

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 99- 9100

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

The Supreme Court of Texas hereby appoints the Honorable Harold Entz, Judge of the 194th District Court of Dallas County, Texas, to preside in the Disciplinary Action styled:

The Commission for Lawyer Discipline v. Thomas E. Dixon, III

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,

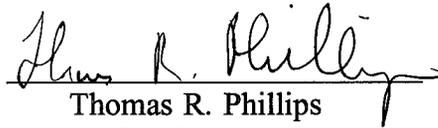
with the Seal thereof affixed at the City
of Austin, this 12th day of May, 1999.



JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 99-9100, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 14 day of May, 1999.

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

Thomas R. Phillips
Chief Justice

CAUSE NO. _____

COMMISSION FOR LAWYER DISCIPLINE	§	IN THE DISTRICT COURT OF
	§	
v.	§	HARRIS COUNTY, TEXAS
	§	
THOMAS E. DIXON, III	§	_____ JUDICIAL DISTRICT

ORIGINAL DISCIPLINARY PETITION

TO THE HONORABLE JUDGE OF THE 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, THOMAS E. DIXON, III (hereinafter referred to as "Respondent"), and would respectfully show unto the Court the following:

I. DISCOVERY CONTROL PLAN

Pursuant to Rules 190.1 and 190.2, TEXAS RULES OF CIVIL PROCEDURE (TRCP), Petitioner intends discovery in this case to be conducted under the Level 1 Discovery Control Plan. Pursuant to Rule 190.2(a)(1), TRCP, Petitioner affirmatively pleads that it seeks only monetary relief aggregating fifty thousand and no/100 dollars (\$50,000.00) or less, excluding costs, pre-judgment interest and attorney's fees.

II. NATURE OF PROCEEDING

Petitioner brings this disciplinary action pursuant to the STATE BAR ACT, TEXAS GOVERNMENT 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* was filed on or after May 1, 1992.

III. VENUE

Respondent is an attorney licensed to practice law in Texas and is a member of the STATE BAR OF TEXAS. Respondent's residence and principal place of practice is Harris County, Texas; therefore, venue is appropriate in Harris County, Texas, pursuant to Rule 3.03 of the TEXAS RULES OF DISCIPLINARY PROCEDURE. Respondent may be served by and through his attorney, Robert S. Bennett, at Bennett Cochran L.L.P., Two Shell Plaza, 777 Walker, Suite 2500, Houston, Texas 77002.

IV. CAUSE OF ACTION

Respondent was contacted by a non lawyer who was to refer several cases to Respondent in exchange for a fee. These cases arose out of the ValuJet airline crash that occurred on May 11, 1996 in Miami, Florida. Respondent sought out several law firms in the Houston area who would fund the cases. Respondent was successful in finding one that would provide funding to solicit several more clients who lost loved ones in the airline disaster.

During this venture, Respondent was given funds to pay for hotels, airfares and other items resulting from his efforts to solicit clients. When asked by the law firm to provide an accounting of these items, Respondent failed to provide sufficient documentation.

In an effort to solicit clients, Respondent sought the services of relatives of one victim, knowing that they were already being represented by local counsel in El Dorado, Arkansas. He used

a nonlawyer to make this contact. However, Respondent later made “in person” solicitation visits to the relatives of the crash victim, seeking employment by the relatives. Respondent also promised to share a fee with a nonlawyer and had her travel to Arkansas on several occasions to meet with potential clients.

On November 20, 1997, Respondent appeared before the 4A Grievance Committee and gave false testimony regarding his whereabouts while out of the country and his contact with the nonlawyer concerning referrals. More specifically, he misrepresented his travel destinations, communications and contacts with victim’s families and the nonlawyer, and expenses associated with the case. Respondent also failed to produce several items requested by the Committee.

V. RULE VIOLATIONS

The acts and/or omissions of Respondent described in Paragraph IV above, which occurred on or after January 1, 1990, constitute conduct in violation of Rules **1.14(a)** [for failing to 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. Such funds shall be kept in a separate account, designated as a “trust” or “escrow” account maintained in the state where the lawyer’s office is situated, or elsewhere with the consent of the client or third person]; **1.14(b)** [for failing, upon receiving funds or other property in which a client or third person has an interest, to promptly notify the client or third person and render a full accounting upon request]; **1.14(c)** [when in the course of representation the lawyer is in possession of funds or other property in which both the lawyer and another person claim interests, failing to keep property separate until there is an accounting and severance of their interest]; **4.01(a)** [for knowingly making a false statement of

material fact to a third person]; **4.01(b)** [failing 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]; **4.02(a)** [communicating or causing or encouraging another to communicate about the subject of the representation with a person, organization or entity of government the lawyer knows to be represented by another lawyer regarding that subject, without the consent of the other lawyer or authorization by law to do so]; **5.03(a)** [failing to make reasonable efforts to ensure that the conduct of the nonlawyer employed or retained by or associated with a lawyer is compatible with the professional obligations of the lawyer]; **5.03(b)** [a lawyer shall be subject to discipline for the conduct of such a person that would be a violation of these rules]; **5.04(a)** [sharing or promising to share legal fees with a non-lawyer]; **5.05(b)** [assisting a person who is not a member of the bar in the performance of activity that constitutes the unauthorized practice of law]; **7.03(b)** [in person or telephone seeking professional employment concerning a matter arising out of a particular occurrence or event, or series of occurrences or events, from a prospective client or nonclient who has not sought the lawyer's advice regarding employment with whom the family has no family or past or present attorney-client relationship when a significant motive for the lawyer's doing so is the lawyer's pecuniary gain]; **7.03(c)** [paying, giving, or offering to pay or give anything of value to a person not licensed to practice law for soliciting prospective clients for, or referring clients or prospective clients to, any lawyer or firm, except that a lawyer may pay reasonable fees for advertising and public relations services rendered in accordance with this Rule and may pay the usual charges of a lawyer referral service that meets the requirements of Article 320d, Revised Statutes]; **7.03(d)** [entering into an agreement for, charging for, or collecting a fee for professional employment

obtained in violation of Rule 7.03(a), (b), or (c)]; 7.06 [accepting or continuing employment when the lawyer knows or reasonably should know that the person who seeks the lawyer's services does so as a result of conduct prohibited by these rules]; 8.01(b) [failing to correct a misapprehension known by the person to have arisen in the matter, or knowingly failing to respond to a lawful demand for information from an admission, reinstatement, or disciplinary authority, except that this rule does not require disclosure of information otherwise protected by Rule 1.05]; 8.04(a)(1) [violating these rules, knowingly assisting or inducing another to do so, or doing so through the acts of another, whether or not such violation occurred in the course of a client-lawyer relationship]; 8.04(a)(2) [committing a serious crime or committing any other criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects]; 8.04(a)(3) [for engaging in conduct involving dishonesty, fraud deceit or misrepresentation]; and 8.04(a)(4) [engaging in conduct constituting the obstruction of justice]; 8.04(a)(9) [engaging in conduct that constitutes barratry as defined by the law of this state]; 8.04(a)(12) [violating any other laws of this state relating to the professional conduct of lawyers and to the practice of law].

VIII.

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 STATE BAR OF TEXAS' filing of a complaint on or about June 24, 1997.

PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, Petitioner, the **COMMISSION FOR LAWYER DISCIPLINE**, respectfully prays that this Court discipline Respondent, **THOMAS E.**

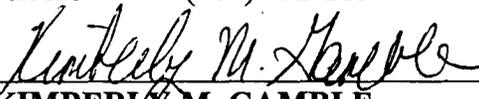
DIXON, III, by reprimand, suspension, or disbarment, as the facts shall warrant; order restitution to Complainant; and grant all other relief to which Petitioner may show itself to be justly entitled, including costs of court and attorneys' fees.

Respectfully submitted,

STEVEN W. YOUNG
General Counsel

KIMBERLY M. GAMBLE
Assistant General Counsel

STATE BAR OF TEXAS
Office of the General Counsel
1111 Fannin, Suite 1370
Houston, Texas 77002
Phone: (713) 759-6931
Fax No.: (713) 752-2158



KIMBERLY M. GAMBLE
State Bar No. 00789804

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

STATE BAR OF TEXAS



Office of the General Counsel

April 13, 1999

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

Re: Commission for Lawyer Discipline v. Thomas E. Dixon, III

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 Thomas E. Dixon, III. Mr. Dixon 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 made that you notify the Respondent at the address shown below and the undersigned of the identity and address of the judge assigned:

Thomas E. Dixon, III
c/o Robert S. Bennett
Bennett Cochran L.L.P.
Two Shell Plaza
777 Walker, Suite 2500
Houston, Texas 77002

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.] 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.

1111 Fannin, Suite 1370, Houston, Texas 77002, (713)759-6931

Mr. John Adams

April 13, 1999

Page 2 _____

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.

I have enclosed a pre-addressed envelope for your use in transmitting the petition, etc., 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-marked copy of the Petition to the undersigned.

Thank you for your courtesies in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Kimberly M. Gamble".

Kimberly M. Gamble
Assistant General Counsel

KMG/lp

encls.



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 ASS'T
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASS'T
JIM HUTCHESON

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

JUSTICES
NATHAN L. HECHT
CRAIG T. ENOCH
PRISCILLA R. OWEN
JAMES A. BAKER
GREG ABBOTT
DEBORAH G. HANKINSON
HARRIET O'NEILL
ALBERTO R. GONZALES

MAY 17 1999

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

Mr. Thomas E. Dixon, III
c/o Robert S. Bennett
Bennett Cochran, L.L.P.
Two Shell Plaza
777 Walker, Suite 2500
Houston, Texas 77002

Dear Ms. Gamble and Mr. Dixon:

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 Harold Entz, Judge of the 194th District Court, Dallas, Texas to preside in

Commission for Lawyer Discipline v. Thomas E. Dixon, III

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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HARRIET O'NEILL
ALBERTO R. GONZALES

MAY 17 1999

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. Thomas E. Dixon, III* and a copy of the Supreme Court's order appointing the Honorable Harold Entz, Judge of the 194th District Court, Dallas, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Honorable Harold Entz
Ms. Kimberly M. Gamble
Mr. Thomas E. Dixon, III
Ms. Melissa Dartez



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

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ALBERTO R. GONZALES

MAY 17 1999

Honorable Harold Entz, Jr.
Judge, 194th District Court
133 N. Industrial Boulevard, LB 26
Dallas, Texas 75208

Dear Judge Entz:

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. Dixon 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