



BOARD OF PROFESSIONAL RESPONSIBILITY
of the
SUPREME COURT OF TENNESSEE

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RELEASE OF INFORMATION
RE: HENRY CLAY BARRY, BPR # 6174
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BOARD OF PROFESSIONAL RESPONSIBILITY
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December 15, 2004

LEBANON LAWYER CENSURED

Henry Clay Barry, of Lebanon, was publicly censured by the Board of Professional Responsibility on November 29, 2004. The censure was issued by the Board pursuant to Rule 9, Section 8 of the Rules of the Tennessee Supreme Court. Barry did not request a hearing on the matter.

The Board opened its own disciplinary investigation in August of 2004 regarding Barry's advertising, wherein he advertised to the general public within a Wilson County newspaper a "VERY QUICK DIVORCE...usually in less than 24 hours if no children involved, both agree, sign and stipulate grounds, with children it may require 2 – 3 days..." Barry informed the Board that he has obtained such divorces within the advertised time frames in Wilson County and indicates the parties to such advertised divorces both executed marital dissolution agreements (MDAs).

Pursuant to RPC 1.7(a) and Board Formal Ethics Opinion 81-F-16, the Board concluded that in such advertised fault based stipulated grounds divorces authorized by T.C.A. §36-4-129, Barry only represents one party to the divorce - - the plaintiff. However, potential clients and opposing parties reading his ad would not understand Barry was representing only one party and neither party to Barry's advertised stipulated grounds divorce would understand the need to stipulate to a fault-based divorce ground. Moreover, since it was clear Barry would only act as attorney for the plaintiff in such divorces, the Board found that his actions in exhorting the unrepresented defendant to conclude the matter in 24 hours, or in 2-3 days, violated RPC 4.3 - - which requires a lawyer to give no legal advice to the unrepresented defendant other than the advice to retain counsel. The Board also concluded that Barry's utilization of MDAs in such stipulated fault grounds divorces to be inappropriate and prejudicial to the administration of justice since MDAs as specifically used by respondent are authorized only under irreconcilable divorce procedure as set forth in TCA §36-4-103.

Finally, the Board found that Barry's claims as contained within the advertisement were false or misleading in violation of RPC 7.1(a)(b).

