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

IN THE MATTER OF §
MARK ADRIAN CLARK § CAUSE NO. 48191
STATE BAR CARD NO. 04292200 §

## AGREED INTERLOCUTORY ORDER OF SUSPENSION

On this day, the above-styled and numbered compulsory disciplinary action was called for hearing before the Board of Disciplinary Appeals. Petitioner appeared by attorney and Respondent appeared by attorney as indicated by their respective signatures below and announced that they agree to the findings of fact, conclusions of law and orders set forth below. The Board of Disciplinary Appeals, having reviewed the file and in consideration of the agreement of the parties, 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, Mark Adrian Clark, whose State Bar Card number is 04292200, is licensed by the Supreme Court of Texas to practice law but is not currently authorized to practice law in the State of Texas.
- (2) On or about August 6, 2010, Mark A. Clark was charged by Indictment with Count I – Attempted Aggravated Sexual Assault and Count II – Attempted Sexual Performance by a Child in Cause No. CR2010-276, styled *The State* of Texas v. Mark A. Clark, in the 207th Judicial District Court of Comal County, Texas.
- (3) On or about February 7, 2011, a Judgment of Conviction by Jury was entered in Cause No. CR2010-276 Count II, styled The State of Texas v. Mark A. Clark, in the 207th Judicial District Court of Comal County, Texas, wherein Clark was found guilty of Attempted Sexual Performance of a Child and was sentenced to seven (7) years in the Institutional Division of the Texas Department of Criminal Justice, ordered to pay a \$10,000 fine and costs of \$553.

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- (4) Respondent, Mark Adrian Clark, is the same person as the Mark A. Clark who is the subject of the Clark criminal case described above.
- (5) Respondent has appealed the criminal 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. Rule 7.08(G), Texas Rules of Disciplinary Procedure;
- (2) Respondent, Mark Adrian Clark, having been convicted of Attempted Sexual Performance of a Child 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, Mark Adrian Clark, 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.

It is, accordingly, ORDERED, ADJUDGED, and DECREED that Respondent, Mark Adrian Clark, State Bar Card No. 04292200, is hereby SUSPENDED from the practice of law in the State of Texas effective immediately upon entry of this order and continuing hereafter until further order of this Board.

It is further ORDERED, ADJUDGED and DECREED that Respondent, Mark Adrian Clark, 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, Mark Adrian Clark, 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, Mark Adrian Clark, 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, Mark Adrian Clark 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, uncarned fees paid in advance, and all other monies and

properties which are in his possession but which belong to current or former clients with active cases

pending, if any, to those respective clients or former clients with active cases pending 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 with

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active cases pending 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 with active cases

pending, 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, Mark Adrian Clark, immediately surrender his

Texas law license and permanent State Bar Card to the Statewide Compliance Monitor, Office of the

Chief Disciplinary, 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 a certified copy of the Petition for Compulsory Discipline on file

herein, along with a copy of this Order, be sent to the Chief Disciplinary Counsel of the State Bar of

Texas, P.O. Box 12487, Austin, Texas 78711.

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).

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.

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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 for entry of final judgment with the Board when the appeal of the criminal

conviction is final.

Signed this

day of

2011

Chairman Presiding

Board of Disciplinary Appeals

APPROVED AS TO FORM AND CONTENT:

Laura Bayouth Popps

Deputy Counsel for Administration

State Bar Card No. 00787050

Attorney for Petitioner

Mark Adrian Clark

State Bar Card No. 04292200

Respondent

Van G. Hilley

State Bar Card No. 09674000

Attorney for Respondent

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