

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



F I L E D
Oct. 30, 2019

**IN THE MATTER OF
KIRK LAWRENCE BRANNAN
STATE BAR CARD NO. 24038779**

§
§
§

CAUSE NO. 62049

THE BOARD of DISCIPLINARY APPEALS
Appointed by the Supreme Court of Texas

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 28, 2019, Petitioner filed its Petition for Compulsory Discipline against Respondent, Kirk Lawrence Brannan, (hereinafter called "Respondent") seeking compulsory discipline based upon Respondent's conviction in Case No. 4:15CR00080-001, styled *United States of America v. Kirk Lawrence Brannan*, in the United States District Court, Southern District of Texas, Holding Session in Houston, wherein Respondent pleaded guilty to Count Two – Bank Fraud in violation of 18 U.S.C. § 1343 and was committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of thirty-six (36) months, ordered to pay \$5,317,350.00 in restitution and further ordered that upon release from imprisonment to be on supervised release for a term of three (3) years.

2. On July 29, 2019 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 Mercier*, 242 SW 3d 46 (Tex. 2007).

3. Following the appeal by Respondent of his criminal conviction in Case No. 4:15CR00080-001, on the charge of Bank Fraud, an Order dismissing appeal (Exhibit A) was issued by the United States Court of Appeals for the Fifth Circuit, on or about August 9, 2019, in

Cause No. No. 19-20269, *United States of America, Plaintiff – Appellee v. Kirk Lawrence Brannan, Defendant – Appellant*, which dismissed Respondent’s appeal of his conviction.

4 A true and correct copy of the Order dismissing Respondent’s appeal issued by the United States Court of Appeals for the Fifth Circuit, is attached hereto as Exhibit A and made a part hereof for all intents and purposes as if the same were copied verbatim herein. Petitioner expects to introduce a certified copy of Exhibit A at the time of hearing of this cause.

5. Petitioner represents to the Board that the Judgment entered against Respondent, Kirk Lawrence Brannan, has now become final. Petitioner seeks the entry of a judgment of disbarment. Attached hereto is a true and correct copy of the form of the proposed 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,

Seana Willing
Chief Disciplinary Counsel

Judith Gres DeBerry
Assistant Disciplinary Counsel
Office of the Chief Disciplinary Counsel
State Bar of Texas
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Austin, Texas 78711
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Judith Gres DeBerry
Bar Card No. 24075987
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 31st day of January 2020.**



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 October 30, 2019, as follows:

Kirk Lawrence Brannan # 83479-379
Oakdale II FCI
Federal Correctional Institution
2105 East Whatley Road
Oakdale, Louisiana 71463



Judith Gres DeBerry

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE,
Suite 115
NEW ORLEANS, LA 70130

August 09, 2019

Mr. David J. Bradley
Southern District of Texas, Houston
United States District Court
515 Rusk Street
Room 5300
Houston, TX 77002

No. 19-20269 USA v. Kirk Brannan
USDC No. 4:15-CR-80-1

Dear Mr. Bradley,

Enclosed is a copy of the judgment issued as the mandate.

Sincerely,

LYLE W. CAYCE, Clerk

Christina Gardner

By: _____
Christina A. Gardner, Deputy Clerk
504-310-7684

cc w/encl:
Ms. Carmen Castillo Mitchell
Mr. Josh Barrett Schaffer



A True Copy
Certified order issued Oct 11, 2019

Lyle W. Cayce
Clerk, U.S. Court of Appeals, Fifth Circuit



IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 19-20269



UNITED STATES OF AMERICA,

Plaintiff - Appellee

v.

KIRK LAWRENCE BRANNAN,

Defendant - Appellant

A True Copy

Certified order issued Oct 11, 2019

Lyle W. Cayce
Clerk, U.S. Court of Appeals, Fifth Circuit

Appeal from the United States District Court for the
Southern District of Texas

CLERK'S OFFICE:

Under 5TH CIR. R. 42.3, the appeal is dismissed as of August 9, 2019, for want of prosecution. The appellant failed to timely file appellant's brief and record excerpts.

LYLE W. CAYCE
Clerk of the United States Court
of Appeals for the Fifth Circuit

Christina Gardner

By: _____
Christina A. Gardner, Deputy Clerk

ENTERED AT THE DIRECTION OF THE COURT

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

IN THE MATTER OF	§	
KIRK LAWRENCE BRANNAN	§	CAUSE NO. 62049
STATE BAR CARD NO. 24038779	§	

JUDGMENT OF DISBARMENT

On the 31st day of January 2020, 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, Kirk Lawrence Brannan. 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 dismissed Respondent, Brannan’s appeal on or about August 9, 2019;
- (3) Petitioner filed its Motion for Entry of Judgment of Disbarment on or about October 30, 2019, 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(V) and for a Serious Crime as defined by TRDP 1.06(GG), for which he was sentenced in the United States District Court for the Southern District of Texas, Houston Division, has become final and is not subject to appeal;
- (5) Petitioner’s Motion for Entry of Judgment of Disbarment should be granted.

Interlocutory Suspension

On the 29th day of July 2019, the Board of Disciplinary Appeals entered a Default Interlocutory Order of Suspension, which included the following findings of fact and conclusions of law:

- (1) Respondent, Kirk Lawrence Brannan, whose State Bar Card number is 24038779, is licensed by the Supreme Court of Texas to practice law and but is not currently authorized to practice law in the State of Texas.

- (2) On or about February 18, 2015, Respondent was charged by Indictment with Count One – Conspiracy and Count Two – Bank Fraud, in Cause No. 15-080, styled *United States of America vs. Kirk Lawrence Brannan, Chucobie Lanier, David Lee Morris and Derwin Jerome Blackshear*, in the United States District Court, Southern District of Texas, Houston Division.
- (3) On or about April 30, 2018, a Plea Agreement was entered in Cause No. H-15-080, styled *United States of America v. Kirk Lawrence Brannan*, in the United States District Court, Southern District of Texas, Houston Division.
- (4) On or about April 8, 2019, a Judgment in a Criminal Case was entered in Case No. 4:15CR00080-001, styled *United States of America v. Kirk Lawrence Brannan*, in the United States District Court, Southern District of Texas, Holding Session in Houston, wherein Respondent pleaded guilty to Count Two – Bank Fraud in violation of 18 U.S.C. § 1343 and was committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of thirty-six (36) months and ordered to pay \$5,317,350.00 in restitution. Upon release from imprisonment, Brannan will be on supervised release for a term of three (3) years.
- (5) Respondent, Kirk Lawrence Brannan is the same person as the Kirk Lawrence Brannan who is the subject of the criminal case described above.
- (6) Respondent has appealed the criminal conviction.
- (7) This Board has jurisdiction to hear and determine this matter. Tex. R. Disciplinary P. ("TRDP") 7.08(G);
- (8) Respondent, Kirk Lawrence Brannan, having been convicted of Bank Fraud, has been convicted of an Intentional Crime as defined by TRDP 1.06(V).
- (9) Respondent has also been convicted of a Serious Crime as defined by TRDP 1.06(GG).
- (10) Having been found guilty and convicted of an Intentional and Serious Crime and having appealed such conviction, Respondent, Kirk Lawrence Brannan, should have his license to practice law in Texas suspended during the appeal of his criminal conviction. TRDP 8.04.
- (11) The Board retains jurisdiction to enter a final judgment in this matter when the criminal appeal is final.

Disbarment

The Board has determined that disbarment of the Respondent is appropriate. It is, therefore, accordingly, ORDERED, ADJUDGED, AND DECREED that Respondent, Kirk Lawrence Brannan, State Bar No. 24038779, 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, Kirk Lawrence Brannan, 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, Kirk Lawrence Brannan, 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, Kirk Lawrence Brannan, 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, Kirk Lawrence Brannan, 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 _____ 2020.

Chair Presiding
BOARD OF DISCIPLINARY APPEALS