

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 96- 9218

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

The Supreme Court of Texas hereby appoints the Honorable Phillip O. Vick, Judge of the 158th District Court of Denton County, Texas, to preside in the Disciplinary Action styled:

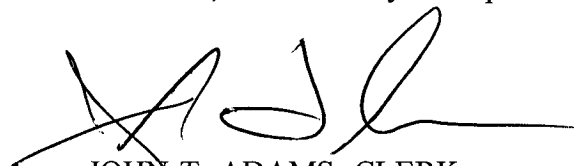
The Commission for Lawyer Discipline v. Steven T. Long

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

The Clerk of the Supreme Court shall promptly forward to the District Clerk of Bexar 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 18th day of September, 1996.



JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 96-9218, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 20 day of September, 1996.


Thomas R. Phillips
Chief Justice

No. _____

COPY

COMMISSION FOR LAWYER
DISCIPLINE

§
§
§
§
§
§

IN THE DISTRICT COURT OF

V.

BEXAR COUNTY, T E X A S

STEVEN T. LONG

___TH JUDICIAL DISTRICT

DISCIPLINARY PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now, Petitioner, COMMISSION FOR LAWYER DISCIPLINE, a committee of the State Bar of Texas, complaining of Respondent, STEVEN T. LONG, and in support thereof would respectfully show the Court the following:

Parties

Petitioner is the COMMISSION FOR LAWYER DISCIPLINE, a committee of the State Bar of Texas. Respondent, STEVEN T. LONG, State Bar Number 12535780, is an attorney licensed to practice law in the State of Texas and is a member of the State Bar of Texas. Respondent is a resident of San Antonio, Bexar County, Texas and may be served with process at 310 S. St. Mary's Street, Suite 1800, San Antonio, Bexar County, Texas 78205, his usual place of business.

Venue

Respondent maintains his principal place of practice in Bexar County, Texas. The alleged professional misconduct occurred in part in Bexar County, Texas. Accordingly, pursuant to the Texas Rules of Disciplinary Procedure 3.03, venue is proper in Bexar County, Texas.

Professional Misconduct

I.

Petitioner brings this disciplinary action pursuant to State Bar Act, Tex. Gov't. Code Ann., Sec. 81.001, et seq. (Vernon 1988), the Texas Disciplinary Rules of Professional Conduct and the Texas Rules of Disciplinary Procedure. The complaints which form the basis of this action were filed on or about February 7, 1996 by Ana Cancel Lugo and March 4, 1996 by Leigh A. Mammarella. The acts and conduct of Respondent, as hereinafter alleged, constitute professional misconduct.

II.

On or about October 18, 1993, Respondent was hired by Ana Cancel Lugo to pursue a claim for life insurance benefits related to the death of her husband, Jorge Lugo. Mr. Lugo died on August 8, 1996, as a result of a drowning accident in Florida. On October, 18, 1993, a contract of employment was signed between Ms. Lugo, Respondent and an attorney associated on the case, Leigh Mammarella, which assigned to Respondent and Ms. Mammarella a contingent fee interest in any settlement proceeds.

III.

In early September 1994, Respondent received a settlement check issued by Federal Employees Group Life Insurance Company issued August 31, 1994 in the amount of \$35,803.09. The check was made payable to Ana Cancel-Lugo and Leigh Mammarella. On or about September 7, 1994, the settlement check was endorsed by Respondent, Ms. Mammarella and Ms. Lugo's name was signed to the back of the check and the check was deposited in an account held by Respondent which was not designated as a "trust" or "escrow" account and which did not qualify as an IOLTA account.

IV.

Prior to the receipt of the settlement check, Respondent failed to gain the consent of Ms. Lugo to accept the settlement. Additionally, from September 1994 to February 1996, Respondent failed to advise Ms. Lugo the settlement check had been received and deposited into Respondent's operating account. Following Respondent's depositing of the settlement check into his operating account, Respondent failed to keep his client's money separate from his own, failed to account for the settlement proceeds and failed to disburse the settlement proceeds to Ms. Lugo.

V.

Ms. Lugo found out from the insurance company that the settlement check had been issued and sent to Respondent. Ms. Lugo also learned the settlement check had been endorsed and deposited into an account in Falls City, Texas. When Ms. Lugo asked Respondent about the settlement, Respondent misrepresented material facts to Ms. Lugo by telling her the case had not been settled and that the check was returned to the insurance company. When Ms. Lugo demanded that Respondent account for the money, Respondent failed to account for the funds and failed to disburse to Ms. Lugo any of the settlement proceeds she was entitled to receive. After attorney fees and expenses are accounted for, Ms. Lugo was due at least \$26,113.84 from the settlement. Related to the receipt and handling of the settlement proceeds, Respondent engaged in conduct involving dishonesty, fraud and deceit by misappropriating funds belonging to Ms. Lugo.

VI.

Due to Respondent's failure to communicate necessary facts to Ms. Lugo about the settlement and the settlement proceeds, Ms. Lugo was prevented from making informed decisions about the representation and her claims.

VII.

On March 4, 1996, by certified mail, return receipt requested, Respondent received from the District 10B State Bar Grievance Committee, the complaint filed by Ms. Lugo and was requested to respond in writing within thirty (30) days from receipt of the notice. Respondent knowingly failed to timely furnish a response and failed to timely assert grounds for his failure to respond.

VIII.

On April 11, 1996, Respondent received a subpoena duces tecum from the District 10B State Bar Grievance Committee requesting the production of documents related to the investigation on or before April 25, 1996. Respondent knowingly failed to respond to the subpoena and failed to timely assert grounds for his failure to respond.

IX.

In relation to the representation of Ms. Lugo, the conduct of Respondent described above constitutes violations of the following Disciplinary Rules:

Rule 1.01(b)(1) -- In representing a client, a lawyer shall not neglect a legal matter entrusted to the lawyer.

Rule 1.01(b)(2) -- In representing a client, a lawyer shall not frequently fail to carry out completely the obligations that the lawyer owes to a client.

Rule 1.03(a) -- A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

Rule 1.03(b) -- A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

Rule 1.14(a) -- A lawyer shall hold funds belonging in whole or in part to clients or third persons that are in a lawyer's possession in connection with a representation separate from the lawyer's own property. Such funds shall be kept in a separate account, designated as a "trust" or "escrow" account, maintained in the state where the lawyer's office is situated.
* * * Complete records of such account funds and other property shall be kept by the lawyer

and shall be preserved for a period of five years after termination of the representation.

Rule 1.14(b) -- Upon receiving funds in which a client or third person has an interest, a lawyer shall promptly deliver to the client or third person any funds that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such property.

Rule 1.14(c) -- When in the course of representation a lawyer is in possession of funds or other property in which both the lawyer and another person claim interests, the property shall be kept separate by the lawyer until there is an accounting and severance of their interest.

Rule 8.01(b) -- * * * a lawyer in connection with a * * * disciplinary matter, shall not * * * knowingly fail to respond to a lawful demand for information from a * * * disciplinary authority * * * *

Rule 8.04(a) -- A lawyer shall not commit a serious crime or commit any other criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects.

Rule 8.04(a)(3) -- A lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

Rule 8.04(a)(8) -- A lawyer shall not fail to timely furnish to the Chief Disciplinary Counsel's office or a district grievance committee a response or other information as required by the Texas Rules of Disciplinary Procedure, unless he or she in good faith timely asserts a privilege or other legal ground for failure to do so.

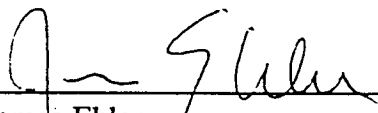
PRAYER

WHEREFORE, PREMISES CONSIDERED, Petitioner prays that a judgment of professional misconduct be entered against Respondent imposing an appropriate sanction as the facts shall warrant and that Petitioner have such other relief to which it is entitled, including costs of court, litigation expenses and attorney's fees.

Respectfully submitted,

James Ehler
Assistant General Counsel

Office of the General Counsel
State Bar of Texas
425 Soledad, Suite 300
San Antonio, Texas 78205
Telephone: (210) 271-7881
Telecopier: (210) 271-9642



James Ehler
State Bar No. 06484650

ATTORNEY FOR PETITIONER



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 ASST
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 20, 1996

Honorable Phillip O. Vick
Judge, 158th District Court
Joseph Carroll Courts Building
401 W. Hickory Street
Denton, Texas 76201

Dear Judge Vick:

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. Long and Mr. Young and a copy of the letter to the District Clerk of Bexar County.

It is recommended that, six to eight weeks after receipt of this letter, you or your coordinator contact the Bexar County Administrative Office (210-220-2300) to find out the district court to which this disciplinary case has been assigned, names and addresses of counsel, etc. We then recommend that, either before or immediately after you set the case for trial, you contact the Presiding Judge of the Administrative Judicial Region into which you have been assigned (210-769-3519) to reserve a courtroom, obtain a court reporter, obtain 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

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 20, 1996

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

Mr. Steven T. Long
310 S. St. Mary's, Suite 1800
San Antonio, Texas 78205

Dear Mr. Young and Mr. Long:

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 Phillip O. Vick, Judge of the 158th District Denton, Texas to preside in

Commission for Lawyer Discipline v. Steven T. Long

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

CLERK
JOHN T. ADAMS

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

EXECUTIVE ASST
WILLIAM L. WILLIS

ADMINISTRATIVE ASST
NADINE SCHNEIDER

September 20, 1996

The Honorable David J. Garcia
District Clerk of Bexar County
100 Dolorosa Street
San Antonio, Texas 78205-1205

Dear Mr. Garcia:

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. Steven T. Long, and a copy of the Supreme Court's order appointing the Honorable Phillip O. Vick, Judge of the 158th District Court, Denton, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Hon. Phillip O. Vick
Steven T. Long
Mr. Steve Young