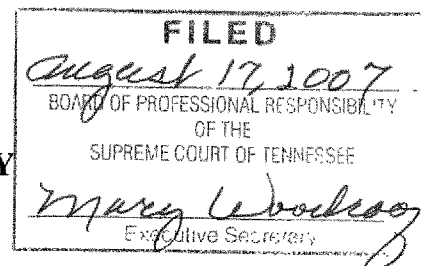


**IN DISCIPLINARY DISTRICT IX  
OF THE  
BOARD OF PROFESSIONAL RESPONSIBILITY  
OF THE  
SUPREME COURT OF TENNESSEE**



**IN RE:           BARRY E. GILMORE, BOPR #17996,           DOCKET NO. 2006-1628-9-JJ**  
**Respondent. An Attorney Licensed to**  
**Practice Law in Tennessee**  
**(Shelby County)**

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**FINDINGS AND JUDGMENT OF THE HEARING PANEL**

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This proceeding came on to be heard on July 27, 2007, before the three district committee members which comprise this panel, all duly appointed by the Tennessee Supreme Court, upon a Petition for Discipline filed by the Board of Professional Responsibility ("Board"), on September 8, 2006; upon the Board's Motion for Default Judgment and to Set, filed January 3, 2007; upon the Panel's Default Judgment filed on July 10, 2007, and the record as a whole. From all of which, the hearing panel finds as follows:

1.       The respondent, Barry E. Gilmore, was admitted to the Tennessee Bar in 1996, and has practiced law primarily in Memphis, Tennessee between 1996 and February of 2006.
2.       On February 21, 2006, respondent was temporarily suspended from the practice of law by order of the Tennessee Supreme Court for posing a risk of irreparable harm to clients and the public, pursuant to Tenn. R. Sup. Ct. 9, §4.3. Respondent's law license remains suspended on this basis as of present.
3.       Between November, 2005 and February, 2006, the Board received disciplinary complainants against respondent from Fred and Tammy Arnold (File No. 28636-9-JJ), Mark T. Blankenship (File No. 28714-9-JJ) and Sharlene B. Williams (File No. 28922-9-JJ). In these complaints, it was alleged that respondent failed to communicate with these clients regarding their

urgent requests for information about the status of their cases pending in the Circuit and Chancery Courts, that he failed to prosecute pending motions in case which were being litigated, that he failed to properly notify these and other clients, opposing counsel and courts of his new business address after moving his law practice to his home in September of 2005, and that he failed to enter orders of withdrawal in matters where he ceased providing legal services.

4. On September 8, 2006, the Board filed a Petition for Discipline against the respondent, incorporating the three above complaint files. The Board sent respondent a copy of this petition for discipline by Certified Mail, Return Receipt Requested, on September 8, 2006, to his last-known residential address, but this certified mailing was returned to the Board by the US Postal Service on September 18, 2006, and marked non-deliverable, unable to be forwarded, and "MLNA" (moved left no address).

5. This Petition for Discipline also alleges that respondent refused to provide the Board with an affidavit attesting to the fact that he had properly withdrawn and had otherwise complied with all obligations of suspended lawyers after his February, 2006 temporary suspension, pursuant to Tenn. R. Sup. Ct. 9, §18, and that he had failed to comply with the Board's written requests for information on certain disciplinary complaints. Moreover, the Board contended within the Petition for Discipline that respondent continued to mislead clients and opposing counsel regarding his actual mailing address by utilizing as late as December 13, 2005 an "8 South Third Street, Suite 400" office address in Memphis and office phone of "(901)524-1803," for his letterhead while he abandoned his actual practice at that location as early as September, 2005.

6. Pursuant to Tenn. R. Sup. Ct. 9, §8.2, the respondent is granted twenty (20) days to file his Answer after service of the Petition against him unless the time period is extended

by the Board Chair.

7. Pursuant to Tenn. R. Sup. Ct. 9, §12.1, service of the petition for discipline in any disciplinary matter may be by registered or certified mail to the address listed by a respondent-attorney in his or her most recent registration statement filed under §20.5 of this rule, or to some other last-known address. Attorneys are required to update their residential and office addresses in writing with the Board, within 30 days after any such change of address, according to Rule 9, §20.5. Respondent's current residential address pursuant to his most recent registration statement filed under Rule 9, §20.5 is 1557 Central Ave., Apt. 2, Memphis, TN 38104, and the Board has no other address for him.

8. As of January 3, 2007, the respondent had not filed an Answer to the Petition for Discipline, and had not filed any request for an extension of time, and on this same date, the Board filed a Motion for Default Judgment and to Set. The Board sent respondent a copy of the Board's Motion for Default by Certified Mail, Return Receipt Requested on January 3, 2007, to his last-known residential address according to the Board's records and this January 3, 2007 certified mailing of the default motion to respondent was returned to the Board unclaimed, and marked "Moved, Left No Address, Unable to Forward - - Return to Sender."

9. On March 16, 2007, at 2:00pm, the Panel conducted a telephone conference on the Board's Motion for Default wherein respondent did not participate. The Panel acknowledges that the Board's Executive Secretary left a message earlier on the morning of March 16, 2007 at a phone number believed to be respondent's (901-767-1309), for respondent to call back if he was the Barry E. Gilmore involved in these proceedings, in order that he may be given instructions on how to participate in the March 16, 2007 conference call. The Board's Executive Secretary received no

return phone call from respondent as to this March 16, 2007 conference call.

10. At the March 16, 2007 telephonic hearing, the Panel granted the Board's Motion for Default Judgment, and on July 10, 2007, the Panel filed its Default Judgment in this matter. Accordingly, the allegations against respondent as contained within the Petition for Discipline are deemed admitted pursuant to Tenn. R. Sup. Ct. 9, §8.2.

11. On July 23, 2007, the Panel issued a notice of final hearing by conference call, setting the final hearing in this matter for July 27, 2007 at 1:00pm, and providing call-in instructions. The Board Executive Secretary forwarded a copy of this notice to the Panel, to Disciplinary Counsel, and to respondent on July 23, 2007 at his last-known residential address, by Federal Express Priority Delivery. The respondent did not appear at this July 27, 2007 final hearing.

12. The respondent violated RPCs 1.3, 1.4(a)(b), 1.16(a)(1)(2), (d)(1)(2), 3.4(c) and 8.4(a)(c)(d) due to his actions as set forth in the Petition for Discipline, and he has also violated Tenn. R. Sup. Ct. 9, §§18.1, 18.6 & 18.8 due to his actions.

13. The following aggravating circumstances justify an increase in the degree of discipline to be imposed herein under *ABA Standard 9.22*:

- a. Prior disciplinary sanctions (2006 temporary suspension and 2006 public censure);
- b. A pattern of misconduct;
- c. Multiple offenses; and
- d. A refusal to acknowledge the wrongful nature of his conduct.


14. Respondent's violations of the aforementioned Rules of Professional Conduct and Rules of Disciplinary Enforcement warrant his suspension from the practice of law for one (1) year pursuant to Tenn. R. Sup. Ct. 9, §4.2. Respondent shall be assessed the costs of these proceedings pursuant to Tenn. R. Sup. Ct. 9, §24.3.

**IT IS THEREFORE, ORDERED, ADJUDGED and DECREED** as follows:


- A. That Barry E. Gilmore be and is hereby suspended from the practice of law in Tennessee for one (1) year;
- B. That the one (1) year suspension shall become effective ten (10) days after the filing of any Tennessee Supreme Court's Order incorporating this Judgment;
- C. That Barry E. Gilmore shall comply with the requirements of Tenn. R. Sup. Ct. 9, §19 should he seek reinstatement of his law license, and that he may not resume practice until reinstated by order of the Tennessee Supreme Court;
- D. That Barry E. Gilmore shall comply in all respects with Rule 9, Rules of the Supreme Court of Tennessee and specifically with Section 18 of said Rule regarding the obligations and responsibilities of suspended attorneys;
- E. That Barry E. Gilmore shall reimburse and pay to the Board of Professional Responsibility the costs and expenses of this proceeding.

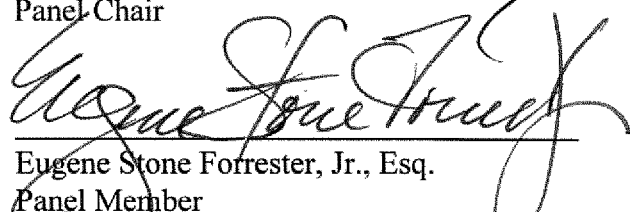
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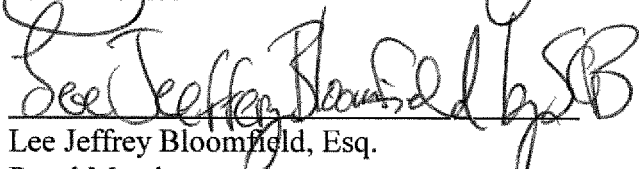
**APPROVED FOR ENTRY:**

  
\_\_\_\_\_  
Jesse D. Joseph, BOPR # 10509  
Disciplinary Counsel  
1101 Kermit Dr., Suite 730  
Nashville, TN 37217  
615/361-7500

**THE HEARING PANEL:**


  
\_\_\_\_\_  
Saul C. Belz, Esq.  
Panel Chair

  
\_\_\_\_\_  
Eugene Stone Forrester, Jr., Esq.  
Panel Member

  
\_\_\_\_\_  
Lee Jeffrey Bloomfield, Esq.  
Panel Member

**CERTIFICATE OF SERVICE**

I hereby certify I have mailed a copy of the foregoing proposed Findings and Judgment of the Hearing Panel to respondent Barry E. Gilmore, Esq., 1557 Central Ave., Apt. 2, Memphis, TN 38104, on this the 4th day of August, 2007.



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Jesse D. Joseph

Gilmore, BE.BOPR Findings & Judgment of Hearing Panel