

**ORDER OF THE SUPREME COURT OF TEXAS**

**Misc. Docket No. 97- 9167**

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

The Supreme Court of Texas hereby appoints the Honorable Mark Davidson, Judge of the 11th District Court of Harris County, Texas, to preside in the Disciplinary Action styled:


**The Commission for Lawyer Discipline v. Emilio Rodriguez, Jr.**

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

The Clerk of the Supreme Court shall promptly forward to the District Clerk of Hidalgo 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.

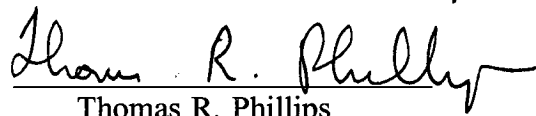
As ordered by the Supreme Court of Texas, in chambers.

with the Seal thereof affixed at the City  
of Austin, this 18th day of September, 1997.

  
JOHN T. ADAMS, CLERK  
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 97-9167, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 22 day of September, 1997.

A handwritten signature in cursive script that reads "Thomas R. Phillips". The signature is written in dark ink and is positioned above a horizontal line.

Thomas R. Phillips  
Chief Justice

No. \_\_\_\_\_

COMMISSION FOR LAWYER  
DISCIPLINE

V.

EMILIO RODRIGUEZ, JR.

§  
§  
§  
§  
§  
§

IN THE DISTRICT COURT OF

HIDALGO COUNTY, T E X A S

\_\_\_\_\_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, Emilio Rodriguez, Jr., 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, Emilio Rodriguez, Jr., State Bar Number 17143900, 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 Edinburg, Hidalgo County, Texas and may be served with process at 200 North 12th Street, Suite 201, Edinburg, Hidalgo, County, Texas 78539-4157, his usual place of business.

**Venue**

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

## Professional Misconduct

### I.

Petitioner brings this disciplinary action pursuant to State Bar Act, Tex. Got. Code Ann., Sec. 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 this action was filed on or about July 1, 1996 by Mr. & Mrs. Elmer Martinez. The acts and conduct of Respondent, as hereinafter alleged, constitute professional misconduct.

#### **Count I. -- Elmer & Rosa Liliana Martinez**

### II.

On or about July 9, 1990, Respondent and Mr. & Mrs. Elmer Martinez entered into an attorney-client relationship. Respondent prepared real estate documents and gave legal advice to Mr. & Mrs. Martinez related to the sale of a home in Edinburg, Texas, which was allegedly owned by Respondent. Mr. & Mrs. Martinez had been tenants in the home owned by Respondent and sought to purchase the home from Respondent. When Mr. & Mrs. Martinez attempted to hire counsel to represent them, Respondent convinced them he would represent their interests and handle all the legal matters associated with the sale of the property. Respondent counseled Mr. & Mrs. Martinez that they did not need the assistance or advice of independent counsel.

### III.

On or about July 9, 1990, Mr. & Mrs. Martinez entered into a Contract for Deed with Respondent for the purchase of the home. At the time of the Contract for Deed, with full knowledge of the following, Respondent failed to advise Mr. & Mrs. Martinez that:

- a. he did not have 100% ownership of the property and that he was attempting to transfer the property without all necessary parties included in the Contract for Deed;

- b. A&M Investments was the first lien holder on the property;
- c. a Federal Tax Lien in the amount of \$73,262.58 plus penalties, interests and costs had been filed against the property;
- d. property ad valorem taxes were delinquent for the past five years; and
- c. he was behind in payments on the promissory note to A&M Investments.

#### IV.

In 1995 and thereafter, Mr. & Mrs. Martinez became aware of certain problems associated with the property which was subject to the Contract for Deed. Mr. & Mrs. Martinez became aware that Respondent had failed to pay the ad valorem taxes as stipulated in the Contract for Deed, had misrepresented to them the true nature of the title ownership of the home, that payments on the promissory note to A&M Investment were delinquent and the home had been posted for foreclosure on several occasions, that Respondent entered into the Contract for Deed with knowledge of the Federal Tax Lien, and that subsequent Federal and State Tax Liens had been filed against the property. In an attempt to rectify the problems, Mr. & Mrs. Martinez wrote numerous letters and made numerous telephone calls to Respondent, all of which went unanswered.

#### V.

Due to the failure of Respondent to communicate with his clients, Mr. & Mrs. Martinez were forced to hire other legal counsel in an attempt to correct the problems associated with the purchase of the home from Respondent. In June of 1996, Mr. & Mrs. Martinez attempted to purchase a title insurance policy. The Commitment for Title Insurance revealed the many fraudulent and numerous misrepresentations Respondent had made in the Contract for Deed. Respondent's actions were dishonest, fraudulent, deceitful and involved misrepresentations that

were adverse to his client's best interest.

## VI.

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 frequently fail to carry out completely the obligations that the lawyer owes to a client.

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 1.08(a)(1)(2) & (3) -- A lawyer shall not enter into a business transaction with a client unless the transaction and terms on which the lawyer acquires the interest are fair and reasonable to the client and are fully disclosed in a matter which can be reasonably understood by the client; the client is given a reasonable opportunity to seek the advice of independent counsel in the transaction; and the client consents in writing thereto.

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

### Count II. -- State Bar of Texas

## VII.

Respondent was noticed by the District 12B Grievance Committee of the filing of the complaint by Mr. & Mrs. Martinez. The District 12B Grievance Committee notification requested that Respondent file a written response to the allegations contained in Mr. & Mrs. Martinez'. Respondent knowingly failed to respond to the allegations and failed to provide to the Grievance Committee a lawful reason for the failure to respond to the request for information.

## VIII.

Further, the District 12B Grievance Committee issued and served upon Respondent a subpoena requiring the presence of Respondent at the Grievance Committee hearing and requiring

the production of documents related to Mr. & Mrs. Martinez. Respondent knowingly failed to respond to the subpoena and failed to attend the Grievance Committee hearing.

IX.

The conduct of Respondent described above constitutes violations of the following Disciplinary Rules:

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.

**PRAYER**

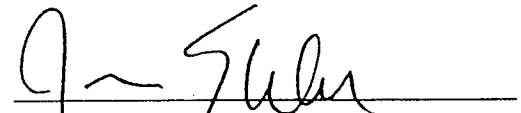
WHEREFORE, PREMISES CONSIDERED, Petitioner prays that a judgment of professional misconduct be entered against Respondent imposing an appropriate sanction as the facts shall warrant and that Petitioner have such other relief to which it is entitled, including costs of court and attorney's fees.

Respectfully submitted,

Steven W. Young  
General Counsel

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

ATTORNEYS FOR PETITIONER

# STATE BAR OF TEXAS



**CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
Z 426 178 152**

Office of the General Counsel  
Regional Office  
Soledad Plaza West  
425 Soledad, Suite 300  
San Antonio, Texas 78205  
(210) 271-7881  
FAX: (210) 271-9642

August 4, 1997

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

RE: Commission for Lawyer Discipline v. Emilio Rodriguez, 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 Emilio Rodriguez, Jr. Mr. Rodriguez has designated **Hidalgo County** 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 made that you notify the Respondent at the address shown below and the undersigned of the identity and address of the judge assigned:

Emilio Rodriguez, Jr.  
By and through his attorney  
David Garcia  
101 N. 10th Street  
Edinburg, Texas 78539

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 as 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 and the filing fee check, also enclosed herewith, and the Court's appointing order to the District Clerk of Hidalgo County, Texas, with the request that the suit be filed,



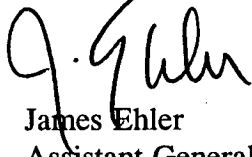
Page 2 of 2  
John T. Adams  
August 4, 1997

service be obtained, and a filemarked copy of the petition returned to the undersigned.

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

Thank you for your courtesies in this matter.

Sincerely,



James Ehler  
Assistant General Counsel

Enclosures

JAE/tmg

cc: State Bar of Texas  
Harlingen Field Office



## 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 ASS'T  
NADINE SCHNEIDER

OCT 02 1997

The Honorable Pauline Gonzales  
District Clerk of Hidalgo County  
P.O. Box 87  
Edinburg, Texas 78540

Dear Ms. Gonzales:

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. Emilio Rodriguez, Jr., and a copy of the Supreme Court's order appointing the Honorable Mark Davidson, Judge of the 11th District Court, Houston, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED  
John T. Adams  
Clerk

cc: Hon. Mark Davidson  
Mr. Emilio Rodriguez, Jr.  
Mr. James Ehler



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

OCT 02 1997

Honorable Mark Davidson  
Judge, 11th District Court  
304 Civil Courts Building  
301 Fannin Street  
Houston, Texas 77002

Dear Judge Davidson:

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. Rodriguez and and Mr. Ehler, and a copy of the letter to the District Clerk of Hidalgo County.

It is recommended that, a month or six weeks after receipt of this letter, you or your coordinator contact the District Court Administrative Office (210-318-2200) 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 (210-546-0724) 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

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

EXECUTIVE ASS'T  
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T  
NADINE SCHNEIDER

OCT 02 1997

Mr. James Ehler  
Assistant General Counsel, State Bar of Texas  
425 Soledad, Suite 300  
San Antonio, Texas 78205

Mr. Emilio Rodriguez, Jr.  
c/o David Garcia  
101 N. 10th Street  
Edinburg, Texas 78539

Dear Mr. Ehler and Mr. Rodriguez:

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 Mark Davidson, Judge of the 11th District Court, Houston, Texas to preside in

Commission for Lawyer Discipline v. Emilio Rodriguez, Jr.

Sincerely,

SIGNED

John T. Adams  
Clerk