



**BOARD OF PROFESSIONAL RESPONSIBILITY
OF THE
SUPREME COURT OF TENNESSEE**

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RELEASE OF INFORMATION
RE: SAMUEL MINGLEDORFF, BPR# 17490
CONTACT: RANDALL J. SPIVEY
BOARD OF PROFESSIONAL RESPONSIBILITY
615-361-7500

May 31, 2011

WILSON COUNTY ATTORNEY DISBARRED

On May 9, 2011, the Tennessee Supreme Court, with one justice dissenting, disbarred Samuel Mingledorff, a Wilson County attorney, pursuant to Tennessee Supreme Court Rule 9, Section 4.1. Mr. Mingledorff violated disciplinary rules by abandoning his practice, practicing while suspended and failing to respond to Disciplinary Counsel. Mr. Mingledorff's actions violated Tennessee Supreme Court Rule 8, Rules of Professional Conduct 1.3 (Diligence), 1.4 (Communication), 3.1 (Meritorious Claims and Contentions), 4.1 (Truthfulness and Candor in Statements to Others), 8.1(b) (Bar Admission and Disciplinary Matters), and 8.4 (Misconduct).

Mr. Mingledorff was furthered ordered to pay the expenses and costs of the disciplinary proceedings against him, pursuant to Rule 9, Section 4.7, of the Rules of the Supreme Court and fully comply in all respects with the requirements and obligations of disbarred attorneys as set forth in Rule 9, Section 18.1 of the Rules of the Supreme Court.

Justice Janice Holder dissented from the Court order disbaring Mr. Mingledorff and filed a separate dissenting order.

Mingledorff 1941-4 rel2.doc

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IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

FILED
MAY 09 2011
Clerk of the Courts

SAMUEL MINGLEDORFF, BPR #17490
An Attorney Licensed to Practice Law in Tennessee
(Wilson County)

BOPR No. 2010-1941-4-RS
NO. M2011-01009-SC-BPO-BP

ORDER OF ENFORCEMENT

This matter is before the Court upon a Petition for Discipline filed by Disciplinary Counsel against Respondent, Samuel Mingledorff, on June 25, 2010; upon the Order of Default Judgment regarding the Petition for Discipline entered by the Hearing Panel on August 13, 2010; upon the Judgment of the Hearing Panel filed on January 31, 2011; upon the Order Correcting Findings of Fact and Conclusions of Law filed on February 3, 2011; upon the approval of the Board of Professional Responsibility on March 11, 2011; and upon the entire record in this cause. Respondent has not appealed the Board's action.

From all of which the Court approves the recommendation of the Hearing Panel and adopts the judgment of the Hearing Panel as the Court's Order.

An Order of Temporary Suspension (M2010-00298-SC-BPR-BP) was entered on February 12, 2010 pursuant to Section 4.3 of Supreme Court Rule 9. Respondent has not filed a petition to dissolve the temporary suspension.

It is, therefore, **ORDERED, ADJUDGED** and **DECREED** by the Court,

1. That the Respondent, Samuel Mingledorff, shall be disbarred pursuant to Supreme Court Rule 9, Section 4.1.
2. That the Respondent's temporary suspension, ordered on February 12, 2010, is hereby dissolved.
3. That, pursuant to Supreme Court Rule 9, Section 24.3, the Respondent shall pay to the Board of Professional Responsibility the expenses and costs of this matter in the amount of \$708.34 and in addition, shall pay to the Clerk of this Court the costs incurred herein, within ninety (90) days from the entry of this order, for all of which execution may issue if necessary.

4. That the Respondent shall comply in all aspects with Rule 9, Section 18 of the Rules of the Supreme Court regarding the obligations and responsibilities of disbarred attorneys.

5. That the Board of Professional Responsibility shall cause notice of this discipline to be published as required by Supreme Court Rule 9, Section 18.10.

PER CURIAM

Janice M. Holder, J., dissenting by separate order.

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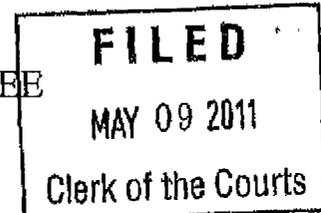
Michael W. Catalano, Clerk, hereby certify that this is a true and exact copy of the original

filed in the cause. This 9 day of May, 2011
CLERK OF COURT

By: *[Signature]* D.C.

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

SAMUEL MINGLEDORFF, BPR #17490
An Attorney Licensed to Practice Law in Tennessee
(Wilson County)



BOPR No. 2010-1941-4-RS
NO. MA2011-01009-SC-RPO-RP

JANICE M. HOLDER, J., dissenting.

I am unable to concur in the Order of Enforcement disbarring Mr. Mingledorff.

The original petition for discipline contains a single allegation by a single client that Mr. Mingledorff did not complete or file the client's petition for divorce after she paid a retainer fee to Mr. Mingledorff. Taken alone, even if true, this failure would not warrant disbarment.

Mr. Mingledorff, however, failed to respond to Disciplinary Counsel of the Board of Professional Responsibility ("Disciplinary Counsel") on multiple occasions. Mr. Mingledorff did not respond to letters from Disciplinary Counsel dated December 18, 2009, and January 4, 2010. Mr. Mingledorff did not respond to a petition for temporary suspension filed on February 4, 2010. On May 4, 2010, Mr. Mingledorff faxed a letter to Disciplinary Counsel responding to the complaint. When additional information was requested of Mr. Mingledorff, he failed to respond. A formal petition for discipline was sent by certified mail to Mr. Mingledorff, which was delivered, and a motion for default judgment was filed and forwarded to Mr. Mingledorff by regular and registered mail. He did not respond. An order granting default judgment was entered on August 13, 2010.

A notice was sent to Mr. Mingledorff setting a hearing on November 8, 2010. He did not appear. The chairman of the Hearing Panel of the Board of Responsibility ("Hearing Panel") telephoned Mr. Mingledorff, who advised the chairman that he was ill. Mr. Mingledorff did not ask for a continuance or request any other relief.

The hearing proceeded as scheduled. The Hearing Panel found that the most serious deficiencies were not Mr. Mingledorff's failure to communicate with his client, the action that precipitated the complaint, but his repeated failure to respond to

Disciplinary Counsel, failure to cease practicing law when temporarily suspended, and failure to give notice to his clients of his suspended status.

I agree that the most serious deficiencies concerned Mr. Mingledorff's multiple failures to respond to Disciplinary Counsel. My disagreement stems from the failure of Disciplinary Counsel or the Hearing Panel to refer Mr. Mingledorff to the Tennessee Lawyers Assistance Program ("TLAP"). Tenn. R. Sup. Ct. 9, § 28.1(a).

Rule 9, Section 28.1(a)(1) allows the Board of Professional Responsibility ("the BPR"), its Hearing Panels, or Disciplinary Counsel to refer to TLAP an attorney who fails to respond to a disciplinary complaint. Section 28.1(a)(5) permits the referral of an attorney who has exhibited behavior or has engaged in behavior that the BPR, its Hearing Panels, or Disciplinary Counsel determines warrants consultation, assessment, evaluation, treatment, or monitoring.

Reasons exist for Rule 9, Section 28.1. It is estimated that between forty and seventy-five percent of disciplinary complaints arise from lawyers affected by substance abuse problems. See Laura Rothstein, Law Students and Lawyers with Mental Health and Substance Abuse Problems: Protecting the Public and the Individual, 69 U. Pitt. L. Rev. 531, 533 n.6 (2008) (citing ABA Comm'n on Impaired Attorneys [now CoLAP], An Overview of Lawyer Assistance Programs in the United States (1991)); see also AALS Committee Report, Report of the AALS Special Committee on Problems of Substance Abuse in the Law Schools, 44 J. Legal Educ. 35, 36 (1994) (estimating that substance abuse is involved in between fifty and seventy-five percent of lawyer discipline cases).

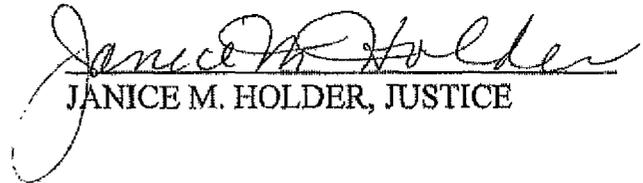
Substance abuse is not the only cause of attorney impairment. Tenn. R. Sup. Ct. 33.01(A). Rule 33 recognizes that referrals to TLAP are appropriate for any condition that causes impairment. See Tenn. R. Sup. Ct. 9, § 28.1(a)(5) (providing for referrals of attorneys who have "exhibited behavior or ha[ve] engaged in behavior, that . . . warrants consultation and . . . further assessment, evaluation, treatment, assistance, or monitoring"). TLAP is required to provide "[i]mmediate and continuing assistance to members of the legal profession who suffer from physical or mental disabilities that result from disease, disorder, trauma or age and that impair their ability to practice." Tenn. R. Sup. Ct. 33.05(A).

In this case, the attorney not only failed to respond to a disciplinary complaint in a timely fashion but also failed to respond to multiple letters and notices directed to him. Although Rule 28.1 does not require Disciplinary Counsel or a Hearing Panel to refer such attorneys to TLAP, the Supreme Court adopted this rule to encourage these entities to do so. Such policy exists because Rule 9 is designed not only to discipline attorneys who have violated the Rules of Professional Conduct but also to assist impaired attorneys

in resolving their disciplinary matters and in returning to the profession as productive members of the legal community. I encourage the Board of Professional Responsibility, Disciplinary Counsel, and its Hearing Panels to honor the interplay between Rule 9 and Rule 33.

In its findings of fact and conclusions of law, the Hearing Panel recognized that Mr. Mingledorff's pattern of behavior "raise[d] a variety of questions about whether there are other problems with which Mr. Mingledorff is dealing." Despite this recognition, neither Disciplinary Counsel nor the Hearing Panel referred Mr. Mingledorff to TLAP at any time during the disciplinary process. During that process, a relatively minor infraction developed into a situation warranting disbarment by virtue of the very behavior that signaled that "other problems" existed.

I respectfully dissent from this Court's order disbaring Mr. Mingledorff. I would refer Mr. Mingledorff to TLAP for an evaluation prior to any further consideration of the recommendation to disbar him.


JANICE M. HOLDER, JUSTICE

I, Michael W. Catalano, Clerk, hereby certify that
this is a true and exact copy of the original

filed in the cause.

This 9 day of May, 2011

CLERK OF COURT

By: 