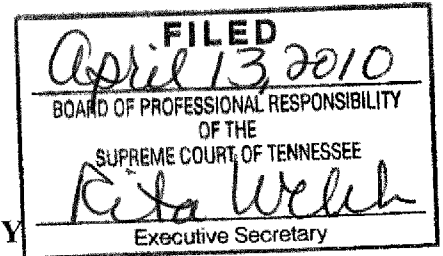


**IN THE DISCIPLINARY DISTRICT VIII  
OF THE  
BOARD OF PROFESSIONAL RESPONSIBILITY  
OF THE  
SUPREME COURT OF TENNESSEE**



**In Re: RICHARD D. CARTWRIGHT  
BPR #11242, Respondent  
An Attorney Licensed to  
Practice Law in Tennessee  
(Tipton County)**

**Docket No. 2009-1823-8-KH**

---

**FINDINGS OF FACT AND CONCLUSIONS OF LAW OF THE HEARING PANEL**

---

This matter came to be heard on January 11, 2010 before this hearing panel of the Board of Professional Responsibility of the Supreme Court of Tennessee on a Petition for Discipline and Supplemental Petition for Discipline filed by the Board, by and through Disciplinary Counsel. Orders of Default were entered in this cause on December 16, 2009. Since the allegations have been deemed admitted pursuant to the Orders of Default, the hearing panel heard argument from Disciplinary Counsel regarding the appropriate sanction. Respondent did not appear for the hearing.

**STATEMENT OF THE FACTS**

**Complaint of Nathaniel Joe Tidwell: File No. 30953c-8-TH**

Mr. Tidwell hired Respondent in October 2006 to represent him in a dependency and neglect case. Mr. Tidwell sought custody of his child. Although Respondent filed a petition, a disposition on this petition was never obtained. Respondent admits in his letter of April 28, 2008 that as of that date, he was still attempting to enter a consent Order on the matter. As of September 2008, Respondent still had not entered an Order regarding the disposition of his client's petition. Respondent failed to adequately communicate with Mr. Tidwell. Further, he

failed to pursue resolution of Mr. Tidwell's case in a timely manner.

Further, Respondent failed to timely respond to Board regarding the disciplinary complaint.

The acts and omissions by the Respondent as set forth in paragraphs above related to the complaint filed by Mr. Tidwell constitute ethical misconduct in violation of the following Rules of Professional Conduct: 1.3, Diligence; 1.4, Communication; 1.5(a), Fees; 3.2, Expediting Litigation; 8.1(b), Bar Admission and Disciplinary Matters; and 8.4(a)(d), Misconduct.

**Complaint of Kimberly S. White: File No. 31003-8-TH**

Ms. White hired Respondent in late December, 2006 or early January, 2007 to represent her in a child support action in Juvenile Court. Ms. White paid Respondent \$1,100.00 to represent her. In June of 2007, Respondent told Ms. White to come to court, but when she got there, she found out her case was not on the docket. Respondent told Ms. White that her child's father had filed bankruptcy and that she needed to proceed in federal court. It was Ms. White's understanding that Respondent was going to continue to handle her child support matter through the bankruptcy court. In his letter of April 28, 2008, Respondent admits that following the meeting with his client in June 2007, he "resolved to file a motion to lift the automatic stay" but that he failed to do so. Respondent failed to respond to Ms. White's phone calls and reasonable requests for information.

Respondent offered to make a partial refund to Ms. White and admits that part of the delay in Ms. White's matter was due to his wife's illness. He has not refunded any of Ms. White's fee despite his failure to take any legal action on the case. Respondent promised to send Disciplinary Counsel an accounting of his time. He never provided such an accounting.

The acts and omissions by the Respondent as set forth in paragraphs above related to the

complaint filed by Ms. White constitute ethical misconduct in violation of the following Rules of Professional Conduct: 1.3, Diligence; 1.4, Communication; 1.5(a), Fees; 3.2, Expediting Litigation; 8.1(b), Bar Admission and Disciplinary Matters; and 8.4(a)(d), Misconduct.

**Complaint of Loretta K. Richmond: File No. 31065c-9-TH**

Ms. Richmond hired Respondent to represent her in a conservatorship proceeding regarding her father, Allen E. Sonderman, in October 2005. Ms. Richmond attended court with the Respondent in April, 2006 at which time the Respondent told Ms. Richmond she would shortly be receiving conservatorship papers. She never received any papers from Respondent. In his letter of May 31, 2008, Respondent states that the conservatorship Order was never submitted. Further, in his letter of May 31, 2008, Respondent states that he will “walk the order through the system this week and will forward an entered copy to you along with one to Ms. Richmond.” However, on September 29, 2008, the Chancery Court sent a letter to Respondent’s office informing him that the case had been filed for more than twelve months without action and would be dismissed within ten (10) days unless he could demonstrate good cause, in writing, for leaving the case open. Ms. Richmond made attempts to contact Respondent by telephone, but Respondent failed to return her calls.

Further, Respondent failed to timely respond to Board regarding the disciplinary complaint.

The acts and omissions by the Respondent as set forth in paragraphs above related to the complaint filed by Ms. Richmond constitute ethical misconduct in violation of the following Rules of Professional Conduct: 1.3, Diligence; 1.4, Communication; 1.5(a), Fees; 3.2, Expediting Litigation; 8.1(b), Bar Admission and Disciplinary Matters; and 8.4(a)(c)(d), Misconduct.

**Complaint of Bobby Elkins: File No. 31620c-8-KS**

Mr. Elkins hired Respondent to handle a child support and parentage matter that began in 1999. Respondent told Mr. Elkins he would work on the case and he would take care of the problem. Respondent never filed any pleadings or sought relief on behalf of his client in the child support matter other than attending the initial hearing where child support was assessed against his client. When questioned about the status of the case, Respondent told Mr. Elkins that he forgot about his case because his wife almost died, and that he would call Mr. Elkins, but he never did so. Mr. Elkins called several times to Respondent's office with no response.

Mr. Elkins sought another court date so that he could explain his position to the Court. Because he was receiving no assistance from Respondent, Mr. Elkins arranged a court date by personally contacting the judge. Mr. Elkins alleges he has paid over \$70,000.00 over the last nine (9) years because he has been held responsible for child support even though the children were not his children. The Court permitted genetic testing and, as a result, the Court entered an Order on August 28, 2008 finding that he was not the father of the children.

Further, Respondent failed to timely respond to Board regarding the disciplinary complaint.

The acts and omissions by the Respondent as set forth in paragraphs above related to the complaint filed by Mr. Elkins constitute ethical misconduct in violation of the following Rules of Professional Conduct: 1.3, Diligence; 1.4, Communication; 1.5(a), Fees; 3.2, Expediting Litigation; 8.1(b), Bar Admission and Disciplinary Matters; and 8.4(a)(d), Misconduct.

**Complaint of Sonya Coleman: File No. 31692-8-KS**

Ms. Coleman hired Respondent to represent her in an accident case in May, 2008, and paid him a total of \$1,290.00 over several months. Respondent continued to take payments from

Ms. Coleman in October and December of 2008. By November 25, 2008, Respondent was on notice that he would be suspended from the practice of law effective ten (10) days following the entry of the Supreme Court Order. Ms. Coleman's case was set for a hearing on December 5, 2008. She called Respondent's office on December 2, 2008 to request a continuance until February 2009. She was informed by Respondent's secretary that Respondent would return her call. Having received no response by December 4, 2008, she again called Respondent's office. Left with no alternative, Ms. Coleman appeared in court on December 5, 2008, and Respondent did not appear. Ms. Coleman learned from the clerk that Respondent's license to practice had been suspended.

Respondent never informed Ms. Coleman that he would be unable to practice law. He never made a refund of the unearned fees she paid in this matter.

Further, Respondent failed to timely respond to Board regarding the disciplinary complaint.

The acts and omissions by the Respondent as set forth in paragraphs above related to the complaint filed by Ms. Coleman constitute ethical misconduct in violation of the following Rules of Professional Conduct: 1.3, Diligence; 1.4, Communication; 1.5(a), Fees; 1.16, Declining and Terminating Representation; 3.2, Expediting Litigation; 8.1(b), Bar Admission and Disciplinary Matters; and 8.4(a)(d), Misconduct.

**Complaint of Danny Taylor: File No. 31724c-8-KS**

Mr. Taylor hired Respondent to represent him in an abatement case, paying Respondent \$1,000.00 in attorney fees on March 6, 2006 and \$279.00 on May 21, 2008. On April 5, 2006, Respondent filed a Complaint to Abate Nuisance and for Damages on behalf of his client. After service of the summons, Respondent took no further action on the case to conclude the matter.

Mr. Taylor made numerous attempts to ascertain the status of the case and to seek an explanation for the lack of progress. Mr. Taylor made an appointment with Respondent on November 14, 2008, only to find that Respondent's office was closed. Mr. Taylor's efforts to obtain information about the status of his case went unanswered by Respondent.

Further, Respondent failed to timely respond to Board regarding the disciplinary complaint.

The acts and omissions by the Respondent as set forth in paragraphs above related to the complaint filed by Mr. Taylor constitute ethical misconduct in violation of the following Rules of Professional Conduct: 1.3, Diligence; 1.4, Communication; 1.5(a), Fees; 1.16, Declining and Terminating Representation; 3.2, Expediting Litigation; 8.1(b), Bar Admission and Disciplinary Matters; and 8.4(a)(d), Misconduct.

**Complaint of Rhonda Leopard: File No. 31725c-9-KS**

Ms. Leopard hired Respondent in October, 2007 to represent her in filing for bankruptcy. Respondent filed the bankruptcy on or around October 29, 2007. Despite repeated attempts by Ms. Leopard to communicate with Respondent, he failed to communicate with her about the status of her case or respond to her reasonable demands for information. Shortly after filing the bankruptcy, Ms. Leopard tried to reach Respondent so that he could amend the bankruptcy to reflect a change of a specific creditor. Due to his failure to take action on behalf of his client, Ms. Leopard's driver's license was suspended. Further, she was required to pay approximately \$1000 to recover her license.

Further, Respondent failed to timely respond to Board regarding the disciplinary complaint.

The acts and omissions by the Respondent as set forth in paragraphs above related to the

complaint filed by Ms. Leopard constitute ethical misconduct in violation of the following Rules of Professional Conduct: 1.3, Diligence; 1.4, Communication; 1.5(a), Fees; 1.16, Declining and Terminating Representation; 3.2, Expediting Litigation; 8.1(b), Bar Admission and Disciplinary Matters; and 8.4(a)(d), Misconduct.

**Complaint of Daryl Kidd: File No. 31740-8-KS**

Mr. Kidd paid Respondent \$500.00 on October 9, 2008 to file a personal bankruptcy. The case has never been filed. Further, Respondent failed to adequately communicate with his client after being hired to represent him.

On October 15, 2008, Respondent entered into a Conditional Guilty Plea with the Board of Professional Responsibility agreeing to a suspension from the practice of law. Respondent was suspended from the practice of law by Order of the Supreme Court entered on November 25, 2008. Respondent did not send notice to his client that he was disqualified from the practice of law.

Further, Respondent failed to timely respond to Board regarding the disciplinary complaint.

The acts and omissions by the Respondent as set forth in paragraphs above related to the complaint filed by Mr. Kidd constitute ethical misconduct in violation of the following Rules of Professional Conduct: 1.3, Diligence; 1.4, Communication; 1.5(a), Fees; 1.16, Declining and Terminating Representation; 3.2, Expediting Litigation; 8.1(b), Bar Admission and Disciplinary Matters; and 8.4(a)(d), Misconduct.

**Complaint of Vicky Stephenson: File No. 31744-8-KS**

Ms. Stephenson hired Respondent to represent her in obtaining custody of her grandchildren. Respondent owed Ms. Stephenson \$500.00 from another case in which he

provided legal representation, so he agreed to take her custody case in exchange for cancelling this debt. Respondent told Ms. Stephenson that the hearing had been continued from November 17, 2008, but failed to tell her the rescheduled date. She did not attend the hearing on the originally scheduled date of November 17, and later was informed by her son, who was present that day, that her case was dismissed because she was not present.

Ms. Stephenson went to the courthouse and was informed that Respondent had been suspended from the practice of law. Respondent did not send notice to his client that he was disqualified from the practice of law.

Further, Respondent failed to timely respond to Board regarding the disciplinary complaint.

The acts and omissions by the Respondent as set forth in paragraphs above related to the complaint filed by Ms. Stephenson constitute ethical misconduct in violation of the following Rules of Professional Conduct: 1.3, Diligence; 1.4, Communication; 1.5(a), Fees; 1.16, Declining and Terminating Representation; 3.2, Expediting Litigation; 8.1(b), Bar Admission and Disciplinary Matters; and 8.4(a)(d), Misconduct.

#### **Complaint of Stephanie Hawes: File No. 31746-8-KS**

Ms. Hawes hired Respondent in March of 2007 to retain custody of her granddaughter and to file for back child support. She paid Respondent \$2500.00 for legal fees during her second appointment with Respondent. Respondent never returned phone calls and was never in his office. Respondent told Ms. Hawes that she should not fight for her granddaughter. He did not represent her in any court proceeding.

Further, Respondent failed to timely respond to Board regarding the disciplinary complaint.

The acts and omissions by the Respondent as set forth in paragraphs above related to the complaint filed by Ms. Hawes constitute ethical misconduct in violation of the following Rules of Professional Conduct: 1.3, Diligence; 1.4, Communication; 1.5(a), Fees; 3.2, Expediting Litigation; 8.1(b), Bar Admission and Disciplinary Matters; and 8.4(a)(d), Misconduct.

**Complaint of Lesley Akins: File No. 31750-8-KS**

Ms. Akins hired Respondent to represent her in a Chapter 7 bankruptcy case for a fee of \$700.00. Respondent filed a Chapter 7 Voluntary Petition for Ms. Akins on July 26, 2008. On or around December 1, 2008, Ms. Akins received notice from the Bankruptcy Court advising her that filing fees had not been paid and that she needed to provide a copy of certificates demonstrating completion of credit counseling courses. In fact, the Bankruptcy Court entered a sua sponte Order on November 25, 2008 considering dismissal of her case due to failure to pay these fees. A hearing was scheduled for December 18, 2008. After speaking with Respondent about this issue, Respondent advised Ms. Akins to bring payment for the outstanding filing fees to his office as soon as possible. Ms. Akins paid \$229.00 for filing fees to Respondent on December 2, 2008. Several weeks later, Ms. Akins learned that Respondent never paid this money to the clerk or filed the certificate concerning the credit counseling courses. Ms. Akins paid an additional \$229.00 directly to the Court in an effort to avoid dismissal of her case.

Further, Respondent failed to timely respond to Board regarding the disciplinary complaint.

The acts and omissions by the Respondent as set forth in paragraphs above related to the complaint filed by Ms. Akins constitute ethical misconduct in violation of the following Rules of Professional Conduct: 1.1, Competence; 1.3, Diligence; 1.4, Communication; 1.5(a), Fees; 1.16, Declining and Terminating Representation; 3.2, Expediting Litigation; 8.1(b), Bar Admission

and Disciplinary Matters; and 8.4(a)(b)(c) and (d), Misconduct.

**Complaint of Jackie Starnes: File No. 31751-8-KS**

Ms. Starnes hired Respondent on June 3, 2004, paying Respondent \$500.00 to help her resolve a boundary line dispute between herself and a neighboring landowner. Ms. Starnes expected Respondent to investigate the validity of her claims in the matter. Respondent never provided a response to Ms. Starnes regarding the validity of her claim. Respondent did not return Ms. Starnes' calls when she called to inquire as to the status of the matter.

Further, Respondent failed to timely respond to Board regarding the disciplinary complaint.

The acts and omissions by the Respondent as set forth in paragraphs above related to the complaint filed by Ms. Starnes constitute ethical misconduct in violation of the following Rules of Professional Conduct: 1.3, Diligence; 1.4, Communication; 1.5(a), Fees; 8.1(b), Bar Admission and Disciplinary Matters; and 8.4(a)(d), Misconduct.

**Complaint of Joseph And Teresa Mincks: File No. 31753-8-KS**

Mr. and Mrs. Mincks hired Respondent in October, 2006 to represent them in a Chapter 13 bankruptcy case, paying Respondent \$2,400.00. Mr. and Mrs. Mincks paid Respondent \$450.00 on May 30, 2008 to convert to a Chapter 7 bankruptcy. Respondent assured them that this payment would cover his fees and the filing fee due to the Court. Mr. and Mrs. Mincks received a notice from the court that their case was subject to being dismissed for failure to provide the proper paperwork. When they called Respondent, Mr. and Mrs. Mincks were assured that Respondent would check into the problem, but he never contacted them. Mr. and Mrs. Mincks received notice that their case had been closed in July, 2008.

Their checking account was debited for a loan payment to one of their creditors. When

they contacted Respondent, he said he would contact the creditor for the return of their money, but they heard nothing from Respondent. Mr. and Mrs. Mincks contacted Respondent to reschedule a creditors meeting set for September 17, 2008, and Respondent agreed to request a continuance. On September 17, 2008, Respondent called Mr. and Mrs. Mincks asking why they were not present for the creditors' meeting. Respondent had the meeting reset for October 1, 2008, but he failed to advise them of the necessary documents they would need to bring. As a result, the meeting was rescheduled for October 15, 2008. Respondent failed to show up for the meeting of creditors on October 15, 2008. There were other people at the court at the same time who were also Respondent's clients.

Mr. and Mrs. Mincks decided to represent themselves at the meeting of creditors so that the hearing would not have to be rescheduled. Mr. and Mrs. Mincks met with Respondent on October 31, 2008 to discuss reaffirming certain loans and moving the bankruptcy along. Respondent called both the companies from whom the loans originated while Mr. and Mrs. Mincks were in his office, telling them everything was completed except for reaffirming the loans, and that they should know something by the next week. Respondent also told Mr. and Mrs. Mincks he would get the post-bankruptcy education certificate. Respondent did not follow up.

Respondent failed to move their bankruptcy case along in a timely manner. Further, he failed to follow through on essential tasks related to the bankruptcy which had a detrimental effect on his clients' case and interests.

Respondent did not respond to the Board's inquiry regarding this case.

The acts and omissions by the Respondent as set forth in paragraphs above related to the complaint filed by Mr. and Mrs. Mincks constitute ethical misconduct in violation of the

following Rules of Professional Conduct: 1.3, Diligence; 1.4, Communication; 1.5(a), Fees; 8.1(b), Bar Admission and Disciplinary Matters; and 8.4(a)(c) and (d), Misconduct.

**Complaint of Edward Johnson: File No. 31756-8-KS**

Mr. Johnson hired Respondent on August 27, 2007 to represent him in a divorce. The court date was to be set in January, 2009. Beginning in October 2008, Mr. Johnson attempted to communicate with Respondent about his case and the upcoming trial date. Mr. Johnson was always advised that Respondent was sick or out of the office. Respondent never responded to the messages. Mr. Johnson was never informed by Respondent that he had been suspended.

Respondent did not respond to the Board's inquiry regarding this case. The acts and omissions by the Respondent as set forth in paragraphs above related to the complaint filed by Mr. Johnson constitute ethical misconduct in violation of the following Rules of Professional Conduct: 1.4, Communication; 1.16, Declining and Terminating Representation; 3.2, Expediting Litigation; 8.1(b), Bar Admission and Disciplinary Matters; and 8.4(a)(d), Misconduct.

**Complaint of Laura Moon: File No. 31757-8-KS**

Ms. Moon hired Respondent on December 27, 2004 to settle her mother's estate, paying him \$500.00. There was an issue in the case as to whether TennCare was owed money out of the estate. During 2005, several hearings were scheduled to probate the estate, but they were cancelled, within hours of the appointed time. In October of 2006, Ms. Moon finally spoke with Respondent who informed her that he lost her file. Ms. Moon heard nothing from Respondent until December 12, 2007, when Respondent filed an exception to the claim of the State of Tennessee. Ms. Moon received notice on February 7, 2008 that TennCare had filed a claim on the last possible date. Ms. Moon asserts that title to her mother's home has still not been transferred to her after four years of trying to probate her mother's estate. The estate is still open

in Tipton County Chancery Court.

Respondent did not respond to the Board's inquiry regarding this case.

The acts and omissions by the Respondent as set forth in paragraphs above related to the complaint filed by Ms. Moon constitute ethical misconduct in violation of the following Rules of Professional Conduct: 1.1, Competence; 1.3, Diligence; 1.4, Communication; 1.5, Fees; 1.15, Safekeeping Property; 1.16, Declining and Terminating Representation; 3.2, Expediting Litigation; 8.1(b), Bar Admission and Disciplinary Matters; and 8.4(a)(d), Misconduct.

**Complaint of Anthony Wilson: File No. 31770-8-KS**

Mr. Wilson hired Respondent to file bankruptcy on his behalf, and paid him \$300.00 on November 20, 2008. By November 20, 2008, Respondent had already signed a Conditional Guilty Plea in the prior disciplinary matter; and, further, he was aware that the Order had been submitted to the Supreme Court and was awaiting approval. Mr. Wilson was advised to come back the following Thursday, but when he returned on that day, he was told by the secretary that the computer was down. Mr. Wilson had been given this excuse during the prior week. The next time he went to the Respondent's office, the office was locked. Mr. Wilson has never heard from the Respondent.

Another attorney, Julie Byrd, attempted to obtain the return of Mr. Wilson's money and file, but was unsuccessful. The only petition filed was completed by his subsequent attorney, Robert Vandiver, in December, 2008.

Respondent did not respond to the Board's inquiry regarding this case.

The acts and omissions by the Respondent as set forth in paragraphs above related to the complaint filed by Mr. Wilson constitute ethical misconduct in violation of the following Rules of Professional Conduct: 1.3, Diligence; 1.4, Communication; 1.5, Fees; 1.15, Safekeeping

Property; 1.16, Declining and Terminating Representation; 3.2, Expediting Litigation; 8.1(b), Bar Admission and Disciplinary Matters; and 8.4(a)(b)(c) and (d), Misconduct.

**Complaint of Margie McDaniel: File No. 31780-8-KS**

Ms. McDaniel hired Respondent late in October, 2008 to represent her in a Chapter 13 bankruptcy proceeding. On November 3, 2008, Ms. McDaniel paid \$100.00 to complete a credit counseling course with Hummingbird Credit Counseling Service. Respondent advised Ms. McDaniel that the balance of the charge for the course would be included in the bankruptcy payment plan.

Ms. McDaniel tried to contact the Respondent several times, obtained only voice mail, and Respondent never returned her calls. Ms. McDaniel went to Respondent's office during the latter part of November and found a notice on the door stating that Respondent's office was closed. Ms. McDaniel found out from an employee at the courthouse that Respondent was no longer practicing law. Respondent did not file a petition for bankruptcy on behalf of Ms. McDaniel. Once Ms. McDaniel hired a new attorney, she learned that Respondent never paid the company for the credit counseling, and she had to pay another \$49.00 for that service.

Respondent did not respond to the Board's inquiry regarding this case.

The acts and omissions by the Respondent as set forth in paragraphs above related to the complaint filed by Ms. McDaniel constitute ethical misconduct in violation of the following Rules of Professional Conduct: 1.3, Diligence; 1.4, Communication; 1.5, Fees; 1.15, Safekeeping Property; 1.16, Declining and Terminating Representation; 3.2, Expediting Litigation; 8.1(b), Bar Admission and Disciplinary Matters; and 8.4(a)(b)(c) and (d), Misconduct.

**Complaint of Edith Eppley: File No. 31781-8-KS**

Ms. Eppley hired Respondent in July, 2008 to represent her in a bankruptcy filing. She paid Respondent \$700.00 for his fee and also gave Respondent \$413.00 for court costs, which included a fee for credit counseling. In September, 2008, Ms. Eppley received a letter from the court that she had to pay her filing fees and for credit counseling before her debt would be cleared. Ms. Eppley attempted to reach Respondent, but he would never return her phone calls. Ms. Eppley again paid the court costs by sending them directly to the Court.

Respondent did not respond to the Board's inquiry regarding this case.

The acts and omissions by the Respondent as set forth in paragraphs above related to the complaint filed by Ms. Eppley constitute ethical misconduct in violation of the following Rules of Professional Conduct: 1.3, Diligence; 1.4, Communication; 1.5, Fees; 1.15, Safekeeping Property; 1.16, Declining and Terminating Representation; 3.2, Expediting Litigation; 8.1(b), Bar Admission and Disciplinary Matters; and 8.4(a)(b)(c) and (d), Misconduct.

**Complaint of Gary and Leah Carroll: File No. 31793-8-KS**

Mr. and Mrs. Carroll hired Respondent to file their bankruptcy in July, 2007. Respondent filed the Chapter 13 Bankruptcy Petition on February 21, 2008. The petition was filed "with deficiencies" according to the court records. Their case was dismissed for improperly filed paperwork on March 13, 2008 despite notice from the Court in February indicating the specific items needed by the Court.

Respondent filed a motion to set aside the dismissal, and the case was reopened. The Carrolls' weekly payments increased and Respondent promised to look into their increased payments, but he never did. The Carrolls' car was repossessed in October, 2008. The Carrolls made numerous attempts to communicate with Respondent, but their phone calls were not

returned. The Carrolls' traveled over 100 miles for two appointments Respondent missed.

In or around December 2008, the Carrolls' found out Respondent was not practicing law, and had been suspended. Respondent did not send them notice of his suspension.

Respondent did not respond to the Board's inquiry regarding this case.

The acts and omissions by the Respondent as set forth in paragraphs above related to the complaint filed by Mr. and Mrs. Carroll constitute ethical misconduct in violation of the following Rules of Professional Conduct: 1.3, Diligence; 1.4, Communication; 1.5, Fees; 1.16, Declining and Terminating Representation; 3.2, Expediting Litigation; 8.1(b), Bar Admission and Disciplinary Matters; and 8.4(a)(b)(c) and (d), Misconduct.

**Complaint of Donna Lilly: File No. 31805-8-KS**

Ms. Lilly hired Respondent to represent her in a divorce, paying Respondent \$850.00. She signed divorce papers on May 27, 2007 and it was her understanding that Respondent was making efforts to secure her husband's signature. Respondent lost her paperwork and Ms. Lilly signed another set of documents that would resolve her divorce. Despite Ms. Lilly's signature on the second set of divorce papers, her understanding is that her divorce was never finalized.

She repeatedly tried to contact Respondent, but he never made any more progress in her divorce.

Respondent did not respond to the Board's inquiry regarding this case.

The acts and omissions by the Respondent as set forth in paragraphs above related to the complaint filed by Ms. Lilly constitute ethical misconduct in violation of the following Rules of Professional Conduct: 1.3, Diligence; 1.4, Communication; 1.5, Fees; 1.15, Safekeeping Property; 1.16, Declining and Terminating Representation; 3.2, Expediting Litigation; 8.1(b), Bar Admission and Disciplinary Matters; and 8.4(a) and (d), Misconduct.

**Complaint By Tonya Moss: File No. 31808-8-KS**

Ms. Moss hired Respondent to represent her in a Chapter 13 bankruptcy filing. Respondent filed a Chapter 13 Petition for Bankruptcy on November 17, 2003. Respondent failed to appear at her first hearing. At her second hearing, Respondent appeared unfamiliar with her case.

Ms. Moss provided Respondent with funds to make various payments on her behalf, including her mortgage payment, her first payment to the trustee, her first payment to the trustee, and a filing fee. The mortgage company never received her payment.

Respondent failed to communicate with Ms. Moss and she was unaware of his suspension. On February 6, 2009, the U.S. Trustee, George Emerson, filed a Motion for Instruction by the Court stating that Respondent had been suspended from the practice of law and asking the Court for direction since Respondent did not withdraw from the case.

Respondent did not respond to the Board's inquiry regarding this case.

The acts and omissions by the Respondent as set forth in paragraphs above related to the complaint filed by Ms. Moss constitute ethical misconduct in violation of the following Rules of Professional Conduct: 1.3, Diligence; 1.4, Communication; 1.5, Fees; 1.15, Safekeeping Property; 1.16, Declining and Terminating Representation; 8.1(b), Bar Admission and Disciplinary Matters; and 8.4(a)(b)(c) and (d), Misconduct.

**Complaint of Denise Elkins: File No. 31821-8-KS**

Ms. Elkins hired Respondent in July, 2008 to represent her in a bankruptcy filing. Respondent instructed her to begin credit counseling via the internet for a fee of \$49.99. Ms. Elkins paid \$204.00 to Respondent in August of 2008 and then paid installments to Respondent thereafter. Ms. Elkins paid the last installment on November 24, 2008, and was told Respondent

would contact her.

Ms. Elkins went to Respondent's office a couple of days following the November 24, 2008 payment and found the notice on the door stating his office was closed and that letters would be mailed to active clients. Ms. Elkins has received no paperwork and has paid a total of \$804.00 to Respondent. Further, there is no record of a bankruptcy petition having been filed on Complainant's behalf by Respondent.

Respondent did not respond to the Board's inquiry regarding this case.

The acts and omissions by the Respondent as set forth in paragraphs above related to the complaint filed by Ms. Elkins constitute ethical misconduct in violation of the following Rules of Professional Conduct: 1.3, Diligence; 1.4, Communication; 1.5, Fees; 1.16, Declining and Terminating Representation; 3.2, Expediting Litigation; 8.1(b), Bar Admission and Disciplinary Matters; and 8.4(a)(b)(c) and (d), Misconduct.

**Complaint of Sadie Jarrett: File No. 31840-8-KS**

Ms. Jarrett hired Respondent to represent her in a bankruptcy filing in 2006. She signed a non-refundable retainer agreement which indicated a fee of \$2500.00. Respondent never showed up for any of her hearings and never forwarded the money she paid him to the court. At one point her case was dismissed, and Respondent had it reinstated. Ms. Jarrett learned that her case had been dismissed because she received a failure to pay notice from the court. Respondent did not communicate this information to her.

Respondent did not respond to the Board's inquiry regarding this case.

The acts and omissions by the Respondent as set forth in paragraphs above related to the complaint filed by Ms. Jarrett constitute ethical misconduct in violation of the following Rules of Professional Conduct: 1.3, Diligence; 1.4, Communication; 1.5, Fees; 1.16, Declining and

Terminating Representation; 3.2, Expediting Litigation; 8.1(b), Bar Admission and Disciplinary Matters; and 8.4(a) and (d), Misconduct.

**Complaint of Robert and Patricia Brown: File No. 31841-8-KS**

Mr. and Mrs. Brown hired Respondent to represent them in a bankruptcy filing in 2004. Mr. and Mrs. Brown discussed with Respondent the possibility of obtaining permission to stop payments to their bankruptcy plan for 90 days because they were relocating to Virginia for employment. According to PACER records, Respondent did not file a motion requesting this relief. Further, Respondent did not notify the Bankruptcy Court of their new address.

In February, 2007, Mr. and Mrs. Brown once again contacted Respondent to obtain another 90-day hold of their payment plan due to health reasons. He filed a motion for a 60-day hold. Respondent advised Mr. and Mrs. Brown in April of 2008 that their case could be discharged due to hardship. However, when Mr. and Mrs. Brown checked the status of their case, they found out that a hearing had been set in August, 2008 for a discharge of their case due to their non-payment. Respondent told them he would have the hearing postponed, and pursue dismissal of their case due to hardship.

Respondent did not file any motions or responses to the Trustees' Motion for Dismissal. Mr. and Mrs. Brown state that their bankruptcy case was dismissed in August, 2008, and they are still receiving calls from creditors who were not paid in full.

Mr. and Mrs. Brown provided their car titles to Respondent. When Respondent was suspended, he did not notify Mr. and Mrs. Brown that they could claim their documents and case file. Further, he did not give them sufficient notice so that they could obtain new counsel if needed. To date, Mr. and Mrs. Brown have not received their car titles and are confused about the status of their bankruptcy case.

Respondent did not respond to the Board's inquiry regarding this case.

The acts and omissions by the Respondent as set forth in paragraphs above related to the complaint filed by Mr. and Mrs. Brown constitute ethical misconduct in violation of the following Rules of Professional Conduct: 1.3, Diligence; 1.4, Communication; 1.5, Fees; 1.15, Safekeeping Property; 1.16, Declining and Terminating Representation; 3.2, Expediting Litigation; 8.1(b), Bar Admission and Disciplinary Matters; and 8.4(a)(b)(c) and (d), Misconduct.

**Complaint of Clinton Lemons: File No. 31845-8-KS**

Mr. Lemons hired Respondent for representation in a bankruptcy filing in July of 2007 for a fee of \$1,200.00. Mr. Lemons also hired Respondent for representation in a divorce for a fee of \$500.00. According to Mr. Lemons, Respondent failed to complete his divorce. Respondent refunded approximately \$200.00 for failing to complete the divorce, but kept the remainder.

Respondent failed to adequately communicate with him regarding his bankruptcy matter which was eventually dismissed due to debtor's failure to file proof of completion of a personal financial management course.

Respondent did not respond to the Board's inquiry regarding this case. The inquiry sent by the Board was returned even though it was sent to the official address provided by Respondent.

The acts and omissions by the Respondent as set forth in paragraphs above related to the complaint filed by Mr. Lemon constitute ethical misconduct in violation of the following Rules of Professional Conduct: 1.3, Diligence; 1.4, Communication; 1.5, Fees; 3.2, Expediting Litigation; 8.1(b), Bar Admission and Disciplinary Matters; and 8.4(a) and (d), Misconduct.

**Complaint By Edward Cannady: File No. 31846-8-KS**

Mr. Cannady hired Respondent on November 3, 2008, to represent him in a Chapter 7 bankruptcy filing. Mr. Cannady paid Respondent a down payment of \$150.00 for fees. Respondent was suspended from the practice of law on November 25, 2008. Respondent failed to notify Mr. Cannady of his suspension or advise him that he would need to find new counsel. A meeting of creditors was held on December 10, 2008. Respondent did not, and could not, appear on behalf of his client and did not advise his client in advance of the situation.

Respondent did not respond to the Board's inquiry regarding this case. The inquiry sent by the Board was returned even though it was sent to the official address provided by Respondent.

The acts and omissions by the Respondent as set forth in paragraphs above related to the complaint filed by Mr. Cannady constitute ethical misconduct in violation of the following Rules of Professional Conduct: 1.3, Diligence; 1.4, Communication; 1.5, Fees; 1.15, Safekeeping Property; 1.16, Declining and Terminating Representation; 8.1(b), Bar Admission and Disciplinary Matters; and 8.4(a) and (d), Misconduct.

**Complaint By Charles And Crystal Archer: File No. 31855-8-KS**

Mr. and Mrs. Archer hired Respondent in or around October 2008 to represent them in filing bankruptcy. They paid him \$831.00 in fees and costs. On the day of the first creditors meeting on December 4, 2008, Respondent's office called to cancel the hearing because Respondent was sick. Respondent did not inform either his clients or the Bankruptcy Court that he was suspended from the practice of law. The creditors meeting was rescheduled for two weeks later on December 17, 2008, when Respondent did not, and could not, appear. At that time, Mr. and Mrs. Archer were told Respondent had been suspended from the practice of law.

Mr. and Mrs. Archer have hired another attorney to complete their bankruptcy.

Respondent did not respond to the Board's inquiry regarding this case. The inquiry sent by the Board was returned even though it was sent to the official address provided by Respondent.

The acts and omissions by the Respondent as set forth in paragraphs above related to the complaint filed by Mr. and Mrs. Archer constitute ethical misconduct in violation of the following Rules of Professional Conduct: 1.3, Diligence; 1.4, Communication; 1.5, Fees; 1.16, Declining and Terminating Representation; 8.1(b), Bar Admission and Disciplinary Matters; and 8.4(a) and (d), Misconduct.

**Complaint of Bryan and Cassandra Bridgewater: File No. 31856-8-KS**

Mr. and Mrs. Bridgewater hired Respondent to represent them in filing a Chapter 7 bankruptcy. They paid Respondent \$700.00 in legal fees on September 23, 2008. Respondent never filed their petition, made an appearance in court, or returned their phone calls. Respondent cancelled appointments. After finding out that Respondent's office had been closed, Complainants hired a new attorney. Respondent did not inform his clients that he was suspended from the practice of law on November 25, 2008.

Respondent did not respond to the Board's inquiry regarding this case. The inquiry sent by the Board was returned even though it was sent to the official address provided by Respondent.

The acts and omissions by the Respondent as set forth in paragraphs above related to the complaint filed by Mr. and Mrs. Bridgewater constitute ethical misconduct in violation of the following Rules of Professional Conduct: 1.3, Diligence; 1.4, Communication; 1.5, Fees; 1.16, Declining and Terminating Representation; 8.1(b), Bar Admission and Disciplinary Matters; and

8.4(a) and (d), Misconduct.

**Complaint of Mr. and Mrs. Crenshaw: File No. 31882-8-KS**

Mr. and Mrs. Crenshaw paid Respondent \$250.00 in the spring of 2007 for his representation in drafting a deed to merge some family parcels of property that had been separated in years past. Respondent avoided their phone calls about the status of the matter, and the last time they went to Respondent's office, the office was closed. Respondent never prepared the deed.

The clients discovered that Respondent had been suspended from the practice of law through a newspaper article. Respondent did not notify his clients that he had been suspended.

Respondent did not respond to the Board's inquiry regarding this case. The inquiry sent by the Board was returned even though it was sent to the official address provided by Respondent.

The acts and omissions by the Respondent as set forth in paragraphs above related to the complaint filed by Mr. and Mrs. Crenshaw constitute ethical misconduct in violation of the following Rules of Professional Conduct: 1.3, Diligence; 1.4, Communication; 1.5, Fees; 1.16, Declining and Terminating Representation; 8.1(b), Bar Admission and Disciplinary Matters; and 8.4(a) and (d), Misconduct.

**Complaint of Tara McClelland: File No. 31898-8-KS**

Ms. McClelland hired Respondent to represent her in a parentage and child support matter on July 22, 2008, paying \$700.00 for the representation. On November 5, 2008, the court ruled that Ms. McClelland was entitled to future and back child support, with payments to begin on December 1, 2008. Respondent failed to finish the necessary paperwork in order for Ms. McClelland to enforce the child support and visitation order of the Court. Respondent failed to

inform Ms. McClelland that he was suspended from the practice of law on November 25, 2008. She could not reach him to ascertain the status of the necessary order and paperwork to enforce child support and visitation.

Ms. McClelland hired new counsel. Respondent did not return Ms. McClellan's file to her. Ms. McClellan received her file from Taylor Forrester and Leah Kaiser, two attorneys appointed by the presiding Judge in the judicial district to inventory and return Respondent's client files. The Court took this action due to Respondent's abandonment of his practice

Respondent did not respond to the Board's inquiry regarding this case. The inquiry sent by the Board was returned even though it was sent to the official address provided by Respondent.

The acts and omissions by the Respondent as set forth in paragraphs above related to the complaint filed by Ms. McClelland constitute ethical misconduct in violation of the following Rules of Professional Conduct: 1.3, Diligence; 1.4, Communication; 1.5, Fees; 1.15, Safekeeping Property; 1.16, Declining and Terminating Representation; 3.2, Expediting Litigation; 8.1(b), Bar Admission and Disciplinary Matters; and 8.4(a) and (d), Misconduct.

**Complaint of Michele Lawson: File No. 31905-8-KS**

Ms. Lawson hired Respondent on March 12, 2008 for an uncontested divorce and child custody case for a fee of \$700.00. She paid the full amount on March 12, 2008. Ms. Lawson was pregnant with her second child. Respondent advised her that the divorce could not be final until she had her baby. Ms. Lawson states that Respondent failed to return her calls or requests for advice regarding issues she was having about her husband's visitation with their 4 year-old daughter.

On October 17, 2008, she finally made an in-person appointment for October 20, 2008 in

order to talk to the Respondent. At that meeting, Respondent commented that he did not understand why the divorce was not final yet. Ms. Lawson's son was born the next day. She attempted to reach Respondent to inform him of the child's birth. Following the child's birth, Ms. Lawson went to Respondent's office and left messages more than once, without any return phone calls or visits with Respondent. On December 5, 2008, Complainant went to Respondent's office, saw his secretary leave, and lock the door. Another of Respondent's clients came by and told her that Respondent did not show up for court that morning, and that Respondent was suspended from the practice of law.

Prior to hiring new counsel, Ms. Lawson contacted the Clerk of the Chancery Court and learned that Respondent did not file any pleadings in the case.

Respondent did not respond to the Board's inquiry regarding this case. The inquiry sent by the Board was returned even though it was sent to the official address provided by Respondent.

The acts and omissions by the Respondent as set forth in paragraphs above related to the complaint filed by Ms. Lawson constitute ethical misconduct in violation of the following Rules of Professional Conduct: 1.3, Diligence; 1.4, Communication; 1.5, Fees; 1.16, Declining and Terminating Representation; 3.2, Expediting Litigation; 8.1(b), Bar Admission and Disciplinary Matters; and 8.4(a) and (d), Misconduct.

**Complaint of Jon Hill: File No. 31921-8-KS**

Mr. Hill hired Respondent on or about March 24, 2004, for a child support case involving a paternity test and back child support. According to Mr. Hill, Respondent advised him that because the child was not living with the mother he did not have to pay child support. Mr. Hill was incarcerated at least twice for failure to pay child support. Mr. Hill hired another attorney to

review the case. He provided the file kept by Respondent to the new attorney. The file was apparently disorganized and difficult to review. Mr. Hill claims that the Respondent lied and misrepresented several facts to him, leading to his arrest several times.

Respondent did not respond to the Board's inquiry regarding this case. The inquiry sent by the Board was returned even though it was sent to the official address provided by Respondent.

The acts and omissions by the Respondent as set forth in paragraphs above related to the complaint filed by Mr. Hill constitute ethical misconduct in violation of the following Rules of Professional Conduct: 1.4, Communication and 8.4(a) and (d), Misconduct.

**Complaint By Timothy Ivy, Chapter 13 Trustee: File No. 31910-8-KS**

Timothy Ivy, Chapter 13 Trustee, was directed by bankruptcy Judge G. Harvey Boswell to make the Board aware of Respondent's conduct with regard to two specific clients: Michelle Russell, who has yet to file a complaint, and Gary and Leah Carroll, who already have filed a complaint. Mr. Ivy was informed of Respondent's suspension on or about December 17, 2008. The Board sent an inquiry to Respondent regarding this complaint, but Respondent failed to provide a response.

Mr. Ivy wrote Respondent a certified letter inquiring about future representation of his clients before the Bankruptcy Court. Mr. Ivy sent another certified letter to Respondent on December 29, 2008. Receiving no response from Respondent, Mr. Ivy filed two show cause motions requiring Respondent's appearance at Court regarding Ms. Russell's and Mr. and Mrs. Carroll's cases. Respondent failed to appear at the show cause hearing, but both clients did appear.

Judge Boswell granted the motions removing Respondent as well as advised

Respondent's clients to obtain new counsel. Judge Boswell directed Respondent to refund any attorney's fees. A minimal amount of \$36.80 had been disbursed by the trustee's office to Respondent in the Carroll case, and the Court ordered that Respondent return that portion of the fee to the Carrolls. Ms. Russell provided a canceled check revealing she had paid Respondent \$200, and the court ordered Respondent to refund that amount to Ms. Russell.

Since Respondent's suspension on November 25, 2009, the Board has received copies of numerous motions filed by the Trustees in the Bankruptcy Court, Western District, Western and Eastern Divisions. In these motions, the Trustees ask for guidance from the Bankruptcy Court regarding attorney's fees that are paid through the bankruptcy plans. Further, the Trustees seek instructions regarding the continuing representation for each of these debtors given the Respondent's suspension. Respondent made no provisions for substituting counsel, for providing notice of his suspension to either clients or the Court, for returning fees or making arrangements to cease payment of attorneys fees.

As a result of Respondent's inaction, the respective Trustees offices and the Bankruptcy Court have been directly affected in an adverse manner. The time, effort, and resources required by each Trustee to make allowances for Respondent's suspension have had an adverse effect on the administration of justice. The acts and omissions by the Respondent as set forth in paragraphs above related to the complaint filed by the Chapter 13 Trustee constitute ethical misconduct in violation of the following Rules of Professional Conduct: 1.1, Competence; 1.3, Diligence; 1.4, Communication; 1.5, Fees; 1.16, Declining and Terminating Representation; 3.2, Expediting Litigation; 3.4(c), Fairness to the Opposing Party and Counsel; 8.1(b), Bar Admission and Disciplinary Matters; and 8.4(a) and (d), Misconduct.

**Complaint of Nakeisha Griffin: File No. 32009c-8-KS**

Ms. Griffin hired Respondent in 2006 to obtain a divorce, paying him \$1,100 in advance. Respondent has not kept Ms. Griffin informed as to the status of her case. Ms. Griffin is still married and Respondent will not return her phone calls. Respondent failed to notify Ms. Griffin that he was suspended from the practice of law by Order of the Supreme Court on November 25, 2008.

Respondent did not respond to the Board's inquiry regarding this case. The inquiry sent by the Board was returned even though it was sent to the official address provided by Respondent.

The acts and omissions by the Respondent as set forth in paragraphs above related to the complaint filed by Nakeisha Griffin constitute ethical misconduct in violation of the following Rules of Professional Conduct: 1.3, Diligence; 1.4, Communication; 1.5, Fees; 1.16, Declining and Terminating Representation; 3.2, Expediting Litigation; and 8.4(a)(d), Misconduct.

**Complaint of Lisa Bostic: File No. 32023-8-KS**

Ms. Bostic hired Respondent on October 13, 2001 to file suit against a builder for defects in the construction of her residence. Ms. Bostic paid Respondent \$3,000.00 to file suit, which he did. Respondent received notice on May 14, 2008 that the case would be dismissed within ten (10) days for lack of prosecution unless Respondent showed cause, in writing, that the case should remain on the docket. Respondent sent Ms. Bostic a letter on May 22, 2008, that a status conference was set by Respondent in response to the "ten-day letter" that his office received. Ms. Bostic's case was dismissed by order of June 19, 2008, for failure to prosecute.

Respondent never informed Ms. Bostic about the dismissal. Respondent failed to return her calls, and the last time she tried to contact him; his phone was out of order. Respondent

failed to notify Ms. Bostic that he was suspended from the practice of law by Order of the Supreme Court on November 25, 2008.

Respondent did not respond to the Board's inquiry regarding this case. The inquiry sent by the Board was returned even though it was sent to the official address provided by Respondent.

The acts and omissions by the Respondent as set forth in paragraphs above related to the complaint filed by Lisa Bostic constitute ethical misconduct in violation of the following Rules of Professional Conduct: 1.3, Diligence; 1.4, Communication; 1.5, Fees; 1.16, Declining and Terminating Representation; 3.2, Expediting Litigation; and 8.4(a)(c)(d), Misconduct.

**Complaint of Frank Deslauriers, Esq.: File No. 32059-8-KS**

Respondent was hired by a plaintiff to file suit resulting from an automobile accident which occurred on September 7, 2006. When the plaintiff heard about Respondent's suspension, she asked Mr. Deslauriers, Esquire, to review her case. Mr. Deslauriers' review of the file shows that Respondent never filed suit on behalf of plaintiff and the statute of limitations had expired. While Respondent told plaintiff that he was waiting to hear from the insurance company, there was no correspondence in the file to indicate contact with the company. The only correspondence in the file was from plaintiff's treating physicians concerning her medical bills. There was an intake sheet, and a few notes on one piece of paper.

Respondent failed to notify his client that he was suspended from the practice of law by Order of the Supreme Court on November 25, 2008.

Respondent did not respond to the Board's inquiry regarding this case. The inquiry sent by the Board was returned even though it was sent to the official address provided by Respondent.

The acts and omissions by the Respondent as set forth in paragraphs above related to the complaint filed by Frank Deslauriers constitute ethical misconduct in violation of the following Rules of Professional Conduct: 1.3, Diligence; 1.4, Communication; 1.5, Fees; 1.15, Safekeeping Property; 1.16, Declining and Terminating Representation; 3.2, Expediting Litigation; and 8.4(a)(c)(d), Misconduct.

**Complaint of Latoya Somerville: File No. 32060-8-KS**

Complainant sought representation from Respondent to file Chapter 7 bankruptcy in 2008, paying him approximately \$1,000 to take an education course, and for filing fees and legal fees. Complainant received notice that her case had been dismissed for failing to pay filing fees or take the required education. Shortly after receiving the notice, she contacted Respondent to find out why the case had been dismissed. Respondent stated that the bankruptcy court had misapplied the fees. After that conversation, she was never able to contact him again. Every attempt went unanswered.

Respondent failed to notify Complainant that he was suspended from the practice of law by Order of the Supreme Court on November 25, 2008.

Respondent did not respond to the Board's inquiry regarding this case. The inquiry sent by the Board was returned even though it was sent to the official address provided by Respondent.

The acts and omissions by the Respondent as set forth in paragraphs above related to the complaint filed by Latoya Somerville constitute ethical misconduct in violation of the following Rules of Professional Conduct: 1.3, Diligence; 1.4, Communication; 1.5, Fees; 1.15, Safekeeping Property; 1.16, Declining and Terminating Representation; 3.2, Expediting Litigation; and 8.4(a)(c)(d), Misconduct.

## **CONCLUSIONS OF LAW**

Pursuant to Tenn. S. Ct. R. 9, Section 3, 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 (hereinafter “RPC”) of the State of Tennessee shall constitute misconduct and be grounds for discipline.

As noted above, Respondent has failed to answer either the Petition for Discipline or the Supplemental Petition for Discipline. This Hearing Panel has already entered an Order of Default and, therefore, pursuant to Tenn. S. Ct. R. 9, Section 8.2 the charges are deemed admitted. The Panel has noted the specific RPCs that were violated by Respondent’s misconduct in each of the factual summaries above.

When disciplinary violations are established by a preponderance of the evidence, the appropriate discipline must be based upon application of the *ABA Standards for Imposing Lawyer Sanctions*, (“ABA Standards”) pursuant to Section 8.4, Rule 9 of the Rules of the Supreme Court. After review of the ABA Standards, this Panel finds that disbarment and restitution are the appropriate disciplinary sanctions in this matter.

### **A. Failure to Comply with Supreme Court Rule 9, Section 18**

By Order of the Tennessee Supreme Court entered on November 25, 2008, Respondent was suspended from the practice of law for three years. The first year was served as an active suspension followed by two years of probation. Pursuant to the Order, Respondent was required to comply in all aspects with Section 18 of Supreme Court Rule 9. Rita Webb, the Executive Secretary for the Board of Professional Responsibility, attested to the fact that Respondent had

not complied with Section 18.8 which required Respondent to submit an affidavit with the Board demonstrating compliance with Section 18.

Section 18 requires that any attorney who has been suspended “shall notify or cause to be notified by registered or certified mail, return receipt requested, (a) all clients being represented in pending matters; (b) all co-counsel in pending matters; and (c) all opposing counsel in pending matters, or in the absence of opposing counsel, the adverse parties, of the Order of the Court and that the lawyer is therefore disqualified to act as lawyer after the effective date of the Order. The notice to be given to the lawyer(s) for an adverse party, or, in the absence of the opposing counsel, the adverse parties, shall state the last known address of the Respondent.”

Respondent failed to provide such notice to clients, co-counsel, and/or opposing counsel in the following complaints: 31692-8-KS, 31724c-8-KS, 31725c-8-KS, 31744-8-KS, 31750-8-KS, 31756-8-KS, 31757-8-KS, 31770-8-KS, 31780-8-KS, 31781-8-KS, 31793-8-KS, 31805-8-KS, 31808-8-KS, 31821-8-KS, 31840-8-KS, 31841-8-KS, 31846-8-KS, 31855-8-KS, 31856-8-KS, 31882-8-KS, 31898-8-KS, 31905-8-KS, 31910-8-KS, 32060-8-KS, 32059-8-KS, 32023-8-KS, and 32009c-8-KS.

Rather than providing notice as required in Section 18, Respondent posted a sign on his office door. Respondent did not return unearned fees to clients in violation of RPC 1.5. Respondent did not make arrangements for clients to retrieve their files or property in violation of RPCs 1.15 and 1.16. In fact, Respondent’s abandonment of his practice was so complete that the presiding Judge for the 25<sup>th</sup> Judicial District was compelled to enter an Order appointing Leah Kaiser, Esq., and Taylor Forrester, Esq., to inventory Respondent’s files and granting them the authority to take action as needed to protect the interests of Respondent’s clients.

Respondent’s abandonment of practice and failure to provide notice of his suspension

adversely affected all of his clients, the courts, opposing counsel, opposing parties, and the Board.

ABA Standard 4.41 states the following:

Disbarment is generally appropriate when:

- (a) a lawyer abandons the practice and causes serious or potentially serious injury to a client; or
- (b) a lawyer knowingly fails to perform services for a client and causes serious or potentially serious injury to a client; or
- (c) a lawyer engages in a pattern of neglect with respect to client matters and causes serious or potentially serious injury to a client.

By his actions, Respondent's failure to properly comply with Section 18 resulted in an abandonment of practice and caused serious injury to his clients.

**B. Failure to Respond to Disciplinary Complaints**

In thirty-four (34) of the complaints contained within these petitions, Respondent never responded to the Board's inquiries. Rule of Professional Conduct 8.1 (hereinafter "RPC") states that:

An applicant for admission to the bar, or a lawyer in connection with a bar admission application or in connection with a disciplinary matter, shall not:

(a)....

(b) fail to disclose a fact necessary to correct a misapprehension of material fact known by the person to have arisen in the matter, or knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6.

Pursuant to ABA Standard 6.33, suspension would be an appropriate sanction if the failure to respond to disciplinary complaints was the only violation. As will be discussed below,

however, the aggravating factors present in this case support an increase in the level of sanction to disbarment.

**C. Conduct Prejudicial to the Administration of Justice**

The facts establish that Respondent's failure to properly withdraw from his cases was prejudicial to the administration of justice. Further, he failed to ensure that clients had the files and/or information they needed to proceed with their individual matters.

ABA Standard 7.1 applies to this misconduct. It states that disbarment "is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed to the profession 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 legal system." It is readily apparent that Respondent caused serious injury to the bankruptcy court and all of his bankruptcy clients. Respondent's failure to properly withdraw is significant. However, it is equally significant that in several cases Respondent failed to properly file bankruptcy documents, pay filing fees, or instruct his clients on the status of their cases.

Respondent injured the public by compelling the presiding Judge for the 25<sup>th</sup> Judicial District to file an Order pursuant to Tenn. S. Ct. R. 9, Section 22 so that an inventory of Respondent's files could be completed in order to ensure that appropriate action was taken.

**D. Lack of Diligence and Inadequate Communication**

All of the complaints involve some combination of violations of RPCs 1.3, Diligence; 1.4, Communication; 1.16, Declining and Terminating Representation; 3.2, Expediting Litigation; and 8.4, Misconduct. The pattern of neglect and failure to communicate is pervasive. In the Moon and Akins cases, Respondent also violated 1.1, Competence. While it was

exacerbated by his failure to properly notify his clients of the suspension, a number of the files demonstrate that Respondent failed to communicate with his clients long before November 2008.

ABA Standards 4.12, 4.41, 4.51, 7.2 and 8.1 apply to the violations of diligence, neglect, and lack of communication in this case.

#### **E. Dishonesty and Misrepresentation**

Perhaps one of the most disturbing aspects of the disciplinary complaints is the fact that Respondent continued to take fees and new cases in October and November 2008. Respondent entered into a Conditional Guilty Plea in October 2008 which was readily approved by the Hearing Panel. Following the concurrence of the Panel, the Board submitted an Order of Enforcement to the Supreme Court. Respondent received a copy of the draft, but even if he had not, Respondent was fully aware that the plea would lead to suspension in the very near future.

In several cases, clients paid Respondent fees without ever knowing that he would be unable to complete his representation. In case after case, it is obvious that he never advised them that they would need to seek new counsel. He never provided them the opportunity to choose a different attorney. The sheer number of complaints received by the Board indicates that Respondent had no intention of refunding fees or alerting clients to the risk they were taking by retaining him. The Board submits that Respondent's actions constitute misrepresentation, fraud, and theft. In particular, Respondent accepted fees in the time period from October 2008 to December 2008 in the following cases: Coleman, Stephenson, Wilson, McDaniel, Eppley, Cannady, Kidd, Archer, and Akins. Respondent lied about the services he would perform in other matters, too. In the Mincks, Crenshaw, Bridgewater, and Deslauriers cases, he simply took the fees without performing the agreed upon services. Almost all of the cases in this matter require restitution due to Respondent's misrepresentations about the services he would perform.

RPC 8.4(c) states that it is a violation for the lawyer to “engage in conduct involving dishonesty, fraud, deceit, or misrepresentation.” ABA Standard 4.61 clearly applies in this case.

It states:

Disbarment is generally appropriate when a lawyer knowingly deceives a client with the intent to benefit the lawyer or another, and causes serious injury or potentially serious injury to a client.

Additionally, ABA Standard 5.11 is applicable to the facts of this case. This Panel finds that the Respondent’s conduct was deceitful and fraudulent.

Restitution to each client is warranted due to Respondent’s intentional failure to inform clients of his suspension. He knowingly engaged new clients and took fees for existing clients at a time when he knew he could not serve as their lawyer.

#### **F. Aggravating Factors**

Pursuant to ABA Standard 9.22, a number of aggravating factors are present in this case and are listed below. With the exception of one enumerated aggravating factor, all of the aggravating factors set out in the ABA Standards are present in this case.

- a) prior disciplinary offense;
- b) dishonest or selfish motives;
- c) a pattern of misconduct;
- d) multiple offenses;
- e) bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary agency;
- f) ...
- g) refusal to acknowledge wrongful nature of conduct;

- h) vulnerability of victim;
- i) substantial experience in the practice of law; and
- j) indifference to making restitution.

The Panel finds that there are no mitigating factors. The Panel notes that Respondent has a TLAP monitoring agreement, however, Respondent is not compliant with that agreement. Further, Respondent was advised about disability inactive status and he has not filed for disability inactive status nor contacted Disciplinary Counsel other than one e-mail.

### **JUDGMENT**

Based on the foregoing facts and conclusions of law, including the aggravating factors set forth, the Panel concludes that the established violations of the Rules of Professional Conduct justify disbarment.

Respondent shall be required to take and successfully complete the bar examination as a condition of reinstatement. Further, the Panel finds that Respondent shall be required to pay restitution in the following amounts. Restitution shall also be a condition of reinstatement.

1. Kimberly White, File No. 31003-8-TH: \$1,100.00
2. Sonya Coleman, File No. 31692-8-KH: \$1,290.00
3. Danny Taylor, File No. 31724c-8-KS: \$1,279.00
4. Rhonda Leopard, File No. 31725c-9-KS: \$1,000.00
5. Daryl Kidd, File No. 31740-8-KS: \$500.00
6. Vicky Stephenson, File No. 31744-8-KH: \$500.00
7. Stephanie Hawes, File No. 31746-8-KS: \$2,500.00
8. Lesley Akins, File No. 31750-8-KS: \$1,160.00
9. Jackie Starnes, File No. 31751-8-KS: \$500.00


10. Joseph and Teresa Mincks, File No. 31753-8-KS: \$450.00
11. Laura Moon, File No. 31757-8-KS: \$500.00
12. Anthony Wilson, File No. 31770-8-KS: \$300.00
13. Margie McDaniel, File No. 31780-8-KS: \$100.00
14. Edith Eppley, File No. 31781-8-KS: \$826.00
15. Donna Lilly, File No. 31805-8-KS: \$850.00
16. Denise Elkins, File No. 31821-8-KS: \$204.00
17. Sadie Jarrett, File No. 31840-8-KS: \$2,500.00
18. Clinton Lemons, File No. 31845-8-KS: \$300.00
19. Edward Cannady, File No. 31846-8-KS: \$150.00
20. Charles and Crystal Archer, File No. 31855-8-KS: \$831.00
21. Bryan and Cassandra Bridgewater, File No. 31856-8-KS: \$700.00
22. Mr. and Mrs. Crenshaw, File No. 31882-8-KS: \$250.00
23. Tara McClelland, File No. 31898-8-KS: \$700.00
24. Michele Lawson, File No. 31905-8-KS: \$700.00
25. Nakeisha Griffin, File No. 32009-8-KS: \$1,100.00
26. Lisa Bostic, File No. 32023-8-KS: \$1,500.00

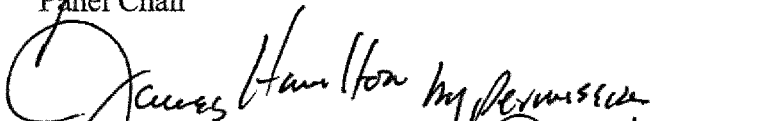
The following cases also require restitution for unearned fees. Respondent shall disgorge all unearned fees in the following matters and provide proof to the Board that such restitution has been made as a condition for reinstatement.


27. Frank Deslauriers, File No. 32059-8-KS: for fees owed to his client who is currently represented by Mr. Deslauriers
28. Nathaniel Tidwell, File No. 30953-8-TH

- 29. Loretta Richmond, File No. 31065c-9-TH
- 30. Bobby Elkins, File No. 31620c-8-KS
- 31. Edward Johnson, File No. 31756-8-KS
- 32. Gary and Leah Carroll, File No. 31793-8-KH
- 33. Tonya Moss, File No. 31808-8-KS
- 34. Robert and Patricia Brown, File No. 31841-8-KS
- 35. Jon Hill, File No. 31921-8-KS
- 36. Latoya Somerville, File No. 32060-8-KS


IT IS SO ORDERED.

  
John Miles, Esq.  
Panel Chair

  
James Hamilton, Esq.  
Panel Member

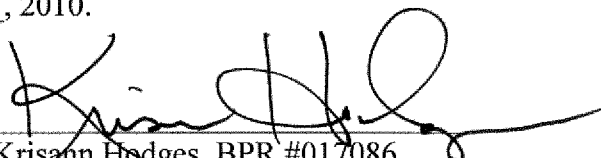
  
Jeffrey Farham, Esq.  
Panel Member

PREPARED BY:

  
Krisann Hodges, BPR #17086  
Disciplinary Counsel  
Suite 730  
1101 Kermit Drive  
Nashville, Tennessee 37217  
(615) 361-7500

CERTIFICATE OF SERVICE

I certify that a copy of the FINDINGS OF FACT AND CONCLUSIONS OF LAW has been served upon Respondent, Richard D. Cartwright, P.O. Box 1148, Hixson, TN 37343, by regular mail and Certified Mail, No. 7006 2150 0001 9750 2661, Return Receipt Requested, on this, the 3~~rd~~ day of April, 2010.

  
Krisann Hodges, BPR #017086  
Disciplinary Counsel