



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

IN THE MATTER OF KENNETH ALAN THOMAS <i>State Bar of Texas Card No. 19857100</i>	§ § §	CAUSE NO. 37431
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ORDER DENYING CONTINUANCE AND JUDGMENT OF DISBARMENT

On the 27th day of July 2012, the Board of Disciplinary Appeals considered the First Amended 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, Kenneth Alan Thomas. Respondent, Kenneth Alan Thomas, answered and moved for a continuance of the hearing but did not appear at the hearing. Finding insufficient cause for a continuance, the Board denies the motion.

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 Second District of Texas affirmed Respondent Kenneth Alan Thomas's criminal conviction and issued its Mandate indicating that the decision was final on or about April 17, 2007;
- (3) Petitioner filed its First Amended Motion for Entry of Judgment of Disbarment on or about May 23, 2012, and served same on Respondent in accordance with TRDP 8.05;
- (4) Respondent's conviction for the commission of an Intentional Crime as defined by TRDP 1.06(T), for which he was sentenced in the District Court of

Denton County, Texas, has become final and is not subject to appeal;

- (5) Petitioner's First Amended Motion for Entry of Judgment of Disbarment should be granted.

Interlocutory Suspension

Following a hearing on the 9th day of June 2006, at which Petitioner, Commission for Lawyer Discipline of the State Bar of Texas, appeared by attorney and announced ready and Respondent, Kenneth Alan Thomas, although having filed an answer and having been duly notified of the hearing, did not appear and made default, the Board of Disciplinary Appeals entered an Interlocutory Order of Suspension on or about June 15, 2006, which included the following findings of fact and conclusions of law:

- (1) Respondent, Kenneth Alan Thomas, State Bar Card Number 19857100, is currently licensed to practice law in the State of Texas.
- (2) On August 19, 2004, Respondent, Kenneth Alan Thomas, was charged by Indictment with Aggravated Assault in Cause No. F-2004-1408-C, in the 211th District Court of Denton County, Texas, (hereinafter called the "Thomas" criminal case).
- (3) Said Indictment states that Respondent Thomas committed the assault "intentionally or knowingly" and did "use or exhibit a deadly weapon, to-wit: a firearm."
- (4) On or about May 13, 2005, a Judgment on Jury Verdict of Guilty Punishment Fixed by Jury – No Probation Granted was entered in Case Number F-2004-1408-C, styled *The State of Texas v. Kenneth Alan Thomas*, in the 211th District Court of Denton County, Texas, finding the Respondent guilty of Aggravated Assault, a 2nd Degree Felony. Respondent was committed to the custody of the Institutional Division of the Texas Department of Criminal Justice to be imprisoned for a total term of 8 years. Respondent was also ordered to pay a fine in the amount of \$10,000.00.
- (5) Respondent, Kenneth Alan Thomas, is same person as the Kenneth Alan Thomas who is the defendant in criminal case F-2004-1408-C and was convicted as set forth above.

- (6) Respondent has appealed the criminal conviction.
- (7) Respondent's criminal sentence is not fully probated.
- (8) Respondent was personally served with the Original Petition for Compulsory Discipline including a hearing notice on April 11, 2006 as evidenced by the affidavit of the process server filed with the Board on April 24, 2006.
- (9) This Board has jurisdiction to hear and determine this matter. Rule 7.08(G), Texas Rules of Disciplinary Procedure ("TRDP").
- (10) Based on the charge contained in the True Bill of Indictment that Respondent committed the aggravated assault with knowledge or intent, the record of conviction shows that the crime for which Respondent has been convicted in an Intentional Crime as defined by TRDP 1.06(T) and a Serious Crime as defined by TRDP 1.06(Z).
- (11) Having been found guilty and convicted of an Intentional and Serious crime, and such conviction currently being appealed, Respondent Kenneth Alan Thomas, should be suspended as an attorney licensed to practice law in Texas during the appeal of his conviction. TRDP 8.04.
- (12) In the event that the conviction of Respondent, Kenneth Alan Thomas, is affirmed and becomes final, Respondent, Kenneth Alan Thomas, should be disbarred, because his criminal sentence is not fully probated. TRDP 8.05.

Disbarment

The Board has determined that disbarment of the Respondent is appropriate. It is, therefore, accordingly, ORDERED, ADJUDGED, AND DECREED that Respondent, Kenneth Alan Thomas, State Bar No. 19857100, 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, Kenneth Alan Thomas, 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 or in any representative capacity 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, Kenneth Alan Thomas, not later than thirty (30) days from the date of the entry of this judgment, 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, Kenneth Alan Thomas, 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 this Board, 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 a copy of said affidavit and 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, Kenneth Alan Thomas, 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.

It is further ORDERED that a certified copy of the Petition for Compulsory Discipline on file herein along with a copy of this Final Judgment of Disbarment be sent to the Chief Disciplinary Counsel of the State Bar of Texas, P.O. Box 12487, Austin, Texas 78711.

Signed this 31st day of July 2012


CHAIR PRESIDING