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Here's What an Attorney Discipline Case Against Texas Sen. Carlos Uresti Might Look Like

Disbarment might be on the horizon for Texas state Sen. Carlos Uresti, D-San Antonio, because of his criminal conviction on 11 felony fraud-related charges.

By **Angela Morris** | February 23, 2018



Texas Sen. Carlos Uresti, D-San Antonio, right, enters the federal courthouse for a

Disbarment might be on the horizon for Texas state Sen. Carlos Uresti, D-San Antonio, because of his criminal [conviction on 11 felony fraud-related charges](#)

hearing, Monday, July 10, 2017, in San Antonio. (AP Photo/Eric Gay)

<https://www.law.com/texaslawyer/2018/02/22/federal-jury-convicts-texas-state-sen-carlos-uresti-on-11-fraud-related-counts/>).

Uresti, a personal injury attorney, fraudulently steered his clients to invest in FourWinds Logistics, a hydraulic fracking business that turned out as a Ponzi scheme. He pleaded not guilty, claiming he didn't know about the scam until it was too late. One of Uresti's lawyers has pledged to appeal Uresti's convictions for wire fraud, conspiracy to commit money laundering and securities fraud violations.

Texas Lawyer spoke with Wayne Paris, managing member of Gillis Paris & Heinrich in Houston, who's practiced legal ethics law for 40 years, about what an attorney disciplinary case against Uresti might look like and the possible outcome. Here are his answers, edited for brevity and clarity.

Texas Lawyer: What kind of case would the State Bar of Texas's Commission for Lawyer Discipline bring against Uresti? **Wayne Paris:** If he is convicted, he'd be under the compulsory discipline provisions of the Texas Rules of Disciplinary Procedure. If it is a crime that is an intentional crime—which is an enhancement of a serious crime, because it involves intent—then he would be subject to disbarment in a show-cause hearing that would be brought before the Board of Disciplinary Appeals.

TL: The Commission for Lawyer Discipline has several procedural routes to bring a discipline case against a lawyer. Why choose compulsory discipline here? **WP:** Compulsory discipline usually is based upon evidence of the conviction being submitted and evidence of the type of crime and leads to a disbarment. It's easier to get a disbarment and maximum discipline by going the compulsory discipline route on convictions for felony crimes. They don't have to run it through the other type of proceedings.

TL: What disciplinary rules would the Commission for Lawyer Discipline allege that Uresti broke, based on his convictions, during the compulsory discipline case? **WP:** Under the compulsory discipline statute, the conviction only has to be for a serious crime or intentional crime. The serious crime carries a possibility of probation, in the discretion of the trier. The intentional crime is linked to disbarment. You don't even have the disciplinary rules that come into play. You have whether or not the conviction fits the definition of serious crime or intentional crime or both.

TL: Even if the disciplinary rules don't come into play in the compulsory discipline case, I'm interested to know how the rules apply to Uresti's conduct. What rules would apply?

WP: If he's engaged in fraud, he didn't have to be in an attorney-client relationship with someone to violate 8.04(a)(3), because it's a catch-all rule that says a lawyer shall not engage in fraud. It's not a rule based upon intent, or knowledge. If they can show he engaged in fraud or misrepresentation, it would be a violation.

TL: Although Uresti denied it, the prosecution's star witness—Uresti's personal injury client who won a large settlement after a car crash killed her two children—maintained that the pair had a sexual relationship, according to the [San Antonio Express-News](https://www.mysanantonio.com/business/local/article/Uresti-Cain-found-guilty-on-all-charges-in-end-12633672.php) (<https://www.mysanantonio.com/business/local/article/Uresti-Cain-found-guilty-on-all-charges-in-end-12633672.php>). Does this implicate any attorney disciplinary rules? **WP:** Not directly, but inferentially. Certainly, under 8.04(a)(3), it could involve dishonest conduct or conduct that might be contrary to the administration of justice, contrary to the administration of a case. I have seen situations where sexual misconduct between a lawyer and client was pursued under the general rules, but no, there's no specific disciplinary rule that prohibits that.

TL: How can Uresti go about defending himself in a compulsory discipline case? **WP:** He'd have to try to go into the federal statutes he was convicted on the basis of, and have to show that the conviction for those statutes did not come within the terms of "intentional crime," they only came within the terms of "serious crime." Therefore, because of his good conduct or good character or whatever, convince the Board of

Disciplinary Appeals they ought to opt under the serious crime provisions, and put him on some type of suspension: Suspend his license concurrent with whatever sentence he has been given. Those are very serious hurdles to get over, and I don't think he can get over the first one: To prove the federal statute he was convicted of would be not in the realm of an intentional crime.

TL: At his sentencing this summer, Uresti could get up to 20 years in prison for his fraud-related convictions and up to 10 years for his money laundering charges. How might his sentence determine whether he's just suspended, or fully disbarred? **WP:** The predecessors to the Rules of Disciplinary Procedure that established the compulsory discipline statutes—there's a whole line of cases that say if you were even given one day or one second of jail time, then you're subject to disbarment, and there's no leeway on it.

TL: Uresti hasn't yet been sentenced, and one of his lawyers has stated he'll appeal. How could this impact the timeline of when the Commission for Lawyer Discipline might bring its case? **WP:** Sometimes they've opted to wait until the sentence, sometimes they've opted to wait until after an appeal from the conviction. They are allowed to bring an interim suspension motion with a copy of the conviction, prior to sentencing or appeal, and to suspend him during the whole period of time. In theory, they could wait until the sentencing phase was achieved, and the punishment by judgment was rendered, or they could wait until the end of the appeal. I don't think they will under a notoriety situation. They will probably move for an interim suspension pending the finality of the judgment.

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