

# IN THE SUPREME COURT OF TEXAS

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**Misc. Docket No. 16-9070A**

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## ORDER NUNC PRO TUNC

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ORDERED:

The regular license issued to EDWARD ALLEN MALONE is withdrawn and canceled and his name shall be stricken from the roll of attorneys, pursuant to the recommendation contained in the attached Order of the Board of Law Examiners. Edward Allen Malone 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, Edward Allen Malone is prohibited from holding himself out as a licensed Texas attorney, appearing as counsel or in any representative capacity in any Texas court or before any Texas administrative body (whether state, county, municipal, or other), or giving legal advice to others regarding any such proceeding in any Texas court or before any such Texas administrative body. Edward Allen Malone is prohibited from engaging in the practice of law as defined by Texas Government Code Section 81.101.

Additionally, Edward Allen Malone must provide immediate, written notification of the cancellation to any person or entity he currently counsels or represents in matters before any Texas court or before any Texas administrative body. He shall return any files, papers, unearned monies, and other property in his possession belonging to any Texas client or former Texas client to the client or former client or to another attorney at the client's or former client's request.

Edward Allen Malone 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 effective date of this Order, an affidavit stating that all persons he currently counsels or represents in matters before any Texas court or before any Texas administrative body have been notified of the cancellation of his license and that all files, papers, monies, and other property belonging to all Texas clients and former Texas clients have been returned.

Finally, Edward Allen Malone shall, within thirty (30) days after the effective 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 Texas court or Texas administrative body 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 Texas court. Edward Allen Malone 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 effective date of this Order, an affidavit stating that he has provided written notice to each justice of peace, judge, magistrate, and chief justice of each Texas 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 he represents in each Texas court.

This Order shall be effective June 7, 2016.

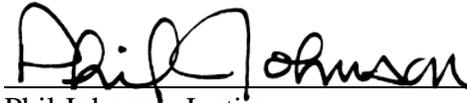
SIGNED this 7th day of June, 2017.



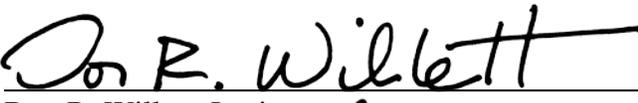
Nathan L. Hecht, Chief Justice



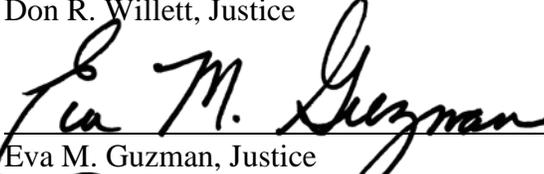
Paul W. Green, Justice



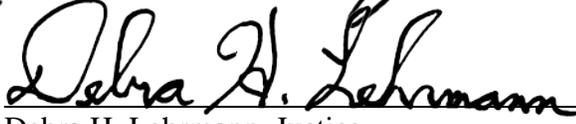
Phil Johnson, Justice



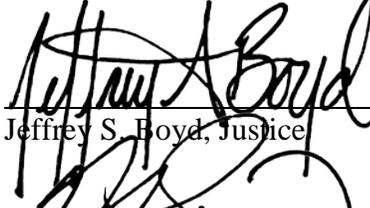
Don R. Willett, Justice



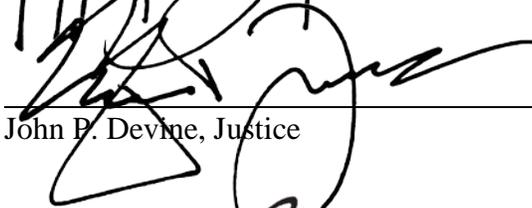
Eva M. Guzman, Justice



Debra H. Lehrmann, Justice



Jeffrey S. Boyd, Justice



John P. Devine, Justice



Jeffrey V. Brown, Justice

BOARD OF LAW EXAMINERS

IN THE MATTER OF

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DOCKET NUMBER 04-16-02

EDWARD ALLEN MALONE

AUSTIN, TEXAS

ORDER

On May 13, 2016, a three-member panel of the Board of Law Examiners (Board), with John H. Cayce, Jr. presiding, heard the matter of Edward Allen Malone. Kristin Bassinger, Staff Attorney, represented the Board. Mr. Malone, although advised of his right to counsel, elected to appear *pro se*. The Board considered, among other things, whether to recommend that Mr. Malone's license be canceled pursuant to Rule XVII(b) of the *Rules Governing Admission to the Bar of Texas*.

I.

PROCEDURAL HISTORY

On June 5, 2013, Mr. Malone filed his sworn application for Admission without Examination. Although the application required disclosure of all jurisdictions of admission, Mr. Malone did not disclose his admission to the Virginia State Bar. Although the application required disclosure of all bar discipline, Mr. Malone did not disclose his discipline by the Virginia State Bar. On April 30, 2015, Mr. Malone was licensed to practice law in Texas.

After discovering the above-described non-disclosures, the Board sent Mr. Malone proper and timely notice of a hearing by first class mail and certified mail, return receipt requested. The notice letter stated that Mr. Malone may have obtained his license to practice law in Texas fraudulently or by willful failure to comply with the *Rules Governing Admission to the Bar of Texas*. The notice letter further stated a hearing was set to give Mr. Malone the opportunity to show cause why the Board

should not recommend to the Supreme Court of Texas that his license be withdrawn and canceled and his name be stricken from the roll of attorneys.

## II.

### JURISDICTION

The Board has jurisdiction over this matter pursuant to Texas Government Code, Sections 82.004, 82.021, 82.022, 82.027, 82.028, and 82.030, as well as Rules I, II, IV, IX, X, XV, XVI, XVII, and XX of the *Rules Governing Admission to the Bar of Texas* (Rules), adopted by the Supreme Court of Texas, including amendments.

## III.

### FINDINGS OF FACT

After considering the evidence and testimony, the Board finds:

1. On or about March 23, 2016, the Board gave Mr. Malone proper and timely notice of a May 13, 2016 hearing by first class mail and by certified mail with return receipt requested. (B.E.1).
2. On or about June 5, 2013, Mr. Malone filed his sworn Application for Admission to the Bar of Texas and applied for Admission without Examination. (B.E.2).
3. Item 3 of Mr. Malone's application required him to list all state, federal, and/or foreign jurisdictions where he had been licensed or admitted to practice law. In response, Mr. Malone listed only one state jurisdiction, Maryland, with an admission date of December 15, 1999. (B.E.2 at 2). Mr. Malone did not disclose had also been admitted in Virginia since October 14, 1999. (B.E.12 at 1).
4. Item 17(c) of Mr. Malone's application asked, in pertinent part, "Have you ever been ... suspended from practice, disciplined, disqualified ... or has your license ever been qualified or conditioned in any way, as a member of any profession, licensed occupation, or as the holder of any public office?" Mr. Malone falsely answered, "No." (B.E.2 at 10). Mr. Malone failed to disclose

that he had been disciplined by the State Bar of Virginia and was not in good standing at the time of his application, as detailed below.

5. Because Mr. Malone did not qualify for Admission without Examination status, he elected to convert his application to take the February 2014 Texas Bar Exam. (B.E.3). Mr. Malone took the February 2014 exam and did not pass.
6. On or about May 9, 2014, Mr. Malone filed a Re-Application for Admission to the Bar of Texas and to take the July 2014 bar exam. Although that application inquired about professional licensure and discipline, Mr. Malone did not disclose his State Bar of Virginia admission and disciplinary history. (B.E.4). Mr. Malone took the July 2014 Texas Bar Exam and did not pass.
7. On or about December 5, 2014, Mr. Malone filed a Re-Application for Admission to the Bar of Texas and to take the February 2015 bar exam. Although that application inquired about professional licensure and discipline, Mr. Malone did not disclose his State Bar of Virginia admission and disciplinary history. (B.E.5). Mr. Malone took the February 2015 Texas Bar Exam and did pass. Mr. Malone was licensed to practice law in Texas on or about April 30, 2015. (B.E.7).
8. On or about February 23, 2016, Board staff obtained proof from the Virginia State Bar Clerk's Office that Mr. Malone had been licensed in Virginia on October 14, 1999, was not in good standing, had been administratively suspended from practice in October 2010 and March 2011, and his license was forfeited in March of 2013. (B.E.12).
9. The Virginia State Bar Clerk's Office also forwarded a copy of a February 28, 2011 *District Committee Determination* wherein the committee issued a *Public Reprimand with Terms* against Mr. Malone. The findings of fact listed multiple failures to respond or appear by Mr. Malone after he was given proper and timely notice by Summons and Subpoena *Duces Tecum*. (B.E.12 at 6 - 10). During his Board hearing, Mr. Malone admitted he had notice but intentionally failed to appear or provide responsive documents to the State Bar of Virginia. (Hearing Testimony).
10. Rule X(d) states, in part, that "Any preliminary determination that the Applicant possesses the requisite present good moral character and fitness is issued on the condition that the Applicant has faithfully complied with these Rules."

11. Rule X(e) states, in part, that “The Applicant has a continuing duty to ensure the accuracy and completeness of the Applicant’s responses on the Application and to update those responses until the Applicant is certified to the Supreme Court for licensure.”
12. Rule XII(b) states that “All law licenses are issued on the condition that the Applicant has faithfully complied with these Rules. If at any time it appears that an Applicant has obtained a license fraudulently or by willful failure to comply with these Rules, after notice and a hearing, the Board may recommend to the Supreme Court that the license be withdrawn and canceled, and the name of the license holder stricken from the roll of attorneys.”
13. By letter dated February 10, 2016, Board staff notified Mr. Malone that an investigation of his non-disclosure was underway. The correspondence included copies of Mr. Malone’s responses to the bar admission and discipline questions, proof of his State Bar of Virginia admission and disciplinary history, and the text of Rule XVII(b). Mr. Malone was directed to provide a detailed explanation of his failure to disclose his Virginia licensure and discipline. (B.E.10).
14. By letter dated February 25, 2016, Mr. Malone responded, in part:

I failed to disclose my Virginia license and discipline to the board because I did not read the questions carefully enough. In applying for a Texas law license under the admission by motion program, I planned on using Maryland as the reciprocal state. As such, I did not believe I was required to share my experience practicing law in Virginia. Because I was using Maryland as the reciprocal State, I understood questions 3 and 17(c) asking me if my law license in Maryland had ever been suspended. My understanding of what questions 3 and 17(c) required was probably biased by my apprehension to disclose anything negative about myself. (B.E.11).
15. During the May 13, 2016 hearing, Mr. Malone admitted he had read the questions carefully and knew disclosures of his Virginia admission and discipline were required.
16. Mr. Malone admitted his State Bar of Virginia disciplinary history negatively reflected upon his moral character and could have hindered his admission to

the State Bar of Texas. Mr. Malone testified, “I must have felt the information I withheld was relevant, otherwise I wouldn’t have withheld it.” (Hearing Testimony).

17. Mr. Malone intentionally misrepresented his bar admission disciplinary history by failing to disclose his State Bar of Virginia admission and disciplinary history, even though such disclosure was required by his applications for admission to the State Bar of Texas.
18. Mr. Malone’s misrepresentations were material, were relied upon by the Board, and benefitted Mr. Malone in that he was licensed to practice law in Texas without any opportunity for the Board to make an informed determination regarding Mr. Malone’s moral character.
19. Mr. Malone willfully failed to disclose his State Bar of Virginia admission and disciplinary history, as required by his applications for admission to the State Bar of Texas, in violation of the Rules.
20. Mr. Malone obtained his license to practice law in Texas fraudulently or by willful failure to comply with the *Rules Governing Admission to the Bar of Texas*.

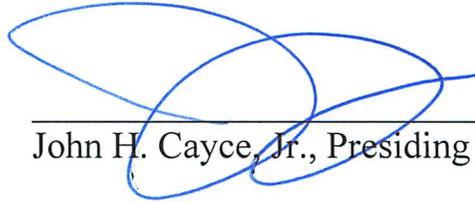
#### IV.

#### CONCLUSIONS OF LAW

1. There is a clear and rational connection between Mr. Malone’s obtaining his license to practice law in Texas fraudulently or by willful failure to comply with the Rules, 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 the Board were not to recommend that his license to practice law be withdrawn and canceled.
2. Mr. Malone’s license should be withdrawn and canceled and his name should be stricken from the roll of attorneys in Texas, due to his obtaining his license to practice law in Texas fraudulently and by willful failure to comply with the *Rules Governing Admission to the Bar of Texas*.

IT IS THEREFORE ADJUDGED, ORDERED, AND DECREED that the Board shall recommend to the Supreme Court of Texas that Mr. Malone's license be withdrawn and canceled, and that his name be stricken from the roll of attorneys.

SIGNED this 24<sup>th</sup> day of May, 2016



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John H. Cayce, Jr., Presiding Chair