

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 99- 9077

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

The Supreme Court of Texas hereby appoints the Honorable Roy A. Scoggins, Jr., Judge of the 378th District Court of Ellis County, Texas, to preside in the Disciplinary Action styled:

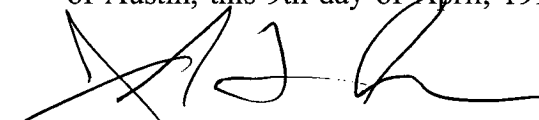
The Commission for Lawyer Discipline v. Kenneth Hugh Strahan

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,

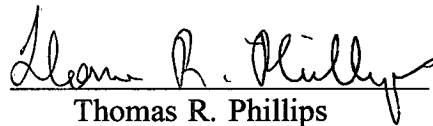
with the Seal thereof affixed at the City
of Austin, this 9th day of April, 1999.

A handwritten signature in black ink, appearing to read "John T. Adams", written over a horizontal line.

JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 99-9077, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 12 day of April, 1999.

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

Thomas R. Phillips
Chief Justice

NO. _____

COMMISSION FOR LAWYER DISCIPLINES
VS
KENNETH HUGH STRAHAN

§
§
§
§

IN THE DISTRICT COURT OF
HARRIS COUNTY, TEXAS
_____ 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, complaining of Respondent, Kenneth Hugh Strahan, showing the Court:

I.

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

II.

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.

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 Liberty County, Texas. An officer may serve citation on Respondent at his place of

business located at 116 Avenue C, Humble, Texas 77347.

IV.

Peggy Shipman hired the Respondent in November, 1992 to represent her in a personal injury matter in Liberty County, Texas. On or about June 20, 1995, Respondent's legal assistant settled Ms. Shipman's case without the knowledge or consent of the Respondent. The legal assistant received the settlement check in the amount of Twenty Thousand Dollars (\$20,000.00). The legal assistant signed Respondent's name to the check and deposited it into a secret account. No money from the settlement was given to Ms. Shipman.

V.

By allowing his legal assistant to settle his client's case without the client's consent of knowledge, Respondent engaged in conduct in violation of Rule **1.02(a)(2)**[a lawyer shall abide by a client's decisions whether to accept an offer of settlement, except as otherwise authorized by law] of the Texas Disciplinary Rules of Professional Conduct, and of Rule **1.06(Q)** of the Texas Rules of Disciplinary Procedure.

By allowing the settlement check for his client, Peggy Shipman to be cashed by his legal assistant, and by failing to notify his client of the receipt of the funds, 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 separate from his own property in an "escrow" or "trust" account} and **1.14(b)**[upon receiving funds in which a client has an interest, the lawyer shall promptly notify the client of the receipt of the funds and promptly deliver to the client any funds or property to which they are entitled} of the Texas Disciplinary Rules of Professional Conduct and of Rule **1.06(Q)** of the Texas Rules of Disciplinary Procedure.

By allowing his legal assistant to settle his client's legal matter and to accept settlement funds, Respondent engaged in conduct in violation of Rules **5.03(a)** [a lawyer shall make reasonable efforts to ensure that the nonlawyer's conduct is compatible with the professional obligations of the lawyer]; and **5.03(b)**[a lawyer will be responsible for the actions of a non-lawyer employee if the lawyer ordered, encouraged, or permitted the conduct] and **8.04(a)(1)**[a lawyer shall not violate these rules, knowingly assist or induce another to do so, or do so through the acts of another, whether or not such violation occurred in the course of a client-lawyer relationship] of the Texas Disciplinary Rules of Professional Conduct and Rule **1.06(Q)** of the Texas Rules of Disciplinary Procedure.

VI.

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 Peggy L. Shipman on or about March 10, 1998.

PRAYER

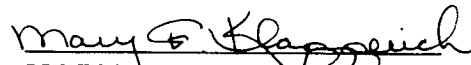
WHEREFORE, PREMISES CONSIDERED, Petitioner prays for judgment that Respondent be disciplined by reprimand, suspension, or disbarment, as the facts shall warrant; and that Petitioner have such other and further relief to which entitled, including costs of Court and attorney's fees.

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) 759-6932
(713) 752-2158 FAX



MARY F. KLAPPERICH

State Bar No. 11550700

ATTORNEYS FOR PETITIONER

STATE BAR OF TEXAS



Office of the General Counsel

February 26, 1999

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

Re: Commission for Lawyer Discipline v. Kenneth Hugh Strahan

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 Kenneth Hugh Strahan. Mr. Strahan 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:

Kenneth Hugh Strahan
116 S. Avenue C
Humble, TX 77347

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
February 26, 1999
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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 ASS'T
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASS'T
JIM HUTCHESON

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

APR 15 1999

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

Mr. Kenneth Hugh Strahan
116 S. Avenue C
Humble, Texas 77347

Dear Ms. Klapperich and Mr. Strahan:

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 Roy A. Scoggins, Jr., Judge of the 378th District Court, Waxahachie, Texas to preside in

Commission for Lawyer Discipline v. Kenneth Hugh Strahan

Sincerely,

SIGNED

John T. Adams
Clerk



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

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HARRIET O'NEILL
ALBERTO R. GONZALES

APR 15 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. Kenneth Hugh Strahan*, and a copy of the Supreme Court's order appointing the Honorable Roy A. Scoggins, Jr., Judge of the 378th District Court, Waxahachie, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Honorable Roy A. Scoggins, Jr.
Ms. Mary F. Klapperich
Mr. Kenneth Hugh Strahan
Ms. Melissa Dartez



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

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JUSTICES
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ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

APR 15 1999

Honorable Roy A. Scoggins, Jr.
Judge, 378th District Court
101 W. Main Street
Waxahachie, Texas 75165

Dear Judge Scoggins:

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. Strahan 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,

SIGNED

John T. Adams
Clerk