

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 96-9193

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

The Supreme Court of Texas hereby appoints the Honorable Sharon MacRae, Judge of the 290th District Court of Bexar County, Texas, to preside in the Disciplinary Action styled:

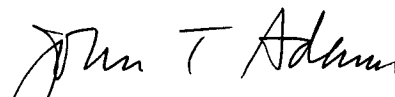
The Commission for Lawyer Discipline v. Michael Cato

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 20th day of August, 1996.



JOHN T. ADAMS, CLERK *sr*
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 96-9193, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 22 day of August, 1996.

A handwritten signature in cursive script, reading "Thomas R. Phillips". The signature is written in black ink and is positioned above a horizontal line.

Thomas R. Phillips
Chief Justice

CAUSE NO. _____

COPY

COMMISSION FOR LAWYER DISCIPLINE §
v. §
MICHAEL CATO §
§
§

IN THE DISTRICT COURT OF
HARRIS COUNTY, TEXAS
_____ JUDICIAL DISTRICT

DISCIPLINARY PETITION

TO THE HONORABLE JUDGE OF THE COURT:

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

I.

Petitioner brings this disciplinary action pursuant to the State Bar Act, Texas Government Code Annotated §81.001, *et seq.* (Vernon 1988 and supp. 1994), the Texas Disciplinary Rules of Professional Conduct, and the Texas Rules of Disciplinary Procedure. The complaint that forms the basis of this 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, and therefore venue is appropriate in Harris County, Texas, pursuant to Rule 3.03 of the Texas Rules of Disciplinary Procedure. Respondent may be served at his

business address located at 2600 South Loop West, Suite 230, Houston, Harris County, Texas, 77054.

III.

On or about November 10, 1994, Christine Morris ("Morris"), Judy White ("White"), Tamara White ("Tamara"), Roshanna White ("Roshanna"), and Vernon Hamp ("Hamp") were involved in an automobile accident in Houston, Texas. Approximately two weeks later, an individual by the name of Darlington C. Owen ("Owen"), an employee of Respondent's, went to Morris' home in Beaumont, Texas, unsolicited. On or about November 23, 1994, Morris signed a Power of Attorney with Respondent's office to represent her with respect to her automobile accident. Owen made representations that he was an attorney, even though he was not.

IV.

On several occasions thereafter, Owen wired money to Morris through Western Union. On one such occasion, which occurred on or about March 15, 1995, Owen transferred \$300.00 to Morris and wrote down Respondent's business address and telephone number on the receipt.

V.

By letter dated March 27, 1995, and addressed to Respondent, Ronald Stapp, Senior Claims Representative for Texas Farm Bureau Insurance Companies, sent the releases to be executed on the settlement amounts of \$4,064.26 for Morris, \$4,110.48 for White, \$2,829.90 for Tamara, \$2,997.90 for Roshanna, and \$3,641.14 for Hamp. Thereafter, on or about March 27, 1995, Owen forged and/or caused someone to forge the names of the

parties on the releases, and thereby settled their claims without their knowledge and/or consent. Owen issued settlement checks to White, Tamara, and Roshanna, for the amounts of \$686.82, \$959.97, \$565.96, respectively, for final settlement of their claims. However, these checks were issued from an account for Cheval International Corp., and not Respondent's trust account. Morris never received any of her settlement funds. Further, the Settlement Statements for Morris' and Hamp's claims were prepared on Respondent's letterhead.

VI.

Owen was an employee of Respondent and Respondent had direct supervisory authority over Owen and failed to make reasonable efforts to ensure that Owen's conduct was compatible with Respondent's professional obligations as a lawyer. Respondent, ordered, encouraged, or permitted Owen's conduct. Respondent is a partner in the law firm in which Owen was employed, retained, or associated at the time of the conduct in question. Respondent had direct supervisory authority over Owen at the time of the conduct in question. Respondent had knowledge of Owen's conduct and/or misconduct and knowingly failed to take reasonable remedial action to avoid or mitigate the consequences of Owen's conduct and/or misconduct.

VII.

The acts and/or omissions of the Respondent described in Paragraphs III-VI above, which occurred on or after January 1, 1990, constitute conduct in violation of Rules 5.03(a), 5.03(b)(1), 5.03(b)(2)(i), 5.03(b)(2)(ii), and 8.04(a)(1) of the Texas Disciplinary Rules of Professional Conduct.

VIII.

The complaint that forms the basis of this cause of action was brought to the attention of the Office of the General Counsel of the State Bar of Texas by Christine Morris' filing of a complaint on or about June 19, 1995.

Prayer

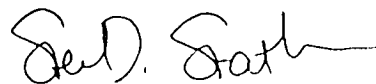
WHEREFORE, PREMISES CONSIDERED, Petitioner the Commission for Lawyer Discipline respectfully prays that this Court discipline Respondent Michael Cato, as the facts shall warrant; and that the Petitioner have all other relief to which it may show itself to be justly entitled, including costs of court and attorney's fees.

Respectfully submitted,

James M. McCormack
General Counsel

Stephen D. Statham
Assistant General Counsel

Office of the General Counsel
STATE BAR OF TEXAS
1111 Fannin, Suite 1370
Houston, Texas 77002
(713) 759-6931
Fax No. (713) 752-2158



STEPHEN D. STATHAM
State Bar No. 19082500

ATTORNEYS FOR THE COMMISSION
FOR LAWYER DISCIPLINE

STATE BAR OF TEXAS



Office of the General Counsel

July 1, 1996

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

Re: Commission for Lawyer Discipline v. Michael Cato

Dear Mr. Adams:

Enclosed please find an original and two (2) copies of a Disciplinary Petition being filed by the Commission for Lawyer Discipline against Michael Cato. Mr. Cato has designated Harris County, Texas as his principal place of practice. Request is hereby made that the Court appoint an active District Judge who does not reside in the Administrative Judicial Region in which Respondent practices to preside in this case. Upon appointment, request is hereby made that you notify the Respondent at the address shown below and the undersigned of the identity and address of the judge assigned:

Michael Cato
2600 South Loop West, Suite 230
Houston, Harris County, Texas 77054

As a practical matter, I would respectfully suggest that you inquire with the judge to be appointed as to whether he or she will be able to comply with the 180 day deadline by which the case must be set for trial set forth in Section 3.07 of the Texas Rules of Disciplinary Procedure. If not, I would respectfully request that an alternate appointment be made.

Once a trial judge has been appointed, please forward the original and two (2) copies of the Disciplinary Petition, the Civil Case Information Sheet, and the filing fee check, also enclosed herewith, and the Court's appointing order to the District Clerk of Harris County, Texas, with the request that the suit be filed, service be obtained, and a filemarked copy of the petition be returned to the undersigned.

Also enclosed is a pre-addressed envelope for your use in transmitting the above referenced documents to the District Clerk of Harris County, Texas, and a return envelope to be sent to the District Clerk of Harris County, Texas, for the Clerk's use in returning a filemarked copy of the petition to the undersigned.

Mr. John T. Adams, Clerk
Supreme Court of Texas
July 1, 1996
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If you have any questions, please contact me. Thank you for your assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read "S.D. Statham". The signature is written in a cursive, flowing style.

Stephen D. Statham
Assistant General Counsel

SDS/sml
enclosures



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

EXECUTIVE ASS'T
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

JUSTICES
RAUL A. GONZALEZ
NATHAN L. HECHT
~~JOHN CORNYN~~
CRAIG ENOCH
ROSE SPECTOR
PRISCILLA R. OWEN
JAMES A. BAKER
GREG ABBOTT

September 13, 1996

Mr. Steve Young
General Counsel, State Bar of Texas
P.O. Box 12487
Austin, Texas 78711

Mr. Michael Cato
2600 South Loop West, Suite 230
Houston, Texas 77054

Dear Mr. Young and Mr. Cato:

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 Sharon MacRae, Judge of the 290th District Court, San Antonio, Texas to preside in

Commission for Lawyer Discipline v. Michael Cato

Sincerely,

SIGNED

John T. Adams
Clerk



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711
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JOHN T. ADAMS

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JAMES A. BAKER
GREG ABBOTT

EXECUTIVE ASST
WILLIAM L. WILLIS

ADMINISTRATIVE ASST
NADINE SCHNEIDER

September 13, 1996

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. Michael Cato, and a copy of the Supreme Court's order appointing the Honorable Sharon MacRae, Judge of the 290th District Court, San Antonio, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Hon. Sharon MacRae
Mr. Michael Cato
Mr. Steve Young



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

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CLERK
JOHN T. ADAMS

JUSTICES
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JAMES A. BAKER
GREG ABBOTT

EXECUTIVE ASST
WILLIAM L. WILLIS

ADMINISTRATIVE ASST
NADINE SCHNEIDER

September 13, 1996

Honorable Sharon MacRae
Judge, 290th District Court
Justice Center
300 Dolorosa Street
San Antonio, Texas 78205

Dear Judge MacRae:

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. Cato and Mr. Young, and a copy of the letter to the District Clerk of Harris County.

It is recommended that, six to eight weeks after receipt of this letter, you contact the Harris County District Court Administrative Office (713-755-7593) to find out the district court to which this disciplinary case has been assigned. We then recommend that, either before or immediately after you set the case for trial, you again contact the Harris County District Court Administrative Office (713-755-6593) 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