

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 96- 9129

Appointment of a District Judge to Preside
in a State Bar Disciplinary Action

The Supreme Court of Texas hereby appoints the Honorable J. Manuel Banales, Judge of the 105th District Court of Nueces County, Texas, to preside in the Disciplinary Action styled:


The Commission for Lawyer Discipline v. James E. Tatum

to be filed in a District Court of Harris County, Texas.

The Clerk of the Supreme Court shall promptly forward to the District Clerk of Harris County, Texas, a copy of this Order and of the Disciplinary Petition for filing and service pursuant to Rule 3.03, Texas Rules of Disciplinary Procedure.

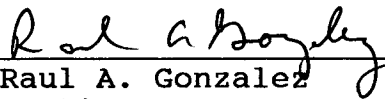
As ordered by the Supreme Court of Texas, in chambers,

with the Seal thereof affixed at the City
of Austin, this 13th day of May, 1996.


JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 96-9129, is also an assignment pursuant to Texas Government Code §74.057.

Signed this 15th day of May, 1996.



Raul A. Gonzalez
Justice
(Tex. Gov't Code § 22.014)



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

TEL: (512) 463-1312

FAX: (512) 463-1365

CLERK
JOHN T. ADAMS


EXECUTIVE ASS'T
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

JUSTICES
RAUL A. GONZALEZ
NATHAN L. HECHT
JOHN CORNYN
CRAIG ENOCH
ROSE SPECTOR
PRISCILLA R. OWEN
JAMES A. BAKER
GREG ABBOTT

I hereby authorize the Honorable Raul A. Gonzalez, senior Justice of the Supreme Court of Texas, to sign certificates of eligibility of applicants for judicial retirement benefits, assignments of retired and former judges, and any other court documents which may require the signature of the Chief Justice of the Supreme Court, during my absence between May 13 and May 23, 1996, pursuant to Texas Government Code § 22.014.

May 6, 1996


Thomas R. Phillips
Chief Justice

§ 22.014. Senior Justice Acting for Chief Justice

In the chief justice's absence, the justice with the most seniority on the supreme court may sign a court document for the chief justice if the chief justice has given that justice written authorization.

Added by Acts 1995, 74th Leg., ch. 356, § 1, eff. Aug. 28, 1995.

CAUSE NO. _____

COMMISSION FOR LAWYER DISCIPLINE	§	IN THE DISTRICT COURT OF
v.	§	HARRIS COUNTY, TEXAS
JAMES E. TATUM	§	___ JUDICIAL DISTRICT

DISCIPLINARY PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Petitioner, the Commission for Lawyer Discipline, a committee of the State Bar of Texas, complaining of Respondent, James E. Tatum, showing the Court:

I.

Petitioner brings this disciplinary action pursuant to the State Bar Act, Tex. Gov't Code Ann. §81.001, et seq. (Vernon 1988 and supp. 1994), the Texas Disciplinary Rules of Professional Conduct and the Texas Rules of Disciplinary Procedure. The complaint which forms the basis of the Disciplinary Petition was filed with the State Bar of Texas on or after May 1, 1992.

II.

Respondent is an attorney licensed to practice law in Texas and a member of the State Bar of Texas. Respondent is a resident of and has his principal place of practice in Harris County, Texas. An officer may serve citation on Respondent at his place of business located at 8703 Bonhomme, Houston, Harris County, Texas 77074-6717.

III.

On or about January 20, 1993, Andrew Sigmund wired Twenty Thousand Dollars (\$20,000.00) to Respondent, James E. Tatum's trust account. On or about August 12, 1993, Mr. Sigmund wired another Five Thousand Dollars (\$5,000.00) to Respondent's trust account. Sigmund and Respondent had agreed that the Twenty-five Thousand Dollars (\$25,000.00) was to be held in trust by Respondent, James E. Tatum, and was not to be used unless and until Respondent received notice that the funding for a timber purchase agreement had been secured.

Mr. Sigmund did not obtain funding of the timber purchase agreement, and he requested a return of the Twenty-five Thousand Dollars (\$25,000.00). Respondent has refused to return the funds.

IV.

By refusing to return to Mr. Sigmund the \$25,000.00 which he gave to Respondent to hold in trust, Respondent failed to promptly deliver to his client any funds which he was entitled to receive, in violation of Rule 1.14(b) of the Texas Disciplinary Rules of Professional Conduct.

By refusing to return to Mr. Sigmund the \$25,000.00 which Sigmund gave to Respondent to hold in trust, Respondent engaged in conduct involving dishonesty, deceit, fraud or misrepresentation in violation of Rule 8.04(a)(3) of the Texas Disciplinary Rules of Professional Conduct.

V.

The complaint which forms the basis of this lawsuit as hereinabove set forth was brought to the attention of the Office of the General Counsel of the State Bar of Texas by the filing of a complaint by Andrew Sigmund on or about October 5, 1995.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Petitioner prays for judgment that Respondent be disciplined by reprimand, suspension, or disbarment, as the facts shall warrant; and that Petitioner have such other and further relief to which entitled, including costs of Court and attorney's fees.

Respectfully submitted,

James M. McCormack
General Counsel

Mary F. Klapperich
Assistant General Counsel

Office of the General Counsel
State Bar of Texas

1111 Fannin, Suite 1370
Houston, Texas 77002
(713) 759-6932
(713) 759-1932 FAX


MARY F. KLAPPERICH
State Bar of Texas No. 11550700

ATTORNEYS FOR PETITIONER

Cause No. _____

Commission For Lawyer Discipline

Plaintiff

IN THE DISTRICT COURT OF

v.

James E. Tatum

Defendant

HARRIS COUNTY, TEXAS

_____ JUDICIAL DISTRICT

CIVIL CASE INFORMATION SHEET

This form must be completed and filed with every original petition, and a copy attached to every original petition served. The information should be the best available at the time of filing, understanding that such information may change before trial. This form does not constitute a discovery request, response, or supplementation, and is not admissible at trial.

Service must be obtained promptly. Notice is hereby given that, per Harris County Local Rule 3.6, any case in which no answer has been filed or default judgement signed SIX (6) MONTHS from filing will be eligible for DISMISSAL FOR WANT OF PROSECUTION.

Type of Action: Commercial Personal Injury Death Other

Check all claims pled:

<input type="checkbox"/> Account due	<input type="checkbox"/> Defamation	<input type="checkbox"/> Fraud	<input type="checkbox"/> Product liability
<input type="checkbox"/> Admiralty	<input checked="" type="checkbox"/> Disbarment	<input type="checkbox"/> Garnishment	<input type="checkbox"/> Post judgment
<input type="checkbox"/> Assault	<input type="checkbox"/> Discrimination	<input type="checkbox"/> Injunction/TRO	<input type="checkbox"/> Railroad
<input type="checkbox"/> Asbestos	<input type="checkbox"/> Dram shop	<input type="checkbox"/> Insurance bad faith	<input type="checkbox"/> Real estate
<input type="checkbox"/> Auto	<input type="checkbox"/> DTPA	<input type="checkbox"/> Malicious prosecution	<input type="checkbox"/> Securities fraud
<input type="checkbox"/> Bill of review	<input type="checkbox"/> Employment discharge	<input type="checkbox"/> Malpractice/Legal	<input type="checkbox"/> Sequestration
<input type="checkbox"/> Business dissolution	<input type="checkbox"/> Environmental tort	<input type="checkbox"/> Malpractice/Medical	<input type="checkbox"/> Silicone implant
<input type="checkbox"/> Conspiracy	<input type="checkbox"/> Expunction	<input type="checkbox"/> Malpractice/Other	<input type="checkbox"/> Tax
<input type="checkbox"/> Contract	<input type="checkbox"/> False imprisonment	<input type="checkbox"/> Name change	<input type="checkbox"/> Tortious interference
<input type="checkbox"/> Deed restriction	<input type="checkbox"/> Foreclosure	<input type="checkbox"/> Note	<input type="checkbox"/> Trespass
<input type="checkbox"/> Declaratory judgment	<input type="checkbox"/> Forfeiture	<input type="checkbox"/> Premises liability	<input type="checkbox"/> Workers compensation
<input type="checkbox"/> Other _____			

Has this dispute previously been in the Harris County courts? No Yes, in the following court: _____

Monetary damages sought: less than \$100,000 greater than \$100,000

Estimated time needed for discovery 0-3 months 4-6 months 7-12 months >1 year

Estimated time needed for trial: 1-2 days 3-5 days 6-10 days >10 days

Is there a likelihood of experts other than treating physicians or experts on attorney's fees? Yes No

Is immediate ADR requested? Yes No

Name of party filing this cover sheet: Commission For Lawyer Discipline

Signature of attorney or pro se filing cover sheet: Mary F. Klapperich

Name printed: Mary F. Klapperich

Phone No.: (713) 759-6931

Bar No.: 11550700

FOR COURT USE ONLY:

Track assigned: Track 1 Track 2 Track 3

Court Coordinator _____ Date: _____

STATE BAR OF TEXAS



Office of the General Counsel

March 18, 1996

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

Re: Commission for Lawyer Discipline v. James E. Tatum

Dear Mr. Adams:

Enclosed please find an original and two (2) copies of a Disciplinary Petition being filed by the Commission for Lawyer Discipline against James E. Tatum. Mr. Tatum is a resident of Harris County, Texas. Request is hereby made that the Court appoint an active District Judge who does not reside in the Administrative Judicial Region in which Respondent resides to preside in this case. Upon appointment, request is hereby made that you notify the Respondent at the address shown below and the undersigned of the identity and address of the judge assigned:

Mr. James E. Tatum
8703 Bonhomme
Houston, Texas 77074-6717

As a practical matter, I would respectfully suggest that you inquire with the judge to be appointed as to whether he or she will be able to comply with the 180 day deadline by which the case must be set for trial set forth in Section 3.07 of the Texas Rules of Disciplinary Procedure. If not, I would respectfully request that an alternate appointment be made.

Once a trial judge has been appointed, please forward the original and two (2) copies of the Disciplinary Petition, the filing fee check, also enclosed herewith, and the Court's appointing order to the District Clerk of Harris County, Texas, with the request that the suit be filed, citation be issued, and the citation, along with a file-stamped copy of the petition, be returned to the undersigned.

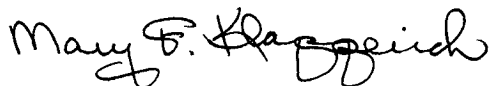
I have also enclosed are a pre-addressed envelope for your use in transmitting the above reference documents, to the District Clerk of Harris County, Texas, and a return envelope to

Mr. John T. Adams, Clerk
Supreme Court of Texas
March 18, 1996
Page 2

be sent to the District Clerk of Harris County, Texas, for the Clerk's use in returning a file-stamped copy of the petition to the undersigned.

If you have any questions, please contact me. Thank you for your assistance.

Very truly yours,

A handwritten signature in cursive script that reads "Mary F. Klapperich". The signature is written in dark ink and is positioned above the typed name.

Mary F. Klapperich
Assistant General Counsel

MFK/lp
enclosures



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

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PRISCILLA R. OWEN
JAMES A. BAKER
GREG ABBOTT

May 22, 1996

Mr. James M. McCormack
General Counsel, State Bar of Texas
P.O. Box 12487
Austin, Texas 78711

Mr. James E. Tatum
8703 Bonhomme
Houston, Texas 77074-6717

Dear Mr. McCormack and Mr. Tatum:

Pursuant to Rule 3.02 of the Texas Rules of Disciplinary Procedure, I hereby notify you that the Supreme Court of Texas has appointed the Honorable J. Manuel Banales, Judge of the 105th District Court, Corpus Christi, Texas to preside in

Commission for Lawyer Discipline v. James E. Tatum

Sincerely,

SIGNED

John T. Adams
Clerk



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

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JAMES A. BAKER
GREG ABBOTT

May 22, 1996

The Honorable Charles Bacarisse
District Clerk of Harris County
P.O. Box 4651
Houston, Texas 77210

Dear Mr. Bacarisse:

Pursuant to Rule 3.03 of the Texas Rules of Disciplinary Procedure, I am sending for filing State Bar of Texas Disciplinary Action styled: The Commission for Lawyer Discipline v. James E. Tatum and a copy of the Supreme Court's order appointing the Honorable J. Manuel Banales, Judge of the 105th District Court, Corpus Christi, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Hon. J. Manuel Banales
Mr. James E. Tatum
Mr. James M. McCormack



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

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May 22, 1996

Honorable J. Manuel Banales
Judge, 105th District Court
901 Leopard Street
Corpus Christi, Texas 78401

Dear Judge Banales:

We enclose for your information a copy of the order of assignment, a copy of the Disciplinary Action, a copy of the notification letter to Mr. Tatum and Mr. McCormack, and a copy of the letter to the District Clerk of Harris County.

It is recommended that, six to eight weeks after receipt of this letter, you contact the Harris County District Court Administrative Office (713-755-7593) to find out the district court to which this disciplinary case has been assigned. We then recommend that, either before or immediately after you set the case for trial, you again contact the Harris County District Court Administrative Office (713-755-6593) to reserve a courtroom, provide for a court reporter, etc. Finally, you should contact the Presiding Judge of the Administrative Judicial Region into which you have been assigned (713-471-3911) to obtain information on lodging, allowable expenses, and claims forms for your expenses incident to presiding over this disciplinary case.

Sincerely,

SIGNED

John T. Adams
Clerk