

**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	§	

INTERLOCUTORY ORDER OF SUSPENSION

On the 15th day of January 2010, the above-styled and numbered disciplinary action was called for hearing before the Board of Disciplinary Appeals. Petitioner Commission for Lawyer Disciplinary of the State Bar of Texas appeared by attorney and announced ready. Respondent, John Phillip Bender, although having been duly cited to appear, having notice of the hearing, and having answered, failed to appear and wholly made default. All issues of fact as well as all questions of law were submitted to the Board of Disciplinary Appeals for determination. Having considered the pleadings on file, having received evidence, and having heard the argument of counsel, the Board of Disciplinary Appeals is of the opinion that Petitioner is entitled to entry of the following findings and orders:

Findings of Fact. The Board of Disciplinary Appeals finds that:

- (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 to 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 the appeal from his conviction.

Conclusions of Law. Based upon the foregoing findings of facts the Board of Disciplinary Appeals makes the following conclusions of law:

- (1) This Board has jurisdiction to hear and determine this matter. Texas Rules of Disciplinary Procedure (“TRDP”) 7.08(G).
- (2) Respondent, John Phillip Bender, having been convicted of Aggregated Theft, has been convicted of an Intentional Crime as defined by TRDP 1.06(T).
- (3) Respondent has also been convicted of a Serious Crime as defined by TRDP 1.06(Z).
- (4) 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.
- (5) The Board retains jurisdiction to enter a final judgment in this matter when the criminal appeal is final. TRDP 8.05.

It is, accordingly, ORDERED, ADJUDGED, and DECREED that Respondent, John Phillip Bender, State Bar Card No. 02126500, is hereby SUSPENDED from the practice of law in the State of Texas effective immediately upon execution of this order and continuing hereafter until further order of this Board.

It is further ORDERED, ADJUDGED and DECREED that Respondent, John Phillip Bender, during said suspension is hereby 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 not completed before the date of this order, 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, shall notify in writing, no later than thirty (30) days from the date of this Order, each and every justice of the peace, judge, magistrate, and chief justice of each and every court in which Respondent, John Phillip Bender has any legal matter pending, if any, of his suspension, 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 Statewide Compliance Monitor, Office of the Chief Disciplinary Counsel, State Bar of Texas, P.O. Box 12487, Capitol Station, Austin, Texas 78711.

It is further ORDERED that Respondent, John Phillip Bender, shall immediately notify each of his current clients, if any, in writing, of his suspension. 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 of this Order. Respondent is further ORDERED to file with the Statewide Compliance Monitor, Office of the Chief Disciplinary Counsel, State Bar of Texas, P.O. Box 12487, Capitol Station, Austin, Texas 78711, within the same thirty (30) days, an affidavit stating either (a) that all current clients have been notified of his suspension 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 or (b) that Respondent has no current clients, files, or papers, and that any unearned fees paid in advance or other monies or properties belonging to clients have previously been returned to the appropriate client. If Respondent is 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 a copy of all notification letters to the Statewide Compliance Monitor, Office of the Chief Disciplinary Counsel, State Bar of Texas, P.O. Box 12487, Capitol Station, Austin, Texas 78711.


It is further ORDERED that Respondent, John Phillip Bender, immediately surrender his Texas law license and permanent State Bar Card to the Statewide Compliance Monitor, Office of the Chief Disciplinary Counsel, State Bar of Texas, P.O. Box 12487, Capitol Station, Austin, Texas 78711, for transmittal to the Clerk of the Supreme Court of Texas.

It is further ORDERED that this Order is interlocutory and that the Board retains jurisdiction to enter a final judgment when the appeal of the criminal conviction is final.

It is further ORDERED that Respondent shall promptly notify the Board and the State Bar of Texas Chief Disciplinary Counsel when the appeal of the criminal conviction is final.

It is further ORDERED that the Chief Disciplinary Counsel of the State Bar of Texas shall monitor the status of the appeal of the criminal conviction on at least a quarterly basis and promptly file an appropriate motion with the Board when the appeal of the criminal conviction is final.

Signed this 19th day of January 2010.



CHAIR PRESIDING