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BOARD OF PROFESSIONAL  
RESPONSIBILITY

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EXC. SEC.

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

IN RE: MARTIN LYNN HOWIE  
BPR #14120, Respondent  
An Attorney Licensed to  
Practice Law in Tennessee  
(Dyer County)

DOCKET NO. R-201-8-AJ

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JUDGMENT OF THE HEARING PANEL

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This matter came on for hearing before a duly appointed Hearing Panel on March 5, 2014, upon a Petition for Reinstatement filed on October 14, 2013, by the Petitioner, Martin Lynn Howie, and upon an Answer to Petition for Reinstatement filed by the Board of Professional Responsibility ("Board"). Present were Floyd S. Flippin, Panel Chair; Langdon S. Unger, Panel Member; Brandon O. Gibson, Panel Member; Martin Lynn Howie, Petitioner; Charles S. Kelly, Sr., Counsel for the Petitioner, and Alan D. Johnson, Disciplinary Counsel. The Panel makes these findings and conclusions.

**FINDINGS OF FACT**

**Disciplinary History**

On September 7, 2010, a Petition for Discipline was filed against Mr. Howie consisting of multiple complaints. The majority of the complaints alleged that Mr. Howie accepted fees and neglected the client's cases and that he failed to communicate with the clients and the Board. Another complaint was based upon Mr. Howie's failure to provide the Court with advance notice

before trial of his suspension for CLE non-compliance.

Mr. Howie failed to answer the Petition for Discipline and the Hearing Panel granted a Motion for Default Judgment. On March 29, 2011, the Hearing Panel entered a Judgment suspending Mr. Howie for five (5) years, retroactive to February 8, 2011, and ordered him to pay restitution to eight (8) clients. The Panel also ordered, as a condition of reinstatement, that Mr. Howie comply with recommendations of the Tennessee Lawyer Assistance Program (TLAP) and engage a practice monitor for one year after reinstatement.

Mr. Howie appealed the Hearing Panel Judgment and on March 27, 2013, the Chancery Court entered a Judgment affirming in part and modifying the Hearing Panel Judgment. The Chancery Court modified Mr. Howie's suspension, and ordered that he be suspended for three (3) years, with one (1) year served as an active suspension, retroactive to February 8, 2011, the date of his temporary suspension. The Hearing Panel's Judgment was affirmed in all other respects. On April 5, 2013, The Supreme Court entered an order of enforcement that approved and adopted the Chancery Court Judgment as amended by consent.

#### Petition for Reinstatement

The parties filed a Joint Stipulation of Facts, and introduced exhibits consisting of Mr. Howie's disciplinary history, proof of restitution, proof of compliance with Continuing Legal Education and a letter of support from TLAP Executive Director, Laura McClendon. Mr. Howie presented testimony from Dr. Johnnie M. Welch, Milly Worley, Howell Todd Taylor, John Todd Newell and Gary Brainerd, Sr.

Dr. Welch served as Mr. Howie's TLAP monitor and testified that Mr. Howie had achieved long-term sustained remission from chemical dependency. Ms. Worley is a lawyer, licensed to practice law in Tennessee and who has an office in Dyersburg. She offered testimony.

relating to Mr. Howie's competence as a lawyer, his recovery from alcohol abuse, his good reputation in the community and that she has offered him an office if he is reinstated. Howell Todd Taylor is an Assistant Public Defender who worked with Mr. Howie several years ago in the Public Defender's office. Mr. Taylor testified that he has known Mr. Howie for approximately 20 years in both a professional and personal capacity and that he has observed Mr. Howie's excellent work in court. He also testified that he was aware of Mr. Howie's problems that led to his suspension and has seen his transformation since that time. Mr. Newell is Mr. Howie's AA sponsor and testified that Mr. Howie responded well to the AA program, has religiously attended AA meetings and has been a strong contributing member of the local AA group. Finally, Mr. Brainerd testified that he has known Mr. Howie for over 30 years and considers him as a second son. He related to the Hearing Panel that Mr. Howie has transformed himself and is a stronger, better person for having gone through treatment. He testified that he would not hesitate to retain Mr. Howie if he needed a lawyer.

All of the witnesses testified that Mr. Howie has the moral qualifications, competency and learning in the law and that the resumption of practice of law in Tennessee will not be detrimental to the integrity and standing of the bar or the administration of justice. Some of the witnesses testified that Mr. Howie's return to the practice of law will have a positive effect on the integrity of the bar because it will demonstrate that the bar has in place the tools necessary to assist lawyers and support their efforts to be contributing members of the bar.

Mr. Howie testified that he accepts complete responsibility for his actions and that he has only himself to blame for his poor choices. He acknowledged that the practice of law is a stressful profession; however, he testified that his ability to deal with the stress is greatly improved as a result of his participation in AA. He has made restitution to all but three former

clients, and testified that he has not been able to contact them despite sending letters, making phone calls and using whatever means available to locate them. He testified that he has no problem paying them restitution if and when they are located, and will deposit the requisite amount of restitution into a trust account to be held for that purpose. Mr. Howie has worked since June 2013, assisting in the construction of house foundations, digging septic tanks and similar work, earning ten dollars per hour.

#### CONCLUSIONS OF LAW

Upon testimony of Petitioner, argument of counsel, evidence presented, and upon the entire record in this cause, the Hearing Panel finds that Mr. Howie has met his burden of proving, by clear and convincing evidence, that he "has the moral qualifications, competency and learning in law required for admission to practice law in this State and that the resumption of the practice of law within the State will not be detrimental to the integrity and standing of the bar or the administration of justice, or subversive to the public interest."

#### IT IS THEREFORE ORDERED AS FOLLOWS:

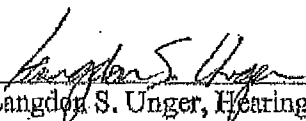
1. The Hearing Panel recommends that the Petitioner's Petition for Reinstatement filed pursuant to Tenn. Sup. Ct. R. 9, § 19, be granted, and the following conditions be placed upon Mr. Howie:
  - a. Mr. Howie is to continue with his Tennessee Lawyer Assistance Program Monitoring Agreement through May 16, 2015;
  - b. Mr. Howie shall engage a practice monitor at his own expense who shall meet with Mr. Howie on a monthly basis to review basic office procedures such as scheduling, maintenance of case deadlines and the use of written communication. The practice monitor shall send monthly reports of these meetings to Board. Mr.


Howie shall select three potential practice monitors and, on or before April 11, 2014, submit the names to the Board for final approval of a practice monitor.

- c. Within thirty (30) days of entry of the Supreme Court's Order of Reinstatement, Mr. Howie shall deposit the sum of \$1,375.50 in the trust account of the practice monitor which amount represents the unpaid restitution. The funds shall be subject to T.C.A. § 66-29-101, *et. seq.*, (Uniform Disposition of Unclaimed Property Act).

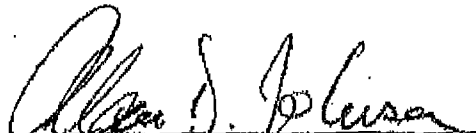
FOR THE PANEL:

  
Floyd S. Flippin, Hearing Panel Chair

  
Langdon S. Unger, Hearing Panel Member

  
Brandon O. Gibson, Hearing Panel Member

SUBMITTED FOR ENTRY:

  
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