

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 94-9111

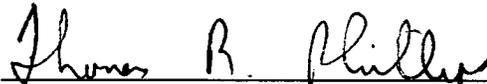
ORDER OF THE COURT APPROVING AN AMENDMENT TO THE
INTERNAL OPERATING RULES OF THE COMMISSION FOR LAWYER
DISCIPLINE

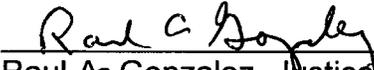
TO THE HONORABLE SUPREME COURT OF TEXAS:

WHEREAS, the State Bar of Texas has, by petition filed with the Clerk of this Court on July 1, 1994, petitioned the Supreme Court of Texas to approve an amendment to Internal Operating Rules 5.1 and 10.1 of the Commission for Lawyer Discipline as approved by the action of the Board of Directors of the State Bar of Texas at the called meeting on January 21, 1994, in San Antonio, Texas and on April 22, 1994, in Wichita Falls, Texas.

WHEREAS, the petition has been presented to and considered by the Supreme Court of Texas, and the Court being of the opinion that Internal Operating Rules 5.1 and 10.1 of the Commission for Lawyer Discipline should be amended as set forth therein; It is, therefore, ORDERED that the proposed amendments to Internal Operating Rules 5.1 and 10.1 of the Commission for Lawyer Discipline as set forth in the petition of the State Bar of Texas and submitted to this Court be, and same is hereby, APPROVED, and that such amended rule be effective this date.

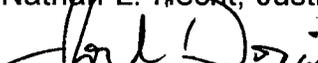
Signed and entered this 8th day of August, 1994.


Thomas R. Phillips, Chief Justice

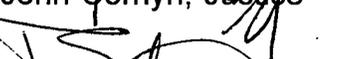

Raul A. Gonzalez, Justice


Jack Hightower, Justice


Nathan L. Hecht, Justice


Lloyd Doggett, Justice


John Cornyn, Justice


Bob Gammage, Justice


Craig Enoch, Justice


Rose Spector, Justice

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 94- _____

**PETITION FOR ORDER AMENDING THE INTERNAL OPERATING RULES
OF THE COMMISSION FOR LAWYER DISCIPLINE**

TO THE HONORABLE CHIEF JUSTICE AND JUSTICES OF SAID COURT:

The State Bar of Texas (the "Petitioner") respectfully hereby petitions the Court for an Order Amending Internal Operating Rules 5.1 and 10.1 of the Commission for Lawyer Discipline . In support hereof, the Petitioner states as follows:

I

The Board of Directors of the State Bar of Texas, in a regularly called and posted meeting at which a quorum was present, on January 21, 1994, unanimously resolved to make the recommendation and request for amendment of Internal Operating Rule 5.1 herein made. These actions were taken upon the recommendation of the Texas Commission for Lawyer Discipline.

II

The Petitioner recommends and requests that Internal Rule 5.1 be amended to read as follows:

5.1: LIMITATIONS ON THE USE OF PRIVATE REPRIMANDS. In accordance with Section 81.072(11), Texas Government Code, the Commission adopts the

following rules restricting the use of private reprimands by district grievance committees. Private reprimands shall not be utilized if:

- A. A private reprimand has been imposed upon the Respondent within the preceding five (5) year period for a violation of the same disciplinary rule; or
- B. The Respondent has previously received two (2) or more private reprimands, whether or not for violations of the same disciplinary rule, within the preceding ~~ten (10)~~ five (5) years; or
- C. The misconduct includes improper solicitation, theft, misapplication of fiduciary property, or the failure to return, after demand, a clearly unearned fee; or
- D. The misconduct has resulted in substantial injury to the client, the public, the legal system or the profession; or
- E. There is likelihood of future misconduct by Respondent; or
- F. The Respondent's misconduct was an intentional violation of the Texas Disciplinary Rules of Professional Conduct or, if applicable, the Texas Code of Professional Conduct or, if applicable, the Texas Code of Professional Conduct; or
- G. A Disciplinary Action has been initiated as a result of such misconduct.

III

The Board of Directors of the State Bar of Texas, in a regularly called and posted meeting at which a quorum was present, on April 22, 1994, unanimously resolved

to make the recommendation and request for amendment of Internal Operating Rule 10.1 herein made. These actions were taken upon the recommendation of the Commission for Lawyer Discipline.

IV

The Petitioner recommends and requests that Internal Rule 10.1 be amended to read as follows:

10.1 POLICY. An attorney who was employed by the Chief Disciplinary Counsel's office shall not represent a Respondent in a Disciplinary Action or Disciplinary Proceeding in which the attorney, while employed by the State Bar, participated personally or substantially unless the Commission first consents. All attorneys in the firm of the affected former employee of the Chief Disciplinary Counsel shall also be subject to the policy. If an attorney desires to represent a Respondent who was subject to a Disciplinary Proceeding or Disciplinary Action when that attorney was an employee of the Chief Disciplinary Counsel he/she should make a written request of the Commission through the Chief Disciplinary Counsel. The request should include an explanation of his/her responsibilities in the office, detail any personal knowledge of or involvement in the particular case, any supervision of any person who might have had involvement in or knowledge of the case, and any actual or potential access to information about the case (including both confidential and nonconfidential information). Upon receiving the request, the item will be placed on the next available Commission agenda. The Commission shall have the exclusive authority on each individual request to

determine if the requesting attorney has participated personally or substantially in the affected Disciplinary Proceeding or Disciplinary action.

WHEREFORE, PREMISES CONSIDERED, the State Bar of Texas respectfully petitions the Supreme Court of Texas to amend Internal Operating Rules 5.01 and 10.1 as set forth in the foregoing recommendations and further requests such other and further relief, if any, which may be appropriate.

Respectfully submitted,

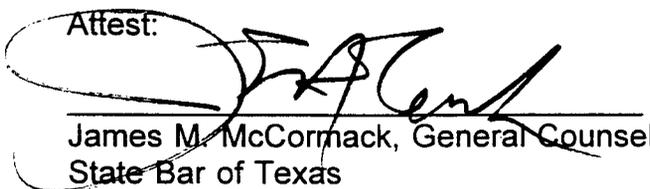


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