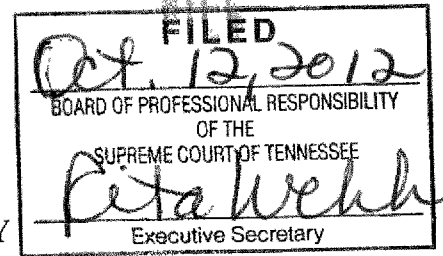


**IN DISCIPLINARY DISTRICT V
OF THE
BOARD OF PROFESSIONAL RESPONSIBILITY
OF THE
SUPREME COURT OF TENNESSEE**



**IN RE: WILLIAM ALAN ALDER,
BPR No. 23214, Respondent,
An Attorney Licensed to
Practice Law in Tennessee
(Davidson County)**

DOCKET NO. 2012-2112-5-KB

JUDGMENT

This matter came on for hearing before a duly appointed Hearing Panel on October 9, 2012, upon a Petition for Discipline filed March 26, 2012, by the Board of Professional Responsibility (“Board”) against William Alan Alder, and upon the Response to Petition for Discipline filed by Mr. Alder on April 26, 2012. Present for the hearing were Kenneth Mark Bryant, Panel Chair; Mark Steven LeVan, Panel Member; Wade Brantley Phillips, Jr., Panel Member; and Kevin D. Balkwill, Disciplinary Counsel for the Board. Mr. Alder failed to make an appearance in the cause after proper notice was given to all parties by the Board on August 31, 2012. Upon argument of Disciplinary Counsel, evidence presented, and upon the entire record in this cause, the Hearing Panel makes the following findings of fact and conclusions of law pursuant to Tennessee Supreme Court Rule 9, Section 8.

STATEMENT OF THE CASE

Between September 6, 2011, and November 21, 2011, the Board received four (4) separate notices from Regions Bank that overdrafts had occurred in Mr. Alder’s IOLTA account. The Board also opened investigations against Mr. Alder based upon complaints from three (3) of

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his clients between September 21, 2011, and January 18, 2012. The Board opened the final investigation against Mr. Alder on February 9, 2012, based upon information provided by Judy Bond-McKissack, Executive Director for the Commission on Legal Education and Specialization. On March 9, 2012, the Board authorized the filing of a Petition for Discipline against Mr. Alder.

Mr. Alder filed a Response to Petition for Discipline in which he largely admitted to the misconduct alleged by the Board in its Petition for Discipline, including each disciplinary violation charged and each aggravating circumstance alleged.

Mr. Alder failed to appear at his disciplinary hearing to offer any testimony or other evidence in his case. The sole exhibit introduced into evidence by the Board was the transcript of Mr. Alder's deposition taken August 6, 2012.

FINDINGS OF FACT

The below findings of fact which are not in dispute are incorporated herein and the Panel's conclusions are based fully upon each admission made by Mr. Alder in his Response to Petition for Discipline and his deposition testimony.

FILE NO. 34460-5(N)-BG – Opened By Board

FILE NO. 34649-5(N)-BG – Opened By Board

FILE NO. 34677-5(N)-BG – Opened By Board

FILE NO. 34687-5(N)-BG – Opened By Board

1. Mr. Alder held client funds in a trust account with Regions Bank in conjunction with his law practice.
2. Mr. Alder last held client funds in his trust account in April or May of 2010.
3. After that time, Mr. Alder kept his personal funds in the trust account.
4. Mr. Alder ceased all record keeping related to his trust account in the late summer or early fall of 2010.

5. On August 30, 2011, an overdraft occurred in Mr. Alder's trust account in the amount of \$455.00.

6. On October 31, 2011, an overdraft occurred in Mr. Alder's trust account in the amount of \$30.11.

7. On November 4, 2011, an overdraft occurred in Mr. Alder's trust account in the amount of \$26.79.

8. On November 14, 2011, an overdraft occurred in Mr. Alder's trust account in the amount of \$26.79.

9. On November 15, 2011, overdrafts occurred in Mr. Alder's trust account in the amounts of \$60.70 and \$18.33.

10. On November 16, 2011, an overdraft occurred in Mr. Alder's trust account in the amount of \$30.00.

11. Mr. Alder provided a single response to the Board regarding his initial trust account overdraft but failed to respond to Board inquiries related to his other trust account overdrafts.

FILE NO. 34517c-5-BG – Complainant – Velinda Bransford

12. On October 5, 2010, Ms. Bransford retained Mr. Alder to represent her in a claim for discrimination and wrongful termination by her previous employer.

13. Ms. Bransford's discrimination claim was set to be heard by a federal mediator with the Equal Employment Opportunity Commission (EEOC) on October 26, 2010.

14. On October 26, 2010, Ms. Bransford and the opposing employer appeared before the federal mediator but Mr. Alder failed to appear.

15. After approximately one hour from the scheduled start time of the mediation, Ms. Bransford was able to contact Mr. Alder who stated that he was involved in an automobile accident.

16. In a later discussion with Mr. Alder, Ms. Bransford chose to abandon her discrimination claim.

17. Mr. Alder filed a claim with the Occupational Safety and Health Administration (OSHA) but failed to take any action in pursuit of Ms. Bransford's wrongful termination claim.

18. On August 30, 2011, the EEOC closed Ms. Bransford's file and issued a Right to Sue letter.

19. On August 31, 2011, Mr. Alder was suspended for failure to comply with his Continuing Legal Education requirements.

20. Mr. Alder failed to further communicate with Ms. Bransford, the EEOC, or OSHA regarding Ms. Bransford's claims.

21. On October 24, 2011, OSHA sent a letter to Mr. Alder detailing its inability to contact him.

22. Mr. Alder's failure to communicate with OSHA caused the dismissal of Ms. Bransford's claim.

23. Mr. Alder provided a single response to the Board regarding Ms. Bransford's complaint against him but failed to respond to further Board inquiries related to the matter.

FILE NO. 34709c-5-BG – Complainant – Katherine Spangler

24. On May 4, 2011, Ms. Spangler paid Mr. Alder \$750.00 to negotiate debt resolutions with her creditors.

25. Mr. Alder was not diligent in his representation of Ms. Spangler and failed to

negotiate any debt payments for her.

26. Ms. Spangler left telephone and e-mail messages for Mr. Alder but he would not respond timely to her concerns.

27. In August 2011, Mr. Alder scheduled an appointment to meet with Ms. Spangler to discuss her case but cancelled the appointment at the last minute.

28. At that time, Ms. Spangler terminated Mr. Alder's representation and demanded a refund of the \$750.00 fee she had paid to him.

29. Mr. Alder advised Ms. Spangler that he would refund the full amount of fees to her, but did not do so until on or about October 2012.

FILE NO. 34819c-5-BG – Complainant – Pammy Payne

30. In February 2010, Ms. Payne paid Mr. Alder \$700.00 to represent her and her husband in a joint bankruptcy proceeding.

31. Mr. Alder timely filed a bankruptcy petition on behalf of the Paynes.

32. On January 18, 2011, neither the Paynes nor Mr. Alder appeared at the First Meeting of Creditors and the case was subsequently dismissed.

33. Mr. Alder failed to advise the Paynes that their bankruptcy case had been dismissed.

34. After the bankruptcy dismissal, creditors began contacting the Paynes to collect their debts, repossessed one of their automobiles, and garnished Ms. Payne's wages.

35. Ms. Payne advised Mr. Alder that her creditors were taking such actions and Mr. Alder led her to believe that her bankruptcy case was still active.

36. Ms. Payne retained new counsel and learned that her bankruptcy case had been dismissed.

37. Mr. Alder failed to respond to the Board regarding Ms. Payne's complaint against him.

FILE NO. 34897-5-BG – Informant – Judy Bond-McKissack, CLE Executive Director

38. On March 31, 2011, the CLE Commission sent Mr. Alder a Notice of Non-Completion of his CLE obligations.

39. On September 19, 2011, Mr. Alder submitted an Affidavit of Completion to the CLE Commission attesting to participation in several CLE courses in 2011.

40. The CLE Commission contacted the Tennessee Association of Criminal Defense Lawyers which verified that Mr. Alder had not attended the Juvenile Defense Skills seminar on September 16, 2011, as attested in Mr. Alder's affidavit.

41. The CLE Commission contacted National Business Institute which verified that Mr. Alder had not attended the Advanced Issues in Custody and Support and Navigating Local Land Use Laws seminars on September 15, 2011, as attested in Mr. Alder's affidavit.

42. Due to apprehensions about the accuracy of Mr. Alder's CLE reporting, the CLE Commission reviewed Mr. Alder's 2009 Affidavit of Completion.

43. The CLE Commission contacted the Tennessee Bar Association which verified that Mr. Alder had not attended the Police Misconduct Claims, Avoiding Ethics Violations in Trust Account Management, Employment Law Year in Review, and General Bankruptcy Practice seminars on August 11, 2010, as attested in Mr. Alder's August 14, 2010 affidavit.

44. The CLE Commission sent correspondence to Mr. Alder via e-mail and certified mail requesting an explanation from him, but Mr. Alder failed to respond.

45. Mr. Alder failed to respond to the Board regarding the information provided by the CLE Commission.

46. Mr. Alder has admitted to violations of RPC 1.1 (competence), 1.3 (diligence), 1.4 (communication), 1.15 (safekeeping property), 1.16(a) (terminating representation), 8.1(b) (disciplinary matters), and 8.4(a), (c), and (d) (misconduct).

CONCLUSIONS OF LAW

Pursuant to Tenn. S. Ct. R. 9, Section 3, the license to practice law in this state is a privilege and it is the duty of every recipient of that privilege to conduct himself at all times in conformity with the standards imposed upon members of the bar as conditions for the privilege to practice law. Acts or omissions by an attorney which violate the Rules of Professional Conduct of the State of Tennessee shall constitute misconduct and be grounds for discipline.

The Hearing Panel has considered Mr. Alder's admissions contained within his Response to Petition for Discipline and his deposition testimony and finds that the Board has demonstrated ethical misconduct by Mr. Alder of the violations set forth in Paragraph 46 above by a preponderance of the evidence.

Violation of Duty Owed to Clients

Mr. Alder lacked the competence and diligence necessary to provide adequate representation to his clients. He also failed to reasonably communicate with his clients about the status of their cases and the fact that he had been suspended from the practice of law for failure to comply with his CLE obligations. Mr. Alder failed to withdraw from client matters upon the conclusion of his representation. Mr. Alder's conduct led to the dismissal of his clients' claims and caused financial harm due to his failure to provide timely reimbursement of client legal fees. Additionally, Mr. Alder failed to properly maintain and utilize his client trust account by using the account for his own personal needs and failing to keep adequate records of the account. Mr.

Alder's conduct is in violation of RPC 1.1 (competence), 1.3 (diligence), 1.4 (communication), 1.15 (safekeeping property), and 1.16 (terminating representation).

Violation of Duty Owed to the Legal System

Mr. Alder breached his duty owed the legal profession by submitting false affidavits to the CLE Commission which averred that he participated in CLE seminars for which he did not attend. Mr. Alder also failed to respond to the Board regarding complaints that had been initiated against him. Mr. Alder's conduct was prejudicial to the administration of justice and is in violation of RPC 8.1(b) (disciplinary matters) and 8.4(a), (c), and (d) (misconduct).

ABA Standards

The Hearing Panel finds that the following ABA Standards are applicable to Mr. Alder's conduct:

- 4.42 Suspension is generally appropriate when:**
 - (a) a lawyer knowingly fails to perform services for a client and causes injury or potential injury to a client; or**
 - (b) a lawyer engages in a pattern of neglect and causes injury or potential injury to a client.**

- 4.62 Suspension is generally appropriate when a lawyer knowingly deceives a client, and causes injury or potential injury to the client.**

- 5.13 Reprimand [Public Censure] is generally appropriate when a lawyer knowingly engages in any other conduct that involves dishonesty, fraud, deceit, or misrepresentation and that adversely reflects on the lawyer's fitness to practice law.**

- 6.22 Suspension is appropriate when a lawyer knowingly violates a court order or rule, and there is injury or potential injury to a client or a party, or interference or potential interference with a legal proceeding.**

Aggravating and Mitigating Factors

The Hearing Panel finds that Mr. Alder has admitted to the following aggravating factors:

- 1) a dishonest or selfish motive;

- 2) multiple offenses;
- 3) substantial experience in the practice of law; and
- 4) indifference to making restitution.

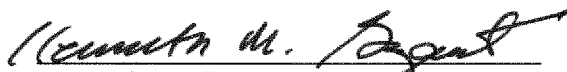
JUDGMENT

Accordingly, it is the decision of the Hearing Panel that Mr. Alder should be suspended from the practice of law for one (1) year. Mr. Alder shall comply in all aspects with TN Sup. Ct. R. 9, § 18, regarding the obligations and responsibilities of suspended attorneys. As a condition precedent to reinstatement, Mr. Alder must provide restitution to Pamela Payne in the amount of \$700.00. As a further condition precedent to reinstatement, Mr. Alder must undergo an assessment by the Tennessee Lawyer's Assistance Program (TLAP) and fully comply with any recommendations TLAP may make, including participation in a monitoring agreement. Mr. Alder may petition the Board for reinstatement to the practice of law pursuant to Tenn. Sup. Ct. R. 9, § 19, at the conclusion of his suspension and after he has satisfied the above conditions.

NOTICE

This judgment may be appealed pursuant to Tenn. S. Ct. R. 9, § 1.3, by filing a petition for writ of certiorari, which petition shall be made under oath or affirmation and shall state that it is the first application for the writ. *See* Tenn. Code Ann. §§ 27-8-104(a) and 27-8-106.

FOR THE PANEL:


Kenneth Mark Bryant, Panel Chair