

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 98- 9206

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

The Supreme Court of Texas hereby appoints the Honorable Guy W. Griffin, Judge of the 123rd District Court of Shelby County, Texas, to preside in the Disciplinary Action styled:

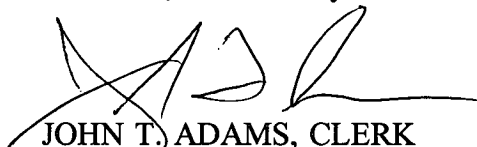
The Commission for Lawyer Discipline v. Robert S. Bennett

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.

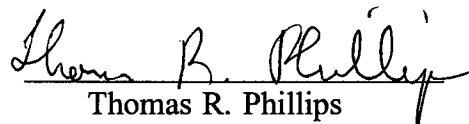
As ordered by the Supreme Court of Texas, in chambers,

with the Seal thereof affixed at the City
of Austin, this 2nd day of December, 1998.


JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 98-9206, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 2 day of December, 1998.


Thomas R. Phillips
Chief Justice

CAUSE NO. _____

COMMISSION FOR LAWYER DISCIPLINE §
VS. §
ROBERT S. BENNETT §
IN THE DISTRICT COURT OF
HARRIS COUNTY, TEXAS
_____ JUDICIAL DISTRICT

ORIGINAL DISCIPLINARY PETITION

TO THE HONORABLE JUDGE OF THE COURT:

Petitioner the COMMISSION FOR LAWYER DISCIPLINE, a committee of the State Bar of Texas (the "CFLD"), complains of Respondent Robert S. Bennett ("Respondent") as follows:

I. Procedural Basis for Suit

The CFLD brings this disciplinary action pursuant to the State Bar Act, Texas Government Code Annotated §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 Disciplinary Petition was filed on or after May 1, 1992.

II. Venue and Service

Respondent is an attorney licensed to practice law in Texas and is a member of the State Bar of Texas. Respondent's principal place of practice is Harris County, Texas, and therefore venue is appropriate in Harris County, Texas, pursuant to Rule 3.03 of the Texas Rules of Disciplinary Procedure. Respondent may be served at Two Shell Plaza, 777 Walker, Ste. 2500, Houston, Texas 77002.

III. First Cause of Action

Scott L. Wilderman, (hereinafter called "Complainant"), retained Robert S. Bennett (hereinafter referred to as "Respondent") to handle a civil matter on or about June 23, 1995. Complainant paid a retainer of \$500.00 and was to be billed against that retainer. At the time Complainant hired Respondent, Respondent was associated with the firm formerly known as Bennett, Brooks, Baker & Lange, L.L.P. (hereinafter referred to as "BBBL"). Upon conclusion of the matter, on or about August 1995, a balance of \$202.19 was unearned and unused by Respondent and remained in Complainant's account with BBBL. Complainant was sent a letter on or about September 8, 1995, from BBBL advising him he had a trust balance of approximately \$202.19.

Thereafter, Complainant left the state and once he settled in his new location, Complainant made several attempts to recover the balance of \$202.19 owed to him from BBBL. During this time, Respondent changed firms a couple of times. Complainant first contacted the firm that Respondent was working for when he entered into the employment contract (that being the firm of BBBL). Complainant was informed that Respondent has ceased employment with them and that the balance of the trust account (\$202.19) was given to Respondent. More specifically, the funds belonging to Complainant (\$202.19) were transferred to Robert S. Bennett's IOLTA Trust Fund on or about December 21, 1995.

On or about March 1998, Complainant located Respondent and sent demand letters to Respondent requesting payment of the remainder of the retainer he paid Respondent in 1995 (i.e., the \$202.19), since the representation had terminated. Respondent did not acknowledge to Complainant that he had his money. Respondent alleged he was unable to find the file and

therefore, could not locate the funds. Respondent misrepresented to Complainant that he was not in possession of funds or property belonging to him. It was not until late April 1998, that Respondent acquiesced and paid Complainant, thereby surrendering the property belonging to Complainant.

The acts and/or omissions of the Respondent described in Paragraph III(A) above, which occurred on or after January 1, 1990, constitute conduct in violation of Rule 1.15(d) failing, upon termination of representation, to surrender property belonging to the client; 8.04(a)(3) engaging in conduct involving dishonesty, fraud, deceit or misrepresentation; and 8.04(a)(1) violating these rules, knowingly assisting or inducing another to do so, or doing so through the acts of another, whether or not such violation occurred in the course of a client-lawyer relationship of the Texas Disciplinary Rules of Professional Conduct ("TDRPC").

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 Scott Wilderman's filing of a complaint on or about April 23, 1998.

Prayer

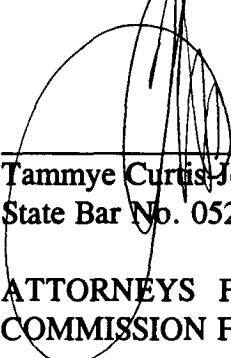
WHEREFORE, PREMISES CONSIDERED, Petitioner the COMMISSION FOR LAWYER DISCIPLINE respectfully prays that this Court discipline Respondent as the facts shall warrant by finding professional misconduct with regard to the above-stated rule violations and imposing a sanction of reprimand, suspension and/or disbarment; and that the CFLD have all other relief to which it may show itself to be justly entitled, including costs of court, restitution to Complainants and attorney's fees.

Respectfully submitted,

Steven W. Young
General Counsel

Tammye Curtis-Jones
Assistant General Counsel

Office of the General Counsel
State Bar of Texas
1111 Fannin, Suite 1370
Houston, Texas 77002
Phone: (713) 759-6931
Fax: (713) 752-2158



Tammye Curtis-Jones
State Bar No. 05286900

ATTORNEYS FOR PETITIONER THE
COMMISSION FOR LAWYER

J:\BENNETT\CFLD.TSC\BENNETT.DP

STATE BAR OF TEXAS



Office of the General Counsel

October 30, 1998

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

Re: Commission for Lawyer Discipline v. Robert S. Bennett

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 Robert S. Bennett. Mr. Bennett has designated Harris 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:

Robert S. Bennett
Two Shell Plaza
777 Walker, Ste. 2500
Houston, Texas 77002

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; and (2) whether he or she can accommodate compliance with Mellon Service Co., et al v. Touche Ross Co., 946 S.W.2d 862 (Tex. App. - Houston [14th Dist.] 1997), which requires that all proceedings incident to a case occur in the county of proper venue. 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, service be obtained, and a file-marked copy of the petition be returned to the undersigned.

1111 Fannin, Suite 1370, Houston, Texas 77002, (713)759-6931

Mr. John Adams
October 30, 1998
Page Two

Also enclosed are a pre-addressed envelope for your use in transmitting the petition, etc., 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-marked copy of the Petition to the undersigned.

Thank you for your courtesies in this matter.

Sincerely,



Tammy S. Curtis-Jones
Assistant General Counsel

TSC/vr

Enclosures

J:\BENNETT\CFLD.TSC\CLERK1.NEW



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

CLERK
JOHN T. ADAMS

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

TEL: (512) 463-1312
FAX: (512) 463-1365

EXECUTIVE ASS'T
WILLIAM L. WILLIS

DEC 03 1998

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

The Honorable Charles Bacarisse
District Clerk of Harris County
P.O. Box 4651
Houston, Texas 77002

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. Robert S. Bennett*, and a copy of the Supreme Court's order appointing the Honorable Guy W. Griffin, Judge of the 123rd District Court of Carthage, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Honorable Guy W. Griffin
Ms. Tammye S. Curtis-Jones
Mr. Robert S. Bennett
Ms. Melissa Dartz



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

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CLERK
JOHN T. ADAMS

EXECUTIVE ASST
WILLIAM L. WILLIS

ADMINISTRATIVE ASST
NADINE SCHNEIDER

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

DEC 03 1998

Honorable Guy W. Griffin
Judge, 123rd District Court
110 S. Sycamore Street, #217A
Carthage, Texas 75633

Dear Judge Griffin:

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. Bennett and Ms. Curtis-Jones, 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



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

CLERK
JOHN T. ADAMS

JUSTICES
RAUL A. GONZALEZ
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EXECUTIVE ASS'T
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

DEC 03 1998

Ms. Tammye S. Curtis-Jones
Assistant General Counsel, State Bar of Texas
1111 Fannin, Suite 1370
Houston, Texas 77002

Mr. Robert S. Bennett
Two Shell Plaza
777 Walker, Suite 2500
Houston, Texas 77002

Dear Ms. Curtis-Jones and Mr. Bennett:

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 Guy W. Griffin, Judge of the 123rd District Court of Carthage, Texas to preside in

Commission for Lawyer Discipline v. Robert S. Bennett

Sincerely,

SIGNED

John T. Adams
Clerk