

IN THE  
SUPREME COURT OF TEXAS  
IN THE MATTER OF  
DAVID TURLINGTON

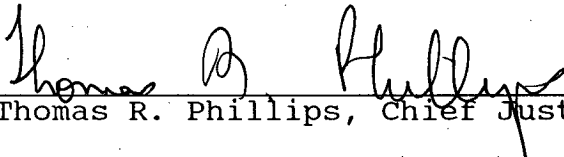
DOCKET NO. 93- 0083


ORDER

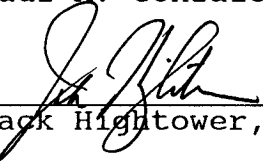
On this day, the Court considered the Motion for Acceptance of Resignation as Attorney and Counselor at Law of David Turlington, together with the Response of the Chief Disciplinary Counsel of the State Bar of Texas. The Court has reviewed said Motion and Response and finds each to be legally sufficient. The Court, being advised that such resignation is tendered in lieu of disciplinary action, and being of the opinion that such resignation is in the public interest and will meet the ends of justice, hereby concludes that the following order is appropriate.

IT IS ORDERED that the Law License of David Turlington, of Bexar County, Texas, State Bar Card No. 20308000, heretofore issued by this Court, be cancelled and his name be dropped and deleted from the list of persons licensed to practice law in Texas.


By the Court, en banc, in chambers, on this 12<sup>th</sup> day of April, 1993.


  
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Thomas R. Phillips, Chief Justice


  
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Raul A. Gonzalez, Justice

  
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Jack Hightower, Justice

  
Nathan L. Hecht, Justice

  
Lloyd Doggett, Justice

  
John Cornyn, Justice

  
Bob Gammage, Justice

  
Craig Enoch, Justice

  
Rose Specter, Justice

# STATE BAR OF TEXAS



Office of the General Counsel

March 22, 1993

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

Re: Resignation of David Turlington; Bar Card No. 20308000

Dear Mr. Adams:

Pursuant to Part X of the Texas Rules of Disciplinary Procedure, please find enclosed herewith the following:

- (1) Motion for Acceptance of Resignation as Attorney and Counselor at Law of David Turlington dated February 27, 1993, and received by the Office of General Counsel/Chief Disciplinary Counsel on March 5, 1993;
- (2) Response of Chief Disciplinary Counsel to Motion for Acceptance of Resignation as Attorney and Counselor at Law of David Turlington, which is being filed within twenty (20) days of service upon Chief Disciplinary Counsel of Motion for Acceptance of Resignation; and,
- (3) Original and one (1) copy of proposed Order for review and entry by the Court accepting the resignation of David Turlington as Attorney and Counselor at Law.

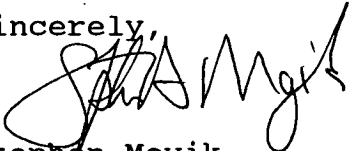
If no motion to withdraw the Motion for Acceptance has been filed by Mr. Turlington with the Court by April 1, 1993, please present the enclosed Order to the Court for review and entry.

John Adams  
March 22, 1993  
Page 2

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Upon entry of the Order by the Court, please transmit a true and correct copy of same to the undersigned in order that this office may properly give notice to Mr. Turlington, the District 10B Grievance Committee, the Commission for Lawyer Discipline and the complainants of the Court's disposition of such motion.

Sincerely,



Stephen Moyik  
Assistant General counsel

SM/enclosure

xc: Jeremiah Handy, 1815 San Pedro Ave., San Antonio, Texas 78212  
CMRRR #P 116 545 004

DOCKET NO. 93- \_\_\_\_\_

IN THE SUPREME COURT OF TEXAS

MOTION FOR ACCEPTANCE OF RESIGNATION AS  
ATTORNEY AND COUNSELOR AT LAW  
OF

DAVID TURLINGTON

TO THE HONORABLE SUPREME COURT OF TEXAS:

Movant, David Turlington, 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 lieu of disciplinary sanction for having committed professional misconduct.

II.

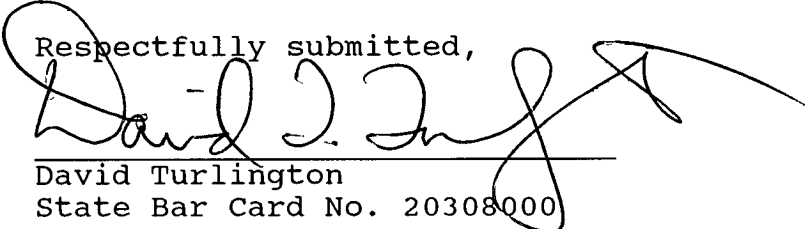
Movant attaches hereto and hereby surrenders his License and permanent State Bar Card issued by the Court on December 16, 1968.

III.

Movant's State Bar Card number is 20308000. Movant's current address is 4040 Broadway, Suite 600, San Antonio, Texas 78209-6353.

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.

2/27/93  
Date

Respectfully submitted,  
  
\_\_\_\_\_  
David Turlington  
State Bar Card No. 20308000



DOCKET NO. 93-\_\_\_\_\_

IN THE SUPREME COURT OF TEXAS

RESPONSE OF THE CHIEF DISCIPLINARY COUNSEL TO  
THE MOTION FOR ACCEPTANCE OF RESIGNATION  
AS ATTORNEY AND COUNSELOR AT LAW  
OF  
DAVID TURLINGTON

TO THE HONORABLE SUPREME COURT OF TEXAS:

COMES NOW the Chief Disciplinary Counsel of the State Bar of Texas and, in accordance with Part X of the Texas Rules of Disciplinary Procedure, files this Response on behalf of the State Bar of Texas, acting through the Texas Commission for Lawyer Discipline, to the Motion for Acceptance of Resignation as Attorney and Counselor at Law of Movant, David Turlington.

The acceptance of the resignation of David Turlington is in the best interest of the public and the profession. There is currently pending a disciplinary action against David Turlington numbered 92-CI-00887 and styled "The State Bar of Texas v. David Turlington," in the 37th Judicial District Court of Bexar County, Texas; there is also currently pending a disciplinary proceeding against David Turlington numbered S-0069200098 and styled John O. McCracken v. David Truett Turlington, before the Grievance Committee for State Bar District Number 10B, State Bar of Texas.

The Professional Misconduct with which David Turlington is charged is as follows:

VIELMAS COMPLAINT

Movant, David Turlington, represented Fernanda Vielmas individually and as legal guardian and next friend of her minor

son, Manuel Ortiz III, in a personal injury resulting from an automobile accident in or around April, 1985. Turlington negotiated a settlement of the suit that included \$42,000.00 to be paid to Fernanda Vielmas, as legal guardian and managing conservator of Manuel Ortiz III, to be set aside for payment of accrued hospital, doctor and other medical expenses. A settlement draft in the amount of \$125,000.00 was issued payable jointly to Fernanda Vielmas and Turlington. Mrs. Vielmas endorsed the settlement draft and turned it over to Turlington for deposit. Turlington failed to keep that portion of the funds which had been earmarked for payment of medical bills and expenses in a trust account or some other separate, identifiable account, but rather commingled those funds with his own personal or business funds. Turlington failed to promptly deliver those funds to Mrs. Vielmas.

By his conduct as alleged in the Vielmas Complaint, Movant David Turlington has violated Disciplinary Rules 9-102(A) and 9-102(B)(4) of the Texas Code of Professional Responsibility.

#### MCCRACKEN COMPLAINT

Movant, David Turlington, represented John McCracken with reference to McCracken's lawsuit against Central Park Mall Joint Venture et al. The lawsuit was settled on August 17, 1990, with Turlington receiving on behalf of McCracken the sum of \$250,000.00 cash and a note in the amount of \$250,000.00 due and payable within ten months of settlement date. The note was paid timely to Turlington in accordance with the settlement agreement. Turlington



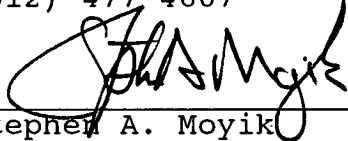
distributed the sum of \$341,070.88 to John McCracken. Turlington misappropriated the sum of not less than \$158,929.12, which said monies were used to fund a complex case, unrelated to McCracken's legal matters, in which Turlington was acting as attorney. By his conduct as alleged in the McCracken Complaint, Movant David Turlington has violated Rules 1.14(a) and 8.04(a)(3) of the Texas Disciplinary Rules of Professional Conduct.

In view of David Turlington's execution 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 pending disciplinary action in district court nor with the pending disciplinary proceeding before the District 10B Grievance Committee, and intends to obtain an Order of Non-Suit in said disciplinary action upon entry of Order by the Supreme Court of Texas accepting the motion for resignation of David Turlington and deleting his name from the list of persons licensed to practice law in the State of Texas.

Respectfully submitted,

James M. McCormack  
Chief Disciplinary Counsel  
State Bar of Texas  
P.O. Box 12487, Capitol Station  
Austin, Texas 78711  
(512) 463-1381  
FAX: (512) 477-4607

By:

  
\_\_\_\_\_  
Stephen A. Moyik  
Assistant General Counsel  
State Bar No. 14614300

