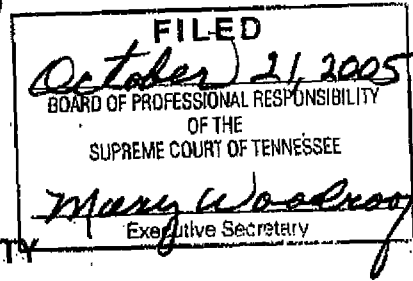


IN DISCIPLINARY DISTRICT VI  
OF THE  
BOARD OF PROFESSIONAL RESPONSIBILITY  
OF THE  
SUPREME COURT OF TENNESSEE



IN RE: **BOBBY A. McGEE, BPR #9222**      Docket No. 2004-1429-6-SG  
**Respondent, An Attorney Licensed  
and Admitted to the Practice of  
Law in Tennessee  
(Perry County)**

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OPINION OF THE HEARING PANEL

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This cause came on to be heard before the members of the undersigned panel on the 23<sup>rd</sup> day of August, 2005, upon the Complaint filed by the Board of Professional Responsibility, Answer of the Respondent, statement of counsel, testimony of witnesses under oath, post-trial Briefs submitted by the parties, and the record as a whole from all of which the panel finds as follows:

1. The Respondent is an attorney licensed to practice law in the State of Tennessee, and has been so for approximately twenty (20) years.
2. The Respondent is a sole practitioner with his principal place of business in Linden, Tennessee, and Linden, Tennessee and its citizens have limited access to legal representation.
3. The Respondent undertook legal representation of a Ms. Gladden, during which the Respondent and the client entered into a sexual relationship.

4. During the attorney/client relationship with Ms. Gladden, the Respondent signed as co-signer on a Promissory Note which he eventually was forced to repay inasmuch as Ms. Gladden was incarcerated.

5. During the attorney/client relationship between Ms. Gladden and the Respondent, the client was accused of stealing from the Respondent, and was prosecuted criminally.

6. The Respondent undertook to represent Ms. Shanes.

7. During the attorney/client relationship Ms. Shanes and the Respondent entered into a sexual relationship.

8. During the attorney/client relationship, the Respondent afforded Ms. Shanes ineffective assistance of counsel which this panel deems to have been so ineffective as to suggest that the public may be exposed to a danger absent remedial training of the Respondent.

9. The Respondent undertook the legal representation of Mr. and Mrs. Harvley during which the Respondent was shown to have ignored directions of the Court, and was shown to have intentionally attempted to mislead the Court with regard to an employment relationship between himself and Mrs. Harvley.

10. As a result of the Respondent's representation of Ms. Shanes, the Respondent, while conferring with his client the night before trial, had some interaction and conversation that lasted for 30-45 minutes with a Mr. Gladden, who the Respondent knew was on the jury panel for Ms. Shanes' trial the following day. Despite being aware of Mr. Gladden's participation in the jury venire as well as the petit jury, and being aware of his

conversations with Mr. Gladden the night before, failed to so advise the Court or the State of Tennessee.

11. It was determined by the panel that the Respondent is not a credible witness, and shows a lack of concern for the allegations lodged against him.

12. The Respondent knew that the sexual relations with his clients were inappropriate, but continued those despite that knowledge.

13. That there was no proof sufficient to establish that the sexual relationships between the Respondent and his clients interfered with his representation of the clients, or that the relationships were forcible.

14. The Respondent's demeanor and attitude, and in particular regarding the sexual relationships with his clients, indicate the need for remedial education relative to ethical considerations as well as the Respondent's responsibilities as a practicing attorney and the duty owed to the public.

From the above facts, the panel has reached the following conclusions:

1. The Respondent has engaged in the practice of law for a sufficient time to understand better the inappropriate behavior in which he has engaged. After hearing the testimony presented, including the testimony of the Respondent, the panel concludes that the Respondent either fails to understand or fails to be concerned with the inappropriate behavior. The panel concludes that it is a lack of concern and remorse from which the panel determines that the Respondent poses a threat of harm to the public in his position as an attorney.

2. The panel further concludes that the Respondent will not conform his behavior and attitude to fit within the Rules of Professional Conduct absent measures

being taken to impress upon him the importance thereof.

3. The panel concludes that the Respondent's representation of Ms. Shanes shows both a lack of concern for the well being of his clients as well as a failure to properly understand the steps required to protect a client in a criminal proceeding. As a consequence, it is the panel's conclusion that remedial education in criminal practice and procedure is necessary to protect the public.

4. The panel further concludes that the Respondent's lack of control as well as lack of understanding and remorse for engaging in sexual relationships with his clients demands remedial education of real consequence in the ethical guidelines for the practice of law.

5. The panel concludes that the Respondent's lack of concern and remorse for the allegations that have been proven against him suggest that absent substantive punishment and mentorship that the Respondent poses a risk of harm to the public.

WHEREFORE, it is the finding of the Hearing Panel that:

1. The Respondent's license to practice law in the State of Tennessee should be suspended for a period of three (3) years, with all but 90 days being suspended contingent upon the Respondent receiving appropriate remedial education, continuing under a mentor, and abiding by the Professional Code of Conduct as set forth more specifically below.

2. The Respondent shall take and successfully complete two remedial education courses to ensure he obtains appropriate education and guidance on the rules of ethical conduct.

(a) Respondent shall complete an Ethics and Professional Responsibility

course at an accredited law school approved by the Tennessee Board of Law Examiners or obtain not less than 30 hours of Ethics and Professional Responsibility seminars approved by the Tennessee Bar Association and the Board of Professional Responsibility. Attendance of the actual classroom presentations to be mandatory.

(b). The Respondent shall also complete a course in Criminal Law and Procedure at an accredited law school approved by the Tennessee Board of Law Examiners or obtain not less than 30 hours of training covering this subject matter in seminars approved by the Tennessee Bar Association and the Board of Professional Responsibility. Attendance of the actual classroom presentation to be mandatory. The remedial education requirements set out in Paragraph 2(a) and 2(b) must be successfully completed within one year of the date of the suspension.

3. The Respondent shall be required to make application to and successfully complete under the guidelines of the Tennessee Lawyers Assistance Program (TLAP) a mentoring process within his practice of not less than one (1) year's duration. A mentor shall be appointed by TLAP and shall closely monitor the legal practice of Respondent.

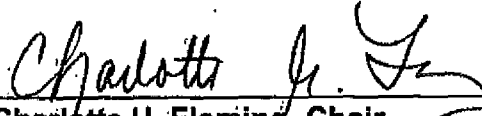
4. The Respondent will and shall refrain from engaging in sexual relations with any person with whom he undertakes a professional attorney/client relationship until and after such attorney/client relationship has been concluded by satisfactorily concluding the case involved or tendering the client to competent counsel for further representation.

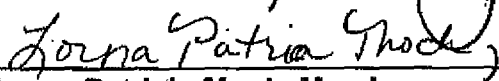
5. Should Respondent fail to satisfy the conditions of remedial education and/or mentorship, or violate the sexual relations provision, or further violate the conduct of

ethics, the Board of Professional Responsibility may file a Motion to revoke the probation and reinstate the full suspension. The Respondent shall provide the proper documentation to verify he has met these conditions to the Board of Professional Responsibility when completed.

6. The Board of Professional Responsibility shall give notice of the suspension in accordance with Rule 9 of the Supreme Court Rules.

It is, accordingly, so **ORDERED** by the Hearing Panel in this cause.

  
Charlotte U. Fleming, Chair

  
Lorna Patricia Mock, Member

*(w/express permission by CUF)*

**DISSENT**

I concur with the general findings of the Hearing Panel, and agree that Mr. McGee is in need of remedial training, and supervision. I further feel that Mr. McGee needs to understand the seriousness of his actions, and take steps personally to meet the expectations and requirements of the Code of Professional Responsibility. He holds a position of significant stature in the town of Linden, and it is important to the profession that the Board of Professional Responsibility impress upon him the necessity to comport himself appropriately. But, it is my opinion that the citizens of Linden as well as Mr. McGee are better served with a suspension of no more than thirty (30) days from the practice of law, with the balance of the three (3) years to be probated. Access to practitioners of the law is limited in the Linden area, and with the conditions of probation imposed on Mr. McGee, I am satisfied that thirty (30) days is sufficient to place both Mr. McGee and the public on notice, and to accomplish the mission of the Board. Accordingly, I dissent from the

Opinion of the Panel, only on the issue of the amount of time from which Mr. McGee is to be prohibited from practicing law. On all other issues, I am in agreement.

Patrick A. Flynn (w/express  
PATRICK A. FLYNN, Member (permission  
by CUF))