



May. 24, 2018

Board of Disciplinary Appeals

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

IN THE MATTER OF	§	
STEPHEN YOUNG KANG	§	CAUSE NO. 57701
STATE BAR CARD NO. 24007465	§	

MOTION FOR ENTRY OF JUDGMENT OF DISBARMENT

TO THE HONORABLE BOARD:

COMES NOW, Petitioner, the Commission for Lawyer Discipline (hereinafter called "Petitioner"), and files this its Motion for Entry of Judgment of Disbarment, showing as follows:

1. On May 26, 2016, Petitioner filed its Petition for Compulsory Discipline against Respondent, Stephen Young Kang, (hereinafter called "Respondent") seeking compulsory discipline based upon Respondent's conviction in Cause No. 15-478(A)-GW, styled *United States of America v. Stephen Young Kang*, in the United States District Court for the Central District of California, wherein Respondent pled guilty to Wire Fraud and Tax Evasion and was committed to the custody of the Bureau of Prisons to be imprisoned for a term of sixty-three (63) months. This term consists of sixty-three (63) months on each of Counts Eight and Twenty-Two and sixty (60) months on Count Twenty-Nine, all to be served concurrently. Upon release from imprisonment, Respondent shall be placed on supervised release for a period of three (3) years. Respondent was further ordered to pay restitution in the amount of \$8,765,834.24.

2. On August 1, 2016, a Default Interlocutory Order of Suspension was entered by the Board of Disciplinary Appeals which provides in pertinent part, as follows:

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. *In the Matter of Mercer*, 242 SW

3d 46 (Tex.2007).

3. Following the appeal by Respondent of his criminal conviction in Case No. 2:15-cr-00478-GW-1, on the charges of Wire Fraud and Tax Evasion, a Memorandum (Exhibit A) was issued by the United States Court of Appeals for the Ninth Circuit, on or about February 9, 2018, in Cause No. No. 16-50161, *United States of America, Plaintiff – Appellee v. Stephen Young Kang, Defendant – Appellant*, which dismissed Respondent’s appeal.

4. On or about March 5, 2018, a Mandate (Exhibit B) was issued by the United States Court of Appeals for the Ninth Circuit, in Cause No. No. 16-50161, *United States of America, Plaintiff – Appellee v. Stephen Young Kang, Defendant– Appellant*, which affirmed the Memorandum entered February 9, 2018, dismissing the appeal. True and correct copies of the Memorandum and Mandate issued by the United States Court of Appeals for the Ninth Circuit, are attached hereto as Exhibits A and B, and made a part hereof for all intents and purposes as if the same were copied verbatim herein. Petitioner expects to introduce certified copies of Exhibits A and B at the time of hearing of this cause.

5. Petitioner represents to the Board that the Judgment entered against Respondent, Stephen Young Kang, has now become final. Petitioner seeks the entry of a judgment of disbarment. Attached hereto as Exhibit C is a true and correct copy of the form of judgment of which Petitioner seeks the entry herein.


PRAYER

WHEREFORE, PREMISES CONSIDERED, Petitioner prays, upon notice to Respondent, that the Board enter its order disbarring Respondent and for such other and further relief to which Petitioner may be entitled.

Respectfully submitted,


Linda A. Acevedo
Chief Disciplinary Counsel

Judith Gres DeBerry
Assistant Disciplinary Counsel
Office of the Chief Disciplinary Counsel
State Bar of Texas
P.O. Box 12487
Austin, Texas 78711
Telephone: 512.427.1350
Telecopier: 512.427.4167
Email: jdeberry@texasbar.com


Judith Gres DeBerry
Bar Card No. 24040780
ATTORNEYS FOR PETITIONER

NOTICE OF HEARING

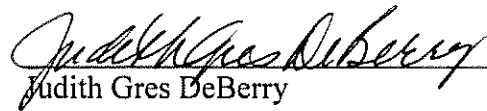
NOTICE IS HEREBY GIVEN that a trial on the merits of the Motion for Entry of Judgment of Disbarment heretofore sent to be filed with the Board of Disciplinary Appeals on this day, will be held in the courtroom of the Supreme Court of Texas, Tom C. Clark Building, 14th and Colorado Streets, Austin, Texas, at **9:00 a.m. on the 27th day of July 2018.**


Judith Gres DeBerry

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing instrument has been sent for personal service on May 24, 2018, as follows:

Stephen Young Kang #69430-112
Sheridan FCI
27072 Ballston Road
Sheridan, Oregon 97378


Judith Gres DeBerry

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 9 2018

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

No. 16-50161

Plaintiff-Appellee,

D.C. No. 2:15-cr-00478-GW-1

v.

MEMORANDUM*

STEPHEN YOUNG KANG,

Defendant-Appellant.

Appeal from the United States District Court
for the Central District of California
George H. Wu, District Judge, Presiding

Submitted February 7, 2018**
Pasadena, California

A TRUE COPY
ATTEST 04-30-2018
MOLLY C. DWYER
Clerk of Court
by: *Jordan Ryan*
Deputy Clerk

Before: GRABER and HURWITZ, Circuit Judges, and KORMAN,*** District Judge.

Stephen Kang appeals the district court's decision to seal a restitution order.

Because Kang signed a valid appeal waiver, we dismiss the appeal.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

*** The Honorable Edward R. Korman, United States District Judge for the Eastern District of New York, sitting by designation.

Exhibit

A

1. Kang’s plea agreement waived his right to appeal “the amount and terms of any restitution order.” One of the restitution order’s terms provides for sealing. We analyze plea agreements under contract law, *United States v. De la Fuente*, 8 F.3d 1333, 1337 (9th Cir. 1993), and a contract term providing for confidentiality is generally enforceable, *see Union Pac. R.R. Co. v. Mower*, 219 F.3d 1069, 1073–76 (9th Cir. 2000); *see also Term*, Black’s Law Dictionary (10th ed. 2014) (defining terms as “[p]rovisions that define an agreement’s scope; conditions or stipulations”).

2. Kang argues that because the waiver is located in a section of the plea agreement entitled “limited mutual waiver of appeal of sentence,” it applies only to his sentence. That argument fails, as the waiver expressly covers the “terms of the restitution order.”

APPEAL DISMISSED.

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED
MAR 05 2018
MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

STEPHEN YOUNG KANG,

Defendant - Appellant.

No. 16-50161

D.C. No. 2:15-cr-00478-GW-1
U.S. District Court for Central
California, Los Angeles

MANDATE

The judgment of this Court, entered February 09, 2018, takes effect this date.

This constitutes the formal mandate of this Court issued pursuant to Rule 41(a) of the Federal Rules of Appellate Procedure.

FOR THE COURT:

MOLLY C. DWYER
CLERK OF COURT

By: Jessica F. Flores Poblano
Deputy Clerk
Ninth Circuit Rule 27-7

A TRUE COPY
ATTEST *04-30-2018*
MOLLY C. DWYER
Clerk of Court
by: *Juan Ryan*
Deputy Clerk

Exhibit
B

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

IN THE MATTER OF §
ABRAHAM M. FISCH § **CAUSE NO. 57005**
STATE BAR CARD NO. 07039900 §

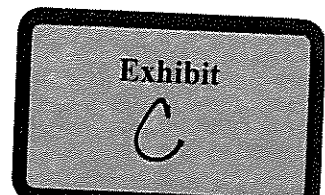
JUDGMENT OF DISBARMENT

On the 27th day of July 2018, 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, Abraham M. Fisch. The Board finds that:

- (1) It has continuing jurisdiction of this matter pursuant to Texas Rules of Disciplinary Procedure 8.05 (“TRDP”);
- (2) The United States Court of Appeals for the Fifth Circuit affirmed Respondent, Fisch’s, criminal conviction and issued a Mandate indicating that the decision was final on or about April 5, 2017;
- (3) Petitioner filed its First Amended Motion for Entry of Judgment of Disbarment on or about May 23, 2018, and served same on Respondent in accordance with TRDP 8.05;
- (4) Respondent’s conviction for the commission of Intentional Crimes as defined by TRDP 1.06(T), for which he was sentenced in the United States District Court for the Southern District of Texas, Holding Session in Houston, 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

On the 12th day of January 2016, the Board of Disciplinary Appeals entered an Agreed Interlocutory Order of Suspension, which included the following findings of fact and conclusions of law:



- (1) Respondent, Stephen Young Kang, whose State Bar Card number is 24007465, is licensed by the Supreme Court of Texas to practice law and is authorized to practice law in the State of Texas.
- (2) On or about October 20, 2015, Respondent was charged by First Superseding Indictment (Exhibit 1) with 22 counts of Wire Fraud, 3 counts of Engaging in Monetary Transactions in Property Derived from Specified Unlawful Activity, 2 counts of Aggravated Identity Theft, and 3 counts of Tax Evasion, in Cause No. 15-478(A)-GW, styled *United States of America, Plaintiff, v. Stephen Young Kang, Defendant*, in the United States District Court for the Central District of California.
- (3) On or about November 6, 2015, a Plea Agreement for Defendant Stephen Young Kang (Exhibit 2) was entered in Cause No. 15-478(A)-GW, styled *United States of America, Plaintiff, v. Stephen Young Kang, Defendant*, in the United States District Court for the Central District of California, wherein Respondent pled guilty to counts Eight, Twenty-Two and Twenty-Nine of the First Superseding Indictment, which charged Respondent in Counts Eight and Twenty-Two with Wire Fraud in violation of 18 U.S.C. § 1343 and Count Twenty-Nine with Tax Evasion in violation of 26 U.S.C. § 7201.
- (4) On or about April 6, 2016, a Judgment and Probation/Commitment Order (Exhibit 3) was entered in Cause No. 15-478(A)-GW, styled *United States of America v. Stephen Young Kang*, in the United States District Court for the Central District of California, wherein Respondent pled guilty to Wire Fraud and Tax Evasion and was committed to the custody of the Bureau of Prisons to be imprisoned for a term of sixty-three (63) months. This term consists of sixty-three (63) months on each of Counts Eight and Twenty-Two and sixty (60) months on Count Twenty-Nine, all to be served concurrently. Upon release from imprisonment, Respondent shall be placed on supervised release for a period of three (3) years.
- (5) On or about April 6, 2016, an Amended Judgment and Probation/Commitment Order (Exhibit 4) was entered in Cause No. 15-478(A)-GW, styled *United States of America v. Stephen Young Kang*, in the United States District Court for the Central District of California, wherein Respondent pled guilty to Wire Fraud and Tax Evasion and was committed to the custody of the Bureau of Prisons to be imprisoned for a term of sixty-three (63) months. This term consists of sixty-three (63) months on each of Counts Eight and Twenty-Two and sixty (60) months on Count Twenty-Nine, all to be served concurrently. Upon release from imprisonment, Respondent shall be placed on supervised release for a period of three (3) years. Respondent was further ordered to pay restitution in the amount of \$8,765,834.24.

- (6) Respondent, Stephen Young Kang, is the same person as the Stephen Young Kang who is the subject of the criminal case described above.
- (7) Respondent has appealed the criminal conviction.
- (8) Respondent was personally served with the Petition for Compulsory Discipline and hearing notice on June 24, 2016 as recited in a Proof of Service filed with the Board on July 14, 2016.
- (9) This Board has jurisdiction to hear and determine this matter. Tex. R. Disciplinary P. 7.08(G) ("TRDP");
- (10) Respondent, Stephen Young Kang, having pled guilty to and been convicted of Wire Fraud and Tax Evasion, has been convicted of Intentional Crimes as defined by TRDP 1.06(T).
- (11) Respondent has also been convicted of Serious Crimes as defined by TRDP 1.06(AA).
- (12) Having pled guilty to and convicted of Intentional and Serious Crimes and having appealed such conviction, Respondent, Stephen Young Kang, 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.

Disbarment

The Board has determined that disbarment of the Respondent is appropriate. It is, therefore, accordingly, ORDERED, ADJUDGED, AND DECREED that Respondent, Stephen Young Kang, State Bar No. 24007465, 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, Stephen Young Kang, 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 Respondent, Stephen Young Kang, shall immediately notify each of his current clients in writing of this disbarment. In addition to such notification, Respondent is ORDERED to return any files, papers, unearned monies and other property belonging to clients and former clients in the Respondent's possession to the respective clients or former clients or to another attorney at the client's or former client's request. Respondent is further ORDERED to file with the State Bar of Texas, Chief Disciplinary Counsel's Office, P.O. Box 12487, Austin, TX 78711-2487 (1414 Colorado St., Austin, TX 78701) within thirty (30) days of the signing of this judgment by the Board, an affidavit stating that all current clients have been notified of Respondent's disbarment and that all files, papers, monies and other property belonging to all clients and former clients have been returned as ordered herein.

It is further ORDERED Respondent, Stephen Young Kang, shall, on or before thirty (30) days from the signing of this judgment by the Board, notify in writing each and every justice of the peace, judge, magistrate, administrative judge or officer and chief justice of each and every court or tribunal in which Respondent has any matter pending of the terms of this judgment, the style and cause number of the pending matter(s), and the name, address and telephone number of the client(s) Respondent is representing. Respondent is further ORDERED to file with the State Bar of Texas, Chief Disciplinary Counsel's Office, P.O. Box 12487, Austin, TX 78711-2487 (1414 Colorado St., Austin, TX 78701) within thirty (30) days of the signing of this judgment by the Board, an affidavit stating that each and every justice of the peace, judge, magistrate, administrative judge or officer and chief justice has received written notice of the terms of this judgment.

It is further ORDERED that Respondent, Stephen Young Kang, 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 _____ day of _____ 2018.

Chair Presiding
BOARD OF DISCIPLINARY APPEALS