

IN DISCIPLINARY DISTRICT 0
OF THE
BOARD OF PROFESSIONAL RESPONSIBILITY
OF THE
SUPREME COURT OF TENNESSEE

FILED

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BOARD OF PROFESSIONAL
RESPONSIBILITY

Rew EXEC. SEC.

IN RE: KING BETHEL HARRIS, III
Respondent, BPR No. 23282
An Attorney Licensed
to Practice Law in Tennessee
(St. Louis, Missouri)

DOCKET NO. 2011-2015-0-KH

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND JUDGMENT

This cause came on to be heard by the Hearing Panel of the Board of Professional Responsibility of the Supreme Court of Tennessee on September 21, 2011. Present before the Panel was Krisann Hodges, Disciplinary Counsel for the Board of Professional Responsibility. Respondent, King Bethel Harris, III, did not appear. The Hearing Panel, Alex Elder, Chair, Scott Vincent and Amanda Waddell, makes the following findings of fact and conclusions of law and submits its Judgment in this cause as follows:

I. FINDINGS OF FACT

An Order of Default Judgment was entered on September 15, 2011. As a result, all allegations in this matter are deemed admitted.

File No. 32975-O-KH

Discovered During Investigation (Petition for Discipline)

1. On March 19, 2010, the Board sent a complaint alleging ethical misconduct to counsel for Respondent. The complaint arose during investigation of prior cases.
2. After being advised that counsel was not representing Respondent in relation to the complaint, the Board sent the complaint directly to Respondent on March 25, 2010.

3. On April 15, 2010, the Board sent another letter and a Notice of Temporary Suspension after receiving no response from Respondent.

4. On May 27, 2010, Respondent was temporarily suspended by the Tennessee Supreme Court for failure to respond to the complaint of disciplinary misconduct. At the time of temporary suspension, Respondent had been suspended from the practice of law for one (1) year based upon a prior disciplinary case.

5. On July 2, 2010, the Board received a letter from Respondent regarding the allegations of disciplinary misconduct.

6. As a result of the response to the disciplinary complaint, the Tennessee Supreme Court entered an Order dissolving the temporary suspension on September 24, 2010.

7. This disciplinary complaint originated from a communication by Mr. John Noonan, Investigator for the Enforcement Unit of the State Bar of California, inquiring about Respondent's licensure status.

8. According to Mr. Noonan, Respondent was involved with a business called GreenCredit Law Center (hereinafter "GreenCredit") located in California.

9. GreenCredit, also known by several other names, was engaged in the unauthorized practice of law in California.

10. The company purported to assist customers with loan/mortgage modifications.

11. Customers were informed that GreenCredit had "in-house" attorneys who would conduct negotiations with the lenders.

12. In four (4) cases cited by the Ex Parte Application filed by the State Bar of California, the fees paid by customers to GreenCredit were credited to Smith Harris, PLLC, Respondent's law firm.

13. One example of a case wherein Respondent received fees from a GreenCredit customer involves Martha Little. Ms. Little paid fees in the amount of \$3,495.00 to GreenCredit with a credit card. The entire amount was paid to “Smith Harris, PLLC” as reflected on her bank statement.

14. Similarly, Lorri Franklin paid \$3,495.00 to GreenCredit which was deposited into Smith Harris, PLLC.

15. The declaration of Jacqueline Taylor states that she paid legal fees to GreenCredit which were withdrawn from her bank account and forwarded to Smith Harris, PLLC.

16. The Ex Parte Application identifies other victims of GreenCredit whose fees were deposited into Smith Harris, PLLC.

17. Further, GreenCredit held out Respondent as an attorney associated with the company providing escrow services.

18. Customers of GreenCredit were assured that funds would be held in attorney trust accounts, Smith Harris, PLLC, being one of them.

19. The agreement for services provided to customers states that the fees are for legal services

20. The Respondent acknowledged in his response to the Board that he was in business with GreenCredit. Specifically, Respondent states that his finance company, Worldwide Financial Services Group (“Worldwide”), was the escrow agent for GreenCredit, not Smith Harris PLLC.

21. Deposits from GreenCredit were made to Respondent’s Worldwide account in 2008.

22. These deposits were denoted by “GreenCredit.”

23. The Worldwide bank statements do not indicate that any similar transactions were then transferred out of Respondent's Worldwide account back to GreenCredit at a later date.

24. There were no deposits into the Worldwide account in 2009 from GreenCredit or from the individual customers identified in the Ex Parte Application for Order to Show Cause filed by the State Bar of California.

25. Respondent is not licensed to practice law in California. Further, at all times relevant to these events, Respondent was suspended from the practice of law in Tennessee

File No. 33699-0-PS
Complainant Debra McLane (Supp. Petition for Discipline)

26. On December 15, 2010, the Board received a complaint from Debra McLane alleging ethical misconduct by Respondent.

27. On December 21, 2010, the Board sent a copy of the complaint to Respondent and requested that he submit a response to the complaint within ten (10) days. Having received no response to the complaint, the Board sent Notices of Temporary Suspension to the Respondent by certified mail on January 7, 2011.

28. The Respondent was disbarred on January 31, 2011 in relation to another disciplinary proceeding, Docket Numbers 2009-1841-9-KH and 2010-1875-9-KH.

29. Also, at the time of disbarment, the Respondent was suspended from the practice of law in relation to a 2008 suspension from which he had not requested reinstatement, Docket No. 2005-1550-9-LC.

30. The Board never received a response from the Respondent to the complaint filed by Ms. McLane.

31. Debra McLane entered into a contract with GreenCredit for a mortgage modification. Ms. McLane provided GreenCredit with her financial information.

32. On March 13, 2009, a withdrawal was made from her bank account in the amount of \$3,545.00.

33. The funds were transferred from her account to Smith Harris, PLLC. Customers were informed that GreenCredit had “in-house” attorneys who would conduct negotiations with the lenders.

34. Ms. McLane never received a loan modification.

35. The State Bar of California took legal action against GreenCredit for the unauthorized practice of law.

File No. 33625-0-KH
Complainant Sally Garbutt (Supp. Petition for Discipline)

36. On July 23, 2010, the Board received a complaint from Sally Garbutt alleging ethical misconduct by Respondent.

37. On November 18, 2010, the Board sent a copy of the complaint to Respondent and requested that he submit a response to the complaint within ten (10) days. Having received no response to the complaint, the Board sent a Notice of Temporary Suspension to the Respondent by certified mail on December 6, 2010.

38. The Respondent never provided a response to the disciplinary complaint.

39. Sally Garbutt entered into a contract with GreenCredit for a mortgage modification.

40. On August 27, 2009, funds in the amount of \$3,495.00 were electronically withdrawn from Ms. Garbutt's bank account. The funds were transferred from her account to Smith Harris, PLLC.

41. Ms. Garbutt never received a loan modification.

Finally, by failing to provide a response to the complaints until after numerous requests from the Board, Respondent knowingly failed to respond to a lawful demand for information from the Board, as required in RPC 8.1.

Accordingly, the appropriate discipline must be based upon application of the ABA Standards for Imposing Lawyer Sanctions. See *Tenn. S. Ct. Rule 9, Section 8.4*. As a result of these disciplinary violations, the following ABA Standards apply in this case:

7.1 Disbarment is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed to the profession 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.

8.1(b) Disbarment is generally appropriate when a lawyer:

(b) has been suspended for the same or similar misconduct, and intentionally or knowingly engages in further acts of misconduct that cause injury or potential injury to a client, the public, the legal system, or the profession.

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 of 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.

Aggravating Factors

Pursuant to ABA Standard 9.22, a number of aggravating factors are present in this case. Respondent has prior disciplinary offenses. On January 3, 2008, Respondent was suspended for one (1) year by Order of the Supreme Court for the unauthorized practice of law. The

Respondent was disbarred on January 31, 2011 in relation to another disciplinary proceeding finding that he engaged in the unauthorized practice of law.

The Panel finds that the Respondent has demonstrated a pattern of misconduct in that he has engaged in several instances of unauthorized practice of law. Further, he accepted funds from several customers of GreenCredit.

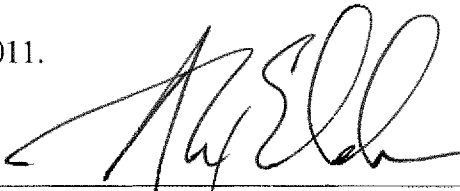
Further, the Respondent has demonstrated a bad faith obstruction of the disciplinary proceeding by failing to respond to disciplinary complaints. In the single response submitted by the Respondent, he refused to acknowledge wrongful nature of his conduct. Finally, the Respondent has shown an indifference to making restitution.

III. JUDGMENT

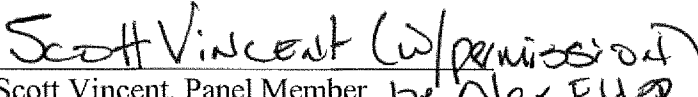
It is ORDERED by the Hearing Panel as follows:

1. That Respondent, King Bethel Harris, III, be disbarred from the practice of law.
2. Further, the Respondent is ordered to pay restitution as follows: Debra McLane, \$3,545.00; and Sally Garbutt, \$3,495.00.
3. Payment of restitution and the Board's costs shall be a condition of reinstatement.

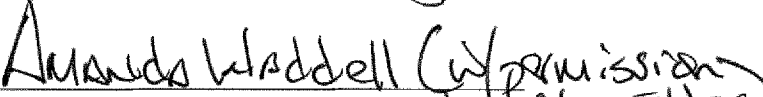
ENTER this 7 day of October, 2011.



Alex Elder, Panel Chair



Scott Vincent, Panel Member *(w/permission by Alex Elder)*



Amanda Waddell, Panel Member *(w/permission by Alex Elder)*