

ORDER OF THE SUPREME COURT OF TEXAS

MISC. DOCKET NO. 99-9009

IN THE MATTER OF GRADY JAMES SMART

On this day, the Court considered the Motion for Acceptance of Resignation as Attorney and Counselor at Law of Grady James Smart, together with the Response of the Chief Disciplinary Counsel to the Motion for Acceptance of Resignation as Attorney and Counselor at Law of Grady James Smart. The Court has reviewed said Motion and Response and finds that each meets the requirements of Part X of the Texas Rules of Disciplinary Procedure. In conformity with Part X, Section 10.02 of the Texas Rules of Disciplinary Procedure, the Court considers the detailed statement of professional misconduct contained within the Response of Chief Disciplinary Counsel to be deemed conclusively established for all purposes. The Court finds that Grady James Smart is resigning in lieu of discipline. The Court, being advised that the acceptance of the resignation is in the best interest of the public and the profession, hereby concludes that the following Order is appropriate.

IT IS ORDERED that the law license of Grady James Smart of Dallas, Texas, State Bar card number 18521600, which was previously issued by this Court, be canceled and his name be dropped and deleted from the list of persons licensed to practice law in Texas.

IT IS FURTHER ORDERED that Grady James Smart 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 the cause of his inability to do so.

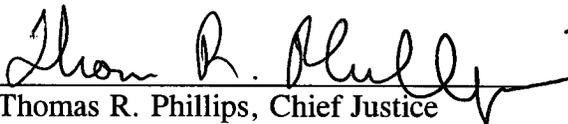
IT IS FURTHER ORDERED that Grady James Smart is permanently enjoined and prohibited from practicing law in the State of Texas, holding himself out as an attorney at law, performing legal services for others, giving legal advice to others, accepting any fee directly or indirectly for legal services, appearing 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 words "Attorney at Law", "Counselor at Law", or "Lawyer".

It is further **ORDERED** that Grady James Smart shall immediately notify each of his current clients in writing of this resignation. In addition to such notification, Grady James Smart is **ORDERED** to return any files, papers, unearned monies and other property belonging to clients and former clients in his possession to the respective clients or former clients or to another attorney at the client's or former client's request. Grady James Smart is **ORDERED** to file with the State Bar of Texas, 3710 Rawlins, Suite 800, Dallas, Texas 75219, within thirty (30) days of the date of the effective 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 as ordered herein.

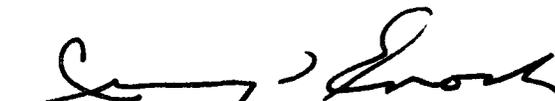
It is further **ORDERED** that Grady James Smart shall, within thirty (30) days after the date on which this Order is signed by the Court, notify in writing each and every justice of the peace, judge, magistrate, and chief justice of each and every court in which Grady James Smart has any matter pending 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) Grady James Smart is representing in Court. Grady James Smart is **ORDERED** to file with the State Bar of Texas,

3710 Rawlins, Suite 800, Dallas, Texas 75219, within thirty (30) days of the date of the effective date of this Order an affidavit stating that he has notified in writing each and every justice of the peace, judge, magistrate, and chief justice of each and every 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.

By the Court, en banc, in chambers, this the 25th day of January, 1999.

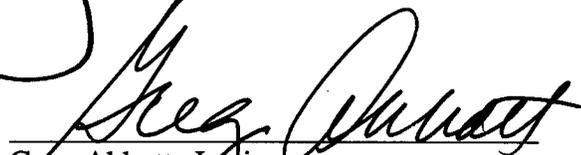

Thomas R. Phillips, Chief Justice

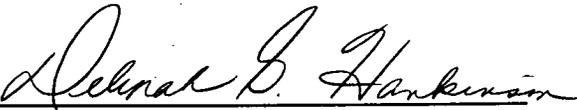

Nathan L. Hecht, Justice

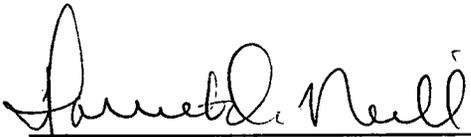

Craig T. Enoch, Justice

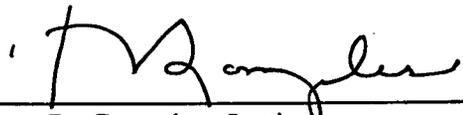

Priscilla R. Owen, Justice


James A. Baker, Justice


Greg Abbott, Justice


Deborah G. Hankinson, Justice


Harriet O'Neill, Justice


Alberto R. Gonzales, Justice

STATE BAR OF TEXAS



Office of the General Counsel

January 14, 1999

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

Re: **Resignation of Grady James Smart, Bar Card No. 18521600**

Dear Mr. Adams:

Pursuant to Part X of the Texas Rules of Disciplinary Procedure, I have enclosed the following materials:

- (1) Motion for Acceptance of Resignation as Attorney and Counselor at Law of Grady James Smart, dated January 4, 1999;
- (2) Response of Chief Disciplinary Counsel to Motion for Acceptance of Resignation as Attorney and Counselor at Law of Grady James Smart;
- (3) Original and one (1) copy of proposed Order for review and entry by the Court accepting the resignation of Grady James Smart as Attorney and Counselor at Law;
- (4) Affidavit of Grady James Smart stating that he is unable to located his law license or permanent State Bar Card.

Mr. John Adams
January 14, 1999
Page 2 of 2

Upon entry of the Order by the Court, please transmit a true and correct copy of the same to Nancy Thursby, Assistant General Counsel, at the address listed below so that she may properly give notice to all parties of the Court's disposition of such motion.

Sincerely,



Ann Andersson
Legal Assistant

AMA/lac
Enclosures

cc: Ms. Nancy Thursby
Assistant General Counsel
Office of the General Counsel
State Bar of Texas
3710 Rawlins, Suite 800
Dallas, Texas 75219

Mr. Grady James Smart
P. O. Box 121773
Arlington, Texas 76012-7773
Via CMRRR # Z 746 074 842

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

OF

GRADY JAMES SMART

NOW COMES your Applicant, Grady James Smart, and hereby resigns as an Attorney and Counselor at Law in the State of Texas; and hereby submits to the Court his resignation as an Attorney and Counselor at Law; and prays that the Court accept said resignation.

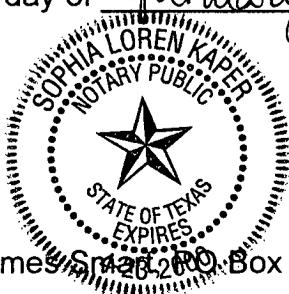
Attached hereto is the License and permanent State Bar card issued by this Court to the Applicant, Grady James Smart, as an Attorney and Counselor at Law on November 2, 1990. Said License and permanent State Bar card are hereby surrendered by the Applicant.

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



Grady James Smart
State Bar No. 18521600

4th SUBSCRIBED AND SWORN to before me by the said Grady James Smart this the
day of January, 1999





NOTARY PUBLIC in and for
the State of Texas

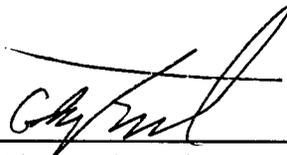
Grady James Smart, P.O. Box 121773, Arlington, Texas 76012-7773

AFFIDAVIT OF
GRADY JAMES SMART

On this 4th day of January, 1999, personally appeared before me, the undersigned **Grady James Smart**, who, after being duly sworn, did state upon his oath:

"My name is **Grady James Smart**, and I am over the age of eighteen years and am competent to make this affidavit in all respects, and am personally acquainted with the facts in this Affidavit."

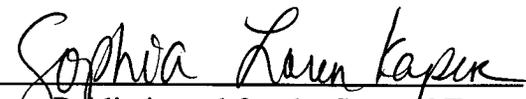
"I am an attorney licensed in the State of Texas. My bar card number is 18521600. I am unable to locate my License and permanent State Bar Card at this time. Should these items that are property of the Supreme Court of Texas be located, I will immediately surrender and forward to the Supreme Court of Texas."



GRADY JAMES SMART
Texas Bar No. 18521600

SWORN TO AND SUBSCRIBED BEFORE ME on this the 4th day of January, 1999.





Notary Public in and for the State of Texas

**IN THE SUPREME COURT OF TEXAS
RESPONSE OF THE CHIEF DISCIPLINARY COUNSEL
OF THE STATE BAR OF TEXAS
REGARDING
GRADY JAMES SMART**

TO THE HONORABLE SUPREME COURT OF TEXAS:

I, Nancy M. Thursby, Assistant Chief Disciplinary Counsel of the State Bar of Texas, in accordance with Part X of the Texas Rules of Disciplinary Procedure, hereby file a 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 as Attorney and Counselor at Law of GRADY JAMES SMART, dated on or about January 4, 1999, and received by the Office of the Chief Disciplinary Counsel on or about January 4, 1999. The acceptance of the resignation of Grady James Smart (hereinafter referred to as "Smart") is in the best interests of the public and the profession.

The following complaints are currently pending against Smart before investigatory panels of the District Grievance Committee. The professional misconduct with which Smart is charged in the complaints currently pending before investigatory panels is as follows:

A. State Bar of Texas - Grady James Smart, D0109811914

On or about April 15, 1998, Smart signed an Agreed Order of Referral to Rehabilitation in Case No. D0099709743 styled Dimitria Waters - Grady James Smart. The Order required that Respondent attend sessions of the Professionalism Enhancement Program (PEP). Thereafter, Respondent failed to comply with the terms and conditions of such Order by failing to attend the assigned sessions of the Professionalism Enhancement Program after being noticed to do so on two (2) occasions.

The above facts support a violation of Rule 8.04(a)(7) of the Texas Disciplinary Rules of Professional Conduct.

B. Harry Warren - Grady James Smart, D0079811357

On or about January 21, 1997, Harry Warren (hereinafter referred to as "Complainant") hired Smart to handle a traffic ticket matter. Complainant paid Smart \$70.00 on January 21, 1997 for the representation. Thereafter, Smart failed to appear in court which resulted in a warrant being issued for Complainant's arrest. Smart failed to perform any meaningful legal services on Complainant's behalf. Smart further failed to respond to Complainant's telephone calls and faxes.

Smart received notice of this complaint on or about July 23, 1998. The notice requested Smart to respond to the complaint in writing within thirty (30) days of receipt. Smart, however, failed to respond to the complaint in writing and failed to assert any grounds for his failure to respond.

The above facts support a violation of Rules 1.01(b)(1), 1.01(b)(2), 1.03(a) and 8.04(a)(8) of the Texas Disciplinary Rules of Professional Conduct.

C. Sabman Cervantes - Grady James Smart, F0099808248

In or about September 1997, Sabman Cervantes (hereinafter referred to as "Complainant") employed Smart to represent him in a matter involving a traffic citation. Complainant paid Smart \$50.00 to handle the matter. Thereafter, Smart failed to do any meaningful work on behalf of Complainant's case and failed to notify Complainant that Smart was on Administrative Suspension and Complainant would have to seek other counsel.

The above facts support a violation of Rules 1.01(b)(1), 1.01(b)(2), 1.03(a), 1.03(b) and 8.04(a)(11) of the Texas Disciplinary Rules of Professional Conduct.

The following disciplinary action is currently pending against Smart in district court. The professional misconduct with which Smart is charged in the disciplinary action currently pending in district court is as follows:

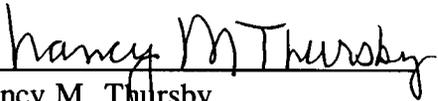
D. Shannon Bagby - Grady James Smart, D0019810412

In or about 1994, Smart was employed by Shannon Bagby (hereinafter referred to as "Complainant") to represent Complainant in a traffic citation matter involving several tickets. The fee was fifty dollars per ticket. Smart failed to take any action on the cases and Complainant was later

arrested because of an outstanding warrant. Complainant left numerous messages for Smart but none of her calls were returned.

The above facts support a violation of Rules 1.01(b)(1), 1.01(b)(2), 1.03(a) and 1.03(b) of the Texas Disciplinary Rules of Professional Conduct.

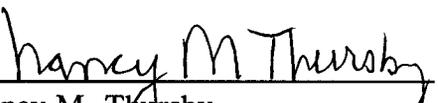
In view of Grady James Smart's execution on or about January 4, 1998, of his resignation as an attorney and counselor at law, and in anticipation of the Court's acceptance of same, the Chief Disciplinary Counsel does not anticipate going forward with the pending proceedings before the investigatory panels and in district court and intends to dismiss the complaints and disciplinary action upon entry of Order by the Supreme Court of Texas deleting Grady James Smart from the list of persons licensed to practice law in the State of Texas.



Nancy M. Thursby
Assistant Chief Disciplinary Counsel
State Bar of Texas

CERTIFICATE OF SERVICE

A true and correct copy of this Response of the Chief Disciplinary Counsel of the State Bar of Texas Regarding Grady James Smart, has on this 12th day of January, 1999, been mailed to Grady James Smart at P.O. Box 121773, Arlington, Texas 76012-7773, by certified mail, return receipt requested.



Nancy M. Thursby