

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 98-9151

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

The Supreme Court of Texas hereby appoints the Honorable Stephen Ellis, Judge of the 35th District Court of Brown County, Texas, to preside in the Disciplinary 11111Action styled:


The Commission for Lawyer Discipline v. Frederick L. Risker, Jr.

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

The Clerk of the Supreme Court shall promptly forward to the District Clerk of Fort Bend 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,

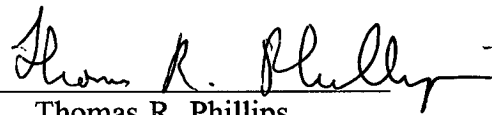
with the Seal thereof affixed at the City
of Austin, this 31st day of August, 1998.



JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 98-9151, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 2 day of September, 1998.

A handwritten signature in cursive script, reading "Thomas R. Phillips", written over a horizontal line.

Thomas R. Phillips
Chief Justice

COPY

CAUSE NO. _____

COMMISSION FOR LAWYER DISCIPLINE	§	IN THE DISTRICT COURT OF
v.	§	FT. BEND COUNTY, T E X A S
FREDERICK L. RISKER, JR.	§	_____ JUDICIAL DISTRICT

ORIGINAL 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 (hereinafter referred to as "Petitioner"), complaining of Respondent, FREDERICK RISKER, JR., (hereinafter referred to as "Respondent"), and would show the Court the following:

I. NATURE OF PROCEEDING

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 that forms the basis of this Original Disciplinary Petition were filed on or after May 1, 1992.

II. VENUE

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 Fort Bend County, Texas; therefore, venue is appropriate in Fort Bend County, Texas, pursuant to Rule 3.03 of the Texas Rules of Disciplinary Procedure. An officer may serve citation on Respondent at his place of business located at 11507 Illiad, Ct., Stafford, Texas 77477.

III. CAUSE OF ACTION

On or about August 14, 1989 Complainant, Jesus Veliz (hereinafter called "Veliz"), retained the services of Respondent, Frederick Risker (hereinafter called "Risker"), to represent Veliz's interest and file a law suit against the law firm of Flores and Munoz.

On or about September 15, 1989, Risker was Judicially appointed in open Court by Judge Salinas with the consent of Veliz to serve as the successor trustee of Veliz's Trust and legal representative concerning the administration of the Trust established with Veliz's case settlement proceeds. At the time Respondent was appointed trustee, Veliz's trust account had 1) a cashier's check in the amount of \$765,797.91, 2) two (2) United States Savings Bonds that matured with a cost basis of \$220,000.00 and 3) a house title to the Veliz home, purchase price of \$170,000.00.

On or about September 15, 1993 Risker filed an Amended Trustee Accounting Report for the Veliz Trust as Successor Trustee from September 25, 1989 to December 31, 1992 for the Court to review and approve. On December 16, 1993, the Court heard the matter of the Amended Trustee Accounting Report for the Jesus Veliz Trust submitted by Risker. The Court appointed an auditor to audit all transactions involving the Veliz Trust from September 15, 1989 to present. On February 15, 1994, an Agreement to Dissolve Trust for Veliz was filed with the Court by Risker. On or about July 13, 1994, the Court considered the Motion to Terminate the Jesus Veliz Trust and found that Risker had not filed a legally sufficient accounting, and that the accounting filed by Risker was not in order and did not meet the requirements of the Texas Property Code. The Court authorized an amendment to the Veliz Trust giving Veliz full authority to spend and use the money in the Veliz Trust necessary for his care. The Court

ordered Risker to transfer all assets and documents related to the Veliz Trust to Veliz's home address. It appears Respondent might have had a conflict in being co-counsel in the suit in which the Trust was a party. It also appears that Respondent misused the funds in the Veliz's trust account by over charging unconscionable legal fees.

IV.

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 Jesus V. Veliz filing of a complaint on or about May 20, 1997.

V. RULE VIOLATIONS

The acts and/or omissions of the Respondent described in Paragraph III above, which occurred on or after January 1, 1990, constitute conduct in violation of Rules 1.14(b) [a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive] and 8.04(a)(2) [a lawyer shall not commit any other criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer]; 8.04(a)(3) [a lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation] of the Texas Disciplinary Rules of Professional Conduct.

PRAYER

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

Respectfully submitted,

Steven W. Young
Interim General Counsel

Kimberly M. Gamble
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



KIMBERLY M. GAMBLE
State Bar No. 00789804

**ATTORNEYS FOR PETITIONER,
COMMISSION FOR LAWYER
DISCIPLINE**

STATE BAR OF TEXAS



Office of the General Counsel

August 7, 1998

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

Re: *Commission for Lawyer Discipline v. Frederick L. Risker, Jr.*

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 Frederick L. Risker, Jr.. Mr. Risker has designated Fort Bend County, Texas, as his principal place of practice. 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 made that you notify the Respondent at the address shown below and the undersigned of the identity and address of the judge assigned:

Frederick L. Risker, Jr.
11507 Illiad Ct.
Stafford, Texas 77477

As a practical matter, I would respectfully suggest that you inquire with the judge to be appointed as to: (1) 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.

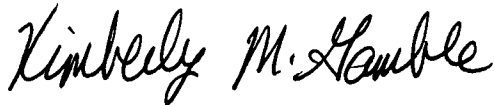
Once a trial judge has been appointed, please forward the original and two (2) copies of the Disciplinary Petition, the filing fee check, also enclosed herewith, and the Court's appointing order to the District Clerk of Fort Bend County, Texas, with the request that the suit be filed, citation be issued,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

Mr. John Adams
Supreme Court of Texas
August 7, 1998
Page Two

I have enclosed a pre-addressed envelope for your use in transmitting the above referenced documents to the District Clerk of Fort Bend County, Texas, and a return envelope to be sent to the District Clerk of Fort Bend County, Texas, for the Clerk's use in returning a file-marked copy of the petition to the undersigned.

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

Sincerely,



Kimberly M. Gamble
Assistant General Counsel

KMG/lp

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

SEP 14 1998

CLERK
JOHN T. ADAMS

EXECUTIVE ASS'T
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

JUSTICES
RAUL A. GONZALEZ
NATHAN L. HECHT
CRAIG T. ENOCH
ROSE SPECTOR
PRISCILLA R. OWEN
JAMES A. BAKER
GREG ABBOTT
DEBORAH G. HANKINSON

The Honorable Glory Hopkins
District Clerk of Fort Bend County
401 Jackson Street
Richmond, Texas 77469

Dear Ms. Hopkins:

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. Frederick L. Risker, Jr.* and a copy of the Supreme Court's order appointing the Honorable Stephen Ellis, Judge of the 35th District Court, Brownwood, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Hon. Stephen Ellis
Mr. Frederick L. Risker, Jr.
Ms. Kimberly M. Gamble



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

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ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

SEP 14 1998

Ms. Kimberly M. Gamble
Assistant General Counsel, State Bar of Texas
1111 Fannin, Suite 1370
Houston, Texas 77002

Mr. Frederick L. Risker, Jr.
11507 Illiad Court
Stafford, Texas 77477

Dear Ms. Gamble and Mr. Risker:

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 Stephen Ellis, Judge of the 35th District Court of Brownwood, Texas to preside in

Commission for Lawyer Discipline v. Frederick L. Risker, Jr.

Sincerely,

SIGNED

John T. Adams
Clerk



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

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CLERK
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ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

SEP 14 1998

Honorable Stephen Ellis
Judge, 35th District Court
200 S. Broadway
Brownwood, Texas 76801

Dear Judge Ellis:

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. Risker and Ms. Gamble, and a copy of the letter to the District Clerk of Fort Bend County, Texas.

It is recommended that, a month or six weeks after receipt of this letter, you or your coordinator contact the District Clerk (713-341-4515) to learn the names and addresses of counsel, etc., for purposes of scheduling a conference. We then recommend that, either before or immediately after you set the case for trial, you contact the Presiding Judge of the Administrative Judicial Region into which you have been assigned (713-655-2800) to reserve a courtroom, obtain a court reporter, obtain claims forms for your expenses incident to presiding over this disciplinary case.

Sincerely,

SIGNED

John T. Adams
Clerk