

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

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BOARD OF PROFESSIONAL
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IN RE: DOUGLAS RALPH BEIER
BPR #5777, Respondent
An Attorney Licensed to
Practice Law in Tennessee
(Hamblen County)

DOCKET NO. 2017-2672-1-WM

JUDGMENT OF THE HEARING PANEL

This cause came on for hearing before a duly appointed Hearing Panel on January 23, 2018, in the Small Courtroom, Third Floor, Hamblen County Historic Courthouse, 511 West Second North Street, Morristown, Tennessee. This cause was heard pursuant to Rule 9, Rules of the Tennessee Supreme Court. The Board of Professional Responsibility ("the Board") was represented by William C. Moody, and Respondent Douglas Beier was represented by Lucian Pera. This Hearing Panel, M. Neil Smith (Chair), Charles T. Herndon IV, and Julie R. Canter, after considering the entire file in this matter, testimonies of the witnesses, exhibits, and arguments presented to this Panel, and after thorough deliberations, makes the following Findings of Fact, Conclusions of Law, and renders its Judgment in this cause.

I. BACKGROUND

Respondent Douglas Ralph Beier is licensed to practice law in Tennessee, with Board of Professional Responsibility Number 5777. A Petition for Discipline was filed against Mr. Beier on January 12, 2017. Mr. Beier filed his answer on March 13, 2017. A Supplemental Petition

for Discipline was filed on March 22, 2017, and an answer to the Supplemental Petition was filed on May 10, 2017.

II. FINDINGS OF FACT

File Numbers 47119-1-SC and 47416-1-SC

1. Mr. Beier represented the petitioner, Timothy Weaver, in a Petition to Declare Child Abused and Neglected filed in the Juvenile Court for Hamblen County, Tennessee and in a Petition to Modify and for Immediate Emergency Ex Parte Relief filed in the Chancery Court for Hamblen, County, Tennessee, the petitions having been filed on Monday, August 30, 2015.
2. The respondent in the petitions was the mother of Mr. Weaver's child, Mandi Hite. Among other things, the petitions sought to terminate Ms. Hite's parenting time.
3. In support of the petitions, Mr. Beier filed the affidavits of Timothy Weaver, psychologist Dr. Diana McCoy, and Diane Weaver, Timothy Weaver's mother, with both the Juvenile and Chancery Courts on August 30, 2015.
4. As acknowledged by Mr. Beier during his testimony at the hearing, an affidavit is a form of giving testimony in writing and under oath, and a witness may not testify by proxy.
5. Mr. Beier signed "Diane Weaver" on the signature line of the Diane Weaver affidavit.
6. Mr. Beier notarized the affidavit representing that the affidavit had been "[s]worn to and subscribed before" him as a Notary Public by Diane Weaver on August 26, 2015.¹

¹ A "jurat" is defined as "[a] certification added to an affidavit or deposition stating when and before what authority the affidavit or deposition was made. A jurat typically says 'Subscribed and sworn to before me this ___ day of [month], [year],' and the officer (usu. a notary public) thereby certifies three things: (1) that the person signing the document did so in the officer's presence, (2) that the signer appeared before the officer on the date indicated, and (3) that the officer administered an oath or affirmation to the signer, who swore to or affirmed the contents of the document." Black's Law Dictionary (10th ed. 2014). "A notary's acknowledgment says to the world that the execution of the instrument was carried out according to law." *Beazley v. Turgeon*, 772 S.W.2d 53, 59 (Tenn. Ct. App. 1988).

7. Mr. Beier did not note on the affidavit in any manner that he had signed Diane Weaver's name.

8. ~~Mr. Beier testified that that he has signed documents pursuant to powers of attorney as well as signing pleadings with the permission of other attorneys and has always noted on the documents that he was signing for another.~~

9. Mr. Beier acknowledged that he should not have signed and notarized the affidavit without disclosing that he had signed Diane Weaver's name.

10. Mr. Beier did not disclose to the courts or to opposing counsel that he had signed "Diane Weaver" on the affidavit.

11. Mr. Beier appeared before the Juvenile Court, and, upon the record including the affidavit of Diane Weaver, the Juvenile Court entered an order on August 31, 2015 temporarily suspending the parenting time of Ms. Hite.

12. Diane Weaver was deposed on October 14, 2015 by Matthew Sexton, attorney for Ms. Hite in the Juvenile Court case. As reflected on page 55 of the deposition, Mr. Sexton questioned Ms. Weaver about the affidavit:

Q. I'm handing you a document that's entitled "Affidavit of Diane Weaver," and I'm going to ask you not to discuss anything with Mr. Beier. And I want to ask you some questions about this, is that your signature at the bottom of the document? Not at the very bottom but toward the bottom?

Ms. Weaver, is that your signature at the bottom of the document? I'm going to ask you one more time for the record and please respond to my question. Is that your signature at the bottom of the document?

MR. BEIER: That's where I subscribed your signature, right there.

A. Uh-huh. Yeah. He subscribed my signature.

13. Mr. Sexton testified that when he first questioned Ms. Weaver about the affidavit during the deposition on October 14, 2015, Ms. Weaver sat silently looking at the affidavit. Mr. Sexton repeated his question three times as to whether that was Ms. Weaver's signature on the affidavit

with no response from Ms. Weaver until Mr. Beier interjected “That’s where I subscribed your signature, right there.” Ms. Weaver immediately repeated Mr. Beier’s interjection, “Uh-huh. Yeah. He subscribed my signature.”

14. Both Mr. Beier and Ms. Weaver have given inconsistent statements and testimony as to how Mr. Beier was purportedly given Ms. Weaver’s permission for Mr. Beier to sign the affidavit for Ms. Weaver.

15. During her deposition on October 14, 2015, Ms. Weaver testified that she and her son were going to Knoxville to visit Dr. McCoy and take her granddaughter. Ms. Weaver said that because her granddaughter was asleep in the car, she did not go in and Mr. Beier “asked me if he could sign my name and I said, yes.”²

16. In Mr. Beier’s letter to the Board dated July 7, 2016, Mr. Beier stated that Timothy Weaver had signed his affidavit on August 26, 2015, and, after discovering that Diane Weaver had not signed her affidavit, Mr. Beier contacted Diane Weaver, who told him “she could not get in to sign,” that they were taking Paisley to Knoxville and “told me to sign her name.”

17. In her affidavit dated October 24, 2016, prepared by Mr. Beier for submission to the Board, Ms. Weaver claimed she could “barely walk,” was “not supposed to be driving,” and had trouble “getting around” and that is why she could not get to Mr. Beier’s office and asked him to sign the affidavit.

18. During her testimony at the hearing, Ms. Weaver testified that the phone conversation with Mr. Beier occurred during the trip to Knoxville to see Dr. McCoy, the visit to Dr. McCoy

² The affidavit of Dr. McCoy, submitted at Tab 8A to Exhibit 1, states that Dr. McCoy met with Ms. Weaver’s granddaughter on August 27, 2015.

occurring on Thursday, August 27, 2015. Specifically, Ms. Weaver testified that the call from Mr. Beier came while she was at Dr. McCoy's office in Knoxville.

19. Mr. Beier testified at the hearing that he had prepared the affidavit for Diane Weaver to sign and left it at his office for Ms. Weaver to come by and sign. Timothy Weaver signed his affidavit on August 26, 2015. Mr. Beier further testified that he returned to his office on the afternoon of August 26th and discovered that Ms. Weaver had not signed her affidavit. Mr. Beier stated that he called Ms. Weaver and told her she needed to sign the affidavit. Ms. Weaver asked Mr. Beier to sign the affidavit for her, and he did so. Mr. Beier testified that Ms. Weaver's reason for not coming to his office to sign her affidavit was she had health issues and was out of town. Mr. Beier further testified that he left his office on Wednesday, August 26, 2015, and did not return until the morning of Monday, August 30, 2015.

20. Mr. Beier and Ms. Weaver have been close friends for fifty-five years.

21. Having heard the testimony of Mr. Beier, Ms. Weaver, and Mr. Sexton, and considering the demeanor of the witnesses, the inconsistencies in the testimony of Mr. Beier and Ms. Weaver, and their relationship, along with the other evidence of record, the Panel finds that Mr. Beier's and Ms. Weaver's testimony that Ms. Weaver gave Mr. Beier permission to sign her name to the affidavit and that Mr. Beier did so on August 26, 2015 is not credible.

22. By signing Ms. Weaver's name to the affidavit without signifying that he was signing her name on her behalf, and by notarizing that signature, Mr. Beier represented to the Juvenile and Chancery Courts that Ms. Weaver had in fact signed the affidavit personally, a representation he knew to be false.

File Numbers 49712-1-SC and 47879-1-SC

23. Mr. Beier has extensive experience in probate matters and opens on average two new estates per month.
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24. Mr. Beier customarily charges by the hour for handling probate matters. Mr. Beier's usual hourly rate for probate matters is \$250 and the most he has ever charged for a probate matter is \$350 per hour.
25. Audrey Jenkins died intestate. She was a widow without children.
26. Ms. Jenkins was predeceased by her full-sister, Earlene Norton, and her half-brother, Sheridan James.
27. Ms. Norton had one child, Ray Norton.
28. Mr. James had four children: Darrell, Kevin, Steven and Lavonda James.
29. Mr. Norton, age 62 years, has received Social Security Supplemental Security Income (SSI)³ benefits and benefits from the Department of Veterans Affairs⁴ as the "helpless child of a veteran"⁵ all his adult life as the result of his "nerves." For his SSI benefits, the Social Security Administration required that he have a representative payee. Mr. Beier knew of Mr. Norton's disability.
30. At the time of Ms. Jenkins' death, and the probate of her estate, Paul Barnes was Mr. Norton's representative payee.

³ Supplemental Security Income provides for a benefit to aged, blind or disabled individuals who are eligible based upon their resources and income. 42 U.S.C. §1381a. An individual is "disabled" if "he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months." 42 U.S.C. §1382c(a)(3)(A).

⁴ Children of veterans of a period of war may receive compensation from the VA, and that compensation may continue into adulthood if the child is "permanently incapable of self-support" prior to age 18. 38 U.S.C. §§1542 and 101(4)(A); 38 C.F.R. 3.356 (conditions which determine permanent incapacity for self-support).

⁵ Exhibit 1, Tab 17 (2014 correspondence to Mr. Norton from the Department of Veterans Affairs).

31. Mr. Barnes described Mr. Norton as “a trusting man” who needed someone to help him with his affairs.

32. On September 13, 2013, Mr. Norton telephoned Mr. Beier concerning Mr. Beier’s possible representation of him in the probate of Ms. Jenkins’ estate.

33. On September 16, 2013, Mr. Norton and Mr. Barnes met with Mr. Beier concerning Mr. Beier’s possible representation of Mr. Norton in the probate of Ms. Jenkins’ estate.

34. After the telephone call of September 13th, and before the meeting on September 16th, Mr. Beier researched the appropriateness of charging Mr. Norton a one-third percentage fee for probating the Jenkins estate.

35. In researching the fee, Mr. Beier read the case of *White v. McBride*, 937 S.W.2d 796 (Tenn. 1996).⁶

36. During the meeting on September 16, 2013, the fact that Ms. Jenkins was predeceased by a half-brother with surviving children was discussed.

37. During the meeting on September 16, 2013, Mr. Beier learned of several pieces of real property involved or connected to the estate and the assessed values of those properties.

38. During the meeting on September 16, 2013, Mr. Norton signed an agreement to retain Mr. Beier to represent him in the Estate of Audrey Jenkins for a fee of one-third of the gross estate.

⁶ In *White*, the Supreme Court found that a contingent fee of one-third of any gross recovery for an attorney representing a husband in the probate of his deceased wife's estate was unreasonable, rendering the fee contract unenforceable, even though contingent fee contracts are not explicitly prohibited in probate matters. The inventory of the wife's assets notified the attorney that a sizable estate was involved, removal of assets by wife's relatives did not create contingency in that husband's interest in property was beyond dispute, the estate's administration was not complicated or novel, the attorney did not hold himself out as probate specialist, accepting employment did not prevent the attorney from undertaking other matters, the results obtained by the attorney were not particularly good, and the contingent fee was grossly in excess of hourly rate charged for similar legal services. 937 S.W.2d at 800.

39. Mr. Beier took advantage of Mr. Norton's disability in order to obtain his agreement to the one-third fee.

40. ~~Mr. Norton testified that when he told Mr. Beier he did not have any money to pay a fee,~~ Mr. Beier said he could just take it out of the estate. Mr. Norton said he did not know what "contingent" meant, and he did not know how much Mr. Beier would be paid.

41. Mr. Beier testified that he charged Mr. Norton a one-third fee because Mr. Norton had no money to pay him and he did not know if there would be sufficient assets in the estate to pay his fee on an hourly basis.

42. Mr. Beier had never previously charged a one-third contingency fee for the probate of an estate.

43. In the past, Hamblen County lawyers customarily charged a fee of 3% for the first \$100,000 of an estate and 1.5% for amounts over \$100,000, but that practice fell from favor.

44. On September 18, 2013, Mr. Beier filed a Petition for Appointment of Administrator in the Hamblen County Chancery Court seeking the appointment of Mr. Norton as administrator of the estate of Ms. Jenkins. In the petition, Mr. Beier alleged that Mr. Norton was the sole heir of Ms. Jenkins.

45. On September 19, 2013, \$49,748.94 was deposited to the estate account from Ms. Jenkins' Regions Bank account.

46. Soon thereafter, Ms. Jenkins' power of attorney, Herschel "Junior" Ivy, brought Mr. Beier \$54,103.00 in cash belonging to Ms. Jenkins.

47. On September 23, 2016, Mr. Beier paid himself \$2,900 from the funds of the estate, an amount that was within the usual range for a retainer charged by him when handling an estate on an hourly basis. In addition, on November 29, 2013 Mr. Beier paid himself an additional \$6,500

from the estate and on January 10, 2014 an additional \$3,000, all of which were prior to the Statement In Lieu Of Final Accounting. None of these payments were approved by any court.

48. On September 25, 2013, Nancy James, the mother of Darrell, Kevin, Steven and Lavonda James, telephoned Mr. Beier and told him that she had seen the notice to creditors and further informed him of the relationship of Sheridan James and Darrell, Kevin, Steven and Lavonda James to Ms. Jenkins.

49. Pursuant to the laws of descent and distribution, a half-sibling is equally entitled to inherit as a full-sibling.⁷ Therefore, Darrell, Kevin, Steven and Lavonda James were also heirs of Ms. Jenkins.

50. Mr. Beier did not inform the Chancery Court of the relationship of Darrell, Kevin, Steven and Lavonda James to Ms. Jenkins, either at the time of the filing of the petition or after the communication with Nancy James.

51. Mr. Beier did not give Darrell, Kevin, Steven and Lavonda James notice of the filing of the petition.

52. Mr. Beier testified that he performed no legal research during the administration of the estate to determine whether or not Darrell, Kevin, Steven and Lavonda James were heirs of Ms. Jenkins.

53. Mr. Beier testified that he was unaware during the administration of the estate that Darrell, Kevin, Steven and Lavonda James were heirs of Ms. Jenkins. Mr. Beier's testimony was not credible to the extent that he knew or should have known the James children were also heirs.

⁷ Tenn. Code §31-2-107 ("Relatives of the half blood inherit the same share they would inherit if they were of the whole blood.") This has been the law in Tennessee for a very long time. See *Kyle v. Moore*, 35 Tenn. 183, 184 (1855)(citing 1784 and 1796 acts providing for half bloods to inherit the same as whole bloods).

54. Where there is only one beneficiary of an estate, it is not necessary to obtain court approval of the fee of the attorney representing the administrator.

55. ~~Because Mr. Norton was represented to the court as the only beneficiary of the estate, it~~
was not necessary for Mr. Beier to obtain the court's approval of his one-third fee.

56. If Mr. Beier had included Darrell, Kevin, Steven and Lavonda James as heirs of Ms. Jenkins, he would have had to obtain the approval of the court and Darrell, Kevin, Steven and Lavonda James to charge a one-third fee.

57. On August 19, 2014, an Order to Close Estate without Detailed Accounting was entered. The Statement In Lieu Of Final Accounting was filed earlier in August 2014, although the notarization of Mr. Norton's signature on the statement is dated April 30, 2014.

58. In determining the value of the gross estate for purposes of computing his one-third fee, Mr. Beier included the estimated value of two pieces of real estate owned by Ms. Jenkins at the time of her death totaling \$136,500.

59. Title to Ms. Jenkins' real estate passed directly to her heirs upon her death by operation of law.

60. The only service performed by Mr. Beier in relation to the real estate was the preparation of one administrator's deed.

61. According to Mr. Beier, the amount of Ms. Jenkins' gross estate, including the real estate, was \$239,124.94.

62. Mr. Beier collected a fee of \$78,641.00.

63. Mr. Beier testified that he intended for Tab 22 of Exhibit 1, consisting of hand-written ledger sheets of receipts and payments of the estate, to be the written statement required by RPC 1.5(c) (Fees) in contingency fee cases. Several of the ledger sheets bear the handwritten notation

“I UNDERSTAND AND AGREE” followed by the date January 10, 2014 and Mr. Norton’s signature.

64. ~~Because Mr. Beier was not charging the estate an hourly fee, he did not keep a~~
contemporaneous record of his time.

65. At the request of the Board, Mr. Beier attempted to reconstruct a record of his activities in his representation of Mr. Norton.

66. According to that record, Mr. Beier worked 64.5 hours on behalf of Mr. Norton.

67. According to that record, Mr. Beier’s fee equates to an hourly fee of \$1,219.24.

68. There was nothing extraordinary regarding the administration of the Jenkins estate regarding the time and labor required; the novelty and difficulty of the questions involved; the skill requisite to perform the legal service properly; the amount involved or the results obtained; the time limitations imposed by the client or the circumstances; the nature and length of the professional relationship with the client; or the experience, reputation and ability of Mr. Beier. Acceptance of the representation of Mr. Norton did not preclude other employment. The fee charged by Mr. Beier was not in keeping with those customarily charged in Hamblen County for similar services.

69. After the estate was closed, Mr. Norton sought to sell a piece of real estate owned by Ms. Jenkins. A title search performed in connection with that transaction raised questions regarding the inheritance rights of Darrell, Kevin, Steven and Lavonda James.

70. Consequently, Attorney Clint Anderson petitioned on behalf of Mr. Norton to reopen the estate.

71. After the estate was reopened, Mr. Beier reimbursed the estate the entire amount of his fee with interest.⁸

~~72. The estate was subsequently re-administered including Darrell, Kevin, Steven and Lavonda James as heirs.~~

73. At the time of filing the petition, Mr. Beier was either aware that half-siblings had an equal right to inherit as full-siblings, or chose to remain ignorant of that fact by not researching the issue, in order that Mr. Norton would be the only beneficiary of the estate thus allowing Mr. Beier to charge a one-third fee instead of his usual hourly fee.

III. CONCLUSIONS OF LAW

1. Pursuant to Tennessee Supreme Court Rule 9, § 1, 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.

2. The preponderance of the evidence establishes that Mr. Beier has committed the following violations of the Rules of Professional Conduct.

a. By filing the Affidavit of Diane Weaver in the Juvenile and Chancery Courts when he signed her name, by notarizing her purported signature when she did not sign, and by failing to inform the courts that Ms. Weaver's signature was made by himself on her behalf, Mr. Beier knowingly

⁸ Mr. Beier paid back the fee with a check dated June 3, 2016 from the account "Douglas R. Beier IOLTA TN Bar Foundation." Respondent's Supplemental Answer, Exhibit J.

made false statements of fact to a tribunal in violation of RPC 3.3(a)(1) (Candor toward the Tribunal).

b. ~~Representing that the affidavit had been signed by Ms. Weaver was an act of deceit, dishonesty and misrepresentation in violation of RPC 8.4(c) (Misconduct).~~

c. By charging a one-third fee, and by including the value of the real estate for purposes of computing his fee, Mr. Beier charged Ray Norton, and collected, an unreasonable fee in violation of RPC 1.5(a) (Fees).

d. Tab 22 of Exhibit 1 is insufficiently clear to communicate to Mr. Norton the remittance to him and the method of its determination. Therefore, Mr. Beier violated RPC 1.5(c) (Fees).

e. By stating in the petition that Mr. Norton was Ms. Jenkins' sole heir, Mr. Beier knowingly made a false statement of fact and law to the tribunal, in violation of RPC 3.3(a)(1) (Candor toward the Tribunal).

f. By failing to inform the court of the existence of the James descendants, Mr. Beier knowingly failed to inform a tribunal in an *ex parte* proceeding of all material facts known to him that would have enabled the court to make an informed decision concerning the heirs of Ms. Jenkins in violation of RPC 3.3(a)(3) (Candor toward the Tribunal).

g. By taking advantage of Mr. Norton's disability to charge and collect from him an unreasonable fee, Mr. Beier engaged in conduct involving dishonesty in violation of RPC 8.4(c) (Misconduct).

h. By failing to include the James descendants in the administration of the estate in order to charge and collect from Mr. Norton an unreasonable fee, Mr. Beier engaged in conduct involving dishonesty, fraud, deceit and misrepresentation in violation of RPC 8.4(c) (Misconduct).

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

3. ~~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.

4. The allegations that Mr. Beier violated RPC 3.3(a)(1) (Candor toward the Tribunal) by his Response to Motion for Sanctions as set out in paragraphs 19 and 21 of the Petition for Discipline are voluntarily dismissed pursuant to Rule 41.01, Tennessee Rules of Civil Procedure.

5. Once disciplinary violations have been established, the Panel shall consider the applicable provisions of ABA Standards for Imposing Lawyer Sanctions. Section 15.4(a) of Rule 9 of the Supreme Court states, in part:

“In determining the appropriate type of discipline, the Hearing Panel shall consider the applicable provisions of the ABA standards for imposing lawyer sanctions.”

6. Section 1.1 of the ABA standards provides:

1.1 Purpose of lawyer discipline proceedings. The purpose of lawyer discipline proceedings is to protect the public and the administration of justice from lawyers who have not discharged, will not discharge, or are unlikely to properly discharge their professional duties to clients, the public, the legal system, and the legal profession.

7. The following sections of the ABA standards apply in this matter:

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

6.12 Suspension is generally appropriate when a lawyer knows that false statements or documents are being submitted to the court or that material information is improperly being withheld, and takes no remedial action, and causes injury or potential injury to a party to the legal proceedings, or causes an adverse or potentially adverse effect on the legal proceeding.

5.13 Reprimand is generally appropriate when a lawyer knowingly engages in any other conduct that involves dishonesty, fraud, deceit, or misrepresentation and that adversely reflects on the lawyer's fitness to practice law.

8. In considering aggravating factors pursuant to ABA Standard 9.22, the Hearing Panel finds:
 - a. Prior disciplinary offenses. Mr. Beier received a private informal admonition in 1987, a private reprimand in 2001, and a private informal admonition in 2010. The 1987 admonition related to a violation of then Disciplinary Rules 5-101(A) and 5-105(A), (B) and (D) relating to accepting or refusing employment where a lawyer's independent judgment may be impaired. The 2001 reprimand related to a technical mishandling of client funds. The 2010 admonition concerned contact with a represented person. Because of the nature of the prior conduct, the prior discipline is not found to be an aggravating factor.
 - b. Dishonest or selfish motive. Mr. Beier's conduct in submitting the affidavit of Diane Weaver with the false jurat and the filing of the petition for appointment of administrator with the false representation that there were no other heirs to be dishonest and the unreasonable fee was selfishly motivated. Accordingly, dishonest or selfish motive is found to be an aggravating factor.
 - c. A pattern of misconduct. The evidence is insufficient to find by a preponderance that the conduct at issue represents a pattern of misconduct.
 - d. Multiple offenses. To the extent that "multiple" is defined to mean "more than one," the misconduct involves multiple offenses.
 - e. Refusal to acknowledge wrongful nature of conduct. While Mr. Beier admitted to signing the Weaver affidavit, he has not admitted that such conduct constituted a false

representation to the tribunal. Similarly, Mr. Beier contends that the fee arrangement was not unreasonable and that he did not knowingly misrepresent to the tribunal that Mr. Norton was the sole heir. Accordingly, the evidence does establish by a preponderance that Mr. Beier has refused to acknowledge the wrongful nature of his conduct.

f. Vulnerability of victim. Mr. Norton, a man of limited education and suffering from a life-long mental disability, was a vulnerable victim. This aggravating factor has been proven.

g. Substantial experience in the practice of law. Mr. Beier has practiced law for over forty years, having served as both a juvenile judge and a municipal judge, and is experienced in the areas of family law and probate. This aggravating factor has been proven.

9. There are no mitigating factors as set forth in ABA standard 9.32. While Mr. Beier paid back the fee he received from the Jenkins estate, he did so only under threat of legal action. Similarly, while Mr. Beier reported the allegations of misconduct in both instances, he did so only after other attorneys advised that they intended to report the misconduct to the Board. Mr. Beier did not offer any testimony from other lawyers or judges as to his character or reputation, although he did offer the testimony of his long-time friend Diane Weaver that he was a good and respected member of the bar.

IV. JUDGMENT

Based upon the findings of fact and conclusions of law, to include the presence of aggravating factors as set forth above, it is the judgment of this Hearing Panel that Mr. Beier's license to practice law be suspended for a period of two (2) years pursuant to Tennessee Supreme Court Rule 9, § 12.2. Pursuant to Rule 9, §14.1, all but three (3) months of the suspension are deferred with Mr. Beier to be subject to probation for the remainder of his suspension. During the period of probation, Mr. Beier shall be subject to the following conditions:

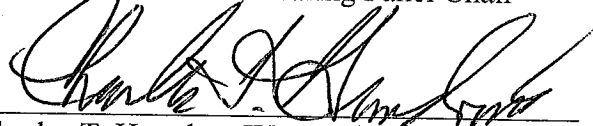
a. Mr. Beier shall complete a practice and professionalism enhancement program and shall bear the payment of costs thereof.

b. ~~During the period of suspension and probation, Mr. Beier shall incur no new complaints~~ of misconduct that relate to conduct occurring during the period of suspension and probation and which results in the recommendation by the Board that discipline be imposed. In the event that Mr. Beier violates or otherwise fails to meet any condition of probation, Disciplinary Counsel is authorized to file a petition to revoke probation. Upon a finding that any condition of probation was violated, Mr. Beier shall serve the entirety of the previously deferred period of suspension.

FOR THE PANEL:



M. Neil Smith, Hearing Panel Chair



Charles T. Herndon, IV, Hearing Panel Member



Julie R. Canter, Hearing Panel Member

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been sent to Respondent, Douglas Ralph Beier, 818 West First North Street, Morristown, TN 37814, and to his counsel, Lucian T. Pera, 6075 Poplar Avenue, Suite 700, Memphis, TN 38119-0100, via U.S. First Class Mail, and hand-delivered to Disciplinary Counsel, William C. Moody, this the 27th day of February, 2018.



Rita Webb
Executive Secretary

NOTICE

This judgment may be appealed by filing a Petition for Review in the appropriate Circuit or Chancery Court in accordance with Tenn. Sup. Ct. R. 9, § 33.