



**BOARD OF PROFESSIONAL RESPONSIBILITY
OF THE
SUPREME COURT OF TENNESSEE**

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RELEASE OF INFORMATION
RE: JOHN ROBERT HERSHBERGER, BPR# 21519
CONTACT: KRISANN HODGES
BOARD OF PROFESSIONAL RESPONSIBILITY
615-361-7500

May 30, 2014

MEMPHIS LAWYER SUSPENDED

On May 30, 2014, John Robert Hershberger, of Memphis, was suspended by Order of the Tennessee Supreme Court for two (2) years, with sixty (60) days served as active suspension and the remainder served on probation subject to several conditions including participation with a practice monitor, establishment of an operating account for his law practice, and an evaluation with the Tennessee Lawyer's Assistance Program. Mr. Hershberger is ordered to pay the Board's costs and expenses. Ms. Hershberger may practice law during the probationary period.

The Board of Professional Responsibility filed a Petition for Discipline against Mr. Hershberger alleging that since 2009, he improperly used an attorney trust account for personal and business transactions not related to his law practice. Although there were no client funds in the account, Mr. Hershberger's use of a trust account to deposit personal funds and to pay personal expenses constitutes a violation of Rules of Professional Conduct. Ms. Hershberger entered a guilty plea to the Board's charges.

Mr. Hershberger's actions violate the following Rules of Professional Conduct: 1.15, Safekeeping Property; and 8.4(a), Misconduct.

Mr. Hershberger must comply with the requirements of Tennessee Supreme Court Rule 9, Section 18 and 19.

Hershberger 2243-9 rel.doc

PLEASE NOTE

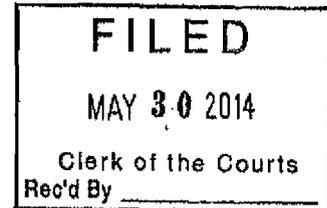
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IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

IN RE: JOHN ROBERT HERSHBERGER, BPR #21519
An Attorney Licensed to Practice Law in Tennessee
(Shelby County)

No. M2014-00965-SC-BAR-BP
BOPR No. 2013-2243-9-KH



ORDER OF ENFORCEMENT

This matter is before the Court upon a Petition for Discipline filed on July 31, 2013 by the Board of Professional Responsibility ("Board") against John Robert Hershberger; upon a Motion for Default Judgment and That Allegations Contained in Petition for Discipline be Deemed Admitted filed on September 3, 2013; upon Combined Motion of Respondent, John R. Hershberger, for Additional Time to File a Late Response to the Petition for Discipline Filed in This Cause on or about July 31, 2013, and Response of Respondent to the Motion for Default Filed by the Board on September 3, 2013; upon the Board's Notice of Withdrawal of Motion for Default Judgment and That Allegations Contained in Petition for Discipline be Deemed Admitted filed September 11, 2013; upon Answer to Petition for Discipline filed October 7, 2013; upon Conditional Guilty Plea filed April 2, 2014; upon Order Recommending Approval of Conditional Guilty Plea filed April 3, 2014; upon acceptance of the terms of the Conditional Guilty Plea by TLAP; upon consideration by the Board on April 25, 2014; and upon the entire record in this cause.¹

From all of which the Court approves the Order of the Hearing Panel and adopts the Hearing Panel's Order Recommending Approval of Conditional Guilty Plea as the Court's Order.

It is, therefore, ordered, adjudged and decreed by the court that:

(1) John Robert Hershberger is suspended for two (2) years pursuant to Tenn. Sup. Ct. R. 9, § 4.2 (2006) with sixty (60) days served as an active suspension. Pursuant

¹Because this cause was initiated prior to January 1, 2014, it is governed by the pre-2014 version of Tenn. Sup. Ct. R. 9, except when otherwise noted.

to Tenn. Sup. Ct. R. 9, § 8.5 (2006), the remaining period of the suspension shall be probated subject to the following conditions:

(a) Prior to the expiration of the sixty (60) days active suspension, Mr. Hershberger shall cease using his attorney trust account for improper transactions, including but not limited to the deposit of earned attorney fees or any other personal funds and withdrawal of funds for personal transactions or any other purpose inconsistent with RPC 1.15. Mr. Hershberger shall provide a trust account statement prior to the expiration of the active suspension period to Disciplinary Counsel to demonstrate compliance with this condition;

(b) Within fifteen (15) days of the commencement of the active period of suspension, Mr. Hershberger shall provide to the Chief Disciplinary Counsel the names of three (3) proposed practice monitors who are in good standing with the Board and who are not engaged in the practice of law with Mr. Hershberger. If he fails to provide the required list, the Chief Disciplinary Counsel shall designate a practice monitor. Once designated, the practice monitor shall review monthly statements of any and all operating and trust accounts used or accessible by Mr. Hershberger for the practice of law and shall provide monthly reports to Disciplinary Counsel concerning Mr. Hershberger's compliance with applicable rules governing trust accounts. The practice monitor shall begin immediately following the expiration of the active period of suspension;

(c) Mr. Hershberger shall contact the Tennessee Lawyers Assistance Program ("TLAP") for evaluation. If TLAP determines that a monitoring agreement is appropriate, Mr. Hershberger shall comply with the terms and conditions of the TLAP monitoring agreement;

(d) During the period of suspension and probation, Mr. Hershberger shall incur no new complaints of misconduct that relate to conduct occurring during the period of suspension and probation and which results in the recommendation by the Board of Professional Responsibility that discipline be imposed; and,

(e) In the event that Mr. Hershberger violates or otherwise fails to meet any condition of probation, Disciplinary Counsel is authorized to file a petition to revoke probation. Upon a finding that a condition of probation was violated, Mr. Hershberger shall serve the entirety of the previously deferred period of suspension.

(2) Additionally, Mr. Hershberger shall comply in all aspects with Tenn. Sup. Ct. R. 9, §§ 18 (2006) and 30.4(c) (2014), regarding the obligations and responsibilities of suspended attorneys and the procedure for reinstatement.

(3) Pursuant to Tenn. Sup. Ct. R. 9, § 18.5 (2006), this Order shall be effective ten (10) days after the date of entry.

(4) Pursuant to Tenn. Sup. Ct. R. 9, § 24.3 (2006), Mr. Hershberger shall pay to the Board of Professional Responsibility the expenses and costs of this matter in the amount of \$1,930.08 and shall pay to the Clerk of this Court the costs incurred herein, within one-hundred twenty days (120) days of the entry of this Order, for all of which execution may issue if necessary.

(5) The Board of Professional Responsibility shall cause notice of this discipline to be published as required by Tenn. Sup. Ct. R. 9, § 18.10 (2006).

FOR THE COURT:

Cornelia A. Clark

CORNELIA A. CLARK, JUSTICE