

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

**IN RE: JACKIE LYNN GARTON,
BPR No. 016106, Respondent,
an Attorney Licensed to
Practice Law in Tennessee
(Dickson County)**

**DOCKET NO. 2018-2864-6-AW
2019-3004-6-AW-22.3**

FINDINGS OF FACT AND CONCLUSIONS OF LAW

STATEMENT OF THE CASE

1. This is a disciplinary proceeding against Jackie Lynn Garton, an attorney licensed to practice law in Tennessee in 1993.
2. On May 29, 2019, Mr. Garton's law license was suspended pursuant to Tenn. Sup. Ct. R. 9 § 22.3.
3. A Petition for Discipline was filed against Mr. Garton on May 17, 2018.
4. A Supplemental Petition for Discipline was filed against Mr. Garton on November 21, 2018.
5. On September 11, 2019, Case no. 2019-3004-6-AW-22.3 was consolidated into this case.
6. Mr. Garton failed to respond to the Petition and Supplemental Petition, and his time for doing so has now passed.
7. On December 4, 2019, this Hearing Panel entered an Order for Default Judgment.
8. As a result of the Order for Default Judgment, all allegations in the Petition for

Discipline and Supplemental Petition have been deemed admitted pursuant to Tenn. Sup. Ct. R. 9 § 15.2(b).

9. A hearing was held on February 5, 2020 for the purpose to determine the discipline to be imposed against Mr. Garton. The Hearing Panel was composed of John Gregory Burlison, Hearing Panel Chair, Tracy White Moore, and Thomas Jacob Wolaver. The Board was represented by Brittany Lavalley. Mr. Garton and his attorney did not appear for the trial.

FINDINGS OF FACT

10. The evidence presented to the Hearing Panel, along with the admissions by Mr. Garton due to failing to respond to the Petition, established the following facts:

11. The Respondent, Jackie Lynn Garton, is an attorney admitted by the Supreme Court of Tennessee to practice law in the State of Tennessee. Mr. Garton's most recent office address, as registered with the Board of Professional Responsibility, is 465 Henslee Drive, P. O. Box 190, Dickson, Tennessee 37056; however, Mr. Garton requested all pleadings and correspondence in this matter be sent to P. O. Box 545, Burns, TN 37029, being in Disciplinary District VI.

12. Mr. Garton was represented by Michael J. Flanagan and correspondence was mailed to 95 White Bridge Road Suite 507 Nashville, TN 37205.

13. Mr. Garton was licensed to practice in the state of Tennessee in 1993 and his Board of Professional Responsibility number is 016106.

14. Mr. Garton was suspended by the Supreme Court on May 29, 2019 pursuant to Tenn. Sup. Ct. R. 9 § 22.3.

15. On May 17, 2018 the Board filed a Petition for Discipline against Mr. Garton.

16. On November 21, 2018 the Board filed a Supplemental Petition for Discipline against Mr. Garton.

17. On August 30, 2019 the Board filed a Motion to Consolidate with this Hearing Panel requesting consolidation of 2019-3004-6-AW-22.3 with 2018-2864-6-AW based upon their similar underlying facts.

18. On September 3, 2019 the Board filed a Motion to Consolidate with the 2019-3004-6-AW-22.3 asking that Hearing Panel to relinquish that matter to be consolidated.

19. On September 4, 2019 this Hearing Panel agreed to consolidate 2019-3004-6-AW-22.3 with 2018-2864-6-AW.

20. On September 11, 2019 the other Hearing Panel agreed to relinquish 2019-3004-6-AW-22.3 to be consolidated into this matter.

21. On November 15, 2019, the Board filed its Motion for Default.

22. On December 4, 2019, the Hearing Panel entered its Order for Default Judgment. As a consequence of Mr. Garton's failure to respond, all of the facts outlined below in the Petition for Discipline have been admitted.

File No. 54342-6-PS – Jennifer Roberts, Esq.

23. On October 4, 2017 the Board forwarded a complaint to Mr. Garton from Jennifer Roberts, Esq. on behalf of her client, Ms. Carina Larkins, requesting his response.

24. On October 10 and 11, 2018, the Board received an Affidavit and additional information from Ms. Roberts regarding the Trust for Carina Larkins and the same was forwarded to Mr. Garton on October 12, 2017.

25. By letter dated October 18, 2017, Mr. Garton provided his response to the Board, and the same was forwarded to Ms. Roberts for her response.

26. By letter dated October 30, 2017, Ms. Roberts provided a transcript of a hearing before the Honorable Michael Meise, Judge in the Juvenile Court for Dickson County on October

25, 2017, regarding the Estate of Todd M. Larkins and certain transactions related to a Trust established for the benefit of Carina Larkins, surviving daughter of Todd M. Larkins.

27. On November 7, 2017, the Board received a report from the Honorable Michael R. Meise, Judge of Juvenile and Probate Court of Dickson County, Tennessee, regarding misconduct of Mr. Garton related to certain transactions and pleadings involving the Carina Larkins Trust.

28. The report of Judge Meise was forwarded to Mr. Garton by letter dated November 8, 2017, for his response.

29. On November 22, 2017, Disciplinary Counsel received Mr. Garton's response, and a copy of same was forwarded to Judge Meise on November 30, 2017 for his response.

30. By letter dated November 30, 2017, the Board requested Mr. Garton provide file-stamped copies of all accountings filed with the court and the total amount of disbursements Mr. Garton made to himself.

31. On December 20, 2017, the Board sent a second request to Mr. Garton for a response to the November 30, 2017 letter.

32. By letter dated December 27, 2017, Mr. Garton provided a response to the Board.

33. On or about March 23, 2007, a Trust was ordered to be established for the sole benefit of Carina Larkins, surviving minor child of Todd Larkins, and Mr. Garton was appointed Trustee.

34. The Trust was to be established by Order of A. Andrew Jackson, Judge for Juvenile and Probate Court for Dickson County, entered March 23, 2007, and all filings were to be placed under seal.

35. Pursuant to the terms of the Order entered March 23, 2007, Mr. Garton, as Trustee, was required to hold, manage, administer, invest, and reinvest assets, together with all additions

and accretions, increases, proceeds, rents, profits, offspring, income, and benefits thereof for the benefit of Ms. Larkins.

36. Pursuant to the terms of the Order entered March 23, 2007, Mr. Garton, as Trustee, was required to collect the net income of the Trust and, from time to time, pay over therefrom or from the principal of the Trust, such amounts as approved by the Court, and any net income not so paid for the benefit of Ms. Larkins was to be added to the Trust.

37. Pursuant to the terms of the Order entered March 23, 2007, Mr. Garton, as Trustee, was required to render annual accountings to the Court of all sums received by the Trustee, all sums disbursed by the Trustee, and all transactions in property forming a part of the trust.

38. Pursuant to the terms of the Order entered March 23, 2007, the Trust was to be invested only pursuant to Court order, and no disbursements could be made without Court approval.

39. Pursuant to the terms of the Order entered March 23, 2007, all administrative expenses and fees were to be set by the Court and the Court's discretion.

40. Mr. Garton caused and/or acquiesced in the filing of the March 23, 2007 Order under seal in the Todd Larkins Estate.

41. Mr. Garton caused and/or acquiesced in the March 23, 2007 Order being sealed prior to presenting the same to the Clerk for filing.

42. As a result of Mr. Garton's action, the Clerk was unaware of the contents of the March 23, 2007 Order.

43. Thereafter, subsequent orders related to the Trust filed by Mr. Garton were similarly presented to the Clerk under seal.

44. On or about March 30, 2007, \$2,398,790.89 was deposited into the Trust account

at Edward Jones, and Mr. Garton, as Trustee, became the fiduciary on the account.

45. The establishment of the Trust occurred when Carina Larkins was fourteen (14) years of age.

46. Ms. Larkins was not made aware of the existence of the Trust until in or about August, 2017.

47. Pursuant to the Order entered March 23, 2007, and T.C.A. § 35-15-802(a), Mr. Garton owed a duty of loyalty to Ms. Larkins and was required to administer the Trust solely in Ms. Larkins' interest.

48. Pursuant to the Order entered March 23, 2007, and T.C.A. § 35-15-813(a), Mr. Garton was required to keep Ms. Larkins reasonably informed about the administration of the Trust and reasonably respond to requests from Ms. Larkins for information concerning the administration of the Trust.

49. On April 17, 2007, Judge Jackson entered an Order requiring a new Docket Number be assigned to the Carina Larkins Trust, and all pleadings and orders related thereto be filed under the new case number.

50. Mr. Garton caused and/or acquiesced in the filing of the April 17, 2007 Order in the Estate of Todd Larkins case and, thereafter, took no action to comply with the Order of the Court to establish the Carina Larkins Trust action in the Juvenile and Probate Court for Dickson County, Tennessee.

51. As a direct result of Mr. Garton's actions and omissions, no Carina Larkins Trust file under a separate docket was opened by the Juvenile and Probate Court for Dickson County, Tennessee, and the usual and customary oversight by the Clerk was never implemented.

52. Thereafter from time to time, Mr. Garton prepared disbursement orders related to

the Trust and presented the same to Judge Jackson in his chambers for review and execution.

53. Upon approval by Judge Jackson, Mr. Garton was instructed and/or required to present the executed Order to the Clerk for filing.

54. Mr. Garton failed to file executed Orders as instructed and/or required.

55. The disbursement orders presented by Mr. Garton to Judge Jackson for review did not address any disbursement of Trust funds to Mr. Garton, and according to Judge Jackson, no fees for Mr. Garton were ever approved by Judge Jackson.

56. Subsequent to Judge Jackson signing disbursement orders, Mr. Garton altered the first page of a number of the orders to reflect Court approval of significant disbursements to Mr. Garton.

57. Beginning on or about April 6, 2009, and continuing through or about July 25, 2017, Mr. Garton, in breach of his trust and fiduciary duties and without the approval of the Court, caused or made approximately fifty-seven (57) improper withdrawals from the Trust in the amount of \$1,075,663.00.

58. Mr. Garton misappropriated for his personal benefit at least \$1,075,663.00 in Trust funds belonging to Ms. Larkins.

59. According to Judge Jackson, the disbursements of Trust funds to Mr. Garton would not have been approved or authorized by him had Mr. Garton properly presented such requests in a motion or order.

60. According to Judge Jackson, the Orders dated April 6, 2009, and March 10, 2010, were not signed by him and are the product of fraud.

61. Mr. Garton forged or participated in the forgery of Judge Jackson's signature on at least two (2) disbursement orders for the purpose of misappropriating funds from the Carina

Larkins Trust.

62. Beginning on or about August 9, 2011, and continuing through or about September, 2017, Mr. Garton, in breach of his trust and fiduciary duties, caused or authorized approximately twenty-seven (27) improper transfers of Trust funds to Anita Pendergrass, mother of Ms. Larkins, in the amount of \$156,546.00.

63. On or about August 28, 2014, days before Judge Jackson was set to retire, Mr. Garton prepared an Order modifying the terms of the Trust to allow Mr. Garton to make disbursements without the necessity of obtaining prior Court approval and providing the Chancery Court with concurrent jurisdiction over the Trust.

64. Mr. Garton represented to Judge Jackson that the Trust could be more effectively administered through the Chancery Court, and Judge Jackson expected oversight of the Trust to be transferred to the Chancery Court.

65. Judge Jackson signed the Order, and the same was entered August 28, 2014; however, Mr. Garton failed to comply with the August 28, 2014 Order, submit the Order to the Clerk and Master, or ensure that the Chancery Court assumed authority over the Carina Larkins Trust.

66. Notwithstanding his failure to submit the Order to the Clerk and Master, Mr. Garton provided the August 28, 2014 Order to the brokerage companies managing the funds of the Trust.

67. The submission of the August 28, 2014 Order to the brokerage companies allowed Mr. Garton to unilaterally transfer Trust Funds to himself without first having the approval of the Chancery Court or the brokerage company question Mr. Garton's authority.

68. In or about July, 2017, Ms. Larkins attempted to contact Mr. Garton to inquire about the Trust to which she was the sole beneficiary.

69. Despite multiple attempts by Ms. Larkins to obtain information about the Trust, Mr. Garton failed to reasonably respond or provide any substantive information to Ms. Larkins.

70. As a consequence of Mr. Garton's failure to respond, Ms. Larkins retained Jennifer Davis Roberts, Esq., to obtain information about the status of the Trust.

71. Ms. Roberts contacted Mr. Garton and requested a meeting with him in order for Ms. Roberts and Ms. Larkins to review the details of the trust.

72. Mr. Garton represented to Ms. Roberts that he would contact Ms. Larkins by the end of the week to schedule a meeting.

73. Thereafter, Mr. Garton contacted Ms. Larkins and represented that Ms. Larkins would have her Trust funds by the end of the week.

74. Mr. Garton's representations to Ms. Roberts and Ms. Larkins were false as he did not schedule a meeting or provide the Trust funds to Ms. Larkins.

75. After Mr. Garton failed to schedule a meeting or provide the Trust funds as represented, Ms. Roberts made numerous but unsuccessful attempts to contact Mr. Garton.

76. Ms. Roberts went to the Probate Court Clerk's office to review the estate file but the file was sealed pursuant to the Court's Order.

77. Ms. Roberts again attempted to contact Mr. Garton to obtain the information Mr. Garton was required to provide to Ms. Larkins; however, Mr. Garton refused to respond.

78. Thereafter, Ms. Roberts filed pleadings with the Probate Court seeking permission to access the Estate files.

79. After obtaining an Order from the Probate Court, Ms. Roberts accessed the Estate files on September 26, 2017, and discovered the Order of Judge Jackson establishing the Carina Larkins Trust and requiring the Probate Court Clerk issue a separate Docket Number for the Trust.

80. Ms. Roberts then requested the Probate Court Clerk produce the Trust file; however, the Clerk could find no record of the establishment of the Trust file or the issuance of a new Docket Number for the Trust file.

81. Ms. Roberts sought and was granted access by the Probate Court to the brokerage accounts administering the Trust funds.

82. The Trust fund balance had been reduced to \$204,566.94 at Edward Jones as of August 25, 2017, and \$221,217.51 at Raymond James as of August 31, 2017, for a total Trust balance of \$425,784.45.

83. Mr. Garton had instructed the investment counselor at Edward Jones, Lee Marlow, not to provide any Trust account information to Ms. Larkins.

84. Mr. Garton had instructed the investment counselor at Raymond James, Jenny Edlin Butler, not to provide any Trust account information to Ms. Larkins.

85. Mr. Garton, during the course of the investigation of this disciplinary complaint, represented to the Board that all disbursements of Trust funds were approved by the Court and no trust funds were misappropriated by Mr. Garton.

86. The representations by Mr. Garton were false and designed to mislead the Board.

87. The aforementioned acts and omissions by Mr. Garton violated Rules of Professional Conduct (RPC) 1.3 (diligence), 1.4 (communication), 1.5 (fees), 1.7 (conflict with lawyer's personal interest), 1.15 (safekeeping property), 1.16 (declining or terminating representation), 3.3 (candor toward the tribunal), 4.1 (truthfulness in statements to others), 8.1 (bar admissions and disciplinary matters) and 8.4 (misconduct).

88. Mr. Garton violated RPC 1.3 (diligence) by failing to file the necessary orders and maintain contact with Ms. Larkins.

89. Mr. Garton violated RPC 1.4 (communication) by failing to maintain contact, consult the client, and reasonably inform the client of all decisions.

90. Mr. Garton violated RPC 1.5 (fees) by collecting an unreasonable and legally unauthorized fee of over one million dollars taken from the Trust.

91. Mr. Garton violated RPC 1.7 (conflict with lawyer's personal interest) by representing a client when his representation of said client was materially limited by his own personal interest.

92. Mr. Garton violated RPC 1.15 (safekeeping property) by misappropriating funds from the Trust and violating Court orders, as well as his fiduciary duties.

93. Mr. Garton violated RPC 1.16 (declining or terminating representation) by continuing a representation that resulted in a violation of the Rules of Professional Conduct and other law.

94. Mr. Garton violated RPC 3.3 (candor toward the tribunal) by failing to follow the Court's orders and instructions, failing to file orders to prevent oversight, and forging Judge Jackson's signature on two disbursement Orders.

95. Mr. Garton violated RPC 4.1 (truthfulness in statements to others) throughout his dealings with Ms. Larkins, Ms. Roberts, Judge Jackson, the clerk's office, and by making false statements to those persons throughout the representation.

96. Mr. Garton violated RPC 8.1 (a) and (b) by knowingly making false statements of material fact that all monetary amounts were distributed appropriately from the Trust and by failing to disclose the facts necessary to correct the false statements.

97. Mr. Garton violated RPC 8.4 (a), (b), (c), and (d) by committing the crime of violating the Rules of Professional Conduct, committing a criminal act of theft reflecting adversely

on his truthfulness, and engaging in conduct that involves dishonesty, fraud, deceit, and misrepresentation. That conduct was also prejudicial to the administration of justice.

File No. 6398-6-KB – Jennifer Roberts, Esq.

98. By Order dated November 20, 2017, in Case No. M2017-02248-SC-BAR-BP (BOPR No. 2017-2782-6-AW-12), Jackie Lynn Garton was Temporarily Suspended by the Tennessee Supreme Court for misappropriating funds and posing a threat of substantial harm to the public. Mr. Garton has neither requested reinstatement nor been reinstated to the practice of law.

99. On March 13, 2018, the Board received a faxed letter from Ms. Jennifer Roberts, Esq., on behalf of her client, Mr. Dennis Daugherty, alleging unethical conduct by Jackie Lynn Garton. A copy of the same was forwarded to Mr. Garton on March 19, 2018 for his response.

100. Mr. Garton provided a response and additional address of P. O. Box 545, Burns, TN 37029 to the Board.

101. This response failed to provide an explanation and accounting of fees as requested.

102. On April 4, 2018, the Board forwarded a copy of Mr. Garton's letter to Ms. Jennifer Roberts for her response.

103. On April 11, 2018, the Board received a response from Ms. Jennifer Roberts and the same was forwarded to Mr. Garton on April 12, 2018 for his response.

104. On May 9, 2018, Disciplinary Counsel sent a letter to Mr. Garton in care of his attorney, Michael J. Flanagan, Esq., requesting additional information regarding the \$44,359.67 received by Mr. Garton.

105. By letter and email dated May 25, 2018, the Board sent a second request to Mr. Garton (in care of Mr. Flanagan, Esq.) for a response to the May 9, 2018 letter within seven (7)

days.

106. On June 4, 2018, a Notice of Petition for Temporary Suspension Re: File No. 56398-6-PS was sent by email to Mr. Garton via his attorney, Michael J. Flanagan.

107. By letter dated June 6, 2018, from Mr. Flanagan, Mr. Garton provided a response to the Board.

108. By letters to Mr. Flanagan, dated June 13, 2018, June 28, 2018, and July 13, 2018, the Board requested additional accounting regarding the \$44,359.67 received by Mr. Garton. No response was received from Mr. Garton or his attorney.

109. Mr. Garton represented Dennis Daugherty and his sister, Jennifer Hooper, in establishing conservatorships for their mother and father.

110. On September 4, 2011, their father, Leslie Daugherty, died and Dennis Daugherty and Jennifer Hooper retained Mr. Garton to probate the estate.

111. After Leslie Daugherty's estate was probated and closed, Dennis Daugherty received a check made payable to the Estate of Leslie Daugherty in the amount of \$44,359.67.

112. Dennis Daugherty sought legal advice from Mr. Garton on or about January, 2013, and Mr. Garton instructed Dennis Daugherty to deliver the \$44,359.67 Estate funds to Mr. Garton for deposit into his law firm's trust account.

113. Dennis Daugherty did as he was instructed and delivered the \$44,359.67 Estate funds to Mr. Garton for deposit into the law firm's trust account.

114. Mr. Garton did not deposit the \$44,359.37 Estate funds into the law firm's trust account as required by the Rules of Professional Conduct (RPC) 1.15.

115. Mr. Garton made false and misleading statements to Dennis Daugherty to induce him to deliver the \$44,359.67 Estate funds to Mr. Garton in violation of RPC 8.4.

116. On or about April, 2016, Dennis Daugherty and Jennifer Hooper contacted Mr. Garton to inquire about the \$44,359.67 Estate funds Mr. Garton was holding in trust.

117. Mr. Garton advised he could disburse their respective share as heirs to their father's estate, but their mother's share would have to be retained for expenses related to their mother's conservatorship.

118. On April 27, 2016, Mr. Garton purchased Cashier's Check No. 1412884 from First Federal Bank made payable to Dennis Daugherty in the amount of \$11,561.90.

119. On April 27, 2016, Mr. Garton purchased Cashier's Check No. 1412885 from First Federal Bank made payable to Jennifer Hooper in the amount of \$11,561.90.

120. The source of the funds used by Mr. Garton to purchase each Cashier's Check were funds on deposit at First Federal Bank in an account associated with JTG Family LLC.

121. JTG Family LLC is an account controlled by Jackie Lynn Garton.

122. After their mother's cash assets were depleted, Dennis Daugherty and Jennifer Hooper contacted Mr. Garton to inquire about the balance of the \$44,359.67 Estate funds they believed was being held in trust.

123. Mr. Garton failed to advise his clients that the balance of the \$44,359.67 was not held in the law firm's trust account or that Mr. Garton had misappropriated the remaining Estate funds entrusted to him.

124. Instead, Mr. Garton, in an effort to delay the discovery of his misappropriation, instructed his clients to start the "spend down" process by selling their mother's home.

125. Dennis Daugherty and Jennifer Hooper followed the instructions of their attorney and sold their mother's home.

126. Thereafter, Dennis Daugherty and Jennifer Hooper continued to request

disbursement of the balance of the \$44,359.67 Estate funds for the use and benefit of their mother.

127. Despite repeated requests for disbursement, Mr. Garton failed to comply with his clients' demands.

128. Thereafter, Mr. Garton was suspended from the practice of law for misappropriation of client funds and withdrew from his law firm.

129. On or about February, 2018, Dennis Daugherty contacted Mr. Regen, partner in Mr. Garton's prior law firm, and requested an accounting of the Estate funds which were understood to be held in the law firm's trust account.

130. After investigating the matter, Mr. Regen produced a handwritten accounting from the file and notified Dennis Daugherty on March 5, 2018, that Mr. Garton never deposited the Estate funds into the law firm's trust account.

131. Mr. Regen further advised that JTG Family LLC was the source of the funds used by Mr. Garton to purchase each Cashier's Check.

132. During the course of the investigation of the disciplinary complaint, the Board obtained the bank records for the JTG Family LLC account at First Federal Bank. A review of the account records does not reflect the deposit of the \$44,359.67 Estate funds.

133. During the course of the investigation of the disciplinary complaint, the Board requested Mr. Garton account for the \$44,359.67 Estate funds; however, Mr. Garton failed to respond to the Board or otherwise account for the Estate funds at issue in violation of RPB 8.1 (b).

134. Upon receipt of the \$44,359.67 Estate funds, Mr. Garton converted the same to his personal use in violation of RPC 1.15 and 8.4.

135. Mr. Garton used personal funds or third-party funds he controlled to fund the payment of \$11,561.90 funds due and owing to Dennis Daugherty in violation of RPC 1.15 and

8.4.

136. Mr. Garton used personal funds or third-party funds he controlled to fund the payment of \$11,561.90 funds due and owing to Jennifer Hooper in violation of RPC 1.15 and 8.4.

137. No written agreement related to the \$44,359.67 Estate funds was prepared by Mr. Garton, and no fee agreement was discussed with or agreed to by Dennis Daugherty or Jennifer Hooper.

138. Mr. Garton provided no material professional services to Dennis Daugherty or Jennifer Hooper to sufficiently warrant the payment of a fee to Mr. Garton.

139. Mr. Garton filed no court action or incurred or paid no filing fee related to his receipt and conversion of the \$44,339.67 Estate funds.

140. Mr. Garton misappropriated and failed to account for at least \$21, 235.87 of the Estate funds he received from Dennis Daugherty in violation of RPC 1.15 and 8.4.

141. Mr. Garton failed to properly communicate with Dennis Daugherty and Jennifer Hooper regarding their requests for information about the \$44,359.67 Estate funds held by Mr. Garton in trust and for the benefit of Dennis Daugherty, Jennifer Hooper, and their mother in violation of RPC 1.4.

142. Mr. Garton violated RPC 8.1 (a) and (b) by knowingly making a false statement of material fact during the course of the investigation and failing to respond to the demand for information from the disciplinary authority during the investigation.

143. Mr. Garton violated RPC 8.4 (a), (b), (c), and (d) by violating the Rules of Professional Conduct, committing criminal acts in the misappropriation of funds, engaging in dishonest and fraudulent conduct in taking the funds, and committing this conduct which was prejudicial to the administration of justice.

M2019-00938-SC-BAR-BP

144. This matter was referred to the Hearing Panel from the Supreme Court of Tennessee based upon Mr. Garton's convictions for serious crimes for the sole determination of the extent of final discipline.

145. Pursuant to a certified copy of the Judgment In A Criminal Case in the United States District Court for the Middle District of Tennessee, in the matter of *United States of America v. Jackie Lynn Garton*, Case Number: 3:18-cr-00332, Jackie Lynn Garton pled guilty to a serious crime, i.e., Wire Fraud in violation 18 USC §1343, Aggravated Identity Theft in violation of 18 USC §1028A, and Tax Fraud in violation of 26 USC §7206(1).

CONCLUSIONS OF LAW

Pursuant to Tenn. Sup. Ct. R. 9, § 8.1, attorneys admitted to practice law in Tennessee are subject to the disciplinary jurisdiction of the Supreme Court, the Board of Professional Responsibility, the hearing panel, and the Circuit and Chancery Courts.

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 act, at all times, both professionally and personally, in conformity with the standards imposed upon members of the bar as conditions for the privilege to practice law. Pursuant to Tenn. Sup. Ct. R. 9, § 11.1, 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 Respondent has failed to conduct himself in conformity with said standards and is guilty of acts and omissions in violation of the authority cited *infra*.

Based on the evidence presented, and based on the admissions of the Respondent due to his failure to respond to the Petition and Supplemental Petition, the Hearing Panel finds that the

Board has proven by a preponderance of evidence that Respondent has violated RPC 1.3 by failing to act with reasonable diligence and promptness in representing his clients, in that he failed to take action in his clients' cases and failed to respond to requests for information.

Based on the evidence presented, and based on the admissions of the Respondent due to his failure to respond to the Petition and Supplemental Petition, the Hearing Panel finds that the Board has proven by a preponderance of evidence that Respondent has violated RPC 1.4 by failing to communicate with clients and failing to inform them of the status of their cases.

Based on the evidence presented, and based on the admissions of the Respondent due to his failure to respond to the Petition and Supplemental Petition, the Hearing Panel finds that the Board has proven by a preponderance of evidence that Respondent has violated RPC 1.5 by collecting unreasonable fees when considering the lack of work he performed for his clients and his misappropriation of funds.

Based on the evidence presented, and based on the admissions of the Respondent due to his failure to respond to the Petition and Supplemental Petition, the Hearing Panel finds that the Board has proven by a preponderance of evidence that Respondent has violated RPC 1.7 by representing clients when his representation was materially limited by his own personal interest.

Based on the evidence presented, and based on the admissions of the Respondent due to his failure to respond to the Petition and Supplemental Petition, the Hearing Panel finds that the Board has proven by a preponderance of evidence that Respondent has violated RPC 1.15 by misappropriating funds from the clients and violating Court orders.

Based on the evidence presented, and based on the admissions of the Respondent due to his failure to respond to the Petition and Supplemental Petition, the Hearing Panel finds that the Board has proven by a preponderance of evidence that Respondent has violated RPC 1.16 by

continuing a representation that resulted in a violation of the Rules of Professional Conduct.

Based on the evidence presented, and based on the admissions of the Respondent due to his failure to respond to the Petition and Supplemental Petition, the Hearing Panel finds that the Board has proven by a preponderance of evidence that Respondent has violated RPC 3.3 by failing to follow the Court's orders and instructions, failing to file orders to prevent oversight, and forging Judge Jackson's signature on two disbursement Orders.

Based on the evidence presented, and based on the admissions of the Respondent due to his failure to respond to the Petition and Supplemental Petition, the Hearing Panel finds that the Board has proven by a preponderance of evidence that Respondent has violated RPC 4.1 by making false statements to clients, the Court, and third persons during his representation of clients.

Based on the evidence presented and based on the admissions of the Respondent due to his failure to respond to the Petition and Supplemental Petition, the Hearing Panel finds that the Board has proven by a preponderance of evidence that Respondent has violated RPC 8.1 by knowingly failing to respond to Board requests for responses to complaints.

Based on the evidence presented and based on the admissions of the Respondent due to his failure to respond to the Petition and Supplemental Petition, the Hearing Panel finds that the Board has proven by a preponderance of evidence that Respondent has violated RPC 8.4(a) by committing the violations outlined above.

Based on the evidence presented and based on the admissions of the Respondent due to his failure to respond to the Petition and Supplemental Petition, the Hearing Panel finds that the Board has proven by a preponderance of evidence that Respondent has violated RPC 8.4(b) based upon the criminal convictions for Wire Fraud, Aggravated Identity Theft, and Tax Fraud.

Based on the evidence presented and based on the admissions of the Respondent due to his

failure to respond to the Petition and Supplemental Petition, the Hearing Panel finds that the Board has proven by a preponderance of evidence that Respondent has violated RPC 8.4(c) by engaging in fraud and misrepresentation in his dealings with clients.

Based on the evidence presented, and based on the admissions of the Respondent due to his failure to respond to the Petition and Supplemental Petition the Hearing Panel finds that the Board has proven by a preponderance of evidence that Respondent has violated RPC 8.4(d) by engaging in conduct prejudicial to the administration of justice, by misappropriating funds, and the conduct covered heretofore.

ABA STANDARDS

When disciplinary violations are established by a preponderance of the evidence, the appropriate discipline must be based upon application of the ABA Standards for Imposing Lawyer Sanctions, (“ABA Standards”) pursuant to Section 15.4, Rule 9 of the Rules of the Supreme Court.

The Hearing Panel finds that the following ABA Standards are applicable in this matter:

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

5.11 Disbarment is generally appropriate when:

- (a) a lawyer engages in serious criminal conduct, a necessary element of which includes intentional interference with the administration of justice, false swearing, misrepresentation, fraud, extortion, misappropriation, or theft; or the sale, distribution or importation or controlled substances; or the intentional killing of another; or an attempt or conspiracy or solicitation of another to commit any of these offenses; or
- (b) a lawyer engages in any other intentional conduct involving

dishonesty, fraud, deceit, or misrepresentation that seriously adversely reflects on the lawyer's fitness to practice.

6.11 Disbarment is generally appropriate when a lawyer, with the intent to deceive the court, makes a false statement, submits a false document, or improperly withholds material information, and causes serious or potentially serious injury to a party, or causes a significant or potentially significant adverse effect on the legal proceeding.

AGGRAVATING FACTORS

After misconduct has been established, aggravating and mitigating circumstances may be considered in deciding what sanctions to impose.

Mr. Garton's pattern of misconduct is an aggravating circumstance justifying an increase in discipline.

Mr. Garton's multiple offenses are an aggravating circumstance justifying an increase in discipline.

Mr. Garton's refusal to acknowledge the wrongful nature of his conduct is an aggravating circumstance justifying an increase in discipline.

Mr. Garton's dishonest and selfish motive is an aggravating circumstance justifying an increase in discipline.

Mr. Garton's substantial experience in the practice of law is an aggravating circumstance justifying an increase in discipline.

Mr. Garton's submission of false evidence, false statements, or other deceptive processes during the disciplinary process is an aggravating circumstance justifying an increase in discipline.

JUDGMENT

In light of the Findings of Fact and Conclusions of Law, the relevant ABA Standards and the aggravating factors set forth above, the Hearing Panel hereby finds that Mr. Garton should be **disbarred** pursuant to Tenn. Sup. Ct. R. 9, § 12.1.

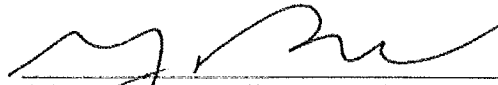
As a condition of reinstatement to the practice of law, Mr. Garton shall pay restitution as set forth below:

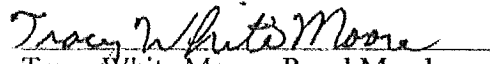
1. Carina Larkins Trust - \$1,199,721.30
2. The Estate of Steven Browne - \$41,063.42
3. The Estate of Joe B. Allen - \$25,083.56
4. The Estate of Franklin Reynolds - \$7,924.84
5. The Trust of Bridget Nicole Smith - \$20,706.63
6. Betty Jo Daughtery - \$15,415.87
7. Regen Law Firm Trust Account - \$55,287.80

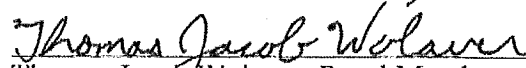
These restitution amounts are the same as those reflected in the judgment in the case of *United States of America v. Jackie Lynn Garton*, Case Number: 3:18-cr-00332, excluding that of the repayment to the Internal Revenue Service enumerated in the judgment.

The costs of this cause will be taxed to Mr. Garton following entry of this judgment pursuant to the procedures established in Tenn. Sup. Ct. R. 9, § 31.3 (a).

IT IS SO ORDERED.


John Gregory Burlison, Panel Chair


Tracy White Moore, Panel Member

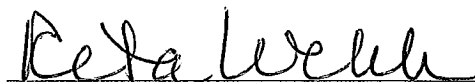

Thomas Jacob Wolaver, Panel Member

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.

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been sent to Respondent, Jackie Lynn Garton, PO Box 545, Burns, TN 37029, and to his counsel, Michael J. Flanagan, 95 White Bridge Road, Suite 507, Nashville, TN 37205, by U.S. First Class Mail, and hand-delivered to Brittany Lavalley, Disciplinary Counsel, on this the 7th day of April, 2020.



Rita Webb
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.