

# **ORDER OF THE SUPREME COURT OF TEXAS**

MISC. DOCKET NO. 13-9144

## **REVOCAION OF PROBATIONARY LICENSE**

The probationary license issued to Michael Lee Aldous is revoked, pursuant to the recommendation contained in the attached Order of the Board of Law Examiners. Michael Lee Aldous must surrender his State Bar Card and Texas law license to the Clerk of the Supreme Court immediately; or, file an affidavit with the Court stating why he cannot.

Consequently, Michael Lee Aldous is prohibited from practicing law in the State of Texas. He is prohibited from holding himself 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 himself out to others or using his name in any manner in conjunction with the words "Attorney at Law," "Counselor at Law," or "Lawyer."

Additionally, Michael Lee Aldous must provide immediate, written notification of the revocation to each of his clients. He shall also return any files, papers, unearned monies and other property in his possession belonging to any client or former client to the respective client or former client or to another attorney at the client's or former client's request. Michael Lee Aldous shall file with the State Bar of Texas, Office of the Chief Disciplinary Counsel, Post Office Box 12487, Austin, Texas 78711-2487, within thirty days of the date of this Order an affidavit stating that all current clients have been notified of the revocation of his license and that

all files, papers, monies and other property belonging to all clients and former clients have been returned.

Finally, Michael Lee Aldous shall, within thirty days after the date of this Order, notify in writing each justice of the peace, judge, magistrate, and chief justice of each court in which he 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 he represents in each court. Michael Lee Aldous shall file with the State Bar of Texas, Office of the Chief Disciplinary Counsel, Post Office Box 12487, Austin, Texas 78711-2487, within thirty days after the date of this Order an affidavit stating that he has notified in writing each justice of the peace, judge, magistrate, and chief justice of each court in which he has any matter pending of the terms of this Order, the style and cause number of the pending matter(s), and the name, address and telephone number of the client(s) he is representing in Court.

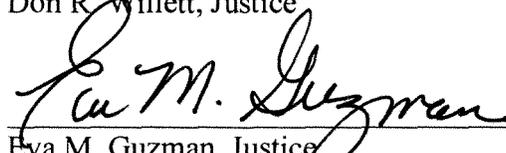
SO ORDERED this 14<sup>th</sup> day of October 2013.

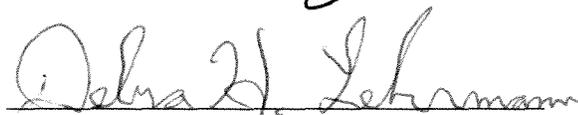
  
Nathan L. Hecht, Chief Justice

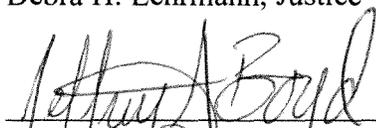
  
Paul W. Green, Justice

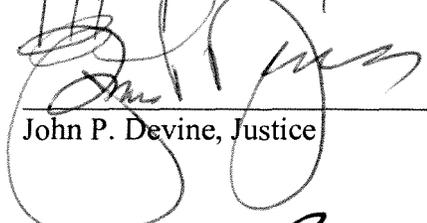
  
Phil Johnson, Justice

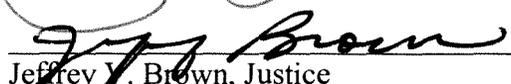
  
Don R. Willett, Justice

  
Eva M. Guzman, Justice

  
Debra H. Lehrmann, Justice

  
Jeffrey S. Boyd, Justice

  
John P. Devine, Justice

  
Jeffrey Y. Brown, Justice

BOARD OF LAW EXAMINERS

IN THE MATTER OF

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DOCKET NUMBER 07-13-01

MICHAEL LEE ALDOUS

AUSTIN, TEXAS

ORDER

On July 12, 2013, a three-member panel of the Board of Law Examiners ("Board"), with H. Michael Sokolow presiding, heard the matter of Michael Lee Aldous. Kristin Bassinger, Staff Attorney, represented the Board. Mr. Aldous, although advised of his right to counsel, elected to appear *pro se*. The Board considered, among other things, whether Mr. Aldous's probationary license should be revoked.

I.

PROCEDURAL HISTORY

Mr. Aldous first appeared before the Board in an April 7, 2011 hearing. Following that hearing, the Board issued a May 9, 2011 order that decreed Mr. Aldous would be recommended for a one-year probationary license, subject to his faithful compliance with certain conditions. Mr. Aldous appeared at a second hearing before the Board on February 8, 2013. Following that hearing, the Board issued a March 7, 2013 order that decreed Mr. Aldous would be recommended for an extended probationary license, to expire February 1, 2015, again, subject to his faithful compliance with certain conditions.

The Board sent Mr. Aldous proper and timely notice of a hearing by first class mail and certified mail, return receipt requested. The notice letter stated that Mr. Aldous must appear again before a hearing panel of the Board to demonstrate his compliance with the conditions of probation and to submit to a review of the findings of his psychiatric evaluations. The notice letter further stated that the general issues to be considered at the hearing were whether Mr. Aldous failed to comply with one or more of the conditions of the March 7, 2013, Board order; whether such failure, if any, indicated he lacks the good moral character required for admission; whether the Board should recommend modification, extension, or revocation of his probationary license; and whether Mr. Aldous possesses the good moral character and fitness required to practice law.

II.

JURISDICTION

The Board has jurisdiction over this matter pursuant to Texas Government Code, Sections 82.004, 82.022, 82.027, 82.028, and 82.030, as well as Rules I, II, IV, IX, X, XV, XVI, 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 April 7, 2011, the Board voted to recommend Mr. Aldous for a one-year probationary license. (B.E.3).
2. After a hearing on February 8, 2013, the Board voted to recommend Mr. Aldous for an extended and modified probationary license, to expire on February 1, 2015.
3. On or about June 12, 2013 the Board gave Mr. Aldous proper and timely notice of a July 12, 2013, hearing by first class mail and by certified mail with return receipt requested. (B.E.9).
4. Mr. Aldous's civil litigation history includes the following:
  - a. Mr. Aldous reported that he was sued by a local police officer for defamation in a case styled *Eric Bruss v. Michael Aldous and Warren Aldous* in the 405<sup>th</sup> District Court of Galveston County, Texas, Cause No. 09CV0104 (Hereafter *Bruss v. Aldous*). Mr. Aldous also reported that he filed suit against a number of parties in a matter styled *Michael Aldous v. Eric Bruss, Silvia Sandoval, Greg Cagle, Daniel Krieger, Texas Municipal Police Association, Santa Fe Police Officer's Association, Breck Porter, Police News Pub., City of Santa Fe, Texas, Santa Fe Police Department, Ralph Stenzel, Debbie O'Connor, Dale O'Connor, Robert Powers, David Burd, Steve Bock, Jim Abney, Wayne Kessler and John Does* in the 10<sup>th</sup> District Court of Galveston County, Texas, Cause No. 11CV0824 (Hereafter *Aldous v. Bruss*). (B.E.3 at 2).
  - b. *Bruss v. Aldous* went to trial on May 25, 2011. Pursuant to a jury verdict, Mr. Aldous was found to have defamed Eric Bruss and, on July 22, 2011, was ordered by the court to pay \$75,000 in damages. Mr. Aldous appealed the judgment to the Fourteenth Court of Appeals. (B.E.3 at 2).
  - c. On or about April 4, 2013, in Case No. 14-11-01108-CV in the Fourteenth Court of Appeals, the court issued both a *Memorandum Opinion* and a

*Judgment* affirming the trial court's judgment in *Bruss v. Aldous*. (B.E.4 and B.E.5 at 2).

- d. On or about April 25, 2013, in Case No. 14-11-01108-CV, the court issued an *Order* that stated Mr. Aldous's motion for rehearing or reconsideration was due on April 19, 2013, Mr. Aldous's father filed a motion for rehearing on April 19, 2013 and Mr. Aldous filed a motion for en banc reconsideration on April 22, 2013; however, Mr. Aldous did not file a motion for extension of time to file. (B.E.5 at 3, 4). The court ordered Mr. Aldous to "file a proper motion" to extend time to file the motion for reconsideration within 10 days or the court would strike his motion for reconsideration as untimely. (B.E.5 at 4).
- e. Subsequently, in Case No. 14-11-01108-CV, the court denied Mr. Aldous's motion for rehearing (B.E.5 at 5) and in Case No. 13-0466, the Supreme Court of Texas granted a motion for extension of time to file petition for review, to be filed no later than July 22, 2013 (B.E.5 at 6).
- f. By order dated July 20, 2012, the presiding judge in *Aldous v. Bruss* granted a motion to compel Mr. Aldous to respond fully and completely to all Requests for Production, Disclosure and Interrogatories propounded by Defendants Steve Bock, Debbie O'Connor and Dale O'Connor. By order dated October 30, 2012, the acting judge in *Aldous v. Bruss* signed an *Order Granting Motion to Strike, Motion to Dismiss, and Motion for Additional Sanctions*. The court struck Mr. Aldous's pleadings against Defendant Steve Bock and dismissed all claims against Defendant Steve Bock with prejudice. In addition, the court ordered Mr. Aldous to pay sanctions to Defendants Debbie O'Connor and Dale O'Connor in the amount of \$11,301.36, by January 20, 2013. During the February 8, 2013 hearing, Mr. Aldous testified he expected to appeal this sanction. (B.E.3 at 2, 3). During the July 12, 2013 hearing, Mr. Aldous testified he appealed the sanction and the appeal was pending in the Fourteenth Court of Appeals. Mr. Aldous admitted his appeal was not supported by the law and was, therefore, frivolous. (Hearing Testimony).
- g. On or about October 25, 2012 Mr. Aldous filed a civil suit, *Aldous v. Trochesset*, in the District Court 10<sup>th</sup> Judicial District of Galveston County, Texas, Case No. 12CV2370, seeking damages for intentional infliction of emotional distress. In connection with a second motion to compel discovery, Mr. Aldous was ordered to pay attorney fees to the Defendant's attorney in the amount of \$1,500. (B.E.6 at 18). On or about April 1, 2013, an *Order Granting Defendant's Motion for Summary Judgment* was entered. (B.E.6 at 20, 23). Mr. Aldous testified he has not paid the attorney fees as he was ordered. (Hearing Testimony).
- h. On or about July 13, 2012, United States Judge Lynn Hughes signed a *Final Judgment* in *Aldous v. City of Galveston*, Cause 3:11-CV-00228. Mr. Aldous was responsible for paying a *Bill of Costs* totaling \$4,378.40 but had not made such payment as of July 1, 2013. (B.E.7). Mr. Aldous testified he has had

notice of the *Bill of Costs* since the date he was served with the writ of execution, February 25, 2013, but he has not paid. (Hearing Testimony).

5. Mr. Aldous's civil litigation history is indicative of a lack of trustworthiness in carrying out responsibilities and a lack of respect for the law.
6. Condition of Probation 6 of the March 7, 2013 order stated: "Mr. Aldous shall resolve the sanction award in *Aldous v. Bruss* by payment of the \$11,301.36 sanction amount or by successful appeal of the sanction. Mr. Aldous shall demonstrate to the Board that an appeal of the sanction is permissible under court rule and shall provide proof of timely filing such permissible appeal of the sanction within 60 days of the date of this order, if he elects to appeal the sanction. Mr. Aldous shall notify the Board in writing within five (5) days of his payment of the sanction award or of any order denying or granting his appeal in that matter." (B.E.3 at 7).
7. Mr. Aldous admitted he did not provide proof that an appeal of the \$11,301.36 sanction in *Aldous v. Bruss* was permissible and did not provide proof of the satisfaction of the sanction amount. (Hearing Testimony).
8. Mr. Aldous violated Condition of Probation 6 of the March 7, 2013 order.
9. Condition of Probation 2 of the March 7, 2013 order stated: "Mr. Aldous shall obtain, at his expense, a psychiatric evaluation. The evaluation must be completed by a psychiatrist pre-approved by the Board. The psychiatrist must have a current Texas license and a minimum of five years of clinical experience following his or her Board certification. Mr. Aldous must submit the name or names of persons he selects to perform the evaluation with contact information and the curriculum vitae of the person or persons no later than 30 days from the day this order is mailed to him. Mr. Aldous must provide a copy of this Order to the Board-approved psychiatrist during his first appointment with that psychiatrist." (B.E.3 at 6).
10. Mr. Aldous admitted he did not provide the curriculum vitae of the person he selected to perform his evaluation within 30 days from the date of the March 7, 2013 order; instead, Mr. Aldous submitted the name, contact information, and a five sentence summary paragraph of education and training for his treating doctor, Syed Ahmed, M.D. on April 15, 2013. (B.E.8 at 1 and Hearing Testimony).
11. Mr. Aldous violated Condition of Probation 2 of the March 7, 2013 order.
12. Mr. Aldous's request to seek an evaluation from Dr. Ahmed was rejected by Board staff; however staff informed Mr. Aldous he would be approved for evaluation by Dr. Peter Kowalski. (B.E.8 at 2).
13. Condition of Probation 3 of the March 7, 2013 order stated: "The evaluation must be completed no later than May 1, 2013 and the Board must receive the evaluator's written report no later than May 30, 2013. At a minimum, the evaluation must

determine whether a diagnosis of any psychological, psychiatric, mental or medical disorder, disease, or condition is warranted. Mr. Aldous shall comply with all the evaluator's recommendations and shall provide proof of such compliance with his October 1, 2013 Periodic Questionnaire and with each Periodic Questionnaire thereafter." (B.E.3 at 6).

14. Mr. Aldous obtained an extension to June 12, 2013 for submission of the evaluator's written report but that report was not completed until June 26, 2013. (B.E.8 at 6 and B.E.9).
15. On June 24, 2013, Peter Kowalski, M.D., communicated with Board staff that he met with Mr. Aldous on June 5, 2013 to conduct an evaluation. According to Dr. Kowalski, Mr. Aldous agreed to provide his SASSI results from the Houston Council on Alcohol and Drugs along with medical records from Dr. Ahmed. Dr. Kowalski explained his office contacted Mr. Aldous on June 10, 2013 to remind him the records were necessary for the evaluation and Mr. Aldous assured office staff the records would be forthcoming; however, the office had not received any records by June 24, 2013. (B.E.8 at 9 and Hearing Testimony). In a report dated June 26, 2013, Dr. Kowalski stated the requested records had not been provided by Mr. Aldous, "therefore, this report is made without the aid of information that would normally be available to me." (B.E.9 at 1). Dr. Kowalski's hearing testimony confirmed that Mr. Aldous provided the SASSI results and incomplete and unsigned medical records from Dr. Ahmed after Dr. Kowalski completed his June 26, 2013 written evaluation and prior to the hearing. (Hearing Testimony).
16. Mr. Aldous violated Condition of Probation 3 of the March 7, 2013 order.
17. Mr. Aldous's mental health evaluation history includes the following:
  - a. In connection with *Aldous v. Trochesset*, Case No. 12 CV2370, Mr. Aldous submitted to a March 25, 2013 Psychiatric/Substance Abuse Evaluation completed by Psychiatrist George S. Glass, M.D., P.A. Dr. Glass has been licensed in Psychiatry for 39 years and is recognized as an expert in the field of psychiatry and addictionology. (B.E.6). Dr. Glass described Mr. Aldous providing a pressured, rather disjointed, hard to follow history; "his reconstruction of and or understanding of events is very different from the way they were detailed in the legal documents I reviewed." Dr. Glass noted that Mr. Aldous "talked as if I had understood everything that had occurred including his legal issues, although I continually pointed out that I did not." (B.E.6 at 12). Dr. Glass stated that Mr. Aldous did not appear to be psychotic or hallucinating, but clearly seemed to have some unusual and paranoid if not delusional ideas. ... From my review of the records, and my interview with Michael Aldous, it appears that he has significant psychiatric and emotional issues. ... I do believe that he sees conspiracies where they may not exist, and is in significant denial about how his behavior and actions come across, effect, or appear to others. Clearly he has some symptoms of both Bipolar Disease and Paranoia at this time." Regarding Mr. Aldous's ability to practice law, Dr. Glass stated he had "concerns about how he can function in any

capacity given that he tends to skip around from topic to topic, most of which are interconnected, and understandable only to him.” (B.E.6 at 15).

- b. In his June 24, 2013 evaluation and July 12, 2013 hearing testimony, Dr. Peter Kowalski stated that Mr. Aldous was distractible, impulsive, and lacking in insight regarding his personal contributions toward his legal and interpersonal problems. (B.E.9 and Hearing Testimony). According to Dr. Kowalski: “Mr. Aldous showed signs of markedly impaired impulse control and highly egocentric behavior in spite of his attempt to appear reasonable and justified in his actions .... From all of the information I have gathered, Mr. Aldous lacks the judgment, maturity, and mental capacity to practice law according to Rule IV of the Rules Governing Admission to the Bar of Texas. Because of his lack of compliance with the Board's requests, and the signs in my examination which correlate with profound lack of internal controls which do pose a present risk to clients and the legal profession, I recommend that Mr. Aldous's law license be revoked.” (B.E.9 at 4).
  - c. Dr. Kowalski testified he believes Mr. Aldous likely suffers from a character disorder, paranoid/delusional disorder, or a psychotic disorder and that a specific diagnosis would best be obtained through a multidisciplinary assessment by a team made up of a medical professional, psychologist, and psychiatrist who would conduct a physical exam, mental status exam, and family assessment, in addition to drug screens and projective testing such as Minnesota Multiphasic Personality Inventory and the Thematic Apperception Test. (Hearing Testimony).
- 18. Mr. Aldous's mental health evaluation history indicates he lacks trustworthiness in carrying out responsibilities.
  - 19. Mr. Aldous's individualized mental health assessments, conducted separately by Dr. Kowalski and Dr. Glass, indicate that Mr. Aldous's current fitness to practice law is impaired by mental health characteristics that would negatively affect his competence to carry out duties to his clients, courts, and the profession.
  - 20. Mr. Aldous failed to comply with Condition of Probation 10 of his March 7, 2013 order, which required that he shall not engage in any conduct that evidences a lack of good moral character or fitness, evidenced by his civil litigation history and his mental health evaluation history, as found above.
  - 21. Mr. Aldous's failure to comply with conditions 2, 3, 6, and 10 of his probationary license is indicative of a lack of trustworthiness in carrying out responsibilities.
  - 22. The Board's order, of March 7, 2013, provides that Mr. Aldous's probationary license may be revoked at any time upon recommendation of the Board if, after notice and hearing, it is determined that he has violated any condition of the order. (B.E.3 at 8).

#### IV.

#### CONCLUSIONS OF LAW

1. There is a clear and rational connection between Mr. Aldous's lack of trustworthiness in carrying out responsibilities and lack of respect for the law, evidenced by his civil litigation history and his failure to comply with conditions 2, 3, 6, and 10 of his probationary law license, as found above, and the likelihood he would injure a client, obstruct the administration of justice, or violate the *Texas Disciplinary Rules of Professional Conduct*, if he were allowed to continue to practice law.
2. There is a clear and rational connection between Mr. Aldous's lack of fitness, evidenced by his mental health evaluation history, as found above, and the likelihood he would injure a client, obstruct the administration of justice, or violate the *Texas Disciplinary Rules of Professional Conduct*, if he were allowed to continue to practice law.
3. Mr. Aldous's probationary license should be revoked due to his failure, as found herein, to comply with the conditions of that license and due to his lack of present good moral character and fitness.

IT IS THEREFORE ADJUDGED, ORDERED, AND DECREED that Mr. Aldous failed to comply with one or more of the conditions of his probationary license; that Mr. Aldous's non-compliance indicates he lacks the present good moral character and fitness required for admission; that Mr. Aldous additionally engaged in behavior demonstrating his current fitness to practice law is impaired by mental health characteristics that would negatively affect his competence to carry out duties to clients, courts, or the profession; and, that the Board shall recommend to the Supreme Court of Texas that Mr. Aldous's probationary license be revoked.

IT IS FURTHER ORDERED that Mr. Aldous may petition the Board for a re-determination of his moral character no earlier than six (6) months from the date of the Supreme Court's Order revoking his probationary license and no earlier than the date of his full compliance with the Curative Measures listed herein, 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 Mr. Aldous's passing exam score for the July 2009 Texas Bar Exam be extended for two (2) years from the date of the Supreme Court's Order revoking his probationary license.

IT IS FURTHER ORDERED that if Mr. Aldous files a Petition for Re-Determination and Supplemental Investigation form, the Board's determination as to Mr. Aldous's requisite character and fitness at that time shall include an investigation as to whether Mr. Aldous has complied with the following curative measures.

V.

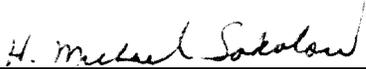
CURATIVE MEASURES

1. Mr. Aldous shall timely comply with all requirements of this Order and with all requests from the Board for information or documentation.
2. Mr. Aldous shall seek a psychiatric assessment and all necessary and related psychological and medical assessments, tailored to provide diagnoses, prognoses, and treatment of any disorder, disease, or condition from which he suffers, and shall comply with and fulfill any recommended treatment regimen for no less than six months to address the problems noted in this Order. Any health care professional(s) must be pre-approved in writing by Board staff.
3. Mr. Aldous shall provide a copy of this Order to the medical and mental health professionals from whom he seeks to obtain such diagnoses, prognoses, and treatment and shall provide written proof of his compliance to the Board with any future Petition for Re-Determination.
4. Mr. Aldous shall give notice and provide a copy of this Order to the State Bar Disciplinary Authority in all jurisdictions in which he is a member and to all licensing bodies of jurisdictions in which he has an application pending or in which he makes future applications to practice law and shall provide written proof of his compliance to the Board with any future Petition for Re-Determination.
5. Mr. Aldous shall resolve, by full payment or successful appeal, all court-ordered sanctions, bills of cost, and judgment debts related to any litigation that has occurred or that may occur prior to or during the pendency of any future Petition for Re-Determination.
6. Mr. Aldous shall adhere, in every respect to any directive or requirement imposed by the Courts.
7. Mr. Aldous shall commit no offense against the laws of this state, any other state, or the United States.
8. Mr. Aldous shall conduct himself 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 he may be engaged.

9. Mr. Aldous shall not engage in any conduct that evidences a lack of good moral character or fitness.
10. Mr. Aldous shall satisfactorily address the concerns of the Board regarding his good moral character and fitness at a subsequent hearing to be set at the staff's discretion, following the filing of a Petition for Re-Determination and Supplemental Investigation form, if any.

IT IS FURTHER ORDERED that, in the event Mr. Aldous submits a Petition for Re-determination and Supplemental Investigation form, the burden of proof shall be on him 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 Mr. Aldous's petition, supplemental investigation, and re-application.

SIGNED this 22nd day of July, 2013

  
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H. Michael Sokolow, Presiding Chair