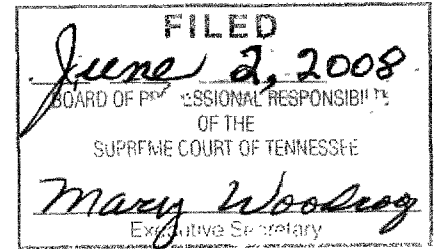


IN DISCIPLINARY DISTRICT III
OF THE
BOARD OF PROFESSIONAL RESPONSIBILITY
OF THE
SUPREME COURT OF TENNESSEE



IN RE: JOHN CHRIS HELTON,
BPR No. 14339, An Attorney
Licensed to Practice Law In Tennessee
(Hamilton County)

DOCKET NO. 2007-1717-3(c)-JV
File No. 30294-3(C)-JV

JUDGMENT OF THE HEARING PANEL

This cause came to be heard by the Hearing Panel of the Board of Professional Responsibility of the Supreme Court of Tennessee on May 14, 2008. After reviewing all the evidence, the comparable cases of discipline, and the applicable ABA standards, this Hearing Panel makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACTS

1. Respondent is an attorney admitted by the Supreme Court of Tennessee to practice in the State of Tennessee. Respondent attorney's registration number issued by the Board of Professional Responsibility is 14339. Respondent's most recent address is registered with the Board as 801 Harris Lane, Chattanooga, Tennessee, 37412, which is located in Disciplinary District III.
2. Respondent was granted a license to practice law in Tennessee in 1990.
3. Pursuant to Section 1 of the Tennessee Supreme Court Rule 9, any attorney admitted to practice law in Tennessee is subject to the disciplinary jurisdiction of the Supreme Court, the Board, hearing committee, and the circuit and chancery court. Pursuant to Section 3 of Rule 9, the license to practice law in the state is a privilege, and it is the duty of every

recipient of that privilege to conduct himself 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 Code of Professional Responsibility of the State of Tennessee shall constitute misconduct and be grounds for discipline.

4. On October 21, 2003, Respondent was publicly censured by the Board in another matter for failing to deposit into his trust account a retainer fee which was to be billed against as an hourly rate.

5. Respondent was named as executor of the Estate of Mary Elizabeth Finley by Ms. Finley's will. On November 12, 2003, Respondent was appointed executor of the Estate of Mary Elizabeth Finley by the Chancery Court of Hamilton County, Tennessee. The estate matter was assigned docket number 03-P-572 by the Chancery Court.

6. On March 10, 2004, the heirs to the estate filed a petition to remove Respondent as executor. However, that petition was voluntarily dismissed on June 14, 2004.

7. On February 3, 2005, Respondent, acting in his role as executor of the estate, sold the house located at 1509 Garner Circle, East Ridge, Tennessee to Respondent's son and his partner for \$45,500.

8. The Garner Circle house had an appraised value of \$50,000.

9. On September 7, 2005, the Chancery Court entered an order removing Respondent as executor of the estate because Respondent had not filed an accounting. On October 10, 2005, the Chancery Court set aside that order.

10. On June 9, 2006, the Chancery Court issued a show cause order directing Respondent to show cause why he should not be held in contempt for failing to carry out the orders of the Chancery Court.

11. As of June 9, 2006, Respondent had not filed an accounting.
12. Ms. Finley's will expressly waived the requirement of an accounting.
13. On June 23, 2006, Respondent was again removed as executor of the estate for failing in his fiduciary duty to timely administer and close the estate.
14. In its June 23, 2006 order, the Chancery Court further directed Respondent to turn over all files and documents to the newly appointed successor administrator, G. Michael Luhowiak within 15 days. This deadline was subsequently extended to July 17, 2006.
15. In March 2007, Respondent's former law firm turned over two large banker boxes relating to the Estate to the successor administrator. The contents of these boxes include undeposited checks, which were properly payable to the estate, Social Security checks, IRS tax refund checks which had expired, and unopened stacks of mail including hospital bills, utility bills, florist bills, and property tax notices.
16. Among the undeposited checks found in the banker boxes were the two earnest-money checks for the real property sold by Respondent on behalf of the estate, including the Garner Circle house.
17. Respondent made periodic payments of fees to himself during the time he was executor of Ms. Finley's estate. Respondent subsequently reimbursed the estate in the amount of \$15,000 to account for those fees. As a result, the estate has suffered no injury as a result of the payment of fees directly to respondent. Respondent has more than compensated for any potential injury to the estate.
18. Respondent did not seek court approval of the fees.
19. On March 16, 2007, the Chancery Court ordered Respondent to account for his fees by filing an itemized list of tasks performed and time spent with respect to each such task.

20. On May 15, 2007, the Chancery Court ordered Respondent to appear in court on May 31, 2007 to show cause as to why he should not be held in contempt for his failure to comply with the Court's March 16, 2007 order to file an accounting of his fees.

21. Respondent did not receive notice of the show cause order and failed to appear in court on May 31, 2007.

22. On May 31, 2007, the Chancery Court issued an attachment for Respondent, who upon receiving notice of the attachment, immediately and voluntarily surrendered to the Hamilton County Sheriff.

23. On June 15, 2007, Respondent filed an accounting for personal representative fees, and on June 28, 2007 filed an amended accounting for fees.

24. In addition to the \$15,000 reimbursed to Ms. Finley's estate to account for respondent's fees, Respondent also reimbursed the successor administrator in the amount of \$13,661 for fees incurred as a result of the successor administrator's handling of Ms. Finley's estate following his appointment. As a result, the estate has suffered no injury as a result of the need to appoint a successor administrator.

25. Respondent was suffering from depression during the time he was serving as executor of Ms. Finley's estate and has continued to suffer from depression through present day. Respondent is presently undergoing counseling by a physician for his depression, and is being treated with medication. Respondent has demonstrated remorse for his misconduct.

26. Also during the time Respondent was serving as executor of the estate, he faced a variety of personal and financial problems including, but not limited to, divorce proceedings instituted by his spouse, and the termination of his relationship with his law firm.

CONCLUSIONS OF LAW

27. Pursuant to Section 1 of Tennessee Supreme Court Rule 9, any attorney admitted to practice law in Tennessee is subject to the disciplinary jurisdiction of the Supreme Court, the Board, the Hearing committee, hereinafter established, and the Circuit and Chancery Courts.

28. Pursuant to Section 3 of Rule 9, 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 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 Code of Professional Responsibility of the State of Tennessee shall constitute misconduct and be grounds for discipline.

29. In violation of Rule of Professional Conduct 1.1, Respondent failed to provide the Estate with competent representation because he lacked the legal knowledge and skill to administer the estate timely and conduct its affairs thoroughly. Respondent failed to close the estate promptly, failed to pay the bills of the estate timely, and failed to deposit funds of the estate that were entrusted to him.

30. In violation of Rule of Professional Conduct, 1.3, Respondent failed to act with reasonable promptness and diligence in representing the Estate in failing to timely close the estate, in failing to timely file an accounting despite numerous court orders to do so, in failing to open mail directed to the estate, in failing to pay bills received by the Estate, in failing to deposit checks received on behalf of the estate, in failing to file tax returns on behalf of the estate, and in failing to properly notify creditors of the estate.

31. The Panel concludes as a matter of law that although Respondent was not required to seek prior approval of his fees as a personal representative of the estate, he admits

that he received payment without representing the estate competently and diligently and thereby violated Rule of Professional Conduct 1.5.

32. In violation of Rule of Professional Conduct 1.15, Respondent failed to keep the property of the Estate separate from Respondent's own property. Specifically, Respondent was entrusted with all the funds of the Estate, a portion of which he had an interest in for the payment of his fees. In violation of 1.15(c), Respondent failed to pursue an accounting or severance of these two interests prior to collecting unsubstantiated fees from the Estate without court approval.

33. In violation of Rule of Professional Conduct 3.2, Respondent failed to make reasonable efforts to timely administer and close the Estate.

34. In violation of Rule of Professional Conduct 8.4(a), Respondent violated the Rules of Professional Conduct by completely failing to properly administer and close the Estate, by not providing competent representation to the Estate, by neglecting the debts owed by and to the Estate, and by improperly paying to himself unsubstantiated and excessive fees for work he either did not do or did not do competently.

35. The Panel finds that Respondent did not violate Rule of Professional Conduct 8.4(c). The Panel specifically finds that Respondent did not engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

36. The Panel finds that Respondent violated Rule of Professional Conduct 8.4(d) by failing to timely and competently administer and close the estate and by failing to obey the orders of the Hamilton County Chancery Court.

37. Following a review of the applicable ABA Standards, the Panel does not find that Respondent's conduct in this case was the same or similar to that for which he was previously

censured, and the Panel finds that even if it was the same or similar conduct in this case, the mitigating factors outweigh the aggravating factors.

38. The Panel finds that Respondent did not act with selfish or dishonest motives.

39. The Panel finds, as mitigating factors, that Respondent has made timely good faith efforts to make restitution or to rectify consequences of his misconduct, that other penalties or sanctions have been imposed on Respondent by the Chancery Court, that Respondent has demonstrated remorse for his conduct, and that during the time Respondent was acting as a personal representative of the estate, he was suffering from depression as a result of a variety of personal and professional difficulties.

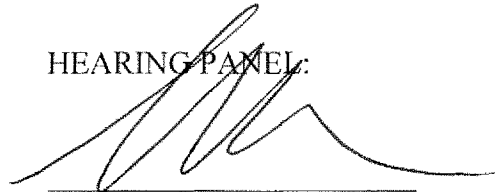
39. Based on all the evidence, based on the applicable ABA Standards and our rules, based on comparative discipline cases and looking at the mitigating and aggravating factors, we find that the appropriate punishment for Respondent in this matter is public censure.

JUDGMENT

IT IS THEREFORE ORDERED by the Hearing Panel that the Respondent should be publicly censured.

THIS THE ____ DAY OF _____, 2008.

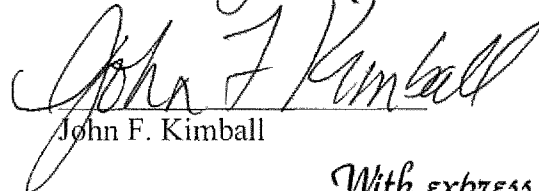
HEARING PANEL:



Hallie H. McFadden, Panel Chair

With express permission:
by Hallie H. McFadden
Date: 5/30/08

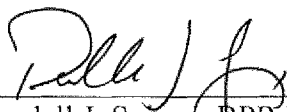
Edwin Zachariah Kelly, Jr.
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John F. Kimball

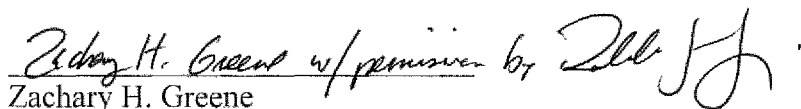
With express permission:
by Hallie H. McFadden
Date: 5/30/08

Submitted for Entry By:



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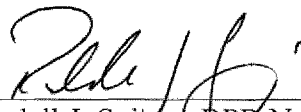
AND



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CERTIFICATE OF SERVICE

I certify that I have served a copy of this Proposed Judgment of the Hearing Panel on Counsel for Respondent, Roger W. Dickson and Zachary H. Greene, Miller & Martin, PLLC, Suite 1000 Volunteer Building, 832 Georgia Avenue, Chattanooga, Tennessee 37402-2289 on this the 29th day of May, 2008.



Randall J. Spivey, BPR No. 21704
Disciplinary Counsel