

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

IN THE MATTER OF §

JOSEPH SAVATORE COCCHIARO § CAUSE NO. 70771

STATE BAR CARD NO. 24069525

BRIEF IN SUPPORT OF COMPULSORY DISCIPLINE

TO THE BOARD OF DISCIPLINARY APPEALS:

Pursuant to the Board's Order signed July 15, 2025, the Commission submits this brief in support of compulsory discipline, showing as follows:

I. INTRODUCTION

On or about April 17, 2024, a Judgment of Conviction by Jury was entered in Case No. 22-1079-K277, styled *The State of Texas v. Joseph Salvatore Cocchiaro*, in the 277th District Court, Williamson County, Texas, wherein Respondent pleaded guilty to the offense of Burglary of a Habitation Intend Other Felony in violation of Texas Penal Code 30.02(d), a First Degree Felony, and filed a written election to have the jury assess punishment. Respondent was committed to confinement for a term of eleven (11) years in the Texas Department of Criminal Justice.

Based on that conviction, the Commission filed a Petition for Compulsory Discipline on March 12, 2025. Respondent received notice of the petition via personal service on March 19, 2025. The Board subsequently continued this proceeding, and Respondent filed his Answer to Petition for Compulsory Discipline on June 30, 2025. Because Respondent has waived his opportunity to participate in the hearing and consented to have this matter decided on the pleading, the Board removed the hearing from the July 25, 2025, hearing docket and will determine the case on the pleading.

II. ARGUMENT AND AUTHORITIES

Respondent is subject to compulsory discipline and disbarment because he has been convicted of an Intentional Crime: Burglary of a Habitation under Texas Penal Code 30.02(d). See Tex. Rules Disciplinary P. R. 8.01. An Intentional Crime includes any Serious Crime that requires proof of knowledge or intent as an essential element. *Id.* R. 1.06(V). In this case, Serious Crime means a felony involving moral turpitude. *Id.* R. 1.06(GG). A felony involving moral turpitude is an offense that involves dishonesty, fraud, deceit, misrepresentation, or deliberate violence, or that reflect adversely on an attorney's honesty, trustworthiness, or fitness as an attorney. See In re Lock, 54 S.W.3d 305, 308 (Tex. 2001); Duncan v. Bd. of Disciplinary Appeals, 898 S.W.2d 759, 761 (Tex. 1995).

To make its determination in this case, the Board need only consider the elements of Texas Penal Code § 30.02(d), which is listed as the Statue of Offense on Respondent's Judgment of Conviction by Jury. *See* Petition for Compulsory Discipline, Exhibit 2. A violation of § 30.02(d) is a felony that not only requires proof of intent as an essential element, but also involves deceit and reflects adversely on his honesty, trustworthiness, and fitness as an attorney. Therefore, Respondent is subject to compulsory discipline and disbarment.

A. PROOF OF INTENT

Respondent's crime, Burglary of a Habitation, requires that a person enter another's home without their consent with the intent to commit a felony other than theft. *See* Tex. Penal Code 30.02(a) and (d). Thus, establishing a violation of Section 30.02(d), under any set of facts, requires proof of intent: both to enter another's home and to commit a felony. Respondent's crime therefore satisfies the proof-of-intent requirement to find an Intentional Crime imposed by Tex. Rules Disciplinary P. R. 1.06(V).

B. FELONY INVOLVING MORAL TURPITUDE

Burglary of a Habitation is a first-degree felony, *see* Tex. Penal Code 30.02(d), that involves moral turpitude. Regardless of what "felony other than felony theft" Respondent intended to commit, he first entered another's home without consent. Texas courts find such an invasion of privacy an inherently deceptive act. *See e.g.*, *Cortez v. State*, No. 08-18-00156-CR, 2020 WL 6882643, at *5 (Tex. App.—El Paso Nov. 18, 2020, no pet.) (recognizing burglary of a habitation is a crime of deception admissible for purposes of impeachment); and *Bolinger v. State*, No. 14-18-00931-CR, 2021 WL 282606, at *4 (Tex. App.—Houston [14th Dist.] Jan. 28, 2021, pet. ref'd) (recognizing burglary and theft as crimes of deception more probative of a defendant's credibility than offenses involving violence).

Likewise, Respondent's felony conviction reflects adversely his honesty, trustworthiness, and fitness as an attorney. For example, under Rule 4(d)(2) of the Rules Governing Admission to the Bar of Texas, Respondent is "conclusively deemed" unfit to practice law in Texas due to his felony conviction. If Respondent were not already licensed, he could not even be considered for admission to the bar until five years after the completion of the eleven-year prison sentence imposed upon him.

C. RESPONDENT IS SUBJECT TO DISBARMENT.

When an attorney has been convicted of an Intentional Crime, and that conviction has become final and the sentence is not probated, the attorney shall be disbarred. *See* Tex. Rules Disciplinary P. RR. 8.05 and 8.06. In this case, Respondent was ordered to confinement in the Texas Department of Criminal Justice for a term of eleven years. Therefore, Respondent is not eligible for a probated suspension and should be disbarred.

III. PRAYER

WHEREFORE, PREMISES CONSIDERED, the Commission prays that the Board enter an order imposing compulsory discipline on Respondent and for such other and further relief to which the Commission may be entitled to receive.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been sent for service on Joseph Salvatore Cocchiaro, TDCJ #02500766, Ney Unit, 114 Private Road 4303, Hondo, Texas 78861-3812, through his attorney of record, Dennis Hubbs, via email at dennis@hea-ip.com, on this 22nd day of March, 2025.

Richard A. Huntpalmer