

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

IN THE MATTER OF	§	
LEE ALEXANDER MAGNESS	§	CAUSE NO. 43039
STATE BAR CARD NO. 00795495	§	

JUDGMENT OF DISBARMENT

On the 1st day of July 2011, the Board of Disciplinary Appeals considered the Motion for Entry of Judgment of Disbarment filed in the above case by Petitioner, Commission for Lawyer Discipline of the State Bar of Texas, against Respondent, Lee Alexander Magness. Petitioner appeared by counsel from the Office of Chief Disciplinary Counsel and announced ready. Respondent Lee Magness, although having notice of the hearing, failed to respond or appear. The Board finds that:

- (1) It has continuing jurisdiction of this matter pursuant to Texas Rules of Disciplinary Procedure 8.05 ("TRDP");
- (2) The Court of Appeals for the First District of Texas affirmed Respondent, Lee Alexander Magness's, criminal conviction and issued its Mandate indicating that the decision was final on or about March 10, 2011;
- (3) Petitioner filed its Motion for Entry of Judgment of Disbarment on or about May 5, 2011, and personally served same on Respondent on May 12, 2011, in accordance with TRDP 8.05;
- (4) Respondent, although duly notified of the hearing on the Motion for Entry of Judgment of Disbarment, did not answer or appear;
- (5) Respondent's conviction for the commission of an Intentional Crime as defined by TRDP 1.06(T), for which he was sentenced in the 338th District Court of Harris County, Texas, has become final and is not subject to further direct appeal;
- (6) Respondent's criminal sentence was not fully probated;

- (7) Petitioner's Motion for Entry of Judgment of Disbarment should be granted.

Interlocutory Suspension

Following a hearing on the 12th day of December 2008, at which Petitioner, Commission for Lawyer Discipline of the State Bar of Texas, appeared by attorney and announced ready and Respondent, Lee Alexander Magness, although duly served and having notice of the hearing date, failed to answer or appear and wholly made default, the Board of Disciplinary Appeals entered an Interlocutory Order of Suspension on or about January 27, 2009, which included the following findings of fact and conclusions of law:

- (1) Respondent, Lee Alexander Magness, State Bar Card number 00795495, is licensed by the Supreme Court of Texas but not currently authorized to practice law in the State of Texas due to an indefinite suspension signed August 28, 2008.
- (2) On December 10, 2007, Respondent was charged by Indictment with Misapplication of Fiduciary Property in Cause No. 1145123, in the 338th District Court of Harris County, Texas.
- (3) On August 21, 2008, a Judgment of Conviction by Jury was signed in Case No. 1145123, styled *The State of Texas v. Magness, Lee Alexander*, in the 338th District Court of Harris County, Texas, wherein Respondent was found guilty by a jury of Misapplication of Fiduciary Property \$100,000.00 - \$200,000.00 and was sentenced to 10 years confinement in the Institutional Division of the Texas Department of Criminal Justice and ordered to pay \$440.00 in court costs and \$ 199,999.00 in restitution.
- (4) Respondent, Lee Alexander Magness, is the same person as the Lee Alexander Magness who is the subject of the Magness criminal case described above.
- (5) Respondent was personally served with the Petition for Compulsory Discipline containing notice of the hearing on the merits on September 18, 2008, and the original affidavit of service was filed on September 30, 2008.
- (6) At the time of the hearing, Respondent had not filed an answer or other pleading or otherwise appeared.

- (7) Following the hearing on the merits on December 22, 2008, the Board received a letter from Respondent's sister attempting to explain his absence from the hearing.
- (8) Respondent's sister acknowledged that Respondent had notice of the date, time, and place of the hearing but was unable to attend.
- (9) The letter did not deny or otherwise respond to or put into issue the allegations in the Petition for Compulsory Discipline.
- (10) The letter did not assert any counterclaims or request any relief or action by the Board of Disciplinary Appeals.
- (11) An amended affidavit of service was filed January 8, 2009.
- (12) Respondent's criminal sentence is not fully probated.
- (13) Respondent has appealed the criminal conviction.
- (14) This Board has jurisdiction to hear and determine this matter. Texas Rules of Disciplinary Procedure ("TRDP") Rule 7.08(G).
- (15) Respondent, Lee Alexander Magness, having been convicted of Misapplication of Fiduciary Property \$100,000.00 - \$200,000.00, has been convicted of an Intentional Crime as defined by TRDP 1.06(T).
- (16) Respondent has also been convicted of a Serious Crime as defined by TRDP 1.06(Z).
- (17) Respondent was duly notified of the hearing on the merits.
- (18) The letter from Respondent's sister received after the hearing on the merits is insufficient to constitute an answer or other pleading which would defeat a default judgment.
- (19) Having been found guilty and convicted of an Intentional and Serious Crime and having appealed such conviction, Respondent, Lee Alexander Magness, should have his license to practice law in Texas suspended during the appeal of his criminal conviction. TRDP 8.04.
- (20) The Board retains jurisdiction to enter a final judgment in this matter when the criminal appeal is final.

Disbarment

Having been convicted of an Intentional Crime with the conviction final and having been sentenced to a criminal sentence requiring imprisonment, Respondent should be disbarred pursuant to TRDP 8.05. It is, therefore, accordingly, ORDERED, ADJUDGED, AND DECREED that Respondent, Lee Alexander Magness, State Bar No. 00795495, be and he is hereby DISBARRED from the practice of law in the State of Texas, and his license to practice law in this state be and is hereby revoked.

It is further ORDERED, ADJUDGED and DECREED that Respondent, Lee Alexander Magness, is hereafter permanently 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, 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, Lee Alexander Magness, not later than thirty (30) days from the date of the entry of this judgment, 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 has any legal matter pending, if any, of his disbarment, 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, Austin, Texas 78711.

It is further ORDERED that Respondent, Lee Alexander Magness, shall immediately notify

each of his current clients, if any, in writing, of his disbarment. 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 the Statewide Compliance Monitor, within the same thirty (30) days, an affidavit stating that all current clients have been notified of his disbarment 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 the Chief Disciplinary Counsel, Statewide Compliance Monitor, State Bar of Texas, P.O. Box 12487, Austin, Texas 78711.

It is further ORDERED that Respondent, Lee Alexander Magness, if he has not already done so, immediately surrender his Texas law license and permanent State Bar Card to the Office of the Chief Disciplinary Counsel, Statewide Compliance Monitor, State Bar of Texas, P. O. Box 12487, Austin, Texas 78711, for transmittal to the Clerk of the Supreme Court of Texas.

Signed this 6th day of July 2011.


CHAIR PRESIDING