

IN THE SUPREME COURT OF TEXAS
MISC. DOCKET NO. 95- 9253

IN THE MATTER OF
D. LANTY MCCARTNEY, III

ORDER

On this day, the Court considered the Motion for Acceptance of Resignation as Attorney and Counselor at Law of D. Lanty McCartney, III, together with the Response of Chief Disciplinary Counsel to the Motion for Acceptance of Resignation as Attorney and Counselor at Law of D. Lanty McCartney, III. The Court has reviewed said 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 finds that D. Lanty McCartney, III, is resigning in lieu of compulsory discipline by reason of his acceptance of probation for intentional crimes, to-wit, three (3) counts of Theft Over \$750.00 on October 6, 1995, for which he received five (5) years' deferred adjudication probation. The Court, being advised that the acceptance of the resignation is in the best interest of the public and the profession, hereby concludes that the following Order is appropriate.

IT IS ORDERED that the law license of D. Lanty McCartney, III, of Dallas, Texas, State Bar Card Number 13374800, heretofore issued

by the Court, be cancelled and his name be dropped and deleted from the list of persons licensed to practice law in Texas.

IT IS FURTHER ORDERED that D. Lanty McCartney, III, shall immediately surrender his State Bar Card and Texas law license to the Clerk of the Supreme Court of Texas or file with the Court an affidavit stating the cause of his inability to do so.

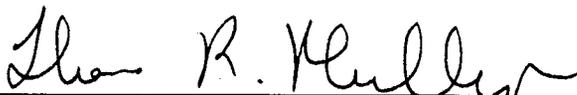
IT IS FURTHER ORDERED that D. Lanty McCartney, III, be, and he is hereby permanently enjoined and prohibited from practicing law in the State of Texas, holding himself out as an attorney at law, performing legal services for others, giving legal advice to others, accepting any fee directly or indirectly for legal services, 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), or 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 D. Lanty McCartney, III, shall immediately notify each of his current clients in writing of this resignation. In addition to such notification, D. Lanty McCartney, III, is ORDERED to return any files, papers, unearned monies and other property belonging to clients and former clients in his possession to the respective clients or former clients or to another attorney at the client's or former client's request. D. Lanty McCartney, III, is ORDERED to file with the State Bar of

Texas, 5910 North Central Expressway, Suite 900, Dallas, Texas 75206, within thirty (30) days of the date of the effective date of this Order an affidavit stating that all current clients have been notified of his resignation and that all files, papers, monies and other property belonging to all clients and former clients have been returned as ordered herein.

It is further ORDERED that D. Lanty McCartney, III, shall, on or before thirty (30) days from the effective date of this Order, notify in writing each and every justice of the peace, judge, magistrate, and chief justice of each and every court in which D. Lanty McCartney, III, has any matter pending of the terms of this Order, the style and cause number of the pending matter(s), and the name, address and telephone number of the client(s) D. Lanty McCartney, III, is representing in Court. D. Lanty McCartney, III is ORDERED to file with the State Bar of Texas, 5910 North Central Expressway, Suite 900, Dallas, Texas 75206, within thirty (30) days of the date of the effective date of this Order an affidavit stating that he has notified in writing each and every justice of the peace, judge, magistrate, and chief justice of each and every court in which he has any matter pending of the terms of this Order, the style and cause number of the pending matter(s), and the name, address and telephone number of the client(s) he is representing in Court.

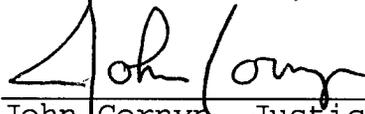
By the Court, en banc, in chambers, this the 9th day
of November, 1995.

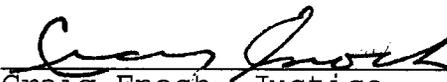

Thomas R. Phillips, Chief Justice

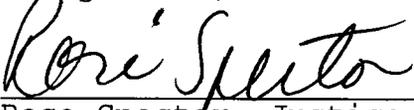

Raul A. Gonzalez, Justice

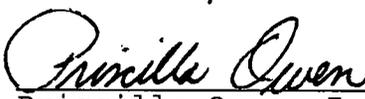

Jack Hightower, Justice

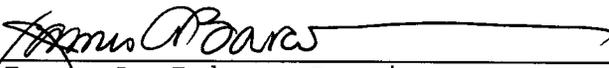
Nathan L. Hecht, Justice


John Cornyn, Justice


Craig Enoch, Justice


Rose Spector, Justice


Priscilla Owen, Justice


James A. Baker, Justice

Misc. Docket No. 95 - 9253

STATE BAR OF TEXAS



Office of the General Counsel

October 30, 1995

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
Z164120231

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

Re: Resignation of D. Lanty McCartney, III, Bar Card No. 13374800

Dear Mr. Adams:

Pursuant to Part X of the Texas Rules of Disciplinary Procedure, enclosed are the following documents:

1. Motion for Acceptance of Resignation as Attorney and Counselor at Law signed by D. Lanty McCartney, III, dated July 24, 1995, and received by the Chief Disciplinary Counsel on October 11, 1995;
2. Affidavit of D. Lanty McCartney, III, dated July 24, 1995, indicating that his law license is presently lost or misplaced;
3. Original and two (2) copies of Response of Chief Disciplinary Counsel of the State Bar of Texas regarding McCartney signed by Nancy M. Thursby, Assistant Chief Disciplinary Counsel; and

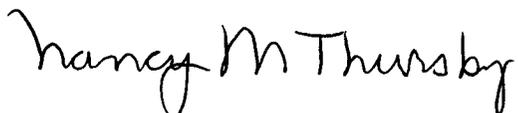
Premier Place, 5910 N. Central Expressway, Suite 900, Dallas, Texas 75206
Telephone: (214) 368-2168 Fax: (214) 368-6953

4. Original and one (1) copy of proposed Order for review and entry by the Supreme Court accepting the resignation of D. Lanty McCartney, III.

Please present the enclosed Order to the Court for review and entry.

Thank You.

Sincerely,

A handwritten signature in black ink that reads "Nancy M. Thursby". The signature is written in a cursive style with a large, looped initial "N".

Nancy M. Thursby
Assistant Chief Disciplinary Counsel
Office of the General Counsel
State Bar of Texas

Enclosures

NT/gs

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

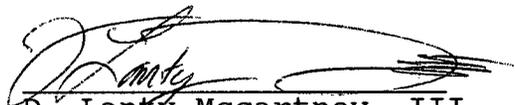
OF

D. LANTY MCCARTNEY, III

NOW COMES your Applicant, D. Lanty McCartney, III, 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, D. Lanty McCartney, III, as an Attorney and Counselor at Law on February 14, 1977. 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.



D. Lanty McCartney, III
State Bar Card No. 13374800

SUBSCRIBED AND SWORN to before me by the said D. Lanty McCartney, III this the 24 day of July, 1995.



NOTARY PUBLIC in and for
the State of Texas

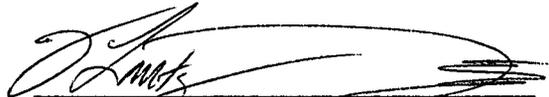
D. Lanty McCartney, III, Frank Crowley Courts Bldg., 203rd District Court, Dallas, Texas 75202

AFFIDAVIT

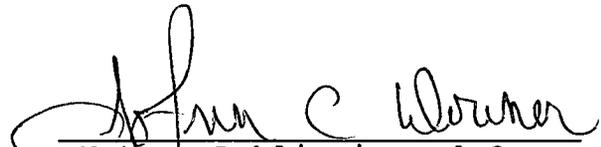
Before me, the undersigned authority, personally appeared D. Lanty McCartney, III, who being by me duly sworn, deposed as follows:

"My name is D. Lanty McCartney, III, I am of sound mind, capable of making this affidavit, and personally acquainted with the facts herein stated:

I, D. Lanty McCartney, III, declare that my law license issued by the Supreme Court is presently lost or misplaced and could not be located despite diligent search. If I should find law license at a future date, I will immediately surrender same to the Court. My State Bar Card Number is 13374800.


Affiant

SWORN TO AND SUBSCRIBED before me on this 24th
day of July, 1995.


Notary Public in and for
State of Texas

11-1-97
My commission expires

JoAnn C. Downer
Notary's printed name

IN THE SUPREME COURT OF TEXAS
RESPONSE OF THE CHIEF DISCIPLINARY COUNSEL
OF THE
STATE BAR OF TEXAS
REGARDING

D. LANTY McCARTNEY, III

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, hereby file a 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 D. Lanty McCartney, III, dated on or about July 24, 1995, and received by the Chief Disciplinary Counsel on October 11, 1995. The acceptance of the resignation of D. Lanty McCartney, III, is in the best interests of the public and the profession.

There are disciplinary actions currently pending against D. Lanty McCartney, III, (hereinafter referred to as "McCartney") before evidentiary panels of the District 6A and 1A Grievance Committees. These disciplinary actions before the evidentiary panels seek discipline of McCartney based upon complaints filed by Kim Shufelt, Monika E. Kopriva, Jackie Nguyen Kerstetter, Kham Phaeng Somsanith, Leonard D. Vannucci, David Priestman, Eli Lopez, Jr., Elizabeth Odelusi, Karim Amir and Kathy Wages. The professional misconduct with which McCartney is charged in the disciplinary actions before the evidentiary panels are based on the findings of fact and conclusions of law of the investigatory panels. The findings of fact are acknowledged by McCartney and are as follows:

A. Commission for Lawyer Discipline (Shufelt) vs. D. Lanty McCartney, III D0059403354

In February, 1993, D. Lanty McCartney, III, hereinafter referred to as "Respondent", was employed to represent Complainant in a personal injury matter arising out of an automobile accident. Respondent's principal place of practice was in Cedar Hill, Dallas County, Texas. In July, 1993, Respondent negotiated a settlement on Complainant's claim without informing Complainant and without receiving the consent of Complainant.

On or about July 27, 1993, State Farm Mutual Automobile Insurance Company issued a \$12,000.00 check payable to Complainant and Respondent in settlement of Complainant's personal injury claim. On or about July 27, 1993, Respondent deposited the settlement check into his trust account. Respondent failed to notify his client, Complainant, upon receipt of the settlement check. Respondent failed to deliver to his client any of the money from the settlement check. Respondent also either commingled his client's money with his own money or failed to keep records of his trust account.

Between August, 1993, and November, 1993, Complainant repeatedly left telephone messages for Respondent with Respondent's legal assistant. Respondent failed to return Complainant's telephone calls. In December, 1993, Respondent closed his law office without notifying Complainant. After the closure of the law office, Complainant again made repeated efforts to contact Respondent by mail and by telephone. Respondent failed to inform Complainant of his current mailing address and failed to return Complainant's telephone calls. Respondent has failed to communicate with Complainant in any manner since March, 1994.

On or about September 26, 1994, Respondent was personally served with notice and a copy of the complaint, and was requested to respond in writing to the State Bar of Texas within thirty (30) days of receipt of the notice. Respondent knowingly failed to respond to this lawful demand for information from a disciplinary authority. Further, Respondent failed to assert any grounds for his failure to respond.

The above facts support a violation of Rules 1.01(b), 1.02(a)(2), 1.03(a),(b), 1.14(a),(b) 8.01(b) and 8.04(a)(1),(2),(8) of the Texas Disciplinary Rules of Professional Conduct.

B. Commission for Lawyer Discipline (Kopriva) vs. D. Lanty McCartney, III
D0069403510

On or about December 12, 1990, D. Lanty McCartney, III, hereinafter referred to as "Respondent" was employed to represent Complainant in a personal injury matter. Respondent's principal place of business was in Cedar Hill, Dallas County, Texas. On or about December 17, 1992, Complainant executed a disbursement authorization and ratification sheet which authorized Respondent to withhold funds from a settlement agreement to enable him to pay Complainant's medical providers. Respondent did withhold the funds from the settlement proceeds. Thereafter, Respondent failed to either

notify and pay the medical providers upon receipt of those funds or return those funds to Complainant. Respondent also either commingled his client's money with his own money or has failed to keep records of his trust account.

Respondent failed to inform Complainant that he had not paid the medical providers. Upon learning of the unpaid medical providers in March, 1994, Complainant left repeated telephone messages for Respondent. Respondent failed to return Complainant's telephone calls.

On or about September 26, 1994, Respondent was personally served with notice of the complaint, and was requested to respond in writing to the State Bar of Texas within thirty (30) days of receipt of the notice. Respondent knowingly failed to respond to this lawful demand for information from a disciplinary authority. Further, Respondent failed to assert any grounds for his failure to respond.

The above facts support a violation of Rules 1.01(b), 1.03, 1.14(a),(b) 8.01(b) and 8.04(a)(1),(2),(8) of the Texas Disciplinary Rules of Professional Conduct.

C. Commission for Lawyer Discipline (Kerstetter) vs. D. Lanty McCartney, III
D0069403524

In February, 1993, D. Lanty McCartney, III, hereinafter referred to as "Respondent" was employed to represent Complainant in a personal injury matter arising out of an automobile accident. Respondent's principal place of practice was in Cedar Hill, Dallas County, Texas. In August, 1993, Respondent negotiated a final settlement on Complainant's claim without Complainant's knowledge or consent.

On or about August 17, 1993, State Farm Mutual Automobile Insurance Company issued a \$7,000.00 check payable to Complainant and Respondent in settlement of Complainant's personal injury claim. On or about August 17, 1993, Respondent deposited the settlement check into his trust account. Respondent failed to notify his client, Complainant, upon receipt of the settlement check. Respondent failed to deliver to his client any of the money from the settlement check. Respondent also either commingled his client's money with his own money or has failed to keep records of his lawyer's trust account.

Between mid-July, 1993, and November, 1993, Complainant repeatedly left telephone messages for Respondent with Respondent's legal assistant. Respondent failed to return Complainant's telephone calls. In December, 1993, Respondent closed his law office without notifying Complainant. After the closure of the law office, Complainant again made efforts to contact Respondent by mail and by telephone. Respondent failed to inform Complainant of his current mailing address and failed to return Complainant's telephone calls. Respondent has failed to communicate with Complainant in any manner since April, 1994.

On or about September 26, 1994, Respondent was personally served with notice and a copy of the complaint, and was requested to respond in writing to the State Bar of Texas within thirty (30) days of receipt of the notice. Respondent knowingly failed to respond to this lawful demand for information from a disciplinary authority. Further, Respondent failed to assert any grounds for his failure to respond.

The above facts support a violation of Rules 1.01(b), 1.02(a)(2), 1.03(a),(b), 1.14(a),(b), 8.01(b) and 8.04(a)(1),(2),(8) of the Texas Disciplinary Rules of Professional Conduct.

D. Commission for Lawyer Discipline (Somsanith) vs. D. Lanty McCartney, III
D0099404031

Complainant hired D. Lanty McCartney, III, hereinafter referred to as "Respondent" in January, 1993, to represent her in an action arising from an automobile accident. Respondent's principal place of practice was in Cedar Hill, Dallas, County, Texas. In February, 1994, Respondent informed Complainant that she would soon be receiving a \$12,000.00 check from an insurance company for her injuries. Thereafter, Respondent discontinued contacting Complainant. Complainant attempted to reach Respondent by telephone. Respondent failed to return Complainant's telephone calls. Complainant also discovered that Respondent had closed his law office, and that Respondent had failed to leave any information about where he could be reached. Respondent has failed to communicate with Complainant in any manner since February, 1994.

In June, 1994, Complainant discovered that a check had been issued, on or about February 16, 1994, by Donco RTC to settle Complainant's personal injury claims. On or about March 1, 1994, Respondent deposited the settlement check into his trust account. Respondent failed to notify his client, Complainant, upon receipt of the settlement check. Respondent has failed to deliver to his client any money from the settlement check. Respondent has also either commingled his client's money with his own money or has failed to keep records of his lawyer's trust account.

On or about November 7, 1994, Respondent was personally served with notice of the complaint, and was requested to respond in writing to the State of Texas within thirty (30) days of receipt of the notice. Respondent knowingly failed to respond to this lawful demand for information from a disciplinary authority. Further, Respondent failed to assert any grounds for his failure to respond.

The above support a violation of Rules 1.01(b), 1.03, 1.14(a),(b), 8.01(b) and 8.04(a)(1),(2),(8) of the Texas Disciplinary Rules of Professional Conduct.

E. Commission for Lawyer Discipline (Vannucci) vs. D. Lanty McCartney, III
D0099403999

On or about May 5, 1992, D. Lanty McCartney, III, hereinafter referred to as "Respondent" was employed to represent Complainant in a personal injury matter arising out of an automobile accident. Respondent's principal place of business was in Cedar Hill, Dallas County, Texas. In August, 1994, Complainant discovered that Respondent had negotiated a settlement on Complainant's claim in February, 1994, for \$8,000.00. Respondent had negotiated the settlement without informing Complainant and without obtaining Complainant's consent.

On or about February 15, 1994, National American Insurance Company issued an \$8,000.00 check payable to Complainant and Respondent in full and final settlement of Complainant's personal injury claim. On or about February 17, 1994, Respondent deposited the settlement check into his trust account. Respondent failed to notify his client, Complainant, upon receipt of the settlement check. Respondent failed to deliver to his client any of the money from that check. Respondent has also either commingled Complainant's money with his own money or has failed to keep records of his trust account.

Between May, 1992, and December, 1993, Complainant repeatedly left telephone messages for Respondent with Respondent's legal assistant. Respondent failed to return Complainant's telephone calls. In December, 1993, Respondent closed his law office without notifying Complainant. After the closure of the law office, Complainant again made repeated telephone calls to Respondent. Respondent failed to return Complainant's telephone calls. Since December, 1993, Respondent failed to communicate with Complainant in any manner.

On or about September 26, 1994, Respondent was personally served with notice and a copy of the complaint, and was requested to respond in writing to the State Bar of Texas within thirty (30) days of receipt of the notice. Respondent knowingly failed to respond to this lawful demand for information from a disciplinary authority. Further, Respondent failed to assert any grounds for his failure to respond.

The above facts support a violation of Rules 1.01(b), 1.02(a)(2), 1.03(a),(b), 1.14(a),(b), 8.01(b) and 8.04(a)(1),(2),(8) of the Texas Disciplinary Rules of Professional Conduct.

F. David Priestman vs. D. Lanty McCartney, III - D0079403680

In or about September, 1993, Complainant hired Respondent to represent him in a personal injury claim. Thereafter, Respondent failed to perform any meaningful work on Complainant's claim. Between September, 1993, and July, 1994, Complainant

attempted to communicate with Respondent. During this time period, Respondent either failed to return Complainant's messages or failed to inform Complainant as to how he could be reached. In December, 1993, Respondent closed his law office and failed to notify Respondent. Respondent has failed to communicate with Complainant concerning his personal injury claim since September, 1993.

On or about September 26, 1994, Respondent was personally served with notice of the complaint, and was requested to respond in writing to the State Bar of Texas within thirty (30) days of receipt of the notice. Respondent knowingly failed to respond to this lawful demand for information from a disciplinary authority. Further, Respondent failed to assert any grounds for his failure to respond.

The above facts support a violation of Rules 1.01(b), 1.03, 8.01(b)(1) and 8.04(a)(1)(8) of the Texas Disciplinary Rules of Professional Conduct.

G. Eli Lopez, Jr. vs. D. Lanty McCartney, III - D0079403682

In or about July, 1991, Complainant hired Respondent to represent him in a personal injury claim. Thereafter, Respondent failed to perform any meaningful work on Complainant's claim and discontinued communicating with Complainant regarding Complainant's claim. Complainant repeatedly left telephone messages for Respondent, but Respondent either failed to return Complainant's messages or failed to inform Complainant as to how he could be reached. In December, 1993, Respondent closed his law office and failed to notify Complainant.

On or about September 26, 1994, Respondent was personally served with notice of the complaint, and was requested to respond in writing to the State Bar of Texas within thirty (30) days of receipt of the notice. Respondent knowingly failed to respond to this lawful demand for information from a disciplinary authority. Further, Respondent failed to assert any grounds for his failure to respond.

The above facts support a violation of Rules 1.01(b), 1.03, 8.01(b)(1) and 8.04(a)(1)(8) of the Texas Disciplinary Rules of Professional Conduct.

H. Elizabeth Odelusi vs. D. Lanty McCartney, III - D0099403978

In or about January, 1994, Complainant hired Respondent to represent her in a personal injury claim. Thereafter, Respondent failed to perform any meaningful work on Complainant's claim. Between February, 1994, and August, 1994, Complainant attempted to communicate with Respondent by telephone and by in person visits to Respondent's office and residence. During this time period, Respondent either failed to return Complainant's messages or failed to inform Complainant as to how he could be reached. Respondent has failed to communicate with Complainant concerning her personal injury claim since January, 1994.

On or about September 26, 1994, Respondent was personally served with notice of the complaint, and was requested to respond in writing to the State Bar of Texas within thirty (30) days of receipt of the notice. Respondent knowingly failed to respond to this lawful demand for information from a disciplinary authority. Further, Respondent failed to assert any grounds for his failure to respond.

The above facts support a violation of Rules 1.01(b), 1.03, 8.01(b)(1) and 8.04(a)(1)(8) of the Texas Disciplinary Rules of Professional Conduct.

I. Karim Amir vs. D. Lanty McCartney, III - D0109404210

On or about October 5, 1992, Ms. Mary Lewis and Mr. Mercedes Dorn employed Respondent to represent them in a personal injury claim arising out of an automobile accident. On or about October 7, 1992, Ms. Lewis and Mr. Dorn authorized Respondent to pay their respective medical expenses directly to their medical provider, Complainant. Between October 7, 1992, and January 4, 1993, Ms. Lewis received medical services from Complainant totalling \$3,338.00. Between October 7, 1992, and December 21, 1992, Mr. Dorn received medical services from Complainant totalling \$1,988.00. In late 1993, Respondent settled Ms. Lewis and Mr. Dorn's personal injury claims, and deducted from the settlement funds payable to Ms. Lewis and Mr. Davis the amounts that each owed to Complainant. Thereafter, Respondent failed to pay Complainant the funds that belonged to her, and has converted Complainant's funds to his own use.

On or about February 17, 1995, Respondent was served, through personal service upon his attorney, with notice of the complaint, and was requested to respond in writing to the State Bar of Texas within thirty (30) days of receipt of the notice. Respondent knowingly failed to respond to this lawful demand for information from a disciplinary authority. Further, Respondent failed to assert any grounds for his failure to respond.

The above facts support a violation of Rules 1.14(a),(b), 8.01(b)(1) and 8.04(a)(1),(2),(3),(8) of the Texas Disciplinary Rules of Professional Conduct.

J. Kathy Wages v. D. Lanty McCartney, III - D0059403402

Complainant is employed by Neuwirth Chiropractic and Health Diagnostic Clinic, medical providers that performed medical services for seven (7) of Respondent's clients. Neuwirth Chiropractic and Health Diagnostic Clinic reached an agreement with Respondent that Respondent would pay the two medical providers directly out of any settlement that Respondent reached for his clients.

Respondent settled Mr. Raymond Hollock's case and withheld \$6,941.00 from the settlement proceeds in order to pay Mr. Hollock's medical bills at Neuwirth Chiropractic and Health Diagnostic Clinic. Thereafter, Respondent failed to pay the medical

providers the funds that had been withheld for them. Both clinics were subsequently paid by Mr. Hollock.

Respondent settled Ms. Monika Kopriva's case and withheld \$1,945.00 from the settlement proceeds in order to pay Ms. Kopriva's medical bills at Neuwirth Chiropractic and Health Diagnostic Clinic. Thereafter, Respondent failed to pay the medical providers the funds that had been withheld for them.

Respondent settled Mr. Javier de la Fuente's case and withheld \$944.90 from the settlement proceeds in order to pay Mr. de la Fuente's medical bill at Neuwirth Chiropractic. Thereafter, Respondent failed to pay the medical provider the funds that had been withheld for it.

In the cases of Ms. Angeles Barron, Mr. Scott Day, Mr. Eli Lopez and Ms. Diedre Thomas, Respondent settled each case, withheld funds from the settlement proceeds in order to pay Neuwirth Chiropractic and Health Diagnostic Clinic and then failed to pay the medical providers the funds withheld for them. Thereafter, Respondent converted the funds that were withheld for his own use. Or, in the alternative, Respondent failed to perform any meaningful work in Ms. Barron, Mr. Day, Mr. Lopez and Ms. Thomas' respective cases. Ms. Angeles Barron received services totalling \$6,142.82 from Neuwirth Chiropractic and Health Diagnostic Clinic. Mr. Eli Lopez received services totalling \$7,056.00 from Neuwirth Chiropractic and Health Diagnostic Clinic. Mr. Scott Day received services totalling \$2,788.75 from Neuwirth Chiropractic and Health Diagnostic Clinic. Ms. Diedre Thomas received services totalling \$6,008.75 from Neuwirth Chiropractic and Health Diagnostic Clinic.

On or about September 26, 1994, Respondent was personally served with notice of the complaint, and was requested to respond in writing to the State Bar of Texas within thirty (30) days of receipt of the notice. Respondent knowingly failed to respond to this lawful demand for information from a disciplinary authority. Further, Respondent failed to assert any grounds for his failure to respond.

The above facts support a violation of Rules 1.01(b), 1.14(a),(b), 8.01(b)(1), and 8.04(a)(1),(2),(3),(8) of the Texas Disciplinary Rules of Professional Conduct.

The following complaints are currently pending against McCartney before investigatory panels of the District Grievance Committees. The professional misconduct with which McCartney is charged in the complaints currently pending before the investigatory panels are as follows:

A. Ronald Cunningham vs. D. Lanty McCartney, III - D0039504969

In or about November of 1990, Complainant hired D. Lanty McCartney, III, to represent him in a personal injury matter. Suit was filed on behalf of the Complainant in the personal injury matter in 1992. Thereafter, Respondent failed to keep Complainant properly apprised of the status of his case. Beginning in about January of 1994, and continuing for several months thereafter, Complainant was unable to locate Respondent. On July 22, 1995, the court heard a Motion to Compel and for Sanctions filed by the defendant insurance company. Respondent, although duly and properly notified of this hearing, did not attend. The court granted defendant's requested relief and dismissed Complainant's suit with prejudice to refile. Complainant was also ordered to reimburse the defendant for its attorney fees. The above facts support a violation of Rules 1.01(b)(1),(2), 1.03(a),(b), 1.15(d), and 8.04(a)(1),(3) of the Texas Disciplinary Rules of Professional Conduct.

B. David Zamora vs. D. Lanty McCartney, III - D0059505222

In or about March 10, 1993, Complainant hired D. Lanty McCartney, III, to represent him in a personal injury matter. Subsequently, the case was settled and Respondent withheld certain sums from Complainant's share of the settlement proceeds to pay the medical providers. Thereafter, Respondent failed to pay the medical providers. As a result, the medical providers sought payment directly from Complainant. Complainant attempted on numerous occasions to contact Respondent to discuss the matter but was unable to do so since Respondent had relocated without advising his client. The above facts support a violation of Rules 1.01(b), 1.03(a), 1.14(b),(c), 1.15(d) and 8.04(a)(1),(2),(3) of the Texas Disciplinary Rules of Professional Conduct.

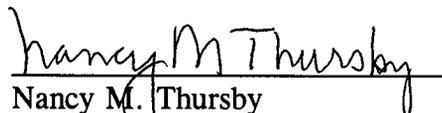
C. Ann Halama vs. D. Lanty McCartney, III - D0069505483

On or about April 2, 1992, Complainant hired D. Lanty McCartney, III, to represent her in a worker's compensation case. Complainant last received information about her case from Respondent in December of 1993. Since that time, Complainant has been attempting to contact Respondent who relocated without advising his clients. In the summer of 1995, Complainant was advised by the Texas Worker's Compensation Commission that her claim was denied. The above facts support a violation of Rules 1.01(b), 1.03, 1.15(d), and 8.04(a)(1),(3) of the Texas Disciplinary Rules of Professional Conduct.

On or about October 6, 1995, D. Lanty McCartney, III pled guilty to three (3) counts of Theft over the value of \$750.00, in Cause No. 94-02338, styled the State of Texas vs. D. Lanty McCartney, III, In the 203rd District Court of Dallas County, Texas (hereinafter called

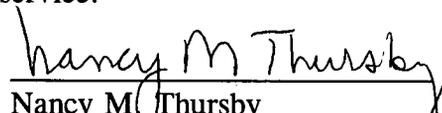
"McCartney criminal suit"), as a result of which McCartney was sentenced to five (5) years' deferred adjudication probation. Theft over the value of \$750.00 is a felony offense and constitutes an "intentional crime" as the term is defined in Section 1.06(0.) of the Texas Rules of Disciplinary Procedure. Pursuant to Sections 8.01, et. seq., of the Texas Rules of Disciplinary Procedure, an attorney shall be disbarred when the attorney accepts probation with or without an adjudication of guilt for an "intentional crime".

In view of McCartney's execution, on or about July 24, 1995, 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 actions before the evidentiary and investigatory panels and intends to obtain an Order of Non-Suit in said disciplinary actions before the evidentiary panel upon entry of Order by the Supreme Court of Texas deleting McCartney from the list of persons licensed to practice law in the State of Texas.


Nancy M. Thursby
Assistant Chief Disciplinary Counsel
State Bar of Texas

CERTIFICATE OF SERVICE

A true and correct copy of this Response of the Chief Disciplinary Counsel of the State Bar of Texas Regarding D. Lanty McCartney, III, will be served upon D. Lanty McCartney, III, Earle Cabell Bldg., 1100 Commerce, Room 7B41, Dallas, Texas 75242, on the 18th day of October, 1995, by personal service.


Nancy M. Thursby