

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

IN THE MATTER OF	§	
F. BENJAMIN RIEK, III	§	CAUSE NO. 47267
STATE BAR CARD NO. 16906190	§	

JUDGMENT OF PARTIALLY-PROBATED SUSPENSION

On the 19th day of October 2010, the above-styled and numbered reciprocal discipline action pursuant to Part IX, Texas Rules of Disciplinary Procedure (“TRDP”), was called for hearing before the Board of Disciplinary Appeals. Petitioner Commission for Lawyer Discipline appeared by attorney and announced ready. Respondent, F. Benjamin Riek, III, appeared and announced ready. 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, F. Benjamin Riek, III, is an attorney who is licensed and authorized to practice law in the State of Texas, and whose Bar Card No. is 16906190;
- (2) On or about April 12, 2010, an Order on Certified Report by the Board of Commissioners on Grievances and Discipline of the Supreme Court was entered by the Supreme Court of the Ohio in Case No. 2009-2244, styled: *Disciplinary Counsel, Relator, v. F. Benjamin Riek, III, Respondent*, suspending Respondent from the practice of law for a period of eighteen months with twelve months stayed on certain terms and conditions.
- (3) Respondent, F. Benjamin Riek, III, is the same person as the F. Benjamin Riek, III, who is the subject of the Order on Certified Report by the Board of Commissioners on Grievances and Discipline of the Supreme Court entered in the Supreme Court of the Ohio;

- (4) The suspension Order from the Supreme Court of Ohio is final.

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 pursuant to TRDP 7.08(H);
- (2) The procedure followed in Ohio was not so lacking in notice or opportunity to be heard as to constitute a deprivation of due process;
- (3) The imposition of discipline in Texas identical to that imposed in Ohio will not result in a grave injustice;
- (4) The misconduct for which the Respondent was disciplined in Ohio also constitutes Professional Misconduct under the Texas Disciplinary Rules of Professional Conduct; and
- (5) Reciprocal discipline identical to that imposed by the Supreme Court of Ohio is warranted in this case.

It is, accordingly, ORDERED, ADJUDGED, AND DECREED that Respondent, F. Benjamin Riek, III, State Bar Card No. 16906190, is hereby SUSPENDED from the practice of law in Texas for a period of eighteen months beginning December 1, 2010, and ending May 31, 2012. Respondent shall be actively suspended from the practice of law for a period of six (6) months beginning December 1, 2010, and ending May 31, 2011, followed by a twelve (12) month period of probated suspension beginning June 1, 2011, and ending May 31, 2012.

It is further ORDERED that during the term of active suspension ordered herein, Respondent shall be prohibited 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 prior to the start of the active suspension, 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, F. Benjamin Riek, III, shall notify in writing, no later than December 1, 2010, each and every justice of the peace, judge, magistrate, and chief justice of each and every court in which Respondent, F. Benjamin Riek, III, 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, F. Benjamin Riek, III, shall notify each of his current clients, if any, in writing, of his suspension no later than December 1, 2010. 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 by December 1, 2010. Respondent is further ORDERED to file by December 1, 2010, an affidavit with Statewide Compliance Monitor, Office of the Chief Disciplinary Counsel, State Bar of Texas, P.O. Box 12487, Capitol Station, Austin, Texas 78711, stating 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. 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 a copy of all notification

letters to clients 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, F. Benjamin Riek, III, immediately surrender his Texas law license and permanent State Bar Card to the Statewide Compliance Monitor, Chief Disciplinary Counsel, State Bar of Texas, P.O. Box 12487, Austin, Texas 78711, for transmittal to the Clerk of the Supreme Court of Texas.

Terms of Probation

It is further ORDERED that during all periods of suspension, Respondent shall be subject to the following terms and conditions:

- (1) Respondent shall not violate any term of this judgment.
- (2) Respondent shall not engage in professional misconduct as defined by Rule 1.06(V) of the Texas Rules of Disciplinary Procedure.
- (3) Respondent shall not violate any state or federal criminal statutes.
- (4) Respondent shall keep the State Bar of Texas membership department notified of current mailing, residence and business addresses and telephone numbers.
- (5) Respondent shall comply with Interest on Lawyers Trust Account (IOLTA) requirements.
- (6) Respondent shall promptly respond to any request for information from the Chief Disciplinary Counsel in connection with any investigation of any allegations of professional misconduct.

It is further ORDERED that, if the Chief Disciplinary Counsel determines that Respondent has failed to comply with or violated any term or condition of probation, she may file a motion to revoke the probation with the Board of Disciplinary Appeals pursuant to Part II, Texas Rules of Disciplinary Procedure, in addition to pursuing any other remedies available, including initiating a new grievance proceeding.

Signed this 22nd day of October 2010.

A handwritten signature in black ink, appearing to read "W. Clark", written over a horizontal line.

CHAIR PRESIDING