

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

FILED

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BOARD OF PROFESSIONAL
RESPONSIBILITY

RK

EXEC. SEC'Y

**IN RE: TONY LAWRENCE MAPLES
BPR No. 18782
Attorney Licensed to
Practice Law in Tennessee
(Rutherford County)**

DOCKET NO. 2010-1926-4-RS

JUDGMENT OF THE HEARING PANEL

This matter came to be heard on November 9, 2010 before a duly appointed Hearing Panel of the Board of Professional Responsibility of the Supreme Court of Tennessee. Based upon the proof introduced at the hearing and the entire file of this matter, the Hearing Panel makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. A Petition for Discipline, BOPR Docket No. 2010-1926-4-RS, was filed on May 7, 2010.
2. The Petition was sent via regular and certified mail to the Respondent at 2707 Sewanee Place, Murfreesboro, Tennessee 37128. A copy of the receipt showing the Petition was returned to Disciplinary Counsel marked "unclaimed" on June 14, 2010 is attached to the Board's Amended Motion for Default as Exhibit A.
3. A Supplemental Petition for Discipline, BOPR Docket No. 2010-1926-4-RS, was filed on July 20, 2010.
4. The Supplemental Petition was sent via regular mail to the Respondent at 2707 Sewanee Place, Murfreesboro, Tennessee 37128. It was returned as undeliverable on July 21,

2010. A copy of the tracking information related to the Supplemental Petition for Discipline is attached to the Board's Motion for Default regarding the Supplemental Petition for Discipline as Exhibit A.

5. Section 8.2 of Rule 9 provides that Respondent shall serve his answer upon Disciplinary Counsel and file the original with the Board within twenty days after service of the Petition, unless such time is extended by the Chair. In the event the Respondent fails to answer, the charges shall be deemed admitted; provided, however, that a Respondent who fails to answer within the time provided may obtain permission of the Chair (of the Board) to file an answer if such failure to file an answer was attributable to mistake, inadvertence, surprise or excusable neglect.

6. No answer or response to the Petition for Discipline or the Supplemental Petition for Discipline was filed with the Executive Secretary of the Board of Professional Responsibility and no answer or response was served on Disciplinary Counsel within the time permitted by Section 8.2 of Rule 9. The time for filing the answer or response was not extended by the Chair of the Board of Professional Responsibility, nor was a request or motion for an extension of time made or filed by Respondent to answer or respond to the Petition for Discipline.

7. On September 1, 2010, the Hearing Panel entered an Order granting a default with regard to the Petition for Discipline and deeming the allegations therein admitted.

8. On September 1, 2010, the Hearing Panel also entered an Order Allowing Supplemental Petition for Discipline and further ordered that the Respondent's Answer be filed by September 20, 2010.

A. PETITION FOR DISCIPLINE

FILE NO. 31653c-4-JV – COMPLAINANT – DAVID SCHALLER

9. On October 9, 2008, the Board of Professional Responsibility received a complaint concerning the Respondent filed by David Schaller. Pursuant to Rule 9, Rules of the Supreme Court, Respondent was notified of the complaint and afforded an opportunity to respond. A copy of the complaint is attached to the Petition for Discipline as Exhibit A. A copy of the Respondent's response to the complaint is attached to the Petition for Discipline as Exhibit B.

10. Respondent rented a house from the Complainant.

11. Respondent breached the rental agreements by bringing in two large dogs and smoking, bouncing rental checks, failing to pay rent, and damaging the property.

12. Respondent removed smoke detectors from the house when he departed.

13. The smoke detectors were not Respondent's property and he has not returned them.

14. The Respondent also removed a washer and dryer from the house when he departed.

15. The washer and dryer were not the Respondent's property and he has not returned them.

16. The washer and dryer were in the residence when the Respondent moved in.

17. On December 8, 2008, the Complainant received a \$16,000 civil default judgment against Respondent for breach of contract, conversion of personal property, intentional destruction of property and theft. A copy of that judgment is attached to the Petition for Discipline as Exhibit C.

FILE NO. 31862-4-JV – COMPLAINANTS – LUIS & ANDREA OROZCO

18. On February 2, 2009, the Board of Professional Responsibility received a complaint concerning the Respondent filed by Luis and Andrea Orozco. Pursuant to Rule 9, Rules of the Supreme Court, Respondent was notified of the complaint and afforded an opportunity to respond. A copy of the complaint is attached to the Petition for Discipline as Exhibit D. A copy of the Respondent's response to the complaint is attached to the Petition for Discipline as Exhibit E.

19. The allegations in the complaint filed by the Orozcos are almost identical to the complaint filed by David Schaller.

20. Respondent rented a house from the Complainants.

21. Respondent breached the rental agreements by bringing in two large dogs and smoking, bouncing rental checks, failing to pay rent, and damaging the property.

22. Respondent removed smoke detectors from the house when he departed.

23. The smoke detectors were not his property and he has not returned them.

24. Respondent removed a fire extinguisher from the house when he departed.

25. The fire extinguisher was not his property and he has not returned it.

26. Respondent removed two (2) sets of blinds from the house when he departed.

27. The blinds were not his property and he has not returned them.

28. The Respondent also removed a washer and dryer from the house when he departed.

29. The washer and dryer were not the Respondent's property and he has not returned them.

30. The washer and dryer were in the residence when the Respondent moved in.

31. The lease agreement clearly stated that the washer and dryer were property of the

landlord. A copy of the lease agreement is attached to the Petition for Discipline as Exhibit F.

32. On January 6, 2009, the Complainant received a \$6,758.75 civil default judgment against Respondent. A copy of that judgment is attached to the Petition for Discipline as Exhibit G.

FILE NO. 32082c-4-RW – COMPLAINANT – DERYL WEAVER

33. On February 4, 2009, the Board of Professional Responsibility's Consumer Assistance Program received a request for assistance concerning the Respondent filed by Deryl Weaver. A copy of the request is attached to the Petition for Discipline as Exhibit H. Pursuant to Rule 9, Rules of the Supreme Court, Respondent was notified of the request and afforded an opportunity to respond. After the Respondent responded to the Consumer Assistance Program, the matter was transferred to Disciplinary Counsel and designated as File No. 32082c-4-JV. Copies of the Respondent's responses to the request are attached to the Petition for Discipline as Collective Exhibit I.

34. In August 2006, Complainant hired Respondent to probate the estate of her deceased son. Complainant is the estate administrator.

35. Respondent charged a \$2,500 fixed fee, which was paid from the estate.

36. Respondent provided very little legal services beyond the filing of the initial pleadings.

37. Respondent delayed the case by his lack of diligence.

38. Respondent misrepresented to Complainant that a court date had been scheduled when it had not.

39. Respondent would not communicate with Complainant and would not pick up his certified mail. Complainant terminated Respondent's representation in May 2008.

40. Complainant retained new counsel in June of 2008.
41. Complainant's new counsel requested Respondent's file by letter that same month.
42. Complainant's new counsel repeated requested the Respondent's file, however, it was not provided until the spring of 2009.
43. Respondent failed to mail the notice to known or reasonably ascertainable creditors as required by statute.
44. Respondent failed to file annual status reports as required by local rules.
45. Respondent failed to appear at a court date in May 2008 concerning litigation in the probate court regarding ownership of a motorboat.
46. Due to the Respondent's inaction, the Complainant, not Respondent, filed the petition/complaint herself to bring the action regarding the boat.
47. Respondent failed to procure releases for settled tort lawsuits that had been filed against the deceased and his estate.
48. Due to the Respondent's inaction, the insurance defense attorney eventually took it upon herself to prepare and file the appropriate releases in the probate court.
49. Respondent failed to send the proper notification to TennCare.
50. Respondent failed to prepare and file Tennessee Short Form Inheritance Tax return.

FILE NO. 32431c-4-RW – COMPLAINANT – TERRELL TIGG

51. On August 17, 2009, the Board of Professional Responsibility's Consumer Assistance Program received a Request for Assistance concerning the Respondent filed by Terrell Tigg. The request was referred to Disciplinary Counsel and designated as File No.

32431c-4-JV. Pursuant to Rule 9, Rules of the Supreme Court, Respondent was notified of the request and complaint and afforded an opportunity to respond. A copy of the request and complaint is attached to the Petition for Discipline as Exhibit J. A copy of the Respondent's response to the complaint is attached to the Petition for Discipline as Exhibit K.

52. Respondent was appointed to represent Complainant in a criminal matter, including a hearing for post-conviction relief that was held in September of 2007.

53. Complainant was denied relief and the Respondent represented to Complainant that he would appeal the denial of relief.

54. Complainant requested that Respondent send him the transcript of the September 2007 hearing.

55. Respondent failed to respond to Complainant.

56. Respondent failed to communicate with Complainant.

57. Respondent failed to take any further action on Complainant's case.

58. Respondent failed to respond to communications from the Board's Consumer Assistance Program about Complainant's complaint.

59. Respondent finally responded to the Board three months after the Board's initial communication in an undated letter faxed to the Board on October 6, 2009.

60. Respondent informed the Board that he pulled Complainant's file, had copies made and would forward them to Complainant within one week.

61. Complainant has not received the transcripts or any other communication from the Respondent.

62. Respondent has failed to answer Disciplinary Counsel's request for information.

FILE NO. 32486-4-RW – COMPLAINANT – SHARON DAVIS

63. On November 2, 2009, the Board of Professional Responsibility received a complaint concerning the Respondent filed by Sharon Davis. Pursuant to Rule 9, Rules of the Supreme Court, Respondent was notified of the complaint and afforded an opportunity to respond. A copy of the complaint is attached to the Petition for Discipline as Exhibit L.

64. Complainant retained Respondent in November 2008 for a divorce and paid him a \$1,700 fee. A copy of the Respondent's acknowledgement of payment is attached to the Petition for Discipline as Exhibit M.

65. The Respondent is no longer communicating with Complainant.

66. The Respondent has not provided any of the legal services he was paid to perform.

67. The Respondent has abandoned representation of Complainant.

68. The phone number provided to Complainant by the Respondent is no longer in service.

69. The address provided to Complainant by Respondent is no longer valid.

70. Copies of letters sent to the Respondent at the address Respondent provided to Complainant that have been returned are attached to the Petition for Discipline as Exhibit N.

71. Respondent has failed to provide Complainant with valid contact information.

72. On November 16, 2009, Complainant's husband filed a *pro se* Petition for Divorce in Dyer County.

73. Respondent failure to provide any legal services to Complainant has left her unrepresented in her divorce proceeding.

74. Respondent has failed to respond to this disciplinary complaint.

FILE NO. 32577-4-RW – COMPLAINANT – JAMES JACOB

75. On October 19, 2009, the Board of Professional Responsibility received a complaint concerning the Respondent filed by James W. Jacob. Pursuant to Rule 9, Rules of the Supreme Court, Respondent was notified of the complaint and afforded an opportunity to respond. A copy of the complaint is attached to the Petition for Discipline as Exhibit O.

76. Complainant retained Respondent in August 2009 to assist with litigation relating to a tax matter.

77. Complainant paid Respondent \$1,000 retainer fee and \$375 to hire an investigator.

78. Copies of the cancelled checks bearing Respondent's endorsement are attached to the Petition for Discipline as Exhibit P.

79. Respondent represented to Complainant that he would contact him in two weeks.

80. Respondent did not call.

81. Respondent has refused to communicate with the Complainant despite numerous attempts by the Complainant to locate and contact him.

82. Respondent has failed to provide Complainant with valid contact information.

83. Respondent has abandoned the representation of the Complainant.

84. Respondent provided none of the legal services for which he was paid.

85. Respondent has failed to respond to this disciplinary complaint.

86. On December 8, 2009, Respondent was temporarily suspended from the practice of law for failing to respond to this complaint.

FILE NO. 32627-4-RW – COMPLAINANT – JULIA ESPINOZA

87. On November 10, 2009, the Board of Professional Responsibility received a complaint concerning the Respondent filed by Julia Espinoza. Pursuant to Rule 9, Rules of the

Supreme Court, Respondent was notified of the complaint and afforded an opportunity to respond. A copy of the complaint is attached to the Petition for Discipline as Exhibit Q.

88. Complainant retained Respondent in April 2009 to file a Petition for Guardianship of her grandson.

89. A copy of the Contract for Legal Services between Complainant and Respondent is attached to the Petition for Discipline as Exhibit R.

91. Complainant paid Respondent a \$1,000 retainer fee and \$150 for filing fees.

92. A copy of the receipt Complainant obtained from Respondent for these payments is attached to the Petition for Discipline as Exhibit S.

93. Respondent has refused to communicate with the Complainant despite numerous attempts by the Complainant to locate and contact him.

94. Respondent has failed to provide Complainant with valid contact information.

95. Respondent has abandoned the representation of the Complainant.

96. Respondent never filed the Petition for Guardianship that he was hired to file.

97. Respondent provided none of the legal services for which he was paid.

98. Respondent has failed to respond to this disciplinary complaint.

FILE NO. 32680-4-RW – COMPLAINANT – CRYSTAL MORENA

99. On November 30, 2009, the Board of Professional Responsibility received a complaint concerning the Respondent filed by Crystal Morena. Pursuant to Rule 9, Rules of the Supreme Court, Respondent was notified of the complaint and afforded an opportunity to respond. A copy of the complaint is attached to the Petition for Discipline as Exhibit T.

100. Complainant retained Respondent in February 2009 for a divorce.

101. Complainant paid Respondent \$2,500 and a \$320 filing fee.

102. Respondent told Complainant that he stopped the divorce, but he didn't explain why.

103. Respondent told Complainant that if she paid the filing fee again, he would re-file the case and obtain the divorce.

104. Complainant didn't hear from Respondent for six months and her calls and text messages weren't returned.

105. In August 2009, Respondent agreed to refund Complainant's money because Complainant was unhappy.

106. Respondent also told Complainant that all the paperwork was completed and all that was left was to sign the papers.

107. Thereafter, Respondent's telephone was disconnected and Complainant cannot get in touch with him.

108. Complainant's phone number has remained the same, but Respondent has not attempted to communicate with her.

109. Respondent has also moved from his prior address without notifying Complainant of a new address.

110. Respondent never refunded Complainant's money as he agreed.

111. Respondent never filed a divorce on behalf of Complainant.

112. Respondent has failed to provide Complainant with valid contact information.

113. Respondent has abandoned the representation of the Complainant.

114. Respondent provided none of the legal services for which he was paid

115. Respondent has failed to respond to this disciplinary complaint.

FILE NO. 32729-4-SG – INFORMANT – HONORABLE DON ASH

116. On December 17, 2009, the Board of Professional Responsibility received information concerning the Respondent from the Honorable Don R. Ash, Circuit Court Judge. Pursuant to Rule 9, Rules of the Supreme Court, Respondent was notified of the complaint and afforded an opportunity to respond. A copy of the complaint is attached to the Petition for Discipline as Exhibit U.

117. On December 16, 2009, Respondent appeared before the Honorable Don Ash, Rutherford and Cannon Counties Circuit Court Judge, in criminal court.

118. Respondent's law license had been temporarily suspended effective December 8, 2009.

119. Despite the suspension of his law license, Respondent stood and announced his representation of two criminal defendants.

120. Judge Ash asked Respondent if he was aware his license had been suspended.

121. Respondent represented to the court that he was not aware his license had been suspended.

122. Respondent was, in fact, aware of his suspension from the practice of law having received and signed for the certified mailing of the notice on December 5, 2009.

123. A copy of the signed certified mail receipt is attached to the Petition for Discipline as Exhibit V.

124. Judge Ash removed Respondent from the two cases.

125. One of the defendants from whose case Respondent was removed had paid Respondent \$4,000.

126. Respondent has refused to return it.

127. Respondent made misrepresentations to the court about the status of his law

license.

128. Respondent has failed to respond to this disciplinary complaint.

B. SUPPLEMENTAL PETITION FOR DISCIPLINE

FILE NO. 32802-4-RW – COMPLAINT OF LISA TYLER

129. On January 22, 2010, a complaint was filed by Lisa Tyler (hereinafter “Complainant”) alleging ethical misconduct by Respondent. A true and exact copy of the complaint is attached to the Supplemental Petition for Discipline as Exhibit B.

130. On January 28, 2010, the Board sent a copy of the complaint to Respondent requesting a response within ten (10) days. A true and exact copy of the Board’s January 28, 2010, letter is attached to the Supplemental Petition for Discipline as Exhibit C.

131. Having received no response, the Board sent a Notice of Petition for Temporary Suspension on February 24, 2010, to Respondent. A true and exact copy of the Notice is attached to the Supplemental Petition for Discipline as Exhibit D.

132. On April 1, 2010, after receiving no response, the Board sent another letter with a copy of the complaint to Respondent requesting a response within ten (10) days and informing him he was still temporarily suspended. A true and exact copy of the Board’s April 1, 2010, letter attached to the Supplemental Petition for Discipline as Exhibit E.

133. On June 10, 2010, after receiving no response, the Board sent another letter with a copy of the complaint to Respondent requesting a response within ten (10) days and informing him he was still temporarily suspended. A true and exact copy of the Board’s June 10, 2010, letter attached to the Supplemental Petition for Discipline as Exhibit F.

134. To date, Respondent has not responded to this complaint

135. In September and October 2009, Complainant paid Respondent a total of \$5,000

for two matters, a civil case to represent her mother and the other relating to an incident at her mother's residence requiring an emergency injunction.

136. Respondent paid the Respondent \$4,000 on September 23, 2009 and \$1,000 on October 13, 2009. True and exact copies of the receipts for these payments are attached to the Supplemental Petition for Discipline as Exhibit G.

137. Respondent did not provide the legal services he was paid to provide to the Complainant on either of the matters.

138. Respondent misrepresented to Complainant that he had performed legal services.

139. Respondent misrepresented to Complainant that Complainant's proceedings were in progress.

140. During part of the representation, Complainant and Respondent had text communications.

141. Complainant sent Respondent several letters detailing her complaints, but Respondent did not respond.

142. Complainant spoke with Respondent's wife, who works in Respondent's office, and was told that Respondent was on medical leave, and that Respondent wanted to continue to represent her.

143. Respondent's wife stated that Respondent would attend an upcoming hearing.

144. However, Respondent did not appear for the hearing.

145. Respondent was suspended prior to the hearing.

146. Complainant was not told that Respondent was suspended, but rather was affirmatively told by Respondent's wife in January 2010 that Respondent was not suspended.

147. Respondent did not withdraw from the representation.

148. Respondent ceased communication with Complainant in February, 2010.

FILE NO. 32913-4-RW – COMPLAINT OF EDDIE ADAMS, SR.

149. On February 25, 2010, a complaint was filed by Eddie Adams, Sr., (hereinafter “Complainant”) alleging ethical misconduct by Respondent. A true and exact copy of the complaint is attached to the Supplemental Petition for Discipline as Exhibit H.

150. On March 3, 2010, the Board sent a copy of the complaint to Respondent requesting a response within ten (10) days. A true and exact copy of the Board’s March 3, 2010, letter is attached to the Supplemental Petition for Discipline as Exhibit I.

151. Having received no response, the Board sent a Notice of Petition for Temporary Suspension on March 19, 2010, to Respondent. A true and exact copy of the Notice is attached to the Supplemental Petition for Discipline as Exhibit J.

152. On April 20, 2010, after receiving no response, the Board sent another letter with a copy of the complaint to Respondent requesting a response within ten (10) days and informing him he was still temporarily suspended. A true and exact copy of the Board’s April 20, 2010, letter attached to the Supplemental Petition for Discipline as Exhibit K.

153. On June 10, 2010, after receiving no response, the Board sent another letter with a copy of the complaint to Respondent requesting a response within ten (10) days and informing him he was still temporarily suspended. A true and exact copy of the Board’s June 10, 2010, letter attached to the Supplemental Petition for Discipline as Exhibit L.

154. Respondent has yet to respond to this complaint.

155. Complainant retained Respondent to defend against a civil case.

156. Respondent quoted a fee of \$5,000 and agreed to take monthly payments.

157. Complainant has paid \$3,000 to Respondent.

158. There was a trial in October 2009, but Respondent did not notify Complainant or send written notice of the trial.

159. Neither Complainant nor Respondent appeared for the trial and the court could not reach them by telephone on the day of trial.

160. Respondent failed to answer or respond to Complainant's telephone calls.

161. Complainant did not know about the trial or Respondent's suspension.

162. A \$10,000 judgment was entered against the Complainant as a result of the Respondent's inactions. A true and exact copy of the Court's November 6, 2009, Order rendering this judgment is attached to the Supplemental Petition for Discipline as Exhibit M.

163. Respondent changed his phone number and address and has failed to notify the Complainant of these changes.

164. Respondent has failed to return the unearned fees to Complainant.

COMPLAINT OF SHEREE KAY PHENEGER: FILE NO. 33033-4-RW

165. On March 31, 2010, the Board of Professional Responsibility received a complaint from Sheree Kay Pheneger alleging ethical misconduct by Respondent. A true and exact copy of the complaint is attached to the Supplemental Petition for Discipline as Exhibit N.

166. On April 7, 2010, Disciplinary Counsel sent a copy of the complaint and a request for a response in a letter to Respondent. A true and exact copy of the April 7, 2010, letter is attached to the Supplemental Petition for Discipline as Exhibit O.

167. On April 22, 2010, after receiving no response from Respondent, Disciplinary Counsel sent Respondent a Notice of Temporary Suspension. A true and exact copy of the June April 22, 2010, Notice is attached to the Supplemental Petition for Discipline as Exhibit P.

168. On June 10, 2010, after receiving no response, the Board sent another letter with a copy of the complaint to Respondent requesting a response within ten (10) days and informing him he was still temporarily suspended. A true and exact copy of the Board's June 10, 2010, letter attached to the Supplemental Petition for Discipline as Exhibit Q.

169. Respondent has yet to respond to this complaint.

170. In January 2007, Complainant hired Respondent for an ERISA short-term disability case.

171. The Respondent failed to properly serve the case.

172. The Respondent abandoned the case.

173. Due to Respondent's abandonment of the case, the case was dismissed.

174. Complainant paid Respondent \$2,500, plus a filing fee. A true and exact copy of a handwritten receipt on a letter from Respondent to Complainant for \$2,000 showing a balance of zero is attached to the Supplemental Petition for Discipline as Exhibit R.

175. On December 7, 2007, Respondent filed suit in Circuit Court, which was later removed to federal district court.

176. In May 2008, Respondent sought a continuance of a case management conference to amend the complaint to include the proper defendants.

177. Respondent did not pursue the action and a motion to dismiss for failure to prosecute was granted in June 2009. A true and exact copy of the Court's Order granting the dismissal is attached to the Supplemental Petition for Discipline as Exhibit S.

178. Respondent has failed to communicate with Complainant.

179. Respondent has failed to return the unearned fees to Complainant.

CONCLUSIONS OF LAW

1. The Respondent has failed to communicate with the Board regarding these complaints, the Respondent has abandoned his practice, the Respondent has failed to communicate with his clients and has made misrepresentations to his clients and to third parties.

2. The Petition for Discipline and the Supplemental Petition for Discipline allege that the acts and omissions by the Respondent constitute violations of Rules of Professional Conduct 1.1, 1.3, 1.4, 1.5, 1.16, 3.3, 8.1, and 8.4.

3. The Hearing Panel finds that the Respondent has violated Rule 1.1, 1.3, 1.4, 1.5, 1.16, 3.3, 8.1 and 8.4 as alleged in the Petition for Discipline and the Supplemental Petition for Discipline.

4. As set forth above, the Respondent violated Rule 1.1, 1.3, and 1.4 by failing to provide competent and diligent representation and failing to communicate with his clients in the Weaver, Tigg, Davis, Jacob, Espinoza, and Morena matters in the Petition for Discipline and by failing to provide competent representation in the Tyler, Adams, Pheneger matters in the Supplemental Petition for Discipline.

5. Further, the Respondent violated Rule 1.5 by taking unreasonable fees in the Weaver, Tigg, Davis, Jacob, Espinoza, and Morena matters in the Petition for Discipline and by failing to provide competent representation in the Tyler, Adams, Pheneger matters in the Supplemental Petition for Discipline. Specifically, the Respondent accepted fees from his clients and took little or no action on their cases before abandoning the representation without warning.

6. The Respondent's abandonment of his cases, without returning unearned fees, without returning files and without providing adequate notice in the Weaver, Tigg, Davis, Jacob, Espinoza, and Morena matters in the Petition for Discipline and by failing to provide competent

representation in the Tyler, Adams, Pheneger matters in the Supplemental Petition for Discipline violated Rule 1.16 of the Rules of Professional Conduct.

7. The Respondent violated Rule 3.3 by making misrepresentations to the Honorable Don Ash regarding the status of his law license.

8. The Respondent violated Rule 8.1(b) by failing to answer complaints and failing to respond to numerous inquiries made by Disciplinary Counsel for the Board.

9. Each of the violations set forth above violated Rule 8.4. Specifically, the Respondent violated Rule 8.4 by violating numerous Rules of Professional Conduct engaging in criminal acts as set forth in the Schaller and Orozco complaints, engaging in acts of dishonesty, fraud, deceit and misrepresentation in the Schaller and Orozco complaints and also in the Weaver, Tigg, Davis, Jacob, Espinoza, and Morena matters in the Petition for Discipline and by failing to provide competent representation in the Tyler, Adams, Pheneger matters in the Supplemental Petition for Discipline in which he fraudulently accepted fees for which he performed no service and misrepresented to his clients the status of their cases.

10. The Respondent's abandonment of his clients and his practice and his misrepresentations to the Court and to his clients are all prejudicial to the administration of justice in violation of Rule 8.4(d).

11. Further, the Respondent's continued engagement in the practice of law after he was suspended violated Rule 8.4(g).

12. The Supreme Court has adopted for use by its Hearing Panels the ABA Center for Professional Responsibility Standards for Imposing Lawyer Sanctions (ABA Standards).

13. The following ABA Standards are applicable in this case.

14. Section 4.41 of the ABA Standards state:

Disbarment is generally appropriate when:

- (a) a lawyer abandons the practice and causes serious or potentially serious injury to a client; or
- (b) a lawyer knowingly fails to perform services for a client and causes serious or potentially serious injury to a client; or
- (c) a lawyer engages in a pattern of neglect with respect to client matters and causes serious or potentially serious injury to a client.

15. Section 5.11 of the ABA Standards state:

Disbarment is generally appropriate when:

- (a) a lawyer engages in serious criminal conduct, a necessary element of which includes intentional interference with the administration of justice, false swearing, misrepresentation, fraud, extortion, misappropriation, or theft; or the sale, distribution or importation of controlled substances; or the intentional killing of another; or an attempt or conspiracy or solicitation of another to commit any of these offenses; or
- (b) a lawyer engages in any other intentional conduct involving dishonesty, fraud, deceit or misrepresentation that seriously adversely reflects on the lawyer's fitness to practice.

16. Section 7.1 of the ABA Standards state:

Disbarment is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed to the profession with the intent to obtain a benefit for the lawyer or another, and causes serious or potentially serious injury to a client, the public, or the legal system.

17. Section 7.2 of the ABA Standards states:

Suspension is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed to the profession, and causes injury or potential injury to a client, the public or the legal system.

JUDGMENT

Based on the above, this Hearing Panel recommends the Respondent be disbarred. Further, because of the Hearing Panel's concern regarding the complete failure of the Respondent to adhere to the most basic obligations of the profession, the Hearing Panel also recommends that the Respondent successfully complete the Tennessee Bar Exam as a condition to reinstatement to the practice of law.

ENTERED ON THIS THE 22^d DAY OF NOVEMBER, 2010.

St A. Dix
Steve Dix, Chair

Don Ray / by St A. Dix
Don Ray WITH PERMISSION
11/16/10

Walter Fitzpatrick / by St A. Dix
Walter Fitzpatrick WITH PERMISSION
11/17/10