

FILED

2017 MAY 22 PM 1:57

IN DISCIPLINARY DISTRICT 0  
OF THE  
BOARD OF PROFESSIONAL RESPONSIBILITY  
OF THE  
SUPREME COURT OF TENNESSEE

BOARD OF PROFESSIONAL  
RESPONSIBILITY

*TCW*  
EXEC. SEC.

IN RE: TIMOTHY ALLEN PRICE,  
BPR No. 21652,  
Respondent, a lawyer licensed  
To practice in Tennessee  
(Burke, Virginia)

DOCKET NO. 2016-2615-0-AJ

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**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

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The final hearing on the Board of Professional Responsibility's (Board) Petition for Discipline was heard on May 15, 2017, for before Rebekah Shulman, Hearing Panel Chair, Brigid Carpenter, Hearing Panel Member and James Milam, Hearing Panel Member. Alan D. Johnson, Disciplinary Counsel, appeared for the Board. Mr. Price did not appear.

**STATEMENT OF THE CASE**

A Petition for Discipline was filed against Mr. Price on August 9, 2016. Efforts to serve the Petition by mail were unsuccessful and the Petition was personally served on Liping Price, the wife of Respondent, at Respondent's dwelling, January 12, 2017.

Upon service of the Petition for Discipline, Mr. Price called Disciplinary Counsel and acknowledged that the Petition for Discipline had been served on his wife. Mr. Price did not communicate further and failed to file a response to the Petition for Discipline. A Default Judgment was entered against Mr. Price on February 17, 2016. Pursuant to the Default Judgment, all allegations set forth in the Petition for Discipline are deemed admitted.

**STATEMENT OF THE FACTS**  
**FILE NO. 44257-0-PS COMPLAINANT – THERESA MIKEK**

The admitted allegations establish that while practicing law in Shelby County, Tennessee, Theresa Mikek retained Mr. Price in 2008 to represent her in an uncontested divorce against her husband, Innocent Demideh, and paid him \$1,500.00. Mr. Price did not file a complaint for divorce, and subsequently prepared a fraudulent divorce decree using the docket number from an unrelated case. Mr. Price led his client to believe that she was divorced and it was not until her estranged husband contacted her six years later that she learned that no complaint for divorce had been filed. Upon learning that she was not divorced, Ms. Mikek retained another lawyer who reviewed the court file and discovered the fraud. Ms. Mikek's new lawyer filed a complaint for divorce that was final on February 10, 2016.

At the hearing of this cause, Disciplinary Counsel introduced a copy of the Petition for Discipline with exhibits that included the disciplinary complaint filed by Ms. Mikek on August 17, 2015, which outlined the factual basis for the Petition. (Exhibit 1) Included with Ms. Mikek's complaint is the fraudulent divorce decree bearing the docket number CT-003887-08.

Disciplinary Counsel also introduced a print out from the Shelby County Circuit Court Clerk's office which listed all divorce cases in which Mr. Price had entered an appearance. (Exhibit 2) None of the listed cases were styled Theresa Mikek v. Innocent Demideh. It did, however, list a case styled McMullins v. McMullins, bearing the same docket number as that of the fraudulent divorce decree, CT-003887-08.

Finally, Disciplinary Counsel introduced a print out from the Shelby County Circuit Court Clerk's office of the docket in the case styled Theresa Mikek v. Innocent Demideh, No. CT-005058-15. In that case, Ms. Mikek was represented by an attorney other than Mr. Price.

## CONCLUSIONS OF LAW

Pursuant to Tenn. S. Ct. R. 9, § 3, the license to practice law in this state is a privilege and it is the duty of every recipient of that privilege to conduct himself at all times in conformity with the standards imposed upon members of the bar as conditions for the privilege to practice law. Acts or omissions by an attorney which violate the Rules of Professional Conduct (hereinafter "RPC") of the State of Tennessee shall constitute misconduct and be grounds for discipline.

The record in this case establishes that Mr. Clark violated Tennessee Rules of Professional Conduct 1.1 (competence), 1.3 (diligence), 1.4 (communication), 1.5 (unreasonable fee), 3.2 (expediting litigation), and 8.4(c) and (d) (conducting involving fraud and conduct prejudicial to the administration of justice) and 8.4 (a) (misconduct).

When disciplinary violations are established by a preponderance of the evidence, the appropriate discipline must be based upon application of the *ABA Standards for Imposing Lawyer Sanctions*, ("ABA Standards") pursuant to Section 8.4, Rule 9 of the Rules of the Supreme Court.

The following ABA Standards apply in this matter:

4.41 Disbarment is generally appropriate when:

- (a) a lawyer abandons the practice and causes serious or potentially serious injury to a client; or
- (b) a lawyer knowingly fails to perform services for a client and causes serious or potentially serious injury to a client; or
- (c) a lawyer engages in a pattern of neglect with respect to client matters and causes serious or potentially serious injury to a client.

4.51 Disbarment is generally appropriate when a lawyer's course of conduct demonstrates that the lawyer does not understand the most fundamental legal doctrines or procedures, and the lawyer's conduct causes injury or potential injury to a client.

4.61 Disbarment is generally appropriate when a lawyer knowingly deceives a client with the intent to benefit the lawyer or another, and causes serious injury or potential serious injury to a client.

5.11 Disbarment is generally appropriate when:

(a) a lawyer engages in serious criminal conduct a necessary element of which includes intentional interference with the administration of justice, false swearing, misrepresentation, fraud, extortion, misappropriation, or theft; or the sale, distribution or importation of controlled substances; or the intentional killing of another; or an attempt or conspiracy or solicitation of another to commit any of these offenses.

(b) a lawyer engages in any other intentional conduct involving dishonesty, fraud, deceit, or misrepresentation that seriously adversely reflects on the lawyer's fitness to practice.

7.1 Disbarment is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional with the intent to obtain a benefit for the lawyer or another, and causes serious or potentially serious injury to a client, the public, or the legal system.

#### AGGRAVATING FACTORS

Pursuant to ABA Standard 9.22, the following aggravating factors are present in this case:

1. The vulnerability of Mr. Price's victim is an aggravating circumstance justifying an increase in discipline.

2. Mr. Price's substantial experience in the practice of law, having been licensed in Tennessee in 2001, is an aggravating circumstance justifying an increase in discipline.

3. Mr. Price's disciplinary history is an aggravating circumstance justifying an increase in discipline.

4. Mr. Price's dishonest and selfish motive is an aggravating circumstance justifying an increase in discipline to be imposed.

5. Mr. Price's illegal conduct is an aggravating circumstance justifying an increase in discipline.

**CONCLUSION**

Pursuant to the ABA Standards, taking into account the aggravating factors, the Hearing Panel finds that Mr. Price should be disbarred from the practice of law. As a condition of reinstatement, Mr. Price must pay the restitution to Theresa Mikek in the amount of \$1,500.00. In the event restitution is made by the Tennessee Lawyers' Fund for Protection of Clients (TLFCP), Mr. Price will be responsible for reimbursement of TLFCP in the same amount. Mr. Clark must also meet all other requirements for reinstatement set forth in Rule 9.

The costs of this cause, as set forth in Tenn. Sup. Ct. R. 9, § 31.3 (a), will be taxed to Mr. Price following entry of this judgment pursuant to the procedures established in Tenn. Sup. Ct. R. 9, § 31.3 (a).

IT IS SO ORDERED,

  
Rebekah Shulman, Panel Chair

*p.p.*   
Bridgid Carpenter, Panel Member

*p.p.*   
James Milam, Panel Member

**NOTICE**

**This judgment may be appealed pursuant to Tenn. Sup. Ct. R. 9, § 3.3.**

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing has been sent to Respondent, Timothy Allen Price, 6200 Gemini Court, Burke, VA 22015-3522, by U.S. First Class Mail, and hand-delivered to Alan D. Johnson, Disciplinary Counsel, on this the 22<sup>ND</sup> day of May, 2017.



Rita Webb  
Executive Secretary

**NOTICE**

**This judgment may be appealed pursuant to Tenn. Sup. Ct. R. 9, § 33 (2014) by filing a Petition for Review in the Circuit or Chancery court within sixty (60) days of the date of entry of the hearing panel's judgment.**