

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

**IN THE MATTER OF
ROBERT E. BARGER
STATE BAR CARD NO. 01734040**

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§
§

DOCKET NO. 16745

JUDGMENT OF DISBARMENT

On this day 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 Robert E. Barger. The Board finds that:

- (1) It has continuing jurisdiction of this matter pursuant to TEXAS RULES OF DISCIPLINARY PROCEDURE 8.05 ("TRDP");
- (2) Pursuant to TRDP 8.05, the United States Court of Appeals for the Fifth Circuit affirmed Respondent Robert E. Barger's criminal conviction on January 10, 2002 and issued its Mandate indicating that the decision was final on or about February 1, 2002;
- (3) Petitioner filed its Motion for Entry of Judgment of Disbarment on or about June 1, 2004 and served same on Respondent in accordance with TRDP 8.05;
- (4) More than ten (10) days have elapsed since the motion was filed and served on Respondent, and Respondent Robert E. Barger has not filed a verified denial contesting the finality of the conviction.

Therefore, the Board has determined that the motion should be granted and a judgment of disbarment entered without additional notice or hearing.

Interlocutory Suspension

Following a hearing on July 9, 1999, at which Petitioner Commission for Lawyer Discipline of the State Bar of Texas appeared by attorney and announced ready and Respondent Robert E. Barger appeared through his attorney of record and announced ready, the Board of Disciplinary Appeals entered an Interlocutory Order of Suspension on or about September 21,

1999, which provided in pertinent part that, in the event Respondent's criminal conviction was affirmed and became final, that he should be disbarred. The Board also made the following findings and conclusions:

The Board of Disciplinary Appeals found in pertinent part that, as of July 9, 1999:

- (1) Respondent, Robert E. Barger, is an attorney licensed to practice law in the State of Texas and a member of the State Bar of Texas whose permanent State Bar Card number is 01734040.
- (2) Respondent was convicted of Conspiracy to Impede the Function of the Department of the Treasury in Collecting Taxes, in violation of 18 U.S.C. §371 involving 26 U.S.C. §7201, as charged in Count 1, and Making a False Statement, in violation of 18 U.S.C. §1001, as charged in Count 4 of the Indictment in Cause No. SA-97-CR-112(3)-OG, styled *The United States of America v. Robert E. Barger*, in the United States District Court for the Western District of Texas, San Antonio Division.
- (3) On or about August 31, 1998, the Court sentenced Respondent to a prison term of eighteen (18) months each on Count 1 and Count 4 to run concurrently. Respondent was further sentenced, upon his release from prison, to probation for a term of three (3) years on each count, all such terms to run concurrently. In addition, Respondent was also ordered to pay a fine in the amount of \$5,000.00.
- (4) Respondent, Robert E. Barger, is the same person as the Robert E. Barger, who is the subject of the conviction described above.
- (5) Respondent appealed the criminal conviction.

Based upon the foregoing findings of facts the Board of Disciplinary Appeals made the following conclusions of law:

- (1) This Board has jurisdiction to hear and determine this matter. TRDP 7.08(G).
- (2) Respondent, Robert E. Barger, has been convicted of an intentional crime as defined by TRDP 106(O).
- (3) Respondent, Robert E. Barger, should be suspended from practicing law in Texas during the appeal of his conviction. TRDP Rule 8.04.
- (4) In the event that the conviction of Respondent, Robert E. Barger, is affirmed and becomes final Respondent should be disbarred. TRDP 8.05.

Disbarment

It is, therefore, accordingly, **ORDERED, ADJUDGED, AND DECREED** that Respondent, Robert E. Barger, State Bar Card No. 01734040, 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, Robert E. Barger, 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 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, Robert E. Barger, 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 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, Robert E. Barger, 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 this Board, 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, State Bar of Texas, P.O. Box 12487, Capitol Station, Austin, Texas 78711.

It is further **ORDERED** that Respondent, Robert E. Barger, 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, 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 Final Judgment of Disbarment be sent to the Chief Disciplinary Counsel of the State Bar of Texas, P.O. Box 12487, Austin, Texas 78711.

Signed this 22 day of ~~August~~^{September} 2004.



CHAIRMAN PRESIDING