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

IN RE: Zachery Steven Darnell, #035914
Respondent, an attorney licensed
to practice law in Tennessee
(Hamilton County)

FILE NO. 73452-6-MB

PUBLIC CENSURE

The above complaint was filed against Zachery Steven Darnell, #035914, an attorney licensed to practice law in Tennessee, alleging certain acts of misconduct. Pursuant to Tenn. Sup. Ct. R. 9, the Board of Professional Responsibility considered this matter at its meeting on March 14, 2025.

In or about June 2020, Mr. Darnell, Respondent, along with two other attorneys in his firm, was retained by Abacus Pharma International, LLC ("API") and its president (collectively "Defendants") to represent them in a breach of contract action filed by Lumley Enterprise, LLC (Lumley) in the Circuit Court of the 11th Judicial Circuit in and for Miami-Dade County, Florida. On July 3, 2020, Judge Hanzman entered an Order (the "Order") appointing a Custodian to take possession of certain Test Kits and enjoined Defendants from dissipating any corporate assets of API outside the ordinary course of business until and unless 300,000 Test Kits were delivered to, and in the physical custody of, the Custodian or further Order of the Court. The Order further required all persons, corporations or other entities now or hereafter in possession of the Test Kits, or any part thereof, as well as any profits collected or derived from the Test Kits to forthwith and without further order of the Court surrender such possession to the Custodian. At no time material

to the complaint did the Custodian take possession of 300,000 Test Kits.

In or about February 2021, Defendants received $700,000.00 in partial settlement of a claim against a third party related to 80,000 Test Kits that had been sold prior to the entry of the July 3, 2020, Order. Upon learning of the $700,000.00 settlement, counsel for Lumley filed a Motion for Contempt Against Defendants on January 18, 2022.

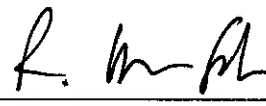
At the April 6, 2022, hearing on the Motion for Contempt, Respondent's co-counsel acknowledged the 80,000 Test Kits were part of the original 600,000 Test Kits that were the subject of the original hearing on plaintiff's motion to appoint a receiver. In response to questions from the Court, Respondent's co-counsel argued the July 3, 2020, Order was unclear as to whether the $700,000.00 settlement proceeds were within the scope of the Order and required to be delivered to the Custodian, and represented he did not believe the Order included the 80,000 Test Kits or the $700,000.00 settlement proceeds derived from those Test Kits. Upon inquiry by the Court, Respondent agreed with co-counsel's position. In response to counsel's argument, Judge Hanzman stated he was unpersuaded that there was anything confusing about the Order.

Shortly thereafter a recess was taken by the parties during which Respondent's client and Lumley agreed to resolve the litigation, including the contempt motion, based on the disbursement to Lumley of a second set of settlement funds owed to Defendants and previously disclosed to all parties but interpleaded by another law firm on behalf of a third party. The terms of the settlement were announced to the Court on the record, and a Stipulated Final Judgment was entered April 13, 2022, stipulating the settlement funds held by the third party were payable to the Custodian pursuant to Judge Hanzman's July 3, 2020, Order prior to the Custodian's discharge and were now payable to Lumley.

The Board of Professional Responsibility has determined that Respondent did not timely notify the Court, the Custodian and opposing counsel of the receipt of an asset subject to the Order entered by the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida on July 3, 2020, and request authorization from the Court to deposit the settlement funds in the law firm's trust account for Defendants use in the ordinary course of business.

By the above conduct, Respondent violated Rules of Professional Conduct, 3.4 (Fairness to Opposing Party and Counsel) and 8.4(d) (Misconduct) and is Publicly Censured.

FOR THE BOARD OF
PROFESSIONAL RESPONSIBILITY



R. Culver Schmid, Chair

March 20, 2025
Date