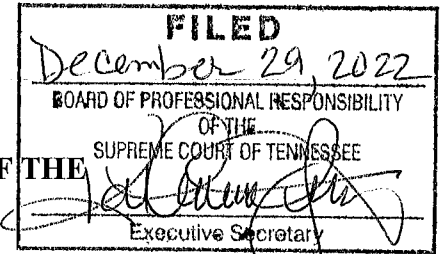


**IN DISCIPLINARY DISTRICT IX OF THE
BOARD OF PROFESSIONAL RESPONSIBILITY OF THE
SUPREME COURT OF TENNESSEE**



**IN RE: A. SAIS PHILLIPS FINNEY
BPR # 028845, Respondent
An Attorney Licensed and
Admitted to the Practice of
Law in Tennessee
(Shelby County)**

DOCKET No. 2022-3255-9-DB

FINDINGS OF FACT, CONCLUSIONS OF LAW AND JUDGMENT

This matter came on for a final hearing on November 29, 2022 before a Hearing Panel consisting of Joseph G. Grisham, Zachary M. Moore and Nicole M. Grida, Panel Chair, upon a Petition for Discipline. Douglas R. Bergeron, Disciplinary Counsel for the Board of Professional Responsibility, participated in the hearing. Respondent did not participate in the hearing despite being given proper notice. The hearing was conducted via Zoom electronic video Conference.

STATEMENT OF THE CASE

The Petition for Discipline was filed by the Board of Professional Responsibility (hereinafter sometimes referred to as “the Board”) on June 22, 2022. A Motion for Default Judgment and that the allegations of the Petition be deemed admitted was filed by the Board on September 13, 2022 based upon Respondent failing to respond to the Petition for Discipline. This Hearing Panel entered an Order on October 10, 2022 granting the Board’s Motion for Default and finding that the allegations of the Petition for Discipline and the exhibits attached thereto were deemed admitted. A final hearing was set for November 29, 2022 with the only issue to be addressed being the appropriate disciplinary sanction.

FINDINGS OF FACT

The allegations and exhibits contained in the Petition for Discipline filed by the Board were deemed admitted pursuant to the Order of Default entered in this matter. Accordingly, the Hearing Panel finds the following facts have been proven by preponderance of evidence:

File No. 69505-9-ES – Complainant – Will Henderson

On or about June 26, 2021, Mr. Henderson retained Respondent for purposes of filing for bankruptcy. The primary contact during the representation of Mr. Henderson was with his daughter, Cheryl Henderson. At all times relevant hereto, Respondent worked in a law group entitled River Law Group. On July 28, 2021, Mr. Henderson paid Respondent \$1,950.00.

During the representation, Mr. Henderson and Cheryl Henderson primarily communicated with Respondent's paralegal, Ms. Ruby King. On September 19, 2021, Respondent's paralegal advised the client that Bankruptcy Petition had been completed and forwarded to Respondent. On November 24, 2021, Respondent's client contacted Respondent's paralegal advising she had heard nothing since the September 19, 2021 correspondence from the paralegal. Thereafter, Respondent contacted client in December of 2021, advising that she would be moving forward to file the Petition for Bankruptcy. Respondent knowingly failed to file a Petition for bankruptcy on behalf of Mr. Henderson. On January 3, 2022, Respondent's paralegal informed client that she no longer worked for Respondent and confirmed that no Petition for bankruptcy had been filed on behalf of Mr. Henderson. Respondent knowingly failed to advise client that paralegal no longer worked with Respondent.

Respondent knowingly failed to communicate reasonably about anything relative to the case. Respondent failed to do the work contracted for. Respondent knowingly failed to deposit fee/retainer in a trust and/or IOLTA account. Respondent failed to obtain a written fee agreement

from client providing that the retainer was non-refundable and hence was required to deposit into trust.

Due to Respondent's failure to perform the paid services to client, the client suffered harm. Respondent never informed client of terminating the representation. Respondent knowingly misled client after advising that Respondent would issue a refund and then never provided a refund.

File No. 68358c-9-ES – Complainant – Ronterrio Johnson

Ms. Finney was retained by Mr. Johnson on May 25, 2021, for representation in a defense of a carjacking charge in Shelby County, Tennessee. Respondent never communicated with the client after being retained for representation. She knowingly failed to file any pleadings or appear for any court settings on behalf of Mr. Johnson. Respondent knowingly failed to respond to written communications sent to her by Mr. Johnson. She knowingly failed to either be aware of a trial setting on the client's case or knowingly failed to communicate the trial setting to the client.

The facts confer that Respondent abandoned her representation of Mr. Johnson. Mr. Johnson suffered harm both potential and actual as he was required to obtain new counsel to represent his interests and suffered harm in the delay of his case and his need to find and engage subsequent counsel to represent his interests.

Lastly, and in both complaints at issue herein, Ms. Finney has knowingly failed to participate in this disciplinary proceeding.

CONCLUSIONS OF LAW

Pursuant to Tenn. Sup. Ct. R. 9, § 1, the license to practice law in this state is a privilege, and it is the duty of every recipient of that privilege to conduct himself or herself at all times in conformity with the standards imposed upon members of the bar as conditions for the privilege to practice law. Acts or omissions by an attorney which violate the Rules of Professional Conduct of

the State of Tennessee shall constitute misconduct and be grounds for discipline.

The preponderance of the evidence, in both of the complaints at issue in this disciplinary matter, establishes that Ms. Finney has knowingly committed the following violations of the Rules of Professional Conduct:

1. Failed to act diligently in representation of each of these complainants in violation of Tennessee Rule of Professional Conduct 1.3 due to her action and/or inaction.
2. Failed to reasonably communicate with either complainant in violation of Tennessee Rule of Professional Conduct 1.4.
3. Charged an unreasonable fee in violation of Tennessee Rule of Professional Conduct 1.5 in failing to perform any work on behalf of Mr. Henderson.
4. Failed to deposit Mr. Henderson's funds into an IOLTA and/or trust account in violation of Tennessee Rule of Professional Conduct 1.15.
5. Failed to return client funds in the Henderson matter in violation of Tennessee Rule of Professional Conduct 1.16.
6. Failed to respond to the disciplinary complaint, knowingly failed to respond to inquiries of the Board's disciplinary counsel, and failed to participate in this disciplinary proceeding in violation of Tennessee Rule of Professional Conduct 8.1.
7. Knowingly violated the Rules of Professional Conduct, and in doing so, violated Tennessee Rule of Professional Conduct 8.4(a).

Application of ABA Standards

With disciplinary violations having been established by preponderance of the evidence, the Hearing Panel shall next consider the applicable provisions of ABA Standards for Imposing Lawyer Sanctions.

The following ABA Standards have application to the findings in this case:

4.1 Failure to Preserve Client Property

Absent aggravating or mitigating circumstances, upon application of the factors set out in 3.0, the following sanctions are generally appropriate in cases involving the failure to preserve client property:

4.11 Disbarment is generally appropriate when a lawyer knowingly converts client property and causes injury or potential injury to a client.

4.12 Suspension is generally appropriate when a lawyer knows or should know that he is dealing improperly with client property and causes injury or potential injury to a client.

This ABA standard is applicable to Ms. Finney's violation of RPC 1.15.

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:

4.41 Disbarment is generally appropriate when: (a) a lawyer abandons the practice and causes serious or potentially serious injury to a client; or (b) a lawyer knowingly fails to perform services for a client and causes serious or potentially serious injury to a client; or (c) a lawyer engages in a pattern of neglect with respect to client matters and causes serious or potentially serious injury to a client.

4.42 Suspension is generally appropriate when: (a) a lawyer knowingly fails to perform services for a client and causes injury or potential injury to a client, or (b) a lawyer engages in a pattern of neglect causes injury or potential injury to a client.

This ABA standard is applicable Ms. Finney's violations of RPC 1.3 and 1.4.

4.6 Lack of Candor

Absent aggravating or mitigating circumstances, upon application of the factors set out in Standard 3.0, the following sanctions are generally appropriate in cases where the lawyer engages in fraud, deceit, or misrepresentation directed toward a client:

4.61 Disbarment is generally appropriate when a lawyer knowingly deceives a client with the intent to benefit the lawyer or another, and causes serious injury or potential serious injury to a client.

4.62 Suspension is generally appropriate when a lawyer knowingly deceives a client, and causes injury or potential injury to the client.

This ABA standard is applicable Ms. Finney's violation of RPC 1.5.

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:

6.21 Disbarment is generally appropriate when a lawyer knowingly violates a court order or rule with the intent to obtain a benefit for the lawyer or another, and causes serious injury or potentially serious injury to a party or causes serious or potentially serious interference with a legal proceeding.

6.22 Suspension is generally appropriate when a lawyer knows that he or she is violating a court order or rule, and causes injury or potential injury to a client or a party, or causes interference or potential interference with a legal proceeding.

This ABA standard is applicable Ms. Finney's violations of RPC 8.4.

7.0 Violations of Other Duties 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.

7.1 Disbarment is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional with the intent to obtain a benefit for the lawyer or another, and causes serious or potentially serious injury to a client, the public, or the legal system.

7.2 Suspension is generally appropriate when a lawyer knowingly 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.

This ABA standard is applicable Ms. Finney's violations of RPC 1.16, 8.1, and 8.4.

Aggravating Factors

Pursuant to ABA Standard 9.22, aggravating factors are present in this case.

The following aggravating circumstances justify an increase in the degree of discipline to be imposed against Ms. Finney:

1. Ms. Finney's pattern of misconduct is an aggravating circumstance justifying an increase in discipline.
2. Ms. Finney's failure to acknowledge the wrongful nature of her conduct is an aggravating circumstance justifying an increase in discipline to be imposed.
3. Ms. Finney's multiple offenses are an aggravating circumstance justifying an increase in discipline.
4. Ms. Finney's substantial experience in the practice of law, having been licensed in Tennessee in 2010, is an aggravating circumstance justifying an increase in discipline.
5. Ms. Finney's indifference to making restitution is an aggravating circumstance justifying an increase in discipline.
6. Ms. Finney's prior disciplinary offenses are an aggravating circumstance justifying an increase in discipline.

Mitigating Factors

Ms. Finney did not participate in the Final Hearing of this matter after Notice of same and, as such, there was no evidence of mitigating factors presented. The evidence therefore preponderates that there are no mitigating factors applicable in this cause.

JUDGMENT

In light of the Findings of Fact and Conclusions of Law set forth herein and the applicable ABA Standards for Imposing Lawyer Sanctions, the Hearing Panel has determined that the actions of Ms. Finney were knowing violations of the Tennessee Rules of Professional Conduct. The

Hearing Panel further finds that the appropriate baseline sanction is either suspension or disbarment. Having established the appropriate baseline sanction, the Hearing Panel, upon consideration of the significant aggravating factors in this case, finds by a preponderance of the evidence that Ms. Finney committed disciplinary misconduct and should be suspended from the practice of law for six (6) years, with five (5) years active suspension and the remaining one (1) year served on probation, pursuant to Tenn. Sup. Ct. R. 9, § 12.2. The six (6) year suspension shall begin upon the expiration of any currently pending suspension being served by Ms. Finney. During the one (1) year probationary period, Ms. Finney shall employ and utilize, at her own costs, a practice monitor in accordance with all requirements of Tenn. Sup. Ct. R. 9, § 12.9.

NOTICE

This judgment may be appealed pursuant to Tenn. Sup. Ct. R. 9, § 33, by filing a Petition for Review in the Circuit or Chancery Court within sixty (60) days of the date of entry of the hearing panel's judgment.

IT IS SO ORDERED this the 29th day of December, 2022.

NMGnida

Nicole M. Grida, Panel Chair

JGGrisham

with permission by *NMGnida*

Joseph G. Grisham, Panel Member

Zachary Moore

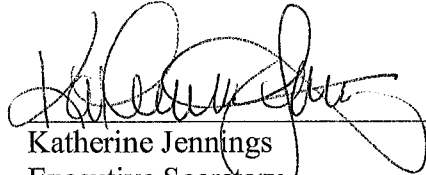
with permission by

NMGnida

Zachary M. Moore, Panel Member

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been sent to A. Sais Phillips Finney, P.O. Box 94, Memphis, TN, 38101, by U.S. First Class Mail and email (asapfinney@gmail.com), and hand-delivered to Douglas R. Bergeron, Disciplinary Counsel, on this the 29th day of December 2022.



Katherine Jennings
Executive Secretary

NOTICE

This judgment may be appealed by filing a Petition for Review in the appropriate Circuit or Chancery Court in accordance with Tenn. Sup. Ct. R. 9, § 33.