



BEFORE THE BOARD OF DISCIPLINARY APPEALS
Appointed by
THE SUPREME COURT OF TEXAS

IN THE MATTER OF
PETER JONATHAN CRESCI,
STATE BAR CARD NO. 24005767

§
§
§

CAUSE NO. 65262

JUDGMENT OF DISBARMENT

On the 28th day of April 2023, the above-styled and numbered disciplinary action was called for hearing before the Board of Disciplinary Appeals. Petitioner, the Commission for Lawyer Discipline, appeared by attorney and announced ready. Respondent, Peter Jonathan Cresci, although duly cited to appear, failed to appear. All questions of fact and issues 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 arguments 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, Peter Jonathan Cresci, State Bar Card Number 24005767, is licensed and authorized to practice law in the State of Texas by the Supreme Court of Texas.
- (2) On or about December 12, 2018, the Supreme Court of New Jersey Disciplinary Review Board issued an 85-page Decision in the matter styled *In the Matters of Peter Jonathan Cresci, An Attorney at Law*, Docket Nos. DRB 18-124 and DRB 18-196, District Docket Nos. XIV-2016-0749E; XIV 2017-0586E; XIV 2017-0587E; XIV-2017-0588E; and XIV-2017-0589E, finding that Respondent knowingly misappropriated funds and violated the following New Jersey Rules of Professional Conduct in connection with three client matters:

RPC 1.3 (lack of diligence)
RPC 1.4(b) (failure to communicate with client)
RPC 1.15(a) (failure to safeguard funds of a third person and commingling of funds)
RPC 1.15(b) (failure to make a prompt disposition of funds in which a client or third person has an interest)
RPC 1.5(c) (on conclusion of a contingent fee matter, failure to provide the client with a written statement of the outcome, showing any remittance to the client and its method of determination)
RPC 1.15(d) (failure to comply with recordkeeping requirements)
RPC 5.5(a)(1) (practicing law while suspended)
RPC 8.1(a) (false statement of material fact to a disciplinary authority)
RPC 8.1(b) (failure to cooperate with disciplinary authorities)
RPC 8.4(b) (commission of a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects)
RPC 8.4(c) (conduct involving dishonesty, fraud, deceit, or misrepresentation)

- (3) In the Decision referenced in paragraph (2), above, the Disciplinary Review Board recommended:

[Respondent] should be disbarred for knowing misappropriation of client, escrow, and trust funds. In the alternative, should the Court decline to find that respondent is guilty of knowing misappropriation, respondent should, nevertheless, be disbarred for his inability or refusal to conform his conduct to the standards required of all members of the New Jersey Bar.

- (4) On or about March 21, 2019, the Supreme Court of New Jersey issued an Order in the matter styled *In the Matter of Peter J. Cresci, An Attorney at Law* (Attorney No. 025281992), D-57 September Term 2018, 082189, stating in pertinent part:

It is ORDERED that Peter J. Cresci be disbarred, effective immediately, and that his name be stricken from the roll of attorneys;

ORDERED that Peter J. Cresci be and hereby is permanently restrained and enjoined from practicing law

- (5) The Order issued by the Supreme Court of New Jersey, referenced in paragraph (4) above, is final for purposes of reciprocal discipline under Texas Rules of Disciplinary Procedure Part IX.

- (6) Respondent, Peter Jonathan Cresci, is the same person as Peter J. Cresci, who is the subject of the Decision and Order described above.
- (7) Respondent was served with the Third Amended Petition for Reciprocal Discipline and Third Amended Order to Show Cause on Petition for Reciprocal by certified mail, which he signed for on December 15, 2022.
- (8) The cover letter from the Office of Chief Disciplinary Counsel, which accompanied the documents served on Respondent, referenced in paragraph (7), above, stated that the matter was set for hearing before the Board of Disciplinary Appeals on Friday, January 27, 2023, at 9:00 a.m. in the courtroom of the Supreme Court of Texas, Austin, Texas.
- (9) This Board's Third Amended Order to Show Cause on Petition for Reciprocal Discipline ordered that the matter was set for hearing before the Board on Friday, January 27, 2023, at 9:00 a.m. in the courtroom of the Supreme Court of Texas, Austin, Texas. The Order further stated that the "hearing location and format (in-person vs. virtual) are subject to change based on conditions related to the COVID-19 pandemic. The Board of Disciplinary Appeals will notify the parties of any changes to the hearing location or format."
- (10) On January 13, 2023, the Board granted Respondent's Unopposed Motion for Continuance of Hearing Date, by order that extended Respondent's answer deadline to February 13, 2023, and reset the hearing on the Third Amended Petition for Reciprocal Discipline to Friday, April 28, 2023.
- (11) Respondent filed a timely Response and Answer on February 13, 2023, raising each of the defenses listed in Texas Rule of Disciplinary Procedure 9.04.
- (12) Respondent also filed a Motion to Continue or Withdraw Docket #65262 on February 13, 2023. On March 30, 2023, the Board denied that Motion and ordered that the hearing on the merits of the Third Amended Petition for Reciprocal Discipline and any defenses raised by Respondent would proceed as scheduled on April 28, 2023.
- (13) At 4:05 p.m. on April 27, 2023, Respondent filed a Motion to Dismiss for Lack of Jurisdiction.
- (14) Prior to the hearing, Respondent filed no motion or other request seeking to participate in the hearing remotely. Respondent filed no objection to the in-person setting for the hearing in the courtroom of the Supreme Court of Texas. At no time prior to the hearing did Respondent file anything attempting to present good cause for allowing him to participate in the hearing by remote connection.

- (15) At 9:28 a.m. on April 28, 2023, after the hearing on the Third Amended Petition for Reciprocal Discipline concluded and the Board of Disciplinary Appeals proceedings adjourned, Respondent filed a letter asking that the Board defer its decision in this matter until Respondent may be present in person for a hearing.

Conclusions of Law. Based upon the foregoing findings of fact, the Board of Disciplinary Appeals makes the following conclusions of law:

- (1) This Board has jurisdiction to hear and determine this matter. TEX. R. DISCIPLINARY P. R. 7.08(H).
- (2) Respondent's Motion to Dismiss for Lack of Jurisdiction is **DENIED**.
- (3) The Chair of the Board of Disciplinary Appeals may determine the method of appearance for hearings before the Board. TEX. R. DISCIPLINARY P. Part VII, cmt.; BODA INTERNAL PROCEDURAL RULE 1.04(c).
- (4) Respondent received proper notice of and opportunity to participate in the hearing of this matter.
- (5) Respondent failed to timely or properly request that he be allowed to participate in the hearing remotely. *See* BODA INTERNAL PROCEDURAL RULE 1.09(a)(1); *cf.* TEX. R. CIV. P. 21d(b)(1), (d).
- (6) To the extent that Respondent's April 28, 2023, letter seeks a new hearing or continuance of the Board's decision, that request is **DENIED**.
- (7) Respondent failed to establish any defense under Texas Rule of Disciplinary Procedure 9.04 by clear and convincing evidence.
- (8) Reciprocal discipline identical, to the extent practicable, to that imposed by the Supreme Court of New Jersey, is warranted in this case. *See* TEX. R. DISCIPLINARY P. R. 9.03.

It is, accordingly, **ORDERED, ADJUDGED, and DECREED** that Respondent, Peter Jonathan Cresci, State Bar Card No. 24005767, be and hereby is **DISBARRED** from the practice of law in the State of Texas, and his license to practice law in this state be and hereby is revoked.

It is further **ORDERED, ADJUDGED, and DECREED** that Respondent, Peter Jonathan Cresci, is prohibited from practicing law in Texas, holding himself out as an attorney at law, performing any legal services for others, accepting any fee directly or indirectly for legal services,

appearing as counsel or in any representative capacity in any proceeding in any Texas court or before any administrative body, or holding himself out to others or using his name, in any manner, in conjunction with the words “attorney at law,” “attorney,” “counselor at law,” “esquire,” “Esq.,” or “lawyer.”

It is further **ORDERED** that Respondent, Peter Jonathan Cresci, shall immediately notify each of his current clients, if any, in writing of this disbarment. In addition to such notification, Respondent is **ORDERED** to return any files, papers, unearned monies, and other property, if any, which belongs to clients and former clients and is in Respondent’s possession or control, to the respective clients or former clients or to another attorney at the client’s or former client’s request, within thirty (30) days of the date of this judgment.

It is further **ORDERED** that Respondent, Peter Jonathan Cresci, shall file with the State Bar of Texas, Chief Disciplinary Counsel’s Office, P.O. Box 12487, Austin, TX 78711-2487 (1414 Colorado St., Austin, TX 78701), within thirty (30) days of the date of this judgment, an affidavit stating that all current clients have been notified of Respondent’s disbarment and that all files, papers, monies, and other property belonging to all clients and former clients have been returned as ordered herein. If Respondent should be unable to return any such files, papers, monies, or other property, 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.

It is further **ORDERED** that Respondent, Peter Jonathan Cresci, shall, on or before thirty (30) days from the date this judgment, notify in writing each and every justice of the peace, judge, magistrate, administrative judge or officer, and chief justice of each and every court or tribunal in which Respondent has any matter pending, if any, of the terms of this judgment, the style and

cause number of the pending matter(s), and the name, address, and telephone number of the client(s) Respondent has represented.

It is further **ORDERED** that Respondent, Peter Jonathan Cresci, shall file with the State Bar of Texas, Chief Disciplinary Counsel's Office, P.O. Box 12487, Austin, TX 78711-2487 (1414 Colorado St., Austin, TX 78701), within thirty (30) days of the date of this judgment, an affidavit stating that Respondent has sent written notice to each and every justice of the peace, judge, magistrate, administrative judge or officer, and chief justice in accordance with the terms of this judgment.

It is further **ORDERED** that Respondent, Peter Jonathan Cresci, shall immediately surrender his Texas law license and permanent State Bar Card to the Statewide Compliance Monitor, Office of the Chief Disciplinary Counsel, State Bar of Texas, P.O. Box 12487, Capitol Station, Austin, Texas 78711-2487 (1414 Colorado St., Austin, TX 78701), for transmittal to the Clerk of the Supreme Court of Texas.

It is further **ORDERED** that this Judgment of Disbarment shall be made a matter of public record and that notice of this disciplinary action shall be published in the *Texas Bar Journal*.

Signed this 1st day of May 2023.



CHAIR PRESIDING