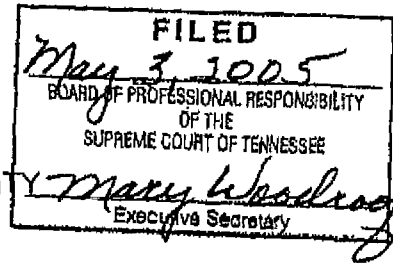


IN THE DISCIPLINARY DISTRICT IX  
OF THE  
BOARD OF PROFESSIONAL RESPONSIBILITY  
OF THE  
SUPREME COURT OF TENNESSEE



IN RE: DIXIE WHITE ISHEE,  
BPR #011837, Respondent,  
An Attorney Licensed to  
Practice Law in Tennessee  
(Shelby County)

CASE NO. 2004-1416-9-LC

**FINDINGS AND JUDGMENT OF HEARING PANEL**

This matter came on to be heard on this 28<sup>th</sup> day of April, 2005. Based upon the testimony of the respondent, Dixie White Ishee, Esquire, David Caywood, Esquire; Tim Holton, Esquire; the deposition of Robert L. Green; Esquire; the testimony of Jerry Potter, Esquire. And, based upon the documents submitted in this cause, the findings and judgment of this hearing panel is as follows:

1. The issue before the panel was whether respondent violated the disciplinary rules by giving false testimony in her 1998 divorce deposition concerning her fee arrangement with the Deal-Holton law firm. Respondent does not dispute that her testimony, that she was being paid on an hourly basis when in fact she was being paid on a contingency fee basis, was false. She self-reported to the Board of Professional Responsibility in 2003, after testifying truthfully concerning the fee arrangement in a deposition given in connection with a lawsuit she filed against the

Deal-Holton law firm in 2001 to recover certain contingency fees she claims to be owed. Respondent's self report was not submitted for approximately five years.

2. The testimony of Tim Holton was affected by bias due to on-going litigation with respondent. His testimony was inconsistent and ambiguous in many particulars. The panel gave no weight to his testimony.

3. The panel finds that the respondent has violated the following provisions:

A. DR1-102 Misconduct.

(4) Engaged in conduct involving dishonesty, fraud, deceit or misrepresentation.

(5) Engaged in conduct that is prejudicial to the administration of justice.

B. Rule 3.3 Candor Toward the Tribunal.

3.3(a) A lawyer shall not knowingly: (1) make a false statement of fact or law to a tribunal;

C. Rule 8.4 Misconduct.

It is professional misconduct for a lawyer to:

(c) engage in conduct involving dishonest, fraud, deceit or misrepresentation;

(d) engage in conduct that is prejudicial to the administration of justice.

The panel considered mitigating and aggravating factors as prescribed by the 1991 edition of Standards for Imposing Lawyer Sanctions, and finds the following mitigating factors in this matter:

(A) An absence of prior disciplinary record.

(C) Personal or emotional problems.

The hearing panel finds the mitigating factors to be present in this cause upon the testimony of Robert Green and Jerry Potter and other matters brought to the hearing panel's attention at the hearing.

The hearing panel finds the following aggravating factors as set forth in 9.2:

9.22(b) Dishonest or selfish motive.

(i) Substantial experience in the practice of law.

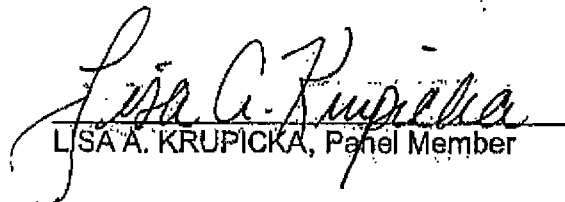
The hearing panel was concerned by the documentary evidence produced at the hearing, especially documents evidencing an ongoing intentional misrepresentation regarding the fee which respondent received in the *Meserve* and *Onwu* cases. These documents were sent by respondent to her divorce attorney who in turn forwarded them to the attorney for respondent's husband. These documents showed respondent received payment on an hourly basis. Respondent actually received a much larger fee on a contingent percent basis. These documents and respondent's false testimony were intended to show a much smaller income than that actually received.

The hearing panel was further concerned about the respondent's statement that she was not going to tell anyone about "these matters," i.e., her contingency fee arrangement with the Deal Law Firm, if she did not have to, and the fact that her later self-report coincided with deposition testimony that would further her position in the litigation with the Deal-Holton firm. Further, the panel did not find respondent's statements credible with regard to her claim that false answers in the deposition

enriched her ex-husband. To the contrary, the panel finds that her misrepresentation in her 1998 deposition was prejudicial to the administration of justice.

Based upon all of the circumstances including the testimony and the documentary evidence, the panel finds that the respondent's misrepresentation and false testimony in her 1998 deposition was premeditated and was made with a dishonest or selfish motive and that such intent and motive continued as evidenced by the false documents submitted in the divorce case; that is, to conceal from her husband the actual nature of her fee arrangement with the Deal-Holton Law Firm.

Based upon all of the above and the entire record in this cause, and all of the circumstances pertaining to the issues before this panel, it is the judgment and recommendation of this panel that the respondent be suspended from the practice of law for a period of four months.

  
LISA A. KRUPICKA, Panel Member

  
RUSSELL W. SAVORY, Panel Member

  
C. BARRY WARD, Chair