

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

**IN THE MATTER OF
DAVID COLE
STATE BAR CARD NO. 00783854**

§
§
§

CAUSE NO. 40956

SECOND AMENDED AGREED JUDGMENT 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 through his attorney of record 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, David Cole, whose State Bar Card number is 00783854, is currently authorized by the Supreme Court of Texas to practice law.
- (2) On April 2, 2007, Respondent, David Cole, was charged by Information with Tax Evasion (Count One) in violation of 26 U.S.C. § 7201 in Cause No. 3-07-CR-0107-B, styled *United States of America v. David Cole (1)*, in the United States District Court, Northern District of Texas, Dallas Division.
- (3) On April 2, 2007, a Plea Agreement was entered in Cause No. No. 3-07-CR-0107-B, styled *United States of America v. David Cole (1)*, in the United States District Court, Northern District of Texas, Dallas Division, wherein Respondent pled guilty to Count One of the Information. Respondent pled guilty to Tax Evasion in violation of 26 U.S.C. § 7201.

- (4) On or about August 28, 2007, a Judgment in a Criminal Case was entered in Cause Number No. 3:07-CR-107-K (01), styled *United States of America v. David Cole*, in the United States District Court, Northern District of Texas, Dallas Division, finding the Respondent guilty of Tax Evasion, in violation of 26 U.S.C. § 7201. Respondent was placed on probation for a term of eighteen (18) months, ordered to pay an Assessment of \$100.00 and a Fine in the amount of \$5,000.00.
- (5) Respondent, David Cole, is the same person as the David Cole who is the subject of the Cole criminal case described above.

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, David Cole, having been placed on probation for an intentional crime with an adjudication of guilt, has been convicted for purposes of Rule 8.04, Texas Rules of Disciplinary Procedure, of an intentional crime as defined by Rule 1.06(T), Texas Rules of Disciplinary Procedure. Such crime is as well a serious crime as defined by Rule 1.06(Z), Texas Rules of Disciplinary Procedure.
- (3) Respondent, David Cole, should be suspended for the term of his criminal probation as originally assessed.

It is, accordingly, ORDERED, ADJUDGED, AND DECREED that Respondent, David Cole, State Bar Card No. 00783854, be and is hereby SUSPENDED from the practice of law in Texas and his license to practice law in the State of Texas is hereby SUSPENDED for a period beginning effective the date of entry of this judgment and ending February 27, 2009.

It is further ORDERED, pursuant to Rule 8.06, Texas Rules of Disciplinary Procedure, that the suspension ordered herein shall be conditioned upon the Respondent satisfactorily completing the terms of the criminal probation. The Board of Disciplinary Appeals retains jurisdiction in this matter during the full term of suspension to determine whether the Respondent has satisfactorily completed the terms of the criminal probation.

It is further ORDERED, ADJUDGED and DECREED that Respondent, David Cole, during said suspension is prohibited 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, David Cole, not later than thirty (30) days 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, David Cole, 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 Office of Chief Disciplinary Counsel, State Bar of Texas, P.O. Box 12487, Capitol Station, Austin, Texas 78711.

It is further ORDERED that Respondent, David Cole, 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, 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 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 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 Chief Disciplinary Counsel, State Bar of Texas, P.O. Box 12487, Capitol Station, Austin, Texas 78711.

It is further ORDERED that Respondent, David Cole, immediately surrender his Texas law license and permanent State Bar Card to the Office of Chief Disciplinary Counsel, State Bar of Texas, for transmittal to the Clerk of the Supreme Court of Texas.

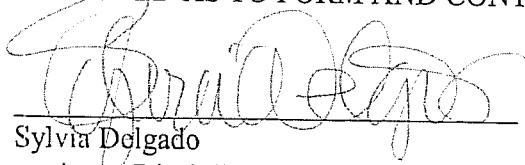
It is further ORDERED that a certified copy of the Petition for Compulsory Discipline on file herein, along with a copy of this Judgment, be sent to the Office of Chief Disciplinary Counsel, State Bar of Texas, P.O. Box 12487, Austin, Texas 78711.

It is further ORDERED that this AGREED JUDGMENT OF SUSPENSION shall be made a matter of public record and be published in the Texas Bar Journal.

Signed this 23rd day of January, 2008.

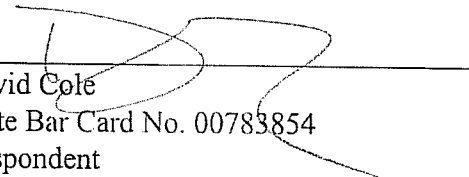
Paul A. Cho
Chairman Presiding
Board of Disciplinary Appeals

APPROVED AS TO FORM AND CONTENT:



Sylvia Delgado
Assistant Disciplinary Counsel
State Bar Card No. 24009983
Attorney for Petitioner


James M. McCormack
State Bar Card No. 13455500
Attorney for Respondent



David Cole
State Bar Card No. 00783854
Respondent

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Respondent