

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 99- 9206

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

The Supreme Court of Texas hereby appoints the Honorable Barbara L. Walther, Judge of the 51st District Court of Tom Green County, Texas, to preside in the Disciplinary Action styled:


The Commission for Lawyer Discipline v. Hugh Erwin Sabel

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

The Clerk of the Supreme Court shall promptly forward to the District Clerk of Gillespie 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.

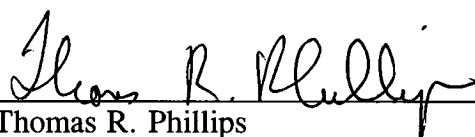
As ordered by the Supreme Court of Texas, in chambers,

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. 99-9206, 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	§	IN THE DISTRICT COURT OF
	§	
V.	§	GILLESPIE COUNTY, TEXAS
	§	
HUGH ERWIN SABEL	§	_____TH JUDICIAL DISTRICT

PETITIONER'S ORIGINAL DISCIPLINARY PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now, Petitioner, COMMISSION FOR LAWYER DISCIPLINE, a committee of the State Bar of Texas, and files this its Original Disciplinary Petition complaining of Respondent, HUGH ERWIN SABEL, and in support thereof would respectfully show the Court the following:

Parties

Petitioner is the COMMISSION FOR LAWYER DISCIPLINE, a committee of the State Bar of Texas. Respondent, HUGH ERWIN SABEL, Texas State Bar Number 17500000, is an attorney licensed to practice law in the State of Texas and is a member of the State Bar of Texas. Respondent is a resident of Gillespie County, Texas. Respondent may be served with citation and a copy of this petition by serving him at his principal place of business located at **930 Pedernales Estates Road, Fredricksburg, Texas 78624.**

Venue

Respondent's principal place of law practice is in Gillespie County, Texas. Accordingly, pursuant to Texas Rules of Disciplinary Procedure 3.03, venue is proper in Gillespie County, Texas.

Discovery Control Plan

Petitioner intends to conduct discovery under Level 2 of Rule 190.3 of the Texas Rules of Civil Procedure.

I.

Petitioner brings this disciplinary action pursuant to State Bar Act, Tex. Gov't. Code Ann., Sec. 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 this action was filed by Paula G. Preston on or about March 8, 1999. The acts and conduct of Respondent, as hereinafter alleged, constitute professional misconduct.

II.

1. Respondent was hired by Complainant, Paula G. Preston, in February of 1998 to represent her in a lawsuit for damages, collection and to recover monies to which the Complainant may be entitled from her business association with various individuals and business entities.
2. During the representation, Respondent performed little or no meaningful work on behalf of his client. Specifically, Respondent failed to advise his client that a settlement offer was made by the defendants in her case. Respondent agreed to represent the Complainant under a contingent fee agreement that was never reduced to writing. Respondent claims to have a 22.5% contingency fee in the continuing lawsuit.
3. Respondent, during his representation of Complainant, convinced her to loan him \$50,000.00 in the form of a Certificate of Deposit (CD) to be used as collateral for a loan owed by a company of the Respondent. In return for using the CD as collateral, Respondent was to pay the Complainant \$1000.00 per month for the period of use. At the end of six months the CD was

to be returned to the Complainant along with the accrued interest unless the Complainant agreed in writing to extend the loan of the CD. Respondent defaulted on the loan, failed to pay his client the agreed upon fee and renewed the CD for continued collateral without the approval or signature of the Complainant.

III.

The conduct of Respondent described above constitutes a violation of the following Texas Disciplinary Rules of Professional Conduct:

Rule 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;

Rule 1.04(d) -- A contingent fee agreement shall be in writing and shall state the method by which the fee is to be determined;

Rule 1.08(a) -- A lawyer shall not enter into a business transaction with a client unless the terms are fair and reasonable to the client and are fully disclosed in a manner that can be reasonably understood by the client and the client is given a reasonable opportunity to seek the advice of independent counsel.

Rule 8.04(a)(3) -- A lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

PRAYER


WHEREFORE, PREMISES CONSIDERED, Petitioner prays that a judgment of professional misconduct be entered against Respondent imposing an appropriate sanction as the facts shall warrant and that Petitioner have such other and further relief to which it is entitled, including costs of court and reasonable attorney fees.

Respectfully submitted,

Dawn Miller
Acting General Counsel

Robert E. Kaszczuk
Assistant General Counsel

Office of the General Counsel
State Bar of Texas
425 Soledad, Suite 300
San Antonio, Texas 78205
Telephone: (210) 271-7881
Telecopier: (210) 271-9642



ROBERT E. KASZCZUK
State Bar No. 11106300

ATTORNEYS FOR PETITIONER

STATE BAR OF TEXAS



**CERTIFIED MAIL
RETURN RECEIPT REQUESTED
Z 292 150 057**

Office of the General Counsel
Regional Office
Soledad Plaza West
425 Soledad, Suite 300
San Antonio, Texas 78205
(210) 271-7881
FAX: (210) 271-9642

August 31, 1999

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

RE: Commission for Lawyer Discipline v. Hugh Erwin Sabel

Dear Mr. Adams:

Enclosed please find an original and three (3) copies of a Disciplinary Petition being filed by the Commission for Lawyer Discipline against Hugh Erwin Sabel. Mr. Sabel has designated **Gillespie County** 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:

Hugh Erwin Sabel
930 Pedernales Estates Road
Fredericksburg, Texas 78624

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 as 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 three (3) copies of the Disciplinary Petition, the filing fee check, also enclosed herewith, and the Court's appointing order to the District Clerk of Gillespie County, Texas, with the request that the suit be filed, service be obtained, and a filemarked copy of the petition returned to the undersigned.

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

Thank you for your courtesies in this matter.

Sincerely,



Robert E. Kaszczuk
Assistant General Counsel

Enclosures

REK/ch



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

EXECUTIVE ASST
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASST
JIM HUTCHESON

ADMINISTRATIVE ASST
NADINE SCHNEIDER

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 09 1999

Honorable Barbara L. Walther
Judge, 51st District Court
112 W. Beauregard Avenue
San Angelo, Texas 76903-5850

Dear Judge Walther:

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. Sabel and Mr. Kaszczuk, and a copy of the letter to the District Clerk of Gillespie County.

It is recommended that, four or five weeks after receipt of this letter, you or your coordinator contact the presiding judge or the District Clerk of Gillespie County 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 date for trial, the judge or coordinator of that court be contacted 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 (830-792-2290) 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 12268 AUSTIN, TEXAS 78711

TEL: (512) 465-1312

FAX: (512) 465-1365

CLERK
JOHN T. ADAMS

JUSTICES
NATHAN L. HECHT
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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

NOV 09 1999

The Honorable Barbara Meyer
District Clerk of Gillespie County
101 West Main Street, #204
Kerrville, Texas 78624-3700

Dear Mr. Meyer:

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. Hugh Erwin Sabel*, and a copy of the Supreme Court's order appointing the Honorable Barbara L. Walther, Judge of the 51st District Court, San Angelo, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Hon. Barbara L. Walther
Mr. Robert E. Kaszczuk
Mr. Hugh Erwin Sabel



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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HARRIET O'NEILL
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NOV 11 1999

CLERK
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ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

Mr. Robert E. Kaszczuk
Assistant General Counsel, State Bar of Texas
425 Soledad, Suite 300
San Antonio, Texas 78205

Mr. Hugh Erwin Sabel
930 Pedernales Estates Road
Fredericksburg, Texas 78624

Dear Mr. Kaszczuk and Mr. Sabel:

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 Barbara L. Walther, Judge of the 51st District Court, San Angelo, Texas to preside in

Commission for Lawyer Discipline v. Hugh Erwin Sabel

Sincerely,

SIGNED

John T. Adams
Clerk