

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 99- 9028

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

The Supreme Court of Texas hereby appoints the Honorable Jay Patterson, Judge of the 101st District Court of Dallas County, Texas, to preside in the Disciplinary Action styled:


The Commission for Lawyer Discipline v. Richard W. Burns

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,

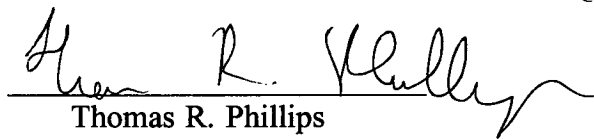
with the Seal thereof affixed at the City
of Austin, this 8th day of February, 1999.



JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 99-9028, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 9 day of February, 1999.

A handwritten signature in cursive script, appearing to read "Thomas R. Phillips", written over a horizontal line.

Thomas R. Phillips
Chief Justice

NO. _____

COMMISSION FOR LAWYER
DISCIPLINE
VS
RICHARD W. BURNS

§
§
§
§
§

IN THE DISTRICT COURT OF
HARRIS COUNTY, TEXAS
_____ JUDICIALDISTRICT

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, complaining of Respondent, Richard W. Burns, showing the Court:

I.

Petitioner brings this disciplinary action pursuant to the State Bar Act, Tex.Gov't Code Ann. §81.001, et seq. (Vernon 1988), the Texas Disciplinary Rules of Professional Conduct and the Texas Rules of Disciplinary Procedure. The complaint which forms the basis of the Disciplinary Petition was filed with the State Bar of Texas on or after May 1, 1992.

II.

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 Harris County, Texas. An officer may serve citation on Respondent at his place of business located at 3100 Richmond, Suite 500, Houston, Texas 77098.

III.

Waller Thomas Burns, II ("Tommy Burns") and Respondent, Richard Waller Burns ("Dick Burns" or "Respondent") are brothers. They have a sister, Dorothy Jane Burns ("Jane Burns"), who died in 1992. Both Tommy Burns and Dick Burns are attorneys. Dick Burns maintains an active law practice while Tommy Burns does not and has not practiced law on a regular basis.

The father of the three siblings, Richard F. Burns, died in 1987. Both Respondent and Tommy Burns were named co-independent executors of the Estate of Richard F. Burns, but the Respondent actively handled the estate's affairs. The three siblings were each one-third beneficiaries of their father's estate. At some point, without the knowledge or consent of either Jane Burns or Tommy Burns, a trust called the R.F. Burns Trust was created. Respondent was sole manager of the trust.

For many years the assets of Jane Burns were held in trust. The trust was called the Dorothy Jane Burns Trust No. 2. Tommy Burns and Respondent were the co-trustees of the trust, but only Respondent managed the affairs. At some point, the Respondent actively excluded Tommy Burns from knowledge about the trust activities by instructing third parties not to give Tommy Burns any information and by directing virtually all important information to him alone.

The Respondent purported to dissolve Jane's Trust in April 1991. Because he did not agree with this action, Tommy Burns resigned as co-trustee in protest. Jane Burns died in August 1992. Her will left substantially all of her property to her two brothers in equal shares, and it named them co-independent executors of the Estate of Dorothy Jane Burns. Respondent again managed the estate, and left Tommy Burns uninformed

as to his activities.

In 1994, Tommy Burns learned that Respondent had not been keeping him informed about transactions in their Father's estate. Respondent apparently forged Tommy Burns' name on documents transferring assets. Tommy Burns filed suit against Respondent in probate Court No. 4 of Harris County, Texas. A handwriting expert reviewed and examined certain documents and concluded that the forgeries of Tommy Burns' signature were consistent with Respondent's handwriting.

On or about May 19, 1993, Respondent sold a piece of real property located in Houston, Texas, on Herkimer street ("Herkimer property"), which was part of his sister, Jane's, estate. Certain closing documents purport to contain the signature of Tommy Burns. Tommy Burns' signature on the documents was necessary to the sale because he was co-independent executor of the estate of Jane Burns. In fact, Tommy Burns did not sign the documents related to the sale of the Herkimer property. Tommy Burns did not even know of the sale of the property until after it was completed.

Elizabeth Miranda, Respondent's secretary, notarized the closing documents on the Herkimer property which purported to contain Tommy Burns' signature. Ms. Miranda admits that she notarized the documents without Tommy Burns being present, and without his signing before her. Respondent told her that Tommy Burns had AIDS and could not be approached. This was a false statement made to induce Ms. Miranda to notarize the purported signature of Tommy Burns.

Ms. Miranda, while secretary for Respondent, was instructed to draft letters to Tommy Burns concerning the activities of the estates of their father and their sister. He instructed her not to send the letters to Tommy Burns, but to place a copy in the file, to

make it appear the information was sent to Tommy Burns. Respondent also instructed her to indicate on correspondence with third persons that a copy had been sent to Tommy Burns, however she was ordered not to send a copy to Mr. Burns.

After returning the sale documents on the Herkimer property, Respondent picked up a check for about \$13,000.00 from the title company. He did not inform Tommy Burns of the receipt of that check, or of the receipt of a check for over \$200.00 for a reimbursement of tax payment on the property.

After discovering irregularities with the estate of Jane Burns, Tommy burns filed suit against Respondent concerning Jane Burns' estate in Kerr County, Texas. By agreement, Respondent was removed as executor of the estates of Jane Burns and of Richard F. Burns. Theo Pinson was appointed successor administrator. The Kerr County Court ordered Respondent to provide an accounting to the successor administrator by June 1996. Respondent, by use of dilatory tactics, has failed to provide that accounting.

Over several years as trustee and executor of the family trusts and estates Respondent has paid himself more than half of the funds under his control without appropriate accounting or disclosures to Tommy Burns. Respondent failed to provide, when requested, a ledger, spreadsheet, or other document showing what amounts were received or distributed by Respondent.

Respondent paid himself funds from the trusts which were not justified or disclosed. Specifically, in one bank account for their father's estate, Respondent paid himself seventy-three percent (73%) of the funds, or about \$847,000 out of \$1.16 million. Expenditures included over \$8,000.00 in jewelry for Respondent's wife. Tommy Burns

received one percent (1%) of the funds, and Jane Burns received two and one half percent (2.5%) of the funds. Respondent paid himself administrative fees which were not permitted by their father's will, and he never repaid the estate. The records of the estate reveal no invoices for attorneys' fees.

Respondent's breach of his fiduciary duty with regard to the estates has left Tommy Burns with the liability of paying third party creditors, such as the Internal Revenue Service, whom Respondent did not pay. Instead of paying the third party creditors, Respondent used the money from the estate for personal expenditures such as jewelry for his wife, a telephone system, and charitable and political contributions. Respondent also co-mingled his own funds with estate funds. Respondent took some checks payable to the Estate of Richard F. Burns and deposited them directly into his own account or exchanged them for a certified check.

In one transaction in 1990, Respondent took \$190,000.00 from Jane's Trust and wired it into his Father's estate. The next day, Respondent wrote a check for \$185,000.00 from the Father's estate to his own trust. The memo on the check indicates it was used to buy 20 acres of land in Brownsville, Texas. The Cameron County, Texas records indicate the land is own by Respondent's trust.

Between March and December 1990, during the same year he purchased the property in Brownsville with funds from Jane's trust, Respondent paid out of one securities account held in the name of Jane's Trust an additional \$366,500.00. Then, in January 1991, Respondent sent a letter to Jane Burns informing her that her expenses had been \$182,000.00 for all of 1990, and at that rate of spending she would soon be bankrupt. Respondent did not inform his sister that he actually spend \$550,000 from

her trust account. Instead, he reduced her monthly income from the trust and informed her she needed to significantly reduce her spending. In order to cover what he had done, Respondent purported to dissolve Jane's Trust, giving Jane Burns control over the funds. Respondent did maintain control over the funds after he wired them to her bank account because his name was also on the account. Respondent transferred \$100,000.00 from Jane's bank account to one that only listed Respondent's name.

Tommy Burns attempted to track down a mineral interest through Exxon Company U.S.A in May 1996. Burns discovered that Respondent had conveyed the mineral interest, and in order to do so, caused Burns' signature to be forged to the document which conveyed the mineral interest. Burns also learned that in May, 1996 a lawsuit had been filed which named him as defendant. Respondent filed an answer on Tommy Burns' behalf without Tommy's knowledge or consent and represented Burns throughout the litigation. Tommy Burns believes Respondent planned to resolve the matter without ever telling him about it. Respondent signed an affidavit, without Tommy Burns' knowledge, claiming he was authorized by Tommy to execute a settlement agreement. Respondent's plan to resolve the suit without ever informing Tommy Burns failed because Exxon would not accept Respondent's statement that he was authorized to act as agent for Tommy Burns.

Respondent had sold the mineral interest to Rio Grande Royalties. In return for the money it paid to the Respondent, Rio Grande Royalties received a number of royalty conveyances, including the Exxon royalties, from Respondent. The signature of Richard F. Burns, father of Tommy, Dick, and Jane Burns, was notarized by Respondent's secretary, Twyla Elliott. The notarization is dated 1989. Richard F. Burns died in 1987.

Upon learning of the discrepancy with Richard F. Burns' signature, Rio Grande demanded either valid deeds or a return of its money. Respondent refused to do either, and the lawsuit resulted.

Because the settlement of the first lawsuit failed, Rio Grande filed a second lawsuit on August 7, 1996 against Tommy Burns, Respondent, and Exxon Corporation. Once again, Respondent filed an answer as Tommy Burns' attorney without informing Tommy Burns of the suit and without obtaining Tommy Burns' permission to represent him.

After Respondent had resigned as executor of Jane Burns' estate a sheriff's sale took place in August of 1996. Respondent failed to inform anyone of the lawsuit or judgment which caused the sale against the estate until after the Order of Sale had been signed and a mineral interest of the Jane Burns' estate was sold. Respondent did not inform the successor administrator, Theo Pinson, of this sale. Mr. Pinson is not attempting to recover the royalty interest lost in the sale of the estate.

Royalty checks from Union Pacific Resources Company were paid in 1995 and 1996 to Jane's estate, in care of Respondent. Respondent did not share those earnings with his brother, Tommy, nor do the records of the estate reflect this income. The value of the interest in 1995 was approximately \$17,000.00. In July 1996, Respondent negotiated a check in the amount of \$1,600.37 from Union Pacific made payable to Jane's estate. Respondent resigned as executor of her estate over a month before he negotiated that check.

Respondent contacted Sawyer Energy Corporation by letter in January 1996. Respondent had Sawyer Energy change the mailing addresses on several accounts,

including Tommy Burns' trust account, to Respondent's law firm address. Respondent negotiated checks sent to Tommy Burns' trust payable to Tommy Burns.

Respondent received royalty checks from Oryx Energy payable to Jane Burns' trust. Rather than depositing them into her trust, Respondent deposited the checks into his personal accounts. Respondent never disclosed the existence of the checks to Tommy Burns or to the successor executor of Jane Burns' estate. During her lifetime, Respondent misled Jane Burns into believing he had turned over all of her assets to her control.

Respondent changed the mailing address for royalty checks payable to Tommy Burns from Sawyer Energy to Respondent's own address. This occurred during a time when Tommy Burns had pending litigation against Respondent for converting estate funds. For the first half of 1996 Respondent negotiated checks made payable to Tommy Burns. Respondent did this as trustee of Tommy Burns' trust. In the second half of 1996, Sawyer Energy continued to send the checks payable to Tommy Burns to Respondent's address and Respondent neither cashed them, deposited them, nor forwarded them to the rightful owner, Tommy Burns.

Respondent misdirected checks payable to Tommy Burns from M.W. Petroleum. Respondent negotiated these checks despite the fact they were payable to Tommy Burns individually. Respondent also negotiated checks from M.W. Petroleum payable to Jane Burns both before and after he resigned in June 1996 as executor of her estate and after the Court had ordered Respondent to turn over all records and assets of her estate to the successor administrator. A number of these checks were deposited into Respondent's personal account without the authority and without notice to Tommy Burns,

the successor executor, Theo Pinson, or the court that ordered Respondent to turn over all assets and records of the estates.

Respondent wrote checks from the Jane Burns' estate account for his own personal use. Respondent wrote checks to Mercedes Benz Corporation, Sunset Animal Clinic, Tamarron (for a tax seminar) and to two banks.

IV.

By receiving funds on behalf of his brother, Tommy Burns, a third party, and failing to notify his brother of the receipt of the funds, Respondent engaged in conduct in violation of Rule **1.14(b)**[upon receiving funds in which a client or third person has an interest, the lawyer shall promptly notify the client or third person of the receipt of the funds] of the Texas Disciplinary Rules of Professional Conduct, and of Rule **1.06(Q)** of the Texas Rules of Disciplinary Procedure.

By receiving funds on behalf of his brother, Tommy Burns, a third party, and failing to promptly deliver those funds to his brother, Respondent engaged in conduct in violation of Rule **1.14(b)**[upon receiving funds in which a client or third person has an interest, the lawyer shall promptly deliver the funds to the client or third person who was entitled to the receipt of the funds] of the Texas Disciplinary Rules of Professional Conduct and of Rule **1.06(Q)** of the Texas Rules of Disciplinary Procedure.

By receiving checks payable to his brother, Tommy Burns, and causing the forgery of the brother's endorsement to the checks without the consent of Tommy Burns, and negotiating the checks, Respondent engaged in conduct in violation of Rules **8.04(a)(1)**[a lawyer shall not violate these rules, or knowingly assist or induce another to do so, or do so through the acts of another, whether or not such violation occurred

during the course of a client-lawyer relationship]; **8.04(a)(2)** [a lawyer shall not commit 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]; and **8.04(a)(3)**[a lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation] of the Texas Disciplinary Rules of Professional Conduct and Rule **1.06(Q)** of the Texas Rules of Disciplinary Procedure.

By misappropriating funds payable to his brother, Tommy Burns, and payable to his sister, Jane Burns, Respondent engaged in conduct in violation of Rules **8.04(a)(1)** [a lawyer shall not violate these rules, or knowingly assist or induce another to do so, or do so through the acts of another, whether or not such violation occurred during the course of a client-lawyer relationship]; **8.04(a)(2)** [a lawyer shall not commit 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]; and **8.04(a)(3)**[a lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation] of the Texas Disciplinary Rules of Professional Conduct and Rule **1.06(Q)** of the Texas Rules of Disciplinary Procedure.

By co-mingling his personal funds with those held in trust in the estate of his sister, Jane Burns, Respondent engaged in conduct in violation of Rule **1.14(a)**[a lawyer shall hold funds or other property belonging in whole or in part to a client or third person separate from his own property, with funds in a separate "trust" or "escrow" account.] of the Texas Disciplinary Rules of Professional Conduct and Rule **1.06(Q)** of the Texas Rules of Disciplinary Procedure.

By conveying his brother, Tommy Burns', mineral interest from Exxon Company, U.S.A., without the consent or knowledge of his brother, Respondent engaged in conduct in violation of Rules **1.14(b)**[upon receiving funds in which a client or third person has an interest, the lawyer shall promptly notify the client or third person of the receipt of the funds]; **1.14(b)**[upon receiving funds in which a client or third person has an interest, the lawyer shall promptly deliver the funds to the client or third person who was entitled to the receipt of the funds]; **8.04(a)(1)** [a lawyer shall not violate these rules, or knowingly assist or induce another to do so, or do so through the acts of another, whether or not such violation occurred during the course of a client-lawyer relationship]; **8.04(a)(2)** [a lawyer shall not commit 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]; and **8.04(a)(3)**[a lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation] of the Texas Disciplinary Rules of Professional Conduct and Rule **1.06(Q)** of the Texas Rules of Disciplinary Procedure.

By representing his brother, Tommy Burns, in a lawsuit without notifying his brother of the existence of the lawsuit and without obtaining the consent of his brother to represent him in the lawsuit, Respondent engaged in conduct in violation of Rules **1.02(a)(1)**[a lawyer shall abide by a client's decisions concerning objectives and general methods of representation]; **1.03(a)**[a lawyer shall keep his client reasonably informed about the status of the legal matter and comply with reasonable requests for information]; and **8.04(a)(3)**[a lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation} of the Texas Disciplinary Rules of Professional Conduct and Rule **1.06(Q)** of the Texas Rules of Disciplinary Procedure.

By signing an affidavit stating that he was authorized to execute a settlement agreement on behalf of his brother, Tommy Burns, when he did not have the consent of Tommy Burns, and when he had no such authority, Respondent engaged in conduct in violation of Rule **8.04(a)(3)**[a lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation} of the Texas Disciplinary Rules of Professional Conduct and Rule **1.06(Q)** of the Texas Rules of Disciplinary Procedure.

Upon receiving notice of a second lawsuit in which his brother, Tommy Burns, was a defendant, and in filing an answer to the lawsuit on behalf of his brother, Tommy Burns, without the consent or authorization of Tommy Burns to do so, Respondent engaged in conduct in violation of Rules **1.02(a)(1)**[a lawyer shall abide by a client's decisions concerning objectives and general methods of representation]; **1.03(a)**[a lawyer shall keep his client reasonably informed about the status of the legal matter and comply with reasonable requests for information]; and **8.04(a)(3)**[a lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation} of the Texas Disciplinary Rules of Professional Conduct and Rule **1.06(Q)** of the Texas Rules of Disciplinary Procedure.

By filing an answer to a lawsuit on behalf of his brother, Tommy Burns without the consent or authorization of Tommy Burns to do so, in which both Tommy Burns and Respondent were defendants, and in which the interests of his brother were potentially adverse to his own interests, Respondent engaged in conduct in violation of Rule **1.06(b)(1)**[a lawyer shall not represent a person if the representation involves a substantially related matter in which that person's interests are materially and directly adverse to another client's interests or to the lawyer's firm] of the Texas Disciplinary

Rules of Professional Conduct and Rule **1.06(Q)** of the Texas Rules of Disciplinary Procedure.

By receiving funds on behalf of the estate of Jane Burns after he had resigned as executor of the estate, and by failing to deliver those funds to the successor executor, Respondent engaged in conduct in violation of Rules **1.14(a)**[a lawyer shall hold funds or other property belonging in whole or in part to a client or third person separate from his own property, with funds in a separate “trust” or “escrow” account.]; **1.14(b)**[upon receiving funds in which a client or third person has an interest, the lawyer shall promptly notify the client or third person of the receipt of the funds and shall promptly deliver the funds to the client or third person]; **8.04(a)(1)**[a lawyer shall not violate these rules, or knowingly assist or induce another to do so, or do so through the acts of another, whether or not such violation occurred during the course of a client-lawyer relationship]; **8.04(a)(2)** [a lawyer shall not commit 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]; and **8.04(a)(3)**[a lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation] of the Texas Disciplinary Rules of Professional Conduct, and of Rule **1.06(Q)** of the Texas Rules of Disciplinary Procedure.

By receiving funds on behalf of the estate of his father, Richard Burns, after he had resigned as executor of the estate, and by failing to deliver those funds to the successor executor, Respondent engaged in conduct in violation of Rules **1.14(a)**[a lawyer shall hold funds or other property belonging in whole or in part to a client or third person separate from his own property, with funds in a separate “trust” or “escrow” account.]; **1.14(b)**[upon receiving funds in which a client or third person has an interest,

the lawyer shall promptly notify the client or third person of the receipt of the funds and shall promptly deliver the funds to the client or third person]; **8.04(a)(1)**[a lawyer shall not violate these rules, or knowingly assist or induce another to do so, or do so through the acts of another, whether or not such violation occurred during the course of a client-lawyer relationship]; **8.04(a)(2)** [a lawyer shall not commit 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]; and **8.04(a)(3)**[a lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation] of the Texas Disciplinary Rules of Professional Conduct, and of Rule **1.06(Q)** of the Texas Rules of Disciplinary Procedure.

By forging or allowing to be forged the signature of his brother, Tommy Burns on the closing documents for the sale of the Herkimer property, Respondent engaged in conduct in violation of Rules **8.04(a)(1)**[a lawyer shall not violate these rules, or knowingly assist or induce another to do so, or do so through the acts of another, whether or not such violation occurred during the course of a client-lawyer relationship]; **8.04(a)(2)** [a lawyer shall not commit 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]; and **8.04(a)(3)**[a lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation] of the Texas Disciplinary Rules of Professional Conduct, and of Rule **1.06(Q)** of the Texas Rules of Disciplinary Procedure.

By forging or causing to be forged, the signature of his father, Richard F. Burns, on the royalty sale documents to Rio Grande Royalty, Respondent engaged in conduct in violation of Rules **8.04(a)(1)**[a lawyer shall not violate these rules, or knowingly assist or induce another to do so, or do so through the acts of another, whether or not such

violation occurred during the course of a client-lawyer relationship]; **8.04(a)(2)** [a lawyer shall not commit 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]; and **8.04(a)(3)**[a lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation] of the Texas Disciplinary Rules of Professional Conduct, and of Rule **1.06(Q)** of the Texas Rules of Disciplinary Procedure.

V.

The complaint which forms the basis of this lawsuit as hereinabove set forth was brought to the attention of the Office of the General Counsel of the State Bar of Texas by the filing of a complaint by Waller Burns II on or about December 3, 1996.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Petitioner prays for judgment that Respondent be disciplined by reprimand, suspension, or disbarment, as the facts shall warrant; and that Petitioner have such other and further relief to which entitled, including costs of Court and attorney's fees.

Respectfully submitted,

Steven W. Young
General Counsel

Mary F. Klapperich
Assistant General Counsel
Office of the General Counsel
State Bar of Texas
1111 Fannin, Suite 1370
Houston, Texas 77002
(713) 759-6931
(713) 752-2158 FAX

Mary F. Klapperich
MARY F. KLAPPERICH
State Bar No. 11550700

ATTORNEYS FOR PETITIONER

STATE BAR OF TEXAS



Office of the General Counsel

December 18, 1998

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

Re: Commission for Lawyer Discipline v. Richard W. Burns

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 Richard W. Burns. Mr. Burns has designated Harris County, Texas, as his principal place of practice and the place where the alleged Professional Misconduct occurred. 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:

Richard W. Burns
3100 Richmond, Suite 500
Houston, Texas 77098

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.

Mr. John Adams
December 18, 1998
Page 2

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.

I have enclosed 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,



Mary F. Klapperich
Assistant General Counsel

MFK/rr
Enclosures



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

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 ASST
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASST
JIM HUTCHESON

ADMINISTRATIVE ASST
NADINE SCHNEIDER

FEB 17 1999

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. Richard W. Burns*, and a copy of the Supreme Court's order appointing the Honorable Jay Patterson, Judge of the 101st District Court, Dallas, Texas, to preside in this Disciplinary Action.

Sincerely,

A handwritten signature in black ink, appearing to read "John T. Adams".

John T. Adams
Clerk

cc: Honorable Jay Patterson
Ms. Mary F. Klapperich
Mr. Richard W. Burns
Ms. Melissa Dartez



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

TEL: (512) 463-1312

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JUSTICES
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PRISCILLA R. OWEN
JAMES A. BAKER
GREG ABBOTT
DEBORAH G. HANKINSON
HARRIET O'NEILL
ALBERTO R. GONZALES

FEB 17 1999

CLERK
JOHN T. ADAMS

EXECUTIVE ASS'T
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASS'T
JIM HUTCHESON

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

Honorable Jay Patterson
Judge, 101st District Court
George L. Allen Sr. Courts Building
600 Commerce Street
Dallas, Texas 75202

Dear Judge Patterson:

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. Burns and Ms. Klapperich, 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,

A handwritten signature in black ink, appearing to read "John T. Adams".

John T. Adams
Clerk



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
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JAMES A. BAKER
GREG ABBOTT
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FEB 17 1999

CLERK
JOHN T. ADAMS

EXECUTIVE ASS'T
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASS'T
JIM HUTCHESON

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

Ms. Mary F. Klapperich
Assistant General Counsel, State Bar of Texas
1111 Fannin, Suite 1370
Houston, Texas 77002

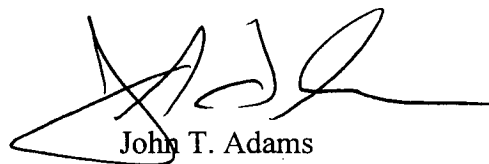
Mr. Richard W. Burns
3100 Richmond, Suite 500
Houston, Texas 77098

Dear Ms. Klapperich and Mr. Burns:

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 Jay Patterson, Judge of the 101st District Court, Dallas, Texas to preside in

Commission for Lawyer Discipline v. Richard W. Burns

Sincerely,



John T. Adams
Clerk