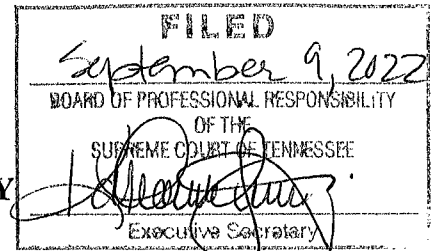


**IN DISCIPLINARY DISTRICT V
OF THE
BOARD OF PROFESSIONAL RESPONSIBILITY
OF THE
SUPREME COURT OF TENNESSEE**



**IN RE: JANET MONIQUE OKOYE,
BPR No. 027923, Respondent,
an Attorney Licensed to Practice
Law in Tennessee
(Davidson County)**

DOCKET NO. 2022-3238-5-DB

FINDINGS AND JUDGMENT OF HEARING PANEL

Pursuant to Section 15.3(a) of Rule 9 of the Tennessee Rules of the Supreme Court, the undersigned Hearing Panel respectfully submits its Findings and Judgment in this matter. Based upon its findings and analysis below, the Hearing Panel issues a judgment of DISBARMENT against the Respondent, Janet Monique Okoye, Tenn. Bar. Reg. No. 027923 (hereinafter “Respondent” or {“Ms. Okoye”}).

I. PROCEDURAL HISTORY

1. Disciplinary Counsel for the Tennessee Board of Professional Responsibility (“Board”) filed a Petition for Discipline (“Petition”) against the Respondent on March 29, 2022. Disciplinary Counsel served Ms. Okoye by First Class U.S. and Certified Mail on March 31, 2022, and also served Ms. Okoye via electronic notification pursuant to Tenn. R. Civ. P. 5.02 on April 7, 2022.

2. Respondent did not file an Answer within the time prescribed by Tenn. Sup. Ct. R. 9 § 15.2(b). On May 6, 2022, Disciplinary Counsel filed a “Motion for Default Judgment and that Charges in Petition for Discipline be Deemed Admitted” (“Default Motion”), which was

accompanied by a Certificate of Service showing that Respondent was served a copy of same on Respondent by "First Class Mail" on May 6, 2022.

3. The Board appointed the undersigned Hearing Panel by notice entered by the Board Chairman on May 19, 2022.

4. On June 7, 2022, the undersigned Panel Chair filed an "Order of Default and Setting of Final Hearing" which stated in pertinent part as follows:

1. A default judgment is entered against the Respondent, Janet Monique Okoye and all allegations contained in the Petition for Discipline are hereby deemed admitted in accordance with Tenn. Sup. Ct. R. 9 § 15.2(b);

2. A Mandatory Pre-Hearing Conference shall be held on June 30, 2022 at 1:30 p.m. CDT, via telephone to set pre-hearing deadlines for the Disciplinary Hearing, and if necessary, to consider any requests for relief from the Entry of Default and/or to re-set the Disciplinary Hearing; and

3. Absent further Order of the Hearing Panel, the Hearing Panel shall convene a final Disciplinary Hearing on August 3, 2022 at 9:00 a.m. CDT, at a location to be determined by the Executive Secretary and the Board, to determine such disciplinary action as it may deem appropriate.

(June 7, 2022 Order at p. 2 (original emphasis omitted).) The Executive Secretary of the Board served a copy of the Order electronically on the parties, including Ms. Okoye, on June 7, 2022, and sent a copy to Ms. Okoye by U.S. Mail.

5. The Hearing Panel held its Mandatory Pre-Hearing Conference on June 30, 2022 via Zoom at 1:30p.m. C.D.T. Ms. Okoye did not attend the hearing to oppose the Default Motion. The Executive Secretary issued notice of the hearing via an Amended Notice of Hearing on July 11, 2022.

6. On August 2, 2022, the Panel Chair submitted, and the Board duly entered Order. a certain "Order for Default Judgment and Setting of Final Hearing" in this this matter ("**Default Order**"), which deemed all facts asserted in the Petition admitted, and prescribed certain deadlines

for filings in this matter.

The Hearing Panel further determined that the final default hearing previously ordered for August 3, 2022 would occur as previously ordered and set a deadline for the filing of a witness list, exhibit list and a default judgment final hearing brief, to be filed with the Board's Executive Secretary, seven (7) days prior to the August 2, 2022 final default hearing date. For purposes of clarity, the filing date for these pleadings is no later than, July 26, 2022.

(Aug. 2, 2022 Order at p. 2 ¶ 6.) Disciplinary Counsel, who submitted the Default Order for entry on July 1, 2022, timely submitted a Pre Hearing Brief on July 26, 2022.

7. The Hearing Panel conducted its Disciplinary Hearing on August 3, 2022 via Zoom video conferencing. Disciplinary Counsel appeared at the hearing. Ms. Okoye did not appear at the hearing, nor did she file any exhibits, witness lists or briefs with the Board prior to the hearing.

8. Upon further deliberation, the Hearing Panel determined that the late entry of the Default Order warranted providing the Respondent a "last chance" to provide evidence or argument on her behalf. Therefore, on August 15, 2022, the Panel Chair issued a "**Supplemental Order**" that stated as in pertinent part as follows:

[T]o ensure that the Respondent has a full and fair opportunity to avail herself of all procedural rights under the applicable Rules governing these proceedings, it is hereby **ORDERED** that on or before the close of business on **Friday, August 26, 2022**, the Respondent, Janet Monique Okoye, shall file a written notice with the Board's Executive Secretary as to whether she seeks to re-convene the Disciplinary Hearing that was adjourned on August 3, 2022 to give her the opportunity to present exhibits, briefings and evidence.

It is further **ORDERED** that if the Respondent does not timely file such a notice, or intends not to re-convene the disciplinary hearing, the Panel shall proceed with deliberations based upon the current record and file its Final Order with findings of fact and conclusions of law within the time prescribed under the applicable Rules.

It is finally **ORDERED** that if the Respondent timely files notice of her request to re-convene the Disciplinary Hearing, then the Disciplinary Hearing will be reconvened on **September 22, 2022 at 9:00 a.m.**, and the deadline for the filing of a witness list, exhibit list and a default judgment final hearing brief, to be filed

with the Board's Executive Secretary will be seven (7) days prior to the re-convened Disciplinary Hearing date. For purposes of clarity, the filing date for these pleadings is no later than **September 15, 20[22]**.

The Supplemental Order was entered on August 16, 2022. The Executive Secretary of the Board served a copy of the Supplemental Order electronically on the parties, including Ms. Okoye, on August 16, 2022, and sent a copy to Ms. Okoye by U.S. Mail.

9. Ms. Okoye did not notify the Board of her request to re-convene the Disciplinary Hearing within the time prescribed in the Supplemental Order.

II. FINDINGS OF FACT DEEMED ADMITTED BY DEFAULT

The Petition for Discipline stems from Respondent's representation of a husband in a post-divorce petition for modification of permanent parenting plan in Sevier County, Tennessee, Circuit Court (the "**Court**"), which are hereinafter referred to as the "**Post-Divorce Proceedings**." Respondent's representation in the matter began in September of 2019 and remained as attorney of record until the filing of the disciplinary complaint by James S. Sharp, Esq. on August 26, 2021.¹ Ms. Okoye's client was served with the petition in the Post-Divorce Proceedings, which in part alleged that he had withdrawn his employer retirement account in violation of a marital dissolution agreement.² On October 29, 2020, the Court entered an Order, *nunc pro tunc* to September 21, 2020, requiring Respondent's client to place into Respondent's IOLTA account one-half of his retirement account (the "**Retirement Share**") and to provide proof of the deposit to the Informant.³ On February 23, 2020, the Special Master appointed by the Court entered a "Special Master Report" *nunc pro tunc* to February 16, 2020, notifying the Court that the Retirement Share, which

¹ Petition at ¶¶1, 12-13.

² Petition at Ex. H.

³ *Id.*

amounted to \$30,000.00, had been deposited into Respondent's IOLTA account.⁴ Respondent had no IOLTA account at that time, nor does it appear that she maintained one at any period of time relevant to this Petition.

On February 23, 2021, the Special Master filed a "Special Master Report" finding that Board records indicated Respondent's license was suspended, and as a result, recommended that Ms. Okoye be disqualified from representing her client, and that the Retirement Share being held by Ms. Okoye be deposited with the Court Clerk, in an interest bearing account, "immediately."⁵ The Court entered an "Order Confirming The Findings, Recommendation and Report of the Special Master" on April 12, 2021.⁶ In April of 2021, counsel for the petitioner in the Post-Divorce Proceedings, Mr. Sharp, and Ms. Okoye appeared before the Special Master, and at that time, Ms. Okoye had not deposited the Retirement Share with the Court as previously ordered.⁷ On April 21, 2021, the Special Master entered another "Special Master Report" recommending that Respondent's client or Respondent herself "immediately pay to Petitioner the \$30,000 currently held by his attorney [Respondent] as part of the MDA."⁸ On June 10 2021, the Court entered a second "Order Confirming the Findings, Recommendation and Report of the Special Master," confirming the Special Master's April 21, 2021 findings.⁹ In the interim, on April 22, 2021, Mr. Sharp sent Respondent a letter which, *inter alia*, demanded that Respondent send him a check for the Retirement Share, stating that those funds "need[] to be turned over to me immediately."¹⁰

The Board administratively suspended Respondent's license to practice law in the State of

⁴ Petition at Ex. A Ex. 2.

⁵ *Id.* at Ex. A Ex. 3

⁶ *Id.*

⁷ *Id.* at Ex. A Ex. 4.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.* at Ex. A Ex. 5.

Tennessee on June 23, 2021.¹¹ At the time Ms. Okoye was administratively suspended, she still had not disbursed the Retirement Share to the Court, Mr. Sharp or Mr. Sharp's client. On August 25, 2021, the Court held another hearing, and Respondent's former client testified that Respondent notified him that she had "deposited" the \$30,000.00 with the Court.¹² Pursuant to the Order of the Court entered on September 9, 2021 *nunc pro tunc* to August 25, 2021, Mr. Sharp submitted a complaint to the Board, seeking the Board's assistance in collecting the Retirement Share.¹³

On August 31, 2021, the Board sent a copy of the Mr. Sharp's Complaint to Ms. Okoye and requested a response within ten (10) days.¹⁴ Ms. Okoye provided no response. On October 12, 2021, another hearing was held, and Mr. Sharp, along with the new legal counsel for Respondent's former client, appeared before the Court on the matter.¹⁵ At that hearing, the Court Clerk reported that the Retirement Share had not been received from Respondent or her former client.¹⁶ The Court issued yet another order on October 27, 2021 (*nunc pro tunc* to October 12, 2021) requiring counsel to work together to "find a way" to recover the Retirement Share from Ms. Okoye.¹⁷

Meanwhile, the Board continued to seek answers from the Respondent. On November 2, 2021, the Board sent a letter to Ms. Okoye and requested a response within ten (10) days.¹⁸ Ms. Okoye provided no response. On December 8, 2021, pursuant to Tenn. Sup. Ct. R. 9, § 12.3 the Board forwarded a Notice of Temporary Suspension to Ms. Okoye due to her failure to comply with the Board's prior written requests.¹⁹ Finally, on February 15, 2022, Mr. Sharp sent the Board a letter notifying the Board that Respondent had finally complied with her obligations under the

¹¹ Petition at Ex. G.

¹² Petition at ¶ 22.

¹³ See Petition at ¶ 22 and Exs. A & M.

¹⁴ See Petition at ¶ 7 and Ex. B.

¹⁵ *Id.* at ¶ 23 and Ex. N.

¹⁶ *Id.* at ¶ 23.

¹⁷ *Id.* at Ex. N.

¹⁸ *Id.* at ¶ 8 and Ex. C.

¹⁹ *Id.* at ¶ 9 and Ex. D.

Court's orders on November 19, 2021 by wiring the Retirement Share proceeds to her former client's new counsel, but not after significant time and resources were spent in collection efforts.²⁰ On March 3, 2022, the Tennessee Supreme Court issued an Order temporarily suspending Respondent's license.

The Petition alleges the following:

- In violation of Tennessee Rule of Professional Conduct 1.15, Ms. Okoye knowingly failed to deposit client funds into a trust account.
- In violation of Tennessee Rule of Professional Conduct 1.15, Ms. Okoye, during all times relevant hereto, knowingly did not have an IOLTA or other trust account to keep client funds.
- In violation of Tennessee Rule of Professional Conduct 3.4(c), Ms. Okoye knowingly failed to comply with multiple court orders and Special Master reports to deposit funds in her possession with the Court Clerk.
- In violation of Tennessee Rule of Professional Conduct 8.1, Ms. Okoye knowingly failed to respond to the disciplinary complaint and knowingly failed to respond to inquiries of the Board's disciplinary counsel.
- In engaging in knowing dishonesty, and misrepresentation, Ms. Okoye has violated Tennessee Rule of Professional Conduct 8.4(c).
- Ms. Okoye knowingly complied with multiple Court orders only after the disciplinary complaint that gave rise to this Petition was filed against her.

(Petition at ¶¶ 25-31.)

²⁰ *Id.* ¶¶ 10, 24 and Ex. 1 at Ex. E.

III. CONCLUSIONS OF LAW

Ms. Okoye has neither tendered any evidence nor proffered a single admission, denial or defense in these proceedings. All the Hearing Panel has before it are the factual allegations contained in the Petition, plus the Exhibits attached to the Petition, which are all deemed admitted by operation of Supreme Court Rule 9 § 15.2(b). Under these circumstances, the Hearing Panel is compelled to conclude by a preponderance of the evidence as follows:

1. The Respondent's admitted conduct violated Rules 1.3 and 1.4 of the Rules of Professional Conduct. Specifically, Respondent failed to act with diligence vis-à-vis the deposit and return of the Retirement Share, and failed to communicate with her client in a truthful manner.

2. The Respondent's admitted conduct violates Rule 1.15 of the Rules of Professional Conduct. Respondent failed to maintain the Retirement Share separate from her own in violation of subsection (a) of the Rule. Respondent received the Retirement Share from her client but did not deposit the Retirement Share in the IOLTA account prescribed by subsection (c) of Rule 1.15. In fact, Respondent was practicing law in this State without having even opened an IOLTA account required under Rule 1.15(c). Insofar as the Court's April 23, 2021 *nunc pro tunc* Order determined that the Retirement Share was to be paid to the Mr. Sharp's client, Respondent failed to "promptly distribute" the Retirement Share once the interests in same were "note in dispute," in violation of subsection (e) of the Rule.

3. Respondent's admitted conduct violated Rule 3.4 of the Rules of Professional Conduct. Respondent repeatedly failed to obey the Orders of the Court, at different times in the proceedings, to (i) deposit the Retirement Share into her IOLTA Account; (ii) deposit the Retirement Share into the registry of the Court; and (iii) remitting the Retirement Share to opposing counsel.

4. Respondent violated Rule 8.1 of the Rules of Professional Conduct by repeatedly failing to respond to the Board's demands for information, which is prohibited by Rule 8.1(b).

5. Respondent's conduct violated Rule 8.4 of the Rules of Professional Conduct in various respects. She never advised the Court, the Special Master or the opposing party she had no IOLTA account at the time the Court ordered her client to turn the funds over to her to deposit into such an account. She failed to disclose the location or whereabouts of the Retirement Share to the Court, Special Master or opposing counsel, and she led her own client to believe that she had deposited the funds into Court. At a minimum, such conduct involves "dishonesty, fraud, deceit or misrepresentation" and constitutes "professional misconduct" as defined in Rule 8.4(c).

IV. STANDARDS FOR DISCIPLINE

Having found that Respondent engaged in professional misconduct, the Hearing Panel must follow the "Black Letter Rules" for the Standards for Imposing Lawyer Sanctions promulgated by the American Bar Association (ABA). Tenn. Sup. Ct. R. 8.4, Rule 9. Those "Black Letter Rules" state that the following factors are to be weighed in determining sanctions:

- (a) the duty violated;
- (b) the lawyer's mental state;
- (c) the potential or actual injury caused by the lawyer's misconduct; and
- (d) the existence of aggravating or mitigating factors.

See American Bar Association, "Standards for Imposing Lawyer Sanctions," (February 1996, *as amended*, February 1992).²¹

²¹ More recently, Rule 10(C) of the ABA's Model Rules for Lawyer Disciplinary Enforcement state as follows:
(1) whether the lawyer has violated a duty owed to a client, to the public, to the legal system, or to the profession;
(2) whether the lawyer acted intentionally, knowingly, or negligently;
(3) the amount of the actual or potential injury caused by the lawyer's misconduct; and

As pointed out in Disciplinary Counsel's brief, the admitted facts in this matter establish, by a preponderance of the evidence, that Respondent's conduct was knowing and intentional. Thus, the Hearing Panel finds as follows:

A. ABA Standard 4.1 – Failure to Preserve Client Property

By knowingly violating Rule 1.15 of the Rules of Professional Conduct, Respondent has engaged in conduct warranting disbarment under ABA Standard 4.11. Respondent received the Retirement Share, failed to keep it in a separate IOLTA account, and failed to account for that property from February of 2021 through November of 2021. That knowing misconduct caused injury or potential injury to her client.

B. ABA Standard 4.4 – Lack of Diligence

By knowingly failing to act with diligence and promptness in violation of Rules 1.3 and 1.4 of the Rules of Professional Conduct, Respondent has engaged in conduct warranting disbarment under ABA Standard 4.41. Respondent failed to comply with the Orders of the Court for nearly a year, and failed to provide accurate information to her client and opposing counsel regarding the Retirement Share.

C. ABA Standard 4.6 – Lack of Candor

Respondent's lack of candor in communications with the Court, the Special Master, opposing counsel and her client violated Rule 1.5 of the Rules of Professional Conduct. The pattern of such misconduct shows by a preponderance of the evidence that such misconduct was knowing, and caused serious injury or potential serious injury to her client. Respondent's lack of candor therefore warrants disbarment under ABA Standard 4.61.

(4) the existence of any aggravating or mitigating factors.

D. ABA Standard 6.2 – Abuse of the Legal Process

Respondent knowingly failed to comply with several lawful orders of the Court to deposit the Retirement Share into an IOLTA account and remit the Retirement Share to the adverse party, and misled the Court into believing that she maintained an IOLTA account in the first place. Such misconduct violates Rules 3.4 and 8.4 of the Rules of Professional Conduct. The records shows by a preponderance of the evidence that Respondent knowingly violated these orders to conceal, *inter alia*, the fact that she failed to maintain a proper IOLTA account. Because she disobeyed Court orders for her own benefit, and at a minimum, created the potential for serious injury to her client, Respondent engaged in abuse of process, and her disbarment is warranted under ABA Section 6.21.

E. ABA Standard 7 – Violations of Other Duties as A Professional

Respondent misled the Court as to the Retirement Share, and misled her client into believing that she (and by extension, her client) had complied with Court orders regarding the Retirement Share. As such, Respondent breached her duties to her client and to the Court in violation of Rules 1.16, 8.1 and 8.4 of the Rules of Professional Conduct. The Hearing Panel concludes that, by a preponderance of the evidence, Respondent breached her duties knowingly and for her own benefit, and at a minimum, caused the potential for serious injury to her client and the legal system. Thus, disbarment is warranted under ABA Standard 7.1.

V. AGGRAVATING AND MITIGATING FACTORS

All of the ABA standards cited in Section IV above allow the Board to deviate from the recommended sanction of disbarment if there are aggravating or mitigating factors present. The allegations contained in the Petition were deemed admitted by default, and Respondent made no attempt to proffer any evidence or legal argument on her behalf. As such, the Hearing Panel finds no mitigating factors warranting any deviation from the ABA Standards in determining Respondent's sanctions. Disciplinary Counsel, however, has cited the following aggravating factors justifying an increase in discipline:

1. Ms. Okoye's pattern of misconduct.
2. Ms. Okoye's failure to acknowledge the wrongful nature of her conduct.
3. Ms. Okoye's multiple "offenses[.]"
4. Ms. Okoye's substantial experience in the practice of law, Ms. Okoye having been licensed to practice law in the State of Tennessee since 2010.
5. Ms. Okoye's willful failure to comply with the Board's rules and orders.
6. Ms. Okoye's "actions over multiple complainants [sic][.]"

(Board Final Default Hg. Br. At p. 4.)

Because Respondent has offered no facts or defense in this matter, despite having had every opportunity to participate in these proceedings (as outlined in Section I above), the Hearing Panel agrees that these aggravating factors are present here. Ms. Okoye (i) misled the Court and the parties regarding her non-existent IOLTA account; (ii) knowingly received property in dispute (the Retirement Share) without having an IOLTA Account; (iii) failed to comply with the Court's orders to safeguard or otherwise distribute the Retirement Share; (iv) refused to respond to the Board's requests and orders regarding the Retirement Share; (v) misled her client about paying the Retirement Share into Court; and (vi) ultimately returned an amount equal to the Retirement

Share without a single explanation of, or accounting for, the whereabouts of the Retirement Share. Thus, even if the Hearing Panel were to conclude that a lesser sanction were warranted under the ABA Standards, such as suspension, the undisputed record reveals these aggravating factors would compel us to increase the discipline to disbarment.

VI. JUDGMENT AND NOTICE OF APPEAL RIGHTS


For the reasons stated above, the Hearing Panel finds by a preponderance of the evidence that Respondent knowingly induced her client, her opposing counsel, and the Court to allow her to hold \$30,000.00 of funds in dispute on the false representation that she maintained an IOLTA account in compliance with Rule 1.15. The Hearing Panel further finds that, for a period of nine (9) months thereafter, the Respondent failed to comply with lawful orders of the Court to return those disputed funds to the Court, or to the opposing party. The Hearing Panel further finds that the Respondent subsequently misled her own client into believing she had tendered the funds to the Court. The Hearing Panel finally finds that Respondent failed to comply with the Board's requests for information and Orders.

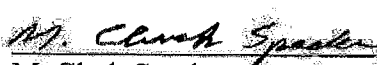
Based on those findings, the Hearing Panel concludes that the Respondent violated the Rules of Professional Conduct, and based upon ABA Standards, the Hearing Panel **GRANTS** the Petition of Discipline, and it is the Judgment of this Hearing Panel that the Respondent, Janet Monique Okoye, be **DISBARRED**.

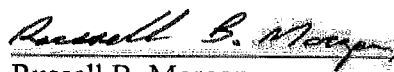
Pursuant to Sections 15.3(a) and 33.1(a) of Tenn. Sup. R. 9, the Respondent is hereby notified that she has sixty (60) days from the date of entry of this judgment to file a Petition for Review in the Circuit or Chancery Court of Davidson County, Tennessee, as her office was located in Birmingham, Alabama at the time the Petition was filed.

Entered on this the 9th day of September, 2022.

HEARING PANEL:

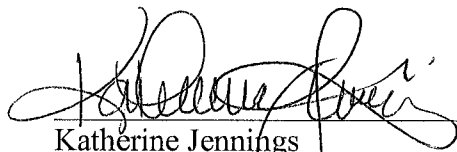

William J. Haynes, III
Tenn. Bar Reg. No. 017398
Hearing Panel Chair

 *WJH*
M. Clark Spoden / 017398
Tenn. Bar Reg. No. 007364
(with permission)

 *WJH*
Russell B. Morgan / 017398
Tenn. Bar Reg. No. 020218
(with permission)

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been sent to Janet Monique Okoye, 5517 Hampton Heights Drive, Birmingham, AL 35209, by U.S. First Class Mail, and hand-delivered to Douglas R. Bergeron, Disciplinary Counsel, on this the 9th day of September 2022.


Katherine Jennings
Executive Secretary

NOTICE

This judgment may be appealed by filing a Petition for Review in the appropriate Circuit or Chancery Court in accordance with Tenn. Sup. Ct. R. 9, § 33.