

**IN DISCIPLINARY DISTRICT II
OF THE
BOARD OF PROFESSIONAL RESPONSIBILITY
OF THE
SUPREME COURT OF TENNESSEE**

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BOARD OF PROFESSIONAL
RESPONSIBILITY
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**IN RE: VANESSA LYNN LEMONS
BPR # 023307, Respondent
An Attorney Licensed and
Admitted to the Practice of
Law in Tennessee
(Knox County)**

DOCKET No. 2012-2137-2-SG

JUDGMENT OF THE HEARING PANEL

This matter came to be heard on October 16, 2012, before this Hearing Panel of the Board of Professional Responsibility of the Supreme Court of Tennessee based upon the Board's Petition for Discipline filed against Vanessa Lynn Lemons on July 6, 2012. On August 30, 2012, this Hearing Panel filed an Order granting the Board's Motion for Default and deeming admitted the charges and violations in the Petition for Discipline. By Notice of Hearing filed September 12, 2012, Ms. Lemons and the Board were notified of the October 16, 2012 hearing date. On October 16, 2012, the Hearing Panel, consisting of Ruth Thompson Ellis, Chair, Rick Powers and Alyson Eberting, and Disciplinary Counsel appeared for the hearing. Ms. Lemons did not appear for the October 16, 2012 hearing. Upon argument of Disciplinary Counsel and the entire record in this cause, the Hearing Panel makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

File No. 34186c-2-BG – Complaint of Danny Joe McCoy, Jr.

1. On approximately February 1, 2010, Mr. McCoy hired Ms. Lemons to handle the estate of his father.
2. Ms. Lemons was paid a \$500.00 fee to handle Mr. McCoy's father's estate.
3. Ms. Lemons advised Mr. McCoy that she would petition the Court to have Mr. McCoy appointed Executor of his father's estate.
4. Ms. Lemons did not contact Mr. McCoy for one month, so Mr. McCoy called Ms. Lemons and left a message.
5. When Ms. Lemons did not update Mr. McCoy or return his call, Mr. McCoy telephoned the Probate Court Clerk's Office and learned that Mrs. Lemons had not filed any documents with the Probate Court Clerk.
6. On approximately March 5, 2010, Mr. McCoy emailed Ms. Lemons terminating her representation.
7. On March 8, 2010, Mr. McCoy requested but did not receive a copy of his bill from Ms. Lemons.
8. On March 23, 2010, Mr. McCoy sent Ms. Lemons a certified letter discharging her and again requesting a copy of his bill.
9. On April 5, 2010, Mr. McCoy sent a second certified letter to Ms. Lemons to which Ms. Lemons made no response.
10. Ms. Lemons failed to communicate with Mr. McCoy and failed to respond to his requests for information.

11. By letter dated August 18, 2011, Ms. Lemons advised Disciplinary Counsel that she would refund the entire \$500.00 to Mr. McCoy and provide a copy to the Board to verify the refund.

12. Ms. Lemons failed to make any refund to Mr. McCoy.

13. Ms. Lemons failed to take any action on Mr. McCoy's legal matter.

14. On October 14, 2011, Disciplinary Counsel wrote Ms. Lemons requesting a copy of her file; a summary of Ms. Lemons' understanding of the fee agreement; and a copy of Ms. Lemons' refund check and correspondence to Mr. McCoy.

15. Ms. Lemons failed to respond to Disciplinary Counsel's October 14, 2011, letter requesting additional information regarding Mr. McCoy's complaint.

16. On November 16, 2011, and on January 5, 2012, Disciplinary Counsel emailed Ms. Lemons again requesting her response to the information sought in Disciplinary Counsel's October 14, 2011, letter.

17. Ms. Lemons failed to respond to Disciplinary Counsel's additional request for more information regarding Mr. McCoy's complaint.

File No. 34679-2-BG – Complaint of Christina Foy

18. Ms. Foy retained Ms. Lemons to represent her on a DUI charge.

19. Ms. Foy paid Ms. Lemons \$2,000 in fees.

20. Ms. Lemons failed to respond to Ms. Foy's calls and emails for approximately four months.

21. Ms. Lemons failed to advise Ms. Foy of her September, 2011 court date.

22. After Ms. Foy left numerous messages on Ms. Lemons' answering machine the evening before Ms. Foy's trial, Ms. Lemons telephoned Ms. Foy advising that she was not ready for Ms. Foy's trial and would try to get it continued.

23. At Ms. Foy's court appearance in September, 2011, Ms. Foy asked the Judge to remove Ms. Lemons from her case.

24. Ms. Lemons advised the Judge that she would refund Ms. Foy's \$2,000 fee and mail the refund and Ms. Foy's case file to her within seven (7) days.

25. Ms. Lemons failed to refund Ms. Foy's fee and failed to provide Ms. Foy with her file.

26. On October 6, 2011, Ms. Foy emailed Ms. Lemons advising that she had not received her file and the \$2,000 refund.

27. On approximately October 18, 2011, Ms. Lemons refunded \$1,000 to Ms. Foy's subsequent counsel.

28. Ms. Lemons has never refunded the remaining \$1,000 balance to Ms. Foy.

29. Ms. Lemons has failed to respond to the Board regarding Ms. Foy's complaint.

File No. 35038c-BG – Complaint of Lendell Davis

30. On August 24, 2011, the Criminal Court for Knox County appointed Vanessa Lemons to represent Lendell Davis in *State of Tennessee v. Davis*, Case No. 97144.

31. In *State v. Davis*, Mr. Davis was charged with four counts of especially aggravated kidnapping, two counts of aggravated robbery, and one count of aggravated burglary.

32. After Ms. Lemons was appointed to represent Mr. Davis, Ms. Lemons did not visit or communicate with Mr. Davis and was non-responsive to his calls and letters.

33. Mr. Davis communicated with the Assistant District Attorney, Leslie Nassios, regarding his case, providing damaging information and stating that he had not seen or talked with his appointed counsel, Ms. Lemons.

34. Ms. Lemons neglected Mr. Davis' case and failed to take any action on his behalf.

35. Ms. Lemons failed to appear in Court on court dates for clients in Judge Steven Sword's Courtroom beginning January, 2012, and increasing in the spring of 2012.

36. Ms. Lemons asked Judge Sword to relieve her as counsel on cases she had been appointed. Judge Sword advised Ms. Lemons that he had already removed her from cases on which she had been appointed.

37. In Judge Mary Beth Leibowitz's courtroom, Ms. Lemons failed to appear at court dates for clients, sometimes resetting the court dates and then, on occasion, not appearing at the later court date, beginning approximately January 2012.

38. Judge Leibowitz discussed with Ms. Lemons her failure to appear and Ms. Lemons promised to meet with clients and satisfy their concerns.

39. Ms. Lemons failed to diligently represent and communicate with clients after ensuring Judge Leibowitz she would do so.

40. Judge Leibowitz met with Ms. Lemons on a second occasion to again discuss Ms. Lemons' practice issues.

41. Judge Leibowitz asked Ms. Lemons to meet with her again at a later date regarding Ms. Lemons' appointed cases, however, Ms. Lemons never returned to see Judge Leibowitz per the Judge's request.

File No. 35121-2-BG – Complaint of John Barber

42. In approximately September, 2011, Ms. Lemons borrowed \$500.00 from John Barber.

43. In approximately October, 2011, Ms. Lemons agreed to represent Mr. Barber on a traffic ticket without charging a fee.

44. Ms. Lemons advised Mr. Barber that his traffic violation would be dismissed but Mr. Barber would owe \$100.00 in court costs. Ms. Lemons further advised Mr. Barber that she would pay the \$100.00 and deduct that amount from the \$500.00 loan she owed to Mr. Barber.

45. Ms. Lemons failed to pay Mr. Barber's court costs per her agreement with Mr. Barber.

46. Ms. Lemons failed to advise Mr. Barber that she had not paid his court costs as she had said she would do.

47. On approximately April 16, 2012, Mr. Barber learned on his own that Ms. Lemons had not paid the court costs as she had advised him that she would.

48. Ms. Lemons misled Mr. Barber by advising that she would pay his court costs and then failed to do so.

49. Ms. Lemons has failed to respond to Mr. Barber's phone calls and emails regarding his case.

File No. 35145c-2-BG – Complaint of Judge Shayne Sexton and Lonnie McNair

50. Ms. Lemons sought and was appointed by Judge Shayne Sexton to represent Lonnie McNair in *State of Tennessee v. McNair* the Criminal Court for Union County, Tennessee, Case No. 4368.

51. During her representation of Mr. McNair, Ms. Lemons failed to respond to correspondence from Judge Sexton's office and from opposing counsel.

52. Ms. Lemons failed to appear for status calls on Mr. McNair's case.

53. Ms. Lemons neglected Mr. McNair's case.

54. Ms. Lemons failed to respond to requests for information from Mr. McNair and his family members about his case.

55. Judge Sexton relieved Ms. Lemons from her appointed representation of Lonnie McNair.

CONCLUSIONS OF LAW

1. Ms. Lemons has violated the following Rules of Professional Conduct: 1.3 (diligence); 1.4 (communication); 1.5 (fees); 1.16 (terminating representation); 8.1 (disciplinary matters); and 8.4 (misconduct).

2. The following aggravating factors have been deemed admitted:

- a) Ms. Lemon's prior discipline of a private reprimand on January 12, 2011;
- b) Ms. Lemons' pattern of misconduct;
- c) Ms. Lemons' multiple offenses;
- d) Ms. Lemons' bad-faith obstruction of the disciplinary proceedings;
- e) Ms. Lemons' submission of false statements during the disciplinary process.

3. For the purpose of determining discipline, the Hearing Panel considered evidence in the record of Ms. Lemons' prior conscientious representation of her clients as indicated by the correspondence of both Judge Sword and Judge Leibowitz. The Panel noted that Ms. Lemons'

neglect of her legal practice was for a short duration of time after a long period of practicing law. The Panel further notes that, rather than abandoning her practice, Ms. Lemons requested that both Judge Sword and Judge Leibowitz remove her from her appointed cases.

JUDGMENT

Based upon the foregoing findings of fact and conclusions of law, the Hearing Panel recommends Ms. Lemons be suspended for a definite term of four years and indefinitely suspended until Ms. Lemons provides the Board with proof of completing the following conditions:

1. Ms. Lemons shall contact Tennessee Lawyer's Assistance Program (TLAP) and undergo an evaluation and shall comply with the terms, conditions and recommendations determined by said evaluation; enter into a monitoring agreement for a period of at least two years, if recommended; and abide by the terms and conditions of that monitoring agreement;

2. Ms. Lemons must make restitution to the following individuals and/or the Lawyers' Fund for Client Protection:

- a) Danny McCoy in the amount of \$500.00;
- b) Christina Foy in the amount of \$1,000.00; and
- c) John Barber in the amount of \$500.00;

3. Ms. Lemons shall pay in full all costs and fees owed to the Board of Professional Responsibility;

4. The Hearing Panel further orders that a copy of this Judgment be provided to each complainant included in Ms. Lemons' Petition for Discipline; and

5. The Hearing Panel acknowledges by its findings, conclusions and recommendation the serious nature of Ms. Lemons' violations of the Rules of Professional Conduct.

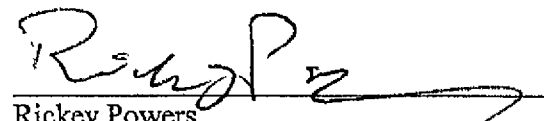
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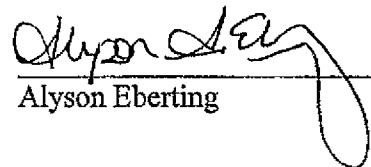
This judgment may be appealed pursuant to Tenn. S. Ct. R. 9, § 1.3 by filing a petition for writ of certiorari, which petition shall be made under oath or affirmation and shall state that it is the first application for the writ. See Tenn. Code Ann. § 27-8-104(a) and 27-8-106.

IT IS SO ORDERED on this 25th day of October, 2012.

FOR THE PANEL:


Ruth Ellis, Chair


Rickey Powers


Alyson Eberling