

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 96- 9235

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

The Supreme Court of Texas hereby appoints the Honorable Raymond Angelini, Judge of the 187th District Court of Bexar County, Texas, to preside in the Disciplinary Action styled:

The Commission for Lawyer Discipline v. Ray Shackelford

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 22nd day of October, 1996.


JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 96-9235, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 23 day of October, 1996.


Thomas R. Phillips
Chief Justice

COPY

CAUSE NO. _____

COMMISSION FOR LAWYER DISCIPLINE	§	IN THE DISTRICT COURT OF
	§	
	§	
v.	§	HARRIS COUNTY, T E X A S
	§	
RAY SHACKELFORD	§	_____ JUDICIAL DISTRICT

DISCIPLINARY PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Petitioner, the COMMISSION FOR LAWYER DISCIPLINE, a committee of the State Bar of Texas, complains of Respondent RAY SHACKELFORD as follows:

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), and the State Bar Rules. The complaint that forms the basis of the Disciplinary Petition was filed after May 1, 1992.

II.

Respondent is an attorney licensed to practice law in Texas and is a member of the State Bar of Texas. Respondent is a resident of and has his principal place of business in Harris County, Texas. An officer may serve citation on Respondent at his business located at 1406 Southmore Street, Houston, Texas 77004.

III.

GRANT COMPLAINT

Howard Grant is a medical care provider. Dr. Grant provided medical services for Respondent's client, Romana Ahmed. On or about October 31, 1994, Respondent sent a letter of protection guaranteeing payment of Dr. Grant's fees. Dr. Grant treated Respondent's client until February 1995.

On or about February 21, 1995, Respondent sent a check for partial payment to Dr. Grant. The check, dated February 21, 1995, was written on Respondent's attorney operating account, not on his attorney trust account. The check was returned for insufficient funds.

IV.

On or about July 21, 1995, Respondent received a letter from the State Bar of Texas giving notice of the complaint filed by Howard Grant. This notice demanded a written response from the Respondent to the allegations in the complaint within thirty (30) days of receipt of the notice. Respondent failed to timely respond to the complaint.

V.

The acts and/or omissions of the Respondent described in Paragraph III & IV, constitute conduct in violation of Rules 1.14(a) [failure to hold funds or other property belonging in whole or in part to Howard Grant, a third person medical provider, that are in his possession in connection with a representation separate from his own property]; 1.14(b) [failure to promptly notify Howard Grant, a third party medical provider, of the receipt of funds in which he has an interest]; 8.04(a)(1) [violating the Texas Disciplinary Rules of Professional Conduct, or knowingly assisting or inducing another to do so, or doing so through the acts of another]; 8.04(a)(8) [failure to timely furnish to a district grievance committee a response or other information]; and 8.04(a)(12) [violating any other laws of this state relating to the

professional conduct of lawyers and the practice of law] of the Texas Disciplinary Rules of Professional Conduct.

VI.

The complaint that forms the basis of this cause of action was brought to the attention of the Office of the General Counsel of the State Bar of Texas by Howard Grant filing a complaint on or about July 11, 1995.

VII.

LU COMPLAINT

Bee Sun Lu is a medical care provider. Dr. Lu provided medical care for Respondent's client, Outhai Sisavath. On or about July 23, 1992, Respondent sent a letter of protection guaranteeing payment of Dr. Lu's fees.

On or about February 23, 1994, Respondent sent a check for partial payment of Dr. Lu's fees relating to Outhai Sisavath. The check, dated February 23, 1994, was written on Respondent's attorney operating account, not on his attorney trust account. The check was returned for insufficient funds.

VIII.

On or about July 21, 1995, Respondent received a letter from the State Bar of Texas giving notice of the complaint filed by Bee Sun Lu. This notice demanded a written response from the Respondent to the allegations in the complaint within thirty (30) days of receipt of the notice. The letter also contained a subpoena duces tecum, demanding that Respondent produce certain documents. Respondent failed to timely respond to the complaint.

IX.

The acts and/or omissions of the Respondent described in Paragraph VII & VIII constitute conduct in violation of Rules 1.14(a) [failure to hold funds or other property belonging in whole or in part to Bee Sun Lu, a third person medical provider, that are in his possession in connection with a representation separate from his own property]; and 1.14(b) [failure to promptly notify Bee Sun Lu, a third party medical provider, of the receipt of funds in which he has an interest]; 8.04(a)(1) [violating the Texas Disciplinary Rules of Professional Conduct, or knowingly assisting or inducing another to do so, or doing so through the acts of another]; 8.04(a)(8) [failure to timely furnish to a district grievance committee a response or other information]; and 8.04(a)(12) [violating any other laws of this state relating to the professional conduct of lawyers and the practice of law] of the Texas Disciplinary Rules of Professional Conduct.

X.

The complaint that forms the basis of this cause of action was brought to the attention of the Office of the General Counsel of the State Bar of Texas by Bee Sun Lu filing a complaint on or about July 17, 1995.

XI.

MALKAN COMPLAINT

On or about September 21, 1995, Respondent received notice that a complaint had been filed against him with the State Bar of Texas by Prabodh Malkan. On or about December 11, 1995, Respondent received a subpoena duces tecum to produce bank records for the

Grievance Committee on December 21, 1995. Respondent failed to comply with the subpoena.

XIII.

The acts and/or omissions on the part of the Respondent as alleged in Paragraph XI above constitute a violation of Rule 8.04(a)(8) [failure to timely furnish to a district grievance committee a response or other information]; of the Texas Disciplinary Rules of Professional Conduct.

XIII.

The complaint that forms the basis of this cause of action was brought to the attention of the Office of the General Counsel of the State Bar of Texas by Prabodh Malkan filing a complaint on or about September 8, 1995.

XIV.

SECOND GRANT COMPLAINT

Howard Grant is a medical care provider. Dr. Grant provided medical services for Respondent's client, Hashim Ahmed. In or about October, 1994, Respondent sent a letter of protection guaranteeing payment of Dr. Grant's medical fees for services provided to Hashim Ahmed out of any settlement received on Hashim Ahmed's behalf.

Thereafter, Respondent settled Hashim Ahmed's claim and withheld a portion of the settlement proceeds to pay Dr. Grant. On or about February 21, 1995, Respondent issued a check to Dr. Grant for partial payment of medical fees. The check, dated February 21, 1995, was written on Respondent's attorney operating account, not on his attorney trust account. The check was returned for insufficient funds.

XV.

On or about May 24, 1995, Respondent received a letter from the State Bar of Texas giving notice of the complaint filed by Howard Grant. This notice demanded a written response from the Respondent to the allegations in the complaint within thirty (30) days of receipt of the notice. Respondent failed to timely respond to the complaint.

XVI.

The acts and/or omissions of the Respondent described in Paragraphs XIV, and XV, constitute conduct in violation of Rules 1.14(a) [failure to hold funds or other property belonging in whole or in part to Howard Grant, a third person medical provider, that are in his possession in connection with a representation separate from his own property]; and 1.14(b) [failure to promptly notify Howard Grant, a third party medical provider, of the receipt of funds in which he has an interest]; 8.04(a)(1) [violating the Texas Disciplinary Rules of Professional Conduct, or knowingly assisting or inducing another to do so, or doing so through the acts of another]; 8.04(a)(8) [failure to timely furnish to a district grievance committee a response or other information]; and 8.04(a)(12) [violating any other laws of this state relating to the professional conduct of lawyers and the practice of law] of the Texas Disciplinary Rules of Professional Conduct.

XVII.

The complaint that forms the basis of this cause of action was brought to the attention of the Office of the General Counsel of

the State Bar of Texas by Howard Grant filing a complaint on or about May 18, 1995.

**XVIII.
McGEE COMPLAINT**

In October 1994, Elizabeth McGee retained Respondent to represent her in a claim arising from injuries she sustained in an automobile accident. In March 1995, Respondent informed Ms. McGee of a settlement offer, which she accepted. In April and May 1995, McGee attempted to contact Respondent by telephone to determine the status of her matter. McGee was not able to communicate with Respondent, and although she left messages, Respondent did not call her back until the end of May, 1995. On April 27, when McGee called to speak with Respondent, she learned that his telephone had been disconnected.

XIX.

On or about May 23, 1995, McGee went to Respondent's office. At that time he gave her a check dated May 26, 1995, written on his attorney trust account, in the amount of Three Thousand One Hundred Dollars (\$3,100.00). At the time Respondent gave the check to Ms. McGee, he informed her that the Internal Revenue Service had frozen his client trust account, and that the funds would not be available until May 26, 1995. The funds were not available to Ms. McGee on May 26, 1995.

On or about June 5, 1995, Ms. McGee contacted Respondent and informed him that she was going to file a complaint against him with the State Bar of Texas. At that time, Respondent paid Ms. McGee Two Thousand Eight Hundred Dollars (\$2,800.00) in cash of the

Three Thousand Six Hundred Dollars (\$3,600.00) owed to her in the settlement of her case.

XX.

Respondent withheld money from McGee's settlement to pay the medical provider. He did not pay the medical provider in full until October 1995, several months after McGee filed a complaint against Respondent with the State Bar of Texas.

XXI.

On or about July 21, 1995, The State Bar of Texas sent notice to Respondent of the complaint filed against him by Elizabeth McGee. Respondent received that notice on or about July 25, 1995. In the notice, Respondent was ordered to supply a written response to McGee's allegations within thirty (30) days of receipt of the notice. Respondent failed to file a timely response to the complaint, as required.

On or about October 2, 1995, Respondent was served with a subpoena duces tecum to provide certain documents to the grievance committee. Respondent wholly failed to provide those documents, and failed to assert good cause for his failure to do so.

XXII.

The acts and/or omissions on the part of the Respondent as alleged in Paragraphs XVIII, XIX, XX and XXI above constitute a violation of Rules 1.01(b)(1) [neglecting a legal matter entrusted to the lawyer]; 1.03(a) and 1.03(b) [failing to keep a client reasonably informed about the status of a matter and failing to promptly comply with reasonable requests for information];

1.14(a) [failing to hold funds and other property belonging in whole or in part to clients or to third persons in a lawyer's possession separated from the lawyer's own property]; 1.14(b) [failing, upon receiving funds or other property in which a client or third person has an interest, to promptly notify the client or third person and render a full accounting upon request]; 8.04(a)(1) [violating the Texas Disciplinary Rules of Professional Conduct, or knowingly assisting or inducing another to do so, or doing so through the acts of another]; 8.04(a)(8) [failure to timely furnish to a district grievance committee a response or other information]; and 8.04(a)(12) [violating any other laws of this state relating to the professional conduct of lawyers and the practice of law] of the Texas Disciplinary Rules of Professional Conduct.

XXIII.

The complaint that forms the basis of this cause of action was brought to the attention of the Office of the General Counsel of the State Bar of Texas by Elizabeth McGee's filing a complaint on or about July 12, 1995.

**XXIV.
JONES COMPLAINT**

Nolon Jones, Jr. is a medical doctor who has a clinic that does business as the Nolon W. Jones Family Practice. Respondent's client, Laverne Griffin, received medical services from Dr. Jones totaling One Thousand Five Hundred Thirty-Nine Dollars and Thirty-three Cents (\$1,539.33). Respondent issued a check to Dr. Jones from his attorney trust account for that amount. It was returned for insufficient funds.

On or about October 25, 1995, Respondent received notice of the complaint filed by Nolon Jones, Jr., M.D.. The notice directed Respondent to provide a written response thereto by on or before November 24, 1995. Respondent wholly failed to respond to that notice.

XXV.

On or about January 8, 1996, Respondent received a State Bar of Texas subpoena commanding him to produce documents and to testify before the District 4A Grievance Committee on January 18, 1996. Respondent failed to appear before the Grievance Committee on January 18, 1996, or to produce the documents, and Respondent did not timely assert a privilege or other legal ground for failure to do so.

On or about March 8, 1996, Respondent again received a State Bar of Texas subpoena commanding him to produce documents and to testify before the District 4A Grievance Committee on March 21, 1996. Respondent again failed to appear before the Grievance Committee on March 21, 1996 or to produce the documents, and Respondent did not timely assert a privilege or other legal ground for failure to do so.

XXVI.

The acts and/or omissions on the part of the Respondent as alleged in Paragraphs XXIV and XXV above constitute a violation of Rules 1.14(a) [failing to hold funds and other property belonging in whole or in part to clients or to third persons in a lawyer's possession separate from the lawyer's own property];

1.14 (b) [failing, upon receiving funds or other property in which a client or a third person has an interest, to promptly notify the client or third person and render a full accounting upon request]; 8.04 (b) (1) [knowing failure to respond to a lawful demand for information from a disciplinary authority]; and 8.04 (a) (8) [failing to timely furnish a district grievance committee a response or other information as required unless he timely asserts a privilege or other legal ground for failure to do so] of the Texas Disciplinary Rules of Professional Conduct.

XXVI.

The complaint that forms the basis of this cause of action was brought to the attention of the Office of the General Counsel of the State Bar of Texas by Nolon Jones, Jr., M.D. filing a complaint on or about October 9, 1995.

PRAYER

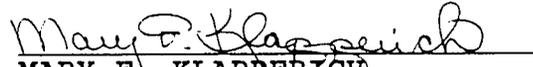
WHEREFORE, PREMISES CONSIDERED, Petitioner the COMMISSION FOR LAWYER DISCIPLINE respectfully prays that this Court discipline Respondent **RAY L. SHACKELFORD**, by disbarment, suspension or reprimand as the facts shall warrant, and that the Petitioner have all other relief to which it may show itself to be justly entitled, including costs of court and attorney's fees.

Respectfully submitted,

Steven W. Young
Interim 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) 759-6931
Fax No. (713) 752-2158



MARY F. KLAPPERICH
State Bar No. 11550700

ATTORNEYS FOR THE COMMISSION
FOR LAWYER DISCIPLINE

STATE BAR OF TEXAS



Office of the General Counsel

August 26, 1996

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

Re: Commission for Lawyer Discipline v. Ray Shackelford

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 Ray Shackelford. Mr. Shackelford 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. Ray Shackelford
1406 Southmore @ Austin
Houston, Texas 77004

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, alone with a file-stamped copy of the petition, be returned to the undersigned.

Mr. John T. Adams, Clerk
Supreme Court of Texas
August 26, 1996
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I have enclosed 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 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,



Mary F. Klapperich
Assistant General Counsel

MFK/gcp
enclosures



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

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

EXECUTIVE ASS'T
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

October 25, 1996

Ms. Mary F. Klapperich
Assistant General Counsel, State Bar of Texas
1111 Fannin, Suite 1370
Houston, Texas 77002

Mr. Ray Shackelford
1406 Southmore
Houston, Texas 77004

Dear Mr. Shackelford and Ms. Klapperich:

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 Raymond Angelini, Judge of the 187th District Court, San Antonio, Texas to preside in

Commission for Lawyer Discipline v. Ray Shackelford

Sincerely,

SIGNED

John T. Adams
Clerk



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 ASST
WILLIAM L. WILLIS

ADMINISTRATIVE ASST
NADINE SCHNEIDER

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

October 25, 1996

Honorable Raymond Angelini
Judge, 187th District Court
Justice Center
300 Dolorosa Street
San Antonio, Texas 78205

Dear Judge Angelini:

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. Shackelford and Ms. Klapperich, 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 or your coordinator 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 [409 5388176] 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



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 ASST
WILLIAM L. WILLIS

ADMINISTRATIVE ASST
NADINE SCHNEIDER

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CRAIG ENOCH
ROSE SPECTOR
PRISCILLA R. OWEN
JAMES A. BAKER
GREG ABBOTT

October 25, 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. Ray Shackelford and a copy of the Supreme Court's order appointing the Honorable Raymond Angelini, Judge of the 187th District Court, San Antonio, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Hon. Raymond Angelini
Mr. Ray Shackelford
Ms. Mary F. Klapperich