

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

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BOARD OF PROFESSIONAL
RESPONSIBILITY

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EXHIBIT

IN RE: SPENCE ROBERTS BRUNER,
BPR No. 19056, Respondent,
an Attorney Licensed to Practice
Law in Tennessee
(Roane County)

DOCKET NO. 2014-2307-2-AJ

JUDGMENT OF THE HEARING PANEL

This matter came to be heard on June 18, 2015, before a Hearing Panel of the Board of Responsibility of the Supreme Court of Tennessee ("Board") consisting of Ruth Thompson Ellis, Joseph Ray Ford and Michael J. King. In attendance at the hearing was Alan D. Johnson, Disciplinary Counsel for the Board. Mr. Bruner did not appear.

STATEMENT OF THE CASE

On March 28, 2014, the Board filed a Petition for Discipline against Mr. Bruner. An Order of Default was entered on September 11, 2014. On October 6, 2014, a Supplemental Petition for Discipline was filed against Respondent. An order of Default was entered on December 29, 2014. On January 30, 2015, a Second Supplemental Petition for Discipline was filed against Respondent. An Order of Default was entered on April 22, 2015. The allegations in the three Petitions for Discipline are deemed admitted pursuant to the orders of Default.

On February 19, 2014, the Tennessee Supreme Court temporarily suspended the Respondent from the practice of law pursuant to Tenn. Sup. Ct. R. 9, § 4.3 (2006) for failing to respond to the Board. He has taken no action to dissolve the Temporary Suspension.

FINDINGS OF FACT

At the hearing disciplinary counsel submitted Mr. Bruner's disciplinary history for use in determining the appropriate sanctions and made argument. The arguments and evidence are contained on the record.

The panel finds the following facts to have been deemed admitted pursuant to the orders of default.

Mr. Bruner was admitted to practice law in the State of Tennessee in 1998.

With respect to the complaint filed by Kimberly West, File Number 36003c-2-ES, the panel finds that on or about January 2, 2013, Kimberly West filed a request for assistance with the Consumer Assistance Program of the Board of Professional Responsibility. Ms. West had paid Mr. Bruner \$2,000 for work that was never performed. Mr. Bruner did not respond to the request for assistance.

The matter was referred to disciplinary counsel, who attempted to contact Mr. Bruner regarding the complaint. After initially responding to requests for information from the Board, Mr. Bruner failed to respond to any of the additional requests for information that were made to him by the Board.

The second complaint was filed by Trampas William Heaton, File Number 36134-2-ES. In 2012 Mr. Heaton paid Mr. Bruner \$750 to secure name changes for his two daughters. Mr. Heaton subsequently learned that the name changes had not been accomplished. In August 2012 Mr. Heaton began trying to reach Mr. Bruner regarding the name changes; however, Mr. Bruner never returned the telephone calls.

In addition, after a complaint was filed and the Board of Professional Responsibility sought to communicate with Bruner, Mr. Bruner never responded to any of the inquiries made

with respect to this complaint.

The third complaint is that of Sonya York, File Number 36981-2-ES. In January 2012, Sonya York retained Mr. Bruner to represent her in four cases. Mr. Bruner ceased communicating with Ms. York after November 20, 2013, and subsequently abandoned her cases. The Board of Professional Responsibility attempted to communicate with Mr. Bruner regarding Ms. York's complaint, and Mr. Bruner failed to respond.

The fourth complaint is that of Tammy Respass, File Number 37241c-2-ES. On May 9, 2014, the Consumer Assistance Program of the Board of Professional Responsibility received a request for assistance from Ms. Respass. On May 14, 2014, the Consumer Assistance Program sent a request to Mr. Bruner himself seeking a response. Mr. Bruner never responded, nor did he respond when the complaint was sent by the Board of Professional Responsibility.

The complaint of Ms. Respass was based upon respondent's handling of an uncontested divorce. In August 2013, Ms. Respass retained respondent to represent her in an uncontested divorce, and paid him a retainer in the amount of \$300.

In October or November of 2013, Mr. Bruner met with Ms. Respass at her place of employment, and Ms. Respass signed a complaint for divorce. However, Mr. Bruner never filed the divorce, nor was the complaint ever served. Ms. Respass has had no communication with Mr. Bruner since she met with him and signed the complaint, despite her efforts to learn about the case.

The fifth complaint is that of Regions Trust Financial, guardian of James Lombardo, File Number 37444-2-ES. Regions Trust serves as the financial guardian for James Lombardo. In October 2013, Mr. Lombardo contacted Mr. Bruner seeking his representation in a divorce proceeding. Mr. Lombardo requested that Regions Trust pay Mr. Bruner a retainer and a filing

fee for the representation. Regions Trust obtained a court order approving the expenditures for the legal fees on behalf of Mr. Lombardo and issued a check to Mr. Bruner in the amount of \$1,200.

In February 2014, Mr. Lombardo learned that Mr. Bruner had been suspended from the practice of law. Mr. Bruner did not perform the work that he was requested to do on behalf of Mr. Lombardo. Subsequently Mr. Lombardo informed Regions Trust of the suspension. Regions Trust lawyers made several unsuccessful attempts to contact Mr. Bruner, but he did not respond.

CONCLUSIONS OF LAW

Pursuant to Tennessee Supreme Court Rule 9, Section 3 (2006) and Tennessee Supreme Court Rule 9, Section 1 (2014), 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 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 in the state of Tennessee shall constitute misconduct and be grounds for discipline.

In this case the respondent failed to answer the petitions for discipline. This hearing panel previously entered orders of default, and therefore, pursuant to Tennessee Supreme Court Rule 9, Section 8.2 (2006) and Tennessee Supreme Court Rule 9, Section 15.2 (2014), the charges are deemed admitted.

The Board has alleged that respondent's actions with respect to all of these matters, all the different factual allegations previously set forth, violated the following Tennessee Rules of Professional Conduct: 1.3, Diligence; 1.4, Communication; 8.1(b), Bar and Disciplinary Matters; and 8.4(a), Misconduct. The Board has established all of these violations of the

Tennessee Rules of Professional Conduct by a preponderance of the evidence.

Once disciplinary violations are established by a preponderance of the evidence, the appropriate discipline is to be determined upon application of the ABA Standards for Imposing Lawyer Sanctions pursuant to Tennessee Supreme Court Rule 9, Section 8.4 (2006) and Tennessee Supreme Court Rule 9, Section 15.4 (2014). The panel finds the following ABA standards apply in this matter: 4.4, Lack of Diligence; 7.0, Violations of Duties Owed to the Profession.

With respect to Lack of Diligence, 4.41 provides: "Disbarment is generally appropriate when: a lawyer abandons the practice and causes serious or potentially serious injury to a client; or, a lawyer knowingly fails to perform services for a client and causes serious or potentially serious injury to a client; or, a lawyer engages in a pattern of neglect with respect to client matters and causes serious or potentially serious injury to a client."

With respect to Violations of Duties Owed to the Profession, 7.1 provides: "Disbarment is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional with the intent to obtain a benefit for the lawyer or another, and causes serious or potentially serious injury to a client, the public, or the legal system."

The panel has also considered the aggravating and mitigating factors in determining the discipline to be imposed. Pursuant to ABA Standard 9.22, the following aggravating factors are present in this case.

(1) Prior disciplinary offenses.

On September 9, 2005, he received a public censure for failing to pursue appeals on behalf of his client, failing to respond to his client's requests for information, and failing to appear at a hearing. In addition, at that time he was found to have failed to respond to

disciplinary counsel, similar to his actions in this matter.

On September 11, 2008, Mr. Bruner was suspended from the practice of law for 90 days and placed on three years of probation for neglecting his clients' cases and failing to communicate with them.

On January 29, 2008, he was temporarily suspended from the practice of law for failure to comply with his Tennessee Lawyer Assistance Program monitoring agreement.

On March 25, 2011, he was again suspended from the practice of law for failure to comply with his Tennessee Lawyers Assistance Program monitoring agreement.

On January 31, 2014, he was suspended from the practice of law for ninety (90) days for failing to timely file an appellate brief and ignoring four (4) orders from the Court of Criminal Appeals directing him to file the brief.

On February 19, 2014, he was temporarily suspended again for failing to respond to disciplinary counsel.

The panel also notes that there is a history of private discipline with Mr. Bruner. Those were admitted as Exhibit 1 and are not being reviewed in detail as part of this findings of fact and conclusions of law, but the panel has reviewed those as well.

(2) Dishonest or selfish motive.

The panel finds that Mr. Bruner benefited by accepting money from several of his clients who filed complaints in this case, and in each of those cases there is no evidence that Mr. Bruner performed the work he was hired to do.

(3) Pattern of misconduct.

In this case, Mr. Bruner has established the same pattern of misconduct with respect to all of these complaints. This pattern of misconduct also precedes the current disciplinary

proceedings, as described under his prior disciplinary offenses. Mr. Bruner has an extensive history of failing to respond to petitions for discipline and neglecting his clients' cases and files.

(4) Multiple offenses.

The Board has found Mr. Bruner committed multiple offenses based upon the three petitions that were filed by the Board in this case.

(5) Mr. Bruner's bad faith obstruction of disciplinary proceedings by intentionally failing to comply with the rules or orders of the disciplinary agency.

The facts before the panel demonstrate that Mr. Bruner understands the disciplinary process, and understands his obligations to respond to requests by the investigatory arms of the Board of Professional Responsibility. Yet on numerous occasions Mr. Bruner has failed to respond or comply with the rules or orders of the Board of Professional Responsibility.

(6) Mr. Bruner's substantial experience in the practice of law.

Mr. Bruner has been licensed to practice for almost 17 years.

The panel does find one mitigating factor. Mr. Bruner has been enrolled in the Tennessee Lawyer Assistance Program, and based upon the representations of counsel for the Board, it's the panel's understanding that it is related to either substance or alcohol abuse. That underlying substance abuse or alcohol abuse is considered a mitigating factor and is considered circumstances of mitigation by the panel.

JUDGMENT

Based on the foregoing findings of fact and conclusions of law, including the aggravating and mitigating factors described above, the Rules of Professional Conduct justify the following discipline.

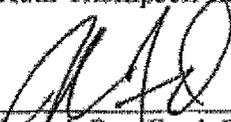
1. Spence Roberts Bruner is to be disbarred.

2. Mr. Bruner shall be required to pay restitution in the amount of \$4,250 as follows. He shall pay restitution to Trampas William Heaton in the amount of \$750. He shall pay restitution to Tammy Respass in the amount of \$300. He shall pay restitution to Regions Trust on behalf of James Lombardi in the amount of \$1,200. He shall pay restitution to Kimberly West in the amount of \$2,000. In the event restitution to these individuals is paid by the Tennessee Lawyers Fund for Client Protection (TLFCP), Mr. Bruner shall reimburse TLFCP the amount so paid.
3. If Mr. Bruner applies for reinstatement after the appropriate time, this panel places the following conditions upon his reinstatement:
 - A. Mr. Bruner must present proof that he has made restitution as set forth in the Order.
 - B. Mr. Bruner shall provide proof that he has undergone treatment for those issues that placed him in the Tennessee Lawyer Assistance Program.
 - C. Mr. Bruner shall be supervised by a practice monitor for a period of at least 12 months upon his reinstatement, at the expense of Mr. Bruner.
4. The costs of these proceedings shall be taxed to Mr. Bruner.

ENTERED ON THIS THE 17 DAY OF AUGUST, 2015.


Michael J. King, Panel Chair


Ruth Thompson Ellis, Panel Member


Joseph Ray Ford, Panel Member