

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 99- 9200

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

The Supreme Court of Texas hereby appoints the Honorable Judith G. Wells, Judge of the 325th District Court of Tarrant County, Texas, to preside in the Disciplinary Action styled:


The Commission for Lawyer Discipline v. Lloyd Alan Dunn

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.

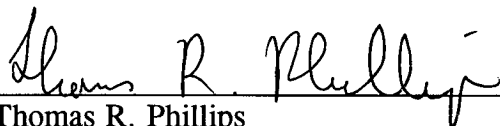
As ordered by the Supreme Court of Texas, in chambers,

with the Seal thereof affixed at the City
of Austin, this 26th day of October, 1999.


JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 99-9200, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code, §74.057.

Signed this 1 day of November, 1999.



Thomas R. Phillips
Chief Justice

CAUSE NO. _____

COMMISSION FOR LAWYER DISCIPLINE §
VS. §
LLOYD ALAN DUNN §
§
§
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 (hereinafter referred to as the "CFLD"), complains of LLOYD ALAN DUNN ("hereinafter referred to as "Respondent") as follows:

**I.
DISCOVERY CONTROL PLAN**

Pursuant to Rule 190.1 of the Texas Rules of Civil Procedure, CFLD intends discovery in this case to be conducted under Discovery Control Plan - Level 2 as provided in Rule 190.3 of the Texas Rules of Civil Procedure.

**II.
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.

**III.
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. An officer may service citation upon Respondent who can be located at 6666 Harwin, Ste. 440, Houston, Texas 77036.

**IV.
FIRST CAUSE OF ACTION**

On or about April 1, 1997, Elvira Ortiz and Manuela Garcia were involved in an automobile accident and retained Victor Rosa for representation. Mr. Rosa subsequently passed away in late 1997. On or about September 6, 1997 and prior to Mr. Rosa's passing, Mr. Rosa contacted Joel D. Mallory, Jr. (hereinafter referred to as "Complainant"), an attorney with Mr. Rosa's office, to refer five individual cases, one of which was Ms. Ortiz's and Ms. Garcia's, for representation to a final settlement. On or about December 2, 1997, Complainant contacted Ms. Ortiz and Ms. Garcia in writing to notify them of Mr. Rosa's death and that Complainant would represent them in their claim. Ms. Ortiz and Ms. Garcia subsequently terminated services with Complainant and retained Respondent.

On or about April 24, 1998, a letter was executed giving Respondent permission to place Complainant's endorsement on any settlement drafts issued for the Ortiz and Garcia matter. The letter issued contained a letterhead that was not commonly used by Complainant as well as an address that Complainant did not occupy on April 24, 1998. Prior to that time, Complainant relocated his office. Additionally, the signature to the letter was not that of Complainant's.

On or about April 28, 1998, two separate checks in the amount of \$5,375.00 each were issued by Geico Indemnity Company and were made payable Ms. Ortiz and Ms. Garcia. Respondent and Complainant were also named payees on the checks. The checks were delivered to Respondent's attention. Upon receipt, Respondent, Ms. Ortiz, and Ms. Garcia each endorsed the checks. Respondent then endorsed Complainant's name on the checks without Complainant's consent or authority. The checks were then placed in Respondent's IOLTA account.

After discovering the checks were fraudulently endorsed, on or about November 16, 1998, Complainant filed two separate Affidavits of Forgery with Geico Indemnity Company.

A complaint was filed with the State Bar of Texas by Joel Mallory on or about July 27, 1998. Respondent was notified of the complaint. Thereafter, by letter dated March 8, 1999, Respondent was notified of the investigatory hearing scheduled for March 25, 1999. This notice was sent to Respondent via certified mail return receipt requested and signed for on March 16, 1999. Respondent failed to appear for the investigatory hearing on March 25, 1999.

Respondent violated the Texas Disciplinary Rules of Professional Conduct by receiving the checks from Geico and failing to notify Complainant of the receipt, as Complainant retained an interest in the funds. Respondent further violated the Texas Disciplinary Rules of Professional Conduct by endorsing Complainant's name/signature on the checks without Complainant's express authority and/or consent. By doing so, Respondent committed a crime that is considered barratry. Respondent was dishonest by failing to contact Complainant to obtain Complainant's signature to the checks. Respondent was deceitful and committed fraud by endorsing Complainant's name to the checks.

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 the following Rules of the Texas Disciplinary Rules of Professional Conduct ("TDRPC"):

1.14(b) for 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;

1.14(c) for failing to keep funds or other property in which both the lawyer and another person claim interests separate until there is an accounting and severance of their interests;

8.04(a)(1) for 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;

8.04(a)(2) for committing a serious crime or any other criminal act that reflects adversely on the lawyer's honesty trustworthiness or fitness as a lawyer in other respects;

8.04(a)(3) for engaging in conduct involving dishonesty, fraud, deceit or misrepresentation;

8.04 (a)(9) for engaging in conduct that constitutes barratry as defined by the laws of the State of Texas;

8.04(a)(12) for violating any other laws of this state relating to the professional conduct of lawyers and to the practice of law; and

8.04(b) As used in subsection (a)(2) of this Rule, "serious crime" means barratry; any felony involving moral turpitude; any misdemeanor involving theft, embezzlement, or fraudulent or reckless misappropriation of money or other property; or any attempt, conspiracy, or solicitation of another to commit any of the foregoing crimes.

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 Complainant filing a complaint on or about July 27, 1998.

Prayer

WHEREFORE, PREMISES CONSIDERED, Petitioner the COMMISSION FOR LAWYER DISCIPLINE respectfully prays that this Court discipline Respondent by reprimand,

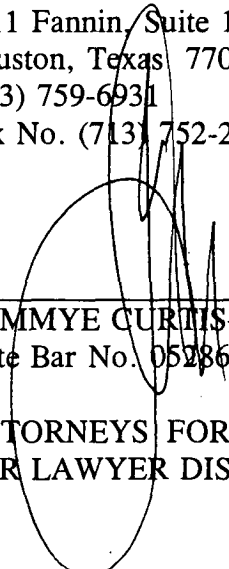
suspension or disbarment, as the facts shall warrant; and that the Petitioner have all other relief to which it may show itself to be justly entitled, including costs of court and attorneys' fees.

Respectfully submitted,

Dawn Miller
Acting General Counsel/Chief Disciplinary
Counsel

Tammye Curtis-Jones
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



TAMMYE CURTIS-JONES
State Bar No. 05286900

ATTORNEYS FOR THE COMMISSION
FOR LAWYER DISCIPLINE

J:\DUNN.LA\DUNN.DP

STATE BAR OF TEXAS



Office of the General Counsel

September 9, 1999

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

Re: Commission for Lawyer Discipline v. Lloyd Alan Dunn

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 Lloyd Alan Dunn. Mr. Dunn 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:

Lloyd Alan Dunn
6666 Harwin, Ste. 440
Houston, Texas 77036

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.

Mr. John Adams
September 9, 1999
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,



Tammye Curtis-Jones
Assistant General Counsel

TCJ/vr

Enclosures

J:\DUNN.LA\CLERK1.SCT



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

JUSTICES
NATHAN L. HECHT
CRAIG T. ENOCH
PRISCILLA R. OWEN
JAMES A. BAKER
GREG ABBOTT
DEBORAH G. HANKINSON
HARRIET O'NEILL
ALBERTO R. GONZALES

NOV 05 1999

CLERK
JOHN T. ADAMS

EXECUTIVE ASS'T
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASS'T
JIM HUTCHESON

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

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

Mr. Lloyd Alan Dunn
6666 Harwin, Suite 440
Houston, Texas 77036

Dear Ms. Curtis-Jones and Mr. Dunn:

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 Judith G. Wells, Judge of the 325th District Court, Fort Worth, Texas to preside in

Commission for Lawyer Discipline v. Lloyd Alan Dunn

Sincerely,

SIGNED

John T. Adams
Clerk



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

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HARRIET O'NEILL
ALBERTO R. GONZALES

NOV 05 1999

Honorable Judith G. Wells
Judge, 325th District Court
100 N. Houston Street, 4th Floor
Fort Worth, Texas 76196-0233

Dear Judge Wells:

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. Dunn 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

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EXECUTIVE ASST
WILLIAM L. WILLIS

NOV 05 1999

DEPUTY EXECUTIVE ASST
JIM HUTCHESON

ADMINISTRATIVE ASST
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. Lloyd Alan Dunn*, and a copy of the Supreme Court's order appointing the Honorable Judith G. Wells, Judge of the 325th District Court, Fort Worth, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Honorable Judith G. Wells
Ms. Tammye Curtis-Jones
Mr. Lloyd Alan Dunn
Ms. Melissa Dartez