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

**IN RE: CHARLOTTE PRATHER MILTON, DOCKET NO. 2013-2253-9-WM
BPR #27428, Respondent,
An Attorney Licensed to
Practice Law in Tennessee
(Shelby County)**

FINDINGS OF FACT, CONCLUSIONS OF LAW AND JUDGMENT

This matter came on for hearing before a duly appointed Hearing Panel on April 17, 2014 upon a Petition for Discipline filed by the Board pursuant to Tennessee Supreme Court Rule 9. Present were Loys A. Jordan, III, Panel Chair; R. Layne Holley, Panel Member; Michael Eugene Keeney, Panel Member; and William C. Moody, Disciplinary Counsel. Ms. Milton was not present for the hearing. Upon statements of counsel, evidence presented, and upon the entire record in this cause, the Panel makes the following findings and judgment.

STATEMENT OF THE CASE

The Petition for Discipline was filed in this cause on September 25, 2013. Ms. Milton was personally served on January 9, 2014. Ms. Milton did not file an Answer or otherwise appear. An Order for Default Judgment was entered on February 21, 2014.

FINDINGS

Ms. Milton has failed to answer the Board's Petition for Discipline. The Hearing Panel has entered an Order of Default and, therefore, pursuant to Tenn. Sup. Ct. R. 9, § 8.2 the charges are deemed admitted.

On November 30, 2012, Mark and Barbara Taylor retained Ms. Milton to represent them in the adoption of two children in their custody. Ms. Milton's retainer agreement provided for a fee of \$1,500. The retainer agreement stated that Ms. Milton would begin work on the adoption upon payment of \$500 plus \$163.50 for court costs. On that date, the Taylors paid Ms. Milton \$500 towards the fee. On December 8, 2012, they paid Ms. Milton \$163.50 for court costs. In January, 2013, they paid an additional \$100 as an installment towards the balance of the fee. The Taylors provided Ms. Milton with documents to be utilized in obtaining the adoptions including copies of social security cards, birth certificates, their marriage license and Juvenile Court records.

Ms. Milton failed to take any action in furtherance of her representation of the Taylors. The Taylors made multiple attempts to communicate with Ms. Milton by telephoning her and visiting her office but Ms. Milton has failed to accept their telephone calls, meet with them or communicate with them in any way. On one occasion, Ms. Taylor reached Ms. Milton by telephone but Ms. Milton hung up on her. On another occasion, Ms. Taylor went to Ms. Milton's office but Ms. Milton did not meet with her.

Because Ms. Milton failed to take any action in furtherance of her representation of the Taylors, Ms. Taylor wrote a letter to Ms. Milton on February 7, 2013 terminating her representation, requesting a refund of the fees and expenses and requesting the return of the documents provided to her by the Taylors. Ms. Milton failed to reply to the February 7, 2013 letter, failed to refund the fees and expenses and failed to return the documents.

On March 3, 2013, the Taylors sent a complaint to the Board. On March 6, 2013, the Board sent a copy of the complaint to Ms. Milton and requested a response within ten days. Ms. Milton failed to respond to the complaint. On April 30, 2013, the Supreme Court temporarily

suspended Ms. Milton from the practice of law because of her failure to respond to the complaint.

Ms. Milton violated RPC 1.3 which requires that a lawyer act with reasonable diligence in representing a client.

Ms. Milton violated RPC 1.4 which requires that a lawyer reasonably communicate with a client.

Ms. Milton violated RPC 1.16(d) which requires that a lawyer promptly return a client's papers and refund unearned fees and expenses upon termination.

Ms. Milton violated RPC 8.1(b) by her failure to respond to the Board's request for information in response to the complaint made by the Taylors.

Ms. Milton's misconduct constitutes abandonment of her practice.

The Panel concludes that ABA Standards 4.42 and 7.2 apply to Ms. Milton's conduct. The Panel further finds that Ms. Milton's conduct seriously adversely reflects on her fitness to practice law.

4.42 Suspension is generally appropriate when:

- (a) a lawyer knowingly fails to perform services for a client and causes injury or potential injury to a client, or
- (b) a lawyer engages in a pattern of neglect and causes injury or potential injury to a client.

Once entering into a retainer agreement with the Taylors and accepting payment of a fee, she never again communicated with them in any way and performed no work on their behalf. When they wrote to her requesting a refund of the fee and return of their documents she failed to respond in any manner. Upon being notified of their complaint by the Board, she ignored the Board's request for a response. When served with a Petition for Discipline, she did not respond.

Ms. Milton knowingly failed to perform any services for, and completely failed to communicate with, her clients.

By abandoning their case, and failing to perform services for them, she caused them potential injury in the form of a delay in obtaining the adoption of the children in their custody.

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

Ms. Milton knowingly failed to properly terminate her relationship with the Taylors. She knowingly failed to refund the fees and costs advanced by the Taylors thereby depriving them of the use of those funds. She knowingly failed to return the Taylors' documents to them causing them to have to replace those documents in order to pursue the adoptions through another attorney. Finally, Ms. Milton knowingly failed to reply to the Board's request for a response to the Taylor's complaint.

The Panel finds that there are multiple aggravating factors including a pattern of misconduct, multiple violations and indifference to making restitution.

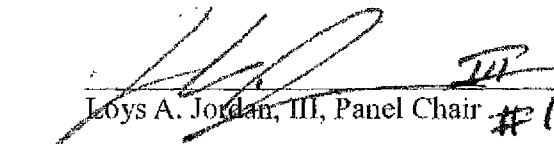
The Panel finds that there are no mitigating factors.

JUDGMENT

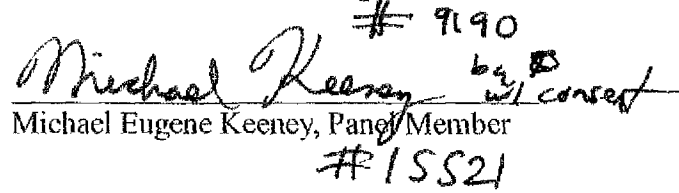
Accordingly, it is the decision of the Panel that Ms. Milton should be suspended for one (1) year. As a condition of her reinstatement, Ms. Milton is ordered to make restitution to the Taylors in the amount of \$663.50. In the event restitution is made by the Tennessee Lawyer's Fund for Client Protection (TLFCP), Ms. Milton shall reimburse TLFCP in the same amount. The Hearing Panel further orders that Ms. Milton pay the costs of the Board associated with the prosecution of these proceedings. In the event Ms. Milton petitions for reinstatement at the conclusion of her suspension, the Hearing Panel recommends that Ms. Milton be required to have a practice

monitor for a suitable period following her reinstatement.

IT IS SO ORDERED.


Leys A. Jordan, III, Panel Chair #16766


R. Layne Holley, Panel Member


Michael Eugene Keeney, Panel Member

NOTICE: This judgment may be appealed pursuant to Tenn. Sup. 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.