

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

**IN THE MATTER OF**

**STUART EDWARD KINARD**

**STATE BAR CARD NO. 11429000**

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§

**CAUSE NO. 33914**

**AGREED JUDGMENT OF DISABILITY SUSPENSION**

The Office of the Chief Disciplinary Counsel has determined that Stuart Edward Kinard (hereinafter referred to as “Respondent”) is suffering from a Disability to such an extent that the Respondent’s continued practice of law poses a substantial threat of irreparable harm to clients or potential clients. Respondent agreed to the Chief Disciplinary Counsel’s findings of disability and submitted an Affidavit (attached hereto as Exhibit “A”), in which he specifically waived the right (1) to be separately noticed of any further proceedings to be held in this cause under Part XII of the Texas Rules of Disciplinary Procedure, (2) to have the Board of Disciplinary Appeals review the record and findings of the Chief Disciplinary Counsel, and (3) to the appointment of a District Disability Committee as provided in Rule 12.02 of the Texas Rules of Disciplinary Procedure. Respondent also stipulated to the facts and existence of the disability from which he suffers and requested that the Board of Disciplinary Appeals enter an order of his indefinite suspension from the practice of law. It is the intent and agreement of the parties that this Agreed Judgment is in final disposition of the Ashley E. Schillo Complaint, A0070409245 and the Doris Lee McCauley Complaint, A0100409411, and that no further proceedings be had before the District 09A Grievance Committee on said Complaints.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Stuart Edward Kinard be suspended from the practice of law immediately upon entry of this judgment and continuing thereafter until reinstated by this Board or by a court of competent jurisdiction.

It is further ORDERED, ADJUDGED and DECREED that Respondent, Stuart Edward Kinard, during said suspension is hereby enjoined from practicing law in Texas, holding himself out as an attorney at law, performing any legal services, appearing as counsel 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 at law," "counselor at law," or "lawyer."

It is further ORDERED that Respondent, Stuart Edward Kinard, shall immediately notify each of his current clients in writing that he has voluntarily entered into this Agreed Judgment resulting in a suspension for an indefinite period. In addition to such notification, the Respondent is ORDERED to return all files, papers, monies and other property belonging to such clients or to another attorney at the client's request within thirty (30) days of the date of Board of Disciplinary Appeals Chairperson's signing of this Order.

It is further ORDERED that Respondent, Stuart Edward Kinard, shall on or before thirty (30) days from the date of Board of Disciplinary Appeal Chairperson's signing of this Order, notify in writing each and every justice of the peace, judge, magistrate, and chief justice of each and every court which Respondent has any matter pending of the terms of this suspension, the style and cause number of the pending matter(s), and the names(s), address(es) and telephone number(s) of the clients Respondent is representing in that court. Respondent, Stuart Edward Kinard, is ORDERED to file within the same thirty (30) days with the State Bar of Texas, 6300 La Calma, Suite 300,

Austin, Texas 78752, an affidavit stating that all such notices as herein ordered have been given and showing in the case where it was not possible to notify clients or return their property, that due diligence was used to do so. Respondent is also ORDERED to mail a copy of said affidavit to the Board of Disciplinary Appeals at P.O. Box 12426, Capitol Station, Austin, Texas 78711.

Reinstatement from this indefinite suspension from the practice of law shall be governed by §12.06, et seq., of the Texas Rules of Disciplinary Procedure. It is the agreement of the parties and therefore ORDERED that, upon application for reinstatement, Respondent shall be examined by two health care professionals, trained in the area of disability for which Respondent has been suspended, each of which are mutually-acceptable to the parties. Should the parties be unable to mutually agree upon the health care professionals, each party may choose its own health care professional to conduct an examination of Respondent. *Each party agrees to be bound by the conclusion of the health care professionals as to Respondent's current disability and fitness to practice law, whether favorable or unfavorable, if after examination of Respondent the two health care professionals agree as to Respondent's current condition.* Should the health care professionals disagree as to Respondent's current condition, the Board of Disciplinary Appeals or the district court shall appoint a third health care professional to determine Respondent's current disability and fitness to practice law.

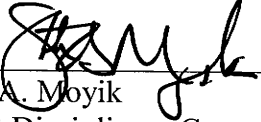
It is further ORDERED that Respondent, Stuart Edward Kinard, immediately surrender his Texas law license and permanent State Bar Card to the State Bar of Texas, 6300 La Calma, Suite 300, Austin, Texas 78752.

Pursuant to §12.04, Texas Rules of Disciplinary Procedure, the record of all proceedings on this disability shall be sealed and shall remain confidential, except that the order of indefinite suspension shall be made public.


Signed this 18<sup>th</sup> day of August 2005.

  
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CHAIRPERSON  
BOARD OF DISCIPLINARY APPEALS

AGREED AS TO BOTH FORM  
AND SUBSTANCE:

  
Stephen A. Moyik  
Assistant Disciplinary Counsel  
State Bar of Texas  
State Bar Card No. 14614300

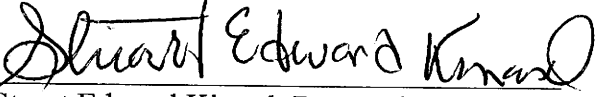
DATE: August 18, 2005

  
Stuart Edward Kinard  
Respondent  
State Bar Card No. 11429000

DATE: July 28, 2005

**CONSENT TO AGREED JUDGMENT OF DISABILITY SUSPENSION**

In connection with the Disability finding by Chief Disciplinary Counsel, I hereby consent to entry of the Agreed Judgment of Indefinite Disability Suspension in the form submitted to me, pursuant to Rule 8.01(c) of the Internal Procedural Rules of the Board of Disciplinary Appeals.

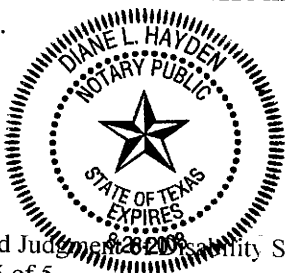
  
Stuart Edward Kinard, Respondent  
State Bar Card No. 11429000

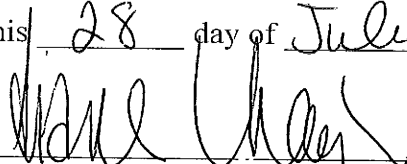
DATE: July 28, 2005

STATE OF TEXAS                                       §  
   §  
COUNTY OF \_\_\_\_\_                           §

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared Stuart Edward Kinard, known to me to be the person whose name is subscribed to the foregoing instrument, and being by me the first duly sworn, acknowledged to me that the same was executed for the purposes and considerations therein expressed, and that the facts stated in the Agreed Judgment of Disability Suspension are true in every respect.

GIVEN UNDER my hand and seal of office this 28 day of July 2005.



  
Notary Public in and for the State of Texas

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**CAUSE NO. 33914**

**AFFIDAVIT OF STUART EDWARD KINARD**

On this 28<sup>th</sup> day of July 2005, personally appeared before me, the undersigned authority, Stuart Edward Kinard, who after being duly sworn, did state upon his oath:

“I, Stuart Edward Kinard, am over the age of eighteen years and am competent to make this Affidavit in all respects, and am personally acquainted with the facts herein stated:

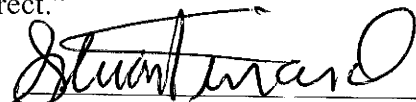
It is my understanding that the Chief Disciplinary Counsel is willing to stipulate to the facts and existence of the disability from which I suffer. I hereby stipulate to same.

I hereby waive the right to be separately noticed of any further proceedings to be held in this cause under Part XII of the Texas Rules of Disciplinary Procedure. I further waive the right to have the Board of Disciplinary Appeals review the record and findings of the Chief Disciplinary Counsel regarding the disability from which I suffer, and waive the right to the appointment of a District Disability Committee as provided in Rule 12.02 of the Texas Rules of Disciplinary Procedure.

I accept and stipulate to the Chief Disciplinary Counsel’s findings that I suffer from a disability and request that the Board of Disciplinary Appeals enter an Order of my indefinite suspension from the practice of law. Although medically and psychologically disabled from the active practice of law, I have the mental capacity to make this Affidavit, with full understanding of its contents, meaning and importance. Furthermore, I have been given the opportunity to consult with independent counsel to advise me throughout this disability matter.

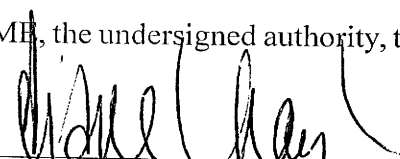
I swear or affirm that I currently am handling no pending cases, so there is no need for the State Bar of Texas to file a Motion for the Assumption of Jurisdiction of my files.

I acknowledge the above to be true and correct.”

  
\_\_\_\_\_  
Affiant

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned authority, this 28 day of July 2005



  
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Notary Public for and in the State of Texas