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

BOARD OF PROFESSIONAL  
RESPONSIBILITY

RW

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

Docket No. 2014-2410-0-WM

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JUDGMENT OF THE HEARING PANEL

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This matter came to be heard on the 7th day of May, 2015 for final hearing on the Board's Petition for Discipline before Maria Salas, Panel Chair; Paul Charles Ney, Jr., Panel Member; and Matthew Joseph Sweeney, III, Panel Member. William C. Moody, 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. 2014-2410-0-WM, was filed on December 30, 2014. 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 January 2, 2015. 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 February 4, 2015, the Board filed a Motion for Default Judgment and That Charges in the Petition for Discipline be Deemed Admitted. On April 9, 2015, the Panel entered an Order for Default Judgment. As a result of the Respondent's failure to respond to the Motion for Default Judgment, the allegations contained within the Petition for Discipline are deemed admitted pursuant to Tennessee Supreme Court Rule 9, Section 15.2.

### **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.

#### **File No. 37426c-0-PS – Complainant – Steven Stabile**

Mr. Artrip was retained to represent Mr. Stabile as a result of an attack Mr. Stabile suffered by his neighbors' dog. On February 22, 2011, Mr. Artrip filed suit in the Circuit Court for Davidson County on behalf of Mr. Stabile against Rhonda Spain and Scott Tanley, docket number 11C712.

The defendants served Mr. Artrip with discovery but Mr. Artrip did not respond. The defendants filed a motion to compel and an order was entered compelling Mr. Artrip to respond to the discovery. Mr. Artrip still did not respond.

On November 16, 2011, as a result of Mr. Artrip's failure to respond to the defendants' discovery, the defendants filed a motion to dismiss for failure to prosecute. The motion was set for hearing on December 9, 2011. Mr. Artrip did not file a response to the motion nor appear at the hearing.

On December 9, 2011, the court entered an order of nonsuit dismissing the case without

prejudice. Mr. Artrip represented to Mr. Stabile that he would timely refile the lawsuit. However, Mr. Artrip failed to do so. As late as March, 2014, Mr. Artrip made false representations to Mr. Stabile intended to lead him to believe that his cause of action was still viable.

Mr. Artrip was temporarily suspended by the Tennessee Supreme Court pursuant to Tenn. Sup. Ct. R. 9, § 4.3 (2006) on July 14, 2012. Mr. Artrip failed to notify Mr. Stabile of his suspension. Mr. Artrip was suspended for one (1) year by the Tennessee Supreme Court pursuant to Tenn. Sup. Ct. R. 9, § 4.2 (2006) on May 29, 2013. Mr. Artrip failed to notify Mr. Stabile of this suspension. Mr. Artrip was disbarred by the Tennessee Supreme Court pursuant to Tenn. Sup. Ct. R. 9, § 4.1 (2006) on November 24, 2013. Mr. Artrip failed to notify Mr. Stabile of his disbarment.

Mr. Artrip failed to respond to the Board's request for information regarding Mr. Stabile's complaint.

#### **CONCLUSIONS OF LAW**

Pursuant to Tenn. Sup. Ct. R. 9, § 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 or herself 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 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.

As noted above, Respondent failed to answer the Board's Petition for Discipline. The Hearing Panel entered an Order for Default Judgment on April 9, 2015. Pursuant to Tenn. Sup. Ct. R. 9, § 15.2, the charges were deemed admitted.

By failing to respond to the defendants' discovery, by failing to respond to the motion to dismiss, and by failing to timely refile the lawsuit, Mr. Artrip failed to provide competent representation to Mr. Stabile in violation of RPC 1.1 (Competence).

By failing to respond to the defendants' discovery, by failing to respond to the motion to dismiss, and by failing to timely refile the lawsuit, Mr. Artrip failed to act with reasonable diligence and promptness in his representation of Mr. Stabile in violation of RPC 1.3 (Dillgence).

Mr. Artrip failed to adequately communicate with Mr. Stabile following the dismissal of the lawsuit in violation of RPC 1.4 (Competence).

By abandoning Mr. Stabile's matter, Mr. Artrip failed to properly terminate his relationship with him in violation of RPC 1.16 (Declining or Terminating Representation).

Mr. Artrip knowingly failed to respond to a lawful demand for information from a disciplinary authority in violation of RPC 8.1(b) (Bar Admissions and Disciplinary Matters).

By making representations intended to lead Mr. Stabile to believe that his cause of action was still viable, Mr. Artrip engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of RPC 8.4(c) (Misconduct).

By failing to notify Mr. Stabile of his suspensions and disbarment, Mr. Artrip knowingly failed to comply with a final court order entered in proceedings in which he was a party in violation of RPC 8.4(g) (Misconduct).

Mr. Artrip abandoned his practice.

Violation of the aforementioned Rules of Professional Conduct constitutes a violation of RPC 8.4(a) (Misconduct).

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; 1.16(d), Declining and Terminating Representation; 8.1(b), Bar Admission and Disciplinary Matters; and 8.4(a), (c) and (g), Misconduct.

The Board has the burden of proving violations of the Rules of Professional Conduct by a preponderance of the evidence. The Board has carried its burden and proven the aforementioned violations of the Rules of Professional Conduct by a preponderance of the evidence. Once disciplinary violations have been established, the Panel shall consider the applicable provisions of ABA Standards for Imposing Lawyer Sanctions. Prior to consideration of any aggravating or mitigating circumstances, the following ABA Standards apply to this case:

- 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.
- 4.61 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 potentially serious injury to a client.
- 6.21 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.

- 7.2 Suspension is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional, and causes injury or potential injury to a client, the public, or the legal system.

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

a. Mr. Artrip's prior disciplinary history is an aggravating circumstance justifying an increase in the degree of discipline to be imposed against him.

b. Mr. Artrip has shown a dishonest motive, which is an aggravating circumstance justifying an increase in the degree of discipline to be imposed against him.

c. Mr. Artrip has shown a pattern of misconduct, which is an aggravating circumstance justifying an increase in the degree of discipline to be imposed against him.

d. Mr. Artrip has committed multiple offenses, which is an aggravating circumstance justifying an increase in the degree of discipline to be imposed against him.

There are no mitigating circumstances.

Based upon the evidence and admissions in this matter, the appropriate discipline is a disbarment from the practice of law.

#### JUDGMENT

In light of the Findings of Fact and Conclusions of Law and the aggravating factors set forth above, the Hearing Panel hereby finds that Mr. Artrip should be disbarred from the practice of law effective as of the date of entry of this Order.

It is so ordered this 12th day of May, 2015.

*Maria M. Salas*

Maria Salas, Hearing Panel Chair

*Paul Ney by Maria M. Salas w/permission*

Paul Charles Ney, Jr., Hearing Panel Member

*Matthew Sweeney by Maria M. Salas w/permission*

Matthew Joseph Sweeney, III, Hearing Panel  
Member

**NOTICE TO RESPONDENT**

This judgment may be appealed pursuant to Tenn. Sup. Ct. R. 9, § 33 by filing a petition for review.