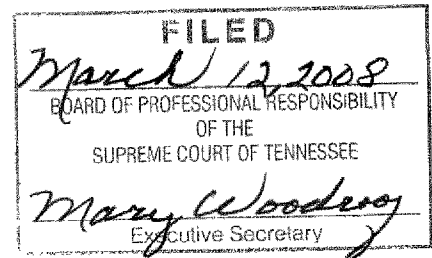


**IN DISCIPLINARY DISTRICT IX
OF THE
BOARD OF PROFESSIONAL RESPONSIBILITY
OF THE
SUPREME COURT OF TENNESSEE**



IN RE: THOMAS KEITH McALEXANDER, DOCKET NO. 2005-1518-9-JJ
BOPR #11912, Respondent.
An Attorney Licensed to
Practice Law in Tennessee
(Shelby County)

FINDINGS AND JUDGMENT OF THE HEARING PANEL

This proceeding came to be heard on October 5, 2007, before Eugene Stone Forrester, Jr., and C. Barry Ward, two out of the three district committee members which comprise this panel, all duly appointed by the Tennessee Supreme Court, upon a Petition for Discipline filed by the Board of Professional Responsibility ("the Board"), on June 10, 2005; upon the Respondent's Answer filed on August 9, 2007; upon the Board's Motion for Partial Summary Judgment filed on May 31, 2007; upon the Panel's Order Granting Partial Judgment filed on October 9, 2007, and the record as a whole. From all of which, the hearing panel finds as follows:

1. The Respondent, Thomas Keith McAlexander, was admitted to the Tennessee Bar in 1986, and has practiced law primarily in Jackson and Memphis, Tennessee between 1986 and October of 2004.

2. On October 12, 2004, Respondent was suspended from the practice of law by order of the Tennessee Supreme Court for two years and until reinstated in accordance with Tenn. R. Sup. Ct. 9, §19, due to his making knowingly false statements of fact to his client and creating false evidence. Respondent's law license remains suspended pursuant to this October 12, 2004 order

as of present.

3. In late July of 2005, the Board received a disciplinary complaint against Respondent from attorneys Terry Abernathy and Catherine S. Mizell, and designated this matter File No. 27413-9-JJ. In this complaint, it was alleged that Respondent, while acting in his official capacity as an Assistant General Counsel for the University of Tennessee, knowingly misrepresented to Mr. Abernathy over at least a 7 month period from November 18, 2003 through June 15, 2004, that Respondent had authority to settle a hospital negligence claim which Mr. Abernathy's client had against the State of Tennessee, that the claim was settled for \$80,000, and that "the check was in the mail" to Mr. Abernathy from Respondent's office. Mr. Abernathy and Ms. Mizell also alleged in this complaint that Respondent had sent correspondence to Mr. Abernathy to the effect that the case had been settled, but Respondent never presented any request for settlement in the case to Ms. Mizell, Respondent's supervisor.

4. Further, Mr. Abernathy and Ms. Mizell alleged in their complaint that respondent falsely promised both of them between late June and July 19, 2004 that he was going to sign and send in a letter to this Board self-reporting his ethical misconduct in this regard after being confronted by Ms. Mizell.

5. After receiving three notices and summaries of this complaint from the Board, Respondent did ultimately submit his initial response to the complaint on August 31, 2004, wherein Respondent admitted that "the general facts as described are true."

6. On June 10, 2005, the Board filed a Petition for Discipline against the Respondent, incorporating the complaint of Mr. Abernathy and Ms. Mizell. Respondent was served with a copy of this Petition for Discipline on June 14, 2005 and on August 9, 2005, Respondent filed

his Answer to the petition with the Board.

7. Between late August, 2005 and the Spring of this year, the Board attempted to correspond with Respondent at his last-known residential address according to his most-recent registration statement filed with the Board, 1896 E. Poplar Woods Cir., Apt. 2, Germantown, TN 38138, but this mail was returned to the Board unclaimed. In late May of this year, a secretary for the Board's Disciplinary Counsel performed an internet search for Respondent, and provided Disciplinary Counsel with a listing for Thomas McAlexander at 98 Garden Drive, Jackson, TN 38305.

8. On May 31, 2007, the Board filed in this matter a Motion for Partial Summary Judgment, a Memorandum of Law in Support of said Motion, and a separate Statement of Undisputed Material Facts in Support of said motion. Disciplinary Counsel for the Board certified service of these May 31, 2007 filings to Respondent both at the Germantown and Jackson, TN addresses. The Board's mailing envelopes to the Germantown and the Jackson, TN addresses respectively, were returned to sender by the US Postal Service marked as "unable to forward" and "refused."

9. On August 21, 2007, this Hearing Panel issued a Notice of Hearing on the Board's Motion for Partial Summary Judgment by conference call, setting the said conference call for 9:00am on August 27, 2007. This notice of hearing on the Board's Motion for Partial Summary Judgment was mailed to the Respondent at his Germantown, TN address, but was returned by the Postal Service marked "undeliverable" and "unable to forward."

10. On August 28, 2007, a majority of this Panel conducted the conference call hearing on the Board's partial summary judgment motion with Disciplinary Counsel participating,

and granted the motion orally. The Respondent did not file any response to the partial summary judgment motion and did not participate in this August 28, 2007 hearing by conference call. This Panel approved the Order Granting the Board's Motion for Partial Summary Judgment on October 2, 2007, and this order was filed with the Executive Secretary on October 9, 2007.

11. On August 28, 2007, this Panel issued a notice of final hearing as to disciplinary sanction by conference call (with call-in instructions), setting this hearing for 10:00am on October 2, 2007, and the Board Executive Secretary mailed a copy of this August 28, 2007 notice of hearing to Respondent at his last-known Germantown, TN address. The service copy to Respondent of this August 28, 2007 hearing notice was returned to the Board by the Postal Service marked "undeliverable" and "unable to forward."

12. On October 2, 2007, the Panel conducted the final hearing and heard argument from Disciplinary Counsel as to disciplinary sanction. Respondent did not participate in this October 2, 2007 final hearing.

13. Pursuant to Tenn. R. Sup. Ct. 9, §20.5, attorneys are required to update their residential and office addresses in writing with the Board within 30 days after any such change of address, and according to Tenn. R. Sup. Ct. 9, §12.1, service of the petition for discipline in any disciplinary matter may be by registered or certified mail to the address listed by a respondent-attorney in his or her most recent registration statement filed under §20.5 of this rule, or to some other last-known address. Respondent's current residential address pursuant to his most recent registration statement filed under Rule 9, §20.5 is 1896 E. Poplar Woods Cir., Apt. 2, Germantown, TN 38138, and the Board has no other address for him since the Board's mail to the possible Jackson, TN address has been returned and marked "refused."

14. The Respondent has violated RPCs 3,1. 3.4(b)(c), 4.1(a), 4.4(a), and 8.4(a)(c)(g) of the Tennessee Rules of Professional Conduct due to his actions as set forth in the Petition for Discipline.

15. The following aggravating circumstances justify an increase in the degree of discipline to be imposed herein under *ABA Standard 9.22*:

- a. Prior disciplinary sanctions (October 12, 2004 2 year suspension);
- b. A dishonest motive;
- c. A pattern of ethical misconduct (Respondent's October 12, 2004 - 2 year suspension involved the same type of misconduct);
- d. A bad faith obstruction of the disciplinary proceedings by failing to comply with the rules or orders of the disciplinary agency (Respondent's refusal to pay the Board's costs as assessed against him under Rule 9, §24.3 by the Tennessee Supreme Court in the October 12, 2004 Order and as he agreed in the Conditional Guilty Plea); and
- e. Substantial experience in the practice of law (Respondent was licensed to practice in Tennessee in 1986).

16. Respondent's violations of the aforementioned Rules of Professional Conduct warrant his disbarment from the practice of law, pursuant to Tenn. R. Sup. Ct. 9, §4.1. Respondent shall be assessed the costs of these proceedings pursuant to Tenn. R. Sup. Ct. 9, §24.3.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED as follows:

- A. That Thomas Keith McAlexander be and is hereby **DISBARRED** from the practice of law in Tennessee;
- B. That said **DISBARMENT** shall become effective ten (10) days after the filing of any Tennessee Supreme Court Order incorporating this Judgment;

- C. That Thomas Keith McAlexander shall comply with the requirements of Tenn. R. Sup. Ct. 9, §19 should he seek reinstatement of his Tennessee law license, and that he may not resume practice until reinstated by Order of the Tennessee Supreme Court.
- D. That Thomas Keith McAlexander shall comply in all aspects with Rule 9, Rules of the Tennessee Supreme Court and specifically with Section 18 of said Rule regarding the obligations and responsibilities of disbarred attorneys; and
- E. That Thomas Keith McAlexander shall reimburse and pay to the Board of Professional Responsibility the costs and expenses of this matter.

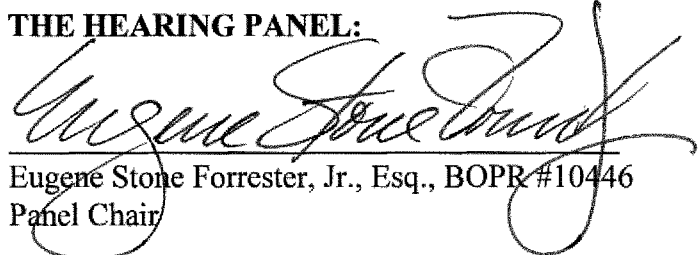
ENTERED this 10 day of March, 2008.

APPROVED FOR ENTRY:

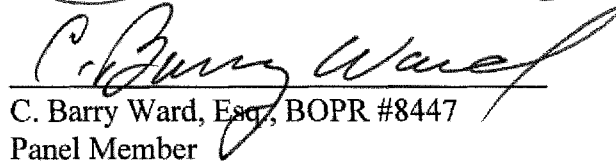


Jesse D. Joseph, BOPR #10509
 Disciplinary Counsel
 1101 Kermit Drive, Suite 730
 Nashville, TN 37217
 615/361-7500

THE HEARING PANEL:



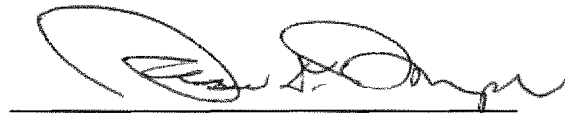
Eugene Stone Forrester, Jr., Esq., BOPR #10446
 Panel Chair



C. Barry Ward, Esq., BOPR #8447
 Panel Member

CERTIFICATE OF SERVICE

I hereby certify I have mailed a copy of the foregoing proposed Findings and Judgment of the Hearing Panel to Respondent Thomas Keith McAlexander, 1896 E. Poplar Woods Cir., Apt. 2, Germantown, TN 38138, on this 25th day of October, 2007.



Jesse D. Joseph