

IN THE SUPREME COURT OF TEXAS

MISC. DOCKET NO. 97-9013

IN THE MATTER OF
FRED M. SULLIVAN

ORDER

On this day, the Court considered the Motion for Acceptance of Resignation as Attorney and Counselor at Law of Fred M. Sullivan, together with the Response of Chief Disciplinary Counsel to the Motion for Acceptance of Resignation as Attorney and Counselor at Law of Fred M. Sullivan. 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 Fred M. Sullivan is resigning in lieu of compulsory discipline by reason of his acceptance of probation for two counts of the intentional crime of Misapplication of Fiduciary Property on December 6, 1996, for which he received ten (10) years probation. 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 Fred M. Sullivan, of Dallas, Texas, State Bar Card Number 19478200, heretofore issued by the Court, be cancelled and his name be dropped and deleted from the list of persons licensed to practice law in Texas.

IT IS FURTHER ORDERED that Fred M. Sullivan shall 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.

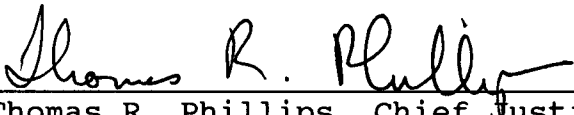
IT IS FURTHER ORDERED that Fred M. Sullivan be, and he is hereby permanently enjoined and prohibited from practicing law in the State of Texas, holding himself out as an attorney at law, performing legal services for others, giving legal advice to others, accepting any fee directly or indirectly for 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".

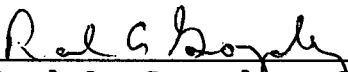
It is further ORDERED that Fred M. Sullivan shall immediately notify each of his current clients in writing of this resignation. In addition to such notification, Fred M. Sullivan is ORDERED to return any files, papers, unearned monies and other property belonging to clients and former clients in his possession to the respective clients or former clients or to another attorney at the client's or former client's request. Fred M. Sullivan is ORDERED to file with the State Bar of Texas, 5910 North Central Expressway, Suite 900, Dallas, Texas 75206, 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.

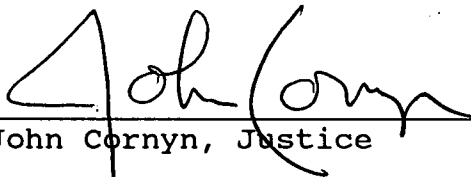
It is further ORDERED that Fred M. Sullivan shall, on or before thirty (30) days from the effective date of this Order, notify in writing each and every justice of the peace, judge, magistrate, and chief justice of each and every court in which Fred M. Sullivan has any matter pending of the terms of this Order, the style and cause number of the pending matter(s), and the name, address and telephone number of the client(s) Fred M. Sullivan is representing in Court. Fred M. Sullivan is ORDERED to file with the State Bar of Texas, 5910 North Central Expressway, Suite 900, Dallas, Texas, 75206, 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.

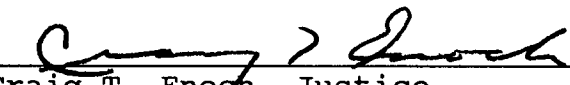
By the Court, en banc, in chambers, this the 15th day of
January, 1997.


Thomas R. Phillips, Chief Justice

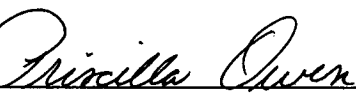

Raul A. Gonzalez, Justice

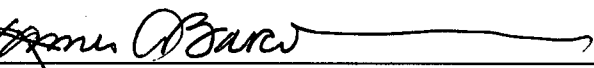

Nathan L. Hecht, Justice

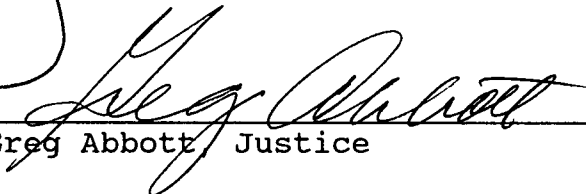

John Cornyn, Justice


Craig T. Enoch, Justice


Rose Spector, Justice


Priscilla Owen, Justice


James A. Baker, Justice


Greg Abbott, Justice

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

FRED M. SULLIVAN

TO THE HONORABLE SUPREME COURT OF TEXAS:

Movant, Fred M. Sullivan, moves the Court to accept his resignation as an Attorney and Counselor at Law, showing the Court:

I.

Movant hereby resigns as an Attorney and Counselor at Law in the State of Texas in lieu of compulsory discipline for having committed professional misconduct.

II.

Attached hereto is the License and permanent State Bar card issued by this Court to the Movant, Fred M. Sullivan, as an Attorney and Counselor at Law on November 28, 1958. Said License and permanent State Bar card are hereby surrendered by the Movant.

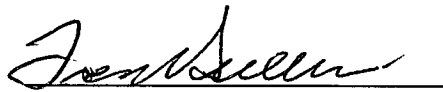
III.

Movant's State Bar Card number is 19478200. Movant's current business address is 100 North Central Expressway, Suite 810, Richardson, Texas 75080.

Movant prays that the Court accept his resignation as an Attorney and Counselor at Law and remove his name from the list of persons licensed to practice law in the State of Texas.

Respectfully submitted,

12/6/94
Date


Fred M. Sullivan
State Bar No. 19478200

ACKNOWLEDGMENT

STATE OF TEXAS X
 X
COUNTY OF Dallas X

BEFORE ME the undersigned, a Notary Public in and for said County and State, on this day personally appeared Fred M. Sullivan, known to me to be the person whose name is subscribed to the foregoing Motion, and acknowledged to me that he executed the same for the purposes therein expressed and that all facts stated are within his personal knowledge and are true and correct.

GIVEN UNDER my hand and seal of office this the 6 day of December, 1996.

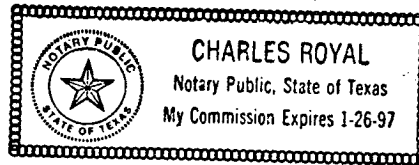
Charles Royal

Notary Public in and for the
State of Texas

January 26, 1997
My Commission Expires:

Charles Royal

Printed Name of Notary



STATE OF TEXAS)

COUNTY OF DALLAS)

AFFIDAVIT

Before me, the undersigned authority, personally appeared Fred M. Sullivan, who being by me duly sworn, deposed as follows:

"My name is Fred M. Sullivan, I am of sound mind, capable of making this affidavit, and personally acquainted with the facts herein stated:

I, Fred M. Sullivan, declare that my permanent State Bar Card and law license issued by the Supreme Court are presently lost or misplaced and could not be located despite diligent search, but if recovered, they will promptly be returned to the Court. If I should find my permanent State Bar Card and law license at a future date, I will immediately surrender same to the Court, as they are property of the Court. My State Bar Card Number is 19478200.

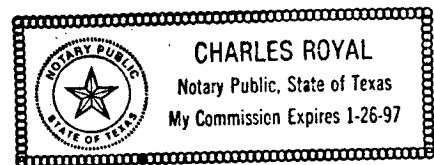
Fred M. Sullivan
Affiant

SWORN TO AND SUBSCRIBED before me on this 6
day of December, 1996.

Charles Royal
Notary Public in and for
State of Texas

January 24, 1997
My commission expires

Charles Royal
Notary's printed name



IN THE SUPREME COURT OF TEXAS
RESPONSE OF THE CHIEF DISCIPLINARY COUNSEL
OF THE
STATE BAR OF TEXAS
REGARDING
FRED M. SULLIVAN

TO THE HONORABLE SUPREME COURT OF TEXAS:

I, Steven W. Young, Chief Disciplinary Counsel of the State of 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 Fred M. Sullivan, dated on or about December 6, 1996, and received by the Chief Disciplinary Counsel on the same date. The acceptance of the resignation of Fred M. Sullivan, (hereinafter referred to as "Sullivan") is in the best interests of the public and the profession.

The following disciplinary actions are currently pending against Sullivan before an evidentiary panel of the District Grievance Committee. The professional misconduct with which Sullivan is charged in the pending disciplinary actions are as follows:

Commission for Lawyer Discipline (Plenge) vs. Fred M. Sullivan
D0069403504

In or about March, 1988, Robert Plenge (hereinafter referred to as "Complainant") and his partners hired Fred M. Sullivan, whose principal place of practice was in Richardson, Dallas County, Texas, to represent them in a foreclosure matter. Complainant and his partners advanced funds to Respondent for the purpose of establishing an escrow account for the possible settlement of the foreclosure matter. Thereafter, Complainant and his partners requested that Sullivan return the escrow account funds. On or about January 17, 1993, Sullivan issued

a check drawn on his trust account to Complainant in the amount of \$8,125.00 for payment of Complainant's portion of the escrow account funds. The check was returned to Complainant marked "insufficient funds." Complainant made numerous requests to Sullivan for the return of his share of the escrow account funds. Complainant's requests went unheeded by Respondent. On or about June 8, 1994, Complainant filed a grievance against Sullivan and soon after filed criminal charges alleging Misapplication of Fiduciary Property. Over two and a half (2 1/2) years after Sullivan had been requested to return the escrow funds, Sullivan finally paid Complainant the \$8,125.00 owed.

On or about September 6, 1994, pursuant to their investigation of this grievance matter, the District 06A Grievance Committee served Sullivan with a subpoena directing Respondent to produce specified bank documents and an IRS levy notice regarding his trust account. Sullivan was ordered to provide the documents on or before September 12, 1994. Sullivan failed to provide the documents requested in the subpoena and failed to assert any grounds for his failure to comply with the subpoena. Sullivan was repeatedly requested to comply with the subpoena but Sullivan failed to comply with the subpoena and failed to assert any grounds for his failure to comply. The above facts support a violation of Rules 1.10(b), (2), 1.14(b), 8.01(b), 8.04(a)(2), (3), (8) of the Texas Disciplinary Rules of Professional Conduct.

Commission for Lawyer Discipline (Plenge) vs. Fred M. Sullivan
D0089607612

In or about February, 1988, Complainant employed Sullivan to represent him in a foreclosure matter. Thereafter, despite Complainant's repeated requests, Sullivan failed to timely return Complainant's file.

Further, on August 7, 1996, notice and a copy of the Complaint were sent to Sullivan by certified mail; return receipt requested and delivered on August 8, 1996. Sullivan was requested to respond in writing to the complaint within thirty (30) days of receipt, but failed to do so and asserted no grounds for such failure. The above facts support a violation of Rules 1.15(d) and 8.04(a)(1), (8) of the Texas Disciplinary Rules of Professional Conduct.

Commission for Lawyer Discipline (Brown) vs. Fred M. Sullivan
D0069607282

On or about October 29, 1991, Complainant employed Fred M. Sullivan to probate the estate of Ellenar Sherrard, his

deceased sister. Complainant was appointed Administrator of the estate. Sullivan was also employed to represent Cornelia Lyles, another of Complainant's sisters, who sought to be named as Guardian of the persons of the deceased sister's minor children and of their estate.

On or about May 22, 1992, Southwestern Bell, the employer of the decedent, sent a death benefit check in the amount of \$26,813.10 to Ms. Lyles who had not yet been appointed the Guardian of the children. Sullivan instructed Ms. Lyles to forward the check to him to place in his trust account until the probate matter was concluded. Ms. Lyles complied with Sullivan's instructions and forwarded the unendorsed check to him. Thereafter, Sullivan affixed, or allowed another individual to affix, the signature of Ms. Lyles to the check as an endorsement without her knowledge or consent. Sullivan then converted the funds to his own use.

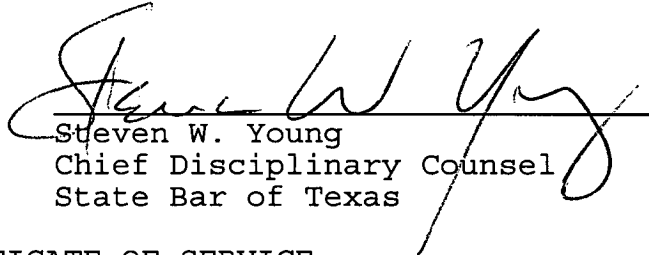
In November of 1992, Sullivan misrepresented to the Complainant and Ms. Lyles that he was returning the check to the decedent's employer.

On or about June 4, 1996, Sullivan deposited \$13,816.25 in the Registry of the Court after being ordered to by the Probate Court judge. On or about July 3, 1996, Sullivan was ordered by the Court to deposit an additional \$24,801.20 into the Registry of the court on or before July 12, 1996. The above facts support a violation of Rules 1.14, and 8.04(a)(1), (2), (3) of the Texas Disciplinary Rules of Professional Conduct.

On or about December 6, 1996, Sullivan pled guilty to two counts of the crime of Misapplication of Fiduciary Property in Cause Nos. F96-02737L and F95-01894L, styled the State of Texas vs. Fred Sullivan, in the Criminal District Court Number 5 of Dallas County, Texas (hereinafter called "Sullivan criminal suits"), as a result of which Sullivan was sentenced to ten (10) years probation. Misapplication of Fiduciary Property is a felony offense and constitutes an "intentional crime" as the term is defined in Section 1.06(0) of the Texas Rules of Disciplinary Procedure. Pursuant to Sections 8.01, et. seq., of the Texas Rules of Disciplinary Procedure, an attorney shall be disbarred when the

attorney accepts probation for an "intentional crime."

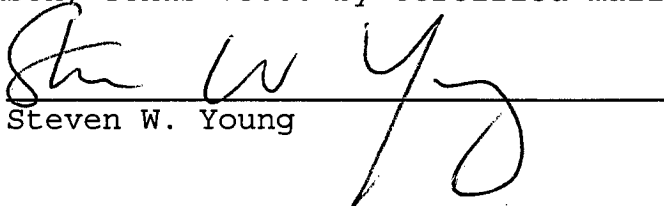
In view of Sullivan's execution, on or about December 6, 1996, of his resignation as an attorney and counselor at law, and in anticipation of the Court's acceptance of same, the Chief Disciplinary Counsel does not anticipate going forward with the disciplinary actions pending before the evidentiary panel and intends to dismiss the actions upon entry of Order by the Supreme Court of Texas deleting Sullivan from the list of persons licensed to practice law in the State of Texas.



Steven W. Young
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 Fred M. Sullivan has been mailed to Fred M. Sullivan in care of his counsel, James Martin, Suite 810, Texas Commerce Bank Building, 100 N. Central Expressway, Richardson, Texas 75080 by certified mail, return receipt requested.



Steven W. Young