

IN THE MATTER OF §
MARC G. ROSENTHAL §
STATE BAR CARD NO. 17281450 §

53873

On this day, the above-styled and numbered disciplinary action was called for hearing before the Board of Disciplinary Appeals. Petitioner appeared by attorney and Respondent, Marc G. Rosenthal, appeared by attorney, Steven L. Lee, as indicated by their respective signatures below and announced that they agree to the findings of fact, conclusions of law and orders set forth below. The Board of Disciplinary Appeals, having reviewed the file and in consideration of the agreement of the parties, is of the opinion that Petitioner is entitled to entry of the following findings and orders:

- (1) Respondent, Marc G. Rosenthal, whose State Bar Card number is 17281450, is licensed but not currently authorized by the Supreme Court of Texas to practice law in the State of Texas.
- (2) On or about August 16, 2011, Respondent was charged by Indictment with Count 1 – Conspiracy to Participate in Conduct and Affairs of a Criminal Enterprise, the Activities which Affected Interstate and Foreign Commerce, through a Pattern of Racketeering Activity, in violation of 18 U.S.C. §1962(d), Count 2 – Mail Fraud and Aiding and Abetting, in violation of 18 U.S.C. §§1341 and 2, Count 3 - Mail Fraud and Aiding and Abetting, in violation of 18 U.S.C. §§1341 and 2, Count 4 - Mail Fraud and Aiding and Abetting, in violation of 18 U.S.C. §§1341 and 2, Count 5 - Mail Fraud and Aiding and Abetting, in violation of 18 U.S.C. §§1341 and 2, Count 6 - Mail Fraud and Aiding and Abetting, in violation of 18 U.S.C. §§1341 and 2, Count 7 - Tampering with Witness and Aiding and Abetting, in violation of

18 U.S.C. §§ 1512(b)(1) and 2, Count 8 - Tampering with Official Proceeding by False Affidavit, in violation of 18 U.S.C. §§ 1512(c)(2) and 2, Count 9 - Tampering with Official Proceeding by Perjured Testimony, in violation of 18 U.S.C. §§ 1512(c)(2) and 2, Count 10 - Extortion (Under Color of Official Right) and Aiding and Abetting, in violation of 18 U.S.C. §§ 1951 and 2, Count 11 - Honest Services Mail Fraud and Aiding and Abetting, in violation of 18 U.S.C. §§ 1341, 1346, and 2, Count 12 - Honest Services Mail Fraud and Aiding and Abetting, in violation of 18 U.S.C. §§ 1341, 1346, and 2, and Count 13 - Honest Services Mail Fraud and Aiding and Abetting, in violation of 18 U.S.C. §§ 1341, 1346, and 2, in Cause No. B-11-743, styled *United States of America v. Marc Garrett Rosenthal*, in the United States District Court for the Southern District of Texas, Brownsville Division.

- (3) On or about February 13, 2014, a Judgment in a Criminal Case was entered in Case No. 1:11CR00743-001, styled *United States of America v. Marc Garrett Rosenthal*, in the United States District Court for the Southern District of Texas, Holding Session in Brownsville, wherein Respondent was found guilty of Count 1 - Conspiracy to Participate in Conduct and Affairs of a Criminal Enterprise, the Activities which Affected Interstate and Foreign Commerce, through a Pattern of Racketeering Activity, Count 2 - Mail Fraud and Aiding and Abetting, Count 3 - Mail Fraud and Aiding and Abetting, Count 4 - Mail Fraud and Aiding and Abetting, Count 5 - Mail Fraud and Aiding and Abetting, Count 7 - Tampering with Witness and Aiding and Abetting, Count 8 - Tampering with Official Proceeding by False Affidavit, Count 9 - Tampering with Official Proceeding by Perjured Testimony, Count 10 - Extortion (Under Color of Official Right) and Aiding and Abetting, Count 11 - Honest Services Mail Fraud and Aiding and Abetting, and Count 12 - Honest Services Mail Fraud and Aiding and Abetting, and was committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of two hundred forty (240) months on each count, to be served concurrently. Respondent was ordered upon release from imprisonment to be on supervised release for three (3) years on each count, to be served concurrently, ordered to perform 200 hours of community service, ordered to pay an assessment of \$1,100.00 and restitution of \$13,288,984.50.
- (4) Respondent, Marc G. Rosenthal, is the same person as the Marc Garrett Rosenthal who is the subject of the criminal case described above.
- (5) Respondent has appealed the criminal conviction.

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. Tex. R. Disciplinary P. 7.08(G);
- (2) Respondent, Marc G. Rosenthal, having been convicted of Conspiracy to Participate in Conduct and Affairs of a Criminal Enterprise, the Activities which Affected Interstate and Foreign Commerce, through a Pattern of Racketeering Activity; Mail Fraud and Aiding and Abetting; Mail Fraud and Aiding and Abetting; Mail Fraud and Aiding and Abetting; Mail Fraud and Aiding and Abetting; Tampering with Witness and Aiding and Abetting; Tampering with Official Proceeding by False Affidavit; Tampering with Official Proceeding by Perjured Testimony; Extortion (Under Color of Official Right) and Aiding and Abetting; Honest Services Mail Fraud and Aiding and Abetting; and Honest Services Mail Fraud and Aiding and Abetting, has been convicted of Intentional Crimes as defined by TRDP 1.06(T).
- (3) Respondent has also been convicted of Serious Crimes as defined by TRDP 1.06(Z).
- (4) Having been found guilty and convicted of Intentional and Serious Crimes and having appealed such conviction, Respondent, Marc G. Rosenthal, should have his license to practice law in Texas suspended during the appeal of his criminal conviction. TRDP 8.04.
- (5) The Board retains jurisdiction to enter a final judgment in this matter when the criminal appeal is final.

It is, accordingly, ORDERED, ADJUDGED, and DECREED that Respondent, Marc G. Rosenthal, State Bar Card No. 17281450, 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, Marc G. Rosenthal, 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 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, Marc G. Rosenthal, 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, Marc G. Rosenthal, 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.

It is further ORDERED that Respondent, Marc G. Rosenthal, 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, if any, to those respective clients or former clients 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 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, 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, Marc G. Rosenthal, immediately surrender his Texas law license and permanent State Bar Card to the Statewide Compliance Monitor, 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.

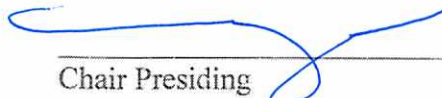
It is further ORDERED that a certified copy of the Petition for Compulsory Discipline on file herein, along with a copy of this Order, be sent to the Chief Disciplinary Counsel of the State Bar of Texas, P.O. Box 12487, Austin, Texas 78711.

It is further ORDERED that this Order is interlocutory and that the Board retains jurisdiction to enter a final judgment when the appeal of the criminal conviction is final. In the Matter of Mercier, 242 SW 3d 46 (Tex. 2007).

It is further ORDERED that Respondent shall promptly notify the Board and the State Bar of Texas Chief Disciplinary Counsel when the appeal of the criminal conviction is final.

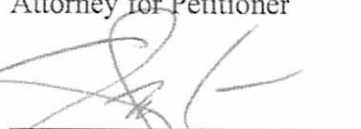
It is further ORDERED that the Chief Disciplinary Counsel of the State Bar of Texas shall monitor the status of the appeal of the criminal conviction on at least a quarterly basis and promptly file an appropriate motion for entry of final judgment with the Board when the appeal of the criminal conviction is final.

Signed this 11th day of April 2014.


Chair Presiding
Board of Disciplinary Appeals

APPROVED AS TO FORM AND CONTENT:


Rebecca (Beth) Stevens
Assistant Disciplinary Counsel
State Bar Card No. 24065381
Attorney for Petitioner


Steven L. Lee
State Bar Card No. 12137400
Attorney for Respondent