

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

IN RE: William S. Lockett, Jr.  
BPR# 010257, Respondent  
Docket Nos: 2009-1822-2-SG  
2010-1919-2-SG (14)  
2010-1930-2-SG (14)

JUDGMENT OF THE HEARING PANEL

This cause came to be heard by the Hearing Panel of the Board of Professional Responsibility of the Supreme Court of Tennessee on September 27, 2010, pursuant to Rule 9, Supreme Court of Tennessee. The parties submitted Agreed Stipulations of fact prior to the hearing. The Hearing Panel, consisting of Thomas L. Wyatt, Chair, Debra Anne Thompson and Jennifer Pearson Taylor, makes the following findings of fact, conclusions of law, and submits its judgment in this cause.

This disciplinary proceeding against William S. Lockett, Jr. was instituted on June 9, 2009 after Mr. Lockett, through counsel, self reported to the Board of Professional Responsibility that while employed by the law firm of Kennerly, Montgomery & Finley, P.C. (the "Firm"), he had: (i) performed legal services for clients, received direct payments from the clients and did not remit those payments to the Firm as required by his Professional Employment Agreement with the Firm; and (ii) requested and received loans from Firm clients while he was employed at the Firm. The Board of Professional Responsibility filed Supplemental Petitions for Discipline against the Respondent on February 4, 2010 and July 1, 2010.

On approximately April 8, 2010, in State v. Lockett, the Respondent pled guilty to one count of theft over \$10,000, a class C felony. On April 27, 2010, the Respondent pled guilty to willful failure to file an income tax return in United States of America v. Lockett. Since the conviction of an attorney for any crime is conclusive evidence of the commission of that crime in any disciplinary proceeding based upon the conviction, the only issues in this proceeding were: (i) the extent of the final discipline to be imposed as a result of the criminal convictions; and (ii) whether the Respondent's requesting and receiving loans from multiple former clients and one current Firm client constitutes ethical misconduct in violation of the Tennessee Rules of Professional Conduct.

#### Findings of Fact

1. The Respondent is an attorney licensed to practice law in Tennessee since 1983, BPR# 010257.
2. The Respondent was a Board of Professional Responsibility hearing committee member from March 2007 through 2010.
3. The Respondent was elected to the position of Knox County Law Director, and held that position from 2008 until his resignation on April 8, 2010.
4. The Respondent, through counsel, self reported to the Board of Professional Responsibility that while employed by Kennerly, Montgomery & Finley, P.C. he had performed legal services for clients, received direct payments from the clients and did not remit those payments to the Firm as required by his Professional Employment Agreement with the Firm and requested and received loans from Firm clients while he was employed at the Firm.

5. The Respondent pled guilty and was convicted of one count of theft over \$10,000, a class C felony, on April 8, 2010.
6. The Respondent was sentenced to three years of imprisonment, suspended, three years unsupervised probation and restitution in the amount of \$32,022.99 to Kennerly, Montgomery & Finley, P.C.
7. The Respondent pled guilty and was convicted of failure to file an income tax return on April 27, 2010.
8. The Respondent was sentenced to one year probation and six months of home confinement for this second conviction.
9. By Orders filed April 13, 2010 and August 4, 2010, the Supreme Court suspended the Respondent from the practice of law indefinitely until the imposition of final discipline by this Hearing Panel.

#### Conclusions of Law

1. The Respondent's substantial experience in the practice of law and role as a Board of Professional Responsibility hearing committee member are aggravating circumstances.
2. The Respondent's seeking, acceptance and retention of an elected public office during the time of the ethical misconduct is an aggravating circumstance.
3. The Respondent's plea of guilt in State v. Lockett violates Tennessee Supreme Court Rule 8, Rules of Professional Conduct Rule 8.4(a), (b), (c), (d).
4. The Respondent's plea of guilt in United States of America v. Lockett violates Tennessee Supreme Court Rule 8, Rules of Professional Conduct Rule 8.4(b), (d).

5. The length of time encompassing the Respondent's conduct of failing to remit fees belonging to the Firm (over 3 years) and the sheer number of transgressions (greater than 25) are aggravating circumstances.

6. The Respondent's conduct in requesting and receiving loans from a client of the Firm violates Tennessee Supreme Court Rule 8, Rules of Professional Conduct 1.4; 1.8(a), and 8.4(a) and (d). The fact that, at the time he entered into the loan arrangement in question, the Respondent did not know the maker of the loan was a client of the Firm is a mitigating circumstance on this issue. While the fact the Respondent received loans from multiple former clients may not technically constitute violations of the Rules of Professional Conduct set forth above, such does constitute an aggravating circumstance when considered in conjunction with the fact that, during the same time period in which the loans were made, Respondent also failed to remit fees to the Firm.

7. The Respondent testified he failed to remit fees to the Firm and file tax returns because he needed funds to offset personal financial problems encountered when his son became ill with a serious skin condition and he purchased a new family home. While this explanation may be viewed as a mitigating circumstance, it is also viewed as an aggravating circumstance as the Respondent may experience financial and personal problems in the future and has not sought counseling or other professional assistance designed to help him respond to adverse personal circumstances in an ethical manner which will assure that the conduct underlying the Petitions for Discipline before this Hearing Panel do not reoccur.

The Respondent relies heavily upon the case of *Board of Prof'l. Responsibility v. Maddux*, 148 S.W.3d 37 (Tenn. 2004), arguing that the factual circumstances of *Maddux*

are similar to those in this case. In *Maddux* the Tennessee Supreme Court affirmed a hearing panel's judgment suspending Mr. Maddux for thirty (30) days for theft from Maddux's former firm. This Hearing Panel finds the factual circumstances in this case to be distinguishable from those in *Maddux* for several reasons: (1) Mr. Maddux was never charged criminally for theft nor convicted of any crime; (2) Mr. Maddux had no other criminal charges unrelated to the theft from his former firm; (3) Mr. Maddux did not seek, accept or hold a public office at any time during the period when the theft occurred; (4) there was no client involvement in Mr. Maddux's conduct as the theft from his firm was the result of Maddux withdrawing funds from a firm bank account; and (5) the Board delayed four (4) years in filing a Petition for Discipline against Mr. Maddux. In this case, the following factors weigh heavily against imposing discipline against the Respondent that is similar to that imposed against Mr. Maddux: (1) The Respondent pled guilty to felony theft; (2) The Respondent has pled guilty to the federal crime of willfully failing to file income tax returns; (3) The Respondent sought, accepted and held a position of public trust as Knox County Law Directory during the time period in which the crimes for which he pled guilty occurred and with knowledge of his criminal conduct; (4) The Respondent kept funds provided by clients that were intended for and belonged to his firm; (5) The Respondent sought out and received multiple loans from former clients and one loan from a current client of the Firm; and (6) the Board did not delay in filing a Petition for Discipline against the Respondent.

The Hearing Panel considers the facts of this case as more in line with the Orders of the Tennessee Supreme Court cited by the Board in its Pre-Trial Brief (the cases of

John Houser Parker and Quisha Light) in which attorneys were disbarred or suspended for theft from law firms.


Judgment of the Hearing Panel

The Hearing Panel considered the briefs and arguments presented by the Respondent and Disciplinary Counsel, the testimony of witnesses, the proposed aggravating and mitigating circumstances, and comparable cases. It is the judgment of this Hearing Panel that William S. Lockett, Jr. should be suspended from the practice of law for four years. In the event that the Respondent successfully applies for and is granted reinstatement to the practice of law by the Supreme Court following the four year suspension, it is the judgment of this Hearing Panel that the Respondent should be supervised by a practice monitor for a period of one (1) year following reinstatement.

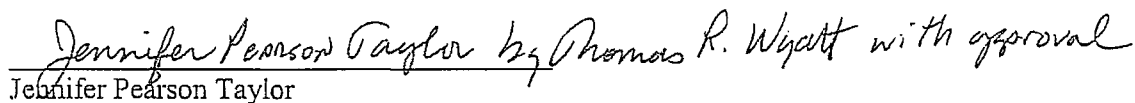
HEARING PANEL



Thomas L. Wyatt



Debra Anne Thompson



Jennifer Pearson Taylor