

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 98- 9162

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

The Supreme Court of Texas hereby appoints the Honorable Rayburn M. Nall, Jr., Judge of the 59th District Court of Grayson County, Texas, to preside in the Disciplinary Action styled:

The Commission for Lawyer Discipline v. Ray L. Shackelford

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 14th day of September, 1998.


JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 98-9162, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 23 day of September, 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

COPY

CAUSE NO. _____

COMMISSION FOR LAWYER
DISCIPLINE

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IN THE DISTRICT COURT OF

V.

HARRIS COUNTY, TEXAS

RAY L. SHACKELFORD

_____ JUDICIAL DISTRICT

ORIGINAL 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 (hereinafter referred to as "Petitioner"), complaining of Respondent, RAY L. SHACKELFORD, (hereinafter referred to as "Respondent"), and would show the Court the following:

I. NATURE OF PROCEEDING

Petitioner brings this disciplinary action pursuant to the State Bar Act, the Tex.Gov't 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 complaint that forms the basis of this Original Disciplinary Petition were filed on or after May 1, 1992.

II. VENUE

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; 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 through his attorney of record, Jerry L. Zunker, at his business address located at 812 San Antonio, Suite 201, Austin, Texas 78701.

III. CAUSE OF ACTION

In November of 1994, Complainant's friend, Mohammed T. Ahmed (hereinafter called "Ahmed"), referred Complainant to Respondent. Complainant retained Respondent to represent his interests also as an investor in the same real estate transaction as Ahmed. Complainant invested a large sum of money. Complainant received a series of promissory notes as security for Complainant's investment from Ahmed, and sought to enforce the promissory notes. Respondent guaranteed the transactions by issuing several post-dated checks to Complainant. The checks Respondent wrote were returned unpaid due to "insufficient funds". Complainant later learned that less than one-third of his investment was put into the transaction. Respondent cannot account for any outstanding balance of funds to Complainant, nor indicate the likely resolution of the transaction in which Complainant invested. Respondent failed to keep Complainant informed as to the status of the matter that Respondent had a conflict of interest.

On or about July 22, 1997, Respondent was noticed of a complaint alleging professional misconduct by the Complainant. On July 31, 1997, Respondent requested an extension of time in which to file his response. Respondent was granted an extension date for filing a response, but Respondent failed to respond.

IV.

The complaint that 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 Ali M. Khan's filing of a complaint on or about July 9, 1997.

V. RULE VIOLATIONS

The acts and/or omissions of Respondent described in Paragraph III above which occurred on or before January 1, 1990, constitute conduct in violation of Rules 1.02(d) [a lawyer shall abide by a client's decisions when a lawyer has confidential information clearly establishing that a client is likely to commit a criminal or fraudulent act that is likely to result in substantial injury to the financial interests or property of another, the lawyer shall promptly make reasonable efforts under the circumstances to dissuade the client from committing the crime or fraud]; 1.06(b)(1) [a lawyer shall not represent a person if the representation of that person involves a substantially related matter in which that person's interests are materially and directly adverse to the interests of another client of the lawyer or the lawyer's firm]; 1.06(b)(2) [a lawyer shall not represent a person if the representation of that person reasonably appears to be or become adversely limited by the lawyer's or law firm's responsibilities to another client or to a third person or by the lawyer's or law firm's own interests]; 1.06(d) [a lawyer who has represented multiple parties in a matter shall not thereafter represent any of such parties in a dispute among the parties arising out of the matter, unless prior consent is obtained from all such parties to the dispute] 1.07(a)(1)(2)(3) [a lawyer shall not act as intermediary between clients unless the lawyer consults with each client concerning the implications of the common representation, including the advantages and risks involved, and the effect on the attorney-client privileges, and obtains each client's written consent to the common representation; the lawyer reasonably believes that the matter can be resolved without the necessity of contested litigation on terms compatible with the clients' best interests, that each client will be able to make adequately informed decisions in the matter and that there is little risk of material prejudice to

the interests of any of the clients if the contemplated resolution is unsuccessful; and the lawyer reasonably believes that the common representation can be undertaken impartially and without improper effect on other responsibilities the lawyer has to any of the clients]; **1.07(b)** [while acting as intermediary, the lawyer shall consult with each client concerning the decision to be made and the consideration relevant in making them, so that each client can make adequately informed decisions] **1.07(c)** [a lawyer shall withdraw as intermediary if any of the clients so requests, or if any of the conditions stated in paragraph (a) is no longer satisfied. Upon withdrawal, the lawyer shall not continue to represent any of the clients in the matter that was the subject of the intermediation]; **1.07(d)** [within the meaning of this Rule, a lawyer acts as intermediary if the lawyer represents two or more parties with potentially conflicting interests]; **1.07(e)** [if a lawyer would be prohibited by this Rule from engaging in particular conduct, no other lawyer while a member of or associated with that lawyer's firm may engage in that conduct]; **1.08(a)(1)(2)** [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 manner 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]; **1.08(d)** [a lawyer shall not provide financial assistance to a client in connection with pending or contemplated litigation or administrative proceedings]; **2.01** [a lawyer in advising or otherwise representing a client shall exercise independent professional judgment and render candid advice]; **4.01(a)(b)** [in the course of representing a client a lawyer shall not knowingly make a false statement of material fact or law to a third person; or fail to disclose a material fact to a third person when disclosure is necessary to avoid making the lawyer a party

to a criminal act or knowingly assisting a fraudulent act perpetrated by a client]; 8.04(a)(3)

[a lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation]

PRAYER

WHEREFORE, PREMISES CONSIDERED, Petitioner, **COMMISSION FOR LAWYER DISCIPLINE,** respectfully prays that this Court discipline Respondent, **RAY L. SHACKELFORD,** by reprimand, suspension, or disbarment, as the facts shall warrant; restitution; and all other relief to which Petitioner may show itself to be justly entitled, including costs of court and attorneys' fees.

Respectfully submitted,

Steven W. Young
General Counsel

Kimberly M. Gamble
Assistant General Counsel

Office of the General Counsel
State Bar of Texas

1111 Fannin, Suite 1370
Houston, Texas 77002
(713) 759-6932
(713) 752-2158 FAX


KIMBERLY M. GAMBLE
State Bar No. 00789804

**ATTORNEYS FOR PETITIONER,
COMMISSION FOR LAWYER DISCIPLINE**

STATE BAR OF TEXAS



Office of the General Counsel

August 14, 1998

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

Re: Commission for Lawyer Discipline v. Ray L. Shackelford

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 Ray L. Shackelford. Mr. Shackelford 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 resides 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:

Ray L. Shackelford
c/o Jerry L. Zunker
812 San Antonio, Suite 201
Austin, Texas 78701

As a practical matter, I would respectfully suggest that you inquire with the judge to be appointed as to (1) 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; and (2) 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.]), 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 two (2) copies of the Disciplinary Petition, 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, service be obtained, and a file-marked copy of the petition be returned to the undersigned.

Mr. John T. Adams, Clerk
Supreme Court of Texas
August 14, 1998

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I have enclosed a pre-addressed envelope for your use in transmitting the above reference 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 file-stamped 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 cursive script that reads "Kimberly M. Gamble".

Kimberly M. Gamble
Assistant General Counsel

KMG/lp

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

JUSTICES
RAUL A. GONZALEZ
NATHAN L. HECHT
CRAIG T. ENOCH
ROSE SPECTOR
PRISCILLA R. OWEN
JAMES A. BAKER
GREG ABBOTT
DEBORAH G. HANKINSON

CLERK
JOHN T. ADAMS

EXECUTIVE ASS'T
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

OCT 02 1998

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

Mr. Ray L. Shackelford
c/o Jerry L. Zunker
812 San Antonio, Suite 201
Austin, Texas 78701

Dear Ms. Gamble and Mr. Shackelford:

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 Rayburn M. Nall, Jr., Judge of the 59th District Court of Sherman, Texas to preside in

Commission for Lawyer Discipline v. Ray L. Shackelford

Sincerely,

SIGNED

John T. Adams
Clerk



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

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CLERK
JOHN T. ADAMS

EXECUTIVE ASS'T
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

OCT 02 1998

Honorable Robert M. Nall, Jr.
Judge, 59th District Court
200 S. Crockett Street
Sherman, Texas 75090

Dear Judge Nall:

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. Shackelford and Ms. Gamble, 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

EXECUTIVE ASST.
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

JUSTICES
RAUL A. GONZALEZ
NATHAN L. HECHT
CRAIG T. ENOCH
ROSE SPECTOR
PRISCILLA R. OWEN
JAMES A. BAKER
GREG ABBOTT
DEBORAH G. HANKINSON

OCT 02 1998

The Honorable Charles Bacarisse
District Clerk of Harris County
P.O. Box 4651
Houston, Texas 77002

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. Ray L. Shackelford and a copy of the Supreme Court's order appointing the Honorable Rayburn M. Nall, Jr., Judge of the 59th District Court of Sherman, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Honorable Rayburn M. Nall, Jr.
Ms. Kimberly M. Gamble
Mr. Ray L. Shackelford