

ORDER OF THE SUPREME COURT OF TEXAS

Misc. Docket No. 00-**9159**

Appointment of a District Judge to Rule on a Motion  
to Recuse filed in a State Bar Disciplinary Action

The Supreme Court of Texas hereby appoints the Honorable Anne Ashby, Judge of the  
134th District Court of Dallas County, Texas, to preside in the Disciplinary Action styled:


**The Commission for Lawyer Discipline v. Richard Acevedo**

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

The Clerk of the Supreme Court shall promptly forward to the District Clerk of Bexar  
County, Texas, a copy of the Disciplinary petition and this Order for filing and service pursuant to  
Rule 3.03, Texas Rules of Disciplinary Procedure.

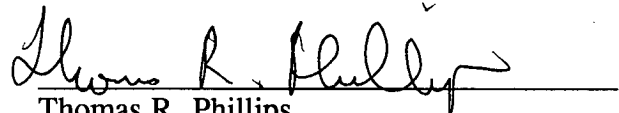
As ordered by the Supreme Court of Texas, in chambers,

With the Seal thereof affixed at the City  
Of Austin, this 6<sup>th</sup> day of November, 2000.

  
JOHN T. ADAMS, CLERK  
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 00-9159, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 7 day of November, 2000.

  
Thomas R. Phillips  
Chief Justice

Cause No. \_\_\_\_\_

COMMISSION FOR  
LAWYER DISCIPLINE,  
Petitioner

vs

RICHARD ACEVEDO,  
Respondent

§  
§  
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§  
§

IN THE DISTRICT COURT

\_\_\_\_ JUDICIAL DISTRICT

BEXAR COUNTY, TEXAS

**ORIGINAL DISCIPLINARY PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES the Commission for Lawyer Discipline, Petitioner, and would respectfully show the following:

**I.**

**DISCOVERY CONTROL PLAN**

Discovery proceedings in this cause should be conducted on Level 2 pursuant to Tex.R.Civ.P. Rule 190.3.

**II.**

**PARTIES**

Petitioner is the Commission for Lawyer Discipline, a committee of the State Bar of Texas. Respondent, Richard Acevedo, State Bar No. 00829900, is an attorney licensed to practice law in the State of Texas and is a member of the State Bar of Texas. Respondent maintains his principal place of practice in San Antonio, Bexar

County, Texas. Respondent may be served with process in this proceeding at his office at 924 Camaron, San Antonio, Texas 78212.

**III.**

**JURISDICTION, VENUE AND CONDITIONS PRECEDENT**

The cause of action and the relief sought in this case are within the jurisdictional requirements of this Honorable Court. Venue of this case is proper in Bexar County, Texas pursuant to Texas Rules of Disciplinary Procedure Rule 3.03, because Bexar County is the county of the Respondent's principal place of business. All conditions precedent to proceeding with this cause have been performed or fulfilled.

**IV.**

**PROFESSIONAL MISCONDUCT**

Petitioner brings this disciplinary action pursuant to the State Bar Act, Tex.Gov't.Code §81.001 *et seq.*, the Disciplinary Rules of Professional Conduct ("DRPC") and the Texas Rules of Disciplinary Procedure ("TRDP"). The complaint which forms the basis of this action was filed on or about January 25, 2000 by Jo Ann Bernal ("Complainant"). The acts and omissions of Respondent, as hereinafter alleged, constitute professional misconduct.

**V.**

**FACTUAL BACKGROUND**

Complainant hired Respondent on December 1, 1999, to represent Ricardo

Hernandez in a pending deportation matter and paid \$2,000 in cash for the representation. Respondent made misrepresentations to Complainant regarding the deportation bonding process. Respondent charged a fee and did not perform the work he represented he would perform and then failed to surrender the unearned fee to which Complainant was entitled. Respondent threatened the Complainant and her witness at the State Bar offices at the time of the grievance hearing.

## VI.

### DISCIPLINARY RULES OF PROFESSIONAL CONDUCT

The conduct described above is in violation of the following Texas Rules of Disciplinary Conduct:

Rule 1.04(a) -- A lawyer shall not enter into an arrangement for, charge, or collect an illegal fee or unconscionable fee. A fee is unconscionable if a competent lawyer could not form a reasonable belief that the fee is reasonable.

Rule 1.15(d) -- Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payments of fee that has not been earned. The lawyer may retain papers relating to the client to the extent permitted by other law only if the retention will not prejudice the client in the subject matter of the representation.

Rule 4.04(b)(2) -- A lawyer shall not present, participate in presenting, or threaten to present civil, criminal or disciplinary charges against a complainant, a witness, or a potential witness in a bar disciplinary proceeding solely to prevent participation by the complainant, witness, or potential witness therein.

Rule 8.04(a)(3) -- (a) A lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

**VII.**

**RELIEF SOUGHT**

Petitioner would show that This Honorable Court should enter a judgment of professional misconduct and impose a sanction against Respondent which is in the Court's discretion appropriate under the facts established. Additionally, Respondent should be ordered to pay attorney fees and all costs associated with this litigation.

**PRAYER**

WHEREFORE, PREMISES CONSIDERED, Petitioner prays that a judgment of professional misconduct be entered against Respondent and that this Honorable Court impose an appropriate sanction against Respondent as the facts proved shall warrant. Petitioner further prays to recover costs of court and all expenses associated with these proceedings, including attorney fees as provided in TRDP Rule 1.06(T)(8)(b). Petitioner further prays for such other and additional relief, general or specific, at law or in equity, to which it may show itself entitled.

Respectfully submitted,

DAWN MILLER,  
Chief Disciplinary Counsel

PAUL H. HOMBURG III,  
Assistant Disciplinary Counsel

Office of the Chief Disciplinary Counsel  
State Bar of Texas  
425 Soledad, Suite 300  
San Antonio, Texas 78205  
Telephone: (210) 271-7881  
FAX: (210) 271-9642

By: 

\_\_\_\_\_  
PAUL H. HOMBURG III  
State Bar No. 09934050

ATTORNEYS FOR PETITIONER

# STATE BAR OF TEXAS



CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
70993220000005795358

October 4, 2000

Regional Office  
Soledad Plaza West  
425 Soledad, Suite 300  
San Antonio, Texas 78205  
(210) 271-7881  
FAX: (210) 271-9642

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

RE: Commission for Lawyer Discipline v. Richard Acevedo

Dear Mr. Adams:

Enclosed please find an original and three (3) copies of a Disciplinary Petition being filed by the Commission for Lawyer Discipline against Richard Acevedo. Mr. Acevedo has designated **Bexar County** 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:

Richard Acevedo  
924 Camaron  
San Antonio, Texas 78212

As a practical matter, I would respectfully suggest that you inquire with the judge to be appointed as to whether he or she will be able to comply with the 180 day deadline by which the case must be set for trial as set forth in Section 3.07 of the Texas Rules of Disciplinary Procedure. If not, I would respectfully request that an alternate appointment be made.

Once a trial judge has been appointed, please forward the original and three (3) copies of the Disciplinary Petition, the filing fee check, also enclosed herewith, and the Court's appointing order to the District Clerk of Bexar County, Texas, with the request that the suit be filed, service be obtained, and a filemarked copy of the petition returned to the undersigned.

Also enclosed are a pre-addressed envelope for your use in transmitting the petition, etc., to the District Clerk of Bexar County, Texas and a return envelope to be sent to the District



Clerk of Bexar County, Texas, for the Clerk's use in returning a filemarked copy of the petition to the undersigned.

Thank you for your courtesies in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Paul H. Homburg, III'. The signature is stylized with large, sweeping loops and a prominent horizontal stroke across the middle.

Paul H. Homburg, III  
Assistant Disciplinary Counsel

Enclosures

PHH/apr



# The Supreme Court of Texas

CHIEF JUSTICE  
THOMAS R. PHILLIPS

201 West 14th Street Post Office Box 12248 Austin TX 78711  
Telephone: 512/463-1312 Facsimile: 512/463-1365

CLERK  
JOHN T. ADAMS

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

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NADINE SCHNEIDER

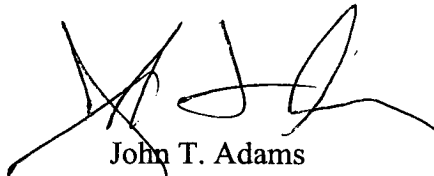
NOV 08 2000

The Honorable Reagan Greer  
District Clerk of Bexar County  
100 Dolorosa Street  
San Antonio, Texas 78205-1205

Dear Mr. Greer:

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. Richard Acevedo*, and a copy of the Supreme Court's order appointing the Honorable Anne Ashby, Judge of the 134<sup>th</sup> District Court, Dallas, Texas, to preside in this Disciplinary Action.

Sincerely,



John T. Adams  
Clerk

cc: Honorable Anne Ashby  
Mr. Paul H. Homburg, III  
Mr. Richard Acevedo



# The Supreme Court of Texas

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THOMAS R. PHILLIPS

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NOV 08 2000

Mr. Paul Homburg, III  
Assistant General Counsel, State Bar of Texas  
425 Soledad, Suite 300  
San Antonio, Texas 78205

Mr. Richard Acevedo  
924 Camaron  
San Antonio, Texas 78212

Dear Mr. Homburg and Mr. Acevedo:

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 Anne Ashby, Judge of the 134<sup>th</sup> District Court, Dallas, Texas to preside in

*Commission for Lawyer Discipline v. Richard Acevedo*

Sincerely,

A handwritten signature in black ink, appearing to read "John T. Adams".

John T. Adams  
Clerk



# The Supreme Court of Texas

CHIEF JUSTICE  
THOMAS R. PHILLIPS

201 West 14th Street Post Office Box 12248 Austin TX 78711  
Telephone: 512/463-1312 Facsimile: 512/463-1365

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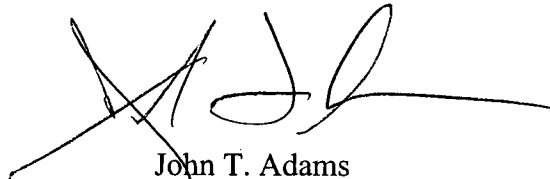
Honorable Anne Ashby  
Judge, 134<sup>th</sup> District Court  
George L. Allen Sr. Courts Building, 4<sup>th</sup> Floor  
600 Commerce Street  
Dallas, Texas 75202

Dear Judge Ashby:

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. Acevedo and Mr. Homburg, and a copy of the letter to the District Clerk of Bexar County.

It is recommended that, six to eight weeks after receipt of this letter, you or your coordinator contact the Bexar County Administrative Office (210-335-2300) to find out the district court to which this disciplinary case has been assigned, names and addresses of counsel, etc. We then recommend that, either before or immediately after you set the case for trial, you contact the Presiding Judge of the Administrative Judicial Region into which you have been assigned (210-769-3519) to reserve a courtroom, obtain a court reporter, obtain claims forms for your expenses incident to presiding over this disciplinary case.

Sincerely,



John T. Adams  
Clerk