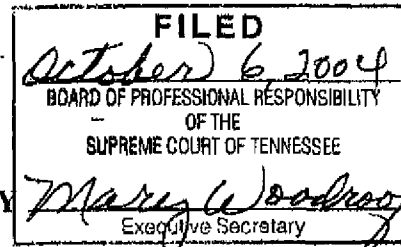


IN DISCIPLINARY DISTRICT IX
OF THE
BOARD OF PROFESSIONAL RESPONSIBILITY
OF THE
SUPREME COURT OF TENNESSEE



IN RE: EMILIA GREEN BALLENTINE, BOPR #19957 DOCKET NO. 2003-1404-9-JJ
Respondent. An Attorney Licensed
to Practice Law in Tennessee
(Shelby County)

JUDGMENT OF THE HEARING COMMITTEE PANEL

This cause came to be heard by the Hearing Committee Panel of the Board of Professional Responsibility of the Supreme Court of Tennessee in Memphis on September 15, 2004. Also present was Jesse D. Joseph, Disciplinary Counsel, representing the Board of Professional Responsibility. The cause was heard pursuant to Rule 9 of the Rules of the Tennessee Supreme Court. This Hearing Committee Panel, Antonio L. Matthews, Chair, Carla E. Ryan and Carolyn S. Watkins, makes the following findings of fact and submits its judgment in this cause as follows:

STATEMENT OF THE CASE

1. A Complaint was opened with the Board of Professional Responsibility (the "Board") against Respondent in March, 2003 and was assigned File No. 26125-9-JJ. Notices containing a summary of the complaint and request for response were sent to the Respondent on March 25, 2003, April 14, 2003, May 7, 2003, June 4, 2003 and June 17, 2003. On July 2, 2003, the Tennessee Supreme Court entered its Order temporarily suspending respondent from the practice of law under Tenn. Sup. Ct. 9, §4.3 due to Respondent's failure to respond to the Board concerning the complaint. The order of temporary suspension remains in effect at present. Respondent's law license was previously summarily suspended by the Tennessee Supreme Court on January 29, 2002, due to her failure to comply with the rule on mandatory continuing legal education, Tenn. R. Sup. Ct. 21, and this January 29, 2002 CLE suspension order has never been lifted.

2. This disciplinary complaint involved the respondent's continued practice of law at the Siskind, Susser firm in Memphis through March of 2003 even though her law license had been in a continuous state of suspension since January 29, 2002 for failure to obtain mandatory minimum CLE.

3. The Board filed a Petition for Discipline on November 3, 2003, charging the Respondent with violation of the Disciplinary Rules set forth in File 26125-9-JJ.

4. Respondent did not claim her service copy of this November 3, 2003 petition, and the US Postal Service returned the envelope containing same to the Board on December 1, 2003,

marked undeliverable. In March of this year, the Board forwarded the petition for discipline filed herein to the Shelby County Chancery Clerk and Master for issuance of a summons and for attempted personal service of the summons and petition upon respondent by the Shelby County Sheriff's Department at her last-known residential address - - 2277 Union Ave., #311, Memphis, TN 38114.

5. On April 22, 2004, the Shelby County Deputy Sheriff in his return on service as to this petition indicated respondent "was not to be found in my county, after diligent search and inquiry". The Shelby County Deputy Sheriff also found in his return that respondent's condominium at 2277 Union Avenue, #311 in Memphis had been foreclosed, with no forwarding address for respondent, and that she no longer worked at the Sisskind, Susser firm.

6. On May 21, 2004, Disciplinary Counsel filed a Motion for Default Judgment against Respondent requesting that the allegations in the Petition for Discipline be deemed admitted, due to the fact that the Respondent had failed to answer said Petition for Discipline within the time required, pursuant to Tenn. R. Sup. Ct. 9, §8.2.

7. This Hearing Panel signed its Default Judgment as to the allegations contained in the Petition for Discipline on September 8, 2004. After appropriate notice of hearing was sent by the Board Executive Secretary on September 8, 2004 to the parties, this matter was set for hearing on September 15, 2004, solely on the question of appropriate sanctions. Respondent did not appear on her own behalf at the hearing on the question of sanctions held on September 15, 2004, and the panel notes that some unknown individual signed for the copy of the Panel's default judgment sent to respondent by certified mail on September 9, 2004.

8. This Panel concludes, in accordance with Tenn. R. Sup. Ct. 9, §12.1, that service of process upon the respondent in this matter was adequate and complete upon the Board's service of the petition filed against her by certified mail return receipt requested at the 2277 Union Ave., #311, Memphis, TN 38114 address - - which was the respondent's last known address and the address as shown in the most recent registration statement filed by respondent.

FINDING OF AGGRAVATING AND MITIGATING CIRCUMSTANCES

1. The Hearing Panel finds the Respondent's two prior suspensions for failure to respond to the Board, and for failure to obtain mandatory continuing legal education, both of which suspensions remain in effect, to be aggravating pursuant to *ABA Standard 9.22(a)*. The Panel also finds the respondent's failure to update her address information with the Board as is required by Tenn. R. Sup. Ct. 9, §20.5, by failing to accept properly addressed certified mail or other personal service of process and by failing to answer, cooperate or defend this disciplinary matter to constitute a bad faith obstruction of the disciplinary process, a second aggravating circumstance according to *ABA Standard 9.22(e)*.

2. The Hearing Panel finds Respondent's inexperience in the practice of law (licensed in 1999) and her apparent good reputation or character in the legal community before her suspensions to be mitigating factors, according to *ABA Standards 9.22(f) & (g)*.

JUDGMENT

IT IS THEREFORE ORDERED by the Hearing Committee Panel as follows:

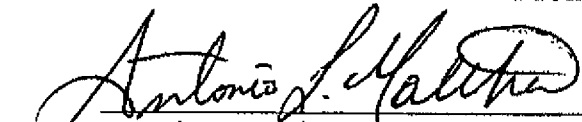
1. That the Respondent, Emilia Green Ballentine, be suspended from the practice of law for a period of one year effective from the date of any future Tennessee Supreme Court order incorporating this judgment.

2. ~~The~~ ^{That} pursuant to Tennessee Supreme Court Rule 9, §24.3, Respondent, Emilia Green Ballentine, shall reimburse and pay to the Board of Professional Responsibility the expenses and costs of this matter for which execution shall issue, if necessary.

3. That any reinstatement of Respondent's law license be conditioned upon both the filing of a petition for reinstatement and her compliance with any conditions imposed in such a reinstatement proceeding as required under Tenn. Sup. Ct. 9, §19, and upon her obtaining dissolution from the Tennessee Supreme Court of both the January 29, 2002 and July 3, 2003 suspension orders of the Court as referenced above.

This 5th of October, 2004.

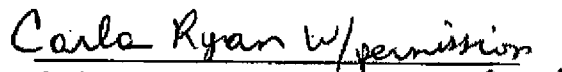
THE HEARING COMMITTEE PANEL:



Antonio L. Matthews, Esq.
Panel Chair

APPROVED FOR ENTRY:




Jesse D. Joseph, BOPR #10509
Disciplinary Counsel
1101 Kermit Drive, Suite 730
Nashville, TN 37217
615/361-7500


Carla E. Ryan, Esq. *A.L.M.*
Panel Member


Carolyn S. Watkins, Esq. *A.L.M.*
Panel Member

CERTIFICATE OF SERVICE

I hereby certify I mailed a copy of the foregoing proposed Judgment of the Hearing Committee Panel to respondent Emilia Green Ballentine, 2277 Union Ave., #311, Memphis, TN 38114, on this 29th day of September, 2004.


Jesse D. Joseph