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

BOARD OF PROFESSIONAL
RESPONSIBILITY
KW EXEC. SEC'Y

IN RE: NATHANAEL ELLIS ANDERSON DOCKET NO. 2008-1796-2-SG
BPR #23216, Respondent
An Attorney Licensed and
Admitted to the Practice of
Law in Tennessee
(Knox County)

**HEARING PANEL ORDER RECOMMENDING DISBARMENT AND RESTITUTION
WITH FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This cause came to be heard on the 23rd day of November 2010, before the three-member Hearing Panel of the Board of Professional Responsibility of the Supreme Court of Tennessee. Based upon the argument of disciplinary counsel on behalf of the Board of Professional Responsibility of the Supreme Court of Tennessee, a statement read by Respondent into the record of this cause, the pleadings and other documents filed in this matter and upon the record as a whole the Hearing Panel makes the following Findings of Fact, Conclusions of Law and recommendations to the Supreme Court of Tennessee:

FINDINGS OF FACT

1. A Petition for Discipline, BOPR Docket No, 2008-1796-2-SG, was filed on December 22, 2008.
2. The Petition was sent via regular and certified mail to the Respondent at 1719 Wood Song Lane, Knoxville, Tennessee 37914.
3. No answer or response to the Petition for Discipline was filed with the Executive

Secretary of the Board of Professional Responsibility and no answer or response was served on Disciplinary Counsel within the time permitted by Section 8.2 of Rule 9. The time for filing the answer or response was not extended by the Chair of the Board of Professional Responsibility, nor was a request or motion for an extension of time made or filed by Respondent to answer or respond to the Petition for Discipline.

4. On February 13, 2009, the Hearing Panel granted the Board's Motion for Default Judgment and deemed admitted the allegations set forth in the Petition for Discipline.

5. A Supplemental Petition for Discipline, BOPR Docket No. 2008-17962-SG was filed on April 16, 2009.

6. The Respondent did not file an answer or response to the Supplemental Petition for Discipline with the Executive Secretary of the Board of Professional Responsibility and no answer or response was served on Disciplinary Counsel within the time permitted by Section 8.2 of Rule 9. The time for filing an answer or response was not extended by the Chairman of the Board of Professional Responsibility nor was a request or motion for extension of time made or filed by the Respondent to answer or respond to the Supplemental Petition for Discipline.

7. On June 1, 2009, the Hearing Panel granted the Board's Motion for Default Judgment and deemed admitted the allegations set forth in the Supplemental Petition for Discipline.

FILE NO. 31514-2-SG -- Complaint of Kandace Crisp

8. The Complainant retained the Respondent to represent her personal injury case.

9. The Respondent settled the Complainant's case in approximately June 2007 allegedly for \$12,800.

10. By check dated June 7, 2007, the Respondent paid \$9,300 to the Complainant retaining \$2,560 for the Respondent's fee and \$940 for a Blue Cross Blue Shield ("BCBS") subrogation claim.

11. In January 2008, the Respondent advised the Complainant that BCBS was going to "write off" their \$940 subrogation claim and the Respondent would provide the Complainant with a check by the end of January 2008.

12. The Respondent never provided the Complainant with the \$940.

13. The Respondent failed to accept or return the Complainant's calls and messages.

14. The Respondent failed to respond to this complaint.

FILE NO. 31515-2-SG -- Complaint of Patricia Pollard

15. In approximately February 2007, the Complainant retained the Respondent to represent her in her divorce.

16. The Complainant paid the Respondent \$1,750.

17. The Respondent failed to accept or return the Complainant's telephone calls.

18. The Respondent misrepresented to the Complainant that her husband had signed the divorce papers according to the Complainant's terms.

19. The Respondent misrepresented to the Complainant she had a court date on November 16, 2007; another court date on January 15, 2008, and a third court date in February 2008.

FILE NO. 31583-2-SG Complaint of Cordelia Ogle

20. The Complainant retained the Respondent in September 2007, paying the Respondent \$1000.

21. The Respondent was suspended for CLE noncompliance on September 21, 2007.
22. The Respondent has remained suspended since September 21, 2007.
23. The Respondent misrepresented to the Complainant that he had filed her case but never provided the Complainant with any documentation reflecting that filing.
24. The Respondent neglected the Complainant's case.
25. The Respondent failed to accept or return the Complainant's telephone calls.
26. The Complainant requested, but did not receive, a refund from the Respondent.
27. The Respondent failed to advise the Complainant of his suspension.

FILE NO. 31584-2-SG -- Complaint of Teena Chamberlain

28. The Complainant retained the Respondent on approximately March 31, 2008, paying the Respondent \$750 for his representation.
29. The Respondent was suspended at the time the Respondent accepted the Complainant's representation.
30. The Respondent failed to advise the Complainant of his suspension.
31. The Respondent took no action on behalf of the Complainant.

FILE NO. 31585-2-SG - Complaint of Michael Cepeda

32. The Complainant retained the Respondent on approximately January 18, 2008, paying the Respondent a \$1,000 fee for the Respondent's representation in a custody/child support case.
33. At the time the Respondent accepted the Complainant's representation and \$1,000 fee, the Respondent was suspended for CLE noncompliance.
34. The Respondent failed to advise the Complainant of his suspension.
35. The Respondent failed to communicate with the Complainant and missed scheduled appointments with the Complainant.

36. The Respondent misrepresented to the Complainant that he had a June 5, 2008, court date which the Complainant learned from a social worker on June 4, 2008, was never scheduled.

37. The Complainant received notice of a February 20, 2008, court date from Child Support Enforcement.

38. The Respondent misadvised the Complainant that it was not necessary for the Complainant to attend this February 20, 2008, hearing.

39. The Complainant subsequently received notice that the Complainant's failure to attend the February 20, 2008 hearing resulted in a default Order of Support entered against the Complainant.

40. The Complainant requested by letter, dated September 4, 2008, his file from the Respondent.

41. The Respondent failed to respond to the Complainant's letter requesting his file.

FILE No. 31586-2-SG --- Complaint of Crystal Boyd

42. On approximately March 7, 2008, the Complainant paid the Respondent \$1,500 to represent her in her divorce.

43. The Respondent was suspended at the time the Respondent accepted the Complainant's \$1,500 fee and agreed to represent her.

44. On March 24, 2008, the Respondent provided the Complainant with a Complaint for Divorce reflecting the alleged signature of attorney Benjamin Barnett.

45. The Complainant's Complaint for Divorce was never filed.

46. The Respondent did not seek or obtain attorney Benjamin Barnett's permission to sign attorney Benjamin Barnett's name to the Complainant's Complaint for Divorce.

47. The Respondent misrepresented to the Complainant that he had arranged for

mediation on July 1, 2008, however, this mediation did not occur.

48. The Respondent provided the Complainant with a \$6,500 refund but the Respondent's refund check was not good.

FILE No. 314504-2-SG -- Complaint of Elijah Croft

49. The Complainant retained the Respondent on approximately September 14, 2006, to represent the Complainant in Federal Court against Louisville Ladder Group.

50. The Complainant paid the Respondent a \$176.50 filing fee on September 14, 2006.

51. The Respondent misadvised the Complainant that he had filed the Complainant's Federal Court lawsuit; that the Respondent had experts ready to testify and that the Respondent was obtaining court dates compatible with the experts' availability.

52. The Respondent misrepresented to the Complainant that the Respondent was involving the Knox County District Attorney's office to file criminal charges against Home Depot for destruction of evidence in the Complainant's case.

53. The Complainant learned from the Clerk's office that the Respondent had not filed his federal lawsuit.

54. The Respondent allowed the Complainant's statute of limitations to expire.

55. The Respondent failed to accept or return the Complainant's calls and failed to respond to the Complainant's requests for information.

56. The Respondent failed to return the Complainant's file to the Complainant.

FILE No. 31766-2-SG - Complaint of Shawn Massey

57. The Complainant retained the Respondent in August 2007, to represent her in her divorce.

58. The Complainant states she paid the Respondent a \$750 fee,

59. The Respondent took no action on the Complainant's case.

60. The Respondent failed to accept or return the Complainant's calls and failed to keep her informed.

61. The Respondent has failed to respond to this complaint.

FILE No. 31908-2-SG Complaint of Ivan Wheeler

62. The Complainant retained the Respondent to handle a real estate dispute.

63. The Respondent filed the Complainant's Complaint in Chancery Court of Knox County against YMC Mortgage Company, et al on approximately July 25, 2006.

64. On August 29, 2006, Defendant Litton Loan Servicing filed a Motion to Dismiss against the Complainant.

65. The Respondent failed to file any response to the Defendant's Motion to Dismiss.

66. By Order filed November 8, 2006, the Complainant's case was dismissed.

67. By letter dated April 22, 2007, the Respondent wrote a letter advising that the Complainants "presently have a legal action pending."

68. The Respondent's April 22, 2007, letter was false in that the Complainant's case had already been dismissed.

69. The Respondent failed to keep the Complainant informed about the status of his case.

70. The Complainant requested but did not receive from the Respondent the return of the Complainant's file.

71. The Respondent failed to respond to this complaint.

FILE No. 31517-2-SG -- Complaint of Bill and Cindy Walker

72. The Complainants retained the Respondent on approximately April 15, 2008, to handle a child support case.

73. The Respondent was suspended at the time he agreed to represent the Complainants and had been suspended since September 21, 2007.
74. The Respondent failed to advise the Complainants of his suspension.
75. The Respondent instructed the Complainants' mother to attend a hearing without the Respondent being present.
76. At that hearing and in the Respondent's absence, the Judge advised the Complainants' mother that the Respondent was suspended from practicing law.
77. The Respondent falsely advised the Complainants that his license had been reinstated and the Respondent was able to represent the Complainants.
78. The Respondent has failed to accept or return the Complainants' calls.
79. The Respondent has failed to respond to this complaint.
- FILE No. 31819-2-SG - Complaint of Danny and Cindy Parks**
80. The Complainants' retained the Respondent in approximately April 2008, regarding a custody case.
81. The Respondent was suspended and had been suspended since September, 2007; at the time he agreed to represent the Complainants and accepted the fee.
82. The Complainants paid the Respondent seven hundred fifty dollars (\$750) on approximately April 28, 2008, and a second payment of seven hundred fifty dollars (\$750) on May 18, 2008.
83. The Respondent misrepresented to the Complainants on two (2) occasions that they had a court date causing the Complainants to take off from work unnecessarily.
84. On both of the alleged court dates, the Respondent advised the Complainants that the court date had been continued.
85. The Respondent advised the Complainants they had been awarded custody of

the minor child, Shawn Ashbaugh, but further advised the Complainants that a Virginia court order had to be obtained before they could pick up the child.

86. The Complainants do not know if any or all of the information provided by the Respondent to the Complaints was accurate.

87. The Respondent has failed to accept or return the Complainants' calls and requests for information,

88. The Respondent failed to respond to this complaint.

FILE No. 31745-2-SG -- Complaint of David Santimario

89. The Complainant retained the Respondent in approximately July 2007, to represent the Complainant in his divorce.

90. The Complainant states he paid the Respondent eight hundred dollars (\$800) for his fee.

91. The Respondent never filed the Complainant's case.

92. The Respondent failed to accept or return the Complainant's calls and requests for information.

93. The Respondent has failed to respond to this complaint.

CONCLUSIONS OF LAW

The acts and omissions of the Respondent, deemed admitted in this Hearing Panel's Orders dated February 13, 2009, and June 1, 2009, constitute ethical misconduct in violation of Rules of Professional Conduct 1.3 (Diligence); 1.4 (Communication); 1.5 (Fees) 1.15 (Safekeeping Property); 1.16 (Declining and Terminating Representation); 3.2 (Expediting Litigation); 3.4 (Fairness to Opposing Party and Counsel); 8.1(b) (Bar Admission and Disciplinary Matters); and 8.4 (Misconduct).

The Supreme Court has adopted for use by its Hearing Panels the ABA Center for Professional Responsibility Standards for Imposing Lawyer Sanctions (ABA Standards), Section 8.4 of Rule 9, Rules of the Supreme Court.

The following ABA Standards are applicable to this case;

FAILURE TO PRESERVE THE CLIENT'S PROPERTY

Disbarment is generally appropriate when a lawyer knowingly converts client property and causes injury or potential injury to a client.

LACK OF DILIGENCE

Disbarment is generally appropriate when:

- (a) a lawyer abandons the practice and causes serious or potentially serious injury to a client; or
- (b) a lawyer knowingly fails to perform services for a client and causes serious or potentially serious injury to a client; or
- (c) a lawyer knowingly fails to perform services for a client and causes serious or potentially serious injury to a client; or
- (d) a lawyer engages in a pattern of neglect with respect to client matters and causes serious or potentially serious injury to a client.

LACK OF CANDOR

Disbarment is generally appropriate when a lawyer knowingly deceives a client with the intent to benefit the lawyer or another, and causes serious injury or potential serious injury to a client.

FALSE STATEMENTS, FRAUD, AND MISREPRESENTATION

Disbarment is generally appropriate when a lawyer, with the intent to deceive the court, makes a false statement, submits a false document, or improperly withholds material information, and causes serious or potentially serious injury to a party, or causes a significant or potentially significant adverse effect on the legal proceeding.

ABUSE OF THE LEGAL PROCESS

Disbarment is generally appropriate when a lawyer knowingly violates a court order or rule with the intent to obtain a benefit for the lawyer or another, and

causes serious injury or potentially serious injury to a party or causes serious or potentially serious interference with a legal proceeding.

VIOLATIONS OF DUTIES OWED AS A PROFESSIONAL

Disbarment is generally 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 or another, and causes serious or potentially serious injury to a client, the public, or the legal system.

The following aggravating circumstances exist justifying an increase in the discipline to be imposed against the Respondent:

- a. The Respondent's indifference to making restitution, totaling approximately \$7,166.50;
- b. The Respondent's pattern of misconduct;
- c. The Respondent's false statements;
- d. The Respondent's refusal to acknowledge the wrongful nature of his conduct;
- e. The Respondent's bad faith obstruction of the disciplinary proceeding by failing to respond to these complaints;
- f. The Respondent's prior discipline of one hundred twenty (120) days suspension on May 20, 2008 and disbarment on March 2, 2009;
- g. The Respondent's multiple offenses;
- h. The Respondent's refusal to acknowledge the wrongful nature of his conduct; and
- i. The vulnerability of the multiple victims.

Respondent appeared at the November 23, 2010 hearing to determine discipline. The Hearing Panel heard Respondent read into the record his statement, which included no contest to the charges as filed against him in this matter and his further statement that Respondent has been diagnosed with a mental disorder that is permanent and delusional. Respondent admits he cannot differentiate the truth and that his mental illness is deteriorative, such that he is no longer employable. Consequently, Respondent concedes to any and all actions the Board or

Professional Responsibility recommends, and further consents to revocation of his license and disbarment.

It is therefore, ORDERED, ADJUDGED and DECREED as follows: Based upon the Findings of Fact and Conclusions of Law set out herein, the statement made by Respondent, the Pleadings filed herein and the record as a whole, the Hearing Panel respectfully recommends Respondent be DISBARRED. It is further RECOMMENDED BY THIS ORDER that Respondent provide restitution in the following amounts to the following Complainants.

- 1. Candace Crisp \$ 940.00
- 2. Patricia Pollard \$1,750.00
- 3. Cordelia Ogle \$ 500.00
- 4. Teena Chamberlain \$ 750.00
- 5. Elijah Croft \$ 176.50
- 6. Shawn Massey \$ 750.00
- 7. Danny and Cindy Parks \$1,500.00
- 8. David Santimario \$ 800.00

This the 24 day of November, 2010.

Wayne A. Kline
Wayne A. Kline, Chair

Rick L. Powers, by Wayne A. Kline
Rick L. Powers, hearing panel *w/permission*

Lynn P. Talley, by Wayne A. Kline
Lynn P. Talley, hearing panel *w/permission*

CERTIFICATE OF SERVICE

I certify that a true copy of the foregoing has been served upon counsel for all parties by delivering a copy to the office of said counsel, or by placing a copy in the United States mail, addressed to counsel at their office, with sufficient postage thereon to carry the same to its destination.

Nathanael Ellis Anderson, Respondent
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Sandy Garrett
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This the 24 day of November, 2010.

HODGES, DOUGHTY & CARSON, PLLC

By: 
Attorney