

ORDER OF THE SUPREME COURT OF TEXAS

MISC. DOCKET NO. 99- 9031

IN THE MATTER OF CLEVE MOTEN

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

IT IS ORDERED that the law license of Cleve Moten, of Austin, Texas, State Bar card number 14595300, which was previously issued by this Court, be canceled and his name be dropped and deleted from the list of persons licensed to practice law in Texas.

IT IS FURTHER ORDERED that Cleve Moten immediately surrender his State Bar Card and Texas law license to the Clerk of the Supreme Court of Texas or file with the Court an affidavit stating the cause of his inability to do so.

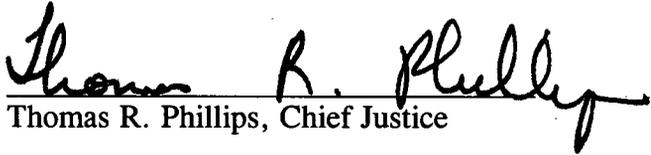
IT IS FURTHER ORDERED that Cleve Moten is permanently enjoined and prohibited from practicing law in the State of Texas, holding himself out as an attorney at law, performing legal services for others, giving legal advice to others, accepting any fee directly or indirectly for legal services, appearing 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), or 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 Cleve Moten shall immediately notify each of his current clients in writing of this resignation. In addition to such notification, Cleve Moten is **ORDERED** to return any files, papers, unearned monies and other property belonging to clients and former clients in his possession to the respective clients or former clients or to another attorney at the client's or former client's request. Cleve Moten is **ORDERED** to file with the State Bar of Texas, 400 W. 15th Street, Suite 1500, Austin, Texas 78701, within thirty (30) days of the date of the effective date of this Order an affidavit stating that all current clients have been notified of his resignation and that all files, papers, monies and other property belonging to all clients and former clients have been returned as ordered herein.

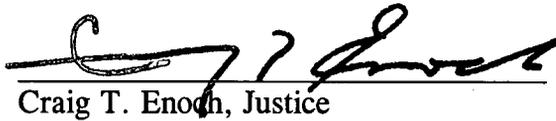
IT IS FURTHER ORDERED that Cleve Moten shall, within thirty (30) days after the date on which this Order is signed by the Court, notify in writing each and every justice of the peace, judge, magistrate, and chief justice of each and every court in which Cleve Moten has any matter pending of the terms of this Order, the style and cause number of the pending matter(s), and the name, address and telephone number of the client(s) Cleve Moten is representing in Court. Cleve Moten is **ORDERED** to file with the State Bar of Texas, 400 West 15th Street, Suite 1500,

Austin, Texas 78701, within thirty (30) days of the date of the effective date of this Order an affidavit stating that he has notified in writing each and every justice of the peace, judge, magistrate, and chief justice of each and every court in which he has any matter pending of the terms of this Order, the style and cause number of the pending matter(s), and the name, address and telephone number of the client(s) he is representing in Court.

By the Court, en banc, in chambers, this the 9th day of February, 1999.


Thomas R. Phillips, Chief Justice


Nathan L. Hecht, Justice


Craig T. Enoch, Justice

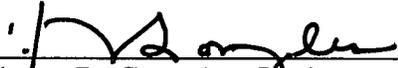

Priscilla R. Owen, Justice


James A. Baker, Justice


Greg Abbott, Justice


Deborah G. Hankinson, Justice


Harriet O'Neill, Justice


Alberto R. Gonzales, Justice

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

OF

Cleve Moten

NOW COMES your Applicant, Cleve Moten, 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.

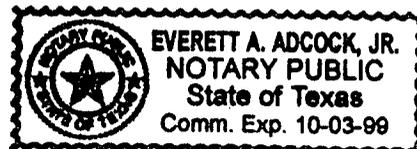
I will provide The Supreme Court of Texas with my
CM Attached hereto is the License and permanent State Bar card
issued by this Court to the Applicant, Cleve Moten, as an Attorney and Counselor at Law on 06/10/77. Said License and permanent State Bar card ^{will be} ~~are hereby~~ surrendered by the Applicant, *or an Affidavit of Loss will be provided by the Applicant. CM*
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.

Cleve Moten
Cleve Moten
14595300

SUBSCRIBED AND SWORN to before me by the said Cleve Moten this the 15th day of January, 1999.

Everett A. Adcock, Jr.
NOTARY PUBLIC in and for
the State of Texas.

Cleve Moten
Law Offices Of Cleve Moten
400 E Anderson Ln Ste 424
Austin, Texas 78752-1240
CF6-17.PRI



IN THE SUPREME COURT OF TEXAS
RESPONSE OF THE CHIEF DISCIPLINARY COUNSEL
OF THE
STATE BAR OF TEXAS
REGARDING
CLEVE MOTEN

TO THE HONORABLE SUPREME COURT OF TEXAS:

I, Steven W. Young, Chief Disciplinary Counsel of the State Bar of Texas, in accordance with Part X of the Texas Rules of Disciplinary Procedure, hereby file a 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 as Attorney and Counselor at Law of Cleve Moten, dated on January 15, 1999. The acceptance of the resignation of Cleve Moten, is in the best interests of the public and the profession.

The professional misconduct with which Cleve Moten (hereafter called "Moten"), is charged is as follows:

In File No. A0069803321 Moten was hired in January 1995 to represent Janice Powe (hereafter called the "Client") in a personal injury matter. Moten neglected the Client's case and failed to return phone calls and failed to communicate with her regarding the status of the case. Further, Moten failed to file a written response to this complaint with the District 09A Grievance Committee.

Moten violated Rules 1.01(b)(1), 1.01(b)(2), 1.03(a), 1.03(b), 8.01(b) and 8.04(a)(8) of the Texas Disciplinary Rules of Professional Conduct.

In File No. A0099803542 Moten was hired to represent Clifton K. Hayes (hereafter

referred to as the "Client") in a personal injury matter. Moten settled the case in January 1998 and withheld \$2,169.00 from the Client's proceeds in order to pay medical providers who had provided treatment to the Client. However, Moten failed to pay the medical providers the funds that were due to them. Moten failed to communicate with the Client regarding the status of the payments to the providers; and further failed to file a written response to this complaint with the District 09A Grievance Committee.

Moten violated Rules 1.03(a), 1.14(a), 1.14(b), 1.14(c) 8.01(b), and 8.04(a)(8) of the Texas Disciplinary Rules of Professional Conduct, and must make restitution in the amount of \$2,169.00 to the Client's medical providers.

In File No. A0099803491, Moten was hired by Kenneth Bullard (hereafter the "Client") to represent him in a personal injury matter. Moten settled the matter without the Client's knowledge or consent in the amount of \$6,200.00. Subsequently Moten misrepresented the status of the case to the Client, by stating that the case had not been settled, and failed to disburse the settlement funds to the Client. Further, Moten failed to file a written response to this complaint with the District 09A Grievance Committee.

Moten violated Rules 1.03(a), 1.14(a), 1.14(b), 8.01(b), 8.04(a)(3), and 8.04(a)(8) of the Texas Disciplinary Rules of Professional Conduct and must make restitution in the amount of \$4,100.00 to the Client.

In File No. A0099803524, Moten was hired in January 1997 to represent Doris Fowler (hereafter the "Client") in a wrongful death case. Moten neglected the Client's case and failed to communicate with her about her case. The Client discovered that Moten had been suspended

from the practice of law in June 1998 for failing to comply with Minimum Continuing Legal Education requirements, but had not notified her of his suspension. The Client hired another attorney to complete the case, but Moten refused to release the Client's files until the client agreed to pay him the sum of \$10,000.00. Further, Moten failed to file a written response to this complaint with the District 09A Grievance Committee.

Moten violated Rules 1.01(b)(1), 1.01(b)(2), 1.03(a), 8.01(b), 8.04(a)(3), 8.04(a)(8) and 8.04(a)(10) of the Texas Disciplinary Rules of Professional Conduct.

In File No. A0089803450, Moten was hired in June 1997 to represent Tonia Renee Willis (hereafter the "Client") in a workman's compensation case. Thereafter Moten neglected the Client's case and refused to communicate with her. Further, Moten failed to file a written response to this complaint with the District 09A Grievance Committee.

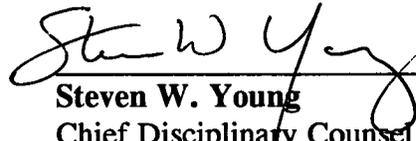
Moten violated Rules 1.01(b)(1), 1.01(b)(2), 1.03(a), 8.01(b) and 8.04(a)(8) of the Texas Disciplinary Rules of Professional Conduct.

In File No. A0089803450, Moten was hired in January 1997 to represent the sister of Pearlie Greenwell (hereafter the "Client") in a personal injury suit and guardianship matter. The Client agreed to a contingent fee and paid Moten a retainer and purported filing fees in the amount of \$1,085.00. However, no contract was signed by the Client. Thereafter, Moten neglected the Client's legal matter and failed to communicate with her. Moten also failed to file a written response to this complaint with the District 09A Grievance Committee.

Moten violated Rules 1.01(b)(1), 1.01(b)(2), 1.03(a), 1.04(d), 8.01(b) 8.04(a)(3) and 8.04(a)(8) of the Texas Disciplinary Rules of Professional Conduct.

In view of execution on or about January 15, 1999, of his resignation in lieu of discipline as an attorney and counselor at law, and in anticipation of the Court's acceptance of same, the Chief Disciplinary Counsel does not anticipate going forward with the disciplinary cases.

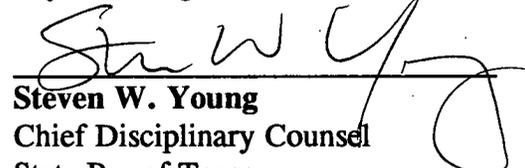
WHEREFORE, the State Bar of Texas moves the Court to accept the resignation in lieu of discipline and grant the motion filed by Cleve Moten.



Steven W. Young
Chief Disciplinary Counsel
State Bar of Texas

CERTIFICATE OF SERVICE

A true and correct copy of this Response of the Chief Disciplinary Counsel of the State Bar of Texas Regarding Cleve Moten., has been personally served upon Cleve Moten.



Steven W. Young
Chief Disciplinary Counsel
State Bar of Texas

*Received 1-21-99 via Hand
Delivery.
Cleve Moten*

STATE BAR OF TEXAS



Office of the General Counsel

VIA HAND DELIVERY

February 8, 1999

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

Re: Cleve Moten

Dear Mr. Adams:

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

- (1) Original executed Motion for Acceptance of Resignation as Attorney and Counselor at Law for the above referenced attorney; which includes a statement regarding the whereabouts of said attorney's permanent State Bar card and law license.
- (2) Original and two (2) copies of the Response of the Chief Disciplinary Counsel to Motion for Acceptance of Resignation as Attorney and Counselor at Law for the above referenced attorney; and
- (3) Original Order of Resignation for the Court's signature.

Pursuant to Rule 10.02 of the Texas Rules of Disciplinary Procedure, the required ten (10) day timeframe has passed and the above-referenced attorney has made no attempt to withdraw the Motion for Acceptance of Resignation. Therefore, the detailed statement of professional misconduct is deemed to have been conclusively established for all purposes.

I will appreciate your bringing this to the Court's attention. Please return a fully executed copy of the Order to our office at your earliest convenience.

Sincerely,

A handwritten signature in cursive script, reading "William R. Garrett". The signature is written in dark ink and is positioned above the typed name.

William R. Garrett
Assistant Disciplinary Counsel
Office of the Chief Disciplinary Counsel
State Bar of Texas

Enclosure

CF3-24RA.PRI