

FILED

2015 NOV -5 PM 2: 50

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

BOARD OF PROFESSIONAL RESPONSIBILITY  
RESPONSIBILITY  
*Reed*  
EXEC. SEC.

IN RE: BILLY J. REED,  
Respondent, BPR #5644  
An Attorney Licensed  
To Practice Law in Tennessee  
(Knox County)

Docket No. 2015-2454-2-AW

**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.**

---

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND JUDGMENT**

---

This matter came on for hearing on September 30, 2015, before a Hearing Panel consisting of John E. Winters, Brian K. Krumm, and David A. Draper, Chair. The Board of Professional Responsibility (the "Board") was represented by A. Russell Willis, Esq., Disciplinary Counsel for the Board. Respondent, Billy J. Reed, did not appear, nor did counsel appear for Respondent Reed.

**FINDINGS OF FACT**

**Petition for Discipline against Mr. Reed**

i. On May 19, 2015, the Board filed a Petition for Discipline against Mr. Reed ("Respondent"), identified by Docket No. 2015-2454-2-AW. The Petition alleged misconduct by the Respondent in connection with two clients: (1) Mary Lou Anderson (Disciplinary Complaint File No. 37613-2-KB), and (2) Jessica Robinson (Disciplinary Complaint File No. 37748c-2-KB). Although factually distinct, the alleged acts of misconduct as to each client were similar in that Respondent accepted fees, and thereafter failed to communicate, failed to provide services, and

essentially abandoned his clients in the midst of the very legal proceedings he had been engaged to pursue, and failed and refuse to return substantial unearned fees.

**FILE NO. 37613-2-KB - COMPLAINANT - Mary Lou Anderson**

2. On October 23, 2014, the Board of Professional Responsibility received a complaint from Mary Lou Anderson alleging disciplinary misconduct by Mr. Reed. A true and exact copy of the October 23, 2014 complaint was attached as Exhibit A to the Petition.

3. On October 31, 2014, the Board sent a copy of Ms. Anderson's complaint to Mr. Reed at his primary address requesting a response within ten (10) days. A copy of the October 31, 2014 letter was attached as Exhibit B to the Petition.

4. Having received no response from Mr. Reed, the Board sent another inquiry to Mr. Reed on November 13, 2014, at his email address, requesting a response to the complaint and his current address. A copy of the November 13, 2014 email was attached as Exhibit C to the Petition.

5. The Board sent a second request on November 14, 2014, to Mr. Reed's primary address as registered with the Board. A copy of the November 14, 2014 letter was attached as Exhibit D to the Petition.

6. Having received no response, the Board sent a Notice of Temporary Suspension to Mr. Reed's primary registered address on December 1, 2014. A copy of the Notice of Temporary Suspension was attached as Exhibit E to the Petition.

7. During the pendency of another disciplinary proceeding, the Board learned that Mr. Reed may have relocated to his daughter's address in Ohio. On January 16, 2015, the Board sent a letter with the original complaint addressed to 1906 Poplar Drive, Loveland, Ohio, 45140. A copy of the January 16, 2015 letter was attached as Exhibit F to the Petition.

8. Despite various requests for information regarding the complaint of misconduct, Mr. Reed did not respond to Disciplinary Counsel in violation of Tennessee Rules of Professional Conduct (RPC) 8.1.

9. On April 21, 2009, Ms. Anderson and two (2) other heirs retained Mr. Reed to represent them in a will contest related to their father's estate.

10. Mr. Reed was paid a total of \$15,000.00 for the representation. True and correct copies of the April 2009 retainer payments were attached as Exhibit G to the Petition.

11. On July 10, 2009, Mr. Reed filed a Petition to Contest Will which was served upon the defendant.

12. The defendant filed an answer and a counter-complaint. Mr. Reed filed an answer to the counter-complaint on September 28, 2009.

13. Thereafter and through October of 2012, Ms. Anderson contacted Mr. Reed numerous times and inquired about the status of the case and possible trial dates.

14. Each time Ms. Anderson spoke to Mr. Reed he represented the case preparation was going well, he was prepared for trial and opposing counsel was the reason no trial date had been set. Mr. Reed's representations to Ms. Anderson were materially false in violation of RPC 8.4.

15. Mr. Reed stopped communicating with Ms. Anderson after October, 2012, and failed to provide her with current contact information in violation of RPC 1.4.

16. Ms. Anderson was forced to make court appearances without Mr. Reed.

17. In November, 2013, Ms. Anderson appeared in court and was advised that Mr. Reed was in the hospital. Ms. Anderson contacted Mr. Reed in the hospital, and Mr. Reed represented he would communicate with her about the case the following week.

18. Mr. Reed's representation was false as Ms. Anderson never heard from Mr. Reed again in violation of RPC 8.4.

19. On January 17, 2014, Mr. Reed was temporarily suspended by Order of the Supreme Court of Tennessee for knowingly failing to respond to the Board in violation of RPC 8.1 (b). A true and correct copy of the Order of Temporary Suspension was attached as Exhibit H to the Petition.

20. As a result of Mr. Reed's failure to communicate and lack of diligence, Ms. Anderson terminated Mr. Reed and retained new counsel in May, 2014.

21. Based upon Ms. Anderson's review of the court's file and her dealings with Mr. Reed, it was apparent little to no material legal services had been performed by Mr. Reed for Ms. Anderson in violation of RPC 1.3.

22. After his termination, Mr. Reed failed to promptly refund unearned fees paid by Ms. Anderson in violation of RPC 1.16.

23. Over the course of approximately four (4) years, Mr. Reed failed to make reasonable efforts to expedite Ms. Anderson's litigation in violation of RPC 3.2.

24. Mr. Reed failed to comply with Tenn. Sup. Ct. R. 9, § 18 and with the Order of Temporary Suspension entered by the Tennessee Supreme Court on January 17, 2014, by failing to notify his clients that he was suspended from the practice of law in violation of RPC 8.4 (g). See Exhibit H to Petition.

**FILE NO. 37748c-2-KB - COMPLAINANT - Jessica Robinson**

25. On December 18, 2014, the Board of Professional Responsibility received a complaint from Jessica Robinson concerning alleged disciplinary misconduct by Mr. Reed. A true and exact copy of the December 18, 2014 complaint was attached as Exhibit I to the Petition.

26. On January 5, 2015, the Board sent a copy of Ms. Robinson's complaint to Mr. Reed at his primary address requesting a response within ten (10) days. A copy of the January 5, 2015 letter was attached as Exhibit J to the Petition.

27. Having received no response, on January 13, 2015, the Board also sent the inquiry to Mr. Reed to his email address and again to his primary address, requesting a response to the complaint. Copies of the January 13, 2015 email and letter were attached as Exhibits K and Exhibit L to the Petition.

28. During the pendency of another disciplinary proceeding, the Board learned Mr. Reed could be reached at his daughter's address in Ohio. On January 16, 2015, the Board sent a letter with the original complaint addressed to 1906 Poplar Drive, Loveland, Ohio, 45140. A copy of the January 16, 2015 letter was attached as Exhibit M.

29. On February 6, 2015, the Board again sent a copy of the complaint to Mr. Reed addressed to 1906 Poplar Drive, Loveland, Ohio 45140, requested a response within ten (10) days. A copy of the February 6, 2015 letter was attached as Exhibit N to the Petition.

30. Mr. Reed did not respond to this disciplinary complaint or Disciplinary Counsel's lawful request for information in violation of RPC 8.1 (b).

31. In December, 2011, Ms. Robinson paid Mr. Reed \$1,500.00 in legal fees for representation in an emergency child custody proceeding.

32. Mr. Reed accepted the representation and agreed to file an emergency petition for custody.

33. Following his acceptance of the representation, Mr. Reed failed to promptly file the emergency petition for custody in violation of RPC 1.3 and 3.2.

34. Despite numerous inquiries from Ms. Robinson regarding the status of her matter, Mr. Reed did not return his client's phone calls or otherwise reasonably communicate with Ms. Robinson in violation of RPC 1.4.

35. In July, 2012, Ms. Robinson met with Mr. Reed and paid him an additional \$200.00 for filing fees.

36. Mr. Reed led Ms. Robinson to believe that an Emergency Petition for Custody had been filed or would be filed by Mr. Reed. This representation was materially false in violation of RPC 8.4 (c).

37. After Mr. Reed failed to return additional phone calls, Ms. Robinson went to the juvenile court clerk's office and discovered Mr. Reed had failed to file any emergency petition for custody.

38. Ms. Robinson attempted to contact Mr. Reed but he had changed his phone number without informing Ms. Robinson in violation of RPC 1.4.

39. Mr. Reed abandoned Ms. Robinson and failed to refund unearned fees and expenses totaling \$1,700.00 in violation of RPC 1.16 (d).

40. Mr. Reed failed to comply with Tenn. Sup. Ct. R. 9, § 18 and with the Order of Temporary Suspension entered by the Tennessee Supreme Court on January 17, 2014, by failing to notify Ms. Robinson he was suspended from the practice of law in violation of RPC 8.4 (g).

### **MISCONDUCT**

41. As to both of his clients, Respondent was alleged to have violated Rules of Professional Conduct 1.3 (Diligence), 1.4 (Communication), 1.16(d) (Declining and Terminating Representation), 3.2 (Expediting Litigation), 8.1(b) (Bar Admission and Disciplinary Matters), and 8.4(a), (d), and (g) (Misconduct).

42. The Respondent failed to file an Answer to the Petition for Discipline within 30

days and the time for filing the Answer was not extended. Pursuant to Motion on behalf of the Board of Professional Responsibility, an Order for Default Judgment and that the charges in the Petition for Discipline filed May 19, 2015 be deemed admitted was entered September 4, 2015. The Order for Default Judgment was served on Respondent.

43. Following the entry of the Order for Default Judgment in this cause, a hearing was scheduled for September 30, 2015, and notice of hearing was sent to Respondent's last known mailing address and email address. Respondent was notified of the date and location of the hearing, and was also notified that he was entitled to be represented by counsel, to cross-examine witnesses, and to present evidence in his own behalf. Respondent was also notified that the hearing panel would submit its findings and judgment within 30 days following the hearing. The hearing before a duly appointed panel of hearing officers was convened on September 30, 2015 pursuant to notice. The Board was represented by disciplinary counsel. Respondent did not appear. Disciplinary counsel presented the Board's position with respect to the history of alleged misconduct of the Respondent and the discipline that should be imposed, and exhibits were filed in support of the Board's position. The discipline sought be imposed encompassed the Board's evidence relating to fees and expenses paid by Ms. Anderson and Ms. Robinson.

44. All allegations in the Petition, and as recited herein above, are deemed to be admitted in all respects.

#### **AGGRAVATING FACTORS**

45. After misconduct has been established, aggravating circumstances may be considered in deciding what sanctions to impose. The Board presented evidence of aggravating factors in the following respects:

a. Mr. Reed has prior disciplinary sanctions, which is an aggravating circumstance justifying an increase in the degree of discipline to be imposed.

b. Mr. Reed has demonstrated a pattern of misconduct which is an aggravating circumstance justifying an increase in the degree of discipline to be imposed.

c. The multiple offenses committed by Mr. Reed are an aggravating circumstance justifying an increase in the degree of discipline to be imposed.

d. Mr. Reed has demonstrated a bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary agency.

e. Mr. Reed's failure to acknowledge the wrongful nature of his conduct is an aggravating circumstance justifying an increase in the degree of discipline to be imposed.

f. Mr. Reed's indifference to making restitution is an aggravating circumstance justifying an increase in the degree of discipline to be imposed.

g. Mr. Reed's substantial experience in the practice of law is an aggravating circumstance justifying an increase in the degree of discipline to be imposed.

#### **CONCLUSIONS OF LAW**

46. Pursuant to Tenn. Sup. 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 or herself 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 of the State of Tennessee shall constitute misconduct and be grounds for discipline.

47. Respondent repeatedly violated RPC 1.3 (Diligence), by failing to take reasonable and necessary action to further the interests of his clients. Respondent Reed's communications with Mrs. Anderson and Ms. Robinson regarding the status of their respective cases were knowingly false and misleading. Respondent Reed repeatedly violated RPC 1.4 (Communication), by failing to communicate over extended periods and ultimately leaving his



clients with no ability to contact him. Respondent Reed repeatedly violated RPC 1.16(d) (Declining and Terminating Representation), by accepting work he either could not perform, or had no intention of performing, and by failing to properly terminate his engagements and refund unearned fees. These violations were compounded by Respondents failure to comply with the Order of Temporary Suspension of January 17, 2014. Respondent Reed repeatedly violated RPC 3.2 (Expediting Litigation) by failing to take reasonable and necessary steps to prosecute the legal proceedings of Mrs. Anderson and Ms. Robinson, and by abandoning their causes without any communications whatsoever. Respondent Reed violated RPC 8.1(b) (Bar Admission and Disciplinary Matters) by failing to make any response to the disciplinary complaints at issue and the Board's Petition against him. Respondent violated RPC 8.4(a), (c), (d), by engaging in conduct that involved dishonesty and misrepresentation, and was prejudicial to the administration of justice in violation of the Rules of Professional Conduct.

48. Once disciplinary violations have been established, the Hearing Panel shall consider the applicable provisions of ABA Standards for Imposing Lawyer Sanctions.

49. Prior to consideration of any aggravating or mitigating circumstances, the following ABA Standards apply to this case:

#### 4.4 LACK OF DILIGENECE

4.42 Suspension is generally appropriate when:

(b) A lawyer engages in a pattern of neglect and causes injury or potential injury to a client.

#### 5.0 VIOLATIONS OF DUTIES OWED TO THE PUBLIC

5.11 Disbarment is generally appropriate when:

(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.

## 8.0 PRIOR DISCIPLINE ORDERS

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.

50. Pursuant to ABA Standard 9.22, the Hearing Panel finds that the following aggravating factors are present in this case:

- a. Prior disciplinary offenses;
- b. A pattern of misconduct;
- c. Multiple offenses;
- d. Bad faith obstruction of the disciplinary process;
- e. Failure to acknowledge wrongful nature of conduct. (Evidenced in part by Respondent's failure to respond to any of the disciplinary matters at issue.);
- f. Indifference to making restitution of unearned fees; and
- g. Substantial experience in the practice of law.

51. There is no evidence of any mitigating factors present in this case.

52. Based upon the evidence and the record as a whole, the Hearing Panel finds that disbarment is the appropriate discipline.

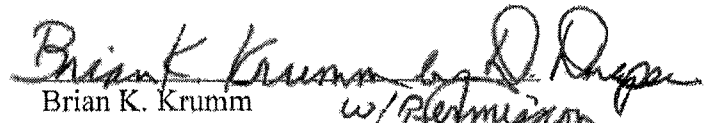
### **JUDGMENT**

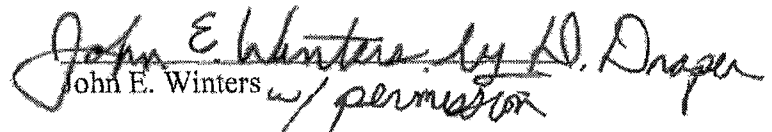
Based upon the Findings of Fact, and Conclusions of Law, including consideration of the ABA Standards set forth above, the Hearing Panel finds that Billy J. Reed should be disbarred from the practice of law in the State of Tennessee. The Hearing Panel further finds that the Respondent should pay restitution to the following individuals: (1) Mary Lou Anderson in the amount of \$15,000.00; and (2) Jessica Robinson in the amount of \$1,700.00.

IT IS SO ORDERED.

This 5<sup>th</sup> day of November, 2015.

  
David A. Draper, Panel Chair

  
Brian K. Krumm w/permission

  
John E. Winters w/permission