

PROFESSIONAL RESPONSIBILITY TRIBUNAL

FILED
SUPREME COURT BAR DOCKET
STATE OF OKLAHOMA

ANNUAL REPORT

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January 1, 2017 – December 31, 2017

SCBD No. 6623

Introduction.

The Professional Responsibility Tribunal (PRT) was established by order of the Supreme Court of Oklahoma in 1981, under the Rules Governing Disciplinary Proceedings, 5O.S. 2011, ch. 1, app. 1-A (RGDP). The primary function of the PRT is to conduct hearings on complaints filed against lawyers in formal disciplinary and personal incapacity proceedings, and on petitions for reinstatement to the practice of law. A formal disciplinary proceeding is initiated by written complaint filed with the Chief Justice of the Supreme Court. Petitions for reinstatement are filed with the Clerk of the Supreme Court.

Composition and Appointment.

The PRT is a 21-member panel of Masters, 14 of whom are lawyers and 7 whom are non-lawyers. The lawyers on the PRT are active members in good standing of the OBA. Lawyer members are appointed by the OBA President, with the approval of the Board of Governors. Non-lawyer members are appointed by the Governor of the State of Oklahoma. Each member is appointed to serve a three-year term, and limited to two terms. Terms end on June 30th of the last year of a member's service.

Pursuant to Rule 4.2, RGDP, members are required to meet annually to address organizational and other matters touching upon the PRT's purpose and objective. They also elect a Chief Master and Vice-Chief Master, both of whom serve for a one-year term. PRT members receive no compensation for their services, but they are entitled to be reimbursed for travel and other reasonable expenses incidental to the performance of their duties.

The lawyer members of the PRT who served during all or part of 2017 were: Angela Ailles Bahm, Oklahoma City; Murray E. Abowitz, Oklahoma City; Jeremy J. Beaver, McAlester; M. Joe

Crosthwait, Jr., Midwest City; Thomas W. Gruber, Oklahoma City; John B. Heatly, Oklahoma City; Gerald L. Hilsher, Tulsa; Douglas Jackson, Enid; Susan B. Loving, Edmond; Kelli M. Masters, Oklahoma City; Jody R. Nathan, Tulsa; Mary Quinn-Cooper, Tulsa; Rodney D. Ring, Norman; Theodore P. Roberts, Norman; Michael E. Smith, Oklahoma City; Louis Don Smitherman, Oklahoma City; Neal E. Stauffer, Tulsa; Noel K. Tucker, Edmond; and Ken Williams, Jr., Tulsa.

The non-lawyer members who served during all or part of 2017 were: Nicole Beam, Edmond; Steven W. Beebe, Duncan; Matthew Burns, Edmond; Curtis Calvin, Oklahoma City; James W. Chappel, Norman; Christian C. Crawford, Stillwater; Linda C. Haneborg, Oklahoma City; Donald Lehman, Tulsa; Kirk V. Pittman, Seiling; and Clarence Warner, Norman.

The annual meeting was held on June 28, 2017, at the Oklahoma Bar Association offices. Agenda items included a presentation by Gina Hendryx, General Counsel¹ of the Oklahoma Bar Association, recognition of new members and members whose terms had ended, and discussions concerning the work of the PRT. M. Joe Crosthwait, Jr. was elected Chief Master and Rodney D. Ring was elected Vice-Chief Master, each to serve a one-year term.

Governance.

All proceedings that come before the PRT are governed by the RGDP. However, proceedings and the reception of evidence are, by reference, governed generally by the rules in civil proceedings, except as otherwise provided by the RGDP.

The PRT is authorized to adopt appropriate procedural rules which govern the conduct of the proceedings before it. Such rules include, but are not limited to, provisions for requests for disqualification of members of the PRT assigned to hear a particular proceeding.

Action Taken After Notice Received.

After notice of the filing of a disciplinary complaint or reinstatement petition is received, the Chief Master (or Vice-Chief Master if the Chief Master is unavailable) selects three (3) PRT members (two lawyers and one non-lawyer) to serve as a Trial Panel. The Chief Master designates

¹ The General Counsel of the Oklahoma Bar Association customarily makes an appearance at the annual meeting for the purpose of welcoming members and to answer any questions of PRT members. Given the independent nature of the PRT, all other business is conducted in the absence of the General Counsel.

one of the two lawyer-members to serve as Presiding Master. Two of the three Masters constitute a quorum for purposes of conducting hearings, ruling on and receiving evidence, and rendering findings of fact and conclusions of law.

In disciplinary proceedings, after the respondent's time to answer expires, the complaint and the answer, if any, are then lodged with the Clerk of the Supreme Court. The complaint and all further filings and proceedings with respect to the case then become a matter of public record.

The Chief Master notifies the respondent or petitioner, as the case may be, and General Counsel of the appointment and membership of a Trial Panel and the time and place for hearing. In disciplinary proceedings, a hearing is to be held not less than 30 days nor more than 60 days from date of appointment of the Trial Panel. Hearings on reinstatement petitioners are to be held not less than 60 days nor more than 90 days after the petition has been filed. Extensions of these periods, however, may be granted by the Presiding Master for good cause shown.

After a proceeding is placed in the hands of a Trial Panel, it exercises general supervisory control over all pre-hearing and hearing issues. Members of a Trial Panel function in the same manner as a court by maintaining their independence and impartiality in all proceedings. Except in purely ministerial, scheduling, or procedural matters, Trial Panel members do not engage in *ex parte* communications with the parties. Depending on the complexity of the proceeding, the Presiding Master may hold status conferences and issue scheduling orders as a means of narrowing the issues and streamlining the case for trial. Parties may conduct discovery in the same manner as in civil cases.

Hearings are open to the public and all proceedings before a Trial Panel are stenographically recorded and transcribed. Oaths or affirmations may be administered, and subpoenas may be issued, by the Presiding Master, or by any officer authorized by law to administer an oath or issue subpoenas. Hearings, which resemble bench trials, are directed by the Presiding Master.

Trial Panel Reports.

After the conclusion of a hearing, the Trial Panel prepares a written report to the Oklahoma Supreme Court. The report includes findings of facts on all pertinent issues, conclusions of law, and a recommendation as to the appropriate measure of discipline to be imposed or, in the case of

a reinstatement petitioner, whether it should be granted. In all proceedings, any recommendation is based on a finding that the complainant or petitioner, as the case may be, has or has not satisfied the “clear and convincing” standard of proof. The Trial Panel report further includes a recommendation as to whether costs of investigation, the record, and proceedings should be imposed on the respondent or petitioner. Also filed in the case are all pleadings, transcript of proceeding, and exhibits offered at the hearing.

Trial Panel reports and recommendations are advisory. The Oklahoma Supreme Court has exclusive jurisdiction over all disciplinary and reinstatement matters. It has the constitutional and non-delegable power to regulate both the practice of law and legal practitioners. Accordingly, the Oklahoma Supreme Court is bound by neither the findings nor the recommendation of action, as its review of each proceeding is *de novo*.

Annual Reports.

Rule 14.1, RGDP, requires the PRT to report annually on its activities for the preceding year. As a function of its organization, the PRT operates from July 1 through June 30. However, annual reports are based on the calendar year. Therefore, this Annual Report covers the activities of the PRT for the preceding year, 2017.

Activity in 2017.

At the beginning of the calendar year, six (6) disciplinary and two (2) reinstatement proceedings were pending before the PRT as carry-over matters from a previous year. Generally, a matter is considered “pending” from the time the PRT *receives notice* of its filing until the Trial Panel report is filed. Certain events reduce or extend the pending status of a proceeding, such as the resignation of a respondent or the remand of a matter for additional hearing. In matters involving alleged personal incapacity, orders by the Supreme Court of interim suspension, or suspension until reinstated, operate to either postpone a hearing on discipline or remove the matter from the PRT docket.

In regard to new matters, the PRT received notice of the following: Five (5) Rule 6, RGDP matters; Eleven (11) Rule 7, RGDP matters; Six (6) Rule 8, RGDP matters; and Ten (10) Rule 11, RGDP reinstatement petitions. Trial Panels conducted a total of eleven (11) hearings; five (5) in disciplinary proceedings and six (6) in reinstatement proceedings.

On December 31, 2017, a total of 11 matters, six (6) disciplinary and five (5) reinstatement proceedings, were pending before the PRT.

Proceeding Type	Pending Jan. 1, 2017	New Matters In 2017	Hearings Held 2017	Trial Panel Reports Filed	Pending Dec. 31, 2017
Disciplinary	5	**22	*5	5	6
Reinstatement	2	10	6	5	5

*In 2017, five (5) disciplinary hearings were held over a total of eight (8) days

**Includes cases filed but dismissed by Supreme Court prior to PRT involvement

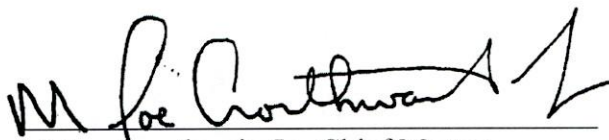
Conclusion.

Members of the PRT demonstrated continued service to the Bar and the public of this State, as shown by the substantial time dedicated to each assigned proceeding. The members' commitment to the purpose and responsibilities of the PRT is deserving of the appreciation of the Bar and all its members, and certainly is appreciated by this writer.

Dated this 1st day of February, 2018.

PROFESSIONAL RESPONSIBILITY TRIBUNAL

By:



M. Joe Crosthwait, Jr., Chief Master