

ORDER OF THE SUPREME COURT OF TEXAS

Misc. Docket No. 01-9021

Appointment of a District Judge to Rule on a Motion
to Recuse filed in a State Bar Disciplinary Action

The Supreme Court of Texas hereby appoints the Honorable Ken C. Curry, Judge of the
153rd District Court of Tarrant County, Texas, to preside in the Disciplinary Action styled:

The Commission for Lawyer Discipline v. Rouault Ray Buvia

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

The Clerk of the Supreme Court shall promptly forward to the District Clerk of Travis
County, Texas, a copy of the Disciplinary Petition and this Order 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 23rd day of January, 2001.


JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 01-9021, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 26 day of January, 2001.



Thomas R. Phillips
Chief Justice

CAUSE NO. _____

COMMISSION FOR LAWYER DISCIPLINE	§	IN THE DISTRICT COURT OF
V.	§	TRAVIS COUNTY, TEXAS
ROUAULT RAY BUVIA	§	_____ JUDICIAL DISTRICT

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 called "Petitioner"), complaining of Respondent, ROUAULT RAY BUVIA, State Bar Card No. 03546100 (hereinafter called "Respondent"), showing the Court:

I.

Pursuant to Rule 190.1, Texas Rules of Civil Procedure, discovery in this case is governed by Discovery Control Plan -- Level 2, as provided in Rule 190.3, Texas Rules of Civil Procedure.

II.

Petitioner brings this disciplinary action pursuant to the State Bar Act, Tex. Gov't. Code Ann. §81.001, et seq. (Vernon 1998), the Texas Disciplinary Rules of Professional Conduct and the Texas Rules of Disciplinary Procedure. The complaint which forms the basis of this Disciplinary Petition was filed on or about December 12, 1997.

III.

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 Travis County, Texas.

An officer may serve citation on Respondent, Rouault Ray Buvia, whose address is 700 San Antonio Street, Austin, Texas 78701.

IV.

On March 24, 1997, Ida Gilbert and her father, Elmer Burns (hereinafter collectively called "Complainants"), entered into a contract with Respondent for legal services on an hourly fee basis, and paid Respondent a \$5,000 retainer. Legal services were required because Mr. Burns had entered into a hypothecation agreement by which his interest in Nuveen Investments mutual funds, or other assets held by IBM Credit Union, were pledged as collateral for a loan made by IBM Credit Union to Stallion Holdings Joint Venture, Ltd. (hereinafter called "Stallion"). Stallion was a joint venture formed by some of Mr. Burns' sons to purchase and develop a tract of raw land near Pflugerville, Texas. Stallion was in default on the loan and IBM Credit Union threatened to foreclose on both the property and Mr. Burns' pledged assets (to the extent of any deficiency). Mr. Burns had believed that his total liability under the hypothecation agreement was limited to \$50,000, however, IBM Credit Union claimed rights to assets approximating \$150,000.

V.

Respondent agreed to represent Mr. Burns' interests against Stallion and IBM Credit Union even though he had little or no experience in real estate transactions or cases of this nature. Respondent's efforts centered largely on drafting a DTPA demand letter, which was never sent even though IBM Credit Union foreclosed on Stallion's property in August 1997. Despite repeated telephone calls, Complainants were unable to communicate with Respondent sufficiently about the status of the case and finally terminated his services on October 26, 1997. Respondent then submitted

his first invoice for services to Complainants, reflecting hourly fees charged as early as February 6, 1997, and a balance due of \$1405. Ultimately, all of Mr. Burns' assets were lost to IBM Credit Union.

VI.

By his conduct as alleged in paragraphs IV and V, Respondent has violated the following Texas Disciplinary Rules of Professional Conduct for which he should be disciplined pursuant to Rule 3.09 of the Texas Rules of Disciplinary Procedure.

- 1.01(a) A lawyer shall not accept or continue employment in a legal matter which the lawyer knows or should know is beyond the lawyer's competence,
- 1.01(b) In representing a client, a lawyer shall not ... neglect a legal matter entrusted to the lawyer,
- 1.03(a) A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information, and
- 1.03(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

VII.

The complaint which forms the basis of the Cause of Action set forth above was brought to the attention of the Office of the Chief Disciplinary Counsel of the State Bar of Texas by Ida Gilbert filing a complaint on behalf of Elmer Burns regarding his situation on or about December 12, 1997.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Petitioner prays for judgment that Respondent be disciplined as the facts shall warrant and that Petitioner have such other and further relief to which entitled, including costs of court and attorneys fees.

Respectfully submitted,

Dawn Miller
Chief Disciplinary Counsel

Michael E. McClendon
Assistant Disciplinary Counsel

Office of the Chief Disciplinary Counsel
STATE BAR OF TEXAS
P.O. Box 12487, Capitol Station
Austin, Texas 78711-2487
Telephone: (512) 463-1463
Facsimile: (512) 477-4607



Michael E. McClendon
State Bar Card No. 13408700

Attorneys for Petitioner

STATE BAR OF TEXAS



Office of the Chief Disciplinary Counsel

December 11, 2000

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

RE: Commission for Lawyer Discipline v. Rouault Ray Buvia

Dear Mr. Adams:

Enclosed is an original and two (2) copies of a Disciplinary Petition being filed by the Commission for Lawyer Discipline against Rouault Ray Buvia. Mr. Buvia has designated Travis 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:

Rouault Ray Buvia
c/o Dexter E. Gilford
700 San Antonio Street
Austin, Texas 78701

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

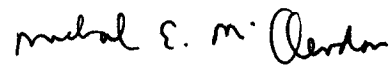
Once a trial judge has been appointed, please forward the original and two (2) copies of the Disciplinary Petition, the filing fee check, also enclosed, and the Court's appointing order to the District Clerk of Travis County, Texas, with the request that the suit be filed and a file-marked copy of the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

Mr. John Adams
December 11, 2000
Page 2 of 2

Also enclosed are a pre-addressed envelope for your use in transmitting the petition, etc., to the District Clerk of Travis County, Texas, and a return envelope to be sent to the District Clerk of Travis County, Texas, for the Clerk's use in returning a file-marked copy of the Petition to me.

Please call me if you have any questions or comments.

Sincerely,



Michael E. McClendon
Assistant Disciplinary Counsel



The Supreme Court of Texas

CHIEF JUSTICE
THOMAS R. PHILLIPS

201 West 14th Street Post Office Box 12248 Austin TX 78711
Telephone: 512/463-1312 Facsimile: 512/463-1365

CLERK
JOHN T. ADAMS

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

EXECUTIVE ASSISTANT
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASST
JIM HUTCHESON

ADMINISTRATIVE ASSISTANT
NADINE SCHNEIDER

JAN 30 2000

Honorable Ken C. Curry
Judge, 153rd District Court
401 W. Belknap Street
Fort Worth, Texas 76196-0225

Dear Judge Curry:

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. Buvia and Mr. McClendon, and a copy of the letter to the District Clerk of Travis County.

It is recommended that, about a month or six weeks after receipt of this letter, you contact the Travis County Court Administrative Office (512-753-9300) (certainly just before or immediately after you set the case for trial) 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 (210-379-8556) to obtain information on lodging, allowable expenses, and claims forms for your expenses incident to presiding over this disciplinary case.

Sincerely,

A handwritten signature in black ink that reads "John T. Adams". The signature is written in a cursive style with a large initial "J".

John T. Adams
Clerk



The Supreme Court of Texas

CHIEF JUSTICE
THOMAS R. PHILLIPS

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NADINE SCHNEIDER

JAN 30 2001

Mr. Michael E. McClendon
Assistant General Counsel, State Bar of Texas
P.O. Box 12487
Austin, Texas 78711-2487

Mr. Rouault Ray Buvia
c/o Dexter E. Gilford
700 San Antonio Street
Austin, Texas 78701

Dear Mr. McClendon and Mr. Buvia:

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 Ken C. Curry, Judge of the 153rd District Court, Fort Worth, Texas to preside in

Commission for Lawyer Discipline v. Rouault Ray Buvia

Sincerely,

A handwritten signature in cursive script that reads "John T. Adams".

John T. Adams
Clerk



The Supreme Court of Texas

CHIEF JUSTICE
THOMAS R. PHILLIPS

201 West 14th Street Post Office Box 12248 Austin TX 78711
Telephone: 512/463-1312 Facsimile: 512/463-1365

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JIM HUTCHESON

ADMINISTRATIVE ASSISTANT
NADINE SCHNEIDER

JAN 30 2001

The Honorable Amalia Rodriguez-Mendoza
District Clerk of Travis County
P.O. Box 1748
Austin, Texas 78767-1748

Dear Ms. Rodriguez-Mendoza:

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. Rouault Ray Buvia*, and a copy of the Supreme Court's order appointing the Honorable Ken C. Curry, Judge of the 153rd District Court, Fort Worth, Texas, to preside in this Disciplinary Action.

Sincerely,

A handwritten signature in cursive script that reads "John T. Adams".

John T. Adams
Clerk

cc: Honorable Ken C. Murry
Mr. Michael E. McClendon
Mr. Rouault Ray Buvia