

FILED

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

2012 DEC -4 AM 10: 31  
BOARD OF PROFESSIONAL  
RESPONSIBILITY  
*REW*  
EXEC. SEC.

IN RE: DARREN T. COLE

Respondent, BPR No. 25816  
An Attorney Licensed to  
Practice Law in Tennessee  
(Maury County)

No. 2011-2068-6-RS

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**ORDER AND JUDGMENT OF HEARING PANEL**

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This cause came before the Hearing Panel on the 19<sup>th</sup> day of November, 2012, for a final hearing on the Board's Petition for Discipline. At the hearing, the panel heard testimony of Barbara Swafford and Gayle Owens, considered twenty-four (24) exhibits entered into evidence and heard argument of counsel. The Respondent, Darren T. Cole, did not appear on his own behalf, and although the panel approved his ability to testify via telephone, Respondent did not do so. After hearing the proof and considering the evidence, the panel makes the following findings, Order and Judgment:

1. The panel finds, by a preponderance of the evidence, that the Respondent violated Rules of Professional Conduct 1.15(a)(b), 1.16(d), 1.5(e), 5.5(a), 8.1, and 8.4(a) and 8.4(c) (specifically finding that Respondent engaged in a conduct involving dishonesty as a finding of violation of Rule 8.4(c)).

2. The conduct giving rise to the hearing panel's findings is, to a great extent, not disputed. Respondent presented no evidence on his behalf to refute the charges. It is not disputed that Respondent's IOLTA account records evidence numerous transactions paid by a debit card associated with Respondent's IOLTA account for items such as internet games, office materials,

software, airfare, hotel and rental car charges, restaurants and gasoline. In addition, Respondent made ATM withdrawals and transfers to another account from his IOLTA account. Respondent never produced a ledger for his IOLTA account to explain these purchases and ATM withdrawals.

3. It is a finding of the hearing panel that the Respondent failed to provide Mr. Campbell and Ms. Owens with an accounting of the fees and expenses paid to him and failed to maintain trust account records.

4. It is a finding of the hearing panel that the Respondent's use of funds in his trust account reflects commingling on his part.

5. It is a finding of the hearing panel that the Respondent upon leaving Tennessee and without the consent of his client paid another attorney to represent his client.

6. It is a finding of the hearing panel that the Respondent engaged in the practice of law in California without a California license and without registering as required by the California Rules of Court.

7. It is a finding of the hearing panel that the Respondent made numerous misrepresentations/omissions on his Tennessee Board of Law Examiners Application.

8. Having determined that the above ethical rules were violated, the panel further determined that the Respondent acted knowingly when he committed the violations.

9. Based upon these findings, the panel determines that ABA Standard for Imposing Lawyer's Sanctions §4.12, 6.22, and 7.2 (suspension) would be the appropriate sanction for the Respondent's conduct absent any aggravating circumstances.

10. The panel finds, however, that the following aggravating circumstances, set forth in ABA Standard for Imposing Lawyer's Sanctions §9.22, exist:

- a. Prior disciplinary record (Exhibit 19);
- b. Dishonest or selfish motive;
- d. Multiple offenses;
- g. Refusal to acknowledge wrongful nature of conduct; and
- i. Substantial experience in the practice of law, as the evidence presented

established that the Respondent has been practicing law in some jurisdiction from 1994 through 2009.

11. The panel finds that no evidence of mitigating circumstances was established.

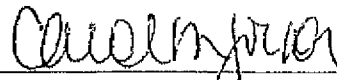
12. Based upon the above findings, it is the ruling of the panel that the appropriate sanctions for the Respondent for his violations of Rules of Professional Conduct 1.15(a)(b), 1.16(d), 1.5(e), 5.5(a), 8.1, and 8.4(a) and 8.4(c) are as follows:

- a. Respondent shall be disbarred for his conduct;
- b. Respondent shall be taxed with all costs of this proceeding.

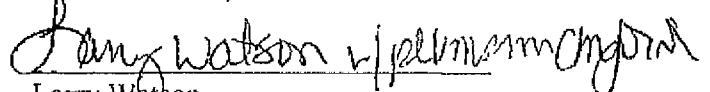
This judgment may be appealed pursuant to Section 1.3 of Tenn. Sup. Ct. R. 9 by filing a petition for writ of certiorari, which petition shall be made under oath or affirmation and shall state that it is the first application for the writ.

SO ENTERED this 4th day of December, 2012.

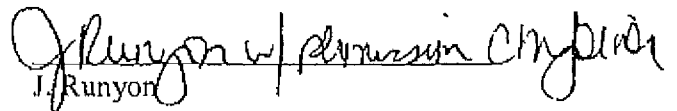
HEARING PANEL:



Carol M. Joiner, Chair



Larry Watson



J. Runyon