

ORDER OF THE SUPREME COURT OF TEXAS

MISC. DOCKET NO. 99-9059

IN THE MATTER OF JAY SHELDON FICHTNER

On this day, the Court considered the Motion for Acceptance of Resignation as Attorney and Counselor at Law of Jay Sheldon Fichtner, together with the Response of the Chief Disciplinary Counsel to the Motion for Acceptance of Resignation as Attorney and Counselor at Law of Jay Sheldon Fichtner. 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 finds that Jay Sheldon Fichtner is resigning in lieu of discipline. 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 Jay Sheldon Fichtner of Dallas, Texas, State Bar card number 06953000, 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 Jay Sheldon Fichtner 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.

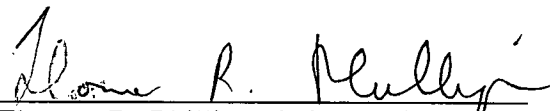
IT IS FURTHER ORDERED that Jay Sheldon Fichtner is permanently enjoined and prohibited from practicing law in the State of Texas, holding himself out as an attorney at law, performing legal services for others, giving legal advice to others, accepting any fee directly or indirectly for legal services, 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".

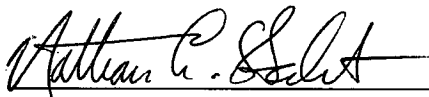
It is further **ORDERED** that Jay Sheldon Fichtner shall immediately notify each of his current clients in writing of this resignation. In addition to such notification, Jay Sheldon Fichtner is **ORDERED** to return any files, papers, unearned monies and other property belonging to clients and former clients in his possession to the respective clients or former clients or to another attorney at the client's or former client's request. Jay Sheldon Fichtner is **ORDERED** to file with the State Bar of Texas, 3710 Rawlins, Suite 800, Dallas, Texas 75219, 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.

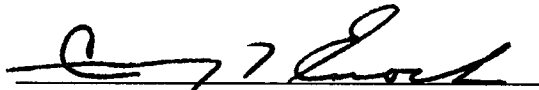
It is further **ORDERED** that Jay Sheldon Fichtner shall, within thirty (30) days after the date on which this Order is signed by the Court, notify in writing each and every justice of the peace, judge, magistrate, and chief justice of each and every court in which Jay Sheldon Fichtner has any matter 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) Jay Sheldon Fichtner is representing in Court. Jay Sheldon Fichtner is **ORDERED** to file with the State Bar of Texas,

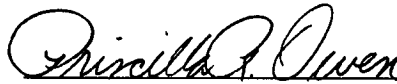
3710 Rawlins, Suite 800, Dallas, Texas 75219, within thirty (30) days of the date of the effective date of this Order an affidavit stating that he has notified in writing each and every justice of the peace, judge, magistrate, and chief justice of each and every court in which he has any matter pending 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 7th day of April, 1999.

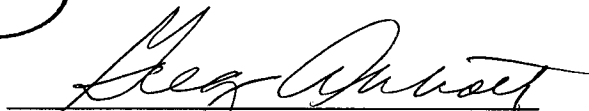

Thomas R. Phillips, Chief Justice



Nathan L. Hecht, Justice

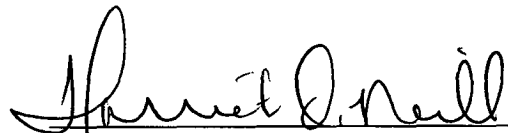

Craig T. Enoch, Justice

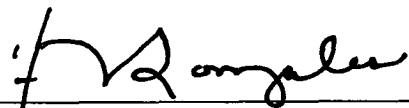

Priscilla R. Owen, Justice


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

JAY SHELDON FICHTNER

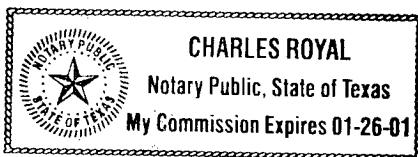
NOW COMES your Applicant, **Jay Sheldon Fichtner**, and hereby resigns as an Attorney and Counselor at Law in the State of Texas; and hereby submits to the Court his resignation as an Attorney and Counselor at Law; and prays that the Court accept said resignation.


Attached hereto are the License and permanent State Bar card issued by this Court to the Applicant, **Jay Sheldon Fichtner**, as an Attorney and Counselor at Law on April 14, 1955. Said License and permanent State Bar card 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.


Jay Sheldon Fichtner
State Bar No. 06953000

SWORN TO AND SUBSCRIBED BEFORE ME on this the 11 day of March, 1999.




NOTARY PUBLIC in and for the State of Texas

**IN THE SUPREME COURT OF TEXAS
RESPONSE OF THE CHIEF DISCIPLINARY COUNSEL
OF THE STATE BAR OF TEXAS
REGARDING
JAY SHELDON FICHTNER**

TO THE HONORABLE SUPREME COURT OF TEXAS:

I, Nancy M. Thursby, Assistant 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 Jay Sheldon Fichtner, dated on or about March 11, 1999, and received by the Office of the Chief Disciplinary Counsel on or about March 11, 1999. The acceptance of the resignation of Jay Sheldon Fichtner (hereinafter referred to as "Fichtner") is in the best interests of the public and the profession.

The following complaint is currently pending against Fichtner before an investigatory panel of the District Grievance Committee. The professional misconduct with which Fichtner is charged in the complaint currently pending before an investigatory panel is as follows:

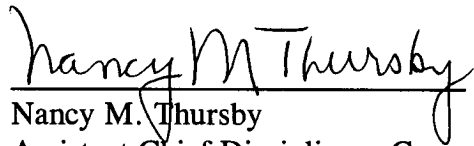
A. Paul Shunatona - Jay Sheldon Fichtner, D0109811892

Complainant Paul Shunatona and Fichtner were opposing counsel in a family law matter. Complainant alleged that Fichtner filed a frivolous complaint in the United States District Court for the Northern District of Texas involving this matter. Pursuant to a sanctions motion filed by Complainant, United States District Judge Fitzwater assessed sanctions against Fichtner on October 8, 1998. The court found that Fichtner violated Rule 11 of the Federal Rules of Civil Procedure by presenting a pleading, without reasonable inquiry, that advanced a claim that was not warranted by existing law and by making allegations that lacked evidentiary support.

The above facts support a violation of Rules 3.01 and 3.02 of the Texas Disciplinary Rules of Professional Conduct.

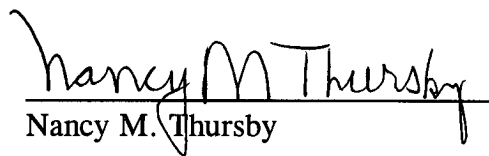
On or about March 11, 1999, Fichtner plead guilty to the crime of Perjury, a Class A Misdemeanor, in Cause No. F97-03659-M in the 194th Judicial District Court of Dallas County, Texas. Fichtner was sentenced to one (1) year of probation and a fine of Three Hundred and no/100 Dollars (\$300.00) for this offense.

In view of Jay Sheldon Fichtner's execution on or about March 11, 1999, of his resignation 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 pending proceeding before the investigatory panel and intends to dismiss the complaint upon entry of Order by the Supreme Court of Texas deleting Jay Sheldon Fichtner from the list of persons licensed to practice law in the State of Texas.


Nancy M. Thursby
Assistant 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 Jay Sheldon Fichtner, has on this 23rd day of March, 1999, been mailed to Jay Sheldon Fichtner at 14901 Quorum Drive, Suite 740, Dallas, Texas 75240-6732, by certified mail, return receipt requested.

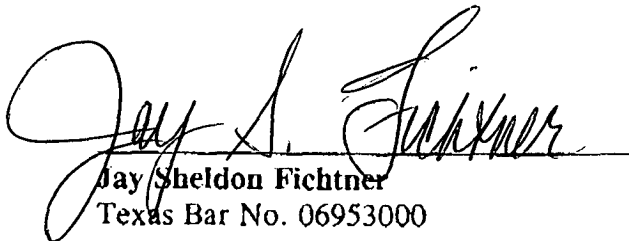

Nancy M. Thursby

AFFIDAVIT OF
JAY SHELDON FICHTNER

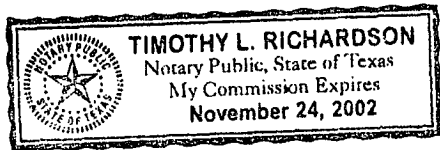
On this 12th day of March, 1999, personally appeared before me, the undersigned Jay Sheldon Fichtner, who, after being duly sworn, did state upon his oath:

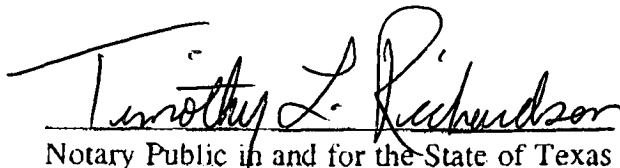
"My name is Jay Sheldon Fichtner, and I am over the age of eighteen years and am competent to make this affidavit in all respects, and am personally acquainted with the facts in this Affidavit."

"I am an attorney licensed in the State of Texas. My bar card number is 06953000. I am unable to locate my License at this time. Should this item that is property of the Supreme Court of Texas be located, I will immediately surrender and forward to the Supreme Court of Texas."


Jay Sheldon Fichtner
Texas Bar No. 06953000

SWORN TO AND SUBSCRIBED BEFORE ME on this the 12th day of March, 1999.




Notary Public in and for the State of Texas

STATE BAR OF TEXAS



Office of the General Counsel

March 25, 1999

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

Re: Resignation of Jay Sheldon Fichtner, Bar Card No. 06953000

Dear Mr. Adams:

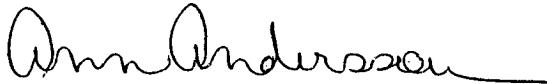
Pursuant to Part X of the Texas Rules of Disciplinary Procedure, please find enclosed herewith the following:

- (1) Motion for Acceptance of Resignation as Attorney and Counselor at Law of Jay Sheldon Fichtner, dated March 11, 1999;
- (2) Response of Chief Disciplinary Counsel to Motion for Acceptance of Resignation as Attorney and Counselor at Law of Jay Sheldon Fichtner;
- (3) Original and one (1) copy of proposed Order for review and entry by the Court accepting the resignation of Jay Sheldon Fichtner as Attorney and Counselor at Law;
- (4) Permanent State Bar of Texas Bar Card issued to Jay Sheldon Fichtner, Number 06953000; and
- (5) Affidavit of Jay Sheldon Fichtner stating that he is unable to located his law license.

Upon entry of the Order by the Court, please transmit a true and correct copy of the same to Nancy Thursby, Assistant General Counsel, at the address listed below so that she may properly give notice to all parties of the Court's disposition of such motion.

Mr. John Adams, Clerk
Supreme Court of Texas
Resignation of Jay Sheldon Fichtner
Page Two - March 25, 1999

Sincerely,

A handwritten signature in cursive script, appearing to read "Ann Andersson", with a long horizontal line extending to the right.

Ann Andersson
Sr. Legal Assistant

cc: Ms. Nancy Thursby, Assistant General Counsel, Office of the General Counsel, STATE
BAR OF TEXAS, Regency Plaza, 3710 Rawlins, Suite 800, Dallas, Texas 75219

Mr. Jay Sheldon Fichtner, 14901 Quorum Drive, Suite 740, Dallas, Texas 75240-6732,
by CMRRR Z 746 077 188

ORIGINAL

IN THE SUPREME COURT OF TEXAS
RESPONSE TO THE CHIEF DISCIPLINARY COUNSEL
OF THE STATE BAR OF TEXAS
REGARDING
JAY SHELDON FICHTNER

RECEIVED
IN SUPREME COURT
OF TEXAS

MAR 30 1999

JOHN T. ADAMS, Clerk
By _____ Deputy

TO THE HONORABLE SUPREME COURT OF TEXAS:

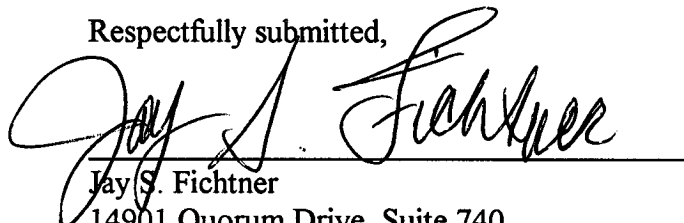
I, Jay S. Fichtner, the subject of a pleading filed by Assistant Chief Disciplinary Counsel of the State Bar of Texas, respectfully advise the Court that the judgment of March 11, 1999 is not final in Cause No. F97-03659-M in the 194th Judicial District Court of Dallas County, Texas.

I further advise the Court that a judgment signed by United States District Judge Fitzwater as referred to by Disciplinary Counsel also is not final. An appeal of such order is pending before the United States Court of Appeals for the 5th Circuit in Cause No. 98-11324.

The current complaint pending before an investigatory panel of the District Grievance Committee under D0109811892 has not been heard, and therefore there are no facts to support a violation of Rules 3.01 or 3.02 of the Texas Disciplinary Rules of Professional Conduct as alleged.

I deny that at this stage of proceedings acceptance of my resignation would be in the best interests of the public or the legal profession, and I respectfully move the Court to reject my resignation as an attorney and counselor of law and withhold deleting my name from the list of persons licensed to practice law in the state of Texas.

Respectfully submitted,



Jay S. Fichtner
14901 Quorum Drive, Suite 740
Dallas, Texas 75240
Telephone: (972) 404-9991
Fax: (972) 404-9994

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument was sent by U.S. Mail, certified return receipt requested, postage prepaid on the 26th day of March 1999, to: Nancy M. Thursday, Assistant Chief Disciplinary Counsel, 3710 Rawlins, Suite 800, Dallas, Texas 75219.


Jay S. Fichtner

OFFICES OF
JAY S. FICHTNER
14901 QUORUM DR., SUITE 740
DALLAS, TEXAS 75240
(972) 404 - 9991

RECEIVED
IN SUPREME COURT
OF TEXAS

MAR 30 1999

JOHN T. ADAMS, Clerk
TELECOPIER: (972) 404-9994
By _____ Deputy

March 26, 1999

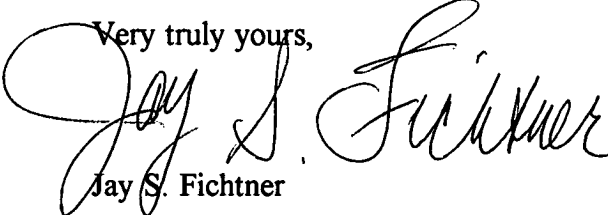
John T. Adams, Clerk
Supreme Court of Texas
P.O. Box 12248
Austin, Texas 78711

Dear Sir:

We enclose herewith a response to a pleading filed by the State Bar of Texas regarding Jay S. Fichtner. A copy of this letter together with its attachment is being mailed to Ms. Nancy M. Thursday, Assistant Chief Disciplinary Counsel of the State Bar of Texas, 3710 Rawlins, Suite 800, Dallas, Texas 75219.

Please return a file-stamped copy of the response in the self-addressed, stamped envelope provided with this letter.

Thank you for your attention and courtesy

Very truly yours,

Jay S. Fichtner

JSF/tr

Enclosure: Response
Envelope

cc: Nancy M. Thursday