



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

1101 KERMIT DRIVE, SUITE 730
NASHVILLE, TENNESSEE 37217
TELEPHONE: (615) 361-7500
(800) 486-5714
FAX: (615) 367-2480
E-MAIL: ethics@tbpr.org
Website: www.tbpr.org

RELEASE OF INFORMATION
RE: G. THOMAS NEBEL, BPR# 5206
CONTACT: KRISANN HODGES
BOARD OF PROFESSIONAL RESPONSIBILITY
615-361-7500

March 1, 2011

NASHVILLE LAWYER DISBARRED

On February 25, 2011, G. Thomas Nebel, of Nashville, Tennessee, was disbarred by Order of the Tennessee Supreme Court. Mr. Nebel is required to pay over \$800,000.00 in restitution and unearned fees prior to reinstatement. Further, Mr. Nebel is ordered to complete several other requirements prior to reinstatement including completion of the bar exam and a law office management course. Mr. Nebel must pay the Board's costs in the amount of \$25,278.86 prior to reinstatement.

In addition to this disbarment, Mr. Nebel has been suspended since February 22, 2010, in relation to another disciplinary matter.

After a full evidentiary hearing held July 21st-24th, 2008, a Hearing Panel determined that Mr. Nebel solicited personal loans from two (2) clients using his influence and position as their attorney to secure the loans. Mr. Nebel failed to provide them with sufficient information so that they could make an informed decision and, thus, give informed consent. He failed to advise them to seek independent legal advice regarding the transaction. Further, Mr. Nebel failed to appear for six (6) consecutive hearings in another client's case. Mr. Nebel improperly deducted attorneys' fees from funds paid by a client for costs and expenses of the lawsuit. Finally, Mr. Nebel failed to refund unearned attorneys' fees despite having promised his client that he would do so. Mr. Nebel appealed the decision of the Hearing Panel; however, his petition for writ of certiorari failed to satisfy the requirements of Tennessee Code Annotated 27-8-106 and his appeal was ultimately dismissed.

Mr. Nebel's actions violate the following Rules of Professional Conduct: 1.3, Diligence; 1.4, Communication; 1.5, Fees; 1.8, Conflict of Interest: Prohibited Transactions; 1.16, Declining and Terminating Representation; 3.4, Fairness to Opposing Party and Counsel; and 8.4, Misconduct. Mr. Nebel's actions also violate Disciplinary Rule 5-104.

Mr. Nebel must comply with Sections 18 and 19 of Supreme Court Rule 9 regarding the obligations and responsibilities of suspended attorneys and the procedure for reinstatement.

Nebel 1491-5.rel.doc

PLEASE NOTE

YOU MAY SUBSCRIBE TO RECEIVE INFORMATIONAL RELEASES, FORMAL ETHICS OPINIONS, NEWSLETTERS AND ANNUAL REPORTS ELECTRONICALLY BY SIGNING IN AT THE BOARD'S WEBSITE

www.tbpr.org/Subscriptions

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

FILED
FFR 25 2011
Clerk of the Courts

IN RE: G. THOMAS NEBEL, BPR #5206
An Attorney Licensed to Practice Law in Tennessee
(Davidson County)

NO. M2010-00420-SC-R3-BP
BOPR No. 2005-1491-5-JJ

ORDER OF ENFORCEMENT

On February 8, 2005 the Board of Professional Responsibility ("Board") filed a Petition for Discipline against G. Thomas Nebel ("Respondent"); Respondent filed a Response to the Petition for Discipline on April 5, 2005. The Board filed a Supplemental Petition for Discipline against Respondent on November 1, 2005; Respondent filed a Response to the Supplemental Petition for Discipline on April 4, 2006. The Board filed a Second Supplemental Petition for Discipline on July 12, 2006. Respondent filed a Response to the Second Supplemental Petition for Discipline on August 31, 2006. The Board filed a Third Supplemental Petition for Discipline on June 28, 2007, and Respondent filed a Response to the Third Supplemental Petition for Discipline on August 31, 2007. A three-day hearing on the foregoing Petitions and Responses was held July 21-24, 2008. The Hearing Panel entered its judgment on October 15, 2008, and the Board considered the Hearing Panel's judgment on December 12, 2008.

Respondent attempted to appeal the Hearing Panel's judgment to the Chancery Court of Davidson County and to this Court pursuant to Tennessee Supreme Court Rule 9, section 1.3. However, Respondent's petition for writ of certiorari failed to satisfy the requirements of Tennessee Code Annotated section 27-8-106, and therefore was insufficient to confer subject matter jurisdiction upon the trial court. Accordingly, on January 21, 2011, this Court entered an order vacating the January 6, 2010 judgment of the trial court and dismissing Respondent's appeal. This Court directed the Board to file with this Court a copy of the Hearing Panel's judgment for review in accordance with Tennessee Supreme Court Rule 9, section 8.4.

On January 31, 2011, the Board filed a Protocol Memorandum, supporting documents, including copies of the Petitions for Discipline and the Responses thereto, and a proposed Order of Enforcement. On February 2, 2011, Respondent filed a Motion to Strike the Protocol Memorandum, the attachments to it, and the proposed Order of Enforcement. As grounds for the Motion to Strike, Respondent asserted that the

documents filed by the Board were an “unwarranted attempt to unduly influence the court’s review under Rule 9, Section 8.4.” Respondent asserted that Rule 9, section 8.4 does not “reveal a provision for a ‘Protocol Memorandum’ nor any authority for Disciplinary Counsel’s attempt to pre-empt the Court’s review under the orderly procedure set forth in Rule 9, section 8.4.” Respondent complained that the Board failed to submit the transcript of the proceedings before the Hearing Panel. Respondent asked the Court to award him attorney’s fees and costs associated with the Motion to Strike. On February 4, 2011, the Board filed a Response to the Motion to Strike, stating, correctly, that it has been the customary practice of the Office of Disciplinary Counsel for the Board to submit protocol memoranda and proposed Orders of Enforcement as a method of compliance with Rule 9, section 8.4. The Board pointed out that Rule 9, section 8.4 does not require submission of a full transcript of the proceedings before the Hearing Panel, unless this Court so directs. The Board emphasized, however, that because of the unique posture of this case – dismissal after the appeal had been briefed and argued – the transcript is available to the Court.

Upon due consideration of Respondent’s Motion to Strike and the Board’s response thereto, the Motion to Strike is Denied. As the Board points out, submitting a Protocol Memorandum and a proposed Order of Enforcement is the customary practice of the Office of Disciplinary Counsel as a method of complying with Rule 9, section 8.4. The Board’s submission of these materials in this case was not indicative of an attempt to improperly influence this Court. Furthermore, when complying with Rule 9, section 8.4, the Board is not required to submit a transcript of the proceedings before the Hearing Panel, although in this case such a transcript is available, as the Board pointed out. Having denied the Motion to Strike, Respondent’s request for attorney’s fees and costs is also denied.

Upon review of the materials submitted by the Board along with the Protocol Memorandum, and the entire record in this cause, the Court approves and adopts the Judgment of the Hearing Panel as the Order of Enforcement of this Court.

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

1. Respondent, G. Thomas Nebel, be and is hereby disbarred pursuant to Supreme Court Rule 9, Section 4.1.

2. Pursuant to Supreme Court Rule 9, Section 4.7, Respondent shall pay restitution to the following individuals as set forth below. Payment of restitution shall be a condition precedent to reinstatement.

- a) Tanya Luker: payment of \$150,000.00 together with a simple interest payment calculated at the annual rate of fifteen (15) percent from February 14, 2001.

- b) Dr. Ralph Wesley: payment of \$250,000.00 together with a simple interest payment calculated at the annual rate of ten (10) percent from April 26, 2000.
- c) Eddie Mahaffey: payment of unearned legal fees in the sum of \$9,500.00.
- d) Dr. Melvin Law: payment of \$325,000.00 together with a simple interest payment calculated at the annual rate of ten (10) percent from July 24, 2008.
- e) Benita Pressley: payment of unearned legal fees in the sum of \$3,000.00.

3. Respondent is further ordered to meet the following conditions prior to reinstatement:

- a) Successful completion of the bar exam;
- b) Successful completion of a law office management class taught by John Kitch or comparable class;
- c) Compliance with all applicable discipline orders or rules;
- d) Rehabilitation and satisfaction of a fitness review to practice law;
- e) Completion of a full ethics course at an ABA accredited law school;
- f) Full payment of any borrowed funds used to make restitution;
- g) Full payment of restitution as ordered;
- h) Full payment of unearned fees as ordered;
- i) A prohibition against ever borrowing monies from any clients for any purpose;
- j) Full payment of costs of these proceedings.

4. The disbarment shall become effective ten (10) days after the filing of this Order.

5. Respondent shall comply in all aspects with Supreme Court Rule 9, Sections 18 and 19 regarding the obligations and responsibilities of disbarred attorneys and the procedure for reinstatement. Respondent must demonstrate compliance with continuing legal education requirements, payment of registration fees, and payment of the professional privilege tax prior to reinstatement.

6. By Order entered January 3, 2008, in Case No. M2010-00401-SC-BPR-BP, Respondent was suspended from the practice of law for six (6) months and for an indefinite period thereafter until Respondent demonstrates that he has made full restitution as ordered in that matter. Further, he is currently suspended for failure to pay registration fees to the Board, failure to comply with continuing legal education requirements, and for failure to pay the professional privilege tax. To date, Respondent

has not requested, nor been granted, reinstatement. Therefore, the entry of this Order does not affect the continuing validity of these prior disciplinary actions.

7. 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 \$25,278.86 and in addition, shall pay to the Clerk of this Court the costs incurred herein, within ninety (90) days of the entry of this Order, for all of which execution may issue if necessary.

8. The Board shall cause notice of this disbarment to be published as required by Supreme Court Rule 9, Section 18.10.

FOR THE COURT:

Cornelia A. Clark
CORNELIA A. CLARK
CHIEF JUSTICE

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

filed in the cause.
This 25 day of Feb, 2011
CLERK OF COURT

BY: [Signature] D.C.