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May 4, 2016

Supreme Court of Texas
P.O. Box 12248
Austin, Texas 78711

Re: BODA Case No. 57370; OCDC Case No. 201600750; Warren Kenneth
Paxton, Jr.; SBOT #15649200

Members of the Court:

I write concerning the mishandling of my grievance against Attorney General Ken Paxton by both the Office of Chief Disciplinary Counsel and the Board of Disciplinary Appeals. I would direct you to my February 11, 2016, March 14, 2016, and May 3, 2016 posts on my blog, LawFlog.com, where I have uploaded copies of all original documents. My grievance had very little to do with Mr. Paxton, nothing to do with politics (I am unapologetically Republican), and everything to do with the state bar's tainted and politicized disciplinary process. Frankly, I wanted to know just how far the OCDC and BODA were willing to go in order to protect a politically-prominent attorney, and I now have my answer.

In 2014, Erica Gammill filed a grievance against Mr. Paxton based on his sworn admission that he violated state securities laws. The violations that she alleged were felonies, but OCDC dismissed her grievance on the grounds that she failed to state a violation of the disciplinary rules, and BODA upheld the dismissal.

Mr. Paxton was subsequently indicted in 2015 for the very violations identified by Ms. Gammill, and he was also indicted for felony fraud, so I re-filed Ms. Gammill's grievance along with copies of the indictments. Assistant Disciplinary Counsel R. Uribe dismissed the grievance on the grounds that felony charges were pending against Mr. Paxton. In other words, the OCDC created a Catch 22: when someone filed a grievance against Mr. Paxton *before* he was indicted, the OCDC claimed there were no rules violations, and when someone filed a grievance *after* he was indicted, the OCDC suggested it could not act because criminal charges were pending.

In my March 14, 2016 blog post, I noted that the rules of procedure strongly imply that disciplinary charges should not be deferred simply because an overlapping criminal case is pending. Afterwards, BODA affirmed the dismissal anyway, but for a different and far more outrageous reason, namely that I had failed to allege a violation of the disciplinary rules. In other words, BODA has concluded as a matter of law that

felony fraud is not a violation of the disciplinary rules, at least when perpetrated by someone with the right political connections. If that is so, then we might as well acknowledge that the bar is a self-serving cartel and abolish it.

On my blog, I have listed several other instances of blatant dereliction by OCDC and BODA, and my experiences are not unique (*see, e.g.*, Marc Stanley's September 29, 2014 petition to the Court). Meanwhile, fewer than 20 percent of eligible attorneys voted in the last state bar election, and I suspect many of them abstained for the same reason that I did, *i.e.*, we have lost hope in our profession's ability to regulate itself. For that reason, I strongly urge the Court to address the lawlessness and politicization of OCDC and BODA.

By copy of this letter, I urge the Texas Legislature to hold hearings on reforming OCDC, BODA, and the bar itself. The report of the Texas Sunset Review Commission understated the problems of the state bar, and it underestimated the magnitude of reform that is required.

Thank you for your attention to these matters.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ty Clevenger', with a long horizontal flourish extending to the right.

Ty Clevenger

cc: Governor Greg Abbott
Lt. Governor Dan Patrick
Speaker Joe Strauss
Senator Joan Huffman
Rep. John T. Smithee
Mr. Marc Stanley