

ORDER OF THE SUPREME COURT OF TEXAS

Misc. Docket No. 00- 9081

IN THE MATTER OF RICHARD WALLER BURNS

The Court has reviewed the Motion for Acceptance of Resignation as Attorney and Counselor at Law of Richard Waller Burns and the Response of the Chief Disciplinary Counsel for the Commission for Lawyer Discipline. The Court concludes each meets the requirements of Part X of the Texas Rules of Disciplinary Procedure. In the absence of a request by Richard Waller Burns to withdraw his motion, the Court deems the professional misconduct detailed in the Response of Chief Disciplinary Counsel conclusively established for all purposes. The Court further concludes that acceptance of Richard Waller Burns's resignation is in the best interest of the public and the profession.

Therefore, the law license of Richard Waller Burns, of Houston, Texas, State Bar Card Number 03450000 is canceled. Richard Waller Burns must immediately surrender his State Bar Card and Texas law license to the Clerk of the Supreme Court of Texas or file with the Court an Affidavit stating why he cannot.

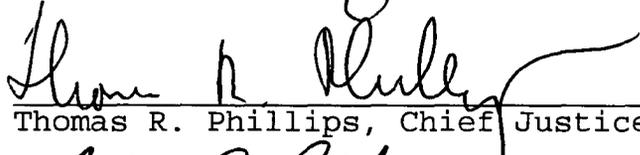
Consequently, Richard Waller Burns's is prohibited from practicing law in the State of Texas. This includes holding himself out as an attorney of law, performing legal services for others, giving legal advice to others, accepting any fee directly or indirectly for legal services, appearing as counsel or in any representative capacity in any proceeding in any Texas Court or

before any Texas administrative body (whether state, county, municipal, or other), or holding himself out to others or using his name in any manner in conjunction with the "Attorney at Law," "Counsel at Law," or "Lawyer." Additionally, Richard Waller Burns must immediately notify in writing each of his current clients of his resignation. He shall also return any files, papers, unearned monies and other property in his possession belonging to any client or former client to the respective client or former client or another attorney at the client's request. Richard Waller Burns shall file with the State Bar of Texas, Office of the General Counsel, Post Office Box 12487, Austin, Texas 78711-2487, within thirty (30) days of the date of this Order an affidavit stating that all current clients have been notified of his resignation and that all files, papers, monies and other property belonging to all clients and former clients have been returned.

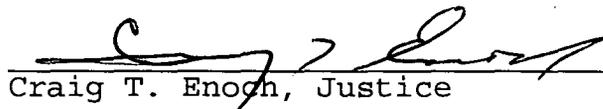
Finally, Richard Waller Burns shall within thirty (30) days after the date of this Order, notify in writing each justice of the peace, judge, magistrate, and chief justice of each court in which Richard Waller Burns has any matter pending of the terms of this Order, the style and cause number of the pending matter(s), and the name, address and telephone number of the client(s) Richard Waller Burns is representing in court. Richard Waller Burns shall file with the State Bar of Texas, Office of the General Counsel, Post Office Box, 12487, Austin, Texas 78711-2487, within thirty(30)days of the date of this Order an affidavit stating that he has notified in writing each justice of the peace, judge, magistrate, and chief

justice of each court in which he has any matter pending of the terms of this Order, the style and cause number of the pending matter(s), and the name, address and telephone number of the client(s) he is representing in Court.

IT IS ORDERED the 24th Day of May, 2000.

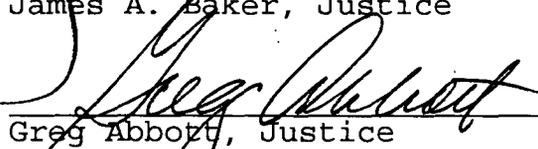

Thomas R. Phillips, Chief Justice

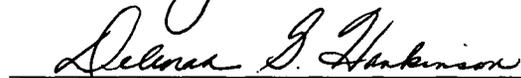

Nathan L. Hecht, Justice

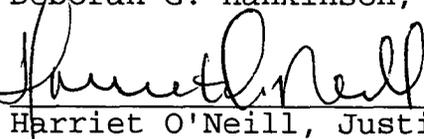

Craig T. Enoch, Justice

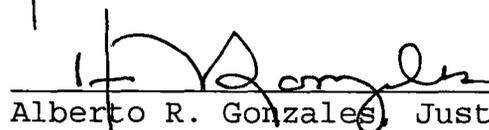

Priscilla R. Owen, Justice


James A. Baker, Justice


Greg Abbott, Justice


Deborah G. Hankinson, Justice


Harriet O'Neill, Justice


Alberto R. Gonzales, Justice

**IN THE SUPREME COURT OF TEXAS
RESPONSE OF THE CHIEF DISCIPLINARY COUNSEL OF
THE STATE BAR OF TEXAS
TO MOTION FOR RESIGNATION IN LIEU OF DISCIPLINE
OF RICHARD WALLER BURNS**

TO THE HONORABLE SUPREME COURT OF TEXAS:

COMES NOW, Jeannette M. Duer, Assistant Disciplinary Counsel for the State Bar of Texas, and in accordance with Part X of the Texas Rules of Disciplinary Procedure, would show unto the court as follows:

Dawn Miller, Chief Disciplinary Counsel, hereby files this response on behalf of the State Bar of Texas, acting by and through the Commission for Lawyer Discipline, to the Motion for Acceptance of Resignation in Lieu of Discipline filed by Richard Waller Burns and would show as follows:

I. RESIGNATION OF MOVANT

Movant, Richard Waller Burns, State Bar No. 03450000, has filed his Motion for Acceptance of Resignation as Attorney and Counsel of Law, dated February 4, 2000. Such Motion for Acceptance of Resignation is in lieu of discipline for professional misconduct.

**II. ACCEPTANCE OF RESIGNATION IS IN THE
BEST INTERESTS OF THE PUBLIC AND THE PROFESSION**

The Commission for Lawyer Discipline believes that the acceptance of Movant's Motion for Acceptance of Resignation is in the best interest of the public and the profession.

III. DISCIPLINARY CHARGES

The Commission for Lawyer Discipline has information regarding the following Professional Misconduct.

IV.

In or around 1987, Respondent's father, Richard F. Burns, died and left Respondent, and Respondent's brother, Waller Thomas Burns (hereinafter known as "Tommy Burns") co-independent executors of his estate. Respondent actively handled the estate's affairs. Respondent, Tommy Burns, and sister Dorothy Jane Burns (hereinafter known as "Jane Burns") inherited one-third of their father's estate. Thereafter, Respondent prepared a trust called the R. F. Burns Trust and was the sole manager of this trust. For many years the assets of Jane Burns were held in trust. The trust was called the Dorothy Jane Burns Trust No. 2. Tommy Burns and Respondent were the co-trustees of the trust, but only Respondent managed the affairs. At some point, Tommy Burns did not agree with Respondent's action and resigned as co-trustee in protest.

Respondent allegedly co-mingled his own funds with estate funds. Respondent allegedly took some checks payable to the Estate of Richard F. Burns and deposited them directly into his own account or exchanged them for a certified check.

Jane Burns died in August 1992. Her will left substantially all of her property to her two brothers in equal shares, and it named them co-independent executors of the Estate of Jane Burns. Respondent managed the estate, and again Tommy Burns disagreed with Respondent's handling of the estate and resigned as co-independent

executor.

Rio Grande filed a second lawsuit on August 7, 1996 against Tommy Burns, Respondent, and Exxon Corporation. Respondent filed an answer as Tommy Burns' attorney. Respondent claimed he had the apparent authority to answer the suit. That authority is vehemently denied by Tommy Burns.

v.

WHEREFORE, the Chief Disciplinary Counsel for the State Bar of Texas moves the Court to accept the resignation in lieu of discipline and grant the Motion filed by Movant.

Respectfully Submitted:

Dawn Miller
Chief Disciplinary Counsel

Jeannette M. Duer
Assistant Disciplinary Counsel

Office of the Chief Disciplinary
Counsel State Bar of Texas
1111 Fannin, Suite 1370
Houston, Texas 77002
(713) 759-6931
(713) 752-2158 FAX



JEANNETTE M. DUER
Assistant Disciplinary Counsel
State Bar Card No. 00793645

CERTIFICATE OF SERVICE

This is to certify that the above and foregoing Response has been served on Respondent, Richard Waller Burns, by and through his attorney of record, James P. Barnett, Jr., at 55 Waugh Drive, Suite 603, Houston, Texas, 77007, via certified mail, return receipt requested on May 15, 2000.


JEANNETTE M. DUER

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**IN THE SUPREME COURT OF TEXAS
MOTION FOR ACCEPTANCE OF RESIGNATION AS
ATTORNEY AND COUNSELOR AT LAW
OF
RICHARD WALLER BURNS**

Now Comes your Applicant, Richard Waller Burns, and hereby resigns as an Attorney and Counselor at Law in the State of Texas effective March 30, 2000; and hereby submits to the Court his resignation as an Attorney and Counselor at Law effective March 30, 2000; and prays that the Court accept said resignation effective March 30, 2000.

Applicant, Richard Waller Burns, was licensed as an Attorney and Counselor at Law on December 4, 1967.

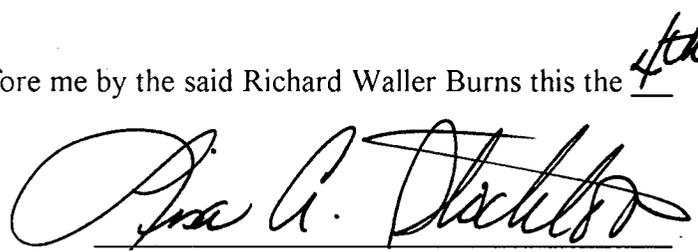
Attached hereto is an affidavit attesting to the inability to surrender the license and State Bar card issued by the Court to the Applicant, Richard Waller Burns.

Your Applicant is voluntarily resigning and withdrawing from the practice of law; Applicant does so in lieu of discipline for alleged professional misconduct; and Applicant prays that his name be dropped and deleted from the list of persons licensed to practice law in Texas effective March 30, 2000; and that his resignation be accepted effective March 30, 2000.

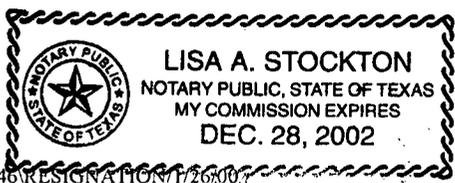


RICHARD WALLER BURNS
SBN: 03450000

SUBSCRIBED AND SWORN to before me by the said Richard Waller Burns this the 4th day of February, 2000.



NOTARY PUBLIC STATE OF TEXAS



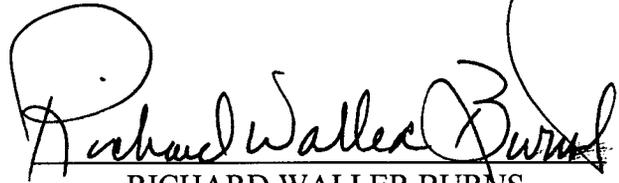
SUPPLEMENTAL AFFIDAVIT

STATE OF TEXAS §

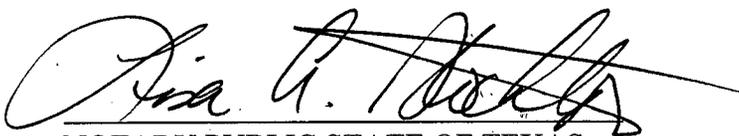
COUNTY OF HARRIS §

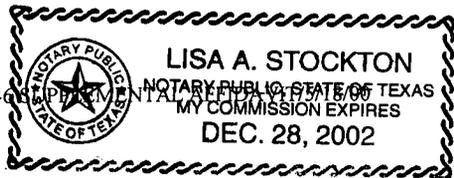
Before me the undersigned authority on this day personally appeared Richard Waller Burns, who being by me first duly sworn, on his oath did depose and say:

- 1. My name is Richard Waller Burns. I am over the age of 21 years have never been convicted of a crime and am competent to make this affidavit. The facts set forth herein are based on my personal knowledge true and correct.
- 2. I do not have actual possession of my law license issued by the Supreme Court of the State of Texas and do not know where it is. I am unable to surrender it to the Supreme Court of the State of Texas at this time.
- 3. I understand that this law license is not mine and must be surrendered to the Supreme Court of the State of Texas. If I ever do attain possession of the law license issued to me, I will surrender it to the Supreme Court of the State of Texas.
- 4. I do not have actual possession of my State Bar card issued by the Supreme Court of the State of Texas and do not know where it is. I am unable to surrender it to the Supreme Court of the State of Texas at this time.
- 5. I understand that this State Bar card is not mine and must be surrendered to the Supreme Court of the State of Texas. If I ever do attain possession of the State Bar card license issued to me, I will surrender it to the Supreme Court of the State of Texas.


 RICHARD WALLER BURNS

SUBSCRIBED AND SWORN to before me by the said Richard Waller Burns this the 18th day of May, 2000.


 NOTARY PUBLIC STATE OF TEXAS

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 LISA A. STOCKTON
 NOTARY PUBLIC, STATE OF TEXAS
 MY COMMISSION EXPIRES
 DEC. 28, 2002

STATE BAR OF TEXAS



Office of the Chief Disciplinary Counsel

May 15, 2000

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

Re: Richard Waller Burns

Dear Mr. Adams:

Pursuant to Part X of the Texas Rules of Disciplinary Procedure, please find enclosed herewith the following:

- (1) Original and two (2) copies of the Response of the Chief Disciplinary Counsel to Motion for Acceptance of Resignation as Attorney and Counselor at Law for the above referenced attorney;
- (2) Original executed Motion for Acceptance of Resignation as Attorney and Counselor at Law for the above referenced attorney dated February 4, 2000;
- (3) Permanent State Bar Card and law license (or affidavit stating whereabouts of either item) for the above referenced attorney; and
- (4) Original Order of Resignation for the Court's signature.

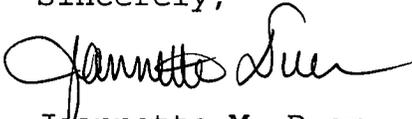
Pursuant to Rule 10.02 of the Texas Rules of Disciplinary Procedure, the required ten (10) day timeframe has passed and the above-referenced attorney has made no attempt to withdraw the Motion for Acceptance of Resignation. Therefore, the detailed statement of professional misconduct is deemed to have been conclusively established for all purposes.

John Adams, Clerk
Supreme Court of Texas
May 15, 2000
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I will appreciate your bringing this to the Court's attention.

Please return a fully executed copy of the Order to our office at your earliest convenience.

Sincerely,



Jeannette M. Duer
Assistant Disciplinary Counsel
Office of the Chief Disciplinary Counsel
State Bar of Texas

JMD/lp

cc: Richard Waller Burns
c/o James P. Barnett, Jr.
55 Waugh Drive, Suite 603
Houston, Texas 77007
Via Certified Mail No. Z 271 945 262,
Return Receipt Requested

Enclosures

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