

**IN DISCIPLINARY DISTRICT II
OF THE
BOARD OF PROFESSIONAL RESPONSIBILITY
OF THE
SUPREME COURT OF TENNESSEE**

**IN RE: DANIEL CLYDE FIELDEN II,
Respondent BPR No. 033981
An Attorney Licensed to
Practice Law in Tennessee
(Knox County)**

DOCKET NO. 2020-3072-2-BL

JUDGMENT OF THE HEARING PANEL

This cause came before this Hearing Panel of the Board of Professional Responsibility of the Supreme Court of Tennessee on August 23, 2021, for a hearing to determine the appropriate sanction recommendation against Respondent Daniel Clyde Fielden, II following the entry of an Order of Default Judgment on July 26th, 2021. As Default Judgment was granted, all allegations contained in the Petition for Discipline (2020-3072-2-BL) were deemed admitted. Notably, the Petition did not allege that the actions of Respondent were intentional or knowingly and were not negligent.

After considering the statements of Disciplinary Counsel and the Respondent on the appropriate disciplinary standards, the application of the ABA standards for imposing lawyer sanctions, evidence as to any aggravating or mitigating circumstances, and after consideration of the entire file of this matter, it is the recommendation of the Hearing Panel is that the Respondent receive a Public Censure. The Panel is aware this was the recommendation that was made to the Respondent prior to this Petition being filed, and the Panel is perplexed as to why the Respondent would decline the offer of a Public Censure, ask for a further review, then fail to take part in that review resulting in the Default Judgment being granted. The panel is equally troubled that the Petition for discipline included allegations of aggravating circumstances including "pattern of misconduct" (Petition, Para. 36) and "multiple offenses" (Petition Para. 37) that were admitted by Disciplinary Counsel during the hearing as not having factual support.

Regardless, a trial was not held on the merits and only a Default Judgment entered; therefore, justice and fairness dictates that the original offer of Public Censure be the recommendation of this Hearing Panel. For the purposed of the Judgment, the Panel adopts as its findings of fact and conclusions of law each and every allegation of the Petition for Discipline with the exception of Paragraphs 36 and 37.

Once disciplinary violations have been established, the appropriate discipline is based upon application of the *ABA Standards for Imposing Lawyer Sanctions*, pursuant to Section 8.4, Rule 9 of the Rules of the Supreme Court.

The admitted Professional Conduct violations are RPC 1.3, 1.4, 1.16, 3.2, and 8.4(d), as listed in the Petition.

4.4 LACK OF DILIGENCE Absent aggravating or mitigating circumstances, upon application of the factors set out in Standard 3.0, the following sanctions are generally appropriate in cases involving a failure to act with reasonable diligence and promptness in representing a client:

4.43 Reprimand is generally appropriate when a lawyer is negligent and does not act with reasonable diligence in representing a client, and causes injury or potential injury to a client.

6.2 ABUSE OF THE LEGAL PROCESS Absent aggravating or mitigating circumstances, upon application of the factors set out in Standard 3.0, the following sanctions are generally appropriate in cases involving failure to expedite litigation or bring a meritorious claim, or failure to obey any obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists:

6.23 Reprimand is generally appropriate when a lawyer negligently fails to comply with a court order or rule, and causes injury or potential injury to a client or other party, or causes interference or potential interference with a legal proceeding.

7.0 VIOLATIONS OF DUTIES OWED AS A PROFESSIONAL Absent aggravating or mitigating circumstances, upon application of the factors set out in Standard 3.0, the following sanctions are generally appropriate in cases involving false or misleading communication about the lawyer or the lawyer's services, improper communication of fields of practice, improper solicitation of professional employment from a prospective client, unreasonable or improper fees, unauthorized practice of law, improper withdrawal from representation, or failure to report professional misconduct.

7.3 Reprimand is generally appropriate when a lawyer negligently engages in conduct that is a violation of a duty owed as a professional and causes injury or potential injury to a client, the public, or the legal system.

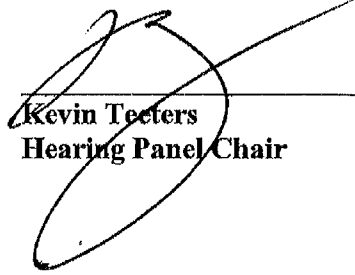
The Panel recognizes that Disciplinary Counsel advocated for Respondent's license to be suspended, but given the absence of any identifiable aggravating circumstances, it is the judgment of this Panel that a Public Censor is the most appropriate sanction against the Respondent.

IT IS SO ORDERED.

THIS JUDGMENT MAY BE APPEALED PURSUANT TO § 1.3 OF RULE 9 OF THE TENNESSEE SUPREME COURT RULES BY FILING A PETITION FOR WRIT OF CERTIORI, WHICH PETITION SHALL BE MADE UNDER OATH OR AFFIRMATION AND SHALL STATE THE IT IS THE FIRST APPLICATION FOR THE WRIT.

ENTER on this the 13th day of September 2021.

FOR THE PANEL,



Kevin Teeters
Hearing Panel Chair