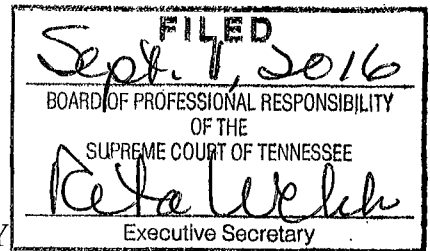


IN DISCIPLINARY DISTRICT VI
OF THE
BOARD OF PROFESSIONAL RESPONSIBILITY
OF THE
SUPREME COURT OF TENNESSEE



IN RE: **JOHN JAY CLARK**
BPR No. 24360, an
Attorney Licensed to
Practice Law in Tennessee
(Williamson County)

DOCKET NO. 2016-2550-6-AJ

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter came to be heard on July 22, 2016, at 11:00 a. m. for final hearing on the Board's Petition for Discipline before Hearing Panel Members Anita Lynn Coffinberry, Michael Joseph Fahey, II and Joseph Ward Henry. Alan D. Johnson, Disciplinary Counsel, appeared for the Board. The Hearing Panel waited until 11:15 a. m. to begin the proceeding, and Mr. Clark did not appear.

STATEMENT OF THE CASE

A Petition for Discipline was filed against Mr. Clark on February 17, 2016. Mr. Clark did not file a response or otherwise answer the Petition, and a Default Judgment was entered against him on June 27, 2016. Pursuant to the Default Judgment, all allegations contained in the Petition for Discipline are deemed admitted.

FINDINGS OF FACTS

FILE NO. 44437-5-ES – COMPLAINANT – TINA MELTON

On April 15, 2015, Tina Melton hired Mr. Clark to represent her son in a criminal matter

in Maury County. She paid Mr. Clark \$1,000 for the representation. Mr. Clark appeared in court one time for the son, and asked for a continuance. Thereafter, Mr. Clark failed to respond to 14 requests for information from Ms. Melton. A new lawyer was hired for Ms. Melton's son, and the criminal matter was resolved by agreement on July 9, 2015.

FILE NO. 42631c-5-ES – COMPLAINANT – OMAR ZAMARRON

Mr. Zamarron hired Mr. Clark on a criminal matter in December 2014. Mr. Clark was paid \$2,500. Mr. Zamarron was incarcerated at the time and Mr. Clark was retained to attempt to reach a plea agreement on his behalf. After Mr. Clark was retained and paid, Mr. Zamarron's relatives made numerous unsuccessful attempts to reach him. Mr. Clark has failed to provide any services to Mr. Zamarron on this matter.

FILE NO. 42055-5-ES – COMPLAINANT – GLENDA STAMPLEY-BAZIE

Glenda Stampley-Bazie hired Mr. Clark to file divorce action in June 2014. Ms. Stampley-Bazie paid Mr. Clark, in installments, a \$500 fee plus \$157 filing fee. Mr. Clark filed a divorce complaint and a motion for default judgment. The motion for default judgment was granted December 5, 2014. Thereafter, Mr. Clark failed to file an order memorializing the default and failed to get a final decree. Mr. Clark abandoned Ms. Stampley-Bazie's case.

FILE NO. 41707-5-ES – COMPLAINANT – MYRA JACKSON

Myra Jackson hired Mr. Clark on April 11, 2014, to file a complaint for divorce and paid him a \$500 fee. Mr. Clark never filed the complaint for divorce. Beginning on May 6, 2014, Mr. Clark constructed an eleven-month charade telling Ms. Jackson that he had filed for the divorce, the defendant was being served by publication, a divorce by default was being entered, that the divorce was final and Ms. Jackson had "full custody" of her minor child, that the decree was

being sent to Mr. Clark, and that Mr. Clark had mailed the documents to Ms. Jackson.

Mr. Clark sent at least 23 texts to Ms. Jackson telling her about the progress of the matter when in fact he had done nothing on the case. At least two texts gave Ms. Jackson a specific date and time for hearings on the matter. At least six of the text messages were sent while Mr. Clark's law license was administratively suspended for failure to comply with his CLE requirements.

On January 29, 2015, Ms. Jackson attended what she believed to be a hearing for the default divorce, and Mr. Clark asked that Ms. Jackson wait outside the courtroom. Mr. Clark later came out of the courtroom and told Ms. Jackson that she was divorced and had full custody of her child. Thereafter, Mr. Clark never provided Ms. Jackson any documents. Mr. Clark ceased communicating with Ms. Jackson in April 2015.

FILE NO. 42707-5-ES – INFORMANT – JAMES MILAM, ESQ.

A client hired Mr. Clark to file a complaint for divorce. Mr. Clark filed a complaint on November 26, 2013, and did no other work on the matter. Mr. Clark did, however, provide his client with a "Final Decree of Divorce" which bore the apparent signature of the Judge, and which stated that the hearing had been conducted on November 21, 2013, two (2) days before the complaint was filed. Mr. Clark's client gave the "Final Decree of Divorce" to his unrepresented wife.

On June 30, 2015, an order was entered by the court dismissing the case for failure to prosecute, and charging costs to the client. The order of dismissal was mailed to the unrepresented wife who contacted the clerk's office inquiring why the case had been dismissed when she had in her possession a Final Decree for Divorce.

Upon investigation by the clerk and the judge, it became clear that the Judge's signature

was forged on the document provided to the client, and no final decree had been entered.

CONCLUSIONS OF LAW

Pursuant to Tenn. S. Ct. R. 9, § 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.

Mr. Clark was suspended from the practice of law on June 26, 2016; however, that does not deprive the Court and this Hearing Panel of jurisdiction. Tenn. Sup. Ct. R. 9, § 8.1 provides in relevant part as follows:

Any attorney admitted to practice law in this State, including any formerly admitted attorney with respect to acts committed prior to surrender of a law license, suspension, disbarment, or transfer to inactive status, or with respect to acts subsequent thereto which amount to the practice of law or constitute a violation of this Rule or of the Rules of Professional Conduct, ... is subject to the disciplinary jurisdiction of the Court, the Board, panels, the district committees and hearing panels herein established, and the circuit and chancery courts of this State.

Based upon the admitted allegations in the Petition for Discipline, the Hearing Panel finds that Mr. Clark’s actions and omissions violated the RPC 1.3 (diligence), 1.4 (communication), 1.5 (fees), 1.16 (terminating representation), 3.2 (expediting litigation), 5.5 (unauthorized practice of law), 8.1 (disciplinary matters) and 8.4 (a) (misconduct) and Rule 8.4 (a), (b) and (c) (misconduct, criminal conduct and conduct involving dishonesty).

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.

The following ABA Standards apply in this matter:

- 4.61 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 potential serious injury to a client.
- 5.11 Disbarment is generally appropriate when:
 - (b) a lawyer engages in any other intentional conduct involving dishonesty, fraud, deceit, or misrepresentation that seriously adversely reflects on the lawyer's fitness to practice.
- 7.1 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 the legal system.

Aggravating Factors

Pursuant to ABA Standard 9.22, the following aggravating factors are present in this case:

1. Mr. Clark's prior disciplinary history, including a four (4) year suspension imposed on June 26, 2015, a one (1) year suspension (all probated) imposed March 25, 2014, and a Public Censure issued on July 20, 2011, is an aggravating factor justifying an increase in discipline.
2. Mr. Clark's dishonest or selfish motive is an aggravating factor justifying an increase in discipline.
3. Mr. Clark's pattern of misconduct and multiple offenses is an aggravating factor justifying an increase in discipline.
4. Mr. Clark's substantial experience in the practice of law is an aggravating circumstance justifying an increase in discipline.

5. Mr. Clark's bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary agency is an aggravating circumstance justifying an increase in discipline.

CONCLUSION

Based on these findings of fact and conclusions of law, it is the judgment of the Hearing Panel that Mr. Clark shall be disbarred pursuant to Tenn. Sup. Ct. R. 9, § 12.1. As a condition of reinstatement to the practice of law, Mr. Clark shall pay restitution as set forth below:

Tina Melton - \$1,000.00

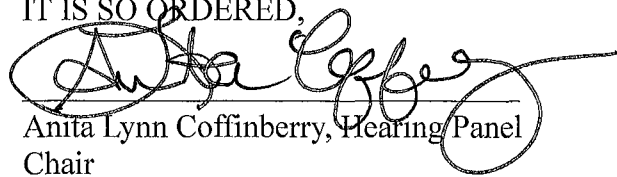
Glenda Stampley-Bazie - \$657.00

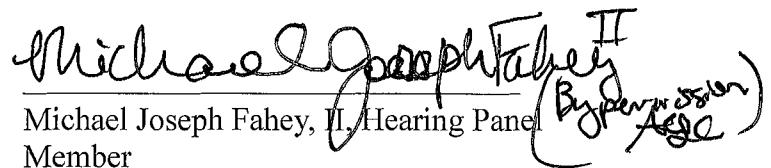
Myra Jackson - \$500.00

Omar Zamarron - \$2,500.00

The costs of this cause, as set forth in Tenn. Sup. Ct. R. 9, § 31.3 (a) (2014), will be taxed to Mr. Clark following entry of this judgment pursuant to the procedures established in Tenn. Sup. Ct. R. 9, § 31.3 (a) (2014).

IT IS SO ORDERED,


Anita Lynn Coffinberry, Hearing Panel
Chair


Michael Joseph Fahey, II, Hearing Panel
Member (By Permission) *aje*


Joseph Ward Henry, Hearing Panel Member (By Permission) *aje*