

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 98-9055


ORDER REVOKING REGULAR LICENSE

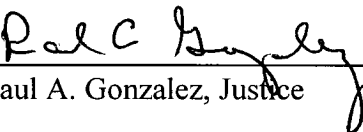
ORDERED:

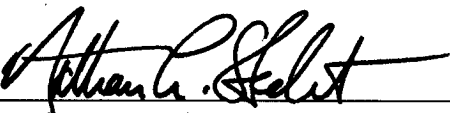
The regular probationary license issued to KERRY DWAYNE LEE is hereby revoked, pursuant to the recommendation of the Board of Law Examiners as set forth in the attached order of the Board.

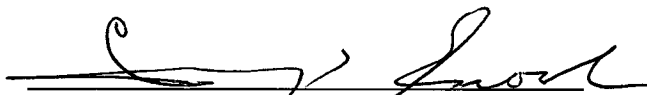
This order shall be effective immediately.

SIGNED AND ENTERED this 31st day of March, 1998.


Thomas R. Phillips, Chief Justice


Raul A. Gonzalez, Justice

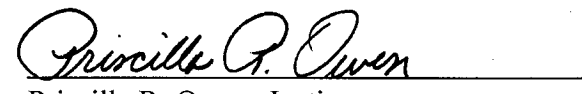

Nathan L. Hecht, Justice



Craig T. Enoch, Justice



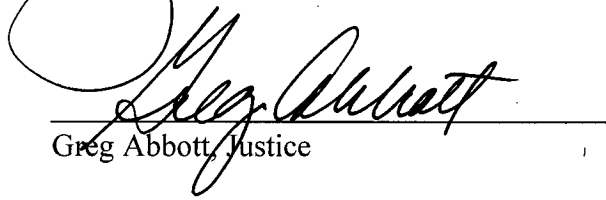
Rose Spector, Justice



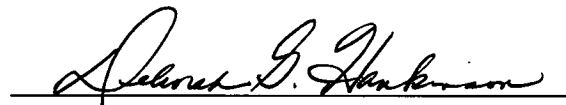
Priscilla R. Owen, Justice



James A. Baker, Justice



Greg Abbott, Justice



Deborah G. Hankinson, Justice

BOARD OF LAW EXAMINERS

IN THE MATTER OF

)

IN PUBLIC HEARING AT

KERRY D. LEE

)

AUSTIN, TEXAS

ORDER

On November 20, 1997, the Board of Law Examiners ("Board"), with Robert E. Valdez presiding, heard the matter of Kerry D. Lee. The Board was represented by Bruce Wyatt, Staff Attorney. Mr. Lee failed to appear, either in person, or by counsel.

I.

PROCEDURAL HISTORY

Mr. Lee appeared in his first hearing before the Board in January of 1994. Following that hearing, he was recommended for a probationary license subject to certain conditions. Mr. Lee failed to comply with those conditions and appeared in his second hearing before the Board in February of 1995. Following that hearing, he was recommended for a second probationary license, subject to amended conditions. Mr. Lee failed to comply with those conditions as well and appeared in his third hearing before the Board in April of 1997. Following that hearing he was recommended for a third probationary license, subject to amended conditions.

On or about October 27, 1997, the Board gave Mr. Lee proper and timely notice, by certified mail, return receipt requested, and first class mail, of this hearing. The notice letter stated that the general issues to be considered at the hearing were: 1) whether Mr. Lee had failed to comply with one or more of the conditions of his probationary license; 2) if Mr. Lee had failed to comply with one or more of the conditions of his probationary license, whether the Board should recommend that his probationary license be revoked; and 3) if Mr. Lee had failed to comply with one or more of the conditions of his probationary license, whether such failure indicates that he lacks the good moral character or fitness required for admission.

On November 19, 1997, the day before the hearing, Mr. Lee requested a continuance which was denied; however, he was offered the opportunity to participate in the hearing by telephone. Two calls were placed to Mr. Lee's office on November 20, 1997, for the purpose of obtaining his participation. Since only voice mail messages were taken by Mr. Lee's office, the Board proceeded with the hearing as scheduled.

II.

JURISDICTION

The Board has jurisdiction over this matter pursuant to V.T.C.A., Government Code, Sections 82.004, 82.022, 82.027, 82.028, 82.030, and 82.038 as well as Rules II, IV, IX, X, XV, XVI, and XX of the Rules Governing Admission to the Bar of Texas, adopted by the Supreme Court of Texas, effective May 15, 1997.

III.

FINDINGS OF FACT

After considering the evidence and testimony, the Board finds:

1. On or about October 27, 1997, the Board gave Mr. Lee proper and timely notice, by certified mail, return receipt requested, and first class mail, of a November 20, 1997 hearing (B.E.1 at 1-2), but Mr. Lee chose not to participate.
2. Mr. Lee has failed to comply with condition 3 of his probationary license, which required him, among other things, to adhere to his student loan repayment plans, in that he failed to abide by the terms of his repayment agreement with the Texas Guaranteed Student Loan Corporation ("TGSLC") (B.E.1 at 6; B.E.2 at 2 and 6).
3. Mr. Lee's failure to comply with condition 3 of his probationary license is indicative of the character traits of a lack of trustworthiness in carrying out responsibilities and financial irresponsibility.
4. Mr. Lee has failed to comply by condition 6 of his probationary license, which requires him to refrain from engaging in any conduct which evidences a lack of good moral character or

fitness, in that:

- a. he bounced checks for his bar membership fee and attorney occupation tax in August of 1997 (B.E.6 ; B.E.7); and
 - b. he failed to respond to letters from the Board dated August 7, 1997 and September 8, 1997 (B.E.4 at 1-3).
5. Mr. Lee's failure to comply with condition 6 of his probationary license is indicative of the character traits of a lack of trustworthiness in fulfilling responsibilities and a lack of financial responsibility.
 6. Mr. Lee has failed to comply with condition 8 of his probationary license, which required him, among other things, to file a properly completed periodic questionnaire with the Board by August 1, 1997, in that the questionnaire he provided on August 1, 1997 was incomplete (B.E.1 at 6; B.E.2 at 2 and 8-9).
 7. Mr. Lee's failure to comply with condition 8 of his probationary license is indicative of the character trait of lack of trustworthiness in fulfilling responsibilities.
 8. Mr. Lee has failed to comply with condition 9.b. of his probationary license, which required him to provide proof of every payment he has made on each of his student loan and other past due accounts since April of 1995 with his August 1, 1997 periodic questionnaire, in that he failed to provide such documentation (B.E.1 at 6; B.E. 2 at 1).
 9. Mr. Lee's failure to comply with condition 9.b. of his probationary license is indicative of the character trait of a lack of trustworthiness in fulfilling responsibilities.
 10. Mr. Lee has failed to comply with condition 9.d. of his probationary license, which required him to provide documentation related to his being given permission by L.J. Ernest to release funds to Tommy Cagle with his August 1, 1997 periodic questionnaire, in that he failed to provide such documentation (B.E.1 at 7; B.E.2 at 1).
 11. Mr. Lee's failure to comply with condition 9.d. of his probationary license is indicative of the character trait of a lack of trustworthiness in fulfilling responsibilities.

12. The Board's order of May 6, 1997 provides that Mr. Lee's probationary license may be revoked at any time upon recommendation of the Board if, after notice and hearing, it is determined that he has violated any condition of the order (B.E.1 at 7).

IV.

CONCLUSIONS OF LAW

1. There is a clear and rational connection between Mr. Lee's lack of trustworthiness in fulfilling responsibilities, as evidenced by his failure to comply with conditions 3, 6, 8, 9.b., and 9.d. of his probationary license, as found herein, and the likelihood that he would harm a client, obstruct the administration of justice, or violate the Texas Disciplinary Rules of Professional Conduct if he were licensed to practice law at this time.
2. There is a clear and rational connection between Mr. Lee's financial irresponsibility, as evidenced by his failure to comply with conditions 3 and 6 of his probationary license, as found herein, and the likelihood that he would harm a client, obstruct the administration of justice, or violate the Texas Disciplinary Rules of Professional Conduct if he were licensed to practice law at this time.
3. Mr. Lee's probationary license should be revoked due to his failure, as found herein, to comply with the conditions of that license.

IT IS THEREFORE ADJUDGED, ORDERED AND DECREED that Mr. Lee has failed to comply with one or more of the conditions of his probationary license, that the Board recommend to the Supreme Court of Texas that Mr. Lee's probationary license be revoked due to such failure, and that such failure indicates that Mr. Lee lacks the present good moral character required for admission.

IT IS FURTHER ORDERED that Mr. Lee may petition the Board for a redetermination of his character and fitness following a period of two years from the date of the Supreme Court's revocation of his

probationary license, and that any such petition for redetermination shall be accompanied by the application and supplemental investigation forms then in effect and all appropriate fees.

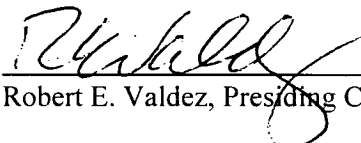
IT IS FURTHER ORDERED that, upon Mr. Lee's proper and timely filing of any future petition for redetermination, application, and supplemental investigation form, the Board's determination as to his character and fitness at that time shall include an investigation as to whether he has complied with the following guidelines to correct the deficiencies summarized in the Board's findings.

V.

CURATIVE MEASURES

1. Mr. Lee shall commit no offense against the laws of this state, any other state, or the United States.
2. Mr. Lee shall work faithfully at suitable employment as far as possible.
3. Mr. Lee shall conduct himself in such a way so as to avoid, and not be subject to disciplinary action for, the breach of any regulation, rule, or statute governing any profession in which he may be engaged.
4. Mr. Lee shall not engage in any conduct that evidences a lack of good moral character or fitness.
5. Mr. Lee shall conduct his personal and business dealings in such a way as to avoid the appearance of sacrificing ethical behavior in the interest of personal gain.
6. Mr. Lee shall become involved in positive activities to demonstrate his rehabilitation from the Board's findings. Such activities may include participation in religious, civic, or community affairs.
7. Mr. Lee shall satisfactorily address the concerns of the Board, if any, regarding his moral character and fitness, at a subsequent hearing to be set following receipt and investigation of his petition for redetermination, application, and supplemental investigation form.

SIGNED this 10 day of Dec., 1997.


Robert E. Valdez, Presiding Chair