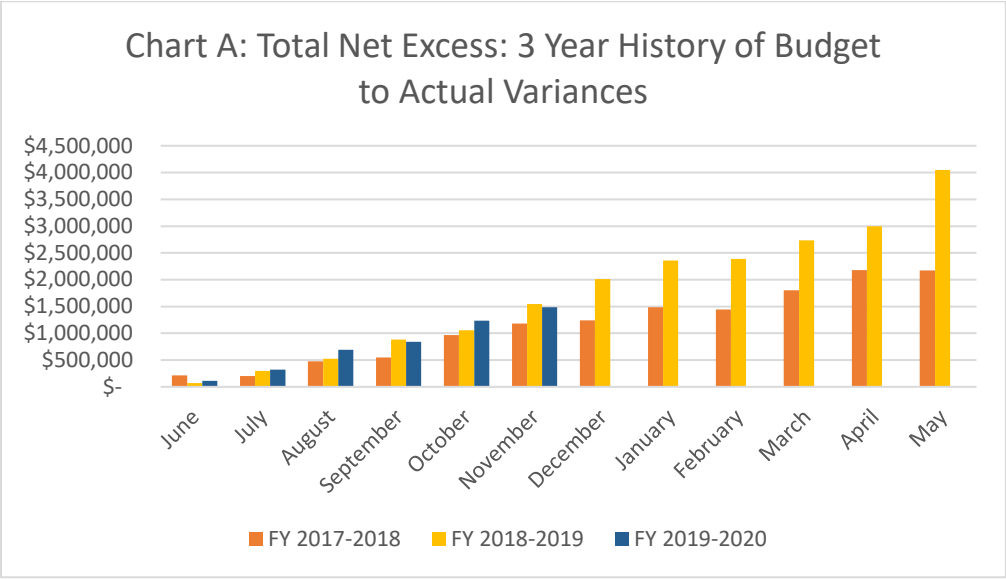


Table 1 contains details of data presented in Chart A above:

Operations of General Fund: Budget to Actual Variances (cumulative)

	FY 2017-2018	FY 2018-2019	FY 2019-2020
June	$ 216,672	$ 70,915	$ 111,071
July	$ 201,736	$ 295,712	$ 322,750
August	$ 477,125	$ 524,480	$ 689,283
September	$ 546,656	$ 885,337	$ 841,894
October	$ 969,094	$ 1,056,344	$ 1,233,358
November	$ 1,178,479	$ 1,546,381	$ 1,485,161
December	$ 1,242,976	$ 2,010,521	
January	$ 1,487,407	$ 2,359,057	
February	$ 1,441,399	$ 2,387,072	
March	$ 1,804,426	$ 2,733,334	
April	$ 2,176,267	$ 2,999,300	
May	$ 2,169,908	$ 4,048,722	

Chart B presents the total Revenues and Expenditures of the State Bar's General Fund over the previous three years.

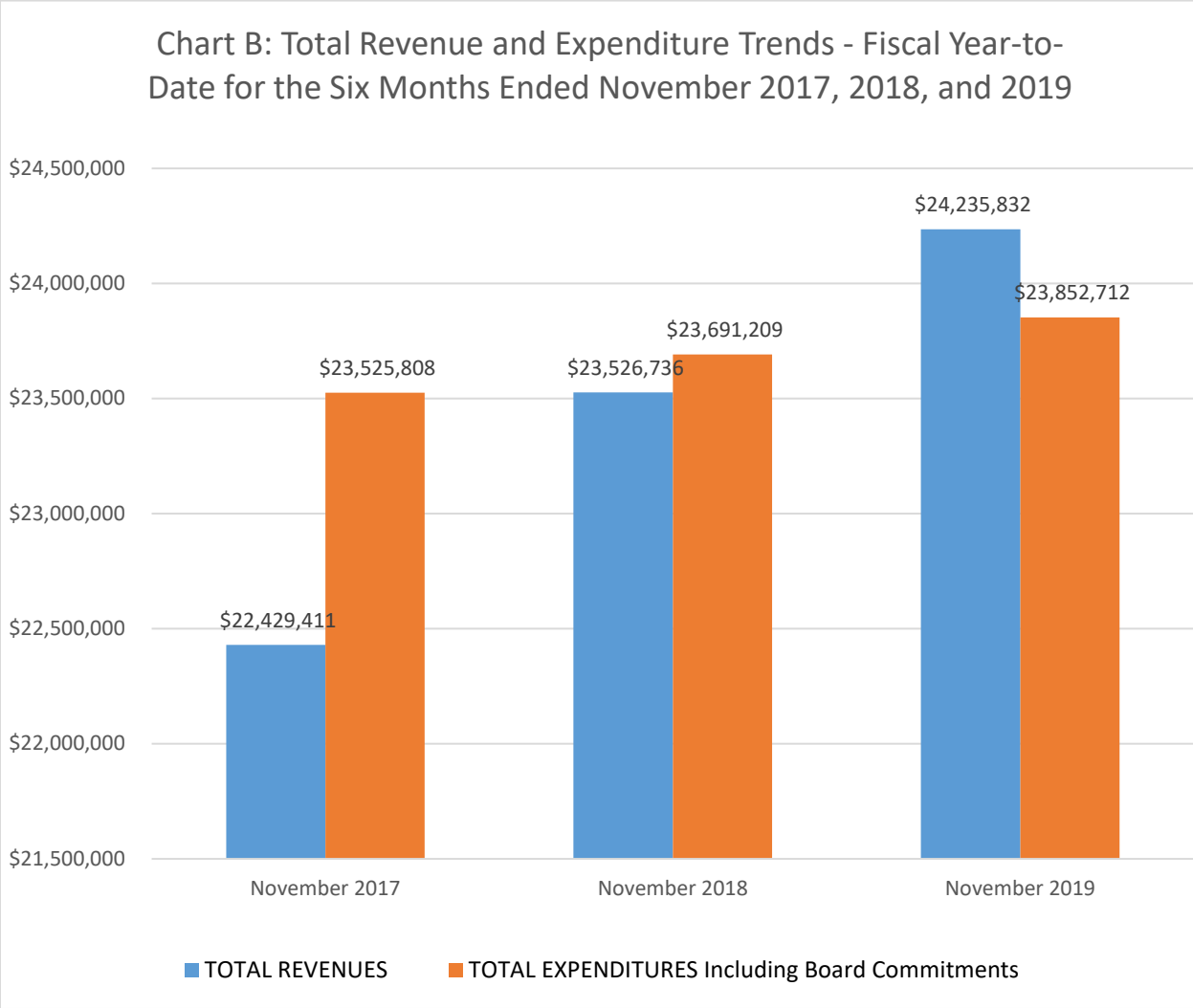


Chart C presents the total revenues by department of the State Bar's General Fund over the previous three years.

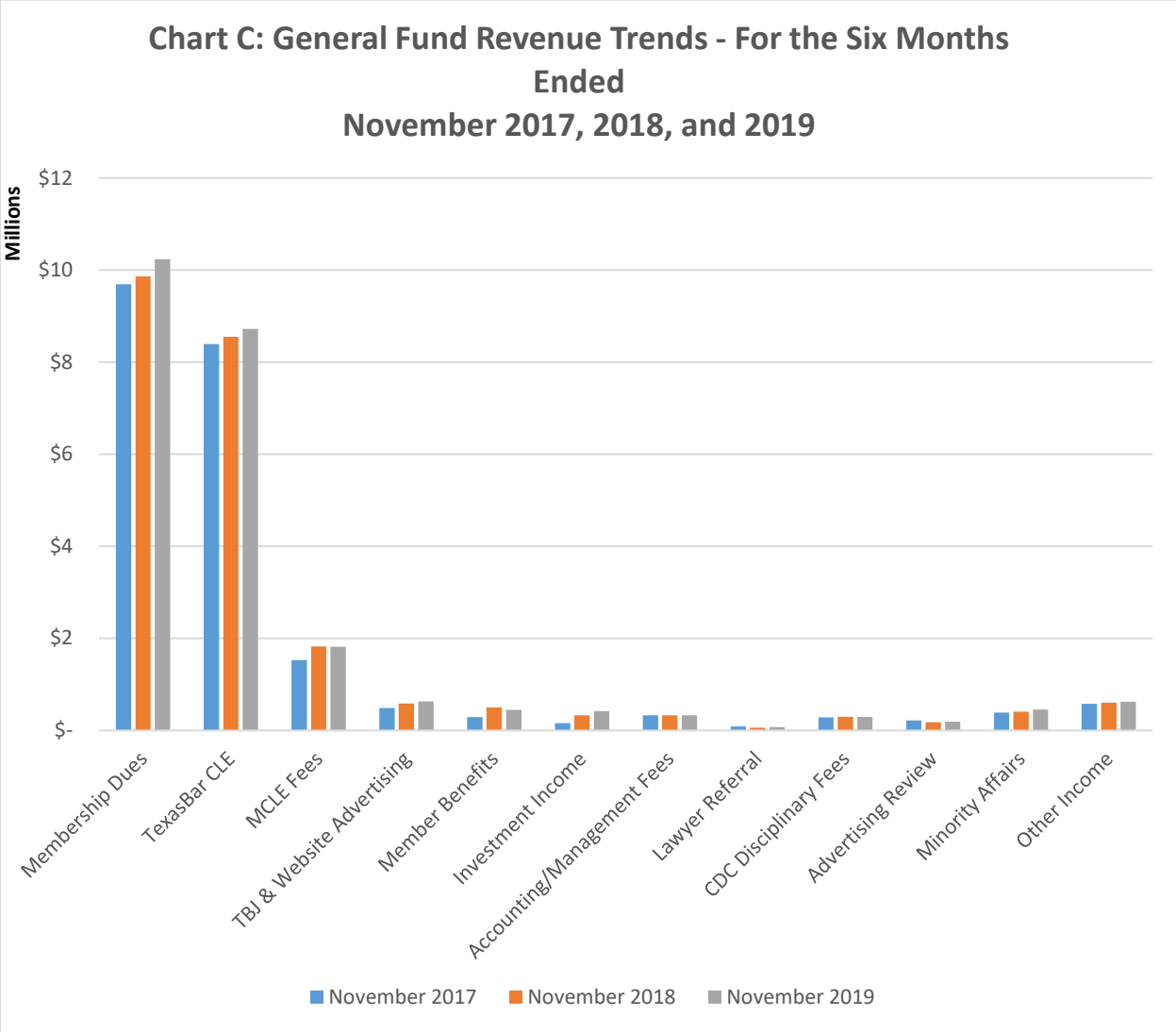
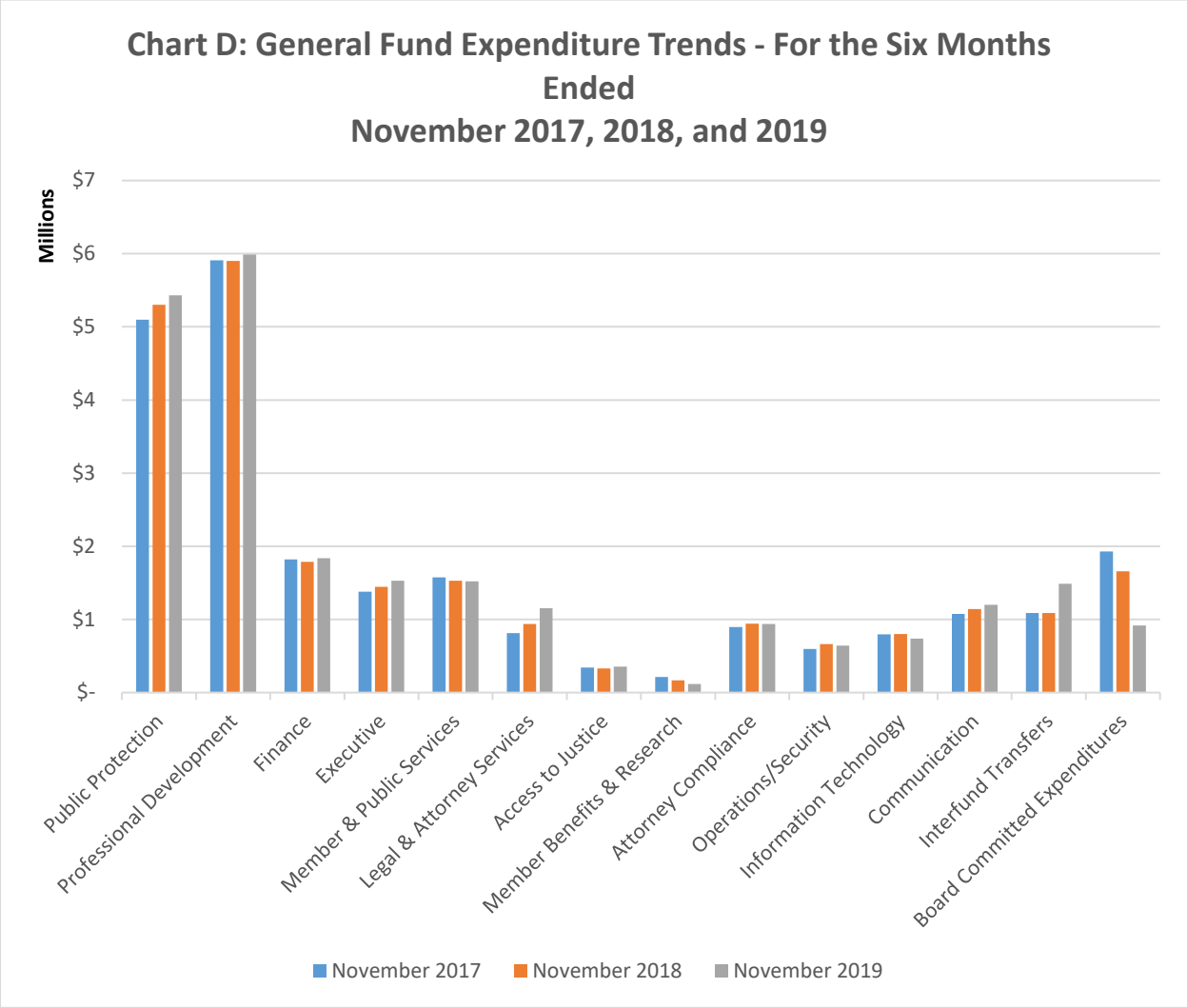


Chart D presents the total revenues by department of the State Bar's General Fund over the previous three years.



State Bar of Texas General Fund
Financial Highlights
For the Six Months Ended November 30, 2019

Total General Fund YTD results – As of November 30, 2019, the General Fund had a net excess of revenues over expenditures and transfers of $1,298,541 compared to a budgeted net loss of ($185,882). This resulted in a positive overall variance of $1,484,423.

	Actual	Budget	Variance	% Variance
Total Revenues	$24,235,833	$22,925,543	$1,310,290	6%
Total Expenditures and Transfers	22,937,292	23,111,425	174,133	1%
Net Excess	**$1,298,541**	**($185,882)**	**$1,484,423**	

Revenues

For the period ending November 30, 2019, total revenues exceeded the budget by $1,310,290 or 6%, thereby producing a positive actual to budget variance. An analysis of the revenues shows that six departments had a positive revenue variance in excess of $100,000 or $10,000 and 10% for the period ending November 30, 2019.

- Member Dues – Total Positive Revenue Variance: $411,913 or 4% - This positive variance results primarily from higher than anticipated dues collection.

- MCLE Department – Total Positive Revenue Variance: $230,052 or 15% - This positive variance results primarily from higher than anticipated number of course accreditation fees.

- Investment Income – Total Positive Revenue Variance: $72,075 or 21% - This positive variance is due to a higher than anticipated yield on the State Bar's investment portfolio for the current fiscal year.

- Office of the Chief Disciplinary Counsel – Total Positive Revenue Variance: $35,593 or 14% - This positive variance results primarily from higher than anticipated attorney fees collected for the Austin, Dallas and Houston offices.

- Minority Affairs – Total Positive Revenue Variance: $112,888 or 33% - This positive revenue variance results from a higher than expected number of sponsorships for the Texas Minority Counsel Program.

- Texas Young Lawyers Association – Total Positive Revenue Variance: $33,840 or 61% from higher than anticipated revenue from the National Trial Competition.

Expenditures

For the period ending November 30, 2019, total expenditures were under the allocated budget by $174,133 or 1%, which resulted in a positive actual to budget variance.

An analysis of the expenditures shows that four departments, Local Bars, Access to Justice Commission, Advertising Review and Information Technology had large positive expenditure variances in excess of $10,000 and 10% in salaries and benefits due to open positions and/or reduction in salary expenses due to replacing long-term employees.

An analysis of expenditures shows that two departments had negative expenditure variances in excess of ($10,000) and (10%) for the period ending November 30, 2019.

- SBOT Volunteer Committees – Total Negative Variance: ($24,118) or (17%) – This negative variance results from an additional unexpected venue cost for the Supreme Court Advisory Committee, as usual venue was not available.

- Minority Affairs – Total Negative Expenditure Variance: ($90,043) or (26%) – This negative variance results from an increase in additional conference expenses which were off-set by additional revenue collected from sponsorship and contributions.

TexasBarCLE (TBCLE)

For the period ending November 30, 2019, TexasBarCLE's net revenues over expenditures amount exceeded its budget target by $652,093 or 26%, thereby producing a negative actual to budget variance.

	Actual	Budget	Variance	% Variance
TBCLE Revenues	$8,724,072	$8,352,655	$371,417	4%
TBCLE Expenditures	5,529,678	5,810,354	280,676	5%
Net TBCLE Income	**$3,194,394**	**$2,542,301**	**$652,093**	**26%**

In comparing TBCLE's performance to previous years, it is appropriate to make two comparisons: (1) compare the current fiscal year 19-20 to the previous fiscal year 18-19; and (2) compare the current fiscal year 19-20 to fiscal year 17-18. Fiscal years ending in odd numbers are considered to be "non-legislative years", in other words, they do not follow a legislative session. Fiscal years ending in even numbers are considered to be "legislative years" because they do follow a legislative session and TBCLE generally sees a surge in revenues following a legislative year. The surge in revenue generally results from legal issues arising during the legislative process; thereby creating a need for new or revised CLE programs.

In comparing actual revenues and expenditure amounts for the period ending November 30, 2019 to the prior period ending November 30, 2018, we see an increase in revenues of $172,146 or

2%, and a decrease in expenditures of ($26,273) or (0%) for an overall increase in net revenues of $145,873 or 5%. This is showing the difference between financial performances based on a comparison to a “non-legislative year”.

In comparing actual revenues and expenditure amounts for the current period ending November 30, 2020, to the period ending November 30, 2018, we see an increase in revenue of $330,549 or 4% and an increase in expenditures of $37,421 or 1% for an overall increase in net revenues of $367,970 or 13%. This is showing the difference between financial performances based on a comparison of two “legislative years.”

Salaries and Benefits

For FY 2019-2020, the salaries and benefits budget totals $24,381,427 or 56.6% of the overall $43,109,214 General Fund budget before budgeted board commitments. The $24,381,427 includes a 4% vacancy rate. The actual vacancy factor for the period ending November 30, 2019 was 3.9%. The actual salary and benefit expenditures had a ($65,310) negative variance to budget at the end of November 2019.

Budget	$12,198,397
Actual	12,263,707
Variance	$ (65,310)

General Fund
Statement of Revenues, Expenditures and Changes in Fund Balance
For the Six Months Ending November 30, 2019

	Annual Budget	YTD Budget	YTD Actual	YTD Variance $ Fav/(Unfav)	YTD Variance % Fav/(Unfav)	YTD Budget Prior Year	YTD Actual Prior Year	YTD Prior Year Variance $ Fav/(Unfav)	YTD Prior Year Variance % Fav/(Unfav)
REVENUES:									
Membership Dues	$20,783,246	$9,822,665	$10,234,578	$411,913	4%	$9,597,842	$9,863,337	$265,495	3%
Accounting/Management Fees	650,351	325,676	325,676			325,676	325,676		
Texas Bar Journal	629,878	292,633	299,859	7,226	2%	301,805	305,543	3,738	1%
Leadership SBOT	10,000	4,998	7,000	2,002	40%	4,998	3,000	(1,998)	(40%)
MCLE Fees	3,257,183	1,586,247	1,816,299	230,052	15%	1,567,127	1,823,801	256,674	16%
TexasBar CLE	13,955,703	8,352,655	8,724,072	371,417	4%	8,181,868	8,551,926	370,058	5%
Investment Income	350,000	350,000	422,075	72,075	21%	185,000	331,579	146,579	79%
Lawyer Referral	190,000	75,000	73,721	(1,279)	(2%)	61,500	61,445	(55)	(0%)
Member Benefits	844,909	433,392	445,933	12,541	3%	491,119	497,382	6,263	1%
CDC Disciplinary Fees	553,240	257,571	293,164	35,593	14%	283,840	293,305	9,465	3%
Membership	14,475	7,200	7,406	206	3%	6,510	8,001	1,491	23%
Local Bars	12,600	12,600	6,700	(5,900)	(47%)	12,500	17,550	5,050	40%
Minority Affairs	350,000	341,500	454,388	112,888	33%	327,000	406,445	79,445	24%
Information Technology Dept.	1,200	600	600			600	600		
Website	405,000	313,250	328,993	15,743	5%	273,250	279,797	6,547	2%
Legal Access Division	23,000	23,000	17,275	(5,725)	(25%)	11,000	16,800	5,800	53%
Law Related Education	9,256	4,250	4,700	450	11%	500	600	100	20%
TYLA	60,000	55,500	89,340	33,840	61%	60,800	90,650	29,850	49%
Law Student Division	6,000	3,900	5,235	1,335	34%	3,900	5,780	1,880	48%
Purchasing & Facilities	46,500	22,430	20,232	(2,198)	(10%)	24,337	23,570	(767)	(3%)
Advertising Review	380,000	186,342	193,750	7,408	4%	181,276	180,395	(881)	(0%)
Miscellaneous, Sales Tax Discounts, Etc.	74,000	37,798	34,286	(3,512)	(9%)	28,398	25,005	(3,393)	(12%)
Credit Card Processing Fees	330,000	330,000	344,215	14,215	4%	290,000	328,215	38,215	13%
Rent	172,673	86,336	86,336			89,720	86,336	(3,384)	(4%)
TOTAL REVENUES	43,109,214	22,925,543	24,235,833	1,310,290	6%	22,310,566	23,526,738	1,216,172	5%
EXPENDITURES									
Executive Division									
Executive Director	670,896	338,247	325,301	12,946	4%	309,507	307,973	1,534	0%
Associate Executive Director/Legal Counsel	661,868	301,955	283,106	18,849	6%	259,309	279,403	(20,094)	(8%)
Deputy Executive Director	226,500	113,698	106,060	7,638	7%	112,977	102,758	10,219	9%
Deputy Executive Director/External Affairs	261,955	130,928	123,496	7,432	6%	137,033	122,484	14,549	11%
Special Financial Advisor	193,491	96,495	97,477	(982)	(1%)	37,500	73,628	(36,128)	(96%)
Officers & Directors	850,117	396,067	422,162	(26,095)	(7%)	403,628	410,622	(6,994)	(2%)
Human Resources	294,760	145,706	144,099	1,607	1%	138,891	142,936	(4,045)	(3%)
Training/Tuition	71,133	23,000	27,690	(4,690)	(20%)	13,000	4,411	8,589	66%
Total Executive Division	3,230,720	1,546,096	1,529,391	16,705	1%	1,411,845	1,444,215	(32,370)	(2%)

	Annual Budget	YTD Budget	YTD Actual	YTD Variance $ Fav/(Unfav)	YTD Variance % Fav/(Unfav)	YTD Budget Prior Year	YTD Actual Prior Year	YTD Prior Year Variance $ Fav/(Unfav)	YTD Prior Year Variance % Fav/(Unfav)
Member & Public Services Division									
Member & Public Services Division Director						59,847		59,847	100%
Center for Legal History	154,037	77,440	78,792	(1,352)	(2%)	76,447	73,182	3,265	4%
Law Related Education	512,851	282,067	270,129	11,938	4%	268,443	246,087	22,356	8%
Governmental Relations	173,238	84,385	79,473	4,912	6%	76,694	73,740	2,954	4%
Texas Young Lawyers Association	1,010,999	445,890	418,522	27,368	6%	463,751	476,618	(12,867)	(3%)
LeadershipSBOT	98,672	60,610	53,882	6,728	11%	54,074	62,604	(8,530)	(16%)
Sections	335,660	169,294	160,801	8,493	5%	160,424	149,367	11,057	7%
Local Bars	455,312	289,938	259,015	30,923	11%	261,067	238,234	22,833	9%
Special Events	73,604	21,396	28,529	(7,133)	(33%)	36,896	40,240	(3,344)	(9%)
Law Student Department	20,266	9,206	5,133	4,073	44%	12,966	9,649	3,317	26%
SBOT Volunteer Committees	280,510	142,882	167,000	(24,118)	(17%)	152,476	159,559	(7,083)	(5%)
Total Member & Public Services Division	3,115,149	1,583,108	1,521,276	61,832	4%	1,623,085	1,529,280	93,805	6%
Legal & Attorney Services Division									
Legal & Attorney Services Division Director	229,745	115,703	111,402	4,301	4%	112,316	109,420	2,896	3%
Texas Lawyers Assistance Program	401,146	201,102	198,942	2,160	1%	227,185	202,010	25,175	11%
Legal Access Division	1,521,608	817,220	844,685	(27,465)	(3%)	651,982	626,597	25,385	4%
Total Legal & Attorney Services Division	2,152,499	1,134,025	1,155,029	(21,004)	(2%)	991,483	938,027	53,456	5%
Access to Justice Commission	840,127	414,937	353,085	61,852	15%	363,756	329,068	34,688	10%
Member Benefits	203,463	25,196	27,090	(1,894)	(8%)	54,749	87,293	(32,544)	(59%)
Research & Analysis	179,700	82,934	91,754	(8,820)	(11%)	78,507	79,497	(990)	(1%)
Professional Development Division									
Texas Bar CLE	9,950,513	5,810,354	5,529,678	280,676	5%	5,799,203	5,503,403	295,800	5%
Minority Affairs	498,601	363,565	459,608	(96,043)	(26%)	333,861	396,614	(62,753)	(19%)
Total Professional Development	10,449,114	6,173,919	5,989,286	184,633	3%	6,133,064	5,900,017	233,047	4%
Attorney Compliance Division									
Office of Attorney Compliance Director	181,703	90,662	93,347	(2,685)	(3%)	88,092	84,622	3,470	4%
Advertising Review	183,126	92,021	72,265	19,756	21%	91,756	91,108	648	1%
Client Attorney Assistance Program	545,835	271,913	273,458	(1,545)	(1%)	272,671	267,811	4,860	2%
Lawyer Referral	361,847	175,096	180,904	(5,808)	(3%)	169,548	176,922	(7,374)	(4%)
MCLE	603,280	307,639	317,493	(9,854)	(3%)	290,123	322,768	(32,645)	(11%)
Total Attorney Compliance Division	1,875,791	937,331	937,467	(136)	(0%)	912,190	943,231	(31,041)	(3%)
Operations/Security Division									
Purchasing & Facilities	1,258,803	626,910	641,345	(14,435)	(2%)	626,028	662,429	(36,401)	(6%)
Total Operations/Security Division	1,258,803	626,910	641,345	(14,435)	(2%)	626,028	662,429	(36,401)	(6%)

	Annual Budget	YTD Budget	YTD Actual	YTD Variance $ Fav/(Unfav)	YTD Variance % Fav/(Unfav)	YTD Budget Prior Year	YTD Actual Prior Year	YTD Prior Year Variance $ Fav/(Unfav)	YTD Prior Year Variance % Fav/(Unfav)
Finance Division									
Accounting	946,709	475,565	515,809	(40,244)	(8%)	471,341	484,317	(12,976)	(3%)
Membership	706,016	280,498	259,096	21,402	8%	340,668	315,044	25,624	8%
Other Administrative	1,836,698	984,053	1,063,372	(79,319)	(8%)	957,373	987,150	(29,777)	(3%)
Total Finance Division	3,489,423	1,740,116	1,838,277	(98,161)	(6%)	1,769,382	1,786,511	(17,129)	(1%)
Information Technology Division									
Information Technology	1,317,699	599,851	538,487	61,364	10%	651,726	606,206	45,520	7%
Customer Service	376,826	191,485	197,415	(5,930)	(3%)	184,689	195,858	(11,169)	(6%)
Total Information Technology Division	1,694,525	791,336	735,902	55,434	7%	836,415	802,064	34,351	4%
Communications Division									
Office of Communications Director	254,629	135,502	134,665	837	1%	133,914	127,639	6,275	5%
Bar Journal	1,212,173	658,462	633,457	25,005	4%	598,565	609,109	(10,544)	(2%)
Printing	136,797	70,026	61,491	8,535	12%	84,696	65,299	19,397	23%
Graphics	163,177	80,591	85,220	(4,629)	(6%)	80,174	85,715	(5,541)	(7%)
Public Information	155,636	81,818	80,649	1,169	1%	72,128	63,862	8,266	11%
Web Management	412,484	205,442	202,502	2,940	1%	176,701	189,386	(12,685)	(7%)
Total Communications Division	2,334,896	1,231,841	1,197,984	33,857	3%	1,146,178	1,141,010	5,168	0%
Public Protection Division									
Chief Disciplinary Counsel	9,942,758	4,940,638	5,050,635	(109,997)	(2%)	4,869,354	4,885,918	(16,564)	(0%)
Grievance Oversight Committee	48,800	24,295	27,324	(3,029)	(12%)	24,295	17,253	7,042	29%
Unauthorized Practice of Law	170,000	54,175	45,736	8,439	16%	83,495	90,789	(7,294)	(9%)
Professional Ethics Commission	12,000	4,198	8,881	(4,683)	(112%)	3,909	5,466	(1,557)	(40%)
Board of Disciplinary Appeals	622,646	311,570	298,030	13,540	4%	309,916	303,570	6,346	2%
Total Public Protection Division	10,796,204	5,334,876	5,430,606	(95,730)	(2%)	5,290,969	5,302,996	(12,027)	(0%)
TOTAL EXPENDITURES	41,620,414	21,622,625	21,448,492	174,133	1%	21,237,651	20,945,638	292,013	1%
Transfers to:									
Bldg & Equip Fund	288,800	288,800	288,800			288,800	288,800		
Technology Fund	500,000	500,000	500,000			500,000	500,000		
Client Security Fund	700,000	700,000	700,000			300,000	300,000		
TOTAL TRANSFERS	1,488,800	1,488,800	1,488,800			1,088,800	1,088,800		
TOTAL EXPENDITURES & TRANSFERS	43,109,214	23,111,425	22,937,292	174,133	1%	22,326,451	22,034,438	292,013	1%
Excess (Deficit) of Revenues Over Expenditures & Transfers		(185,882)	1,298,541	1,484,423	799%	(15,885)	1,492,300	1,508,185	9494%

	Annual Budget	YTD Budget	YTD Actual	YTD Variance $ Fav/(Unfav)	YTD Variance % Fav/(Unfav)	YTD Budget Prior Year	YTD Actual Prior Year	YTD Prior Year Variance $ Fav/(Unfav)	YTD Prior Year Variance % Fav/(Unfav)
BOARD COMMITMENTS									
Board Commitment - SLRAP	515,000	515,000	515,000			350,000	350,000		
Board Commitment - Client Security Fund						800,000	800,000		
Board Commitment - Technology Fund	150,000	150,000	150,000						
Board Commitment - Texas Opportunity & Justice Incubator Program	571,088	62,466	62,466			86,536	86,536		
Board Commitment - Presidential Initiatives	126,641	8,753	8,753			23,616	23,616		
Board Commitment - Statewide Pro Bono Campaign	148,161	1,186	1,186			5,536	5,536		
Board Commitment - LAD 2018 Board Commitments	44,251	15,638	15,638			316,400	316,400		
Board Commitment - Rules Vote Reserve	100,000								
Board Commitment - Run-Off Election Reserve	70,000								
Board Commitment - Ethics Initiatives	11,943	136	136			185	185		
Board Commitment - Document Preservation						50,000	50,000		
Board Commitment - Archives Digitization Project	75,500	12,000	12,000			24,500	24,500		
Board Commitment - LRE Website Project	79,500	50,245	50,245						
Board Commitment - Texas Law Center Renovations	100,000	100,000	100,000						
TOTAL BOARD COMMITMENTS	1,992,084	915,424	915,424			1,656,773	1,656,773		
TOTAL YTD INCREASE (REDUCTION) IN FUND BALANCE	(1,992,084)	(1,101,306)	383,117	1,484,423	135%	(1,672,658)	(164,473)	1,508,185	90%

State Bar of Texas
General Fund
Balance Sheet
As of November 30, 2019

Assets		
Cash & Money Market Funds		$9,028,506
Investments	20,300,854	
Adjust Investments to Market	79,929	
Investments at Fair Market Value		20,380,783
Accounts Receivable:		
Sales	69,954	
Less Allowance for Doubtful Accounts	(3,498)	
Net Accounts Receivable - Sales		66,456
Accrued Interest		79,929
Interfund		1,723,618
Other		149,946
Inventory		11,313
Prepaid Expenditures		592,796
Total Assets		32,033,347
Liabilities and Fund Equity		
Liabilities		
Accounts Payable:		
Cash - A/P		
Trade		730,776
Interfund		2,079,472
Accrued Liabilities		299,925
Deferred Revenue -		
Membership Dues		10,393,015
Other		349,036
Other Liabilities		48,130
Total Liabilities		13,900,354

Fund Balances

Nonspendable - Prepaids at May 31, 2019	$ 847,384	
Nonspendable - Inventory at May 31, 2019	12,070	
Nonspendable - Investments FMV Adjustment at May 31, 2019	59,630	
Board Committed - Minimum Reserve January 2019	11,059,004	
Board Committed - Technology Fund	150,000	
Board Committed - Texas Opportunity and Justice Incubator Program	571,088	
Board Committed - Presidental Initiatives	126,641	
Board Committed - Statewide Pro Bono Campaign	148,161	
Board Committed - Legal Access Division Programs	44,251	
Board Committed - Ethics Initiatives	11,943	
Board Committed - Archives Digitization Project	75,500	
Board Committed - Law Focused Education Programs	79,500	
Board Committed - Texas Law Center Renovations	100,000	
Board Committed - Student Loan Repayment Assistance Program	515,000	
Board Committed - Run-off Election Reserve	70,000	
Board Committed - Referendum Reserve	100,000	
Amount Available for Board Commitment: FY 2018-2019	3,779,705	
Total Fund Balance at May 31, 2019		$ 17,749,877
Current Year Operations		
Nonspendable - Prepaids at November 31, 2019	(254,588)	
Nonspendable - Inventory at November 31, 2019	(757)	
Nonspendable - Investments FMV Adjustment at November 31, 2019	20,299	
Board Committed Expenditures - Student Loan Repayment Assistance Progra	(515,000)	
Board Committed Expenditures - Technology Fund	(150,000)	
Board Committed Expenditures - Texas Opportunity & Justice Incubator Prog	(62,466)	
Board Committed Expenditures - Presidential Initiatives	(8,753)	
Board Committed Expenditures - Statewide Pro Bono Campaign	(1,186)	
Board Committed Expenditures - Legal Access Division Initiatives	(15,638)	
Board Committed Expenditures - Ethics Initiative	(136)	
Board Committed Expenditures - Archives Digitization Project	(12,000)	
Board Committed Expenditures - LRE Programs	(50,245)	
Board Committed Expenditures - Texas Law Center Renovations	(100,000)	
Amount Available for Board Commitment from Current Year Operations	1,533,586	
Total Current Year Increase (Reduction) in Fund Balance		$ 383,116
Total Fund Balance		$ 18,132,993
Total Liabilities and Fund Balance		$ 32,033,347

State Bar of Texas
Client Security Fund
Statement of Revenues & Expenditures
For the Six Months Ending November 30, 2019

Revenues:	
Interest	$29,999
Restitution/Other Income	2,760
Total Revenues	32,759
Expenditures:	
Claims	167,614
Banking Fees	100
Total Expenditures	167,714
Excess (Deficit) of Revenue Over Expenditures	(134,955)
General Fund Operating Transfer In	700,000
Total Transfers In from General Fund	700,000
Net Increase (Decrease) in the Fair Value of Investments	3,920
Net after Operating Transfer & Unrealized Net Gain (Loss)	568,965

State Bar of Texas
Client Security Fund
Balance Sheet
As of November 30, 2019

Assets			
Cash & Money Market Accts.		$	1,213,965
Investments			1,836,844
Adjust Investments to Market			3,809
Interest Receivable			12,756
Total Assets			3,067,374
Liabilities:			
Due To (From) General Fund			(110,136)
Total Liabilities			(110,136)
Fund Balance			
Beginning Fund Balance	2,608,546		
Current Year Actvity	568,965		
Total Fund Balance			3,177,511
Total Liabilities and Fund Balance		$	3,067,375

State Bar of Texas
Texas Bar Books
Statement of Revenues and Expenses
For the Six Months Ending November 30, 2019

	Y-T-D Budget	Y-T-D Actual	Budget %	2019-2020 Budget
Revenues:				
Book Sales Net of Estimated Returns	$514,586	$564,967	(10%)	$1,975,650
Online Sales	252,843	243,859	4%	505,686
Total Sales	767,429	808,826	(5%)	2,481,336
Fees	3,975	11,197	(182%)	18,000
Interest	4,500	6,806	(51%)	9,000
Royalty	605,500	605,835	(0%)	1,226,000
Other Revenue	26,522	0	100%	101,826
Total Revenues	1,407,926	1,432,664	(2%)	3,836,162
Cost of Goods Sold:				
Finished Products	105,490	77,794	26%	405,008
Royalties	28,739	30,066	(5%)	141,388
Other	27,000	13,192	51%	100,000
Total Cost of Goods Sold	161,229	121,052	25%	646,396
Operating Expenses:				
Salaries	668,381	698,048	(4%)	1,336,761
Benefits	225,653	210,063	7%	451,306
Travel	29,000	23,399	19%	46,450
Meetings & Conferences	900	1,482	(65%)	1,800
Professional Services	30,506	32,742	(7%)	74,926
Publicity/Advertising	7,500	873	88%	15,000
Publicity/Advertising for Specific Titles	23,000	15,642	32%	44,000
Dues/Subscriptions/Licenses	28,447	26,959	5%	53,576
Education/Training	7,856	9,635	(23%)	13,430
Supplies/Awards/Gifts/Spec. Items	9,702	15,624	(61%)	23,001
Rentals - Office, Equipment, Storage	83,994	79,491	5%	167,988
Maintenance/Repair	16,050	12,750	21%	32,100
Postage and Freight	44,940	43,990	2%	170,330
Telephone	2,750	1,502	45%	5,500
Insurance	3,000	3,407	(14%)	6,000
Administrative Fee	275,228	271,274	1%	550,456
Bad Debts	16,724	(8,519)	151%	64,209
Capital Lease Expense	9,800	0	100%	9,800
Printing	0	208	0%	0
Copying	270	791	(193%)	540
Total Operating Expenses	1,483,701	1,439,361	3%	3,067,173
Total Expenses	1,644,930	1,560,413	5%	3,713,569
Net Income/(Loss)	(237,004)	(127,749)	46%	122,593

State Bar of Texas
Texas Bar Books
Statement of Net Position
As of November 30, 2019

Assets		
Accounts Receivable :		
Sales	$253,475	
Less Allowance for Doubtful Accounts	(12,674)	
Less Allowance for Refunds	(2,021)	
Net Accounts Receivable - Sales		238,780
Interfund Receivable - General Fund		699,756
Inventory		
Inventory - Finished Goods	554,155	
Inventory - Work in Process	160,471	
Less Inventory - Reserve	(132,602)	
Total Inventory Less Reserves		582,024
Intangible Assets:		
Fixed Assets:		
Furniture/Equipment	353,637	
Less Accumulated Depreciation	(318,315)	
Net Fixed Assets		35,322
Total Assets		**1,555,882**
Liabilities and Net Position		
Liabilities		
Payables		9,407
Compensable Leave		97,422
Total Liabilities		106,829
Net Position		
Total Net Position at May 31, 2019	1,576,802	
Current Year Operations	(127,749)	
Total Net Position at November 30, 2019		1,449,053
Total Liabilities and Net Position		**1,555,882**

State Bar of Texas
Combining Statement of Revenue & Expenditures
And Changes in Fund Balance
All Special Revenue Funds
For the Six Months Ending November 30, 2019

	Law Focused Grants	TBLS	Convention Fund	Texas Law Center	Texas Bar College	Technology Fund	Misc Grant Fund	Total
Revenues:								
Fees		$145,800	$242,465		$227,736			$616,001
Sales			30,201		2,894			33,095
Investments	36	22,366	4,286	58,383	2,504			87,575
Grants	253,730						106,400	360,130
Contributions			261,900		6,300		3,117	271,317
Other Revenue		22,605						22,605
Total Revenues	**253,766**	**190,771**	**538,852**	**58,383**	**239,434**		**109,517**	**1,390,723**
Expenditures:								
Salaries	57	228,643			32,350			261,050
Benefits	5	80,616			11,511			92,132
Salaries & Wages - Temporary			(10)					(10)
Travel	56,255	11,642	11,858		31,766			111,521
Meetings & Conferences	20,640	33,468	419,131		12,764			486,003
Professional Services	88,233	48,098	7,847	230	3,359			147,767
Publicity/Advertising		33,865	29,000		3,809			66,674
Dues/Subscriptions/Licenses	1,027	850	15		931			2,823
Supplies/Awards/Gifts/Spec. Items	24,418	15,885	11,219	6,981	6,386	172		65,061
Rentals - Office, Equipment, Storage		50,301			1,447			51,748
Maintenance/Repair						255,562		255,562
Postage and Freight	3,012	1,481	18		1,305			5,816
Telephone		19,494			366			19,860
Administrative	2,112	38,300	7,700		18,857			66,969
Fixed Assets		4,524		78,668		312,904		396,096
Printing and Copying	1,007	6,035	17,593		3,488			28,123
Total Expenditures	**196,766**	**573,202**	**504,371**	**85,879**	**128,339**	**568,638**		**2,057,195**
Transfer (In) / Out				**(388,800)**		**(650,000)**		**(1,038,800)**
Total Expenditures & Transfers	**196,766**	**573,202**	**504,371**	**(302,921)**	**128,339**	**(81,362)**		**1,018,395**
Net Increase (Decrease) in the Fair Value of Investments				**10,523**				**10,523**
Total Revenues less Expenditures	**57,000**	**(382,431)**	**34,481**	**371,827**	**111,095**	**81,362**	**109,517**	**382,851**
Beginning Fund Balance at 6/1/19	**0**	**2,114,855**	**345,163**	**4,049,468**	**192,380**	**789,312**	**0**	**7,491,178**
Ending Fund Balance at 11/30/19	**$57,000**	**$1,732,424**	**$379,644**	**$4,421,295**	**$303,475**	**$870,674**	**$109,517**	**$7,874,029**

State Bar of Texas

(A Component Unit of the State of Texas)

Report to the Board of Directors
December 17, 2019

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December 17, 2019

To the Board of Directors
State Bar of Texas
Austin, Texas

We are pleased to present this report related to our audit of the basic financial statements of the State Bar of Texas (the State Bar), a component unit of the State of Texas, as of and for the year ended May 31, 2019. This report summarizes certain matters required by professional standards to be communicated to you in your oversight responsibility for the State Bar's financial reporting process.

This report is intended solely for the information and use of the Board of Directors and management and is not intended to be, and should not be, used by anyone other than these specified parties. It will be our pleasure to respond to any questions you have about this report. We appreciate the opportunity to continue to be of service to the State Bar of Texas.

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Exhibit A—Letter communicating material weaknesses and a significant deficiency in internal control over financial reporting

Exhibit B—Significant written communication between management and our firm

Representation letter

Required Communications

Generally accepted auditing standards (AU-C 260, *The Auditor's Communication With Those Charged With Governance*) require the auditor to promote effective two-way communication between the auditor and those charged with governance. Consistent with this requirement, the following summarizes our responsibilities regarding the financial statement audit, as well as observations arising from our audit that are significant and relevant to your responsibility to oversee the financial reporting process.

Area	Comments
Our Responsibilities With Regard to the Financial Statement Audit	Our responsibilities under auditing standards generally accepted in the United States of America have been described to you in our arrangement letter dated May 13, 2019. Our audit of the financial statements does not relieve management or those charged with governance of their responsibilities, which are also described in that letter.
Overview of the Planned Scope and Timing of the Financial Statement Audit	We have issued a separate communication, dated May 13, 2019, regarding the planned scope and timing of our audit and identified significant risks.
Accounting Policies and Practices	**Preferability of Accounting Policies and Practices** Under accounting principles generally accepted in the United States of America, in certain circumstances, management may select among alternative accounting practices. In our view, in such circumstances, management has selected the preferable accounting practice. **Adoption of, or Change in, Accounting Policies** Management has the ultimate responsibility for the appropriateness of the accounting policies used by the State Bar. A summary of significant accounting policies adopted by the State Bar is included in Note 1 to the financial statements. The State Bar did not adopt any significant new accounting policies during the year ended May 31, 2019, other than the required initial adoption of Governmental Accounting Standards Board (GASB) Statement No. 75, A*ccounting and Financial Reporting for Postemployment Benefits Other than Pensions* (OPEB). The adoption decreased beginning net position by $50,530,389. **Significant or Unusual Transactions** We did not identify any significant or unusual transactions or significant accounting policies in controversial or emerging areas for which there is a lack of authoritative guidance or consensus. **Management's Judgments and Accounting Estimates** Summary information about the process used by management in formulating particularly sensitive accounting estimates and about our conclusions regarding the reasonableness of those estimates is in the attached Summary of Significant Accounting Estimates.
Audit Adjustments	Audit adjustments, other than those that are clearly trivial, proposed by us and recorded by the State Bar are shown in the attached Summary of Recorded Audit Adjustments.
Uncorrected Misstatements	Uncorrected misstatements are summarized in the attached Summary of Uncorrected Misstatements.

Area	Comments
Disagreements With Management	We encountered no disagreements with management over the application of significant accounting principles, the basis for management's judgments on any significant matters, the scope of the audit or significant disclosures to be included in the basic financial statements.
Departure From the Auditor's Standard Report	The auditor's report included an emphasis of matters, which related to the restatements of GASB Statement No. 75 and restatements for beginning net position of the governmental activities to correct an error for a division previously excluded and correct an error for the recognition of revenue related to minimum continuing legal education (MCLE) fees. The State Bar also restated beginning fund balance of the Sections and Divisions fund balance to correct an error for recognition of a division previously excluded. Our opinions were not modified with respect to these matters.
Consultations With Other Accountants	We are not aware of any consultations management had with other accountants about accounting or auditing matters.
Significant Issues Discussed With Management	We discussed with management the restatement disclosed in the financial statements in Note 14 related to the Paralegal Division and MCLE revenue.
Significant Difficulties Encountered in Performing the Audit	We did not encounter any significant difficulties in dealing with management during the audit
Letter Communicating Material Weaknesses and a Significant Deficiency in Internal Control Over Financial Reporting	We have separately communicated material weaknesses and a significant deficiency in internal control over financial reporting identified during our audit of the basic financial statements, and this communication is attached as Exhibit A.
Significant Written Communication Between Management and Our Firm	A copy of a significant written communication between our firm and management of the State Bar, the representation letter provided to us by management, is attached as Exhibit B.

Summary of Significant Accounting Estimates

Accounting estimates are an integral part of the preparation of financial statements and are based upon management's current judgment. The process used by management encompasses its knowledge and experience about past and current events, and certain assumptions about future events. Management may wish to monitor throughout the year the process used to determine and record these accounting estimates. The following describes the significant accounting estimates reflected in the State Bar's May 31, 2019, financial statements.

Estimate	Accounting Policy	Management's Estimation Process	Basis for Our Conclusions on Reasonableness of Estimate
Pension Expense and Net Pension Liability	The State Bar participates in the Employees Retirement System of Texas (ERS), one of the three retirement systems of the state of Texas. ERS is considered a single employer defined benefit pension plan. For financial reporting purposes, ERS is treated as a cost-sharing plan, since each participating employer has an obligation to contribute.	The net pension liability was measured as of August 31, 2018, and the total pension liability used to calculate the net pension liability was determined by an actuarial valuation as of that date. The State Bar's proportion of the net pension liability was based on contributions to the pension plan relative to contributions of all employers to the plan for the period from September 1, 2017 to August 31, 2018. The assumptions include the expected rate of investment return on retirement plan assets, the interest rate used to determine the present value of liabilities and certain employee-related factors. The employee-related factors include turnover, retirement age and mortality. These factors, the estimated discount rate and the rate of return on investments are based upon historical and general market data. Management reviewed the actuarial result.	We obtained the actuarial valuation calculations from ERS, audited schedules and State Auditor's Office auditor's reports. We recalculated the State Bar's balances. Our internal actuarial specialist team performed a review of the actuarial valuation. Based on our procedures, we concluded the assumptions are reasonable.

Estimate	Accounting Policy	Management's Estimation Process	Basis for Our Conclusions on Reasonableness of Estimate
OPEB Expense and Net OPEB Liability	The State Bar participates in the State Retiree Health Plan (SRHP) administered by ERS. SRHP is a cost-sharing multiple employer postemployment health plan with a special funding situation.	The total OPEB liability was measured as of August 31, 2018, and was determined by an actuarial valuation as of that date. The State Bar's proportion of the total OPEB liability was based on contributions to the plan relative to contributions of all employers to the plan for the period from September 1, 2017 to August 31, 2018. Management reviewed the actuarial results.	We obtained the actuarial valuation calculations from ERS, audited schedules and State Auditor's Office auditor's reports. We recalculated the State Bar's balances. Our internal actuarial specialist team performed a review of the actuarial valuation. Based on our procedures, we concluded the assumptions are reasonable.
Fair Value of Investments	Investments, other than CDs, are recorded at fair value.	If available, quoted market prices are used to value instruments. Securities traded on a national or international exchange are valued at the last reported sales price at current exchange rates. Investments in debt securities are valued using a yield-based matrix pricing model.	We tested the fair value and estimated fair value of the investments by verifying the quoted market prices used and using a valuation specialist to price marketable securities. We concluded the estimates are reasonable.
Depreciable Useful Life of Capital Assets	The depreciable useful life of capital assets is set at the estimated useful life of the related asset.	The determination is made at the time the asset is placed into service and involves various judgments and assumptions based on prior experience.	We tested the estimated useful lives and salvage values to the State Bar's policy. We believe the estimates used by management of the State Bar are reasonable.
Allowance for Doubtful Accounts	Receivables are recorded gross of accounts receivable net an allowance for doubtful accounts.	The allowance is adjusted as information about specific accounts becomes available. The State Bar also compares the current allowance amounts to prior-year collection or write-off experience.	We tested the underlying information supporting this allowance, including the most recent aging reports and collection experience. We believe management's estimate is reasonable.

Summary of Recorded Audit Adjustments

Number	Name	Account No.	Debit	Credit
AJE 1	Allowance for Returns	03-0000-13505-		$ (22,001)
AJE 1	Estimated Returns	03-6100-40402-	$ 22,001	
	Audit adjustment:			
	To reclassify allowance for return of book sales.			
			22,001	(22,001)
AJE 2	Net Position - Government wide	01-0000-30005-		(277,554)
AJE 2	Accreditation fees/sponsor	01-3800-40201-	277,554	
	Audit adjustment:			
	To restate MCLE revenue incorrectly recorded during the current year that related to prior year.			
			277,554	(277,554)
AJE 3	Fund Balance—Undesignated	32000		(459,607)
AJE 3	Cash:Checking Account	10005	212,311	
AJE 3	Cash:Petty Cash	10010	1,000	
AJE 3	Cash:Certificates of Deposit (CD)	10015	266,258	
AJE 3	Cash:Money Market (RJ)	10020	41,023	
AJE 3	Accounts Receivable	11000	9,201	
AJE 3	Prepaid Expense:Postage—US Postal Service	12005	778	
AJE 3	Prepaid Expense:Texas Advance Paralegal Seminar	12010	1,288	
AJE 3	Prepaid Expense:Annual Meeting Expense	12035		(33)
AJE 3	Accounts Payable	20000	263	
AJE 3	Deferred Income:Member Dues	22005		(67,858)
AJE 3	Deferred Income:Advertising Income—TPJ	22010		(940)
AJE 3	Deferred Income:TX Advanced Paralegal Seminar:TAPS	22019	5,935	
AJE 3	Deferred Income:Annual Meeting Income	22030		(9,405)
AJE 3	Sales Tax Payable	25500		(214)
	Audit adjustment:			
	To restate beginning fund balance for Paralegal Division incorrectly unrecorded.			
			538,057	(538,057)

Summary of Uncorrected Misstatements

During the course of our audit, we accumulated uncorrected misstatements that were determined by management to be immaterial, both individually and in the aggregate, to the financial position, results of operations, cash flows and related financial statement disclosures. Following is a summary of those differences:

	Statement of Activities—Governmental Activities/Balance Sheet—Governmental Funds		Statement of Activities-Governmental Activities/Statements of Revenues, Expenses and Changes in Fund Balance—Governmental Funds			
Description	Assets	Liabilities	Revenue	Expenses/ Expenditures	Net Change in Net Position/Fund Balance	Net Position/Fund Balance
General Fund:						
Overstatement of other income for portion of LRIS annual membership attributable to the year ended 2020 (factual)	$ -	$ (72)	$ 72	$ -	$ 72	$ -
Overstatement of other income for portion of LRIS annual membership attributable to the year ended 2020 (projected)	-	(35,430)	35,430	-	35,430	-
Overstatement of prepaid expenses as of May 31, 2019 understatement of expenses for the year ended 2019	(54,625)	-	-	(15,840)	(15,840)	70,465
Subtotals for General Fund	$ (54,625)	$ (35,502)	$ 35,502	$ (15,840)	$ 19,662	$ 70,465
					Cumulative misstatements for General Fund	$ 90,127

	Statement of Activities—Governmental Activities/Balance Sheet—Governmental Funds		Statement of Activities-Governmental Activities/Statements of Revenues, Expenses and Changes in Fund Balance—Governmental Funds			
Description	Assets	Liabilities	Revenue	Expenses/ Expenditures	Net Change in Net Position/Fund Balance	Net Position/Fund Balance
Sections and Divisions:						
Adjustment for improperly recorded interest from CD as of May 31, 2019	$ 4,002	$ -	$ -	$ (4,002)	$ (4,002)	$ -
Adjustment for improperly recorded interest from Cash as of May 31, 2018	(3,798)	-	-	-	-	3,798
Adjustment for improperly recorded interest from CD as of May 31, 2018	6,349	-	-	-	-	(6,349)
Subtotals for Sections and Division	$ 6,553	$ -	$ -	$ (4,002)	$ (4,002)	$ (2,551)
					Cumulative misstatements for Sections and Divisions	$ (6,553)
Governmental Activities:						
To record factual misstatement for accrued rent liability for escalating rent payments.	$ -	$ (170,573)	$ -	$ 24,520	$ 24,520	$ 146,053
Subtotals for governmental activities	$ -	$ (170,573)	$ -	$ 24,520	$ 24,520	$ 146,053
	$ -	$ (170,573)	$ -	$ 24,520	$ 24,520	$ 146,053
					Cumulative misstatements for governmental activities	$ 170,573

	Statement of Activities—Business Type Activities/Statement of Net Position—Proprietary Fund		Statement of Activities-Business-Type Activities/Statements of Revenues, Expenses and Changes in Net Position—Proprietary Fund			
Description	Assets	Liabilities	Revenue	Expenses	Net Change in Net Position	Net Position
Business-Type Activities and Book Fund:						
To reduce cost of goods sold from royalties to Sections for amounts attributable to the year ended 2018.	$ -	$ -	$ -	$ (21,191)	$ (21,191)	$ 21,191
To reduce revenue and accounts receivable from book sales that did not have available support for the year ended 2019.	(6,732)	-	6,732	-	6,732	-
Subtotals for business-type activities	$ (6,732)	$ -	$ 6,732	$ (21,191)	$ (14,459)	$ 21,191
					Cumulative misstatements for business-type activities and book fund	$ 6,732

Exhibit A—Letter Communicating Material Weaknesses and a Significant Deficiency in Internal Control Over Financial Reporting

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December 17, 2019

To Management and the Board of Directors
State Bar of Texas
Austin, Texas

In planning and performing our audit of the financial statements of the State Bar of Texas (the State Bar) as of and for the year ended May 31, 2019, in accordance with auditing standards generally accepted in the United States of America, we considered the State Bar's internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the State Bar's internal control. Accordingly, we do not express an opinion on the effectiveness of the State Bar's internal control.

Our consideration of internal control was for the limited purpose described in the preceding paragraph and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Therefore, material weaknesses or significant deficiencies may exist that were not identified. However, as discussed below, we identified certain deficiencies in internal control that we consider to be material weaknesses and a significant deficiency.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect and correct misstatements on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or when the person performing the control does not possess the necessary authority or competence to perform the control effectively.

A material weakness is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented or detected and corrected on a timely basis. We consider the following deficiencies in the State Bar's internal control to be material weaknesses.

Restatement of Sections and Divisions
During the fiscal year 2019, as part of the State Bar management team's continued due diligence, management concluded the Paralegal Division, which had been historically omitted from the State Bar's reporting, should be included in the State Bar's financial statements (i.e., primary government) under the Sections and Divisions major fund opinion unit. As a result of the omission of the division, ending fund balance for the Sections and Division major fund opinion unit and ending net position for governmental activities for the prior year ended May 31, 2018, were understated by $459,609. As a result of the material misstatement as of May 31, 2018, the beginning fund balance and net position were restated to correct the error.

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We recommend the State Bar consider the impact and application of Governmental Accounting Standards Board (GASB) standards for defining of the financial reporting entity and review each new section or division for determination of whether the entity should be included in the State Bar's financial statements.

Restatement of Government Wide—Charges for Services—Member Service Minimum Continuing Legal Education (MCLE) Revenue
During the prior year, the MCLE department transitioned to a new tracking/billing system. As a result of the transition to the new system, some of the fees associated with MCLE, including accreditation fees, fines, etc., were not being billed due to implementation delays. This appears to be a breakdown in communication regarding financial reporting, as accounting management was not made aware in a timely basis of the situation. As a result, revenue was inadvertently recorded in fiscal year 2019 that was earned in fiscal year 2018. This action caused an understatement of MCLE revenue, an understatement of the change in net position of the governmental activities and an understatement of the ending net position for governmental activities for the prior year ended May 31, 2018, each in the amount of $277,554.

We recommend the State Bar consider the impact and application of accounting principles generally accepted in the United States of America (U.S. GAAP) revenue recognition standards for all revenue to ensure revenue is being recognized in the appropriate period and any implementation of new systems include accounting management throughout the process.

A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance. We consider the following deficiency in the State Bar's internal control to be a significant deficiency.

Law Practice Resource Management Reserve for Returns
During our audit of the Law Practice Resource Management fund, we noted the controls in place to determine the calculation and reporting of the reserve for return of items sold were not designed effectively to detect or prevent an overstatement of revenue and accounts receivable in the amount of $22,001.

Although the calculation and presentation of the reserve in the financial statements was corrected, we recommend a re-evaluation of the controls over the methodology to calculate and report the reserve to avoid misstatements.

Following are descriptions of other identified deficiencies in internal control that we determined did not constitute significant deficiencies or material weaknesses.

Law Practice Resource Management Financial Records
During our audit of the Law Practice Resource Management fund, we noted following issues:

- Documentation was not being retained to support the date that digital auto-supplements download instructions had been mailed to the customer as of the date of revenue recognition. Documentation of the date of the invoices and the date the customer signed up to receive the auto-supplement was retained as support; however, because the date the customer receives the download was not available, we noted approximately $6,700 of book revenue that we could not determine was appropriately recognized as revenue during the year ended May 31, 2019.

- Controls were not designed or implemented to detect costs of goods sold related to royalties in a timely manner. Management identified and corrected the unrecorded cost of goods sold in the amount of approximately $22,000; however, these unreported cost of goods sold for fiscal year May 31, 2018, were recorded in fiscal year 2019 instead and, therefore, were not recorded in the proper period. Management asserts that it has implemented additional procedures that will ensure royalties are calculated in a timely manner going forward.

Although these deficiencies resulted in passed audit adjustments that were not material, we recommend the State Bar's management ensure transactions are being reported in the proper period.

General Fund Prepaid Expenses
During our audit of prepaid expenses recorded in the General Fund, we noted controls were not implemented to appropriately prevent or detect amounts being incorrectly recognized as a prepaid expense; however the expense should be recognized in the current period for costs associated with future continued professional education courses. Because the General Fund is being reported under the modified accrual basis of accounting under Governmental Accounting Standards, such period costs should be expensed when incurred rather than capitalized. Management estimates the difference between full accrual and modified accrual for course planning expenses is approximately $54,625.

Although this deficiency resulted in a passed audit adjustment that was not material, we recommend the State Bar's management perform a detailed review of amounts capitalized in governmental funds to ensure such costs are recorded in accordance with the modified accrual basis of accounting.

Accrued Rent Liability
During our testing over leases, we noted controls were not implemented to prevent the omission of an accrual for operating leases with escalating rent payments. U.S. GAAP requires lease expenses associated with leases containing escalating rent provisions to be recorded in the financial statements using a straight-line method with a resulting accrued rent liability in the government-wide financial statements.

Although this deficiency resulted in a passed audit adjustment that was not material, we recommend the State Bar's management continue to monitor leases with escalating rent payments to ensure the calculated accrued rent liability is not material to the financial statements.

This communication is intended solely for the information and use of management, the Board of Directors and others within the State Bar and is not intended to be, and should not be, used by anyone other than these specified parties.

RSM US LLP

Exhibit B—Significant Written Communication Between Management and Our Firm

STATE BAR OF TEXAS

TREY APFFEL
EXECUTIVE DIRECTOR

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TEL: (512) 427-1500
trey.apffel@texasbar.com

December 17, 2019

RSM US LLP
811 Barton Springs Road, Suite 500
Austin, Texas 78704

This representation letter is provided in connection with your audit of the basic financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the State Bar of Texas (the State Bar), a component unit of the State of Texas, as of and for the year ended May 31, 2019, and the related notes to the financial statements, which collectively comprise the State Bar's financial statements, for the purpose of expressing an opinion on whether the financial statements are presented fairly, in all material respects, in accordance with accounting principles generally accepted in the United States of America (U.S. GAAP).

We confirm, to the best of our knowledge and belief, that as of December 17, 2019:

Financial Statements

1. We have fulfilled our responsibilities, as set out in the terms of the audit arrangement letter dated May 13, 2019, for the preparation and fair presentation of the financial statements referred to above in accordance with U.S. GAAP.

2. We acknowledge our responsibility for the design, implementation and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

3. We acknowledge our responsibility for the design, implementation and maintenance of internal control to prevent and detect fraud.

4. Significant assumptions used by us in making accounting estimates, including those measured at fair value, are reasonable and reflect our judgment based on our knowledge and experience about past and current events, and our assumptions about conditions we expect to exist and courses of action we expect to take. In that regard, adequate provisions have been made:

    a. For pension obligations attributable to employee services rendered through May 31, 2019.
    b. For other post-employment benefits obligations attributable to employee services through May 31, 2019.

5. Related-party transactions, including those with the primary government having accountability for the State Bar, component units for which the State Bar is accountable, other organizations for which the nature and significance of their relationship with the State Bar are such that exclusion would cause the reporting entity's financial statements to be misleading or incomplete, and jointly governed organizations in which the State Bar participates, and interfund transactions, including interfund accounts and advances receivable and payable, sale and purchase transactions, interfund transfers,

long-term loans, leasing arrangements and guarantees, have been recorded in accordance with the economic substance of the transaction and appropriately accounted for and disclosed in accordance with the requirements of U.S. GAAP.

6. There are no events subsequent to the date of the financial statements for which U.S. GAAP requires adjustment or disclosure.

7. There are no known effects of actual or possible litigation and claims have been accounted for and disclosed in accordance with U.S. GAAP.

8. We agree with the restatement of the previously issued financial statements described in Note 14. In that regard:

    a. The restatement corrects an error in previously issued financial statements.

    b. We were not aware of the error when those financial statements were issued.

    c. We are not aware of any other errors in those financial statements.

    d. We do not believe it is necessary to recall those financial statements and all users of those financial statements will receive a copy of the current year's financial statements and independent auditor's report.

9. We have no direct or indirect legal or moral obligation for any debt of any organization, public or private, that is not disclosed in the financial statements.

10. We have complied with all aspects of contractual agreements that would have a material effect on the financial statements in the event of noncompliance. In connection therewith, we specifically represent that we are responsible for determining that we are not subject to the requirements of the Single Audit Act because we have not received, expended or otherwise been the beneficiary of the required amount of federal awards during the period of this audit.

11. We have informed you of all uncorrected misstatements in the financial statements. As of and for the year ended May 31, 2019, we believe that the effects of the uncorrected misstatements aggregated by you and summarized below are immaterial, both individually and in the aggregate, to the basic financial statements. For purposes of this representation, we consider items to be material, regardless of their size, if they involve the misstatement or omission of accounting information that, in light of surrounding circumstances, makes it probable that the judgment of a reasonable person relying on the information would be changed or influenced by the omission or misstatement.

Description	Statement of Activities - Governmental Activities/Balance Sheet - Governmental Funds		Statement of Activities-Governmental Activities/Statements of Revenues, Expenses and Changes in Fund Balance - Governmental Funds			
	Assets	Liabilities	Revenue	Expenses/Expenditures	Net change in net position/fund balance	Net Position/Fund Balance
General Fund:						
Overstatement of Other Income for portion of LRIS annual membership attributable to the year ended 2020 (projected).		(35,430)	35,430		35,430	-
Overstatement of Prepaid Expenses as of 5/31/2019 understatement of expenses for the year ended 2019.	(54,625)			(15,840)	(15,840)	70,465
Subtotals for General Fund	$ (54,625)	$ (35,430)	$ 35,430	$ (15,840)	$ 19,590	$ 70,465
					Cumulative misstatements for general fund	$ 90,055

Description	Statement of Activities - Governmental Activities/Balance Sheet - Governmental Funds		Statement of Activities-Governmental Activities/Statements of Revenues, Expenses and Changes in Fund Balance - Governmental Funds			
	Assets	Liabilities	Revenue	Expenses/Expenditures	Net change in net position/fund balance	Net Position/Fund Balance
Sections:						
Adjustment for improperly recorded interest from CD as of 5/31/2019	4,002			(4,002)	(4,002)	-
Adjustment for improperly recorded interest from Cash as of 5/31/2018	(3,798)				-	3,798
Adjustment for improperly recorded interest from CD as of 5/31/2018	6,349				-	(6,349)
Subtotals for Sections & Division	$ 6,553	$ -	$ -	$ (4,002)	$ (4,002)	$ (2,551)
					Cumulative misstatements for Sections & Divisions	$ (6,553)
Governmental Activities:						
To record factual misstatement for accrued rent liability for escalating rent payments.		(170,573)		24,520	24,520	146,053
Subtotals for governmental activities	$ -	$ (170,573)	$ -	$ 24,520	$ 24,520	$ 146,053
Total misstatement for governmental activities	$ (54,625)	$ (206,003)	$ 35,430	$ 8,680	$ 44,110	$ 216,518
					Cumulative misstatements for governmental activities	$ 260,628

Description	Statement of Activities - Business Type Activities/Statement of Net Position - Proprietary Fund		Statement of Activities-Business-Type Activities/Statements of Revenues, Expenses and Changes in Net Position - Proprietary Fund			
	Assets	Liabilities	Revenue	Expenses	Net change in net position	Net Position
Business-Type Activities:						
To reduce Cost of Goods Sold from Royalties to Sections for amounts amounts attributable to the year ended 2018.				(21,191)	(21,191)	21,191
To reduce revenue and accounts receivable from book sales that did not have available support for the year ended 2019.	(6,732)		6,732		6,732	-
Total Misstatements	$ (6,732)	$ -	$ 6,732	$ (21,191)	$ (14,459)	$ 21,191
					Cumulative misstatements for business-type activities	$ 6,732

Information Provided

12. We have provided you with:

    a. Access to all information of which we are aware that is relevant to the preparation and fair presentation of the financial statements such as records, documentation and other matters;

    b. Additional information that you have requested from us for the purpose of the audit;

    c. Unrestricted access to persons within the State Bar from whom you determined it necessary to obtain audit evidence; and

    d. Minutes of the meetings of the governing boards and committees, or summaries of actions of recent meetings for which minutes have not yet been prepared.

13. All required funds have been disclosed and included in the financial statements.

14. All transactions have been recorded in the accounting records and are reflected in the financial statements.

15. We have disclosed to you the results of our assessment of risk that the financial statements may be materially misstated as a result of fraud.

16. We have no knowledge of allegations of fraud or suspected fraud affecting the State Bar's financial statements involving:

    a. Management.

    b. Employees who have significant roles in internal control.

    c. Others where the fraud could have a material effect on the financial statements.

17. We have no knowledge of any allegations of fraud or suspected fraud affecting the State Bar's financial statements received in communications from employees, former employees, analysts, regulators, short sellers or others.

18. We have no knowledge of noncompliance or suspected noncompliance with laws and regulations.

19. We have disclosed to you all known actual or possible litigation and claims whose effects should be considered when preparing the financial statements.

20. We have disclosed to you the identity of the State Bar's related parties and all the related-party relationships and transactions of which we are aware.

21. We have informed you of all significant deficiencies, including material weaknesses, in the design or operation of internal controls that could adversely affect the State Bar of Texas' ability to record, process, summarize and report financial data.

22. We are aware of no communications from regulatory agencies concerning noncompliance with, or deficiencies in, financial reporting practices.

23. We agree with the findings of the specialist in evaluating the State Bar's Net Pension Liability and OPEB and have adequately considered the qualifications of the specialists in determining the amounts and disclosures used in the financial statements and underlying accounting records. We did not give instructions, or cause any instructions to be given, to the specialists with respect to the values or amounts derived in an attempt to bias their work, and we are not otherwise aware of any matters that have had an impact on the independence or objectivity of the specialists.

    In addition, we believe that the actuarial assumptions and methods used by the actuaries for funding purposes and for determining accumulated Plan benefits are appropriate in the circumstances. We did not give instructions, or cause any instructions to be given, to the specialists with respect to the values or amounts derived in an attempt to bias their work, and we are not otherwise aware of any matters that have had an impact on the independence or objectivity of the Plan's actuaries.

    Lastly, we believe that the information obtained from the audited financial statements of and other participant information provided by the Employee Retirement System of Texas is appropriate in the circumstances. We did not give instructions, or cause any instructions to be given, to the Plan or its auditor in an attempt to bias their work, and we are not otherwise aware of any matters that have had an impact on the independence or objectivity of the Plan or its auditor.

24. During the course of your audit, you may have accumulated records containing data that should be reflected in our books and records. All such data have been so reflected. Accordingly, copies of such records in your possession are no longer needed by us.

Supplementary Information

25. With respect to supplementary information presented in relation to the financial statements as a whole:

    a. We acknowledge our responsibility for the presentation of such information.

    b. We believe such information, including its form and content, is fairly presented in accordance with U.S. GAAP.

    c. The methods of measurement or presentation have not changed from those used in the prior period.

26. With respect to Management's Discussion & Analysis, the Statement of Revenues, Expenditures, and Changes in Fund Balance – Budget (GAAP Basis) and Actual – General Fund, Note to Statement of Revenues, Expenditures, and Changes in Fund Balance – Budget (GAAP Basis) and Actual – General Fund, Schedule of Changes in State Bar's Proportionate Share of Net Pension Liability and Related Ratios, Schedule of Employer Contributions – Net Pension Liability and Notes to Pension Liability, Schedule of Changes in State Bar's Proportionate Share of Net OPEB Liability and Related Ratios, Schedule of Employer Contributions – Net OPEB Liability and Notes to OPEB Liability are presented as required by the Government Accounting Standards Board to supplement the basic financial statements:

    a. We acknowledge our responsibility for the presentation of such required supplementary information.

    b. We believe such required supplementary information is measured and presented in accordance with guidelines prescribed by U.S. GAAP.

c. The methods of measurement or presentation have not changed from those used in the prior period, except for the additional OPEB schedules required by GASB Statement No. 75.

d. The underlying significant assumptions or interpretations regarding the measurement or presentation of such information are the actuarial assumptions for the pension plan and OPEB plan.

The State Bar of Texas

Trey Apffel
Executive Director

Tracy Jarratt
Finance Division Director

RSM

State Bar of Texas

(A Component Unit of the State of Texas)

Financial Report
May 31, 2019

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Independent Auditor's Report

To the Board of Directors
State Bar of Texas

Report on the Financial Statements

We have audited the accompanying financial statements of the governmental activities, the business-type activities, each major fund and the aggregate remaining fund information of the State Bar of Texas (the State Bar), a component unit of the State of Texas, as of and for the year ended May 31, 2019, and the related notes to the financial statements, which collectively comprise the State Bar's basic financial statements, as listed in the table of contents.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express opinions on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.

Opinions

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities, the business-type activities, each major fund and the aggregate remaining fund information of the State Bar as of May 31, 2019, and the respective changes in financial position and, where applicable, cash flows thereof, for the year then ended, in accordance with accounting principles generally accepted in the United States of America.

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Emphasis of Matters
As described in Note 14 to the basic financial statements, effective June 1, 2018, the State Bar implemented Governmental Accounting Standards Board (GASB) Statement No. 75, *Accounting and Financial Reporting for Postemployment Benefits Other Than Pensions (OPEB)*, which restated beginning net position of the governmental and business-type activities.

As described in Note 14, the State Bar restated beginning net position of the governmental activities and beginning fund balance of Sections and Divisions special revenue fund to correct a revenue recognition error and to correct an error in the financial reporting entity. Our opinions are not modified with respect to these matters.

Other Matters

Required Supplemental Information
Accounting principles generally accepted in the United States of America require that the management's discussion and analysis, statement of revenues, expenditures and changes in fund balance—budget (GAAP basis) and actual—general fund, schedule of changes in State Bar's proportionate share of net pension liability and related ratios, schedule of employer contributions—net pension liability, schedule of changes in State Bar's proportionate share of total OPEB liability and related ratios, schedule of employer contributions—total OPEB liability and related notes to required supplementary information, as listed in the table of contents, be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by GASB, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic or historical context. We have applied certain limited procedures to the required supplemental information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Other Supplemental Information
Our audit was conducted for the purpose of forming opinions on the financial statements that collectively comprise the State Bar's basic financial statements. The combining balance sheet—nonmajor governmental funds, combining statement of revenues, expenditures and changes in fund balances—nonmajor governmental funds and the combining statement of revenues, expenditures and changes in fund balances—governmental funds, as listed in the table of contents, are presented for purposes of additional analysis and are not a required part of the basic financial statements.

The combining balance sheet—nonmajor governmental funds, combining statement of revenues, expenditures and changes in fund balances—nonmajor governmental funds and the combining statement of revenues, expenditures and changes in fund balances—governmental funds are the responsibility of management and were derived from and relate directly to the underlying accounting and other records used to prepare the basic financial statements. Such information has been subjected to the auditing procedures applied in the audit of the basic financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the basic financial statements, or to the basic financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the other supplemental information, as listed in the table of contents, is fairly stated in all material respects in relation to the basic financial statements as a whole.

RSM US LLP

Austin, Texas
December 17, 2019

State Bar of Texas

Management's Discussion and Analysis (Unaudited)
May 31, 2019

This Management's Discussion and Analysis is provided by management of the State Bar of Texas (State Bar) to offer readers an overview and analysis of the financial activities of the State Bar for the fiscal year ended May 31, 2019. This section is only an introduction and should be read in conjunction with the State Bar's financial statements, which immediately follow this section.

Financial Highlights

- The State Bar is in a strong financial position with no debt carried on the balance sheet, strong and consistent revenues and controlled expenses.

- The State Bar complies with the Governmental Accounting Standards Board's (GASB) pronouncements, and has implemented GASB Statement No. 75, *Accounting and Financial Reporting for Postemployment Benefits Other Than Pensions* this year. This required a restatement to the government-wide statement of net assets in the amount of ($47,498,566) in governmental activities and ($3,031,823) in business-type activities. The State Bar participates in the Employee's Retirement System of Texas' (ERS) plan to provide health insurance to its retirees. ERS is the plan administrator and determines the amount of contributions that the State Bar and all other participating state agencies must make to fund the plan. The State Bar has made all of the required contributions to ERS. The amount of liability recorded represents the State Bar's proportionate share of the plan's total postemployment benefit liability based on the State Bar's total contributions made for its retired employees. The amount of unfunded liability is not controlled or established by the State Bar. The liability does not affect the governmental funds or the budget of the State Bar, unless ERS requires a higher premium payment per employee. Historically, the premiums for employees and retirees have increased gradually and the State Bar does not anticipate significant changes to the plan's administration as a result of this GASB requirement. The State Bar's proportionate share of other post-employment benefits (OPEB) liability decreased from fiscal year 2018 to fiscal year 2019 $5.4 million due to changes to a better than anticipated return on investment and a change in the actuarial assumptions of the plan. See Note 11 regarding this adjustment and further disclosures on the OPEB plan.

- The assets of the State Bar were below its liabilities for fiscal year ended May 31, 2019, by $64,082,706 (net position). This amount includes all State Bar-related assets, including the reserves, all capital assets, all assets related to the Law Practice Resource Management, the Sections and Divisions and all special revenue funds and capital project funds.

- The State Bar's total net position decreased by $4,024,584 from the end of fiscal year 2018 to the end of fiscal year 2019. The decrease in net position was due to a $6.3 million entry to pension expense.

- As of the close of the current fiscal year, the State Bar's governmental funds reported combined ending fund balances of $36,075,301 an increase of $3,120,332 in comparison with the prior year. This increase in fund balance is primarily due to the strong performance of TexasBarCLE, membership dues and MCLE revenues. Of this amount, $14,898,339 is reserved for ongoing expenses (unassigned fund balance). The amount includes the General Fund, the Client Security Fund and the Sections and Divisions.

- At the end of the current fiscal year, the fund balance for the General Fund was $17,749,877, or 43% of the total General Fund expenditures for the year ended May 31, 2019. Of this amount, $1,992,084 is subject to the Board of Director's (the Board) approval on how the funds may be used, and $859,454 is nonspendable.

Overview of the Financial Statements

The State Bar's basic financial statements are comprised of the following components: (1) the government-wide financial statements, (2) the fund financial statements and (3) notes to the basic financial statements. This report also contains required supplementary information in addition to the basic financial statements themselves. Each one is described below.

Government-wide statements: The government-wide financial statements are designed to provide readers with a broad overview of the State Bar's finances, in a manner similar to a private-sector business. The statements include all assets and liabilities using the accrual basis of accounting. The government-wide financial statements are made up of the statement of net position and the statement of activities. The government-wide financial statements can be found on pages 16 through 18 of this report.

The statement of net position presents information on all the State Bar's assets, liabilities and deferred inflows/outflows of resources, with the difference reported as net position. Over time, increases or decreases in net position may serve as a useful indicator of the financial position of the State Bar is improving and deteriorating.

The statement of activities presents information showing how the State Bar's net position changed during the most recent fiscal year. The statement of activities is presented on the full accrual basis. This means that all changes in net position are reported as soon as the underlying event giving rise to the change occurs, regardless of the timing of related cash flows. Therefore, revenues and expenses are reported in this statement for some items that will result in cash flows only in future fiscal periods (e.g., earned, but unused vacation leave).

Both government-wide financial statements distinguish functions of the State Bar that are principally supported by dues and intergovernmental revenues (government activities) from other functions that are intended to recover all or a significant portion of their costs through user fees and charges (business-type activities). The governmental activities of the State Bar include general government, public services, member services and public protection. The business-type activities of the State Bar include the Law Practice Resource Management.

Fund financial statements: A fund is a grouping of related accounts that is used to maintain control over resources that have been segregated for specific activities or objectives. The State Bar, like other state and local governments, uses fund accounting to ensure and demonstrate compliance with finance-related legal requirements. The fund financial statements are made up of a balance sheet and a statement of revenues, expenditures and changes in fund balances. The basic governmental fund financial statements can be found on pages 19 through 27 of this report. All the funds of the State Bar can be divided into three categories: governmental funds, proprietary funds, and fiduciary funds.

The State Bar has three types of funds:

- Governmental funds—Governmental funds are used to account for essentially the same functions reported as governmental activities in the government-wide financial statements. However, unlike the government-wide financial statements, governmental fund financial statements focus on near-term inflows and outflows of spendable resources, as well as on balances of spendable resources available at the end of the fiscal year. Such information may be useful in evaluating a government's near-term financing requirements.

Because the focus of governmental funds is narrower than that of the government-wide financial statements, it is useful to compare the information presented for governmental funds with similar information presented for governmental activities in the government-wide financial statements. By doing so, readers may better understand the long-term impact of the government's near-term financing decision. Both the governmental fund balance sheet and the governmental fund statement of revenues, expenditures and changes in fund balances provide a reconciliation to facilitate this comparison between governmental funds and governmental activities.

The State Bar maintains 12 individual governmental funds. Information is presented separately in the governmental fund balance sheet and in the governmental fund statement of revenues, expenditures and changes in fund balances for the General Fund, the Client Security Fund and Sections and Divisions, all of which are considered to be major funds. Data from the other nine governmental funds are combined into a single, aggregated presentation. These nine funds are: Texas Board of Legal Specialization Fund, Texas Bar College, Annual Meeting, Texas Law Center, Technology Fund, Project Grants Fund, Hatton W. Sumners Grants Fund, Law Focused Education and Department of Public Service. Individual fund data for each of these nonmajor governmental funds is provided in the form of combining statements in the other supplemental information section of this report.

The State Bar adopts an annual appropriated budget for its General Fund. A budgetary comparison statement has been provided for the General Fund to demonstrate compliance with this budget.

- Proprietary funds—The Law Practice Resource Management is the State Bar's only proprietary fund. It is an enterprise fund. An enterprise fund is used to report an entity's business-type activities in the government-wide financial statements. The basic proprietary fund financial statements can be found on pages 23 through 25 of this report.

- Fiduciary funds—Fiduciary funds are used to account for resources held for the benefit of parties outside the government. Fiduciary funds are not reflected in the government-wide financial statements because the resources of those funds are not available to support the State Bar's own programs. The accounting used for fiduciary funds is much like that used for proprietary funds. The fiduciary funds the State Bar has is an agency fund used to hold monies for donations received for access to justice and the State Bar of Texas Insurance Trust, included as a blended component unit. The basic fiduciary fund financial statements can be found on pages 26 through 27 of this report.

Notes to the financial statements: The notes provide additional information that is essential to a full understanding of the data provided in the government-wide and fund financial statements. The notes to the basic financial statements can be found on pages 29 through 57 of this report.

Required supplemental information: In addition to the basic financial statements and accompanying notes, this report also presents certain required supplemental information. The State Bar adopts an annual budget for its General Fund. A budgetary comparison statement has been provided for the General Fund to demonstrate compliance with this budget. In addition, this includes required supplemental information regarding the State Bar's changes in its proportionate share of net pension liability and related ratios and schedules of employer's contributions. Required supplemental information can be found on pages 60 through 71 of this report.

Other supplemental information: In addition to the basic financial statements, accompanying notes and required supplemental information this report also presents certain other supplemental information. The combining balance sheet—nonmajor governmental funds and combining statement of revenues, expenditures and changes in fund balances—nonmajor governmental funds are provided to give additional information for each nonmajor fund. The combining statement of revenues, expenditures and changes in fund balances—governmental funds is provided to give additional information by expenditure type. Other supplemental information is provided on pages 74 through 76.

Government-Wide Financial Analysis

Net position: The following table presents a summary of the State Bar's net position as of May 31, 2019, with comparison totals as of May 31, 2018:

Table A-1
The State Bar's Net Position

	Governmental Activities		Business-Type Activities		Total	
	2019	2018	**2019**	2018	**2019**	2018
Current and other assets	**$ 55,407,484**	$ 49,327,146	**$ 1,698,538**	$ 1,909,201	**$ 57,106,022**	$ 51,236,347
Capital assets, net	**6,305,122**	6,953,989	**35,322**	35,322	**6,340,444**	6,989,311
Total assets	**$ 61,712,606**	$ 56,281,135	**$ 1,733,860**	$ 1,944,523	**$ 63,446,466**	$ 58,225,658
Deferred outflows of resources	**$ 7,350,376**	$ 11,639,847	**$ 469,173**	$ 742,969	**$ 7,819,549**	$ 12,382,816
Current liabilities	**$ 20,944,131**	$ 17,456,478	**$ 157,967**	$ 129,406	**$ 21,102,098**	$ 17,585,884
Noncurrent liabilities	**89,240,459**	57,729,924	**5,698,645**	3,686,344	**94,939,104**	61,416,268
Total liabilities	**$ 110,184,590**	$ 75,186,402	**$ 5,856,612**	$ 3,815,750	**$ 116,041,202**	$ 79,002,152
Deferred inflows of resources	**$ 18,149,073**	$ 1,758,945	**$ 1,158,446**	$ 112,273	**$ 19,307,519**	$ 1,871,218
Net position (deficit):						
Net investment in capital assets	**$ 6,267,138**	$ 6,869,434	**$ 35,322**	$ 35,322	**$ 6,302,460**	$ 6,904,756
Unrestricted (deficit), as restated	**(65,537,819)**	(15,893,799)	**(4,847,347)**	(1,275,853)	**(70,385,166)**	(17,169,652)
Total net position (deficit)	**$ (59,270,681)**	$ (9,024,365)	**$ (4,812,025)**	$ (1,240,531)	**$ (64,082,706)**	$ (10,264,896)

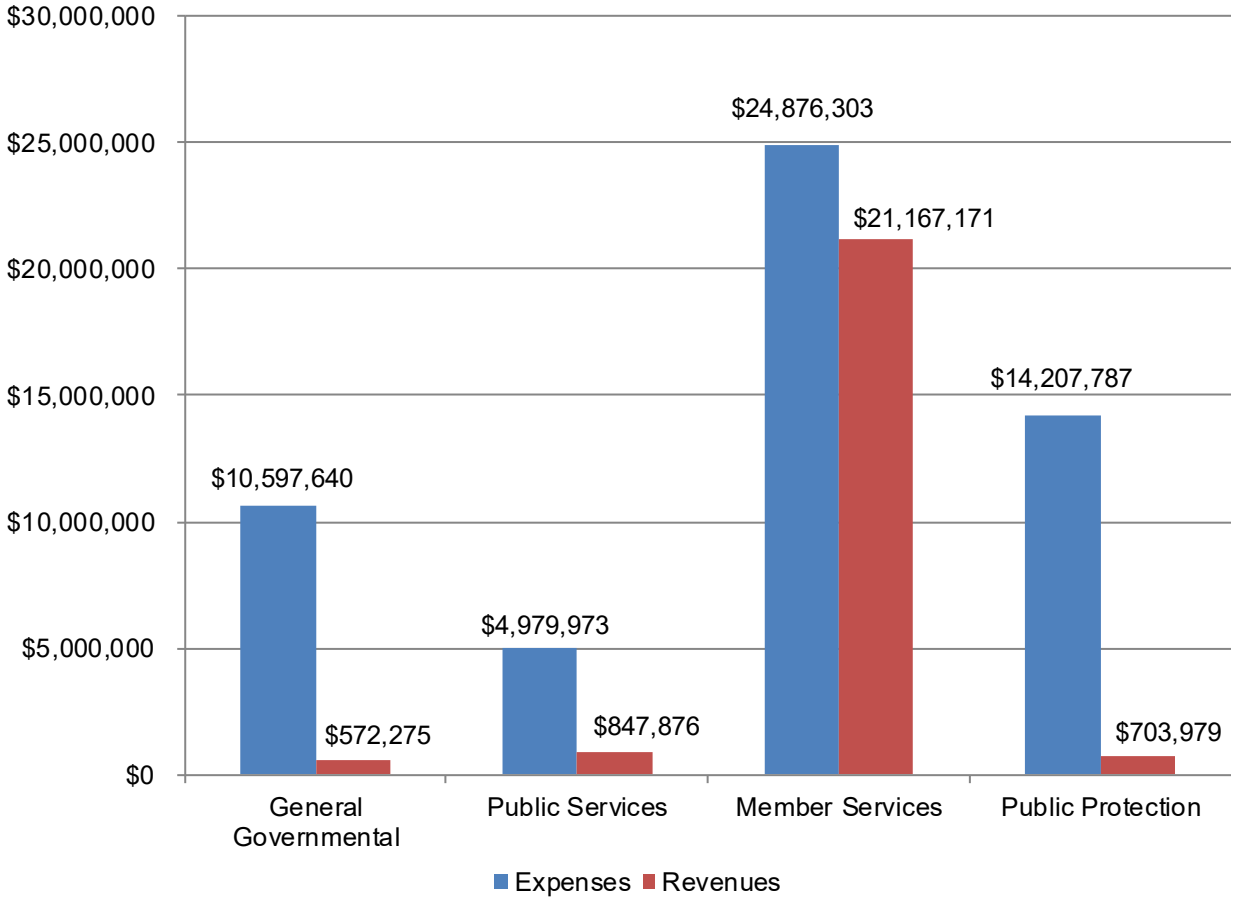
The State Bar's net position invested in capital assets, net of accumulated depreciation (e.g., land, buildings, furniture and equipment), less any related debt used to acquire those assets that is still outstanding reflects $6,302,460 of total net position. The State Bar uses these capital assets to provide services to members; consequently, these assets are not available for future spending. Although the State Bar's investment in its capital assets is reported net of related debt, it should be noted that the resources needed to repay this debt must be provided from other sources, since the capital assets themselves cannot be used to liquidate these liabilities.

Changes in net position: The following schedule shows the changes in net position for the year ended May 31, 2019, with comparison totals for the year ended May 31, 2018. The difference between revenues and expenses represents the change in net position.

Table A-2
Changes in the State Bar's Net Position

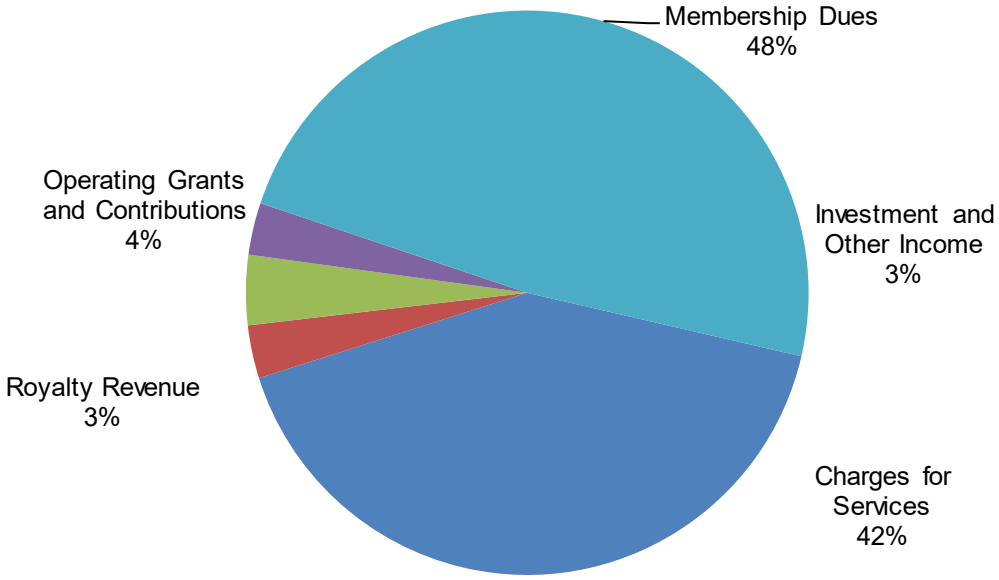
	Governmental Activities		Business-Type Activities		Total	
	2019	2018	**2019**	2018	**2019**	2018
Revenues:						
Program revenues:						
Charges for services	**$ 21,238,451**	$ 21,523,129	**$ 2,288,252**	$ 2,295,723	**$ 23,526,703**	$ 23,818,852
Operating grants and contributions	**2,052,850**	1,621,158	**-**	-	**2,052,850**	1,621,158
General revenues:						
Membership dues	**24,804,055**	23,038,553	**-**	-	**24,804,055**	23,038,553
Investment income	**1,018,343**	448,156	**8,993**	5,822	**1,027,336**	453,978
Royalty revenue	**1,525,878**	1,291,089	**1,138,780**	1,049,625	**2,664,658**	2,340,714
Other income	**538,501**	242,749	**-**	-	**538,501**	242,749
Loss on disposal of capital assets	**(1,288)**	(2,753)	**-**	-	**(1,288)**	(2,753)
Total revenues	**51,176,790**	48,162,081	**3,436,025**	3,351,170	**54,612,815**	51,513,251
Expenses:						
General government	**10,597,640**	9,803,273	**-**	-	**10,597,640**	9,803,273
Public services	**4,979,973**	4,916,027	**-**	-	**4,979,973**	4,916,027
Member services	**24,876,303**	24,364,583	**-**	-	**24,876,303**	24,364,583
Public protection	**14,207,787**	13,612,929	**-**	-	**14,207,787**	13,612,929
Books	**-**	-	**3,975,696**	3,760,496	**3,975,696**	3,760,496
Total expenses	**54,661,703**	52,696,812	**3,975,696**	3,760,496	**58,637,399**	56,457,308
Change in net position	**(3,484,913)**	(4,534,731)	**(539,671)**	(409,326)	**(4,024,584)**	(4,944,057)
Net position (deficit) at beginning of year, as restated	**(55,785,768)**	(4,489,634)	**(4,272,354)**	(831,205)	**(60,058,122)**	(5,320,839)
Net position (deficit) at end of year	**$ (59,270,681)**	$ (9,024,365)	**$ (4,812,025)**	$ (1,240,531)	**$ (64,082,706)**	$ (10,264,896)

Expenses and Program Revenues—Governmental Activities



This chart depicts the program revenues and expenses, as presented in the statement of activities on page 18 of the financial statements. These represent the revenues and related expenses for these programs. The State Bar also collects membership dues, investment income, royalty revenue and other income that totaled $27,885,489 for the year ended May 31, 2019.

Revenues by Source—Governmental Activities

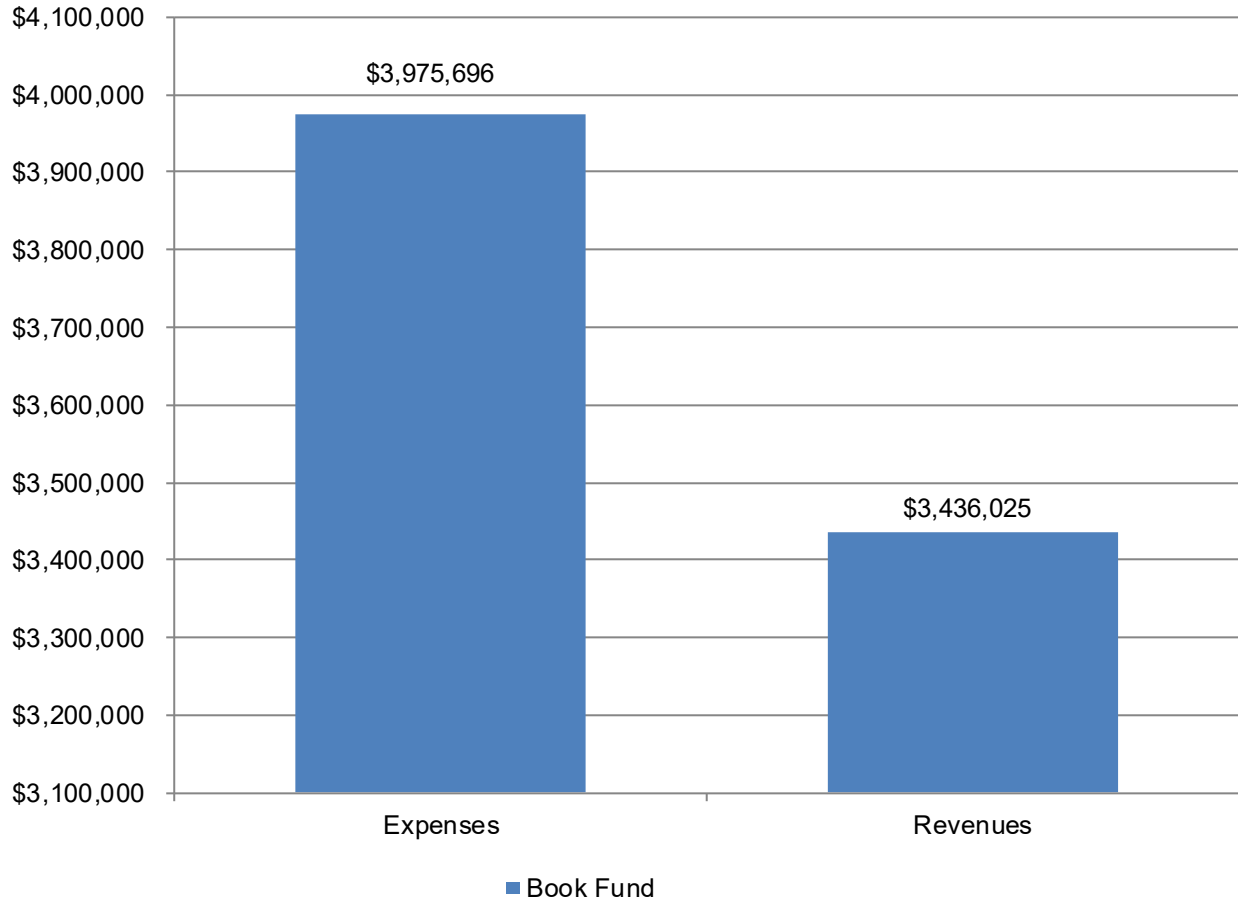


Membership dues continue to be the primary source of revenue for the State Bar. Total membership dues collections for fiscal year 2019 were $24,804,055 compared to $23,038,553 in the prior fiscal year. The State Bar anticipates a slowing growth in the revenue from dues because the projected number of licensed attorneys will likely stabilize over the next five years.

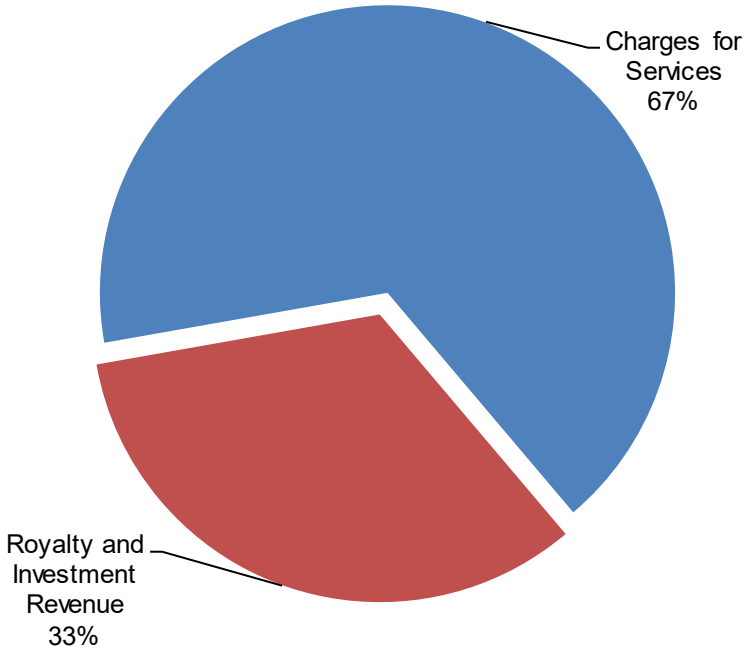
TexasBarCLE charges for services remain strong at $15,165,102 for fiscal year 2019 compared to $13,941,859 in revenue from fiscal year 2018. The continuing legal education offered by TexasBarCLE has continued to provide stable income for the State Bar to supplement other strategic goals that may not generate revenue, but provide a valuable service to lawyers and the public of the State of Texas. Other charges for services include Minimum Continuing Legal Education (MCLE) fees, Texas Board of Legal Specialization fees and Bar Journal fees.

Business-type activities: Business-type activities decreased the State Bar's net position by $539,671. The Law Practice Resource Management Fund, which includes the Law Practice Resource Management, shows steady income and expenses although the change in net position is slightly lower this year than last years $(409,326). The revenue and expenses will fluctuate from year to year based on the number of projects that are completed during the year. A breakdown of expenses and program revenues and revenues by source type follows:

Expenses and Program Revenues—Business-Type Activities



Revenues by Source—Business Activities



The types of revenue for the State Bar's business activities continues to be charges for the sale of Law Practice Resource Management books, both online subscriptions and hard copies of practice manuals. Additionally, Texas Bar Books receives royalties from Thompson Reuters on the sale of Law Practice Resource Management books. These revenues are anticipated to remain stable.

Financial Analysis of the Government's Funds
As noted earlier, the State Bar uses fund accounting to ensure and demonstrate compliance with finance-related legal requirements.

Governmental funds: The focus of the State Bar's governmental funds is to provide information on near-term inflows, outflows and balances of spendable resources. Such information is useful in assessing the State Bar's financing requirements. In particular, undesignated fund balance may serve as a useful measure of a government's net resources available for spending at the end of the fiscal year.

At the end of the current fiscal year, the State Bar's governmental funds reported combined ending fund balances of $36,075,301, an increase of $3,120,332 in comparison with the prior year. Of this amount, $1,242,740 is nonspendable for inventories and prepaid items and $19,934,222 is committed for specific uses by the Board.

The General Fund is the chief operating fund of the State Bar. At the end of the current fiscal year, the total fund balance of the General Fund was $17,749,877, which is 84% unassigned. As a measure of the General Fund's liquidity, it may be useful to compare the unassigned fund balance to total fund expenditures. Unassigned fund balance represents 36% of total General Fund expenditures. During the current fiscal year, the fund balance of the State Bar's General Fund increased by $2,041,627.

Proprietary funds: The State Bar's proprietary funds provide the same type of information found in the government-wide financial statements, but in more detail.

At the end of the current fiscal year, net position of the Law Practice Management totaled ($4,812,025). The total decrease in net position was ($539,671). Other factors concerning the finances of this fund have already been addressed in the discussion of the State Bar's business-type activities.

General Fund budgetary highlights: The State Bar's actual revenue for the General Fund was $2,115,379 above budgeted amounts. The most significant positive variances resulted from other income revenue and professional development revenue, which were offset by a negative variance from membership dues revenue. The State Bar's actual expenditures for the General Fund were $2,502,656 below budgeted amounts. The most significant positive variance resulted from board commitment expenditures.

Capital asset administration:

Capital assets: The State Bar's investment in capital assets for its governmental activities and business-type activities as of May 31, 2019, amounts to $6,340,444 (net of accumulated depreciation and amortization). This investment in capital assets includes land; buildings and systems; and furniture, equipment, digital publication and other assets.

Table A-3
State Bar's Capital Assets

	Governmental Activities		Business-Type Activities		Total	
	2019	2018	**2019**	2018	**2019**	2018
Land	**$ 154,074**	$ 154,074	**$ -**	$ -	**$ 154,074**	$ 154,074
Construction in progress	**200,534**	20,960	**-**	-	**200,534**	20,960
Building and systems, net	**824,028**	824,028	**-**	-	**824,028**	824,028
Furniture, equipment, digital publication and other, net	**5,126,486**	5,954,927	**35,322**	35,322	**5,161,808**	5,990,249
	$ 6,305,122	$ 6,953,989	**$ 35,322**	$ 35,322	**$ 6,340,444**	$ 6,989,311

Additional information on the State Bar's capital assets can be found in Note 2 on page 38 of this report.

Long-term liabilities: At the end of the current fiscal year, the State Bar had capital leases of $37,984 and accrued compensated absences of $1,618,914. The current portion of liabilities, or liabilities that are due within one year include capital lease payments and estimated payouts of vacation leave to employees. The following table presents a summary of the State Bar's long-term liabilities for the year ended May 31, 2019, with comparative information as of May 31, 2018:

Table A-4
State Bar's Noncurrent Liabilities

	Governmental Activities		Business-Type Activities		Total	
	2019	2018	**2019**	2018	**2019**	2018
Capital lease payable	**$ 37,984**	$ 84,555	**$ -**	$ -	**$ 37,984**	$ 84,555
Accrued compensated absences	**1,521,492**	1,467,752	**97,422**	95,363	**1,618,914**	1,563,115
Net pension liability	**54,916,885**	56,802,309	**3,505,333**	3,625,679	**58,422,218**	60,427,988
Total OPEB liability	**34,376,046**	-	**2,194,216**	-	**36,570,262**	-
Total liabilities	**90,852,407**	58,354,616	**5,796,971**	3,721,042	**96,649,378**	62,075,658
Less current portion	**(1,611,948)**	(624,692)	**(98,326)**	(34,698)	**(1,710,274)**	(659,390)
Total noncurrent liabilities	**$ 89,240,459**	$ 57,729,924	**$ 5,698,645**	$ 3,686,344	**$ 94,939,104**	$ 61,416,268

Additional information on the State Bar's noncurrent liabilities can be found in Note 5 on page 43 of this report.

Economic Factors and Next Year's Budget

For the General Fund, estimated revenues for fiscal year 2020 are $43,109,214 and estimated expenditures and other uses are $42,464,914. If these estimates are realized, and the General Fund transfers $1,488,800 to other funds as budgeted, the State Bar's budgetary General Fund balance is expected to decrease slightly due to the expenditures related to Board commitments of excess fund balance.

Contacting the State Bar's Financial Management

This financial report is designed to provide a general overview of the State Bar's finances for all those with an interest in the government's finances. Questions concerning any of the information provided in this report or requests for additional financial information should be addressed to the Finance Division Director, State Bar of Texas, and P.O. Box 12487, Austin, Texas 78711.

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Basic Financial Statements

State Bar of Texas

Statement of Net Position
May 31, 2019

	Governmental Activities	Business-Type Activities	Total
Assets			
Current assets:			
Cash and cash equivalents—cash in bank	$ 16,029,288	$ -	$ 16,029,288
Investments	35,971,162	-	35,971,162
Receivables:			
Sales to members and others, net of an allowance for uncollectibles of $2,300 and $46,023, respectively	43,703	401,493	445,196
Interest receivable	70,429	-	70,429
Other accounts receivable	2,791,195	-	2,791,195
Internal balances	(741,033)	741,033	-
Inventories, net of obsolescence	12,070	555,514	567,584
Prepaid expenses	1,230,670	498	1,231,168
Total current assets	55,407,484	1,698,538	57,106,022
Noncurrent assets:			
Capital assets:			
Land	154,074	-	154,074
Construction in progress	200,534	-	200,534
Buildings, net	824,028	-	824,028
Furniture, fixtures, computer equipment, software and other equipment, net	5,126,486	35,322	5,161,808
Total noncurrent assets	6,305,122	35,322	6,340,444
Total assets	$ 61,712,606	$ 1,733,860	$ 63,446,466
Deferred Outflows of Resources			
OPEB related amounts	366,195	23,374	389,569
Pension related amounts	6,984,181	445,799	$ 7,429,980
Total deferred outflows of resources	$ 7,350,376	$ 469,173	$ 7,819,549

See notes to financial statements.

	Governmental Activities	Business-Type Activities	Total
Liabilities			
Current liabilities:			
Accounts payable	$ 1,432,829	-	$ 1,432,829
Accrued liabilities	741,191	50,606	791,797
Due to agency funds	803,650	-	803,650
Unearned revenue	16,354,513	9,035	16,363,548
Capital lease obligations	37,984	-	37,984
Total OPEB liability	961,247	61,356	1,022,603
Accrued compensated absences	612,717	36,970	649,687
Total current liabilities	20,944,131	157,967	21,102,098
Noncurrent liabilities:			
Accrued compensated absences	908,775	60,452	969,227
Total OPEB liability	33,414,799	2,132,860	35,547,659
Net pension liability	54,916,885	3,505,333	58,422,218
Total noncurrent liabilities	89,240,459	5,698,645	94,939,104
Total liabilities	$ 110,184,590	$ 5,856,612	$ 116,041,202
Deferred Inflows of Resources			
OPEB related amounts	13,305,739	849,297	14,155,036
Pension related amounts	$ 4,843,334	309,149	$ 5,152,483
Total deferred inflows of resources	$ 18,149,073	$ 1,158,446	$ 19,307,519
Net Position (Deficit)			
Net investment in capital assets	$ 6,267,138	$ 35,322	$ 6,302,460
Unrestricted (deficit)	(65,537,819)	(4,847,347)	(70,385,166)
Total net position (deficit)	$ (59,270,681)	$ (4,812,025)	$ (64,082,706)

State Bar of Texas

Statement of Activities
Year Ended May 31, 2019

Functions/Programs	Expenses	Program Revenues: Charges for Services	Program Revenues: Operating Grants and Contributions	Net (Expenses) Revenues and Changes in Net Position: Governmental Activities	Net (Expenses) Revenues and Changes in Net Position: Business-Type Activities	Net (Expenses) Revenues and Changes in Net Position: Total
Primary government:						
Governmental activities:						
General government	$ 10,597,640	$ 572,275	$ -	$ (10,025,365)	$ -	$ (10,025,365)
Public services	4,979,973	427,659	420,217	(4,132,097)	-	(4,132,097)
Member services	24,876,303	19,534,538	1,632,633	(3,709,132)	-	(3,709,132)
Public protection	14,207,787	703,979	-	(13,503,808)	-	(13,503,808)
Total governmental activities	54,661,703	21,238,451	2,052,850	(31,370,402)	-	(31,370,402)
Business-type activities:						
Books	3,975,696	2,288,252	-	-	(1,687,444)	(1,687,444)
Total business-type activities	3,975,696	2,288,252	-	-	(1,687,444)	(1,687,444)
Total primary government activities	$ 58,637,399	$ 23,526,703	$ 2,052,850	(31,370,402)	(1,687,444)	(33,057,846)
General revenues:						
Membership dues				24,804,055	-	24,804,055
Investment income				1,018,343	8,993	1,027,336
Royalty revenue				1,525,878	1,138,780	2,664,658
Other income				538,501	-	538,501
Loss on disposal of capital assets				(1,288)	-	(1,288)
Total general revenues				27,885,489	1,147,773	29,033,262
Change in net position				(3,484,913)	(539,671)	(4,024,584)
Net position (deficit) at beginning of year, as restated				(55,785,768)	(4,272,354)	(60,058,122)
Net position (deficit) at end of year				$ (59,270,681)	$ (4,812,025)	$ (64,082,706)

See notes to financial statements.

State Bar of Texas

Balance Sheet—Governmental Funds
May 31, 2019

	General Fund	Sections and Divisions	Nonmajor Governmental Funds	Total Governmental Funds
Assets				
Current assets:				
Cash and cash equivalents—cash in bank	$ 4,741,370	$ 7,277,090	$ 4,010,828	$ 16,029,288
Investments	27,777,845	1,608,020	6,585,297	35,971,162
Receivables:				
Sales to members and others, net of an allowance for uncollectibles of $2,300	43,703	-	-	43,703
Interest receivable	48,448	190	21,791	70,429
Other accounts receivable	2,727,131	57,121	6,943	2,791,195
Due from other governmental funds	681,438	1,021,722	685,690	2,388,850
Inventories	12,070	-	-	12,070
Prepaid items	847,384	44,188	339,098	1,230,670
Total assets	$ 36,879,389	$ 10,008,331	$ 11,649,647	$ 58,537,367
Liabilities and Fund Balances				
Current liabilities:				
Accounts payable	$ 1,273,484	$ 159,345	$ -	$ 1,432,829
Accrued liabilities	733,415	-	7,776	741,191
Due to other governmental funds	1,707,412	-	681,438	2,388,850
Due to enterprise fund	741,033	-	-	741,033
Due to agency fund	803,650	-	-	803,650
Unearned revenue	13,870,518	1,624,637	859,358	16,354,513
Total current liabilities	19,129,512	1,783,982	1,548,572	22,462,066
Fund balances:				
Nonspendable	859,454	44,188	339,098	1,242,740
Committed	1,992,084	8,180,161	9,761,977	19,934,222
Unassigned	14,898,339	-	-	14,898,339
Total fund balances	17,749,877	8,224,349	10,101,075	36,075,301
Total liabilities and fund balances	$ 36,879,389	$ 10,008,331	$ 11,649,647	$ 58,537,367

See notes to financial statements.

State Bar of Texas

Reconciliation of the Balance Sheet of Governmental Funds to the Statement of Net Position
May 31, 2019

Total fund balance—Governmental Funds balance sheet	$ 36,075,301
Amounts reported for governmental activities in the statement of net position are difference because:	
Capital assets used in governmental activities are not financial resources and, therefore, are not reported in the funds	6,305,122
The following liabilities are not due and payable in the current period and, therefore, are not reported in the funds:	
Net pension liability	(54,916,885)
OPEB liability	(34,376,046)
Capital lease payable	(37,984)
Accrued compensated absences	(1,521,492)
Deferred outflows related to net OPEB liability	366,195
Deferred inflows related to net OPEB liability	(13,305,739)
Deferred outflows related to net pension liability	6,984,181
Deferred inflows related to net pension liability	(4,843,334)
Net position of governmental activities—statement of net position	$ (59,270,681)

See notes to financial statements.

State Bar of Texas

Statement of Revenues, Expenditures and Changes in Fund Balance—Governmental Funds
Year Ended May 31, 2019

	General Fund	Sections and Divisions	Nonmajor Governmental Funds	Total Governmental Funds
Revenues:				
Membership dues	$ 20,869,303	$ 2,578,252	$ 1,356,500	$ 24,804,055
Accounting and management fees	650,351	-	-	650,351
Texas Bar Journal	455,789	-	-	455,789
MCLE fees	3,804,158	-	-	3,804,158
Professional development	14,275,158	889,944	-	15,165,102
Minority affairs	413,301	-	-	413,301
Investment income	731,489	52,272	234,582	1,018,343
Grant revenue	-	-	477,183	477,183
Member benefits	899,972	-	-	899,972
Website	588,026	-	-	588,026
Advertising review	351,895	-	-	351,895
CDC disciplinary fees	703,979	-	-	703,979
Other income	1,018,849	935,373	855,298	2,809,520
Total revenues	44,762,270	4,455,841	2,923,563	52,141,674
Expenditures:				
Executive	2,847,822	-	-	2,847,822
Member and public service	2,921,219	-	-	2,921,219
Professional development	9,874,714	-	-	9,874,714
Legal and attorney services	1,655,781	-	-	1,655,781
Access to justice commission	682,368	-	-	682,368
Member benefits and research	226,993	-	-	226,993
Attorney compliance	1,879,500	-	-	1,879,500
Operations and security division	1,256,653	-	35,580	1,292,233
Finance and information technology	5,237,290	-	761,480	5,998,770
Communications	2,310,939	-	-	2,310,939
Public protection	10,731,471	-	661,159	11,392,630
Special services	-	4,075,412	2,425,495	6,500,907
Expenditures related to Board commitments	1,207,093	-	-	1,207,093
Capital outlay	-	-	179,574	179,574
Debt service:				
Principal	-	-	46,571	46,571
Interest	-	-	4,228	4,228
Total expenditures	40,831,843	4,075,412	4,114,087	49,021,342
Excess (deficiency) of revenues over (under) expenditures	3,930,427	380,429	(1,190,524)	3,120,332
Other financing sources (uses):				
Transfers in	-	-	1,888,800	1,888,800
Transfers out	(1,888,800)	-	-	(1,888,800)
Total other financing sources (uses)	(1,888,800)	-	1,888,800	-
Net change in fund balances	2,041,627	380,429	698,276	3,120,332
Fund balances at beginning of year, as restated	15,708,250	7,843,920	9,402,799	32,954,969
Fund balances at end of year	$ 17,749,877	$ 8,224,349	$ 10,101,075	$ 36,075,301

See notes to financial statements.

State Bar of Texas

Reconciliation of the Statement of Revenues, Expenditures and Changes in Fund Balance of the Governmental Funds to the Statement of Activities
Year Ended May 31, 2019

Net change in fund balance—total Governmental Funds	$	3,120,332
Amounts reported for governmental activities in the statement of activities are different because:		
Revenues in the statement of activities that do not provide current financial resources are not reported as revenues in the funds		(277,554)
Governmental funds report capital outlays as expenditures; however, in the statement of activities, the cost of those assets is allocated over their estimated useful lives as depreciation and amortization expense:		
Capital outlay—exclusive of noncapitalized items		207,034
Depreciation and amortization expense		(854,613)
Loss on disposal of capital assets		(1,288)
Proceeds from capital leases provide current financial resources to governmental funds, but issuing debt increases noncurrent liabilities in the statement of net position; repayment of capital leases is an expenditure in the governmental funds, but the repayment reduces noncurrent liabilities in the statement of net position:		
Repayment of capital leases		46,571
Some expenses reported in the statement of activities do not require the use of current financial resources and, therefore, are not reported as expenditures in governmental funds:		
Change in pension liability and related deferred inflows and outflows		(5,854,631)
Change in OPEB liability and related deferred inflows and outflows		182,976
Change in compensated absences		(53,740)
Change in net position of governmental activities—statement of activities	$	(3,484,913)

See notes to financial statements.

State Bar of Texas

Statement of Net Position—Proprietary Fund
May 31, 2019

	Law Practice Resource Management
Assets	
Current assets:	
Accounts receivable, net of allowance for uncollectibles of $46,023	$ 401,493
Due from other funds	741,033
Inventories, net of obsolescence	555,514
Prepaid expenses	498
Total current assets	1,698,538
Noncurrent assets:	
Capital assets—furniture, fixtures, computer equipment, digital publication and other equipment, net of accumulated depreciation and amortization of $318,315	35,322
Total assets	$ 1,733,860
Deferred Outflows of Resources	
OPEB related amounts	23,374
Pension related amounts	445,799
Total deferred outflows of resources	$ 469,173
Liabilities	
Current liabilities:	
Accrued liabilities	$ 50,606
Unearned revenue	9,035
Total OPEB liability	61,356
Accrued compensated absences	36,970
Total current liabilities	157,967
Noncurrent liabilities:	
Accrued compensated absences	60,452
Total OPEB liability	2,132,860
Net pension liability	3,505,333
Total noncurrent liabilities	5,698,645
Total liabilities	$ 5,856,612
Deferred Inflows of Resources	
OPEB related amounts	849,297
Pension related amounts	309,149
Total deferred inflows of resources	$ 1,158,446
Net Position (Deficit)	
Investment in capital assets	$ 35,322
Unrestricted (deficit)	(4,847,347)
Total net position (deficit)	$ (4,812,025)

See notes to financial statements.

State Bar of Texas

Statement of Revenues, Expenses and Changes in Net Position—Proprietary Fund
Year Ended May 31, 2019

	Law Practice Resource Management
Operating revenues:	
Charges for sales and services:	
Book sales	$ 2,288,252
Total operating revenues	2,288,252
Operating expenses:	
Costs of goods sold	688,020
Salaries and benefits	2,116,477
Professional services	100,861
Administrative fee	542,548
Office, equipment, storage rentals	163,423
Postage and freight	156,958
Other administrative expenses	207,409
Total operating expenses	3,975,696
Operating loss	(1,687,444)
Nonoperating revenues:	
Investment income	8,993
Royalty revenue	1,138,780
Total nonoperating revenues	1,147,773
Change in net position	(539,671)
Net position (deficit) at beginning of year, as restated	(4,272,354)
Net position (deficit) at end of year	$ (4,812,025)

See notes to financial statements.

State Bar of Texas

Statement of Cash Flows—Proprietary Fund
Year Ended May 31, 2019

	Law Practice Resource Management
Cash flows from operating activities:	
Receipts from customers	$ 2,597,630
Payments to suppliers for goods and services	(2,109,011)
Payments to employees	(1,335,620)
Net cash used in operating activities	(847,001)
Cash flows from noncapital financing:	
Interfund transactions	(300,772)
Net cash used in noncapital financing	(300,772)
Cash flows from investing activities:	
Interest received	8,993
Royalties received	1,138,780
Net cash provided by investing activities	1,147,773
Net change in cash and cash equivalents	-
Cash and cash equivalents at beginning of year	-
Cash and cash equivalents at end of year	$ -
Reconciliation of operating loss to net cash used in operating activities:	
Operating loss	$ (1,687,444)
Bad-debt expense	(17,575)
Adjustments to reconcile operating loss to net cash used in operating activities:	
Changes in assets and liabilities:	
Accounts receivable	326,271
Inventories, net of obsolescence	203,242
Prepaid expenses	(498)
Accrued liabilities	(44,107)
Unearned revenue	9,035
Accrued compensated absences	2,059
OPEB liability	(974,257)
Net pension liability	1,336,273
Net cash used in operating activities	$ (847,001)

See notes to financial statements.

State Bar of Texas

Statement of Net Position—Fiduciary Funds
May 31, 2019

	Agency Funds	State Bar of Texas Insurance Trust Private-Purpose Trust Fund
Assets		
Cash in bank	$ 81,760	$ 444,246
Accounts receivable	-	319,823
Due from general fund	871,101	-
Total assets	$ 952,861	$ 764,069
Liabilities		
Due to general fund	$ -	$ 67,451
Due to other organizations	952,861	310,273
Total liabilities	$ 952,861	$ 377,724
Net position, held in trust for member group insurance benefits		$ 386,345

See notes to financial statements.

State Bar of Texas

Statement of Changes in Net Position—Fiduciary Funds
Year Ended May 31, 2019

	State Bar of Texas Insurance Trust Private-Purpose Trust Fund
Additions:	
Contributions of subscribers	$ 6,876,094
Royalties	87,074
Service agreement revenue	600,000
Total additions	7,563,168
Deductions:	
Premiums to insurance carrier	6,876,094
Accounting fees	25,187
Insurance	258,803
Rent	634
Service agreement fee	250,000
Total deductions	7,410,718
Income before income tax benefit	152,450
Income tax benefit	14,678
Change in net position	137,772
Net position at beginning of year	248,573
Net position at end of year	$ 386,345

See notes to financial statements.

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Note 1. Summary of Significant Accounting Policies

Reporting entity: The State Bar of Texas' (the State Bar) enabling legislation, Texas Rev. Civ. Stat. Ann. Art. 320a-l (Vernon Supp. 1986), provides the authority for operations of the State Bar. In 1939, the State Bar was created by the State of Texas legislature. Located in the judicial branch of the State government, its primary responsibility is to cooperate in the regulation of the practice of law in the State of Texas. The State Bar is an administrative branch or department of the Supreme Court of Texas. This report includes the funds and account groups required to account for those activities, organizations and functions which are related to the State Bar and are controlled by the State Bar. The State Bar is included in the financial statements of the State of Texas as a component unit.

The State Bar's major activities or functions include the collection and monitoring of membership dues, discipline of attorneys, development and accreditation of professional development courses, publishing and printing of legal text for sale to members, preparation and distribution of the Bar Journal and providing access to a database of legal information for member use. These activities are included in the accompanying financial statements.

Component units: Component units are legally separate organizations for which the elected officials of the primary government are financially accountable. Component units can also be other organizations for which the nature and significance of their relationship with a primary government is such that exclusion would cause the reporting entity's financial statements to be misleading or incomplete. In addition, component units can be organizations that raise and hold economic resources for the direct benefit of a government unit. Because of the closeness of their relationships with the primary government, some component units are blended as though they are part of the primary government.

The State Bar appoints a majority of members to the Texas Bar Foundation's (the Foundation), the Texas Center for Legal Ethics' (the Center) and the Texas Legal Protection Plan, Inc.'s. (the Plan) governing body; however, because the State Bar is not in a position to impose its will on or significantly influence the programs, projects, activities or level of service performed by the Foundation, Center and the Plan, and because no financial burden or benefit exists between the State Bar and the Foundation, Center and the Plan, they are not considered a component unit of the State Bar.

Blended component units: The relationship among the following component units and the State Bar is such that it meets the criteria, as set forth in Governmental Accounting Standards Board (GASB) Statement No. 61, *The Financial Reporting Entity: Omnibus—an Amendment of GASB Statements No. 14 and No. 34.,* for inclusion in the reporting entity and are such that the financial statements are blended with those of the State Bar.

The Texas Bar College (the College) is an honor society designed to recognize attorneys who accumulate at least twice as many continuing legal education credit hours each year than the minimum required. The College was created in 1981 by order of the Texas Supreme Court. The College is governed by an 18-member board of directors, of which, 12 members are appointed by the State Bar's President, and six members are appointed by the State Bar's President based on nominations submitted by the College's board. The College is a section 501(c)(3) corporation and is funded through membership dues, investment income and merchandise sales. The College is reported as a Special Revenue Fund because the services it provides, exclusively benefits the State Bar.

Note 1. Summary of Significant Accounting Policies (Continued)

Law Focused Education, Inc. was created in 1975 as a section 501(c)(3) corporation to plan, promote and support law-related education programs aimed at preparing elementary, middle and high school students for effective, responsible citizenship and who are committed to liberty, justice and the Rule of Law. Law Focused Education, Inc. is governed by a 16-member board of directors, all of which are appointed by the State Bar's President. Law Focused Education, Inc. is made up of two funds: Hatton W. Sumners Grants Fund and Law Focused Education, both of which are reported as Special Revenue Funds because the services it provides, exclusively benefits the State Bar. Contact the Finance Division of the State Bar to obtain financial statements of the blended component units.

The State Bar of Texas Insurance Trust and Affiliate, which consists of the State Bar of Texas Insurance Trust (the Trust) and the SBIT Insurance Agency, LLC (the Agency). The State Bar of Texas Insurance Trust and Affiliate is custodial in nature and is reported with the fiduciary fund financial statements as a private purpose trust fund.

The State Bar evaluated GASB No. 61 and determined the Trust meets the criteria for inclusion in the reporting entity as a bended component unit.

The Trust was formed in 1973 to provide group insurance benefits to members of the State Bar, including their employees, employees of the State Bar and the Trust and families of all eligible participants. Premiums for the group policies are collected by the Trust and are remitted to the insurance company, Prudential Insurance Company of America (Prudential), who underwrites the State Bar of Texas Insurance Program (the Program). Prudential is responsible for all claims.

The Agency was formed on January 11, 2005, as a general lines insurance agency. The Agency was formed to assist employees of the State Bar, the Trust and the families of eligible participants in acquiring insurance from companies other than those currently provided by the Trust. The Trust owns 100% of the membership interest of the Agency and is, therefore, consolidated in its financial statements. All intercompany balances and transactions have been eliminated.

Government-wide financial statements: The government-wide financial statements (i.e., the statement of net position and the statement of activities) report information on all of the nonfiduciary activities of the State Bar and are reported on a full accrual basis of accounting, using the economic resource measurement focus, which recognizes all long-term assets and receivables, as well as long-term debt and obligations. The effect of interfund activity has been removed from these statements. However, interfund services provided and used are not eliminated in process of consolidation. Governmental activities, which are supported by dues, fees, grants and other revenues, are reported separately from business-type activities, which rely to a significant extent on fees and charges for support.

The statement of net position presents the State Bar's nonfiduciary assets and deferred outflows of resources and liabilities and deferred inflows of resources, with the difference reported as net position.

Note 1. Summary of Significant Accounting Policies (Continued)

The statement of activities demonstrates the degree to which the direct expenses of a given function or segment are offset by program revenues. Direct expenses are those that are clearly identifiable with a specific function or segment. All capital asset depreciation is reported as a direct expense of the financial program that benefits from the use of the capital assets. Program revenues include (1) charges to customers or applicants who purchase, use or directly benefit from goods, services or privileges provided by a given function or segment and (2) grants and contributions that are restricted to meeting the operational or capital requirements of a particular function or segment. Membership dues and other items not required to be included among program revenues are reported instead as general revenues. Membership dues are reported as general revenues as they are the primary revenue source of the State Bar and attorneys are required to pay this membership due in order to practice law in the State of Texas.

Fund financial statements: The fund financial statements provide information about the State Bar's funds, including its fiduciary funds and blended component units. Separate financial statements for each fund category—governmental, proprietary and fiduciary are presented. The emphasis of fund financial statements is on major governmental and enterprise funds, each displayed in a separate column. All remaining governmental and enterprise funds are aggregated and reported as nonmajor funds.

Fund accounting: The accounts of the State Bar are organized on the basis of funds, each of which is considered to be a separate accounting entity. The operations of each fund are accounted for by providing a separate set of self-balancing accounts which comprise its assets, liabilities, deferred inflows/outflows, fund balance/net position, revenues and expenditures or expenses, as appropriate.

The fund structure:

Governmental fund types: The State Bar reports the following major governmental funds:

General Fund: The General Fund is the State Bar's primary operating fund. It accounts for all financial resources of the general government, except those required to be accounted for in another fund.

Special Revenue Funds: The special revenue funds are used to account for and report the proceeds of specific revenue sources that are restricted or committed to expenditures for specified purposes other than debt service or capital projects. The Sections and Divisions are a special revenue fund reported as a major governmental fund. The Sections and Divisions are created by the State Bar's Board and serve the individual members of the State Bar in certain legal specialization areas. The Sections and Divisions' officers are elected by the members of the individual sections and divisions and are responsible for maintaining and administering their operations. Although the Sections and Divisions collect a portion of their revenues and pay expenditures for administration and operations individually, the State Bar administers the collection of dues for the Sections and Divisions. The State Bar believes it is unlikely that it will be required to use its assets to satisfy future claims of the Sections and Divisions; however, the State Bar is liable for any claims should they occur.

Proprietary Fund: Proprietary fund types are used to account for the State Bar's ongoing activities, which are operated similar to those often found in the private sector. The measurement focus is upon income determination, financial position and cash flows.

Enterprise Fund: Enterprise funds are used to account for those operations that are financed and operated in a manner similar to private business or where the State Bar has decided that the determination of revenues earned, costs incurred and/or net income is necessary for management accounting.

Note 1. Summary of Significant Accounting Policies (Continued)

The State Bar reports its Book Enterprise Fund, known as Law Practice Resource Management, as a major enterprise fund. The Book Enterprise Fund accounts for the activities relating to the sales of books. The principal operating revenues of the State Bar's Book Enterprise Fund are charges for the sales of books and royalty income. Operating expenses include the cost of sales and services, and administrative expenses.

Additionally, the State Bar reports the following nonmajor fund types:

Special Revenue Funds: The special revenue funds include: Texas Board of Legal Specialization Fund, Texas Bar College, Annual Meeting, Client Security Fund, Project Grants Fund, Hatton W. Sumners Grants Fund, Law Focused Education and Department of Public Service.

Capital Projects Funds: The capital projects funds are used to account for and report financial resources that are restricted, committed or assigned to expenditure for capital outlays, including the acquisition or construction of capital facilities and other capital assets, other than those financed by proprietary funds. The capital projects funds include the Texas Law Center and the Technology Fund.

Fiduciary funds: Fiduciary funds account for assets held by the State Bar in a trustee or agency capacity for the benefit of others and cannot be used to support the State Bar's activities. The State Bar has the following fiduciary fund types:

- Agency fund—The agency fund is custodial in nature and is used to account for reporting voluntary access to justice contributions.

- Private-purpose trust fund: Component unit—Additional information about the blended presented component unit, the State Bar of Texas Insurance Trust and Affiliate, a private purpose trust fund, can be found on pages 26-27.

The government-wide financial statements and the proprietary and fiduciary fund financial statements are reported using the economic resources measurement focus and the accrual basis of accounting. The agency funds do not have a measurement focus, but are reported using the accrual basis of accounting. Revenues are recorded when earned and expenses are recorded when a liability is incurred, regardless of the timing of related cash flows. Internal activity between funds is eliminated in the government-wide financial statements.

Governmental fund financial statements are reported using the current financial resources measurement focus and the modified accrual basis of accounting. This measurement focus means that only current assets and current liabilities are included on the balance sheet. Operating statements of these funds present resources (i.e., revenues and other financing sources) and decreases (i.e., expenditures and other financing uses) in net current assets. Revenues earned are recognized as soon as they are both measurable and available. For this purpose, State Bar considers revenues to be available when they are collectible within the current period or soon enough thereafter to pay liabilities of the current period. For this purpose, the State Bar considers revenues to be available if they are collected within 60 days after year-end.

Note 1. Summary of Significant Accounting Policies (Continued)

Expenditures are generally recorded when a liability is incurred, as under accrual accounting. However, expenditures related to debt service, compensated absences, other postemployment benefits, pension-related amounts and claims and judgments are recognized as expenditures only when the liability has matured and payment is due. Capital acquisitions are reported as expenditures in governmental funds. Proceeds of general long-term debt and acquisitions under capital financing and capital leases are reported as other financing sources.

Proprietary funds distinguish operating revenues and expenses from nonoperating items. Operating revenues and expenses generally result from providing services and producing and delivering goods in connection with a proprietary fund's principal ongoing operations. The principal operating revenues of the State Bar's proprietary funds are charges for services. Operating expenses for proprietary funds include the costs of sales, administrative expenses and depreciation on capital assets. All revenues and expenses not meeting this definition are reported as nonoperating revenues and expenses.

Budget and budgetary accounting: The State Bar's budget is prepared annually by the Executive Director for the General Fund and is reviewed by the budget committee of the Board and adopted by the Board. The Sections and Divisions major fund and other special revenue funds do not have appropriated budgets since other means control the use of these resources. The budget passes several stages of review, including a public hearing, adoption by the Board and approval by the Supreme Court of Texas. The budget may be amended at any meeting of the Board, but the amendments made are subject to the approval of the Supreme Court of Texas. Variances from budgeted revenues and expenditures are analyzed by management, the finance committee, the executive committee and the Board. Regulations do not prohibit the State Bar from having unfavorable variances.

Assets, deferred outflows of resources, liabilities, deferred inflows of resources and fund balances/net position:

Cash and cash equivalents: The State Bar's cash and cash equivalents are considered to be demand deposits, petty cash and money market accounts. Short-term highly liquid investments with an original maturity of three months or less are considered cash equivalents.

Investments: Investments consist primarily of United States treasury securities, government agency securities, commercial paper and money market mutual funds, which are stated at fair value. Fair value is the price that would be received to sell an asset in an orderly transaction between market participants at the measurement date. Investments are reported at fair value based upon quoted market prices, or when quoted market prices are not readily determinable, estimated fair values using observable inputs including quoted prices for similar securities, interest rates, net asset values (NAV) of underlying securities and a fixed income pricing model which uses available market rates. Investments in nonnegotiable certificates of deposit are reported at amortized costs.

Purchases and sales of securities are recorded on a trade-date basis. Interest income is recorded on the accrual basis.

Chapter 2256 of the Texas Governmental Code (Public Funds Investment Act) authorizes the State Bar to invest in funds under a written investment policy. The State Bar's deposits and investments are invested pursuant to the investment policy, which is approved annually by the Board. The primary objectives of the State Bar's investment strategy, in order of priority, are preservation and safety of principal, liquidity and return on investment.

Note 1. Summary of Significant Accounting Policies (Continued)

Receivables: Receivables represents amounts due from sales to members and others. All receivables are shown net of an allowance for uncollectibles, if applicable. The allowance for doubtful accounts is established as losses are estimated to have occurred through a provision for bad debts charged to net position. Losses are charged against the allowance when management believes the uncollectibility of a receivable is probable. Subsequent recoveries, if any, are credited to the allowance. The allowance for doubtful accounts is evaluated on a regular basis on historical experience and specifically identified questionable receivables. The evaluation is inherently subjective, as it requires estimates that are susceptible to significant revision as more information becomes available. At May 31, 2019, the State Bar governmental activities and business-type activities reported an allowance of $2,300 and $46,023 respectively.

Inventories: Inventories consists of merchandise such as books and other publications held for sale by the State Bar, which are valued at the lower of cost or market. Cost is determined for inventories on the first-in, first-out method. Merchandise inventories reported in the General Fund are offset in the fund level financial statements by a nonspendable fund balance to indicate they do not represent available spendable resources.

Prepaid items: Certain payments to vendors reflect costs applicable to future accounting periods and are recorded as prepaid items in both the government-wide and fund financial statements. The cost of prepaid items are recorded as expenditures/expenses when consumed rather than when purchased.

Capital assets: Capital assets, consisting of land, buildings, furniture and fixtures, computer equipment, software and other equipment, are reported in the governmental activities and business-type activities columns of the government-wide financial statements and proprietary fund financial statements. Capital assets are defined by the State Bar as assets with an initial cost of at least $5,000 and an estimated useful life in excess of one year. Capital assets are recorded at historical cost if purchased or constructed. Donated capital assets are recorded at acquisition value at the date of the donation. The costs of normal maintenance and repairs that do not add to the value of the assets or materially extend the assets lives are not capitalized.

Land and construction in progress are not depreciated. The other capital assets are depreciated using the straight-line method over the following estimated useful lives:

Asset Description	Asset Life
Buildings	30 years
Furniture and fixtures	10-20 years
Computer equipment	3-5 years
Software	3-5 years
Other equipment	5-10 years

Accounts payable: Accounts payable represent the liability for the value of assets or services received at the balance sheet date for which payment is pending.

Unearned revenue: The State Bar collects certain dues, fees and subscription revenue in advance for future events or for license, fees and memberships with periods beginning subsequent to year-end. These receipts are accounted for as unearned revenue, which will be earned and recognized in the subsequent fiscal year, as the events occur and the licenses and memberships commence.

Note 1. Summary of Significant Accounting Policies (Continued)

Capital lease: Capital lease obligations represent the liability for future lease payments under capital lease. Liabilities are reported separately as either current or noncurrent in the statement of net position.

Compensated absences: The State Bar grants paid annual leave to its employees. The amount of annual leave that employees accrue depends on the length of State of Texas service as of the employee's anniversary date and accrued days and allowable carryover hour's increases with the length of service. Subject to certain limitations and requirements, employees' accrued annual leave may be used while employed, through the transfer to another State of Texas agency, at the termination of employment, at death or retirement. The current and long-term liabilities for accumulated vacation are accrued when incurred in the government-wide and proprietary fund financial statements. A liability for these amounts is reported in governmental funds upon the occurrence of relevant events such as resignations, retirements and other uses of leave balances by covered employees. These obligations are normally paid from the same funding source from which each employee's salary or wage compensation was paid. Accrued annual leave of $1,521,492 and $97,422 was recorded as accrued compensated absences for governmental activities and business-type activities, respectively, for the year ended May 31, 2019.

Pensions: The fiduciary net position of the Employees Retirement System of Texas Plan (ERS) has been determined using the flow of economic resources measurement focus and the accrual basis of accounting. This includes for purposes of measuring the State Bar's net pension liability, deferred outflows of resources and deferred inflows of resources related to pensions, pension expense and information about assets, liabilities and additions and deductions from ERS's fiduciary net position. Benefit payments by ERS (including refunds of employee contributions) are recognized when due and payable in accordance with the terms of the plan. Investments of ERS are reported at fair value.

Deferred outflows/inflows of resources: In addition to assets, the statement of net position will sometimes report a separate section for deferred outflows of resources. This separate financial statement element, deferred outflows of resources, represents a consumption of net position that applies to a future period(s) and will not be recognized as an outflow of resources (expenses/expenditures) until then. Deferred outflows of resources consists of items not yet charged to pension and OPEB expense and contributions from the State Bar after the measurement date but before the end of the State Bar's reporting period.

In addition to liabilities, the statement of net position will sometimes report a separate section for deferred inflows of resources. This separate financial statement element, deferred inflows of resources, represents an acquisition of net position that applies to a future period(s) and so will not be recognized as an inflow of resources (revenue) until that time. Deferred inflows of resources consist of items including difference between expected and actual experience, changes in assumptions and the change in proportion and contribution differences for pension and OPEB amounts.

Net position: Net position represents the difference between assets plus deferred outflows of resources and liabilities plus deferred inflows of resources on the government-wide financial statements and proprietary fund financial statements. Net position consists of the following:

Net investment in capital assets: Consists of capital assets, net of accumulated depreciation and amortization, reduced by outstanding capital lease obligations attributed to the acquisition of those assets.

Restricted net position: Net position is reported as restricted when there are external limitations imposed on its use by creditors, grantors, contributors and the like or imposed by law through constitutional provisions or enabling legislation.

Note 1. Summary of Significant Accounting Policies (Continued)

Unrestricted net position: Represents the remaining portion of net position.

Fund balance: Fund balance is the difference between assets plus deferred outflows of resources and liabilities plus deferred inflows of resources on the governmental fund financial statements. Fund balances for governmental funds are classified as nonspendable, restricted, committed, assigned or unassigned in the fund statements.

Nonspendable: The nonspendable fund balance category includes amounts that cannot be spent because they are not in spendable form, such as inventories and prepaid items, or amounts that are legally or contractually required to be maintained intact. The nonspendable form criterion includes items that are not expected to be converted to cash.

Restricted: Fund balance is reported as restricted when constraints placed on the use of resources are either externally imposed by creditors (such as through debt covenants), grantors, contributors or laws or regulations of other governments or are imposed by law through constitutional provisions or enabling legislation. Legal enforceability means that the State Bar can be compelled by an external party, such as citizens, public interest groups or the judiciary, to use resources created by enabling legislation only for the purposes specified by the legislation.

Committed: The committed fund balance classification includes amounts that can be used only for the specific purposes imposed by formal action (resolution) of the Board. Those committed amounts cannot be used for any other purpose unless the Board removes or changes the specified use by taking the same type of action (resolution) it employed to previously commit those amounts. In contrast to a fund balance that is restricted by enabling legislation, the committed fund balance classification may be redeployed for other purposes with appropriate due process. Constraints imposed on the use of committed amounts are imposed by the Board, separate from the authorization to raise the underlying revenue; therefore, compliance with these constraints is not considered to be legally enforceable. The committed fund balance also incorporates contractual obligations to the extent that existing resources in the fund have been specifically committed for use in satisfying those contractual requirements.

Assigned: Amounts in the assigned fund balance classification are intended to be used by the State Bar for specific purposes, but do not meet the criteria to be classified as restricted or committed. In Governmental Funds other than the General Fund, assigned fund balance represents the remaining amount that is not restricted or committed. In the General Fund, assigned amounts represent intended uses established by the Board or a State Bar official delegated by the Board or by resolution.

Unassigned: Unassigned fund balance is the residual classification for the General Fund and includes all spendable amounts not contained in the other classifications. In other Governmental Funds, the unassigned classification is used only to report a deficit balance resulting from overspending for specific purposes for which amounts had been restricted, committed or assigned.

When expenditures are incurred for purposes for which both restricted and unrestricted fund balance/net position are available, the State Bar considers amounts to have been spent first out of restricted funds, then committed funds, then assigned funds, and finally unassigned/unrestricted funds, as needed, unless the Board or its delegated official has provided otherwise in its commitment or assignment actions.

Note 1. Summary of Significant Accounting Policies (Continued)

The following table details fund balances between the various categories as of May 31, 2019:

	General Fund	Sections and Divisions	Nonmajor Governmental Funds	Total
Fund balances:				
Nonspendable:				
Inventories	$ 12,070	$ -	$ -	$ 12,070
Prepaid items	847,384	44,188	339,098	1,230,670
Total nonspendable	859,454	44,188	339,098	1,242,740
Committed to:				
Texas Law Center projects	100,000	-	4,010,134	4,110,134
Access to Justice (ATJ) student loan repayment program	515,000	-	-	515,000
Run-off Election Reserve	70,000	-	-	70,000
Law Related Education program	79,500	-	-	79,500
Presidential initiatives	126,641	-	-	126,641
Statewide Pro Bono Recruitment Campaign	148,161	-	-	148,161
Ethics Initiatives	11,943	-	-	11,943
Texas Opportunity and Justice Incubator Program	571,088	-	-	571,088
Legal Access Division Programs	44,251	-	-	44,251
Referendum reserve	100,000	-	-	100,000
Archives Digitization Project	75,500	-	-	75,500
Client Security Fund expenditures	-	-	2,608,547	2,608,547
Sections expenditures	-	8,180,161	-	8,180,161
Information technology projects	150,000	-	591,173	741,173
Special revenue funds	-	-	2,552,123	2,552,123
Total committed	1,992,084	8,180,161	9,761,977	19,934,222
Unassigned	14,898,339	-	-	14,898,339
Total fund balances	$ 17,749,877	$ 8,224,349	$ 10,101,075	$ 36,075,301

At the September 2005 Board meeting, the Board adopted a financial policy to maintain a minimum level of unrestricted fund balance. The minimum level for the year ended May 31, 2019, is approximately $11 million of the unassigned fund balance. The target level is based on 2.9 months of budgeted operating expenditures.

Transfers: Legally required transfers that are reported when incurred as transfers in by the recipient fund and as transfers out by the disbursing fund. Interfund transfers are reported as other financing sources/uses in the governmental funds and after nonoperating revenues/expenses in the proprietary funds.

Reimbursements: Reimbursements are repayments from funds responsible for expenditures or expenses to funds that made the actual payment. Reimbursements of expenditures made by one fund for another are recorded as expenditures in the reimbursing fund and as a reduction of expenditures in the reimbursed fund. Reimbursements are not displayed in the financial statements.

Note 1. Summary of Significant Accounting Policies (Continued)

Interfund receivables and payables: Activity between funds that are representative of lending/borrowing arrangements at the end of the fiscal year are shown in the financial statements as, due to/from other funds. Any residual balances outstanding between the governmental activities and business-type activities are reported in the government-wide financial statements as internal balances. These balances will be repaid within the next year and, therefore, are classified as current.

Interfund sales and purchases: Charges or collections for services rendered by one fund to another that are recorded as revenues of the recipient fund and expenditures or expenses of the disbursing fund.

The composition of the State Bar's interfund activities and balances are presented in Note 12.

Significant estimates: The preparation of financial statements in accordance with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect certain reported amounts and disclosures. Accordingly, actual results could differ from those estimates.

Note 2. Capital Assets

Capital asset activity for the year ended May 31, 2019, was as follows:

	Beginning Balance	Completed CIP	Additions	Deletions	Ending Balance
Governmental activities:					
Capital assets not being depreciated:					
Land	$ 154,074	$ -	$ -	$ -	$ 154,074
Construction in progress	20,960	-	179,574	-	200,534
Total capital assets not being depreciated	175,034	-	179,574	-	354,608
Capital assets being depreciated and amortized:					
Buildings	6,489,602	-	-	-	6,489,602
Furniture, fixtures, computer equipment, software and other equipment	15,495,818	-	27,460	(24,779)	15,498,499
Total capital assets being depreciated and amortized	21,985,420	-	27,460	(24,779)	21,988,101
Less accumulated depreciation and amortization for:					
Buildings	(5,665,574)	-	-	-	(5,665,574)
Furniture, fixtures, computer equipment, software and other equipment	(9,540,891)	-	(854,613)	23,491	(10,372,013)
Total accumulated depreciation and amortization	(15,206,465)	-	(854,613)	23,491	(16,037,587)
Total capital assets being depreciated and amortized, net	6,778,955	-	(827,153)	(1,288)	5,950,514
Governmental activities capital assets, net	$ 6,953,989	$ -	$ (647,579)	$ (1,288)	$ 6,305,122
Business-type activities:					
Furniture, fixtures, computer equipment, software and other equipment	$ 353,637	$ -	$ -	$ -	$ 353,637
Accumulated depreciation and amortization	(318,315)	-	-	-	(318,315)
Business-type activities capital assets, net	$ 35,322	$ -	$ -	$ -	$ 35,322

Note 2. Capital Assets (Continued)

Depreciation and amortization expense for the year ended May 31, 2019, was allocated in the following manner:

Functions/programs:		
General government	$	837,617
Member services		16,996
	$	854,613

There was no depreciation and amortization expense for business-type activities for the year ended May 31, 2019, because assets were fully depreciated. The remaining balance is considered salvage value.

Note 3. Deposits, Investments and Repurchase Agreements

Deposits of cash in bank: As of May 31, 2019, the carrying amount of deposits totaled $16,555,294 as presented below:

		Carrying Amount		Bank Balance
Governmental, business-type and fiduciary activities:				
Cash in bank—carrying amount	$	10,716,193	$	11,516,196
Money market mutual funds—carrying amount at net asset value		5,839,101		5,839,100
Total cash in bank	$	16,555,294	$	17,355,297

These amounts are included on the statement of net position and statement of net position—fiduciary funds as cash and cash equivalents.

Custodial credit risk: In the case of deposits, the risk is that in the event of a bank failure, the State Bar will not be able to recover deposits or collateral securities that are in the possession of an outside party. The State Bar has a deposit policy for custodial credit risk, which requires bank deposit accounts to be collateralized with pledge securities. There is no limit on the amount the State Bar may deposit in any one institution. As of May 31, 2019, the State Bar's deposits are not exposed to deposit custodial credit risk because they are collateralized with securities held by the Federal Reserve in the State Bar's name in the amount of approximately $14.2 million. The State Bar does not have funds that are held in foreign currency.

Investments: State Bar uses various methods to measure the fair value of investments on a recurring basis. GASB Statement No. 72, *Fair Value Measurement and Application*, established a hierarchy that prioritizes inputs to valuation methods. The hierarchy is based on the valuation inputs used to measure the fair value of the asset.

- Level 1 inputs are unadjusted quoted prices in active markets for identical assets and liabilities that the State Bar has the ability to access at the measurement date.

- Level 2 inputs are observable inputs, other than quoted prices included in Level 1, that are observable for the asset or liability, either directly or indirectly. These inputs may include quoted prices for the identical instrument in an inactive market, prices for similar instruments, interest rates, prepayment speeds, credit risk, yield curves, default rates and similar data.

Note 3. Deposits, Investments and Repurchase Agreements (Continued)

- Level 3 inputs are unobservable inputs for the asset or liability, to the extent relevant observable inputs are not available, representing the State Bar's own assumptions about the assumptions a market participant would use in valuing the asset or liability, and would be based on the best information available.

The availability of observable inputs can vary from security to security and is affected by a wide variety of factors, including, for example, the type of security, whether the security is new and not yet established in the marketplace, the liquidity of markets and other characteristics particular to the security. To the extent that valuation is based on models or inputs that are less observable or unobservable in the market, the determination of fair value requires more judgment. Accordingly, the degree of judgment exercised in determining fair value is greatest for instruments categorized in Level 3.

The inputs used to measure fair value may fall into different levels of the fair value hierarchy. In such cases, for disclosure purposes, the level in the fair value hierarchy within which the fair value measurement falls in its entirety, is determined based on the lowest level input that is significant to the fair value measurement in its entirety.

Investments measured at fair value using NAV per share (or equivalent) as a practical expedient to fair value are not classified in the fair value hierarchy.

As of May 31, 2019, the fair value of investments were as follows:

Governmental activities:

		Fair Value Measurements Using			
	Carrying Value	Quoted Prices in Active Markets for Identical Assets (Level 1)	Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)	Amortized Cost
Fixed income securities:					
U.S. Treasury securities	$ 19,443,303	$ 19,443,303	$ -	$ -	$ -
U.S. government agency obligations	9,383,162	-	9,383,162	-	-
Commercial paper	4,952,573	-	4,952,573	-	-
Certificates of deposit	2,192,124	-	-	-	2,192,124
Total investments at fair value	$ 35,971,162	$ 19,443,303	$ 14,335,735	$ -	$ 2,192,124

U.S. Treasury securities are valued using closing bid quoted market prices as of the last business day of the month (Level 1 inputs). U.S. government agency obligations and commercial paper are valued using a yield-based matrix pricing model (Level 2 inputs). Certificates of deposits are valued at amortized cost.

Custodial credit risk: In the case of investments, there is a risk that in the event of the failure of a counterparty, the State Bar will not be able to recover the value of its investment or collateral securities that are in the possession of an outside party. The State Bar's investment policy requires that all deposits are fully insured or collateralized, as required by the Public Funds Collateral Act, 2257, of the Texas Government Code. The State Bar had no exposure to investment custodial credit risk at May 31, 2019, because all certificates of deposit were fully covered by Federal Deposit Insurance Corporation and all other investments are held in the State Bar's name.

Note 3. Deposits Investments, and Repurchase Agreements (Continued)

Credit risk: Credit risk is the risk that an issuer or other counterparty to an investment will not fulfill its obligations. The State Bar's investment policy allows for various types of investments including: United States government agency obligations, United States Treasury securities, certificates of deposit, Banker's acceptances, repurchase agreements, money market mutual funds and commercial paper. Investments in United States government agency obligations are not guaranteed by the United States government, but are government-sponsored enterprises. As of May 31, 2019, State Bar's credit quality distribution for securities was as follows:

	Standard and Poor's Ratings				
Investment Type	AAA	AA+	A-1+	A-1	Total
U.S. Treasury securities	$ -	$ 19,443,303	$ -	$ -	$ 19,443,303
U.S. government agency obligations	-	9,267,265	-	-	9,267,265
Money market mutual funds	5,839,100	-	-	-	5,839,100
Commercial paper	-	-	-	4,952,573	4,952,573
	$ 5,839,100	$ 28,710,568	$ -	$ 4,952,573	39,502,241
GNMA Pool—not applicable					115,897
Certificates of deposit—not rated					2,192,124
Less cash equivalents (money market mutual funds)					(5,839,100)
					$ 35,971,162

Concentration of credit risk: Concentration of credit risk is the risk of loss attributable to the magnitude of investment in a single issuer. The State Bar is authorized to invest funds in accordance with its investment policy and the Texas Public Funds Investment Act. Authorized investments include, but are not limited to:

1. U.S. Treasury and federal agency securities—up to 100% of the investment portfolio (IP)
2. Mortgage-backed securities—guaranteed by U.S. government–sponsored agencies up to 30% of the IP
3. Certificates of deposit—up to 30% of the IP, but no more than 5% with any single issuer
4. Banker's acceptance—up to 15% of the IP, but no more than 5% with any single issuer
5. Repurchase agreements—up to 30% of the IP, but no more than 10% with any single issuer
6. Money market mutual funds—up to 100% of the IP
7. Commercial paper—up to 30% of the IP, but no more than 5% with any single issuer

Note 3. Deposits, Investments and Repurchase Agreements (Continued)

As of May 31, 2019, the State Bar's investments consist of the following:

Issuer	Fair Value	Percentage
U.S. Treasury securities	$ 19,443,303	54%
Federal Home Loan Mortgage Corp.	3,328,853	9%
Fannie Mae	5,938,412	17%
GNMA Pool	115,897	0%
Commercial paper	4,952,573	14%
Certificates of deposit	2,192,124	6%
Total investments	$ 35,971,162	100%

Interest rate risk: Interest rate risk is the risk that changes in interest rates will adversely affect the fair value of an investment. In accordance with its investment policy, the State Bar manages its exposure to declines in fair values by limiting the types of investment it allows and by limiting the average maturity to five years.

As of May 31, 2019, the State Bar's investments exposure to interest rate risk was as follows:

Description	Fair Value	Weighted-Average Maturity (In Days)
U.S. Treasury securities	$ 19,443,303	7,137
U.S. government agency obligations	9,383,162	501
Commercial paper	4,952,573	572
Certificates of deposit	2,192,124	651
Money market mutual funds	5,839,100	25
	41,810,262	
Less cash equivalents (money market mutual funds)	(5,839,100)	
Total investments	$ 35,971,162	

Note 4. Short-Term Debt

The State Bar has no short-term debt to report for the fiscal year ended May 31, 2019.

Note 5. Long-Term Liabilities

A summary of changes in long-term liabilities during the year ended May 31, 2019, is shown below:

	Beginning Balance	Additions	Reductions	Ending Balance	Amounts Due Within One Year	Amounts Due Thereafter
Governmental activities:						
Capital lease obligations	$ 84,555	$ -	$ (46,571)	$ 37,984	$ 37,984	$ -
Accrued compensated absences	1,467,752	631,861	(578,121)	1,521,492	612,717	908,775
Total OPEB liability	-	34,376,046	-	34,376,046	961,247	33,414,799
Net pension liability	56,802,309	-	(1,885,424)	54,916,885	-	54,916,885
Total governmental activities	$ 58,354,616	$ 35,007,907	$ (2,510,116)	$ 90,852,407	$ 1,611,948	$ 89,240,459
Business-type activities:						
Accrued compensated absences	$ 95,363	$ 62,724	$ (60,665)	$ 97,422	$ 36,970	$ 60,452
Total OPEB liability	-	2,194,216	-	2,194,216	61,356	2,132,860
Net pension liability	3,625,679	-	(120,346)	3,505,333	-	3,505,333
Total business-type activities	$ 3,721,042	$ 2,256,940	$ (181,011)	$ 5,796,971	$ 98,326	$ 5,698,645

The liabilities for pension-related debt and compensated absences are liquidated by the General Fund and the Law Practice Resource Management fund. This is the first fiscal year that the State Bar has reported an OPEB liability. In the coming years, this liability will also be liquidated by the General Fund and the Law Practice Resource Management fund.

Note 6. Bonded Indebtedness

The State Bar has no bonded indebtedness to report for the fiscal year ended May 31, 2019.

Note 7. Derivatives

The State Bar has no derivatives to report for the fiscal year ended May 31, 2019.

Note 8. Leases

Capital lease obligations: The State Bar entered into long-term leases for financing the purchase of certain capital assets and are recorded at the present value of the future minimum lease payments at the inception of the lease.

A summary of original capitalized costs of all such property under lease in addition to the accumulated depreciation as of May 31, 2019, is presented below.

	Governmental Activities		
	Assets	Accumulated Depreciation	Total
Other equipment	$ 241,319	$ (177,641)	$ 63,678
Total	$ 241,319	$ (177,641)	$ 63,678

Note 8. Leases (Continued)

Future minimum lease payments under the capital leases, together with the net present value of all minimum lease payments as of May 31, 2019, were as follows:

	Governmental Activities		
	Principal	Interest	Total Future Minimum Lease Payments
Year ending May 31:			
2020	$ 37,984	$ 1,899	$ 39,883
Totals	$ 37,984	$ 1,899	$ 39,883

Operating leases: Rent expense incurred under all third-party office space and equipment operating leases for the year ended May 31, 2019, totaled $596,944 for governmental activities.

At May 31, 2019, the State Bar was obligated under operating leases for the regional Chief Disciplinary Counsel Department's and the Texas Board of Legal Specialization's office space, expiring through 2027. In addition, the State Bar has some short-term leases during the year May 31, 2019.

Future minimum lease payments on these operating leases are as follows:

	Governmental Activities
Years ending May 31:	
2020	$ 505,701
2021	424,340
2022	350,564
2023	357,541
2024	234,682
2025-2027	460,400
	$ 2,333,228

Note 9. Defined Benefit Pension Plans

Plan description: The State Bar contributes to ERS, a public employee retirement system. It is a single employer defined benefit pension plan, since the plan is for all state employees. For financial reporting purposes, ERS is treated as a cost-sharing plan, since each participating employer has an obligation to contribute. ERS provides service retirement, death and disability benefits to plan members and beneficiaries. ERS operates under the authority of provisions contained primarily in Texas Government Code, Title 8, Public Retirement Systems, Subtitle B, Employees Retirement System of Texas, which is subject to amendment by the Texas Legislature. The ERS' annual financial report and other required disclosure information are available by writing the Employees Retirement System of Texas, P.O. Box 13207, Austin, Texas, 78711-3207 or by calling (512) 476-6431.

Note 9. Defined Benefit Pension Plans (Continued)

Plan benefits: ERS plan covers members in employee and elected classes. The State Bar participates in the employee class. The benefit and contribution provisions of the ERS plan are authorized by state law and may be amended by the Legislature. The monthly benefit may vary by membership class:

- The monthly standard annuity of the employee class is determined by a statutory percentage of 2.3% of a member's average monthly compensation multiplied by number of years of service credit. The average monthly compensation of the employee class may vary depending on the hire date. For members hired on or before August 31, 2009, the average monthly compensation is the average of the highest 36 months of compensation. For members hired on or after September 1, 2009, and before September 1, 2013, the average monthly compensation is the average of the highest 48 months of compensation. For members hired on or after September 1, 2013, the average monthly compensation is the average of highest 60 months of compensation.

- The monthly standard annuity of the elected class equals the statutory percentage of 2.3% of the current state salary of a district judge multiplied by the number of years of service credit. Retirement benefits are automatically adjusted as state judicial salaries change.

Contributions: The contribution rates for the state and the members for the ERS plan for the measurement date of August 31, 2018, are presented in the table below:

Required Contribution Rates—ERS Plan

Employer			Members		
Employee Class	Elected Class—Legislators	Elected Class—Other	Employee Class	Elected Class—Legislators	Elected Class—Other
10.00%	10.00%	10.00%	9.50%	9.50%	9.50%

The amount of State Bar's contributions recognized by the ERS plan during the 2018 measurement period was $2,017,410.

Net pension liability: The State Bar's net pension liability was measured as of August 31, 2018, and the total pension liability is used to calculate the net pension liability was determined by an actuarial valuation as of that date.

Actuarial assumptions: The methods and assumptions applied, except discount rate, in the actuarial valuation were based on an experience study covering the five-year period from September 1, 2011 through August 31, 2016.

Note 9. Defined Benefit Pension Plans (Continued)

The table below presents the actuarial methods and assumptions used to measure the total pension liability as of the August 31, 2018:

Actuarial Methods and Assumptions	
Actuarial cost method	Entry age normal
Actuarial assumptions:	
Discount rate	5.69%
Investment rate of return	7.50%
Inflation	2.50%
Salary increase	0.0 to 9.5%
Mortality:	
State agency members:	
Service retirees, survivors and other inactive members	2017 State Retirees of Texas Mortality table with mortality improvements based on full generational projection using Ultimate MP projections sale. Tables were developed based on the experience in the 2016 actuarial study.
Disabled retirees	RP-2014 Disabled Retiree Mortality with Ultimate MP Projection Scale projected from the year 2014
Active members	RP-2014 Employee Mortality tables for male and female with Ultimate MP projection scale projected from the year 2014
Cost-of-living adjustments	None—Employee 2.75%—Elected

Long-term expected rate of return on assets: The long-term expected rate of return on plan investments was developed using a building-block method with assumptions including asset class of investment portfolio, target allocation, real rate of return on investments and inflation factor. Under this method, best estimate ranges of expected future real rates of return (net of investment expense and inflation) are developed for each major asset class. These ranges are combined to produce the long-term expected rate of return by weighing the expected future real rates of return by the target asset allocation percentage and by adding expected inflation.

The target allocation and best estimates of arithmetic real rates of return for each major asset class for the plan's investment portfolio are presented below:

Asset Class	Target Allocation	Long-Term Expected Arithmetic Real Rate of Return
Global equity	50.00%	3.91%
Global credit	11.00%	0.57%
Opportunistic credit	3.00%	0.20%
Intermediate treasuries	11.00%	0.29%
Real estate	12.00%	0.90%
Infrastructure	7.00%	0.49%
Hedge funds	5.00%	0.31%
Cash	1.00%	0.02%
Total	100%	6.69%
Inflation		2.50%
Expected arithmetic nominal rate of return		9.19%

Note 9. Defined Benefit Pension Plans (Continued)

Discount rate: A blended discount rate of 5.69% was applied to measure the total pension liability as of August 31, 2018. The 5.69% discount rate incorporated a 7.50% long-term expected rate of return on pension plan investments and 3.69% 20-year municipal bond rate based on Fidelity's Index's 20-Year Municipal GO AA Index. The long-term expected investment rate of return was applied to projected benefit payments through fiscal year 2049 and the municipal bond rate was applied to all benefit payments thereafter.

The projection of cash flows used to determine this blended discount rate assumed that plan member and employer contributions will be made at the current statutory levels and remain a level percentage of payroll.

Sensitivity analysis: The following presents the net pension liability of the State Bar, calculated using the discount rate of 5.69%, as well as what the State Bar's net pension liability would be if it were calculated using a discount rate that is 1 percentage point lower (4.69%) or 1 percentage point higher (6.69%) than the current rate:

	1% Decrease	Rate	1% Increase
	4.69%	5.69%	6.69%
State Bar's proportionate share of net pension liability	$ 76,994,742	$ 58,422,218	$ 43,050,142

Pension plan fiduciary net position: The pension plan's fiduciary net position is determined using economic resources measurement focus and the accrual basis of accounting, which is the same basis used by ERS. Benefits and refunds of contributions are recognized when due and payable in accordance with the terms of the plan. Investments of the pension trust fund are reported at fair value. The fair value of investments is based on published market prices and quotations from major investment brokers at available current exchange rates. However, corporate bonds in general are valued based on currently available yields of comparable securities by issuers with similar credit ratings. ERS issues stand-alone audited Comprehensive Annual Financial Report (CAFR).

More detailed information on the plan's investment valuation, investment policy, assets and fiduciary net position may be obtained from ERS' fiscal 2018 CAFR:

Employees Retirement System of Texas
P.O. Box 13207
Austin, TX 78711-3207
www.ers.texas.gov

Pension liabilities, pension expense and deferred outflows of resources and deferred inflows of resources related to pension: At May 31, 2019, the State Bar reported a liability of $58,422,218 for its proportionate share of the net pension liability. The net pension liability was measured as of August 31, 2018, and the total pension liability used to calculate the net pension liability was determined by an actuarial valuation as of that date. The State Bar's proportion of the net pension liability was based on a projection of the State Bar's long-term share of contributions to the pension plan relative to the projected contributions of all participating governments, actuarially determined.

There have been no changes to the benefit terms of the plan since the prior measurement date. The State Bar's proportion of the entire ERS plan was 0.28934813% in fiscal year 2019, as compared to the 0.27637361% in the prior fiscal year.

Note 9. Defined Benefit Pension Plans (Continued)

For the fiscal year ended May 31, 2019, the State Bar recognized pension expense of $6,255,587. At May 31, 2019, State Bar reported deferred outflows of resources and deferred inflows of resources related to pensions from the following sources:

	Deferred Outflows of Resources	Deferred Inflows of Resources
Difference between expected and actual experience	$ 336,702	$ -
Changes of assumptions	3,367,674	4,079,280
Net difference between projected and actual investment return	-	861,108
Change in proportion and contribution differences	2,202,036	212,095
Contributions subsequent to the measurement date	1,523,568	-
Total	$ 7,429,980	$ 5,152,483

Contributions made subsequent to the measurement date are eligible employer contributions made from September 1, 2018 through May 31, 2019, totaling $1,523,568, which is reported as deferred outflows of resources and will be recognized as a reduction in the net pension liability for the year ending May 31, 2020.

Amounts currently reported as deferred outflows and inflows of resources related to pensions, excluding contributions made subsequent to the measurement date, will be recognized in pension expense in the following years:

Years ending May 31:	
2020	$ 2,991,238
2021	(654,597)
2022	(1,298,145)
2023	(284,567)
	$ 753,929

Note 10. Deferred Compensation

The State Bar has no deferred compensation to report for the fiscal year ended May 31, 2019.

Note 11. Postemployment Benefits Other Than Pensions

Effective June 1, 2018, the State Bar implemented GASB Statement No. 75, *Accounting and Financial Reporting for Postemployment Benefits Other Than Pensions*. See Note 14 for additional information. In addition to the pension benefits described in Note 9, the ERS provides postemployment health care, life and dental insurance benefits through the Group Benefits Program in accordance with Chapter 1551, Texas Insurance Code. This program is governed by the same board of trustees who is responsible for the defined benefit pension plans.

Note 11. Postemployment Benefits Other Than Pensions (Continued)

The State Bar employees participate in the State Retiree Health Plan (SRHP) administered by ERS. SRHP is a cost-sharing multiple-employer postemployment health care plan with a special funding situation. This plan covers retired employees of the State and other entities as specified by the State legislature. Benefit and contribution provisions of SRHP are authorized by state law and may be amended by the Texas Legislature. Retirees must meet certain age and service requirements and have at least 10 years of service at retirement to participate in the plan. The principal participating employer is the State of Texas. State agencies and universities employ 185,760, or 80.7%, or the employees covered by the SRHP. Participating entities are as follows:

State agencies	116
Universities	27
Junior and community colleges	51
Other entities	8
Total participating entities	202

The maximum monthly employer contributions toward eligible retirees' health and basic life premium are summarized as follows:

Retiree only	622
Retiree and spouse	1,335
Retiree and children	1,099
Retiree and family	1,812

Retirees pay any premium over and above the employer contribution. The employer does not contribute toward dental or optional life insurance. Surviving spouses and their dependents do not receive any employer contribution. As the nonemployer contributing entity, the State of Texas pays part of the premiums for the junior and community college.

For the measurement period ending August 31, 2018, the amount of the State Bar's contributions recognized by SHRP was $3,584,454. Fiscal year 2019 contributions were $399,310.

The total OPEB liability is determined by an actuarial valuation. The methods and assumptions applied in the actuarial valuation were based on an experience study covering the five-year period from September 1, 2011 through August 31, 2016, for state agency members and for the period September 1, 2010 through August 31, 2014, for higher education members.

Note 11. Postemployment Benefits Other Than Pensions (Continued)

The table below presents the actuarial methods and assumptions used to measure the total OPEB liability as of the August 31, 2018:

Actuarial Methods and Assumptions	
ERS Plan	
Actuarial valuation date	August 31, 2018
Actuarial cost method	Entry Age
Actuarial assumptions:	
Discount rate	3.96%
Inflation	2.50%
Salary increase	2.50% to 9.50%, including inflation
Annual health care trend rate	7.30% for FY2020, 7.40% for FY2021, 7.00% for FY2022, decreasing 0.50% per year to an ultimate rate of 4.50% for FY2027 and later years
Aggregate payroll growth	3.00%
Retirement age	Experience based tables of rates that are specific to employee class
Mortality:	
State agency members:	
Service retirees, survivors and other inactive members	2017 State Retirees of Texas Mortality table with a 1 year set forward for male CPO/CO members and Ultimate MP Projection Scale projected from the year 2017
Disabled retirees	RP-2014 Disabled Retiree Mortality with Ultimate MP Projection Scale projected from the year 2014
Active members	RP-2014 Active Member Mortality tables with Ultimate MP Projection Scale from the year 2014
Ad hoc postemployment benefit changes	None

The following benefit revision has been adopted effective January 1, 2019, since the prior valuation for retirees and dependents for whom Medicare is not the primary, an increase in the out-of-pocket maximum for both HealthSelect and Consumer Directed HealthSelect for individuals and families in order to remain consistent with Internal Revenue Service maximums.

Calculations are based on the benefit provided under the terms of the substantive plan in effect at the time of each valuation, and on the pattern of sharing of cost between the employer and plan members to that point. The projection of benefits for financial reporting purposes does not explicitly incorporate the potential effect of legal or contractual funding limitations on the pattern of cost sharing between the employer and plan members in the future.

The discount rate that was used to measure the total OPEB liability is the municipal bond rate of 3.96% for the measurement date ending August 31, 2018, as compared to a discount rate of 3.51% as of the beginning of the measurement period. The source of the municipal bond rate is the Bond Buyer Index of general obligation bonds with 20 years to maturity and mixed credit quality. The bonds' average credit quality is roughly equivalent to Moody's Investors Service's Aa2 rating and Standard & Poor's AA. Projected cash flows into the plan are equal to projected benefit payments out of the plan. As the plan operates on a pay-as-you-go basis and is not intended to accumulate assets, there is no long-term expected rate of return.

Note 11. Postemployment Benefits Other Than Pensions (Continued)

Sensitivity analysis was performed on the impact of changes in the discount rate on the proportionate share of State Bar's total OPEB liability. The result of the analysis is presented in the table below:

	1% Decrease	Current Discount Rate	1% Increase
	2.96%	3.96%	4.96%
The State Bar's proportionate share of the total OPEB liability	$ 43,417,410	$ 36,570,262	$ 31,387,741

The initial healthcare trend rate is 7.3% and the ultimate rate is 4.5%. The sensitivity of the net OPEB liability to changes in the discount rate and health care trend rate is summarized below:

	1% Decrease (6.3%, Decreasing to 3.5%)	Current Health Care Cost Trend Rates Decreasing to 4.5%)	1% Increase (8.3%, Decreasing to 5.5%)
The State Bar's proportionate share of the total OPEB liability	$ 30,970,283	$ 36,570,262	$ 43,794,247

The SHRP is a pay-as-you-go plan and does not accumulate funds in advance of retirement. The ERS' board of trustees adopted the amendment to the investment policy in August 2017 to require that all funds in this plan be invested in short-term fixed income securities and specify that the expected rate of return on these investments is 2.4%.

More detailed information on SHRP may be obtained from ERS' fiscal 2018 CAFR:

Employees Retirement System of Texas
P.O. Box 13207
Austin, TX 78711-3207
www.ers.texas.gov

At May 31, 2019, the State Bar's recognized a total OPEB liability of $36,570,262 for its proportionate share of the collective total OPEB liability. The State Bar's proportionate share of the total OPEB liability was 0.12339085% and was based on contributions to the OPEB plan relative to the contributions of all employers and the nonemployer contributing entity for the period.

Note 11. Postemployment Benefits Other Than Pensions (Continued)

For the year ended May 31, 2019, the State Bar recognized an OPEB credit of $217,397. At August 31, 2019, the State Bar's reported deferred outflows of resources and deferred inflows of resources from the following sources:

	Outflows of Resources	Deferred Inflows of Resources
Difference between expected and actual experience	$ -	$ 1,339,817
Change in proportionate share and contribution difference	325,894	$ -
Changes of assumptions	-	12,815,219
Net difference between projected and actual investment return	17,318	-
Contributions subsequent to the measurement date	46,357	-
Total	$ 389,569	$ 14,155,036

The $46,357 reported as deferred outflows of resources resulting from contributions subsequent to the measurement date will be recognized as a reduction in the total OPEB liability for the year ending May 31, 2020.

Amounts reported as deferred outflows and inflows of resources related to OPEB will be recognized in OPEB expense in the following years:

Years ended May 31:	
2020	$ (3,529,198)
2021	(3,529,198)
2022	(3,529,198)
2023	(2,359,854)
2024	(864,376)
	$ (13,811,824)

Note 12. Interfund Balances/Activities

During the course of operations, numerous transactions occurred between individual funds for goods provided or services rendered. These receivables and payables are classified as due from other funds or due to other funds. The composition of interfund balances as of May 31, 2019, is as follows:

Receivable Fund	Payable Fund	Amount
General Fund	Nonmajor governmental funds	$ 681,438
General Fund	Fiduciary Fund—SBOTIT Private-Purpose Trust Fund	67,451
Sections and Divisions	General Fund	1,021,722
Nonmajor governmental funds	General Fund	685,690
Law Practice Resource Management	General Fund	741,033
Agency Fund	General Fund	871,101
Total		$ 4,068,435

During the year, the General Fund transferred $1,888,800 to nonmajor governmental funds to supplement operations and to fund claims, technology projects and future renovations to the Texas Law Center.

Note 13. Continuance Subject to Review

The State Bar is subject to the Texas Sunset Act (Chapter 325). Subsequent to May 31, 2016, the revised State Bar Act was approved (Texas Gov. Code section 81.001 et. seq.), which recreated the State Bar until September 1, 2029, and thereafter, contingent upon the State of Texas legislature and the Supreme Court of Texas.

Note 14. Adjustments to Fund Balance/Net Position

OPEB: Effective June 1, 2018, the State Bar implemented GASB Statement No. 75, which addresses the accounting and financial reporting for OPEB. Upon adoption, the OPEB liability, deferred inflows and outflows and the OPEB expense are now reflected in the financial statements in accordance with the guidance provided for within the standard. The implementation resulted in a restatement of the beginning net position in fiscal year 2019, the fiscal year in which the provisions of Statement No. 75 were adopted. The adoption decreased governmental activities beginning net position by $47,498,566 and business-type activities beginning net position by $3,031,823.

Funds: During fiscal year ended May 31, 2019, management identified errors in the previously issued May 31, 2018, audited financial statements, which included the following: the omission of Paralegal Division, which should be included as part of Sections and Divisions special revenue fund and an error in revenue recognition related to MCLE fees.

As a result, beginning Sections and Divisions fund balance, and governmental activities net position were restated, as noted below. The effect on the change in fund balance and net position, previously reported is an increase of $82,427 and $359,981, respectively.

	Sections and Divisions Fund Balance	Governmental Activities Net Position (Deficit)	Business-Type Activities Net Position (Deficit)
Beginning balance, as previously reported	$ 7,384,311	$ (9,024,365)	$ (1,240,531)
Ending fund balance for Paralegal Division	459,609	459,609	-
Misstatement of revenue	-	277,554	-
Implementation of GASB Statement No. 75	-	(47,498,566)	(3,031,823)
Beginning balance, as restated	$ 7,843,920	$ (55,785,768)	$ (4,272,354)

Note 15. Contingencies and Commitments

The State Bar has no contingencies or commitments to report for the fiscal year ended May 31, 2019.

Note 16. Subsequent Events

Management evaluated the need for disclosures and/or adjustments resulting from subsequent events through December 17, 2019, the date the financial statements were available to be issued.

There are no subsequent events that necessitate disclosure and/or adjustments.

Note 17. Risk Management

The State Bar is exposed to various risks of loss related to torts; theft of, damage to and destruction of assets; errors and omissions; injuries to employees and natural disasters. The State Bar purchases commercial insurance to cover risks associated with potential claims in 2019. There were no significant reductions in coverage in the past fiscal year, and there were no settlements exceeding insurance coverage.

Health, life and dental: Insurance coverage is provided to active state employees and their dependents by one of three health plan administrators. State Bar employees are included in the Texas Employees Group Benefits Program (GBP) administered by the ERS, whose risk of loss is retained with self-insured plans or transferred to the insurance carrier with health maintenance organization (HMO) plans.

Texas Employees Group Benefits Program: Claims for health, life, accidental death and dismemberment, disability and dental insurance coverages are established under the GBP. These coverages are provided through a combination of insurance contracts, a self-funded health plan, a self-funded dental indemnity plan, HMO contracts and dental health maintenance organizations contracts.

Note 18. Management's Discussion and Analysis (MD&A)

See pages 3-13 for MD&A.

Note 19. The Financial Reporting Entity

See pages 29-38.

Note 20. Stewardship, Compliance and Accountability

The State Bar had none to report.

Note 21. Not Applicable

Note 22. Donor-Restricted Endowments

The State Bar has no donor-restricted endowments to report for the fiscal year ended May 31, 2019.

Note 23. Extraordinary and Special Items

The State Bar has no extraordinary or special items to report for the fiscal year ended May 31, 2019.

Note 24. Disaggregation of Receivable Balances

The State Bar had other accounts receivable at May 31, 2019, which consisted of the following:

General Fund:		
Clerk of the Supreme Court	$	2,265,161
Refundable Deposits—WeWork		57,002
Texas Center for Legal Ethics		52,107
Texas Supreme Court Historical Society		4,997
SBOT Insurance Trust		34,775
Texas Bar Foundation		40,062
Texas Access to Justice Foundation		103,582
Other		169,445
		2,727,131
Sections and Divisions:		
Family Law Royalties		26,156
Other		30,965
		57,121
Nonmajor governmental funds:		
Refundable deposits		6,943
Total	$	2,791,195

Note 25. Termination Benefits

The State Bar has no termination benefits to report for the fiscal year ended May 31, 2019.

Note 26. Component Unit—State Bar of Texas Insurance Trust and Affiliate

Agreement between primary government and component unit: The Trust entered into a professional services agreement on April 14, 2016. Under this agreement, the State Bar established and maintains a private insurance exchange through which qualified insurance companies can market and sell their products to members of the State Bar. The Trust offers insurance coverage to members of the State Bar and have been allowed to participate in the State Bar private insurance exchange since inception in October 2013. This agreement provides for the payment of an initial fee of $687,000 and an annual fee of $250,000 thereafter, paid quarterly beginning June 1, 2016, by the Trust to the State Bar in exchange for the State Bar's professional services.

Contributions of subscribers and premiums to insurance carrier: Contributions of subscribers, as required by the Program, are credited to net position. In turn, premiums for insurance coverage are charged against net position and are payable to the insurance carrier, in accordance with applicable policy provisions, in amounts based on rates established by the carrier. The Trust may retain up to 5% of contributions received from individual members as an administrative fee.

Royalties: Royalties are received from an administration agreement between the Trust and Business Planning Concepts, Inc. (dba Member Benefits), whereby Member Benefits provides administrative duties pertaining to the insurance program offered by the Trust. Royalty income is recognized when Member Benefits collect the premiums.

Note 26. Component Unit—State Bar of Texas Insurance Trust and Affiliate (Continued)

Commissions: Effective January 2, 2014, the Trust entered into a purchase and sales agreement with Member Benefits. Under this agreement, the Trust agreed to sell its book of medical insurance business and its Affiliate agreed to sell its book of individual and small group medical insurance business to Member Benefits for a purchase price equal to 15% of revenues received in connection with the books of business. Monthly payments related to this agreement began on February 15, 2014, and will continue monthly for a total of 72 months. Commission revenue is recognized when Member Benefits receive the commissions related to the sold insurance policies.

Rental income: Rental income is recognized on a straight-line basis over the term of each lease.

Service agreement revenue: The Trust recognizes service revenue when expenses are incurred that require a withdrawal from the premium stabilization fund.

Income taxes: Deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases. Deferred tax assets, including tax loss and credit carryforwards, and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in income in the period that includes the enactment date. Deferred income tax expense represents the change during the period in the deferred tax assets and deferred tax liabilities. The components of the deferred tax assets and liabilities are individually classified as current and noncurrent based on their characteristics. Deferred tax assets are reduced by a valuation allowance when, in the opinion of management, it is more likely than not that some portion or all the deferred tax assets will not be realized. The Trust's policy is to record interest and penalty expense related to income taxes as interest and other expense, respectively. At May 31, 2019, no interest or penalties have been or are required to be accrued. The Trust, generally, is no longer subject to income tax examinations by federal authorities for years prior to December 31, 2015.

The Trust and Agency are subject to the Texas gross margin tax. The Trust files a United States federal income tax return.

Description of the Program: The Program is a multiple-employer welfare arrangement, which provides for in-hospital disability income, group term life, long-term disability, office overhead and personal accident benefits. The Program, including all claims and incurred, but not reported claims, are fully insured through contracts with Prudential. The Trust has no benefit obligations outstanding as of May 31, 2019.

Contributions: At the option of each subscriber, contributions from insured employees may be required to defray the cost of providing insurance under a policy.

Program terminations: In the event the Program terminates, the net position of the Program will be allocated, as prescribed by the Trust Agreement, to provide the following benefits in the order indicated:

1. To liquidate all obligations of the Program;

2. To continue insurance on all those insured to the extent possible; and

3. To be applied to either the benefit of those insured or paid directly to the insured.

Note 26. Component Unit—State Bar of Texas Insurance Trust and Affiliate (Continued)

Reserve for premium stabilization: The underwriter of the Program, Prudential, maintains a premium stabilization reserve on behalf of the Trust. The reserve's purpose is to equalize the net premium cost to the Trust and, thus, minimize fluctuations in premium cost from year-to-year by reason of variation in claim experience. Together, these funds comprise the reserve for premium stabilization.

The premium stabilization fund represents the accumulation of (a) premiums paid in excess of claims and other charges and (b) interest credited to the funds. This fund is used under the terms of each contract for the payment of claims, expenses and other charges under the contract in any policy year in which such claims, expenses and other charges exceed the amount of premiums paid by the Trust. Interest is earned on the reserve at rates determined annually by the underwriters.

The Program year under the contract with Prudential is June 1 through May 31. The stabilization fund totaled $2,212,533.

In the event of termination of the insurance contract, balances, if any, remaining in the reserve after final adjustments, payment of claims, expenses, and other contractual changes would be paid to the Trust as return of premiums. The Trust is not liable for any deficit in the premium stabilization reserve.

Note 27. Service Concession Arrangements

The State Bar has no service concession arrangements to report for the fiscal year ended May 31, 2019.

Note 28. Deferred Outflows of Resources and Deferred Inflows of Resources

See page 48.

Note 29. Troubled Debt Restructuring

The State Bar has no troubled debt restructurings to report for the fiscal year ended May 31, 2019.

Note 30. Nonexchange Financial Guarantees

The State Bar has no nonexchange financial guarantees to report for the fiscal year ended May 31, 2019.

Note 31. Tax Abatements

The State Bar has no tax abatements to report for the fiscal year ended May 31, 2019.

Note 32. Governmental Fund Balances

See pages 36-37.

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Required Supplemental Information (Unaudited)

State Bar of Texas

Statement of Revenues, Expenditures and Changes in Fund Balance—Budget (GAAP Basis) and Actual—General Fund
Year Ended May 31, 2019

	Budgeted Amounts			Variance With
	Original	Final	Actual	Final Budget
Revenues:				
Membership dues	$ 20,372,039	$ 20,372,039	$ 20,869,303	$ 497,264
Accounting and management fees	650,351	650,351	650,351	-
Texas Bar Journal	580,600	580,600	455,789	(124,811)
MCLE fees	3,115,250	3,115,250	3,804,158	688,908
Professional development	13,777,842	13,777,842	14,275,158	497,316
Minority affairs	335,000	335,000	413,301	78,301
Investment income	185,000	185,000	731,489	546,489
Member benefits	915,766	915,766	899,972	(15,794)
Website	365,000	365,000	588,026	223,026
Advertising review	370,000	370,000	351,895	(18,105)
CDC disciplinary fees	535,000	535,000	703,979	168,979
Other income	1,445,043	1,445,043	1,018,849	(426,194)
Total revenues	42,646,891	42,646,891	44,762,270	2,115,379
Expenditures:				
Executive:				
Office of Executive Director	627,410	627,410	634,644	(7,234)
Associate Executive Director/Legal Counsel	518,566	518,566	578,667	(60,101)
Deputy Executive Director/External Affairs	274,165	274,165	247,424	26,741
Deputy Executive Director	222,945	222,945	206,736	16,209
Special Financial Advisor	75,000	75,000	164,789	(89,789)
Officers and Directors	836,836	836,836	687,228	149,608
Human Resources	280,789	280,789	288,302	(7,513)
Training/Tuition	71,133	71,133	40,032	31,101
Total executive	2,906,844	2,906,844	2,847,822	59,022
Member and public services:				
Member and Public Services Division Director	118,324	118,324	-	118,324
Center for Legal History	149,785	149,785	144,038	5,747
Law Related Education	508,232	508,232	500,057	8,175
Governmental Relations	156,607	156,607	163,604	(6,997)
Texas Young Lawyers Association	927,418	927,418	915,272	12,146
SBOT Leadership Academy	94,000	94,000	100,150	(6,150)
Sections	318,519	318,519	313,717	4,802
Local Bars	446,571	446,571	364,382	82,189
Special Events	73,604	73,604	92,143	(18,539)
Law Student Department	20,266	20,266	16,383	3,883
SBOT Volunteer Committees	289,467	289,467	311,473	(22,006)
Total member and public services	3,102,793	3,102,793	2,921,219	181,574
Professional development:				
TexasBarCLE	10,174,142	10,174,142	9,325,750	848,392
Minority affairs	460,478	460,478	548,964	(88,486)
Total professional development	10,634,620	10,634,620	9,874,714	759,906
Legal and attorney services:				
Legal and Attorney Services Director	222,971	222,971	218,968	4,003
Texas Lawyers Assistance Program	455,312	455,312	408,716	46,596
Legal Access Division	1,036,508	1,036,508	1,028,097	8,411
Total legal and attorney services	1,714,791	1,714,791	1,655,781	59,010

(Continued)

State Bar of Texas

Statement of Revenues, Expenditures and Changes in Fund Balance—Budget (GAAP Basis) and Actual—General Fund (Continued)
Year Ended May 31, 2019

	Budgeted Amounts			Variance With
	Original	Final	Actual	Final Budget
Expenditures (continued):				
Access to Justice Commission	$ 827,206	$ 827,206	$ 682,368	$ 144,838
Total Access to Justice Commission	827,206	827,206	682,368	144,838
Member benefits and research analysis:				
Member benefits	343,218	343,218	59,166	284,052
Research and analysis	167,645	167,645	167,827	(182)
Total member benefits and research analysis	510,863	510,863	226,993	283,870
Attorney compliance:				
Office of Attorney Compliance Director	176,564	176,564	168,848	7,716
Advertising review	182,597	182,597	182,465	132
Client Attorney Assistance Program	547,352	547,352	531,420	15,932
Lawyer referral	353,692	353,692	356,154	(2,462)
MCLE	579,699	579,699	640,613	(60,914)
Total attorney compliance	1,839,904	1,839,904	1,879,500	(39,596)
Operations and security division:				
Purchasing and facilities	1,240,950	1,240,950	1,256,653	(15,703)
Total operations and security division	1,240,950	1,240,950	1,256,653	(15,703)
Finance:				
Accounting	936,017	936,017	972,063	(36,046)
Membership	832,080	832,080	703,531	128,549
Other administrative	1,770,550	1,770,550	1,932,022	(161,472)
Total finance	3,538,647	3,538,647	3,607,616	(68,969)
Information technology:				
Information technology	1,304,534	1,304,534	1,230,266	74,268
Customer service	370,930	370,930	399,408	(28,478)
Total information technology	1,675,464	1,675,464	1,629,674	45,790
Communications:				
Office of Communications Director	249,259	249,259	237,264	11,995
Texas Bar Journal	1,210,030	1,210,030	1,302,338	(92,308)
Public information	497,204	497,204	447,383	49,821
Web management	395,862	395,862	323,954	71,908
Total communications	2,352,355	2,352,355	2,310,939	41,416
Public protection:				
Chief Disciplinary Counsel	9,829,435	9,829,435	9,898,237	(68,802)
Grievance Oversight Committee	48,800	48,800	38,734	10,066
Unauthorized Practice of Law	170,000	170,000	184,373	(14,373)
Professional Ethics Commission	11,080	11,080	9,152	1,928
Board of Disciplinary Appeals	619,339	619,339	600,975	18,364
Total public protection	10,678,654	10,678,654	10,731,471	(52,817)

(Continued)

State Bar of Texas

Statement of Revenues, Expenditures and Changes in Fund Balance—Budget (GAAP Basis) and Actual—General Fund (Continued)
Year Ended May 31, 2019

	Budgeted Amounts			Variance With
	Original	Final	Actual	Final Budget
Expenditures (continued):				
Expenditures related to Board commitments:				
Presidential initiatives	$ 157,867	$ 157,867	$ 31,226	$ 126,641
Texas Opportunity and Justice Incubator Program	755,278	755,278	184,190	571,088
Statewide pro-bono recruitment campaign	159,060	159,060	10,899	148,161
Legal access fellowship program	-	-	-	-
LAD 2018 Board commitments	556,772	556,772	555,790	982
Referendum reserve	100,000	100,000	-	100,000
Texas court records preservation task force	50,000	50,000	50,000	-
Access to Justice (ATJ) student loan repayment program	350,000	350,000	350,000	-
Archives digitization project	100,000	100,000	24,500	75,500
Runoff Election Reserve	70,000	70,000	-	70,000
Supreme Court equipment replacement	-	-	-	
Professionalism and ethics initiatives	12,431	12,431	488	11,943
Total expenditures related to Board commitments	2,311,408	2,311,408	1,207,093	1,104,315
Total expenditures	43,334,499	43,334,499	40,831,843	2,502,656
Excess (deficiency) of revenues over (under) expenditures	(687,608)	(687,608)	3,930,427	(387,277)
Other financing sources (uses):				
Transfers in (out) to:				
Technology Fund	(500,000)	(500,000)	(500,000)	-
Texas Law Center	(288,800)	(288,800)	(288,800)	-
Client Security Fund	(1,100,000)	(1,100,000)	(1,100,000)	-
Total other financing sources (uses)	(1,888,800)	(1,888,800)	(1,888,800)	-
Net change in fund balances	(2,576,408)	(2,576,408)	2,041,627	4,618,035
Fund balance at beginning of year, as restated	15,708,250	15,708,250	15,708,250	-
Fund balance at end of year	$ 13,131,842	$ 13,131,842	$ 17,749,877	$ 4,618,035

State Bar of Texas

Note to Statement of Revenues, Expenditures and Changes in Fund Balance—Budget (GAAP Basis) and Actual—General Fund
Year Ended May 31, 2019

Note 1. Basis of Presentation

The State Bar adopts an annual appropriated budget for its General Fund. The State Bar's budget is prepared annually by the Executive Director and is reviewed by the budget committee of the Board. The budget passes several stages of review, including a public hearing, adoption by the Board and approval by the Supreme Court of Texas. The budget may be amended at any meeting of the Board, but the amendments made are subject to the approval of the Supreme Court of Texas. Variances from budgeted revenues and expenditures are analyzed by management, the finance committee, the executive committee and the Board. Regulations do not prohibit the State Bar from having unfavorable variances.

The State Bar is not legally required to adopt a budget for Sections and Divisions, which is listed as a major Special Revenue Fund and, therefore, a budget compared to actual is not included.

The State Bar's budget for the General Fund is prepared using the GAAP basis of accounting.

State Bar of Texas

Schedule of Changes in State Bar's Proportionate Share of Net Pension Liability and Related Ratios

	August 31				
	2019	2018	2017	2016	2015
Measurement date	**August 31, 2018**	August 31, 2017	August 31, 2016	August 31, 2015	August 31, 2014
State Bar's proportion share of the net pension liability	0.28934813%	0.27637361%	0.27324143%	0.29402350%	0.30057126%
State Bar's proportion share of the net pension liability balance at August 31	**$ 58,442,218**	$ 60,427,988	$ 53,984,064	$ 39,006,462	$ 43,465,009
State Bar's covered payroll*	**$ 22,360,932**	$ 20,632,468	$ 19,977,021	$ 19,590,734	$ 19,402,731
State Bar's proportionate share of the net pension liability as a percentage of its covered payroll	**261.36%**	292.88%	270.23%	199.11%	224.01%
Plan fiduciary net position as a percentage of total pension liability	**57.89%**	54.67%	55.32%	64.40%	63.40%

*The covered payroll is the payroll of employees that are provided with pension through the pension plan for each plan year, the measurement period.

The schedule of changes in State Bar's proportionate share of net position liability and related ratio disclosure is required for 10 years. The schedule noted above is only for the years for which the new GASB statements have been implemented.

See notes to required supplementary information.

State Bar of Texas

Schedule of Employer Contributions—Net Pension Liability

Fiscal Years Ended May 31,	Actuarially Determined Contributions	Contributions in Relation to the Actuarially Determined Contributions	Contribution Deficiency (Excess)	Covered Payroll	Contributions as a Percent of Covered Payroll
2019	**$ 2,027,891**	**$ 2,027,891**	$ -	**$ 21,023,817**	**9.65%**
2018	2,482,803	2,482,803	-	20,638,696	12.03%
2017	2,371,089	2,371,089	-	19,794,416	11.98%
2016	2,293,610	2,293,610	-	19,507,265	11.76%
2015	1,845,751	1,845,751	-	19,427,203	9.50%
2014	1,665,702	1,665,702	-	19,032,960	8.75%
2013	1,376,433	1,376,433	-	18,584,172	7.41%
2012	1,341,923	1,341,923	-	17,769,494	7.55%
2011	1,373,078	1,373,078	-	16,932,249	8.11%
2010	1,272,762	1,272,762	-	16,391,209	7.76%

Note 1. Changes of Benefit Terms—Pension Plan

For the year ended August 31, 2015, during the most recent legislative session, the Texas Legislature enacted House Bill 9 (HB-9). HB-9 increased the member contribution rate for ERF members to 9.5% of member's compensation for service after August 31, 2015. HB-9 also eliminated the 90-day waiting period to become a member of ERF and LECOSRF. In conjunction with HB-9, the State's contribution appropriation to ERF also increased to 9.5% of pay.

For the years ended August 31, 2014, 2016, 2017 and 2018, there were no changes to the plan provisions.

Note 2. Changes of Assumptions—Pension Plan

For the year ended August 31, 2018, other than the difference in the discount rate increase to 5.69%, all other actuarial methods and assumptions are the same for both funding and financial reporting purposes.

For the year ended August 31, 2017, the following assumptions have been changed since the previous pension valuation:

- Decrease the investment return assumption from 8.0% to 7.5%
- Decrease the inflation assumption from 3.5% to 2.5%
- Establish a general wage inflation assumption of 0.5% above inflation, or 3.0%
- Mortality assumptions updated from 1994 Group Annuity Mortality table to most recently published national tables, RP-2014 Mortality tables for employees and disability retirees
- Modified the application of Entry Age Normal (EAN) actuarial cost method from Ultimate EAN, the normal cost rate based on the benefits payable to a new member and the entry age characteristics of the current active membership, to individual EAN which bases the normal cost rate on benefits payable to each individual active member

For the years ended August 31, 2014, 2015, and 2016, other than the difference in the discount rate (6.07% for 2014, 6.86% for 2015 and 5.73% in 2016), all other actuarial methods and assumptions are the same for both funding and financial reporting purposes.

State Bar of Texas

Schedule of Changes in State Bar's Proportionate Share of Total OPEB Liability and Related Ratios

	August 31, 2019
Measurement date	August 31, 2018
State Bar's proportion share of the total OPEB liability	0.12339085%
State Bar's proportion share of the total OPEB liability balance at August 31	$ 36,570,262
State Bar's covered payroll*	$ 20,632,467
State Bar's proportionate share of the total OPEB liability as a percentage of its covered payroll	177.25%
Plan fiduciary net position as a percentage of total OPEB liability	1.27%

*The covered payroll is the payroll of employees that are provided with OEPB through the OPEB plan for each plan year, the measurement period.

The schedule of changes in State Bar's proportionate share of total OPEB liability and related ratio disclosure is required for 10 years. The schedule noted above is only for the years for which the new GASB statements have been implemented.

See notes to required supplementary information.

State Bar of Texas

Schedule of Employer Contributions—Total OPEB Liability

Fiscal Years Ended May 31,	Statutorily Required Contributions	Contributions in Relation to the Statutorily Required Contributions	Contribution Deficiency (Excess)	Covered Payroll	Contributions as a Percent of Covered Payroll
2019	**$ 1,016,477**	**$ 1,016,477**	**$ -**	**$ 21,023,817**	**4.83%**
2018	976,371	976,371	-	20,638,696	4.73%
2017	895,157	895,157	-	19,794,416	4.52%
2016	763,559	763,559	-	19,507,265	3.91%
2015	636,780	636,780	-	19,427,203	3.28%

The information disclosed for each fiscal year is reported as of the fiscal year-end date.

The information for all periods for the 10-year schedules that are required to be presented as required supplementary information is not available. During this transition period, the information will be presented for as many years as are available.

See notes to required supplementary information.

Note 1. Changes of Benefit Terms—OPEB Plan

For the year ended August 31, 2018, the following benefit revisions have been adopted since the prior valuation for retirees and dependents for whom Medicare is not primary is an increase in the out-of-pocket maximum for both HealthSelect and Consumer Directed HealthSelect plans.

For the year ended August 31, 2017, the following benefit revisions have been adopted since the prior valuation: (a) an increase in the out-of-pocket cost applicable to services obtained at a free-standing emergency facility, (b) an elimination of the copayment for virtual visits, (c) a copay reduction for Airrosti and for out-of-state participants and (d) elimination of the deductible for in-network services and application of a copayment rather than coinsurance to certain services like primary care and specialist visits. These minor benefit changes have been reflected in the fiscal year 2018 Assumed Per Capita Health Benefit Costs.

For the year ended August 31, 2016, the following benefit revisions have been adopted since the prior valuation: (a) an increase in the overall annual out-of-pocket maximum in accordance with the requirements of the Affordable Care Act (ACA) (effective January 1, 2017) and (b) implementation of (i) a program under which HealthSelect participants can consult with a licensed physician from their mobile device and (ii) an online weight-loss program available to eligible HealthSelect participants not enrolled in Medicare Part B. These minor benefit changes have been reflected in the fiscal year 2017 Assumed Per Capita Health Benefit Costs. These changes became effective September 1, 2016 (except as noted) and are incorporated into this valuation in accordance with Question Number 49 of the Guide to Implementation of GASB Statements No. 43 and No. 45 on Other Postemployment Benefits.

For the year ended August 31, 2015, the following benefit revisions have been adopted since the prior valuation: (a) an increase to the total network annual out-of-pocket maximum, (b) an elimination of the requirement for referrals in order to see ophthalmologists and optometrists, (c) a copay reduction for a mental health office visit and (d) effective January 1, 2016, the inclusion of medical and pharmacy deductibles, coinsurance and copays in the total network out-of-pocket maximum. These changes became effective September 1, 2015 (unless otherwise noted) and are incorporated into this valuation in accordance with Question Number 49 of the Guide to Implementation of GASB Statements No. 43 and No. 45 on Other Postemployment Benefits. These minor benefit changes have been reflected in the fiscal year 2016 Assumed Per Capita Health Benefit Costs.

For the year ended August 31, 2014, the following benefit revisions have been adopted since the prior valuation: (a) implementation of an overall annual out-of-pocket maximum in accordance with the requirements of the ACA, (b) mental health benefit changes; (c) benefit enhancements for hearing aids and breast pumps and (d) copay reductions for generic prescription drugs. These changes became effective September 1, 2014 (except for the out-of-pocket maximum, which becomes effective January 1, 2015) and are incorporated into this valuation in accordance with Question Number 49 of the Guide to Implementation of GASB Statements No. 43 and No. 45 on Other Postemployment Benefits. The new benefit provisions are expected to have no impact on the employer's cost.

Note 2. Changes of Assumptions— OPEB Plan

For the year ended August 31, 2018, the following assumptions have been changed since the previous OPEB valuation:

- Demographic assumptions (including rates of retirement, disability, termination, mortality and assumed salary increases) for higher education members have been updated to reflect assumptions recently adopted by the trustees from TRS.

Note 2. Changes of Assumptions— OPEB Plan (Continued)

- Assumed Expenses, assumed Per Capita Health Benefit Costs and assumed Health Benefit Cost, Retiree Contribution and Expense trends have been updated to reflect recent experience and its effects on short-term expectations.

- The percentage of current retirees and their spouses not yet eligible to participate in the HealthSelect Medicare Advantage Plan and future retirees and their spouses who will elect to participate in the plan at the earliest date at which coverage can commence and the percentage of future retirees assumed to be married and electing coverage for their spouse have been updated to reflect recent plan experience and expected trends.

- The discount rate assumption was increased from 3.51% to 3.96% as a result of requirements by GASB No. 74 to utilize the yield or index rate for 20-year, tax-exempt general obligation municipal bonds rated AA/Aa (or equivalent) or higher in effect on the measurement date.

For the year ended August 31, 2017, the following assumptions have been changed since the previous OPEB valuation:

- Additional demographic assumptions (aggregate payroll increases and rate of general inflation) to reflect an experience study.

- The percentage of current and future retirees and retirees spouses not yet eligible to participate in the HealthSelect Medicare Advantage Plan who will elect to participate at the earliest date at which coverage can commence has been updated to reflect recent plan experience and expected trends.

- Assumptions for administrative expenses, assumed per Capita Health Benefit Costs, Health Benefit Cost and Retiree Contribution trends to reflect recent health plan experience.

- Effects in short-term expectations and revised assumed rate of general inflation.

For the year ended August 31, 2016, the following assumptions have been changed since the previous OPEB valuation:

- Assumed Expenses, assumed Per Capita Health Benefit Costs and assumed Health Benefit Cost and Retiree Contribution Trends have been updated to reflect recent experience and its effects on our short-term expectations.

- The percentage of future retirees electing to participate in the HealthSelect Medicare Advantage program at the earliest date at which coverage can commence.

- The proportion of future retirees covering dependent children and the percentage of future retirees and retiree spouses assumed to use tobacco have been updated to reflect recent plan experience and expected trends.

For the year ended August 31, 2015, the following assumptions have been changed since the previous OPEB valuation:

- The Assumed Per Capita Health Benefit Costs and Assumed Expenses for retirees and dependents have been updated to reflect recent health plan experience.

Note 2. Changes of Assumptions— OPEB Plan (Continued)

- The percentage of future retirees electing to participate in the HealthSelect Medicare Advantage program at the earliest date at which coverage can commence has been updated to reflect recent plan experience and expected trends.

- Assumed salary increases and rates of mortality, termination, disability and retirement for Higher Education members were updated to remain consistent with the assumptions, which were adopted by the TRS board earlier this year for use by the TRS retirement plan actuary; and the Health Benefit Cost and Retiree Contribution Trends have been updated to reflect changes in short-term expectations due to recent health plan experience. The following benefit revisions have been adopted since the prior valuation: (a) an increase to the total network annual out-of-pocket maximum, (b) an elimination of the requirement for referrals in order to see ophthalmologists and optometrists, (c) a copay reduction for a mental health office visit and (d) effective January 1, 2016, the inclusion of medical and pharmacy deductibles, coinsurance and copays in the total network out-of-pocket maximum. These changes became effective September 1, 2015 (unless otherwise noted) and are incorporated into this valuation in accordance with Question Number 49 of the Guide to Implementation of GASB Statements No. 43 and No. 45 on Other Postemployment Benefits. These minor benefit changes have been reflected in the fiscal year 2016 Assumed Per Capita Health Benefit Costs.

For the year ended August 31, 2014, the following assumptions have been changed since the previous OPEB valuation:

- The Assumed Per Capita Health Benefit Costs and Assumed Expenses for retirees and dependents have been updated to reflect recent health plan experience.

- The percentage of future retirees electing coverage for their spouses, the percentage of future retirees electing to participate in the HealthSelect Medicare Advantage program at the earliest date at which coverage can commence and the percentage of future retirees assumed to use tobacco have been updated to reflect recent plan experience and expected trends.

- Assumed rates of retirements for Higher Education members who are not grandfathered under current TRS Care eligibility provisions as of August 31, 2014, were updated to remain consistent with the assumptions used by the TRS retirement plan actuary.

- The Health Benefit Cost and Retiree Contribution Trends have been updated to reflect changes in short-term expectations due to recent health plan experience.

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Other Supplemental Information

State Bar of Texas

Combining Balance Sheet—Nonmajor Governmental Funds
May 31, 2019

	Texas Board of Legal Specialization Fund	Texas Bar College	Annual Meeting	Client Security Fund	Texas Law Center	Technology Fund	Project Grants Fund	Hatton W. Sumners Grants Fund	Law Focused Education	Department of Public Service	Total Nonmajor Governmental Funds
Assets											
Current assets:											
Cash and cash equivalents—cash in bank	$ 1,550,891	$ 350,060	$ 734,438	$ 745,915	$ 392,798	$ -	$ -	$ 236,726	$ -	$ -	$ 4,010,828
Investments	700,000	-	-	2,282,258	3,603,039	-	-	-	-	-	6,585,297
Receivables:											
Interest receivable	2,110	-	-	5,384	14,297	-	-	-	-	-	21,791
Other accounts receivable	6,943	-	-	-	-	-	-	-	-	-	6,943
Due from other governmental funds	-	-	-	-	-	591,173	64,517	-	30,000	-	685,690
Prepaid items	9,277	3,585	87,416	-	39,334	198,139	-	1,347	-	-	339,098
Total assets	$ 2,269,221	$ 353,645	$ 821,854	$ 3,033,557	$ 4,049,468	$ 789,312	$ 64,517	$ 238,073	$ 30,000	$ -	$ 11,649,647
Liabilities and Fund Balances											
Current liabilities:											
Accrued liabilities	$ 6,720	$ 556	$ 500	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ 7,776
Due to other governmental funds	147,644	23,757	26,684	425,010	-	-	-	58,343	-	-	681,438
Unearned revenue	-	136,952	449,506	-	-	-	64,517	178,383	30,000	-	859,358
Total liabilities	154,364	161,265	476,690	425,010	-	-	64,517	236,726	30,000	-	1,548,572
Fund balances:											
Nonspendable	9,277	3,585	87,416	-	39,334	198,139	-	1,347	-	-	339,098
Committed	2,105,580	188,795	257,748	2,608,547	4,010,134	591,173	-	-	-	-	9,761,977
Total fund balances	2,114,857	192,380	345,164	2,608,547	4,049,468	789,312	-	1,347	-	-	10,101,075
Total liabilities and fund balances	$ 2,269,221	$ 353,645	$ 821,854	$ 3,033,557	$ 4,049,468	$ 789,312	$ 64,517	$ 238,073	$ 30,000	$ -	$ 11,649,647

State Bar of Texas

Combining Statement of Revenues, Expenditures and Changes in Fund Balances—Nonmajor Governmental Funds
Year Ended May 31, 2019

	Texas Board of Legal Specialization Fund	Texas Bar College	Annual Meeting	Client Security Fund	Texas Law Center	Technology Fund	Project Grants Fund	Hatton W. Sumners Grants Fund	Law Focused Education	Department of Public Service	Total Nonmajor Governmental Funds
Revenues:											
Membership dues	$ 1,356,500	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ 1,356,500
Investment income	34,705	4,933	7,569	67,647	119,618	-	-	110	-	-	234,582
Grant revenue	-	-	-	-	-	-	56,966	360,399	-	59,818	477,183
Other income	23,485	210,845	548,815	72,153	-	-	-	-	-	-	855,298
Total revenues	1,414,690	215,778	556,384	139,800	119,618	-	56,966	360,509	-	59,818	2,923,563
Expenditures:											
Special services	1,158,771	241,768	549,010	-	-	-	56,966	359,162	-	59,818	2,425,495
Administration	-	-	-	-	35,580	-	-	-	-	-	35,580
Finance and information technology	-	-	-	-	-	991,853	-	-	-	-	991,853
Public Protection Division	-	-	-	661,159	-	-	-	-	-	-	661,159
Total expenditures	1,158,771	241,768	549,010	661,159	35,580	991,853	56,966	359,162	-	59,818	4,114,087
Excess (deficiency) of revenues over (under) expenditures	255,919	(25,990)	7,374	(521,359)	84,038	(991,853)	-	1,347	-	-	(1,190,524)
Other financing sources:											
Transfers in	-	-	-	1,100,000	288,800	500,000	-	-	-	-	1,888,800
Total other financing sources	-	-	-	1,100,000	288,800	500,000	-	-	-	-	1,888,800
Net change in fund balances	255,919	(25,990)	7,374	578,641	372,838	(491,853)	-	1,347	-	-	698,276
Fund balances at beginning of year	1,858,938	218,370	337,790	2,029,906	3,676,630	1,281,165	-	-	-	-	9,402,799
Fund balances at end of year	$ 2,114,857	$ 192,380	$ 345,164	$ 2,608,547	$ 4,049,468	$ 789,312	$ -	$ 1,347	$ -	$ -	$10,101,075

State Bar of Texas

Combining Statement of Revenues, Expenditures and Changes in Fund Balance—Governmental Funds
Year Ended May 31, 2019

	General Fund	Sections and Divisions	Nonmajor Governmental Funds	Total Governmental Funds
Revenues:				
Membership dues	$ 20,869,303	$ 2,578,252	$ 1,356,500	$ 24,804,055
Accounting and management fees	650,351	-	-	650,351
Texas Bar Journal	455,789	-	-	455,789
MCLE fees	3,804,158	-	-	3,804,158
Professional development	14,275,158	889,944	-	15,165,102
Minority affairs	413,301	-	-	413,301
Investment income	731,489	52,272	234,582	1,018,343
Grant revenue	-	-	477,183	477,183
Member Benefits	899,972	-	-	899,972
Website	588,026	-	-	588,026
Advertising Review	351,895	-	-	351,895
CD disciplinary fees	703,979	-	-	703,979
Other income	1,018,849	935,373	855,298	2,809,520
Total revenues	44,762,270	4,455,841	2,923,563	52,141,674
Expenditures:				
Salaries	17,940,268		503,631	18,443,899
Benefits	6,276,139		190,107	6,466,246
Travel	1,794,269	474,809	240,338	2,509,416
Meetings and conferences	4,397,525	1,701,436	533,431	6,632,392
Professional services	2,916,843	770,286	299,303	3,986,432
Court fees	80,058	-	-	80,058
Publicity and advertising	424,008	14,231	132,045	570,284
Dues, subscriptions and licenses	613,570	2,224	57,328	673,122
Education and training	124,656	107,381	1,065	233,102
Supplies, awards, gifts and specialty items	491,757	45,894	295,752	833,403
Rentals—office, equipment and storage	1,306,733	2,217	126,493	1,435,443
Maintenance and repairs	531,578		452,960	984,538
Utilities	234,632		-	234,632
Postage and freight	716,378	16,980	39,655	773,013
Telephone	364,523	39,804	16,426	420,753
Insurance	488,641	159	-	488,800
Claims and judgments	-	-	661,160	661,160
Administrative	840,909	671,154	163,236	1,675,299
Printing and copying	1,240,664	228,837	61,272	1,530,773
Capital outlay	48,692		289,086	337,778
Debt service:				
Principal	-	-	46,571	46,571
Interest	-	-	4,228	4,228
Total expenditures	40,831,843	4,075,412	4,114,087	49,021,342
Excess (deficiency) of revenues over (under) expenditures	3,930,427	380,429	(1,190,524)	3,120,332
Other financing sources (uses):				
Transfers in	-	-	1,888,800	1,888,800
Transfers out	(1,888,800)	-	-	(1,888,800)
Other financing sources (uses)	(1,888,800)	-	1,888,800	-
Net change in fund balances	2,041,627	380,429	698,276	3,120,332
Fund balance at beginning of year, as restated	15,708,250	7,843,920	9,402,799	32,954,969
Fund balance at end of year	$ 17,749,877	$ 8,224,349	$ 10,101,075	$ 36,075,301

RSM

State Bar of Texas

Review of Investment Performance

Quarter Ended November 30, 2019

Barry Baughier
Senior Managing Consultant
baughierb@pfm.com

PFM Asset Management LLC

750 North Saint Paul St.
Suite 540
Dallas, TX 75201

214.247.7079
pfm.com

November 30, 2019

Below is a summary of the State Bar of Texas' investment holdings as of November 30, 2019. For additional, specific investment holding information, please refer to the attached statements for PFM Asset Management LLC, as well as the respective money market fund and checking account bank statements.

Account Name	Month End Market Value
Money Market Mutual Fund Investments	
PFM Funds Gov't Select Series - General Fund	339,169.53
PFM Funds Gov't Select Series - Client Security Fund	728,525.42
PFM Funds Gov't Select Series - Texas Law Center	27,768.90
PFM Funds Gov't Select Series - Board of Legal Specialization Fund	1,027,991.01
PFM Funds Gov't Select Series - Annual Meeting Funds	317,475.66
PFM Funds Gov't Select Series - Texas Bar College Special Revenue Funds	193,822.20
PFM Funds CD Program	711,760.95
High Yield Savings Accounts	
Plains Capital Bank - Hatton Sumner Grant Account	55,481.20
Plains Capital Bank - College Endowment Fund	55,351.54
Total Short-Term Funds	***3,457,346.41***
Individual Portfolios	
Client Security Fund	1,853,409.44
General Fund	20,468,520.25
Texas Law Center Fund	4,388,364.20
Total Indivdual Portfolios	***26,710,293.89***
Grand Total	**30,167,640.30**

Weighted Average Maturity	
Including Overnight Balances	456 Days
Not Including Overnight Balances	502 Days

If you have any questions, do not hesitate to contact me at 214-247-7079 or baughierb@pfm.com.

Sincerely,

Barry Baughier

Portfolio Summary

Total Portfolio Value	November 30, 2019	August 31, 2019	November 30, 2018
College Fund*	**$249,173.74**	$292,184.55	$244,729.19
Client Security Fund	**$2,581,934.86**	$3,045,709.60	$2,979,391.21
Board of Legal Specialization Fund	**$1,739,751.96**	$1,989,840.08	$1,520,895.21
Law Focused Education Fund	**$55,481.20**	$104,211.38	$68,311.49
Texas Law Center Fund	**$4,416,133.10**	$4,436,812.07	$3,958,029.89
Annual Meeting Fund**	**$317,475.66**	$320,562.36	$344,645.83
General Fund	**$20,807,689.78**	$34,863,038.86	$27,942,146.38
Totals	**$30,167,640.30**	$45,052,358.90	$37,058,149.20

Portfolio Recap

General Fund

- The portfolios are fully invested in U.S. Treasuries, Federal Agencies, commercial paper, FDIC-insured CDs, and AAAm-rated money market mutual funds. Overall, the portfolios maintain high credit quality and necessary liquidity.
- The portfolio complies with Texas statutes and the State Bar's investment policy.
- The General Fund portfolio generated a quarterly total return of 0.43%, underperforming the benchmark 6-month Merrill Lynch Treasury Index return of 0.55%.

Other Funds

- The portfolio for each fund is designed to match the specific cash and liquidity needs of that fund.
- We continue to hold U.S. Treasuries and / or Federal Agency securities as the primary investments for the Texas Law Center and Client Security Fund portfolios.
- We will work with the State Bar to identify funds in overnight investments that could be invested in securities, adding value to the portfolios.
- We will work with the State Bar to target known future cash flow needs to maximize the benefit of the steep yield curve as well as determine an appropriate investment strategy.

** Includes College Endowment Fund balances.*
*** Please note that Convention Fund name has been changed to Annual Meeting Fund.*

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Portfolio Summary *(continued)*

- U.S. Gross Domestic Product ("GDP") increased at an annual rate of 2.1% according to the Bureau of Economic Analysis' second estimate for the third quarter of 2019. The slight upward revision from the first estimate of 1.9% was from private inventory investment, nonresidential fixed investment, and consumer spending.
- After the Federal Reserve cut rates by 25 basis points at both their September and October meetings, the Fed has hinted at a pause for future interest rate cuts, for now. However, the minutes from the October Federal Open Market Committee ("FOMC") meeting offer a reminder that risks to the economy loom and that officials are ready to cut further if needed.
  - Most Fed officials saw interest rates as "well calibrated to support the outlook for moderate growth," but "judged that the risks to the forecast for real GDP growth were tilted to the downside, with a corresponding skew to the upside for the unemployment rate."
  - As of November 30, 2019, the target range for the Federal Funds Rate is between 1.50% and 1.75%.
- During November, U.S. Treasury yields generally rebounded across the curve as the Fed patiently waits to act on policy while assessing current economic conditions.
  - The yield curve continues to normalize from its inversion.
- November marked 110 months of job gains in the United States. The U.S. Department of Labor reported that 266,000 jobs were added during the month across various sectors, including healthcare, leisure, and hospitality. Although the number of jobs added was above expectations, a declining twelve-month moving average continues to show a sign of slowing job growth.
  - Jobs have grown an average of 205,000 jobs in the past 3 months, which signals slower growth in comparison to an average 223,000 jobs in 2018. The unemployment rate slightly decreased from 3.6% to 3.5%, near all-time lows again since 1969.

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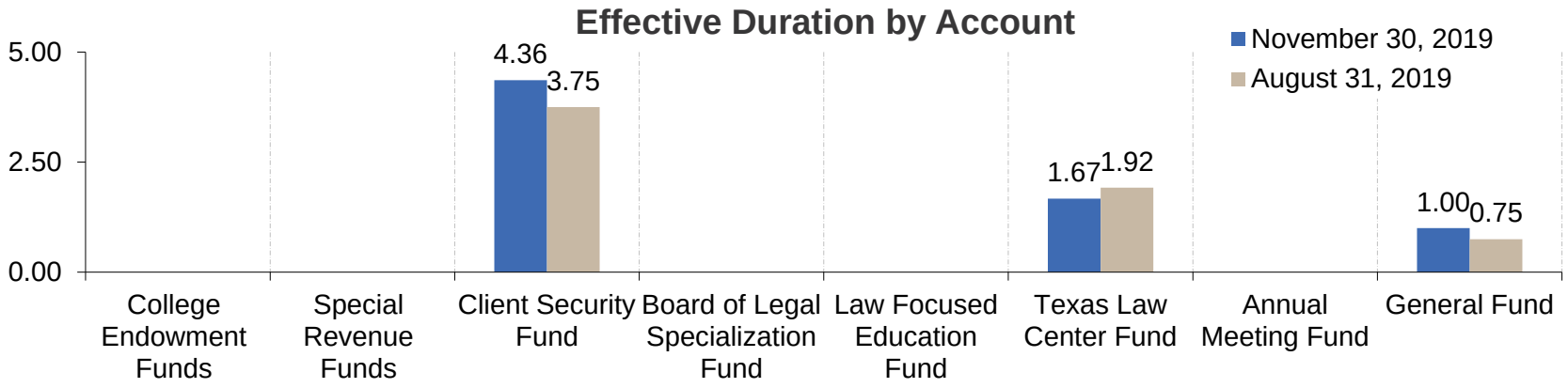
Portfolio Performance

	Yield To Maturity - At Market		Yield To Maturity - On Cost	
Yields	**November 30, 2019**	August 31, 2019	**November 30, 2019**	August 31, 2019
College Endowment Funds	**0.15%**	0.15%	**0.15%**	0.15%
Special Revenue Funds	**1.57%**	2.06%	**1.57%**	2.06%
Client Security Fund[1]	**1.68%**	1.55%	**1.73%**	1.88%
Board of Legal Specialization Fund[2]	**1.57%**	2.06%	**1.57%**	2.06%
Law Focused Education Fund[2]	**0.05%**	0.05%	**0.05%**	0.05%
Texas Law Center Fund[1]	**1.66%**	1.72%	**2.43%**	2.43%
Annual Meeting Fund[2]	**1.57%**	2.06%	**1.57%**	2.06%
General Fund[1]	**1.68%**	1.96%	**2.41%**	2.50%



1. *Does not include money market funds, FDIC-insured CDs or cash equivalents in performance, duration, and yield computations.*
2. *Yields for these funds represent the APY earned on balances held at Plains Capital Bank for the month prior to quarter end. Duration of each of the funds is equal to 1 day or approximately 0.003 years.*

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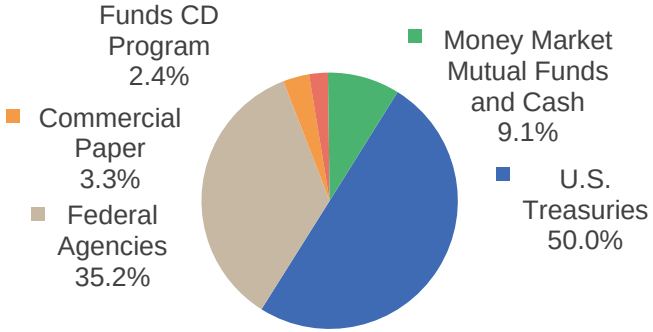
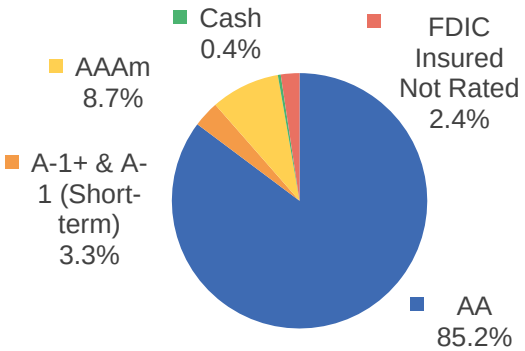
Composite Portfolio Composition and Credit Quality

Security Type	November 30, 2019	% of Portfolio	August 31, 2019	% of Portfolio	Permitted by Investment Policy
U.S. Treasuries	**$15,096,988.11**	**50.0%**	$21,591,700.05	47.9%	100%
Federal Agencies	**$10,614,546.78**	**35.2%**	$12,686,263.02	28.2%	100%
Mortgage-Backed Securities	**$0.00**	**0.0%**	$0.00	0.0%	30%
Commercial Paper	**$998,759.00**	**3.3%**	$3,986,204.00	8.8%	30%
Certificates of Deposit	**$0.00**	**0.0%**	$0.00	0.0%	30%
Bankers' Acceptances	**$0.00**	**0.0%**	$0.00	0.0%	15%
Repurchase Agreements	**$0.00**	**0.0%**	$0.00	0.0%	30%
PFM Funds CD Program	**$711,760.95**	**2.4%**	$706,961.63	1.6%	30%
Money Market Mutual Funds and Cash	**$2,745,585.46**	**9.1%**	$6,081,230.20	13.5%	100%
Totals	**$30,167,640.30**	**100.0%**	**$45,052,358.90**	**100.0%**	

Portfolio Composition as of 11/30/2019



Credit Quality Distribution as of 11/30/2019



Data represents end of quarter trade-date market values of portfolio holdings, including accrued interest. Percentages may not add up to 100% due to rounding.

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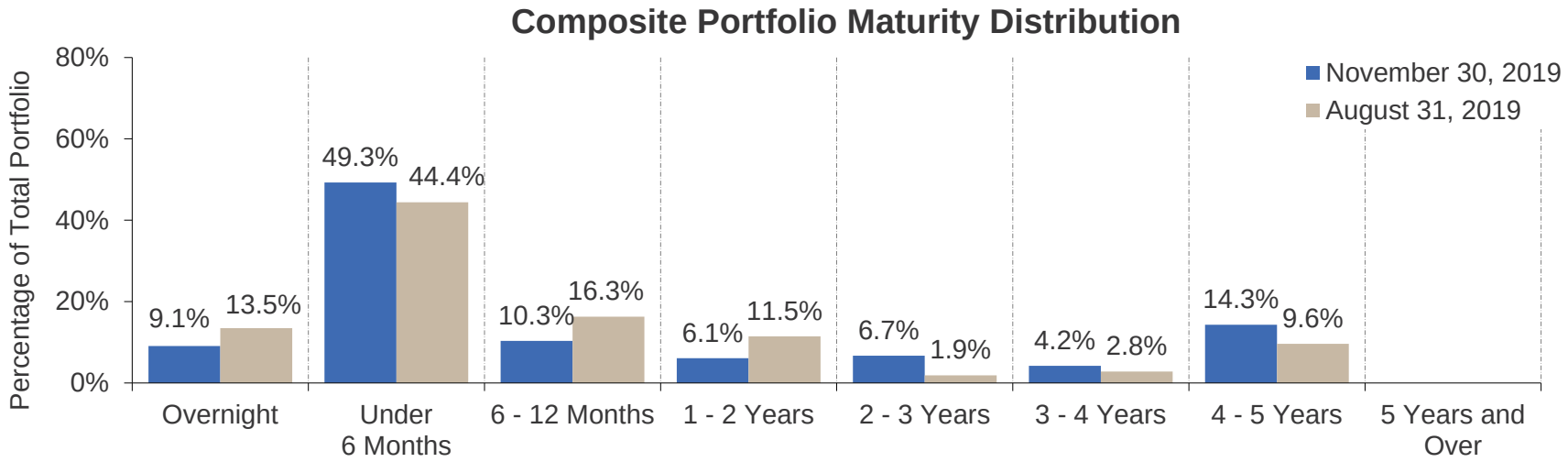
Composite Portfolio Maturity Distribution

Maturity Distribution	November 30, 2019	August 31, 2019
Overnight	**$2,745,585.46**	$6,081,230.20
Under 6 Months	**$14,862,054.21**	$20,014,849.30
6 - 12 Months	**$3,116,510.86**	$7,336,838.13
1 - 2 Years	**$1,839,429.91**	$5,168,522.70
2 - 3 Years	**$2,019,811.63**	$838,562.33
3 - 4 Years	**$1,271,409.92**	$1,272,612.66
4 - 5 Years	**$4,312,838.31**	$4,339,743.58
5 Years and Over	**$0.00**	$0.00
Totals	**$30,167,640.30**	**$45,052,358.90**



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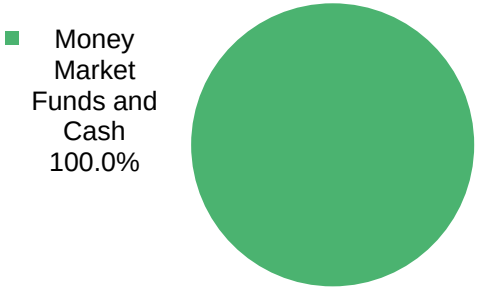
State Bar College Fund Portfolio Composition and Credit Quality

Security Type	November 30, 2019	% of Portfolio	August 31, 2019	% of Portfolio
U.S. Treasuries	**$0.00**	**0.0%**	$0.00	0.0%
Mortgage-Backed Securities	**$0.00**	**0.0%**	$0.00	0.0%
Federal Agencies	**$0.00**	**0.0%**	$0.00	0.0%
Commercial Paper	**$0.00**	**0.0%**	$0.00	0.0%
Certificates of Deposit	**$0.00**	**0.0%**	$0.00	0.0%
Bankers' Acceptances	**$0.00**	**0.0%**	$0.00	0.0%
Repurchase Agreements	**$0.00**	**0.0%**	$0.00	0.0%
Money Market Funds and Cash	**$249,173.74**	**100.0%**	$292,184.55	100.0%
Totals	**$249,173.74**	**100.0%**	**$292,184.55**	**100.0%**

Portfolio Composition as of 11/30/2019



Credit Quality as of 11/30/2019

Data represents end of quarter trade-date market values of portfolio holdings, including accrued interest. Percentages may not add up to 100% due to rounding.

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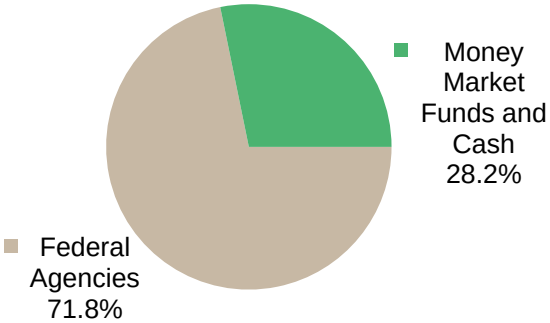
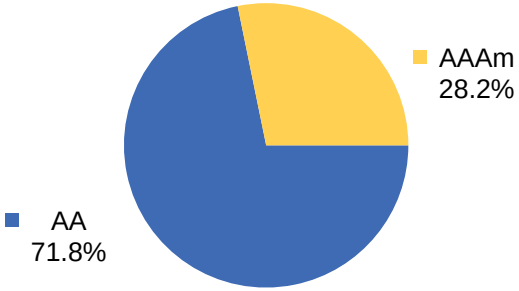
State Bar Client Security Fund Portfolio Composition and Credit Quality

Security Type	November 30, 2019	% of Portfolio	August 31, 2019	% of Portfolio
U.S. Treasuries	**$0.00**	**0.0%**	$455,441.33	15.0%
Mortgage-Backed Securities	**$0.00**	**0.0%**	$0.00	0.0%
Federal Agencies	**$1,853,409.44**	**71.8%**	$1,864,971.77	61.2%
Commercial Paper	**$0.00**	**0.0%**	$0.00	0.0%
Certificates of Deposit	**$0.00**	**0.0%**	$0.00	0.0%
Bankers' Acceptances	**$0.00**	**0.0%**	$0.00	0.0%
Repurchase Agreements	**$0.00**	**0.0%**	$0.00	0.0%
Money Market Funds and Cash	**$728,525.42**	**28.2%**	$725,296.50	23.8%
Totals	**$2,581,934.86**	**100.0%**	**$3,045,709.60**	**100.0%**

Portfolio Composition as of 11/30/2019



Credit Quality as of 11/30/2019



Data represents end of quarter trade-date market values of portfolio holdings, including accrued interest. Percentages may not add up to 100% due to rounding.

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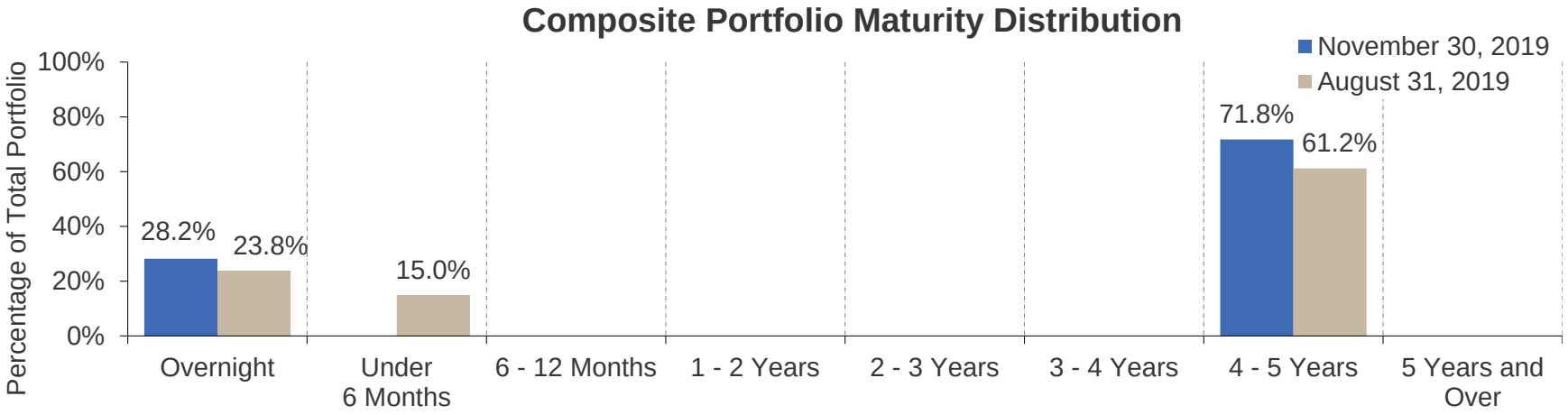
Client Security Fund Portfolio Maturity Distribution

Maturity Distribution	November 30, 2019	August 31, 2019
Overnight	**$728,525.42**	$725,296.50
Under 6 Months	**$0.00**	$455,441.33
6 - 12 Months	**$0.00**	$0.00
1 - 2 Years	**$0.00**	$0.00
2 - 3 Years	**$0.00**	$0.00
3 - 4 Years	**$0.00**	$0.00
4 - 5 Years	**$1,853,409.44**	$1,864,971.77
5 Years and Over	**$0.00**	$0.00
Totals	**$2,581,934.86**	**$3,045,709.60**



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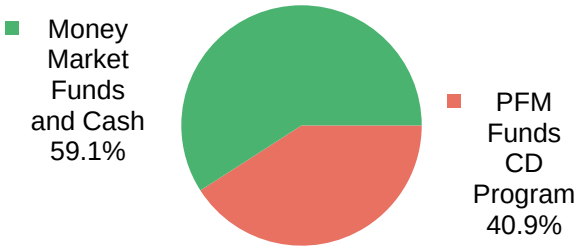
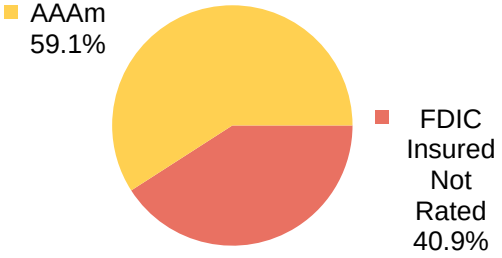
State Bar Board of Legal Specialization Portfolio Composition and Credit Quality

Security Type	November 30, 2019	% of Portfolio	August 31, 2019	% of Portfolio
U.S. Treasuries	**$0.00**	**0.0%**	$0.00	0.0%
Mortgage-Backed Securities	**$0.00**	**0.0%**	$0.00	0.0%
Federal Agencies	**$0.00**	**0.0%**	$0.00	0.0%
Commercial Paper	**$0.00**	**0.0%**	$0.00	0.0%
Certificates of Deposit	**$0.00**	**0.0%**	$0.00	0.0%
Bankers' Acceptances	**$0.00**	**0.0%**	$0.00	0.0%
Repurchase Agreements	**$0.00**	**0.0%**	$0.00	0.0%
PFM Funds CD Program	**$711,760.95**	**40.9%**	$706,961.63	35.5%
Money Market Funds and Cash	**$1,027,991.01**	**59.1%**	$1,282,878.45	64.5%
Totals	**$1,739,751.96**	**100.0%**	**$1,989,840.08**	**100.0%**

Portfolio Composition as of 11/30/2019



Credit Quality as of 11/30/2019



Data represents end of quarter trade-date market values of portfolio holdings, including accrued interest. Percentages may not add up to 100% due to rounding.

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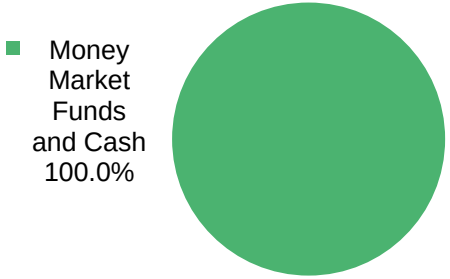
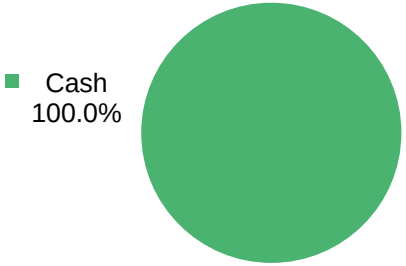
State Bar Law Focused Education Portfolio Composition and Credit Quality

Security Type	November 30, 2019	% of Portfolio	August 31, 2019	% of Portfolio
U.S. Treasuries	**$0.00**	**0.0%**	$0.00	0.0%
Mortgage-Backed Securities	**$0.00**	**0.0%**	$0.00	0.0%
Federal Agencies	**$0.00**	**0.0%**	$0.00	0.0%
Commercial Paper	**$0.00**	**0.0%**	$0.00	0.0%
Certificates of Deposit	**$0.00**	**0.0%**	$0.00	0.0%
Bankers' Acceptances	**$0.00**	**0.0%**	$0.00	0.0%
Repurchase Agreements	**$0.00**	**0.0%**	$0.00	0.0%
Money Market Funds and Cash	**$55,481.20**	**100.0%**	$104,211.38	100.0%
Totals	**$55,481.20**	**100.0%**	**$104,211.38**	**100.0%**

Portfolio Composition as of 11/30/2019



Credit Quality as of 11/30/2019



Data represents end of quarter trade-date market values of portfolio holdings, including accrued interest. Percentages may not add up to 100% due to rounding.

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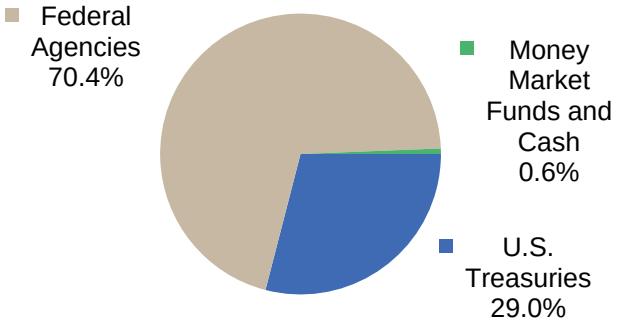
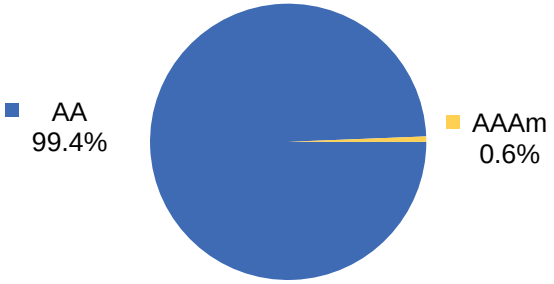
State Bar Texas Law Center Fund Portfolio Composition and Credit Quality

Security Type	November 30, 2019	% of Portfolio	August 31, 2019	% of Portfolio
U.S. Treasuries	**$1,281,441.90**	**29.0%**	$1,277,557.75	28.8%
Mortgage-Backed Securities	**$0.00**	**0.0%**	$0.00	0.0%
Federal Agencies	**$3,106,922.30**	**70.4%**	$3,131,608.49	70.6%
Commercial Paper	**$0.00**	**0.0%**	$0.00	0.0%
Certificates of Deposit	**$0.00**	**0.0%**	$0.00	0.0%
Bankers' Acceptances	**$0.00**	**0.0%**	$0.00	0.0%
Repurchase Agreements	**$0.00**	**0.0%**	$0.00	0.0%
Money Market Funds and Cash	**$27,768.90**	**0.6%**	$27,645.83	0.6%
Totals	**$4,416,133.10**	**100.0%**	**$4,436,812.07**	**100.0%**

Portfolio Composition as of 11/30/2019



Credit Quality as of 11/30/2019



Data represents end of quarter trade-date market values of portfolio holdings, including accrued interest. Percentages may not add up to 100% due to rounding.

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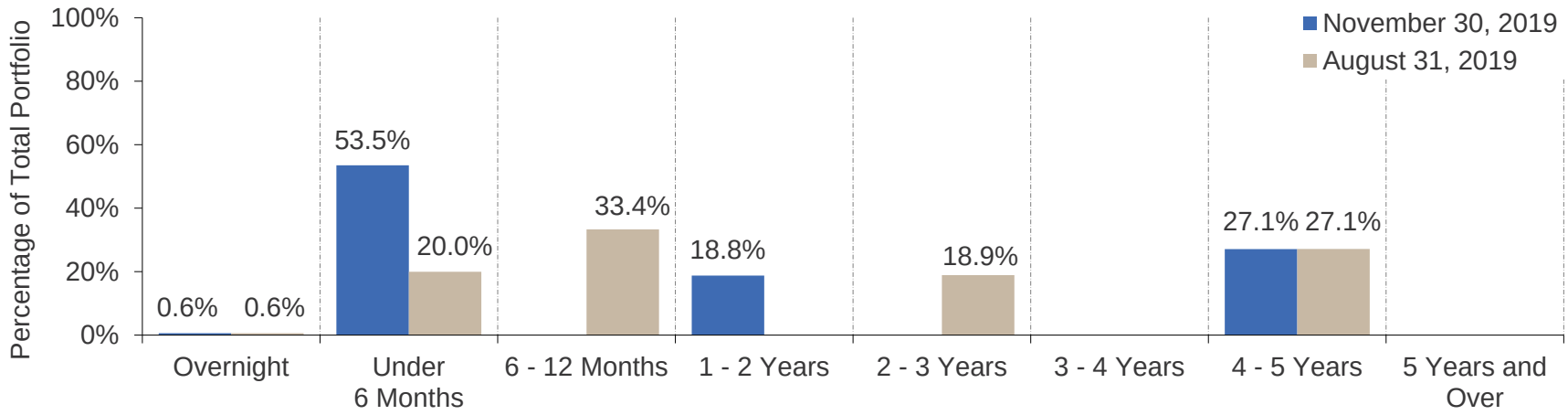
Texas Law Center Fund Portfolio Maturity Distribution

Maturity Distribution	November 30, 2019	August 31, 2019
Overnight	**$27,768.90**	$27,645.83
Under 6 Months	**$2,363,201.39**	$886,459.31
6 - 12 Months	**$0.00**	$1,479,789.53
1 - 2 Years	**$828,274.43**	$0.00
2 - 3 Years	**$0.00**	$838,562.33
3 - 4 Years	**$0.00**	$0.00
4 - 5 Years	**$1,196,888.38**	$1,204,355.07
5 Years and Over	**$0.00**	$0.00
Totals	**$4,416,133.10**	**$4,436,812.07**

Composite Portfolio Maturity Distribution



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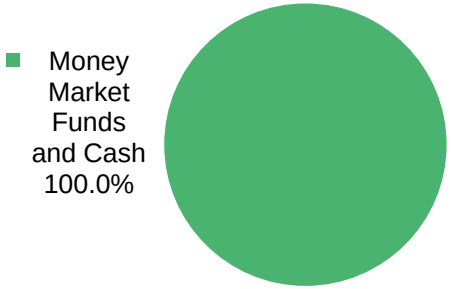
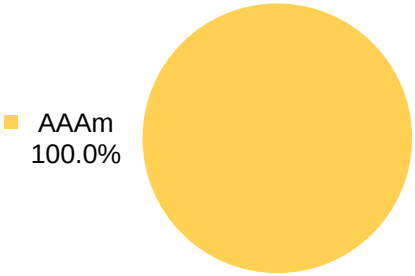
State Bar Annual Meeting Fund Portfolio Composition and Credit Quality

Security Type	November 30, 2019	% of Portfolio	August 31, 2019	% of Portfolio
U.S. Treasuries	**$0.00**	**0.0%**	$0.00	0.0%
Mortgage-Backed Securities	**$0.00**	**0.0%**	$0.00	0.0%
Federal Agencies	**$0.00**	**0.0%**	$0.00	0.0%
Commercial Paper	**$0.00**	**0.0%**	$0.00	0.0%
Certificates of Deposit	**$0.00**	**0.0%**	$0.00	0.0%
Bankers' Acceptances	**$0.00**	**0.0%**	$0.00	0.0%
Repurchase Agreements	**$0.00**	**0.0%**	$0.00	0.0%
Money Market Funds and Cash	**$317,475.66**	**100.0%**	$320,562.36	100.0%
Totals	**$317,475.66**	**100.0%**	**$320,562.36**	**100.0%**

Portfolio Composition as of 11/30/2019



Credit Quality as of 11/30/2019



Data represents end of quarter trade-date market values of portfolio holdings, including accrued interest. Percentages may not add up to 100% due to rounding.

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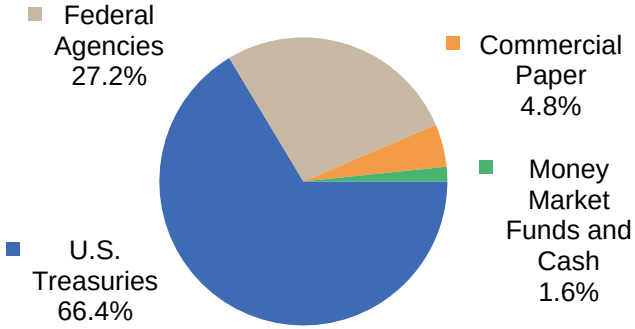
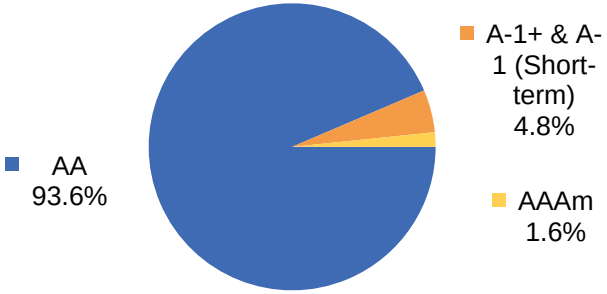
State Bar General Fund Portfolio Composition and Credit Quality

Security Type	November 30, 2019	% of Portfolio	August 31, 2019	% of Portfolio
U.S. Treasuries	**$13,815,546.21**	**66.4%**	$19,858,700.97	57.0%
Mortgage-Backed Securities	**$0.00**	**0.0%**	$0.00	0.0%
Federal Agencies	**$5,654,215.04**	**27.2%**	$7,689,682.76	22.1%
Commercial Paper	**$998,759.00**	**4.8%**	$3,986,204.00	11.4%
Certificates of Deposit	**$0.00**	**0.0%**	$0.00	0.0%
Bankers' Acceptances	**$0.00**	**0.0%**	$0.00	0.0%
Repurchase Agreements	**$0.00**	**0.0%**	$0.00	0.0%
Money Market Funds and Cash	**$339,169.53**	**1.6%**	$3,328,451.13	9.5%
Totals	**$20,807,689.78**	**100.0%**	**$34,863,038.86**	**100.0%**

Portfolio Composition as of 11/30/2019



Credit Quality as of 11/30/2019



Data represents end of quarter trade-date market values of portfolio holdings, including accrued interest. Percentages may not add up to 100% due to rounding.

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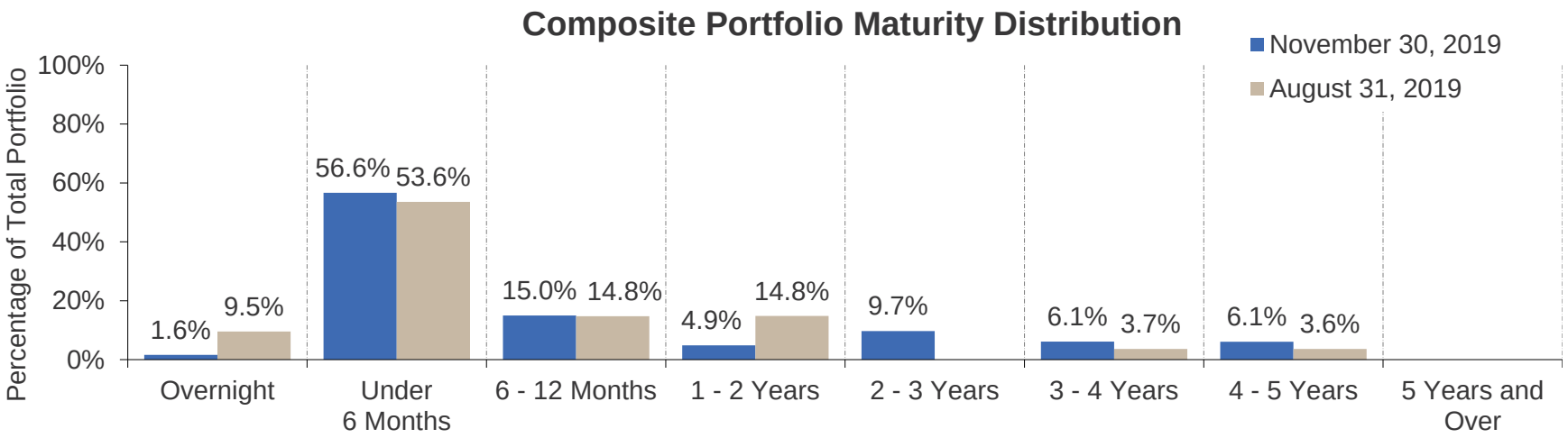
General Fund Portfolio Maturity Distribution

Maturity Distribution	November 30, 2019	August 31, 2019
Overnight	**$339,169.53**	$3,328,451.13
Under 6 Months	**$11,787,091.87**	$18,672,948.66
6 - 12 Months	**$3,116,510.86**	$5,150,086.97
1 - 2 Years	**$1,011,155.48**	$5,168,522.70
2 - 3 Years	**$2,019,811.63**	$0.00
3 - 4 Years	**$1,271,409.92**	$1,272,612.66
4 - 5 Years	**$1,262,540.49**	$1,270,416.74
5 Years and Over	**$0.00**	$0.00
Totals	**$20,807,689.78**	**$34,863,038.86**



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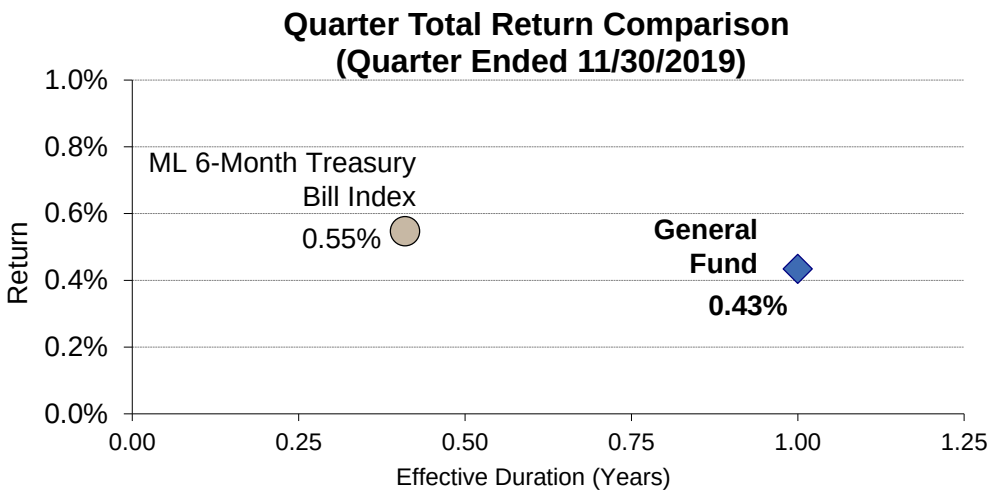
General Fund Portfolio Performance

Total Return	November 30, 2019	Last 6 Months	Annualized Since Inception
State Bar of Texas General Fund	**0.43%**	**1.31%**	**1.52%**
Merrill Lynch 6-Month Treasury Bill Index	0.55%	1.28%	1.44%

Duration	November 30, 2019	August 31, 2019	Yields	November 30, 2019
State Bar of Texas General Fund	**1.00**	0.75	Yield at Market	**1.68%**
Merrill Lynch 6-Month Treasury Bill Index	**0.41**	0.41	Yield on Cost	**2.41%**



1. *Performance on trade date basis, gross-of-fees in accordance with the CFA Institute's Global Investment Performance Standards.*
2. *Merrill Lynch Indices provided by Bloomberg Financial Markets.*
3. *The total returns shown for periods longer than 1 year are the annualized returns for the stated period.*
4. *The total returns shown for periods shorter than 1 year are the periodic returns for the stated period.*
5. *Since inception performance is calculated from May 31, 2006 to present.*
6. *Does not include money market fund in performance, duration, and yield computations as we do not consider these funds to be discretionary in nature.*

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Account Statement

For the Month Ending **November 30, 2019**

Consolidated Summary Statement

STATE BAR OF TEXAS

Portfolio Summary

Portfolio Holdings	Cash Dividends and Income	Closing Market Value
PFM Managed Account	214,605.50	26,588,512.33
Total	**$214,605.50**	**$26,588,512.33**

Investment Allocation

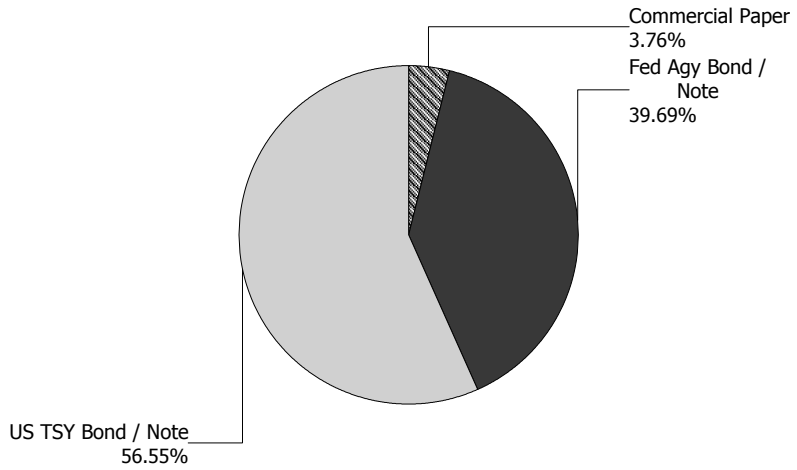
Investment Type	Closing Market Value	Percent
Commercial Paper	998,759.00	3.76
Federal Agency Bond / Note	10,552,131.92	39.69
U.S. Treasury Bond / Note	15,037,621.41	56.55
Total	**$26,588,512.33**	**100.00%**

Maturity Distribution (Fixed Income Holdings)

Portfolio Holdings	Closing Market Value	Percent
Under 30 days	2,993,491.67	11.25
31 to 60 days	2,985,111.00	11.23
61 to 90 days	995,846.75	3.75
91 to 180 days	7,116,764.14	26.77
181 days to 1 year	3,111,299.09	11.70
1 to 2 years	1,832,331.35	6.89
2 to 3 years	2,014,076.28	7.57
3 to 4 years	1,256,436.17	4.73
4 to 5 years	4,283,155.88	16.11
Over 5 years	0.00	0.00
Total	**$26,588,512.33**	**100.00%**

Weighted Average Days to Maturity **511**

Sector Allocation



Consolidated Summary Statement

STATE BAR OF TEXAS

Account Number	Account Name	Opening Market Value	Purchases / Deposits	Redemptions / Sales/ Maturities	Unsettled Trades	Change in Value	Closing Market Value	Cash Dividends and Income
81125010	STATE BAR OF TEXAS GENERAL FUND	29,423,170.86	2,013,301.76	(11,045,000.00)	0.00	(10,690.21)	20,380,782.41	202,448.47
81125011	STATE BAR OF TEXAS CLIENT SECURITY FUND	2,303,799.51	0.00	(455,000.00)	0.00	(8,145.87)	1,840,653.64	12,157.03
81125014	STATE BAR OF TEXAS TEXAS LAW CENTER	4,374,836.26	0.00	0.00	0.00	(7,759.98)	4,367,076.28	0.00
Total		**$36,101,806.63**	**$2,013,301.76**	**($11,500,000.00)**	**$0.00**	**($26,596.06)**	**$26,588,512.33**	**$214,605.50**

Managed Account Summary Statement

For the Month Ending **November 30, 2019**

STATE BAR OF TEXAS GENERAL FUND - 81125010

Transaction Summary - Managed Account

Opening Market Value	**$29,423,170.86**
Maturities/Calls	(11,045,000.00)
Principal Dispositions	0.00
Principal Acquisitions	2,013,301.76
Unsettled Trades	0.00
Change in Current Value	(10,690.21)
Closing Market Value	**$20,380,782.41**

Cash Transactions Summary - Managed Account

Maturities/Calls	11,045,000.00
Sale Proceeds	0.00
Coupon/Interest/Dividend Income	97,870.25
Principal Payments	0.00
Security Purchases	(2,016,962.62)
Net Cash Contribution	(9,125,907.63)
Reconciling Transactions	0.00

Earnings Reconciliation (Cash Basis) - Managed Account

Interest/Dividends/Coupons Received	97,870.25
Less Purchased Interest Related to Interest/Coupons	(3,660.86)
Plus Net Realized Gains/Losses	108,239.08
Total Cash Basis Earnings	**$202,448.47**

Cash Balance

Closing Cash Balance	**$0.00**

Earnings Reconciliation (Accrual Basis)

	Total
Ending Amortized Value of Securities	20,300,853.87
Ending Accrued Interest	87,737.84
Plus Proceeds from Sales	0.00
Plus Proceeds of Maturities/Calls/Principal Payments	11,045,000.00
Plus Coupons/Dividends Received	97,870.25
Less Cost of New Purchases	(2,016,962.62)
Less Beginning Amortized Value of Securities	(29,314,864.42)
Less Beginning Accrued Interest	(141,533.56)
Total Accrual Basis Earnings	**$58,101.36**

Portfolio Summary and Statistics

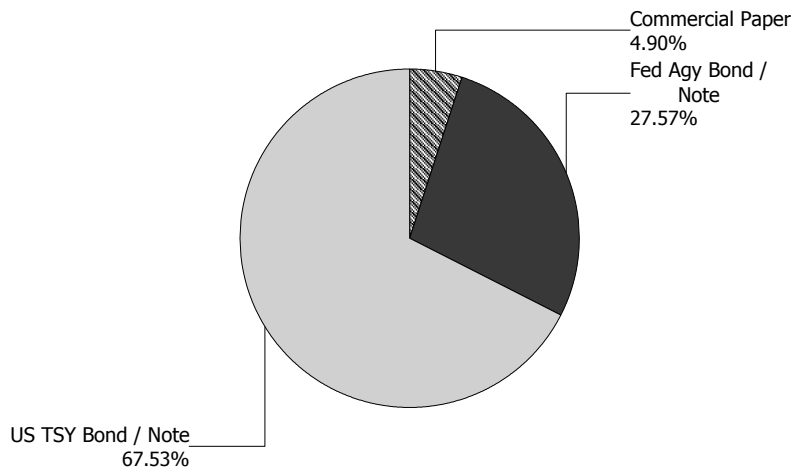
For the Month Ending **November 30, 2019**

STATE BAR OF TEXAS GENERAL FUND - 81125010

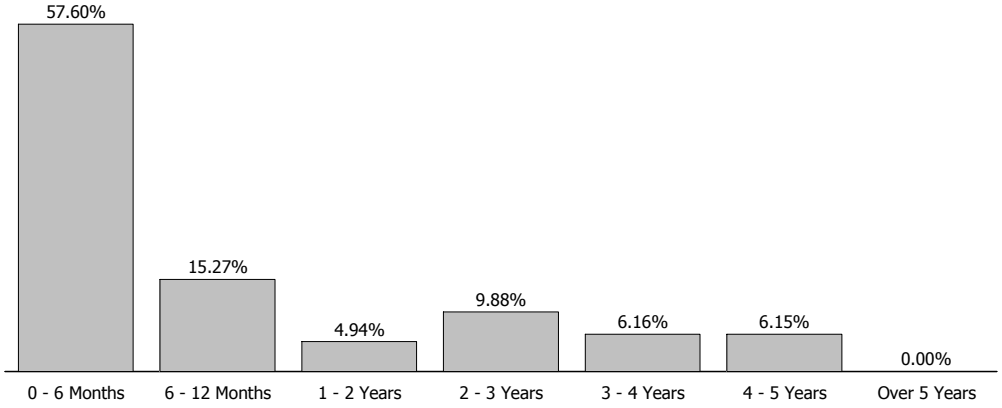
Account Summary

Description	Par Value	Market Value	Percent
U.S. Treasury Bond / Note	13,735,000.00	13,763,106.15	67.53
Federal Agency Bond / Note	5,545,000.00	5,618,917.26	27.57
Commercial Paper	1,000,000.00	998,759.00	4.90
Managed Account Sub-Total	**20,280,000.00**	**20,380,782.41**	**100.00%**
Accrued Interest		87,737.84	
Total Portfolio	**20,280,000.00**	**20,468,520.25**	
Unsettled Trades	**0.00**	**0.00**	

Sector Allocation



Maturity Distribution



Characteristics

Yield to Maturity at Cost	2.41%
Yield to Maturity at Market	1.68%
Duration to Worst	1.00
Weighted Average Days to Maturity	379

Managed Account Issuer Summary

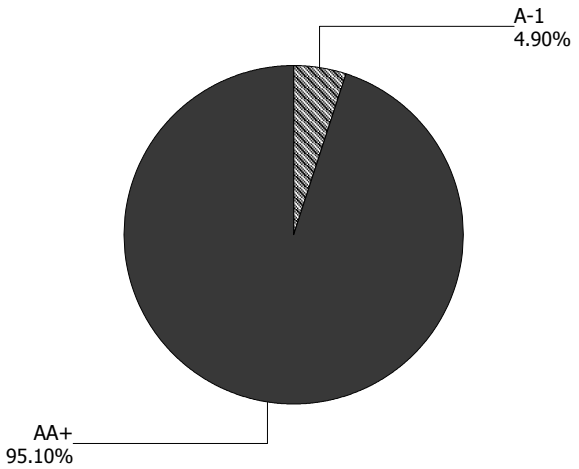
For the Month Ending **November 30, 2019**

STATE BAR OF TEXAS GENERAL FUND - 81125010

Issuer Summary

Issuer	Market Value of Holdings	Percent
FANNIE MAE	3,366,634.34	16.52
FEDERAL HOME LOAN BANKS	995,846.75	4.89
FREDDIE MAC	1,256,436.17	6.16
JP MORGAN CHASE & CO	998,759.00	4.90
UNITED STATES TREASURY	13,763,106.15	67.53
Total	**$20,380,782.41**	**100.00%**

Credit Quality (S&P Ratings)



Managed Account Detail of Securities Held

For the Month Ending **November 30, 2019**

STATE BAR OF TEXAS GENERAL FUND - 81125010

Security Type/Description Dated Date/Coupon/Maturity	CUSIP	Par	S&P Rating	Moody's Rating	Trade Date	Settle Date	Original Cost	YTM at Cost	Accrued Interest	Amortized Cost	Market Value
U.S. Treasury Bond / Note											
US TREASURY NOTES DTD 12/15/2016 1.375% 12/15/2019	912828U73	1,995,000.00	AA+	Aaa	06/06/19	06/07/19	1,986,038.09	2.25	12,666.34	1,994,343.33	1,994,732.67
US TREASURY NOTES DTD 01/02/2018 1.875% 12/31/2019	9128283N8	2,100,000.00	AA+	Aaa	11/27/18	11/27/18	2,080,066.41	2.76	16,477.58	2,098,501.86	2,100,199.50
US TREASURY NOTES DTD 02/28/2013 1.250% 02/29/2020	912828UQ1	1,515,000.00	AA+	Aaa	03/12/19	03/12/19	1,496,476.76	2.54	4,786.40	1,510,238.75	1,513,224.42
US TREASURY NOTES DTD 03/15/2017 1.625% 03/15/2020	912828W63	2,000,000.00	AA+	Aaa	02/22/19	02/25/19	1,981,093.75	2.54	6,875.00	1,994,771.06	1,999,610.00
US TREASURY NOTES DTD 04/30/2013 1.125% 04/30/2020	912828VA5	2,140,000.00	AA+	Aaa	11/27/18	11/27/18	2,089,843.75	2.81	2,050.34	2,125,217.20	2,135,403.28
US TREASURY NOTES DTD 05/31/2013 1.375% 05/31/2020	912828VF4	1,000,000.00	AA+	Aaa	05/15/19	05/16/19	990,234.38	2.33	37.57	995,308.28	998,516.00
US TREASURY NOTES DTD 03/31/2014 2.250% 03/31/2021	912828C57	1,000,000.00	AA+	Aaa	05/15/19	05/16/19	1,001,171.88	2.19	3,811.48	1,000,844.66	1,007,344.00
UNITED STATES TREASURY NOTES DTD 04/15/2019 2.250% 04/15/2022	9128286M7	1,985,000.00	AA+	Aaa	11/13/19	11/14/19	2,013,301.76	1.65	5,735.35	2,012,768.15	2,014,076.28
Security Type Sub-Total		**13,735,000.00**					**13,638,226.78**	**2.40**	**52,440.06**	**13,731,993.29**	**13,763,106.15**
Federal Agency Bond / Note											
FHLB NOTES DTD 02/09/2018 2.125% 02/11/2020	3130ADN32	995,000.00	AA+	Aaa	07/12/18	07/13/18	987,706.65	2.60	6,460.59	994,089.74	995,846.75
FANNIE MAE NOTES DTD 11/01/2018 2.875% 10/30/2020	3135G0U84	2,090,000.00	AA+	Aaa	11/27/18	11/27/18	2,088,892.30	2.90	5,174.20	2,089,479.05	2,112,783.09
FREDDIE MAC NOTES DTD 06/11/2018 2.750% 06/19/2023	3137EAEN5	1,210,000.00	AA+	Aaa	07/15/19	07/16/19	1,249,833.20	1.88	14,973.75	1,246,158.45	1,256,436.17
FANNIE MAE NOTES DTD 07/08/2019 1.750% 07/02/2024	3135G0V75	1,250,000.00	AA+	Aaa	07/15/19	07/16/19	1,240,262.50	1.92	8,689.24	1,240,967.78	1,253,851.25
Security Type Sub-Total		**5,545,000.00**					**5,566,694.65**	**2.40**	**35,297.78**	**5,570,695.02**	**5,618,917.26**

Managed Account Detail of Securities Held

For the Month Ending **November 30, 2019**

STATE BAR OF TEXAS GENERAL FUND - 81125010

Security Type/Description Dated Date/Coupon/Maturity	CUSIP	Par	S&P Rating	Moody's Rating	Trade Date	Settle Date	Original Cost	YTM at Cost	Accrued Interest	Amortized Cost	Market Value
Commercial Paper											
JP MORGAN SECURITIES LLC COMM PAPER DTD 04/02/2019 0.000% 12/27/2019	46640QZT1	1,000,000.00	A-1	P-1	04/02/19	04/02/19	981,020.56	2.59	0.00	998,165.56	998,759.00
Security Type Sub-Total		**1,000,000.00**					**981,020.56**	**2.59**	**0.00**	**998,165.56**	**998,759.00**
Managed Account Sub-Total		**20,280,000.00**					**20,185,941.99**	**2.41**	**87,737.84**	**20,300,853.87**	**20,380,782.41**
Securities Sub-Total		**$20,280,000.00**					**$20,185,941.99**	**2.41%**	**$87,737.84**	**$20,300,853.87**	**$20,380,782.41**
Accrued Interest											**$87,737.84**
Total Investments											**$20,468,520.25**

Managed Account Fair Market Value & Analytics

For the Month Ending **November 30, 2019**

STATE BAR OF TEXAS GENERAL FUND - 81125010

Security Type/Description Dated Date/Coupon/Maturity	CUSIP	Par	Broker	Next Call Date	Market Price	Market Value	Unreal G/L On Cost	Unreal G/L Amort Cost	Effective Duration	Duration to Worst	YTM at Mkt
U.S. Treasury Bond / Note											
US TREASURY NOTES DTD 12/15/2016 1.375% 12/15/2019	912828U73	1,995,000.00	CITIGRP		99.99	1,994,732.67	8,694.58	389.34	0.04	0.04	1.69
US TREASURY NOTES DTD 01/02/2018 1.875% 12/31/2019	9128283N8	2,100,000.00	MORGAN_S		100.01	2,100,199.50	20,133.09	1,697.64	0.08	0.08	1.75
US TREASURY NOTES DTD 02/28/2013 1.250% 02/29/2020	912828UQ1	1,515,000.00	NOMURA		99.88	1,513,224.42	16,747.66	2,985.67	0.25	0.25	1.72
US TREASURY NOTES DTD 03/15/2017 1.625% 03/15/2020	912828W63	2,000,000.00	GOLDMAN		99.98	1,999,610.00	18,516.25	4,838.94	0.29	0.29	1.69
US TREASURY NOTES DTD 04/30/2013 1.125% 04/30/2020	912828VA5	2,140,000.00	BARCLAYS		99.79	2,135,403.28	45,559.53	10,186.08	0.41	0.41	1.64
US TREASURY NOTES DTD 05/31/2013 1.375% 05/31/2020	912828VF4	1,000,000.00	NOMURA		99.85	998,516.00	8,281.62	3,207.72	0.50	0.50	1.67
US TREASURY NOTES DTD 03/31/2014 2.250% 03/31/2021	912828C57	1,000,000.00	MORGAN_S		100.73	1,007,344.00	6,172.12	6,499.34	1.31	1.31	1.69
UNITED STATES TREASURY NOTES DTD 04/15/2019 2.250% 04/15/2022	9128286M7	1,985,000.00	GOLDMAN		101.46	2,014,076.28	774.52	1,308.13	2.30	2.30	1.62
Security Type Sub-Total		**13,735,000.00**				**13,763,106.15**	**124,879.37**	**31,112.86**	**0.62**	**0.62**	**1.68**
Federal Agency Bond / Note											
FHLB NOTES DTD 02/09/2018 2.125% 02/11/2020	3130ADN32	995,000.00	MORGAN_S		100.09	995,846.75	8,140.10	1,757.01	0.20	0.20	1.68
FANNIE MAE NOTES DTD 11/01/2018 2.875% 10/30/2020	3135G0U84	2,090,000.00	MORGAN_S		101.09	2,112,783.09	23,890.79	23,304.04	0.90	0.90	1.67
FREDDIE MAC NOTES DTD 06/11/2018 2.750% 06/19/2023	3137EAEN5	1,210,000.00	CITIGRP		103.84	1,256,436.17	6,602.97	10,277.72	3.35	3.35	1.63
FANNIE MAE NOTES DTD 07/08/2019 1.750% 07/02/2024	3135G0V75	1,250,000.00	CITIGRP		100.31	1,253,851.25	13,588.75	12,883.47	4.36	4.36	1.68
Security Type Sub-Total		**5,545,000.00**				**5,618,917.26**	**52,222.61**	**48,222.24**	**2.10**	**2.10**	**1.67**
Commercial Paper											
JP MORGAN SECURITIES LLC COMM PAPER DTD 04/02/2019 0.000% 12/27/2019	46640QZT1	1,000,000.00	JPM_CHAS		99.88	998,759.00	17,738.44	593.44	0.07	0.07	1.66

Managed Account Fair Market Value & Analytics

For the Month Ending **November 30, 2019**

STATE BAR OF TEXAS GENERAL FUND - 81125010

Security Type/Description Dated Date/Coupon/Maturity	CUSIP	Par	Broker	Next Call Date	Market Price	Market Value	Unreal G/L On Cost	Unreal G/L Amort Cost	Effective Duration	Duration to Worst	YTM at Mkt
Security Type Sub-Total		**1,000,000.00**				**998,759.00**	**17,738.44**	**593.44**	**0.07**	**0.07**	**1.66**
Managed Account Sub-Total		**20,280,000.00**				**20,380,782.41**	**194,840.42**	**79,928.54**	**1.00**	**1.00**	**1.68**
Securities Sub-Total		**$20,280,000.00**				**$20,380,782.41**	**$194,840.42**	**$79,928.54**	**1.00**	**1.00**	**1.68%**
Accrued Interest						**$87,737.84**					
Total Investments						**$20,468,520.25**					

Managed Account Security Transactions & Interest

For the Month Ending **November 30, 2019**

STATE BAR OF TEXAS GENERAL FUND - 81125010

Transaction Type Trade	Settle	Security Description	CUSIP	Par	Principal Proceeds	Accrued Interest	Total	Realized G/L Cost	Realized G/L Amort Cost	Sale Method
BUY										
11/13/19	11/14/19	UNITED STATES TREASURY NOTES DTD 04/15/2019 2.250% 04/15/2022	9128286M7	1,985,000.00	(2,013,301.76)	(3,660.86)	(2,016,962.62)			
Transaction Type Sub-Total				**1,985,000.00**	**(2,013,301.76)**	**(3,660.86)**	**(2,016,962.62)**			
INTEREST										
11/14/19	11/14/19	FFCB NOTES (CALLED OMD 05/14/2021) DTD 05/14/2019 2.440% 11/14/2019	3133EKLH7	1,995,000.00	0.00	24,339.00	24,339.00			
11/30/19	11/30/19	US TREASURY NOTES DTD 11/30/2017 1.750% 11/30/2019	9128283H1	2,520,000.00	0.00	22,050.00	22,050.00			
11/30/19	11/30/19	US TREASURY NOTES DTD 12/01/2014 1.500% 11/30/2019	912828G61	2,025,000.00	0.00	15,187.50	15,187.50			
11/30/19	11/30/19	US TREASURY NOTES DTD 05/31/2013 1.375% 05/31/2020	912828VF4	1,000,000.00	0.00	6,875.00	6,875.00			
11/30/19	11/30/19	US TREASURY NOTES DTD 11/30/2017 1.750% 11/30/2019	9128283H1	2,505,000.00	0.00	21,918.75	21,918.75			
11/30/19	11/30/19	US TREASURY NOTES DTD 12/01/2014 1.500% 11/30/2019	912828G61	1,000,000.00	0.00	7,500.00	7,500.00			
Transaction Type Sub-Total				**11,045,000.00**	**0.00**	**97,870.25**	**97,870.25**			
MATURITY										
11/04/19	11/04/19	CREDIT AGRICOLE CIB NY COMM PAPER DTD 05/03/2019 0.000% 11/04/2019	22533UY49	1,000,000.00	1,000,000.00	0.00	1,000,000.00	12,588.33	0.00	
11/14/19	11/14/19	FFCB NOTES (CALLED OMD 05/14/2021) DTD 05/14/2019 2.440% 11/14/2019	3133EKLH7	1,995,000.00	1,995,000.00	0.00	1,995,000.00	1,496.25	0.00	
11/30/19	11/30/19	US TREASURY NOTES DTD 11/30/2017 1.750% 11/30/2019	9128283H1	2,520,000.00	2,520,000.00	0.00	2,520,000.00	25,495.31	0.00	
11/30/19	11/30/19	US TREASURY NOTES DTD 12/01/2014 1.500% 11/30/2019	912828G61	1,000,000.00	1,000,000.00	0.00	1,000,000.00	13,085.94	0.00	
11/30/19	11/30/19	US TREASURY NOTES DTD 12/01/2014 1.500% 11/30/2019	912828G61	2,025,000.00	2,025,000.00	0.00	2,025,000.00	27,685.55	0.00	

Managed Account Security Transactions & Interest

For the Month Ending **November 30, 2019**

STATE BAR OF TEXAS GENERAL FUND - 81125010

Transaction Type Trade	Settle	Security Description	CUSIP	Par	Principal Proceeds	Accrued Interest	Total	Realized G/L Cost	Realized G/L Amort Cost	Sale Method
MATURITY										
11/30/19	11/30/19	US TREASURY NOTES DTD 11/30/2017 1.750% 11/30/2019	9128283H1	2,505,000.00	2,505,000.00	0.00	2,505,000.00	27,887.70	0.00	
Transaction Type Sub-Total				**11,045,000.00**	**11,045,000.00**	**0.00**	**11,045,000.00**	**108,239.08**	**0.00**	
Managed Account Sub-Total					**9,031,698.24**	**94,209.39**	**9,125,907.63**	**108,239.08**	**0.00**	
Total Security Transactions					**$9,031,698.24**	**$94,209.39**	**$9,125,907.63**	**$108,239.08**	**$0.00**	

Managed Account Summary Statement

For the Month Ending **November 30, 2019**

STATE BAR OF TEXAS CLIENT SECURITY FUND - 81125011

Transaction Summary - Managed Account	
Opening Market Value	**$2,303,799.51**
Maturities/Calls	(455,000.00)
Principal Dispositions	0.00
Principal Acquisitions	0.00
Unsettled Trades	0.00
Change in Current Value	(8,145.87)
Closing Market Value	**$1,840,653.64**

Cash Transactions Summary - Managed Account	
Maturities/Calls	455,000.00
Sale Proceeds	0.00
Coupon/Interest/Dividend Income	2,275.00
Principal Payments	0.00
Security Purchases	0.00
Net Cash Contribution	(457,275.00)
Reconciling Transactions	0.00

Earnings Reconciliation (Cash Basis) - Managed Account	
Interest/Dividends/Coupons Received	2,275.00
Less Purchased Interest Related to Interest/Coupons	0.00
Plus Net Realized Gains/Losses	9,882.03
Total Cash Basis Earnings	**$12,157.03**

Cash Balance	
Closing Cash Balance	**$0.00**

Earnings Reconciliation (Accrual Basis)	Total
Ending Amortized Value of Securities	1,836,844.27
Ending Accrued Interest	12,755.80
Plus Proceeds from Sales	0.00
Plus Proceeds of Maturities/Calls/Principal Payments	455,000.00
Plus Coupons/Dividends Received	2,275.00
Less Cost of New Purchases	0.00
Less Beginning Amortized Value of Securities	(2,291,618.61)
Less Beginning Accrued Interest	(12,181.66)
Total Accrual Basis Earnings	**$3,074.80**

Portfolio Summary and Statistics

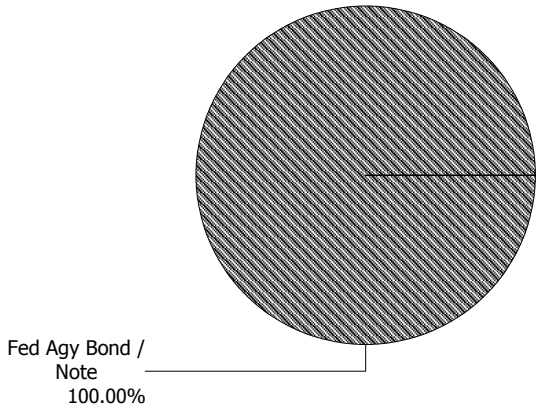
For the Month Ending **November 30, 2019**

STATE BAR OF TEXAS CLIENT SECURITY FUND - 81125011

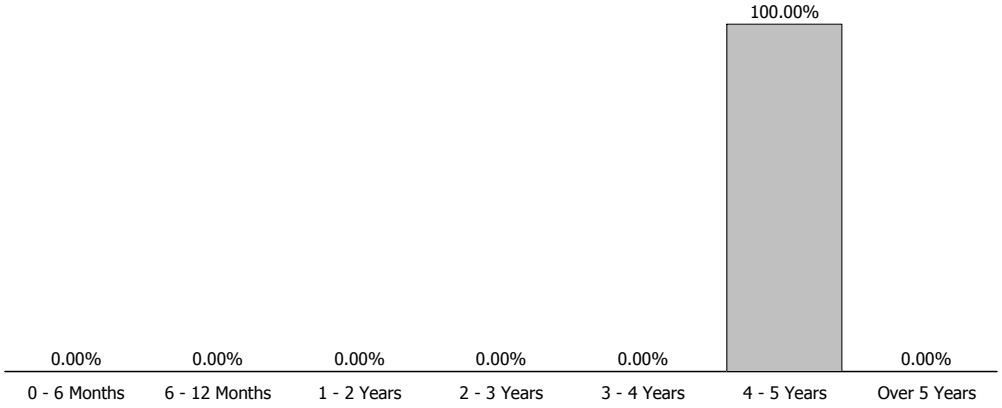
Account Summary

Description	Par Value	Market Value	Percent
Federal Agency Bond / Note	1,835,000.00	1,840,653.64	100.00
Managed Account Sub-Total	**1,835,000.00**	**1,840,653.64**	**100.00%**
Accrued Interest		12,755.80	
Total Portfolio	**1,835,000.00**	**1,853,409.44**	
Unsettled Trades	**0.00**	**0.00**	

Sector Allocation



Maturity Distribution



Characteristics

Yield to Maturity at Cost	1.73%
Yield to Maturity at Market	1.68%
Duration to Worst	4.36
Weighted Average Days to Maturity	1676

Managed Account Issuer Summary

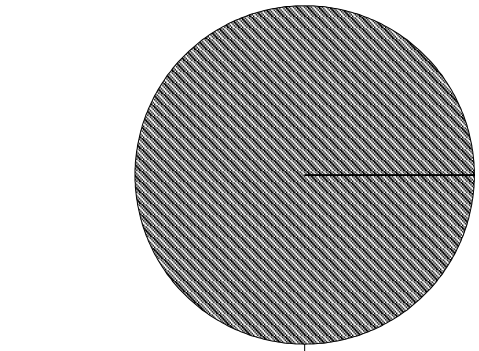
For the Month Ending **November 30, 2019**

STATE BAR OF TEXAS CLIENT SECURITY FUND - 81125011

Issuer Summary

Issuer	Market Value of Holdings	Percent
FANNIE MAE	1,840,653.64	100.00
Total	**$1,840,653.64**	**100.00%**

Credit Quality (S&P Ratings)



Managed Account Detail of Securities Held

For the Month Ending **November 30, 2019**

STATE BAR OF TEXAS CLIENT SECURITY FUND - 81125011

Security Type/Description Dated Date/Coupon/Maturity	CUSIP	Par	S&P Rating	Moody's Rating	Trade Date	Settle Date	Original Cost	YTM at Cost	Accrued Interest	Amortized Cost	Market Value
Federal Agency Bond / Note											
FANNIE MAE NOTES DTD 07/08/2019 1.750% 07/02/2024	3135G0V75	1,835,000.00	AA+	Aaa	08/02/19	08/05/19	1,836,963.45	1.73	12,755.80	1,836,844.27	1,840,653.64
Security Type Sub-Total		**1,835,000.00**					**1,836,963.45**	**1.73**	**12,755.80**	**1,836,844.27**	**1,840,653.64**
Managed Account Sub-Total		**1,835,000.00**					**1,836,963.45**	**1.73**	**12,755.80**	**1,836,844.27**	**1,840,653.64**
Securities Sub-Total		**$1,835,000.00**					**$1,836,963.45**	**1.73%**	**$12,755.80**	**$1,836,844.27**	**$1,840,653.64**
Accrued Interest											**$12,755.80**
Total Investments											**$1,853,409.44**

Managed Account Fair Market Value & Analytics

For the Month Ending **November 30, 2019**

STATE BAR OF TEXAS CLIENT SECURITY FUND - 81125011

Security Type/Description Dated Date/Coupon/Maturity	CUSIP	Par	Broker	Next Call Date	Market Price	Market Value	Unreal G/L On Cost	Unreal G/L Amort Cost	Effective Duration	Duration to Worst	YTM at Mkt
Federal Agency Bond / Note											
FANNIE MAE NOTES DTD 07/08/2019 1.750% 07/02/2024	3135G0V75	1,835,000.00	TD		100.31	1,840,653.64	3,690.19	3,809.37	4.36	4.36	1.68
Security Type Sub-Total		**1,835,000.00**				**1,840,653.64**	**3,690.19**	**3,809.37**	**4.36**	**4.36**	**1.68**
Managed Account Sub-Total		**1,835,000.00**				**1,840,653.64**	**3,690.19**	**3,809.37**	**4.36**	**4.36**	**1.68**
Securities Sub-Total		**$1,835,000.00**				**$1,840,653.64**	**$3,690.19**	**$3,809.37**	**4.36**	**4.36**	**1.68%**
Accrued Interest						**$12,755.80**					
Total Investments						**$1,853,409.44**					

Managed Account Security Transactions & Interest

For the Month Ending **November 30, 2019**

STATE BAR OF TEXAS CLIENT SECURITY FUND - 81125011

Transaction Type Trade	Settle	Security Description	CUSIP	Par	Principal Proceeds	Accrued Interest	Total	Realized G/L Cost	Realized G/L Amort Cost	Sale Method
INTEREST										
11/15/19	11/15/19	US TREASURY NOTES DTD 11/15/2016 1.000% 11/15/2019	912828U32	455,000.00	0.00	2,275.00	2,275.00			
Transaction Type Sub-Total				**455,000.00**	**0.00**	**2,275.00**	**2,275.00**			
MATURITY										
11/15/19	11/15/19	US TREASURY NOTES DTD 11/15/2016 1.000% 11/15/2019	912828U32	455,000.00	455,000.00	0.00	455,000.00	9,882.03	0.00	
Transaction Type Sub-Total				**455,000.00**	**455,000.00**	**0.00**	**455,000.00**	**9,882.03**	**0.00**	
Managed Account Sub-Total					**455,000.00**	**2,275.00**	**457,275.00**	**9,882.03**	**0.00**	
Total Security Transactions					**$455,000.00**	**$2,275.00**	**$457,275.00**	**$9,882.03**	**$0.00**	

Managed Account Summary Statement

For the Month Ending **November 30, 2019**

STATE BAR OF TEXAS TEXAS LAW CENTER - 81125014

Transaction Summary - Managed Account	
Opening Market Value	**$4,374,836.26**
Maturities/Calls	0.00
Principal Dispositions	0.00
Principal Acquisitions	0.00
Unsettled Trades	0.00
Change in Current Value	(7,759.98)
Closing Market Value	**$4,367,076.28**

Cash Transactions Summary - Managed Account	
Maturities/Calls	0.00
Sale Proceeds	0.00
Coupon/Interest/Dividend Income	0.00
Principal Payments	0.00
Security Purchases	0.00
Net Cash Contribution	0.00
Reconciling Transactions	0.00

Earnings Reconciliation (Cash Basis) - Managed Account	
Interest/Dividends/Coupons Received	0.00
Less Purchased Interest Related to Interest/Coupons	0.00
Plus Net Realized Gains/Losses	0.00
Total Cash Basis Earnings	**$0.00**

Cash Balance	
Closing Cash Balance	**$0.00**

Earnings Reconciliation (Accrual Basis)	Total
Ending Amortized Value of Securities	4,339,666.22
Ending Accrued Interest	21,287.92
Plus Proceeds from Sales	0.00
Plus Proceeds of Maturities/Calls/Principal Payments	0.00
Plus Coupons/Dividends Received	0.00
Less Cost of New Purchases	0.00
Less Beginning Amortized Value of Securities	(4,338,540.03)
Less Beginning Accrued Interest	(13,695.78)
Total Accrual Basis Earnings	**$8,718.33**

Portfolio Summary and Statistics

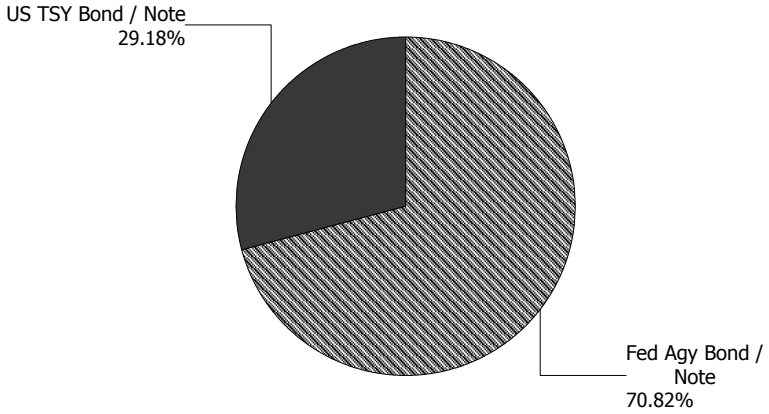
For the Month Ending **November 30, 2019**

STATE BAR OF TEXAS TEXAS LAW CENTER - 81125014

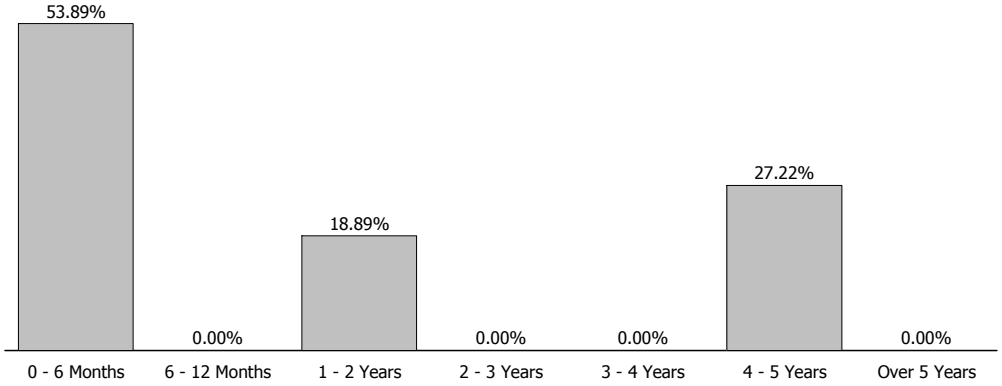
Account Summary

Description	Par Value	Market Value	Percent
U.S. Treasury Bond / Note	1,275,000.00	1,274,515.26	29.18
Federal Agency Bond / Note	3,065,000.00	3,092,561.02	70.82
Managed Account Sub-Total	**4,340,000.00**	**4,367,076.28**	**100.00%**
Accrued Interest		21,287.92	
Total Portfolio	**4,340,000.00**	**4,388,364.20**	
Unsettled Trades	**0.00**	**0.00**	

Sector Allocation



Maturity Distribution



Characteristics

Yield to Maturity at Cost	2.43%
Yield to Maturity at Market	1.66%
Duration to Worst	1.67
Weighted Average Days to Maturity	638

Managed Account Issuer Summary

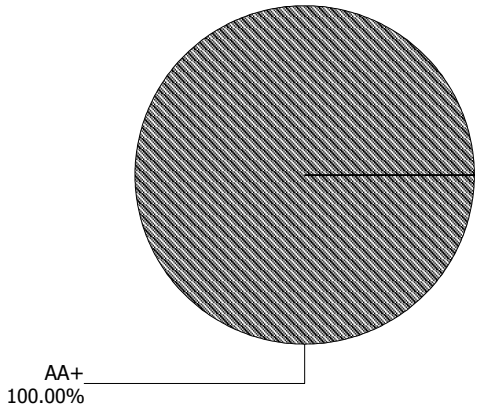
For the Month Ending **November 30, 2019**

STATE BAR OF TEXAS TEXAS LAW CENTER - 81125014

Issuer Summary

Issuer	Market Value of Holdings	Percent
FANNIE MAE	1,188,650.99	27.22
FEDERAL HOME LOAN BANKS	824,987.35	18.89
FREDDIE MAC	1,078,922.68	24.71
UNITED STATES TREASURY	1,274,515.26	29.18
Total	**$4,367,076.28**	**100.00%**

Credit Quality (S&P Ratings)



Managed Account Detail of Securities Held

For the Month Ending **November 30, 2019**

STATE BAR OF TEXAS TEXAS LAW CENTER - 81125014

Security Type/Description Dated Date/Coupon/Maturity	CUSIP	Par	S&P Rating	Moody's Rating	Trade Date	Settle Date	Original Cost	YTM at Cost	Accrued Interest	Amortized Cost	Market Value
U.S. Treasury Bond / Note											
US TREASURY NOTES DTD 12/31/2014 1.625% 12/31/2019	912828G95	885,000.00	AA+	Aaa	10/01/18	10/01/18	873,211.52	2.72	6,018.24	884,222.54	884,911.50
US TREASURY NOTES DTD 03/31/2015 1.375% 03/31/2020	912828J84	390,000.00	AA+	Aaa	09/18/18	09/19/18	381,910.55	2.77	908.40	388,227.52	389,603.76
Security Type Sub-Total		**1,275,000.00**					**1,255,122.07**	**2.73**	**6,926.64**	**1,272,450.06**	**1,274,515.26**
Federal Agency Bond / Note											
FHLMC NOTES DTD 04/19/2018 2.500% 04/23/2020	3137EAEM7	1,075,000.00	AA+	Aaa	08/03/18	08/07/18	1,072,129.75	2.66	2,836.81	1,074,332.80	1,078,922.68
FEDERAL HOME LOAN BANKS NOTES DTD 10/12/2018 3.000% 10/12/2021	3130AF5B9	805,000.00	AA+	Aaa	02/14/19	02/15/19	814,724.40	2.53	3,287.08	811,895.32	824,987.35
FANNIE MAE NOTES DTD 07/08/2019 1.750% 07/02/2024	3135G0V75	435,000.00	AA+	Aaa	08/02/19	08/05/19	435,465.45	1.73	3,023.85	435,437.20	436,340.24
FANNIE MAE NOTES DTD 07/08/2019 1.750% 07/02/2024	3135G0V75	750,000.00	AA+	Aaa	07/29/19	07/30/19	745,237.50	1.89	5,213.54	745,550.84	752,310.75
Security Type Sub-Total		**3,065,000.00**					**3,067,557.10**	**2.30**	**14,361.28**	**3,067,216.16**	**3,092,561.02**
Managed Account Sub-Total		**4,340,000.00**					**4,322,679.17**	**2.43**	**21,287.92**	**4,339,666.22**	**4,367,076.28**
Securities Sub-Total		**$4,340,000.00**					**$4,322,679.17**	**2.43%**	**$21,287.92**	**$4,339,666.22**	**$4,367,076.28**
Accrued Interest											**$21,287.92**
Total Investments											**$4,388,364.20**

Managed Account Fair Market Value & Analytics

For the Month Ending **November 30, 2019**

STATE BAR OF TEXAS TEXAS LAW CENTER - 81125014

Security Type/Description Dated Date/Coupon/Maturity	CUSIP	Par	Broker	Next Call Date	Market Price	Market Value	Unreal G/L On Cost	Unreal G/L Amort Cost	Effective Duration	Duration to Worst	YTM at Mkt
U.S. Treasury Bond / Note											
US TREASURY NOTES DTD 12/31/2014 1.625% 12/31/2019	912828G95	885,000.00	CITIGRP		99.99	884,911.50	11,699.98	688.96	0.08	0.08	1.73
US TREASURY NOTES DTD 03/31/2015 1.375% 03/31/2020	912828J84	390,000.00	CITIGRP		99.90	389,603.76	7,693.21	1,376.24	0.33	0.33	1.68
Security Type Sub-Total		**1,275,000.00**				**1,274,515.26**	**19,393.19**	**2,065.20**	**0.16**	**0.16**	**1.72**
Federal Agency Bond / Note											
FHLMC NOTES DTD 04/19/2018 2.500% 04/23/2020	3137EAEM7	1,075,000.00	NOMURA		100.36	1,078,922.68	6,792.93	4,589.88	0.39	0.39	1.57
FEDERAL HOME LOAN BANKS NOTES DTD 10/12/2018 3.000% 10/12/2021	3130AF5B9	805,000.00	MORGAN_S		102.48	824,987.35	10,262.95	13,092.03	1.81	1.81	1.64
FANNIE MAE NOTES DTD 07/08/2019 1.750% 07/02/2024	3135G0V75	435,000.00	TD		100.31	436,340.24	874.79	903.04	4.36	4.36	1.68
FANNIE MAE NOTES DTD 07/08/2019 1.750% 07/02/2024	3135G0V75	750,000.00	WELLS_FA		100.31	752,310.75	7,073.25	6,759.91	4.36	4.36	1.68
Security Type Sub-Total		**3,065,000.00**				**3,092,561.02**	**25,003.92**	**25,344.86**	**2.30**	**2.30**	**1.63**
Managed Account Sub-Total		**4,340,000.00**				**4,367,076.28**	**44,397.11**	**27,410.06**	**1.67**	**1.67**	**1.66**
Securities Sub-Total		**$4,340,000.00**				**$4,367,076.28**	**$44,397.11**	**$27,410.06**	**1.67**	**1.67**	**1.66%**
Accrued Interest						**$21,287.92**					
Total Investments						**$4,388,364.20**					

pfm FUNDS

Account Statement

For the Month Ending **November 30, 2019**

Consolidated Summary Statement

State Bar of Texas

Portfolio Summary

Portfolio Holdings	Cash Dividends and Income	Closing Market Value	Current Yield
PFM Funds - Govt Select, Instl Cl	4,587.08	2,634,752.72	1.53 %
PFM Funds CD Program	0.00	700,000.00	* N/A
Total	**$4,587.08**	**$3,334,752.72**	

** Not Applicable*

Investment Allocation

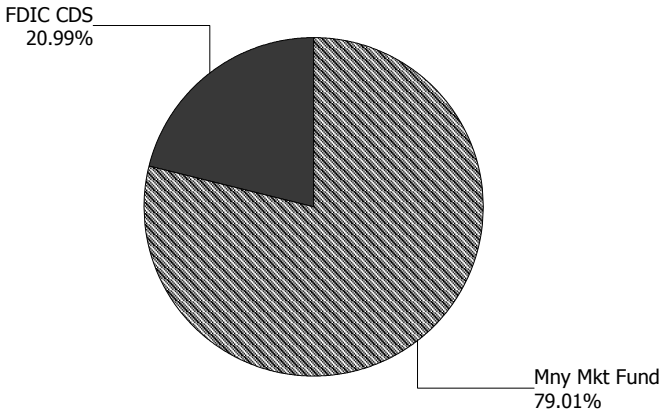
Investment Type	Closing Market Value	Percent
Money Market Mutual Fund	2,634,752.72	79.01
FDIC Insured Bank Certificates of Deposit	700,000.00	20.99
Total	**$3,334,752.72**	**100.00%**

Maturity Distribution (Fixed Income Holdings)

Portfolio Holdings	Closing Market Value	Percent
Under 30 days	2,634,752.72	79.01
31 to 60 days	0.00	0.00
61 to 90 days	0.00	0.00
91 to 180 days	700,000.00	20.99
181 days to 1 year	0.00	0.00
1 to 2 years	0.00	0.00
2 to 3 years	0.00	0.00
3 to 4 years	0.00	0.00
4 to 5 years	0.00	0.00
Over 5 years	0.00	0.00
Total	**$3,334,752.72**	**100.00%**

Weighted Average Days to Maturity **30**

Sector Allocation



pfm FUNDS

Account Statement

For the Month Ending **November 30, 2019**

Consolidated Summary Statement

State Bar of Texas

Account Number	Account Name	Opening Market Value	Purchases / Deposits	Redemptions / Sales/ Maturities	Unsettled Trades	Change in Value	Closing Market Value	Cash Dividends and Income
200-00	STATE BAR OF TEXAS - MM	1,337,615.59	1,553.94	(1,000,000.00)	0.00	0.00	339,169.53	1,553.94
995192	CLIENT SECURITY FUND	727,590.29	935.13	0.00	0.00	0.00	728,525.42	935.13
995235	TEXAS LAW CENTER	27,733.26	35.64	0.00	0.00	0.00	27,768.90	35.64
995426	TBLS	1,826,674.12	1,406.07	(100,089.18)	0.00	0.00	1,727,991.01	1,406.07
995463	Annual Meeting Funds	317,068.15	407.51	0.00	0.00	0.00	317,475.66	407.51
995464	Texas Bar College Special Revenue Funds	193,573.41	248.79	0.00	0.00	0.00	193,822.20	248.79
Total		**$4,430,254.82**	**$4,587.08**	**($1,100,089.18)**	**$0.00**	**$0.00**	**$3,334,752.72**	**$4,587.08**

pfm FUNDS

Account Statement - Transaction Summary

For the Month Ending **November 30, 2019**

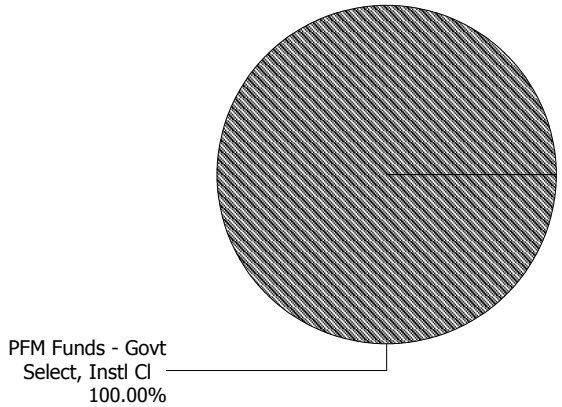
State Bar of Texas - STATE BAR OF TEXAS - MM - 200-00

PFM Funds - Govt Select, Instl Cl	
Opening Market Value	1,337,615.59
Purchases	1,553.94
Redemptions	(1,000,000.00)
Unsettled Trades	0.00
Change in Value	0.00
Closing Market Value	**$339,169.53**
Cash Dividends and Income	1,553.94

Asset Summary

	November 30, 2019	October 31, 2019
PFM Funds - Govt Select, Instl Cl	339,169.53	1,337,615.59
Total	**$339,169.53**	**$1,337,615.59**

Asset Allocation



pfm FUNDS

Account Statement

For the Month Ending **November 30, 2019**

State Bar of Texas - STATE BAR OF TEXAS - MM - 200-00

Trade Date	Settlement Date	Transaction Description	Share or Unit Price	Dollar Amount of Transaction	Total Shares Owned
PFM Funds - Govt Select, Instl Cl					
Opening Balance					**1,337,615.59**
11/27/19	11/27/19	Redemption - Wire Redemption	1.00	(1,000,000.00)	337,615.59
11/29/19	12/02/19	Accrual Income Div Reinvestment - Distributions	1.00	1,553.94	339,169.53
Closing Balance					**339,169.53**

	Month of November	Fiscal YTD January-November
Opening Balance	1,337,615.59	332,029.31
Purchases	1,553.94	11,307,140.22
Redemptions (Excl. Checks)	(1,000,000.00)	(11,300,000.00)
Check Disbursements	0.00	0.00
Closing Balance	**339,169.53**	**339,169.53**
Cash Dividends and Income	1,553.94	57,054.64

Closing Balance	339,169.53
Average Monthly Balance	1,204,385.85
Monthly Distribution Yield	1.57%

pfm FUNDS

Account Statement - Transaction Summary

For the Month Ending **November 30, 2019**

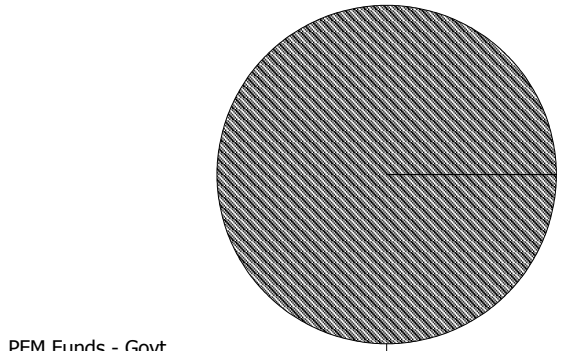
State Bar of Texas - CLIENT SECURITY FUND - 995192

PFM Funds - Govt Select, Instl Cl	
Opening Market Value	727,590.29
Purchases	935.13
Redemptions	0.00
Unsettled Trades	0.00
Change in Value	0.00
Closing Market Value	**$728,525.42**
Cash Dividends and Income	935.13

Asset Summary

	November 30, 2019	October 31, 2019
PFM Funds - Govt Select, Instl Cl	728,525.42	727,590.29
Total	**$728,525.42**	**$727,590.29**

Asset Allocation



pfm FUNDS

Account Statement

For the Month Ending **November 30, 2019**

State Bar of Texas - CLIENT SECURITY FUND - 995192

Trade Date	Settlement Date	Transaction Description	Share or Unit Price	Dollar Amount of Transaction	Total Shares Owned
PFM Funds - Govt Select, Instl Cl					
Opening Balance					**727,590.29**
11/29/19	12/02/19	Accrual Income Div Reinvestment - Distributions	1.00	935.13	728,525.42
Closing Balance					**728,525.42**

	Month of November	Fiscal YTD January-November
Opening Balance	727,590.29	714,558.48
Purchases	935.13	13,966.94
Redemptions (Excl. Checks)	0.00	0.00
Check Disbursements	0.00	0.00
Closing Balance	**728,525.42**	**728,525.42**
Cash Dividends and Income	935.13	13,966.94

Closing Balance	728,525.42
Average Monthly Balance	727,652.63
Monthly Distribution Yield	1.57%

pfm FUNDS

Account Statement - Transaction Summary

For the Month Ending **November 30, 2019**

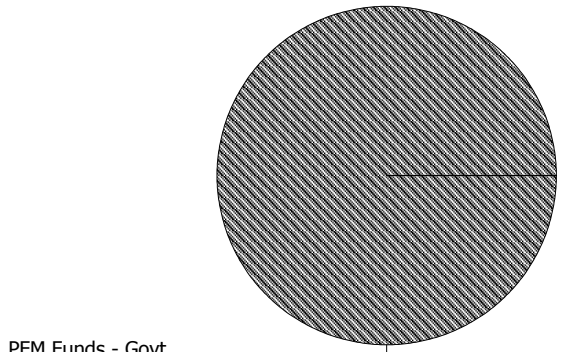
State Bar of Texas - TEXAS LAW CENTER - 995235

PFM Funds - Govt Select, Instl Cl	
Opening Market Value	27,733.26
Purchases	35.64
Redemptions	0.00
Unsettled Trades	0.00
Change in Value	0.00
Closing Market Value	**$27,768.90**
Cash Dividends and Income	35.64

Asset Summary

	November 30, 2019	October 31, 2019
PFM Funds - Govt Select, Instl Cl	27,768.90	27,733.26
Total	**$27,768.90**	**$27,733.26**

Asset Allocation



pfm FUNDS

Account Statement

For the Month Ending **November 30, 2019**

State Bar of Texas - TEXAS LAW CENTER - 995235

Trade Date	Settlement Date	Transaction Description	Share or Unit Price	Dollar Amount of Transaction	Total Shares Owned
PFM Funds - Govt Select, Instl Cl					
Opening Balance					**27,733.26**
11/29/19	12/02/19	Accrual Income Div Reinvestment - Distributions	1.00	35.64	27,768.90
Closing Balance					**27,768.90**

	Month of November	Fiscal YTD January-November
Opening Balance	27,733.26	67,100.49
Purchases	35.64	668.41
Redemptions (Excl. Checks)	0.00	(40,000.00)
Check Disbursements	0.00	0.00
Closing Balance	**27,768.90**	**27,768.90**
Cash Dividends and Income	35.64	668.41

Closing Balance	27,768.90
Average Monthly Balance	27,735.64
Monthly Distribution Yield	1.57%

pfm FUNDS

Account Statement - Transaction Summary

For the Month Ending **November 30, 2019**

State Bar of Texas - TBLS - 995426

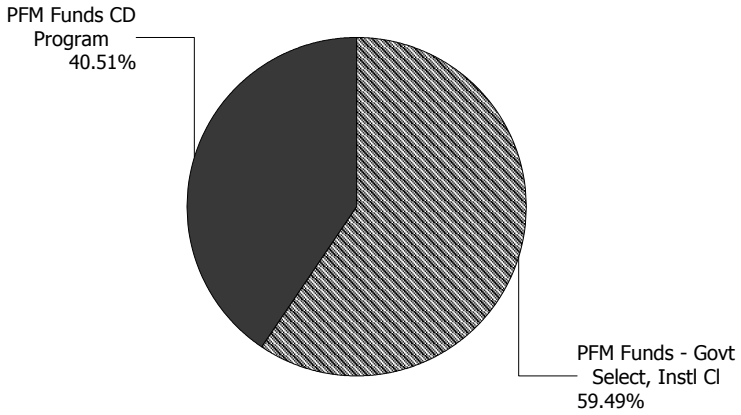
PFM Funds - Govt Select, Instl Cl	
Opening Market Value	1,126,674.12
Purchases	1,406.07
Redemptions	(100,089.18)
Unsettled Trades	0.00
Change in Value	0.00
Closing Market Value	**$1,027,991.01**
Cash Dividends and Income	1,406.07

PFM Funds CD Program	
Opening Market Value	700,000.00
Purchases	0.00
Redemptions	0.00
Unsettled Trades	0.00
Change in Value	0.00
Closing Market Value	**$700,000.00**
Cash Dividends and Income	0.00

Asset Summary

	November 30, 2019	October 31, 2019
PFM Funds - Govt Select, Instl Cl	1,027,991.01	1,126,674.12
PFM Funds CD Program	700,000.00	700,000.00
Total	**$1,727,991.01**	**$1,826,674.12**

Asset Allocation



pfm FUNDS

Investment Holdings

For the Month Ending **November 30, 2019**

State Bar of Texas - TBLS - 995426

Trade Date	Settlement Date	Security Description	Maturity Date	Rate	Investment Amount	Accrued Interest	Est. Value at Maturity
PFM Funds CD Program							
04/22/19	04/22/19	CD - Pacific Western Bank (Acquired Security Pacific Bank, Los Angel	04/21/20	2.75	243,000.00	4,082.73	249,682.50
04/22/19	04/22/19	CD - First Internet Bank Of Indiana, IN	04/21/20	2.75	243,000.00	4,082.73	249,682.50
04/22/19	04/22/19	CD - Cfg Community Bank, MD	04/21/20	2.75	214,000.00	3,595.49	219,885.00
Total					**$700,000.00**	**$11,760.95**	**$719,250.00**

pfm FUNDS

Account Statement

For the Month Ending **November 30, 2019**

State Bar of Texas - TBLS - 995426

Trade Date	Settlement Date	Transaction Description	Share or Unit Price	Dollar Amount of Transaction	Total Shares Owned
PFM Funds - Govt Select, Instl Cl					
Opening Balance					**1,126,674.12**
11/01/19	11/01/19	IA_FEE CD GROUPED FEE TRANSACTION FOR: 10-31-2019	1.00	(89.18)	1,126,584.94
11/21/19	11/21/19	Redemption - Wire Redemption	1.00	(100,000.00)	1,026,584.94
11/29/19	12/02/19	Accrual Income Div Reinvestment - Distributions	1.00	1,406.07	1,027,991.01
Closing Balance					**1,027,991.01**

	Month of November	Fiscal YTD January-November
Opening Balance	1,126,674.12	611,229.55
Purchases	1,406.07	1,537,650.36
Redemptions (Excl. Checks)	(100,089.18)	(1,120,888.90)
Check Disbursements	0.00	0.00
Closing Balance	**1,027,991.01**	**1,027,991.01**
Cash Dividends and Income	1,406.07	21,525.31

Closing Balance	1,027,991.01
Average Monthly Balance	1,093,345.34
Monthly Distribution Yield	1.57%

pfm FUNDS

Account Statement - Transaction Summary

For the Month Ending **November 30, 2019**

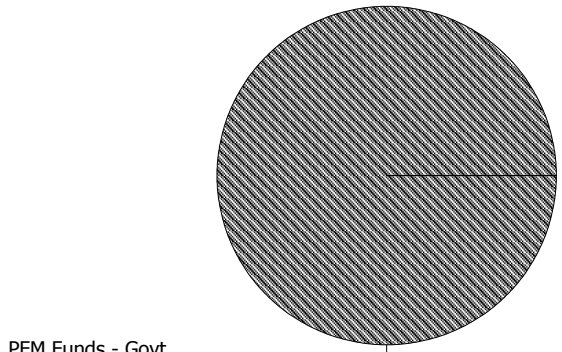
State Bar of Texas - Annual Meeting Funds - 995463

PFM Funds - Govt Select, Instl Cl	
Opening Market Value	317,068.15
Purchases	407.51
Redemptions	0.00
Unsettled Trades	0.00
Change in Value	0.00
Closing Market Value	**$317,475.66**
Cash Dividends and Income	407.51

Asset Summary

	November 30, 2019	October 31, 2019
PFM Funds - Govt Select, Instl Cl	317,475.66	317,068.15
Total	**$317,475.66**	**$317,068.15**

Asset Allocation



pfm FUNDS

Account Statement

For the Month Ending **November 30, 2019**

State Bar of Texas - Annual Meeting Funds - 995463

Trade Date	Settlement Date	Transaction Description	Share or Unit Price	Dollar Amount of Transaction	Total Shares Owned
PFM Funds - Govt Select, Instl Cl					
Opening Balance					**317,068.15**
11/29/19	12/02/19	Accrual Income Div Reinvestment - Distributions	1.00	407.51	317,475.66
Closing Balance					**317,475.66**

	Month of November	Fiscal YTD January-November
Opening Balance	317,068.15	345,280.00
Purchases	407.51	307,695.66
Redemptions (Excl. Checks)	0.00	(335,500.00)
Check Disbursements	0.00	0.00
Closing Balance	**317,475.66**	**317,475.66**
Cash Dividends and Income	407.51	7,695.66

Closing Balance	317,475.66
Average Monthly Balance	317,095.32
Monthly Distribution Yield	1.57%

pfm FUNDS

Account Statement - Transaction Summary

For the Month Ending **November 30, 2019**

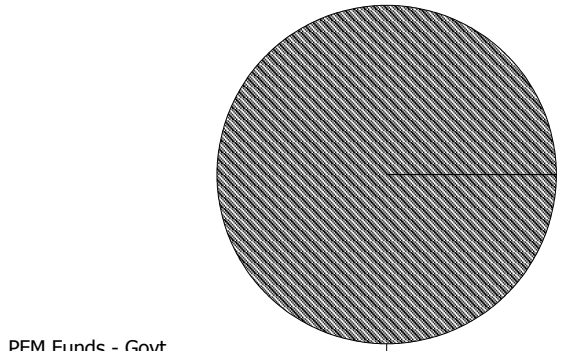
State Bar of Texas - Texas Bar College Special Revenue Funds - 995464

PFM Funds - Govt Select, Instl Cl	
Opening Market Value	193,573.41
Purchases	248.79
Redemptions	0.00
Unsettled Trades	0.00
Change in Value	0.00
Closing Market Value	**$193,822.20**
Cash Dividends and Income	248.79

Asset Summary

	November 30, 2019	October 31, 2019
PFM Funds - Govt Select, Instl Cl	193,822.20	193,573.41
Total	**$193,822.20**	**$193,573.41**

Asset Allocation



pfm FUNDS

Account Statement

For the Month Ending **November 30, 2019**

State Bar of Texas - Texas Bar College Special Revenue Funds - 995464

Trade Date	Settlement Date	Transaction Description	Share or Unit Price	Dollar Amount of Transaction	Total Shares Owned
PFM Funds - Govt Select, Instl Cl					
Opening Balance					**193,573.41**
11/29/19	12/02/19	Accrual Income Div Reinvestment - Distributions	1.00	248.79	193,822.20
Closing Balance					**193,822.20**

	Month of November	Fiscal YTD January-November
Opening Balance	193,573.41	193,012.74
Purchases	248.79	104,809.46
Redemptions (Excl. Checks)	0.00	(104,000.00)
Check Disbursements	0.00	0.00
Closing Balance	**193,822.20**	**193,822.20**
Cash Dividends and Income	248.79	4,809.46

Closing Balance	193,822.20
Average Monthly Balance	193,590.00
Monthly Distribution Yield	1.57%

Quarterly Investment Report
Certification

This report fairly represents the investment standing of the State Bar of Texas as of November 30, 2019 and the investment activity for the period September 1, 2019 through November 30, 2019.

We believe the data presented for the quarter ending November 30, 2019 is accurate in all material respects, and is presented in a manner that fairly sets forth the investment standing of the State Bar of Texas. We further believe that all data necessary to represent the activity for the quarter is included in this text.

This report was prepared in compliance with the State of Texas "Public Funds Investment Act" and the State Bar of Texas' "Investment Policy".

Public Funds Investment Act Training Report: All State Bar board members and officers have received training as required by the Texas Government Code Section 2256.007 as of the date of this investment report. All new board members have received training within 6 months of taking office. The investment officer received training from a board approved training provider within the fiscal biennium.

Trey Apffel Executive Director State Bar of Texas	Tracy Jarratt, CPA Finance Division Director State Bar of Texas	Barry Baughier Sr. Managing Consultant PFM Asset Management LLC

Dated: 1/7/2020

EXHIBIT I

LEWIS KINARD, CHAIR
TIMOTHY D. BELTON
AMY BRESNEN
CLAUDE DUCLOUX
HON. DENNISE GARCIA

RICK HAGEN
DEAN VINCENT JOHNSON
CARL JORDAN
KAREN NICHOLSON

October 16, 2019

Mr. Jerry C. Alexander, Chair
State Bar of Texas Board of Directors
Passman & Jones
[redacted]

RE: Submission of Proposed Rule Recommendation – Rule 1.01, Texas Disciplinary Rules of Professional Conduct

Dear Mr. Alexander:

Pursuant to section 81.0875 of the Texas Government Code, the Committee on Disciplinary Rules and Referenda initiated a rule change proposal relating to Rule 1.01 (Competent and Diligent Representation) of the Texas Disciplinary Rules of Professional Conduct. The Committee published the rule proposal in the *Texas Bar Journal* and the *Texas Register*. The Committee solicited and considered public comments and held a public hearing on the rule proposal. At its May 2019 meeting, the Committee voted to recommend the rule change proposal to the Board of Directors.

Included in this submission packet, you will find the rule change proposal, proposed comments to the proposed rule, and other supporting materials. Section 81.0877 of the Government Code provides that the Board of Directors is to vote on each proposed disciplinary rule recommended by the Committee not later than the 120th day after the date the rule is received from the Committee. The Board can vote for or against a proposed rule or return a proposed rule to the Committee for additional consideration.

As a reminder, if a majority of the Board of Directors approves a proposed rule, the Board shall petition the Supreme Court of Texas to order a referendum on the proposed rule as provided by section 81.0878 of the Government Code.

As you know, the Board voted at its April 2019 meeting to approve rule change proposals recommended by the Committee pertaining to confidentiality of information and clients with diminished capacity, and to hold the proposals for submission to the Supreme Court at a later date with other rule proposals as deemed appropriate by the Board.

Committee on Disciplinary Rules and Referenda
P.O. Box 12487, Austin, TX 78711
cdrr@texasbar.com www.texasbar.com/cdrr

Thank you for your attention to this matter. Should the Board require any other information, please do not hesitate to contact me. Please confirm receipt of this report at your earliest convenience.

Sincerely,

Lewis Kinard
Chair, Committee on Disciplinary Rules and Referenda

cc: Randall O. Sorrels
Trey Apffel
Larry P. McDougal
Joe K. Longley
Ross Fischer
John Sirman
Seana Willing

Committee on Disciplinary Rules and Referenda
Overview of Proposed Rule Changes

Texas Disciplinary Rules of Professional Conduct

Rule 1.01. Competent and Diligent Representation

Provided here is a summary of the actions and rationale of the Committee on Disciplinary Rules and Referenda related to the proposed changes to Rule 1.01, Texas Disciplinary Rules of Professional Conduct (TDRPC).

Previous Actions by the Committee

- **Initiation –** The Committee voted to initiate the rule proposal process at its December 5, 2018, meeting.
- **Publication –** The proposed rule changes were published in the March 2019 issue of the *Texas Bar Journal* and the March 1, 2019, issue of the *Texas Register*. The proposed rule changes were concurrently posted on the Committee's website.
- **Additional Outreach –** On March 1, 2019, an email notification regarding the proposed rule changes was sent to all Texas lawyers (other than those who have voluntarily opted out of receiving email notices), Committee email subscribers, and other potentially interested parties. On April 1, 2019, an additional email concerning the proposed rule changes was sent to the same groups. Additional notifications regarding the proposed rule changes were emailed to Committee subscribers on March 21, April 15, and April 26, 2019.
- **Public Comments –** The Committee extended the public comment period to two months (through May 1, 2019). The Committee received 41 written public comments (from 40 individuals).
- **Public Hearing –** The Committee held a public hearing on the rule proposal on April 18, 2019, at the Texas Law Center.
- **Recommendation –** The Committee voted at its May 8, 2019, meeting to recommend the rule proposal to the Board of Directors.

Overview and Rationale

As background, in September 2018, the Supreme Court of Texas requested that the Committee study and make recommendations to the Court regarding a proposed amendment to Comment 8, Rule 1.01, TDRPC, relating to a lawyer's technological competencies. In February 2019, the Committee recommended adoption of the proposed amendment and the Court entered an order amending the comment as follows (new language underlined):

> 8. Because of the vital role of lawyers in the legal process, each lawyer should strive to become and remain proficient and competent in the practice of law<u>, including the benefits and risks associated with relevant technology.</u> To maintain the requisite knowledge and skill of a competent practitioner, a lawyer should engage in

> continuing study and education. If a system of peer review has been established, the lawyer should consider making use of it in appropriate circumstances. Isolated instances of faulty conduct or decision should be identified for purposes of additional study or instruction.

During the Committee's examination of Texas Rule 1.01, the Committee determined that changes were also necessary to the rule itself. Texas Rule 1.01, which is entitled "Competent and Diligent Representation," consolidates issues that are addressed in two separate provisions of the American Bar Association (ABA) Model Rules of Professional Conduct: Model Rule 1.1 (Competence) and Model Rule 1.3 (Diligence). However, unlike the parallel provisions in the Model Rules, Texas Rule 1.01 contains no clear statement that a lawyer has a duty to act competently and a duty to act diligently. The proposed changes to Texas Rule 1.01 would bring it generally in line with the Model Rules and the professional conduct rules of the vast majority of other states.

The Committee received a variety of comments related to the proposed changes. Some comments expressed clear support for the proposed changes. Other comments opposed and/or expressed concerns about the proposed changes, including arguments that: the proposed changes are unnecessary; the proposed language would render the current language superfluous and/or create inconsistencies within the rule; the proposed language is too vague or subjective and would lead to an increase in grievances against attorneys; and the proposed language would have a chilling effect on attorneys seeking to provide pro bono services.

The Committee carefully considered the public comments received, and, ultimately, voted to recommend the proposal to the Board based on the belief that the changes would appropriately set a standard that is in line with both the Model Rules and the disciplinary rules of the vast majority of other states: that a lawyer has a duty to provide competent representation and to act with reasonable diligence and promptness in representing a client.

Included on the pages that follow are the proposed rule changes, proposed comments to the proposed rule, public comments received, and corresponding ABA Model Rules.

Committee on Disciplinary Rules and Referenda Proposed Rule Changes

Texas Disciplinary Rules of Professional Conduct

Rule 1.01. Competent and Diligent Representation

Proposed Rule (Redline Version)

Rule 1.01. Competent and Diligent Representation

(a) A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

(b) A lawyer shall act with reasonable diligence and promptness in representing a client.

(c)~~(a)~~ A lawyer shall not accept or continue employment in a legal matter which the lawyer knows or should know is beyond the lawyer's competence, unless:

> (1) another lawyer who is competent to handle the matter is, with the prior informed consent of the client, associated in the matter; or
>
> (2) the advice or assistance of the lawyer is reasonably required in an emergency and the lawyer limits the advice and assistance to that which is reasonably necessary in the circumstances.

(d)~~(b)~~ In representing a client, a lawyer shall not:

> (1) neglect a legal matter entrusted to the lawyer; or
>
> (2) frequently fail to carry out completely the obligations that the lawyer owes to a client or clients.

(e)~~(c)~~ As used in this Rule, “neglect” signifies inattentiveness involving a conscious disregard for the responsibilities owed to a client or clients.

Proposed Rule (Clean Version)

Rule 1.01. Competent and Diligent Representation

(a) A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

(b) A lawyer shall act with reasonable diligence and promptness in representing a client.

(c) A lawyer shall not accept or continue employment in a legal matter which the lawyer knows or should know is beyond the lawyer's competence, unless:

> (1) another lawyer who is competent to handle the matter is, with the prior informed consent of the client, associated in the matter; or
>
> (2) the advice or assistance of the lawyer is reasonably required in an emergency and the lawyer limits the advice and assistance to that which is reasonably necessary in the circumstances.

(d) In representing a client, a lawyer shall not:

> (1) neglect a legal matter entrusted to the lawyer; or
>
> (2) frequently fail to carry out completely the obligations that the lawyer owes to a client or clients.

(e) As used in this Rule, “neglect” signifies inattentiveness involving a conscious disregard for the responsibilities owed to a client or clients.

TO: **Committee on Disciplinary Rules and Referenda**
FROM: **Subcommittee on Disciplinary Rules and Referenda (Vincent R. Johnson, Claude Ducloux and Amy Bresnen)**
Date: **December 4, 2018 (Updated August 2019)**
Re: **Proposed Comment to Texas Rule 1.01 Competent and Diligent Representation**

If the CDRR approves our proposed changes to Texas Rule 1.01 (which recommend the addition of clear rules on competence and diligence, in addition to a reference in the Comments to the duty to keep up with technology), the Comment to Texas Rule 1.01 could be replaced with language from the Comment to Model Rule 1.01 (Competence) and Model Rule (1.03 Diligence). The only changes that are needed involve (a) revisions to the cross-references, (b) the deletion of Model Rule 1.03 Cmt. 4, which substantially appears now in Comment 6 to Texas Rule 1.02, and (c) the addition of a few new subheadings ("Diligence and Workload" and "Procrastination and Neglect").

Update: A cross-reference was revised in proposed Comment 5, and a reference to Rule 28 of the American Bar Association Model Rules for Lawyer Disciplinary Enforcement was removed from proposed Comment 12.

Proposed Comment to Proposed Texas Rule 1.01 Based on the Comments to Model Rule 1.01 (Competence) and Model Rule 1.03 (Diligence) – Changes are Redlined

Comment

Legal Knowledge and Skill

[1] In determining whether a lawyer employs the requisite knowledge and skill in a particular matter, relevant factors include the relative complexity and specialized nature of the matter, the lawyer's general experience, the lawyer's training and experience in the field in question, the preparation and study the lawyer is able to give the matter and whether it is feasible to refer the matter to, or associate or consult with, a lawyer of established competence in the field in question. In many instances, the required proficiency is that of a general practitioner. Expertise in a particular field of law may be required in some circumstances.

[2] A lawyer need not necessarily have special training or prior experience to handle legal problems of a type with which the lawyer is unfamiliar. A newly admitted lawyer can be as competent as a practitioner with long experience. Some important legal skills, such as the analysis of precedent, the evaluation of evidence and legal drafting, are required in all legal problems. Perhaps the most fundamental legal skill consists of determining what kind of legal problems a situation may involve, a skill that necessarily transcends any particular specialized knowledge. A lawyer can provide adequate representation in a wholly novel field through necessary study. Competent representation can also be provided through the association of a lawyer of established competence in the field in question.

[3] In an emergency a lawyer may give advice or assistance in a matter in which the lawyer does not have the skill ordinarily required where referral to or consultation or association with another lawyer would be impractical. Even in an emergency, however, assistance should be limited to that reasonably necessary in the circumstances, for ill-considered action under emergency conditions can jeopardize the client's interest.

[4] A lawyer may accept representation where the requisite level of competence can be achieved by reasonable preparation. This applies as well to a lawyer who is appointed as counsel for an unrepresented person. See also Rule 6.01~~2~~.

Thoroughness and Preparation

[5] Competent handling of a particular matter includes inquiry into and analysis of the factual and legal elements of the problem, and use of methods and procedures meeting the standards of competent practitioners. It also includes adequate preparation. The required attention and preparation are determined in part by what is at stake; major litigation and complex transactions ordinarily require more extensive treatment than matters of lesser complexity and consequence. An agreement between the lawyer and the client regarding the scope of the representation may limit the matters for which the lawyer is responsible. See Rule 1.02(b~~c~~).

Retaining or Contracting With Other Lawyers

[6] Before a lawyer retains or contracts with other lawyers outside the lawyer's own firm to provide or assist in the provision of legal services to a client, the lawyer should ordinarily obtain informed consent from the client and must reasonably believe that the other lawyers' services will contribute to the competent and ethical representation of the client. See also Rules 1.02 (allocation of authority), 1.03~~4~~ (communication with client), 1.04~~5~~(~~fe~~) (fee sharing), 1.05~~6~~ (confidentiality), and 5.05~~(a)~~ (unauthorized practice of law). The reasonableness of the decision to retain or contract with other lawyers outside the lawyer's own firm will depend upon the circumstances, including the education, experience and reputation of the nonfirm lawyers; the nature of the services assigned to the nonfirm lawyers; and the legal protections, professional conduct rules, and ethical environments of the jurisdictions in which the services will be performed, particularly relating to confidential information.

[7] When lawyers from more than one law firm are providing legal services to the client on a particular matter, the lawyers ordinarily should consult with each other and the client about the scope of their respective representations and the allocation of responsibility among them. See Rule 1.02. When making allocations of responsibility in a matter pending before a tribunal, lawyers and parties may have additional obligations that are a matter of law beyond the scope of these Rules.

Maintaining *Competence*

[8] To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology, engage in continuing study and education and comply with all continuing legal education requirements to which the lawyer is subject.

Diligence and Workload

[9~~1~~] A lawyer should pursue a matter on behalf of a client despite opposition, obstruction or personal inconvenience to the lawyer, and take whatever lawful and ethical measures are required to vindicate a client's cause or endeavor. A lawyer must also act with commitment and dedication to the interests of the client and with zeal in advocacy upon the client's behalf. A lawyer is not bound, however, to press for every advantage that might be realized for a client. For example, a lawyer may have authority to exercise professional discretion in determining the means by which a matter should be pursued. See Rule 1.02. The lawyer's duty to act with reasonable diligence does not require the use of offensive tactics or preclude the treating of all persons involved in the legal process with courtesy and respect.

[10~~2~~] A lawyer's work load must be controlled so that each matter can be handled competently.

Procrastination and Neglect

[11~~3~~] Perhaps no professional shortcoming is more widely resented than procrastination. A client's interests often can be adversely affected by the passage of time or the change of conditions; in extreme instances, as when a lawyer overlooks a statute of limitations, the client's legal position may be destroyed. Even when the client's interests are not affected in substance, however, unreasonable delay can cause a client needless anxiety and undermine confidence in the lawyer's trustworthiness. A lawyer's duty to act with reasonable promptness, however, does not preclude the lawyer from agreeing to a reasonable request for a postponement that will not prejudice the lawyer's client.

~~[4] Unless the relationship is terminated as provided in Rule 1.16, a lawyer should carry through to conclusion all matters undertaken for a client. If a lawyer's employment is limited to a specific matter, the relationship terminates when the matter has been resolved. If a lawyer has served a client over a substantial period in a variety of matters, the client sometimes may assume that the lawyer will continue to serve on a continuing basis unless the lawyer gives notice of withdrawal. Doubt about whether a client-lawyer relationship still exists should be clarified by the lawyer, preferably in writing, so that the client will not mistakenly suppose the lawyer is looking after the client's affairs when the lawyer has ceased to do so. For example, if a lawyer has handled a judicial or administrative proceeding that produced a result adverse to the client and the lawyer and the client have not agreed that the lawyer will handle the matter on appeal, the lawyer must consult with the client about the possibility of appeal before relinquishing responsibility for the matter. See Rule 1.4(a)(2). Whether the lawyer is obligated to prosecute the appeal for the client depends on the scope of the representation the lawyer has agreed to provide to the client. See Rule 1.2.~~

[12~~5~~] To prevent neglect of client matters in the event of a sole practitioner's death or disability, the duty of diligence may require that each sole practitioner prepare a plan, in conformity with applicable rules, that designates another competent lawyer to review client files, notify each client of the lawyer's death or disability, and determine whether there is a need for immediate protective action.~~ Cf. Rule 28 of the American Bar Association Model Rules for Lawyer Disciplinary Enforcement (providing for court appointment of a lawyer to inventory files and take other protective action in absence of a plan providing for another lawyer to protect the interests of the clients of a deceased or disabled lawyer).~~

Clean Version of Proposed Comment to Proposed Texas Rule 1.01

Comment

Legal Knowledge *and Skill*

[1] In determining whether a lawyer employs the requisite knowledge and skill in a particular matter, relevant factors include the relative complexity and specialized nature of the matter, the lawyer's general experience, the lawyer's training and experience in the field in question, the preparation and study the lawyer is able to give the matter and whether it is feasible to refer the matter to, or associate or consult with, a lawyer of established competence in the field in question. In many instances, the required proficiency is that of a general practitioner. Expertise in a particular field of law may be required in some circumstances.

[2] A lawyer need not necessarily have special training or prior experience to handle legal problems of a type with which the lawyer is unfamiliar. A newly admitted lawyer can be as competent as a practitioner with long experience. Some important legal skills, such as the analysis of precedent, the evaluation of evidence and legal drafting, are required in all legal problems. Perhaps the most fundamental legal skill consists of determining what kind of legal problems a situation may involve, a skill that necessarily transcends any particular specialized knowledge. A lawyer can provide adequate representation in a wholly novel field through necessary study. Competent representation can also be provided through the association of a lawyer of established competence in the field in question.

[3] In an emergency a lawyer may give advice or assistance in a matter in which the lawyer does not have the skill ordinarily required where referral to or consultation or association with another lawyer would be impractical. Even in an emergency, however, assistance should be limited to that reasonably necessary in the circumstances, for ill-considered action under emergency conditions can jeopardize the client's interest.

[4] A lawyer may accept representation where the requisite level of competence can be achieved by reasonable preparation. This applies as well to a lawyer who is appointed as counsel for an unrepresented person. See also Rule 6.01.

Thoroughness and Preparation

[5] Competent handling of a particular matter includes inquiry into and analysis of the factual and legal elements of the problem, and use of methods and procedures meeting the standards of competent practitioners. It also includes adequate preparation. The required attention and preparation are determined in part by what is at stake; major litigation and complex transactions ordinarily require more extensive treatment than matters of lesser complexity and consequence. An agreement between the lawyer and the client regarding the scope of the representation may limit the matters for which the lawyer is responsible. See Rule 1.02(b).

Retaining or Contracting *With Other Lawyers*

[6] Before a lawyer retains or contracts with other lawyers outside the lawyer's own firm to provide or assist in the provision of legal services to a client, the lawyer should ordinarily obtain informed consent from the client and must reasonably believe that the other lawyers' services will contribute to the competent and ethical representation of the client. See also Rules 1.02 (allocation of authority), 1.03 (communication with client), 1.04(f) (fee sharing), 1.05 (confidentiality), and 5.05 (unauthorized practice of law). The reasonableness of the decision to retain or contract with other lawyers outside the lawyer's own firm will depend upon the circumstances, including the education, experience and reputation of the nonfirm lawyers; the nature of the services assigned to the nonfirm lawyers; and the legal protections, professional conduct rules, and ethical environments of the jurisdictions in which the services will be performed, particularly relating to confidential information.

[7] When lawyers from more than one law firm are providing legal services to the client on a particular matter, the lawyers ordinarily should consult with each other and the client about the scope of their respective representations and the allocation of responsibility among them. See Rule 1.02. When making allocations of responsibility in a matter pending before a tribunal, lawyers and parties may have additional obligations that are a matter of law beyond the scope of these Rules.

Maintaining *Competence*

[8] To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology, engage in continuing study and education and comply with all continuing legal education requirements to which the lawyer is subject.

Diligence and Workload

[9] A lawyer should pursue a matter on behalf of a client despite opposition, obstruction or personal inconvenience to the lawyer, and take whatever lawful and ethical measures are required to vindicate a client's cause or endeavor. A lawyer must also act with commitment and

dedication to the interests of the client and with zeal in advocacy upon the client's behalf. A lawyer is not bound, however, to press for every advantage that might be realized for a client. For example, a lawyer may have authority to exercise professional discretion in determining the means by which a matter should be pursued. See Rule 1.02. The lawyer's duty to act with reasonable diligence does not require the use of offensive tactics or preclude the treating of all persons involved in the legal process with courtesy and respect.

[10] A lawyer's work load must be controlled so that each matter can be handled competently.

Procrastination and Neglect

[11] Perhaps no professional shortcoming is more widely resented than procrastination. A client's interests often can be adversely affected by the passage of time or the change of conditions; in extreme instances, as when a lawyer overlooks a statute of limitations, the client's legal position may be destroyed. Even when the client's interests are not affected in substance, however, unreasonable delay can cause a client needless anxiety and undermine confidence in the lawyer's trustworthiness. A lawyer's duty to act with reasonable promptness, however, does not preclude the lawyer from agreeing to a reasonable request for a postponement that will not prejudice the lawyer's client.

[12] To prevent neglect of client matters in the event of a sole practitioner's death or disability, the duty of diligence may require that each sole practitioner prepare a plan, in conformity with applicable rules, that designates another competent lawyer to review client files, notify each client of the lawyer's death or disability, and determine whether there is a need for immediate protective action.

Committee on Disciplinary Rules and Referenda
Proposed Rule Changes

Texas Disciplinary Rules of Professional Conduct
Rule 1.01. Competent and Diligent Representation

Public Comments Received

Through May 1, 2019

From: [redacted]
To: cdrr
Subject: CDRR Comment: Rule 1.01 Proposed changes
Date: Friday, March 01, 2019 4:06:23 PM

**** State Bar of Texas* External Message *** - Use Caution Before Responding or Opening Links/Attachments

Contact

First Name	Douglas
Last Name	Mclallen
Email	[redacted]
Member	Yes
Barcard	00788025

Feedback

Subject	Rule 1.01 Proposed changes

Comments

This looks like a solution looking for a problem. Moreover, "reasonable diligence and promptness" is vague and subject to abuse.

From: [redacted]
To: cdrr
Subject: CDRR Comment: Comment on Rule 1.01
Date: Friday, March 01, 2019 4:15:09 PM

**** State Bar of Texas* External Message *** - Use Caution Before Responding or Opening Links/Attachments

Contact

First Name	Lena
Last Name	Roberts
Email	[redacted]
Member	Yes
Barcard	24041763

Feedback

Subject	Comment on Rule 1.01

Comments

I like the change, and hopefully the new rules will be enforced. I've seen too many bad lawyers hurt too many good people and get away with it!

From: [redacted]
To: cdrr
Subject: CDRR Comment: Proposed Changes to Disciplinary Rule 1.01
Date: Friday, March 01, 2019 4:19:25 PM

**** State Bar of Texas* External Message *** - Use Caution Before Responding or Opening Links/Attachments

Contact

First Name	Aaron
Last Name	Martinez
Email	[redacted]
Member	Yes
Barcard	24068629

Feedback

Subject	Proposed Changes to Disciplinary Rule 1.01

Comments

I believe the proposed changes are largely unnecessary. The rule as is already requires a lawyer not to take on matters he or she know he or she is not competent to undertake, and to not neglect clients. Adding this extra layer would only make it easier for disgruntled clients to make frivolous disciplinary complaints against lawyers for not possessing the "legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation," even though they may have no idea what that means and are just unhappy with their results. Disgruntled clients could also use the proposed promptness subpart to again, make our lives miserable with disciplinary complaints, but there is more here. They could use it to try to force lawyers into unnecessary reporting requirements, or argue in malpractice cases that the lawyer "failed to adequately report" or something similar. Perhaps if these were more aspirational than mandatory, they would be fine. Or perhaps simply a definition of what competent representation is would work. But as-is, they are superfluous and have the potential to create more problems than they are worth. Let's not go there in my opinion.

From: [redacted]
To: cdrr
Subject: CDRR Comment: Rule 1.01. Competent and Diligent Representation
Date: Friday, March 01, 2019 4:20:55 PM

**** State Bar of Texas* External Message *** - Use Caution Before Responding or Opening Links/Attachments

Contact

First Name	Richard
Last Name	Schell
Email	[redacted]
Member	Yes
Barcard	17736780

Feedback

Subject	Rule 1.01. Competent and Diligent Representation

Comments

The use of the word "signifies" in section (e) makes no sense. If anything, inattention signifies neglect, not the other way around.

From: [redacted]
To: cdrr
Subject: CDRR Comment: Proposed changes to Rule 1.01. Competent and Diligent Representation
Date: Friday, March 01, 2019 4:23:41 PM

**** State Bar of Texas* External Message *** - Use Caution Before Responding or Opening Links/Attachments

Contact

First Name	Michael
Last Name	Farmer
Email	[redacted]
Member	Yes
Barcard	06823100

Feedback

Subject	Proposed changes to Rule 1.01. Competent and Diligent Representation

Comments

Proposed additions 1.01 (a) and (b) are unnecessary because they are implicit in our duty as an attorney. Also, new (b) is just a restatement of old (b). No change is required.

From: [redacted]
To: cdrr
Subject: CDRR Comment: Proposed Change to 1.01--add professionalism/civility
Date: Friday, March 01, 2019 4:24:41 PM

**** State Bar of Texas* External Message *** - Use Caution Before Responding or Opening Links/Attachments

Contact

First Name	Jessica
Last Name	Wortham
Email	[redacted]
Member	Yes
Barcard	24081488

Feedback

Subject	Proposed Change to 1.01--add professionalism/civility

Comments

May we please amend 1.01(b) to say: "(b) A lawyer shall act with reasonable diligence and promptness while maintaining professionalism and civility towards others while representing a client." As a young female attorney, I have witnessed countless attorneys behave unprofessionally in the courtroom on "behalf of a client." They bully others, harass, threaten, and attempt to intimidate others in order to get a better deal for their client. There is no need to throw away basic manners and civility in the name of employment. It gives our profession a bad name.

From: [redacted]
To: cdrr
Subject: Re: Seeking Comments on Proposed Changes to Rule 1.01
Date: Friday, March 01, 2019 4:30:06 PM

**** State Bar of Texas* External Message *** - Use Caution Before Responding or Opening Links/Attachments

I have no changes or suggestions to proposed Rule 1.01 changes.
Sincerely,

Law Office of Stephen P. Krupp, PLLC
Cell: [redacted]
Office: 573.317.4336
Sent from my iPhone
****
This email and any attachments contain privileged and confidential information intended only for the use of the addressee(s). If you are not an intended recipient of this email, you are hereby notified that any dissemination, copying or use of information within it is strictly prohibited. If you received this email in error or without authorization, please notify me immediately by reply e-mail and permanently delete all copies of the e-mail and any attachments.
****

On Mar 1, 2019, at 3:58 PM, State Bar of Texas - CDRR <cdrr@texasbar.com> wrote:

State Bar of Texas

Proposed Changes to Rule 1.01

Public Comments Sought

Rule 1.01. Competent and Diligent Representation

The Committee on Disciplinary Rules and Referenda (CDRR) has published proposed changes to Rule 1.01 (Competent and Diligent Representation). The proposed changes were also published in the (March) Texas Bar Journal and the (March 1) Texas Register. A public hearing on the proposed rule will be held at 10:30 a.m. on April 18, 2019, at the Texas Law Center in Austin.
The Committee will accept comments concerning the proposed rule changes through May 1, 2019. Comments can be submitted here.
The CDRR is responsible for overseeing the initial process for proposing a change or addition to the disciplinary rules (Gov't Code § 81.0873). For more information, go to texasbar.com/CDRR.
To subscribe to email updates, including notices of public hearings and published rules for comment,

click here.
Sincerely,
Committee on Disciplinary Rules and Referenda

Committee on Disciplinary Rules and Referenda
State Bar of Texas | 1414 Colorado | Austin, Texas 78701 | 800.204.2222
Unsubscribe

From: [redacted]
To: cdrr
Subject: CDRR Comment: Comments on published proposed changes to Rule 1.01 (Competent and Diligent Representation)
Date: Friday, March 01, 2019 4:37:42 PM

**** State Bar of Texas* External Message *** - Use Caution Before Responding or Opening Links/Attachments

Contact

First Name	Shenila
Last Name	Momin
Email	[redacted]
Member	Yes
Barcard	24003788

Feedback

Subject	Comments on published proposed changes to Rule 1.01 (Competent and Diligent Representation)

Comments

The addition of the following paragraph: (b) A lawyer shall act with reasonable diligence and promptness in representing a client. This addition will cause undue burden on attorneys where clients have certain expectations on the term promptness. How would "promptness" be defined? Missing deadlines? Causing harm? Additionally, the legal field is vast where this term would mean something different in different fields of practice. i.e. immigration law? commercial law?

From: [redacted]
To: cdrr
Subject: CDRR Comment: Proposed Changes to Rule 1.01
Date: Friday, March 01, 2019 4:47:58 PM

**** State Bar of Texas* External Message *** - Use Caution Before Responding or Opening Links/Attachments

Contact

First Name	christopher
Last Name	below
Email	[redacted]
Member	Yes
Barcard	24045477

Feedback

Subject	Proposed Changes to Rule 1.01

Comments

I am a solo practitioner with a general law practice. I have some concerns about the language in the proposed Rule 1.01 that reads as follows: (a) A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation. Would proposed change in the rule preclude a young, less experienced solo attorney, from taking the representation of a client? I know many young attorney's sign cases up and bring in more experienced senior attorney's to also represent the client allowing the young attorney to learn from the senior attorney. In my opinion this is a practice that makes for better attorneys for the benefit of all clients. How can a young attorney, with limited experience, satisfy the requirement of legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation. Allowing an exception under my example would satisfy this requirement and add to the improvement for better attorneys. If I am way off in this, please disregard my comment. Reading the proposed change made me think of when I was a young attorney getting my feet wet.

From: [redacted]
To: cdrr
Subject: CDRR Comment: Proposed changes to Rule 1.01
Date: Friday, March 01, 2019 5:08:01 PM

***State Bar of Texas* External Message *** - Use Caution Before Responding or Opening Links/Attachments

Contact

First Name	Sim
Last Name	Israeloff
Email	[redacted]
Member	Yes
Barcard	10435380

Feedback

Subject	Proposed changes to Rule 1.01

Comments

I am strongly opposed to the proposed changes to Rule 1.01. The proposed amendments are laudatory and aspirational for being a good lawyer, but they are not needed and will create unintended consequences. I am not aware of a problem with the current rule. The changes appear to be a solution in search of a problem. Adding new obligations in the rule will have the undesirable effect of adding fuel to malpractice claims against lawyers. Under the new rules a plaintiff suing a lawyer will add every element of the new rules to the list of failures by the lawyer defendant. While the disciplinary rules state that they do not create common law standards of care for civil lawsuit purposes, that's exactly how they are used in practice. Plaintiff experts in legal malpractice cases routinely refer to the DRs as setting out the standard of care for attorneys. The new rules will permit more claims against attorneys. The listing of specific elements that constitute competent representation, including legal knowledge, skill, thoroughness and preparation, adds four areas for future dispute, debate and litigation both as to grievances and as to legal malpractice claims. What is "knowledge" and how much do you need, etc. Every word is vague and undefined and will lead to confusion and disagreement. It is better to simply leave the current rule and its reference to not taking a case that is "beyond the lawyer's competence" and whatever gloss or precedent has developed over those words up to this time, rather than attempting to redefine, with vague terms that will invite mischief and litigation, what it means to bring competent and diligent representation.

From: [redacted]
To: cdrr
Subject: CDRR Comment: Rule 1.01 Proposed Change
Date: Friday, March 01, 2019 5:21:03 PM

**** State Bar of Texas* External Message *** - Use Caution Before Responding or Opening Links/Attachments

Contact

First Name	David
Last Name	Aronofsky
Email	[redacted]
Member	Yes
Barcard	01355500

Feedback

Subject	Rule 1.01 Proposed Change

Comments

This is a very good change linguistically because it codifies what most experienced attorneys already know are the intent and spirit of Tule 1.01

From: [redacted]
To: cdrr
Subject: CDRR Comment: Proposed Changes to Rule 1.01, Disciplinary Rules
Date: Friday, March 01, 2019 5:29:49 PM

**** State Bar of Texas* External Message *** - Use Caution Before Responding or Opening Links/Attachments

Contact

First Name	Elliott
Last Name	Klein
Email	[redacted]
Member	Yes
Barcard	11557300

Feedback

Subject	Proposed Changes to Rule 1.01, Disciplinary Rules

Comments

Dear Sirs; I feel the proposed changes adds nothing significant to the current rule. Any argument that it has value is equivalent to counting counting angels on a pinhead. Elliott Klein

From: [redacted]
To: cdrr
Subject: CDRR Comment: Unnecessary changes
Date: Friday, March 01, 2019 5:30:50 PM

***State Bar of Texas* External Message *** - Use Caution Before Responding or Opening Links/Attachments

Contact

First Name	Brian
Last Name	Miller
Email	[redacted]
Member	Yes
Barcard	24004607

Feedback

Subject	Unnecessary changes

Comments

Part (c) of the proposed amended rule is inconsistent with Part (a). Part (c), which is in the existing rule, already states a competency requirement and provides two exceptions. Part (a) appears to impose a competency requirement without exceptions. The two exceptions, however, are important to providing access to justice. The first exception helps ensure that we have an ample number of lawyers, in appropriate price ranges and distributed through various communities, to provide legal assistance to clients. The second exception helps ensure the availability of emergency legal assistance. In addition, Part (d) of the proposed amended rule is inconsistent with Part (b). One provision imposes a conscious-disregard standard while the other imposes a simple-negligence standard. Unless the conscious-disregard standard has proven unworkable, we should stay with that standard for attorney disciplinary proceedings. At the very least, a simple-negligence standard should incorporate the concepts of duty and causation that we see in malpractice suits, so that we prevent harmless and fixable mistakes from being the basis of disciplinary proceedings.

From: [redacted]
To: cdrr
Subject: CDRR Comment: CDDr 1.01 proposed changes
Date: Friday, March 01, 2019 5:33:21 PM

**** State Bar of Texas* External Message *** - Use Caution Before Responding or Opening Links/Attachments

Contact

First Name	Eric
Last Name	Bayne
Email	[redacted]
Member	Yes
Barcard	00792947

Feedback

Subject	CDDr 1.01 proposed changes

Comments

I'm all for competent representation. I think the affirmative duty in proposed 1.01(a) subsumes the remainder of the rule. I'd delete the surplusage and make proposed 1.01(a) simply Rule 1.01.

From: [redacted]
To: cdrr
Subject: CDRR Comment: Proposed Rule Change TDRPC 1.01
Date: Friday, March 01, 2019 5:41:37 PM

***State Bar of Texas* External Message *** - Use Caution Before Responding or Opening Links/Attachments

Contact

First Name	Dane
Last Name	OBrien
Email	[redacted]
Member	Yes
Barcard	24090302

Feedback

Subject	Proposed Rule Change TDRPC 1.01

Comments

Our client base like any other has a right to expect competant and diligent service in all things that we do. This concept is even more crucial in our profession because of the huge impacts potentially from anything less. Attorneys charge a premium and our clients should expect our service to be more than appropiate and of value... this is often not the case and often attorneys accept cases they are not competant to accept or fail to put in the work and attention it requires. While I appreciate the committees desire to update a rule badly in need of it, but fail to see how this updated verbage (merely rearraging vague words and phrases) adds any more clarity to what was already a vague and ill defined area already. In fact, the new version serves to remove almost everything that help to explain all the vague terms in the rule to provide some small clarity. I understand that as professionals there is a desire to protect our members, but to do by writing rules that would be almost impossible to prove liability under seems a poor way to go about it in the long run. One must simply imagine (or apply one of any number of outstanding complaints that currently exist) a scenario where this rule is violated sufficiently that it could be shown... would a wronged client ever reaaonably be able to define and reach this threshold under this rewrite... I think it unlikely except either in the RICHEST or most blatant/aggregious of circumstances. I think as a tool thet seeks to manage member conduct and protect clients from predatory practitioners it is a fail.

From: [redacted]
To: cdrr
Subject: CDRR Comment: Changes to rule 1.01
Date: Friday, March 01, 2019 5:41:38 PM

***State Bar of Texas* External Message *** - Use Caution Before Responding or Opening Links/Attachments

Contact

First Name	Gail
Last Name	Deml
Email	[redacted]
Member	Yes
Barcard	16286950

Feedback

Subject	Changes to rule 1.01

Comments

The following proposed provision is ambiguous on its face: (e)(c) As used in this Rule, “neglect” signifies inattentiveness involving a conscious disregard for the responsibilities owed to a client or clients. "Conscious disregard" is more than mere "inattentiveness." By putting both terms together in the same sentence, it is inherently ambiguous. Why not just say: "neglect" is more than mere inattentiveness and involves a conscious disregard for the responsibilities owed to a client or clients. -- OR -- "neglect" involves a conscious disregard for the responsibilities owed to a client or clients.

From: [redacted]
To: cdrr
Subject: Re: Seeking Comments on Proposed Changes to Rule 1.01
Date: Friday, March 01, 2019 5:43:57 PM

**** State Bar of Texas* External Message *** - Use Caution Before Responding or Opening Links/Attachments

I resigned from the ABA for the same reason! Burl Jacks

Sent from my iPad

On Mar 1, 2019, at 4:03 PM, State Bar of Texas - CDRR <cdrr@texasbar.com> wrote:

State Bar of Texas

Proposed Changes to Rule 1.01

Public Comments Sought

Rule 1.01. Competent and Diligent Representation

The Committee on Disciplinary Rules and Referenda (CDRR) has published proposed changes to Rule 1.01 (Competent and Diligent Representation). The proposed changes were also published in the (March) Texas Bar Journal and the (March 1) Texas Register. A public hearing on the proposed rule will be held at 10:30 a.m. on April 18, 2019, at the Texas Law Center in Austin.

The Committee will accept comments concerning the proposed rule changes through May 1, 2019. Comments can be submitted here.

The CDRR is responsible for overseeing the initial process for proposing a change or addition to the disciplinary rules (Gov't Code § 81.0873). For more information, go to texasbar.com/CDRR.

To subscribe to email updates, including notices of public hearings and published rules for comment, click here.

Sincerely,

Committee on Disciplinary Rules and Referenda

Committee on Disciplinary Rules and Referenda

State Bar of Texas | 1414 Colorado | Austin, Texas 78701 | 800.204.2222

Unsubscribe

From: [redacted]
To: cdrr
Subject: Re: Seeking Comments on Proposed Changes to Rule 1.01
Date: Friday, March 01, 2019 6:24:31 PM

**** State Bar of Texas* External Message *** - Use Caution Before Responding or Opening Links/Attachments

Why is there a movement to change this rule? That information would be helpful. It appears that the proposed changes are already covered in other rules. More information in these areas would be helpful.

Peter A. Schulte
Schulte & Apgar, PLLC
4131 N Central Exwy Ste 680
Dallas, Texas 75204
Ofc: 214.521.2200
Fax: 214.276.1661
[redacted]
www.PeteSchulte.com

Sent from my iPhone... Please pardon any grammatical and/or spelling mistakes...

On Mar 1, 2019, at 15:58, State Bar of Texas - CDRR <cdrr@texasbar.com> wrote:

State Bar of Texas

Proposed Changes to Rule 1.01

Public Comments Sought

Rule 1.01. Competent and Diligent Representation

The Committee on Disciplinary Rules and Referenda (CDRR) has published proposed changes to Rule 1.01 (Competent and Diligent Representation). The proposed changes were also published in the (March) Texas Bar Journal and the (March 1) Texas Register. A public hearing on the proposed rule will be held at 10:30 a.m. on April 18, 2019, at the Texas Law Center in Austin.

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click here.
Sincerely,
Committee on Disciplinary Rules and Referenda

Committee on Disciplinary Rules and Referenda
State Bar of Texas | 1414 Colorado | Austin, Texas 78701 | 800.204.2222
Unsubscribe

From: [redacted]
To: cdrr
Subject: CDRR Comment: Public Comment on Proposed change to Rule 1.01
Date: Saturday, March 02, 2019 9:45:47 AM

**** State Bar of Texas* External Message *** - Use Caution Before Responding or Opening Links/Attachments

Contact

First Name	BRENT
Last Name	MORGAN
Email	[redacted]
Member	Yes
Barcard	24051084

Feedback

Subject	Public Comment on Proposed change to Rule 1.01

Comments

The proposed rule change to 1.01 is inappropriate and clearly written by someone who has never represented indigent, career-criminal defendants or those with unrealistic expectations of what an attorney does. If this is made a rule, I will expect to get those of my court-appointed clients and divorce clients who believe adultery=I get everything will be filing a grievance and citing this rule. For example, if I have a jury returns a verdict of "guilty" on a client, I will expect to get a grievance now because I didn't have the "skill" to get a "not guilty". If my client is not award custody of their minor child, then I will get a grievance because my "skills" were not sufficient to garner custody. I cannot tell you the number of people who come in my office to complain about how "bad" their previous attorney was when really it was the facts of the case. Whether these grievances have merit or not is beside the point. I will have to waste precious time in answering these grievances and having to explain every decision I have ever made in every case. Do NOT add such a vague, unnecessary addition to the Rules of Professional Conduct.

From: [redacted]
To: cdrr
Subject: Re: Seeking Comments on Proposed Changes to Rule 1.01
Date: Saturday, March 02, 2019 10:51:38 AM

**** State Bar of Texas* External Message *** - Use Caution Before Responding or Opening Links/Attachments

Where can I find the Committee rationale for the proposed changes?
Thanks,
Danny Hardesty
Tx. Bar No. 08957400

On Fri, Mar 1, 2019 at 4:04 PM State Bar of Texas - CDRR <cdrr@texasbar.com> wrote:

State Bar of Texas

Proposed Changes to Rule 1.01

Public Comments Sought

Rule 1.01. Competent and Diligent Representation

The Committee on Disciplinary Rules and Referenda (CDRR) has published proposed changes to Rule 1.01 (Competent and Diligent Representation). The proposed changes were also published in the (March) Texas Bar Journal and the (March 1) Texas Register. A public hearing on the proposed rule will be held at 10:30 a.m. on April 18, 2019, at the Texas Law Center in Austin.

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To subscribe to email updates, including notices of public hearings and published rules for comment, click here.

Sincerely,
Committee on Disciplinary Rules and Referenda

Committee on Disciplinary Rules and Referenda
State Bar of Texas | 1414 Colorado | Austin, Texas 78701 | 800.204.2222
Unsubscribe

From: [redacted]
To: cdrr
Subject: RE: [EXTERNAL] Seeking Comments on Proposed Changes to Rule 1.01
Date: Saturday, March 02, 2019 5:17:27 PM

**** State Bar of Texas* External Message *** - Use Caution Before Responding or Opening Links/Attachments

Approved.

From: State Bar of Texas - CDRR [mailto:cdrr@texasbar.com]
Sent: Friday, March 01, 2019 3:59 PM
To: Gills, Kirk B. [redacted]
Subject: [EXTERNAL] Seeking Comments on Proposed Changes to Rule 1.01

State Bar of Texas

Proposed Changes to Rule 1.01

Public Comments Sought

Rule 1.01. Competent and Diligent Representation

The Committee on Disciplinary Rules and Referenda (CDRR) has published proposed changes to Rule 1.01 (Competent and Diligent Representation). The proposed changes were also published in the (March) Texas Bar Journal and the (March 1) Texas Register. A public hearing on the proposed rule will be held at 10:30 a.m. on April 18, 2019, at the Texas Law Center in Austin.

The Committee will accept comments concerning the proposed rule changes through May 1, 2019. Comments can be submitted here.

The CDRR is responsible for overseeing the initial process for proposing a change or addition to the disciplinary rules (Gov't Code § 81.0873). For more information, go to texasbar.com/CDRR.

To subscribe to email updates, including notices of public hearings and published rules for comment,

click here.

Sincerely,
Committee on Disciplinary Rules and Referenda

Committee on Disciplinary Rules and Referenda

State Bar of Texas | 1414 Colorado | Austin, Texas 78701 | 800.204.2222
Unsubscribe

From: [redacted]
To: cdrr
Subject: CDRR Comment: Proposed changes to Rule 1.01
Date: Sunday, March 03, 2019 1:54:07 PM

**** State Bar of Texas* External Message *** - Use Caution Before Responding or Opening Links/Attachments

Contact

First Name	James
Last Name	Drummond
Email	[redacted]
Member	Yes
Barcard	24081380

Feedback

Subject	Proposed changes to Rule 1.01

Comments

The proposed changes should be adopted. The changes have been implicit heretofore, but making them explicit helps the public know what is expected and what they are entitled to in the matter of Representation.

From: [redacted]
To: cdrr
Subject: CDRR Comment: Proposed rules changes - Disciplinary Rule 1.01
Date: Sunday, March 03, 2019 3:32:30 PM

**** State Bar of Texas* External Message *** - Use Caution Before Responding or Opening Links/Attachments

Contact

First Name	Matt
Last Name	McKool
Email	[redacted]
Member	Yes
Barcard	13731600

Feedback

Subject	Proposed rules changes - Disciplinary Rule 1.01

Comments

I do not see the need for these changes. The existing rule includes the same requirements as the existing rule: diligence, promptness, knowledge, skill, thoroughness, and preparation are part of the rule already. (e.g. neglect and fail to carry out obligations completely) neglect is also defined. Neglect is also defined and would include the same elements. In addition, these terms (diligence, promptness, knowledge, skill, thoroughness, and preparation) are vague and subject to overly broad subjective connotations whereupon reasonable minds may differ. This would subject attorneys to a myriad of specious and questionable complaints. Many clients feel wrongs when the attorney fails to follow the client's perceived obligations or act with urgency as to every detail. Also many client's often blame the attorney for any setback or loss. These changes would invariably provide an ambiguous standard resulting in a global catch-all basis for all complaints (founded and unfounded) and lead to a surge of unfounded complaints.

From: [redacted]
To: cdrr
Subject: CDRR Comment: Regarding Proposed Changes to Rule 1.01
Date: Sunday, March 03, 2019 3:38:46 PM

**** State Bar of Texas* External Message *** - Use Caution Before Responding or Opening Links/Attachments

Contact

First Name	Melissa
Last Name	Wheeler
Email	[redacted]
Member	Yes
Barcard	24104437

Feedback

Subject	Regarding Proposed Changes to Rule 1.01

Comments

I am support of the proposed rule. I hope that whatever version of the rule results from these meetings includes proposed section (b), which provides "a lawyer shall act with reasonable diligence and promptness in representing a client." The reasonability standard proposed here is important to me because of the volume of my cases — each client, of course, deserves competent and zealous representation, but the reality is that sometimes I have to prioritize one case over another for a short time while due dates approach.

From: [redacted]
To: cdrr
Subject: CDRR Comment: Proposed Rule 1.01
Date: Monday, March 04, 2019 10:37:16 AM

***State Bar of Texas* External Message *** - Use Caution Before Responding or Opening Links/Attachments

Contact

First Name	Roger
Last Name	Hughes
Email	[redacted]
Member	Yes
Barcard	10229500

Feedback

Subject	Proposed Rule 1.01

Comments

I do not understand the need for this change. I am unaware of a similar change to ABA model code. Further, I question the wisdom of making 'competence' grounds for discipline. This opens the door to mere professional negligence as grounds for discipline. The proposed duty to provide 'competent representation' goes beyond just having the skills, etc., to do the job -- it will extend the wisdom of decisions. No one defends incompetence, but do we want the grievance procedure to be mired in claims over nothing more than negligence in judgment? The other rules have fairly precise or objective standards to know when a violation occurs. Trying to determine when representation is competent is a vague standard for imposing sanctions. Finally, this change will be allow arguments that the Rules apply to determine negligence in civil malpractice cases, which so far has not been the law.

Rule 1.01. Competent and Diligent Representation

(a) A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

(b) A lawyer shall act with reasonable diligence and promptness in representing a client.

(c)(a) A lawyer shall not accept or continue employment in a legal matter which the lawyer knows or should know is beyond the ~~lawyer's~~ competence of the lawyer, unless:

(1) another lawyer who is competent to handle the matter is, with the prior informed consent of the client, associated in the matter; or

(2) the advice or assistance of the lawyer is reasonably required in an emergency and the lawyer limits the advice and assistance to that which is reasonably necessary in the circumstances.

(d)~~(b)~~ In representing a client, a lawyer shall not: (1) neglect a legal matter entrusted to the lawyer; or (2) frequently fail to carry out completely the obligations ~~that~~ the lawyer owes to a client ~~or clients~~. ~~(e)(c)~~ As used in this ~~Rule~~ subsection, "neglect" ~~signifies~~ means inattentiveness involving a conscious disregard for the responsibilities owed to a client ~~or clients~~.

From: [redacted]
To: cdrr
Subject: CDRR Comment: Proposed Changes to Rule 1.01
Date: Monday, March 04, 2019 4:44:52 PM

**** State Bar of Texas* External Message *** - Use Caution Before Responding or Opening Links/Attachments

Contact

First Name	Toysha
Last Name	Jones Martin
Email	[redacted]
Member	Yes
Barcard	24004726

Feedback

Subject	Proposed Changes to Rule 1.01

Comments

Where can I find additional information regarding the basis for the proposed changes? What does the committee hope to capture by adding the additional language? Is this intended to address competencies such as understanding of technology?

From: [redacted]
To: cdrr
Subject: CDRR Comment: Proposed Changes to Rule 1.01
Date: Tuesday, March 05, 2019 11:48:00 AM

***State Bar of Texas* External Message *** - Use Caution Before Responding or Opening Links/Attachments

Contact

First Name	Phillip
Last Name	Herr
Email	[redacted]
Member	Yes
Barcard	24038956

Feedback

Subject	Proposed Changes to Rule 1.01

Comments

Dear Sir or Madam, I disagree with this revision by the committee. The mandatory language of " (a)...shall provide competent representation to a client. and (b) A lawyer shall act with reasonable diligence and promptness in representing a client." This language would make it easier to sue lawyers for malpractice. The previous language has been used for probably 15 years. I do not see a reason to change it. This proposal would make it easier for the public to sue lawyers. By including this added "shall" language in the Texas Disciplinary Rules of Professional Conduct, it (i) makes it easier for the public to sue lawyers; and (ii) creates another standard of care for lawyers to follow by. Sincerely, Phillip M. Herr

From: [redacted]
To: cdrr
Subject: CDRR Comment: Comment on Propose amendment to Rule 1.01
Date: Thursday, March 07, 2019 3:15:36 PM

**** State Bar of Texas* External Message *** - Use Caution Before Responding or Opening Links/Attachments

Contact

First Name	Frederick
Last Name	Moss
Email	[redacted]
Member	Yes
Barcard	14583400

Feedback

Subject	Comment on Propose amendment to Rule 1.01

Comments

Now that the Tx Sup Ct has added technological competence to comment 8, I have no issues with the proposed rule amendment. It puts Texas in line with the Model Rules and most other states. With multi-jurisdictional practice common today, states should strive for uniformity. Also, it is good to move the definition of "competence" from the comment to the rule, as it is not in the "Terminology" section. However, I suggest that the final subsection's definition of "neglect" is confusing and self-contradictory. One cannot be both "inattentive" to (unaware of) a responsibility and consciously disregard it at the same time. The words "inattentiveness involving" should be deleted.

From: [redacted]
To: cdrr
Subject: CDRR Comment: Comments on changes to Rule 1.01 - Competent and Diligent Representation
Date: Friday, March 08, 2019 12:39:19 PM

**** State Bar of Texas* External Message *** - Use Caution Before Responding or Opening Links/Attachments

Contact

First Name	jerry
Last Name	suva
Email	[redacted]
Member	Yes
Barcard	24060690

Feedback

Subject	Comments on changes to Rule 1.01 - Competent and Diligent Representation

Comments

Hello, I reviewed the proposed additions to Rule 1.01. I find these to be largely redundant with previous section (b), which says that a lawyer will not neglect a legal matter or frequently fail to carry out completely the obligations owed. The only new aspect of the amendments appears to be a strict scrutiny as-applied to the diligence and promptness. It smells like a colorable ethics complaint could now be made by not returning an overlooked e-mail, or only after returning from spring break. Thank you, Jerry Suva

From: [redacted]
To: cdrr
Subject: CDRR Comment: proposed rule 1.01
Date: Monday, March 11, 2019 10:54:44 AM

**** State Bar of Texas* External Message *** - Use Caution Before Responding or Opening Links/Attachments

Contact

First Name	Mark
Last Name	White
Email	[redacted]
Member	Yes
Barcard	21317900

Feedback

Subject	proposed rule 1.01

Comments

I'm pretty concerned that section (a) of this new rule will be difficult to manage. The ability to file a grievance over lack of knowledge, skill, thoroughness and preparation could turn the grievance system into a malpractice forum. I'm wondering whether a comment has been drafted for this rule to give us further guidance. Could someone let me know please? mdw

From: [redacted]
To: cdrr
Subject: CDRR Comment: proposed changes to Rule 1.01
Date: Friday, March 15, 2019 12:45:57 PM

**** State Bar of Texas* External Message *** - Use Caution Before Responding or Opening Links/Attachments

Contact

First Name	Tom
Last Name	Gray
Email	[redacted]
Member	Yes
Barcard	08329400

Feedback

Subject	proposed changes to Rule 1.01

Comments

I am sure that you have considered that the uncertainties wrought by an unnecessary change can have unintended consequences. That is what I fear here. There are intense pressures being applied for lawyers to do more pro bono services, including providing limited scope representation. I fear that this change will have a chilling effect on lawyers efforts to expand the scope of their assistance. I also see where an attorney might elect to not take on matters where the level of representation is geared to what the client can afford. If I have to demonstrate that I have rendered the same level of "legal knowledge, skill, thoroughness and preparation" regardless of the level of payment, then I simply avoid representing anyone that cannot pay for full services. Moreover, I fail to see what the change adds to what is already required. How is (b) fundamentally different that what is now (b)(1) (which becomes (d)(1). It seems to simply restate it as a positive. Maybe it changes the burden of persuasion in a disciplinary action? And the new (b) seems to be inconsistent with the new (d)(2), previously (b)(2). The old provision allowed for some forgivable sins, but the new provision seems to impose absolute liability. Is that type of internal conflict within the code really helpful to the public or the profession? I am sure that if I was privy to all the committees discussion about the need for this modification I would understand it better but I am looking at it from trying to apply it without that insight and knowledge, as would any attorney in practice. In summary, I do not see the need for the change, I do not see what it is supposed to accomplish, and I fear that it will have the unintended consequence of driving attorneys away from preforming marginal or pro bono services. Respectfully, Tom Gray

From: [redacted]
To: cdrr
Subject: CDRR Comment: Proposed change to DR 1.01
Date: Monday, April 01, 2019 10:52:49 AM

**** State Bar of Texas* External Message *** - Use Caution Before Responding or Opening Links/Attachments

Contact

First Name	Robert
Last Name	Kisselburgh
Email	[redacted]
Member	Yes
Barcard	11538750

Feedback

Subject	Proposed change to DR 1.01

Comments

I believe the proposed changes are unnecessary. The current 1.01a and 1.01b cover competence in handling a matter and not neglecting a case. The proposed changes do nothing other than adding vagueness to attorneys practicing law. The legal practice is not a cookie-cutter operation where every case can be handled the same and if a lawyer is really neglecting a case and not pursuing it on his/her client's behalf, DR 1.01b addresses that issue.

From: [redacted]
To: cdrr
Subject: CDRR Comment: Rule 1.01
Date: Monday, April 01, 2019 11:03:25 AM

**** State Bar of Texas* External Message *** - Use Caution Before Responding or Opening Links/Attachments

Contact

First Name	James
Last Name	Nickell
Email	[redacted]
Member	Yes
Barcard	15012800

Feedback

Subject	Rule 1.01

Comments

The proposed changes do nothing other than establish a couple of subjective standards with which second guess an attorney's efforts on behalf of his/her client.

From: [redacted]
To: cdrr
Subject: CDRR Comment: Comments on 6.05 & 1.01
Date: Monday, April 01, 2019 11:16:03 AM

**** State Bar of Texas* External Message *** - Use Caution Before Responding or Opening Links/Attachments

Contact

First Name	Richard
Last Name	Stucky
Email	[redacted]
Member	Yes
Barcard	24041986

Feedback

Subject	Comments on 6.05 & 1.01

Comments

I think the change to 6.05 is overbroad. I understand the intent, but a conflict is a conflict. The way I read the proposed change is that it takes the client out of the conflict decision making, and lawyers are making the decision for them. Change to 1.01 - I believe the change is too vague and unnecessary. "competent" and acting with "reasonable diligence and promptness" is vague/overbroad and not defined.

From: [redacted]
To: cdrr
Subject: CDRR Comment: Proposed Rule 1.01
Date: Monday, April 01, 2019 1:19:47 PM

**** State Bar of Texas* External Message *** - Use Caution Before Responding or Opening Links/Attachments

Contact

First Name	Arnold
Last Name	Hayden
Email	[redacted]
Member	Yes
Barcard	24065390

Feedback

Subject	Proposed Rule 1.01

Comments

Changes to Rule 1.01 will wreck havoc on criminal defense attorneys, giving grounds for a grievance for every frivolous ineffectiveness of counsel claim faced, but without the protection of a harmless error rule. Rule 1.01(b) essentially moves the standard from "neglect" to "reasonable diligence" without defining the standard of reasonableness being used. Rule 1.01(a) gets rid of the intent element of Rule 1.01(c), creating a strict liability situation on what is required to be competent without taking into consideration circumstances which are not known or situations where your client is not being forthright. Any mistake or strategic decision will now be subject to a grievance, without any consideration as to whether the grieved behavior would have changed the outcome of the case. If this rule were to pass, the cost of indigent defense in the state of Texas will skyrocket.

From: [redacted]
To: cdrr
Subject: CDRR Comment: Proposed addition to Rule 1.01
Date: Tuesday, April 02, 2019 1:12:40 PM

**** State Bar of Texas* External Message *** - Use Caution Before Responding or Opening Links/Attachments

Contact

First Name	Dana
Last Name	Timaeus
Email	[redacted]
Member	Yes
Barcard	20039900

Feedback

Subject	Proposed addition to Rule 1.01

Comments

When I started practicing law, the wisdom of the profession required that lawyers know how to handle their clients' cases or associate additional or other counsel with requisite skill and knowledge or pledge to work and learn the law, facts and skills necessary to do the job acceptably. No lawyer passes the bar and has an immediate stock of adequate skill and knowledge. No lawyer gets a full explanation of a potential client's situation from the first conversation. Even if you add comments that soften the harshness of your proposed language, the plain language of the proposed rule will be used as a weapon against lawyers who lose contested matters and almost every contested matter has a high probability of producing a losing party. Please be careful, also, with any wording that discourages lawyers from taking on difficult, novel, and charity cases. It appears that you want to create an easier burden for clients that complain about the representation that they receive and an easier standard by which to prove misconduct. Your proposed language goes deeper and creates unnecessary risks for new lawyers and any lawyer who has to research the law applicable to the client's situation.

From: [redacted]
To: cdrr
Subject: CDRR Comment: Proposed Amendment to TDRPC 1.01
Date: Friday, April 05, 2019 5:39:14 PM

**** State Bar of Texas* External Message *** - Use Caution Before Responding or Opening Links/Attachments

Contact

First Name	Frederick
Last Name	Moss
Email	[redacted]
Member	Yes
Barcard	14583400

Feedback

Subject	Proposed Amendment to TDRPC 1.01

Comments

Adding ABA Rule 1.1 and 1.3 verbatim on top of current 1.01 language is harmless and puts our rule, arguably, in line with the ABA, which is good. However, the main objection from the opponents of change (i.e., most lawyers), will be "If it ain't broke, don't fix it" refrain. What is the need to fix current Rule 1.01?? The ABA language renders most of the current rule's language surplusage. The current language adds nothing. I would delete all of the language of the current rule, especially the "frequently fails" subsection which is a huge loophole for lawyers. But, perhaps keeping the current language will encourage voting for it at the referendum.

From: [redacted]
To: cdrr
Subject: CDRR Comment: Proposed Change to Rule 1.01 Competent and Diligent Representation
Date: Thursday, April 18, 2019 6:23:28 AM

**** State Bar of Texas* External Message *** - Use Caution Before Responding or Opening Links/Attachments

Contact

First Name	DEBRA
Last Name	EDMONDSON
Email	[redacted]
Member	Yes
Barcard	24045824

Feedback

Subject	Proposed Change to Rule 1.01 Competent and Diligent Representation

Comments

I am concerned about adding the phrase "A lawyer shall act with reasonable diligence and promptness. The phrase "and promptness" is vague but implies that "something better get done quickly." How quickly is left to the interpretation of the reader/examiner. While a lawyer should always act with diligence, every case is different. Promptness adds a new layer to the equation and one that is likely to cause real problems for the attorney. How prompt is prompt ? If I call the opposing counsel and they don't immediately call me back, am i obligated to call them every day until I get a response? What about the non-responsive client who suddenly gets you the information that you have been asking about for a month and now there are other deadlines looming that did not exist but that client (since he got you the information) now wants instant results? Diligence implies all the right things that a lawyer needs to do in representing his/her client and addressing their issues. Promptness is already implied in "diligence" and adding the phrase "with promptness" is unnecessary and sets up other potential issues that given the many variances in every situation, an attorney should not have to deal with.

From: [redacted]
To: cdrr
Subject: CDRR Comment: Changes to Disciplinary Rule 1.01
Date: Friday, April 26, 2019 11:06:48 AM

**** State Bar of Texas* External Message *** - Use Caution Before Responding or Opening Links/Attachments

Contact

First Name	Larry
Last Name	Gollaher
Email	[redacted]
Member	Yes
Barcard	08110000

Feedback

Subject	Changes to Disciplinary Rule 1.01

Comments

Please note me as being in favor of the proposed change.

From: [redacted]
To: cdrr
Subject: CDRR Comment: Opposition to the proposed changes to TDRPC 1.01
Date: Wednesday, May 1, 2019 11:35:59 PM

**** State Bar of Texas* External Message *** - Use Caution Before Responding or Opening Links/Attachments

Contact

First Name	Rich
Last Name	Robins
Email	[redacted]
Member	Yes
Barcard	00789589

Feedback

Subject	Opposition to the proposed changes to TDRPC 1.01

Comments

The proposed changes to TDRPC 1.01 (Competent & Diligent Representation) warrant our OPPOSITION. They are disconcertingly subject to interpretation in ways that would hinder the practice of law for bar members, and make it tougher for laypersons to find lawyers who would be willing to try to achieve such folks' worthwhile yet challenging goals. The risks for lawyers increasingly outweigh the reward if these rules are adopted. After all, the proposed rules changes are ALSO alarmingly empowering to anyone at the Texas Bar who either does not want to learn what the relevant legal nuances are in a particular area of the law before rushing to judgment, or who predatorily chooses to ignore such nuances out of a desire to pursue "intimidation lawsuits" against bar members who happen to be critics of the Bar's improprieties. Might you remember how former membership director (and Texas Supreme Court clerk) Kathy Holder embezzled over half a million dollars of our Bar dues for nearly a decade before someone finally turned her in? The Bar was not at all eager to let this be known during the recent Sunset Review process at the state legislature. Notice how its submitted documents to the Commission did not mention her embezzlement, etc.? The Texas Bar didn't even notify the membership of the Sunset Review Commission's public hearing before it actually happened, either. Such scandals are just the tip of the iceberg. Where does the Bar's annual $54 million dollar budget actually go? Don't ask or probe, unless you want some antagonistic former client to potentially become unduly empowered by the Bar later to use the ethics rules as a weapon against you (while the Bar clique delights in seeing you squirm and being distracted from further policing the Bar). The proposed rule changes to 1.01 empower malicious "disciplinarians" at the Bar to conveniently claim that the accused attorney member somehow didn't comply with whatever that disciplinary official claims is sufficiently competent & sufficiently diligent in the practice of law. These matters are for the courts' finders of fact to decide, so that perjury rules finally apply against the accusers along with anti-SLAPP / Texas Citizens Participations Act protections (that the Texas Bar seeks to evade, revealingly enough) against frivolous legal actions. The Texas Bar does not offer redress for members falsely accused or clumsily dealt with by corrupted bar officials seeking to make (highly lucrative) work for themselves and to silence critics of how the Texas Bar spends its lofty revenues. There are several reasons to distrust the Texas Bar due to its various conflicts of interest and lack of adequate checks & balances existing for the benefit of (compulsory) members. They are documented in part at http://www.TexasBarSunset.com . Why don't more of us raise such issues? Because we have let the Texas Bar become too powerful, making too many of us look like cowards. If we want self-rule instead of further bureaucratic self-enrichment at society's expense, we would do well to oppose the proposed rule changes to TDRPC 1.01 and let the courts decide based on malpractice, contract, fiduciary and deceptive trade practices act legal principles (etc.).

Committee on Disciplinary Rules and Referenda

Transcript of April 18, 2019, Public Hearing
Proposed Rule 1.01. Competent and Diligent Representation
Texas Disciplinary Rules of Professional Conduct

The following is a transcript of the public hearing on proposed Rule 1.01, Texas Disciplinary Rules of Professional Conduct, held by the Committee on Disciplinary Rules and Referenda (CDRR) on April 18, 2019, at the Texas Law Center. Video of the full CDRR meeting, including public hearings, is available at texasbar.com/cdrr.

Lewis Kinard:	01:16	Thanks for coming. Uh, we do have a hearing process so, uh, if you haven't signed up to speak, there are blue cards in the back, I would like you to do that and turn them into Brad over here. Brad Johnson, our staff counsel support. We put a three minute timer on you. If you get a yellow light that means you have about 60 seconds to wrap up. The Committee can- will um, if we need to maybe keep you there a little longer asking questions for clarification, so, um, you are not automatically off the hook at three minutes.
Lewis Kinard:	01:48	Uh, today the first public hearing is on proposed Rule 1.01, competent diligent representation. It was published in the, uh, Texas Register and Bar Journal. And, uh, has anyone signed up for that topic?
Brad Johnson:	02:07	I don't believe that anyone has, um, Madeleine, were you planning to speak on 6.05, or on what?
Madeleine Connor:	02:13	I've never ... On the ... On the conflicts. The six-
Lewis Kinard:	02:16	[crosstalk 00:02:16] Yeah, 6.05.
Brad Johnson:	02:17	Then unless anyone here plans to sign up for 1.01, we haven't, we don't have any blue cards yet, so is there anyone that does want to speak on that?
Lewis Kinard:	02:29	Alright, public comments are still open for a while. I don't remember the cut off on that one.
Brad Johnson:	02:33	Uh, May 1st, would be-
Lewis Kinard:	02:34	May 1st. So online, um, options at, uh, texasbar.com/cdrr you can find the opportunity t- to participate, uh, link there. Uh, and so we will move into the, the other, uh, open public hearing on

proposed Rule 6.05 conflict of interest exceptions for non-profit and limited pro bono legal services.

Lewis Kinard: 02:59 Uh, and just really quickly before, uh, we call our first speaker on that, I definitely want to thank everybody who has been helpful in, uh, encouraging public participation, from from the Bar and the public. This is something that is important. The Committee considers all of the comments. Uh, the staff keeps us pretty well papered with them, so we, we get to read through them all, uh, and they do matter. Uh, we'll will talk a little bit more later on, on a specific example on how the comments have mattered a lot, so um, please keep encouraging your friends and family and neighbors, and all the other people who follow the Bar activities very closely, uh, to participate and weigh in, uh, and comment so that we understand kind of where the sentiments are and concerns, and making sure we haven't missed something.

American Bar Association
Model Rules of Professional Conduct (2019)

Rule 1.1: Competence

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

(Comment omitted)

Rule 1.3: Diligence

A lawyer shall act with reasonable diligence and promptness in representing a client.

(Comment omitted)

LEWIS KINARD, CHAIR
TIMOTHY D. BELTON
AMY BRESNEN
CLAUDE DUCLOUX
HON. DENNISE GARCIA

RICK HAGEN
DEAN VINCENT JOHNSON
CARL JORDAN
KAREN NICHOLSON

October 16, 2019

Mr. Jerry C. Alexander, Chair
State Bar of Texas Board of Directors
Passman & Jones
[redacted]

RE: Submission of Proposed Rule Recommendation – Rule 6.05, Texas Disciplinary Rules of Professional Conduct

Dear Mr. Alexander:

Pursuant to section 81.0875 of the Texas Government Code, the Committee on Disciplinary Rules and Referenda initiated the rule proposal process for proposed Rule 6.05 (Conflict of Interest Exceptions for Nonprofit and Limited Pro Bono Legal Services) of the Texas Disciplinary Rules of Professional Conduct. The Committee published the proposed rule in the *Texas Bar Journal* and the *Texas Register*. The Committee solicited and considered public comments and held two public hearings on the proposed rule. At its July 2019 meeting, the Committee voted to recommend the proposed rule to the Board of Directors.

Included in this submission packet, you will find the proposed rule, proposed comments to the proposed rule, and other supporting materials. Section 81.0877 of the Government Code provides that the Board of Directors is to vote on each proposed disciplinary rule recommended by the Committee not later than the 120th day after the date the rule is received from the Committee. The Board can vote for or against a proposed rule or return a proposed rule to the Committee for additional consideration.

As a reminder, if a majority of the Board of Directors approves a proposed rule, the Board shall petition the Supreme Court of Texas to order a referendum on the proposed rule as provided by section 81.0878 of the Government Code.

As you know, the Board voted at its April 2019 meeting to approve rule change proposals recommended by the Committee pertaining to confidentiality of information and clients with diminished capacity, and to hold the proposals for submission to the Supreme Court at a later date with other rule proposals as deemed appropriate by the Board.

Committee on Disciplinary Rules and Referenda
P.O. Box 12487, Austin, TX 78711
cdrr@texasbar.com www.texasbar.com/cdrr

Thank you for your attention to this matter. Should the Board require any other information, please do not hesitate to contact me. Please confirm receipt of this report at your earliest convenience.

Sincerely,

Lewis Kinard
Chair, Committee on Disciplinary Rules and Referenda

cc: Randall O. Sorrels
Trey Apffel
Larry P. McDougal
Joe K. Longley
Ross Fischer
John Sirman
Seana Willing

Committee on Disciplinary Rules and Referenda
Overview of Proposed Rule

Texas Disciplinary Rules of Professional Conduct

Rule 6.05. Conflict of Interest Exceptions for Nonprofit And Limited Pro Bono Legal Services

Provided here is a summary of the actions and rationale of the Committee on Disciplinary Rules and Referenda (Committee) related to proposed Rule 6.05, Texas Disciplinary Rules of Professional Conduct (TDRPC).

Previous Actions by the Committee

- **Initiation** – The Committee voted to initiate the rule proposal process at its February 6, 2019, meeting.
- **Publication** – The proposed rule was published in the April 2019 issue of the *Texas Bar Journal* and the March 29, 2019, issue of the *Texas Register*. The proposed rule was concurrently posted on the Committee's website.
- **Additional Outreach** – On April 1, 2019, an email notification regarding the proposed rule was sent to all Texas lawyers (other than those who have voluntarily opted out of receiving email notices), Committee email subscribers, and other potentially interested parties. On May 24, 2019, an additional email concerning the proposed rule was sent to all Texas lawyers (other than those who have voluntarily opted out of receiving email notices) and Committee email subscribers. Additional notifications regarding the proposed rule were emailed to Committee subscribers on March 21, April 15, April 26, June 4, and June 25, 2019.
- **Public Comments** – The Committee extended the public comment period to three months (through July 1, 2019). The Committee received 11 written public comments and two individuals provided comments at a public hearing. Additionally, the Executive Director of the Texas Access to Justice Commission spoke in support of the proposed rule at the Committee's January 9, 2019, meeting.
- **Public Hearing** – The Committee held public hearings on the proposed rule on April 18, 2019, and June 6, 2019, at the Texas Law Center.
- **Recommendation** – The Committee voted at its July 23, 2019, meeting to recommend the proposed rule to the Board of Directors.

Overview and Rationale

In December 2014, the State Bar of Texas Disciplinary Rules of Professional Conduct Committee (DRPCC), a predecessor to this Committee, recommended adoption of proposed Rule 6.05, TDRPC, which is intended to facilitate the provision of limited pro bono legal services by providing narrow exceptions to certain conflict of interest rules. The 2014 recommendation replaced a similar recommendation in 2010 by DRPCC. Subsequently, in response to concerns

expressed by members of the State Bar Board of Directors Discipline and Client Attorney Assistance Committee (DCAAP) at the time, DRPCC amended its then-proposed comments to the proposed rule. In May 2016, DRPCC issued a supplemental report[1] recommending adoption of the rule.

Carrying forward DRPCC's objective of improving the Disciplinary Rules to better facilitate the provision of limited pro bono legal services to those in need, this Committee recommends adoption of proposed Rule 6.05. While the proposed rule is the same as that recommended by DRPCC in 2014 and 2016, the Committee has made additional changes to the proposed comments in an attempt to more fully explain the purpose and limitations of the proposed rule.

Proposed Rule 6.05 is generally based on Rule 6.5 of the American Bar Association (ABA) Model Rules of Professional Conduct, which was adopted in 2002 in response to concerns that application of conflict of interest rules may deter lawyers from providing pro bono legal services.[2] With the exception of Texas and Kansas, every other state, as well as the District of Columbia, has either adopted Model Rule 6.5 or a variation of Model Rule 6.5.

As noted in Comment 1 to Model Rule 6.5, short-term limited legal service programs are "normally operated under circumstances in which it is not feasible for a lawyer to systematically screen for conflicts of interest as is generally required before undertaking a representation."

To facilitate the provision of free legal services to the public, proposed Rule 6.05 would create narrow exceptions to certain conflict of interest rules for limited pro bono legal services. These exceptions are justified because the limited and short-term nature of the legal services rendered in such programs reduces the risk that conflicts of interest will arise between clients represented through the program and other clients of the lawyer or the lawyer's firm. Other than the limited exceptions set forth in the proposed rule, a lawyer would remain subject to all applicable conflict of interest rules.

Paragraph (a)

The conflict of interest provisions of Rules 1.06, 1.07, and 1.09, TDRPC, are broad and are generally imputed to all other lawyers in a firm. Therefore, a lawyer is effectively required to perform a thorough conflict screening before engaging in a lawyer-client relationship. Because the type of limited pro bono legal services addressed by the proposed rule are often performed in the field (such as at natural disaster sites or weekend legal clinics), a lawyer participating in such a program may often be unable to perform a proper conflict check. Under paragraph (a) of proposed

---

[1] The May 25, 2016, DRPCC Supplemental Report is attached under the tab "Prior Committee Reports." That report includes DRPCC's December 12, 2014, report recommending adoption of the rule, as well as a 2010 report by DRPCC regarding a prior variation of the proposal. Neither proposal was included as part of the 2011 referendum on proposed amendments to the TDRPC.

[2] *See* Rachel Brill & Rochelle Sparko, *Limited Legal Services and Conflicts of Interest: Unbundling in the Public Interest*, 16 Geo. J. Legal Ethics 553 (2003).

Rule 6.05, a lawyer would only be prohibited by Rules 1.06, 1.07, and 1.09 from providing limited pro bono legal services if the lawyer actually knows of a prohibitive conflict at the time of the representation. If a lawyer is aware of such a conflict, the lawyer would remain prohibited from such representation.

Paragraph (b)

Paragraph (b) of proposed Rule 6.05 addresses the imputation of conflicts through a lawyer providing limited pro bono legal services. It provides that certain conflicts will not be imputed to other lawyers in a firm with the volunteer lawyer so long as the volunteer lawyer takes proper steps to protect the confidential information from access by the other lawyers in the firm. The volunteer lawyer, however, would remain subject to those conflict rules as to the representation of other clients. Paragraph (b) is designed to be stricter than Model Rule 6.5, which by contrast does not impose such safeguarding requirements in order to avoid the imputation of conflicts.

Paragraph (c)

Paragraph (c) of proposed Rule 6.05 goes beyond the scope of Model Rule 6.5 and addresses the possession of applicant eligibility information by limited pro bono legal service programs. The provision provides a limited exception to conflict provisions contained in Rules 1.06, 1.07, and 1.09 that apply when an applicant provides such information but no legal services are provided. The exception is designed to avoid the mere possession of eligibility information by the legal services organization from being used to disqualify legal services staff and pro bono lawyers from representing other clients. As described in the 2014 DRPCC Report, "disingenuous parties too often apply for legal aid knowing they are ineligible solely to prevent their adversaries from accessing free legal services from the organization."[3]

The exception in paragraph (c) would only be available in two situations. The first is where none of the eligibility information is material to an issue in the legal matter. The second is where the applicant's provision of eligibility information was conditioned on the applicant's informed consent that providing this information would not by itself prohibit a representation of another client adverse to the applicant.

Paragraph (d)

Paragraph (d) of proposed Rule 6.05 carefully defines "limited pro bono legal services" so as to appropriately limit the volunteer services that qualify for the narrow conflict exceptions contained in the proposed rule. To qualify, the legal services must be provided through a pro bono or assisted pro se program sponsored by a court, bar association, accredited law school, or nonprofit legal services program. The services must also be short-term and provided without any expectation of extended representation or of receiving legal fees. The strict definition is designed to ensure that the pro bono services offered are so limited in time and scope that there is little risk that conflicts will arise between clients represented through the program and other clients of the lawyer or the lawyer's firm.

[3] December 12, 2014, DRPCC Report, Page 4 (attached under the tab "Prior Committee Reports").

Paragraph (e)

Paragraph (e) of proposed Rule 6.05 is intended to clarify that lawyers are not deemed to be part of the same firm simply because they volunteer through the same pro bono program.

Public Comments

The Committee received a variety of comments related to the proposed rule. Several comments expressed clear support for the proposed rule, while others opposed its adoption.

Of the comments supporting the proposed rule, some discussed the significant need for pro bono legal services for underserved communities and those who cannot afford to pay for legal services. While supporting the proposed rule, one comment suggested expanding the proposal to specifically address pro bono legal services to indigent persons involved in international proceedings. Another comment supporting the proposal expressed concerns that paragraph (c) of the proposed rule could lead to confusion since it is not part of the corresponding ABA Model Rule. While still favoring adoption of the proposal, the author of that comment also discussed the possibility that the proposed law firm of the pro bono lawyer could represent a client against the pro bono client; however, the author noted the chances this could happen are *de minimis* and the ABA and other states with similar rules did not consider this a serious risk. Further, as previously discussed, proposed paragraph (b) provides that a conflict would continue to be imputed to other lawyers in the pro bono lawyer's firm if the pro bono lawyer either (1) discloses confidential information of the pro bono client to lawyers in the firm, or (2) maintains such information in a manner that would render it accessible to lawyers in the firm.

Of the comments opposing the proposal, some described the proposed rule as overbroad or expressed concerns about the protection of confidential information. Two comments expressed concerns that it would be very difficult for a person to either prove or disprove an alleged violation under the proposed rule. One of those comments also discussed concerns about possible exploitation of the proposed rule by lawyers employed by nonprofit entities. Some comments generally expressed the idea that pro bono representations should remain subject to all applicable conflict rules.

One comment suggested expanding the definition of "limited pro bono legal services" in proposed paragraph (d) to extend to community service programs.

The Committee carefully considered all of the public comments. While recognizing the concerns expressed in some of the comments, the Committee believes the proposed rule takes appropriate steps to limit the possibility that a conflict will arise through a pro bono representation and to ensure that confidential information is not impermissibly disclosed or utilized. The Committee believes the narrow exceptions contained in the proposed rule are justified given the short-term and limited nature of the pro bono services described by the proposal. The Committee also believes the proposed rule appropriately defines the type of limited pro bono legal services covered.

Additional Documents

Included on the pages that follow are the proposed rule, proposed comments to the proposed rule, public comments received, the corresponding ABA Model Rule, and previous reports from DRPCC recommending the proposed rule.

Committee on Disciplinary Rules and Referenda Proposed Rule Changes

Texas Disciplinary Rules of Professional Conduct

Rule 6.05. Conflict of Interest Exceptions for Nonprofit and Limited Pro Bono Legal Services

Proposed Rule (Redline Version)

Rule 6.05. Conflict of Interest Exceptions for Nonprofit and Limited Pro Bono Legal Services

(a) The conflicts of interest limitations on representation in Rules 1.06, 1.07, and 1.09 do not prohibit a lawyer from providing, or offering to provide, limited pro bono legal services unless the lawyer knows, at the time the services are provided, that the lawyer would be prohibited by those limitations from providing the services.

(b) Lawyers in a firm with a lawyer providing, or offering to provide, limited pro bono legal services shall not be prohibited by the imputation provisions of Rules 1.06, 1.07, and 1.09 from representing a client if that lawyer does not:

> (1) disclose confidential information of the pro bono client to the lawyers in the firm; or
>
> (2) maintain such information in a manner that would render it accessible to the lawyers in the firm.

(c) The eligibility information that an applicant is required to provide when applying for free legal services or limited pro bono legal services from a program described in subparagraph (d)(1) by itself will not create a conflict of interest if:

> (1) the eligibility information is not material to the legal matter; or
>
> (2) the applicant's provision of the eligibility information was conditioned on the applicant's informed consent that providing this information would not by itself prohibit a representation of another client adverse to the applicant.

(d) As used in this Rule, "limited pro bono legal services" means legal services that are:

> (1) provided through a pro bono or assisted pro se program sponsored by a court, bar association, accredited law school, or nonprofit legal services program;

(2) short-term services such as legal advice or other brief assistance with pro se documents or transactions, provided either in person or by phone, hotline, internet, or video conferencing; and

(3) provided without any expectation of extended representation of the limited assistance client or of receiving any legal fees in that matter.

(e) As used in this Rule, a lawyer is not "in a firm" with other lawyers solely because the lawyer provides limited pro bono legal services with the other lawyers.

Proposed Rule (Clean Version)

Rule 6.05. Conflict of Interest Exceptions for Nonprofit and Limited Pro Bono Legal Services

(a) The conflicts of interest limitations on representation in Rules 1.06, 1.07, and 1.09 do not prohibit a lawyer from providing, or offering to provide, limited pro bono legal services unless the lawyer knows, at the time the services are provided, that the lawyer would be prohibited by those limitations from providing the services.

(b) Lawyers in a firm with a lawyer providing, or offering to provide, limited pro bono legal services shall not be prohibited by the imputation provisions of Rules 1.06, 1.07, and 1.09 from representing a client if that lawyer does not:

(1) disclose confidential information of the pro bono client to the lawyers in the firm; or

(2) maintain such information in a manner that would render it accessible to the lawyers in the firm.

(c) The eligibility information that an applicant is required to provide when applying for free legal services or limited pro bono legal services from a program described in subparagraph (d)(1) by itself will not create a conflict of interest if:

(1) the eligibility information is not material to the legal matter; or

(2) the applicant's provision of the eligibility information was conditioned on the applicant's informed consent that providing this information would not by itself prohibit a representation of another client adverse to the applicant.

(d) As used in this Rule, "limited pro bono legal services" means legal services that are:

(1) provided through a pro bono or assisted pro se program sponsored by a court, bar association, accredited law school, or nonprofit legal services program;

(2) short-term services such as legal advice or other brief assistance with pro se documents or transactions, provided either in person or by phone, hotline, internet, or video conferencing; and

(3) provided without any expectation of extended representation of the limited assistance client or of receiving any legal fees in that matter.

(e) As used in this Rule, a lawyer is not “in a firm” with other lawyers solely because the lawyer provides limited pro bono legal services with the other lawyers.

Proposed Comments to Proposed Rule 6.05
Conflict of Interest Exceptions for Nonprofit and Limited Pro Bono Legal Services
Texas Disciplinary Rules of Professional Conduct

1. Nonprofit legal services organizations, courts, law schools, and bar associations have programs through which lawyers provide short-term limited legal services typically to help low-income persons address their legal problems without further representation by the lawyers. In these programs, such as legal-advice hotlines, advice-only clinics, disaster legal services, or programs providing guidance to self-represented litigants, a client-lawyer relationship is established, but there is no expectation that the relationship will continue beyond the limited consultation and there is no expectation that the lawyer will receive any compensation from the client for the services. These programs are normally operated under circumstances in which it is not feasible for a lawyer to check for conflicts of interest as is normally required before undertaking a representation.

2. Application of the conflict of interest rules has deterred lawyers from participating in these programs, preventing persons of limited means from obtaining much needed legal services. To facilitate the provision of free legal services to the public, this Rule creates narrow exceptions to the conflict of interest rules for limited pro bono legal services. These exceptions are justified because the limited and short-term nature of the legal services rendered in such programs reduces the risk that conflicts of interest will arise between clients represented through the program and other clients of the lawyer or the lawyer's firm. Other than the limited exceptions set forth in this Rule, a lawyer remains subject to all applicable conflict of interest rules.

Scope of Representation

3. A lawyer who provides services pursuant to this Rule should secure the client's consent to the limited scope of the representation after explaining to the client what that means in the particular circumstance. See Rule 1.02(b). If a short-term limited representation would not be fully sufficient under the circumstances, the lawyer may offer advice to the client but should also advise the client of the need for further assistance of counsel. See Rule 1.03(b).

Conflicts and the Lawyer Providing Limited Pro Bono Legal Services

4. Paragraph (a) exempts compliance with Rules 1.06, 1.07, and 1.09 for a lawyer providing limited pro bono legal services unless the lawyer actually knows that the representation presents a conflict of interest for the lawyer or for another lawyer in the lawyer's firm. A lawyer providing limited pro bono legal services is not obligated to perform a conflicts check before undertaking the limited representation. If, after commencing a representation in accordance with this Rule, a lawyer undertakes to represent the client in the matter on an ongoing basis or the lawyer charges a fee for the legal assistance, the exceptions provided by this Rule no longer apply.

Imputation of Conflicts

5. Paragraph (b) provides that a conflict of interest arising from a lawyer's representation covered by this Rule will not be imputed to the lawyers in the pro bono lawyer's firm if the pro bono lawyer complies with subparagraphs (b)(1) and (2).

6. To prevent a conflict of interest arising from limited pro bono legal services from being imputed to the other lawyers in the firm, subparagraph (b)(1) requires that the pro bono lawyer not disclose to any lawyer in the firm any confidential information related to the pro bono representation.

7. Subparagraph (b)(2) covers the retention of documents or other memorialization of confidential information, such as the pro bono lawyer's notes, whether in paper or electronic form. To prevent imputation, a pro bono lawyer who retains confidential information is required by subparagraph (b)(2) to segregate and store it in such a way that no other lawyer in the pro bono lawyer's firm can access it, either physically or electronically.

Eligibility Information

8. Paragraph (c) recognizes the unusual and uniquely sensitive personal information that applicants for free legal assistance may be required to provide. Organizations that receive funding to provide free legal assistance to low-income clients are generally required, as a condition of their funding, to screen the applicants for eligibility and to document eligibility for services paid for by those funding sources. Unlike other lawyers, law firms, and legal departments, these organizations ask for confidential information to determine an applicant's eligibility for free legal assistance and are required to maintain records of such eligibility determinations for potential audit by their funding sources. Required eligibility information typically includes income, asset values, marital status, citizenship or immigration status, and other facts the applicant may consider sensitive. Paragraph (c) provides a limited exception to the conflict of interest provisions contained in Rules 1.06, 1.07, and 1.09 that apply when an applicant provides such information but no legal services are provided. This exception is available only in the two situations described in subparagraphs (c)(1) and (c)(2).

9. The first situation where the paragraph (c) exception is available is where none of the eligibility information is material to an issue in the legal matter. Alternatively, under subparagraph (c)(2), if the applicant provided confidential information after giving informed consent that the eligibility information would not prohibit the persons or entities identified in the consent from representing any other present or future client, then the eligibility information alone will not prohibit the representation. The lawyer should document the receipt of such informed consent, though a formal writing is not required. What constitutes informed consent is discussed in the comments to Rule 1.06.

10. Rule 1.05 continues to apply to the use or disclosure of all confidential information provided during an intake interview. Similarly, Rule 1.09 continues to apply to the representation of a person in a matter adverse to the applicant. Notably, Rule 1.05(c)(2) permits a lawyer to use or disclose information provided during an intake interview if the applicant consents after

consultation to such use or disclosure, and Rule 1.09(a) excludes from its restrictions the representation of a person adverse to the applicant in the same or a substantially related matter if the applicant consents to such a representation.

Limited Pro Bono Legal Service Programs

11. This Rule applies only to services offered through a program that meets one of the descriptions in subparagraph (d)(1), regardless of the nature and amount of support provided. Some programs may be jointly sponsored by more than one of the listed sponsor types.

12. The second element of "limited pro bono legal services," set forth in subparagraph (d)(2), is designed to ensure that the services offered are so limited in time and scope that there is little risk that conflicts will arise between clients represented through the program and other clients of the lawyer or the lawyer's firm.

13. The third element of the definition, set forth in subparagraph (d)(3), is that the services are offered and provided without any expectation of either extended representation or the collection of legal fees in the matter. Before agreeing to proceed in the representation beyond "limited pro bono legal services," the lawyer should evaluate the potential conflicts of interest that may arise from the representation as with any other representation. Likewise, the exceptions in paragraphs (a) and (b) do not apply if the lawyer expects to collect any legal fees in the limited assistance matter.

Firm

14. Lawyers are not deemed to be part of the same firm simply because they volunteer through the same pro bono program. Nor will the personal prohibition of a lawyer participating in a pro bono program be imputed to other lawyers participating in the program solely by reason of that volunteer connection.

Committee on Disciplinary Rules and Referenda
Proposed Rule Changes

Texas Disciplinary Rules of Professional Conduct
Rule 6.05. Conflict of Interest Exceptions for Nonprofit and Limited Pro Bono Legal Services

Public Comments Received

Through July 1, 2019

From: [redacted]
To: cdrr
Subject: CDRR Comment: Comments on Rule 6.05
Date: Monday, April 01, 2019 11:01:23 AM

***State Bar of Texas* External Message *** - Use Caution Before Responding or Opening Links/Attachments

Contact

First Name	Curtis
Last Name	Doebbler
Email	[redacted]
Member	Yes
Barcard	24105187

Feedback

Subject	Comments on Rule 6.05

Comments

There is a significant need for legal services to be provided to those who cannot afford to pay for legal services. Moreover, it is the duty of every lawyer, if they are able, to contribute to the representation of individuals who cannot afford to pay for legal services. In this regard, any effort that is made to facilitate the rendering of legal services pro bono publica must be welcomed. The proposed Rule 6.05 of the Texas Disciplinary Rules of Professional Conduct on “Conflict of Interest Exceptions for Nonprofit and Limited Pro Bono Legal Services” eases the conflicts restrictions placed on lawyers acting pro bono publica. The rule should therefore be welcomed. While still requiring respect for the confidentiality of client information, proposed Rule 6.05 makes it less burdensome for lawyers to become involved in pro bono legal services. It is hoped that Rule 6.05 might also add a paragraph on the pro bono legal services to indigent persons involved in international litigation who have been injured by actions that constitute, or, are alleged to constitute, violations of international law, especially international human rights law. A proposed addition to the Proposed Rule 6.05 might read in a new paragraph (b)(3) as follows (repeating paragraphs 1 and 2 and adding a new paragraph 3): (1) disclose confidential information of the pro bono client to the lawyers in the firm; or (2) maintain such information in a manner that would render it accessible to the lawyers in the firm; and, (3) when a lawyer abides by paragraphs (1) and (2) and is rendering services before an international court, tribunal, commission, committee, or any other entity with the authority to decide matters relating to an individual’s or group of individuals’ rights under international law this Rule shall also be applicable. Such an addition would clarify that pro bono services may be rendered in cases involving individuals or groups in international proceedings. It would also clarify that in such cases the same more relaxed rules of conflicts apply to the provision of legal services in international forums.

From: [redacted]
To: cdrr
Subject: CDRR Comment: Comments on 6.05 & 1.01
Date: Monday, April 01, 2019 11:16:03 AM

**** State Bar of Texas* External Message *** - Use Caution Before Responding or Opening Links/Attachments

Contact

First Name	Richard
Last Name	Stucky
Email	[redacted]
Member	Yes
Barcard	24041986

Feedback

Subject	Comments on 6.05 & 1.01

Comments

I think the change to 6.05 is overbroad. I understand the intent, but a conflict is a conflict. The way I read the proposed change is that it takes the client out of the conflict decision making, and lawyers are making the decision for them. Change to 1.01 - I believe the change is too vague and unnecessary. "competent" and acting with "reasonable diligence and promptness" is vague/overbroad and not defined.

From: [redacted]
To: cdrr
Subject: CDRR Comment: New Disciplinary Rules
Date: Monday, April 01, 2019 1:28:33 PM

**** State Bar of Texas* External Message *** - Use Caution Before Responding or Opening Links/Attachments

Contact

First Name	Gary
Last Name	Warren
Email	[redacted]
Member	Yes
Barcard	00785181

Feedback

Subject	New Disciplinary Rules

Comments

The rule sucks, the State Bar sucks even more.

From: [redacted]
To: cdrr
Subject: CDRR Comment: Proposed Rule 6.05
Date: Monday, April 01, 2019 1:54:54 PM

**** State Bar of Texas* External Message *** - Use Caution Before Responding or Opening Links/Attachments

Contact

First Name	James
Last Name	Tirey
Email	[redacted]
Member	Yes
Barcard	24000501

Feedback

Subject	Proposed Rule 6.05

Comments

Although the idea in expanding an attorney's ability to do pro bono work and provide "limited legal services" without the specter of creating a conflict that would prevent future paid work by the attorney is admirable, this proposed rule is misguided. It is highly possible that, in order to competently provide "limited legal services," the attorney is going to come into the possession of sensitive, confidential information that could work to the client's prejudice in the event that the attorney ends up employed adversely to the client's interest. It also encourages sloppy compliance with the disciplinary rules regarding conflicts. Please do not enact this Rule.

From: [redacted]
To: cdrr
Subject: CDRR Comment: Proposed 6.05 (Conflict of Interest, etc.)
Date: Monday, April 01, 2019 3:28:22 PM

**** State Bar of Texas* External Message *** - Use Caution Before Responding or Opening Links/Attachments

Contact

First Name	Lisa
Last Name	Palmer
Email	[redacted]
Member	Yes
Barcard	15432350

Feedback

Subject	Proposed 6.05 (Conflict of Interest, etc.)

Comments

The proposed rule says (d) As used in this Rule, “limited pro bono legal services” means legal services that are: (1) provided through a pro bono or assisted pro se program sponsored by a court, bar association, accredited law school, or nonprofit legal services program; I suggest that another exception should be made for community service projects/programs. Some attorneys provide assistance (for instance to the elderly, veterans, etc.) through organizations that are not connected to any of the types of organizations mentioned in the proposed rule. Thanks, Lisa McNair Palmer

From: [redacted]
To: cdrr
Subject: CDRR Comment: Comments on Proposed Disciplinary Rule 6.05
Date: Monday, April 01, 2019 3:35:09 PM

**** State Bar of Texas* External Message *** - Use Caution Before Responding or Opening Links/Attachments

Contact

First Name	Don
Last Name	Morehart
Email	[redacted]
Member	Yes
Barcard	14423700

Feedback

Subject	Comments on Proposed Disciplinary Rule 6.05

Comments

Even clients receiving pro bono services are entitled to conflict-free representation. the indigent client should not have to deal with a lawyer from their present or "former" lawyer's firm at some future time in an adverse environment just because the indigent person couldn't pay for the pro bono services provided. There is no way that the pro bono lawyer could ever establish by credible evidence that the "lawyer [did] not: (1) disclose confidential information of the pro bono client to the lawyers in the firm," and the client / former client will never believe that the Chinese Fire Wall was truly reliable. This is a stupid rule which will lead to an excuse for unethical conduct and to clients (former clients) getting abused without recourse.

From: [redacted]
To: cdrr
Subject: CDRR Comment: Comment for Proposed Rule 6.05.
Date: Tuesday, April 02, 2019 12:40:15 AM

**** State Bar of Texas* External Message *** - Use Caution Before Responding or Opening Links/Attachments

Contact

First Name	David
Last Name	Coker
Email	[redacted]
Member	Yes
Barcard	24045080

Feedback

Subject	Comment for Proposed Rule 6.05.

Comments

Re: Proposed Rule 6.05 (Conflict of Interest Exceptions for Nonprofit and Limited Pro Bono Legal Services). I believe that special attention should be given to possible exploitation of the "pro bono" exemption being proposed by attorneys working under the "umbrella" of a not-for-profit entity. I am primarily concerned by this rule potentially being exploited by attorneys employed by "not for profit" legal organizations. While the organization itself may be not for profit, this does not prevent the organization from compensating staff attorneys, as well as providing valuable public relations exposure from pro bono representation that may result in windfall judgments. Case in point: Certain "not-for-profit" legal organizations actively seek windfall judgments/settlements, oftentimes by bringing suits against employers on behalf of employees under the FLSA, with the proceeds being directed towards special interests, special interest groups, political partisanship, and across the board increases in staff salaries, end-of-year bonuses, or future job opportunities. So "technically" an attorney could be found to be in compliance with the Rule because his or her firm is a not-for-profit, but the attorney knows that any large judgments will be reflected in year end bonuses and potential salary increases, thus the attorney achieves personal financial gain in the form of salary increase or EoY bonus payout, while the not-for-profit shows no financial gain on the not-for-profit organization's balance sheet. In short: Allowing for the exemption to apply to any attorney working under a perceived "umbrella" of a not-for-profit entity, simply presents too much opportunity for exploitation. This exploitation is made all the worse given the difficulty in proving a violation, and the nigh impossible computation of damages that may result from a violation. I apologize in advance for any grammatical errors or poor verbiage. Thank you for your time and consideration. Dave Coker [redacted]

From: M.J. "Jack" Borchers
To: cdrr
Subject: RE: Seeking Comments on Proposed Disciplinary Rule 6.05
Date: Tuesday, April 02, 2019 10:12:18 AM

**** State Bar of Texas* External Message *** - Use Caution Before Responding or Opening Links/Attachments

Disagree. No comment necessary.

From: State Bar of Texas - CDRR [mailto:cdrr@texasbar.com]
Sent: Monday, April 01, 2019 10:26 AM
To: [redacted]
Subject: Seeking Comments on Proposed Disciplinary Rule 6.05

Proposed Disciplinary Rule 6.05

Public Comments Sought

Conflict of Interest Exceptions for Nonprofit and Limited Pro Bono Legal Services

The Committee on Disciplinary Rules and Referenda (CDRR) has published proposed Rule 6.05 (Conflict of Interest Exceptions for Nonprofit and Limited Pro Bono Legal Services) in the (April) Texas Bar Journal and the (March 29) Texas Register. A public hearing on the proposed rule will be held at 10:30 a.m. on April 18, 2019, at the Texas Law Center in Austin.

The Committee will accept comments concerning proposed Rule 6.05 through July 1, 2019.

The Committee also published proposed changes to Rule 1.01 (Competent and Diligent Representation) in the (March) Texas Bar Journal and the (March 1) Texas Register. A public hearing on the proposed rule will be held at 10:30 a.m. on April 18, 2019, at the Texas Law Center in Austin.

The Committee will accept comments concerning the proposed changes to Rule 1.01 through May 1, 2019.

Comments on each proposed rule can be submitted here.

The CDRR is responsible for overseeing the initial process for proposing a change or addition to the disciplinary rules (Gov't Code § 81.0873). For more information, go to texasbar.com/CDRR.

To subscribe to email updates, including notices of public hearings and published rules for comment, click here.

Sincerely,
Committee on Disciplinary Rules and Referenda

Committee on Disciplinary Rules and Referenda

State Bar of Texas | 1414 Colorado | Austin, Texas 78701 | 800.204.2222
Unsubscribe

April 4, 2019

Proposed Rule (Clean Version)

with suggested edits by Harry Tindall

Rule 6.05. Conflict of Interest Exception for Nonprofit and Limited Pro Bono Legal Service

(a) In this Rule, a lawyer is not in a firm with another lawyer solely because the lawyer provides limited pro bono legal services with another lawyer.

(b) In this Rule, "limited pro bono legal service" means legal service that is:

(1) provided through a pro bono or assisted pro se program sponsored by:

(i) an accredited law school;

(ii) a bar association;

(iii) a court; or

(iv) nonprofit legal service program;

(2) short-term service such as legal advice or other brief assistance with pro se documents or transactions, provided either in person or by telephone, hotline, internet, or video conferencing; and

(3) provided without any expectation of extended representation of the limited assistance client or of receiving any legal fees in that matter.

(c) The conflict of interest limitation on representation in Rules 1.06, 1.07, and 1.09 do not apply to a lawyer providing, or offering to provide, limited pro bono legal service unless the lawyer knows, at the

time the service is provided, that the lawyer would be prohibited by the conflict of interest limitation.

(d) A lawyer in a firm with another lawyer providing, or offering to provide, limited pro bono legal service is not prohibited by the imputation provision of Rules 1.06, 1.07, or 1.09 from representing a client if that lawyer does not:

(1) disclose confidential information of the pro bono client to another lawyer in the firm; or

(2) maintain such information in a manner that would render it accessible to another lawyer in the firm.

(e) The eligibility information that an applicant is required to provide when applying for free legal service or limited pro bono legal service from a program described in subparagraph (b)(1) is not a conflict of interest if:

(1) the eligibility information is not material to the legal matter; or

(2) the provision of the eligibility information was conditioned on the applicant's informed consent that providing this information would not prohibit a representation of another client adverse to the applicant.

From: [redacted]
To: cdrr
Subject: CDRR Comment: Propose TDRPC 6.05
Date: Monday, April 08, 2019 5:28:03 PM

**** State Bar of Texas* External Message *** - Use Caution Before Responding or Opening Links/Attachments

Contact

First Name	Frederick
Last Name	Moss
Email	[redacted]
Member	Yes
Barcard	14583400

Feedback

Subject	Propose TDRPC 6.05

Comments

I support the adoption of Rule 6.05 proposed by the CDRR -- with one qualification. The ABA and most states have such a rule in order to promote increased pro bono work by lawyers, a worthy cause. The only substantive objection I've heard to this proposal is that it may allow the law firm of the pro bono lawyer to represent a client against the pro bono client in the same matter on which the pro bono lawyer advised the pro bono client. The ABA and all the other states did not consider this a serious risk; the chances that this could happen are de minimus and should not stand in the way of adoption. My only concern is that subsection (c), which only tangentially deals with pro bono representation on a one-time basis and has no counterpart in the ABA rules or in any state as far as I know, might confuse the bar and cause it to be defeated in a referendum. As important as (c) is to legal services offices, I think serious consideration ought to be given to deleting (c) from the proposal and adding it as a new subsection in Rule 1.09, where it belongs.

AUSTIN BAR ASSOCIATION
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April 16, 2019

State Bar of Texas
Committee on Disciplinary Rules and Referenda
Texas Law Center
1414 Colorado Street
Austin, Texas 78701
CDRR@texasbar.com

Dear Chair and Committee Members:

I am a writing regarding the proposed rule changes regarding Rule 6.05 Conflict of Interest Exceptions for Nonprofit and Limited Pro Bono Legal Services.

The Austin Bar Association's Pro Bono Committee considered the proposed changes during a duly noticed committee meeting on April 15, 2019 and voted unanimously to support their adoption.

One of the main reasons for convening the Austin Bar Association's Pro Bono Committee is that the need for legal services in underserved communities is so great. Legal aid organizations can only do so much alone, they depend on the private attorneys that make up the majority of bar association members. Rigid conflict rules can create a barrier to entry for some private attorneys interested in rendering pro bono legal services. Proposed Rule 6.05 works to remove one of those barriers. It is also a model rule that has been adopted nationwide. We are aware of no reason it would not work well in Texas.

For those reasons, the Austin Bar Association's Pro Bono Committee recommends that the Committee on Disciplinary Rules and Referenda approve the proposed rule change.

Should you have any questions, do not hesitate to call me on my direct line at [redacted].

Sincerely,

Austin Kaplan
Chairperson, Austin Bar Association Pro Bono Committee

Committee on Disciplinary Rules and Referenda

Transcript of April 18, 2019, Public Hearing
Proposed Rule 1.06. Conflict of Interest Exceptions for Nonprofit and Limited Pro Bono Legal Services
Texas Disciplinary Rules of Professional Conduct

The following is a transcript of the public hearing on proposed Rule 6.05, Texas Disciplinary Rules of Professional Conduct, held by the Committee on Disciplinary Rules and Referenda (CDRR) on April 18, 2019, at the Texas Law Center. Video of the full CDRR meeting, including public hearings, is available at texasbar.com/cdrr.

Lewis Kinard:	02:59	Uh, and just really quickly before, uh, we call our first speaker on that, I definitely want to thank everybody who has been helpful in, uh, encouraging public participation, from from the Bar and the public. This is something that is important. The committee considers all of the comments. Uh, the staff keeps us pretty well papered with them, so we, we get to read through them all, uh, and they do matter. Uh, we'll will talk a little bit more later on, on a specific example on how the comments have mattered a lot, so um, please keep encouraging your friends and family and neighbors, and all the other people who follow the Bar activities very closely, uh, to participate and weigh in, uh, and comment so that we understand kind of where the sentiments are and concerns, and making sure we haven't missed something.
Lewis Kinard:	03:50	Okay. Uh, Brad, let's start with, uh, speakers on 6.05.
Brad Johnson:	03:54	Yes sir, we have two that have signed up for Rule 6.05. And if anyone else does want to, please just bring the blue card over. Um, first we have Madeleine Connor and she has indicated that she is speaking on behalf of the Austin Bar Association Pro Bono Committee.
Lewis Kinard:	04:14	And if you're on the phone, if you don't mind muting your phone if you can please.
Madeleine Connor:	04:20	Hi. Good morning.
Lewis Kinard:	04:22	[crosstalk 00:04:22] Hi, thank you.
Madeleine Connor:	04:23	Thank you. Um, I just wanted to be here if there were any questions. Also, uh, um, our chair of our committee at the

Austin Bar Association Pro Bono Committee, uh, Mr. Austin Kaplan did submit a letter. Uh, I think Mr. Johnson, yes-

Brad Johnson: 04:40 Yeah, I remember [crosstalk 00:04:41]

Madeleine Connor: 04:41 ... has distributed it, but I do have some copies if anybody else is interested. Um, we were asked by, uh, some uh, uh, a staff employee that works, um, here. Uh, to, to ... If we were interested in commenting on it. We all agreed we were and we think it would be a good thing, uh, to amend the rules to include this. Um, the, the vote was unanimous to support the rule change or the um, the um, the new rule.

Madeleine Connor: 05:12 And um, I did kind of give my own, um, situation when I was ... I currently work at the Texas Veterans Commission on the General Counsel. Before that I was at the AG's office and the General Litigation Division for eight years and I had always made it, you know, part of my life to contribute, and, you know, the, the cost of, uh, retaining a lawyer, just ridiculous. I mean, even, you know, upper middle class people have difficulty with that.

Madeleine Connor: 05:42 So, I kinda made it, you know a, a part of my life to, to always try to help and be involved in either VLS cases or some, some private cases that I was involved with, where, for example, one, um, one client, um, missed the cut off by a dollar an hour. He had gone to VLS to try to get some help. The, um, of Travis County and try to get some help, but he, his income was one dollar an hour over their, you know, it exceeded that, so.

Madeleine Connor: 06:19 And of course, you know, very limited income. Uh, worked part time at um, at Home Depot, and had a child. So, I represented him actually twice. Um, and the first time I represented him was when I was at the AG's office, um completely pro bono, not low bono or anything like that. Um, I was an assistance attorney general, doing the civil rights and the employment, um, mostly, was my docket. But, you know, I wanted to give back.

Madeleine Connor: 06:47 So, um, I represented him. He had a very, uh, wealthy and powerful ex-spouse on the other side with, you know, high-powered lawyers and it was just me and him, and you know, my little v- v- very limited resources. Um, but I think it was about eight months into the litigation. Um, his ex-spouse got a new lawyer and he immediately filed a motion to, um, recuse or disqualify me because I worked at the AG's office, and um, therefore there was a conflict.

Madeleine Connor:	07:25	And, so, I don't know if I should ... Do I stop?
Lewis Kinard:	07:30	Uh, thanks so much. Does it have to beep so loudly?
Madeleine Connor:	07:33	(laughs) But anyway, the end of that story was, is they did have to do a conflicts check and it was very disruptive to the agency, and I, we didn't even know any of those people. They're in a different building, you know, the child support division, and it was just a kind of a, a tactic that I didn't think was really fair, and so after that point, I was not allowed to take any more pro bono cases, you know, that ...
Madeleine Connor:	07:59	Well, there wasn't a conflict, so ...
Lewis Kinard:	08:02	Mm-hmm (affirmative)-
Madeleine Connor:	08:02	So anyway, that was it.
Lewis Kinard:	08:04	So w- w- we may have some questions, and when you said VLS, is that the, the volunteer lawyer service here in Austin?
Madeleine Connor:	08:10	Yes. In Travis County, yes. Yeah.
Lewis Kinard:	08:12	[crosstalk 00:08:12] Okay. Any questions for the speaker?
Claude Ducloux:	08:16	L- Let me just say that I appreciate, tell Mr. Kaplan I appreciate his letter. We got that, a- and I want to make clear to anybody who's listening here today, that the provisions of this rule don't just give you a magic shield against conflicts of interest. It says, "Look, if you have this limitation, if you truly know there's a conflict, you're still bound by the rules."
Claude Ducloux:	08:33	This just t- t- to go, like I go on Monday nights, you meet somebody, try to give them help in a lawyer tenant situation, not know if, perhaps their t- l- their landlord is somebody that maybe your firm represents.
Madeleine Connor:	08:45	Mm-hmm (affirmative)-
Claude Ducloux:	08:45	So, i- i- it's not an exculpation, it's not a f- get out of jail free card, it's really for those limited services, and if you know about a conflict, you are still bound by the tenets of the disciplinary rules.
Madeleine Connor:	08:56	Right. Okay.
Lewis Kinard:	08:59	Any questions on the phone? Alright, thanks so much.

Madeleine Connor:	09:05	[crosstalk 00:09:05] Thank you so very much. Thank you.
Brad Johnson:	09:07	Next we have Becky Moseley, who has indicated she's speaking on behalf of the Texas Access to Justice Commission, as well as on her own behalf as an attorney.
Lewis Kinard:	09:23	Good morning.
Becky Moseley:	09:23	Good morning, and thank you guys for, uh, having this opportunity to come talk about this important issue. Um, I'm Becky Moseley. I am a staff attorney, uh, here in this building, but with the Texas Access to Justice Commission.
Becky Moseley:	09:38	I'm also here on behalf of Trish McAllister, who is the executive director of the Texas Access to Justice Commission, and she is the former executive director of VLS, the Volunteer Legal Services in Austin, um, and then I myself am a former staff attorney at Legal Aid of Northwest Texas, and um, both Trish and I, uh, in our prior jobs, have a lot of experience with, um, pro bono clinics, um, and the important role that those pro bono clinics play.
Becky Moseley:	10:14	Uh, the need for civil legal services in Texas is great. While one in five Texans financially qualify for free legal services, only about 1 in 10 applicants for those services are able to receive extended services through a legal aid organization.
Becky Moseley:	10:33	For so many people, what legal lid and pro bono attorneys are able to provide is brief service, advice, sometimes the only thing that a- person who's eligible for legal services is gonna get, is an attorney consultation, and that is so important.
Becky Moseley:	10:53	Um, we depend on pro bono attorneys at Legal Aid and now at the Access to Justice Commission, we encourage their participation and their service. Um, and the Texas Bar, as you know, has a aspirational goal of 50 hours of service for attorneys.
Becky Moseley:	11:09	What this rule does, is it prov- it uh, takes care of a barrier that we hear from private attorneys. "Oh no, we can't take this ... We can't participate pro bono because we might have a- an imputed conflict with the firm. Um, like has been said, if, if a pro bono attorney knows there's a conflict, they're prevented from, um, providing even a brief advice, a brief consultation.
Becky Moseley:	11:37	But this rule would make it so, um, those conflict rules a- are not going to prohibit an attorney from offering this crucial

service, um, i- if they don't know about a conflict. Um, it also l- lets these attorneys from firms, especially, provide this brief service, provide um, brief advice and consultation without worrying about imputing the conflict to this indigent client to the rest of the firm. Uh, and that's very important, especially because we see Legal Aid and VLS, some firms, uh, discourage um, having a lot of um, participation pro bono, because of imputation rules.

Becky Moseley: 12:26 One thing that hasn't been mentioned that I'll mention briefly is subsection C of the proposed rule 6.05, which just says that, um, the, just p- giving the eligibility information, to screen for eligibility for legal aid, doesn't necessarily create a conflict. Now it could, if that eligibility information or income information is, is relevant or material to a legal matter.

Becky Moseley: 12:52 Um but the, it doesn't necessarily create that conflict, and we see some, not a ton, but some uh, abuse or attempted abuse of these rules to game the system. Meaning, one spouse has a lot of money and they know they're not gonna be eligible for legal aid, but they apply anyways and give their eligibility information with the hopes of conflicting out the other spouse. Um, especially in abusive situations where there's already manipulation in the relationship, that can happen.

Becky Moseley: 13:26 And so this just clarifies, uh subsection C would clarify that just getting that income information doesn't, itself necessarily create a conflict. I think my time is about up. Oh, it's more than up. It's counting up now.

Lewis Kinard: 13:40 Yeah.

Becky Moseley: 13:40 The counter's counting up now.

Lewis Kinard: 13:41 (laughs)

Becky Moseley: 13:43 But I'd be happy to answer any questions about the rule. Um, i- there's one other thing that I want to try to sneak under [inaudible 00:13:53] I'm gonna mention. I- I was able to read the comments um, that have already been submitted on the rule. I do think some of the comments have a, um, a misperception about uh, subsection B.

Becky Moseley: 14:05 I- the lawyer who provides pro bono advice is gonna be conflicted out in the future from representing someone against that indigent client, but the, the imputation rules might not apply. So I think there's some misunderstanding in the

		comments that think that an attorney who provides brief services or advice to an indigent client could then represent a paying client against that indigent client, um but the rule does not create that problem. It's just the imputation that would not apply.
Lewis Kinard:	14:39	Very good, thank you. Any questions for our speaker? Anybody on the phone? Great, thanks so much for coming.
Becky Moseley:	14:47	Thank you guys.
Brad Johnson:	14:51	That, unless anyone wants to sign up for, for these, for this item, then, then that is it.
Lewis Kinard:	14:57	That's it. When do, uh-
Brad Johnson:	14:58	One more for the next agenda item. One- one more, that's it.
Lewis Kinard:	15:00	[crosstalk 00:15:00] Alright. When do public comments close on 6.05?
Brad Johnson:	15:03	That will be, let me double check, I believe it's July 1st.
Lewis Kinard:	15:06	I was gonna say, it was a little longer I knew.
Brad Johnson:	15:07	Yeah.
Claude Ducloux:	15:08	[inaudible 00:15:08] …sometime.
Lewis Kinard:	15:10	Yep.
Brad Johnson:	15:11	That's correct, for the proposal 6.05, public comments will be accepted th- through July 1st.
Lewis Kinard:	15:17	Alright good. So yes, please uh, if you haven't already, and, and you're listening on the phone you would like to comment, uh, uh go to that texasbar.com/cdrr and um, submit your comments. Uh, we appreciate the Bar Association's uh, weighing in too, 'cause it's, I think, and important perspective to take.

LEWIS KINARD: Welcome to the Committee on disciplinary rules and referenda. We have two public hearings today, followed by our committee meeting and - which is open, as well. So, calling this to order and - not really have a lot of comments to add today in terms of anything special going on. And we'll get to some special new business later on in our agenda. But today, if you have not - if you plan to speak and haven't signed in, please fill out one of the cards and give it to Cory. And he'll organize you for us. Our first public hearing topic would be the proposed rule 6.05, conflict of interest exceptions for nonprofit and limited pro bono legal services. The second one will be on one of the first of our - I think we're going to have more than one - on the new, revised, proposed lawyer advertising rules. And you're welcome to speak on both or take your turn and speak twice if you want. So I guess - Professor Johnson, have we got you yet?

CORY SQUIRES: Do you want to do the roll call?

LEWIS KINARD: We can do that at the beginning in the meeting part. Yeah. All right. With that, let's go on to our topics. Anybody who has come to speak on either of the rules, we'll start with 6.05. Interested parties first. Pro bono - Limited pro bono assistance exceptions to the conflicts - imputed conflicts rules. And I don't see anybody running for the microphone. So anybody signed up for the advertising rules?

[End of Public Hearing on Proposed Rule 6.05, Texas Disciplinary Rules of Professional Conduct]

American Bar Association
Model Rules of Professional Conduct (2019)

Rule 6.5: Nonprofit & Court-Annexed Limited Legal Services Programs

(a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:

> **(1) is subject to Rules 1.7 and 1.9(a) only if the lawyer knows that the representation of the client involves a conflict of interest; and**
>
> **(2) is subject to Rule 1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9(a) with respect to the matter.**

(b) Except as provided in paragraph (a)(2), Rule 1.10 is inapplicable to a representation governed by this Rule.

(Comment omitted)

SUPPLEMENTAL REPORT BY THE STATE BAR OF TEXAS COMMITTEE ON THE DISCIPLINARY RULES OF PROFESSIONAL CONDUCT

RULE PROVIDING EXCEPTIONS TO CONFLICTS OF INTEREST RULES FOR NONPROFIT AND LIMITED PRO BONO LEGAL SERVICES
MAY 25, 2016

In December 2014, the State Bar of Texas Disciplinary Rules of Professional Conduct Committee (Committee) recommended the adoption of a Rule that addresses conflicts of interest arising from lawyers' provision of pro bono legal services.[1] Generally, the Rule would facilitate the provision of pro bono legal services by (1) permitting a lawyer to accept a pro bono representation unless the lawyer knows of a conflict of interest that prohibits acceptance; (2) preventing the imputation of a conflict of interest that arises from a lawyer's provision of pro bono legal services, if the lawyer adequately protects the pro bono client's confidential information; and (3) preventing eligibility information collected by limited pro bono legal services programs from creating conflicts of interest in certain circumstances. The Committee's recommendation was referred to the State Bar of Texas Board Discipline and Client Attorney Assistance Program Committee (DCAAP) for consideration. Members of the Committee and DCAAP spoke about the recommendation in April 2015. DCAAP members then expressed concern about the Rule's permitting a lawyer in a firm with a lawyer who provided limited pro bono legal services to represent a party averse to the pro bono client in the same matter that the client discussed with the service provider.

In its next several meetings, Committee members discussed this concern. Committee members also discussed the proposed Rule with other interested groups, including the State Bar of Texas Pro Bono Working Group and the Texas Access to Justice Commission. While recognizing that the contemplated representation might be perceived as inappropriate, the Committee concluded that the proposed Rule should not be amended. Specifically, it concluded that the risk that an actual conflict of interest would arise is slight given the restricted scope of limited pro bono legal services, that the Rule adequately protects against this risk, and that the Rule's imputation provision is necessary to facilitate the provision of limited pro bono legal services. This conclusion was supported by other groups' endorsements of the Rule as drafted.[2] However, the Committee believed that it should better explain the imputation provision and therefore amended Comment 5 to the proposed Rule so that it reads as follows:

> Because the limited nature of the services significantly reduces the risk of conflicts of interest with other matters being handled by the lawyer's firm, paragraph (b) provides that a conflict of interest arising from a lawyer's representation covered by this Rule will not be imputed to the lawyers in the pro bono lawyer's firm if the pro bono lawyer complies with subparagraphs

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[1] See Report, attached as Exhibit 1.

[2] See Letter of Support from the Pro Bono Working Group, attached as Exhibit 2; Resolution of the Texas Access to Justice Commission, attached as Exhibit 3.

(b)(1) and (2). Therefore, by virtue of paragraph (b), a lawyer's provision of limited pro bono legal services does not preclude the lawyer's firm from undertaking or continuing the representation of a client with interests averse to a client receiving the services.

With this amendment, the Committee again recommends the addition of its proposed Rule providing exceptions to conflicts of interest rules for nonprofit and limited pro bono legal services.

DCAAP EXHIBIT 1

REPORT BY THE STATE BAR OF TEXAS COMMITTEE ON THE DISCIPLINARY RULES OF PROFESSIONAL CONDUCT

RULE PROVIDING EXCEPTIONS TO CONFLICTS OF INTEREST RULES FOR NONPROFIT AND LIMITED PRO BONO LEGAL SERVICES
DECEMBER 12, 2014

The State Bar of Texas Committee on the Disciplinary Rules of Professional Conduct (Committee) submits this report to the State Bar President and Board of Directors. The Committee recommends the addition of a Rule that addresses conflicts of interests that arise from lawyers' provision of pro bono legal services. It further recommends that the Rule, if adopted, be added to Part VI of the Rules, which concerns public service. This recommendation replaces the Committee's 2010 recommendation that proposed Rule 6.05, which also addressed these conflicts of interest, be adopted.[1]

Overview

The Committee's proposed Rule was inspired by Model Rule 6.5.[2] The Model Rule was added in response to concern that strict application of conflict of interest rules may deter lawyers from volunteering to provide pro bono legal services.[3] Sharing this concern, the Committee endeavored to draft a similar rule.

To begin, the Committee requested that the Supreme Court ask people in Texas who are involved in providing equal access to justice and pro bono legal services to review Model Rule 6.5 to determine whether the Rule (1) is consistent with procedures already governing voluntary pro bono representation; (2) conflicts with how voluntary pro bono plans are administered in Texas; and (3) sufficiently addresses the conflict of interest problems pro bono representation presents or, on the other hand, provides too great an exception to general conflict of interest requirements. Subsequently, such people were added to, or identified on, the Committee, and it undertook a review of Model Rule 6.5.

The Committee found that the Model Rule's first provision, which generally permits a lawyer to accept a pro bono representation unless the lawyer knows of a conflict of interest that prohibits acceptance, was well considered and should be included in a Texas rule without substantive changes. However, the Committee found that the Model Rule's second provision, which generally prevents the imputation of

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[1] See Report by the State Bar of Texas Committee on Texas Disciplinary Rule of Professional Conduct Rule 6.05 (New Rule), attached as Exhibit A. Please note that proposed Rule 6.05 was not part of the 2011 referendum on proposed amendments to the Disciplinary Rules.

[2] A comparison of the Committee's Rule and its Model Rule analogue, Rule 6.5, appears in Exhibit B.

[3] For a discussion of the conflict of interest problems involved with voluntary lawyer programs, see, Rachel Brill and Rochelle Sparko, Limited Legal Services and Conflicts of Interest: Unbundling in the Public Interest, 16 GEORGETOWN JOURNAL OF LEGAL ETHICS 553 (2003).

conflicts of interest that arise from a lawyer's provision of pro bono legal services, to be too broad. It therefore concluded that a similar Texas rule should prevent imputation only when specified conditions are satisfied, balancing (1) concerns of affiliated lawyers' that they will be prohibited from accepting future representations by conflicts created by pro bono work undertaken by one of them and (2) interests of pro bono clients in the confidentiality of information they disclose. The Committee further found that Model Rule 6.5 did not address unique problems caused by nonprofit legal services organizations' collection and possession of eligibility information applicants for services must provide. Finally, the Committee found that the Model Rule did not sufficiently define the kinds of services such a rule should target or clearly indicate that lawyers working in the same pro bono program were not necessarily working in the same firm. Each of these findings is reflected in the Committee's proposed Rule.

The Committee is comfortable that the modifications suggested by its recommended Rule advance the purposes underlying the Model Rule while protecting the interests of people who may need to use voluntary pro bono legal services. Notably, other states have adopted variations of Model Rule 6.5 more suited to their particular needs.[4]

Paragraph (a)

Paragraph (a) in Model Rule 6.5 combines a broad (and, in the Committee's opinion, incomplete) definition of the targeted services with an exemption from Model Rules concerning conflicts of interest. For clarity, the Committee has defined the targeted services separately, in paragraph (d).

The limitations on representation in Texas Rules 1.06, 1.07, and 1.09 effectively require lawyers to perform conflict checks so as not to accept a representation that conflicts with the interests of a current or former client, in reference to a client of both an individual lawyer and of lawyers in the same firm with that lawyer. Lawyers who perform the specific type of pro bono legal services defined in this Rule will often do so in the field, such as at sites established to help victims of natural disasters or at a weekend legal clinic. These lawyers will not have the luxury of time or access to the records needed to perform conflict checks. In such situations, these lawyers are prohibited by the proposed Rule from providing the limited pro bono representation only if they actually know of prohibiting conflicts when the representation presents itself, without performing a conflict check.

[4] See, e.g., New York Rule 6.5, Participation in Limited Pro Bono Legal Services Programs; New Hampshire Rule 6.5, Nonprofit and Court-Annexed Limited Legal Services Programs.

Paragraph (b)

Paragraph (b) provides a way for a lawyer who supplies limited pro bono legal services contemplated by this Rule to prevent the imputation of conflicts associated with that representation to other lawyers in the lawyer's firm. The lawyer simply has to make sure that confidential information of the pro bono client is not accessible to the other lawyers. Thus, the lawyer who volunteers at a covered program can take steps to avoid tainting the other lawyers at the lawyer's firm with confidential information the lawyer learns in the representation. Depending on the circumstances, a lawyer may shield them from exposure to potential conflicting information simply by not taking the information back to the lawyer's office or by not storing it in the lawyer's client files or database of the lawyer's firm, legal department, or agency.

A lawyer who provides limited pro bono services will be prohibited from representing other clients due to confidential information learned from the pro bono client, but this prohibition will not be imputed to other lawyers in the same firm unless the confidential information is effectively shared with them. If the pro bono lawyer, for example, places the pro bono client's confidential information into the firm database, it is effectively shared with the rest of the firm. This exception is a major difference between fee-based representation and pro bono representation. In the former, the knowledge of confidential client information by one lawyer is imputed to all lawyers in the firm, whether or not they actually have that knowledge.

Paragraph (c)

Paragraph (c) extends the scope of the proposed Rule beyond that of its Model Rule analogue to deal with the possession of eligibility information by legal services organizations. Its goal is to provide a means for preventing the possession of eligibility information from being used to disqualify legal services staff and pro bono lawyers from representing other clients.

People who seek pro bono legal services typically need to establish their eligibility for such services. Eligibility is generally based on financial, immigration, and residence criteria determined by funders such as the Texas Access to Justice Foundation, which administers funds from the Interest on Lawyers Trust Accounts program and other sources. This information exceeds, in its sensitivity, the kind of information a prospective client will usually share with a lawyer when seeking representation.

Merely gathering such information can, under a strict reading of the Rules, create a potential conflict of interest involving the applicant and other parties to the same or a substantially related legal matter. This conflict is imputed to every lawyer in the legal services organization. Indeed, even if an applicant is determined to be ineligible and is turned away before any legal services are provided, and the eligibility information is segregated or stored in a way that makes it inaccessible to the legal staff of the organization and its volunteer lawyers, the organization has no way of avoiding the

potential conflict of interest the information creates. Moreover, disingenuous parties too often apply for legal aid knowing they are ineligible solely to prevent their adversaries from accessing free legal services from the organization. These bad faith applications create false conflicts and block access to legal services for the second applicant because, in most of these cases, no alternative sources of free legal assistance are available.

Paragraph (c) provides that such eligibility information will not create a conflict of interest in certain situations. Subparagraphs (1) and (2) provide clear means for determining when the eligibility information does not pose a basis for a conflict. The first provides that, if the information is not material to the legal matter, then that information will not create a conflict. The second, an advance waiver to using confidential eligibility information as a basis for disqualification, is a new concept to the Texas Rules. The Committee's inspiration for this inclusion came from the following comment to the Model Rule concerning prospective clients:

> A lawyer may condition a consultation with a prospective client on the person's informed consent that no information disclosed during the consultation will prohibit the lawyer from representing a different client in the matter. See Rule 1.0(e) for the definition of informed consent. If the agreement expressly so provides, the prospective client may also consent to the lawyer's subsequent use of information received from the prospective client.

As significant is that the Professional Ethics Committee (PEC) endorsed such advance waivers in its Opinion 608, which considered conflicts of a lawyer working for a legal services organization. The PEC concluded as follows:

> A lawyer for a legal services organization is permitted under the Texas Disciplinary Rules of Professional Conduct to represent a client in a child custody matter against an adverse party who had unsuccessfully applied for services of the legal services organization in the same matter, provided that the unsuccessful applicant had consented in writing, after appropriate disclosure by the organization of the relevant circumstances, that the provision of limited information requested by the organization to determine financial eligibility in the intake screening process would not by itself result in restricting the legal services organization or its lawyers from providing services to other persons who might be adverse to the unsuccessful applicant.

The PEC, in the absence of specifically relevant Texas Rules, fashioned its guidance out of a painstaking analysis of the current conflicts Rules. While certainly helpful in providing this guidance for legal services organizations, Opinion 608, like all ethics opinions, addressed only the factual scenarios presented. The Committee's proposed Rule, incorporating the scenarios addressed in Opinion 608, also provides

guidance for potential conflict scenarios with pro bono representation not dealt with in that opinion.

Paragraph (d)

Paragraph (d) supplies the definition of "limited pro bono legal services" for the Rule. It is designed to make clear the circumstances under which the narrow conflict of interest exceptions provided by this Rule apply: those where a lawyer offering limited pro bono legal services does not have the opportunity to perform a standard check for conflicts. If the lawyer takes on any other type of pro bono representation, then it does not qualify for the exemptions provided by this Rule. For example, a lawyer who attends a bar association legal aid clinic, agrees to help a client obtain a divorce, and assists that client over a multi-week or multi-month time period, has time to check for potential conflicts of interest and therefore is not providing "limited pro bono legal services" contemplated by this Rule. The legal services must be completed prior to the lawyer having such an opportunity or they will not qualify as "short-term services."

Additionally, to avoid creating an unintended opening for fee-based legal service providers, the Committee has made clear in the Rule that this Rule's exception applies only when the services are provided without any expectation of either extended representation or legal fees from the client.

Paragraph (e)

Paragraph (e) clarifies that volunteer lawyers merely working through the same legal services program at the same time as the lawyer providing the services are not deemed to be in a firm for the purposes of this Rule. This means, for example, that a group of lawyers who are not otherwise practicing law together as a firm may assemble at a location, such as natural disaster shelter, and confer with each other as necessary. Nor will the personal prohibition of a lawyer participating in the program be imputed to other lawyers solely because they are participating in the same program, unless there is another basis for barring representation, such as when lawyers in the same program are also in the same firm.

DCAAP
EXHIBIT A

REPORT BY
THE STATE BAR OF TEXAS COMMITTEE ON
TEXAS DISCIPLINARY RULE OF PROFESSIONAL CONDUCT
RULE 6.05 (NEW RULE)

The State Bar of Texas Committee on the Texas Disciplinary Rules of Professional Conduct (Committee) submits this report to the Texas Supreme Court, to Roland Johnson, Texas State Bar President, and to the Board of Directors of the State Bar. This report addresses a new proposed Rule 6.05, to be added to those Rules that deal with public service and are currently located in Part VI. This recommendation supplements the Committee's prior recommendations regarding other Rules in current Part VI.[1]

The Committee's Rule 6.05 as compared with ABA Rule 6.5 appears in **Attachment A**. The current Texas Rules has no equivalent of Rule 6.05, nor did the Court-appointed Task Force make a recommendation regarding Rule 6.05.

Overview

When the Committee submitted its initial report on the Rules regarding the duties and responsibilities of a lawyer engaged in public service legal work, it believed that ABA Rule 6.5 seemed to be an excellent idea. The ABA Rule was added in response to the concern that strict application of the conflict of interest rules may deter lawyers from serving as volunteers in programs that provide legal services pro bono. However, ABA Rule 6.5 provides a very broad exception to conflict of interest prohibitions that are at the core of the fiduciary duty a lawyer owes a client and that are imputed to other lawyers with whom the lawyer practices.[2]

Before adopting this Rule, the Committee concluded that those in Texas knowledgeable about the process of providing equal access to justice and with providing legal services pro bono should look at this ABA Rule initially and decide whether the ABA Rule (1) matches any procedures already governing voluntary pro bono representation; (2) poses any problems with how voluntary pro bono plans are being administered in Texas; and (3) sufficiently addresses the conflict

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[1] In its original report, the Committee made the following recommendations regarding the Rules in current Part VI:

1. Move current Texas Rule 1.13 to make it 6.02 and then amend it in order to make it substantially identical to ABA 6.3
2. Adopt ABA 6.4 (making it Texas 6.03) with only one change
3. Not adopt ABA 6.1
4. Keep current Texas Rule 6.01, which is identical to ABA Rule 6.2

[2] For a discussion of the conflict of interest problems involved with voluntary lawyer programs, see, Rachel Brill and Rochelle Sparko, Limited Legal Services and Conflicts of Interest: Unbundling in the Public Interest, 16 GEORGETOWN JOURNAL OF LEGAL ETHICS 553 (2003).

of interest problems in pro bono representation, or on the other hand, provides too great an exception to general conflict of interest requirements.

Therefore, the Committee recommended that the Supreme Court send ABA Rule 6.5 to those in Texas who are most involved in providing equal access to justice. After that time, the Committee became equipped to consider the issues with ABA Rule 6.5 and is comfortable that the modifications afforded by its recommended Rule 6.05 advance the purposes underlying the Model Rule while protecting the interests of members of the public who may need to use voluntary pro bono legal services.

Working with the goals of Rule 6.05 and the approach taken by the ABA posed three major problems. First, the Committee recognized—through the pro bono experiences of many of its members—that an individual lawyer may be deterred from providing free legal services even at a help desk or disaster relief center by pressure from affiliated lawyers who may fear that they will be prohibited from taking a future fee-based representation due to conflicts created by the one lawyer's pro bono work out of the office. Second, the relaxation of the prohibitions on representation in the various conflicts Rules (e.g., Rules 1.06, 1.07, 1.09, and the new 1.17), on both the lawyer providing the pro bono representation and affiliated lawyers, would need to be carefully crafted so as to provide protection to the pro bono clients consistent with that provided to fee-paying clients. Third, although the Committee immediately recognized problems with the ABA formulation, virtually every state that has adopted a pro bono legal services Rule has tracked the ABA language, providing no guidance for deviation. New York has substantially amended ABA Rule 6.5, and the Committee was guided by its innovation (due to New York using the Model Rule numbering and format, strict adherence to New York's language was not possible and, for other reasons, was not desirable).

The Committee concluded that it could address all three problems by following the general approach of the ABA in making this an unconventional disciplinary Rule. That is, by its language, the Rule neither prohibits nor requires specific behavior but instead provides a narrow exception to certain provisions of indicated conflicts Rules. Also, the Committee believed it could curtail abuse of the lifting of some of the representation prohibitions in the indicated conflicts Rules with a careful definition of kind of services targeted, which is not fully developed in the ABA Rule. Finally, the Committee has provided protection for the pro bono client that is simply missing in the ABA Rule.

Paragraph (a)

Paragraph (a) in ABA Rule 6.5 combines a broad (and, in the Committee's opinion, incomplete) definition of the targeted services with an exemption from Model Rules 1.6 1.9(a), and 1.10. For clarity, the Committee has defined the targeted services separately, in paragraph (d). As the ABA Model Rules place

aspects of the conflicts Rules in different places than do the Texas Rules (for example, the ABA addresses imputation to affiliated lawyers in its Rule 1.10, while the Texas Rules do so within each Rule, when it applies), the references in ABA Rule 6.5 are simply unworkable for Texas. Moreover, the equivalent Texas Rule numbers may not simply be substituted, as exemptions are provided only for limited portions of the indicated conflicts Rules.

In paragraph (a), a majority of the Committee voted to deviate from strict disciplinary Rule format (e.g., "a lawyer shall" or "a lawyer shall not") mainly to exert a visual appeal to lawyers to provide pro bono legal services. Those opting for this format believed that lawyers would be discouraged by strictly prohibiting or mandatory language. The Committee considered making this a purely permissive "Rule" with "may" (as in proposed new Rule 6.02, "A lawyer may serve as a director, officer, or member of an organization involved in reform of the law or its administration notwithstanding that the reform may affect the interests of a client of the lawyer."), but decided that its proposal was more clearly an exception.

The limitations on representation in Rules 1.06, 1.07, 1.09, and proposed 1.17 effectively require lawyers to perform conflicts checks so as not to take on a representation that conflicts with a representation of a current or former client, both of the individual lawyer or lawyers affiliated with that lawyer. Lawyers who perform pro bono legal services as defined in this Rule will often do so in "the field," such as at impromptu sites established to help victims of natural disasters or at a weekend legal clinic. These lawyers will not have the luxury of time or access to the requisite records to perform conflicts checks. Thus, the lawyers are prohibited from taking the pro bono representation only if they actually know at the time of prohibiting conflicts, without performing a conflicts check. A comment will explain that, if they have simply forgotten and, in the fullness of time, might have recalled a conflict, they may use the exemption provided by this Rule.

A comment will also explain that, if, in the brief amount of time a lawyer will spend on the services defined in this Rule, the lawyer learns of a conflict that prohibits the lawyer's personal representation of the pro bono client, then the lawyer must take the same steps as Rule 1.06, 1.07, and 1.09 provide for a fee-paying client. New York, one of the few states to vary from the ABA Model Rule 1.6, has this as a specific provision.[3]

[3] New York's rule provides as follows: "(e) This Rule shall not apply where the court before which the matter is pending determines that a conflict of interest exists or, if during the course of the representation, the lawyer providing the services becomes aware of the existence of a conflict of interest precluding continued representation."

Paragraph (b)

Paragraph (b) provides a way for the lawyer who supplies limited pro bono legal services contemplated by this Rule to prevent the imputation of conflicts associated with that representation to affiliated lawyers. The lawyer simply has to make sure that confidential information of the pro bono client (or the prospective pro bono client, if the representation does not occur) is not accessible to affiliated lawyers. Thus, the lawyer who volunteers at a covered program should intend at the outset to take steps to avoid tainting affiliated lawyers with confidential information the lawyer learns in the representation. Depending on the circumstances, a lawyer may shield affiliated lawyers from exposure to potential conflicting information simply by not storing confidential information from the limited assistance client in the lawyer's client files or database of the lawyer's firm, legal department, or agency.

While the lawyer who provides the limited pro bono services will be prohibited from representing other clients due to confidential information learned from the pro bono client to the same extent as if the pro bono client were a fee-paying client, this prohibition will not be imputed to affiliated lawyers unless the confidential information is effectively shared with them. If the pro bono lawyer, for example, places the pro bono client's confidential information into the firm database, it is effectively shared with affiliated lawyers. This is a major difference between fee-based representation and pro bono representation. In the former, the knowledge of confidential client information by one lawyer is imputed to affiliated lawyers, whether or not they actually have that knowledge.

Paragraph (c)

People who seek pro bono legal services typically need to establish their eligibility for such services. Eligibility is generally based on financial, immigration, and residence criteria as determined by funders such as the Texas Access to Justice Foundation, which administers funds from the Interest on Lawyers Trust Accounts program and other sources, and such criteria are mandatory conditions under which the sponsoring organization may use grant funds to provide free legal assistance through its staff and volunteers. This information exceeds, in its sensitivity, the kind of information a prospective client will usually share with a lawyer under Rule 1.17. Applicants for free legal assistance must be determined eligible before even receiving the assistance. Accordingly, greater protection is afforded the eligibility information of the pro bono client than the information of the non-pro bono prospective client, in that Rule 1.17 permits a lawyer to condition a discussion with a prospective client on a waiver as to the use of confidential information imparted in that discussion. Such a waiver prevents a prospective client from unilaterally creating a prohibition on a lawyer or law firm's representation of an opposing party simply by sharing confidential information. No waiver is possible with the prospective pro bono client because of the nature of the information and the different goals of the pro bono client (who needs to

obtain limited legal services in often emergency situations) and the fee-paying client (who may simply be assessing a number of lawyers for the most desirable, given the issues and circumstances).

Paragraph (c), then absolutely prevents the lawyer from using the pro bono client's eligibility information to the disadvantage of the individual, whether or not the individual becomes a pro bono client. In reality, the lawyer who provides the pro bono services may never have access to such information. However, a lawyer in an impromptu setting may need to make eligibility determinations on the spot in accordance with the eligibility guidelines of the funding source sponsoring the event. A comment will explain that the mere receipt of such information by the lawyer, when the prospective client is rejected and not helped, will not create a conflict of interest for the lawyer regarding a different representation in the same or a substantially related matter.

Rules 1.05 and 1.17 continue to apply to protect any confidential information provided during the eligibility interview and limit the lawyer's ability to undertake a representation based on information other than that required to establish eligibility or where the same information is material to an issue in the representation. Once the lawyer has agreed to provide legal services, then all of the disciplinary Rules apply to the relationship except as expressly stated in this Rule.

Paragraph (d)

Paragraph (d) supplies the definition of "limited pro bono legal services" for the Rule. It is designed to make clear the circumstances under which the narrow exceptions provided by this Rule apply: those where a lawyer does not have the opportunity to perform a standard check for conflicts. If the lawyer takes on any other type of pro bono representation, then it does not qualify for the exemptions provided by this Rule. For example, a lawyer who attends a bar association legal aid clinic, agrees to help a client obtain a divorce, and assists that client with the various steps over a multi-week or multi-month time period, has plenty of time to return to the office and check for potential conflicts of interest and therefore exceeds the "limited pro bono legal services" contemplated by this Rule. The legal services must be completed prior to the lawyer having such an opportunity or they will not qualify as "short-term services."

Additionally, in order to avoid creating an unintended opening for fee-based legal service providers, the Committee has made clear in the Rule that this Rule's exception applies only when the services are provided without any expectation of either extended representation or legal fees from the client.

New York's version of ABA Rule 6.5 contains a separate definition of the services to be affected by its Rule. The committee in New York formed to recommend changes to its Rules based on the 2003 Model Rules (previously,

New York still had the ABA Model *Code*, not even the 1983 Model Rules) essentially suggested the ABA version. New York's court, however, added three provisions, a separate definition being one of them.[4]

Paragraph (e)

Paragraph (e) clarifies that "affiliated" in reference to other lawyers than the lawyer providing the pro bono legal services does not include other volunteer lawyers merely working through the same legal services program at the same time as the lawyer providing the services. Thus, the lawyer providing the services does not have to be concerned about safeguarding confidential client information of the pro bono legal services clients or applicants. This means, for example, that a group of lawyers who are otherwise unaffiliated may assemble at a location, such as natural disaster shelter, and confer with each other as necessary. Nor will the personal prohibition of a lawyer participating in the program be imputed to other lawyers solely because they are participating in the same program, unless there is another basis for barring representation, such as when lawyers in the same program are also in the same firm.

[4] New York's definition is as follows: "(c) Short-term limited legal services are services providing legal advice or representation free of charge as part of a program described in paragraph (a) with no expectation that the assistance will continue beyond what is necessary to complete an initial consultation, representation or court appearance."

ATTACHMENT A:
RULE 6.05—ABA & COMMITTEE PROPOSED

ABA Version	Proposed Committee Version
Rule 6.5 Nonprofit and Court-annexed Limited Legal Services Programs (a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter: (1) is subject to Rules 1.7 and 1.9(a) only if the lawyer knows that the representation of the client involves a conflict of interest; and (2) is subject to Rule 1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9(a) with respect to the matter.	**Rule 6.05 Pro Bono Legal Service Programs** (a) The conflicts of interest limitations on representation in Rules 1.06, 1.07, 1.09, and 1.17 do not prohibit a lawyer from providing limited pro bono legal services unless the lawyer knows at the time the services are provided that the lawyer would be prohibited by those limitations from providing the services. (b) If the lawyer providing limited pro bono legal services maintains any confidential information of the limited assistance client or prospective client in a manner that would render that information inaccessible by lawyers affiliated with that lawyer, conflicts of interest in Rules 1.06, 1.07, 1.09, and 1.17 shall not be imputed to those affiliated lawyers. (c) A lawyer who receives confidential information provided by an applicant or prospective client required for a determination of eligibility for limited pro bono legal services or for free legal services from a program sponsored by a court, bar association, accredited law school, or an organization funded by the IOLTA program, shall not use that information to the disadvantage of the applicant or prospective client, except as required by Rule 1.05. (d) As used in this rule, “limited pro bono legal services” means legal services that are: (1) provided through a pro bono or assisted pro se program sponsored by a court, bar association, accredited law school, nonprofit legal services program, or nonprofit organization funded

ATTACHMENT A:
RULE 6.05—ABA & COMMITTEE PROPOSED

ABA Version	Proposed Committee Version
	through the Interest on Lawyers Trust Account (IOLTA) program; (2) short-term services such as legal advice or other brief assistance with pro se documents or transactions, provided either in person or by phone, hotline, internet, or video conferencing; and (3) provided without any expectation of extended representation of the limited assistance client or of receiving any legal fees in that matter. (e) As used in this rule, “affiliated” does not include mere association through a pro bono or assisted pro se program sponsored by a court, bar association, accredited law school, nonprofit legal services program, or nonprofit organization funded through the Interest on Lawyers Trust Account (IOLTA) program.

DCAAP
EXHIBIT B

Conflict of Interest Exceptions for Nonprofit and Limited Pro Bono Legal Services

Texas Rule Language	Proposed Comments to Texas Rule	ABA Rule Language	Comments to ABA Rule
	[1] Nonprofit legal services organizations, courts, law schools, and bar associations have programs through which lawyers provide short-term limited legal services typically to help low-income persons address their legal problems without further representation by the lawyers. In these programs, such as legal-advice hotlines, advice-only clinics, disaster legal services, or programs providing guidance to self-represented litigants, a client-lawyer relationship is established, but there is no expectation that the relationship will continue beyond the limited consultation and there is no expectation that the lawyer will receive any compensation from the client for the services. These programs are normally operated under circumstances in which it is not feas ble for a lawyer to check for conflicts of interest as is normally required before undertaking a representation. [2] Application of the conflict-of-interest rules is deterring lawyers from participating in these programs, preventing persons of limited means from obtaining much needed legal services. To facilitate the provision of free legal services to the public, this Rule creates narrow exceptions to the conflict-of-interest rules for limited pro bono legal services. These exceptions are justified because the limited and short-term nature of the legal services rendered in such programs reduces the risk that conflicts will arise between clients represented through the program and other clients of the lawyer or the lawyer's firm. [3] A lawyer who provides services pursuant to this Rule should secure the client's consent to the limited scope of the representation after explaining to the client what that means in the particular circumstance. See Rule 1.02(b). If a short-term limited representation would not be fully sufficient under the circumstances, the lawyer may offer advice to the client but should also advise the client of the need for further assistance of counsel. See Rule 1.03(b).		[1] Legal services organizations, courts and various nonprofit organizations have established programs through which lawyers provide short-term limited legal services -- such as advice or the completion of legal forms -- that will assist persons to address their legal problems without further representation by a lawyer. In these programs, such as legal-advice hotlines, advice-only clinics or pro se counseling programs, a client-lawyer relationship is established, but there is no expectation that the lawyer's representation of the client will continue beyond the limited consultation. Such programs are normally operated under circumstances in which it is not feas ble for a lawyer to systematically screen for conflicts of interest as is generally required before undertaking a representation. See, e.g., Rules 1.7, 1.9 and 1.10. [2] A lawyer who provides short-term limited legal services pursuant to this Rule must secure the client's informed consent to the limited scope of the representation. See Rule 1.2(c). If a short-term limited representation would not be reasonable under the circumstances, the lawyer may offer advice to the client but must also advise the client of the need for further assistance of counsel. Except as provided in this Rule, the Rules of Professional Conduct, including Rules 1.6 and 1.9(c), are applicable to the limited representation.

Texas Rule Language	Proposed Comments to Texas Rule	ABA Rule Language	Comments to ABA Rule
(a) The conflicts of interest limitations on representation in Rules 1.06, 1.07, and 1.09 do not prohibit a lawyer from providing, or offering to provide, limited pro bono legal services unless the lawyer knows, at the time the services are provided, that the lawyer would be prohibited by those limitations from providing the services.	Paragraph a [4] Paragraph (a) exempts compliance with Rules 1.06, 1.07, and 1.09 for a lawyer providing limited pro bono legal services unless the lawyer actually knows that the representation presents a conflict of interest for the lawyer or for another lawyer in the lawyer's firm. A lawyer providing limited pro bono legal services is not obligated to perform a conflicts check before undertaking the limited representation. If, after commencing a representation in accordance with this Rule, a lawyer undertakes to represent the client in the matter on an ongoing basis or the lawyer charges a fee for the legal assistance, the exceptions provided by this Rule no longer apply.	(a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter: (1) is subject to Rules 1.7 and 1.9(a) only if the lawyer knows that the representation of the client involves a conflict of interest; and (2) is subject to Rule 1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9(a) with respect to the matter.	[3] Because a lawyer who is representing a client in the circumstances addressed by this Rule ordinarily is not able to check systematically for conflicts of interest, paragraph (a) requires compliance with Rules 1.7 or 1.9(a) only if the lawyer knows that the representation presents a conflict of interest for the lawyer, and with Rule 1.10 only if the lawyer knows that another lawyer in the lawyer's firm is disqualified by Rules 1.7 or 1.9(a) in the matter. [5] If, after commencing a short-term limited representation in accordance with this Rule, a lawyer undertakes to represent the client in the matter on an ongoing basis, Rules 1.7, 1.9(a) and 1.10 become applicable.

Texas Rule Language	Proposed Comments to Texas Rule	ABA Rule Language	Comments to ABA Rule
(b) Lawyers in a firm with a lawyer providing, or offering to provide, limited pro bono legal services shall not be prohibited by the imputation provisions of Rules 1.06, 1.07, and 1.09 from representing a client if that lawyer does not: (1) disclose confidential information of the pro bono client to the lawyers in the firm; or (2) maintain such information in a manner that would render it access ble to the lawyers in the firm.	Paragraph b [5] Paragraph (b) provides that a conflict of interest arising from a lawyer's representation covered by this Rule will not be imputed to the lawyers in the pro bono lawyer's firm if the pro bono lawyer complies with subparagraphs (b)(1) or (2). [6] To prevent a conflict of interest arising from limited pro bono legal services from being imputed to the other lawyers in the firm, subparagraph (b)(1) requires that the pro bono lawyer not disclose to any lawyer in the firm any confidential information related to the pro bono representation. [7] Subparagraph (b)(2) covers the retention of documents or other memorialization of confidential information, such as the pro bono lawyer's notes, whether in paper or electronic form. To prevent imputation, a pro bono lawyer who retains confidential information is required by subparagraph (b)(2) to segregate and store it in such a way that no other lawyer in the pro bono lawyer's firm can access it, either physically or electronically.	(b) Except as provided in paragraph (a)(2), Rule 1.10 is inapplicable to a representation governed by this Rule.	[4] Because the limited nature of the services significantly reduces the risk of conflicts of interest with other matters being handled by the lawyer's firm, paragraph (b) provides that Rule 1.10 is inapplicable to a representation governed by this Rule except as provided by paragraph (a)(2). Paragraph (a)(2) requires the participating lawyer to comply with Rule 1.10 when the lawyer knows that the lawyer's firm is disqualified by Rules 1.7 or 1.9(a). By virtue of paragraph (b), however, a lawyer's participation in a short-term limited legal services program will not preclude the lawyer's firm from undertaking or continuing the representation of a client with interests adverse to a client being represented under the program's auspices.

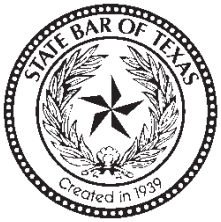
Texas Rule Language	Proposed Comments to Texas Rule	ABA Rule Language	Comments to ABA Rule
(c) The eligibility information that an applicant is required to provide when applying for free legal services or limited pro bono legal services from a program described in subparagraph (d)(1) by itself will not create a conflict of interest if: (1) the eligibility information is not material to the legal matter, or (2) the applicant's provision of the eligibility information was conditioned on the applicant's informed consent that providing this information would not by itself prohibit a representation of another client adverse to the applicant.	Paragraph c [8] Paragraph (c) recognizes the unusual and uniquely sensitive personal information that applicants for free legal assistance may be required to provide. Organizations that receive funding to provide free legal assistance to low-income clients are generally required, as a condition of their funding, to screen the applicants for eligibility and to document eligibility for services paid for by those funding sources. Unlike other lawyers, law firms, and legal departments, these organizations ask for confidential information to determine an applicant's eligibility for free legal assistance and are required to maintain records of such eligibility determinations for potential audit by their funding sources. Required eligibility information typically includes income, asset values, marital status, citizenship or immigration status, and other facts the applicant may consider sensitive. Paragraph (c) provides a limited exception to the normal conflict of interest rules that apply to potential clients when an applicant provides this information. This exception is available only in the two situations described in subparagraphs (c)(1) and (c)(2). [9] The first situation where the paragraph (c) exception is available is where none of the eligibility information is material to an issue in the legal matter. Alternatively, under subparagraph (c)(2), if the applicant provided confidential information after giving informed consent that the elig bility information would not proh bit the persons or entities identified in the consent from representing any other present or future client, then the eligibility information alone will not proh bit the representation. The lawyer should document the receipt of such informed consent, though a formal writing is not required. What constitutes informed consent is discussed in the comments to Rule 1.06. [10] Rule 1.05 continues to apply to the use or disclosure of all confidential information provided during an intake interview. Similarly, Rule 1.09 continues to apply to the representation of a person in a matter adverse to the applicant. Notably, Rule 1.05(c)(2) permits a lawyer to use or disclose information provided during an intake interview if the applicant consents after consultation to such use or disclosure, and Rule 1.09(a)(3) permits a lawyer to represent a person adverse to the applicant in the same or a substantially related matter if the applicant consents to such a representation.		

Texas Rule Language	Proposed Comments to Texas Rule	ABA Rule Language	Comments to ABA Rule
(d) As used in this Rule, "limited pro bono legal services" means legal services that are: (1) provided through a pro bono or assisted pro se program sponsored by a court, bar association, accredited law school, or nonprofit legal services program; (2) short-term services such as legal advice or other brief assistance with pro se documents or transactions, provided either in person or by phone, hotline, internet, or video conferencing; and (3) provided without any expectation of extended representation of the limited assistance client or of receiving any legal fees in that matter.	Paragraph d [12] This Rule applies only to services offered through a program that meets one of the descriptions in subparagraph (d)(1), regardless of the nature and amount of support provided. Some programs may be jointly sponsored by more than one of the listed sponsor types. [13] The second element of "limited pro bono legal services," set forth in subparagraph (d)(2) is designed to ensure that the services offered are so limited in time and scope that there is little risk that conflicts will arise between clients represented through the program and other clients of the lawyer or the lawyer's firm. [14] The third element of the definition, set forth in subparagraph (d)(3), is that the services are offered and provided without any expectation of either extended representation or the collection of legal fees in the matter. Before agreeing to proceed in the representation beyond "limited pro bono legal services," the lawyer should evaluate the potential conflicts of interest that may arise from the representation as with any other representation. Likewise, the exceptions in paragraphs (a) and (b) do not apply if the lawyer expects to collect any legal fees in the limited assistance matter.		

Texas Rule Language	Proposed Comments to Texas Rule	ABA Rule Language	Comments to ABA Rule
(e) As used in this Rule, a lawyer is not "in a firm" with other lawyers solely because the lawyer provides limited pro bono legal services with the other lawyers.	Paragraph e [15] Lawyers are not deemed to be part of the same firm simply because they volunteer through the same pro bono program. Nor will the personal prohibition of a lawyer participating in a pro bono program be imputed to other lawyers participating in the program solely by reason of that volunteer connection.		[4] Nor will the personal disqualification of a lawyer participating in the program be imputed to other lawyers participating in the program.

DCAAP EXHIBIT 2

STATE BAR OF TEXAS



November 30, 2015

Board of Directors
State Bar of Texas
1414 Colorado
Austin, Texas 78701

RE: Proposed Disciplinary Rule of Professional Conduct 6.05

Dear Directors,

On behalf of the State Bar's Pro Bono Workgroup, we write in support of the State Bar of Texas Committee on the Disciplinary Rules of Professional Conduct's (Committee) proposed Rule 6.05 addressing conflicts of interest during the provision of limited pro bono legal services.

As you may know, the Pro Bono Workgroup was formed in 2013 with the mission of enhancing the culture of pro bono service in Texas. The adoption of a rule that addresses conflicts of interest during the provision of limited pro bono legal services is a priority for our Workgroup. The issue of conflicts in settings such as legal advice clinics is a barrier to pro bono service that is repeatedly raised both by lawyers and legal aid providers alike. We believe that adopting a rule clarifying the issue of conflicts in these limited settings will increase the number of lawyers who are willing and able to provide pro bono legal services, and increase the numbers of low-income Texans who receive the legal assistance they need.

The Pro Bono Workgroup supports the Committee's proposed rule 6.05 because it does a good job of balancing the important issue of conflicts of interest with the realities of providing limited pro bono legal services at a pro bono clinic or similar setting. Additionally, the Committee's proposed rule clarifies and improves upon Model Rule 6.5 in important ways that we believe will make the rule successful in Texas.

Removing barriers to pro bono service is a critical issue if we intend to make strides in addressing the "justice gap" in our state. Adopting proposed rule 6.05 will remove a significant barrier preventing many attorneys from participating in pro bono efforts. Therefore, we strongly support the Committee's proposed Rule 6.05, and respectfully request that the Board takes the necessary steps for adopting the rule without delay.

Sincerely,

Terry Tottenham
Former SBOT President
Co-chair Pro Bono Workgroup

Roland K. Johnson
Former SBOT President
Co-chair Pro Bono Workgroup

DCAAP EXHIBIT 3

RESOLUTION SUPPORTING PROPOSED RULE 6.05 TO THE TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT

WHEREAS, the Texas Access to Justice Commission embraces the principles that our nation promises justice for all, not just for those who can afford to pay for it.

WHEREAS, the most recent U.S. Census reports that more than 5.8 million Texans qualify for civil legal aid.

WHEREAS, the Preamble to the Texas Disciplinary Rules of Professional Conduct states that "...a lawyer should be mindful of deficiencies in the administration of justice and of the fact that the poor, and sometimes persons who are not poor, cannot afford adequate legal assistance.", and that "Every lawyer, regardless of professional prominence or professional workload, should find time to participate in or otherwise support the provision of legal services to the disadvantaged. The provision of free legal services to those unable to pay reasonable fees is a moral obligation of each lawyer as well as the profession generally."

WHEREAS, civil legal aid providers and pro bono attorneys work tirelessly to provide free legal services to as many Texans as possible and whose services are invaluable to communities across the State.

WHEREAS, attorneys who are willing to volunteer their time to provide pro bono legal assistance to low-income Texans but do not do so because of a concern that they will be unable to meet the requirements of the conflict of interest rule in certain limited settings like a legal advice clinic.

WHEREAS, ABA Model Rule 6.5 was developed in response to the concern that strict application of the conflicts of interest rules may deter attorneys from volunteering to provide pro bono legal services.

WHEREAS, the State Bar of Texas Committee on the Disciplinary Rules of Professional Conduct shares the ABA's concern and has promulgated Texas Disciplinary Rule of Professional Conduct 6.05, a modified version of Model Rule 6.5, to address this concern.

THEREFORE, BE IT RESOLVED that the Texas Access to Justice Commission supports proposed Rule 6.05 to the Texas Disciplinary Rules of Professional Conduct which will increase access to justice for many Texans.

SIGNED this 4th day of February, 2016.

Harry M. Reasoner
Chair

LEWIS KINARD, CHAIR
TIMOTHY D. BELTON
AMY BRESNEN
CLAUDE DUCLOUX
HON. DENNISE GARCIA

RICK HAGEN
DEAN VINCENT JOHNSON
CARL JORDAN
KAREN NICHOLSON

January 9, 2020

Mr. Jerry C. Alexander, Chair
State Bar of Texas Board of Directors
Passman and Jones
[redacted]

RE: Submission of Proposed Rule Recommendation – Part VII, Texas Disciplinary Rules of Professional Conduct (Lawyer Advertising and Solicitation Rules)

Dear Mr. Alexander:

Pursuant to section 81.0875 of the Texas Government Code, the Committee on Disciplinary Rules and Referenda initiated a rule change proposal relating to Part VII of the Texas Disciplinary Rules of Professional Conduct, which consists of the lawyer advertising and solicitation rules.

In late 2018, the Committee initially published proposed changes to the advertising and solicitation rules in the *Texas Bar Journal* and the *Texas Register*, and in January 2019, the Committee held a public hearing on the proposal. The Committee considered more than 140 public comments on the initial proposal.

Based on the large volume of feedback and the Committee's significant changes to the proposal, the Committee voted at its April 2019 meeting not to recommend the original proposal to the Board of Directors and instead to reinitiate the rule proposal process for a revised proposal.

The Committee published a revised proposal on the advertising and solicitation rules in the May 31, 2019, issue of the *Texas Register* and the June 2019 issue of the *Texas Bar Journal*. The Committee solicited and considered public comments and held two public hearings on the revised proposal. In response to public comments and after significant deliberation, the Committee made additional amendments to the proposal. At its September 2019 meeting, the Committee voted to recommend the rule change proposal to the Board of Directors.

Included in this submission packet, you will find an overview of the rule proposal, the recommended proposal, proposed comments to the proposed rules, and the Board's June 2018 resolution regarding the advertising rules. Additionally, a supplement is available at the following

Committee on Disciplinary Rules and Referenda
P.O. Box 12487, Austin, TX 78711
cdrr@texasbar.com www.texasbar.com/cdrr

link, which includes the original and revised published versions of the proposal, public comments received on each published version of the proposal, and other supporting materials: www.texasbar.com/cdrradrulesjan2020supplement.

Section 81.0877 of the Government Code provides that the Board of Directors is to vote on each proposed disciplinary rule recommended by the Committee not later than the 120th day after the date the rule is received from the Committee. The Board can vote for or against a proposed rule or return a proposed rule to the Committee for additional consideration.

As a reminder, if a majority of the Board of Directors approves a proposed rule, the Board shall petition the Supreme Court of Texas to order a referendum on the proposed rule as provided by section 81.0878 of the Government Code.

Thank you for your attention to this matter. Should the Board require any other information, please do not hesitate to contact me.

Sincerely,

Lewis Kinard
Chair, Committee on Disciplinary Rules and Referenda

cc: Randall O. Sorrels
Larry P. McDougal
Joe K. Longley
Trey Apffel
John Sirman
Seana Willing
Ross Fischer

Committee on Disciplinary Rules and Referenda
Overview of Rule Proposal

Texas Disciplinary Rules of Professional Conduct

Part VII. Information about Legal Services

Provided here is a summary of the actions and rationale of the Committee on Disciplinary Rules and Referenda (Committee) related to proposed changes to Part VII of the Texas Disciplinary Rules of Professional Conduct (TDRPC), which consists of the lawyer advertising and solicitation rules.

Actions by the Committee

<u>Original Proposal</u>

- **Initiation –** The Committee voted to initiate the rule proposal process at its September 4, 2018, meeting.
- **Publication –** The original proposal was published in the December 2018 issue of the *Texas Bar Journal* and the November 30, 2018, issue of the *Texas Register*. The proposed rule was also posted on the Committee's website. Information about the public hearing and the submission of public comments was included in the publications and on the Committee's website.
- **Additional Outreach –** On January 14, 2019, an email notification regarding the proposal was sent to all Texas lawyers (other than those who have voluntarily opted out of receiving email notices). On January 31, 2019, an email notification regarding the proposal was sent to other potentially interested parties. On February 20, 2019, an additional email notification regarding the proposal was sent to all Texas lawyers (other than those who have voluntarily opted out of receiving email notices) and Committee email subscribers.
- **Public Comments –** The Committee extended the public comment period to three months (through March 1, 2019). The Committee received 134 written public comments and nine individuals provided comments at the public hearing. A significant number of public comments related to the proposal to allow non-misleading trade names, and a large majority of those comments opposed permitting trade names. (Sixty public comments expressed opposition to allowing trade names, while 12 public comments expressed support for allowing trade names in at least some circumstances. Four public comments otherwise discussed the subject of trade names but did not express a clear preference.) A significant number of public comments also focused on proposed changes regarding statements of specialization and certification by the Texas Board of Legal Specialization (TBLS).
- **Public Hearing –** The Committee held a public hearing on the proposal on January 9, 2019, at the Texas Law Center.
- **Trade Name Poll –** An online poll on trade names indicated a significant divide on the subject among participants. (It is important to note the poll was not scientific.)

- **Decision to Initiate for Revised Proposal** – Based on the large volume of feedback and the Committee's significant changes to the proposal, the Committee voted at its April 18, 2019, meeting not to recommend the original proposal to the Board of Directors and instead to reinitiate the rule proposal process for a revised proposal.

Revised Proposal

- **Initiation** – The Committee voted to initiate the rule proposal process for a revised proposal at its April 18, 2019, meeting.
- **Publication** – The revised proposal was published in the June 2019 issue of the *Texas Bar Journal* and the May 31, 2019, issue of the *Texas Register*. On May 24, 2019, the revised proposal was posted on the Committee's website. Information about the public hearings and the submission of public comments was included in the publications and on the Committee's website.
- **Additional Outreach** – On May 24, 2019, an email notification regarding the revised proposal was sent to all Texas lawyers (other than those who have voluntarily opted out of receiving email notices) and CDRR email subscribers. On July 17, 2019, an additional email notification regarding the revised proposal was sent to all Texas lawyers (other than those who have voluntarily opted out of receiving email notices), CDRR email subscribers, and other potentially interested parties. Additional email notifications regarding the revised proposal were sent to CDRR email subscribers on June 4, June 25, July 19, August 1, and August 29, 2019.
- **Public Comments** – The Committee extended the public comment period to more than two months (through August 6, 2019). The Committee received 21 written public comments and three individuals provided comments at the public hearings. Eleven public comments related to the revised proposal to generally maintain the existing prohibition on trade names. (Two public comments expressed opposition to allowing trade names, while seven public comments expressed support for allowing trade names in at least some circumstances. Two public comments otherwise discussed the subject of trade names but did not express a clear preference.)
- **Public Hearings** – The Committee held public hearings on the proposal on June 6 and July 23, 2019, at the Texas Law Center.
- **Recommendation** – The Committee voted at its September 3, 2019, meeting to recommend the rule proposal to the Board of Directors with certain amendments.

Overview and Rationale

In June 2018, the Board of Directors adopted a resolution approving the submission of a report by the Advertising Review Committee to the Committee and requesting initiation of the rule proposal process for the lawyer advertising rules.

In September 2018, the Committee initiated the rule proposal process for the lawyer advertising and solicitation rules. The Committee originally published proposed changes to the lawyer advertising and solicitation rules in the December 2018 issue of the *Texas Bar Journal* and the November 30, 2018, issue of the *Texas Register*. The proposed changes focused on simplifying and modernizing the advertising and solicitation rules. Among the many changes proposed was

the inclusion of language that, if adopted, would permit a lawyer to practice under a non-misleading trade name.

The Committee reviewed and considered a large volume of feedback related to the proposed rules. The issue of trade names was the overwhelming focus of the public feedback. Of the 134 written public comments and nine individuals providing feedback at the public hearing, 60 comments expressed opposition to allowing trade names, while 12 comments expressed support for allowing trade names in at least some circumstances. Four public comments otherwise discussed the subject of trade names but did not express a clear preference. An online poll on trade names was also conducted, which indicated a significant divide on the subject.

A significant number of public comments also focused on issues related to the communication of practice areas and claims of specialization, including certification by TBLS. In particular, the Chair and the Executive Director of TBLS submitted comments expressing that TBLS opposed elimination of current Rule 7.04(d)(2), which prohibits a lawyer from advertising certification by an organization as a specialist unless the lawyer is certified by TBLS or an organization accredited by TBLS.

The Committee responded to public input by making a number of amendments to the proposal. Based on the significant changes and in an effort to solicit additional public feedback, the Committee voted at its April 2019 meeting to reinitiate the rule proposal process for a revised proposal on the lawyer advertising and solicitation rules. The Committee published the revised proposal in the June 2019 issue of the *Texas Bar Journal* and the May 31, 2019, issue of the *Texas Register*.

Among the many changes in the revised proposal was inclusion of language that would generally continue the current prohibition on the use of lawyer trade names. In addition, the Committee responded to the concerns expressed by TBLS by preserving the current restriction that a lawyer is only permitted to advertise certification by an organization as a specialist if the certification is awarded by TBLS or an organization accredited by TBLS. (The revised language regarding certification is included in proposed Rule 7.02(b) and was approved by TBLS prior to publication of the revised proposal.)

The Committee received 21 written public comments on the revised proposal and three individuals provided comments at the public hearings on the revised proposal. The public comments related to a variety of issues, with 11 comments pertaining to the issue of trade names. Of those, two public comments expressed opposition to allowing trade names, while seven public comments expressed support for allowing trade names in at least some circumstances. A couple of public comments otherwise discussed the subject of trade names but did not express a clear preference.

In response to the additional public feedback and after significant deliberation, the Committee made additional amendments to the proposal. In September 2019, the Committee voted to recommend the proposal to the Board of Directors.

The recommended version of the proposal would largely overhaul Part VII to simplify and modernize the advertising and solicitation rules.

Notably, the recommended proposal: (1) continues to prohibit false or misleading communications about the qualifications or services of a lawyer of law firm (see proposed Rule 7.01); (2) defines the terms "advertisement" and "solicitation communication" (see proposed Rule 7.01); (3) simplifies disclaimer requirements (see proposed Rules 7.01, 7.02, and 7.03); (4) continues to permit statements by a lawyer claiming certification by an organization as a specialist only if the certification is awarded by TBLS or an organization accredited by TBLS (see proposed Rule 7.02); (5) continues to prohibit solicitation through in-person contact or through telephone, social media, or other electronic communications that are live or electronically interactive, with certain limited exceptions (see proposed Rule 7.03); (6) exempts communications directed to other lawyers or experienced users of the type of legal services involved for business matters from certain solicitation restrictions and from filing requirements (see proposed Rules 7.03 and 7.05); (7) exempts certain nominal gifts from the prohibition on giving anything of value to a person who makes a referral (see proposed Rule 7.03); (8) permits certain non-exclusive reciprocal referral agreements (see proposed Rule 7.03); (9) continues to allow attorneys to seek pre-approval of advertisements and solicitation communications (see proposed Rule 7.04); (10) exempts most parts of websites from filing requirements (see proposed Rule 7.05); and (11) expands the list of communications that are exempt from filing requirements (see proposed Rule 7.05).

The recommended proposal also maintains the current prohibition that a lawyer in private practice shall not practice under a trade name (see proposed Rule 7.07). In making the recommendation, the Committee discussed possible future examination of the trade name issue and left open the door for a future separate proposal focused specifically on the subject of trade names. To facilitate future modification or even elimination of the trade name prohibition, this proposed version moves the existing language into a separately numbered rule (7.07).

Additional Documents

Included on the pages that follow are the recommended proposal, proposed comments to the proposed rules, and the Board's July 2018 resolution regarding the advertising rules. Additionally, a supplement is available at the following link, which includes the original and revised published versions of the proposal, public comments received on each published version of the proposal, and other materials: www.texasbar.com/cdrradrulesjan2020supplement.

Committee on Disciplinary Rules and Referenda Proposed Rule Changes

Texas Disciplinary Rules of Professional Conduct

VII. INFORMATION ABOUT LEGAL SERVICES (Recommended Version)

Proposed Rules (Clean Version)

Rule 7.01 Communications Concerning a Lawyer's Services

(a) A lawyer shall not make or sponsor a false or misleading communication about the qualifications or services of a lawyer or law firm. Information about legal services must be truthful and nondeceptive. A communication is false or misleading if it contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading. A statement is misleading if there is a substantial likelihood that it will lead a reasonable person to formulate a specific conclusion about the lawyer or the lawyer's services for which there is no reasonable factual foundation, or if the statement is substantially likely to create unjustified expectations about the results the lawyer can achieve.

(b) This Rule governs all communications about a lawyer's services, including advertisements and solicitation communications. For purposes of Rules 7.01 to 7.07:

> (1) An "advertisement" is a communication substantially motivated by pecuniary gain that is made by or on behalf of a lawyer to members of the public in general, which offers or promotes legal services under circumstances where the lawyer neither knows nor reasonably should know that the recipients need legal services in particular matters.
>
> (2) A "solicitation communication" is a communication substantially motivated by pecuniary gain that is made by or on behalf of a lawyer to a specific person who has not sought the lawyer's advice or services, which reasonably can be understood as offering to provide legal services that the lawyer knows or reasonably should know the person needs in a particular matter.

(c) A law firm name may include the names of current members of the firm and of deceased or retired members of the firm, or of a predecessor firm, if there has been a succession in the firm identity. The name of a lawyer holding a public office shall not be used in the name of a law firm, or in communications on its behalf, during any substantial period in which the lawyer is not actively and regularly practicing with the firm. A law firm with an office in more than one jurisdiction may use the same name or other professional designation in each jurisdiction, but identification of the lawyers in an office of the firm shall indicate the jurisdictional limitations on those not licensed to practice in the jurisdiction where the office is located.

(d) A statement or disclaimer required by these Rules shall be sufficiently clear that it can reasonably be understood by an ordinary person and made in each language used in the communication. A statement that a language is spoken or understood does not require a statement or disclaimer in that language.

(e) A lawyer shall not state or imply that the lawyer can achieve results by violence or means that violate these Rules or other law.

(f) A lawyer may state or imply that the lawyer practices in a partnership or other business entity only when that is accurate.

(g) If a lawyer who advertises the amount of a verdict secured on behalf of a client knows that the verdict was later reduced or reversed, or that the case was settled for a lesser amount, the lawyer must state in each advertisement of the verdict, with equal or greater prominence, the amount of money that was ultimately received by the client.

Rule 7.02 Advertisements

(a) An advertisement of legal services shall publish the name of a lawyer who is responsible for the content of the advertisement and identify the lawyer's primary practice location.

(b) A lawyer who advertises may communicate that the lawyer does or does not practice in particular fields of law, but shall not include a statement that the lawyer has been certified or designated by an organization as possessing special competence or a statement that the lawyer is a member of an organization the name of which implies that its members possess special competence, except that:

> (1) a lawyer who has been awarded a Certificate of Special Competence by the Texas Board of Legal Specialization in the area so advertised, may state with respect to each such area, "Board Certified, area of specialization -- Texas Board of Legal Specialization;" and
>
> (2) a lawyer who is a member of an organization the name of which implies that its members possess special competence, or who has been certified or designated by an organization as possessing special competence in a field of practice, may include a factually accurate, non-misleading statement of such membership or certification, but only if that organization has been accredited by the Texas Board of Legal Specialization as a bona fide organization that admits to membership or grants certification only on the basis of published criteria which the Texas Board of Legal Specialization has established as required for such certification.

(c) If an advertisement by a lawyer discloses a willingness to render services on a contingent fee basis, the advertisement must state whether the client will be obligated to pay for other expenses, such as the costs of litigation.

(d) A lawyer who advertises a specific fee or range of fees for an identified service shall conform to the advertised fee or range of fees for the period during which the advertisement is reasonably expected to be in circulation or otherwise expected to be effective in attracting clients, unless the advertisement specifies a shorter period. However, a lawyer is not bound to conform to the advertised fee or range of fees for a period of more than one year after the date of publication, unless the lawyer has expressly promised to do so.

Rule 7.03 Solicitation and Other Prohibited Communications

(a) The following definitions apply to this Rule:

> (1) "Regulated telephone, social media, or other electronic contact" means telephone, social media, or electronic communication initiated by a lawyer, or by a person acting on behalf of a lawyer, that involves communication in a live or electronically interactive manner.

(2) A lawyer "solicits" employment by making a "solicitation communication," as that term is defined in Rule 7.01(b)(2).

(b) A lawyer shall not solicit through in-person contact, or through regulated telephone, social media, or other electronic contact, professional employment from a non-client, unless the target of the solicitation is:

(1) another lawyer;

(2) a person who has a family, close personal, or prior business or professional relationship with the lawyer; or

(3) a person who is known by the lawyer to be an experienced user of the type of legal services involved for business matters.

(c) A lawyer shall not send, deliver, or transmit, or knowingly permit or cause another person to send, deliver, or transmit, a communication that involves coercion, duress, overreaching, intimidation, or undue influence.

(d) A lawyer shall not send, deliver, or transmit, or knowingly permit or cause another person to send, deliver, or transmit, a solicitation communication to a prospective client, if:

(1) the communication is misleadingly designed to resemble a legal pleading or other legal document; or

(2) the communication is not plainly marked or clearly designated an "ADVERTISEMENT" unless the target of the communication is:

(i) another lawyer;

(ii) a person who has a family, close personal, or prior business or professional relationship with the lawyer; or

(iii) a person who is known by the lawyer to be an experienced user of the type of legal services involved for business matters.

(e) A lawyer shall not pay, give, or offer to pay or give anything of value to a person not licensed to practice law for soliciting or referring prospective clients for professional employment, except nominal gifts given as an expression of appreciation that are neither intended nor reasonably expected to be a form of compensation for recommending a lawyer's services.

(1) This Rule does not prohibit a lawyer from paying reasonable fees for advertising and public relations services or the usual charges of a lawyer referral service that meets the requirements of Texas law.

(2) A lawyer may refer clients to another lawyer or a nonlawyer professional pursuant to an agreement not otherwise prohibited under these Rules that provides for the other person to refer clients or customers to the lawyer, if:

(i) the reciprocal referral agreement is not exclusive;

(ii) clients are informed of the existence and nature of the agreement; and

(iii) the lawyer exercises independent professional judgment in making referrals.

(f) A lawyer shall not, for the purpose of securing employment, pay, give, advance, or offer to pay, give, or advance anything of value to a prospective client, other than actual litigation expenses and other financial assistance permitted by Rule 1.08(d), or ordinary social hospitality of nominal value.

(g) This Rule does not prohibit communications authorized by law, such as notice to members of a class in class action litigation.

Rule 7.04 Filing Requirements for Advertisements and Solicitation Communications

(a) Except as exempt under Rule 7.05, a lawyer shall file with the Advertising Review Committee, State Bar of Texas, no later than ten (10) days after the date of dissemination of an advertisement of legal services, or ten (10) days after the date of a solicitation communication sent by any means:

(1) a copy of the advertisement or solicitation communication (including packaging if applicable) in the form in which it appeared or will appear upon dissemination;

(2) a completed lawyer advertising and solicitation communication application; and

(3) payment to the State Bar of Texas of a fee authorized by the Board of Directors.

(b) If requested by the Advertising Review Committee, a lawyer shall promptly submit information to substantiate statements or representations made or implied in an advertisement or solicitation communication.

(c) A lawyer who desires to secure pre-approval of an advertisement or solicitation communication may submit to the Advertising Review Committee, not fewer than thirty (30) days prior to the date of first dissemination, the material specified in paragraph (a), except that in the case of an advertisement or solicitation communication that has not yet been produced, the documentation will consist of a proposed text, production script, or other description, including details about the illustrations, actions, events, scenes, and background sounds that will be depicted. A finding of noncompliance by the Advertising Review Committee is not binding in a disciplinary proceeding or action, but a finding of compliance is binding in favor of the submitting lawyer as to all materials submitted for pre-approval if the lawyer fairly and accurately described the advertisement or solicitation communication that was later produced. A finding of compliance is admissible evidence if offered by a party.

Rule 7.05 Communications Exempt from Filing Requirements

The following communications are exempt from the filing requirements of Rule 7.04 unless they fail to comply with Rules 7.01, 7.02, and 7.03:

(a) any communication of a bona fide nonprofit legal aid organization that is used to educate members of the public about the law or to promote the availability of free or reduced-fee legal services;

(b) information and links posted on a law firm website, except the contents of the website homepage, unless that information is otherwise exempt from filing;

(c) a listing or entry in a regularly published law list;

(d) an announcement card stating new or changed associations, new offices, or similar changes relating to a lawyer or law firm, or a business card;

(e) a professional newsletter in any media that it is sent, delivered, or transmitted only to:

(1) existing or former clients;

(2) other lawyers or professionals;

(3) persons known by the lawyer to be experienced users of the type of legal services involved for business matters;

(4) members of a nonprofit organization which has requested that members receive the newsletter; or

(5) persons who have asked to receive the newsletter;

(f) a solicitation communication directed by a lawyer to:

(1) another lawyer;

(2) a person who has a family, close personal, or prior business or professional relationship with the lawyer; or

(3) a person who is known by the lawyer to be an experienced user of the type of legal services involved for business matters;

(g) a communication on a professional social media website to the extent that it contains only resume-type information;

(h) an advertisement that:

(1) identifies a lawyer or a firm as a contributor or sponsor of a charitable, community, or public interest program, activity, or event; and

(2) contains no information about the lawyers or firm other than names of the lawyers or firm or both, location of the law offices, contact information, and the fact of the contribution or sponsorship;

(i) communications that contain only the following types of information:

(1) the name of the law firm and any lawyer in the law firm, office addresses, electronic addresses, social media names and addresses, telephone numbers, office and telephone service hours, telecopier numbers, and a designation of the profession, such as “attorney,” “lawyer,” “law office,” or “firm;”

(2) the areas of law in which lawyers in the firm practice, concentrate, specialize, or intend to practice;

(3) the admission of a lawyer in the law firm to the State Bar of Texas or the bar of any court or jurisdiction;

(4) the educational background of the lawyer;

(5) technical and professional licenses granted by this state and other recognized licensing authorities;

(6) foreign language abilities;

(7) areas of law in which a lawyer is certified by the Texas Board of Legal Specialization or by an organization that is accredited by the Texas Board of Legal Specialization;

(8) identification of prepaid or group legal service plans in which the lawyer participates;

(9) the acceptance or nonacceptance of credit cards;

(10) fees charged for an initial consultation or routine legal services;

(11) identification of a lawyer or a law firm as a contributor or sponsor of a charitable, community, or public interest program, activity or event;

(12) any disclosure or statement required by these Rules; and

(13) any other information specified in orders promulgated by the Supreme Court of Texas.

Rule 7.06 Prohibited Employment

(a) A lawyer shall not accept or continue employment in a matter when that employment was procured by conduct prohibited by Rules 7.01 through 7.03, 8.04(a)(2), or 8.04(a)(9), engaged in by that lawyer personally or by another person whom the lawyer ordered, encouraged, or knowingly permitted to engage in such conduct.

(b) A lawyer shall not accept or continue employment in a matter when the lawyer knows or reasonably should know that employment was procured by conduct prohibited by Rules 7.01 through 7.03, 8.04(a)(2), or 8.04(a)(9), engaged in by another person or entity that is a shareholder, partner, or member of, an associate in, or of counsel to that lawyer's firm; or by any other person whom the foregoing persons or entities ordered, encouraged, or knowingly permitted to engage in such conduct.

(c) A lawyer who has not violated paragraph (a) or (b) in accepting employment in a matter shall not continue employment in that matter once the lawyer knows or reasonably should know that the person procuring the lawyer's employment in the matter engaged in, or ordered, encouraged, or knowingly permitted another to engage in, conduct prohibited by Rules 7.01 through 7.03, 8.04(a)(2), or 8.04(a)(9) in connection with the matter unless nothing of value is given thereafter in return for that employment.

Rule 7.07 Trade Names

A lawyer in private practice shall not practice under a trade name.

Proposed Rules (Redline Version)

Rule 7.01. Communications Concerning a Lawyer's Services ~~Firm Names and Letterhead~~

(a) A lawyer shall not make or sponsor a false or misleading communication about the qualifications or services of a lawyer or law firm. Information about legal services must be truthful and nondeceptive. A communication is false or misleading if it contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading. A statement is misleading if there is a substantial likelihood that it will lead a reasonable person to formulate a specific conclusion about the lawyer or the lawyer's services for which there is no reasonable factual foundation, or if the statement is substantially likely to create unjustified expectations about the results the lawyer can achieve. ~~A lawyer in private practice shall not practice under a trade name, a name that is misleading as to the identity of the lawyer or lawyers practicing under such name, or a firm name containing names other than those of one or more of the lawyers in the firm, except that the names of a professional corporation, professional association, limited liability partnership, or professional limited liability company may contain "P.C.," "L.L.P.," "P.L.L.C.," or similar symbols indicating the nature of the organization, and if otherwise lawful a firm may use as, or continue to include in, its name the name or names of one or more deceased or retired members of the firm or of a predecessor firm in a continuing line of succession. Nothing herein shall prohibit a married woman from practicing under her maiden name.~~

(b) This Rule governs all communications about a lawyer's services, including advertisements and solicitation communications. For purposes of Rules 7.01 to 7.07:

> (1) An "advertisement" is a communication substantially motivated by pecuniary gain that is made by or on behalf of a lawyer to members of the public in general, which offers or promotes legal services under circumstances where the lawyer neither knows nor reasonably should know that the recipients need legal services in particular matters.
>
> (2) A "solicitation communication" is a communication substantially motivated by pecuniary gain that is made by or on behalf of a lawyer to a specific person who has not sought the lawyer's advice or services, which reasonably can be understood as offering to provide legal services that the lawyer knows or reasonably should know the person needs in a particular matter.

~~A firm with offices in more than one jurisdiction may use the same name in each jurisdiction, but identification of the lawyers in an office of the firm shall indicate the jurisdictional limitations on those not licensed to practice in the jurisdiction where the office is located.~~

(c) A law firm name may include the names of current members of the firm and of deceased or retired members of the firm, or of a predecessor firm, if there has been a succession in the firm identity. The name of a lawyer holding a public office shall not be used in the name of a law firm, or in communications on its behalf, during any substantial period in which the lawyer is not actively and regularly practicing with the firm. A law firm with an office in more than one jurisdiction may use the same name or other professional designation in each jurisdiction, but identification of the lawyers in an office of the firm shall indicate the jurisdictional limitations on those not licensed to practice in the jurisdiction where the office is located. ~~The name of a lawyer occupying a judicial, legislative, or public executive or administrative position shall not be used in the name of a firm, or in communications on its behalf, during any substantial period in which the lawyer is not actively and regularly practicing with the firm.~~

(d) A statement or disclaimer required by these Rules shall be sufficiently clear that it can reasonably be understood by an ordinary person and made in each language used in the communication. A statement

that a language is spoken or understood does not require a statement or disclaimer in that language. ~~A lawyer shall not hold himself or herself out as being a partner, shareholder, or associate with one or more other lawyers unless they are in fact partners, shareholders, or associates.~~

(e) A lawyer shall not state or imply that the lawyer can achieve results by violence or means that violate these Rules or other law. ~~A lawyer shall not advertise in the public media or seek professional employment by any communication under a trade or fictitious name, except that a lawyer who practices under a firm name as authorized by paragraph (a) of this Rule may use that name in such advertisement or communication but only if that name is the firm name that appears on the lawyer's letterhead, business cards, office sign, fee contracts, and with the lawyer's signature on pleadings and other legal documents.~~

(f) A lawyer may state or imply that the lawyer practices in a partnership or other business entity only when that is accurate. ~~A lawyer shall not use a firm name, letterhead, or other professional designation that violates Rule 7.02(a).~~

(g) If a lawyer who advertises the amount of a verdict secured on behalf of a client knows that the verdict was later reduced or reversed, or that the case was settled for a lesser amount, the lawyer must state in each advertisement of the verdict, with equal or greater prominence, the amount of money that was ultimately received by the client.

Rule 7.02. Advertisements ~~Communications Concerning a Lawyer's Services~~

(a) An advertisement of legal services shall publish the name of a lawyer who is responsible for the content of the advertisement and identify the lawyer’s primary practice location. ~~A lawyer shall not make or sponsor a false or misleading communication about the qualifications or the services of any lawyer or firm. A communication is false or misleading if it:~~

> ~~(1) contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading;~~
>
> ~~(2) contains any reference in a public media advertisement to past successes or results obtained unless~~
>
> > ~~(i) the communicating lawyer or member of the law firm served as lead counsel in the matter giving rise to the recovery, or was primarily responsible for the settlement or verdict.~~
> >
> > ~~(ii) the amount involved was actually received by the client,~~
> >
> > ~~(iii) the reference is accompanied by adequate information regarding the nature of the case or matter, and the damages or injuries sustained by the client, and~~
> >
> > ~~(iv) if the gross amount received is stated, the attorney's fees and litigation expenses withheld from the amount are stated as well;~~
>
> ~~(3) is likely to create an unjustified expectation about results the lawyer can achieve, or states or implies that the lawyer can achieve results by means that violate these rules or other law;~~
>
> ~~(4) compares the lawyer's services with other lawyers' services, unless the comparison can be substantiated by reference to verifiable, objective data;~~

~~(5) states or implies that the lawyer is able to influence improperly or upon irrelevant grounds any tribunal, legislative body, or public official;~~

~~(6) designates one or more specific areas of practice in an advertisement in the public media or in a solicitation communication unless the advertising or soliciting lawyer is competent to handle legal matters in each such area of practice; or~~

~~(7) uses an actor or model to portray a client of the lawyer or law firm.~~

(b) A lawyer who advertises may communicate that the lawyer does or does not practice in particular fields of law, but shall not include a statement that the lawyer has been certified or designated by an organization as possessing special competence or a statement that the lawyer is a member of an organization the name of which implies that its members possess special competence, except that:

(1) a lawyer who has been awarded a Certificate of Special Competence by the Texas Board of Legal Specialization in the area so advertised, may state with respect to each such area, "Board Certified, area of specialization -- Texas Board of Legal Specialization;" and

(2) a lawyer who is a member of an organization the name of which implies that its members possess special competence, or who has been certified or designated by an organization as possessing special competence in a field of practice, may include a factually accurate, non-misleading statement of such membership or certification, but only if that organization has been accredited by the Texas Board of Legal Specialization as a bona fide organization that admits to membership or grants certification only on the basis of published criteria which the Texas Board of Legal Specialization has established as required for such certification.

~~Rule 7.02(a)(6) does not require that a lawyer be certified by the Texas Board of Legal Specialization at the time of advertising in a specific area of practice, but such certification shall conclusively establish that such lawyer satisfies the requirements of Rule 7.02(a)(6) with respect to the area(s) of practice in which such lawyer is certified.~~

(c) If an advertisement by a lawyer discloses a willingness to render services on a contingent fee basis, the advertisement must state whether the client will be obligated to pay for other expenses, such as the costs of litigation. ~~A lawyer shall not advertise in the public media or state in a solicitation communication that the lawyer is a specialist except as permitted under Rule 7.04.~~

(d) A lawyer who advertises a specific fee or range of fees for an identified service shall conform to the advertised fee or range of fees for the period during which the advertisement is reasonably expected to be in circulation or otherwise expected to be effective in attracting clients, unless the advertisement specifies a shorter period. However, a lawyer is not bound to conform to the advertised fee or range of fees for a period of more than one year after the date of publication, unless the lawyer has expressly promised to do so. ~~Any statement or disclaimer required by these rules shall be made in each language used in the advertisement or solicitation communication with respect to which such required statement or disclaimer relates; provided however, the mere statement that a particular language is spoken or understood shall not alone result in the need for a statement or disclaimer in that language.~~

Rule 7.03. Solicitation and Other Prohibited Communications ~~Prohibited Solicitations and Payments~~

(a) The following definitions apply to this Rule:

(1) "Regulated telephone, social media, or other electronic contact" means telephone, social media, or electronic communication initiated by a lawyer, or by a person acting on behalf of a lawyer, that involves communication in a live or electronically interactive manner.

(2) A lawyer "solicits" employment by making a "solicitation communication," as that term is defined in Rule 7.01(b)(2).

~~A lawyer shall not by in-person contact, or by regulated telephone or other electronic contact as defined in paragraph (f) seek professional employment concerning a matter arising out of a particular occurrence or event, or series of occurrences or events, from a prospective client or nonclient who has not sought the lawyer's advice regarding employment or with whom the lawyer has no family or past or present attorney-client relationship when a significant motive for the lawyer's doing so is the lawyer's pecuniary gain. Notwithstanding the provisions of this paragraph, a lawyer for a qualified nonprofit organization may communicate with the organization's members for the purpose of educating the members to understand the law, to recognize legal problems, to make intelligent selection of counsel, or to use legal services. In those situations where in person or telephone or other electronic contact is permitted by this paragraph, a lawyer shall not have such a contact with a prospective client if:~~

~~(1) the communication involves coercion, duress, fraud, overreaching, intimidation, undue influence, or harassment;~~

~~(2) the communication contains information prohibited by Rule 7.02(a); or~~

~~(3) the communication contains a false, fraudulent, misleading, deceptive, or unfair statement or claim.~~

(b) A lawyer shall not solicit through in-person contact, or through regulated telephone, social media, or other electronic contact, professional employment from a non-client, unless the target of the solicitation is:

(1) another lawyer;

(2) a person who has a family, close personal, or prior business or professional relationship with the lawyer; or

(3) a person who is known by the lawyer to be an experienced user of the type of legal services involved for business matters.

~~A lawyer shall not pay, give, or offer to pay or give anything of value to a person not licensed to practice law for soliciting prospective clients for, or referring clients or prospective clients to, any lawyer or firm, except that a lawyer may pay reasonable fees for advertising and public relations services rendered in accordance with this Rule and may pay the usual charges of a lawyer referral service that meets the requirements of Occupational Code Title 5, Subtitle B, Chapter 952.~~

(c) A lawyer shall not send, deliver, or transmit, or knowingly permit or cause another person to send, deliver, or transmit, a communication that involves coercion, duress, overreaching, intimidation, or undue influence. ~~A lawyer, in order to solicit professional employment, shall not pay, give, advance, or offer to pay, give, or advance anything of value, other than actual litigation expenses and other financial assistance as permitted by Rule 1.08(d), to a prospective client or any other person; provided however, this provision does not prohibit the payment of legitimate referral fees as permitted by Rule 1.04(f) or by paragraph (b) of this Rule.~~

(d) A lawyer shall not send, deliver, or transmit, or knowingly permit or cause another person to send, deliver, or transmit, a solicitation communication to a prospective client, if:

(1) the communication is misleadingly designed to resemble a legal pleading or other legal document; or

(2) the communication is not plainly marked or clearly designated an "ADVERTISEMENT" unless the target of the communication is:

(i) another lawyer;

(ii) a person who has a family, close personal, or prior business or professional relationship with the lawyer; or

(iii) a person who is known by the lawyer to be an experienced user of the type of legal services involved for business matters.

~~A lawyer shall not enter into an agreement for, charge for, or collect a fee for professional employment obtained in violation of Rule 7.03(a), (b), or (c).~~

(e) A lawyer shall not pay, give, or offer to pay or give anything of value to a person not licensed to practice law for soliciting or referring prospective clients for professional employment, except nominal gifts given as an expression of appreciation that are neither intended nor reasonably expected to be a form of compensation for recommending a lawyer's services.

(1) This Rule does not prohibit a lawyer from paying reasonable fees for advertising and public relations services or the usual charges of a lawyer referral service that meets the requirements of Texas law.

(2) A lawyer may refer clients to another lawyer or a nonlawyer professional pursuant to an agreement not otherwise prohibited under these Rules that provides for the other person to refer clients or customers to the lawyer, if:

(i) the reciprocal referral agreement is not exclusive;

(ii) clients are informed of the existence and nature of the agreement; and

(iii) the lawyer exercises independent professional judgment in making referrals.

~~A lawyer shall not participate with or accept referrals from a lawyer referral service unless the lawyer knows or reasonably believes that the lawyer referral service meets the requirements of Occupational Code Title 5, Subtitle B, Chapter 952.~~

(f) A lawyer shall not, for the purpose of securing employment, pay, give, advance, or offer to pay, give, or advance anything of value to a prospective client, other than actual litigation expenses and other financial assistance permitted by Rule 1.08(d), or ordinary social hospitality of nominal value. ~~As used in paragraph (a), "regulated telephone or other electronic contact" means any electronic communication initiated by a lawyer or by any person acting on behalf of a lawyer or law firm that will result in the person contacted communicating in a live, interactive manner with any other person by telephone or other electronic means. For purposes of this Rule a website for a lawyer or law firm is not considered a communication initiated by or on behalf of that lawyer or firm.~~

(g) This Rule does not prohibit communications authorized by law, such as notice to members of a class in class action litigation.

Rule 7.04. Filing Requirements for Advertisements and Solicitation Communications ~~Advertisements in the Public Media~~

(a) Except as exempt under Rule 7.05, a lawyer shall file with the Advertising Review Committee, State Bar of Texas, no later than ten (10) days after the date of dissemination of an advertisement of legal services, or ten (10) days after the date of a solicitation communication sent by any means:

(1) a copy of the advertisement or solicitation communication (including packaging if applicable) in the form in which it appeared or will appear upon dissemination;

(2) a completed lawyer advertising and solicitation communication application; and

(3) payment to the State Bar of Texas of a fee authorized by the Board of Directors.

~~A lawyer shall not advertise in the public media by stating that the lawyer is a specialist, except as permitted under Rule 7.04(b) or as follows:~~

~~(1) A lawyer admitted to practice before the United States Patent Office may use the designation "Patents," "Patent Attorney," or "Patent Lawyer," or any combination of those terms. A lawyer engaged in the trademark practice may use the designation "Trademark," "Trademark Attorney," or "Trademark Lawyer," or any combination of those terms. A lawyer engaged in patent and trademark practice may hold himself or herself out as specializing in "Intellectual Property Law," "Patent, Trademark, Copyright Law and Unfair Competition," or any of those terms.~~

~~(2) A lawyer may permit his or her name to be listed in lawyer referral service offices that meet the requirements of Occupational Code Title 5, Subtitle B, Chapter 952, according to the areas of law in which the lawyer will accept referrals.~~

~~(3) A lawyer available to practice in a particular area of law or legal service may distribute to other lawyers and publish in legal directories and legal newspapers (whether written or electronic) a listing or an announcement of such availability. The listing shall not contain a false or misleading representation of special competence or experience, but may contain the kind of information that traditionally has been included in such publications.~~

(b) If requested by the Advertising Review Committee, a lawyer shall promptly submit information to substantiate statements or representations made or implied in an advertisement or solicitation communication. ~~A lawyer who advertises in the public media:~~

~~(1) shall publish or broadcast the name of at least one lawyer who is responsible for the content of such advertisement; and~~

~~(2) shall not include a statement that the lawyer has been certified or designated by an organization as possessing special competence or a statement that the lawyer is a member of an organization the name of which implies that its members possess special competence, except that:~~

~~(i) a lawyer who has been awarded a Certificate of Special Competence by the Texas Board of Legal Specialization in the area so advertised, may state with respect to each~~

~~such area, "Board Certified, area of specialization — Texas Board of Legal Specialization;" and~~

~~(ii) a lawyer who is a member of an organization the name of which implies that its members possess special competence, or who has been certified or designated by an organization as possessing special competence, may include a factually accurate statement of such membership or may include a factually accurate statement, "Certified area of specialization name of certifying organization," but such statements may be made only if that organization has been accredited by the Texas Board of Legal Specialization as a bona fide organization that admits to membership or grants certification only on the basis of objective, exacting, publicly available standards (including high standards of individual character, conduct, and reputation) that are reasonably relevant to the special training or special competence that is implied and that are in excess of the level of training and competence generally required for admission to the Bar; and~~

~~(3) shall, in the case of infomercial or comparable presentation, state that the presentation is an advertisement;~~

~~(i) both verbally and in writing at its outset, after any commercial interruption, and at its conclusion; and~~

~~(ii) in writing during any portion of the presentation that explains how to contact a lawyer or law firm.~~

(c) A lawyer who desires to secure pre-approval of an advertisement or solicitation communication may submit to the Advertising Review Committee, not fewer than thirty (30) days prior to the date of first dissemination, the material specified in paragraph (a), except that in the case of an advertisement or solicitation communication that has not yet been produced, the documentation will consist of a proposed text, production script, or other description, including details about the illustrations, actions, events, scenes, and background sounds that will be depicted. A finding of noncompliance by the Advertising Review Committee is not binding in a disciplinary proceeding or action, but a finding of compliance is binding in favor of the submitting lawyer as to all materials submitted for pre-approval if the lawyer fairly and accurately described the advertisement or solicitation communication that was later produced. A finding of compliance is admissible evidence if offered by a party. ~~Separate and apart from any other statements, the statements referred to in paragraph (b) shall be displayed conspicuously, and in language easily understood by an ordinary consumer.~~

~~(d) Subject to the requirements of Rules 7.02 and 7.03 and of paragraphs (a), (b), and (c) of this Rule, a lawyer may, either directly or through a public relations or advertising representative, advertise services in the public media, such as (but not limited to) a telephone directory, legal directory, newspaper or other periodical, outdoor display, radio, television, the Internet, or electronic, or digital media.~~

~~(e) All advertisements in the public media for a lawyer or firm must be reviewed and approved in writing by the lawyer or a lawyer in the firm.~~

~~(f) A copy or recording of each advertisement in the public media and relevant approval referred to in paragraph (e), and a record of when and where the advertisement was used, shall be kept by the lawyer or firm for four years after its last dissemination.~~

~~(g) In advertisements in the public media, any person who portrays a lawyer whose services or whose firm's services are being advertised, or who narrates an advertisement as if he or she were such a lawyer, shall be one or more of the lawyers whose services are being advertised.~~

~~(h) If an advertisement in the public media by a lawyer or firm discloses the willingness or potential willingness of the lawyer or firm to render services on a contingent fee basis, the advertisement must state whether the client will be obligated to pay all or any portion of the court costs and, if a client may be liable for other expenses, this fact must be disclosed. If specific percentage fees or fee ranges of contingent fee work are disclosed in such advertisement, it must also disclose whether the percentage is computed before or after expenses are deducted from the recovery.~~

~~(i) A lawyer who advertises in the public media a specific fee or range of fees for a particular service shall conform to the advertised fee or range of fees for the period during which the advertisement is reasonably expected to be in circulation or otherwise expected to be effective in attracting clients, unless the advertisement specifies a shorter period; but in no instance is the lawyer bound to conform to the advertised fee or range of fees for a period of more than one year after the date of publication.~~

~~(j) A lawyer or firm who advertises in the public media must disclose the geographic location, by city or town, of the lawyer's or firm's principal office. A lawyer or firm shall not advertise the existence of any office other than the principal office unless:~~

~~(1) that other office is staffed by a lawyer at least three days a week; or~~

~~(2) the advertisement states:~~

~~(i) the days and times during which a lawyer will be present at that office, or~~

~~(ii) that meetings with lawyers will be by appointment only.~~

~~(k) A lawyer may not, directly or indirectly, pay all or a part of the cost of an advertisement in the public media for a lawyer not in the same firm unless such advertisement discloses the name and address of the financing lawyer, the relationship between the advertising lawyer and the financing lawyer, and whether the advertising lawyer is likely to refer cases received through the advertisement to the financing lawyer.~~

~~(l) If an advertising lawyer knows or should know at the time of an advertisement in the public media that a case or matter will likely be referred to another lawyer or firm, a statement of such fact shall be conspicuously included in such advertisement.~~

~~(m) No motto, slogan or jingle that is false or misleading may be used in any advertisement in the public media.~~

~~(n) A lawyer shall not include in any advertisement in the public media the lawyer's association with a lawyer referral service unless the lawyer knows or reasonably believes that the lawyer referral service meets the requirements of Occupational Code Title 5, Subtitle B, Chapter 952.~~

~~(o) A lawyer may not advertise in the public media as part of an advertising cooperative or venture of two or more lawyers not in the same firm unless each such advertisement:~~

~~(1) states that the advertisement is paid for by the cooperating lawyers;~~

~~(2) names each of the cooperating lawyers;~~

~~(3) sets forth conspicuously the special competency requirements required by Rule 7.04(b) of lawyers who advertise in the public media;~~

~~(4) does not state or imply that the lawyers participating in the advertising cooperative or venture possess professional superiority, are able to perform services in a superior manner, or possess special competence in any area of law advertised, except that the advertisement may contain the information permitted by Rule 7.04(b)(2); and~~

~~(5) does not otherwise violate the Texas Disciplinary Rules of Professional Conduct.~~

~~(p) Each lawyer who advertises in the public media as part of an advertising cooperative or venture shall be individually responsible for:~~

~~(1) ensuring that each advertisement does not violate this Rule; and~~

~~(2) complying with the filing requirements of Rule 7.07.~~

~~(q) If these rules require that specific qualifications, disclaimers or disclosures of information accompany communications concerning a lawyer's services, the required qualifications, disclaimers or disclosures must be presented in the same manner as the communication and with equal prominence.~~

~~(r) A lawyer who advertises on the Internet must display the statements and disclosures required by Rule 7.04.~~

Rule 7.05. Communications Exempt from Filing Requirements ~~Prohibited Written, Electronic, Or Digital Solicitations~~

The following communications are exempt from the filing requirements of Rule 7.04 unless they fail to comply with Rules 7.01, 7.02, and 7.03:

(a) any communication of a bona fide nonprofit legal aid organization that is used to educate members of the public about the law or to promote the availability of free or reduced-fee legal services;

(b) information and links posted on a law firm website, except the contents of the website homepage, unless that information is otherwise exempt from filing;

(c) a listing or entry in a regularly published law list;

(d) an announcement card stating new or changed associations, new offices, or similar changes relating to a lawyer or law firm, or a business card;

(e) a professional newsletter in any media that it is sent, delivered, or transmitted only to:

(1) existing or former clients;

(2) other lawyers or professionals;

(3) persons known by the lawyer to be experienced users of the type of legal services involved for business matters;

(4) members of a nonprofit organization which has requested that members receive the newsletter; or

(5) persons who have asked to receive the newsletter;

(f) a solicitation communication directed by a lawyer to:

(1) another lawyer;

(2) a person who has a family, close personal, or prior business or professional relationship with the lawyer; or

(3) a person who is known by the lawyer to be an experienced user of the type of legal services involved for business matters;

(g) a communication on a professional social media website to the extent that it contains only resume-type information;

(h) an advertisement that:

(1) identifies a lawyer or a firm as a contributor or sponsor of a charitable, community, or public interest program, activity, or event; and

(2) contains no information about the lawyers or firm other than names of the lawyers or firm or both, location of the law offices, contact information, and the fact of the contribution or sponsorship;

(i) communications that contain only the following types of information:

(1) the name of the law firm and any lawyer in the law firm, office addresses, electronic addresses, social media names and addresses, telephone numbers, office and telephone service hours, telecopier numbers, and a designation of the profession, such as “attorney,” “lawyer,” “law office,” or “firm;”

(2) the areas of law in which lawyers in the firm practice, concentrate, specialize, or intend to practice;

(3) the admission of a lawyer in the law firm to the State Bar of Texas or the bar of any court or jurisdiction;

(4) the educational background of the lawyer;

(5) technical and professional licenses granted by this state and other recognized licensing authorities;

(6) foreign language abilities;

(7) areas of law in which a lawyer is certified by the Texas Board of Legal Specialization or by an organization that is accredited by the Texas Board of Legal Specialization;

(8) identification of prepaid or group legal service plans in which the lawyer participates;

(9) the acceptance or nonacceptance of credit cards;

(10) fees charged for an initial consultation or routine legal services;

(11) identification of a lawyer or a law firm as a contributor or sponsor of a charitable, community, or public interest program, activity or event;

(12) any disclosure or statement required by these Rules; and

(13) any other information specified in orders promulgated by the Supreme Court of Texas.

~~(a) A lawyer shall not send, deliver, or transmit or knowingly permit or knowingly cause another person to send, deliver, or transmit a written, audio, audio visual, digital media, recorded telephone message, or other electronic communication to a prospective client for the purpose of obtaining professional employment on behalf of any lawyer or law firm if:~~

~~(1) the communication involves coercion, duress, fraud, overreaching, intimidation, undue influence, or harassment;~~

~~(2) the communication contains information prohibited by Rule 7.02 or fails to satisfy each of the requirements of Rule 7.04(a) through (c), and (g) through (q) that would be applicable to the communication if it were an advertisement in the public media; or~~

~~(3) the communication contains a false, fraudulent, misleading, deceptive, or unfair statement or claim.~~

~~(b) Except as provided in paragraph (f) of this Rule, a written, electronic, or digital solicitation communication to prospective clients for the purpose of obtaining professional employment:~~

~~(1) shall, in the case of a non-electronically transmitted written communication, be plainly marked "ADVERTISEMENT" on its first page, and on the face of the envelope or other packaging used to transmit the communication. If the written communication is in the form of a self-mailing brochure or pamphlet, the word "ADVERTISEMENT" shall be:~~

~~(i) in a color that contrasts sharply with the background color; and~~

~~(ii) in a size of at least 3/8" vertically or three times the vertical height of the letters used in the body of such communication, whichever is larger~~

~~(2) shall, in the case of an electronic mail message, be plainly marked "ADVERTISEMENT" in the subject portion of the electronic mail and at the beginning of the message's text;~~

~~(3) shall not be made to resemble legal pleadings or other legal documents;~~

~~(4) shall not reveal on the envelope or other packaging or electronic mail subject line used to transmit the communication, or on the outside of a self-mailing brochure or pamphlet, the nature of the legal problem of the prospective client or non-client; and~~

~~(5) shall disclose how the lawyer obtained the information prompting the communication to solicit professional employment if such contact was prompted by a specific occurrence involving the recipient of the communication, or a family member of such person(s).~~

~~(c) Except as provided in paragraph (f) of this Rule, an audio, audio visual, digital media, recorded telephone message, or other electronic communication sent to prospective clients for the purpose of obtaining professional employment:~~

~~(1) shall, in the case of any such communication delivered to the recipient by non-electronic means, plainly and conspicuously state in writing on the outside of any envelope or other packaging used to transmit the communication, that it is an "ADVERTISEMENT."~~

~~(2) shall not reveal on any such envelope or other packaging the nature of the legal problem of the prospective client or non-client;~~

~~(3) shall disclose, either in the communication itself or in accompanying transmittal message, how the lawyer obtained the information prompting such audio, audio visual, digital media, recorded telephone message, or other electronic communication to solicit professional employment, if such contact was prompted by a specific occurrence involving the recipient of the communication or a family member of such person(s);~~

~~(4) shall, in the case of a recorded audio presentation or a recorded telephone message, plainly state that it is an advertisement prior to any other words being spoken and again at the presentation's or message's conclusion; and~~

~~(5) shall, in the case of an audio-visual or digital media presentation, plainly state that the presentation is an advertisement;~~

~~(i) both verbally and in writing at the outset of the presentation and again at its conclusion; and~~

~~(ii) in writing during any portion of the presentation that explains how to contact a lawyer or law firm.~~

~~(d) All written, audio, audio-visual, digital media, recorded telephone message, or other electronic communications made to a prospective client for the purpose of obtaining professional employment of a lawyer or law firm must be reviewed and either signed by or approved in writing by the lawyer or a lawyer in the firm.~~

~~(e) A copy of each written, audio, audio visual, digital media, recorded telephone message, or other electronic solicitation communication, the relevant approval thereof, and a record of the date of each such communication; the name, address, telephone number, or electronic address to which each such communication was sent; and the means by which each such communication was sent shall be kept by the lawyer or firm for four years after its dissemination.~~

~~(f) The provisions of paragraphs (b) and (c) of this Rule do not apply to a written, audio, audiovisual, digital media, recorded telephone message, or other form, of electronic solicitation communication:~~

~~(1) directed to a family member or a person with whom the lawyer had or has an attorney-client relationship;~~

~~(2) that is not motivated by or concerned with a particular past occurrence or event or a particular series of past occurrences or events, and also is not motivated by or concerned with the prospective client's specific existing legal problem of which the lawyer is aware;~~

~~(3) if the lawyer's use of the communication to secure professional employment was not significantly motivated by a desire for, or by the possibility of obtaining, pecuniary gain; or~~

~~(4) that is requested by the prospective client.~~

Rule 7.06. Prohibited Employment

(a) A lawyer shall not accept or continue employment in a matter when that employment was procured by conduct prohibited by ~~any of~~ Rules 7.01 through 7.03~~5~~, 8.04(a)(2), or 8.04(a)(9), engaged in by that lawyer personally or by another ~~any other~~ person whom the lawyer ordered, encouraged, or knowingly permitted to engage in such conduct.

(b) A lawyer shall not accept or continue employment in a matter when the lawyer knows or reasonably should know that employment was procured by conduct prohibited by ~~any of~~ Rules 7.01 through 7.03~~5~~, 8.04(a)(2), or 8.04(a)(9), engaged in by another ~~any other~~ person or entity that is a shareholder, partner, or member of, an associate in, or of counsel to that lawyer's firm; or by any other person whom ~~any of~~ the foregoing persons or entities ordered, encouraged, or knowingly permitted to engage in such conduct.

(c) A lawyer who has not violated paragraph (a) or (b) in accepting employment in a matter shall not continue employment in that matter once the lawyer knows or reasonably should know that the person procuring the lawyer's employment in the matter engaged in, or ordered, encouraged, or knowingly permitted another to engage in, conduct prohibited by ~~any of~~ Rules 7.01 through 7.03~~5~~, 8.04(a)(2), or 8.04(a)(9) in connection with the matter unless nothing of value is given thereafter in return for that employment.

Rule 7.07. Trade Names ~~Filing Requirements for Public Advertisements and Written, Recorded, Electronic, or Other Digital Solicitations~~

A lawyer in private practice shall not practice under a trade name.

~~(a) Except as provided in paragraphs (c) and (e) of this Rule, a lawyer shall file with the Advertising Review Committee of the State Bar of Texas, no later than the mailing or sending by any means, including electronic, of a written, audio, audio-visual, digital or other electronic solicitation communication:~~

~~(1) a copy of the written, audio, audio-visual, digital, or other electronic solicitation communication being sent or to be sent to one or more prospective clients for the purpose of obtaining professional employment, together with a representative sample of the envelopes or other packaging in which the communications are enclosed;~~

~~(2) a completed lawyer advertising and solicitation communication application form; and~~

~~(3) a check or money order payable to the State Bar of Texas for the fee set by the Board of Directors. Such fee shall be for the sole purpose of defraying the expense of enforcing the rules related to such solicitations.~~

~~(b) Except as provided in paragraph (e) of this Rule, a lawyer shall file with the Advertising Review Committee of the State Bar of Texas, no later than the first dissemination of an advertisement in the public media, a copy of each of the lawyer's advertisements in the public media. The filing shall include:~~

~~(1) a copy of the advertisement in the form in which it appears or will appear upon dissemination, such as a videotape, audiotape, DVD, CD, a print copy, or a photograph of outdoor advertising;~~

~~(2) a production script of the advertisement setting forth all words used and describing in detail the actions, events, scenes, and background sounds used in such advertisement together with a listing of the names and addresses of persons portrayed or heard to speak, if the advertisement is in or will be in a form in which the advertised message is not fully revealed by a print copy or photograph;~~

~~(3) a statement of when and where the advertisement has been, is, or will be used;~~

~~(4) a completed lawyer advertising and solicitation communication application form; and~~

~~(5) a check or money order payable to the State Bar of Texas for the fee set by the Board of Directors. Such fee shall be for the sole purpose of defraying the expense of enforcing the rules related to such advertisements.~~

~~(c) Except as provided in paragraph (e) of this Rule, a lawyer shall file with the Advertising Review Committee of the State Bar of Texas no later than its first posting on the internet or other comparable network of computers information concerning the lawyer's or lawyer's firm's website. As used in this Rule, a "website" means a single or multiple page file, posted on a computer server, which describes a lawyer or law firm's practice or qualifications, to which public access is provided through publication of a uniform resource locator (URL). The filing shall include:~~

~~(1) the intended initial access page of a website;~~

~~(2) a completed lawyer advertising and solicitation communication application form; and~~

~~(3) a check or money order payable to the State Bar of Texas for the fee set by the Board of Directors. Such fee shall be set for the sole purpose of defraying the expense of enforcing the rules related to such websites,~~

~~(d) A lawyer who desires to secure an advance advisory opinion, referred to as a request for pre-approval, concerning compliance of a contemplated solicitation communication or advertisement may submit to the Advertising Review Committee, not less than thirty (30) days prior to the date of first dissemination, the material specified in paragraph (a) or (b), or the intended initial access page submitted pursuant to paragraph (c), including the application form and required fee; provided however, it shall not be necessary to submit a videotape or DVD if the videotape or DVD has not then been prepared and the production script submitted reflects in detail and accurately the actions, events, scenes, and background sounds that will be depicted or contained on such videotapes or DVDs, when prepared, as well as the narrative transcript of the verbal and printed portions of such advertisement. If a lawyer submits an advertisement or solicitation communication for pre-approval, a finding of noncompliance by the Advertising Review Committee is not binding in a disciplinary proceeding or disciplinary action but a finding of compliance is binding in favor of the submitting lawyer as to all materials actually submitted for pre-approval if the representations, statements, materials, facts and written assurances received in connection therewith are true and are not misleading. The finding of compliance constitutes admissible evidence if offered by a party.~~

~~(e) The filing requirements of paragraphs (a), (b), and (c) do not extend to any of the following materials, provided those materials comply with Rule 7.02(a) through (c) and, where applicable, Rule 7.04(a) through (c):~~

~~(1) an advertisement in the public media that contains only part or all of the following information:~~

~~(i) the name of the lawyer or firm and lawyers associated with the firm, with office addresses, electronic addresses, telephone numbers, office and telephone service hours, telecopier numbers, and a designation of the profession such as "attorney", "lawyer", "law office", or "firm;"~~

~~(ii) the particular areas of law in which the lawyer or firm specializes or possesses special competence;~~

~~(iii) the particular areas of law in which the lawyer or firm practices or concentrates or to which it limits its practice;~~

~~(iv) the date of admission of the lawyer or lawyers to the State Bar of Texas, to particular federal courts, and to the bars of other jurisdictions;~~

~~(v) technical and professional licenses granted by this state and other recognized licensing authorities;~~

~~(vi) foreign language ability;~~

~~(vii) fields of law in which one or more lawyers are certified or designated, provided the statement of this information is in compliance with Rule 7.02(a) through (c).~~

~~(viii) identification of prepaid or group legal service plans in which the lawyer participates;~~

~~(ix) the acceptance or nonacceptance of credit cards;~~

~~(x) any fee for initial consultation and fee schedule;~~

~~(xi) other publicly available information concerning legal issues, not prepared or paid for by the firm or any of its lawyers, such as news articles, legal articles, editorial opinions, or other legal developments or events, such as proposed or enacted rules, regulations, or legislation;~~

~~(xii) in the case of a website, links to other websites;~~

~~(xiii) that the lawyer or firm is a sponsor of a charitable, civic, or community program or event, or is a sponsor of a public service announcement;~~

~~(xiv) any disclosure or statement required by these rules; and~~

~~(xv) any other information specified from time to time in orders promulgated by the Supreme Court of Texas;~~

~~(2) an advertisement in the public media that:~~

~~(i) identifies one or more lawyers or a firm as a contributor to a specified charity or as a sponsor of a specified charitable, community, or public interest program, activity, or event; and~~

~~(ii) contains no information about the lawyers or firm other than names of the lawyers or firm or both, location of the law offices, and the fact of the sponsorship or contribution;~~

~~(3) a listing or entry in a regularly published law list;~~

~~(4) an announcement card stating new or changed associations, new offices, or similar changes relating to a lawyer or firm, or a tombstone professional card;~~

~~(5) in the case of communications sent, delivered, or transmitted to, rather than accessed by, intended recipients, a newsletter, whether written, digital, or electronic, provided that it is sent, delivered, or transmitted only to:~~

~~(i) existing or former clients;~~

~~(ii) other lawyers or professionals; or~~

~~(iii) members of a nonprofit organization that meets the following conditions: the primary purposes of the organization do not include the rendition of legal services; the recommending, furnishing, paying for, or educating persons regarding legal services is incidental and reasonably related to the primary purposes of the organization; the organization does not derive a financial benefit from the rendition of legal services by a lawyer; and the person for whom the legal services are rendered, and not the organization, is recognized as the client of the lawyer who is recommended, furnished, or paid by the organization;~~

~~(6) a solicitation communication that is not motivated by or concerned with a particular past occurrence or event or a particular series of past occurrences or events, and also is not motivated by or concerned with the prospective client's specific existing legal problem of which the lawyer is aware;~~

~~(7) a solicitation communication if the lawyer's use of the communication to secure professional employment was not significantly motivated by a desire for, or by the possibility of obtaining, pecuniary gain; or~~

~~(8) a solicitation communication that is requested by the prospective client.~~

~~(f) if requested by the Advertising Review Committee, a lawyer shall promptly submit information to substantiate statements or representations made or implied in any advertisement in the public media or solicitation communication by which the lawyer seeks paid professional employment.~~

TO: CDRR

FROM: Subcommittee (Vincent R. Johnson, chair; Claude Ducloux; Amy Bresnen)

Date: Updated September 22, 2019

RE: Revised Proposed Comments to Texas Rules 7.01 to 7.07

Proposed Comment to Proposed Texas Rule 7.01

[1] This Rule governs all communications about a lawyer's services, including advertisements and solicitation communications which appear in any media, including social media. Firm names, letterhead, and professional designations are communications concerning a lawyer's services. Whatever means are used to make known a lawyer's services, statements about them must be truthful and not misleading.

Misleading Truthful Statements

[2] Misleading truthful statements are prohibited by this Rule. For example, a truthful statement is misleading if presented in a way that creates a substantial likelihood that a reasonable person would believe the lawyer's communication requires that person to take further action when, in fact, no action is required.

Use of Actors

[3] The use of an actor to portray a lawyer in a commercial is misleading if there is a substantial likelihood that a reasonable person will conclude that the actor is the lawyer who is offering to provide legal services. Whether a disclaimer—such as a statement that the depiction is a "dramatization" or shows an "actor portraying a lawyer"—is sufficient to make the use of an actor not misleading depends on a careful assessment of the relevant facts and circumstances, including whether the disclaimer is conspicuous and clear. Similar issues arise with respect to actors portraying clients in commercials. Such a communication is misleading if there is a substantial likelihood that a reasonable person will reach erroneous conclusions based on the dramatization.

Intent to Refer Prospective Clients to Another Firm

[4] A communication offering legal services is misleading if, at the time a lawyer makes the communication, the lawyer knows or reasonably should know, but fails to disclose, that a prospective client responding to the communication is likely to be referred to a lawyer in another firm.

Unjustified Expectations

[5] A communication is misleading if there is a substantial likelihood that it will create unjustified expectations on the part of prospective clients about the results that can be achieved. A communication that truthfully reports results obtained by a lawyer on behalf of clients or former clients may be misleading if presented so as to lead a reasonable person to form an unjustified expectation that the same results could be obtained for other clients in similar matters without reference to the specific

factual and legal circumstances of each client's case. Depending on the facts and circumstances, the inclusion of an appropriate disclaimer or qualifying language may preclude a finding that a statement is likely to mislead the public.

Required Statements and Disclaimers

[6] A statement or disclaimer required by these Rules must be presented clearly and conspicuously such that it is likely to be noticed and reasonably understood by an ordinary person. In radio, television, and Internet advertisements, verbal statements must be spoken in a manner that their content is easily intelligible, and written statements must appear in a size and font, and for a sufficient length of time, that a viewer can easily see and read the statements.

Unsubstantiated Claims and Comparisons

[7] An unsubstantiated claim about a lawyer's or law firm's services or fees, or an unsubstantiated comparison of the lawyer's or law firm's services or fees with those of other lawyers or law firms, may be misleading if presented with such specificity as to lead a reasonable person to conclude that the comparison or claim can be substantiated.

Public Education Activities

[8] As used in these Rules, the terms "advertisement" and "solicitation communication" do not include statements made by a lawyer that are not substantially motivated by pecuniary gain. Thus, communications which merely inform members of the public about their legal rights and about legal services that are available from public or charitable legal-service organizations, or similar non-profit entities, are permissible, provided they are not misleading. These types of statements may be made in a variety of ways, including community legal education sessions, know-your-rights brochures, public service announcements on television and radio, billboards, information posted on organizational social media sites, and outreach to low-income groups in the community, such as in migrant labor housing camps, domestic violence shelters, disaster resource centers, and dilapidated apartment complexes.

Web Presence

[9] A lawyer or law firm may be designated by a distinctive website address, e-mail address, social media username or comparable professional designation that is not misleading and does not otherwise violate these Rules.

Past Success and Results

[10] A communication about legal services may be misleading because it omits an important fact or tells only part of the truth. A lawyer who knows that an advertised verdict was later reduced or reversed, or that the case was settled for a lesser amount, must disclose those facts with equal or greater prominence to avoid creating unjustified expectations on the part of potential clients. A lawyer may claim credit for a prior judgement or settlement only if the lawyer played a substantial role in obtaining that result. This standard is satisfied if the lawyer served as lead counsel or was primarily responsible for the settlement. In other cases, whether the standard is met depends on the facts. A lawyer who did not play a substantial role in obtaining an advertised judgment or settlement is subject to discipline for misrepresenting the lawyer's experience and, in some cases, for creating unjustified expectations about the results the lawyer can achieve.

Related Rules

[11] It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation. *See* Rule 8.04(a)(3); *see also* Rule 8.04(a)(5) (prohibiting communications stating or implying an ability to improperly influence a government agency or official).

Proposed Comment to Proposed Texas Rule 7.02

[1] These Rules permit the dissemination of information that is not false or misleading about a lawyer's or law firm's name, address, e-mail address, website, and telephone number; the kinds of services the lawyer will undertake; the basis on which the lawyer's fees are determined, including prices for specific services and payment and credit arrangements; a lawyer's foreign language abilities; names of references and, with their consent, names of clients regularly represented; and other similar information that might invite the attention of those seeking legal assistance.

Communications about Fields of Practice

[2] Paragraph (b) of this Rule permits a lawyer to communicate that the lawyer does or does not practice in particular areas of law. A lawyer is generally permitted to state that the lawyer "concentrates in" or is a "specialist," practices a "specialty," or "specializes in" particular fields based on the lawyer's experience, specialized training or education, but such communications are subject to the "false and misleading" standard applied by Rule 7.01 to communications concerning a lawyer's services.

[3] The Patent and Trademark Office has a long-established policy of designating lawyers practicing before the Office. The designation of Admiralty practice also has a long historical tradition associated with maritime commerce and the federal courts. A lawyer's communications about these practice areas are not prohibited by this Rule.

Certified Specialist

[4] This Rule permits a lawyer to state that the lawyer is certified as a specialist in a field of law if such certification is granted by the Texas Board of Legal Specialization or by an organization that applies standards of experience, knowledge and proficiency to ensure that a lawyer's recognition as a specialist is meaningful and reliable, if the organization is accredited by the Texas Board of Legal Specialization. To ensure that consumers can obtain access to useful information about an organization granting certification, the name of the certifying organization must be included in any communication regarding the certification.

Proposed Comment to Proposed Texas Rule 7.03

Solicitation by Public and Charitable Legal Services Organizations

[1] Rule 7.01 provides that a "'solicitation communication' is a communication substantially motivated by pecuniary gain." Therefore, the ban on solicitation imposed by paragraph (b) of this Rule does not apply to the activities of lawyers working for public or charitable legal services organizations.

Communications Directed to the Public or Requested

[2] A lawyer's communication is not a solicitation if it is directed to the general public, such as through a billboard, an Internet banner advertisement, a website or a television commercial, or if it is made in response to a request for information, including an electronic search for information. The terms "advertisement" and "solicitation communication" are defined in Rule 7.01(b).

The Risk of Overreaching

[3] A potential for overreaching exists when a lawyer, seeking pecuniary gain, solicits a person known to be in need of legal services via in-person or regulated telephone, social media, or other electronic contact. These forms of contact subject a person to the private importuning of the trained advocate in a direct interpersonal encounter. The person, who may already feel overwhelmed by the circumstances giving rise to the need for legal services, may find it difficult to fully evaluate all available alternatives with reasoned judgment and appropriate self-interest in the face of the lawyer's presence and insistence upon an immediate response. The situation is fraught with the possibility of undue influence, intimidation, and overreaching.

[4] The potential for overreaching that is inherent in in-person or regulated telephone, social media, or other electronic contact justifies their prohibition, since lawyers have alternative means of conveying necessary information. In particular, communications can be sent by regular mail or e-mail, or by other means that do not involve communication in a live or electronically interactive manner. These forms of communications make it possible for the public to be informed about the need for legal services, and about the qualifications of available lawyers and law firms, with minimal risk of overwhelming a person's judgment.

[5] The contents of live person-to-person contact can be disputed and may not be subject to third-party scrutiny. Consequently, they are much more likely to approach (and occasionally cross) the dividing line between accurate representations and those that are false and misleading.

Targeted Mail Solicitation

[6] Regular mail or e-mail targeted to a person that offers to provide legal services that the lawyer knows or reasonably should know the person needs in a particular matter is a solicitation communication within the meaning of Rule 7.01(b)(2), but is not prohibited by subsection (b) of this Rule. Unlike in-person and electronically interactive communication by "regulated telephone, social media, or other electronic contact," regular mail and e-mail can easily be ignored, set aside, or reconsidered. There is a diminished likelihood of overreaching because no lawyer is physically present and there is evidence in tangible or electronic form of what was communicated. *See Shapero v. Kentucky B. Ass'n*, 486 U.S. 466 (1988).

Personal, Family, Business, and Professional Relationships

[7] There is a substantially reduced likelihood that a lawyer would engage in overreaching against a former client, a person with whom the lawyer has a close personal, family, business or professional relationship, or in situations in which the lawyer is motivated by considerations other than pecuniary gain. Nor is there a serious potential for overreaching when the person contacted is a lawyer or is known to routinely use the type of legal services involved for business purposes. Examples include persons who routinely hire outside counsel to represent the entity; entrepreneurs who regularly engage business, employment law, or intellectual property lawyers; small business proprietors who routinely hire lawyers for lease or contract issues; and other people who routinely retain lawyers for business transactions or formations.

Constitutionally Protected Activities

[8] Paragraph (b) is not intended to prohibit a lawyer from participating in constitutionally protected activities of public or charitable legal-service organizations or bona fide political, social, civic, fraternal, employee, or trade organizations whose purposes include providing or recommending legal services to their members or beneficiaries.

Group and Prepaid Legal Services Plans

[9] This Rule does not prohibit a lawyer from contacting representatives of organizations or groups that may be interested in establishing a group or prepaid legal plan for their members, insureds, beneficiaries, or other third parties for the purpose of informing such entities of the availability of and details concerning the plan or arrangement which the lawyer or lawyer's firm is willing to offer. This form of communication is not directed to people who are seeking legal services for themselves. Rather, it is usually addressed to an individual acting in a fiduciary capacity seeking a supplier of legal services for others who may, if they choose, become prospective clients of the lawyer. Under these circumstances, the activity which the lawyer undertakes in communicating with such representatives and the type of information transmitted are functionally similar to and serve the same purpose as advertising permitted by these Rules.

Designation as an Advertisement

[10] For purposes of paragraph (d)(2) of this Rule, a communication is rebuttably presumed to be “plainly marked or clearly designated an ‘ADVERTISEMENT’” if: (a) in the case of a letter transmitted in an envelope, both the outside of the envelope and the first page of the letter state the word “ADVERTISEMENT” in bold face all-capital letters that are 3/8” high on a uncluttered background; (b) in the case of an e-mail message, the first word in the subject line is “ADVERTISEMENT” in all capital letters; and (c) in the case of a text message or message on social media, the first word in the message is “ADVERTISEMENT” in all capital letters.

Paying Others to Recommend a Lawyer

[11] This Rule allows a lawyer to pay for advertising and communications, including the usual costs of print directory listings, online directory listings, newspaper ads, television and radio airtime, domain-name registrations, sponsorship fees, Internet-based advertisements, and group advertising. A lawyer may compensate employees, agents, and vendors who are engaged to provide marketing or

client development services, such as publicists, public-relations personnel, business-development staff, television and radio station employees or spokespersons and website designers.

[12] This Rule permits lawyers to give nominal gifts as an expression of appreciation to a person for recommending the lawyer's services or referring a prospective client. The gift may not be more than a token item as might be given for holidays, or other ordinary social hospitality. A gift is prohibited if offered or given in consideration of any promise, agreement, or understanding that such a gift would be forthcoming or that referrals would be made or encouraged in the future.

[13] A lawyer may pay others for generating client leads, such as Internet-based client leads, as long as the lead generator does not recommend the lawyer, any payment to the lead generator is consistent with Rules 5.04(a) (division of fees with nonlawyers) and 5.04(c) (nonlawyer interference with the professional independence of the lawyer), and the lead generator's communications are consistent with Rule 7.01 (communications concerning a lawyer's services). To comply with Rule 7.01, a lawyer must not pay a lead generator that states, implies, or creates a reasonable impression that it is recommending the lawyer, is making the referral without payment from the lawyer, or has analyzed a person's legal problems when determining which lawyer should receive the referral. *See also* Rule 5.03 (duties of lawyers and law firms with respect to the conduct of nonlawyers); Rule 8.04(a)(1) (duty to avoid violating the Rules through the acts of another).

Charges of and Referrals by a Legal Services Plan or Lawyer Referral Service

[14] A lawyer may pay the usual charges of a legal service plan or a not-for-profit or qualified lawyer referral service. A legal service plan is a prepaid or group legal service plan or a similar delivery system that assists people who seek to secure legal representation. A lawyer referral service, on the other hand, is any organization that holds itself out to the public as a lawyer referral service. Qualified referral services are consumer-oriented organizations that provide unbiased referrals to lawyers with appropriate experience in the subject matter of the representation and afford other client protections, such as complaint procedures or malpractice insurance requirements.

[15] A lawyer who accepts assignments or referrals from a legal service plan or referrals from a lawyer referral service must act reasonably to assure that the activities of the plan or service are compatible with the lawyer's professional obligations. Legal service plans and lawyer referral services may communicate with the public, but such communication must be in conformity with these Rules. Thus, advertising must not be false or misleading, as would be the case if the communications of a group advertising program or a group legal services plan would mislead the public to think that it was a lawyer referral service sponsored by a state agency or bar association.

Reciprocal Referral Arrangements

[16] A lawyer does not violate paragraph (e) of this Rule by agreeing to refer clients to another lawyer or nonlawyer professional, so long as the reciprocal referral agreement is not exclusive, the client is informed of the referral agreement, and the lawyer exercises independent professional judgment in making the referral. Reciprocal referral agreements should not be of indefinite duration and should be reviewed periodically to determine whether they comply with these Rules. A lawyer should not enter into a reciprocal referral agreement with another lawyer that includes a division of fees without determining that the agreement complies with Rule 1.04(f).

Meals or Entertainment for Prospective Clients

[17] This Rule does not prohibit a lawyer from paying for a meal or entertainment for a prospective client that has a nominal value or amounts to ordinary social hospitality.

Proposed Comment to Proposed Texas Rule 7.04

[1] The Advertising Review Committee shall report to the appropriate disciplinary authority any lawyer whom, based on filings with the Committee, it reasonably believes disseminated a communication that violates Rules 7.01, 7.02, or 7.03, or otherwise engaged in conduct that raises a substantial question as to that lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects. *See* Rule 8.03(a).

Multiple Solicitation Communications

[2] Paragraph (a) does not require that a lawyer submit a copy of each written solicitation letter a lawyer sends. If the same form letter is sent to several people, only a representative sample of each form letter, along with a representative sample of the envelopes used to mail the letters, need be filed.

Requests for Additional Information

[3] Paragraph (b) does not empower the Advertising Review Committee to seek information from a lawyer to substantiate statements or representations made or implied in communications about legal services that were not substantially motivated by pecuniary gain.

Proposed Comment to Proposed Texas Rule 7.05

[1] This Rule exempts certain types of communications from the filing requirements of Rule 7.04. Communications that were not prepared to secure paid professional employment do not need to be filed.

Website-Related Filings

[2] While the entire website of a lawyer or law firm must be compliant with Rules 7.01 and 7.02, the only material on the website that may need to be filed pursuant to this Rule is the contents of the homepage. However, even a homepage does not need to be filed if the contents of the homepage are exempt from filing under the provisions of this Rule. Under Rule 7.04(c), a lawyer may voluntarily seek pre-approval of any material that is part of the lawyer’s website.

Proposed Comment to Proposed Texas Rule 7.06

[1] This Rule deals with three different situations: personal disqualification, imputed disqualification, and referral-related payments.

Personal Disqualification

[2] Paragraph (a) addresses situations where the lawyer in question has violated the specified advertising rules or other provisions dealing with serious crimes and barratry. The Rule makes clear that the offending lawyer cannot accept or continue to provide representation. This prohibition also applies if the lawyer ordered, encouraged, or knowingly permitted another to violate the Rules in question.

Imputed Disqualification

[3] Second, paragraph (b) addresses whether other lawyers in a firm can provide representation if a person or entity in the firm has violated the specified advertising rules or other provisions dealing with serious crimes and barratry, or has ordered, encouraged, or knowingly permitted another to engage in such conduct. The Rule clearly indicates that the other lawyers cannot provide representation if they knew or reasonably should have known that the employment was procured by conduct prohibited by the stated Rules. This effectively means that, in such cases, the disqualification that arises from a violation of the advertising rules and other specified provisions is imputed to other members of the firm.

Restriction on Referral-Related Payments

[4] Paragraph (c) deals with situations where a lawyer knows or reasonably should know that a case referred to the lawyer or the lawyer's law firm was procured by violation of the advertising rules or other specified provisions. The Rule makes clear that, even if the lawyer's conduct did not violate paragraph (a) or (b), the lawyer can continue to provide representation only if the lawyer does not pay anything of value, such as a referral fee, to the person making the referral.

Proposed Comment to Proposed Texas Rule 7.07

[1] Texas lawyers have traditionally been prohibited from practicing law under trade names. Rule 7.07 continues the traditional rule.

A Resolution Concerning the Advertising Review Committee Report

Whereas *The Advertising Review Committee is a standing committee of the State Bar of Texas,*

Whereas *The purpose of the committee is to concern itself with attorney advertising issues and attorney compliance with the Lawyer Advertising Rules, Part VII of the Texas Disciplinary Rules of Professional Conduct, and review all public media advertising and written solicitation communications submitted for review as required by 7.07 of the Rules,*

Whereas *The Advertising Review Committee issued a report to the State Bar Board of Directors (Board of Directors) at its April 27, 2018 meeting with proposed amendments to the Texas Disciplinary Rules of Professional Conduct pertaining to lawyer advertising,*

Whereas *Chapter 81, Subchapter E-1 of the State Bar Act establishes a Committee on Disciplinary Rules and Referenda and specifies the disciplinary rule proposal process,*

Whereas *Section 81.0875 (c) of the State Bar Act states that a request to initiate the process for proposing a disciplinary rule may be made by a resolution of the Board of Directors,*

Be It Therefore Resolved *that the State Bar of Texas Board of Directors approves the submission of the Advertising Review Committee report to the Committee on Disciplinary Rules and Referenda and requests initiation of the rule proposal process on the lawyer advertising rules.*

Resolution Adopted *this 20th day of June 2018 by the State Bar Board of Directors in Houston, Texas.*

_____

Tom Vick, President
State Bar of Texas

_____

Joe Longley, President-elect
State Bar of Texas

_____

Rehan Alimohammad, Chair of the Board
State Bar of Texas

witnessed by

_____

Trey Apffel, Executive Director
State Bar of Texas

Executive Summary of the Advertising Review Committee's Report to President Tom Vick

This report is in response to President Vick's letter to Stephen Tatum, Chair, Advertising Review Committee (ARC). In President Vick's letter, he charged that the ARC review make a comprehensive review of the regulatory process, and any rule revisions. In the ARC's analysis, the committee used the current and proposed revisions to the ABA Model Rules, The Virginia Bar Association's revised Rules on Attorney Advertising, the current rules on attorney advertising in the states of New York and Florida, and the current Part VII, TDRPC. The results of the ARC's analysis provides both administrative changes to the review process, and a complete revision of the rules.

The administrative changes:

- **Revised correspondences sent out by staff.**
  The tone and language of these letters were "softened" to a more customer service approach. In keeping within the parameters set forth in the rules, the time frame to submit changes, or at least notify staff that changes are being developed was increased from 10 days to 15 days.
- **Reviews of websites.**
  While an entire website needs to be compliant, only the homepage or initial access page, or the page that contains the navigational instruments for the website, will be filed and reviewed for compliance.
- **Statement of Principal Office City location on a website.**
  Statement of office location can be just on the "contact us" page of a website instead of on the home page.
- **Review of Texas Board of Legal Specialization Certification.**
  At the first mention of Board Certification, full disclosure language needs to be use (Board Certified in _____ law by the Texas Board of Legal Specialization. Afterwards, the entire phrase does not need to be utilized every time board certification is mentioned.
- **New Software.**
  The Information Technology Department of the Bar is currently working with a third party vendor in developing the specifications for new software for the Advertising Review Department. This software will create a "portal" that make the submission and review process faster and timelier.

Proposed Rule Revisions:

- **Streamline the rules from 7 parts down to 5.**
  Combined salient portions of the current rules while eliminating the explanatory portions of rules. Combined current portions of the rules regarding advertising and solicitation communications into one encompassing rule.
- **Specifically included the term "social media" in the rules regarding solicitation communications.**
  While the current rules specify both electronic and digital solicitation communications, that do in theory cover the use of social media, the revised rules integrate into the actual rule the language "social media" into the broad spectrum of the rules.
- **The use of trade names, with specific limitations.**
  Specific limitations on trade names would be that the firm cannot mislead by having a name of a firm that sounds like a governmental agency or offering discount of pro bono services.

STATE BAR OF TEXAS

ADVERTISING REVIEW COMMITTEE

The Advertising Review Committee and Department were created not only to assist in protecting the public from deceptive advertisements and solicitation communications, but also with the added effect to keep these types of potential rule violations from overwhelming the disciplinary counsel's office. In addition, the advertising review department and committee also provides attorneys an independent avenue to have their advertisements and solicitation communications reviewed prior to any potential discipline.

It is through the 1994 State Bar referendum that Texas attorneys considered amending the Disciplinary Rules to include Part VII (the ad rules). 88.46% of the ballots cast voted in favor of Part VII. Thus, in 1995, the Supreme Court of Texas made Part VII TDRPC effective as of October of that year, and the Advertising Review Committee and department was created. The only substantive change to Part VII came as part of the 2004 Bar Referendum and it was codified by the Texas Supreme Court in 2005.

Soon after Part VII, TDRPC became effective, the rules were put under constitutional scrutiny in the US District Court, Eastern District Texas case: Texans Against Censorship, Inc. v. State Bar of Texas, James A McCormack and the District 1A Grievance Committee of the State Bar of Texas (888 F. Supp 1328). The Court not only held the rules to be constitutional, but also upheld the filing and filing fee. The rules and filing procedure survived judicial scrutiny in the First District Appellate case: Joe Alfred Izen Jr., v. Commission for Lawyer Discipline, (322 S.W.3d 308).

Attorneys can submit their advertisements and solicitation communications to the State Bar either prior to dissemination, or concurrent with disseminating the information about their legal services. After filing the advertisement or solicitation communication, if the staff determines that a possible violation occurred, written correspondences from the staff are sent to the lawyer. Included in the written correspondence is the rule that was possibly violated, and instructions on the procedure to either remedy the violation, or permanently stop the advertisement or solicitation communication. Also, a strongly worded caution provides that the attorney could be sent in front of their local grievance panel. Attorney submissions can either be approved, disapproved or sent to Chief Disciplinary Counsel. In the past 5 years, Advertising Review reviewed on average 3495 submissions per year, and over 86% of that number were approved.

With Part VII, TDRPC having not seen a substantive change in over a decade, President Vick charged Stephen Tatum, Chair of the Advertising Review Committee (ARC) to recommend

not only a rules revision, but to review the existing regulatory process utilized in order to streamline its effectiveness. As a guide, the ARC was to review the recent revisions to the Virginia Bar Association's revised rules on Attorney Advertising, the revisions being made to the ABA Model Rules regarding Attorney Advertising. The ARC reviewed all aspects of the review process, and was able to formulate specific procedures that can be implemented based upon the authority of the ARC.

- **Revised correspondences sent out by staff.**
  The correspondences sent out by staff regarding submissions that could violate the rules have not been substantively changed since the inception of the program. Specific letters relating to possible violations of the rules for both pre-approvals and for concurrent submissions were too strongly worded, structured in a way that did not present the recipient much time to respond with changes, presented no appellate process, and referenced local grievance panel, when it should be Chief Disciplinary Counsel. All of these issues have been addressed in the revised letters. The tone and language of these letters were "softened" to a more customer service approach. In keeping within the parameters set forth in the rules, the time frame to submit changes, or at least notify staff that changes are being developed was increased from 10 days to 15 days. In addition, the previous letters indicated that resubmissions needed to be mailed, the revised letters state that changes can be sent electronically as well as mailed. Specific mention of a direct appeal to the ARC has been included in the "request for changes" letters. If an attorney does not respond to the "request for changes" letters, then the Last Chance Notice is sent to the submitting lawyer.

- **Reviews of websites.**
  As websites have become more mainstream, and they can contain numerous pages of information. Reviewing lengthy websites has slowed both staff and submitting attorney's response times. In accordance with the rules, the entire website needs to be compliant, only the homepage or initial access page, or the page that contains the navigational instruments for the website, will be filed and reviewed for compliance. This change in policy is possible under R.7.04(b)(1): which requires that the website must publish or broadcast the name of at least one lawyer who is *responsible for the content* of such advertisement.
  Since the rules hold the submitting attorney accountable for any violations, the onerous of compliance rests with the submitting lawyer. If a website is found not in compliance, staff will notify the submitting lawyer of the potential violation and the proper correspondence will be sent.

- **Statement of Principal Office City location on a website.**
  R. 7.04(j): A lawyer or firm who advertises in the public media must disclose the geographic location, by city or town, of the lawyer's or firms principal office. The ARC's Interpretive Comment 17 on websites, takes the rule further by stating the principal office

city location must be indicated on the home page, or initial access page of a website. While this may have been prudent with the advent of webpages, most consumers would now know to look at the lawyer's or firm's contact page in order to determine where the office is located. In addition, with potential clients being able to access their lawyer via electronic means, and be able to supply their lawyer with pertinent information via cloud resources, the office location, in some instances is not relevant.

- **Review of Texas Board of Legal Specialization Certification.**
  R.7.04(b)(2)(i): a lawyer who has been awarded a Certificate of Special Competence by the Texas Board of Legal Specialization in the area so advertised, *may* state with respect to each such area, "Board Certified, [area of specialization] — Texas Board of Legal Specialization." While there are numerous references to the prohibitions of stating an attorney is a specialist or specializes in an area of law, in reviewing all the parts of Part VII that mention TBLS certification, or a lawyer indicating they have a specialization in an area a law, the rules do not indicate that shall or must state the entire phrase: Board Certified, [area of specialization] — Texas Board of Legal Specialization. While previous interpretations of the rules have been that every time a lawyer indicated such a Board Certification, the entire statement needed to be stated, the rules do not seem to require such a restrictive standard. The creation of the very effective TBLS Certification logo that lawyers can download from TBLS and include in their advertisements and solicitation communications, having lawyers include the entire certification phrase every time board certification is mentioned seems to be redundant. As long as the complete certification disclaimer is utilized on the onset of mentioning or alluding to board certification, the entire phrase does not need to be utilized every time board certification is mentioned.

- **New Software.**
  The Information Technology Department of the Bar is currently working with a third party vendor in developing the specifications for new software for the Advertising Review Department. The creation of an advertising review portal will allow attorneys to submit and pay for their application online. Attorneys will be able to submit requested changes through the portal, and receive notices of approval/disapproval, plus automated updates as the review process. These changes will allow staff to effectively communicate with submitting lawyers and increase turnaround times of files.

It should be noted that through modifications to how the principal office city location and Board Certification is reviewed will significantly reduce the "technical" type violations and improve not only speed of approvals and customer service while in keeping compliance with the rules.

The ARC also initiated the process of revising Part VII, TDRPC. In taking President Vick's directive into account, the committee looked to streamline the rules, while encompassing all electronic avenues to disseminate information about one's legal services (Attachment A). Highlights of the revised rules include:

- **Streamline the rules from seven parts down to 5.**
  In reviewing Part VII, TDRPC, there appears to be a significant amount of explanatory information written in the rules. This was most likely due to the fact that the rules have not been overhauled since the inception of Part VII, and therefore the "how to" part of the rules were needed as guidelines for compliance. Information regarding dissemination of a specialization of a particular practice by the Texas Board of Legal Specialization is covered specifically in R. 7.02, 7.04, 7.07 and referenced in R.7.05. In the revised rules, advertising as a specialist in a particular area of law designated by the Texas Board of Legal Specialization is only mentioned broadly in R. 7.02, and it is optional. Since the revised rules do not come with authoritative comments, it would be within the authoritative comments that specificities as to patent and trademark lawyers, and to organizations accredited by the Texas Board of Legal Specialization would be outlined. The revised rules combined current rules R.7.04 and R.7.05, extracting the salient portions of those two rules and synthesizing them into one revised R.7.02.

- **Specifically included the term "social media" in the rules regarding solicitation communications.**
  While the current rules specify both electronic and digital solicitation communications, that do in theory cover the use of social media, the revised rules integrate into the actual rule the language "social media" into the broad spectrum of attorney communications outlined in R. 7.01. Again, since the revised rules do not come with authoritative comments, it is surmised that social media applications and explanatory, descriptive information will be outlined in the authoritative comments.

- **The use of trade names, with specific limitations.**
  In what could be possibly viewed as the biggest departure from the current rules, the revised rules allow trade names to be utilized as firm names, with very specific prohibitions outlined in the rule. Only the states of New York, Ohio and Texas have the absolute prohibition on trade names, while most states allow for trade names or follow the ABA Model Rule R.7.05. With the merging and acquisitions of firms, not only on a state, regional or nation marketplace, but now Texas firms have become part of global law firms, it stands to reason that the absolute prohibition on trade names is not only antiquated, it is ripe for a challenge. In keeping with President Vick's charge that the ARC look to revise rules with an eye on public protection, the revised trade name rules prohibits trade names to sound like they are either an agent or agency of a branch of government (US Immigration Center), or appear as if the law firm offers discount legal services (Employment Law Clinic).

  This report is submitted on behalf of the Advertising Review Committee whose members include: Stephen Tatum, (Chair), Al Harrison, (Vice Chair), Matthew Blair, Sylvia Ann Cardona, Becky Baskin Ferguson, Alexis Wade Foster, Mike Fuljenz, Jason Honeycutt,

Aurora Martinez Jones, Charles Noteboom, Pat Rafferty, Bennie Elliot Ray, Courtney Stamper.

Special recognition needs to go to the ARC's Board Liaisons: Wendy Burgower and Fidel Rodriguez for the time and talent they have brought to the ARC. These Board Liaisons were the right people at the right time and these changes to policy, procedures and the rules would not be as far reaching as they are without them.

Respectfully submitted,

Stephen Tatum, Chair

ATTACHMENT A

PROPOSED REVISIONS TO

PART VII

TEXAS DISCIPLINARY RULES PROFESSIONAL CONDUCT

TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT

VII. INFORMATION ABOUT LEGAL SERVICES

Rule 7.01 ~~(B) Firm Names and Letterhead~~ Communications Concerning a Lawyer's Services

~~(a) A lawyer in private practice shall not practice under a trade name, a name that is misleading as to the identity of the lawyer or lawyers practicing under such name, or a firm name containing names other than those of one or more of the lawyers in the firm, except that the names of a professional corporation, professional association, limited liability partnership, or professional limited liability company may contain "P.C.," "P.A.," "L.L.P.," "P.L.L.C.," or similar symbols indicating the nature of the organization, and if otherwise lawful a firm may use as, or continue to include in, its name the name or names of one or more deceased or retired members of the firm or of a predecessor firm in a continuing line of succession. Nothing herein shall prohibit a married woman from practicing under her maiden name.~~

~~(b) A firm with offices in more than one jurisdiction may use the same name in each jurisdiction, but identification of the lawyers in an office of the firm shall indicate the jurisdictional limitations on those not licensed to practice in the jurisdiction where the office is located.~~

~~(c) The name of a lawyer occupying a judicial, legislative, or public executive or administrative position shall not be used in the name of a firm, or in communications on its behalf, during any substantial period in which the lawyer is not actively and regularly practicing with the firm.~~

~~(d) A lawyer shall not hold himself or herself out as being a partner, shareholder, or associate with one or more other lawyers unless they are in fact partners, shareholders, or associates.~~

~~(e) A lawyer shall not advertise in the public media or seek professional employment by any communication under a trade or fictitious name, except that a lawyer who practices under a firm name as authorized by paragraph (a) of this Rule may use that name in such advertisement or communication but only if that name is the firm name that appears on the lawyer's letterhead, business cards, office sign, fee contracts, and with the lawyer's signature on pleadings and other legal documents.~~

~~(f) A lawyer shall not use a firm name, letterhead, or other professional designation that violates Rule 7.02(a).~~

~~Rule 7.02 Communications Concerning a Lawyer's Services~~

(a) ~~-~~(a) A lawyer shall not make or sponsor a false or misleading communication about the qualifications or the services of any lawyer or firm. This Rule governs all communications about a lawyer's services, including advertisements and solicitation communications. Whatever means are used to disseminate information about a lawyer's services, statements, including trade names must be truthful and non-deceptive.

(b) A lawyer in private practice may practice under a trade name, including in its name of one or more deceased or retired members of the firm or of a predecessor firm in a continuing line of succession

1. provided the trade name does not imply a connection with a public or charitable legal services organization, or governmental agency or entity; or
2. utilizes the name of a non-lawyer, or a lawyer not associated with the firm.

(c) Any statement or disclaimer required by these rules shall be made in each language used in the advertisement or solicitation communication with respect to which such required statement or disclaimer relates; provided however, the mere statement that a particular language is spoken or understood shall not alone result in the need for a statement or disclaimer in that language.

(d) Shall not create or imply an unjustified expectation about results the lawyer can achieve, or states or implies that the lawyer can achieve results by means that violate these rules or other law.

~~A communication is false or misleading if it:~~

~~(1) contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading;~~

~~(2) contains any reference in a public media advertisement to past successes or results obtained unless~~

~~(i) the communicating lawyer or member of the law firm served as lead counsel in the matter giving rise to the recovery, or was primarily responsible for the settlement or verdict,~~

~~(ii) the amount involved was actually received by the client,~~

~~(iii) the reference is accompanied by adequate information regarding the nature of the case or matter and the damages or injuries sustained by the client, and~~

~~(iv) if the gross amount received is stated, the attorney's fees and litigation expenses withheld from the amount are stated as well;~~

~~(3) is likely to create an unjustified expectation about results the lawyer can achieve, or states or implies that the lawyer can achieve results by means that violate these rules or other law;~~

~~(4) compares the lawyer's services with other lawyers' services, unless the comparison can be substantiated by reference to verifiable, objective data;~~

~~(5) states or implies that the lawyer is able to influence improperly or upon irrelevant grounds any tribunal, legislative body, or public official;~~

~~(6) designates one or more specific areas of practice in an advertisement in the public media or in a solicitation communication unless the advertising or soliciting lawyer is competent to handle legal matters in each such area of practice; or~~

~~(7) uses an actor or model to portray a client of the lawyer or law firm.~~

~~(b) Rule 7.02(a)(6) does not require that a lawyer be certified by the Texas Board of Legal Specialization at the time of advertising in a specific area of practice, but such certification shall conclusively establish that such lawyer satisfies the requirements of Rule 7.02(a)(6) with respect to the area(s) of practice in which such lawyer is certified.~~

~~(c) A lawyer shall not advertise in the public media or state in a solicitation communication that the lawyer is a specialist except as permitted under Rule 7.04.~~

~~(d) Any statement or disclaimer required by these rules shall be made in each language used in the advertisement or solicitation communication with respect to which such required statement or disclaimer relates; provided however, the mere statement that a particular language is spoken or understood shall not alone result in the need for a statement or disclaimer in that language.~~

Rule 7.0~~3~~2 Advertisements and Solicitation Communications Disseminated in the Public ~~Prohibited Solicitations & Payments~~

(a) ~~(a)~~ A lawyer who advertises in the public media: (1) shall publish or broadcast the name of at least one lawyer who is responsible for the content of such advertisement; and the lawyers primary practice location; (2) may include a statement that the lawyer has been awarded a Certificate of Special Competence by the Texas Board of Legal Specialization.

(b) A lawyer shall not send, deliver, or transmit, or knowingly permit or knowingly cause another person to send, deliver, or transmit, a written, audio, audiovisual, digital media, recorded telephone message, or other electronic communication to a prospective client for the purpose of obtaining professional employment on behalf of any lawyer or law firm if:

(1) the communication involves coercion, duress, fraud, overreaching, intimidation, undue influence, contains a false, fraudulent, misleading, deceptive, or unfair statement or claim.

(2) the communication contains information prohibited by Rule 7.01.

(3) the communication is to resemble legal pleadings or other legal documents

(4) the solicitation communication shall, regardless of the media utilized, be plainly marked "ADVERTISEMENT" unless the recipient:

(a) is a lawyer,

(b) has a familial, personal or prior professional relationship with the lawyer,

(c) has or had an attorney client relationship,

(c) If an advertisement or solicitation communication by a lawyer or firm discloses the willingness or potential willingness of the lawyer or firm to render services on a contingent fee basis, it must state the client will be obligated to pay for other expenses.

(d) A lawyer who advertises in the public media a specific fee or range of fees for a particular service shall conform to the advertised fee or range of fees for the period during which the advertisement is reasonably expected to be in circulation or otherwise expected to be effective in attracting clients, unless the advertisement specifies a shorter period; but in no instance is the lawyer bound to conform to the advertised fee or range of fees for a period of more than one year after the date of publication.

(e) A lawyer may not advertise in the public media as part of an advertising cooperative or venture of two or more lawyers not in the same firm unless each such advertisement:

(1) states that the advertisement is paid for by the cooperating lawyers;

(2) names each of the cooperating lawyers;

(f) Neither Rule 7.01 nor Rule 7.02 prohibits communications authorized by law, such as notice to members of a class in class action litigation.

~~A lawyer shall not by in person contact, or by regulated telephone or other electronic contact as defined in paragraph (f), seek professional employment concerning a matter arising out of a particular occurrence or event, or series of occurrences or events, from a~~

~~prospective client or nonclient who has not sought the lawyer's advice regarding employment or with whom the lawyer has no family or past or present attorney client relationship when a significant motive for the lawyer's doing so is the lawyer's pecuniary gain. Notwithstanding the provisions of this paragraph, a lawyer for a qualified nonprofit organization may communicate with the organization's members for the purpose of educating the members to understand the law, to recognize legal problems, to make intelligent selection of counsel, or to use legal services. In those situations where in person or telephone or other electronic contact is permitted by this paragraph, a lawyer shall not have such a contact with a prospective client if:~~

~~(1) the communication involves coercion, duress, fraud, overreaching, intimidation, undue influence, or harassment;~~

~~(2) the communication contains information prohibited by Rule 7.02(a); or~~

~~(3) the communication contains a false, fraudulent, misleading, deceptive, or unfair statement or claim.~~

~~(b) A lawyer shall not pay, give, or offer to pay or give anything of value to a person not licensed to practice law for soliciting prospective clients for, or referring clients or prospective clients to, any lawyer or firm, except that a lawyer may pay reasonable fees for advertising and public relations services rendered in accordance with this Rule and may pay the usual charges of a lawyer referral service that meets the requirements of Occupational Code Title 5, Subtitle B, Chapter 952.~~

~~(c) A lawyer, in order to solicit professional employment, shall not pay, give, advance, or offer to pay, give, or advance anything of value, other than actual litigation expenses and other financial assistance as permitted by Rule 1.08(d), to a prospective client or any other person; provided however, this provision does not prohibit the payment of legitimate referral fees as permitted by Rule 1.04(f) or by paragraph (b) of this Rule.~~

~~(d) A lawyer shall not enter into an agreement for, charge for, or collect a fee for professional employment obtained in violation of Rule 7.03(a), (b), or (c).~~

~~(e) A lawyer shall not participate with or accept referrals from a lawyer referral service unless the lawyer knows or reasonably believes that the lawyer referral service meets the requirements of Occupational Code Title 5, Subtitle B, Chapter 952.~~

~~(f) As used in paragraph (a), "regulated telephone or other electronic contact" means any electronic communication initiated by a lawyer or by any person acting on behalf of a lawyer or law firm that will result in the person contacted communicating in a live, interactive manner with any other person by telephone or other electronic means. For purposes of this Rule a website for a lawyer or law firm is not considered a communication initiated by or on behalf of that lawyer or firm.~~

~~Rule 7.04 Advertisements in the Public Media~~

~~(a) A lawyer shall not advertise in the public media by stating that the lawyer is a specialist, except as permitted under Rule 7.04(b) or as follows:~~

~~(1) A lawyer admitted to practice before the United States Patent Office may use the designation "Patents," "Patent Attorney," or "Patent Lawyer," or any combination of those terms. A lawyer engaged in the trademark practice may use the designation "Trademark," "Trademark Attorney," or "Trademark Lawyer," or any combination of those terms. A lawyer engaged in patent and trademark practice may hold himself or herself out as specializing in "Intellectual Property Law," "Patent, Trademark, Copyright~~

~~Law and Unfair Competition," or any of those terms.~~

~~(2) A lawyer may permit his or her name to be listed in lawyer referral service offices that meet the requirements of Occupational Code Title 5, Subtitle B, Chapter 952, according to the areas of law in which the lawyer will accept referrals.~~

~~(3) A lawyer available to practice in a particular area of law or legal service may distribute to other lawyers and publish in legal directories and legal newspapers (whether written or electronic) a listing or an announcement of such availability. The listing shall not contain a false or misleading representation of special competence or experience, but may contain the kind of information that traditionally has been included in such publications.~~

~~(b) A lawyer who advertises in the public media:~~

~~(1) shall publish or broadcast the name of at least one lawyer who is responsible for the content of such advertisement.; and~~

~~(2) shall not include a statement that the lawyer has been certified or designated by an organization as possessing special competence or a statement that the lawyer is a member of an organization the name of which implies that its members possess special competence, except that:~~

~~(i) a lawyer who has been awarded a Certificate of Special Competence by the Texas Board of Legal Specialization in the area so advertised, may state with respect to each such area, "Board Certified, [area of specialization] — Texas Board of Legal Specialization;" and~~

~~(ii) a lawyer who is a member of an organization the name of which implies that its members possess special competence, or who has been certified or designated by an organization as possessing special competence, may include a factually accurate statement of such membership or may include a factually accurate statement, "Certified [area of specialization] [name of certifying organization]," but such statements may be made only if that organization has been accredited by the Texas Board of Legal Specialization as a bona fide organization that admits to membership or grants certification only on the basis of objective, exacting, publicly available standards (including high standards of individual character, conduct, and reputation) that are reasonably relevant to the special training or special competence that is implied and that are in excess of the level of training and competence generally required for admission to the Bar; and~~

~~(3) shall, in the case of infomercial or comparable presentation, state that the presentation is an advertisement:~~

~~(i) both verbally and in writing at its outset, after any commercial interruption, and at its conclusion; and~~

~~(ii) in writing during any portion of the presentation that explains how to contact a lawyer or law firm.~~

~~(c) Separate and apart from any other statements, the statements referred to in paragraph~~

~~(b) Shall be displayed conspicuously and in language easily understood by an ordinary consumer.~~

~~(d) Subject to the requirements of Rules 7.02 and 7.03 and of paragraphs (a), (b), and (c) of this Rule, a lawyer may, either directly or through a public relations or advertising representative, advertise services in the public media, such as (but not limited to) a~~

~~telephone directory, legal directory, newspaper or other periodical, outdoor display, radio, television, the internet, or electronic or digital media.~~

~~(e) All advertisements in the public media for a lawyer or firm must be reviewed and approved in writing by the lawyer or a lawyer in the firm.~~

~~(f) A copy or recording of each advertisement in the public media and relevant approval referred to in paragraph (e), and a record of when and where the advertisement was used, shall be kept by the lawyer or firm for four years after its last dissemination.~~

~~(g) In advertisements in the public media, any person who portrays a lawyer whose services or whose firm's services are being advertised, or who narrates an advertisement as if he or she were such a lawyer, shall be one or more of the lawyers whose services are being advertised.~~

~~(h) If an advertisement in the public media by a lawyer or firm discloses the willingness or potential willingness of the lawyer or firm to render services on a contingent fee basis, the advertisement must state whether the client will be obligated to pay all or any portion of the court costs and, if a client may be liable for other expenses, this fact must be disclosed. If specific percentage fees or fee ranges of contingent fee work are disclosed in such advertisement, it must also disclose whether the percentage is computed before or after expenses are deducted from the recovery.~~

~~(i) A lawyer who advertises in the public media a specific fee or range of fees for a particular service shall conform to the advertised fee or range of fees for the period during which the advertisement is reasonably expected to be in circulation or otherwise expected to be effective in attracting clients, unless the advertisement specifies a shorter period; but in no instance is the lawyer bound to conform to the advertised fee or range of fees for a period of more than one year after the date of publication.~~

~~(j) A lawyer or firm who advertises in the public media must disclose the geographic location, by city or town, of the lawyer's or firm's principal office. A lawyer or firm shall not advertise the existence of any office other than the principal office unless:~~

~~(1) that other office is staffed by a lawyer at least three days a week; or~~

~~(2) the advertisement states:~~

~~(i) the days and times during which a lawyer will be present at that office, or~~

~~(ii) that meetings with lawyers will be by appointment only.~~

~~(k) A lawyer may not, directly or indirectly, pay all or a part of the cost of an advertisement in the public media for a lawyer not in the same firm unless such advertisement discloses the name and address of the financing lawyer, the relationship between the advertising lawyer and the financing lawyer, and whether the advertising lawyer is likely to refer cases received through the advertisement to the financing lawyer.~~

~~(l) If an advertising lawyer knows or should know at the time of an advertisement in the public media that a case or matter will likely be referred to another lawyer or firm, a statement of such fact shall be conspicuously included in such advertisement.~~

~~(m) No motto, slogan or jingle that is false or misleading may be used in any advertisement in the public media.~~

~~(n) A lawyer shall not include in any advertisement in the public media the lawyer's association with a lawyer referral service unless the lawyer knows or reasonably believes that the lawyer referral service meets the requirements of Occupational Code Title 5, Subtitle B, Chapter 952.~~

~~(o) A lawyer may not advertise in the public media as part of an advertising cooperative or venture of two or more lawyers not in the same firm unless each such advertisement:~~

~~(1) states that the advertisement is paid for by the cooperating lawyers;~~

~~(2) names each of the cooperating lawyers~~

~~(3) sets forth conspicuously the special competency requirements required by Rule 7.04(b) of lawyers who advertise in the public media;~~

~~(4) does not state or imply that the lawyers participating in the advertising cooperative or venture possess professional superiority, are able to perform services in a superior manner, or possess special competence in any area of law advertised, except that the advertisement may contain the information permitted by Rule 7.04(b)(2); and~~

~~(5) does not otherwise violate the Texas Disciplinary Rules of Professional Conduct.~~

~~(p) Each lawyer who advertises in the public media as part of an advertising cooperative or venture shall be individually responsible for:~~

~~(1) ensuring that each advertisement does not violate this Rule; and~~

~~(2) complying with the filing requirements of Rule 7.07.~~

~~(q) If these rules require that specific qualifications, disclaimers, or disclosures of information accompany communications concerning a lawyer's services, the required qualifications, disclaimers, or disclosures must be presented in the same manner as the communication and with equal prominence.~~

~~(r) A lawyer who advertises on the internet must display the statements and disclosures required by Rule 7.04.~~

~~Rule 7.05 Prohibited Written, Electronic, Or Digital Solicitations~~

~~(a) A lawyer shall not send, deliver, or transmit, or knowingly permit or knowingly cause another person to send, deliver, or transmit, a written, audio, audiovisual, digital media, recorded telephone message, or other electronic communication to a prospective client for the purpose of obtaining professional employment on behalf of any lawyer or law firm if:~~

~~(1) the communication involves coercion, duress, fraud, overreaching, intimidation, undue influence, or harassment;~~

~~(2) the communication contains information prohibited by Rule 7.02 or fails to satisfy each of the requirements of Rule 7.04(a) through (c), and (g) through (q) that would be applicable to the communication if it were an advertisement in the public media; or~~

~~(3) the communication contains a false, fraudulent, misleading, deceptive, or unfair statement or claim.~~

~~(b) Except as provided in paragraph (f) of this Rule, a written, electronic, or digital solicitation communication to prospective clients for the purpose of obtaining professional employment:~~

~~(1) shall, in the case of a non-electronically transmitted written communication, be plainly marked "ADVERTISEMENT" on its first page, and on the face of the envelope or other packaging used to transmit the communication. If the written communication is in the form of a self-mailing brochure or pamphlet, the word "ADVERTISEMENT" shall be:~~

~~(i) in a color that contrasts sharply with the background color; and~~

~~(ii) in a size of at least 3/8" vertically or three times the vertical height of the letters used in the body of such communication, whichever is larger;~~

~~(2) shall, in the case of an electronic mail message, be plainly marked~~

~~"ADVERTISEMENT" in the subject portion of the electronic mail and at the beginning of the message's text;~~

~~(3) shall not be made to resemble legal pleadings or other legal documents;~~

~~(4) shall not reveal on the envelope or other packaging or electronic mail subject line used to transmit the communication, or on the outside of a self mailing brochure or pamphlet, the nature of the legal problem of the prospective client or non-client; and~~

~~(5) shall disclose how the lawyer obtained the information prompting the communication to solicit professional employment if such contact was prompted by a specific occurrence involving the recipient of the communication or a family member of such person(s).~~

~~(c) Except as provided in paragraph (f) of this Rule, an audio, audio-visual, digital media, recorded telephone message, or other electronic communication sent to prospective clients for the purpose of obtaining professional employment:~~

~~(1) shall, in the case of any such communication delivered to the recipient by non-electronic means, plainly and conspicuously state in writing on the outside of any envelope or other packaging used to transmit the communication, that it is an "ADVERTISEMENT";~~

~~(2) shall not reveal on any such envelope or other packaging the nature of the legal problem of the prospective client or non-client;~~

~~(3) shall disclose, either in the communication itself or in accompanying transmittal message, how the lawyer obtained the information prompting such audio, audiovisual, digital media, recorded telephone message, or other electronic communication to solicit professional employment, if such contact was prompted by a specific occurrence involving the recipient of the communication or a family member of such person(s);~~

~~(4) shall, in the case of a recorded audio presentation or a recorded telephone message, plainly state that it is an advertisement prior to any other words being spoken and again at the presentation's or message's conclusion: and~~

~~(5) shall, in the case of an audio-visual or digital media presentation, plainly state that the presentation is an advertisement:~~

~~(i) both verbally and in writing at the outset of the presentation and again at its conclusion; and~~

~~(ii) in writing during any portion of the presentation that explains how to contact a lawyer or law firm.~~

~~(d) All written, audio, audio-visual, digital media, recorded telephone message, or other electronic communications made to a prospective client for the purpose of obtaining professional employment of a lawyer or law firm must be reviewed and either signed by or approved in writing by the lawyer or a lawyer in the firm.~~

~~(e) A copy of each written, audio, audio-visual, digital media, recorded telephone message, or other electronic solicitation communication, the relevant approval thereof, and a record of the date of each such communication; the name, address, telephone number, or electronic address to which each such communication was sent; and the means by which each such communication was sent shall be kept by the lawyer or firm for four years after its dissemination.~~

~~(f) The provisions of paragraphs (b) and (c) of this Rule do not apply to a written, audio, audiovisual, digital media, recorded telephone message, or other form of electronic solicitation communication:~~

~~(1) directed to a family member or a person with whom the lawyer had or has an attorney client relationship;~~

~~(2) that is not motivated by or concerned with a particular past occurrence or event or a particular series of past occurrences or events, and also is not motivated by or concerned with the prospective client's specific existing legal problem of which the lawyer is aware;~~

~~(3) if the lawyer's use of the communication to secure professional employment was not significantly motivated by a desire for, or by the possibility of obtaining, pecuniary gain; or~~

~~(4) that is requested by the prospective client.~~

Rule 7.03 Employment and Fees

(a) A lawyer shall not seek in person, professional employment concerning a matter arising out of a particular occurrence or event, or series of occurrences or events, from a non-client who has not sought the lawyer's advice or employment.

(b) A lawyer shall not by regulated telephone, social media or other electronic contact as defined by this rule, seek professional employment concerning a matter arising out of a particular occurrence or event, or series of occurrences or events, from a prospective client or non-client who has not sought the lawyer's advice regarding employment.

(1) "regulated telephone, social media or other electronic contact" means any social media or electronic communication initiated by a lawyer or by any person acting on behalf of a lawyer or law firm that will result in the person(s) contacted communicating in a live, or electronic interactive manner. For purposes of this Rule a website for a lawyer or law firm is not considered a communication initiated by or on behalf of that lawyer or firm.

(c) A lawyer shall not pay, give, or offer to pay or give anything of value to a person not licensed to practice law for soliciting prospective clients for, or referring clients.

(d) Except as otherwise permitted, A lawyer, for the specific purpose of soliciting for professional employment, shall not pay, give, advance, or offer to pay, give, or advance anything of value as an inducement to the client, other than actual litigation expenses and other financial assistance as permitted, to a prospective client. This does not prohibit a lawyer from paying reasonable fees for advertising and public relations services rendered in accordance with this Rule and shall pay the usual charges of a lawyer referral service that meets the requirements of Occupational Code Title 5, Subtitle B, Chapter 952.

(e) A lawyer shall not accept or continue employment in a matter when that employment was procured by conduct prohibited by any of the Rules.

(f) A lawyer shall not accept or continue employment in a matter when the lawyer knows or reasonably should know that employment was procured by conduct prohibited by any of the Rules.

(g) A lawyer shall not enter into an agreement for, charge for, or collect a fee for professional employment obtained in violation of Rule 7.03(a – d).

~~**Rule 7.06 Prohibited Employment**~~

~~(a) A lawyer shall not accept or continue employment in a matter when that employment was procured by conduct prohibited by any of Rules 7.01 through 7.05, 8.04(a)(2), or 8.04(a)(9), engaged in by that lawyer personally or by any other person whom the lawyer ordered, encouraged, or knowingly permitted to engage in such conduct.~~

~~(b) A lawyer shall not accept or continue employment in a matter when the lawyer knows or reasonably should know that employment was procured by conduct prohibited by any of Rules 7.01 through 7.05, 8.04(a)(2), or 8.04(a)(9), engaged in by any other person or entity that is a shareholder, partner, or member of, an associate in, or of counsel to that lawyer's firm; or by any other person whom any of the foregoing persons or entities ordered, encouraged, or knowingly permitted to engage in such conduct.~~

~~(c) A lawyer who has not violated paragraph (a) or (b) in accepting employment in a matter shall not continue employment in that matter once the lawyer knows or reasonably should know that the person procuring the lawyer's employment in the matter engaged in, or ordered, encouraged, or knowingly permitted another to engage in, conduct prohibited by any of Rules 7.01 through 7.05, 8.04(a)(2), or 8.04(a)(9) in connection with the matter unless nothing of value is given thereafter in return for that employment.~~

Rule 7.0~~7~~4 Filing Requirements for Public Advertisements and Written, Recorded, Electronic, or Other Digital Solicitations

(a) A lawyer shall file with the State Bar staff of the Advertising Review Committee of the State Bar of Texas no later than the dissemination of an advertisement via any media used to disseminate information for the purpose of obtaining professional employment, or a solicitation communication sent by any means, including social media, for the purpose of obtaining professional employment:

(1) a copy of the advertisement or solicitation communication (including packaging if applicable) in the form in which it appears or will appear upon dissemination;

(2) a completed lawyer advertising and solicitation communication application; and

(3) payable to the State Bar of Texas a fee set by the Board of Directors.

(4) a copy of the advertisement or solicitation communication in the form in which it appears or will appear upon dissemination;

(b) If requested by the staff or the Advertising Review Committee, a lawyer shall promptly submit information to substantiate statements or representations made or implied in any advertisement in the public media and/or written solicitation communication by which the lawyer seeks paid professional employment.

~~(a) Except as provided in paragraphs (c) and (e) of this Rule, a lawyer shall file with the Advertising Review Committee of the State Bar of Texas, no later than the mailing or sending by any means, including electronic, of a written, audio, audio visual, digital or other electronic solicitation communication:~~

~~(1) a copy of the written, audio, audio visual, digital, or other electronic solicitation communication being sent or to be sent to one or more prospective clients for the purpose of obtaining professional employment, together with a representative sample of the envelopes or other~~

~~packaging in which the communications are enclosed;~~

~~(2) a completed lawyer advertising and solicitation communication application; and~~

~~(3) a check or money order payable to the State Bar of Texas for the fee set by the Board of Directors. Such fee shall be for the sole purpose of defraying the expense of enforcing the rules related to such solicitations.~~

~~(b) Except as provided in paragraph (e) of this Rule, a lawyer shall file with the Advertising Review Committee of the State Bar of Texas, no later than the first dissemination of an advertisement in the public media, a copy of each of the lawyer's advertisements in the public media. The filing shall include:~~

~~(1) a copy of the advertisement in the form in which it appears or will appear upon dissemination, such as a videotape, audiotape, DVD, CD, a print copy, or a photograph of outdoor advertising;~~

~~(2) a production script of the advertisement setting forth all words used and describing in detail the actions, events, scenes, and background sounds used in such advertisement together with a listing of the names and addresses of persons portrayed or heard to speak, if the advertisement is in or will be in a form in which the advertised message is not fully revealed by a print copy or photograph;~~

~~(3) a statement of when and where the advertisement has been, is, or will be used;~~

~~(4) a completed lawyer advertising and solicitation communication application form; and~~

~~(5) a check or money order payable to the State Bar of Texas for the fee set by the Board of Directors. Such fee shall be for the sole purpose of defraying the expense of enforcing the rules related to such advertisements.~~

~~(c) Except as provided in paragraph (e) of this Rule, a lawyer shall file with the Advertising Review Committee of the State Bar of Texas no later than its first posting on the internet or other comparable network of computers information concerning the lawyer's or lawyer's firm's website. As used in this Rule, a "website" means a single or multiple page file, posted on a computer server, which describes a lawyer or law firm's practice or qualifications, to which public access is provided through publication of a uniform resource locator (URL). The filing shall include:~~

~~(1) the intended initial access page of a website;~~

~~(2) a completed lawyer advertising and solicitation communication application form and;~~

~~(3) a check or money order payable to the State Bar of Texas for the fee set by the Board of Directors. Such fee shall be for the sole purpose of defraying the expense of enforcing the rules related to such websites.~~

~~(d) A lawyer who desires to secure an advance advisory opinion, referred to as a request for pre-approval, concerning compliance of a contemplated solicitation communication or advertisement may submit to the Lawyer Advertising Review Committee, not less than thirty (30) days prior to the date of first dissemination, the material specified in paragraph (a) or (b) or the intended initial access page submitted pursuant to paragraph (c), including the application form and required fee; provided however, it shall not be necessary to submit a videotape or DVD if the videotape or DVD has not then been prepared and the production script submitted reflects in detail and accurately the actions, events, scenes, and background sounds that will be depicted or contained on such videotapes or DVDs, when prepared, as well as the narrative transcript of the verbal and printed portions of such advertisement. If a lawyer submits an advertisement or solicitation communication for pre-approval, a finding of noncompliance by the Advertising Review Committee is not binding in a disciplinary proceeding or disciplinary action, but a finding of compliance is binding in favor of the submitting lawyer as to all materials actually submitted for pre-approval if the representations, statements, materials, facts, and written assurances received in connection therewith are true and are not misleading. The finding of compliance constitutes admissible evidence if offered by a party.~~

Rule 7.05 Exempt Communications

(e) The filing requirements of these rules do not extend to any of the following materials, provided those materials comply with Rule 7.01

(1) an advertisement in the public media that contains only part or all of the following information,

(i) the name of the lawyer or firm and lawyers associated with the firm, with office addresses, electronic addresses, telephone numbers, office and telephone service hours, telecopier numbers, and a designation of the profession such as "attorney," "lawyer," "law office," or "firm";

(ii) the particular areas of law in which the lawyer or firm practices or

(iii) the date of admission of the lawyer or lawyers to the State Bar of Texas, to particular federal courts, and to the bars of other jurisdictions;

(iv) the educational background of the lawyer or lawyers;

(v) technical and professional licenses granted by this state and other recognized licensing authorities;

(vi) foreign language ability;

(vii) particular areas of law in which one or more lawyers are certified or approved by the Texas Board of Legal Specialization

(viii) identification of prepaid or group legal service plans in which the lawyer participates;

(ix) the acceptance or nonacceptance of credit cards;

(x) any fee for initial consultation and fee schedule;

(xi) in the case of a website, links to other websites;

(xii) that the lawyer or firm is a sponsor of a charitable, civic, or community program or event, or is a sponsor of a public service announcement;

(xii) any disclosure or statement required by these rules; and

(xiii) any other information specified from time to time in orders promulgated by the Supreme Court of Texas;

(2) an advertisement in the public media that:

(i) identifies one or more lawyers or a firm as a contributor to a specified charity or as a sponsor of a specified charitable, community, or public interest program, activity, or event; and

(ii) contains no information about the lawyers or firm other than names of the lawyers or firm or both, location of the law offices, and the fact of the sponsorship or contribution;

(3) a listing or entry in a regularly published law list;

(4) an announcement card stating new or changed associations, new offices, or similar changes relating to a lawyer or firm, or a tombstone professional card;

(5) in the case of communications sent, delivered, or transmitted to, rather than accessed by, intended recipients, a newsletter, whether written, digital, or electronic, provided that it is sent, delivered, or transmitted mailed only to:

(i) existing or former clients;

(ii) other lawyers or professionals; or

(iii) members of a nonprofit organization that meets the following conditions: the primary purposes of the organization do not include the rendition of legal services; the recommending, furnishing, paying for, or educating persons

regarding legal services is incidental and reasonably related to the primary purposes of the organization; the organization does not derive a financial benefit from the rendition of legal services by a lawyer; and the person for whom the legal services are rendered, and not the organization, is recognized as the client of the lawyer who is recommended, furnished, or paid by the organization.

(~~e) The filing requirements of paragraphs (a), (b), and (c) do not extend to any of the following materials, provided those materials comply with Rule 7.02(a) through (c) and, where applicable, Rule 7.04(a) through (c):~~

~~(1) an advertisement in the public media that contains only part or all of the following information,~~

~~(i) the name of the lawyer or firm and lawyers associated with the firm, with office addresses, electronic addresses, telephone numbers, office and telephone service hours, telecopier numbers, and a designation of the profession such as "attorney," "lawyer," "law office," or "firm";~~

~~(ii) the particular areas of law in which the lawyer or firm specializes or possesses special competence;~~

~~(iii) the particular areas of law in which the lawyer or firm practices or concentrates or to which it limits its practice;~~

~~(iv) the date of admission of the lawyer or lawyers to the State Bar of Texas, to particular federal courts, and to the bars of other jurisdictions;~~

~~(v) technical and professional licenses granted by this state and other recognized licensing authorities;~~

~~(vi) foreign language ability;~~

~~(vii) fields of law in which one or more lawyers are certified or designated, provided the statement of this information is in compliance with Rule 7.02(a) through (c);~~

~~(viii) identification of prepaid or group legal service plans in which the lawyer participates;~~

~~(ix) the acceptance or nonacceptance of credit cards;~~

~~(x) any fee for initial consultation and fee schedule;~~

~~(xi) other publicly available information concerning legal issues, not prepared or paid for by the firm or any of its lawyers, such as news articles, legal articles, editorial opinions, or other legal developments or events, such as proposed or enacted rules, regulations, or legislation;~~

~~(xii) in the case of a website, links to other websites;~~

~~(xiii) that the lawyer or firm is a sponsor of a charitable, civic, or community program or event, or is a sponsor of a public service announcement;~~

~~(xiv) any disclosure or statement required by these rules; and~~

~~(xv) any other information specified from time to time in orders promulgated by the Supreme Court of Texas;~~

~~(2) an advertisement in the public media that:~~

~~(i) identifies one or more lawyers or a firm as a contributor to a specified charity or as a sponsor of a specified charitable, community, or public interest program, activity, or event; and~~

~~(ii) contains no information about the lawyers or firm other than names of the lawyers or firm or both, location of the law offices, and the fact of the sponsorship or contribution;~~

~~(3) a listing or entry in a regularly published law list;~~

~~(4) an announcement card stating new or changed associations, new offices, or similar changes relating to a lawyer or firm, or a tombstone professional card;~~

~~(5) in the case of communications sent, delivered, or transmitted to, rather than accessed by, intended~~

~~recipients, a newsletter, whether written, digital, or electronic, provided that it is sent, delivered, or transmitted mailed only to:~~

~~(i) existing or former clients;~~

~~(ii) other lawyers or professionals; or~~

~~(iii) members of a nonprofit organization that meets the following conditions: the primary purposes of the organization do not include the rendition of legal services; the recommending, furnishing, paying for, or educating persons regarding legal services is incidental and reasonably related to the primary purposes of the organization; the organization does not derive a financial benefit from the rendition of legal services by a lawyer; and the person for whom the legal services are rendered, and not the organization, is recognized as the client of the lawyer who is recommended, furnished, or paid by the organization;~~

~~(6) a solicitation communication that is not motivated by or concerned with a particular past occurrence or event or a particular series of past occurrences or events, and also is not motivated by or concerned with the prospective client's specific existing legal problem of which the lawyer is aware;~~

~~(7) a solicitation communication if the lawyer's use of the communication to secure professional employment was not significantly motivated by a desire for, or by the possibility of obtaining, pecuniary gain; or~~

~~(8) a solicitation communication that is requested by the prospective client.~~

~~(f) If requested by the Advertising Review Committee, a lawyer shall promptly submit information to substantiate statements or representations made or implied in any advertisement in the public media and/or written solicitation communication by which the lawyer seeks paid professional employment.~~

TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT

Proposed Amendments to Part VII – Clean Version

VII. INFORMATION ABOUT LEGAL SERVICES

Rule 7.01 Communications Concerning a Lawyer's Services

(a) A lawyer shall not make or sponsor a false or misleading communication about the qualifications or the services of any lawyer or firm. This Rule governs all communications about a lawyer's services, including advertisements and solicitation communications. Whatever means are used to disseminate information about a lawyer's services, statements, including trade names must be truthful and non-deceptive.

(b) A lawyer in private practice may practice under a trade name, including in its name of one or more deceased or retired members of the firm or of a predecessor firm in a continuing line of succession

1. provided the trade name does not imply a connection with a public or charitable legal services organization, or governmental agency or entity; or
2. utilizes the name of a non-lawyer, or a lawyer not associated with the firm.

(c) Any statement or disclaimer required by these rules shall be made in each language used in the advertisement or solicitation communication with respect to which such required statement or disclaimer relates; provided however, the mere statement that a particular language is spoken or understood shall not alone result in the need for a statement or disclaimer in that language.

(d) Shall not create or imply an unjustified expectation about results the lawyer can achieve, or states or implies that the lawyer can achieve results by means that violate these rules or other law.

Rule 7.02 Advertisements and Solicitation Communications Disseminated in the Public

(a) A lawyer who advertises in the public media: (1) shall publish or broadcast the name of at least one lawyer who is responsible for the content of such advertisement; and the lawyers primary practice location; (2) may include a statement that the lawyer has been awarded a Certificate of Special Competence by the Texas Board of Legal Specialization.

(b) A lawyer shall not send, deliver, or transmit, or knowingly permit or knowingly cause another person to send, deliver, or transmit, a written, audio, audiovisual, digital media, recorded telephone message, or other electronic communication to a prospective client for the purpose of obtaining professional employment on behalf of any lawyer or law firm if:
(1) the communication involves coercion, duress, fraud, overreaching, intimidation, undue influence, contains a false, fraudulent, misleading, deceptive, or unfair statement or claim.
(2) the communication contains information prohibited by Rule 7.01.
(3) the communication is to resemble legal pleadings or other legal documents
(4) the solicitation communication shall, regardless of the media utilized, be plainly marked "ADVERTISEMENT" unless the recipient:

(a) is a lawyer,
(b) has a familial, personal or prior professional relationship with the lawyer,
(c) has or had an attorney client relationship,

(c) If an advertisement or solicitation communication by a lawyer or firm discloses the willingness or potential willingness of the lawyer or firm to render services on a contingent fee basis, it must state the client will be obligated to pay for other expenses.

(d) A lawyer who advertises in the public media a specific fee or range of fees for a particular service shall conform to the advertised fee or range of fees for the period during which the advertisement is reasonably expected to be in circulation or otherwise expected to be effective in attracting clients, unless the advertisement specifies a shorter period; but in no instance is the lawyer bound to conform to the advertised fee or range of fees for a period of more than one year after the date of publication.

(e) A lawyer may not advertise in the public media as part of an advertising cooperative or venture of two or more lawyers not in the same firm unless each such advertisement:
(1) states that the advertisement is paid for by the cooperating lawyers;
(2) names each of the cooperating lawyers;

(f) Neither Rule 7.01 nor Rule 7.02 prohibits communications authorized by law, such as notice to members of a class in class action litigation.

Rule 7.03 Employment and Fees

(a) A lawyer shall not seek in person, professional employment concerning a matter arising out of a particular occurrence or event, or series of occurrences or events, from a non-client who has not sought the lawyer's advice or employment.

(b) A lawyer shall not by regulated telephone, social media or other electronic contact as defined by this rule, seek professional employment concerning a matter arising out of a particular occurrence or event, or series of occurrences or events, from a prospective client or non-client who has not sought the lawyer's advice regarding employment.
(1) "regulated telephone, social media or other electronic contact" means any social media or electronic communication initiated by a lawyer or by any person acting on behalf of a lawyer or law firm that will result in the person(s) contacted communicating in a live, or electronic interactive manner. For purposes of this Rule a website for a lawyer or law firm is not considered a communication initiated by or on behalf of that lawyer or firm.

(c) A lawyer shall not pay, give, or offer to pay or give anything of value to a person not licensed to practice law for soliciting prospective clients for, or referring clients.

(d) Except as otherwise permitted, A lawyer, for the specific purpose of soliciting for professional employment, shall not pay, give, advance, or offer to pay, give, or advance anything of value as an inducement to the client, other than actual litigation expenses and other financial assistance as permitted, to a prospective client. This does not prohibit a lawyer from paying reasonable fees for advertising and public relations services rendered in accordance with this Rule and shall pay the usual charges of a lawyer referral service that meets the requirements of Occupational Code Title 5, Subtitle B, Chapter 952.

(e) A lawyer shall not accept or continue employment in a matter when that employment was procured by conduct prohibited by any of the Rules.

(f) A lawyer shall not accept or continue employment in a matter when the lawyer knows or

reasonably should know that employment was procured by conduct prohibited by any of the Rules.

(g) A lawyer shall not enter into an agreement for, charge for, or collect a fee for professional employment obtained in violation of Rule 7.03(a – d).

Rule 7.04 Filing Requirements for Public Advertisements and Written, Recorded, Electronic, or Other Digital Solicitations

(a) A lawyer shall file with the State Bar staff of the Advertising Review Committee of the State Bar of Texas no later than the dissemination of an advertisement via any media used to disseminate information for the purpose of obtaining professional employment, or a solicitation communication sent by any means, including social media, for the purpose of obtaining professional employment:

(1) a copy of the advertisement or solicitation communication (including packaging if applicable) in the form in which it appears or will appear upon dissemination;

(2) a completed lawyer advertising and solicitation communication application; and

(3) payable to the State Bar of Texas a fee set by the Board of Directors.

(4) a copy of the advertisement or solicitation communication in the form in which it appears or will appear upon dissemination;

(b) If requested by the staff or the Advertising Review Committee, a lawyer shall promptly submit information to substantiate statements or representations made or implied in any advertisement in the public media and/or written solicitation communication by which the lawyer seeks paid professional employment.

Rule 7.05 Exempt Communications

(e) The filing requirements of these rules do not extend to any of the following materials, provided those materials comply with Rule 7.01

(1) an advertisement in the public media that contains only part or all of the following information,

(i) the name of the lawyer or firm and lawyers associated with the firm, with office addresses, electronic addresses, telephone numbers, office and telephone service hours, telecopier numbers, and a designation of the profession such as “attorney,” “lawyer,” “law office,” or “firm”;

(ii) the particular areas of law in which the lawyer or firm practices or concentrates or to which it limits its practice;

(iii) the date of admission of the lawyer or lawyers to the State Bar of Texas, to particular federal courts, and to the bars of other jurisdictions;

(iv) the educational background of the lawyer or lawyers;

(v) technical and professional licenses granted by this state and other recognized licensing authorities;

(vi) foreign language ability;

(vii) particular areas of law in which one or more lawyers are certified or approved by the Texas Board of Legal Specialization

(viii) identification of prepaid or group legal service plans in which the lawyer participates;

(ix) the acceptance or non-acceptance of credit cards;

(x) any fee for initial consultation and fee schedule;

(xi) in the case of a website, links to other websites;

(xii) that the lawyer or firm is a sponsor of a charitable, civic, or community program or event, or is a sponsor of a public service announcement;

(xii) any disclosure or statement required by these rules; and

(xiii) any other information specified from time to time in orders promulgated by the Supreme Court of Texas;

(2) an advertisement in the public media that:

(i) identifies one or more lawyers or a firm as a contributor to a specified charity or as a sponsor of a specified charitable, community, or public interest program, activity, or event; and

(ii) contains no information about the lawyers or firm other than names of the lawyers or firm or both, location of the law offices, and the fact of the sponsorship or contribution;

(3) a listing or entry in a regularly published law list;

(4) an announcement card stating new or changed associations, new offices, or similar changes relating to a lawyer or firm, or a tombstone professional card;

(5) in the case of communications sent, delivered, or transmitted to, rather than accessed by, intended recipients, a newsletter, whether written, digital, or electronic, provided that it is sent, delivered, or transmitted mailed only to:

(i) existing or former clients;

(ii) other lawyers or professionals; or

(iii) members of a nonprofit organization that meets the following conditions: the primary purposes of the organization do not include the rendition of legal services; the recommending, furnishing, paying for, or educating persons regarding legal services is incidental and reasonably related to the primary purposes of the organization; the organization does not derive a financial benefit from the rendition of legal services by a lawyer; and the person for whom the legal services are rendered, and not the organization, is recognized as the client of the lawyer who is recommended, furnished, or paid by the organization.

EXHIBIT J

COMMITTEE ON DISCIPLINARY RULES AND REFERENDA

2019 Annual Report

COMMITTEE MEMBERS

M. Lewis Kinard - Chair
Timothy Belton
Amy Bresnen
Claude Ducloux
Hon. Dennise Garcia
Harold Frederick "Rick" Hagen
Dean Vincent Johnson
W. Carl Jordan
Karen Nicholson

ABOUT

The Committee on Disciplinary Rules and Referenda was created by the 2017 Texas Legislature in Section 81.0872 of the State Bar Act. The committee consists of nine members: seven attorney members and two non-attorney public members. The committee is statutorily charged to:

1. Regularly review the Texas Disciplinary Rules of Professional Conduct and the Texas Rules of Disciplinary Procedure;
2. At least annually issue to the Supreme Court of Texas and the State Bar of Texas Board of Directors a report on the adequacy of the disciplinary rules; and
3. Oversee the initial process for proposing a disciplinary rule.

Representing a broad range of perspectives, the committee consists of:

- Three attorneys appointed by the president of the State Bar;
- One non-attorney public member appointed by the president of the State Bar;
- Four attorneys appointed by the Supreme Court; and
- One non-attorney public member appointed by the Supreme Court.

The president of the State Bar and the chief justice of the Supreme Court alternate designating an attorney member of the committee to serve as the presiding officer of the committee for a term of one year. Committee members serve staggered three-year terms, with one-third of the members' terms expiring each year.

TERM EXPIRING DECEMBER 31, 2019

Timothy Belton (Public Member) - Bellaire
Amy Bresnen - Austin
Harold Frederick "Rick" Hagen - Denton

TERM EXPIRING DECEMBER 31, 2020

Claude Ducloux - Austin
Dean Vincent Johnson - San Antonio
M. Lewis Kinard, Chair - Dallas

TERM EXPIRING DECEMBER 31, 2021

Hon. Dennise Garcia - Dallas
W. Carl Jordan - Houston
Karen Nicholson (Public Member) - Austin

2019 COMMITTEE

TERM EXPIRING DECEMBER 31, 2019

Timothy Belton - Public Member (Bellaire) is a retained executive search consultant with Preng & Associates and chairman of ZeoGas LLC. His search practice focuses on group hires in support of large transactions to which he brings a "client perspective" where search is part of the investment to drive an organization's growth in value. Belton began his career at Andersen Consulting Strategic Services (Accenture) where he led major change, acquisition strategy, and growth agendas for billion-dollar revenue companies, culminating in his leadership of the firm's post-merger integration practice in Texas. He later served as the restructuring officer and then COO of TRC Companies (NYSE: TRR, now private) leading the creation of a national management team to integrate the portfolio of 30+ acquired companies, as well as the chairman and CEO of TDECU Holdings, the for-profit subsidiary of the related $3 billion credit union. He serves as a trustee and finance committee chair of the Texas Center for Legal Ethics and president of the Business Ethics Forum. Belton holds a BBA in Business and Technology Management from the University of Texas McCombs School of Business and an MBA from the Harvard Business School.

Amy Bresnen (Austin) is an attorney and lobbyist at Bresnen Associates, Inc. Bresnen's private sector representation of clients has included major corporate and small businesses, local governments, and nonprofits, with such diverse issues as ethics, civil justice, family law, public education, human rights, water, telecommunications, mental health care, regulation of various professions, eminent domain, the judiciary, gaming, pension systems, taxes and fees, technology, transportation, state appropriations, electric regulation, and issues affecting public safety personnel. She has recently published an article in the *Journal of the National Association of Administrative Law Judiciary* ("Ethical Choices: Contested Case Procedures and Judicial Review Applicable to Politicians Versus Other Regulated Actors"). Bresnen also serves as a member of the board of the St. Mary's University School of Law Alumni Association.

Harold Frederick "Rick" Hagen (Denton) is a past president of the Texas Criminal Defense Lawyers Association and is certified in criminal law by the Texas Board of Legal Specialization. He obtained his undergraduate degree from Austin College and worked as the legislative assistant for State Representative Jim Horn. Hagen graduated from law school at the University of Oklahoma in 1990, where he received the American Jurisprudence Award for Trial Techniques. He was hired by the Hon. Rusty Duncan as a briefing attorney on the Texas Court of Criminal Appeals and then served two years as a felony prosecutor. His practice is in Denton and is limited to criminal law.

2019 COMMITTEE

TERM EXPIRING DECEMBER 31, 2020

Claude E. Ducloux (Austin) is certified in both civil trial (1984) and civil appellate law (1987) by the Texas Board of Legal Specialization; licensed in Texas, Colorado, and California; and speaks regularly on legal ethics, law office management, and trial-related topics. He is a former president of the Austin Bar, and chair of the Texas Board of Legal Specialization, the Texas Bar Foundation, the Texas Bar College, and the Texas Center for Legal Ethics. Ducloux has written extensively on various legal education and disciplinary issues and is a U.S. Army Veteran.

Dean Vincent R. Johnson (San Antonio) is Interim Dean and the Charles E. Cantu Distinguished Professor of Law at St. Mary's University. He teaches and writes in the areas of torts, professional responsibility, legal malpractice law, government ethics, international law, and comparative law. Johnson has served as a Fulbright Scholar in Burma, China, and Romania. His articles have been cited in more than 200 law reviews and 40 federal and state court decisions. Johnson is an elected member of the American Law Institute. He received his J.D. from the University of Notre Dame, an LL.M from Yale University, and a second LL.M. from the London School of Economics.

M. Lewis Kinard, Chair (Dallas) is executive vice president, general counsel, and assistant corporate secretary for the American Heart Association in Dallas. He was the last chair of the State Bar's Committee on Disciplinary Rules and Professional Responsibility and served on that committee for seven years. Kinard has over 30 years of legal practice in a range of substantive areas, is licensed to practice law in Texas and Arkansas, and formerly held a "single client" license in Colorado. At the AHA, he has focused on international commercial agreements, ground-breaking collaborative research programs, and growing the AHA's legal department to keep pace with the organization's evolving global legal needs. Kinard earned a bachelor's degree from the University of Arkansas and a J.D. from SMU Dedman School of Law.

2019 COMMITTEE

TERM EXPIRING DECEMBER 31, 2021

Hon. Dennise Garcia (Dallas) serves as presiding judge for the 303rd Judicial District Court. She became certified in family law by the Texas Board of Legal Specialization in 2000 and received her certification in family jurisprudence by the Texas College for Judicial Studies in 2012. She is a member of the State Bar of Texas Texas Pattern Jury Charge Committee (Family and Probate) and the Texas Academy of Family Law Specialists. She is also a Judicial Professor of family law at SMU Dedman School of Law. The Texas chapter of the American Academy of Matrimonial Lawyers awarded Judge Garcia its Jurist of the Year Award for 2016. Southern Methodist University's Women's Symposium has awarded her its Profiles in Leadership Award, and the Dallas Volunteer Attorney Program awarded Judge Garcia the Merrill Hartman Pro Bono Service Award. Judge Garcia earned her B.S., B.A. in 1990 from Southern Methodist University and her J.D. in 1993 from SMU Dedman School of Law. She is trained in family mediation and civil disputes and in collaborative law procedures.

W. Carl Jordan (Houston) has been with the law firm of Vinson & Elkins LLP his entire career. For approximately 40 years he practiced in the field of employment and labor law, while also serving in various leadership roles of the firm, including as a member of its management committee. He currently serves as the firm's general counsel. In that role he oversees compliance with professional responsibility rules in multiple jurisdictions. Jordan earned a B.A. *with honors* from Baylor University and a J.D. *with honors* from Harvard Law School.

Karen Nicholson - Public Member (Austin) is vice president of the League of Women Voters of the United States. As a member of the LWVUS board, she chairs the Advocacy and Litigation Committee. Active in the LWV for many years, she has served as president of LWV Texas and LWV Midland and has served on the boards of the Richardson and Houston leagues. She has served as a public member of the Commission for Lawyer Discipline and the Grievance Oversight Committe and currently is a member of the Texas Legal Services board. Education has long been a primary focus. Before recently retiring to Austin, Nicholson was vice president of the Midland ISD Board of Trustees. She taught in the Austin and Richardson ISDs and was adjunct professor of mathematics at Midland College. She has served in volunteer education positions and advisory committees, including president of the Midland Council PTA, a math tutor, bond elections committees, the Chamber of Commerce Education Committee, and many others.

RULE PROPOSAL PROCESS

RULE PROPOSAL A request to initiate the rule proposal process may be made by: (1) a resolution of the State Bar of Texas Board of Directors; (2) a request by the Supreme Court of Texas; (3) a request by the Commission for Lawyer Discipline; (4) a petition signed by at least 10% of registered members of the State Bar; (5) a concurrent resolution of the Legislature; or (6) a petition signed by at least 20,000 people, of which at least 51%, or 10,200 or more, must be Texas residents. Additionally, the Committee on Disciplinary Rules and Referenda can initiate the rule proposal process on its own.

INITIATION The committee must vote to initiate the rule proposal process or decline in writing within 60 days of receiving a request.

PUBLICATION A proposed rule must be published in the *Texas Register* and the *Texas Bar Journal* within six months of initiation of the rule proposal process.

COMMENT PERIOD The committee shall give interested parties at least 30 days from the date of publication to submit comments on the proposed rule to the committee.

PUBLIC HEARING During the comment period, the committee shall hold a public hearing on the proposed rule at the committee's discretion or if requested by: (1) at least 25 people; (2) a state agency or political subdivision of this state; or (3) an association with at least 25 members.

COMMITTEE VOTE The committee shall vote on whether to recommend a proposed rule to the Board of Directors not later than the 60th day after the final day of the comment period.

BOD VOTE The Board of Directors shall vote on each proposed disciplinary rule recommended by the committee not later than the 120th day after the date the rule is received from the committee. The board shall vote for or against the rule or return the rule to the committee for additional consideration. If the rule is approved, the board shall petition the Supreme Court to order a vote by State Bar members.

VOTING On receipt of a petition filed by the Board of Directors, the Supreme Court shall: (1) distribute a copy of the rule in ballot form to each member of the State Bar and order a vote on the rule; and (2) publish the rule in the *Texas Register* and the *Texas Bar Journal.* The Supreme Court shall give State Bar members: (1) at least 30 days to consider a proposed disciplinary rule before voting begins; and (2) 30 days to vote on the proposed disciplinary rule following the period for considering the proposed rule.

ADOPTION The Supreme Court by majority vote may approve or reject a proposed disciplinary rule in its entirety, but may not approve or reject only part of the rule. If the Supreme Court does not vote on the rule on or before the 120th day after the date the rule is approved by State Bar members, the rule is considered approved by the Supreme Court.

2019 SUMMARY

In 2019, the committee took significant steps in the rule proposal process and continued its efforts to maximize transparency and increase public participation.

As part of its commitment to transparency, the committee utilized its website to post meeting materials, rule proposals, proposed rule comments, public comments, rule timelines, and requests for rule proposals. The website also includes a schedule of committee meetings, methods for public participation, audio or video of committee meetings, and a link to sign up for e-mail updates. In 2019, the website received 15,063 visits.

In 2019, the committee published four rule proposals in the *Texas Bar Journal* and *Texas Register*. Each publication included information on how to submit public comments and participate in public hearings. Information about rule proposals and public hearings was also e-mailed to Texas lawyers and subscribers to committee updates.

During the year, the committee held six public hearings and received more than 200 public comments on published rule proposals. The committee initiated three rule proposals and voted to recommend three rule proposals to the State Bar Board of Directors. In response to requests from the Supreme Court of Texas, the committee also drafted and recommended changes to rule comments.

To learn more, visit texasbar.com/CDRR.

OUTREACH AND COMMUNICATIONS

The committee has made significant efforts to encourage public participation in the rule proposal process. The committee's website includes meeting materials and agendas, a schedule of meeting dates, participation methods, rule proposals and timelines, audio or video of meetings, and other information related to the rule proposal process. Members of the public can submit comments on proposed rules through the website and can also sign up for committee e-mail updates.

In 2019, the committee published four rule proposals for public comment in the *Texas Bar Journal* and *Texas Register*, held six public hearings on rule proposals, and received more than 200 public comments on rule proposals. Information about rule proposals and public hearings was also e-mailed to Texas lawyers, committee e-mail subscribers, and other interested parties. Additionally, the State Bar has regularly posted social media updates regarding rule proposals and other committee activities.

COMMITTEE ACTIVITY	2018	2019	TOTAL
Rule Proposals Initiated	4	3	7
Rule Proposals Published	3	4	7
Rule Proposals Recommended	2	3	5
Rule Requests from Supreme Court	0	1	1
Rule Requestes from Board	1	0	1
Self-Initiated Rule Proposals*	3	1	4
Comment Requests from Supreme Court **	1	2	3
Comments Recommended**	0	2	2
Formal Rule Requests Denied	0	0	0

COMMUNICATIONS	2018	2019	TOTAL
Written Public Comments on Rule Proposals	13	213	226
Public Hearings Held	1***	6	7
E-mail Notices Sent	1	22	23
Social Media Posts	3	10	13

*This item refers to initiated proposals not based on a third-party request.

**This item refers to interpretive rule comments separate from proposed rule changes.

***This public hearing covered two proposals.

LAWYER ADVERTISING AND SOLICITATION

Part VII. Information about Legal Services

In 2018, the State Bar Board of Directors requested that the committee initiate the rule proposal process with regard to all of Part VII of the Texas Disciplinary Rules of Professional Conduct, which includes rules related to lawyer advertising and solicitation. In late 2018, the committee published proposed changes to the advertising and solicitation rules, and in January 2019, the committee held a public hearing on the proposal.

The committee received more than 140 public comments on the original proposal. Based on the large volume of feedback and the committee's significant changes to the proposal, the committee voted at its April 18, 2019, meeting not to recommend the original proposal to the Board of Directors and instead to reinitiate the rule proposal process for a revised proposal.

The committee published a revised proposal on the advertising and solicitation rules in the May 31, 2019, issue of the *Texas Register* and the June 2019 issue of the *Texas Bar Journal*. The committee held two public hearings and received 24 public comments on the revised proposal. In response to public comments and after significant deliberation, the committee made additional amendments to the proposal. At its September 3, 2019, meeting, the committee voted to recommend the proposal to the Board of Directors. The committee also proposed comments to accompany the proposal.

The recommended proposal would significantly streamline and modernize the lawyer advertising and solicitation rules. In particular, the proposal would simplify the restrictions on misleading communications, create new exceptions to the list of items required to be filed with the Advertising Review Committee, and authorize certain non-exclusive reciprocal referral arrangements. The recommended proposal would maintain the current prohibition on the use of lawyer trade names.

COMPETENT AND DILIGENT REPRESENTATION

Rule 1.01. Competent and Diligent Representation

In response to a request from the Supreme Court of Texas, the committee recommended adding language to Comment 8 to Rule 1.01 of the Texas Disciplinary Rules of Professional Conduct to address a lawyer's duty of competency with regard to relevant technology. On February 26, 2019, the Supreme Court issued an order amending the language as recommended.

In conducting its review, the committee identified deficiencies in Rule 1.01 and recommended changes to the rule. The proposal would amend Rule 1.01 by adding clear statements that a lawyer has a duty to act competently and a duty to act diligently in representing a client. The committee also proposed comments to accompany the rule change proposal.

CONFLICTS AND LIMITED PRO BONO SERVICES

Rule 6.05. Conflict of Interest Exceptions for Nonprofit and Limited Pro Bono Legal Services

The committee initiated and recommended proposed Rule 6.05 of the Texas Disciplinary Rules of Professional Conduct. The proposed rule would relax certain conflict of interest standards related to lawyers who provide short-term limited pro bono legal services. Application of current conflict of interest rules may deter lawyers from participating in pro bono legal service programs, which are often operated under circumstances where a full conflict screening is not feasible.

The proposal would create narrow exceptions to certain conflict of interest rules to facilitate the provision of free legal services to the public through pro bono or assisted pro se programs sponsored by a court, bar association, accredited law school, or nonprofit legal services program. The committee also proposed comments to accompany the proposed rule.

ACCESS TO JUROR SOCIAL MEDIA

Rule 3.06. Maintaining Integrity of Jury System

In response to a request from the Supreme Court of Texas, the committee studied the issue of lawyer-access to juror social media activity. Rule 3.06 of the Texas Disciplinary Rules of Professional Conduct addresses improper communications with jurors, but the Disciplinary Rules do not specifically address the issue of lawyer-access to juror social media.

The committee issued a report recommending the approach taken in American Bar Association (ABA) Standing Committee on Ethics and Professional Responsibility Formal Opinion 466. In its report, the committee proposed a comment to Rule 3.06, which would provide guidance that: 1) a lawyer's review of a juror's social media that is publicly available without making an access request is not an improper *ex parte* communication; 2) a request to access a juror's social media remains subject to the prohibitions of Rule 3.06; and 3) the fact that a juror may become aware of a lawyer's passive review of their social media through a network setting notification does not constitute an improper *ex parte* communication.

CONFIDENTIALITY AND ONLINE LAWYER REVIEWS

Rule 1.05. Confidentiality of Information

In response to a public comment, the committee addressed the subject of a lawyer's duty of confidentiality in responding to online reviews at its July 23, 2019, meeting. The committee discussed Rule 1.05 of the Texas Disciplinary Rules of Professional Conduct, as well as ethics opinions from Texas and other jurisdictions.

The committee determined that a rule change proposal was not warranted. Members of the committee expressed perspectives on how a lawyer may want to address the subject of online reviews given a lawyer's duty of confidentiality under Rule 1.05.

POST-TRIAL COMMUNICATIONS

Rule 3.06. Maintaining Integrity of Jury System

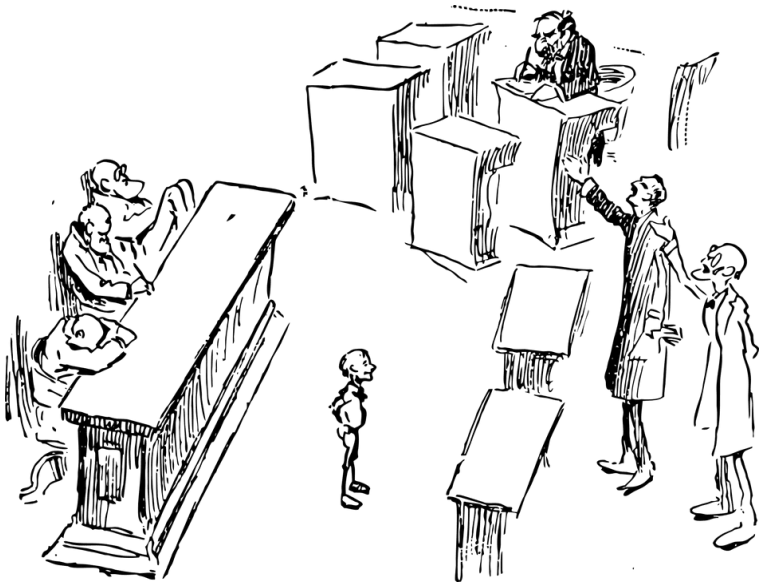
At its October 2019 meeting, the committee appointed a subcommittee to study the topic of post-trial communications with jurors under Rule 3.06 of the Texas Disciplinary Rules of Professional Conduct.

RULE REVIEW

Texas Rules of Disciplinary Procedure

ASSIGNMENT OF JUDGES

Rule 3.01. Disciplinary Petition
Rule 3.02. Assignment of Judge
Rule 3.03. Filing, Service and Venue



In response to a request from the Supreme Court of Texas, the committee initiated the rule proposal process related to the assignment of judges when a respondent in a disciplinary complaint elects to proceed in district court. Under the current rule, a judge appointed by the Supreme Court may be required to travel a significant distance to preside over a disciplinary case.

In November 2019, the committee voted to publish proposed changes to Rules 3.01, 3.02, and 3.03 of the Texas Rules of Disciplinary Procedure. The proposed changes would transfer assignment duties to the presiding judges of the administrative judicial regions and revise certain geographic restrictions for judicial assignments in disciplinary cases. The committee will hold a public hearing on the proposed changes on January 16, 2020, at the Texas Law Center, and will accept public comments on the proposed changes through January 31, 2020.

CESSATION OF PRACTICE

Part XIII. Cessation of Practice

In June 2019, the State Bar Board of Directors adopted a resolution requesting that the Supreme Court of Texas consider adoption of a comment to Part XIII of the Texas Rules of Disciplinary Procedure to extend the limitation of liability and attorney-client privilege to custodian attorneys designated by attorneys in the course of succession planning. In September 2019, the Supreme Court requested that the committee study and make recommendations on a comment to Part XIII. At its October 2019 meeting, the committee appointed a subcommittee to begin work on the request.

BOARD AND COURT

BOARD ACTION

At its April 26, 2019, meeting, the State Bar Board of Directors voted to approve rule change proposals recommended by the committee relating to clients with diminished capacity and confidentiality in seeking legal ethics counsel.

The first proposal would delete current Rule 1.02(g) of the Texas Disciplinary Rules of Professional Conduct, which deals with a lawyer's duties when a client may lack legal competence, and replace it with new Rule 1.16, which is designed to give more guidance to lawyers when a client's mental capacity has diminished. The second proposal would amend Rule 1.05 of the Texas Disciplinary Rules of Professional Conduct by adding a new exception that specifically permits a lawyer to reveal confidential information when securing legal advice on compliance with the Texas Disciplinary Rules. Both proposals are based on provisions found in the ABA Model Rules of Professional Conduct, though proposed Rule 1.16 includes some deviation from the corresponding Model Rule. The board voted to hold the rule change proposals for submission to the Supreme Court of Texas at a later date with additional proposed rules as deemed appropriate by the board. Ultimately, the board will petition the Supreme Court to order a vote by Texas lawyers on the rule proposals.

COURT ACTION

In September 2018, the Supreme Court of Texas requested that the committee study and make recommendations regarding a possible amendment to Comment 8 to Rule 1.01 of the Texas Disciplinary Rules of Professional Conduct, regarding a lawyer's duty of competency as related to relevant technology. In response, the committee issued a report recommending the adoption of language found in the ABA Model Rules.

On February 26, 2019, the Supreme Court issued an order amending the comment as recommended by the committee. As amended, the first sentence of Comment 8 to Rule 1.01 states, "Because of the vital role of lawyers in the legal process, each lawyer should strive to become and remain proficient and competent in the practice of law, including the benefits and risks associated with relevant technology."

LOOKING AHEAD

Although the rule proposal process is by design flexible, the committee anticipates that the State Bar Board of Directors may take action on one or more of the submitted proposals in time to submit rule proposals to the bar membership sometime in the fall of 2020. In the meantime, the committee continues to work on new rule change proposals and comments .

CONTACT US

To review the committee's meeting schedule and for other information about the committee, please visit texasbar.com/CDRR. Or Contact:

Brad Johnson, Disciplinary Rules and Referenda Attorney
512-427-1404 or by e-mail at Brad.Johnson@texasbar.com

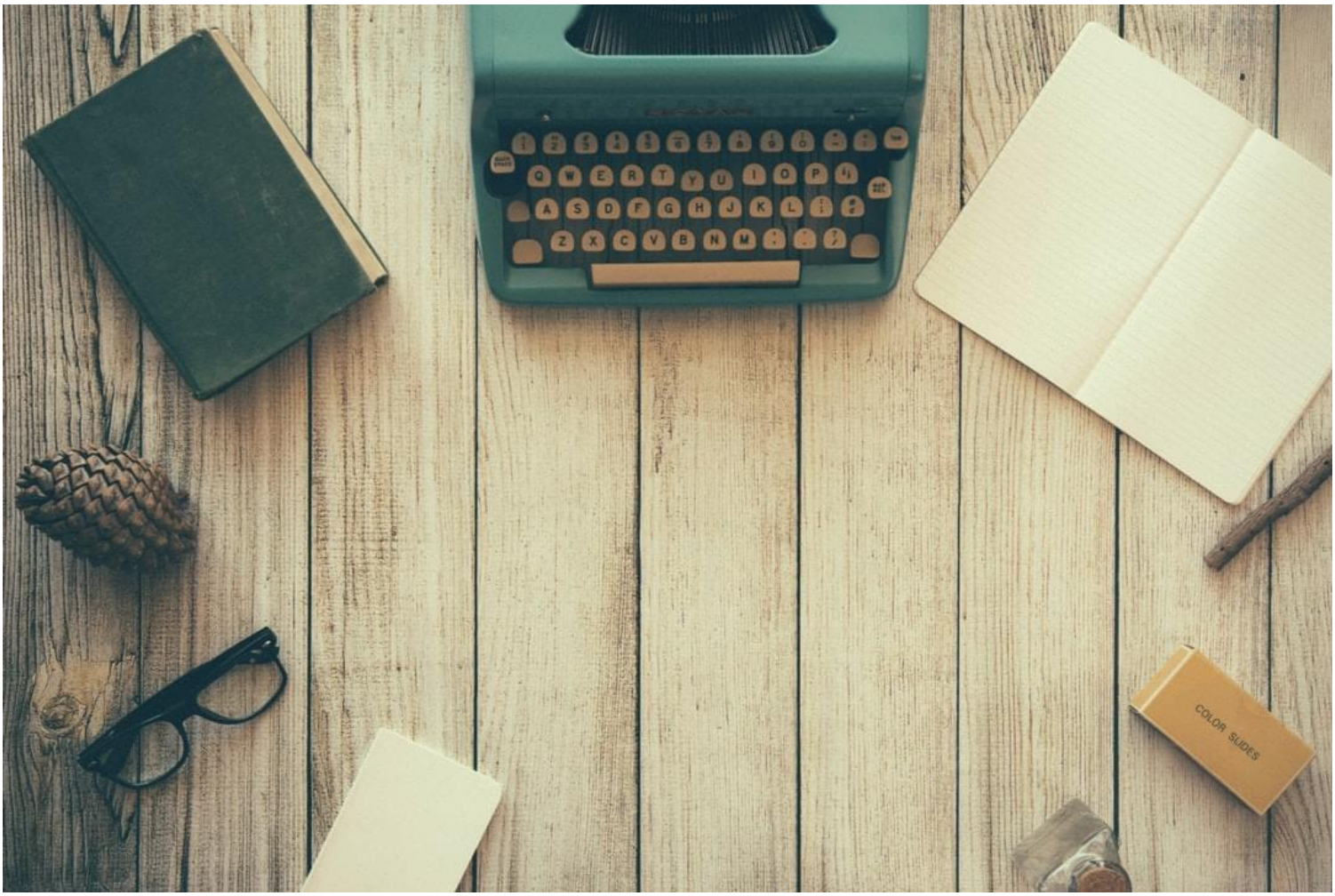


EXHIBIT K

Texas Young Lawyers Association
TYLA
BE AN UNCOMMON LEADER.®

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January 8, 2020

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OFFICE
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Via email

Amie Peace
Coffey & Peace
513 West Oak Street
Denton, TX 76201

Re: Request for Permission to File Texas Bar Foundation Grant Application

Dear Ms. Peace:

On behalf of the Texas Young Lawyers Association, it is my honor to write to you and respectfully request permission to file a grant application with the Texas Bar Foundation for TYLA's newest public service initiative. TYLA has long enjoyed the privilege of partnering with the Texas Bar Foundation to develop programs that serve Texans' real needs.

I am submitting this request so that TYLA and the Texas Bar Foundation may again partner to develop a much-needed program throughout high schools in the great state of Texas: educating students about the role of specific women, including many often overlooked, as well as generically addressing the role of women and their organizations in both the shaping of American culture and promoting and protecting civil rights.

TYLA intends to create a multi-platform project with the following components:

Video: TYLA will team with the State Bar's Law Related Education Department ("LRE") to create a video and accompanying curriculum to educate students on Texas Essential Knowledge and Skills (TEKS) topics. The program will highlight the role of women in American society that changed dramatically during the 20th century. Passage of the 19th Amendment in the early part of the century guaranteed the right vote to women. However, the path to equality continued throughout the century especially from the 1960's to the present. High school educators find this story is often rushed in the curriculum. This video will give teachers an effective tool to continue the story of women, especially in Contemporary America, and pay homage to these incredible historical figures.

Supplemental Content. Both the Texas Essential Knowledge and Skills (TEKS) as well as the Advanced Placement American history and government courses at the high school level address this content. Another component of this project will be written content in the form of viewing guides, questions and answers, as well as discussion prompts designed to encourage critical thinking, assessment of the current state of equality, as well as an opportunity for students to develop ideas about ways to bring about change. All materials will be available online.

Website/Mobile Application. The last major component will be a website designed to house the materials and also provide links to other TYLA educational content that focuses on other aspects of legal rights such as *Proud to be an American*, *Your Voice Now!*, *I Was the First*, etc. TYLA hopes to partner with a vendor that can provide a mobile application or a user-friendly mobile version of the website.

Pursuant to Section 3.10 of the State Bar of Texas Bylaws, the particulars of this request are described below in more detail.

1. Name of the program, project, committee, or section seeking funds.

Project Name: Iconic Women in Legal History.

Requesting Committee/Section: Texas Young Lawyers Association

2. Name and position of the individual making the request; if a committee or section, then a statement should be included advising whether the project was endorsed by a majority of the committee or section.

Britney E. Harrison, President-Elect of the Texas Young Lawyers Association

3. Description of the project and the time frame for its implementation and conclusion.

TYLA plans to develop an educational program that highlights the roles of the women in our nation's legal history that have shaped American culture and promoted and protected civil rights since the passing of the 19th amendment. This program is designed to educate our youth about the plight our ancestors endured to work towards legal equality. Texas high school educators are often rushed through this portion of history despite having specific TEKS on this topic and coverage on the Advanced Placement American history and government courses. Ultimately, we want to empower the youth to become engaged and be the changemakers of the future.

This project will feature videos/interviews with historians, legal scholars, and potentially relatives of these women, and written curriculum that will satisfy TEKS standards. We will also include women that are often overlooked or left out of mainstream textbooks. We will provide discussion points for educators and students to explore the history and legal rights these historical figures brought to fruition. The videos will explore the 19th Amendment, the civil rights movement culminating with Title VII, the Voting Rights Act, Title IX, as well as the women holding key positions in our three branches of government. The project will be web-based and accessible via mobile application.

TYLA plans to target high schools statewide and potentially homeschool programs. The project will be accessible in classrooms, at home, and/or at teacher conferences. Although this project will be tailored for Texas-based students and educators, the diverse media platform makes it easy and convenient for anyone to access across the country. Further, the mobile application component will make it easy for millions of people across Texas and the country to carry Iconic Women in Legal History on the go.

Specific Components of TYLA's Project

Video. The main component of this project will be a 20- to 35-minute video that will be made available on a standalone website that covers the historical backgrounds of the plight to equality. There will be individual videos featuring some of the women mentioned in the main video to further discuss that historical figure's life and contributions to our history. Many of the women featured will be selected from the TEKS standards, but we will also feature influential women that are often overlooked or not included in mainstream history books. We may also highlight some of the successes of women in the 21st century.

Supplemental Content. The second component of this project will be TEKS-based written content in the form of questions and answers, essay prompts, as well as discussion prompts designed to encourage critical thinking, assessment of the current state of equality, TYLA hopes to partner with the LRE division to create meaningful content.

Website/Mobile Application. The last major component will be a website designed to house the materials and also provide links to other TYLA educational content that focuses on other aspects of legal rights such as *Proud to be an American*, *Your Voice Now!*, *I Was the First*, etc. TYLA hopes to partner with a vendor that can provide a mobile application or a user-friendly mobile version of the website.

General Timeline

The following is a tentative timeline for this project:

- **June 2020**: Submit Requests for Proposals (RFPs) to numerous video production and website companies. Coordinate with Jan Miller to determine the full extent of information most often requested by administrators, teachers, and parents so that the website meets the needs of the public. Begin researching and selecting speakers for the video content.

- **Early July 2020**: Select video production and website developer.

- **July 2020 - August 2020**: Research and draft informational content for the video, website and supplemental content. Finalize and contact potential speakers. Submit prepared outline for website content to production company. Develop "teaser trailer."

- **August 2020**: Promote "teaser trailer" centering around the anniversary of the 19th amendment and present on social media platforms. The goal is to build excitement about the project to come.

- **September 2020 - November 2020**: Finalize content for presentation on the website.

- **December 2020- January 2021**: A prepared video, project trailer, and website should be ready for presentation. The committee hopes to have a completed video, website and supplemental content ready for rollouts by this time.

- **February 2021**: Promote the project, present "project trailer" and secure rollout presentations for Women's History Month and engage in an organized and active social media campaign.

- **March 2021**: Organize as many rollouts as possible for Women's History Month and engage in an organized and active social media campaign, including highlights from the program across our TYLA social media platforms.

- **April 2021 – May 2021**: Continue promoting the project and coordinate with Law Day if theme allows it.

4. Statement of whether funds from outside sources have been previously solicited for the project and the result of that solicitation.

No funds or outside sources have been previously solicited for this project.

5. Detailed budget of expenses.

1.	Website & Video Production (including interviews, footage, logo, design, photography)	$45,000.00
2.	Accompanying Publicity/Advertising	$2,000.00
3.	Postage	$500.00
4.	Conference Calls	$300.00
5.	Travel	$2,200.00
	Total Anticipated Cost:	**$50,000.00**

6. Disclosure of all sources of funding for the project.

Funding will come solely from existing TYLA budget funds and additional funds that might be received from the Texas Bar Foundation.

7. Statement of whether or not matching funds will be expected from the State Bar.

Matching funds are not expected from the State Bar.

8. Statement of whether or not the project meets a particular need of the State Bar.

This project helps fulfill the State Bar of Texas's mission statement by support[ing] the administration of the legal system, assur[ing] all citizens equal access to justice… and enabl[ing] its members to better serve their clients and the public…and educat[ing] the public about the rule of law."

9. Does the project meet a critical need of the State Bar?

Yes, this project helps the State Bar meet the goal of its mission statement, referenced above, which embodies the essence of our State Bar's existence.

10. Are there other State Bar programs currently providing or implementing a similar project or service?

No. There are no other TYLA projects that specifically address the role of women in shaping American culture and their plight for equality. Other organizations may focus on the 19th amendment and many are promoting the anniversary of the 19th Amendment. However, *Iconic Women in Legal History* takes this further and focuses on the modern American history from the 1960s through the present. Other TYLA projects discuss some of the women to be included in this project such as *I Was the First* and *They Had a Dream Too.* This project will add to the collection of projects

11. Can any portion of the funds being requested be deferred to the next budget year?

TYLA cannot defer this request until next year without drastically reducing TYLA's ability to create and implement the projects scheduled for fiscal year 2020-2021.

12. Identification of the target group that will benefit from the grant.

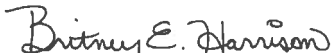
This program will benefit high school students, educators, school administrators, parents, and the general public.

13. Confirmation that a copy of the completed application has been forwarded to the Executive Director.

Executive Director, Trey Apffel, is copied on this letter. A copy of the Texas Bar Foundation Grant Application will be forwarded to Mr. Apffel as well.

From the bottom of my heart, I thank you in advance for your time and consideration of this request. Please do feel free to contact me with any questions about this project or this request.

Sincerely,



Britney E. Harrison
President-Elect
Texas Young Lawyers Association

cc: Trey Apffel (via e-mail)
Ray Cantu (via e-mail)
KaLyn Laney (via e-mail)
Tracy Brown (via e-mail)
TYLA Executive Committee (via e-mail)

Law Focused Education, Inc.

Amie Peace
Coffey & Peace
513 W. Oak St.
Denton, TX 76201

Re: Request for Permission to File Summerlee Foundation Grant Application

Dear Ms. Peace:

Law Focused Education, Inc. would like to request permission to file a grant application with the Summerlee Foundation for the Texas History Curriculum Differentiation Project. We are submitting this request so that Law Focused Education, Inc. and the Summerlee Foundation can partner to differentiate content to be used with elementary and secondary students.

1. Name of the program, project, committee, or section seeking funds.

Project Name: Texas History Curriculum Differentiation Project

Requesting Committee/Section: Law Focused Education, Inc. and the Law-Related Education Department

2. Name and position of the individual making the request; if a committee or section, then a statement should be included advising whether the project was endorsed by a majority of the committee or section.

Jan Miller, Director of Law-Related Education

3. Description of the project and the time frame for its implementation and conclusion.

We are requesting $10,000 to create professional audio files of the Law-Related Education Texas History biography and event cards as well as providing teacher outreach and resources.

Law-Related Education has created resource cards to be used in 4th and 7th grade classrooms to support the teaching and learning of Texas History. This grant will provide for the creation of an individual audio file for each card that will allow students to have the content of the card read to them. This will be achieved by giving each file a separate QR code that can be copied on the back of each biography and event card. Students can then use their phones or iPads to scan the code and the text of the card will be read orally to the student.

The resource cards include event cards and biography cards. Both are based on the Texas Essential Knowledge and Skills(TEKS) for 4th and 7th grade Texas History. The event cards explain the background and significance of selected events in Texas History. Each event card

includes a timeline that helps students place the event in chronological order and a flag that provides context for student understanding of the development of Texas. The biography cards include the significance and an image related to historical figures that were significant to Texas.

Teachers and curriculum supervisors have expressed concern that some students in Texas struggle with being able to fully access the content. Utilizing technology provides an opportunity to make learning accessible for all learners including students with special needs, English language learners, and students that are visually impaired. The grant request would also cover the cost of printing a set of cards for each teacher who attends a training.

In addition to the audio resources, teachers attending training will learn how to engage students as they explore the structures and functions of the Texas Government and examine the history of Texas. Exploring various eras of the history of Texas will allow teachers to discuss the impact of Texas government policy from a historical perspective as well as its impact on present day Texas. An analysis of the Texas and U.S. founding documents will examine the guarantees of individual freedom.

Our intended outcome is that they will actively use the lessons and students will have the opportunity to engage in more critical thinking which will lead to increased awareness of civic responsibility.

4. Statement of whether funds from outside sources have been previously solicited for the project and the result of that solicitation.

No funds or outside sources have been previously solicited for this project.

5. Detailed budget of expenses.

Project Budget:

Card Audio File Development $7,358

Creation of 283 audio files - March through August, 2020 with a goal of the cards being ready for teachers to use in the 2020-2021 school year.

7th grade event cards- 128 cards
4th grade event cards- 40 cards
7th grade bio cards- 63 cards
4th grade bio cards- 52 cards
Total cards = 283 cards x $26 per card (estimate) = 7,358

Teacher Resources $2,642

Printing a set of cards for each teacher who attends training.

Requested Amount Total $10,000

6. Disclosure of all sources of funding for the project.
At this time, funding will come solely from funds that might be received from the Summerlee Foundation.

7. Statement of whether or not matching funds will be expected from the State Bar.
Matching funds are not expected from the State Bar.

8. Statement of whether or not the project meets a particular need of the State Bar.
This project helps fulfill the State Bar of Texas mission statement by differentiating content to be used with elementary and secondary students to foster an understanding of the rule of law and our state's system of government. The specifics of this grant also assist our efforts to serve an under-served population. Non-English-speaking students will benefit from being able to hear the text as they follow the print. Research indicates this particular combination is very powerful for helping them learn content.

9. Does the project meet a critical need of the State Bar?
Yes, this project helps the State Bar meet the goal of its mission statement, referenced above, which embodies the essence of our State Bar's existence.

10. Are there other State Bar programs currently providing or implementing a similar project or service?
No.

11. Can any portion of the funds being requested be deferred to the next budget year?
No

12. Identification of the target group that will benefit from the grant.
4th and 7th grade Texas History teachers.

13. Confirmation that a copy of the completed application has been forwarded to the Executive Director.

Executive Director, Trey Apffel, is copied on this letter.

A copy of the Summerlee Foundation Application will be forwarded to Mr. Apffel as well.

Thank you for your time and consideration of this request. Please do reach out and contact me with any questions about this project or this request.

Respectfully,

Jan Miller, Director
Law-Related Education

cc: Trey Apffel (via e-mail)
Ray Cantu (via e-mail)
KaLyn Laney (via e-mail)
Daniel Hu, Law Focused Education, Inc. (via e-mail)

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Chris Ritter, JD, MEd, Director
Shawna Storey-Lovin, LPC-S
Erica Grigg, JD, Staff Attorney

January 9, 2020

Via Email
Amie Peace
Coffey & Peace
513 W. Oak St.
Denton, TX 76201

Re: Request for Permission to File Texas Bar Foundation Grant Application

Dear Ms. Peace,

On behalf of the Texas Lawyers' Assistance Program (TLAP), it is my honor to write you and respectfully request permission to file a grant application with the Texas Bar Foundation for an important initiative regarding mental health and suicide prevention: *Stop Minding Your Own Business: What Every Lawyer and Law Student Must Know About Depression and Suicide.*

In its 30th year, TLAP seeks to put a major focus on addressing a most troubling problem for attorneys: suicide. Lawyers have consistently been at or near the top of the list of all professionals in suicide rates.[1] Research shows that lawyers are the most often depressed professionals out of 105 professions.[2] Suicide is the third leading cause of death among attorneys after cancer and heart disease,[3] and almost 46% of 13,000 employed attorneys reported suffering from depression during their practice.[4]

I am submitting this request in hopes that TLAP and the Texas Bar Foundation may work together to implement an outreach effort to better educate Texas lawyers and law students about depression and suicide prevention. This effort will include educational outreach by means of video programming, audio programming, statewide in-person presentations, written educational materials, and online resources.

1. Name of the program, project, committee, or section seeking funds.

Project Name: Stop Minding Your Own Business: *What Every Lawyer and Law Student Must Know About Depression and Suicide.*
Requesting Program: Texas Lawyers' Assistance Program.

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1 *See William Eaton et al., Occupations and the Prevalence of Major Depressive Disorder,* 32 JOURNAL OF OCCUPATIONAL MEDICINE 11, Page 1079(1990).

2 *See William Eaton et al., Occupations and the Prevalence of Major Depressive Disorder,* 32 JOURNAL OF OCCUPATIONAL MEDICINE 11, Page 1079(1990).

3 *See* C. Stuart Mauney, *The Lawyers' Epidemic:Depression, Suicide and Substance Abuse,* http://www.scbar.org/Portals/0/Outline%20for%20Lawyers'%20Epidemic.pdf

4 *See* Patrick Krill, Ryan Johnson, and Linda Albert, *The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys*, Journal of Addiction Medicine, Feb. 2016, Vol. 10, Issue 1, pp. 46-52, http://journals.lww.com/journaladdictionmedicine/Fulltext/2016/02000/The_Prevalence_of_Substance_Use_and_Other_Mental.8.asp

2. Name and position of the individual making the request; if a committee or section, then a statement should be included advising whether the project was endorsed by a majority of the committee or section.

Chris Ritter, Director, Texas Lawyers' Assistance Program.

3. Description of the project and timeframe for its implementation and conclusion.

This project seeks to programs, materials, and resources to Texas lawyers and law students by means of several strategies including depression and suicide prevention video programs of varying lengths, live presentations and trainings across the state's major communities and in every law school, online CLE programs, written materials to be distributed state-wide, audio podcasts, and supplemental media to get the word out about suicide prevention and these resources.

This project would begin as soon as possible and would be substantially completed over the 2020 year.

This project would include educating lawyers and law students about the signs and symptoms and solution resources for depression. It will also include educating lawyers and law students about how to recognize and how to respond to suicidal behavior in colleagues or in one's self.

4. Statement of whether funds from outside sources have been previously solicited for the project and the result of that solicitation.

No solicitation has occurred, but a $54,000 gift was made to the foundation by an anonymous donor for the purpose of this proposed project.

5. Detailed budget of expenses.

1. Video Production (including footage, logo, design, photography, long and short version production, and trailer video): $30,000.
2. Design and production of suicide prevention materials: $7,000.
3. Live-events in all major cities to include promotional materials, food or refreshments for the trainings, equipment, facilities, and miscellaneous expenses for same: $3,000.
4. Audio Production (including recording a series of podcasts): $1,000.
5. Website development regarding suicide prevention resources: $3,000.
6. Accompanying Publicity/Advertising: $4,000
7. Postage: $500
8. Conference Calls: $500
9. Travel: $5,000.

TOTAL ANTICIPATED COST: $54,000.

6. Disclosure of all sources of funding for the project.

Funding will come solely from the TLAP budget funds and additional funds that might be received from the Texas Bar Foundation. An anonymous donor entrusted the Bar Foundation with a $54,000 donation with a condition for use for such a suicide prevention project.

7. Statement of whether or not matching funds will be expected from the State Bar.

Matching funds are not expected from the State Bar.

8. Statement of whether or not the project meets a particular need of the State Bar.

This project helps fulfill the State Bar of Texas's mission statement by support[ing] the administration of the legal system by ensuring the health and welfare of lawyers, assur[ing] all citizens equal access to justice by helping to maintain the wellness and fitness of their attorneys, ... and enabl[ing] its members to better serve their clients and the public... and educat[ing] the public about the rule of law."

9. Does the project meet a critical need of the State Bar?

Yes, this project helps the State Bar meet the goal of its mission statement, referenced above, which embodies the essence of our State Bar's existence.

10. Are there other State Bar programs currently providing or implementing a similar project or service?

No. No other State Bar program currently provides or implements a similar project at all.

11. Can any portion of the funds being requested be deferred to the next budget year?

TLAP cannot defer this request until next year without drastically reducing TLAP's ability to create and implement the projects already scheduled for the next fiscal year.

12. Identification of the target group that will benefit from the grant.

This program will benefit attorneys, law students, their families, and the general public.

13. Confirmation that a copy of the completed application has been forwarded to the Executive Director.

Executive Director, Trey Apffel, is copied on this letter. A copy of the Texas Bar Foundation Grant Application will be forwarded to Mr. Apffel as well.

Thank you in advance for your time and consideration of this request. Please do reach out and contact me with any questions about this project or this request. With kindest regards, I am

Sincerely,

Chris Ritter, JD, MEd
TLAP Director

Cc:

Trey Apffel (via email)

EXHIBIT L

STATE BAR OF TEXAS

DEPARTMENT OF RESEARCH AND ANALYSIS

2019-20 TEXAS BAR PRIVATE INSURANCE EXCHANGE - REVIEW

In September, the Board approved the subcommittee's recommendation to continue with Member Benefits Inc. (MB) as the administrator of the Texas Bar Private Insurance Exchange (PIE). The following presents information on the agreement term approved by the Insurance/Member Benefits Subcommittee.

On January 2, 2020 the Insurance/Member Benefits Subcommittee unanimously voted to extend the Member Benefits Inc. agreement for an additional ten years, with one-year automatic renewals.

TERM PROVISIONS

The following notable changes were made to the term language:

- Allows the agreement to be terminated by either party with or without cause on one-hundred eighty (180) days written notice
- Adds additional termination clause linked to customer satisfaction and utilization.

MEMBER BENEFITS PROPOSED REVENUE

A ten-year term that would provide additional non-dues revenue of $202,021 over three years, an additional $481,210 over six years, and an additional $993,499 over ten years.

The request for an extended term from Member Benefits Inc. is for added leverage in negotiating with insurers.

BOARD ACTION

Consider, discuss, and approve subcommittee recommendation regarding term of proposed extension of agreement with Member Benefits Inc.

MEMBER BENEFITS PROJECTED REVENUE

	Existing 3-YR Term	10-YR Term
2020	$608,210	$667,640
2021	$615,179	$682,365
2022	$623,091	$698,495
3-YR Total	***$1,846,480***	***$2,048,501***
Difference		***$202,021***
2023	$630,655	$714,610
2024	$638,522	$731,442
2025	$646,702	$749,016
6-YR Total	***$3,762,360***	***$4,243,570***
Difference		***$481,210***
2026	$655,211	$767,362
2027	$664,058	$786,505
2028	$673,262	$806,477
2029	$682,831	$827,306
10-YR Total	***$6,437,721***	***$7,431,220***
Difference		***$993,499***

EXHIBIT M

ANNUAL REPORT

September 1, 2018 – August 31, 2019

Office of the Ombudsman for the Attorney Discipline System of the State Bar of Texas

Stephanie Lowe, Ombudsman

Presented to the Supreme Court of Texas on October 1, 2019

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CREATION OF THE OFFICE AND STATUTORY MANDATES

The Office of the Ombudsman for the Attorney Discipline System of the State Bar of Texas (Ombudsman) was created during the Sunset Review process for the 85th Legislature.[1] As the Texas Sunset Advisory Commission explained, the Ombudsman position was recommended along with other changes "to help improve efficiency and responsiveness for attorneys and the public, and help the Office of the Chief Disciplinary Counsel better do its job to monitor and take action against unethical attorneys."[2] This was echoed by the Chief Disciplinary Counsel, who noted that "[a]lthough the Office of the Chief Disciplinary Counsel [was already] subject to oversight and accountability, the [Texas] Legislature established the position of ombudsman for the attorney discipline system as an additional measure."[3] The Texas Legislature codified the recommendation during the 85th Legislative Session, it went into effect on June 1, 2018 with the Texas Supreme Court's adoption of amendments, and the current Ombudsman began the job on July 14, 2018.[4] The statute makes it clear that the Ombudsman is:

- A source of information for the public – The Ombudsman is tasked with answering questions from the public on the grievance system's operations, accessing the system, the filing of grievances, and the availability of other State Bar of Texas programs.[5]

- A monitor of the attorney discipline system – The Ombudsman is responsible for receiving complaints about the system and investigating complaints to make sure the proper procedures were followed by the State Bar of Texas.[6] Also, the Ombudsman makes recommendations to the Supreme Court of Texas as well as the State Bar Board of Directors for improvements to the attorney discipline system.[7]

- Independent – The Ombudsman reports directly to the Supreme Court of Texas and is independent of the State Bar Board of Directors, the Commission for Lawyer Discipline, the Chief Disciplinary Counsel, and the Board of Disciplinary Appeals.[8] The independence allows the Ombudsman to impartially evaluate any complaints from the public about the grievance system and provide reports to the Supreme Court of Texas as an outside party.

- Confidential – The Ombudsman cannot disclose any information, proceedings, hearing transcripts, or statements he or she receives, including documents from various State Bar of Texas departments, to any person other than the Chief Disciplinary Counsel.[9]

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[1] *See* Staff Report with Final Results, Tex. Sunset Advisory Comm'n (Jun. 2017). A copy of the Staff Report with Final Results, redacted for relevancy, is included as Exhibit 1 to the Appendix.
[2] *Id.* at A7.
[3] Linda A. Acevedo, *Texas Attorney Discipline System Update*, 81 Tex. B. J. 444, 445 (2018).
[4] *See id*.
[5] Tex. Gov't Code § 81.0883(a). A copy of Tex. Gov't Code §§ 81.0881 – 81.0885 is included as Exhibit 2 to the Appendix.
[6] *Id.*
[7] *Id*. at § 81.0883(a)(6).
[8] *Id*. at § 81.0882(b).
[9] *Id.* at § 81.0885(a).

While the Texas Legislature imbued the Ombudsman with many abilities and protections to help him or her embody the attributes listed above, it also made it clear in the statute that there are certain actions that the Ombudsman cannot take in pursuit of improving the attorney discipline system. Namely, the Ombudsman is prohibited from:

(1) "draft[ing] a complaint for a member of the public;
(2) act[ing] as an advocate for a member of the public;
(3) revers[ing] or modify[ing] a finding or judgment in any disciplinary proceeding; or
(4) intervene[ing] in any disciplinary matter."[10]

Despite these statutory restrictions, the Texas Sunset Advisory Commission, the Texas Legislature and those involved in the attorney discipline process trusted the Ombudsman to "provide an additional means to receive information and support regarding the attorney discipline system and an independent avenue to verify compliance with the grievance process."[11] Ultimately, the Ombudsman was created to "foster further confidence in the attorney discipline system."[12]

PUBLIC INQUIRIES – ACCESS, REQUEST CONTENT, AND RESPONSES

Setting Up the Program and Providing Access

Based on the statutory mandates explained above and the overarching goals of increasing transparency, independence, and access within the attorney disciplinary system, the Ombudsman built a program focused on public customer service. Within a month of starting the position, the Ombudsman had created a website that provides information about the role of the Ombudsman, details what an Ombudsman can and cannot do for members of the public, lists methods for getting in contact with the Ombudsman and gives links to resources within the State Bar of Texas and other disciplinary entities that could be helpful.[13] Since the Ombudsman is an employee of the Supreme Court of Texas, the website was placed under the Bar & Education section of the Texas Judicial Branch's webpage. However, in an effort to make it easier to find this crucial information, the Ombudsman also had links to the webpage placed at numerous places on the State Bar of Texas' and Supreme Court of Texas' websites, including the Supreme Court of Texas' FAQs page and the State Bar of Texas' Contact Us, Grievance and Ethics Information, and File a Grievance pages.

Inquiry Content

Due to the website and other referral methods, the Ombudsman received 464 inquiries during the period from September 1, 2018 to August 31, 2019.[14]

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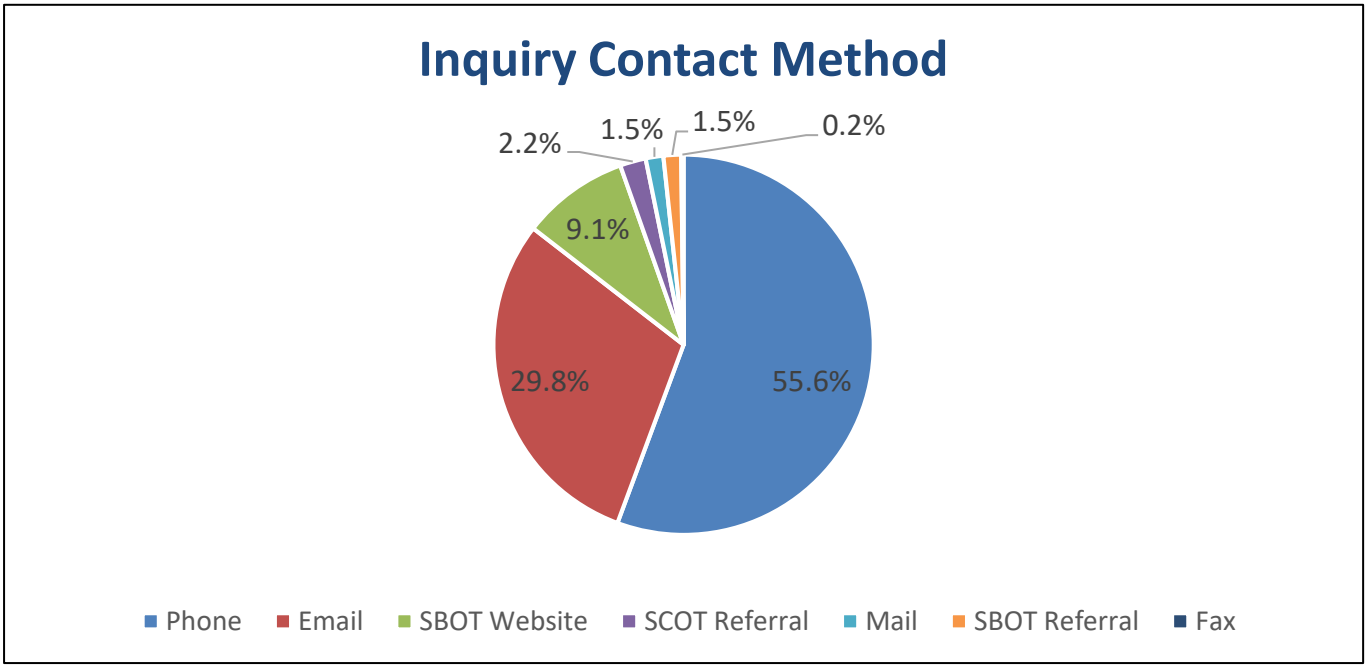
[10] *Id.* at § 81.0883(b).
[11] Acevedo, *supra* note 3, at 445.
[12] *Id.*
[13] A copy of the Ombudsman's current website is included as Exhibit 3 to the Appendix.
[14] Note that because the position began in July 2018 but the fiscal reporting year does not begin until September, the statistics mentioned here and those discussed throughout the rest of the report necessarily exclude the inquiries made between July and August 31, 2018.

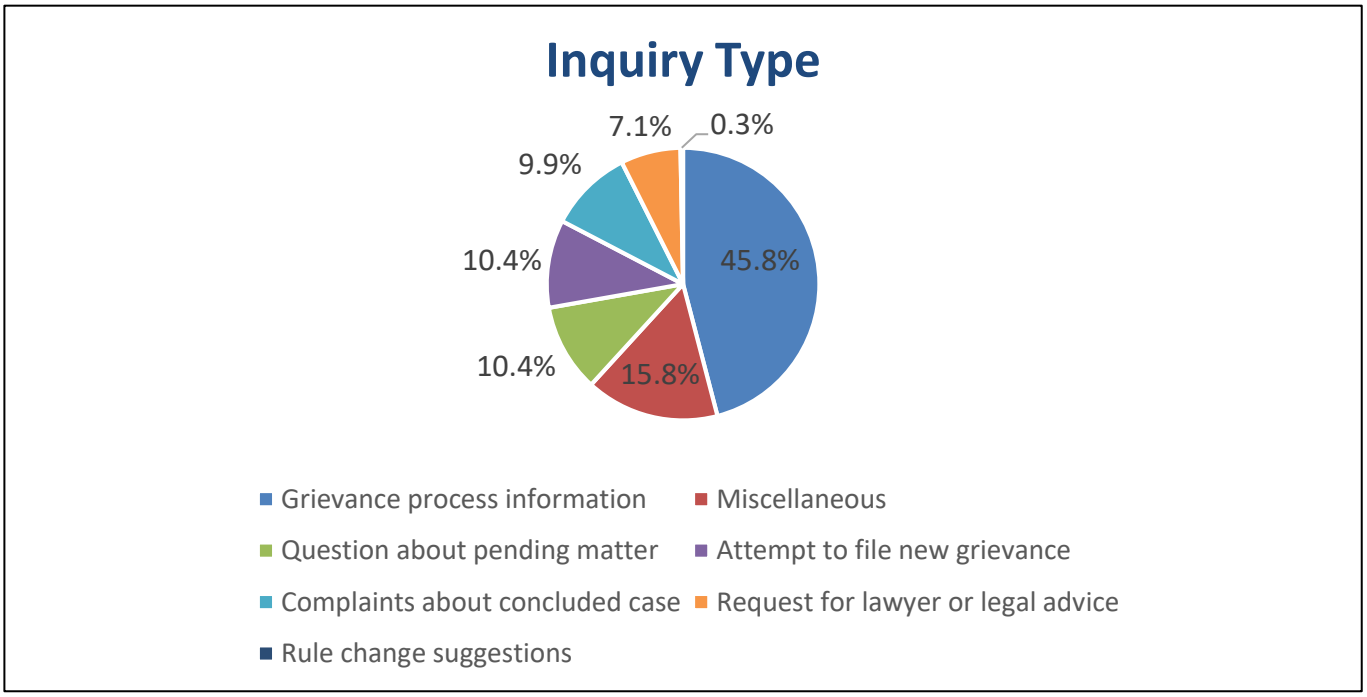


As detailed in the chart above, the methods used to contact the Ombudsman included phone, email, the State Bar of Texas website, referrals from the Supreme Court of Texas, referrals from the State Bar of Texas, mail, and facsimile. With about 55% of the inquirers contacting the Ombudsman by phone, a large portion of the Ombudsman's typical day is spent counseling people on calls, which could last anywhere from 5 minutes to well over an hour. The fact that so many individuals get in touch via the telephone also justifies the continuance of the toll-free telephone number dedicated to the Ombudsman, which was established to enable those outside of the local area to get information about the grievance process without paying fees.

Although they constitute a relatively small number of inquiries, the referrals from the State Bar of Texas and the Supreme Court of Texas have proven to be vital outlets for the distribution of work among those in the attorney discipline system. Additionally, they have had the added benefit of putting inquirers in touch with an independent office specifically designed to handle their complaints or questions, which can lead to more inquirer satisfaction with the process. It was through this referral process that the Ombudsman was involved with an inquiry that a state senator made on behalf of one of his constituents. Although other departments at the State Bar of Texas were necessarily involved as well, the inclusion of an Ombudsman in the matter added an extra layer of independent scrutiny in a complex case.

As is shown in the Inquiry Type chart below, the majority of individuals contacted the Ombudsman to obtain more information about the attorney discipline system. Typically, an individual in this category is having an issue or disagreement with an attorney and they get in touch with the Ombudsman to hear what their options are. However, there were also several instances of researchers or academics that contacted the office to get a more general sense of the position and how it fits into the overall grievance process that are included in this 45% of inquiries. The inquiries labeled miscellaneous constitute a wide variety of issues, all of which are outside the scope of the Ombudsman's expertise or purview. For example, some of these contacts are people wanting an Ombudsman's help with a complaint against a

judge or another government official, while many are individuals wanting more information on a specific attorney's membership status with the State Bar of Texas. The fact that about 15% of the inquiries are part of this category may indicate that individuals often do not completely understand what the Ombudsman's role at the State Bar of Texas is. Although complaints about concluded cases only encompass 9.9% of the total number of inquiries, these files take up by far the most amount of the Ombudsman's resources. In this category, individuals have already gone through the grievance process, and in most cases their grievance has been dismissed and their opportunity to appeal has run out. In order to fully discharge the Ombudsman's duty in these matters, the office must request and review the Chief Disciplinary Counsel's files on the particular grievance to ensure that proper procedures were followed. This often also mandates taking suggestions and complaints about the attorney discipline system from the inquirer. Therefore, while the number of inquirers who contact the Ombudsman with the main purpose of suggesting changes to the disciplinary system is a miniscule 0.3%, the overall amount of recommendations received from the public is significantly greater.

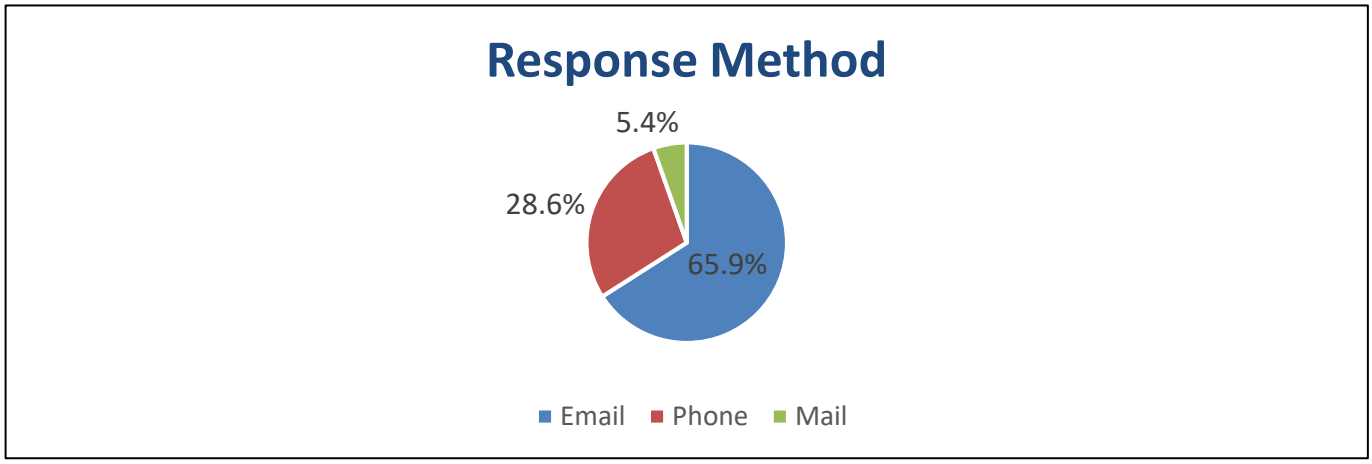


Beyond the statistics collected and provided above, the Ombudsman also compiled information about: (1) the types of cases the inquirers were contacting the Ombudsman about; (2) the relationship of the respondent-attorney to the inquirer; (3) and the alleged attorney behavior that is the subject of the inquiry. While it was impossible to get this information for every inquiry, the data can provide some insight into the demographics of cases that are likely to result in grievances. For example, about 43% of the inquiries where the case type was disclosed were family law cases and 25% were criminal cases. In particular, divorce matters and cases involving guardian ad litems appeared with some frequency. Additionally, it appears that the majority of inquirers who contact the Ombudsman about an attorney are concerned with his or her non-responsiveness, which indicates the importance of programs that help individuals that are having communication issues with their attorney, such as the Client Attorney Assistance Program. Lastly, it is worth noting that the overwhelming majority of inquirers were current

or potential complainants and only a couple respondent-attorneys reached out to the Ombudsman and identified themselves as such.

Response Content

Although the unique aspects of each inquiry necessitate some customization, the Ombudsman was able to develop a standard response to inquirers who request general information about the attorney discipline system. In particular, the response includes information about the Client Attorney Assistance Program and filing a grievance through the Office of the Chief Disciplinary Counsel. With both programs, the letter or email provides background details, contact information, brochures, and forms needed to enroll in the program or file a grievance.[15] In some responses, it was also necessary to include information on other programs or agencies. For example, in a case where someone is trying to file a complaint against a judge, the response would include information on how to contact the State Commission on Judicial Conduct. On the other hand, in an instance where an individual is having trouble with his or her attorney and would like assistance in finding a new one, the response directs them to resources like the Lawyer Referral and Information Service, which helps individuals find a lawyer or other resource that best matches his or her legal needs and financial means. Similarly, if an inquirer is solely concerned with the amount of fees charged by his or her attorney, the response will include a link to information about local bar associations' fee dispute committees, which mediate fee disputes between attorneys and their clients. In the event the Ombudsman receives an inquiry from a Supreme Court of Texas or State Bar of Texas referral, the first step is always to send an acknowledgement letter to the inquirer. In that letter, the Ombudsman explains how he or she received the communication, why it was forwarded to them, and the role he or she plays in the disciplinary system.[16] This standard response lets the inquirer know that his or her communication was received, provides context and contact information for the Ombudsman, and in the event follow-up is required, assures them that someone is looking into his or her issues.

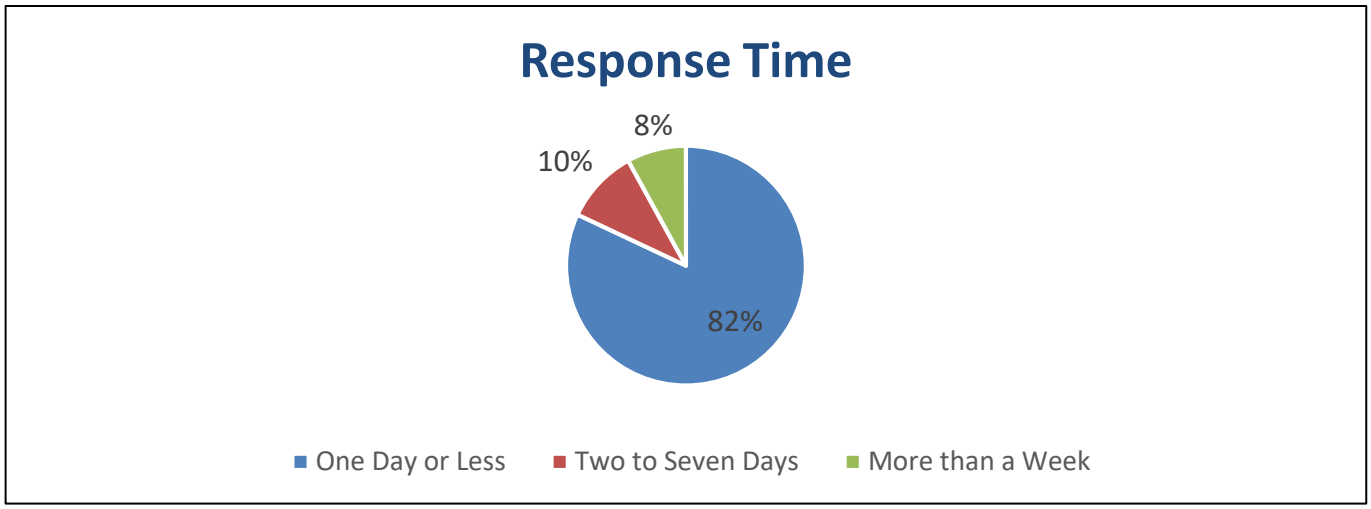


While inquirers can contact the Ombudsman through a wide variety of methods, the responses over the period in question have been limited to email, phone and mail, as seen in the chart above. In an effort to provide inquirers with a document that they can consider and reference at any time, the Ombudsman will often send an email that includes relevant information even after explaining all necessary details about

[15] A redacted example of a typical response to such an inquiry is included as Exhibit 4 to the Appendix.
[16] A redacted example of an acknowledgement letter is included as Exhibit 5 to the Appendix.

applicable resources and programs over the phone. Although this often leads to additional work for the Ombudsman, it probably reduces the likelihood that an individual will have to contact the Ombudsman with additional questions and ultimately increases inquirer satisfaction. As such, even though inquirers overwhelmingly prefer discussing matters with the Ombudsman over the phone, the most common response method is through email at 65.9%. Similarly, some of the responses categorized as mail were also initially discussed over the phone.

The Ombudsman makes every effort to respond to each inquiry as fully and efficiently as possible. During the period discussed in this report, the average time to close inquiries, whether a simple one-off question or request for review of a complex grievance file, was 3 days. As further detailed in the chart below, 82% of all inquiries were responded to and closed within a day and 92% of all inquiries were handled within a week. It is worth noting that the times referenced in this chart include weekends and holidays, which necessarily increase the response time.



COMMON COMPLAINTS FROM THE PUBLIC

Transparency-Related Complaints

Complaints about the transparency of the attorney discipline process occurred with more frequency than any other category of criticism during the period covered in this report.

Most objections concerned the lack of a satisfactory explanation from the Chief Disciplinary Counsel's office about why a particular grievance was dismissed. This issue was one raised by the Sunset Advisory Commission's Staff Report with Final Results, in which it alleged that the Chief Disciplinary Counsel provides "[i]nsufficient information and assistance [ ] to complainants."[17] In particular, it was very common for inquirers whose grievances had been dismissed[18] to remark that the letters they received

[17] Tex. Sunset Advisory Comm'n, *supra* note 1, at 31.

[18] A dismissal in the attorney discipline context means one of two things. If it was dismissed as an inquiry at the classification stage, it indicates "that the grievance alleges conduct that, even if true, does not constitute professional misconduct or disability cognizable under the Texas Disciplinary Rules of Professional Conduct." Tex. Gov't Code, *supra* note 5, at § 81.073(a)(2). If it was dismissed after it was classified as a complaint, it means that the body making the determination has found that "there is no just cause …." *See id.* at § 81.075(b)(1).

seemed "computer-generated" or "generic" and did not provide specifics about the decision-making process or reasoning for dismissing the particular actions of the attorney detailed in the grievance.[19] In one case, a lack of understanding about the reason for a grievance dismissal led to the involvement of a state senator's office, along with several departments at the State Bar of Texas. The matter was ultimately resolved when the State Bar of Texas fully explained why misconduct was not found but a lot of time and resources were expended before that outcome was reached.[20] Similarly, at least one inquirer pointed out that when the Board of Disciplinary Appeals overturns a dismissal and forces the Chief Disciplinary Counsel to investigate a grievance, they provide possible violations as reasoning for their reversal. However if the grievance is ultimately dismissed, the dismissal letter does not address each potential violation given by the Board of Disciplinary Appeals but rather gives a generic reason for dismissal.

Inquirers also complained about the lack of transparency during the Summary Disposition Panel process. The Summary Disposition Panel, which is a panel of local grievance committee members composed of two-thirds lawyers and one-third public members, hears and makes determinations on cases that the Chief Disciplinary Counsel has investigated and decided that there is no just cause to proceed on the complaint.[21] As such, the panel either agrees with the Chief Disciplinary Counsel's determination and dismisses the grievance or rejects the decision and votes to proceed on the complaint.[22] As is explained to the complainant and respondent, Summary Disposition Panel hearings are confidential and closed to both parties.[23] Many inquirers were dissatisfied with this procedure and complained that the overall process is too secretive. In particular, inquirers noted that they do not know much about the Summary Disposition Panels, are not told when they met, and are not provided a summary of the evidence they heard. Additionally, complainants were upset that they were not allowed to attend the hearings or appeal the decisions made at those hearings. Some commented that the secrecy made them conclude that the State Bar of Texas was trying to cover up the decision-making process.

Beyond the specific complaints explained above, inquirers also provided general comments about the lack of transparency of the disciplinary system overall. For example, many noted that the process was not explained to them up front and they received few to no updates about the status of their grievance throughout. Similarly, inquirers frequently contacted the Ombudsman to see if their grievance was received by the Chief Disciplinary Counsel's office. At least one complainant commented that when filing a grievance, an individual never receives any communication acknowledging the filing, even when using the online submission system. Not only did this seem to lead to an increased workload for the Ombudsman and Chief Disciplinary Counsel, it appeared to increase the frustration level of inquirers with the process overall.

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[19] A redacted example of a typical dismissal letter sent to a grievance classified as an inquiry is included as Exhibit 6 to the Appendix.

[20] It is probably the case that others experience the same type of gaps in understanding but are not lucky enough or sophisticated enough to harness the power of their senator or representative.

[21] Grievance Procedure, https://www.texasbar.com/AM/Template.cfm?Section=Disciplinary_Process_Overview&Template=/CM/HTMLDisplay.cfm&ContentID=29668. A copy of the Grievance Procedure webpage is included as Exhibit 7 to the Appendix.

[22] *Id.*

[23] A redacted example of a typical letter about a grievance dismissed by a Summary Disposition Panel is included as Exhibit 8 to the Appendix.

Complaints Related to Bias

The Ombudsman received many complaints alleging favoritism, bias, or conflicts of interest within the system. Beyond general complaints of corruption that are likely typical of every government organization, there were specific comments about bias at various levels of the disciplinary process.

By far, the most common complaint related to this issue was that the Chief Disciplinary Counsel, supported by the Board of Disciplinary Appeals, is picking and choosing the violations that it wants to prosecute and often dismissing legitimate grievances. The criticism arises because, as explained on the State Bar of Texas' website, the initial step in the process is to determine "whether the grievance, on its face, alleges professional misconduct."[24] Knowing this, an individual might file a grievance based on an attorney misstating the holding of a case cited in a brief or not informing the court when adverse legal authority exists in the relevant jurisdiction, for example. After discovering this fact, they file a grievance against this attorney, often counsel for the opposing party, alleging that they violated Rule 3.03 of the Texas Disciplinary Rules of Professional Conduct, which mandates candor toward the tribunal.[25] If his or her grievance is ultimately dismissed, the letter he or she is likely to receive from the Chief Disciplinary Counsel's office states,

> "Lawyers licensed in Texas are governed by the Texas Disciplinary Rules of Professional Conduct, and may only be disciplined when their conduct is in violation of one or more of the disciplinary rules. We have concluded that **the conduct you described is not a violation of the disciplinary rules.** Thus, your grievance has been dismissed."[26]

After receiving this letter, the inquirer often contacts the Ombudsman complaining that his or her grievance cited behavior that is a violation of the rules and is therefore on its face alleging a violation. As such, they believe that their grievance was wrongly dismissed, particularly since they assert the reasoning given by the Chief Disciplinary Counsel is incorrect. Inquirers cited several reasons why they think this happens, including the fact that attorneys are always going to protect other attorneys; the Chief Disciplinary Counsel only goes after "low-hanging fruit" to pad statistics and declines to pursue the more difficult to prove or minor grievances; and the Chief Disciplinary Counsel is imposing its own judgment on who should or should not be punished rather than following the rules mandated by statute.

Inquirers also objected to the individuals investigating their grievances and ruling on them. For example, several inquirers objected to the local Chief Disciplinary Counsel's office investigating and determining the fate of their grievance because they believed that the respondent attorney in the matter was close with others in the legal community in that area, including those in the Chief Disciplinary Counsel's office. As such, they suggested a non-local Chief Disciplinary Counsel's office should investigate grievances to eliminate bias and conflicts of interest. Similarly, several inquirers were upset in general that attorneys make up most of the staff of the Chief Disciplinary Counsel's office as well as the other disciplinary bodies

[24] File a Grievance, https://www.texasbar.com/Content/NavigationMenu/ForThePublic/ProblemswithanAttorney/GrievanceEthicsInfo1/File_a_Grievance.htm.
[25] *See* Tex. Disciplinary R. Prof'l Conduct 3.03.
[26] Dismissal Letter, *supra* note 19.

that make decisions on grievances. One complainant suggested that review bodies, such as the Summary Disposition Panels, should have more public members than attorney members.

Other Complaints

Beyond the categories identified above, inquirers also provided critiques of miscellaneous policies within the attorney discipline system.

One frequent complaint was that the inquirer did not believe that the investigator performed a thorough review of the evidence. In particular, the Ombudsman received criticisms that the investigator did not contact or interview them or the witnesses they provided. Similarly, several inquirers noted that they do not think that the investigator in their case reviewed all evidence provided because the investigators were not well informed when communicating with the inquirers and seemed to not know the basic facts of the cases. In these inquirers' minds, their grievances were incorrectly dismissed because of the lack of fact gathering by the Chief Disciplinary Counsel's investigators that occurred.

Another frequent comment was the inquirer's disappointment at their inability to file a grievance or communicate with the Chief Disciplinary Counsel's office via email. As of the publishing of this report, grievances can be filed by hand-delivery, mail, facsimile, and through an online submission system. However, the Chief Disciplinary Counsel's office does not accept grievance submissions over email and does not have a general email listed where individuals can get in touch with them about the grievance process.

RECOMMENDATIONS FOR IMPROVEMENT

The Chief Disciplinary Counsel and State Bar of Texas process and investigate thousands of grievances every year and have used their collective experience to create an efficient and effective system to do so. However, as is true with any organization or process, it can be improved. Below are recommendations for improvements to the system based on the comments and criticisms heard by the Ombudsman over the period covered by this report.[27]

Recommendation 1: Enable Communication and Filing of Grievances through Email

First, the Ombudsman recommends that the Chief Disciplinary Counsel enable complainants to contact them and file new grievances via email. Beyond addressing several comments inquirers made, this would allow individuals a quick and free way to file. Although the Chief Disciplinary Counsel does currently offer filing online via a submission portal, some inquirers expressed concern about the formatting of the grievance when submitted this way and worried that if the system was not working properly, the Chief Disciplinary Counsel would not receive their forms. Instituting an email submission would eliminate many of these issues with seemingly minimal additional work.

[27] As mentioned above and reflected in the types of complaints highlighted in the previous section, only a couple respondent-attorneys contacted the Ombudsman. The recommendations in this report reflect the disparity between the large number of comments received from complainants and almost complete lack of input from respondents. However, this is not meant to set a precedent for the content of future reports, which will include recommendations for improvements to benefit respondents if comments received in subsequent reporting periods warrant them.

Recommendation 2: Send Acknowledgement Communication to Complainants to Confirm Receipt of Grievances

As discussed above and reflected in the Inquiry Type chart, many individuals contacted the Ombudsman to ask about a pending grievance. Often, the complainant had filed a grievance but had no idea whether or not it was received by the Chief Disciplinary Counsel's office. To alleviate this confusion, it would be beneficial for the Chief Disciplinary Counsel's office to send a confirmation communication when a filing is received that lets the complainant know their submission was successful. Of course, this process could be somewhat automated to the extent permitted by technology and should be done in the manner that puts the least amount of strain on the Chief Disciplinary Counsel's staff. If possible, the communication should include a reference number that the complainant could cite when contacting staff about their particular filing. Additionally, the letter could provide information about the grievance process, such as crucial deadlines and statutory timeframes, next steps, and answers to common questions. Even though this information is duplicative of information already readily available on the State Bar of Texas' website, it could prove to be very helpful to complainants who often submit grievances without fully reading all materials. This will undoubtedly lead to less confusion about the process and hopefully eliminate at least some of the complaints related to a lack of communication. Even though this change will likely require some additional work to implement, it will also probably reduce the amount of time and resources the State Bar of Texas and the Ombudsman spend responding to inquiries about the status of grievance filings.

Recommendation 3: Provide Regular Status Updates to Complainants during the Investigation Phase

To address inquirers' complaints about the lack of communication during the process and the comment that they do not believe that the investigators assigned to handle their complaints are doing their due diligence, the Ombudsman recommends that the investigators provide regular status updates to the complainant during the investigation process. The Chief Disciplinary Counsel's office is given sixty (60) days to make a just cause determination[28] but the investigation phase can often last much longer when extensions are requested and granted. As such, complainants can be left in limbo for months without knowing if any progress is being made. The Ombudsman understands that the investigators are often assigned many grievances and may not have additional time to provide these updates. Therefore, most of these status communications could be short, such as a one or two sentence summary of the investigation status. The important aspect of this recommendation is that the updates be given on a regular basis, such as every month. Not only will this keep the complainants informed, it will reassure them that the investigator continues to diligently work on their grievance.

Recommendation 4: Provide a More Detailed Explanation to Complainants upon Dismissal of Grievances

Lastly, the Ombudsman recommends increased transparency during the dismissal process. As explained above, numerous inquirers complained about this issue and it led many to conclude that the process itself was corrupt or biased against complainants. More openness in the decision-making process would probably not eliminate these feelings but might alleviate them. This recommendation echoes one voiced by the Texas Sunset Advisory Committee in its report.[29] Although the Chief Disciplinary Counsel's office

[28] Tex. R. Disciplinary P. 2.12(A)(1).

[29] Tex. Sunset Advisory Comm'n, *supra* note 1, at 36 ("The chief disciplinary counsel should revise its current form letters to include both an explanation of how the grievance system works and more specific reasoning for grievance dismissals, when

has revised its dismissal letters to accommodate the Texas Sunset Advisory Committee's suggestions, it remains one of the most common complaints the Ombudsman received so perhaps additional revisions or improvement could be made. Additionally, the complaints around this issue seemed to create the most anger and feelings of injustice among inquirers who raised critiques of the State Bar of Texas. As such, it appears it would be a worthwhile exercise to examine the problem again. In particular, in situations where an attorney's activity could arguably violate a disciplinary rule but is too minor or vague to warrant investigation or utilization of precious resources, it would be helpful to better articulate this reasoning in dismissal letters. Currently the dismissal letters use generic language, which leads to the complaints described earlier in the report.[30]

One recommendation in this area was already relayed to the Chief Disciplinary Counsel's office, and they indicated that they would fix the issue. In particular, an inquirer contacted the Ombudsman to ask about her options after her grievance was dismissed as an inquiry. As the inquirer noted and as the Ombudsman explained to the Chief Disciplinary Counsel's office, the wording on the dismissal letter was confusing. In particular, the letter tells complainants that they have two choices following a dismissal: "1. Amend your grievance and re-file it … **OR** 2. Appeal this decision to dismiss your grievance to the Board of Disciplinary Appeals."[31] The inquirer was confused and wanted to know if you choose to appeal to the Board of Disciplinary Appeals, whether you can subsequently amend and re-file your grievance if the dismissal is affirmed. The wording of the letter suggests that if you choose to appeal to the Board of Disciplinary Appeals, you lose the ability to amend and re-file. She cited Rule 2.10 of the Texas Rules of Disciplinary Procedure as evidence that amending after a Board of Disciplinary Appeals dismissal was intended. In that statute, it explicitly provides that "[i]f the Board of Disciplinary Appeals affirms the classification as an Inquiry, the Complainant will be so notified and may within twenty days amend the Grievance one time only by providing new or additional evidence."[32] When the Ombudsman went through this discrepancy with a member of the Chief Disciplinary Counsel's office, she agreed that the letter is confusing and noted that they will fix wording to reflect the statute.

CONCLUSION

During this reporting period, the first one since the creation of the office, the Ombudsman experienced a steep learning curve wherein it had to create a website to inform the public of its role and abilities, devise a database to track every inquiry into its office, draft the various documents needed to respond to public inquiries and establish standard operating procedure for the assorted demands on its time. While the Ombudsman found the attorney discipline system and programs that support it to be professionally and skillfully run, improvements can always be made to better serve the public and further its mission of overseeing the legal profession in Texas. The Ombudsman anticipates that the operation of its office can similarly make improvements in the years to come and strives to operate more efficiently and more effectively assist the public during the coming reporting term.

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applicable. … This recommendation would help complainants understand the discipline system and improve public satisfaction with the process overall.").

[30] *See supra* pp. 6-8.

[31] Dismissal Letter, *supra* note 19.

[32] Tex. R. Disciplinary P. 2.10.