

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 96-9248

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

The Supreme Court of Texas hereby appoints the Honorable Scott McCown, Judge of the 345th District Court of Travis County, Texas, to preside in the Disciplinary Action styled:


The Commission for Lawyer Discipline v. Jack G. Swisher, Jr.

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,

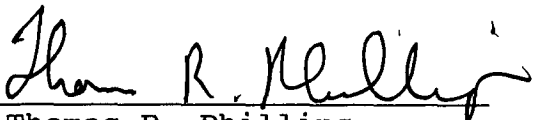
with the Seal thereof affixed at the City
of Austin, this 22th day of November, 1996.



JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 96-9248, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 27 day of November, 1996.


Thomas R. Phillips
Chief Justice

COPY

CAUSE NO. _____

COMMISSION FOR LAWYER DISCIPLINE	§	IN THE DISTRICT COURT OF
v.	§	HARRIS COUNTY, TEXAS
JACK G. SWISHER, JR.	§	_____ JUDICIAL DISTRICT

DISCIPLINARY PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Petitioner, the Commission for Lawyer Discipline, a committee of the State Bar of Texas ("CFLD"), complaining of Respondent, Jack G. Swisher, Jr., ("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, Supp. 1994), 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 with the State Bar of Texas 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 1445 North Loop W., Suite 110, Houston, Texas 77008.

III.

On or about August 13, 1995, Respondent began disseminating to the public a television advertisement of his law practice in the area of workers compensation on "Inside Houston". Respondent's advertisement did not contain a statement that he was "Not Certified by the Texas Board of Legal Specialization", which was separate and apart from any other statements and displayed conspicuously with no abbreviations, changes, or additions so as to be easily seen or understood by an ordinary consumer. Respondent's advertisement did not contain a statement that he was "Board Certified in the area of workers compensation by the Texas Board of Legal Specialization", which was separate and apart from any other statements and displayed conspicuously with no abbreviations, changes, or additions so as to be easily seen or understood by an ordinary consumer. Respondent's advertisement did not contain a statement that "No designation has been made by the Texas Board of Legal Specialization for a Certificate of Special Competence in this area", which was separate and apart from any other statements and displayed conspicuously with no abbreviations, changes, or additions so as to be easily seen or understood by an ordinary consumer.

IV.

On or about September 18, 1995, Respondent submitted the advertisement to the Advertising Review Committee of State Bar of Texas for approval. On or about October 12, 1995, the Advertising Review Committee of the State Bar informed that Respondent that his advertisement had not been approved and provided the Respondent with ten days to amend the advertisement to comply with State Bar rules or discontinue public dissemination. Respondent failed to amend the advertisement and failed to discontinue public dissemination of the

advertisement.

V.

The acts and/or omissions of the Respondent described in Paragraphs III., and IV. above, which occurred on or after January 1, 1990, constitute conduct in violation of Rule(s) 7.04(b) [a lawyer who advertises in the public media: (3) shall state with respect to each area advertised in which the lawyer has not been awarded a Certificate of Special Competence by the Texas Board of Legal Specialization, "Not Certified by the Texas Board of Legal Specialization." However, if an area of law so advertised has not been designated as an area in which a lawyer may be awarded a Certificate of Special Competence by the Texas Board of Legal Specialization, the lawyer may also state, "No designation has been made by the Texas Board of Legal Specialization for a Certificate of Special Competence in this area." 7.04(c) [Separate and apart from any other statements, the statements referred to in paragraph (b) shall be displayed conspicuously with no abbreviations, changes, or additions in the quoted language set forth in paragraph (b) so as to be easily seen or understood by an ordinary consumer]; 7.04(p) [Each lawyer who advertises in the public media as part of an advertising cooperative or venture shall be individually responsible for: (1) ensuring that each advertisement does not violate this Rule; and (2) complying with the filing requirements of Rule 7.07]; and 7.07(b) [Except as provided in paragraph (d) of this Rule, a lawyer shall file with the Lawyer Advertisement and Solicitation Review Committee of the State Bar of Texas, either before or concurrently with the dissemination of an advertisement in the public media, a copy of each of the lawyer's advertisements in the public media.]; of the Texas Disciplinary Rules of Professional Conduct.

VI.

The complaint which 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 the Advertising Review Department's filing of a complaint on or about March 14, 1996.

PRAYER

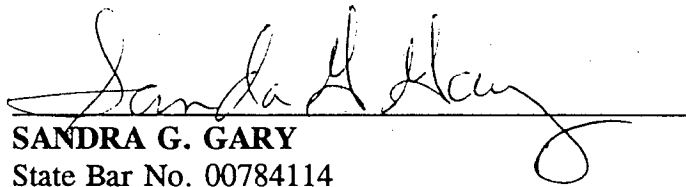
WHEREFORE, PREMISES CONSIDERED, Petitioner the COMMISSION FOR LAWYER DISCIPLINE respectfully prays that this Court discipline Respondent JACK G. SWISHER, JR., as the facts shall warrant, and that the CFLD have all other relief to which it may show itself to be justly entitled, including costs of court and attorney's fees.

Respectfully submitted,

Steven W. Young
General Counsel

Sandra G. Gary
Assistant General Counsel

Office of the General Counsel
State Bar of Texas
1111 Fannin, Suite 1370
Houston, Texas 77002
(713) 759-6932
(713) 759-2158 FAX


SANDRA G. GARY
State Bar No. 00784114
**ATTORNEYS FOR THE COMMISSION
FOR LAWYER DISCIPLINE**

STATE BAR OF TEXAS



Office of the General Counsel

October 3, 1996

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

Re: Commission for Lawyer Discipline v. Jack G. Swisher, Jr.

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 Jack G. Swisher, Jr.. Mr. Swisher 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:

Jack G. Swisher
1445 North Loop W., Suite 110
Houston, Texas 77008

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, citation be issued, and citation, along with a file-stamped copy of the petition be returned to the undersigned.

Mr. John T. Adams, Clerk

Supreme Court of Texas

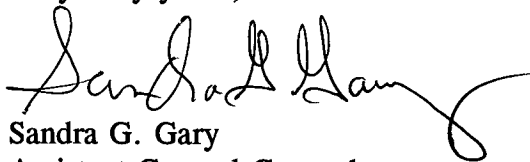
October 2, 1996

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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.

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 "Sandra G. Gary", with a long, sweeping flourish extending to the right.

Sandra G. Gary
Assistant General Counsel

SGG/dy
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 ASST
WILLIAM L. WILLIS

ADMINISTRATIVE ASST
NADINE SCHNEIDER

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

December 16, 1996

Ms. Sandra G. Gary
Assistant General Counsel, State Bar of Texas
1111 Fannin, Suite 1370
Houston, Texas 77002

Mr. Jack G. Swisher, Jr.
1445 North Loop W., Suite 110
Houston, Texas 77008

Dear Ms. Gary and Mr. Swisher:

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 Scott McCown, Judge of the 345th District Court, Austin, Texas to preside in

Commission for Lawyer Discipline v. Jack G. Swisher, Jr.

Sincerely,

SIGNED

John T. Adams
Clerk



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

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JAMES A. BAKER
GREG ABBOTT

December 16, 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. Jack G. Swisher, Jr. and a copy of the Supreme Court's order appointing the Honorable Scott McCown, Judge of the 345th District Court, Austin, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Hon. Scott McCown
Mr. Jack G. Swisher, Jr.
Ms. Sandra G. Gary



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

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JAMES A. BAKER
GREG ABBOTT

December 16, 1996

Honorable Scott McCown
Judge, 345th District Court
P.O. Box 1748
Austin, Texas 78767-1748

Dear Judge McCown:

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. Siwsher and Ms. Gary, 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