

THE TRANSPARENCY PROJECT

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Ms. Linda Acevedo, Chief Disciplinary Counsel
State Bar of Texas
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Ms. Acevedo:

I serve as executive director of The Transparency Project, a non-profit Texas corporation that promotes transparency and accountability among judges and lawyers. I read with great interest your column in the June 2018 edition of the Texas Bar Journal about reforms to the disciplinary process, and I wish to file grievances against several attorneys, in large part to determine whether anything has truly changed.

Over many years, the Office of Chief Disciplinary Counsel has demonstrated a pattern of protecting politically-influential lawyers, particularly those who have served on grievance committees or held office in the state bar. Herein I will outline egregious misconduct by the following attorneys: (1) Gaines F. West, II (SBOT #21197500), a former chairman of the Grievance Oversight Committee and Board of Disciplinary Appeals; (2) Bryan F. “Rusty” Russ, Jr. (SBOT #17405010), a former grievance committee member; and (3) Jay B. Goss (SBOT #08222600), a former grievance committee member. I also wish to file a grievance against Karl C. Hoppess (SBOT #09990000), who is not a former grievance committee member, but was intimately involved in the same misconduct as Mr. Goss.

Gaines F. West II

On the enclosed computer disk, you will find a motion to disqualify Mr. West from from *Clayton Williams Energy, Inc. v. Robert A. Williamson, et al.*, Cause No. 14-001392-CV-361, 361st District Court of Brazos County, along with its evidentiary exhibits. As you can see from that motion and its exhibits, Mr. West “switched sides” in a lawsuit, *i.e.*, he withdrew from representing one group of clients and then undertook representation of an adverse party *in the same lawsuit*.

Mr. West will undoubtedly point out that the district court refused to disqualify him, and the Tenth Court of Appeals refused to grant mandamus (the Tenth Court offered no explanation for its decision, and the case was settled before my clients could petition the Texas Supreme Court). Because of his political connections, Mr. West can get away with things that would get most attorneys sanctioned. Regardless, the courts' refusal to disqualify him does not change the fact that Mr. West breached his fiduciary duties to his former clients and violated Rules 1.09, 1.15, and 3.08 of the Texas Disciplinary Rules of Professional Conduct.

Bryan F. "Rusty" Russ, Jr.

On the enclosed disk, I have included a October 26, 2017 order denying Mr. Russ's motion for summary judgment in *Milton Johnson v. Bryan F. Russ, Jr.*, Case No. Case 6:16-cv-00284-RP (W.D.Tex.). I have also included his motion for summary judgment and my client's response, along with their respective exhibits. As you will see from the court's opinion, there is probable cause to believe that Mr. Russ tampered with petition signatures while was serving as the city attorney for Hearne, Texas, and that he did so for the purpose of keeping an item off of the election ballot. By tampering with the petitions, Mr. Russ committed crimes under both state and federal law, and he violated Rules 8.04(a)(2) and (a)(3).

As you can see from your own records, I have previously filed several other grievances against Mr. Russ. Time and again, your office has bent itself over backwards to cover up his misconduct. For example, your office was provided with undisputed evidence that Mr. Russ and his law partner perpetrated a seven-figure real estate fraud (much of the evidence was provided by the FBI), and I was asked by one of your prosecutors to provide guidance on that case because I had been involved in related civil litigation. Inexplicably, the case was buried a short time later.

I have also filed grievances regarding multiple and egregious conflicts of interest, *e.g.*, where Mr. Russ represented private clients against his municipal clients while he was still serving as city attorney. None of those conflicts had been waived, but your office still refused to prosecute. I hope this grievance will not suffer the same fate.

Jay B. Goss and Karl C. Hoppess

According to testimony at a March 28, 2017 hearing in Bryan, attorneys Jay Goss and Karl Hoppess filed suit on behalf of numerous individuals without their knowledge or permission. Furthermore, Mr. Goss solicited at least one client after initially filing suit without her permission, thus it appears that he engaged in barratry, a third-degree felony under Texas Penal Code § 38.12 and a clear violation of Rule 8.04(a)(9) of the Texas Disciplinary Rules of Professional Conduct. A transcript of the March 28, 2017 hearing can be found on the enclosed computer disk.

Conclusion

The evidence indicates that each of the foregoing attorneys has engaged in serious misconduct. I sincerely hope that your office has changed its way of doing business, and that it will start investigating and prosecuting attorneys without regard to their political influence.

Respectfully,

Ty Clevenger
Executive Director
The Transparency Project