

**IN THE
SUPREME COURT OF TEXAS
IN THE MATTER OF
STUART B. COLLINS**

MISC. DOCKET NO. 94-9100

ORDER

On this day, this Court considered the Motion for Acceptance of Resignation as Attorney and Counselor at Law of Stuart B. Collins, together with the Response of the Chief Disciplinary Counsel to the Motion for Acceptance of Resignation as Attorney and Counselor at Law of Stuart B. Collins. This Court has reviewed the Motion and Response and finds that each meets the requirements of Part X of the Texas Rules of Disciplinary Procedure. In conformity with Part X, Section 10.02, of the Texas Rules of Disciplinary Procedure, the Court considers the detailed statement of professional misconduct contained within the Response of Chief Disciplinary Counsel to be deemed conclusively established for all purposes. The Court, after being advised that the acceptance of the resignation is in the best interest of the public and the profession, concludes that the following Order is appropriate.

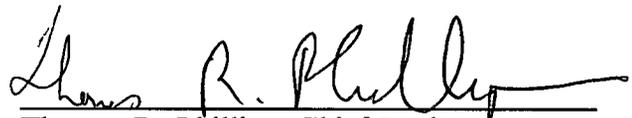
IT IS ORDERED that the law license of Stuart B. Collins of Houston, Texas, State Bar card number 04618400, which was previously issued by this Court, is cancelled and his name is dropped and deleted from the list of persons licensed to practice law in Texas.

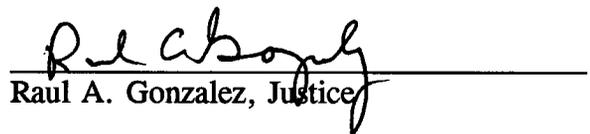
IT IS FURTHER ORDERED that Stuart B. Collins is permanently enjoined and prohibited from practicing law in the State of Texas, from holding himself out as an attorney at law, from performing any legal services for others, from giving legal advice to others, from accepting any fee directly or indirectly for legal services, from appearing as counsel or in any representative capacity in any proceeding in any Texas court or before any Texas

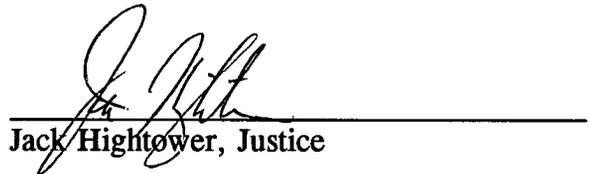
administrative body (whether state, county, municipal, or other), and from holding himself out to others or using his name in any manner in conjunction with the words "Attorney at Law," "Counselor at Law," or "Lawyer."

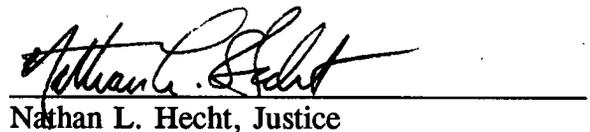
IT IS FURTHER ORDERED that Stuart B. Collins, within thirty days after the date on which this Order is signed by the Court, notify in writing each and every justice of the peace, judge, magistrate, and chief justice of each and every Texas court in which Stuart B. Collins may have any client matter pending, advising each court of his resignation, of the style and cause number of any matter pending in that court, and of the name, address and telephone number of the client(s) he is representing in that court. Stuart B. Collins is ORDERED to send copies of all these notifications to the Office of the General Counsel, State Bar of Texas, P.O. Box 12487, Capitol Station, Austin, Texas, 78711.

By the Court, en banc, in chambers, on this the 24th day of June, 1994.

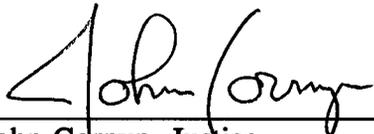

Thomas R. Phillips, Chief Justice

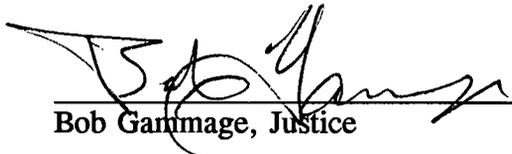

Raul A. Gonzalez, Justice


Jack Hightower, Justice


Nathan L. Hecht, Justice


Lloyd Doggett, Justice


John Cornyn, Justice


Bob Gammage, Justice


Craig Enoch, Justice


Rose Spector, Justice

STATE BAR OF TEXAS



Office of the General Counsel

June 16, 1994

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

BY INTERAGENCY MAIL

RE: Resignation of Stuart B. Collins, Texas State Bar No. 04618400

Dear Mr. Adams:

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

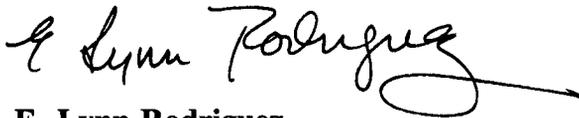
- (1) Motion for Acceptance of Resignation as Attorney and Counselor at Law of Stuart B. Collins, dated June 7, 1994;
- (2) Law license and State of Texas Bar card issued to Stuart B. Collins on November 6, 1978;
- (3) Response of the Chief Disciplinary Counsel to Motion for Acceptance of Resignation as Attorney and Counselor at Law of Stuart B. Collins; and,
- (4) Original and one (1) copy of proposed Order for review and entry by the Court accepting the resignation of Stuart B. Collins as Attorney and Counselor at Law.

If no motion to withdraw the Motion for Acceptance has been filed by Mr. Collins with the Court by June 27, 1994, please present the enclosed Order to the Court for review and entry.

Mr. John Adams
June 16, 1994
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Upon entry of the Order by the Court, please transmit a true and correct copy of the same to the undersigned in order that this office may properly give notice to all parties of the Court's disposition of such motion.

Sincerely,

A handwritten signature in cursive script that reads "E. Lynn Rodriguez". The signature is written in black ink and includes a long horizontal flourish at the end.

E. Lynn Rodriguez
Assistant General Counsel

ELR/cr
Enclosures

cc: Stuart B. Collins, P.O. Box 7422233, Houston, Texas 77274-2233
CERTIFIED MAIL # P 116 547 180 - RETURN RECEIPT REQUESTED

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

OF

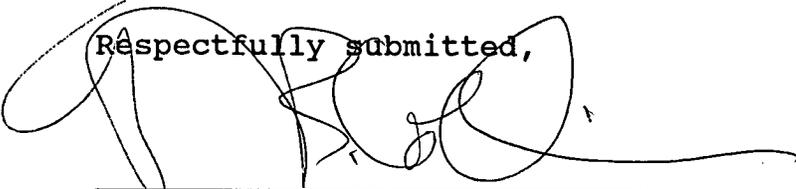
STUART B. COLLINS

Your Applicant, **STUART B. COLLINS**, hereby reluctantly resigns and regretfully submits his resignation as an attorney and counselor-at-law in the State of Texas, and prays that this Honorable Court accept his resignation.

1. Attached hereto and surrendered herewith are his license and permanent State of Texas Bar card issued by this Court to the Applicant, **STUART B. COLLINS**, as an attorney and counselor-at-law on November 6, 1978.

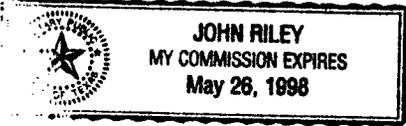
2. Your Applicant, **STUART B. COLLINS**, is voluntarily resigning and withdrawing from the practice of law in lieu of discipline for professional misconduct as alleged in pending disciplinary actions and proceedings. Applicant prays that his name be dropped and deleted from the list of persons licensed to practice law in Texas; and that his resignation be accepted.

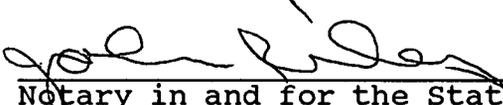
Respectfully submitted,



Stuart B. Collins
Texas State Bar No. 04618400
Petitioner, *Pro Se*
Post Office Box 742233
Houston, Texas 77274-2233
Telephone: (713) 667-1186
Telecopier: (713) 667-1186

Subscribed and Sworn to before me by **STUART B. COLLINS** this 07
day of June, 1994.

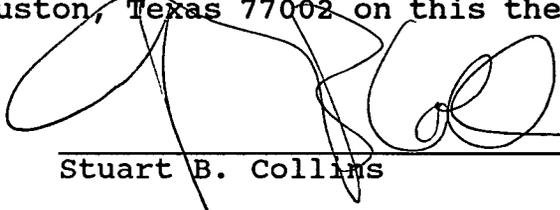




Notary in and for the State of Texas

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Petitioner's Application for Acceptance of Resignation in Lieu of Disciplinary Action has been sent by certified mail, postage pre-paid, return receipt requested and/or by facsimile transmission to the Petitioner, COMMISSION FOR LAWYER DISCIPLINE, through its attorney of record, Ms. Sharon E. Conway, Assistant General Counsel, Office of the General Counsel, State Bar of Texas, 111 Fannin, Suite 1370, Houston, Texas 77002 on this the 10th day of June, 1994.



Stuart B. Collins

IN THE SUPREME COURT OF TEXAS

**RESPONSE OF THE CHIEF DISCIPLINARY COUNSEL
OF THE
STATE BAR OF TEXAS
REGARDING
STUART B. COLLINS**

TO THE HONORABLE SUPREME COURT OF TEXAS:

I, James M. McCormack, Chief Disciplinary Counsel of the State Bar of Texas, in accordance with Part X of the Texas Rules of Disciplinary Procedure, file 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 as Attorney and Counselor at Law of Stuart B. Collins received on or about June 15, 1994. The acceptance of the resignation of Stuart B. Collins is in the best interest of the public and the profession. A disciplinary action is currently pending against Stuart B. Collins ("Respondent"), which is Cause No. 93-56724, styled *Commission for Lawyer Discipline v. Stuart B. Collins*, before the 164th Judicial District Court of Harris County, Texas ("Lawsuit"), and disciplinary proceedings are also pending regarding the following grievance files: William H. Ervine, file no. 04C-1206-0891; Margaret A. Harris, file no. 04C-788-0492; and Leslie Vallone, file no. 04C-1969-1291 (the Lawsuit and the three grievances by Ervine, Harris, and Vallone are collectively referred to as the "Disciplinary Actions").

The Lawsuit seeks discipline of Stuart B. Collins for his actions relating to the complaint filed by Elma Joyce Clark. Elma Joyce Clark ("Clark") hired Respondent's law firm in or around August of 1991 to represent her and other members of her family in a

dispute over life insurance proceeds. The fee arrangement was for Respondent to be paid a 33% contingency fee of the amount recovered for Clark. After Clark and her sister endorsed checks from the insurance company that totalled \$30,000.00, that amount was deposited into Respondent's trust account. At that time, Clark was told that she would receive her money on or around July 9, 1992. After Clark contacted the law firm on July 9, 1992, and again on July 13, 1992, she was told by Respondent's law partner that she would have to wait until Respondent returned from an out-of-state trip on July 15, 1992, since Respondent was the only one authorized to withdraw money from the account. In fact, Respondent or employees or representatives of his law firm had withdrawn Clark's share on or about July 9, 1992, and had applied her funds to Respondent's law firm's own use and benefit. On or about July 22, 1992, Clark was told that Respondent had wired her funds to Clark's bank, but when Clark checked with her bank, she discovered the funds had not been wired. Subsequently, both Respondent and his law partner refused to take Clark's phone calls or return her messages. After Clark filed a complaint against Respondent with the State Bar of Texas, she finally began to receive money from Respondent. It was approximately three and one-half months after her case was settled before Clark received all of her money from Respondent. Collins' conduct as set forth in the Clark complaint violated Rules 1.03(a), 1.14(a), 1.14(b), 1.14(c), and 8.04(a)(3) of the Texas Disciplinary Rules of Professional Conduct ("TDRPC").

The Lawsuit also seeks discipline of Stuart B. Collins for his actions relating to a complaint filed by Lance Dreyer. In or around December of 1989, Respondent was appointed the Chapter 11 Trustee in Case No. 89-11943-S, *In Re: Clamont Energy Corporation* ("Clamont"), in the United States Bankruptcy Court for the Eastern District of

Texas. On or about May 1, 1992, acting in his capacity as trustee, Respondent prepared two checks made payable to Collins & Schreiber, Respondent's law firm, in the total amount of Thirty Seven Thousand and No/100 Dollars (\$37,000.00) from funds belonging to the estate of the debtor. Respondent wrongfully took this action without first obtaining authority from the bankruptcy court. Both checks were deposited into Collins & Schreiber's operating account on or about May 1, 1992. On or about June 16, 1992, while testifying under oath in a hearing relating to the bankruptcy matter, Respondent was asked "[H]ave you paid yourself or your firm [Collins & Schreiber] any attorney's fees?" Respondent's answer to this question was "No." Subsequently, Respondent filed for personal bankruptcy and he personally has failed and refused to return these funds to the Clamont bankruptcy estate. Collins' conduct as set forth in the Dreyer complaint violated Rules 1.01(a), 1.14(a), 1.14(b), 1.14(c), 3.03(a)(1), 3.03(a)(2), and 8.04(a)(3) of the TDRPC.

William H. Ervine ("Ervine") and Respondent were law partners from April 1990 through May 1991. In May 1991, Respondent intercepted and endorsed a check for client funds that only Ervine had authority to endorse and deposit. Although Respondent asserts that he had authority to endorse the check, he forged Ervine's name onto the check rather than use his own endorsement. Collins' conduct as set forth in the Ervine complaint violated Rule 8.04(a)(3) of the TDRPC.

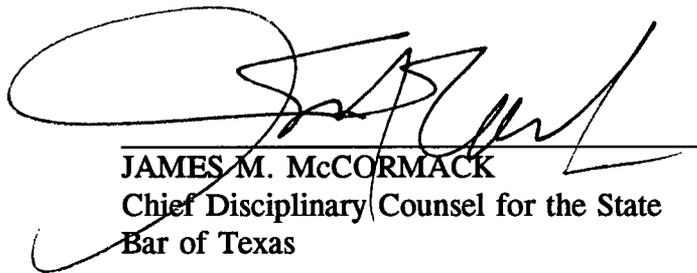
Margaret A. Harris ("Harris") is an attorney representing a former client of Respondent. An attorney-client relationship existed with Respondent, his firm, and the former client regarding financing for a racetrack. Respondent subsequently filed a lawsuit against the former client while representing HTC Investments, Inc. ("HTC Investments"),

another entity seeking to establish a racetrack. In addition, Respondent represented HTC Investments as its attorney to assist it in obtaining a license to operate a racetrack while Respondent was a shareholder in HTC Investments. Respondent's representation of HTC Investments as its attorney was improper in that Respondent, as a shareholder in HTC Investments, was a witness with personal knowledge concerning the litigation with the former client. Collins' conduct as set forth in the Harris complaint violated Rules 1.07(a)(1) and 3.08(a) of the TDRPC.

Leslie Vallone ("Vallone"), president of Rexco Management Company, which was the General Partner of Rexco Partners 1988, Ltd., d/b/a The Houston Turf Club, (collectively referred to as "Rexco"), hired Respondent through a contingency fee agreement to represent Rexco. Subsequently, Respondent formed HTC Investments, of which he, his wife, his children, his sister, his mother, and his law partners were shareholders along with Vallone. Respondent represented HTC Investments to assist it in obtaining a license to operate a racetrack while he was a shareholder of HTC Investments. During this same time period, Respondent was also representing Rexco in its appeal of the denial of its racetrack license by the Texas Racing Commission ("TRC") and to file a federal RICO lawsuit against the TRC. Respondent filed the appeal in January 1990, and the RICO suit in February 1990. Eventually, Vallone and Respondent agreed to have HTC Investments reapply for the license and to jointly finance the project with \$25,000.00 until an outside investor could fund the project. Vallone ultimately contributed \$4,000.00 and Respondent ultimately contributed \$21,000.00. The \$25,000.00 was used as earnest money in escrow for a piece of real estate that HTC Investments was attempting to purchase for the racetrack. The funds were placed

in escrow on behalf of HTC Investments. Upon notice that the HTC Investments was being denied the racetrack license, Respondent caused the \$25,000.00 earnest money to be divided between HTC Investments and the proposed seller of the real property intended for the racetrack. Respondent received, on behalf of HTC Investments, \$10,280.84, and he failed to notify the other shareholders of HTC Investments of his receipt of the funds. Respondent then transferred the funds to his operating account and paid office expenses with those funds on the same day of his receipt of the funds. Collins' conduct as set forth in the Vallone complaint violated Rules 1.03(a), 1.08(a), and 1.14(b) of the TDRPC.

In view of Stuart B. Collins' execution on or about June 10, 1994, of his resignation as an attorney and counselor at law, and in anticipation of the Court's acceptance of his resignation, the Chief Disciplinary Counsel does not anticipate going forward with the pending Disciplinary Actions and intends to nonsuit the Disciplinary Action upon entry of an Order by the Supreme Court of Texas deleting Stuart B. Collins from the list of persons licensed to practice law in the State of Texas.



JAMES M. McCORMACK
Chief Disciplinary Counsel for the State
Bar of Texas

CERTIFICATE OF SERVICE

I certify that on the 16th day of June, 1994, a true and correct copy of the Response of the Chief Disciplinary Counsel was delivered to Stuart B. Collins, Respondent *pro se*, at P.O. Box 742233, Houston, Texas, 77274-2233, by certified mail, return receipt requested, postage prepaid.



JAMES M. McCORMACK