

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 97- 9034

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

The Supreme Court of Texas hereby appoints the Honorable Oliver Kelley, Judge of the 169th District Court of Bell County, Texas, to preside in the Disciplinary Action styled:

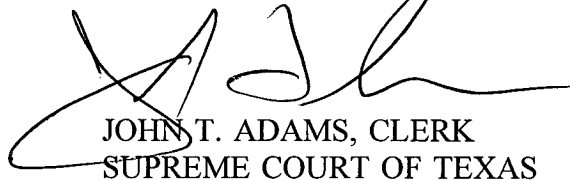
The Commission for Lawyer Discipline v. W. Torrence Fiddes

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,

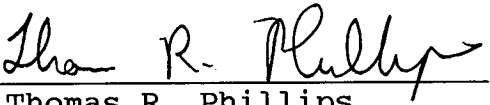
with the Seal thereof affixed at the City
of Austin, this 10th day of February, 1997.



JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 97-9034, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 11 day of February, 1997.



Thomas R. Phillips
Chief Justice

COPY

CAUSE NO. _____

COMMISSION FOR LAWYER DISCIPLINE	§	IN THE DISTRICT COURT OF
	§	
v.	§	HARRIS COUNTY, TEXAS
	§	
W. TORRANCE FIDDES	§	_____ JUDICIAL DISTRICT

DISCIPLINARY PETITION

The COMMISSION FOR LAWYER DISCIPLINE ("Petitioner") complains of W. TORRANCE FIDDES, JR. ("Respondent"), showing the Court:

1. NATURE OF PROCEEDING

Petitioner brings this disciplinary action pursuant to the State Bar Act, the 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 complaints that form the basis of this Disciplinary Petition were filed on or after May 1, 1992.

2. SUBJECT OF PROCEEDING

Respondent is an attorney licensed to practice law in Texas and is a member of the State Bar of Texas. Respondent is a resident of Harris County, Texas. Respondent's principal place of practice is Harris County, Texas. Therefore, venue is appropriate in Harris County, Texas, pursuant to Rule 3.03 of the Texas Rules of Disciplinary Procedure. An officer may serve citation on Respondent at his business address located at 320 Main @ Preston, #300, Houston, Harris County, Texas 77002.

3. ADAMS COMPLAINT

- 3.1 On or about August 9, 1995, Complainant, Corine Adams ("Adams") retained the services of the Respondent on a non-contractual fee basis to represent the interests of her son, Abel Adams in a criminal matter.
- 3.2 Adams paid the Respondent a Five Hundred Dollar (\$500.00) cash payment as a retainer fee for services to be rendered.
- 3.3 Respondent failed to earn his legal fees, and failed to respond to Adams requests for an accounting of how Respondent had earned said fees.
- 3.4 On or about October 4, 1995, Respondent received a State Bar of Texas letter noticing him to respond in writing and within thirty (30) days, to a complaint filed against him, with said response being due thereto on or about November 4, 1995. Respondent wholly failed to respond to said notice.
- 3.5 On or about December 19, 1995, Respondent received a State Bar of Texas letter, noticing Respondent of an investigatory hearing on December 28, 1995, together with State Bar of Texas subpoena and a State Bar of Texas subpoena duces tecum to produce certain documents at the hearing. Respondent failed to comply with said notices.
- 3.6 The conduct of the Respondent as alleged above in paragraphs 3.1 through 3.5, which occurred on or after January 1, 1990, constitutes

conduct in violation of rules 1.04(a); 1.14(b); and 8.04(a)(8) of the Texas Disciplinary Rules of Professional Conduct.

- 3.7 The complaint that forms the basis of this cause of action was brought to the attention of the Office of the General Counsel by Angela Loera's filing of a complaint on or about September 22, 1995.

4. LOERA COMPLAINT

- 4.1 On or about June 27, 1995, Complainant, Angela Loera ("Loera") retained the services of the Respondent on a non-contractual fee basis, paying him a retainer fee of Thirty-Five Hundred Dollars, (\$3,500.00), to represent her brother Joseph Loera in a criminal matter.
- 4.2 Respondent refused to respond to Loera's repeated calls for status of the case.
- 4.3 Respondent failed to earn the fees paid to him by Loera, an interested third party, whereby the fees are considered unconscionable.
- 4.4 Respondent failed to produce records to show he maintained the prepayment of fees in a separate IOLTA account until it was earned.
- 4.5 Respondent failed to promptly deliver funds to Loera to which she may be entitled, or to render a full accounting to reasonable requests for information.
- 4.6 Respondent encouraged and permitted non-lawyer staff persons, in their failure to respond to Loera's reasonable demands.

- 4.7 Respondent both stated and implied that he was able to influence upon irreverent grounds, a court judge and an official of the court.
- 4.8 Respondent misrepresented to Loera what he had done to earn his fees.
- 4.9 Respondent stated or implied his ability to influence improperly, a county government official.
- 5.0 On or about August 31, 1995, Respondent received 1) notice of the Loera complaint which directed Respondent to provide a written response thereto by on or about September 31, 1995, and 2) a State Bar of Texas Subpoena Duces Tecum commanding Respondent to produce certain documents to the District 4 Grievance Committee by on or before September 27, 1995. Respondent failed both to file a written response and to comply with the Subpoena Duces Tecum.
- 5.1 On or about November 22, Respondent received a State Bar of Texas subpoena commanding Respondent to appear before the District 4 Grievance Committee on November 20, 1995, and give testimony regarding Loera's allegations of professional misconduct. Respondent failed to appear or respond.
- 5.2 On or about December 16, 1995, Respondent received a State Bar of Texas Subpoena Duces Tecum commanding Respondent to produce a copy of Loera's client file to the District 4 Grievance Committee by on or before December 28, 1995. Respondent failed to comply with the

Subpoena Duces Tecum.

- 5.3 The conduct of the Respondent as alleged above in paragraphs 4.1 through 5.2, which occurred on or after January 1, 1990, constitutes conduct in violation of rules 1.03(a); 1.04(a); 1.14(a); 1.14(b); 1.15(d); 5.03(b); 7.02(a)(4); 8.01(b); 8.03(a)(3); 8.04(a)(5); and 8.04(a)(8) of the Texas Disciplinary Rules of Professional Conduct.
- 5.4 The complaint that forms the basis of this cause of action was brought to the attention of the Office of the General Counsel by Angela Loera's filing of a complaint on or about August 14, 1995.

6. ATTORNEY'S FEES

- 6.1 Because of Respondent's various acts of professional misconduct as alleged herein, it has been necessary for the undersigned attorney to bring this action on behalf of Petitioner herein. Pursuant to Article X, Section 8(7), State Bar Rules, Petitioner is entitled to attorney's fees and would show that reasonable attorney's fees and expenses should be awarded in an amount not less than Nine Hundred Twenty Five Dollars (\$925.00).

7. RESTITUTION

- 7.1 Pursuant to Rule 3.12 of the Texas Rules of Disciplinary Procedure ("TRDP"), Petitioner would show that Respondent owes Complainant, Angela Loera not less than Thirty Five Hundred Dollars (\$3,500.00) in restitution in this matter.

6. PRAYER

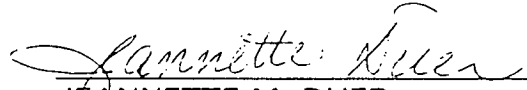
Petitioner respectfully prays that this Court discipline Respondent by disbarment, suspension or reprimand, as the facts shall warrant; and that the Petitioner have all other relief to which it may show itself to be justly entitled, including costs of court and attorney's fees.

Respectfully submitted,

Steven W. Young
General Counsel

Jeannette M. Duer
Assistant General Counsel

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



JEANNETTE M. DUER
State Bar No. 00793645

ATTORNEYS FOR PETITIONER/ THE
COMMISSION FOR LAWYER
DISCIPLINE

STATE BAR OF TEXAS



Office of the General Counsel

November 6, 1996

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

Re: Commission for Lawyer Discipline v. W. Torrence Fiddes

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 W. Torrence Fiddes. Mr. Torrence 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:

W. Torrence Fiddes
320 Main @ Preston, #300
Houston, Texas, 77002

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.

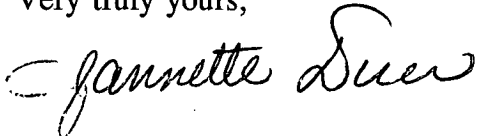
Once a trial judge has been appointed, please forward the original and two (2) copies of the Disciplinary Petition, the Civil Case Information Sheet, and the filing fee check, also enclosed herewith, and the Court's appointing order to the District Clerk of Harris County, Texas, with the request that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

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
November 6, 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 cursive script that reads "Jeannette Duer". The signature is written in black ink and is positioned to the right of the typed name.

Jeannette M. Duer
Assistant General Counsel

JMD/sr
enclosures



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

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

TEL: (512) 463-1312

FAX: (512) 463-1365

EXECUTIVE ASST
WILLIAM L. WILLIS

ADMINISTRATIVE ASST
NADINE SCHNEIDER

Feb. 11, 1997

Honorable Oliver Kelley
Judge, 169th District Court
P.O. Box 747
Belton, Texas 76513-0747

Dear Judge Kelley:

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 Ms. Duer and Mr. Fiddes 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



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

Feb. 11, 1997

Ms. Jeannette M. Duer
Assistant General Counsel, State Bar of Texas
1111 Fannin, Suite 1370
Houston, Texas 77002

Mr. W. Torrence Fiddes
320 Main @ Preston, #300
Houston, Texas 77002

Dear Ms. Duer and Mr. Fiddes:

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 Oliver Keley, Judge of the 169th District Court of Belton, Texas to preside in

Commission for Lawyer Discipline v. W. Torrence Fiddes

Sincerely,

SIGNED

John T. Adams
Clerk



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

CLERK
JOHN T. ADAMS

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EXECUTIVE ASST
WILLIAM L. WILLIS

ADMINISTRATIVE ASST
NADINE SCHNEIDER

Feb. 11, 1997

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. W. Torrence Fiddes, and a copy of the Supreme Court's order appointing the Honorable Oliver Kelley, Judge of the 169th District Court of Belton, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Hon. Oliver Kelley
Mr. W. Torrence Fiddes
Ms. Jeannette M. Duer