

IN THE SUPREME COURT OF THE STATE OF TEXAS

Misc. Docket No. 94- 9054

IN THE MATTER OF

Donald R. Bernard

ORDER

On this day came on for consideration the Motion for Acceptance of Resignation as Attorney and Counselor at Law of Donald R. Bernard together with the Response filed by the Chief Disciplinary Counsel of the State Bar of Texas acting through the Commission for Lawyer Discipline. The Court has reviewed said Motion and the 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 best interest of the public and of the profession and will meet the ends of justice, hereby concludes that the following Order is appropriate.

It is ORDERED that the law license of Donald R. Bernard heretofore issued by this court, be, and the same is hereby cancelled and revoked and his name be, and is hereby, removed and deleted from the list of persons licensed to practice law in the State of Texas. Receipt of the license and permanent State Bar card issued by this Court to Donald R. Bernard is hereby acknowledged.

By the Court, en banc, in chambers, this the 26<sup>th</sup> day  
of April, 1994.

Thomas R. Phillips  
Thomas R. Phillips, Chief Justice

Raul A. Gonzalez  
Raul A. Gonzalez, Justice

Jack Hightower  
Jack Hightower, Justice

Nathan L. Hecht  
Nathan L. Hecht, Justice

Lloyd Doggett  
Lloyd Doggett, Justice

John Cornyn  
John Cornyn, Justice

Bob Gammage  
Bob Gammage, Justice

Craig Enoch  
Craig Enoch, Justice

Rose Spector  
Rose Spector, Justice

02209000  
Attorney's Bar Card Number

Misc. Docket No. 94 - 9054

CF6-19A.pri

# STATE BAR OF TEXAS



Office of the General Counsel

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
Z770185869

March 10, 1994

John Adams, Clerk  
Supreme Court of Texas  
201 W. 14th St.  
Room 104  
Austin, Texas 78701

Re: Donald R. Bernard

Dear Mr. Adams:

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

- (1) Original executed Motion for Acceptance of Resignation as Attorney and Counselor at Law for the above referenced attorney;
- (2) Original and two (2) copies of the Response of the Chief Disciplinary Counsel to Motion for Acceptance of Resignation as Attorney and Counselor at Law for the above referenced attorney; and
- (3) Permanent State Bar Card and law license (or affidavit stating whereabouts of either item) for the above referenced attorney.
- (4) Original Order of Resignation for the Court's signature.

I will appreciate your bringing this to the Court's attention. Pursuant to Rule 10.02 of the Texas Rules of Disciplinary Procedure, once the required ten (10) day timeframe has passed, I will notify the Court, in writing, of the filing of any Motion to Withdraw Resignation.

Please return a file stamped copy of the Response to our office at your earliest convenience.

Sincerely,

A handwritten signature in cursive script that reads "Sonya Sledge Chandler". The signature is written in dark ink and is positioned above the typed name.

Sonya Sledge Chandler  
Assistant Chief Disciplinary Counsel  
Office of the Chief Disciplinary Counsel  
State Bar of Texas  
pc  
Enclosure  
CF3-24R.PRI

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

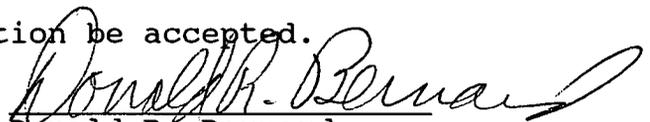
OF

Donald R Bernard

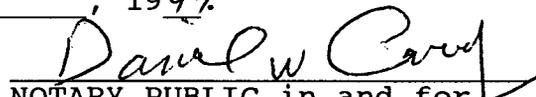
NOW COMES your Applicant, Donald R Bernard, and hereby resigns as an Attorney and Counselor at Law in the State of Texas; and hereby submits to the Court his resignation as an Attorney and Counselor at Law; and prays that the Court accept said resignation.

Attached hereto is the License and permanent State Bar card issued by this Court to the Applicant, Donald R Bernard, as an Attorney and Counselor at Law on April 24, 1958. Said License and permanent State Bar card are hereby surrendered by the Applicant.

Your applicant is voluntarily resigning and withdrawing from the practice of law; Applicant does so in lieu of discipline for professional misconduct; and Applicant prays that his name be dropped and deleted from the list of persons licensed to practice law in Texas; and that his resignation be accepted.

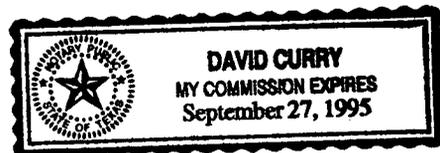
  
Donald R. Bernard  
02209000

SUBSCRIBED AND SWORN to before me by the said Donald R Bernard this the 4<sup>th</sup> day of MARCH, 1994.

  
NOTARY PUBLIC in and for  
the State of Texas

Donald R. Bernard  
17629 El Camino Real Ste 400  
Houston, Texas 77058

CF6-17.PRI



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

OF

Donald R. Bernard

TO THE HONORABLE SUPREME COURT OF TEXAS:

Pursuant to Part X of the Texas Rules of Disciplinary Procedure, James M. McCormack, Chief Disciplinary Counsel, hereby files this 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 in Lieu of Discipline filed by Donald R. Bernard, and would show as follows:

I.

The acceptance by the Court of the Resignation of Donald R. Bernard is in the best interest of the public and of the profession.

II.

On or about August 16, 1983, Respondent was appointed by the will Ethel Brown Bennett as co-trustee as a testamentary trust. As co-trustee Respondent was to collect income from the property comprising the trust estate and to remit that income to the beneficiaries. Between December 31, 1987 and August 4, 1988, Respondent loaned \$200,000.00 from the Bennett trust assets to third American Funding Group Inc., a Texas corporation in which Respondent serves as officer, Director, President and Vice-President. The promissory notes evidencing the loans were insecured and although the notes matured in 1990 they have not been

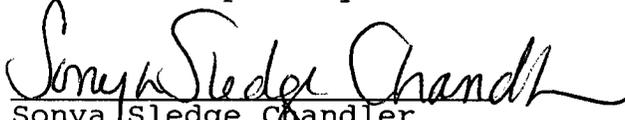
paid. The Bennett trust estate owns shares of Exxon Corporation and a seller-financed mortgage. Since 1989 approximately \$21,779.00 in Exxon dividend checks have not been deposited by Respondent into the Bennett trust checking account. Since 1990 approximately \$1,701.00 in mortgage payments from the trust's seller-financed mortgage have not been deposited into the Bennett trust checking account. Itasca Coles Davis, Co-Trustee of the Bennett trust and beneficiary of the Estate made numerous requests to Respondent for information and accountings from Respondent. Respondent failed to respond to Itasca Coles Davis's request for information and to provide an accounting.

III.

WHEREFORE, the State Bar of Texas, moves the Court to accept the resignation in lieu of discipline and grant the motion filed by Movant.

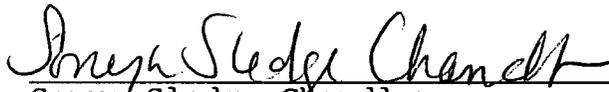
Respectfully Submitted,

James M. McCormack  
Chief Disciplinary Counsel

  
Sonya Sledge Chandler  
State Bar Card No. 04102020  
Assistant Chief Disciplinary Counsel  
Office of the Chief Disciplinary  
Counsel  
State Bar of Texas  
1111 Fannin, Ste. 1370  
Houston, Texas 77002  
(713) 759-6931  
FAX (713) 759-1932

CERTIFICATE OF SERVICE

This is to certify that the Response of the Chief Disciplinary Counsel to the Resignation of Donald R. Bernard has been served on Donald R. Bernard, Respondent, at P.O. Box 541, Seabrook, Texas 77586-0541, via Certified Mail # Z770185868 on March 10, 1994.



Sonya Sledge Chandler

Assistant Chief Disciplinary Counsel

CF6-19.PRI