

**ORDER OF THE SUPREME COURT OF TEXAS**

**Misc Docket No. 98- 9095**

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

The Supreme Court of Texas hereby appoints the Honorable Mark Nancarrow, Judge of the 204th District Court of Dallas County, Texas, to preside in the Disciplinary Action styled:

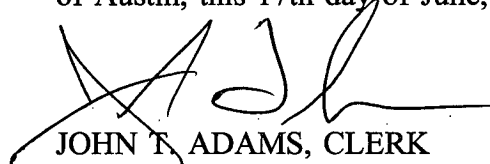
**The Commission for Lawyer Discipline v. Choice Richardson**

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,

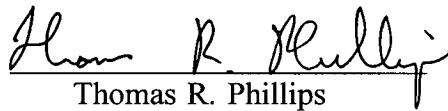
with the Seal thereof affixed at the City  
of Austin, this 17th day of June, 1998.



JOHN F. ADAMS, CLERK  
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 98-9095, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 19 day of June, 1998.

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

Thomas R. Phillips  
Chief Justice

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

COMMISSION FOR LAWYER  
DISCIPLINE

V.

CHOICE RICHARDSON

§  
§  
§  
§  
§  
§

IN THE DISTRICT COURT OF

BEXAR COUNTY, T E X A S

\_\_\_\_\_th JUDICIAL DISTRICT

**PETITIONER'S ORIGINAL 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, CHOICE RICHARDSON, 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, CHOICE RICHARDSON, State Bar No. 16860400, at all times relevant to this cause of action, 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 by certified mail, return receipt requested at P.O. Box 781554, San Antonio, Bexar County, Texas 78278 or in person at 40 N.E. Loop 410, Suite 405, San Antonio, Bexar County, Texas 78216, his usual place of employment.

**Venue**

Respondent maintains his principal place of practice in Bexar County, Texas. The alleged acts of professional misconduct occurred in whole or in part in Bexar County, Texas. Accordingly, pursuant to 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 September 5, 1997 by Kenneth Roy Caldwell and on October 16, 1997 by Dawn Y. Walker. The acts and conduct of Respondent, as hereinafter alleged, constitute professional misconduct.

### **Count I -- Kenneth Roy Caldwell**

### II.

At the time of the following alleged acts of professional misconduct occurred, Respondent was an attorney licensed to practice law in the State of Texas and was a member of the State Bar of Texas.

### III.

On or about February 21, 1995, Kenneth Caldwell hired Respondent for representation in a claim for personal injury damages as a result of a motor vehicle accident. At the time Mr. Caldwell hired Respondent's law firm, Respondent was allowing Antonio Lampazianie to run his law practice with little or no supervision. Respondent failed to make reasonable efforts to ensure Mr. Lampazianie's conduct was compatible with Respondent's professional obligation to his clients. Respondent permitted Mr. Lampazianie to neglect the handling of Mr. Caldwell's case. Respondent assisted Mr. Lampazianie to perform the unauthorized practice of law.

#### IV.

Respondent failed to perform any substantive legal services on behalf of Mr. Caldwell and failed to determine the amount of available insurance policy limits. Respondent also failed to determine the extent of Mr. Caldwell's injuries and damages.

#### V.

Respondent failed to communicate to Mr. Caldwell the status of his case by failing to communicate to Mr. Caldwell the amount of insurance policy limits available for his claim. Additionally, Respondent failed to correct Mr. Caldwell's misconception that Mr. Lampazianie was an attorney. At all times relevant to Mr. Caldwell's representation, Mr. Caldwell believed that Mr. Lampazianie was an attorney and that he was working under the supervision of Respondent.

#### VI.

Mr. Lampazianie settled Mr. Caldwell's claim for an amount insufficient to fairly compensate Mr. Caldwell for his injuries. Respondent collected \$11,250.00 in legal fees from Mr. Caldwell's case. Respondent performed no legal services for Mr. Caldwell. Accordingly, Restitution of the \$11,250.00 legal fees is due and owing to Mr. Caldwell.

#### VII.

Respondent shared legal fees with Mr. Lampazianie, a non lawyer. Additionally, Respondent formed a partnership with Mr. Lampazianie in a business venture for the purposes of practicing law. Mr. Lampazianie owned an interest in the partnership and controlled and directed the professional judgment of Respondent. Respondent assisted Mr. Lampazianie to violate the Texas Disciplinary Rules of Professional Conduct. In creating a sham law practice

with Mr. Lampazianie, Respondent engaged in conduct involving dishonesty, fraud, deceit and misrepresentation.

### **Disciplinary Rules of Professional Conduct**

#### **VIII.**

The conduct of Respondent described above, in relation to the legal representation of Kenneth Caldwell, was in violation of the following Texas Disciplinary Rules of Professional Conduct:

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 or clients.

Rule 1.02(a)(1) -- A lawyer shall abide by a client's decisions concerning the objectives and general methods of representation.

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

Rule 5.03(a) -- With respect to a non-lawyer employed or retained by or associated with a lawyer, a lawyer having direct supervisory authority over the non-lawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer.

Rule 5.03(b)(1) -- With respect to a non-lawyer employed or retained by or associated with a lawyer, a lawyer shall be subject to discipline for the conduct of such a person that would be a violation of these rules if engaged in by a lawyer if the lawyer orders, encourages, or permits the conduct involved.

Rule 5.04(a) -- A lawyer or law firm shall not share or promise to share legal fees with a non-lawyer.

Rule 5.04(b) -- A lawyer shall not form a partnership with a non-lawyer if any of the activities of the partnership consist of the practice of law.

Rule 5.04(c) -- A lawyer shall not permit a person who recommends, employs, or pays the

lawyer to render legal services for another to direct or regulate the lawyer's professional judgment in rendering such legal services.

Rule 5.04(d)(1)(2)&(3) -- A lawyer shall not practice with or in the form of a professional corporation or association authorized to practice law for a profit, if a non-lawyer owns any interest therein, a non-lawyer is a corporate director officer thereof, or a non-lawyer has the right to direct or control the professional judgment of a lawyer.

Rule 5.05(b) -- A lawyer shall not assist a person who is not a member of the bar in the performance of activity that constitutes the unauthorized practice of law.

Rule 8.04(a)(1) -- A lawyer shall not violate these rules, knowingly assist or induce another to do so, or do so through the acts of another, whether or not such violation occurred in the course of a client-lawyer relationship.

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

## **Count II -- Dawn Y. Walker**

### **IX.**

At the time of the following alleged acts of professional misconduct occurred, Respondent was an attorney licensed to practice law in the State of Texas and was a member of the State Bar of Texas.

### **X.**

On July 22, 1992, Dawn Walker hired Respondent's law firm for representation in a claim for personal injury damages as a result of injuries sustained in a January 22, 1992 motor vehicle accident. Ms. Walker was a passenger in a vehicle driven by Micol Walker. At the time Ms. Walker hired Respondent's law firm, Respondent was allowing Antonio Lampazianie to run his law practice with little or no supervision. Respondent failed to make reasonable efforts to ensure Mr. Lampazianie's conduct was compatible with Respondent's professional obligation to his clients. Respondent permitted Mr. Lampazianie to neglect the handling of Ms. Walker's case.

Respondent assisted Mr. Lampazianie to perform the unauthorized practice of law.

XI.

Upon the settlement of Ms. Walker's claim, Respondent failed to supervise Mr. Lampazianie in the distribution of the settlement funds. From the settlement funds, Respondent withheld \$3,303.49 for payment to health care providers. Respondent failed to promptly distribute trust funds to a health care provider, Neurological Institute, from the settlement proceeds and failed to refund these funds to Complainant. Restitution is due and owing Ms. Walker in the amount of \$3,303.49.

XII.

Respondent failed to make reasonable efforts to ensure that Mr. Lampanzianie's conduct was compatible with Respondent's professional obligations by permitting Mr. Lampanzianie to neglect the proper processing of Ms. Walker's settlement proceeds. Respondent failed to supervise Mr. Lampanzianie in the distribution of funds held in trust.

XIII.

Respondent shared legal fees with Mr. Lampazianie, a non lawyer. Additionally, Respondent formed a partnership with Mr. Lampazianie in a business venture for the purposes of practicing law. Mr. Lampazianie owned an interest in the partnership and controlled and directed the professional judgment of Respondent. Respondent assisted Mr. Lampazianie to violate the Texas Disciplinary Rules of Professional Conduct. In creating a sham law practice with Mr. Lampazianie, Respondent engaged in conduct involving dishonesty, fraud, deceit and misrepresentation.



## **Disciplinary Rules of Professional Conduct**

### **XIV.**

The conduct of Respondent described above, in relation to the legal representation of Dawn Walker, was in violation of the following Texas Disciplinary Rules of Professional Conduct:

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 or clients.

Rule 1.02(a)(1) -- A lawyer shall abide by a client's decisions concerning the objectives and general methods of representation.

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

Rule 1.14(a) -- A lawyer shall hold funds and other property 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.

Rule 1.15(b) -- Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. Except as stated in this rule or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property 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 5.03(a) -- With respect to a non-lawyer employed or retained by or associated with a lawyer, a lawyer having direct supervisory authority over the non-lawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer.

Rule 5.03(b)(1) -- With respect to a non-lawyer employed or retained by or associated with a lawyer, a lawyer shall be subject to discipline for the conduct of such a person that would be a violation of these rules if engaged in by a lawyer if the lawyer orders, encourages, or permits the conduct involved.

Rule 5.04(a) -- A lawyer or law firm shall not share or promise to share legal fees with a non-lawyer.

Rule 5.04(b) -- A lawyer shall not form a partnership with a non-lawyer if any of the activities of the partnership consist of the practice of law.

Rule 5.04(c) -- A lawyer shall not permit a person who recommends, employs, or pays the lawyer to render legal services for another to direct or regulate the lawyer's professional judgment in rendering such legal services.

Rule 5.04(d)(1)(2)&(3) -- A lawyer shall not practice with or in the form of a professional corporation or association authorized to practice law for a profit, if a non-lawyer owns any interest therein, a non-lawyer is a corporate director officer thereof, or a non-lawyer has the right to direct or control the professional judgment of a lawyer.

Rule 5.05(b) -- A lawyer shall not assist a person who is not a member of the bar in the performance of activity that constitutes the unauthorized practice of law.

Rule 8.04(a)(1) -- A lawyer shall not violate these rules, knowingly assist or induce another to do so, or do so through the acts of another, whether or not such violation occurred in the course of a client-lawyer relationship.

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

### **PRAYER**

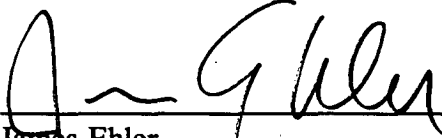
WHEREFORE, PREMISES CONSIDERED, Petitioner prays that a judgment of professional misconduct be entered against Respondent imposing an appropriate sanction as the facts shall warrant and that Petitioner have such other relief to which it is entitled, including, but not limited to, costs of court, all direct expenses associated with these proceedings and reasonable attorney's fees as provided in Rule 1.06(T)(8)(b) of the Texas Rules of Disciplinary Procedure.

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



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James Ehler  
State Bar No. 06484650

**ATTORNEYS FOR PETITIONER**

# STATE BAR OF TEXAS



**CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
P 583 840 595**

**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**

May 27, 1998

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

RE: Commission for Lawyer Discipline v. Choice Richardson

Dear Mr. Adams:

Enclosed please find an original and three (3) copies of a Disciplinary Petition being filed by the Commission for Lawyer Discipline against Choice Richardson. Mr. Richardson has designated **Bexar 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 resides 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:

Choice Richardson  
40 N.E. Loop 410, Suite 405  
San Antonio, Texas 78216

As a practical matter, I would respectfully suggest that you inquire with the judge to be appointed as to whether he or she can accommodate compliance with Mellon Service Co., et al v. Touche Ross Co., 946 S.W.2d 862 (Tex.App.- Houston [14th Dist.] 1997), which requires that all proceedings incident to a case occur in the county of proper venue. If not, I would respectfully request that an alternate appointment be made.

Once a trial judge has been appointed, please forward the original and three (3) copies of the Disciplinary Petition, the filing fee check, also enclosed herewith, and the Court's appointing

order to the District Clerk of Bexar County, Texas, with the request that the suit be filed, 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 Bexar County, Texas and a return envelope to be sent to the District Clerk of Bexar 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,

A handwritten signature in black ink, appearing to read 'J. Ehler', written in a cursive style.

James Ehler  
Assistant General Counsel

Enclosures

JAE/cah



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  
CRAIG T. ENOCH  
ROSE SPECTOR  
PRISCILLA R. OWEN  
JAMES A. BAKER  
GREG ABBOTT  
DEBORAH G. HANKINSON

EXECUTIVE ASST  
WILLIAM L. WILLIS

ADMINISTRATIVE ASST  
NADINE SCHNEIDER

JUN 30 1998

The Honorable Mary White  
District Clerk of Bexar County  
100 Dolorosa Street  
San Antonio, Texas 78205-1205

Dear Ms. White:

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. Choice, Richardson*, and a copy of the Supreme Court's order appointing the Honorable Mark Nancarrow, Judge of the 204<sup>th</sup> District Court of Dallas, Texas, to preside in this Disciplinary Action.

Sincerely,

**SIGNED**

John T. Adams  
Clerk

cc: Hon. Mark Nancarrow  
Mr. James Ehler  
Ms. Choice Richardson



# 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  
CRAIG T. ENOCH  
ROSE SPECTOR  
PRISCILLA R. OWEN  
JAMES A. BAKER  
GREG ABBOTT  
DEBORAH G. HANKINSON

EXECUTIVE ASS'T  
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T  
NADINE SCHNEIDER

JUN 30 1998

Honorable Mark Nancarrow  
Judge, 204<sup>th</sup> District Court  
Frank Crowley Courts Building  
133 N. Industrial Boulevard  
Dallas, Texas 75207

Dear Judge Nancarrow:

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. Richardson and Mr. Ehler, 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 (210-335-2300) 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

JUSTICES  
RAUL A. GONZALEZ  
NATHAN L. HECHT  
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JAMES A. BAKER  
GREG ABBOTT  
DEBORAH G. HANKINSON

EXECUTIVE ASS'T  
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T  
NADINE SCHNEIDER

JUN 30 1998

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

Ms. Choice Richardson  
40 N.E. Loop 410, Suite 405  
San Antonio, Texas 78216

Dear Mr. Ehler and Ms. Richardson:

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 Nancarrow, Judge of the 204<sup>th</sup> District Court, Dallas, Texas to preside in each of the three disciplinary actions styled:

*Commission for Lawyer Discipline v. Choice Richardson*

Sincerely,

**SIGNED**

John T. Adams  
Clerk

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