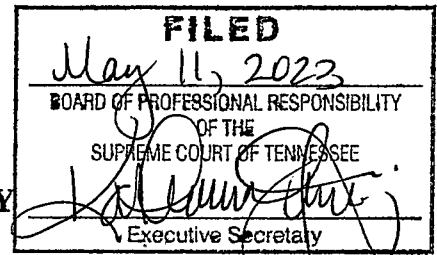


**IN DISCIPLINARY DISTRICT VI  
OF THE  
BOARD OF PROFESSIONAL RESPONSIBILITY  
OF THE  
SUPREME COURT OF TENNESSEE**



**IN RE: ROBERT LOUIS BOOKER,  
BPR No. 024887, Respondent,  
an Attorney Licensed to Practice  
Law in Tennessee  
(Montgomery County)**

**DOCKET NO. 2021-3169-6-AJ**

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**ORDER OF FINAL JUDGMENT**

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Pending before the Hearing Panel is the Board's Petition for Discipline (filed 5/22/21), which pertains to one complaint filed by Phillip Braden.

After several unsuccessful attempts to serve Respondent Booker at his personal residence at 1605 Deerfield Drive, in Clarksville, the Board engaged the services of private investigators who determined that Respondent was residing at 4887 Winterview Lane, Douglasville, Georgia, 30135. Thereafter, on December 1, 2022, Respondent Booker was personally served with the Petition for Discipline at the Douglasville, Georgia, address. *See* Affidavit of Service of Kristopher Barnes (executed 12/6/22), appended as Exhibit A to the Board's Motion for Default Judgment (filed 1/12/23).

Having failed to respond to the Petition, the Board—on January 12, 2023—filed a Motion for Default Judgment and served it upon Respondent Booker at the Douglasville, Georgia, address by U.S. Mail. Respondent Booker filed no response in opposition to the Motion. Accordingly, on February 1, 2023, the Hearing Panel entered an Order granting the Motion for Default Judgment and deeming all facts and charges set forth in the Petition for Discipline to be admitted.

On March 6, 2023, after a scheduling conference at which Respondent Booker did not participate, the Hearing Panel set this matter for a final hearing (by Zoom) on April 27, 2023, solely for a determination of appropriate discipline. See Order Setting Final Hearing (entered 3/6/23).

The final disciplinary hearing commenced by Zoom on April 27, 2023, at 9:05 AM, before Cameron Hoffmeyer (Chair), Beverly White (Member), and Jessica Borne (Member). Disciplinary Counsel Andrew Campbell appeared on behalf of the Board. Respondent Booker, notwithstanding notice to him by email and U.S. Mail from the Executive Secretary, did not appear.

Based on the admitted facts set forth in the Petition for Discipline, the Board called no witnesses, but submitted the Petition as Hearing Exhibit 1 as evidence of Respondent Booker's conduct. In addition, the Board submitted Hearing Exhibits 2 through 8 as evidence of Respondent's prior disciplinary history.

#### **I. Findings of Fact.**

Based upon the record before it, the Hearing Panel finds as follows.

On or about January 31, 2019, Respondent Booker agreed to represent Complainant Phillip Braden in a pending contested divorce action filed against him by Mr. Braden's spouse. Complainant Braden's relative, Valerie Lewis, paid Mr. Booker \$700.00 for the representation by wire transfer on January 31, 2019. There was no written fee agreement entered into between Respondent Booker, Complainant Braden, or Ms. Lewis.

Respondent Booker did not explain to Ms. Lewis or Complainant Braden the scope of his representation, whether the representation was limited, and the basis or rate of the fee and expenses

for which his client would be responsible. In addition, Respondent Booker never sent an invoice to Complainant Braden or Ms. Lewis.

The trial of the divorce case was set for December 23, 2019. At some point before the trial, Respondent Booker insisted on being paid an additional \$2,500.00 to continue representation. On December 12, 2019, Respondent Booker filed “Attorney’s Motion for Leave to Withdraw as Counsel; and That the Trial Date be Stricken” (hereafter “Motion to Withdraw”).<sup>1</sup> In the Motion to Withdraw, Respondent Booker intentionally disclosed to the trial court and opposing counsel confidential information related to the representation of Complainant Braden that was against Complainant’s interests. Specifically, Respondent Booker averred in the Motion to Withdraw that:

[Complainant Braden] has made repeatedly false statements regarding his actions, whereabouts, intentions and communications [and] has failed to make payment as agreed for the reasonable and necessary Attorney’s Fees and Court Costs in the instant matter.

It should be noted that [Respondent Booker] was originally engaged by [Complainant Braden] in connection with certain criminal cases, which have been filed against him. In fact, in total [Complainant] has had six different criminal cases filed against him; and these six (6) criminal cases total at least twelve (12) different misdemeanor and felony charges, ranging from *Driving Under the Influence* and *Felony Aggravated Assault* to *Simple Possession of Controlled Substance* and *Driving On Revoked License*. [Complainant] has also been faced with *Violations of Protective Order* and other similar *Civil Enforcement Actions*; and [Respondent Booker] has successfully completed all representation to resolve a total of seven (7) different Civil and Criminal Cases. Indeed, [Respondent’s] representation has resulted in the dismissal of at least eleven (11) different criminal charges; and [Complainant Braden] will be permitted to enter a **Misdemeanor Diversion Agreement** upon the single remaining criminal charge. . . .

[A]n irretrievable break-down has occurred between Attorney-Client; and [Complainant Braden] continues to be plagued by uncertainty and instability in his life; he apparently continues to experience financial, health and personal choices, which make any effective legal representation by [Respondent Booker] impossible.

Respondent’s Motion to Withdraw at 1-3 (emphasis in original).

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<sup>1</sup> A copy of the Motion to Withdraw is attached to the Petition for Discipline (Hearing Exhibit 1).

Respondent Booker did not have Complainant Braden's consent to reveal this information, nor was the disclosure of this information impliedly authorized in order to carry out the representation. Also, the disclosure was not ordered by the court, or otherwise required, and was detrimental to Complainant in his on-going divorce case. Respondent's disclosure of this information caused injury, or potentially caused injury, to Complainant in his divorce case.

Respondent Booker subsequently struck his Motion to Withdraw after Valerie Lewis—on December 17, 2019—paid Respondent another \$2,500.00.

During a break in the divorce trial on December 23, 2019, the parties reached an agreement that was announced to the court. A final divorce decree was entered on January 15, 2020, which reflected the parties' agreement.

After the final divorce decree was entered, issues developed about the transfer of personal property from Mr. Braden's spouse to him, and those issues were ultimately resolved in February 2020.

## **II. Ethical Violations.**

Respondent Booker violated Rule of Professional Conduct ("RPC") 1.5(f) by charging a non-refundable fee in the amount of \$700.00 at the beginning of the representation, and another \$2,500.00 to continue the representation, neither of which were agreed to in writing. *See* Petition for Discipline (Hearing Exhibit 1) at ¶ 29.

Alternatively, and assuming Respondent Booker intended to accept \$700.00 and \$2,500.00 as a retainer against which he would charge an hourly rate, Respondent violated RPC 1.15 by failing to deposit those funds into an IOLTA account. *Id.* at ¶ 31.

Respondent Booker violated RPC 1.5(b) by failing to explain to Complainant Braden and/or Valerie Lewis the scope of his representation, whether the representation was limited, and the basis or rate of the fee and expenses for which his client would be responsible. *Id.* at ¶ 30.

Because Respondent's fee arrangement with Complainant was not reduced to writing or otherwise clearly defined, Respondent did not have grounds to withdraw based upon the assertion that Complainant "has failed to make payment as agreed for the reasonable and necessary Attorney's Fees and Court Costs in the instant matter." *Id.* at ¶ 32. Accordingly, Respondent Booker violated RPC 1.16(b)(5).

Respondent Booker violated RPCs 1.6 and 8.4(d) by disclosing confidential information in his Motion to Withdraw. *Id.* at ¶ 33.

Respondent Booker violated RPC 8.1(b) by failing to respond to Disciplinary Counsel's letters of August 3 and August 18, 2019. *Id.* at ¶ 34. *See also id.*, Exhibits 1 and 2 thereto.

By committing the ethical violations identified above, Respondent Booker also violated RPC 8.4(a). *Id.* at ¶ 35.

### **III. Imposition of Sanction.**

The imposition of discipline is a "two-step process"—i.e., determination of the appropriate presumptive sanction under the American Bar Association's Standards for Imposing Lawyer Sanctions ("ABA Standards") followed by "consider[ation] [of] whether the presumptive sanction should be increased or decreased based upon aggravating or mitigating factors." *Meehan v. Board of Professional Responsibility*, 584 S.W.3d 403, 413 (Tenn. 2019).

The Board argues—and the Hearing Panel agrees—that Respondent Booker's conduct caused injury and/or potentially caused injury to Complainant Braden. *See* Petition for Discipline

at ¶ 24. Therefore, under the applicable ABA Standards above, the Hearing Panel concludes that the baseline or presumptive sanction for Respondent Booker is a suspension.

In addition, the Board presented evidence demonstrating the existence of the following aggravating factors as set forth in ABA Standard 9.22:

- prior disciplinary offenses;
- a pattern of misconduct;
- multiple offenses;
- bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary agency; and
- substantial experience in the practice of law

Specifically, Respondent Booker received a Public Censure from the Board on January 26, 2007. *See* Hearing Exhibit 2.<sup>2</sup> Thereafter, on November 20, 2015, Respondent received a three-year suspension from the U.S. District Court for the Eastern District of Texas in the matter *In the Matter of Robert L. Booker*, case no. 6:14-MC-8 (E.D. Tex. Nov. 20, 2015), *aff'd* No. 14-41194, 624 Fed. Appx. 319 (5th Cir. Dec. 18, 2015). *See* Hearing Exhibits 3 through 5. Finally, on March 11, 2020, the Tennessee Supreme Court imposed a three-year suspension upon Respondent (which remains in effect) for violation of RPCs 1.4, 1.7(a), 1.16, 8.1(a), 8.4(a), and 8.4(c). *See* Hearing Exhibits 6 through 8.

In addition, the Hearing Panel agrees that Respondent Booker's conduct—both with respect to his representation of Complainant Braden and with respect to his prior disciplinary matters—constitute a pattern of misconduct and multiple offenses under ABA Standard 9.22. Further, the Hearing Panel finds that Respondent has engaged in bad faith efforts to obstruct and/or

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<sup>2</sup> The Public Censure also references prior suspensions in the State of Utah and the Ninth Circuit Court of Appeals.

delay this disciplinary proceeding—not only by his refusal to respond to requests for information from Disciplinary Counsel (*see* Petition for Discipline at ¶ 41)—but also by his efforts to avoid formal service of the Petition.

Finally, the evidence demonstrates that Respondent Booker was licensed in Tennessee in 2006, *see* Petition for Discipline at ¶ 1, and in at least one other jurisdiction in 1995. *See* Hearing Exhibit 6 at 19. This constitutes substantial experience in the practice of law.

Accordingly, taking these aggravating factors into consideration and finding no mitigating factors, the Hearing Panel finds that the presumptive sanction should be elevated to disbarment.

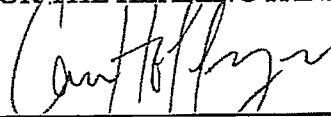
#### IV. Judgment.

Based upon the admitted allegations set forth in the Petition for Discipline, the applicable aggravating circumstances, the lack of any mitigating circumstances, and the record as a whole, the Hearing Panel finds that Respondent Booker should be disbarred.

The Board may submit an appropriate Application for Assessment of Costs pursuant to Tenn. Sup. Ct. R. 9, § 31.3(a).

It is SO ORDERED.

FOR THE HEARING PANEL



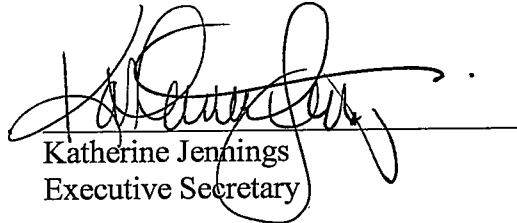
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Cameron Hoffmeyer, Chair

**THIS JUDGMENT MAY BE APPEALED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY PURSUANT TO, AND IN ACCORDANCE WITH, TENNESSEE SUPREME COURT RULE 9, SECTION 33.**

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing has been sent to Robert L. Booker, 4887 Winterview Lane, Douglasville, GA 30135, and Downtown Station, P.O. Box 255, Clarksville, TN 37041, by U.S. First Class Mail, and hand-delivered to Andrew B. Campbell, Disciplinary Counsel, on this the 11th day of May 2023.

  
Katherine Jennings  
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.**