



FILED

Jul 24 2024

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

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

**IN THE MATTER OF
DEREK H. DAVIS
STATE BAR CARD NO. 05479400**

CAUSE NO. 69472

RESPONDENT'S MOTION FOR CONTINUANCE

TO THE BOARD OF DISCIPLINARY APPEALS:

1. Respondent respectfully requests a continuance of not more than 90 days in this cause. Respondent files this motion because he needs additional time to best prepare his case, requesting that he not be disbarred but rather suspended for only 2 years. Respondent did not commit the crime of theft of \$3600 of which he is accused, and pleaded guilty only on counsel's recommendation that juries are generally hostile toward attorneys and a verdict of guilty would lead to a permanent disbarment, whereas a plea of guilty pursuant to a 2-year adjudicated sentencing (likely to be reduced to one year on good behavior with any record of the offense thereafter removed permanently from Respondent's record) would result in only a 2-year suspension of his law license. The Petition filed against Respondent seems to indicate that disbarment is mandatory under the facts. If this is accurate, Respondent would never have entered a guilty plea and would have attempted to prove his total innocence before a jury. Respondent would fully accept a 2-year suspension, since that was the basis upon which he pleaded guilty.
2. Moreover, Respondent pleaded guilty to the alleged offense because counsel further speculated that once an already unfriendly jury was advised of respondent's earlier probation assigned by the State Bar of Texas, they would be all the more inclined to find him guilty.
3. The probation incurred by Respondent was the result of aggressive investment of beneficiary funds of which Respondent was a private trustee, resulting in the diminution of trust assets. This was not theft by Respondent but the result of poor investment decisions. Respondent has been attempting, since the probation was assigned, to reimburse to the beneficiaries the funds that were lost. He has made progress but is still deficient. Respondent also asks for a continuance because he believes that he is now in a position, to be accomplished withing the next 90 days, to reimburse fully all sums lost by the trust beneficiaries. This would show, Respondent alleges, that he never had any criminal or unethical intent in making the original investments, nor did he commit any criminal acts thereafter which resulted in his guilty plea to the alleged theft offense.
4. This motion is not made for the purpose of delay but so that justice might be achieved. Respondent asks that a new hearing date be set.

Respectfully submitted by Respondent,

/s/Derek H. Davis
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Certificate of Service

I hereby certify that on the 24th day of July, 2024, a true and correct copy of the foregoing Motion was served by email to Richard A. Huntpalmer, State Bar Counsel.

/s/Derek H. Davis
Derek H. Davis, Respondent