

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

IN THE MATTER OF	§	
C. TOM ZARATTI	§	CAUSE NO. 34105
STATE BAR CARD NO. 22247500	§	

INTERLOCUTORY ORDER OF SUSPENSION

On the 1st day of April 2005, the above-styled and numbered disciplinary action was called for hearing before the Board of Disciplinary Appeals. Petitioner, Commission for Lawyer Discipline of the State Bar of Texas, appeared by Assistant Disciplinary Counsel, Stephen A. Moyik, and announced ready. Respondent, C. Tom Zaratti, although having been duly cited to appear and having been notified of the hearing, failed to answer or appear and wholly made default. All issues of fact and all questions of law were submitted to the Board of Disciplinary Appeals for determination. Having considered the pleadings on file, having received evidence, and having heard the argument of counsel, the Board of Disciplinary Appeals 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, C. Tom Zaratti, State Bar Card Number 22247500, is currently licensed to practice law in the State of Texas.
- (2) On or about September 16, 2004, Respondent, C. Tom Zaratti, was found guilty of Possession of Child Pornography, a Third Degree Felony, in Cause Number 952417 styled *The State of Texas v. C. Tom Zaratti* in the 180th District Court of Harris County, Texas. On or about September 16, 2004, the Court entered Judgment on Plea Before Jury Court/Jury Assessing Punishment committing Respondent to the custody of the Institutional Division of the Texas Department of Criminal Justice to be imprisoned for a total term of ten (10) years, a fine of \$10,000.00, and costs of \$563.00.

- (3) Respondent, C. Tom Zaratti, is same person as the C. Tom Zaratti, who is the subject of the Judgment described above.
- (4) Respondent has appealed the criminal conviction.
- (5) Respondent's criminal sentence is not fully probated.

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 ("TRDP").
- (2) The crime for which Respondent has been convicted is an Intentional Crime as defined by TRDP 1.06(T).
- (3) Having been found guilty and convicted of an Intentional Crime and such conviction currently being on appeal, Respondent, C. Tom Zaratti, should be suspended from the practice of law in Texas during the appeal of his conviction. TRDP 8.04.
- (4) In the event Respondent's conviction including the sentence of incarceration is affirmed and becomes final, Respondent C. Tom Zaratti should be disbarred. TRDP 8.05.

It is, accordingly, **ORDERED, ADJUDGED, and DECREED** that Respondent, C. Tom Zaratti, State Bar Card No. 22247500, is hereby **SUSPENDED** from the practice of law in the State of Texas effective immediately upon entry of this order and continuing hereafter until further order of this Board.

It is further **ORDERED** that, in the event that Respondent's criminal conviction and sentence of incarceration is affirmed and becomes final, he shall be **DISBARRED**.

It is further **ORDERED** that Respondent, C. Tom Zaratti, during said suspension is hereby 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 not previously rendered, 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, C. Tom Zaratti, not later than thirty (30) days from the date of this Order, shall notify in writing each and every justice of the peace, judge, magistrate, and chief justice of each and every court in which Respondent, C. Tom Zaratti, 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 the Chief Disciplinary Counsel, State Bar of Texas, P.O. Box 12487, Capitol Station, Austin, Texas 78711.

It is further **ORDERED** that Respondent, C. Tom Zaratti, shall, within thirty (30) days from the date of this Order, 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 Order is signed by the Board. Respondent is further **ORDERED** to file with this Board, within the same thirty (30) days, an affidavit stating either (a) 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 or (b) that Respondent has no current clients, files, or papers, and that any unearned fees paid in advance or other monies or properties belonging to clients have previously been returned to the appropriate client. 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, State Bar of Texas, P.O. Box 12487, Capitol Station, Austin, Texas 78711.

It is further **ORDERED** that Respondent, C. Tom Zaratti, immediately surrender his Texas law license and permanent State Bar Card to the Office of the Chief Disciplinary, State Bar of Texas, P.O. Box 12487, Capitol Station, Austin, Texas 78711, 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 Order, be sent to the Chief Disciplinary Counsel of the State Bar of Texas, P.O. Box 12487, Austin, Texas 78711.

It is further **ORDERED** that this Order is interlocutory pending the further orders of this Board upon the conclusion of Respondent's appeal of his criminal conviction. In the event that the conviction of Respondent, C. Tom Zaratti, is reversed, this Board, upon the filing by Respondent or his attorney of a motion supported by affidavits or certified copies of court documents showing that the conviction has been reversed, shall terminate the suspension pursuant to TRDP 8.04. In the event that the conviction and sentence requiring incarceration of Respondent, C. Tom Zaratti, is affirmed and becomes final, this Board, upon the filing by the Commission for Lawyer Discipline of a motion supported by affidavits or certified copies of court documents showing that the conviction has become final pursuant to TRDP 8.05, shall enter a final judgment of disbarment pursuant to TRDP 8.05.

Signed this 14th day of April 2005.



CHAIRMAN PRESIDING