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

IN RE: JAMES RALPH HICKMAN, JR.
BPR #020125, Respondent,
An Attorney Licensed to
Practice Law in Tennessee
(Sevier County)

DOCKET NO. 2020-3068-1-TL

JUDGMENT OF THE HEARING PANEL

The Judgment of the Hearing Panel is as follows:

FINDINGS OF FACT

1. This is a disciplinary proceeding against Respondent, James Ralph Hickman, Jr. ("Respondent") an attorney licensed to practice law in Tennessee in 1999.

2. On January 29, 2020, the Tennessee Board of Professional Responsibility (the "Board") filed a Petition for Discipline against the Respondent. On October 12, 2020, the Board filed a Supplemental Petition for Discipline against Respondent. On December 17, 2020, the Board filed a Notice of Voluntary Nonsuit of Supplemental Petition without Prejudice and on January 29, 2021, the Hearing Panel entered an Order dismissing the Supplemental Petition without prejudice.

3. The Final Hearing was held on October 19-20, 2021 in Sevierville, Tennessee. Six witnesses were called: Peggy Marshall, James Hickman, Sr., Karen Marcum, James S. Conner, Mandy Conner, and Respondent. Counsel for the parties acknowledged at trial that the memory of Mr. Hickman Sr. appeared to be impacted by his health issues, and thus the Hearing Panel

acknowledges that fact as it relates to the weight to be given to his testimony.

4. The Petition for Discipline contends Respondent's conduct violated RPC 1.3 (diligence), 1.5(a) (fees), 3.3(a)(1) (candor toward the tribunal), 3.4(c) (fairness to opposing party or counsel), 4.1(a) (truthfulness), and misconduct 8.4(c) (misconduct). At the close of proof, the Board moved to dismiss RPC 1.3 and 4.1(a). The Hearing Panel granted the motion dismissing the violations of RPC 1.3 and 4.1(a).

5. The Petition for Discipline alleges Respondent's conduct while retained in a probate matter by his father, James Ralph Hickman, Sr. ("Mr. Hickman, Sr."), the Personal Representative of the estate of Betty Marshall Lawrence ("Ms. Lawrence"), constitutes violations of the Tennessee Rules of Professional Responsibility. After the estate was closed, Peggy Marshall ("Ms. Marshall"), petitioned to have the Court re-open the estate. In its Order of October 12, 2018, the Court made specific findings of facts and conclusions of law regarding the Respondent as well as the Personal Representative. [Trial Exhibit 35]

6. Mr. Hickman, Sr. knew Ms. Lawrence for many years through preparing her tax returns. Ms. Lawrence's sister was Ms. Marshall.

7. Around September 2016, Ms. Lawrence's health began to fail and moved between the hospital and rehabilitation center. Ms. Lawrence executed a Power of Attorney appointing Mr. Hickman, Sr. as her attorney-in-fact. Mr. Hickman, Sr. added his name to Ms. Lawrence's account to pay bills.

8. Ms. Marshall became aware of Mr. Hickman, Sr.'s appointment as Ms. Lawrence's attorney-in-fact and prior to Ms. Lawrence's death, Ms. Marshall communicated with him about Ms. Lawrence's health and other matters.

9. Ms. Lawrence died on October 15, 2016. While some property was distributed to

a stepdaughter, Tamika Reyes, outside probate, Ms. Marshall was the sole heir of the probate estate.

10. Ms. Lawrence executed a holographic will and two codicils. One codicil named Mr. Hickman, Sr. as the Personal Representative. The other Codicil left real property in Pigeon Forge and the personal property in it to the Marshall Family Trust [Trial Exhibits 11 and 12].

11. Ms. Marshall sent Mr. Hickman, Sr. an email to advise of Ms. Lawrence's death. She scheduled an appointment for October 17, 2016, with Respondent. In an email, she stated:

> As indicated earlier, next in order (whether she has passed testate or intestate) will be administration of her estate through probate, with the reasonable expectation that Mr. Ralph Hickman, as her POA & Accountant, should be involved in providing professional services relating to estate issues to a final settlement. . . . Learning that you have previously provided legal services for her in recent past, I feel it proper – if probate is a part of your practice – to acquire your services to handle probate. Would appreciate hearing from you at your earliest convenience in that regard and request the scheduling of an appointment, in which I will be joined by my son, James S. (Jimbo) Conner. [Trial Exhibit 5].

12. Ms. Marshall and her son, James Conner both testified they were the only two individuals who attended the October 17, 2016 meeting at Respondent's office. Ms. Marshall believed that she was going to serve as Personal Representative.

13. Respondent testified that Mr. Hickman, Sr. attended the October 17 meeting and that Ms. Marshall brought documents, including a holographic will and two codicils, which he reviewed. Ms. Marshall's email that morning indicates she was not aware whether a will existed and was also not anticipating Mr. Hickman, Sr., would be appointed Personal Representative. There is no indication that Respondent explained to Ms. Marshall her rights under the will.

14. Ms. Marshall and James Conner testified the October 17 meeting included a description of the probate process without discussion of fees. Respondent contended that a determination of legal fees was made between 4 to 5 percent of the gross estate. As found by the Court in its Order of October 12, 2018, "the parties were never in agreement as to what the fee

arrangement would be." [Trial Exhibit 35, ¶ 6]

15. No fee agreement was signed by Respondent and any party regarding legal fees.[1]

16. Ms. Marshall sent emails to Respondent and Mr. Hickman, Sr. copying her son after the October 17 meeting. [Trial Exhibit 6] On October 19, she wrote:

> I located more hand-written documentation, another **hand-written notarized paper purporting to be a Will relating to disposition of the property at 707 Marshall Acres, PF, giving that real property to the Marshall Family Trust (where I serve as Trustee); a notarized hand-written document directing that Hickman Associates serve to administer her estate**. With that was a scribbled writing purporting to be an obituary or memoriam, these will be delivered to the office of James Hickman, Attorney by Jim Conner at his earliest convenience.
>
> The original of the two holographic wills of 1988 & 1996 in my possession will be delivered when you are ready to proceed with probate, just drop me a note when ready.
>
> [Trial Exhibit 6, emphasis in original].

17. Later on the morning of October 19, Ms. Marshall sent an email stating in part:

> With the clearing of her apartment, unless you have requests of me further, I expect and prefer that you proceed to conclusion of this matter, and if there should be something coming to me personally after conclusion – if only a dead toad in a shoe box – I will accept it as gracefully as I am capable of doing. After four or five hours of intense research and a good night's sleep, I wish to wash my hands of further involvement and request you and Mr. James proceed according to the wishes of the deceased.
>
> [Trial Exhibit 6]

18. Emails demonstrate the holographic documents were not available to Respondent at the October 17, 2016 meeting and were not delivered to Respondent until after that meeting. [Trial Exhibit 6] Respondent's reply email of October 20 states: "i [sic] appreciate all of that information; that you for it. one [sic] of the writings you gave me **yesterday** mentions a family

[1] The Hearing Panel notes Respondent offered a document he claims he discovered on his computer (but did not produce in discovery) just prior to the Final Hearing [Trial Exhibit 45] which purports to be a Bill for Legal Services dated December 5, 2016 addressed to his father as Personal Representative. The statement provides hourly billing against a retainer. However, Respondent testified that he had no proof it was ever sent, reviewed, or considered. The Hearing Panel finds Trial Exhibit 45 has no probative value.

trust." [Trial Exhibit 6, emphasis added]

19. Written communications corroborate the testimony of James Conner and Ms. Marshall regarding the meeting of October 17, that Ms. Marshall believed she would be appointed Personal Representative until after the meeting, she was at the meeting to discuss Respondent providing legal assistance to her, and that no discussion of the fee arrangement between Respondent and his father took place at that meeting. The Panel finds that testimony of Respondent inconsistent with this Finding is not credible.

20. Ms. Marshall was willing to waive bond, but she never expressed a willingness to waive inventory or accounting. Email communication between her and Respondent on October 20, 2016, support this Finding:

> **Marshall:** Glad to oblige – is it reasonable to expect at some point an inventory, especially relating to all financial records and real property assets? Would not expect nor am I concerned as much with personal property.
>
> **Respondent:** yes, the court will require an inventory, not so much of the household stuff but definitely of real property and financial holdings.
>
> [Trial Exhibit 6]

21. The Order Appointing Executor, which Respondent prepared and submitted to the Court, omits any language waiving inventory and accounting. [Trial Exhibit 30]

22. Ms. Marshall sent emails to Respondent in October 2016 and January 2017 requesting an inventory and/or accounting. [Trial Exhibit 7, 19]

23. On January 3, 2017, Ms. Marshall emailed Respondent, Mr. Hickman, Sr., and her son, and copied Catherine Gebhardt, stating she had requested the petition for probate and an inventory and referenced her "continued inquiries" regarding assets. [Trial Exhibit 20]

24. On January 13, 2017, Ms. Marshall sent an email to Respondent's assistant referencing inventory requests explaining that "[h]aving this information allows me to hold the

position that I have not, do not, and will not wave [sic] inventory and Final Accounting; yet, I was glad to agree to not requiring bond." [Trial Exhibit 38] The emails were forwarded to Respondent.

25. On June 2, 2017, Ms. Marshall sent an email to Respondent asking "you furnish me a status report on the matter? I believe this is a reasonable request as well as **a legal entitlement as to inventory, expense of administration to this point**, notwithstanding considering time for filing claims expired more than thirty days ago and are time-barred." [Trial Exhibit 24] [emphasis added]

26. A Petition for Probate of Will and Granting Letters Testamentary was filed on November 17, 2016 with the holographic will and the codicil appointing Mr. Hickman, Sr. Personal Representative. Respondent did not file the codicil leaving real property in Pigeon forge to the Marshall Family Trust. [Trial Exhibit 11]

27. The only document resembling something like an inventory or accounting before the estate was reopened by Ms. Marshall was a handwritten document presented at the second meeting held on December 16, 2016 at Mr. Hickman, Sr.'s office that was not filed with the Court as an inventory or accounting. [Trial Exhibit 17]. The Panel finds that this document does not constitute an inventory or accounting.

28. Around December, 2016, Mr. Hickman, Sr. requested a meeting to discuss the estate and invited Ms. Marshall, James Conner and Mr. Conner's wife, Mandy Conner, to attend a meeting with Respondent. [Trial Exhibit 16] Contrary to Respondent's testimony, Ms. Marshall, James Conner and Mandy Conner attended the meeting. Also contrary to Respondent's testimony, James Conner and Ms. Marshall testified that there was no discussion about the fee arrangement.

29. In Mr. Hickman Sr.'s handwritten document discussed at the December 16, 2016 meeting, the calculation of the estate was $103,421.00. Additionally, Mr. Hickman, Sr. included

$1,620.00 in cash, the real property in Pigeon Forge, Tennessee ($135,000.00) and $2,151.21 in foreign currency. The document does not provide any information regarding administrative costs or any percentages or amounts for legal services. As the Court found in its Order of October 15, 2018, the schedule is "confusing and poorly drafted." [Trial Exhibit 35, ¶ 7]

30. The Panel finds by a preponderance of the evidence that the fee arrangement for Respondent's legal services was not disclosed at the December 16, 2016 meeting. As found by the Court in its Order of October 16, 2018, Respondent knew Ms. Marshall was still anticipating an inventory and accounting and this is corroborated by later emails. [Trial Exhibit 35, ¶ 7]

31. Ms. Marshall desired for the probate proceeding to be completed as soon as possible and a final meeting was held on June 26, 2017 involving Respondent, Mr. Hickman, Sr., Ms. Marshall, and James Conner.

32. James Conner testified that after general conversation about the estate assets, he specifically raised the issue of fees but that the fee arrangement between Respondent and his father was not disclosed. Mr. Conner and Ms. Marshall testified that she became exasperated with the conversation and stated something to the effect, "just give the damn thing here and I will sign it," referring to the Receipt and Release [Trial Exhibit 25]. Mr. Conner testified that Respondent assured him and his mother that an inventory and accounting would be furnished soon.

33. The Panel finds that Respondent's testimony that he disclosed the fee arrangement between him and his father at every meeting, including the meeting of June 26, 2017, is not credible and is controverted by credible evidence.

34. Ms. Marshall signed the Receipt and Release believing it was the only way to bring the probate matter to a close and receive any monies due her. The Panel finds that she signed the Receipt and Release only after she was assured the Personal Representative would file and provide

her with an inventory and final accounting. As the Court found in its Order of October 12, 2018, Ms. Marshall's testimony about why she signed the Receipt and Release and her expectations of an accounting and inventory is credible and it is supported by the emails following the meeting. [Trial Exhibit 35, ¶ 8]

35. Ms. Marshall sent an email on June 27, 2017 to Respondent stating, **"[a]s you agreed – upon my execution of your proposed Motion** closing estate and discharge of Executor while receipting my portion of the residual of this Estate – **to furnish a prepare statement inclusive of** itemized portions of asset values represented by the transfer of car title, refund of unused health insurance premium, incidental cash found other than the foreign certificates noted, **amounts of expenditures including fees and basis therefor** . . ." Respondent replied: "i [sic] am certainly glad to honor these requests." [Trial Exhibit 26, emphasis added]

36. On June 30, 2017, Respondent filed a Motion for Closure of Estate with the Receipt and Release executed by Ms. Marshall and a proposed Closing Order. Respondent did not disclose his fees in the filings and stated that certain disbursements were made "as directed by Peggy Marshall." [Trial Exhibit 34, ¶ 8] The Court relied upon the filing submitted by Respondent. In his Order of October 19, 2018, Judge Rader noted: "[b]ased on the affirmations contained in the pleadings as filed by the personal representative on June 30, 2017, this Court entered an Order closing the Estate and discharging the personal representative." [Trial Exhibit 35, ¶ 10]

37. Respondent did not provide notice to Ms. Marshall that the Motion for Closure of Estate and the proposed Closing Order was filed. Ms. Marshall testified she learned about the estate being closed a few weeks later when inquiring with the court clerk. On July 20, 2017, Ms. Marshall sent an email to Respondent, Mr. Hickman, Sr. and her son, James Conner stating that she learned the estate was closed on July 6, 2017 noting that there was no disclosure regarding the

issue of costs of administration and asking if she was left only to estimate "that administration costs exceed $30,000.00?" She stated in her email that the issues could have been resolved at the June 26, 2017 meeting and that she was considering re-opening the estate. [Trial Exhibit 27]

38. Based on credible evidence in testimony and Exhibits, the Panel finds that Ms. Marshall did not know Respondent's fee arrangement at the time the estate was closed.

39. Ms. Marshall filed a Petition to Re-Open the Estate and the Court ordered the Personal Representative and the Respondent to file fee applications for any fees which they had been paid from the estate. [Trial Exhibit 41] Respondent failed to comply with the order to file his fee application by the deadline. Ms. Marshall's attorney filed a Motion to Appear and Show Cause. The day before the hearing, Respondent filed an Application for Fees requesting the Court approve "the fee agreement to which the Heir agreed." In the Application Respondent states:

> At the initial meeting between the Heir, the Personal Representative, and counsel, a flat, percentage fee was discussed and was agreed to by the Heir. Her only concern was that she would not be in any way liable for the fee. That meeting occurred October 17, 2016. The agreed percentage was 6 (6%) percent each for the Personal Representative and counsel. At each time this was discussed there was a conversation about how the percentage would be calculated as well as the specific percentage. This agreement was discussed again at the June 16, 2017, meeting before the Heir signed the Receipt and Release.
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> [Trial Exhibit 40]

40. The Panel finds that Respondent's statements in the Fee Application were false. Mr. Hickman Sr. was not at the initial meeting of October 17, 2016, and the fee arrangement with Respondent was not disclosed. Ms. Marshall did not agree to the purported fee.

41. As found by the Court in its Order of October 12, 2018, the fees of the Personal Representative and Respondent were 22% of the total value of the assets under administration as their fees for services rendered. The Court found Respondent's attorney fees were not collectible as excessive and unreasonable. [Trial Exhibit 35]

CONCLUSIONS OF LAW

42. The jurisdiction and authority of this Panel is derived from Tenn. Sup. Ct. R. 9. Attorneys admitted to practice law in Tennessee are subject to the disciplinary jurisdiction of the Supreme Court, the Board of Professional Responsibility, the Hearing Committee, hereinafter established, and the Circuit and Chancery Courts. (Tenn. Sup. Ct. R. 9, § 8 (2014)).

43. It is the duty of every practicing attorney to act at all times in conformity with the standards imposed upon members of the bar as conditions for the privilege to practice law (Tenn. Sup. Ct. R. 9, § 1 (2014)). Acts or omissions by an attorney, individually or in concert with any other person, which violate the Rules of Professional Conduct of the State of Tennessee constitute misconduct and grounds for discipline, whether or not the act or omission occurred in the course of an attorney-client relationship (Tenn. Sup. Ct. R. 9, § 11 (2014)).

44. The Board alleges that the acts and omissions by Respondent constitute ethical misconduct in violation of the relevant portions of the Rules of Professional Conduct 1.5(a) (fees), 3.3(a)(1) (candor toward the tribunal), 3.4(c) fairness to opposing party or counsel), and misconduct 8.4(c) (misconduct). Respondent contends that the allegations involve actions within the purview of the Personal Representative over which Respondent had limited control.

45. As found by the Court in its Order of October 12, 2018, the "**relationship of the personal representative to the attorney [Respondent], being father and son create an inherent conflict of interest** which require the personal representative to protect and promote the best interest of the beneficiaries of the Estate of Betty Marshall Lawrence." [Exhibit 35, ¶ 22, emphasis added] The Respondent, as attorney for the estate, also should have taken all the necessary steps to protect and promote the best interest of the beneficiaries of the estate and failed to do so.

Rule 1.5(a)
FEES

46. RPC 1.5(a) provides:

> A lawyer shall not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses. The factors to be considered in determining the reasonableness of a fee include the following:
>
> (1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;
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> (2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;
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> (3) the fee customarily charged in the locality for similar legal services;
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> (4) the amount involved and the results obtained;
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> (5) the time limitations imposed by the client or by the circumstances;
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> (6) the nature and length of the professional relationship with the client;
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> (7) the experience, reputation, and ability of the lawyer or lawyers performing the services;
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> (8) whether the fee is fixed or contingent;
>
> (9) prior advertisements or statements by the lawyer with respect to the fees the lawyer charges; and
>
> (10) whether the fee agreement is in writing.

47. The Respondent's fee was excessive and unreasonable.

48. The RPC 1.5(a) specifically provides a "lawyer shall not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses." Even if determined by his father as Personal Representative, Respondent was not free to make an agreement for nor collect an excessive or unreasonable fee.

49. The Respondent's fee was excessive and unreasonable because (1) it was calculated at 6% of the "gross estate," which included the real property that passed directly to the devisee; and (2) none of the factors of RPC 1.5(a) were present to justify the $12,000.00 fee Respondent received for such a modest estate

50. Based upon the evidence presented and the record as a whole, the Hearing Panel finds by a preponderance of the evidence, Respondent violated RPC 1.5(a) by failing to establish an appropriate fee arrangement and for collecting an unreasonable fee.

Rule 3.3
CANDOR TOWARD THE TRIBUNAL

51. RPC 3.3(a)(1) provides a lawyer shall not "knowingly make a false statement of fact or law to a tribunal."

52. Respondent filed the Motion for Closure of Estate with the Court stating Ms. Marshall approved disbursement of funds. Respondent filed the Application for Fees with the Court stating that Ms. Marshall agreed to the fee arrangement for Respondent's attorney fees in all of the meetings. These filings constitute the making of false statements.

53. Respondent did not disclose the fee arrangement to Ms. Marshall prior to the estate being reopened. Ms. Marshall sought an inventory and accounting on multiple occasions. The Motion for Closure of Estate and in the Application of Fees contained substantial false statements.

54. Comment 3 to RPC 3.3 provides:

> An advocate is responsible for pleadings and other documents prepared for litigation but is usually not required to have personal knowledge of matters asserted therein, for litigation documents ordinarily present assertions by the client, or by someone on the client's behalf, and not assertions by the lawyer. *Compare* RPC 3.1. However, **an assertion purporting to be on the lawyer's own knowledge, as in an affidavit by the lawyer or in a statement in open court, may properly be made only when the lawyer knows the assertion is true or believes it to be true on the basis of a reasonably diligent inquiry**. There are circumstances where failure to make a disclosure is the equivalent of an affirmative

misrepresentation. [emphasis added]

55. Only the Respondent signed the Application for Fees, which related to his own fees; and he alone signed the Motion for Closure of Estate.

56. Based upon the evidence presented and the record as a whole, the Panel finds by a preponderance of the evidence, Respondent knowingly violated RPC 3.3(a)(1) in filing the Motion for Closure of Estate and the Application of Fees which contained false statements of material fact.

Rule 3.4
FAIRNESS TO OPPOSING PARTY AND COUNSEL

57. RPC 3.4(c) provides a lawyer shall not "knowingly disobey an obligation under the rules of a tribunal, except for an open refusal based on an assertion that no valid obligation exists."

58. The Board contends that Respondent failed to comply with the Court's Order of December 14, 2017 and timely file his Application for Fees. [Trial Exhibit 32, ¶ e] Respondent did make the filing required by the Order on the day before a Show Cause hearing.

59. While Respondent was dilatory in his filing and did not timely comply with the deadline in the Order, the Panel does not find that Respondent knowingly violated RPC 3.4(c).

Rule 8.4 (c)
MISCONDUCT

60. RPC 8.4(c) provides it is professional misconduct for a lawyer to "engage in conduct involving dishonesty, fraud, deceit, or misrepresentation."

61. By knowingly filing documents with the Court which contained false statements of material fact and not disclosing the fee arrangement for legal services provided to the estate before pressing Ms. Marshall to sign the Receipt and Release, Respondent engaged in conduct involving dishonesty, fraud, deceit or misrepresentation. By failing to fulfill his duties to an heir of the estate

as counsel for the estate in apprising her of her rights, Respondent engaged in conduct involving dishonesty, fraud, deceit or misrepresentation. Further, by failing to ensure that Ms. Marshall receive an inventory or accounting in a timely and meaningful manner, Respondent engaged in conduct involving dishonesty, fraud, deceit or misrepresentation.

62. Based upon the evidence presented and the record as a whole, the Hearing Panel finds by a preponderance of the evidence, Respondent knowingly violated RPC 8.4(c).

APPLICATION OF THE ABA STANDARDS

Pursuant to Tenn. Sup. Ct. R. 9, § 15.4, the appropriate discipline must be based upon application of the ABA Standards for Imposing Lawyer Sanctions, ("ABA Standards"). Pursuant to Tenn. Sup. Ct. R. 9, § 15.4(a), "[i]f the hearing panel finds one or more grounds for discipline of the respondent attorney, the hearing panel's judgment shall specify the type of discipline imposed: disbarment (Section 12.1), suspension (Section 12.2), or public censure (Section 12.4)."

In imposing a sanction after a finding of lawyer misconduct, the Panel should consider the following factors: (a) the duty violated; (b) the lawyer's mental state; (c) the actual or potential injury caused by the lawyer's misconduct; and (d) the existence of aggravating or mitigating factors. (ABA Standard 3.0). Under the ABA Standards, intent is defined as "the conscious objective or purpose to accomplish a particular result" and knowledge is defined as "the conscious awareness of the nature or attendant circumstances of the conduct but without the conscious objective or purpose to accomplish a particular result."

The ABA Standards suggest the appropriate baseline sanction and aggravating and mitigating factors provide a basis for increasing or reducing the sanction imposed. ABA Standard

3.0. See also *Hancock*, 447 S.W.3d at 857 (length of an attorney's suspension, however, depends in large part on the aggravating and mitigating circumstances).

Based upon the facts and misconduct previously cited, the Hearing Panel finds the following ABA Standards applicable and relevant to its determination of the appropriate discipline to be imposed upon Respondent:

> 4.62 Suspension is generally appropriate when a lawyer knowingly deceives a client, and causes injury or potential injury to the client.
>
> 6.12 Suspension is generally appropriate when a lawyer knows that false statements or documents are being submitted to the court or that material information is improperly being withheld, and takes no remedial action, and causes injury or potential injury to a party to the legal proceeding, or causes an adverse or potentially adverse effect on the legal proceeding.
>
> 7.2 Suspension is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty as a professional and causes injury or potential injury to a client, the public, or the legal system.

Respondent was knowingly deceptive in failing to disclose the fee arrangement and the amount of fees he received for his legal services. Respondent filed documents he knew contained false statements. His conduct involves dishonesty, fraud, deceit, or misrepresentation that adversely reflects on his fitness to practice.

By signing and submitting documents to the Court that he knew contained false statements and failing to take remedial action, Respondent caused injury to his client and to Ms. Marshall as the sole heir and caused an adverse effect on the probate proceeding.

Respondent knowingly engaged in conduct that is a violation of a duty as a professional and caused injury to his client, Ms. Marshall as the sole heir, and to the legal system.

The Hearing Panel finds the appropriate sanction for Mr. Hickman Jr.'s violations of RPC 1.5(a), 3.3(a), and 8.4(c) is a significant suspension. ABA Standard 2.3 provides that a suspension should be for a period of at least six months.

AGGRAVATING AND MITIGATING CIRCUMSTANCES

Having determined suspension is the appropriate baseline sanction, the Panel considered the existence of any aggravating or mitigating factors and their applicability to this disciplinary matter. Pursuant to ABA Standard 9.22, the following aggravating factors were considered by the Hearing Panel to determine the appropriate discipline to be imposed against Mr. Hickman, Jr.:

- Respondent's dishonest or selfish motive is an aggravating circumstance.
- Respondent's refusal to acknowledge the wrongful nature of his conduct is an aggravating circumstance.
- Respondent's substantial experience in the practice of law having been licensed to practice law in Tennessee in 1999 is an aggravating circumstance.

The following mitigating factor was considered:

- Respondent had no prior record of disciplinary action against him.

JUDGMENT

Based upon the testimony and evidence presented at the Final Hearing, application of the Rules of Professional Conduct, and consideration of the applicable ABA Standards and the aggravating and mitigating circumstances in this matter, the Hearing Panel finds by a preponderance of the evidence that Mr. Hickman, Jr. committed disciplinary misconduct and should be suspended from the practice of law for one year pursuant to Tenn. Sup. Ct. R. 9, § 12.2. However, the Panel has determined that no less than 90 days of this suspension should be an active suspension. The reminder of the suspension may be served on probation under Tenn. Sup. Ct. R. 9, § 14.1 with the following conditions:

A. Respondent shall engage a practice monitor under the procedures in Tenn. Sup. Ct. R.

9, § 12.9. Practice monitor and Respondent shall meet in person or virtually no less frequently than monthly. Practice monitor shall provide supervision of Respondent's compliance with conditions of probation. Active suspension shall remain in place until such time as a practice monitor has been selected and retained;

B. Practice monitor shall review and confirm compliance with all ethical and legal standards required of Respondent in any estate planning or estate administration activities of Respondent during probation. For any estate administration matters, practice monitor shall review and verify all filings made with the court;

C. Respondent shall undergo continuing legal education of no less than fifteen hours involving estate administration and an additional three hours of ethics training; and

D. The practice monitor shall make monthly reports to Disciplinary Counsel, or at such other times or intervals as may be prescribed by Disciplinary Counsel, and also as deemed necessary or desirable by the practice monitor.

Failure to comply with any condition of probation should result in reversion to active suspension for the remainder of the suspension period.

ENTERED ON THIS THE 19th DAY OF JANUARY 2022.

Andrew Todd Wampler, Panel Chair

K. Kidwell King, Panel Member

Olen Gale Haynes, Jr., Panel Member

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ENTERED ON THIS THE 19th DAY OF JANUARY 2022.

Andrew Todd Wampler, Panel Chair

K. Kidwell King, Panel Member

Olen Gale Haynes, Jr., Panel Member

NOTICE

This judgment may be appealed pursuant to Tenn. Sup. Ct. R. 9, § 33 (2014) 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, James Ralph Hickman, c/o Gregory Brown, Counsel, 900 South Gay Street, Suite 2102, Knoxville, TN 37902, by U.S. First Class Mail, and hand-delivered to Eric A. Fuller, Disciplinary Counsel, on this the 19th day of January 2022.

Katherine Jennings
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.