

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 97- 9232

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

The Supreme Court of Texas hereby appoints the Honorable M. Brock Jones, Jr., Judge of the 112th District Court of Crockett County, Texas, to preside in the Disciplinary Action styled:

The Commission for Lawyer Discipline v. Joel Howard Wallerstein

to be filed in a District Court of Travis County, Texas.

The Clerk of the Supreme Court shall promptly forward to the District Clerk of Travis 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,

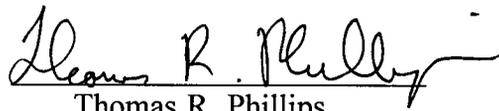
with the Seal thereof affixed at the City
of Austin, this 30th day of December, 1997.



JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 97-9232, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 5th day of January, 1998.

A handwritten signature in cursive script, reading "Thomas R. Phillips", with a horizontal line underneath the text.

Thomas R. Phillips
Chief Justice

NO. _____

COMMISSION FOR LAWYER
DISCIPLINE

v.

JOEL HOWARD WALLERSTEIN

§
§
§
§
§

IN THE DISTRICT COURT OF

TRAVIS 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 referred to as "Petitioner"), complaining of Respondent, Joel Howard Wallerstein (hereinafter referred to as "Respondent"), and would show the following:

I. Jurisdiction

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 petition was filed after May 1, 1992.

II. Identification of Respondent

Respondent is Joel Howard Wallerstein. His State Bar of Texas Card No. is 00786326. The State Bar of Texas membership records show his last known address to be Post Office Box 1184 Austin, Texas 78767. Respondent is a resident of and has his principal place of practice in

Travis County, Texas.

III. Respondent is an Attorney Licensed to Practice Law in Texas

Respondent is an attorney licensed to practice law in the State of Texas. His license to practice law in the State of Texas is currently suspended until May 16, 1998.

IV. Summary of the Complaint

On or about December 9, 1996, Sherri L. Bruner, as Manager, Credit and Collections for Staffing Resources, Inc., filed a complaint against Respondent in connection with his representation of TempCraft Personnel Services (hereinafter "TempCraft"), a company owned by Staffing Resources, Inc.

In November of 1994, Respondent was hired by TempCraft to collect a debt owed it by NuStats International (hereinafter "NuStats".) The terms of the fee agreement between Respondent and TempCraft, attached hereto as Exhibit A, were such that Respondent would receive twenty-five percent (25%) of the gross amount collected from NuStats, and the remaining seventy-five percent (75%) would be turned over to TempCraft.

Between November 22, 1995 and May 3, 1996, NuStats submitted to Respondent two checks, totalling \$4,471.00 in partial payment of its debt to TempCraft, and are attached hereto as Exhibit B-1 and B-2, respectively. Instead of withholding his earned fee of twenty-five percent (25%) and promptly turning over the remaining amount collected, Respondent converted all of the funds to his personal use and, furthermore, never notified TempCraft that he had

received these funds at all.

Staffing Resources discovered the conversion in July of 1996 when, being unable to contact Respondent, it commenced efforts to collect the debt from NuStats on its own. NuStats responded to Staffing Resources' demand for payment by stating that it had already made partial payment to Respondent. NuStats provided Staffing Resources with copies of its cancelled checks made payable to Respondent. Frost National Bank, upon which these checks were drawn, confirmed that the checks were, indeed, presented for payment by Respondent and cleared. Upon learning this, Staffing Resources hired an attorney to recover the funds paid to Respondent. A copy of the demand letter sent to Respondent is attached hereto as Exhibit C. Respondent failed to respond to this demand, and to date, no funds have been received.

V. Summary of the Rules Violations

By neglecting a legal matter entrusted to him and by frequently failing to carry out completely the obligations he owed to his client, Respondent committed professional misconduct in violation of Rule 1.01 of the Texas Disciplinary Rules of Professional Conduct.

By failing to keep his client reasonably informed about the status of a matter, failing to promptly comply with reasonable requests for information, and failing to explain a matter to the extent necessary to permit the client to make informed decisions, Respondent committed professional misconduct in violation of Rule 1.03 of the Texas Disciplinary Rules of Professional Conduct.

By failing to safekeep property belonging in whole or in part to his client, failing to

promptly notify his client of his receipt of funds in which his client had an interest, failing to deliver to his client funds that the client was entitled to receive, and failing to render a full accounting regarding such property, Respondent committed professional misconduct in violation of Rule 1.14 of the Texas Disciplinary Rules of Professional Conduct.

By committing a serious crime that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer, i.e., converting his client's settlement proceeds to his own use, Respondent committed professional misconduct in violation of Rule 8.04(a)(2) of the Texas Disciplinary Rules of Professional Conduct.

By engaging in conduct involving dishonesty, fraud, deceit and misrepresentation, Respondent committed professional misconduct in violation of Rule 8.04(a)(3) of the Texas Disciplinary Rules of Professional Conduct.

By failing to furnish to the District 09A grievance committee a response or other information as required by the Texas Rules of Disciplinary Procedure, Respondent committed professional misconduct in violation of Rule 8.04(a)(8) of the Texas Disciplinary Rules of Professional Conduct and Part 1.06(Q) of the Texas Rules of Disciplinary Procedure.

V. Prayer for Appropriate Discipline

WHEREFORE, premises considered, Petitioner the Commission for Lawyer Discipline prays that this Court discipline Respondent Joel Howard Wallerstein by disbarment, suspension,

or reprimand as the facts shall warrant, and that Petitioner have such other relief as to which it may show itself justly entitled, including costs of court and attorney's fees.

Respectfully submitted,

Steven W. Young
General Counsel

Christopher R. Scott
Assistant General Counsel
Office of the General Counsel
State Bar of Texas
P.O. Box 12487, Capitol Station
Austin, Texas 78711-2487
1-800-204-2222
512/463-1463
Fax: 512/477-4607



Christopher R. Scott
State Bar Card No. 17891550

ATTORNEYS FOR PETITIONER
THE COMMISSION FOR
LAWYER DISCIPLINE

Mr. John T. Adams, Clerk
Supreme Court of Texas
November 24, 1997
Page 2 of 2

If you have any questions, please call me. Thank you for your assistance.

Sincerely,



Christopher R. Scott
Assistant General Counsel

CRS/gd
Enclosures

G:\GENERAL\CHRISWALLERST\CORRESPOND\DP-SC.LTR



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

TEL: (512) 463-1312

FAX: (512) 463-1365

EXECUTIVE ASS'T
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

JAN 09 1998

Honorable M. Brock Jones, Jr.
Judge, 112th District Court
P.O. Drawer C
Ozona, Texas 76943

Dear Judge Jones:

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. Scott and Mr. Wallerstein, and a copy of the letter to the District Clerk of Travis County.

It is recommended that, about a month or six weeks after receipt of this letter, you contact the Travis County Court Administrative Office (512-753-9300) (certainly just before or immediately after you set the case for trial) 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 (210-379-8556) 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

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

TEL. (512) 463-1312

FAX (512) 463-1365

JAN 09 1998

CHIEF JUSTICE
THOMAS R. PHILLIPS

JUSTICES
RAUL A. GONZALEZ
NATHAN L. HECHT
CRAIG ENOCH
ROSE SPECTOR
PRICILLA 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

Mr. Christopher R. Scott
Assistant General Counsel, State Bar of Texas
P.O. Box 12487
Austin, Texas 78711-2487

Mr. Joel Howard Wallerstein
P.O. Box 1184
Austin, Texas 78767

Dear Mr. Scott and Mr. Wallerstein:

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 M. Brock Jones, Jr., Judge of the 112th District Court, Ozona, Texas to preside in

Commission for Lawyer Discipline v. Joel Howard Wallerstein

Sincerely,

SIGNED

John T. Adams
Clerk



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

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CLERK
JOHN T. ADAMS

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EXECUTIVE ASS'T
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

JAN 09 1998

The Honorable Amalia Rodriguez-Mendoza
District Clerk of Travis County
P.O. Box 1748
Austin, Texas 78767-1748

Dear Ms. Rodriguez-Mendoza:

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. Joel Howard Wallerstein, and a copy of the Supreme Court's order appointing the Honorable M. Brock Jones, Jr., Judge of the 112th District Court, Ozona, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Hon. M. Brock Jones, Jr.
Mr. Joel Howard Wallerstein
Mr. Christopher R. Scott