

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

FILED
2017 NOV 14 AM 11:20
BOARD OF PROFESSIONAL
RESPONSIBILITY
EXEC. REC'D

IN RE: **DON W. COOPER,**
BPR No. 1286, Respondent,
an Attorney Licensed to Practice
Law in Tennessee
(Sullivan County)

DOCKET NO. 2017-2742-1-WM
DOCKET NO. 2017-2757-1-WM-22.3

FINDINGS OF FACT, CONCLUSIONS OF LAW AND JUDGMENT

This matter came on for hearing before a duly appointed Hearing Panel on November 9, 2017 upon a Petition for Final Discipline filed by the Board pursuant to Tenn. Sup. Ct. R. 9, § 22, and a Petition for Discipline. Present were Lee Dan Stone, III, Panel Member; Laura Steel Woods, Panel Member; Steven Wayne Terry, Panel Chair; and William C. Moody, Disciplinary Counsel. Mr. Cooper was given notice of the hearing but did not appear. Upon statements of counsel, evidence presented, and upon the entire record in this cause, the Panel makes the following findings and judgment.

STATEMENT OF THE CASE

On August 18, 2017, the Tennessee Supreme Court suspended Mr. Cooper pursuant to Tenn. Sup. Ct. R. 9, § 22, due to Mr. Cooper's plea agreements entered in the Criminal Court for Sullivan County involving ten counts of theft in violation of T.C.A. § 39-14-103. The August 18, 2017 order referred the matter to the Board of Professional Responsibility for the institution of formal proceedings and a Petition for Final Discipline was filed on August 21, 2017. On July 12, 2017, the Board filed a Petition for Discipline against Mr. Cooper. The Petition for Final Discipline and Petition for Discipline arise from the same subject matter and were consolidated

on September 6, 2017. Mr. Cooper was personally served with the Petition for Final Discipline and the Petition for Discipline at the Bledsoe County Correctional Complex where he is incarcerated. Mr. Cooper did not file an answer and an Order of Default Judgment was entered October 3, 2017.

FINDINGS

On May 22, 2017, Mr. Cooper entered a best interest guilty plea to ten counts of theft in *State of Tennessee v. Don W. Cooper*. By virtue of the Order for Default Judgment, the allegations contained in the Petition for Final Discipline and Petition for Discipline are deemed admitted.

Mr. Cooper was appointed personal representative of the Estate of Helen Shipley in the Chancery Court for Sullivan County. On February 25, 2010, Mr. Cooper sold Helen Shipley's real estate for \$57,000. Mr. Cooper misappropriated the \$57,000. On March 6, 2017, the Chancery Court for Sullivan County entered an order finding that Mr. Cooper had converted the \$57,000 to his own use and entered a judgment against him in that amount.

The Panel finds that the Respondent's best interest guilty plea is conclusive evidence of the commission of the serious crime of theft, in violation of T.C.A. § 39-14-103. Pursuant to Tenn. Sup. Ct. R. 9, § 22, the sole issue to be determined in this matter is the extent of final discipline.

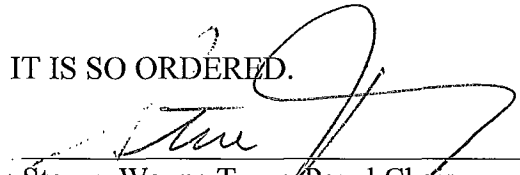
The Panel further finds that the Respondent committed criminal acts which seriously adversely reflect on his fitness to practice law in violation of RPC 1.15(a) and (d) (Safekeeping Property and Funds) and 8.4(a), (b) and (c), (Misconduct). The Panel concludes that ABA Standards 4.11 and 5.11, recommending disbarment, apply to the Respondent's conduct.

The Panel finds that there are no mitigating factors. The Panel finds that there are several aggravating factors, a prior disciplinary offense, a dishonest or selfish motive, substantial experience in the practice of law and illegal conduct.

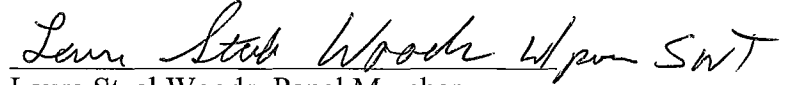
JUDGMENT

Accordingly, it is the decision of the Panel that Respondent should be disbarred. The disbarment is made retroactive to the date of the Respondent's summary suspension on August 18, 2017. In addition, pursuant to Tenn. Sup. Ct. R. 9, 12.7, Mr. Cooper shall be required to make restitution to the Estate of Helen Shipley in the amount of \$57,000.00. In the event restitution is paid by the Tennessee Lawyers Fund for Client Protection (TLFCP), Mr. Cooper shall reimburse TLFCP the amount so paid. Full payment of restitution by Mr. Cooper should be a condition precedent to the filing of a petition for reinstatement.

IT IS SO ORDERED.


Steven Wayne Terry, Panel Chair


Lee Dan Stone, III, Panel Member


Laura Steel Woods, Panel Member

NOTICE TO RESPONDENT

This judgment may be appealed by filing a Petition for Review in the appropriate Circuit or Chancery Court in accordance with Tenn. Sup. Ct. R. 9, § 33.

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been sent to Respondent, Don W. Cooper, Bledsoe County Correctional Complex, 1045 Horsehead Road, Pikeville, TN 37367, via U.S. First Class Mail, and hand-delivered to Disciplinary Counsel, William C. Moody, this the 14th day of November, 2017.

A handwritten signature in cursive script, appearing to read "Rita Webb", written over a horizontal line.

Rita Webb
Executive Secretary