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

BOARD OF PROFESSIONAL
RESPONSIBILITY

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EXEC. SEC.

IN RE: HOMER L. CODY,
BPR #10755, Respondent,
An Attorney Licensed to
Practice Law in Tennessee
(Shelby County)

DOCKET NO. 2012-2142-9-KB

JUDGMENT OF THE HEARING PANEL

This matter came on for hearing before a duly appointed Hearing Panel on June 17, 2013, upon a Petition for Discipline filed by the Board pursuant to Tennessee Supreme Court Rule 9. Present were Loys "Trey" Jordan III, Panel Chair; Gregory D. Mangrum, Panel Member; Michael Keeney, Panel Member; William Moody, Disciplinary Counsel for the Board of Professional Responsibility; Kris Ann Hodges, Disciplinary Counsel for the Board of Professional Responsibility; and Homer L. Cody, Respondent. Upon statements of counsel, evidence presented, and upon the entire record in this cause, the Panel makes the following findings and judgment:

PROCEDURAL HISTORY

1. On or about August 2, 2012, the Board of Professional Responsibility (hereinafter also referred to as "the Board") filed a Petition for Discipline against Homer L. Cody (hereinafter also referred to as "Respondent" or "Cody") alleging violations of the Rules of Professional Conduct 1.7(a), 3.3(a) and 8.4(a) and (d) resulting from the Respondent's simultaneous and continuous representation of Vivian Braxton and Pee Wee Wisdom Child Development Center in

the Chancery Court of Shelby County, Tennessee. This was the second formal disciplinary proceeding filed against Mr. Cody with regard to his representation of Braxton and Pee Wee with the first proceeding resulting in a Public Censure from the Tennessee Supreme Court on March 16, 2012 for Mr. Cody's conflict of interest in representing Braxton and Pee Wee while the parties had adverse interests against one another.

2. The Respondent filed his Answer to Petition for Discipline on August 24, 2012.

3. On November 20, 2012, the Board filed a Motion for Partial Summary Judgment.

4. On January 2, 2013, Respondent filed a Motion to Dismiss Disciplinary Action.

5. On January 8, 2013, the Board filed a Motion to Permit Supplement Petition for Discipline.

6. On February 8, 2013, the Hearing Panel in this cause filed an Order Denying Respondent's Motion to Dismiss Disciplinary Action and an Order Granting in Part and Denying in Part Board of Professional Responsibility's Motion for Partial Summary Judgment in which the Panel found that the Respondent violated Rules of Professional Conduct 1.7 and 8.4(a) and (d) but declined to grant Summary Judgment regarding the Respondent's alleged violation of Rule 3.3.

7. On February 13, 2013, the Hearing Panel filed an Order Granting Motion to Permit Supplement Petition for Discipline.

8. On February 14, 2013, the Board filed its Supplemental Petition for Discipline alleging violations of Rules of Professional Conduct 1.7(a), 3.1, 3.4(c), 4.4(a)(1), 8.2(a) and 8.4(a) and (d) based on the Respondent's filing of a RICO Act Complaint in the United States District Court for the Western District of Tennessee on behalf of Vivian Braxton and Pee Wee Wisdom Child Development Center, Inc. against several of the attorneys and judges who

participated in the state civil proceedings involving Braxton and Pee Wee. A copy of the eighty-four page Federal Court complaint was attached to the Board's petition.

9. The Respondent filed his answer to the Board's Supplemental Petition for Discipline on February 28, 2013.

10. The Respondent filed a Motion for Reconsideration of Panel's Denial of Respondent's Motion to Dismiss Disciplinary Action on March 15, 2013.

11. On April 25, 2013, the Hearing Panel filed an Order Denying Respondent's Motion for Reconsideration of Panel's Denial of Respondent's Motion to Dismiss Disciplinary Action.

12. On June 11, 2013, Respondent filed a Motion to Reconsider, Vacate Judgment and to Dismiss.

13. The hearing in this cause was held June 17, 2013 at which time the Panel Chair announced that the Respondent's Motion to Reconsider, Vacate Judgment and to Dismiss would be denied.

14. The Hearing Panel heard proof from the Respondent as well as argument from the Respondent and William Moody, Esquire on behalf of the Board and the following documents were introduced and made exhibits to the proceedings:

Exhibit No. 1 Judgment of the Hearing Panel, filed November 14, 2011

Exhibit No. 2 Order of Enforcement, filed March 16, 2012

Exhibit No. 3 Motion to Declare Null and Void, To Set Aside, and To Vacate, All Orders issued by the Court, filed March 6, 2012

Exhibit No. 4 Federal Court Complaint

Exhibit No. 5 Memorandum of Law in support of Respondent's Motion to Reconsider,

Vacate Judgment and To Dismiss with Exhibits

Exhibit No. 6 Order of Chancellor Evans Denying Motion to Disqualify Homer L. Cody

Exhibit No. 7 Order of Chancellor Evans dated April 10, 2012

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Hearing Panel in this cause refers to and incorporates herein its entire Order Granting in Part and Denying in Part Board of Professional Responsibility's Motion for Partial Summary Judgment with its findings of fact and conclusions that the Respondent violated Rules of Professional Conduct 1.7 and 8.4(a) and (d).

2. The Hearing Panel further finds and concludes that by filing the RICO complaint in Federal Court on behalf of both Vivian Braxton and Pee Wee Wisdom Child Development, Inc., the Respondent continues to violate Rules 1.7 and 8.4(a) and (d).

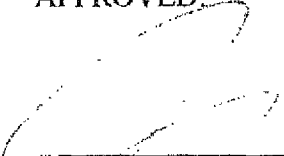
3. The Hearing Panel finds and concludes that the aggravating factors enumerated in ABA Standard 9.22 which apply to Mr. Cody include prior disciplinary offenses, a pattern of misconduct, multiple offenses, refusal to acknowledge wrongful nature of conduct and substantial experience in the practice of law in that he continues to engage in the violations after having received prior discipline for the same misconduct.

JUDGMENT


Based upon the pleadings, prior orders, the testimony and exhibits offered at the hearing of this cause and the foregoing Findings of Fact and Conclusions of Law, it the decision of the Hearing Panel that the Respondent, Homer L. Cody, should be suspended from the practice of law in the State of Tennessee for a period of 180 days from the date this order becomes final. The Hearing Panel further orders that the Respondent, Homer L. Cody, pay the costs of the

Board associated with the prosecution of these proceedings.


APPROVED:



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NOTICE

This Judgment may be appealed pursuant to Section 1.3 of Supreme Court Rule 9 by filing a Petition for Writ of Certiorari, which petition shall be made under oath or affirmation and shall state that it is the first application for the Writ. See Tenn. Code Ann. § 27-8-104(a) and 27-8-106.