

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

FILED  
2015 FEB -2 PM 2:16  
DOCKET NO. 2014-2344-2-KH  
RESPONSIBILITY  
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**IN RE: BILLY J. REED,  
Respondent, BPR #5644  
An Attorney Licensed  
to Practice Law in Tennessee  
(Knox County)**

**DOCKET NO. 2014-2344-2-KH**

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**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

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This matter came before a duly appointed Hearing Panel on December 19, 2014 upon a Petition for Discipline filed by the Board of Professional Responsibility against Billy J. Reed, Respondent; upon an Order of Default entered on October 21, 2014; upon statements of counsel; telephonic testimony of Mr. Reed; evidence presented; and upon the entire record in this cause. Pursuant to Tenn. Sup. Ct. R. 9, § 8 (2006)<sup>1</sup>, the Hearing Panel makes the following findings of fact and conclusions of law.

**STATEMENT OF THE CASE**

This is a disciplinary proceeding against the Respondent, Billy J. Reed, an attorney licensed to practice law in Tennessee. Mr. Reed was licensed to practice law in 1997. The Board filed a Petition for Discipline on July 24, 2014. Mr. Reed was served by private process server on July 31, 2014. Mr. Reed did not file an answer to the Petition; therefore, the Board filed a Motion for Default Judgment and that Allegations Contained Within the Petition Be Deemed Admitted on September 29, 2014. Mr. Reed did not file a response to the Board's

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<sup>1</sup> Several of the disciplinary complaints in this matter were initiated prior to January 1, 2014; therefore, the 2006 version of Tenn. Sup. Ct. R. 9 is applicable except as otherwise noted.

Motion. An Order of Default was entered on October 21, 2014.

Prior to the filing of the Petition for Discipline, Mr. Reed was temporarily suspended on January 17, 2014, pursuant to Tenn. Sup. Ct. R. 9, § 4.3, for failure to respond to disciplinary complaints. To date, Mr. Reed remains on temporary suspension.

### **FINDINGS OF FACT**

The allegations in the Petition for Discipline have been deemed admitted due to the Respondent's failure to respond to the filings by the Board. Those facts are incorporated herein and the Panel's conclusions are based fully on each allegation deemed admitted.

#### **1. (FILE NO. 34639-2-BG) COMPLAINANT – SYLVIA JEAN KLAEHN**

On October 26, 2011, the Board received a complaint from Sylvia Jean Brown Klaehn concerning alleged disciplinary misconduct by Mr. Reed. Mr. Reed provided a response to the complaint; however, he failed to respond to all specific inquiries made by the Board. On January 17, 2014, Mr. Reed was temporarily suspended from the practice of law by the Tennessee Supreme Court due to his failure to respond to inquiries by the Board in relation to this complaint and several others.

Ms. Klaehn hired Mr. Reed to represent her in a divorce case on January 16, 2009. She paid Mr. Reed a flat fee of \$7,500.00 for the representation. Mr. Reed filed an Answer and Counter-Complaint on behalf of Ms. Klaehn on December 30, 2009, and litigation ensued.

Mediation was scheduled in January, 2010, but the parties were unable to come to an agreement. Each party tendered an offer of settlement to the other but each was rejected. The parties began their trial in February, 2011, but the continuation of the trial was not scheduled until June, 2011.

On June 27, 2011, the parties reached an oral agreement to settle the case. The terms of the agreement were not announced to the court or otherwise made part of the record. Mr. Reed announced that he would prepare a Marital Dissolution Agreement ("MDA") memorializing the parties' agreement. On June 29, 2011, Ms. Klaehn discovered that her husband had cancelled her health insurance.

Ms. Klaehn notified Mr. Reed and requested that he take action to have the insurance restored. Mr. Reed notified opposing counsel of the problem and it appears to have been corrected, but Mr. Reed failed to notify Ms. Klaehn that her health insurance had been restored causing her to purchase a separate health insurance policy.

On July 12, 2011, Ms. Klaehn sent Mr. Reed an e-mail to check on the status of the proposed MDA. Mr. Reed forwarded a proposed MDA to Ms. Klaehn on July 14, 2011. She requested a few minor changes to the MDA after which she requested it be sent to her for her signature. On July 29, 2011, Mr. Reed sent a responsive e-mail to Complainant agreeing to make the changes. Ms. Klaehn made several attempts to communicate with Mr. Reed after that time but received no response. On September 22, 2011, Ms. Klaehn terminated Mr. Reed's representation.

Mr. Reed failed to formally withdraw from his representation of Ms. Klaehn. On October 5, 2011, opposing counsel sent Mr. Reed a notice that Ms. Klaehn's health insurance provided by her husband would expire on December 31, 2011, but that she was covered for any pre-existing conditions. The letter outlined how she could obtain pre-certification for appointments and how to fill existing prescriptions. Mr. Reed never forwarded the letter to Ms. Klaehn who was unable to obtain such health insurance benefits. Ms. Klaehn ultimately retained new counsel who was able to successfully resolve the divorce shortly after she became involved.

**2. (FILE NO. 35998c-2-RW) COMPLAINANT—MARY BROOKS**

On November 6, 2012, the Consumer Assistance Program (“CAP”) for the Board received a Request for Assistance from Mary Brooks. Mr. Reed requested additional time to respond to the request; however, he never filed a response with CAP.

Ms. Brooks paid Respondent a \$10,000.00 retainer fee in 2008 to represent her in a complex real estate dispute. Mr. Reed had a survey completed for the real property in question and engaged separate counsel to perform a title examination.

Mr. Reed delayed prosecution of the matter over and over despite requests from Ms. Brooks to initiate litigation in the matter. Ms. Brooks made several attempts to contact Mr. Reed by telephone but alleges that he rarely returned her calls. Ms. Brooks later discovered that Mr. Reed had moved his office to another location in his office building without informing her. Ms. Brooks eventually showed up at Mr. Reed’s office and met with him after which he promised to have the case in court within two weeks. Ms. Brooks later attempted to contact Mr. Reed by telephone but received no response. Ms. Brooks terminated Mr. Reed’s representation on or about September, 2012.

**3. (FILE NO. 36253c-2-KB) COMPLAINANT—PHYLLIS BRANUM**

On April 23, 2013, CAP received a Request for Assistance from Phyllis Branum. Mr. Reed did not provide a response to CAP although he later provided a response to Disciplinary Counsel.

On October 6, 2012, Ms. Branum paid Mr. Reed \$1,750.00 to assist her with the filing of a Petition for Conservatorship after her husband developed Alzheimer’s disease. Ms. Branum explained that she was moving her husband to Colorado to be closer to her daughter and Mr.

Reed assured her that the conservatorship could be established on or before December 31, 2012.

Mr. Reed filed the applicable Petition on December 6, 2012, and a Guardian Ad Litem was appointed the same day. The Guardian Ad Litem conducted her investigation and submitted her report to the court, but no further action was taken in the case. The Guardian Ad Litem reported to disciplinary counsel that she was unable to get in touch with Mr. Reed to draft the Order of Conservatorship.

Ms. Branum alleges that she has left many telephone messages and e-mails for Mr. Reed but he has failed to respond to any of her messages. Ms. Branum has since moved with her husband to Colorado and has not had any contact from Mr. Reed.

**4. (FILE NO. 36397-2-KB) COMPLAINANT—ROBERT and ALICE ENGLAND**

On or around August 5, 2013, the Board received a complaint from Robert and Alice England concerning alleged disciplinary misconduct by attorney Mr. Reed.

On or about October 2009, Robert and Alice England retained Mr. Reed to represent them in a boundary dispute. Mr. Reed successfully litigated the case and the court found in favor of the Englands.

On September 13, 2011, Mr. Reed filed a Motion for Discretionary Costs to recover expert witness fees, deposition costs, and the costs for court reporters. On the same day, the opposing parties filed a Notice of Appeal. Mr. Reed represented the Englands on appeal and submitted an Appellee Brief to the court on June 4, 2012. On October 2, 2012, the Court of Appeals affirmed the decision of the trial court and remanded the case for the assessment of costs.

On November 30, 2012, the opposing parties filed a Rule 11 Application for Permission to Appeal to the Tennessee Supreme Court. On February 13, 2013, the Tennessee Supreme

Court denied the application.

Following the disposition of the appeal, Mr. Reed failed to schedule a hearing on the motion for discretionary costs. The Englands allege that they have been unable to contact Mr. Reed.

5. **(FILE NO. 36916c-2-KB<sup>2</sup>) COMPLAINANT—CHRISTOPHER HILL**

On January 20, 2014, CAP received a Request for Assistance from Christopher Hill concerning Mr. Reed. Mr. Reed has never responded to either the request for assistance or the disciplinary investigation.

On or about December, 2011, Mr. Hill paid Mr. Reed \$6,900.00 to represent him in litigation against his mortgage company for wrongful foreclosure. The mortgage company voluntarily rescinded the foreclosure against Mr. Hill due to procedural problems. In the meantime, Mr. Hill worked with the mortgage company's refinancing department in an attempt to restructure the mortgage. In the fall of 2013, Mr. Hill was unable to communicate with Mr. Reed about his case. Mr. Hill had an upcoming court date in January 2014, and ultimately hired other counsel to further represent him.

Mr. Hill alleges that Mr. Reed has performed very little legal work in the case.

6. **(FILE NO. 37137-2-KB<sup>3</sup>) COMPLAINANT—REBECCA BAILEY**

On April 17, 2014, the Board received a complaint from Rebecca Bailey concerning alleged disciplinary misconduct by attorney Mr. Reed. Mr. Reed has never responded to the complaint.

On June 1, 2012, Ms. Bailey entered into a written fee agreement with Mr. Reed for representation in a real estate dispute. Mr. Reed filed suit on November 20, 2012, which was

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<sup>2</sup> This complaint was received after January 1, 2014; therefore, the 2014 version of Tenn. Sup. Ct. R. 9 will apply.

<sup>3</sup> This complaint was received after January 1, 2014; therefore, the 2014 version of Tenn. Sup. Ct. R. 9 will apply.

served upon the defendants the same day. In December, 2012, the defendants filed their respective Answers and discovery requests were propounded upon Ms. Bailey. Mr. Reed filed responses to the discovery requests on March 18, 2013, but took no further action in the case.

Ms. Bailey made many attempts to contact Mr. Reed but received no response. On December 19, 2013, one of the defendants filed a Motion for Status Conference but Mr. Reed failed to provide any response. On March 7, 2014, one of the defendants filed a Motion for Status Conference or Alternatively Motion to Dismiss for Lack of Prosecution. By that time, Mr. Reed had been temporarily suspended by the Board for failure to respond to disciplinary complaints. Ms. Bailey notified the court of Mr. Reed's licensure status and the court has allowed Ms. Bailey additional time to obtain other counsel to prosecute her case.

**7. TESTIMONY OF MR. REED**

Mr. Reed participated in the final hearing of this matter by telephone. He testified that he had no defense to the allegations in the petition and that he consented to payment of restitution to his clients. Mr. Reed offered several mitigating factors including health issues, depression, and the death of two (2) associates with whom he operated a law practice. Mr. Reed is currently living in Ohio and he plans to seek employment there, although not in the legal field.

**CONCLUSIONS OF LAW**

Pursuant to Tenn. S. Ct. R. 9, § 3 (2006) and § 1 (2014), 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.

As noted above, Respondent failed to answer the Petition for Discipline. The Hearing Panel has already entered an Order of Default and, therefore, pursuant to Tenn. S. Ct. R. 9, § 8.2 (2006) and § 15.2(b) (2014), and the charges are deemed admitted.

Therefore, the Panel finds that the Board has demonstrated by a preponderance of the evidence that Respondent has violated the following Rules of Professional Conduct ("RPC"s): 1.3 (Diligence); 1.4 (Communication); 1.5(a) (Fees); 1.16(d) (Declining and Terminating Representation); 3.2, (Expediting Litigation); 8.1(b) (Bar Admission and Disciplinary Matters), and 8.4(a) and (d) (Misconduct).

Once a disciplinary violation has been established, the appropriate discipline must be based upon application of the *ABA Standards for Imposing Lawyer Sanctions*, ("ABA Standards") pursuant Tenn. Sup. Ct. R. 9, § 8.4 (2006) and § 15.4(a) (2014). 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.

4.12 Suspension is generally appropriate when a lawyer knows or should know that he is dealing improperly with client property and causes injury or potential injury to a client.

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.



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

8.1 Disbarment is generally appropriate when a lawyer:

(b) has been suspended for the same or similar misconduct, and intentionally or knowingly engages in further similar acts of misconduct that cause injury or potential injury to a client, the public, the legal system, or the profession.

Further, pursuant to ABA Standard 9.22, a number of aggravating factors are present in this case and are listed below.

- a) prior disciplinary offense;
- b) a pattern of misconduct;
- c) multiple offenses;
- d) bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary agency; i.e., failure to respond to disciplinary complaints; and
- e) substantial experience in the practice of law.

Further, pursuant to ABA Standard 9.23, a number of mitigating factors are present in this case and are listed below:

- a) personal or emotional problems;
- b) full and free disclosure to the hearing panel and a cooperative attitude; and
- c) remorse.

Mr. Reed testified that he would not contest Disciplinary Counsel's recommendation for a three (3) year suspension and for restitution to the complainants, where applicable. He agreed to contact the Tennessee Lawyer's Assistance Program (TLAP).

### JUDGMENT

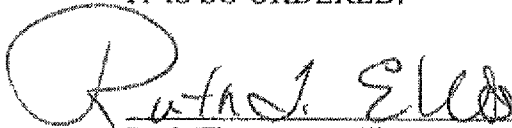
The Hearing Panel has considered the allegations, violations, and admissions of Mr. Reed. The Hearing Panel has concluded that a three (3) year suspension, retroactive to the date of Mr. Reed's temporary suspension (January 17, 2014) is appropriate. Further, the Hearing Panel finds that Mr. Reed should be required to contact TLAP within thirty (30) days of the entry of the Order of Enforcement and that he should follow any recommendations made by TLAP. Finally, the Hearing Panel finds that Mr. Reed should be required to pay restitution to the following individuals in the following amounts:

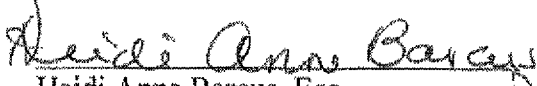
- a) Mary Brooks - \$10,000.00
- b) Phyllis Branum - \$1,750.00
- c) Christopher Hill - \$6,900.00
- d) Rebecca Bailey - \$1,000.00


Payment of restitution is a condition precedent to reinstatement.

Finally, in light of the disposition of this disciplinary proceeding, the Hearing Panel recommends that the temporary suspension pursuant to Section 4.3 of Supreme Court Rule 9 be dissolved upon entry of the Order of Enforcement.

IT IS SO ORDERED.

  
Ruth Thompson Ellis, Esq.  
Panel Chair

 by RTE  
Heidi Anne Barcus, Esq. *at permission*  
Panel Member

 by RTE  
Luis C. Bustamante, Esq. *at permission*  
Panel Member

**NOTICE: This Judgment may be appealed pursuant to Tenn. Sup. Ct. R. 9, § 33.**

PREPARED BY:

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**Certificate of Service**

I certify that a copy of the foregoing revised proposed FINDINGS OF FACT AND CONCLUSIONS OF LAW has been mailed to Respondent, Billy J. Reed, at 1906 Poplar Drive, Loveland, OH 45140, by regular U.S. mail, postage prepaid, and by email to [bjatt@aol.com](mailto:bjatt@aol.com) on this the 22nd day of January, 2015.

Krisann Hodges  
Deputy Chief Disciplinary Counsel