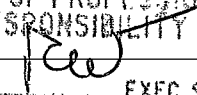


FILED

IN DISCIPLINARY DISTRICT VI OF THE  
BOARD OF PROFESSIONAL RESPONSIBILITY  
OF THE SUPREME COURT OF TENNESSEE

2018 FEB 23 PM 4:20

BOARD OF PROFESSIONAL  
RESPONSIBILITY



EXEC. SECRET

IN RE: ANDY LAMAR ALLMAN  
BPR No.: 17857,

RESPONDENT

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DOCKET NO.: 2017-2765-6-AW

**ORDER OF DISBARMENT**

THIS cause came on for hearing on this the 23<sup>rd</sup> day of February, 2018 on notice to all parties as set forth in an Order entered February 16, 2018, the Hearing Panel having received filed notice from the Respondent (see Respondent's Notice to the Board filed February 22, 2018) that he would not attend the hearing, and those present for the hearing were: Honorable Paul Plant, Hearing Member; Honorable Timothy P. Underwood, Hearing Member; Honorable Michael E. Spitzer, Chair of Hearing Panel and Attorney Russell Willis representing the Board of Professional Responsibility, and, prior to the hearing, the Hearing Panel took up the matter of a Motion to Set Aside Default Judgment filed by the Respondent on February 22, 2018 and made the following findings as to that Motion:

**MOTION TO SET ASIDE DEFAULT JUDGMENT**

1. The Motion to Set Aside the Default Judgment entered in this cause consists of a two (2) paragraph pleading with only the first paragraph dealing with the present docket number and that paragraph limits its basis for request to the issue of Respondent's collateral criminal indictments which he alleges would prevent him from testifying in this proceeding.
2. The Motion for Default Judgment should have been filed prior to February 9, 2018 as required for pretrial motions set forth in an Order of the Hearing Panel on January 24, 2018. That Order at paragraph 4 stated: "Any pre-hearing motions shall be filed with the Board, with copies to be disseminated by the Board to each hearing panel member, on or before February 9, 2018." However, that is not the basis of the Panel decision.
3. The Motion to Set Aside Default had no attached affidavits; failed to recite any of the basis provided for in Tennessee Rules of Civil Procedure, Rule 60.02, and gave no indication that the Respondent would have a meritorious defense if the motion were set aside.

4. The Respondent was given an opportunity to appear (See Order entered February 22, 2018 denying stay and providing for a hearing on the motion to set aside, prior to the sanction hearing on February 23, 2018) and give the Hearing Panel grounds to set aside the Default Judgment, but neither Respondent nor his counsel chose to appear.

UPON these facts, the Hearing Panel requested testimony from Counsel for the Board, as an officer of the Court as to whether he knew of any reasons why the Default Judgment should be set aside, and none were given. Further, the Hearing Panel simply could not find within the Motion itself or from any other evidence in the file that the Respondent had followed Rule 60.02 in providing sufficient grounds to set aside the Default Judgment and therefore the Motion to Set Aside Default Judgment is denied.

#### HEARING ON SANCTIONS

This matter came before the Hearing Panel upon due notice and Counsel for the Board of Responsibility introduced the following Exhibits for consideration:

1. Exhibit 1: The Petition for Discipline which contained 79 separate claims against the Respondent, all of which are taken as true.
2. Exhibit 2: Summary of the banking transactions of the Respondent which indicate that over \$300,000.00 in client fees were placed in the Respondent's General or Operating Account rather in a client trust account.
3. Exhibit 3: A disc which provides the Pinnacle Bank records for the Respondent's operating, trust and personal accounts.
4. Exhibit 4: A disc which provides the Volunteer Bank records for the Respondent's operating, trust and personal accounts.
5. Exhibit 5: A disc which provides the Simmons Bank records for the Respondent's operating, trust and personal accounts.
6. Exhibit 6: The ABA standards for consideration of discipline which were promulgated to assist in a consistent and fair process for disciplining lawyers.
7. Exhibit 7: Late Filed Exhibit which is a copy of Attorney-Client Litigation Agreement with client A---Taylor and which provided at Paragraph 1 that this agreement was a contingency based agreement if a recovery is obtained and at Paragraph 8 the "Client authorizes Andrew L. Allman to hold any money received on behalf of the client in trust and to pay all fees and cost reimbursements owed to Andrew L. Allman out of this money before distributing the remainder to Client."

After introducing the Exhibit and responding to questions from the Hearing Panel, Mr. Willis, on behalf of the Board, called Ms. A. Taylor as a witness. Ms. Taylor testified that she had in fact engaged the Respondent for services related to an employment matter and while the fee was to be a contingent fee she agreed to pay the Respondent the sum of \$4,500.00 in case there was no recovery. Ms. Taylor

further testified that she is disabled, with "MS" and because of her disability she had her husband with her in discussions with the Respondent. At some point after the case was initiated, Ms. Taylor testified, the Respondent obtained a settlement for her in the sum of \$80,000.00, however, the settlement check made payable to Ms. Taylor and Respondent was endorsed by the Respondent, her signature apparently forged and deposited into the Respondent's operating fund. Subsequently, and to this day, the Respondent has not provided Ms. Taylor with any document of settlement, copy of the check, copy of a release or any other evidence that the settlement was actually \$80,000.00, and it was over three (3) months later when she received her balance less both the contingency fee and the \$4,500.00 retainer paid. Upon inquiry, Ms. Taylor was told that she would not get the \$4,500.00 back from the Respondent, and the defendant in the cause of action should pay it. Ms. Taylor further testified that because of her relationship with the Respondent, her faith in lawyers has totally diminished and she feels betrayed and abused by the acts and omissions of the Respondent. The Exhibits provided by Board counsel reflect that these funds were not placed in Respondent's trust account.

After the testimony of Ms. Taylor, the petitioner, Mr. Willis, on behalf of the Board, submitted his case on the terms and foundations of his Pre-Trial Brief which was timely submitted to and read by the Hearing Panel. Further, Mr. Willis requested that the Respondent be disbarred and that the Panel find restitution in an amount of \$320,050.00

Upon these exhibits, testimony, statements of counsel, and the entire record, the Hearing Panel makes the following findings of fact:

1. The duty of the Hearing Panel is to first ascertain whether or not the Respondent has engaged in unethical conduct. In this case, the Respondent failed to timely respond to the Complaint and a Default Judgment was entered. Therefore, unless set aside, the Hearing Panel could take all allegations as true. Further, while given an opportunity to argue a Motion to Set Aside the Default Judgment, which the Respondent further declined, the Default Judgment followed the Respondent into the hearing and the decision of the Hearing Panel.
2. Unethical conduct having been found in 79 cases, the Hearing Panel was next challenged with the undertaking to determine exactly what duties the Respondent breached. In considering such breaches of duty the Panel found:
  - a. There is overwhelming evidence in this case that the Respondent knowingly, intentionally and systematically misappropriated retainers provided by clients, which had not been earned.
  - b. On numerous occasions the Respondent failed to timely file proceedings on behalf of retained clients and causes of action were lost for these clients. On several occasions, the Respondent even misrepresented to the client that a suit had been filed when in fact their statute had run. On at least one occasion, the Respondent even

- sent fictitious pleadings to a client to mislead them into believing that the Respondent was taking care of their case.
- c. On numerous occasions, the Respondent engaged in the unauthorized practice of law by meeting and talking with clients after he had been suspended from practice by order of the Tennessee Supreme Court entered on September 9, 2016.
  - d. The proof indicated that the Respondent failed to notify his clients after his suspension, and, in one instance, when presented with a text photograph from a client showing his suspension, the Respondent insisted that the document was old and he could continue to represent their interest.
  - e. A continued pattern of failing to communicate with clients and respond to their questions and concerns was pervasive. Numerous cases were dismissed on summary judgment and for failure to state a claim, when cases were filed, and the clients were never informed of the dismissal.
3. From a review of the petition, testimony, exhibits and the entire record the Panel finds that the Respondent breached his duty to his clients, the public, the legal system and the profession.
- a. The duty to his clients being paramount, the Panel found a total lack of loyalty in that the Respondent failed to preserve the clients' retainers, failed to be diligent in representing the clients, and was either incompetent or uncaring in his administration of these cases coupled with a total lack of candor in his representation of these clients.
  - b. As was shown by the testimony of Ms. Taylor, the Respondent failed in his duty to the client and public. The obligation to the public rests on trust, honesty and the appearance of high integrity and character. The panel found that the Respondent failed to protect the property of his clients, failed to preserve his clients' rights, and he engaged in conduct involving dishonesty, fraud and interference with justice.
  - c. The Respondent failed to preserve his duty to the legal system and the profession as is best shown by the testimony of Ms. Taylor. Ms. Taylor was a client of the Respondent, who had a disability, and sought out the Respondent in a time of grave need of and concerning problems with her employment. She stated that "Mr. Allman came highly recommended, and now I don't trust any lawyer." Hopefully her faith and that of 78 other clients arising from this proceeding can have their faith restored in the legal profession and be able to overcome the detrimental impact of this one lawyer.
4. Finding unethical conduct and a breach of the Respondent's obligations to his clients, the public and profession, the Hearing Panel turned to the mental state of the Respondent and the extent of the injuries caused by the Respondent's actions. Of the 79 separate charges against the Respondent, only a few indicate that the Respondent even answered the charge to the

Board of Professional Responsibility. The Respondent's utter contempt for the integrity of the profession and his lack of concern for his clients can be no better shown than his failed response to the petition and failure to attend his hearing on sanctions. While the Respondent continues to recite that he must take his 5<sup>th</sup> Amendment privilege due to pending criminal charges, would not his filing of mitigating circumstances be, at best, neutral in those proceedings. Yet, the Respondent failed to file or present a single mitigating circumstance for the Panel's consideration. Without question, the Respondent's actions indicate a conscious awareness of the nature and attendant circumstances of his conduct, and he apparently had a conscious objective and purpose to improperly take client fees for his personal use without providing services for those fees. His unethical violations were both knowing and intentional.

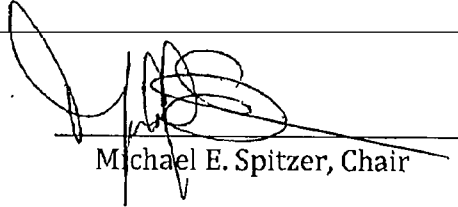
5. The Panel then turned to the actual injury arising out of these complaints and the Board, by and through counsel, can point to a total loss for the clients in the amount of \$320,050.00. This amount is undisputed.
6. Finally, the Board requested from Counsel for the Board of Professional Responsibility, as an officer of the Court, whether or not the Board was aware of any mitigating circumstances to which the Hearing Panel should be apprised. Counsel mentioned there were no prior complaints. Aggravating circumstances are rampant. Continuous pattern of unethical behavior, failure to maintain client funds in a trust account, misleading and making misrepresentations to clients, fraudulently creating documents to mislead clients into believing their case was active when dismissed, depositing client checks without the actual client's endorsement, and the list could go on. The Panel could find no mitigating circumstances.

Upon these findings, the Hearing Panel reflects on the true purpose of lawyer discipline proceedings which is to protect the public and the administration of justice from lawyers who have not discharged, will not discharge or are unlikely to properly discharge their professional duties to their clients, the public and the profession. Disbarment is generally appropriate in cases where a lawyer knowingly converts client property and causes injury or potential injury to a client; knowingly fails to perform services for a client and thereby causes injury or loss of the cause; engages in a pattern of neglect or misrepresentation; fails to preserve the clients cause of action and instead allows the clients cause to fail for untimely filing; makes false or misleading statements to the clients or commits fraud in dealing with clients. Further, disbarment is appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional with the intent to obtain a benefit for the lawyer and/or causes serious or potentially serious injury to the client, the public or the profession. The Respondent has exhibited all of these failings, and his acts and omissions are inexcusable and a disgrace to the profession.

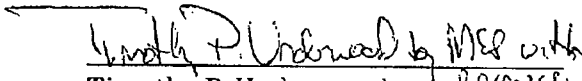
Considering these facts and the purpose of these proceedings, it is hereby Ordered that the law license of Andrew Lamar Allman, # 017857, should be withdrawn and he is disbarred from the practice of law in the State of Tennessee.

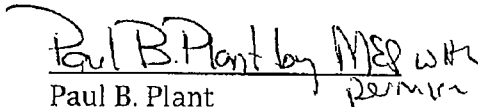
Further, the panel finds that restitution in the amount of \$320,050.00 is warranted and appropriate and the Respondent is to be taxed with the cost of this cause.

Enter this the 23<sup>rd</sup> day of February, 2018.

  
Michael E. Spitzer, Chair

Approved for Entry:

  
Timothy P. Underwood  
Hearing Panel

  
Paul B. Plant  
Hearing Panel

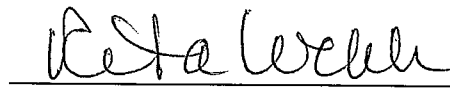
**NOTICE: THE FINDINGS AND JUDGMENTS MAY BE APPEALED PURSUANT TO SECTION 33, RULE 9, TENNESSEE SUPREME COURT RULES.**

**CERTIFICATE OF SERVICE**

I certify that the above document has been provided to the following by placing same in the U.S. Mail at Brentwood, TN. on this the <sup>23<sup>rd</sup></sup> day of February, 2018.

A. Russell Willis  
Board of Professional Responsibility  
10 Cadillac Drive, Suite 220  
Brentwood, TN 37027

W. Gary Blackburn  
213 Fifth Avenue North, Suite 300  
Nashville, TN 37219

  
Rita Webb, Executive Secretary

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing has been sent to Respondent, Andy Lamar Allman, 639 Bonita Parkway South, Hendersonville, TN 37075-4643, and to his counsel, W. Gary Blackburn, 213 5th Avenue North, Suite 300, Nashville, TN 37219, via Electronic Mail and U.S. First Class Mail, and hand-delivered to Disciplinary Counsel, A. Russell Willis, this the 23<sup>rd</sup> day of February, 2018.



Rita Webb  
Executive Secretary

**NOTICE**

**This judgment may be appealed by filing a Petition for Review in the appropriate Circuit or Chancery Court in accordance with Tenn. Sup. Ct. R. 9, § 33.**