

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 95- 9041

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

The Supreme Court of Texas hereby appoints the Honorable Ron Enns, Judge of the 69th District Court of Moore County, Texas, to preside in the Disciplinary Action styled:

The Commission for Lawyer Discipline v. C. Tom Zaratti

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.

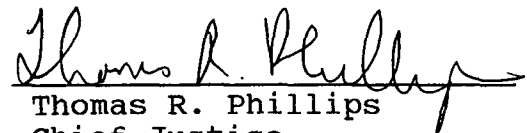
As ordered by the Supreme Court of Texas, in chambers,

with the Seal thereof affixed at the City
of Austin, this 8th day of February, 1995.


JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 95-9041, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 8th day of February, 1995.


Thomas R. Phillips
Chief Justice

NO. _____

COMMISSION FOR LAWYER DISCIPLINE § IN THE DISTRICT COURT OF
V. §
C. TOM ZARATTI § HARRIS COUNTY, TEXAS
§ _____ JUDICIAL DISTRICT

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 called "Petitioner"), complaining of Respondent, C. Tom Zaratti, (hereinafter called "Respondent"), showing the Court:

I.

Petitioner brings this disciplinary action pursuant to the State Bar Act, Tex. Gov't. Code Ann. §81.001, et seq. (Vernon 1988), the Texas Disciplinary Rules of Professional Conduct and the Texas Rules of Disciplinary Procedure. The complaint which forms the basis of the Disciplinary Petition was filed on or after May 1, 1992.

II.

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. An officer may serve citation on Respondent at his address located at 7434 Darnell, Houston, Harris County, Texas 77074.

III.

On or about August 3, 1992, Melvin Ray Evans (hereinafter called "Evans") contacted David Myers (hereinafter called "Myers"), a Houston attorney, regarding representation at a hearing scheduled for the following day on a felony DWI charge pending against Evans. Evans was unable to speak directly to Myers, and could not receive confirmation from Myers' staff that Myers would represent him at the hearing. As a result, Evans contacted Respondent, who agreed to represent Evans and promised to appear at the hearing.

IV.

At the hearing on or about August 4, 1992, Respondent was not present when Evans' case was called by court clerk. However, when Evans noticed that Myers was present in the courtroom, Evans decided to hire Myers, and paid him \$50.00 in attorney's fees. Myers proceeded to represent Evans at the hearing and negotiated a plea bargain on his behalf.

V.

Respondent arrived at the hearing shortly after the matter was concluded and while Myers and Evans were still present at the courtroom. When Evans informed Respondent that he had hired Myers to represent him, Respondent showed Evans a tape recorder and informed him that he had recorded their telephone conversation the previous evening wherein Evans had agreed to hire him. Respondent threatened Evans with possible perjury charges in the event Evans did not hire Respondent to represent him. Evans, fearful of Respondent's threats, agreed to hire Respondent and paid him \$100.00 in attorney's fees, although Myers had already negotiated a plea bargain on Evans' behalf.

VI.

Such acts and/or omissions on the part of Respondent as are described in Paragraphs III., IV. and V. hereinabove which occurred on or after January 1, 1990, constitute conduct which violates Rules 1.04(a) and/or 8.04(a)(3) of the Texas Disciplinary Rules of Professional Conduct.

VII.

The complaint which forms the basis of the Cause of Action hereinabove set forth was brought to the attention of the Office of General Counsel of the State Bar of Texas by Judge Shelley P. Hancock filing a grievance on or about September 14, 1992.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Petitioner prays for judgment that Respondent be disciplined as the facts shall warrant; and that Petitioner have such other relief to which entitled, including costs of Court and attorney's fees.

Respectfully submitted,

James M. McCormack
General Counsel

E. Lynn Rodriguez
Assistant General Counsel

Office of the General Counsel
State Bar of Texas
P.O. Box 12487
Austin, Texas 78711
Telephone: (512) 463-1463
Telecopier:(512) 477-4607


E. LYNN RODRIGUEZ
State Bar of Texas No. 17143880

ATTORNEYS FOR PETITIONER

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THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

CLERK
JOHN T. ADAMS

JUSTICES
RAUL A. GONZALEZ
JACK HIGHTOWER
NATHAN L. HECHT
JOHN CORNYN
BOB GAMMAGE
CRAIG ENOCH
ROSE SPECTOR
PRISCILLA R. OWEN

TEL: (512) 463-1312

FAX: (512) 463-1365

EXECUTIVE ASS'T.
WILLIAM L. WILLIS

February 8, 1995

ADMINISTRATIVE ASS'T.
NADINE SCHNEIDER

Honorable Ron Enns
Judge, 69th District Court
County Courthouse
715 Dumas Avenue #302
Dumas, Texas 79029

Dear Judge Enns:

We enclose for your information a copy of the order of assignment, a copy of the notification letter to Mr. Zaratti and Mr. McCormack, and a copy of the letter to the District Clerk of Harris County.

It is recommended that, six or eight weeks after receipt of this letter, your coordinator contact the parties for a scheduling conference. At some point thereafter, your coordinator should contact the Harris County District Court Administrative Office (713-755-6576) 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

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February 8, 1995

CLERK
JOHN T. ADAMS

EXECUTIVE ASS'T.
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T.
NADINE SCHNEIDER

JUSTICES
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JACK HIGHTOWER
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JOHN CORNYN
BOB GAMMAGE
CRAIG ENOCH
ROSE SPECTOR
PRISCILLA R. OWEN

Mr. James M. McCormack
General Counsel, State Bar of Texas
P.O. Box 12487
Austin, Texas 78711

Mr. C. Tom Zaratti
Attorney at Law
7434 Darnell
Houston, Texas 77074

Dear Mr. McCormack and Mr. Zaratti:

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 Ron Enns, Judge of the 69th District Court, Dumas, Texas to preside in

Commission for Lawyer Discipline v. C. Tom Zaratti

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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EXECUTIVE ASS'T.
WILLIAM L. WILLIS

February 8, 1995

ADMINISTRATIVE ASS'T.
NADINE SCHNEIDER

The Honorable Charles Bacarisse
District Clerk of Harris County
P.O. Box 4651
Houston, Texas 77210

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. C. Tom Zaratti, and a copy of the Supreme Court's order appointing the Honorable Ron Enns, Judge of the 69th District Court, Dumas, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Hon. Ron Enns
 Mr. C. Tom Zaratti
 Mr. James M. McCormack