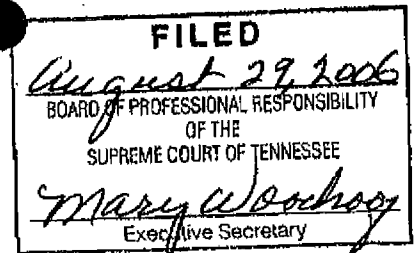


IN DISCIPLINARY DISTRICT V  
OF THE  
BOARD OF PROFESSIONAL RESPONSIBILITY  
OF THE  
SUPREME COURT OF TENNESSEE



In Re: **Stuart W. Fields, Respondent**  
**An Attorney Licensed to**  
**Practice Law in Tennessee**  
**(Davidson County, BPR No. 17354)**

**B.O.P.R. Dkt. No. 2004-1430-5-CH**

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**JUDGMENT OF THE HEARING COMMITTEE**

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This cause came to be heard before the Hearing Committee of the Board of Professional Responsibility of the Supreme Court of Tennessee on August 10, 2006. This cause was heard pursuant to Rule 9, Rules of the Tennessee Supreme Court. This Hearing Committee, Jordan S. Keller, Chair, Larry Gene Hayes, Jr. and James D. Kay, Jr., make the following findings of fact and submits its judgment in this cause as follows:

**STATEMENT OF THE CASE**

A petition for discipline was filed by disciplinary counsel on March 22, 2004, and a supplemental petition for discipline was filed on August 9, 2005. Respondent, Stuart W. Fields, personally acknowledged service of the petition and supplemental petition on December 22, 2005.

On March 13, 2006, disciplinary counsel filed a motion for default judgment on the petitions for discipline alleging that no response had been filed on either petition. Respondent was given proper notice of the motion for default judgment but made no response.

On June 19, 2006, the hearing panel entered an order of default judgment on the petitions. The hearing panel pursuant to Supreme Court Rule 9, Section 8.2, deemed the allegations in the petitions for discipline admitted. The hearing panel directed that a hearing be set for the sole purpose of determining discipline to be imposed.

On August 10, 2006, a hearing took place to determine the appropriate discipline to be imposed upon Respondent. Respondent did not attend the disciplinary hearing despite receiving proper notice of

the hearing. After waiting more than thirty minutes to begin the hearing, the hearing proceeded without Respondent.

### FACTS

In File No. 25907-5-CH, respondent issued a check on his attorney trust account in the amount of \$230.00, check no. 530, to Tollivers to pay for a loan debt. The check was returned unpaid marked, "account closed."

Pursuant to a request by disciplinary counsel, respondent produced copies of statements for his attorney trust account for April, May and June, 2002. The May and June statements showed numerous returned checks. The June statement showed the account to be in an overdraft the entire month.

In File No. 26023-5-CH, respondent represented Carol McNabb in a personal injury case. Respondent settled the case for \$2,900.00 without his client's consent. Respondent received the settlement check on January 4, 2003. Respondent or someone on his direction forged Ms. McNabb's name on the check and respondent cashed the check.

McNabb made appointments to pick up the proceeds but respondent would not be there. Ms. McNabb only received about \$1,000.00 from the settlement.

In File No. 26325c-5-CH, respondent received \$750.00 and a \$100.00 filing fee from Mr. James Bates. Respondent told Bates that he filed a consumer protection action against a car dealer for Mr. Bates. When Mr. Bates reviewed the court records, no case had been filed.

Complainant called respondent many times after learning that nothing had been filed. Respondent would not return his phone calls.

On July 1, 2003, respondent's law license was temporarily suspended by the Supreme Court. Respondent has been suspended continuously since that suspension. Respondent has not refunded any of the money paid by Mr. Bates, although he cannot represent him.

In File No. 25801-5-CH, a complaint was filed by Judge Betty Adams Green of the Davidson County Juvenile Court. Respondent was employed by Mr. Brogen, to oppose termination of Brogen's

parental rights.

Respondent was late to court hearings on July 10, 2002, and July 29, 2002. He was late returning from the lunch recess on July 10, 2002, as well. On three more hearing dates (November 7, December 9, and December 11, 2002), respondent did not appear at all. Respondent was properly notified of all the hearing dates. Respondent never notified the court of his intentions not to attend.

In File No. 25224-5-CH, Mr. Clark Simmons complained that respondent had represented him in a personal injury action. Respondent failed to file the lawsuit within one year and the statute of limitations expired. Complainant met personally with respondent and respondent offered to settle his possible legal malpractice claim by paying complainant \$500.00 and by paying complainant's medical bills of \$2,818.57. Complainant signed a release on October 13, 1997, that recited complainant's receipt of \$500.00 and the payment of the medical bills at the Pain Center.

On February 14, 2002, after repeated failure of respondent to pay the medical bills complainant filed a general sessions action to recover the amount of the medical bills. Respondent did not contest the action and Mr. Simmons obtained a judgment but respondent did not pay the judgment.

### CONCLUSIONS OF LAW

Based upon the record, as a whole, and the admitted allegations, this Hearing Panel finds that the Respondent, Stuart W. Fields, violated the following Disciplinary Rules (DR):

**DR 1-102(A)(1),(4),(5) and (6); DR 2-106(A) and (B); DR 2-110(A)(3); DR 6-101(A)(1),(2) and (3); DR 7-101(A)(1),(2),(3),(4)(a),(4)(b) and (4)(c); and DR 9-102(A), (B)(1), (B)(3) and (B)(4).**

Based upon the record, as a whole, and the admitted allegations, this Hearing Panel finds that the Respondent, Stuart W. Fields, violated the following Rules of Professional Conduct:

**RPC 1.1; RPC 1.2; RPC 1.3; RPC 1.4; RPC 1.5; RPC 8.4(c); and RPC 8.4(d).**

This Hearing Panel further finds the following aggravating circumstances: The Respondent's failure to participate in the disciplinary process; the Respondent's dishonest or selfish motive; the Respondent's multiple offenses; and the Respondent's refusal to acknowledge the wrongful nature of his

conduct. No mitigating factors are found.

**JUDGMENT**

It is, therefore ORDERED by the Hearing Committee that the Respondent, Stuart W. Fields, be DISBARRED from the practice of law;

Further, it is ORDERED that the Respondent, Stuart W. Fields, should make restitution to the complainants in this matter;

Further, it is ORDERED that the Respondent, Stuart W. Fields, shall be taxed with the costs of this proceeding;

Further, it is ORDERED that the Respondent, Stuart W. Fields, enter into a contract with TLAP, Tennessee Lawyer's Assistance Program for a minimum of three years; and

Further, it is ORDERED that if Respondent ever seeks readmission to the Bar, he should be required to show that he has remained current in his CLE requirements.

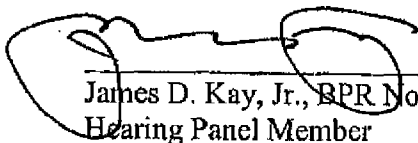
Entered this 21<sup>st</sup> day of August, 2006.



Jordan S. Keller, BPR No. 017436  
Hearing Panel Chair



Larry Gene Hayes, Jr., BPR No. 015481  
Hearing Panel Member



James D. Kay, Jr., BPR No. 011556  
Hearing Panel Member