

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 06-9153

ORDER REVOKING PROBATIONARY LICENSE

ORDERED:

The probationary license issued to KELLIE MICHELLE NELSON is revoked, pursuant to the recommendation contained in the attached Order of the Board of Law Examiners. Kellie Michelle Nelson must surrender her State Bar Card and Texas law license to the Clerk of the Supreme Court immediately; or, file an affidavit with the Court stating why she cannot.

Consequently, Kellie Michelle Nelson is prohibited from the practice of law in the State of Texas. This includes holding herself out as an attorney at law, performing legal services for others, giving legal advice to 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 Texas administrative body (whether state, county, municipal, or other), or holding herself out to others or using her name in any manner in conjunction with the designation "Attorney at Law," "Counsel at Law," or "Lawyer."

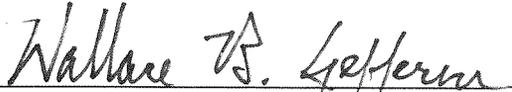
Additionally, Kellie Michelle Nelson must provide immediate, written notification of the revocation to each of her clients. She shall return any files, papers, unearned monies, and other property in her possession belonging to any client or former client to the client or former client or to another attorney at the client's or former client's request. Kellie Michelle Nelson shall file with the State

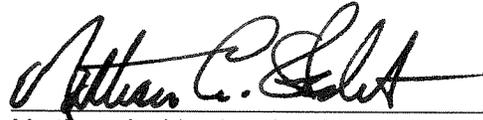
Bar of Texas, Office of the Chief Disciplinary Counsel, Post Office Box 12487, Austin, Texas 78711-2487, within thirty (30) days after the date of this Order, an affidavit stating that all current clients have been notified of the revocation of her license and that all files, papers, monies, and other property belonging to all clients and former clients have been returned.

Finally, Kellie Michelle Nelson shall, within thirty (30) days after the date of this Order, provide written notice of the terms of this Order to each justice of the peace, judge, magistrate, and chief justice of each court in which she has any pending matter and shall therein identify the style and cause number of the pending matter with the name, address, and telephone numbers of each client she represents in each court. Kellie Michelle Nelson shall file with the State Bar of Texas, Office of the Chief Disciplinary Counsel, Post Office Box 12487, Austin, Texas 78711-2487, within thirty (30) days after the date of this Order, an affidavit stating that she has provided written notice to each justice of the peace, judge, magistrate, and chief justice of each court in which he has any pending matter the style and cause number of the pending matter with the name, address, and telephone numbers of each client she represents in each court.

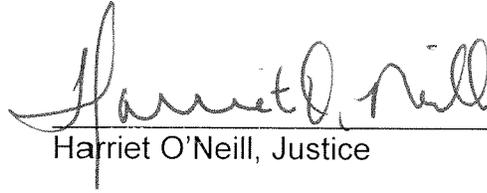
This Order shall be effective immediately.

SIGNED on this 6th day of December, 2006

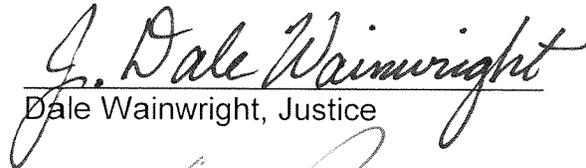

Wallace B. Jefferson, Chief Justice



Nathan L. Hecht, Justice



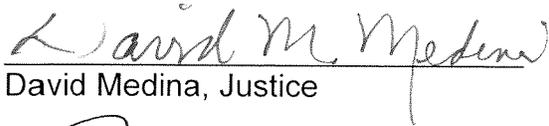
Harriet O'Neill, Justice



Dale Wainwright, Justice



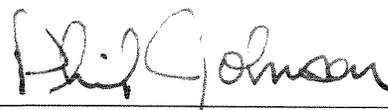
Scott A. Brister, Justice



David Medina, Justice



Paul W. Green, Justice



Phil Johnson, Justice



Don R. Willett, Justice

BOARD OF LAW EXAMINERS

IN THE MATTER OF

§

DOCKET NUMBER 09-06-04

KELLIE MICHELLE NELSON

§

AUSTIN, TEXAS

§

ORDER

On September 15, 2006, a three-member panel of the Board of Law Examiners ("Board"), with Jorge C. Rangel presiding, heard the matter of Kellie Michelle Nelson ("Respondent"). Kristin Bassinger, Staff Attorney, represented the Board. Respondent, although advised of her right to counsel, elected to represent herself. Respondent appeared by telephone. The Board considered, among other things, whether Respondent's probationary license should be revoked.

I.

PROCEDURAL HISTORY

Respondent appeared before the Board in a March 20, 2005 hearing. Following that hearing, the Board issued a March 31, 2005 Order, which decreed that Respondent would be recommended for a probationary license upon her successful completion of all the requirements of admission, subject to her faithful compliance with certain conditions, from the date of licensure.

On August 8, 2006, the Board sent Respondent proper and timely notice of this hearing, by first class mail and certified mail, return receipt requested. The notice letter stated that the general issues to be considered at the hearing were whether Respondent failed to comply with one or more of the conditions of her March 31, 2005 Order; whether such failure, if any, indicated she lacks the good moral character required for admission; and, whether the Board should recommend revocation of her probationary license.

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, and 82.030, as well as Rules II, IV, IX,

X, XV, XVI, XVII, and XX of the *Rules Governing Admission to the Bar of Texas*, adopted by the Supreme Court of Texas, including amendments.

III.

FINDINGS OF FACT

After considering the evidence and testimony, the Board finds:

1. After a hearing on March 20, 2005, a hearings panel of the Board voted to recommend Respondent for a probationary law license. (B.E.1 at 3-7).
2. Respondent's original probationary license term was from September 7, 2005 to September 7, 2006. (B.E.6 at 6). The license term was extended to November 7, 2006 so Respondent could be set for a hearing regarding her non-compliance with the conditions of probation. (B.E.8 at 17 and 18).
3. On or about August 8, 2006, the Board gave Respondent proper and timely notice of a September 15, 2006 hearing by first class mail and by certified mail with return receipt requested. (B.E.1 at 1).
4. On or about August 10, 2006, Respondent received actual notice of her hearing. (B.E.1 at 8 and Hearing Testimony).
5. Respondent failed to appear, in person, for her September 15, 2006 hearing; but asked to be allowed to appear telephonically. (Hearing Testimony). Respondent was allowed to appear telephonically for her September 15, 2006 hearing.
6. Respondent sustained personal injuries in an automobile accident on October 26, 2005. As a result of said injuries, Respondent underwent physical therapy for several months and was placed under a Guardianship, which was terminated on March 9, 2006. (B.E.7 at 10, 11, and 18-19 and Hearing Testimony).
7. Respondent was directed to provide a copy of the October 26, 2005 accident report by letters dated May 18, 2006, June 14, 2006, and July 18, 2006. (B.E.8 at 18 and 25). Respondent has not provided a copy of the October 26, 2005 accident report.
8. Respondent failed to comply with condition 1 of her probationary license, which required that she "comply with all requirements of this Order and with all requests from the Board for information or documentation in a timely manner" (B.E.1 at 5), as evidenced by her failure to comply with her conditions of probation, as found below and by her failure to provide a copy of the accident report for her October 26, 2005 motor vehicle accident as found above.

9. On or about March 23, 2006, in Glenpool, Oklahoma, Respondent was arrested for the offense of Driving Under the Influence (hereafter "DUI"). As a result of her plea of Guilty, Respondent was placed on probation and required to attend a DUI school and view an Aftermath film. (B.E.3 at 3).
10. In connection with the DUI offense, the sentencing judge agreed to reduce the charge to "reckless driving" if Respondent successfully completed her probation and paid a fine and court costs by July 20, 2006. Respondent failed to complete the terms of her probation by July 20 and was granted an extension, to August 24, 2006. Respondent failed to complete the terms of her probation by August 24 and was granted an extension, to October 5, 2006. (B.E.2 at 8 and B.E.3 at 1).
11. As a condition of her DUI probation, Respondent was ordered to submit to treatment for alcohol-related chemical dependency. (Hearing Testimony).
12. Respondent failed to comply with condition 3 of her probationary license, which required that she "commit no offense against the laws of this state, any other state, or the United States" (B.E.1 at 5), as evidenced by her arrest for DUI and subsequent sentence, as found above.
13. Respondent failed to comply with condition 5 of her probationary license, which required that she "refrain from engaging in any conduct that evidences a lack of good moral character or fitness" (B.E.1 at 6), as evidenced by her arrest for DUI and her failure to complete timely her terms of probation, as found above.
14. Respondent reported her March 23, 2006 DUI arrest in a letter received by the Board on May 3, 2006. (B.E.2 at 1).
15. Respondent failed to comply with condition 7 of her probationary license, which required that she "inform the Board, in writing, within fourteen days of the occurrence of any circumstances which might constitute a breach of the conditions of this Order, including, but not limited to, any arrest or citation" (B.E.1 at 6), as evidenced by her failure timely to notify the Board of her DUI arrest, as found above.
16. Respondent listed an Oklahoma address in connection with her Periodic Questionnaires filed on March 15 and 20, 2006. (B.E.5 at 1 and 5). In connection with her March 23, 2006 DUI, Respondent gave a Krebs, Oklahoma address to the arresting officer. (B.E.3 at 3). As of January 18, 2006, the State Bar of Texas listed Respondent's primary practice location as Krebs, Oklahoma. (B.E.7 at 5). Respondent received the notice letter for this hearing and the exhibits for this hearing at an Oklahoma address. (B.E.1 and 9). Respondent admitted she resided in Oklahoma for the majority of the duration of her probationary law license. Respondent admitted she did not seek or receive a

waiver of the Texas residence requirement of her probationary license. (Hearing Testimony).

17. Respondent failed to comply with condition 9 of her probationary license, which required that she “reside continuously in Texas during the period of her probationary license, unless, for good cause shown, the Board waives this requirement” (B.E.1 at 6), as evidenced by her residing in Oklahoma during the term her probationary law license without a waiver of the Texas residence requirement, as found above.
18. Respondent was required to file a periodic questionnaire on January 7, 2006; the completed questionnaire was received over two months later on March 15 and 20, 2006. (B.E.5, B.E.6 at 2, and B.E.7 at 8). Respondent was required to file a periodic questionnaire on May 7, 2006; the questionnaire was received May 19, 2006. (B.E.5 at 9, B.E.6 at 2, and B.E.8 at 16).
19. Respondent failed to comply with condition 11 of her probationary license, which required that she “file with the Board a properly completed periodic questionnaire...beginning four months after licensure and every four months thereafter...” (B.E.1 at 6), as evidenced by her late-filed January 2006 periodic questionnaire and her late-filed May 2006 periodic questionnaire, as found above.
20. Respondent sought admission to the Oklahoma Bar Association and was denied, based on her “failure to respond and cooperate with multiple requests for an interview.” (B.E.4 at 4).
21. Respondent’s denial of admission to the Oklahoma Bar Association is indicative of a lack of trustworthiness in carrying out responsibilities.
22. Respondent failed to comply with condition 5 of her probationary license, which required that she “refrain from engaging in any conduct that evidences a lack of good moral character or fitness” (B.E.1 at 6), as evidenced by Respondent’s denial of admission to the Oklahoma Bar Association.
23. Respondent admitted she did not take the Texas Ethics Course during the original duration of her probationary license.
24. Respondent failed to comply with condition 2 of her probationary license, which required that she “attend *The Ethics Course* offered by the Texas Center for Legal Ethics and Professionalism” and “furnish proof of such attendance directly to the Board prior to the expiration of her probationary license” (B.E.1 at 5), as evidenced by her testimony, as found above.

25. The fact that Respondent failed to comply with conditions 1, 2, 3, 5, 7, 9 and 11 of her probationary license is indicative of the character traits of lack of trustworthiness in carrying out responsibilities and a lack of respect for the law.
26. Respondent admitted she is an alcoholic. (Hearing Testimony).
27. Respondent's admission that she is an alcoholic indicates that she suffers from chemical dependency as defined in the *Rules Governing Admission to the Bar of Texas*.
28. The Board's Order, of 3/31/05, provides that Respondent's probationary license may be revoked at any time upon recommendation of the Board if, after notice and hearing, it is determined that she has violated any condition of the Order (B.E.1 at 6).

IV.

CONCLUSIONS OF LAW

1. There is a clear and rational connection between Respondent's lack of trustworthiness in carrying out responsibilities and lack of respect for the law, evidenced by her failure to comply with conditions 1, 2, 3, 5, 7, 9 and 11 of her probationary license, as found above, and the likelihood she would injure a client, obstruct the administration of justice, or violate the *Texas Disciplinary Rules of Professional Conduct*, if she were allowed to continue to practice law.
2. There is a clear and rational connection between Respondent's lack of trustworthiness in carrying out responsibilities, evidenced by her denial of admission to the Oklahoma Bar Association, as found above, and the likelihood she would injure a client, obstruct the administration of justice, or violate the *Texas Disciplinary Rules of Professional Conduct*, if she were allowed to continue to practice law.
3. There is a clear and rational connection between Respondent's chemical dependency, evidenced by her admission and her court ordered chemical dependency treatment, as found above, and the likelihood she would fail to carry out duties to clients, courts, or the profession, if she were allowed to continue to practice law.
4. Respondent's probationary license should be revoked due to her failure, as found herein, to comply with the conditions of that license.

IT IS THEREFORE ADJUDGED, ORDERED, AND DECREED that Respondent failed to comply with one or more of the conditions of her probationary license; that Respondent's non-compliance indicates she lacks the present good moral character

required for admission; and, that the Board shall recommend to the Supreme Court of Texas that Respondent's probationary license be revoked due to her non-compliance.

IT IS FURTHER ORDERED that Respondent suffers from chemical dependency as defined in the *Rules Governing Admission to the Bar of Texas*.

IT IS FURTHER ORDERED that Respondent may petition the Board for a re-determination of her moral character no earlier than six (6) months from the date of the Supreme Court's Order revoking Respondent's probationary license, and any such Petition for Re-Determination shall be accompanied by the Supplemental Investigation form then in effect and all the appropriate fees.

IT IS FURTHER ORDERED that Respondent's passing score for the Texas Bar Examination is extended to May 5, 2008.

IT IS FURTHER ORDERED that Respondent must submit to a chemical dependency evaluation and appear at a hearing before the Board in connection with the filing of any future Petition for Re-Determination.

IT IS FURTHER ORDERED that, upon Respondent's proper and timely filing of any future Petition for Re-Determination and Supplemental Investigation form, the Board's determination as to Respondent's requisite character and fitness at that time shall include an investigation as to whether Respondent has complied with the following curative measures.

V.

CURATIVE MEASURES

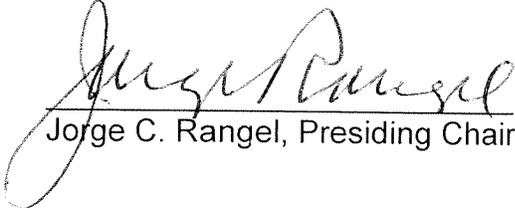
1. Respondent shall timely comply with all requirements of this Order and with all requests from the Board for information or documentation.
2. Respondent shall commit no offense against the laws of this state, any other state, or the United States.
3. Respondent shall comply in all respects with the terms of her Oklahoma DUI probation.
4. Respondent shall submit to a chemical dependency evaluation in connection with any future Petition for Re-determination.
5. Respondent shall provide a copy of this Order to the State Bar Disciplinary Authority in all jurisdictions in which she is a member and to all licensing bodies

of jurisdictions in which she has an application pending or in which she makes future applications to practice law.

6. Respondent shall conduct herself in such a way as to avoid and not be subject to disciplinary action for the breach of any regulation, rule, or statute governing any profession or activity in which she may be engaged.
7. Respondent shall not engage in any conduct that evidences a lack of good moral character or fitness.
8. Respondent shall satisfactorily address the concerns of the Board regarding her good moral character at a subsequent hearing to be set following a Petition for Re-Determination, if any.

IT IS FURTHER ORDERED that, in the event Respondent submits any future Petition for Re-determination and Supplemental Investigation form, the burden of proof shall be on her to present evidence addressing not only any character or fitness issues covered in this Order, but also any new issues that arise out of the investigation conducted on Respondent's petition, and supplemental investigation.

SIGNED this 25th day of September 2006


Jorge C. Rangel, Presiding Chair