

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

FILED

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BOARD OF PROFESSIONAL
RESPONSIBILITY

Ree

EXEC. SEC'Y

IN RE: ALEA DANIELLE ASHBY, Respondent DOCKET NO. 2010-1956-5-RS
BPR No. 24069, An Attorney
Licensed to Practice Law
in Tennessee
(Davidson County)

JUDGMENT OF HEARING PANEL

This matter came to be heard before a duly appointed Hearing Panel of the Board of Professional Responsibility of the Supreme Court of Tennessee on February 18, 2011 pursuant to a Petition for Discipline filed by the Board August 11, 2010 against the Respondent, Alea Danielle Ashby, and a Motion for Default Judgment and to Deem the Allegations in the Petition for Discipline Admitted filed by the Board on October 29, 2010.

Because the Respondent has failed to respond to the Petition, the Motion for Default is HEREBY GRANTED and the allegations set forth in the Petition for Discipline are HEREBY DEEMED ADMITTED.

Accordingly, based upon the entire record of this matter, the Hearing Panel makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. The Petition for Discipline was filed in this cause on August 11, 2010, and served upon the Respondent by certified mail on September 21, 2010 when it was returned "unclaimed" by the United States Postal Service.
2. Section 8.2 of Rule 9 provides that Respondent shall serve his answer upon

Disciplinary Counsel and file the original with the Board within twenty days after service of the Petition, unless such time is extended by the Chair. In the event the Respondent fails to answer, the charges shall be deemed admitted; provided, however, that a Respondent who fails to answer within the time provided may obtain permission of the Chair (of the Board) to file an answer if such failure to file an answer was attributable to mistake, inadvertence, surprise or excusable neglect.

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 March 5, 2010, Complainant Christopher Porter sent a complaint to the Board of Professional Responsibility alleging ethical misconduct by Respondent and the complaint was designated File No. 32947-5-PS. A true and exact copy of the March 5, 2010, complaint letter is attached to the Petition for Discipline as Exhibit A.

5. On March 12, 2010, Disciplinary Counsel sent a copy of the complaint and a request for a response in a letter to Respondent. A true and exact copy of the March 12, 2010, letter is attached to the Petition for Discipline as Exhibit B.

6. On April 1, 2010, Disciplinary Counsel sent a Notice of Temporary Suspension to the Respondent. A true and exact copy of the April 1, 2010, Notice is attached to the Petition for Discipline as Exhibit C.

7. The April 1, 2010, Notice was returned to Disciplinary Counsel unclaimed on

April 29, 2010. A true and exact copy of the unclaimed April 1, 2010, Notice is attached to the Petition for Discipline as Exhibit D.

8. Respondent was temporarily suspended on August 4, 2009 for failure to respond to a previous disciplinary complaint. Respondent has yet to respond to this complaint.

9. The Complainant retained the Respondent in April of 2009, to represent him in a custody case.

10. The Complainant paid \$1,500.00 to the Respondent on April 29, 2009.

11. The Complainant provided a copy of a receipt showing the Complainant paid \$400.00 to the Respondent.

12. The receipt also shows that the Complainant had paid \$1,500.00 total and had a balance of zero after the \$400.00 payment. A true and exact copy of the April 29, 2009, receipt is attached to the Petition for Discipline as Exhibit E.

13. For the next three to four months, the Complainant tried to contact the Respondent, with no success.

14. When the Complainant was finally able to reach the Respondent, he expressed his displeasure with the lack of communication and progress in his case.

15. The Respondent told the Complainant that she was not going to do any work for him and that she was keeping his money.

16. Then the Respondent hung up on the Complainant. Complainant has had no further contact with the Respondent.

17. On August 4, 2009, the Respondent was temporarily suspended from the practice of law for failing to respond to the Board.

18. On August 5, 2010, the Respondent was disbarred by Order of the Tennessee

Supreme Court.

CONCLUSIONS OF LAW

1. The acts and omissions by the Respondent as set forth in paragraphs above related to the complaint filed by Christopher Porter constitute ethical misconduct in violation of the following Rules of Professional Conduct: 1.3, Diligence; 1.4, Communication; 1.5, Fees; 8.1(b) Bar Admission and Disciplinary Matters; and 8.4(a)(c)(d), Misconduct.

2. The Respondent failure to communicate with the Board regarding this complaint.

3. The Supreme Court has adopted for use by its Hearing Panels the ABA Center for Professional Responsibility Standards for Imposing Lawyer Sanctions (ABA Standards).

4. Sections 4.12, 4.42 and 7.2 of the ABA Standards are applicable to this case.

5. Section 4.12 of the ABA Standards states:

Suspension is generally appropriate when a lawyer knows or should know that he is dealing improperly with client property and causes injury or potential injury to a client.

6. Section 4.42 of the ABA Standards state:

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.

7. Section 7.2 of the ABA Standards states:

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

JUDGMENT

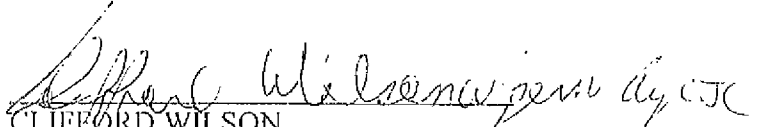
Accordingly, based upon the ABA Standards and the entire record in this matter, the Hearing Panel hereby recommends that the Respondent, Alea Danielle Ashby, be suspended for

a period of (3) years.

ENTERED ON THIS THE 8th DAY OF March ~~FEBRUARY~~, 2011.


COLIN J. CARNAHAN


AUBREY B. HARWELL, III


CLIFFORD WILSON