



**BEFORE THE BOARD OF DISCIPLINARY APPEALS
APPOINTED BY
THE SUPREME COURT OF TEXAS**

IN THE MATTER OF	§	
JOHN PHILLIP BENDER	§	CAUSE NO. 45600
STATE BAR CARD NO. 02126500	§	

FINAL JUDGMENT OF DISBARMENT

On the 26th day of April 2013, the Board of Disciplinary Appeals considered the Motion for Entry of Judgment of Disbarment filed in the above case by Petitioner, Commission for Lawyer Discipline of the State Bar of Texas, against Respondent, John Phillip Bender. Petitioner appeared by the Chief Disciplinary Counsel of the State Bar of Texas. Respondent, although having answered and having notice of the hearing, failed to appear and made default.

The Board finds that:

- (1) It has continuing jurisdiction of this matter pursuant to Texas Rule of Disciplinary Procedure 8.05 ("TRDP").
- (2) The Court of Appeals for the Third District of Texas affirmed Respondent John Phillip Bender's criminal conviction and issued its Mandate indicating that the decision was final on or about October 12, 2012.
- (3) Petitioner filed its Motion for Entry of Judgment of Disbarment on or about December 13, 2012, and served same on Respondent in accordance with TRDP 8.05.
- (4) Respondent's Petition for Writ of Certiorari filed with the United States Supreme Court was denied on January 22, 2013.
- (5) Respondent's conviction for the commission of an Intentional Crime as defined by TRDP 1.06(T), for which he was sentenced in the 331st District Court of Travis County, Texas, has become final and is not subject to further direct appeal.

- (6) Respondent's criminal sentence was not fully probated.
- (7) Petitioner's Motion for Entry of Judgment of Disbarment should be granted.

Interlocutory Suspension

Following a hearing on the 15th day of January 2010, at which Petitioner Commission for Lawyer Discipline of the State Bar of Texas appeared by attorney and announced ready and Respondent, John Phillip Bender, although duly cited to appear and having notice of the hearing, failed to answer or appear and wholly made default, the Board entered an Interlocutory Order of Suspension on January 19, 2010, which included the following findings of fact and conclusions of law:

- (1) Respondent, John Phillip Bender, whose State Bar Card number is 02126500, is licensed but not currently authorized to practice law in the State of Texas by the Supreme Court of Texas due to being administratively suspended for non-payment of dues.
- (2) On or about November 12, 2008, Respondent, John Phillip Bender, was indicted on the charges of (1) Aggregated Theft, a First Degree Felony and (2) Aggregated Misapplication of Fiduciary Property, a First Degree Felony, in Cause No. D-1-DC-08-904109, styled *The State of Texas v. John Philip Bender*, in the 167th District Court of Travis County, Texas.
- (3) On or about August 5, 2009, Respondent, John Phillip Bender, was found guilty by a jury of Aggregated Theft, a First Degree Felony, in Cause Number D-1-DC-08-904109, styled, *The State of Texas v. John Bender*, in the 331st District Court of Travis County, Texas, (hereinafter called the "Bender" criminal case) and was sentenced twenty (20) years confinement in the Institutional Division of the Texas Department of Criminal Justice and ordered to pay court costs in the amount of \$242.25.
- (4) Respondent, John Phillip Bender, is the same person as the John Bender who is the subject of the Bender criminal case described above.
- (5) Respondent's criminal sentence is not fully probated.
- (6) Respondent has appealed the criminal conviction, which appeal is still pending.

- (7) Respondent was personally served with the Petition for Compulsory Discipline on December 9, 2009 by a Jefferson County, Texas, Constable, and the affidavit of service was filed with the Board on December 15, 2009.
- (8) In his response to the Petition, Respondent waived any hearing and accepted the suspension of his law license pending the completion of his appeal from the conviction.
- (9) This Board has jurisdiction to hear and determine this matter. Texas Rules of Disciplinary Procedure ("TRDP") 7.08(G)
- (10) Respondent, John Phillip Bender, having been convicted of Aggregated Theft, has been convicted of an Intentional Crime as defined by TRDP 1.06(T).
- (11) Respondent has also been convicted of a Serious Crime as defined by TRDP 1.06(Z).
- (12) Having been found guilty and convicted of an Intentional and Serious Crime and having appealed such conviction, Respondent, John Phillip Bender, should have his license to practice law in Texas suspended during the appeal of his criminal conviction. TRDP. 8.04
- (13) The Board retains jurisdiction to enter a final judgment in this matter when the criminal appeal is final. TRDP 8.05

Respondent did not appeal this Board's Order of Interlocutory Suspension.

Disbarment

Respondent, having been convicted of an Intentional Crime and that conviction being final, and having been sentenced to prison, should be disbarred pursuant to TRDP 8.05. It is, therefore, accordingly, ORDERED, ADJUDGED, AND DECREED that Respondent, John Phillip Bender, State Bar No. 02126500, be and he is hereby DISBARRED from the practice of law in the State of Texas, and his license to practice law in this state be and is hereby revoked.

It is further ORDERED, ADJUDGED and DECREED that Respondent, John Phillip Bender, is hereafter permanently prohibited, effective immediately, from practicing law in Texas, holding

himself out as an attorney at law, performing any legal service for others, accepting any fee directly or indirectly for legal services, appearing as counsel in any proceeding in any Texas court or before any Texas administrative body, or holding himself out to others or using his name, in any manner, in conjunction with the words "attorney," "counselor," or "lawyer."

It is further ORDERED that Respondent, John Phillip Bender, not later than thirty (30) days from the date this judgment is signed, shall notify in writing each and every justice of the peace, judge, magistrate, and chief justice of each and every court, if any, in which Respondent has any legal matter pending, if any, of his disbarment, of the style and cause number of the pending matter(s), and of the name, address, and telephone number of the client(s) Respondent is representing in that court. Respondent is also ORDERED to mail copies of all such notifications to the Office of the Chief Disciplinary Counsel, Statewide Compliance Monitor, State Bar of Texas, P.O. Box 12487, Austin, Texas 78711.

It is further ORDERED that Respondent, John Phillip Bender, shall immediately notify each of his current clients and opposing counsel, if any, in writing, of his disbarment. In addition to such notification, Respondent is ORDERED to return all files, papers, unearned fees paid in advance, and all other monies and properties which are in his possession but which belong to current or former clients, if any, to those respective clients or former clients within thirty (30) days after the date on which this Judgment is signed by the Board. Respondent is further ORDERED to file with the Office of the Chief Disciplinary Counsel, Statewide Compliance Monitor, State Bar of Texas, P.O. Box 12487, Austin, Texas 78711, within the same thirty (30) days, an affidavit stating that all current clients and opposing counsel have been notified of his disbarment and that all files, papers, unearned fees paid in advance, and all other monies and properties belonging to clients and former clients have been returned as ordered herein. If Respondent should be unable to return any file, papers, money or

other property to any client or former client, Respondent's affidavit shall state with particularity the efforts made by Respondent with respect to each particular client and the cause of his inability to return to said client any file, paper, money or other property. Respondent is also ORDERED to mail copies of all notification letters to clients, to the Office of the Chief Disciplinary Counsel, Statewide Compliance Monitor, State Bar of Texas, P.O. Box 12487, Austin, Texas 78711.

It is further ORDERED that Respondent, John Phillip Bender, if he has not already done so, immediately surrender his Texas law license and permanent State Bar Card to the Office of the Chief Disciplinary Counsel, Statewide Compliance Monitor, State Bar of Texas, P. O. Box 12487, Austin, Texas 78711, for transmittal to the Clerk of the Supreme Court of Texas.

Any motion or other claims for relief not expressly granted are hereby denied as moot.

Signed this 29th day of April 2013.



CHAIR PRESIDING