

ORDER OF THE SUPREME COURT OF TEXAS

MISC. DOCKET NO. 01- 9026

IN THE MATTER OF DAVID H. OLDHAM

On this day, this Court considered the Motion for Acceptance of Resignation as Attorney and Counselor at Law of David H. Oldham, together with the Response of the Chief Disciplinary Counsel to the Motion for Acceptance of Resignation as Attorney and Counselor at Law of J. G. Molleston. This Court has reviewed the Motion and Response and finds that each meets the requirements of Part X of the Texas Rules of Disciplinary Procedure. In conformity with Part X, Section 10.02, of the Texas Rules of Disciplinary Procedure, the Court considers the detailed statement of professional misconduct contained within the Response of Chief Disciplinary Counsel to be deemed conclusively established for all purposes. The Court, after being advised that the acceptance of the resignation is in the best interest of the public and the profession, concludes that the following Order is appropriate.

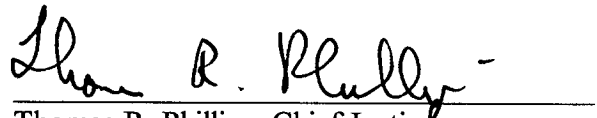
IT IS ORDERED that the law license of David H. Oldham, of Houston, Harris County, Texas, State Bar card number 15248500, which was previously issued by this Court, is canceled and his name is dropped and deleted from the list of persons licensed to practice law in Texas.

IT IS FURTHER ORDERED that David H. Oldham, is permanently enjoined and prohibited from practicing law in the State of Texas, from holding himself out as an attorney at law, from performing any legal services for others, from giving legal advice to others, from accepting any fee directly or indirectly for legal services, from appearing as counsel or in any representative capacity in any proceeding in any Texas court or before any Texas administrative body (whether

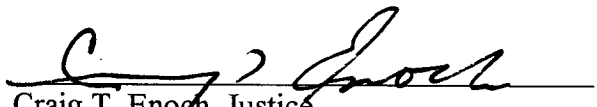
state, county, municipal, or other), and from holding himself out to others or using his name in any manner in conjunction with the words "Attorney at Law," "Counselor at Law," or "Lawyer."

IT IS FURTHER ORDERED that David H. Oldham, within thirty (30) days after the date on which this Order is signed by the Court, notify in writing each and every justice of the peace, judge, magistrate, and chief justice of each and every Texas court in which he may have any client matter pending, advising each court of his resignation, of the style and cause number of any matter pending in that court, and of the name, address and telephone number of the client(s) he is representing in that court. David H. Oldham is **ORDERED** to send copies of all these notifications to the State Bar of Texas, attention J. G. Molleston, 1111 Fannin, Suite 1370, Houston, Texas 77002, and Office of the General Counsel, State Bar of Texas, P.O. Box 12487, Capitol Station, Austin, Texas, 78711.

By the Court, en banc, in chambers, on this the 8th day of February, 2001.


Thomas R. Phillips, Chief Justice


Nathan L. Hecht, Justice

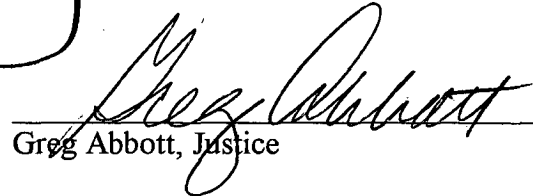

Craig T. Enoch, Justice



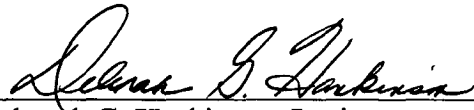
Priscilla R. Owen, Justice



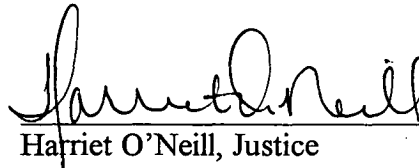
James A. Baker, Justice



Greg Abbott, Justice



Deborah G. Hankinson, Justice



Harriet O'Neill, Justice

IN THE SUPREME COURT OF THE STATE OF TEXAS
RESPONSE TO MOTION FOR ACCEPTANCE OF RESIGNATION AS
ATTORNEY AND COUNSELOR AT LAW

OF

DAVID H. OLDHAM

TO THE HONORABLE SUPREME COURT OF TEXAS:

Pursuant to Part X of the Texas Rules of Disciplinary Procedure, Dawn Miller, Chief Disciplinary Counsel, by and through J. G. Molleston, Assistant Disciplinary Counsel, hereby files this response on behalf of the State Bar of Texas, acting by and through the Commission for Lawyer Discipline, to the Motion for Acceptance of Resignation in Lieu of Discipline filed by David H. Oldham, and would show as follows:

I.

The acceptance by the Court of the resignation of David H. Oldham is in the best interest of the public and the profession.

II.

Disciplinary actions currently pending against David H. Oldham are as follows:

1. Cause number 99-51328; Commission for Lawyer Discipline vs. David H. Oldham; In the 152nd Judicial District Court of Harris County, Texas regarding State Bar of Texas File Number H0049612306 State Bar of Texas vs. David H. Oldham.
1. Cause number 99-51328; Commission for Lawyer Discipline vs. David H. Oldham; In the 152nd Judicial District Court of Harris County, Texas regarding State Bar of Texas File Number H0049612306 State Bar of Texas vs. David H. Oldham seeks the discipline of David H. Oldham for his actions relating to a complaint filed by the State Bar of Texas

("SBOT"). On April 1, 1996 a complaint was initiated by the State Bar of Texas ("SBOT") against David H. Oldham after receiving a Judgment and Findings of Fact from Susan Staricka ("Staricka"), Assistant Attorney General, Attorney General Office. Staricka represented the Estate of Catherine Dumraese as to which David H. Oldham's father was the independent executor of the Estate until his death in 1992. On June 16, 1992, David H. Oldham became the independent executor. On November 8, 1995, the Probate Court of Colorado County after hearing the evidence and arguments of counsel handed down a judgment. The judgment stated that David H. Oldham "obtained money and/or property from the Estate of Dumraese by common law fraud in that David H. Oldham": (a) made misrepresentations of material facts, (b) that the misrepresentations made by David H. Oldham were false, (c) at the time David H. Oldham made such material misrepresentations, he knew they were false or made them recklessly without any knowledge of their truth as a positive assertion, (d) David H. Oldham made such representations with the intent that they be acted upon by the beneficiaries of the will of Dumraese and the beneficiaries of the Dumraese's trust, (e) the beneficiaries of the will of Dumraese and the beneficiaries of the Dumraese trust acted in reliance upon the representations of David H. Oldham and (f) the beneficiaries of the will of Dumraese and the beneficiaries of the Dumraese trust thereby suffered actual damages. The Court found that the actions set forth were committed by David H. Oldham with the intent to harm or with conscious indifference to the rights of the beneficiaries of the will of Dumraese and the beneficiaries of the Dumraese's trust. The Court found that David H. Oldham "Individually and as Successor Independent Executor of the Estate of Dumraese," acted in a fiduciary capacity and owed a fiduciary duty, imposed by law, and that David H. Oldham breached those fiduciary duties by committing fraud,

waste and defalcation of property and/or monies in the estate, in bad faith with malice and with willful disregard of the rights of others and of the fiduciary duties imposed on David H. Oldham by law. The Court found that David H. Oldham, Individually and as Successor Independent Executor of the Estate of Dumraese, acted negligently with respect to the special duties of care imposed upon him in his capacity as a fiduciary. The Court found that the acts and omissions of David H. Oldham constituted a breach of the special duties of care imposed upon David H. Oldham in his capacity as a fiduciary. As a result of such breach, the Court found that the estate of Dumraese, the beneficiaries of the will of Dumraese, and the beneficiaries of the Dumraese trust suffered actual damages. The Court found that such acts and omissions by David H. Oldham resulted from his conscious indifference as to the rights and welfare of the Estate of Dumraese, the beneficiaries of the will of Dumraese, and the beneficiaries of the Dumraese trust. As a result the Estate, and beneficiaries of the will and trust suffered actual damages in the amount of Seven Hundred Eighty-Five Thousand One Hundred Seventy-Three Dollars (\$785,173.00) in which the Court ordered David H. Oldham to pay to the Estate of Dumraese. The Court ordered David H. Oldham to pay pre-judgment interest in the amount of Two Hundred Seventy-Five Thousand Three Hundred Thirteen Dollars (\$275,313.00). The Court also ordered David H. Oldham to pay to the Estate of Dumraese exemplary damages in the sum of Seven Hundred Eighty-Five Thousand One Hundred Seventy-Three Dollars (\$785,173.00). The Court ordered that David H. Oldham be hereby permanently enjoined from serving as executor, successor executor, trustee, or in any other capacity of the Estate of Dumraese, Trust of Dumraese, or the Erica Leigh Harrington Trust. (Continued)The Court further ordered that David H. Oldham's actions were committed with intent to harm or conscious

indifference to the rights of the beneficiaries of the will and the trust. The Court found that David H. Oldham breached his fiduciary duty by committing fraud, waste, and defalcation of property and monies in the estate in bad faith, with malice and with wilful disregard of the rights of others.

David H. Oldham's conduct as set forth in the SBOT complaint violated Rules 1.01(b)(1); 1.01(b)(2); 1.01(c); 1.04(a); 1.04(b)(1)(2)(3)(4)(5)(6)(7)(8); 1.06(b)(2); 1.14(a); 1.14(b); and 8.04(a)(1) of the Texas Disciplinary Rules of Professional Conduct.

III.

David H. Oldham settled his obligation under the above-referenced judgment of the County Court of Colorado County, Texas with representatives of the beneficiaries of the estate of Catherine Dumraese. The Chief Disciplinary Counsel has incurred attorneys fees and direct expenses in connection with the prosecution of the described disciplinary action in the amount of \$2,500.00.

IV.

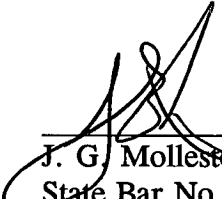
In view of David H. Oldham's execution of his resignation on or about January 12, 2001 as an attorney and counselor at law, and in anticipation of the Court's acceptance of his resignation, the Chief Disciplinary Counsel does not anticipate going forward with its a compulsory Discipline Action upon entry of an Order by the Supreme Court of Texas deleting David H. Oldham from the list of persons licensed to practice law in the State of Texas.

Respectfully submitted,

Dawn Miller
Chief Disciplinary Counsel

J. G. Molleston
Assistant Disciplinary Counsel

Office of the Chief Disciplinary Counsel
State Bar of Texas
1111 Fannin, Suite 1370
Houston, Texas 77002
Phone: (713) 759-6931
Fax: (713) 752-2158

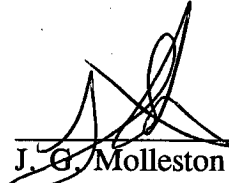


J. G. Molleston
State Bar No. 00795924

ATTORNEYS FOR PETITIONER THE
COMMISSION FOR LAWYER

CERTIFICATE OF SERVICE

I certify that on the 17 day of January, 2001, a true and correct copy of the Response of the Chief Disciplinary Counsel to the Resignation of David H. Oldham was delivered to David H. Oldham at 3801 Kirby Drive, Suite 536, Houston, Texas 77098 via personal service.



J. G. Molleston

J:\OLDHAM\CFLD1.JGM\RESIGN\RESPONSE.DOC

**IN THE SUPREME COURT OF TEXAS
MOTION FOR ACCEPTANCE OF RESIGNATION AS
ATTORNEY AND COUNSELOR AT LAW**

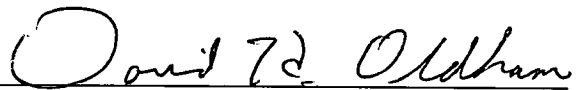
OF

DAVID H. OLDHAM

NOW COMES your Applicant, David H. Oldham, and hereby resigns as an Attorney and Counselor at Law in the State of Texas; and hereby submits to the Court his resignation as an Attorney and Counselor at Law; and prays that the Court accept said resignation.

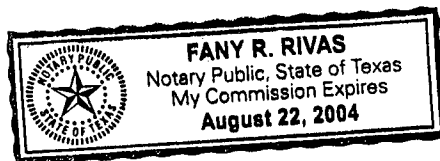
Attached hereto is an Affidavit of David H. Oldham regarding the permanent State Bar card and license to practice law issued by this Court to the Applicant, David H. Oldham, as an Attorney and Counselor at Law on September 25, 1972. Said permanent State Bar card and license were previously surrendered to the Supreme Court of Texas by the Applicant.


Your Applicant is voluntarily resigning and withdrawing from the practice of law; Applicant does so in lieu of discipline for professional misconduct; and Applicant prays that his name be dropped and deleted from the list of persons licensed to practice law in Texas; and that his resignation be accepted.



David H. Oldham
State Bar No. 15248500

SUBSCRIBED AND SWORN to before me by the said David H. Oldham, this the 12th day of January, 2001.



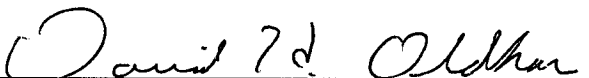

Notary Public in and for the State of
Texas

AFFIDAVIT OF
DAVID H. OLDHAM

On this 12th day of January, 2001, personally appeared before me, the undersigned David H. Oldham, who, after being duly sworn, did state upon his oath:

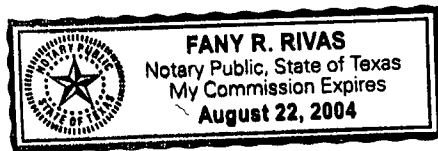
"My name is David H. Oldham, and I am over the age of eighteen years and am competent to make this affidavit in all respects, and am personally acquainted with the facts in this Affidavit."

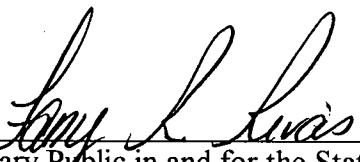
"I am an attorney licensed in the State of Texas. My bar card number is 15248500. I hereby acknowledge that the license to practice law and permanent State Bar card issued to me by the Supreme Court of Texas is the property of the Supreme Court of Texas. I have forwarded the license and permanent State Bar card issued to me to the Supreme Court of Texas."



David H. Oldham
State Bar No. 15248500

SWORN TO AND SUBSCRIBED BEFORE ME on this the 12th day of January, 2001.





Notary Public in and for the State of Texas

DAVID H. OLDHAM

3801 KIRBY DRIVE, SUITE 536
HOUSTON, TEXAS 77098
(832) 200-2874

December 27, 2000

Honorable John T. Adams
Clerk of the Supreme Court of Texas
P.O. Box 12248
Austin, Texas 78711

RE: RESIGNATION FROM STATE BAR OF TEXAS

Dear Sir:

It is with distinct pleasure that I hereby resign from the State Bar of Texas and herewith surrender to you, as Clerk of the Supreme Court of Texas, my license to practice law within the State of Texas. Enclosed herewith find said license along with my State Bar Card. This resignation is effective immediately.

Very truly yours,

David H. Oldham

DHO/sf
Enclosures
CERTIFIED MAIL RRR Z 103 610 344

STATE BAR OF TEXAS



OFFICE OF THE CHIEF DISCIPLINARY COUNSEL

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7000 0600 0024 7098 7754

January 30, 2001

John Adams, Clerk
Supreme Court of Texas
Supreme Court Building
P.O. Box 12248
Austin, Texas 78711

RE: Resignation of David H. Oldham, Bar Card No. 15248500

Dear Mr. Adams:

Pursuant to Part X of the Texas Rules of Disciplinary Procedure, please find enclosed herewith the following:

- (1) Motion for Acceptance of Resignation as Attorney and Counselor at Law of David H. Oldham, dated January 12, 2001;
- (2) Affidavit of David H. Oldham dated January 12, 2001
- (3) Response of the Chief Disciplinary Counsel of Motion for Acceptance of Resignation as Attorney and Counselor at Law of David H. Oldham, a copy of which was transmitted to David H. Oldham at least ten (10) days prior to today's date; and,
- (4) Original and one (1) copy of proposed Order for review and entry by the Court, accepting the resignation of David H. Oldham as Attorney and Counselor at Law.

Pursuant to a conversation between you and my Legal Assistant, Vicki, on January 17, 2001, it has been confirmed that Dee Stacey, Office Manager for the Austin Regional Office of the State Bar of Texas, has Mr. Oldham's state bar card and license. Please contact Ms. Stacey for her to send those documents to you.

Please present the enclosed Order to the Court for review and entry and return a conformed copy to the undersigned.

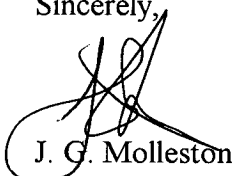
Upon entry of the Order by the Court, please transmit a true and correct copy of the same to the undersigned in order that this office may properly give notice to all parties of the Court's disposition of such motion.

1111 FANNIN, SUITE 1370, HOUSTON, TEXAS 77002, (713) 759-6931

Mr. John Adams
Clerk of the Supreme Court
January 30, 2001
Page 2

I thank you for your time and attention to this matter. Should you have any questions, please contact me at the telephone number below.

Sincerely,



J. G. Molleston
Assistant Disciplinary Counsel

JGM/vr

Enclosures

cc: David H. Oldham
3801 Kirby Drive, Suite 536
Houston, Texas 77098
CMRRR - 7000 0600 0024 7098 7730

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