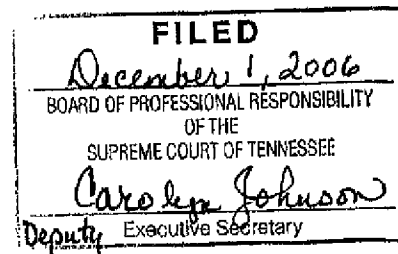


IN DISCIPLINARY DISTRICT IV
OF THE
BOARD OF PROFESSIONAL RESPONSIBILITY
OF THE
SUPREME COURT OF TENNESSEE



IN RE: WILLIAM L. DRAPER,
BPR No. 3260, An Attorney
Licensed to Practice Law in
Tennessee (Jackson County).

DOCKET No. 2006-1602-4-JV

JUDGMENT OF THE HEARING PANEL

This matter came on to be heard on the 17th day of November, 2006, before the Hearing Panel of the Board of Professional Responsibility of the Supreme Court of Tennessee, upon the Petition for Discipline, No. 28362-4-jv, filed in this matter. This cause was heard pursuant to Rule 9, Rules of the Tennessee Supreme Court. This Hearing Panel, consisting of Trudy McKelvey Edwards, Chair, Walter Franklin Nichols and Terry Andrew Fann, make the following findings of fact and submits its judgment in this cause as follows:

I. STATEMENT OF THE CASE

The Hearing Panel finds the following as the procedural history of this matter:

A Petition for Discipline, No. 28362-4-JV, was filed against the Respondent on July 19, 2005. On February 2, 2006, the Board of Professional Responsibility issued a Private Reprimand arising out of the Petition. The Respondent demanded formal proceedings pursuant to Section 8.1 of Supreme Court Rule 9. Therefore, a Petition for Discipline was filed against the Respondent on May 23, 2006, pursuant to Section 8.2 of Supreme Court Rule 9. On June 28, 2006, the Respondent filed a letter dated June 27, 2006, in response to the Petition for Discipline.

The Board of Professional Responsibility also propounded Interrogatories and Request for Production of Documents to the Respondent on May 23, 2006, served on the Respondent on

May 26, 2006. The Respondent did not respond to the Interrogatories and Request for Production of Documents within the forty-five day period permitted by the Tennessee Rules of Civil Procedure 33.01 and 34.02. The case management conference was conducted by telephone on August 3, 2006, at which time the Respondent was directed to respond to the Interrogatories and Request for Production of Documents by September 3, 2006. On August 24, 2006, the Respondent wrote a letter to the Hearing Panel, filed August 28, 2006, advising that the letter was his “. . . final response to the Petition for Discipline.” The Scheduling Order and Notice of Hearing was filed September 12, 2006, requiring the Respondent to respond to the Interrogatories and Request for Production of Documents by September 3, 2006, and setting the hearing of this matter for November 17, 2006. The Respondent did not respond to the Interrogatories and Request for Production of Documents. On September 5, 2006, the Board of Professional Responsibility filed a Motion to Compel the Respondent to respond to the Interrogatories and Request for Production of Documents. On September 13, 2006, the Board of Professional Responsibility filed a Notice of Deposition to take the Respondent's deposition on September 28, 2006, and required the Respondent to bring the documents requested in the Request for Production of Documents to the deposition. By letter to the Hearing Panel dated September 15, 2006, filed September 18, 2006, the Respondent advised that “I will not participate in further discovery.” By letter to James A Vick, Disciplinary Counsel, dated September 22, 2006, filed September 25, 2006 the Respondent advised that he would not submit to the deposition. On September 29, 2006, the Board of Professional Responsibility filed a Motion to Strike Respondent's Response to Petition for Discipline and Enter a Judgment by Default. On November 3, 2006, the Hearing Panel ordered that the letter of the Respondent

dated June 27, 2006, and filed June 28, 2006, shall not be considered as an Answer to the Petition for Discipline and granted a Default Judgment against the Respondent.

II. FINDINGS OF FACT

The Hearing Panel makes the following Findings of Fact:

1. The Respondent has been retained by Jackson County to act in the capacity of County Attorney. Simultaneously, the Respondent maintained a private practice of law.
2. The Respondent was consulted by the Complainant on September 5, 2004, regarding opening an adult entertainment club.
3. The Respondent charged the Complainant a \$200.00 fee, which he paid.
4. The Respondent entered into an attorney-client relationship with the Complainant with regard to rendering legal services to the Complainant regarding this matter.
5. The Respondent rendered legal advice to the Complainant with respect to opening the club. The Respondent advised that there was no ordinance in Jackson County, which would prohibit such a club and that the Adult Oriented Entertainment Registration Act applicable to the proposed business had not been adopted in Jackson County.
6. The Respondent was not acting in the capacity of County Attorney in rendering legal advice regarding the club to the Complainant.
7. The Complainant opened the adult entertainment club.
8. On or about October 4, 2004, the County Commission for Jackson County adopted the applicable Tennessee statute, the Adult Oriented Establishment Registration Act of 1998, T.C.A. §7-51-1101, et. seq., pursuant to the provisions of T.C.A. § 7-51-1120.
9. The Complainant did not obtain a license or comply with applicable ordinance and/or statute.

10. On July 8, 2005, the Respondent, as County Attorney, filed a petition on behalf of the Adult Oriented Establishment Registration Board for Jackson County, Tennessee, in the Chancery Court for Jackson County, No. 05-31, against the Complainant, Kenneth Flatt, d/b/a Costa Rica Beach Club, to enjoin the Complainant from operating the club in violation of ordinance and/or statute, a true and accurate copy of which is attached as to the Petition for Discipline as Exhibit B.

11. On July 15, 2005, an Order of Immediate Injunction was entered against the Complainant, a true and accurate copy of which is attached to the Petition for Discipline as Exhibit C.

12. The Respondent represented Jackson County against the interest of his former client, the Complainant, in a matter that was the same or substantially related to the matter in which the Respondent represented the Complainant.

13. The Complainant did not consent to the Respondent representing Jackson County in the matter against the Complainant.

14. On February 2, 2006, the Board of Professional Responsibility issued a Private Reprimand to the Respondent arising out of the above failures and, if not accepted by the Respondent, authorized the filing of formal charges. Pursuant to Section 8 of Rule 9 of the Rules of the Supreme Court of Tennessee, the Respondent requested that the proposed discipline be vacated and the matter decided by formal proceedings.

III. AGGRAVATING FACTORS

The Hearing Panel finds the following as aggravating factors in this matter:

1. The Respondent's substantial experience in the practice of law, being licensed in Tennessee since 1971.

2. The Respondent's refusal to acknowledge the wrongful nature of his conduct.
3. The Respondent's complete disregard and bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with the Rules of Civil Procedure and orders of the Hearing Panel.

IV. CONCLUSIONS OF LAW

The Board of Professional Responsibility contends that the acts and omissions of the Respondent as alleged in the Petition for Discipline constitute a violation of Rules of Professional Conduct 1.6(a), pertaining to the requirement that a lawyer not reveal information relating to the representation of a client unless the client consents after consultation; 1.7(a)(b), prohibiting a lawyer from representing a client if the representation of that client will be directly adverse to another client unless in limited circumstances when written consent is obtained; and 1.9, prohibiting a lawyer, who has formerly represented a client in a matter, from representing another person, with a materially adverse position, in the same or substantially related matter without written consent. The Board further contends that, by violating each of the aforementioned Rules of Professional Conduct, the Respondent also violated Rule 8.4(a), which provides that it is professional misconduct to violate the Rules of Professional Conduct, and subpart (d), which provides it is professional misconduct to engage in conduct that is prejudicial to the administration of justice.


The Hearing Panel finds that the Respondent violated Rules 1.6(a), 1.7(a) (b), 1.9, and 8.4(a) (d) of the Rules of Professional Conduct. Clearly, when he rendered legal services by providing advice to the Complainant and received compensation therefrom, he established an attorney-client relationship with the Complainant. Furthermore, the Respondent filed a petition on behalf of the Adult Oriented Establishment Registration Board for Jackson County,

Tennessee, in the Chancery Court for Jackson County, No. 05-31, against the Complainant to enjoin the Complainant for continuing to operate said business. This is obviously the very matter in which he had rendered legal services to the Complainant and is likely to cause the Complainant monetary damage. It is apparent that the Complainant did not give his written and informed consent to allow the Respondent to proceed with the filing of said action.

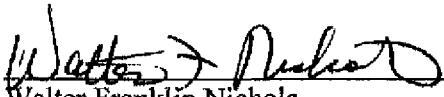
The ABA Standards for Imposing Lawyer Discipline (ABA Standards) were adopted by the Board of Professional Responsibility in September 1986, for recommendation to its hearing committee. Sneed v. Board of Professional Responsibility, 37 S.W.2d 886890 – 891 (Tenn. 2000).

V. JUDGMENT

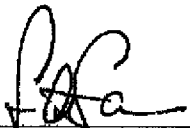
After having heard the statements of the Disciplinary Counsel, having reviewed the Exhibits, and considered the record in this cause, it is the conclusion of the Hearing Panel that the Respondent, William L. Draper, has violated the Rules of Professional Conduct and therefore shall be reprimanded by the Board of Professional Responsibility.



Trudy McKelvey Edwards



Walter Franklin Nichols



Terry Andrew Fann

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

FILED <i>December 18, 2006</i> BOARD OF PROFESSIONAL RESPONSIBILITY OF THE SUPREME COURT OF TENNESSEE <i>Carolyn Johnson</i> Deputy Executive Secretary
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IN RE: WILLIAM L. DRAPER,
BPR No. 3260, An
Attorney Licensed to
Practice Law in Tennessee
(Jackson County)

DOCKET NO. 2006-1602-4-JV

AMENDED JUDGMENT

The Hearing Panel filed the Judgment of the Hearing Panel on December 1, 2006. To state the sanction imposed upon the Respondent in terms employed by Supreme Court Rule 9, the Judgment of the Hearing Panel is amended, as follows:

V. JUDGMENT

After having heard the statements of the Disciplinary Counsel, having reviewed the Exhibits, and considered the record in this cause, it is the conclusion of the Hearing Panel that the Respondent, William L. Draper, has violated the Rules of Professional Conduct and therefore shall be publicly censured by the Board of Professional Responsibility.

Trudy McKelvey Edwards

Trudy McKelvey Edwards

Walter Franklin Nichols

Walter Franklin Nichols

Terry Andrew Fann

Terry Andrew Fann

Certificate of Service

I certify that a copy of the foregoing proposed Amended Judgment has been mailed to the Respondent, William L. Draper, P. O. Box 355, Gainesboro, Tennessee, 38562, on this the 4th day of November, 2006.



James A. Vick
Disciplinary Counsel