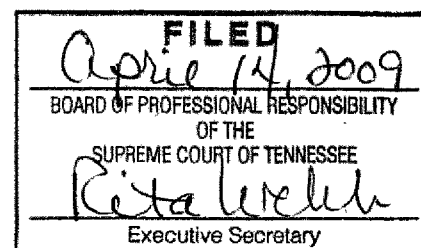


**BOARD OF PROFESSIONAL RESPONSIBILITY
TENNESSEE SUPREME COURT
DISCIPLINARY DISTRICT V**



IN RE:

**DAVID E. DANNER, BPR #017060
Respondent, an Attorney Licensed
To Practice Law in Tennessee
(Davidson County)**

**Docket No. 2008-1763-5-RS
File Nos. 30170-5-CH
30189-5-CH
29345-5-CH
30366-5-CH**

JUDGMENT OF THE HEARING PANEL

This cause came on to be heard by the Hearing Panel of the Board of Professional Responsibility of the Supreme Court of Tennessee on March 30, 2009. The cause is heard pursuant to Rule 9 of the Rules of the Tennessee Supreme Court. This Hearing Panel, Kenneth M. Bryant, Chair, Daniel Clayton and N. Courtney Hollins, makes the following findings of fact and conclusions of law and submits its Judgment in this cause as follows:

I. STATEMENT OF THE CASE

1. A Petition for Discipline was filed on July 21, 2008 charging Respondent with violation of the Disciplinary Rules in File Nos. 30170-5-CH and 30189-5-CH.
2. Respondent was duly served with the Petition. Respondent answered the Petition and filed a Counter-Petition on August 11, 2008. The Board filed an Answer to the Counter-Petition on August 28, 2008.
3. On October 7, 2008, a Supplemental Petition for Discipline was filed charging the Respondent with violation of the Disciplinary Rules in File Nos. 29345-5-CH and 30366-5-CH.

4. Respondent answered the Supplemental Petition on October 23, 2008 and filed a Supplemental Counter-Petition on October 23, 2008.

5. On December 18, 2008, Respondent filed a Motion for Recusal seeking an order of recusal as to Hearing Panel member Laura L. Chastain.

6. On December 23, 2008, Respondent filed a Motion for Partial Summary Judgment.

7. On January 5, 2009, Laura L. Chastain recused herself as a hearing panel member and was replaced by N. Courtney Hollins by the Board on January 22, 2009.

8. On January 16, 2009, Respondent filed a Motion for Partial Dismissal as to the complaints of Kevin Walker and Deborah Shorter.

9. On January 21, 2009, the Board filed a Response to Respondent's Motion for Partial Summary Judgment.

10. On January 28, 2009, Respondent filed a Motion to Disqualify Disciplinary Counsel Randall Spivey.

11. On January 26, 2009, the Board filed its Response to the Motion for Partial Summary Judgment.

12. On January 27, 2009, Respondent filed a Motion for Recusal of Hearing Committee member Daniel L. Clayton.

13. By order filed on March 6, 2009, the Hearing Panel denied Respondent's Motions to Disqualify, Motion for Partial Summary Judgment and Motion for Partial Dismissal.

II. FINDINGS

The Board and the Respondent submitted oral testimony and documentary proof at the hearing of this matter on Monday, March 30, 2009. The Hearing Panel heard the testimony of each of the complainants, as well as the Respondent, and reviewed the documents submitted at the hearing, as well as the pleadings in these matters.

FILE NO. 30170-5-CH (PEGGY A. RICHARDSON HEBERT)¹

1. On May 21, 2007, a complaint was entered as to the Respondent by Richardson Hebert and designated as file no. 30170-5-CH. The Respondent responded by letter dated June 8, 2007.

2. The Board alleges that Richardson Hebert met with the Respondent in November, 2004, to discuss a race discrimination claim against her employer. The Respondent told Richardson Hebert she had 120 days to pay him a \$5,000 retainer and that he would file the case in federal court but would not serve the defendant or otherwise work on the case until paid.

3. On February 2, 2005, Richardson Hebert wrote a check for \$5,000 payable to the Respondent and gave the check and all the files, including an EEOC file, to the Respondent.

4. A Complaint was filed on behalf of Richardson Hebert on November 29, 2004.

5. Bass, Berry & Sims filed a motion for summary judgment on September 8, 2005 which motion was granted on October 7, 2005. According to the Respondent he did not receive a copy of the motion, which was served electronically. However, it is undisputed that the Respondent received the Order granting summary judgment shortly after October 7, 2005.

¹ Hereinafter, "Richardson Hebert."

6. According to Richardson Hebert, the Respondent informed Richardson Hebert that there “had been a little glitch” and that the Respondent would be filing a Rule 60 motion. The testimony of both the Respondent and Richardson Hebert were that Richardson Hebert ran into the Respondent in a chance meeting in the parking lot of the United States Bankruptcy Court of the Middle District of Tennessee. This meeting and the subsequent disclosure that was made by the Respondent was not planned.

7. On October 6, 2006, which was approximately 360 days after the chance meeting in the parking lot and 364 days after the entry of the Order, Respondent filed a motion to set aside the order of dismissal. The Respondent did not communicate with Richardson Hebert between this chance meeting in October 2005 and the day the motion to set aside was filed. Respondent never specifically told Richardson Hebert that her case had been dismissed by a summary judgment. Respondent never told Richardson Hebert that he had not filed an opposition to the Motion for Summary Judgment. The District Judge denied the Motion to Set Aside the Order of Dismissal. Respondent did not tell Richardson Hebert of this Order until after the Motion to Set Aside had been declined, at which time he advised Richardson Hebert that he was withdrawing from this case and that he would take no further action. Richardson Hebert filed her own appeal of this matter *pro se*. Respondent refused to refund the fee or any portion thereof, and, according to Richardson Hebert, did not promptly return her file.

FILE NO. 30189-5-CH
(KEVIN WALKER)

8. On May 24, 2007, a complaint was entered as to the Respondent by Kevin Walker and designated as File No. 30189-5-CH. The Respondent responded by letter dated June 8, 2007.

9. Walker was a schoolteacher and wrestling coach at Metro Nashville Schools. He was within a year of being a tenured teacher. Mr. Walker was accused by Metro Nashville Schools for not attending wrestling practices and an adverse action was taken against him by his employer on January 5, 2005. Mr. Walker was provided an opportunity to resign with a neutral job reference, but declined and was subsequently terminated and placed on the "do not re-hire" list.

10. After the adverse employment action, Mr. Walker paid the Respondent a \$200 consultation fee and then a \$1,000 flat fee. .

11. The Respondent wrote two demand letters to the school board. Those letters were unsuccessful. The Respondent attempted to contact witnesses who would support Mr. Walker's claim, but was unsuccessful. The Respondent discouraged Mr. Walker from filing an EEOC complaint.

12. The Respondent terminated Mr. Walker as a client by e-mail on February 23, 2007.

FILE NO. 29345-5-CH
(DEBORAH SHORTER)

13. On April 24, 2006, Request for Assistance to the Board's Consumer Assistance Program was entered as to the Respondent by Deborah Shorter. The Request was subsequently referred to Disciplinary Counsel for further inquiry and designated as File No. 29345-5-CH. The Respondent responded by letter dated June 30, 2006.

14. The Respondent represented Ms. Shorter in a race discrimination suit in federal court. Ms. Shorter admitted that the fee paid was a one-time payment, which was consistent with Respondent's testimony that he handled these types of claims on a flat fee basis.

15. On February 20, 2005, the Respondent filed a stipulation for dismissal of the lawsuit. This was filed on the same day of Ms. Shorter's deposition. Respondent testified that he received permission from Shorter to sign the stipulation of dismissal on her behalf. Ms. Shorter denied the Respondent's statement, and testified that she was not aware of the dismissal of the litigation. However, Ms. Shorter also believed that her employer had offered her \$100,000 to settle her claim.

16. Eventually, Ms. Shorter understood that her claim had been dismissed, and that she could re-file the case. Respondent asserted that Ms. Shorter would have a four year statute for a Section 1981 claim and that she knew of the one year period to refile her claim that was nonsuited.

17. On February 7, 2006, Danner wrote Ms. Shorter a letter terminating representation.

18. On March 21, 2006, Ms. Shorter filed a Motion to Reopen Case, which indicated that the case was taken out of court "without my consent".

19. On April 3, 2006, the Motion to Reopen Case was denied as untimely.

20. On June 20, 2006, Ms. Shorter refiled her lawsuit. Her lawsuit was again dismissed because it was brought "well beyond the applicable limitation period and is time-barred".

FILE NO. 30366-5-CH
(ANTHONY J. VANCE)

21. On July 5, 2007, a complaint was entered as to Respondent by Anthony J. Vance and designated as File No. 30366-5-CH. The Respondent responded by letter dated August 6, 2007.

22. Mr. Vance paid the Respondent a consultation fee and then paid another \$2,500 to the Respondent for representation involving an EEOC claim.

23. On or about February 23, 2006, Respondent prepared and filed a Brief on Appeal in the EEOC on behalf of Mr. Vance.

24. The claim was denied. Respondent declined further representation and asserted at the Hearing that his representation was only at the trial level.

III. CONCLUSIONS

The Board contends that Respondent has violated 1.1, 1.3, 1.4, 1.5, 1.16, 7.1 and 8.4(a) of the Rules of Professional Conduct.

The Hearing Panel relies upon the Pretrial Briefs as a way of succinctly stating the issues. A Pretrial Brief is especially important for a case such as this when there is testimony regarding four different underlying matters. The Hearing Panel should not have to determine what violations are being alleged in each underlying action. These allegations should be clear. However, in this case, a few of the allegations are not clear. For example:

Rule 1.1: In its Pretrial Brief, the Board did not set forth Rule 1.1 violations of *Walker* and *Vance* although the petition alleges such violations.

Rule 1.3: In its Pretrial Brief, the Board did not set forth 1.3 violations in the *Shorter*, *Walker*, and *Vance* matters, although the petitions contain such allegations.

Rule 1.16: In its Pretrial Brief, the Board asserts a 1.16 violation in the *Shorter* matter, however, the *Shorter* petition does not have this allegation.

Rule 7.1: In its Pretrial Brief, the Board asserts a 7.1 violation in the *Walker* matter, however, the *Walker* petition does not have this allegation.

Rule 1.1 COMPETENCE

The Board asserts the following:

Rule of Professional Conduct 1.1 requires that an attorney “provide competent representation to a client. Rule 1.1 further states that competent representation “requires legal knowledge, skill, thoroughness, and preparation reasonable [sic] necessary for the presentation.” The Respondent’s failure to respond to a summary judgment motion, failure to timely move to set that motion aside, and failure to properly advise his client [sic] the consequences related to his unauthorized voluntary nonsuit violated [sic] of Rule 1.1.

Board Pretrial Brief at p. 3.

Although not explicitly stated, the failure to respond to the summary judgment motion and the failure to timely move to set aside that motion is in regard to the file number 30170-5-CH (Richardson Hebert). The Board’s reference to the Respondent’s failure to “properly advise his client [sic] the consequences related to his unauthorized voluntary nonsuit violated [sic] of Rule 1.1” refers to the *Shorter* matter. The proof showed that the voluntary nonsuit was filed on the same day of Ms. Shorter’s deposition. There is a dispute over what was communicated to Ms. Shorter. Respondent contends that he properly advised complainant of a four year statute of limitations on a Section 1981 claim. Respondent further claims that Ms. Shorter was aware of the voluntary nonsuit and the consequences thereof. The Board has the responsibility of proving a Rule 1.1 violation. The Board did not meet its burden of proof of this violation with regard to the *Shorter* matter.

Furthermore, this panel finds no Rule 1.1 violations in the *Vance* or *Walker* matters.

As will be discussed further, the Hearing Panel does find a violation of Rule 1.1 in the *Richardson Hebert* matter.

Rule 1.3

Next, the Board makes the following allegation against Respondent.

Rule 1.3 of the Tennessee Rules of Professional Conduct requires that a lawyer “act with reasonable diligence and promptness when representing a client. A Respondent’s failure

to timely respond to a motion for summary judgment and to timely move to set that motion aside violated 1.3.

The Hearing Panel finds Respondent violated Rule 1.3 in the *Richardson Hebert* matter. The Board's Pretrial Brief does not address any 1.3 violations in the other three cases. After reviewing the entire record, including the petitions, the Hearing Panel does not find the Respondent violated Rule 1.3 with regard to the *Shorter*, *Walker*, and *Vance* matters.

As will be discussed further, the Hearing Panel does find a violation of Rule 1.3 in the *Richardson Hebert* matter.

Rule 1.4

In its Pretrial Brief, the Board states the following:

Rule 1.4 of the Tennessee Rules of Professional Conduct require that a lawyer "keep a client reasonably informed about the status of a matter and comply with reasonable requests for information within a reasonable time" and "explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation." The Respondent failed in this duty in each of the four cases in the petition and supplemental petition. Specifically, the Respondent failed to keep his clients, *Shorter* and *Richardson Hebert*, informed regarding the status of the two Federal Court litigations which were dismissed without the client's [sic] knowledge. Further, the Respondent failed to keep Mr. Walker and Mr. Vance apprised of the status of their administrative proceedings, and, in fact, relocated his offices without informing them."

Id. at p. 4.

The Hearing Panel finds Respondent violated Rule 1.4 in the *Richardson Hebert* matter.

The Hearing Panel finds that the Board did not meet its burden of proof with regard to the 1.4 allegations in the *Shorter*, *Walker*, and *Vance* matter.

In *Shorter*, the voluntary dismissal without prejudice was filed on the same day as Ms. Shorter's deposition. The Respondent asserts that he advised Ms. Shorter about the need to take this action because the case could not be tried on the assigned trial date. The actions of the

Respondent, and the inability of Ms. Shorter to understand the legal maneuvering,² do not by themselves warrant a finding of a Rule 1.4 violation by the Respondent.

With regard to the *Walker* matter, Respondent submitted two demand letters in 2005. Respondent also further stated that he attempted to contact Mr. Walker's witnesses. In June of 2006, Mr. Danner sent Mr. Walker a letter asking Mr. Walker to have his witnesses contact Mr. Danner. None of those witnesses contacted Mr. Danner. In February of 2007, the attorney/client relationship deteriorated and the Respondent withdrew from representation. The actions on the part of Respondent, in writing two unsuccessful demand letters and not having success in speaking with Mr. Walker's witnesses, even after the respondent asked Mr. Walker to have those witnesses contact him, does not warrant a Rule 1.4 violation.

In the *Vance* matter, respondent filed a brief on February 23, 2006. During the period of time that the Board alleges that the Respondent failed to keep Mr. Vance apprised of the status of the administrative proceedings, the EEOC had not rendered a final decision from the appeal. In April of 2007, the Respondent contacted Mr. Vance to see if Mr. Vance had heard from the EEOC. This was a reasonable thing to do for two reasons: (1) according to Respondent, the EEOC frequently sends a copy of their ruling directly to the individual as well as his/her attorney; and (2) the Respondent had relocated his offices during that time period. The actions in the *Vance* case do not rise to the threshold of a Rule 1.4 violation.

With regard to the allegation that the Respondent relocated his offices without informing his clients, Respondent stated that he instructed his secretary to inform his clients of the

² Evidently, Ms. Shorter believed that the defendants had offered her \$100,000 to settle her case, when the proof at the hearing indicated that the Respondent had made a \$104,000 offer, which was never responded to by Ms. Shorter's employer. Unfortunately, as is the case from time to time, Ms. Shorter believed that the Respondent's settlement demand was actually her employer's settlement offer.

relocation of his offices. Undoubtedly, the Respondent could have been much more diligent and efficient in this matter. Letters written to his clients would have completely removed this part of the allegation against him. However, simply because an attorney does not follow the best practice in relocating his offices does not mean that the attorney should be faced with sanctions.

Once again, while the Hearing Panel does not believe the sparse communication and actions taken by Respondent with regards to the *Shorter*, *Walker*, and *Vance* cases, or as to the closure of his office are examples of good practice, the Hearing Panel finds that the Board did not meet its burden in establishing that the Respondent violated Rule 1.4.

Rule 1.5

As set forth in the Board's Pretrial Brief,

Rule 1.5 of the Tennessee Rules of Professional Conduct require that a "lawyer's fee and charges for expenses shall be reasonable." The Respondent violated Rule 1.5 by accepting retainers in the *Richardson Hebert*, *Vance*, and *Walker* files and not providing services sufficient to earn those retainers. In sum, the Respondent took payment and did little work on the files with which he was entrusted.

Id.

The Hearing Panel finds no violation of Rule 1.5 in the *Vance*, *Walker*, and, although not specifically addressed in the Board's Pretrial Brief, the *Shorter* matter. The Hearing Panel finds that the minimal requirements of Rule 1.5 have been met despite the fact that no fee agreement was ever produced. This Hearing Panel emphasizes the better practice is to have all fee agreements in writing. The failure to have an agreement in writing, however, should not mean that the lawyer should face sanctions in the event the client later asserts a misunderstanding of the fees absent evidence that the fee structure was not clearly established.

In the *Richardson Hebert* matter, as will be outlined later, the problem with whether the fee charged was reasonable stems from the failure to return a portion of the money when the case was dismissed due to the Respondent's neglect instead of having been resolved on its merits.

Rule 1.16

The Board alleges the following, in its Pretrial Brief:

Tennessee Rule of Professional Conduct 1.16 requires an attorney to surrender papers, property, work product, and any unearned fee to the client upon termination of representation. Rule 1.16 also requires that the attorney give reasonable notice of the termination of representation. The Respondent has failed to provide files and refund of unearned fees in each of the four Complaints at bar.

Id.

The Board did not allege a Rule 1.16 violation in the *Shorter* matter in its petition. Even if one had been alleged, the Board has failed to prove a 1.16 violation in the *Shorter* matter.

The Board also has failed to prove 1.16 violations in the *Vance* and *Walker* matter. In *Walker*, the attorney/client relationship had deteriorated significantly. In the *Vance* matter, the Respondent did, in fact, complete the EEOC administrative process.

This panel does find that the Respondent failed to promptly return Richardson Hebert's file and had an ethical duty to return fees to her.

Rule 7.1

The Board alleges in its Pretrial Brief the following:

Tennessee Rule of Professional Conduct 7.1 requires a lawyer to refrain from making false or misleading statements regarding the lawyers' services. The Respondent made such statements in both the *Vance* and the *Walker* matters in misleading Mr. Vance and Mr. Walker as to the extent of his representation for the fee he was obtaining.

Id. at pp. 4-5.

The Board did not allege in the petition a Rule 7.1 violation in the *Walker* matter. However, it does allege it in the Pretrial Brief.

The Hearing Panel finds that the Respondent did not violate Rule 7.1 in either the *Vance* or *Walker* matter. No 7.1 violations were alleged in the *Shorter* and *Richardson Hebert* matters.

Rule 8.4(a)

In its Pretrial Brief, the Board alleges the following:

[t]he Respondent's actions violated Section 8.4(a). RPC 8.4(a) provides that it is professional misconduct of a lawyer to:

- (a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;

Id. at p. 5.

Essentially, the Board alleges since the Respondent has violated other Rules of Professional Conduct, then it constitutes misconduct under 8.4(a). The Board has failed to demonstrate that 8.4(a) is applicable under the circumstances.

In sum, the Board did not meet its burden of proof with regard to its alleged violations of the Rules of Professional Conduct in the cases of *Shorter*, *Vance*, and *Walker*. It did, however, meet its burden of proof in the *Richardson Hebert* matter.

Complaint of Peggy Richardson Hebert.

In the *Richardson Hebert* matter, Respondent agreed to represent Richardson Hebert in her race discrimination case against the Bass, Berry & Sims law firm. Respondent was to begin work upon receipt of the \$5,000 which was to pay for Respondent's services through the trial level. There was a dispute between the Respondent and Richardson Hebert regarding the fee. Respondent claimed the fee was a "flat fee." Richardson Hebert claimed the fee was a retainer.

The testimony revealed that the Respondent had not consented in writing to service by electronic means and was not participating in the newly enacted Federal Court electronic filing system. As a result, the Respondent did not receive a copy of the Motion for Summary Judgment filed on behalf of Bass, Berry & Sims as to the Complaint of race discrimination. With no opposition being filed, the Federal District Court granted summary judgment on the *Richardson Hebert* lawsuit on October 7, 2005. Respondent knew of the Order dismissing the case shortly after October 7, 2005. The Respondent did not promptly or appropriately inform Richardson Hebert of the dismissal of her Complaint.

The testimony at the hearing further revealed that Richardson Hebert had an accidental meeting with the Respondent in the parking lot of the Bankruptcy Court in Nashville. The testimony revealed that the Respondent informed Richardson Hebert that “there had been a glitch” with regard to her case and that he would file a Rule 60 motion. The Respondent did not inform Richardson Hebert that her case had been dismissed. The Respondent did not inform Richardson Hebert that the case had been dismissed because no response had been filed to a summary judgment motion. Furthermore, the testimony revealed that the Respondent took no action to remedy the dismissal of Richardson Hebert’s case until more than 360 days after the chance meeting in the parking lot of the Bankruptcy Court in Nashville.

The Respondent did not communicate with Richardson Hebert during this 360+ day period.

The testimony revealed that only after the Federal District Court denied the Motion to Set Aside the Order of Dismissal, did the Respondent inform Richardson Hebert of the fact that her case had been dismissed, and advised her of her right to appeal the decision of the District Court to the Sixth Circuit Court of Appeals. It was at this same time that the Respondent advised

Richardson Hebert that he was withdrawing from her case and would not take any additional action. As a result, Richardson Hebert was left with very little time to file her own appeal (which she ultimately did) and/or to contact another attorney for a second opinion.

The Respondent claims that he was in a difficult situation in that he believed that Richardson Hebert's claim lacked merit and could not, in good faith, continue representation of her. This assertion misses the point. The Respondent's actions essentially prevented Richardson Hebert from effectively pursuing her claim with competent representation. If the Respondent had appropriately reacted to the Order of Dismissal by promptly notifying the client of the true status of her case and the reason her case had been dismissed, and promptly filed a Motion to Set Aside the Order of Dismissal, the Hearing Panel would be hard pressed to find a violation of the Rules of Professional Conduct. However, the proof shows the following:

- By October 18, 2005, Respondent knew Richardson Hebert's case was dismissed on a summary judgment motion.
- The Respondent knew that the summary judgment motion was granted because no response was filed.
- The Respondent failed to tell the client specifically that the case had been dismissed on a summary judgment, which was not opposed.
- The Respondent failed to promptly file a Rule 60 motion to set aside the Order of Dismissal.
- The Respondent failed to properly communicate with his client from the time he learned of the case dismissal until October 6, 2006.
- The Respondent terminated his representation after the Motion to Set Aside was denied ~ despite the fact that Respondent strongly believed the Judge's ruling was in error.
- The Respondent failed to promptly return the file when requested.

If the Hearing Panel were to accept Mr. Danner's explanation that the case did not have merit, and that is why he could not pursue the appeal, then the Hearing Panel, along with Richardson Hebert, would have to accept the Respondent's sole determination of whether or not the case has merit. At the point in time the case was dismissed on the Motion for Summary Judgment the issue presented to Respondent was giving the client notice of the dismissal and the opportunity to respond to the Motion for Summary Judgment whether from Respondent or by other counsel.

Furthermore, the Respondent waited 360 days to file a Rule 60 motion. Although technically in compliance with the Rules of Civil Procedure, the Respondent's inadequate disclosure to Richardson Hebert as to what the "glitch" was and the delay in filing the Motion to Set Aside essentially eliminated Richardson Hebert's ability to fully and fairly assess her situation and make an informed decision regarding her lawsuit. Further, by withdrawing from representation prior to filing an appeal on the Summary Judgment Order, Respondent severely limited Respondent's time in which to obtain other counsel to file and pursue that appeal.

As a result of the actions by the Respondent in the *Richardson Hebert* matter, the Hearing Panel finds violations of Rule 1.1, 1.3, 1.4, and 1.16.

Specifically, with regard to 1.16, the Hearing Panel finds that since the Respondent did not provide adequate representation to Richardson Hebert, as was his duty and responsibility, the Respondent is not entitled to keep the flat fee. It is unacceptable for a lawyer, under these circumstances, to retain the full fee paid to him.

AGGRAVATING AND MITIGATING CIRCUMSTANCES

The Board, in paragraphs 32 through 37 of the Supplemental Petition, alleges aggravating factors relating to the pending claims. The panel specifically rejects the Board's motion that the

evidence presented showed a dishonest and selfish motive on the part of the Respondent. Furthermore, the panel rejects the allegation that the Respondent has engaged in bad faith obstruction of a disciplinary proceeding. To the contrary, the Respondent has aggressively defended himself against the allegations brought against him.

In sum, the panel finds that the Board has failed to show aggravating factors which should have an impact on this panel's decision.

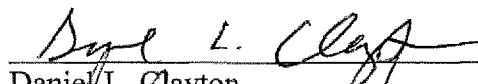
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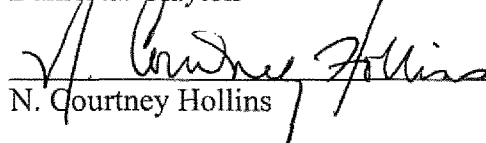
It is therefore ORDERED by the Hearing Committee as follows:

1. That Respondent David E. Danner, be suspended from the practice of law for a period of thirty (30) days.
2. Further, pursuant to 4.7 of Rule 9 of the Rules of the Tennessee Supreme Court, the Respondent is ordered to pay to Richardson Hebert TWO THOUSAND FIVE HUNDRED AND NO/100 (\$2,500.00) DOLLARS as restitution, with said amount being a partial return of the attorney's fees paid by Richardson Hebert.
3. Further, that Respondent be required to successfully complete an ethics course at an accredited law school in the State of Tennessee within 18 months of the entry of this Judgment.

ENTER this 14th day of April, 2009.


Kenneth M. Bryant, Chair


Daniel L. Clayton


N. Courtney Hollins