

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 95-9451

Appointment of a District Judge to Preside
in a State Bar Disciplinary Action

The Supreme Court of Texas hereby appoints the Honorable Juan R. Partida, Judge of the 275th District Court of Hidalgo County, Texas, to preside in the Disciplinary Action styled:


The Commission for Lawyer Discipline v. Willie J. Rhodes

to be filed in a District Court of Harris County, Texas.

The Clerk of the Supreme Court shall promptly forward to the District Clerk of Harris County, Texas, a copy of this Order and of the Disciplinary Petition for filing and service pursuant to Rule 3.03, Texas Rules of Disciplinary Procedure.

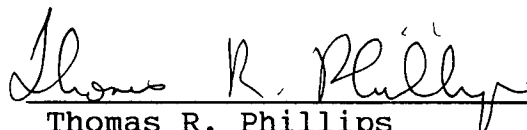
As ordered by the Supreme Court of Texas, in chambers,

with the Seal thereof affixed at the City
of Austin, this 10th day of February, 1995.


JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 95-9051, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 13th day of February, 1995.


Thomas R. Phillips
Chief Justice

COPY

NO. _____

COMMISSION FOR LAWYER DISCIPLINE	§	IN THE DISTRICT COURT OF
V.	§	HARRIS COUNTY, TEXAS
WILLIE J. RHODES	§	_____ JUDICIAL DISTRICT

DISCIPLINARY PETITION AND IMMEDIATE INTERIM SUSPENSION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Petitioner, the Commission for Lawyer Discipline, a committee of the State Bar of Texas (hereinafter called "Petitioner"), complaining of Respondent, Willie J. Rhodes, (hereinafter called "Respondent"), showing the Court:

I.

Petitioner brings this disciplinary action pursuant to the State Bar Act, Tex. Gov't. Code Ann. §81.001, et seq. (Vernon 1988), the Texas Disciplinary Rules of Professional Conduct and the Texas Rules of Disciplinary Procedure. The complaint which forms the basis of the Disciplinary Petition was filed on or after May 1, 1992.

II.

Respondent is an attorney licensed to practice law in Texas and a member of the State Bar of Texas. Respondent is a resident of and has his principal place of practice in Harris County, Texas. An officer may serve citation on Respondent at his business address located at 2600 South Loop West, Suite 640, Houston, Harris County, Texas 77054.

FIRST CAUSE OF ACTION

III.

Petitioner brings this action pursuant to the Texas Rules of Disciplinary Procedure, Part XIV, et seq. which provide as follows:

Section 14.01 Irreparable Harm to Clients: Upon a finding by an investigatory panel that an attorney poses a substantial threat of irreparable harm to clients or prospective clients, the investigatory panel shall authorize Chief Disciplinary Counsel to seek the immediate interim suspension of the attorney. The Chief Disciplinary Counsel shall file a petition with a district court of proper venue alleging immediate irreparable harm, and the district court shall, if the petition alleges facts that meet the evidentiary standard in Section 14.02, set a hearing within ten days. If the Chief Disciplinary Counsel, at the hearing, meets the evidentiary standard and burden of proof as established in Section 14.02, the court shall enter an order without requiring bond, immediately suspending the attorney pending the final disposition of the Disciplinary Proceedings or the Disciplinary Action based on the conduct causing the harm. The matter shall thereafter proceed in the district court as in matters involving temporary injunctions under the Texas Rules of Civil Procedure. If a temporary injunction is entered, the court may appoint a custodian under Part XIII. If, at the conclusion of all Disciplinary Proceedings and Disciplinary Actions, the Respondent is not found to have committed Professional Misconduct, the immediate interim suspension may not be deemed a "Sanction" for purposes of insurance applications or any other purpose.

IV.

Petitioner has received evidence that Respondent poses a substantial threat of irreparable harm to clients or prospective clients. An investigatory panel for State Bar District Number 4E voted on or about June 10, 1993 to authorize the Office of the General Counsel of the State Bar of Texas to seek immediate interim suspension of Respondent's license to practice law pursuant to Part XIV. of the Texas Rules of Disciplinary Procedure. Petitioner believes, premised upon the acts and/or omissions of Respondent hereinafter described in Paragraphs V., VI. and VII. that Respondent poses a substantial threat of irreparable harm to clients and prospective clients by reason of his conduct with clients or former clients as set forth hereinafter.

SECOND CAUSE OF ACTION

V.

In and around December, 1991, Carlos Marin (hereinafter called "Marin") hired Respondent to represent him in a personal injury claim arising from injuries sustained in an automobile accident. During the course of his representation, Respondent represented to Marin that his non-lawyer legal assistant, Ken W. Johnson (hereinafter called "Johnson") was an attorney. In addition, Respondent, who had direct supervisory authority over Johnson, ordered, encouraged and/or or permitted Johnson to represent himself as an attorney to Marin.

VI.

On or about February 5, 1992, Respondent received a check for \$2,400.00 on behalf of Marin pursuant to the personal injury protection (PIP) provisions of Marin's automobile insurance policy. In addition, on or about February 13, 1992, Respondent received an additional check on Marin's behalf in the amount of \$60.00. Respondent thereafter forged Marin's signature to both checks and converted the check proceeds to his own use and benefit. Alternatively, Respondent ordered, encouraged and/or permitted Johnson to forge Marin's name to the checks and convert the check proceeds. At least one of the checks was deposited into account number 8000086416 at United Savings Association of Texas. Such account was not a trust account and was identified in the name of Kenneth W. Johnson, d/b/a Northbelt Legal Services.

VII.

As a result of the conversion of his PIP check proceeds, Marin filed a grievance against Respondent with the State Bar of Texas on or about December 3, 1992. On or about April 8,

1993, Respondent promised to pay Marin \$1,750.00 on the condition that Marin decline to pursue his State Bar grievance against Respondent.

VIII.

Such acts and/or omissions on the part of Respondent as are described in Paragraphs V., VI., and VII. hereinabove which occurred on or after January 1, 1990, constitute conduct which violates Rules 1.14(a), 1.14(b), 3.04(b), 5.03(a), 5.03(b), 5.05(2) and/or 8.04(a)(3) of the Texas Disciplinary Rules of Professional Conduct.

VIX.

The complaint which forms the basis of the Second Cause of Action hereinabove set forth was brought to the attention of the Office of General Counsel of the State Bar of Texas by Carlos Marin filing a complaint on or about December 3, 1992.

THIRD CAUSE OF ACTION

X.

In and around June, 1992, Hannah Lee Brown (hereinafter called "Brown") hired Respondent to represent her in a personal injury claim. Respondent later settled Brown's case and retained approximately \$1,500.00 from the settlement proceeds to pay Brown's outstanding medical bills. Respondent thereafter failed to forward such monies to Brown's physician, and instead converted the money to his own use and benefit.

XI.

Such acts and/or omissions on the part of Respondent as are described in Paragraph X. hereinabove which occurred on or after January 1, 1990, constitute conduct which violates Rules 1.14(b) and/or 8.04(a)(3) of the Texas Disciplinary Rules of Professional Conduct.

XII.

The complaint which forms the basis of the Third Cause of Action hereinabove set forth was brought to the attention of the Office of General Counsel of the State Bar of Texas by Hannah Lee Brown filing a complaint on or about January 25, 1993 and Joan B. Edwards filing a complaint on or about January 13, 1993.

FOURTH CAUSE OF ACTION

XIII.

In and around February, 1992, Vivian Penson (hereinafter called "Penson") hired Respondent to probate her late husband's will. In addition, Penson hired Respondent to represent her late husband's estate in a lawsuit brought against the estate in an attempt to collect an outstanding judgment. Penson agreed to pay Respondent \$950.00 in attorney's fees, and made an initial payment of \$500.00 on or about February 21, 1992.

XIV.

Respondent thereafter failed to take any action to probate the will or to represent the estate in the litigation. In addition, he frequently failed to respond to Penson's request for information regarding the status of the matter. On or about October 26, 1992, Penson terminated Respondent's representation and demanded a refund of the unearned retainer fee she had previously paid to Respondent; however, Respondent thereafter failed to refund the fee.

XV.

Such acts and/or omissions on the part of Respondent as are described in Paragraph XIII. and XIV. hereinabove which occurred on or after January 1, 1990, constitute conduct which violates Rules 1.01(b)(1), 1.01(b)(2), 1.03(a), 1.15(d) and/or 8.04(a)(3) of the Texas

Disciplinary Rules of Professional Conduct.

XVI.

The complaint which forms the basis of the Fourth Cause of Action hereinabove set forth was brought to the attention of the Office of General Counsel of the State Bar of Texas by Vivian M. Penson filing a complaint on or about January 12, 1993.

FIFTH CAUSE OF ACTION

XVII.

On or about April 29, 1990, Samuel Thomas (hereinafter called "Thomas") hired Respondent to represent him in a lawsuit to collect property damages after his vehicle was involved in an automobile accident. At that time, Thomas paid Respondent \$1,000.00 in attorney's fees.

XVIII.

Respondent filed a lawsuit on Thomas's behalf on or about July 9, 1991. The court thereafter issued a scheduling order requiring Respondent to set the case for trial by on or about March 1, 1993. However, Respondent failed to set the case for trial and the case was dismissed for want of prosecution on or about March 10, 1993.

XIX.

Respondent was able to get the case reinstated, at which time it was reset for trial on or about December 14, 1994. Respondent failed to appear for the trial setting and the case was again dismissed for want of prosecution on or about December 14, 1993. Respondent was unsuccessful in having the case reinstated after the second dismissal.

XX.

Such acts and/or omissions on the part of Respondent as are described in Paragraphs XVII., XVIII. and XIX. hereinabove which occurred on or after January 1, 1990, constitute conduct which violates Rules 1.01(b)(1) and/or 1.01(b)(2) of the Texas Disciplinary Rules of Professional Conduct.

XXI.

The complaint which forms the basis of the Fifth Cause of Action hereinabove set forth was brought to the attention of the Office of General Counsel of the State Bar of Texas by Samuel Thomas filing a complaint on or about December 22, 1993.

SIXTH CAUSE OF ACTION

XXII.

By subpoena sent on March 26, 1993, and received by Respondent on or about March 29, 1993, the Grievance Committee for State Bar District 4E ordered Respondent to provide information in response to a complaint presented against him by Vera Enders, which complaint was brought to the attention of the Office of the General Counsel of the State Bar of Texas by the filing of a complaint with the State Bar of Texas on or about September 23, 1992. Respondent thereafter knowingly failed to respond to a lawful demand for information from a disciplinary authority, to wit, the Grievance Committee for State Bar District 4E, thereby engaging in professional misconduct in violation of Rule 8.01(b) of the Texas Disciplinary Rules of Professional Conduct.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Petitioner requests the Court: (1) upon notice and hearing enter an order immediately suspending Respondent's license to practice law pursuant to the Texas Rules of Disciplinary Procedure, Part XIX, et seq.; (2) in the event that the Court enters an order immediately suspending Respondent's license to practice law, enter an order appointing a custodian pursuant to the Texas Rules of Disciplinary Procedure, Part XIII, et seq.; and (3) enter an order that Petitioner have such other relief to which entitled, legal or equitable, special or general, including costs of court and attorney's fees.

Respectfully submitted,

James M. McCormack
General Counsel

E. Lynn Rodriguez
Assistant General Counsel

Office of the General Counsel
State Bar of Texas
P.O. Box 12487
Austin, Texas 78711
Telephone: (512) 463-1463
Telecopier: (512) 477-4607


E. LYNN RODRIGUEZ
State Bar of Texas No. 17143880

ATTORNEYS FOR PETITIONER

u:\users\catherine.lynn\rhodes.dp



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

TEL: (512) 463-1312

FAX: (512) 463-1365

CLERK
JOHN T. ADAMS

JUSTICES
RAUL A. GONZALEZ
JACK HIGHTOWER
NATHAN L. HECHT
JOHN CORNYN
BOB GAMMAGE
CRAIG ENOCH
ROSE SPECTOR
PRISCILLA R. OWEN

EXECUTIVE ASS'T.
WILLIAM L. WILLIS

February 10, 1995

ADMINISTRATIVE ASS'T.
NADINE SCHNEIDER

The Honorable Charles Bacarisse
District Clerk of Harris County
P.O. Box 4651
Houston, Texas 77210

Dear Mr. Bacarisse:

Pursuant to Rule 3.03 of the Texas Rules of Disciplinary Procedure, I am sending for filing State Bar of Texas Disciplinary Action styled: The Commission for Lawyer Discipline v. Willie J. Rhodes and a copy of the Supreme Court's order appointing the Honorable Juan R. Partida, Judge of the 275th District Court, Edinburg, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Hon. Juan R. Partida
Ms. Willie J. Rhodes
Mr. James M. McCormack



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

TEL: (512) 463-1312

FAX: (512) 463-1365

February 10, 1995

JUSTICES
RAUL A. GONZALEZ
JACK HIGHTOWER
NATHAN L. HECHT
JOHN CORNYN
BOB GAMMAGE
CRAIG ENOCH
ROSE SPECTOR
PRISCILLA R. OWEN

CLERK
JOHN T. ADAMS

EXECUTIVE ASS'T.
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T.
NADINE SCHNEIDER

Honorable Juan R. Partida
Judge, 275th District Court
County Courthouse
100 North Closner
Edinburg, Texas 78539

Dear Judge Partida:

We enclose for your information a copy of the order of assignment, a copy of the Disciplinary Action, a copy of the notification letter to Mr. McCormack and Mr. Rhodes, and a copy of the letter to the District Clerk of Harris County.

It is recommended that, four or five weeks after receipt of this letter, you contact the Harris County District Court Administrative Office (713-755-6576) to reserve a courtroom, provide for a court reporter, etc. Finally, you should contact the Presiding Judge of the Administrative Judicial Region into which you have been assigned [713-471-3911] to obtain information on lodging, allowable expenses, and claims forms for your expenses incident to presiding over this disciplinary case.

Sincerely,

SIGNED

John T. Adams
Clerk



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

TEL: (512) 463-1312

FAX: (512) 463-1365

February 10, 1995

JUSTICES
RAUL A. GONZALEZ
JACK HIGHTOWER
NATHAN L. HECHT
JOHN CORNYN
BOB GAMMAGE
CRAIG ENOCH
ROSE SPECTOR
PRISCILLA R. OWEN

CLERK
JOHN T. ADAMS

EXECUTIVE ASS'T.
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T.
NADINE SCHNEIDER

Mr. James M. McCormack
General Counsel, State Bar of Texas
P.O. Box 12487
Austin, Texas 78711

Mr. Willie J. Rhodes
2600 South Loop West # 640
Houston, Texas 77054

Dear Mr. McCormack and Mr. Rhodes:

Pursuant to Rule 3.02 of the Texas Rules of Disciplinary Procedure, I hereby notify you that the Supreme Court of Texas has appointed the Honorable Juan R. Partida, Judge of the 275th District Court, Edinburg, Texas to preside in

Commission for Lawyer Discipline v. Willie J. Rhodes

Sincerely,

SIGNED

John T. Adams
Clerk