



FILED
10/20/21

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

THE BOARD of DISCIPLINARY APPEALS
Appointed by the Supreme Court of Texas

IN THE MATTER OF §
DAVID ALLAN KRUEGER § CAUSE NO. 65866
STATE BAR CARD NO. 24025940 §

**PETITIONER'S REPLY TO RESPONDENT'S RESPONSE TO
PETITION FOR COMPULSORY DISCIPLINE**

TO THE BOARD OF DISCIPLINARY APPEALS:

Petitioner, the Commission for Lawyer Discipline (hereinafter called "Petitioner"), files this Response to Respondent's, David Allan Krueger, (hereinafter called "Respondent") Response to Petition for Compulsory Discipline wherein Respondent requests a continuance, showing as follows:

I. BACKGROUND

Petitioner is the Commission for Lawyer Discipline, a committee of the State Bar of Texas. Respondent is David Allan Krueger, State Bar No. 24025940. Petitioner filed its Petition for compulsory Discipline on September 9, 2021, asking this Board to disbar Respondent based on his conviction for Wire Fraud in violation of 18 U.S.C. §1343. Respondent was served with the Petition for Compulsory Discipline on September 10, 2021, at El Reno Federal Correctional Institution, 4205 Hwy. 66 West, El Reno, Oklahoma by R. Kendrick, a Canadian County, Oklahoma Deputy. A hearing on Petitioner's Petition for Compulsory Discipline is currently scheduled for October 29, 2021. On October 19, 2021, Respondent filed his Response to Petition for Compulsory Discipline requesting a continuance.

II. ARGUMENT AND AUTHORITY

Technical Defects in Respondent's Motion

The Board should deny a motion for continuance when the motion is not verified or supported by an affidavit or when the affidavit is defective. *See* Tex. R. Civ. P. 251; *Villegas v. Carter*, 711 S.W.2d 624, 626 (Tex. 1986). Texas permits individuals to substitute an unsworn declaration for an affidavit required by statute. Tex. Civ. Prac. & Rem. Code Ann. § 132.001. Respondent's motion did not contain an affidavit or unsworn declaration. Therefore, Respondent's motion should be denied.

III. REQUEST FOR SUSPENSION

If the Board uses its discretion and grants Respondent's request for continuance, he should be ordered suspended from the practice of law pending a final decision by the Board. An Order of Suspension will protect both the public and the legal profession as well as allow Respondent the additional time he requested.

PRAYER

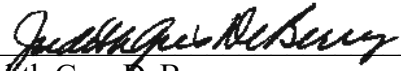
Petitioner asks the Board to deny Respondent's motion for continuance. In the alternative, if the Board grants Respondent's motion, Petitioner requests that the Board enter an order suspending Respondent from the practice of law until the Board makes a final decision in this matter.

Respectfully submitted,

Seana Willing
Chief Disciplinary Counsel

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Judith Gres DeBerry
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ATTORNEYS FOR PETITIONER

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been sent to Respondent, David Allan Krueger, via Email to dkrueger@thekmfirm.com, on this 20th day of October, 2021.



Judith Gres DeBerry

**BEFORE THE BOARD OF DISCIPLINARY APPEALS
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IN THE MATTER OF	§	
DAVID ALLAN KRUEGER	§	CAUSE NO. 65866
STATE BAR CARD NO. 24025940	§	

**ORDER GRANTING RESPONDENT'S
MOTION FOR CONTINUANCE WITH SUSPENSION**

On this day, the Board of Disciplinary Appeals (“BODA”) considered Respondent’s Response to Petition for Compulsory Discipline requesting a continuance and Petitioner’s Reply to Respondent’s Response opposing the continuance and asking that, in the event BODA grants a continuance, Respondent be suspended pending a hearing on the merits.

Therefore, BODA **GRANTS** Respondent’s continuance until further order of the Board. The BODA clerk will reset this case on the next en banc hearings docket when that date is determined and notify the parties.

It is therefore, **ORDERED, ADJUDGED, and DECREED** that Respondent, David Allan Krueger, State Bar Card No. 24025940, 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, ADJUDGED, and DECREED** that Respondent, David Allan Krueger, 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 completed before the date of this order, appearing as counsel in any proceeding in any Texas court of 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, David Allan Krueger, shall notify in writing, no later than thirty (30) days from the date of this Order, each and every justice of the peace, judge, magistrate, and chief justice of each and every court in which Respondent 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 Statewide Compliance Monitor, Office of the Chief Disciplinary Counsel, State Bar of Texas, P.O. Box 12487, Capitol Station, Austin, Texas 78711.

If is further **ORDERED** that Respondent shall immediately notify each of his current clients and opposing counsel, 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 with active cases pending, if any, to those respective clients or former clients with active cases pending within thirty (30) days after the date of this Order. Respondent is further **ORDERED** to file with the Statewide Compliance Monitor, Office of the Chief Disciplinary Counsel, State Bar of Texas, P.O. Box 12487, Capitol Station, Austin, Texas 78711, within the same thirty (30) days, an affidavit stating either (a) that all current clients and opposing counsel 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 with active cases pending 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 is unable to return any file, papers, money or other property to any client or former client with active cases pending, 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 all notification letters to the Statewide Compliance Monitor, 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, David Allan Krueger, 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, for transmittal to the Clerk of the Supreme Court of Texas.

Signed this the ____ day of October 2021.

**CHAIR PRESIDING
BOARD OF DISCIPLINARY APPEALS**

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IN THE MATTER OF	§	
DAVID ALLAN KRUEGER	§	CAUSE NO. 65866
STATE BAR CARD NO. 24025940	§	

ORDER DENYING RESPONDENT’S MOTION FOR CONTINUANCE

After considering Respondent’s Response to Petition for Compulsory Discipline requesting a continuance and Petitioner’s Reply to Respondent’s Response opposing the continuance, the Board of Disciplinary Appeals **DENIES** Respondent’s request for a continuance.

Signed this the ____ day of October, 2021.

**CHAIR PRESIDING
BOARD OF DISCIPLINARY APPEALS**