

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

IN THE MATTER OF §
§
PAUL R. ALEXANDER § MISC. PROCEEDING NO. 03-305
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§

MEMORANDUM OPINION AND ORDER

On August 6, 2003, this court was advised that Paul R. Alexander was not eligible to practice law in the State of Texas. Alexander had been appearing before this court, representing Chapter 13 debtors. At a hearing on August 4, 2003, in the Matter of Barry Reno, misc. proceeding no. 02-303, Alexander informed the court that he was substituting as counsel for Reno in several cases. Alexander stated that each of Reno's clients had consented to the substitution after consultation with Alexander. Alexander did not inform the court that he was then ineligible to practice law in the State of Texas. Consequently, by order entered August 8, 2003, the court ordered that Alexander appear before the court on September 3, 2003, to show cause why he should not be suspended from practicing law before this court, with his clients reassigned to other attorneys.

The court conducted the show cause hearing on September 3, 2003. Alexander and Reno testified. Alexander falsely testi-

fied. False testimony by an attorney results in the forfeiture of the attorney's license to practice law before the court.

Alexander's license to practice law in the State of Texas was administratively suspended because of Minimum Continuing Legal Education (MCLE) requirements on June 30, 2003. The State Bar of Texas issued a notice to Alexander informing him of the suspension. His license was reinstated on August 11, 2003.

On July 3, 2003, the court suspended Reno's license to practice law before this court. See Matter of Reno, Memorandum Opinion and Order entered July 3, 2003, misc. proc. 02-303. Reno arranged for Alexander to substitute as counsel of record in several cases pending before this court. Alexander filed motions to substitute as counsel.

On July 25, 2003, Thomas Powers, the Standing Chapter 13 Trustee in the Dallas Division of the Northern District of Texas, filed a motion in the Reno proceeding regarding the substitution of counsel. The court held a hearing on that motion on August 4, 2003. Powers expressed concern with the competency of Alexander to substitute as counsel. The trustee observed that Alexander's license had previously been suspended. The trustee also discussed Alexander's failure to appear at meetings of creditors and pre-hearing conferences. Alexander stated that he consulted with each client and obtained their consent for the substitution. Alexander did not inform the court that he was not then eligible

to practice law in the State of Texas. Despite the trustee's challenge to Alexander's competency to handle Chapter 13 cases, the court concluded that it could not deny motions to substitute counsel who were licensed to practice law.

At the show cause hearing on September 3, 2003, Alexander testified that he did not know when he filed the substitution motions that the State Bar of Texas had suspended his license. Alexander testified that he did not know his license had been suspended when he appeared before this court on August 4, 2003. Alexander testified that after August 4, 2003, a creditor's attorney informed Alexander that his license had been suspended. Alexander could not recall the date of his conversation with this creditor's attorney, but thought it was a Friday. Alexander could not recall who the attorney was.

Alexander's testimony is false. Reno told Alexander as early as July 27, 2003, that the State Bar of Texas had suspended his license. Alexander testified that his license was not suspended on July 27, 2003. Not only had Reno told him otherwise, but, as found below, Alexander took CLE courses on July 27 and July 28, 2003, to cure his licensing deficiencies.

Alexander knew that his license was suspended when he appeared before this court on August 4, 2003, because Reno had previously told Alexander. Alexander did not learn about the

suspension from some unrecalled creditor's attorney after August 4, 2003.

Alexander knew that he had to comply with the MCLE requirements by January 31, 2003. Alexander knew that he had not complied. So Alexander knew as of January 31, 2003, that he had an administrative deficiency that would result in a suspension if not cured. Indeed, the Supreme Court of Texas suspended Alexander's license on June 30, 2003, and provided notice to Alexander of the suspension on June 30, 2003. Alexander knew his license was suspended when he began filing substitution motions on July 15, 2003. His testimony to the contrary is not credible. If Alexander actually consulted with the clients about the substitution, he knew that his license was suspended when he consulted with the clients.

To address his deficient CLE credits, on July 27, 2003, Alexander registered online for a course entitled "Legal Malpractice." The course cost \$60.00. On July 28, 2003, he registered for a course entitled "Pitfalls/Contempt & Sanctions/Ethics in Bankruptcy." The course cost \$70.00. Alexander paid for the course by using Reno's credit card. Also on July 28, 2003, Alexander registered for a course entitled "Characterization and Tracing on a Budget/Electronic." The course cost \$30.00. Alexander paid for the course by using Reno's credit card. Reno testified that the card was actually a debit card.

Reno allowed Alexander to use the card to assure that Alexander remedied his administrative suspension. Thus, both lawyers worked together to try to remedy Alexander's ineligibility. Neither told the clients nor this court about Alexander's ineligibility.

After completing the course work, Alexander knew that the State Bar required payment of a reinstatement fee. Alexander testified that he gave a check to his office assistant to mail to the State Bar, but that the office assistant, unbeknownst to him, failed to mail the check. On further questioning, Alexander testified that he had two part-time employees, a personal aide and an office worker who worked two or three days a week. He then testified that he gave the check to his girlfriend to mail, not to his office assistant. He testified that his girlfriend failed to mail the check to Austin. When he learned of this failure, he testified that he drove to Austin on either August 9 or August 10, and personally delivered the check to the State Bar on August 11.

Alexander's testimony about mailing the check is not credible. Despite the seriousness of the proceeding, Alexander did not produce his checkbook. He did not call a witness, be it an employee or his girlfriend, to testify. His testimony about personally driving to Austin to deliver the check to the State Bar is false. Reno testified that he, not Alexander, drove to

Austin and delivered the check for the reinstatement fee to the State Bar on August 11, 2003. In closing argument, Alexander conceded that truth of Reno's testimony.

The court takes notice that in misc. proceeding no. 02-301, Matter of Alexander, the court previously suspended Alexander's license to practice law before this court for signing, under penalty of perjury, his clients' names to a bankruptcy petition and bankruptcy schedules and statement of financial affairs. The court required that Alexander complete an ethics course before this court would reinstate his license. Alexander petitioned for reinstatement, after providing evidence that he had registered for an ethics course. The court reinstated Alexander's license. At the September 3, 2003, Alexander testified that he could not remember the reason this court had suspended his license. That is not credible. Worse, Alexander's testimony demonstrates a continued lack of professional ethics regarding honesty to clients and to the court.

The court further takes notice that prior to his suspension by the Supreme Court of Texas on June 30, 2003, Alexander has been suspended in 1995, 1996, 1997, 1998 and 1999 for either non-payment of State Bar dues, non-payment of Texas Attorney Occupation Tax or non-compliance with MCLE requirements.

By letter dated August 11, 2003, Alexander's license to practice law in the State of Texas was reinstated "retroactive to

the date of suspension, but [the reinstatement] shall not affect any disciplinary proceeding for professional misconduct based upon the practice of law during an administrative suspension.”

Alexander argues that the retroactive reinstatement cures his omissions. Alexander ignores that this court commenced this disciplinary proceeding by order entered August 8, 2003. The retroactive reinstatement does not affect this proceeding.

Alexander was ineligible to practice law in the State of Texas when he filed motions to substitute as counsel in several cases for Reno. Alexander knew that his license had been suspended. Alexander knew that his license had been suspended when he appeared before this court on August 4, 2003, to be heard on the trustee’s motion raising his competency to represent Chapter 13 debtors, yet he did not disclose his ineligibility to the court. Worse, and fatal for his license to practice in this court, Alexander falsely testified on September 3, 2003.

By interlocutory order entered September 10, 2003, the court suspended Alexander from the practice of law for at least one year. The egregiousness of Alexander’s behavior, especially his false testimony, compels a more severe sanction.

Based on the foregoing,

IT IS ORDERED that Paul R. Alexander is **SUSPENDED** from the practice of law before this court for an indefinite period of time, but not less than one year from September 3, 2003.

IT IS FURTHER ORDERED that the clerk of court:

1. Refer this matter to the Clerk of the United States District Court with a recommendation that Paul R. Alexander's license to practice in the United States District Court for the Northern District of Texas be revoked.

2. Refer this matter to the United States Department of Justice for an appropriate investigation.

Signed this 1st day of October, 2003.

/s/ Steven A. Felsenthal
Steven A. Felsenthal
United States Bankruptcy Judge