

ORDER OF THE SUPREME COURT OF TEXAS

Misc. Docket No. 02 - **9107**

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

The Supreme Court of Texas hereby appoints the Honorable Guilford L. Jones., Judge of the 33rd District Court of Burnet County, Texas, to preside in the Disciplinary Action styled


The Commission for Lawyer Discipline v. Morris J. Kirschberg

to be filed in the 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 pursuant to Rule 3.03, Texas Rules of Disciplinary Procedure.

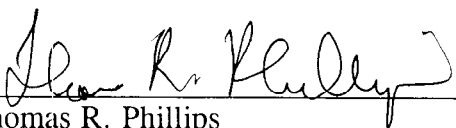
As ordered by the Supreme Court of Texas, in chambers,

With the Seal thereof affixed at the City
Of Austin, this 7th day of June, 2002.


JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 02-9107, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code, §74.057.

Signed this 10 day of June, 2002.



Thomas R. Phillips
Chief Justice



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
DEBORAH G. HANKINSON
HARRIET O'NEILL
WALLACE B. JEFFERSON
XAVIER RODRIGUEZ

EXECUTIVE ASSISTANT
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASST
JIM HUTCHESON

ADMINISTRATIVE ASSISTANT
NADINE SCHNEIDER

JUN 14 2002

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

Mr. Morris J. Kirschberg
4550 N.W. Loop 410, #100
San Antonio, Texas 78229

Dear Mr. Homburg and Mr. Kirschberg:

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 Guilford L. Jones, Judge of the 33rd District Court, Burnet, Texas to preside in

Commission for Lawyer Discipline v. Morris J. Kirschberg

Sincerely,

SIGNED

John T. Adams
Clerk



The Supreme Court of Texas

CHIEF JUSTICE
THOMAS R. PHILLIPS

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NADINE SCHNEIDER

JUN 14 2002

Honorable Guilford L. Jones
Judge, 33rd District Court
220 S. Pierce Street
Burnet, Texas 78611-3136

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. Kirschberg 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 (956-335-2300) 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,

SIGNED

John T. Adams
Clerk



The Supreme Court of Texas

CHIEF JUSTICE
THOMAS R. PHILLIPS

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JIM HUTCHESON

ADMINISTRATIVE ASSISTANT
NADINE SCHNEIDER

JUN 14 2002

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. Morris J. Kirschberg*, and a copy of the Supreme Court's order appointing the Honorable Guilford L. Jones, Judge of the 33rd District Court, Burnet, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Honorable Guilford L. Jones
Mr. Paul H. Homburg, III
Mr. Morris J. Kirschberg

CAUSE NO. _____

COMMISSION FOR LAWYER
DISCIPLINE,
Petitioner

§
§
§
§
§
§
§
§

IN THE DISTRICT COURT,

vs.

____TH JUDICIAL DISTRICT

MORRIS J. KIRSCHBERG
Respondent

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, Morris J. Kirschberg, State Bar No. 11533300, is a member of the State Bar of Texas and is presently licensed to practice law in the State of Texas. Respondent maintains his principle place of practice in San Antonio, Bexar County, Texas. Respondent can be served with citation at his

office at 4550 N.W. Loop 410, #100, San Antonio, Bexar County, Texas 78229.

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 residence. 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 by the State Bar of Texas. The acts and omissions of Respondent, as hereinafter alleged, constitute professional misconduct.

V.

FACTUAL BACKGROUND

Respondent Kirschberg maintains an active bankruptcy docket representing debtors before the United States Bankruptcy Courts for the Western District of Texas. On at least three occasions, Respondent has neglected legal matters by failing to appear or failing to remain present through the docket call for scheduled bankruptcy hearings. He has frequently failed to carry out completely the obligations owed to numerous bankruptcy clients and has failed to provide the legal counsel and advice necessary for clients to understand the proceedings and to make informed decisions regarding their bankruptcy cases. On more than one occasion, Respondent

signed bankruptcy schedules with the purported signatures of his clients, when such schedules are to be signed only by the client under penalty of perjury.

VII.

DISCIPLINARY RULES OF PROFESSIONAL CONDUCT

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

Rule 1.01(b)(1) -- In representing a client, a lawyer shall not neglect a legal matter entrusted to the lawyer;

Rule 1.01(b)(2) -- In representing a client, a lawyer shall not frequently fail to carry out completely the obligations that the lawyer owes to a client or clients;

Rule 1.03(b) -- A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation;

Rule 3.03 (a)(1) -- A lawyer shall not knowingly make a false statement of material fact or law to a tribunal;

Rule 3.03 (a)(2) -- A lawyer shall not knowingly fail to disclose a fact to a tribunal when disclosure is necessary to avoid assisting a criminal or fraudulent act;

Rule 3.03 (a)(3) -- A lawyer shall not knowingly, in an ex parte proceeding, fail to disclose to the tribunal an unprivileged fact which the lawyer reasonably believes should be known by that entity for it to make an informed decision;

Rule 3.03 (a)(5) -- A lawyer shall not knowingly offer or use evidence that the lawyer knows to be false

VIII.

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,
Disciplinary Counsel

Office of 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