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BOARD OF PROFESSIONAL
RESPONSIBILITY

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IN THE DISCIPLINARY DISTRICT 0
OF THE
BOARD OF PROFESSIONAL RESPONSIBILITY
OF THE
SUPREME COURT OF TENNESSEE

In Re: DEREK ALAN ARTRIP,
BPR #026784, Respondent
An Attorney Licensed to
Practice Law in Tennessee
(Ona, West Virginia)

Docket No. 2013-2210-0-KH

JUDGMENT OF THE HEARING PANEL

This matter came to be heard on the 31st day of July, 2013 for final hearing on the Board's Petition for Discipline before Kenneth Mark Bryant, Panel Chair; Charles Kevin Grant, Panel Member; and Rhonda Alma Kinslow, Panel Member. Krisann Hodges, Deputy Chief Disciplinary Counsel, appeared for the Board. Mr. Artrip did not appear despite having adequate notice of the date, time, and location of the hearing.

STATEMENT OF THE CASE

This is a disciplinary proceeding against the Respondent, Derek Alan Artrip, an attorney licensed to practice law in Tennessee. Mr. Artrip was licensed to practice in 2008. His current home address is registered with the Board as 57 Hummingbird Lane, Ona, West Virginia, 25545.

A Petition for Discipline, Docket No. 2013-2210-0-KH, was filed on May 6, 2013. The Petition was sent via certified mail to Respondent's home address of 57 Hummingbird Lane, Ona, West Virginia, 25545, as registered with the Board, and was delivered to Mr. Artrip on May 9, 2013. The green card was signed by Mr. Artrip and returned to the Board.

Mr. Artrip did not file an Answer to the Petition for Discipline. On June 6, 2013, the Board filed a Motion for Default Judgment and That Charges in the Petition for Discipline be Deemed Admitted. On July 8, 2013, the Panel entered an Order of Default. As a result of the Order of Default, the allegations contained within the Petition for Discipline are deemed admitted pursuant to Tennessee Supreme Court Rule 9, Section 8.2.

FINDINGS OF FACTS

Since all of the allegations in the Petition for Discipline are deemed admitted, this Panel finds that the following facts have been established.

1. FILE NO. 35749c-0-PS – COMPLAINANT – DANIELLE VON OHLEN

Mr. Artrip failed to respond to the Board's inquiries about the complaint filed by Danielle Von Ohlen. In 2009, Ms. Von Ohlen paid Mr. Artrip \$3,000 to assist her with a child custody matter. During the following three years, Ms. Von Ohlen made multiple requests for status updates and information about how the retainer fee was being used. Mr. Artrip never fully responded to Ms. Von Ohlen's requests for information; he generally assured her that he was working on her case.

In early 2012, Ms. Von Ohlen met with Mr. Artrip and asked why no resolution had been reached. Mr. Artrip promised to have the matter heard by a court within thirty days. Later, Mr. Artrip claimed that he was having difficulty serving the father of Ms. Von Ohlen's son with the legal documents. Ms. Von Ohlen gave Mr. Artrip an address for the father, but nothing happened in the case, and Mr. Artrip continued his pattern of not communicating with Ms. Von Ohlen. Finally, Ms. Von Ohlen learned that Mr. Artrip moved to West Virginia without notifying her and that nothing had been filed in her case since 2007.

Ms. Von Ohlen confirmed that Mr. Artrip's prior law firm has refunded \$2,000.00 of the fee to her; however, she is seeking reimbursement for the remainder of the fee in the amount of \$1,000.00.

2. FILE NO. 35821-0-PS – COMPLAINANT – JOHN AKINS

Mr. Artrip failed to respond to the Board's inquiries about the complaint filed by John Akins. Mr. Akins contracted Hepatitis C while a patient at the VA Hospital. Mr. Artrip agreed to represent Mr. Akins in a lawsuit against the hospital. It appears that Mr. Artrip took no action in the case, but simply abandoned Mr. Akins and left Tennessee. Mr. Artrip did not provide Mr. Akins with his file or any information about the status of the matter. Since Mr. Akin's case was based upon a contingency fee, no refund is required.

3. PRIOR DISCIPLINARY SANCTIONS

It is significant to note that Mr. Artrip has been on temporary suspension pursuant to Tenn. Sup. Ct. R. 4.3 since July, 2012. He filed a petition to dissolve the suspension and participated in a hearing which resulted in his reinstatement as long as he met several conditions such as continuing to work with TLAP, engaging a practice monitor, and filing a Section 18 affidavit with the Board. Mr. Artrip failed to meet these conditions and, therefore, he remained on temporary suspension.

Additionally, he received a one-year suspension on May 9, 2013 for misconduct similar to the allegations contained in this Petition for Discipline.

CONCLUSIONS OF LAW

1. The Respondent has failed to conduct himself in conformity with said standards and is guilty of acts and omissions in violation of the authority cited within the Petition for Discipline.

2. As noted above, Respondent has failed to answer the Board's Petition for Discipline. The Hearing Panel has already entered an Order of Default and, therefore, pursuant to Tenn. Sup. Ct. R. 9, § 8.2, the charges are deemed admitted.

3. A preponderance of the evidence demonstrates that the acts and omissions by the Respondent constitute ethical misconduct in violation of Rules of Professional Conduct 1.1, Competence; 1.3, Diligence; 1.4, Communication; 1.5(a), Fees; 1.16(d), Declining and Terminating Representation; 3.2, Expediting Litigation; 8.1(b), Bar Admission and Disciplinary Matters; and 8.4(a) and (d), Misconduct.

4. The main offenses in these two matters involve abandonment of practice and neglect of client matters. In both cases, Mr. Artrip simply left the state and failed to protect his clients' interests.

5. He failed to communicate with his clients about his plans and about steps they may need to take in order to protect their cases.

6. In Ms. Von Ohlen's case, he took legal fees and then failed to provide legal services as promised.

7. Mr. Artrip failed to act with appropriate diligence in the representation of these clients. Further, Mr. Artrip failed to fulfill reasonable client expectations for communication and timely action on their cases.

8. His neglect caused actual and potential injury to his clients. As the Tennessee Supreme Court aptly noted, "...an attorney's exercise of reasonable diligence and promptness is the cornerstone of ethical conduct." *Nevin v. Bd. of Prof'l Responsibility of the Supreme Court of Tenn.*, 271 S.W.3d 648, 656 (Tenn. 2008).

9. Mr. Artrip failed to respond to disciplinary complaints in a timely manner, thus violating RPC 8.1(b).

10. Having established that Mr. Artrip violated the Rules of Professional Conduct, we must now determine the appropriate discipline. Pursuant to Tenn. Sup. Ct. R. 9, § 8.4, the Panel shall consider the appropriate discipline based upon application of the *ABA Standards for Imposing Lawyer Sanctions* ("ABA Standards").

11. Mr. Artrip abandoned his clients and his practice. The ABA Standards recommend disbarment for such conduct:

4.41 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;
- (c) a lawyer engages in a pattern of neglect with respect to client matters and causes serious or potentially serious injury to a client.

12. Pursuant to ABA Standard 9.22, we find that the following aggravating factors are present in this case and are listed below.

- a) a pattern of misconduct;
- b) prior disciplinary history including a one (1) year suspension on May 9, 2013 for lack of diligence, lack of competence, failure to expedite litigation, failure to properly

terminate representation, failure to respond to the Board, failure to communicate with client, and misconduct;


- c) multiple offenses;
- d) substantial experience in the practice of law; and
- e) bad faith obstruction of the disciplinary proceeding by intentionally failing to

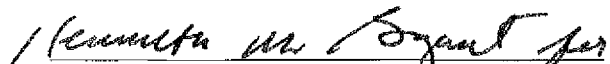
comply with rules or orders of the disciplinary agency.

JUDGMENT

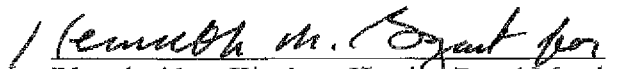
Based on the above mentioned precedent and existing aggravating factors, this Panel finds that Mr. Artrip should be disbarred from the practice of law. Further, we find that he should be required to provide restitution to Ms. Von Ohlen in the amount of \$1,000.00 as a condition precedent to reinstatement.

It is so ordered this 18th day of August, 2013.


Kenneth Mark Bryant, Hearing Panel Chair


Charles Kevin Grant, Hearing Panel Member

at permission


Rhonda Alma Kinslow, Hearing Panel Member

at permission

NOTICE TO RESPONDENT

This judgment may be appealed pursuant to Tenn. Sup. Ct. R. 9, § 1.3 by filing a petition for writ of certiorari, which shall be made under oath or affirmation and which shall state that it is the first application for the writ.