

**IN THE
SUPREME COURT OF TEXAS
IN THE MATTER OF
THOMAS E. BARLOW**

MISC. DOCKET NO. 98- 9209

ORDER

On this day, this Court considered the Motion for Acceptance of Resignation as Attorney and Counselor at Law of Thomas E. Barlow, together with the Response of the Chief Disciplinary Counsel to the Motion for Acceptance of Resignation as Attorney and Counselor at Law of Thomas E. Barlow. This Court has reviewed the 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, after being advised that the acceptance of the resignation is in the best interest of the public and the profession, concludes that the following Order is appropriate.

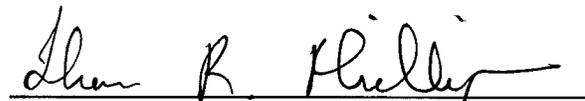
IT IS ORDERED that the law license of Thomas E. Barlow, of Houston, Texas, State Bar card number 01758500, which was previously issued by this Court, is canceled and his name is dropped and deleted from the list of persons licensed to practice law in Texas.

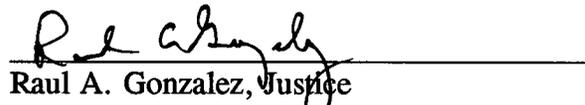
IT IS FURTHER ORDERED that Thomas E. Barlow, is permanently enjoined and prohibited from practicing law in the State of Texas, from holding himself out as an attorney at law, from performing any legal services for others, from giving legal advice to others, from accepting any fee directly or indirectly for legal services, from 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), and from 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 Thomas E. Barlow, within thirty (30) days after the date on which this Order is signed by the Court, notify in writing each and every justice of the peace, judge, magistrate, and chief justice of each and every Texas court in which he may have any client matter pending, advising each court of his resignation, of the style and cause number of any matter pending in that court, and of the name, address and telephone number of the client(s) he is representing in that court. Thomas E. Barlow is **ORDERED** to send copies of all these notifications to the Office of the General Counsel, State Bar of Texas, P.O. Box 12487, Capitol Station, Austin, Texas, 78711.

By the Court, en banc, in chambers, on this the 7th day of December, 1998.

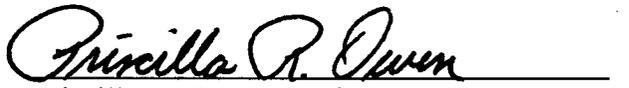

Thomas R. Phillips, Chief Justice


Raul A. Gonzalez, Justice

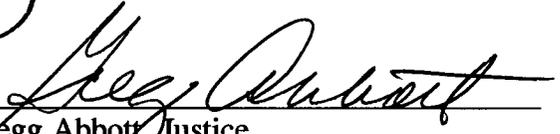

Nathan L. Hecht, Justice


Craig T. Enoch, Justice


Rose Spector, Justice


Priscilla R. Owen, Justice


James A. Baker, Justice


Gregg Abbott, Justice


Deborah G. Hankinson, Justice

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

OF

Thomas E. Barlow

TO THE HONORABLE SUPREME COURT OF TEXAS:

Pursuant to Part X of the Texas Rules of Disciplinary Procedure, Steven W. Young, Chief Disciplinary Counsel, hereby files this 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 in Lieu of Discipline filed by Thomas E. Barlow, and would show as follows:

I.

The acceptance by the Court of the resignation of Thomas E. Barlow is in the best interest of the public and the profession.

II.

Disciplinary actions are currently pending against Thomas E. Barlow ("Respondent"), which are: (1) Chantal Carey, file number H0049612266; (2) Martin Boelens, Jr., file number H0059406243; (3) Sandra Islam, file number H0109201315; (4) *Commission for Lawyer Discipline v. Thomas E. Barlow*, File Number H0109613818, before the Evidentiary Panel of the District 4B Grievance Committee; (5) *Commission for Lawyer Discipline v. Thomas E. Barlow*, File Number H0069303693, before the Evidentiary Panel of the District 4D Grievance Committee; (6) *Commission for Lawyer Discipline v. Thomas E. Barlow*, File

Number H0079200521, before the Evidentiary Panel of the District 4H Grievance Committee; and, (7) Paul McDaniel, file number H0039817878.

1. Disciplinary proceeding H0049612266 seeks the discipline of Respondent for his actions relating to the complaint filed by Chantal Carey ("Carey"). On or about February 10, 1994, Carey transferred \$250,000.00 to Respondent on behalf of The Westminster Companies ("Westminster"). Pursuant to a written escrow agreement between Respondent and Westminster, the funds were to be deposited and held in Respondent's trust account to purchase and sell certain bank debentures from Viking Trading Limited ("Viking"). Due to an error, the funds were not deposited into Respondent's trust account until on or about February 22, 1994. When the transaction between Westminster and Viking did not close, several demands were made for Respondent to return the funds. Respondent failed to return the funds.

Respondent's conduct as set forth in the Carey complaint violated Rules 1.14(a), 1.14(b), and 8.04(a)(3) of the Texas Disciplinary Rules of Professional Conduct.

2. Disciplinary proceeding H0059406243 seeks the discipline of Respondent for his actions relating to the complaint filed by Martin Boelens, Jr. ("Boelens"). On or about February 8, 1994, Boelens, President of Prime Management Group, Inc. ("PMG") and Keith Gresham ("Gresham"), owner of The Westminster Companies ("Westminster"), entered into an Attorney's Escrow Agreement ("Escrow Agreement") with Respondent. According to the Escrow Agreement, PMG placed \$250,000.00 in escrow with Respondent, on behalf of Westminster, to guarantee Westminster's purchase of certain bank debt negotiable instruments from Frances Parker ("Parker") of Viking Trading Limited ("Viking").

Pursuant to the Escrow Agreement, the \$250,000.00 was to be sent by wire transfer into Respondent's Attorney-Client Account at Bank of Houston ("Attorney-Client Account"). Also, according to the terms of the Escrow Agreement, the escrowed funds were to be disbursed under the following circumstances: (1) If Viking failed to provide a certified invoice to Westminster's bank within fifteen (15) international days after the receipt of the \$250,000.00, then the \$250,000.00 would be returned to PMG after written notice from Westminster, PMG, and Viking; (2) If Westminster failed to pay for any certified invoice within eight (8) banking hours after the invoice was transferred to Westminster's bank, the \$250,000.00 would be transferred to Viking because the transaction would be considered earned; (3) If the contract between Westminster and Viking terminated or, in any event, no later than June 6, 1994, whichever came first; and, (4) If a conflict arose between Westminster, PMG, and/or Viking, Respondent was to place the \$250,000.00 in an interest bearing account unless otherwise instructed by PMG and Viking. After thirty (30) days of the notification of a conflict, Respondent could deposit the \$250,000.00 into a court registry in Harris County, Texas. On or about February 9, 1994, Boelens and/or PMG transferred the \$250,000.00 into Respondent's Attorney-Client Account.

On or about March 28, 1994, Parker and Boelens executed a General Release because their transaction had allegedly been completed. Pursuant to the General Release and the Escrow Agreement, Respondent was to release the \$250,000.00 to PMG. However, Respondent failed to release the \$250,000.00 to PMG and/or Boelens. In fact, Respondent could not release the \$250,000.00 because it was not in his Attorney-Client Account. Respondent claims that he had received authorization from Parker and her business partner,

Tom Kiser, to transfer the \$250,000.00 to the Canadian Imperial Bank of Commerce ("CIBC"), and he allegedly completed the transfer on or about March 18, 1994. However, the only transfer to CIBC out of Respondent's Attorney-Client Account on March 18, 1994, was for \$20,000.00. Even so, the Escrow Agreement stipulated that Respondent was to return the \$250,000.00 to PMG, "unless otherwise agreed to in writing by all parties." PMG and/or Boelens were not aware of and did not authorize the transfer of the \$250,000.00 to CIBC.

Further, Respondent obtained the \$250,000.00 from PMG and/or Boelens under false pretenses for his own use and benefit. On or about February 8, 1994, the balance in Respondent's Attorney-Client Account at Bank of Houston was \$4,747.77. On or about February 9, 1994, Boelens and/or PMG transferred the \$250,000.00 into Respondent's Attorney-Client Account. Thereafter, Respondent misappropriated the \$250,000.00 for his own use and benefit. On or about February 11, 1994, Respondent transferred \$5,400.00 to Investor's Financial Group, transferred \$10,000.00 to a credit union, and wrote a check to Delta Airlines in the amount of \$871.95. In fact, the balance in Respondent's Attorney-Client Account on or about March 29, 1994, was only \$1,087.97, and Boelens and/or PMG had not received the \$250,000.00.

Additionally, on or about March 15, 1994, Boelens was informed that the transaction had been completed. Thereafter, by letter dated March 22, 1994, Respondent informed Viking that since he had received the funding commitment, the disbursement instructions would be followed pursuant to the Escrow Agreement and contracts. In a second letter to Viking dated March 25, 1994, Respondent confirmed that the payment of fees and commissions had been ordered. On or about March 28, 1994, the General Release was

executed by Parker and Boelens, but Respondent failed to release the \$250,000.00 held in escrow. Respondent knew at the time he had written the letters to Viking that he was no longer in possession of the \$250,000.00 because he had used the funds for his own use and benefit, a violation of the Escrow Agreement.

Respondent's conduct as set forth in the Boelens complaint violated Rules 1.14(a), 1.14(b), 8.04(a)(2), and 8.04(a)(3) of the Texas Disciplinary Rules of Professional Conduct.

3. Disciplinary proceeding H0109201315 seeks the discipline of Respondent for his actions relating to the complaint filed by Sandra Islam ("Islam"). Islam hired Respondent in July 1987 to represent her interests and those of her son following the wrongful death of her husband, Muhammad Z. Islam. The wrongful death action resulted in a total settlement in the amount of \$20,969.95 to Islam. The settlement was placed in a trust account by Respondent in December of 1987.

In or around December of 1987, Respondent invested a portion of the settlement funds into Investors Financial Group ("IFG"), an alleged investment venture, on behalf of Islam under a trust agreement. The investment venture employed Respondent. Respondent failed to notify Islam of Respondent's interest in the venture where Respondent's employment and subsequent interest may have affected the exercise of Respondent's professional judgment with regard to Respondent's own financial, business, property, and personal interest.

Subsequent to the investment of those funds, Islam requested that Respondent provide her with an accounting of the settlement funds. Respondent refused and failed to comply. Islam also requested that the settlement funds, securities, or other property be delivered to her. Respondent failed to promptly pay or deliver the property to Islam.

Respondent acted as trustee for Islam's settlement funds until January 25, 1993. The settlement funds were invested with a venture in which Respondent stood to be paid as an employee of the venture. During the life of this transaction, Respondent failed to fully disclose to Islam, in a manner which could be reasonably understood by Islam, that Respondent had an interest in the venture and the terms on which Respondent acquired the said interest.

Respondent failed to keep Islam informed as to the disposition of her settlement funds and events which affected the disposition and value of those investment funds. Respondent paid himself legal fees from the trust account without promptly furnishing Islam with an accounting of those payments. Respondent failed to respond to reasonable requests for this information made by Islam over a two (2) year period of time. Islam subsequently demanded a return of funds or other property to which she was entitled. Respondent failed to promptly deliver the funds or other property to which Islam was entitled.

On or about October 1, 1992, Islam filed a grievance against Respondent, alleging that Respondent had committed professional misconduct. On or about June 13, 1994, Respondent received a subpoena which directed him to appear before the grievance committee of the State Bar of Texas on or about June 16, 1994, to respond to the allegations set forth against him in the complaint filed by Islam. Respondent failed to appear in accordance with the requirements of the subpoena. Also, on or about December 9, 1994, Respondent received a second subpoena to appear before the grievance committee on or about December 15, 1994. Respondent also failed to appear at this hearing.

Respondent's conduct as set forth in the Islam complaint violated Disciplinary Rules 1-104(A)(4), 5-101(A), 9-102(B)(3), and 9-102(B)(4) of the Texas Code of Professional Responsibility and Rules 1.03(a), 1.08(a)(1), 1.14(b), and 8.01(b) of the Texas Disciplinary Rules of Professional Conduct.

4. Disciplinary action Number H0109613818 seeks the discipline of Respondent for his actions relating to the complaint filed by Zoran Pirjevec ("Pirjevec"). On or about January 19, 1995, Respondent received funds totaling \$324,985.00, from Michael Pattemore ("Pattemore"), one of Respondent's co-conspirators in an investment scam. These funds had previously been given to Pattemore by Pirjevec as a part of \$500,000.00 to be used in an investment program. Subsequent to receiving those funds, Respondent transferred part of the funds to other co-conspirators in the investment.

On or about February 23, 1995, Respondent transferred \$26,500.00 of the funds received from Pattemore on behalf of Pirjevec, from his operating account into his trust account. Thereafter, Respondent disbursed funds from his trust account for his own personal use.

Respondent's conduct as set forth in the Pirjevec complaint violated Rules 1.14(a), 1.14(b), 8.04(a)(1), 8.04(a)(2), 8.04(a)(3), and 8.04(a)(12) of the Texas Disciplinary Rules of Professional Conduct.

5. Disciplinary action Number H0069303693 seeks the discipline of Respondent for his actions relating to the complaint filed by Michael Beggs ("Beggs"). On or about June 26, 1992, Beggs was notified by letter that Respondent was representing Beggs' wife in a divorce action. Respondent had been suspended from the practice of law on September 1,

1989, for non-payment of dues and remained suspended until January 15, 1993, when Respondent paid his delinquent dues. Respondent filed pleadings and motions on his client's behalf during his period of suspension.

Respondent's conduct as set forth in the Beggs complaint violated Rule 8.04(a)(10) of the Texas Disciplinary Rules of Professional Conduct.

6. Disciplinary action Number H0079200521 seeks the discipline of Respondent for his actions relating to the complaint filed by Kenneth Elliott ("Elliott"). On or about January 15, 1989, Elliott retained Respondent for representation in a claim resulting from an automobile accident, which occurred in Monroe, Louisiana, on January 6, 1989. Respondent failed to file suit on Elliott's behalf in Louisiana prior to Louisiana's relevant one (1) year statute of limitations lapsing. Instead, Respondent filed suit in the 80th District Court of Harris County, Texas on December 21, 1990, under Cause Number 90-66109. Respondent failed to obtain service of process on the defendant in that case. As a result of Respondent's failure to have the defendant served, the case was dismissed for want of prosecution on September 30, 1991. Respondent failed to notify Elliott of the dismissal. Instead, Respondent represented to Elliott that the case was proceeding forward.

Respondent's conduct as set forth in the Elliott complaint violated Rules 1.01(b)(1), 1.01(b)(2), 1.03(a), and 8.04(a)(3) of the Texas Disciplinary Rules of Professional Conduct.

7. Disciplinary proceeding H0039817878 seeks the discipline of Respondent for his actions relating to the complaint filed by Paul McDaniel ("McDaniel") and Barry Clarkson ("Clarkson"). In or around February 1994, McDaniel and Clarkson each invested \$25,000.00, as part of a \$250,000.00 investment opportunity. The investment monies were to be held in

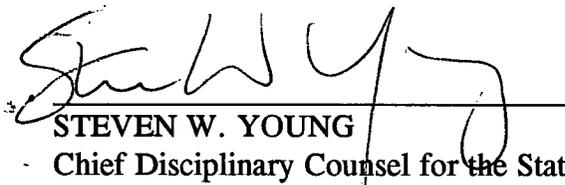
Respondent's trust account until a specific transaction occurred. Thereafter, Respondent and co-conspirators used the investment money for their own use and benefit.

Respondent's conduct as set forth in the McDaniel and Clarkson complaint violated Rules 1.14(a), 1.14(b), 8.04(a)(2), and 8.04(a)(3) of the Texas Disciplinary Rules of Professional Conduct.

III.

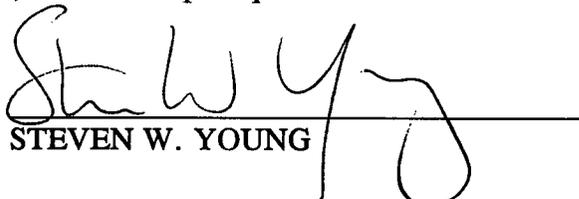
In view of Thomas E. Barlow's execution on or about February 4, 1998, of his resignation as an attorney and counselor at law, and in anticipation of the Court's acceptance of his resignation, the Chief Disciplinary Counsel does not anticipate going forward with a compulsory Discipline Action upon entry of an Order by the Supreme Court of Texas deleting Thomas E. Barlow from the list of persons licensed to practice law in the State of Texas.

Respectfully submitted,


STEVEN W. YOUNG
Chief Disciplinary Counsel for the State
Bar of Texas

CERTIFICATE OF SERVICE

I certify that on the 23rd day of November, 1998, a true and correct copy of the Response of the Chief Disciplinary Counsel to the Resignation of Thomas E. Barlow was delivered to John R. Gladney, counsel for Thomas E. Barlow, at 440 Louisiana, Suite 800, Houston, Texas 77002, by certified mail, return receipt requested.


STEVEN W. YOUNG

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

OF

Thomas E. Barlow

NOW COMES your Applicant, Thomas E. Barlow, 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 permanent State Bar card and license to practice law issued by this Court to the Applicant, Thomas E. Barlow, as an Attorney and Counselor at Law on 12/7/72. Said State Bar card and license 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.



Thomas E. Barlow
01758500

SUBSCRIBED AND SWORN to before me by the said Thomas E. Barlow, this the 4th day of February, 1998.



Diana Eliza Huerta
Notary Public in and for the State
Of Texas

Thomas E. Barlow
c/o John R. Gladney
440 Louisiana, Suite 800
Houston, Texas 77002

STATE BAR OF TEXAS



Office of the General Counsel

November 30, 1998

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

Re: Resignation of Thomas E. Barlow, Bar Card No. 01758500

Dear Mr. Adams:

Pursuant to Part X of the Texas Rules of Disciplinary Procedure, please find enclosed herewith the following:

- (1) Motion for Acceptance of Resignation as Attorney and Counselor at Law of Thomas E. Barlow, dated February 4, 1998;
- (2) Response of Chief Disciplinary Counsel to Motion for Acceptance of Resignation as Attorney and Counselor at Law of Thomas E. Barlow;
- (3) Original and one (1) copy of proposed Order for review and entry by the Court accepting the resignation of Thomas E. Barlow as Attorney and Counselor at Law;
- (4) State Bar of Texas permanent Bar Card of Thomas E. Barlow, Bar Card No. 01758500, issued 12/7/72; and
- (5) Supreme Court of Texas Law License of Thomas E. Barlow.

Upon entry of the Order by the Court, please transmit a true and correct copy of the same to the undersigned in order that this office may properly give notice to all parties of the Court's disposition of such motion.

Sincerely,

A handwritten signature in cursive script that reads "Ann Andersson".

Ann Andersson
Sr. Legal Assistant

Mr. John Adams, Clerk
Supreme Court of Texas
Resignation of Thomas E. Barlow
Page Two

cc: Mr. Thomas E. Barlow, c/o John R. Gladney, 440 Louisiana, Suite 800, Houston, Texas
77002, by CMRRR Z 746 077 176

Mr. Stephen D. Statham, Regional Counsel, Office of General Counsel, State Bar of
Texas, 1111 Fannin, Suite 1370, Houston, Texas 77002

Ms. Jennifer A. Hasley, Assistant General Counsel, Office of General Counsel, State Bar
of Texas, 1111 Fannin, Suite 1370, Houston, Texas 77002