

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

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BOARD OF PROFESSIONAL
RESPONSIBILITY
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**IN RE: Steve E. Sams,
Respondent, BPR# 22560,
An Attorney Licensed to
Practice Law in Tennessee
(Knox County)**

DOCKET NO. 2012-2152-2-KB

FINDINGS OF FACT, CONCLUSIONS OF LAW AND JUDGMENT

This matter came on for hearing before this duly appointed Hearing Panel on May 30, 2014, and was adjourned pending submission of additional evidence and further deliberations, which were concluded on September 10, 2014. Upon a Petition for Discipline and a Supplemental Petition for Discipline filed by the Board pursuant to Tennessee Supreme Court Rule 9, present were Donald A. Bosch, Panel Chair; Michael J. King, Panel Member; Sara E. Compher-Rice, Panel Member; and William C. Moody, Disciplinary Counsel. Mr. Sams was not present for the hearing. Upon statements of counsel, evidence presented, and upon the entire record in the this cause, the Panel makes the following findings and judgment.

STATEMENT OF THE CASE

The Petition for Discipline was filed in this cause on September 6, 2012. A Response to Petition for Discipline was filed on September 28, 2012. An Order was entered on November 6, 2013 striking the Response to Petition for Discipline as a sanction for Mr. Sams' failure to respond to written discovery and to appear for his deposition. As a result of the Order, the allegations contained within the Petition for Discipline are deemed admitted pursuant to Tennessee Supreme Court Rule 9, Section 8.2.

A Supplemental Petition for Discipline was filed on January 16, 2014. The Petition was sent via certified mail to Mr. Sam's registered address of P.O. Box 1588, Knoxville, Tennessee, 37901 and was returned by the United States Postal Service marked "unclaimed". No answer to the Supplemental Petition for Discipline has been filed with the Executive Secretary of the Board and no answer has been served on Disciplinary Counsel. On April 16, 2014, the Panel entered an Order of Default. As a result of the Order of Default, the allegations contained within the Supplemental Petition for Discipline are deemed admitted pursuant to Tennessee Supreme Court Rule 9, Section 8.2.

On April 29, 2014, the Panel entered an Order deeming admitted the Board's First Requests for Admission.

While Respondent initially participated in these proceedings, Mr. Sams failed to provide responses to discovery, appear at status conferences, and failed to appear at the hearing of this cause.

FINDINGS

AOC Billings

Mr. Sams' answer to the Petition for Discipline was stricken. Mr. Sams has failed to answer the Board's Supplemental Petition for Discipline. Therefore, pursuant to Tenn. Sup. Ct. R. 9, § 8.2 the charges are deemed admitted.

Mr. Sams has accepted appointments to represent indigent defendants for many years. Compensation of appointed attorneys representing indigent defendants is governed by Tenn. Sup. Ct. R. 13. Claims for compensation by attorneys appointed to represent indigent defendants are submitted to the Administrative Office of the Courts, hereinafter referred to as the "AOC." Tenn. Sup. Ct. R. 13, § 6(a)(1) provides that claims of \$200 or more... "shall be reviewed and

approved by the judge who presides over final disposition of the case prior to payment by the AOC.” Tenn. Sup. Ct. R. 13, § 6(a)(6) provides in part as follows: “Counsel will be held to a high degree of care in the keeping of contemporaneous time records supporting all claims and in the application for payment. Counsel is required to maintain records supporting claims for payment.”

Pam Hancock is the Fiscal Director of the AOC. In 2011, Ms. Hancock initiated an audit of attorneys paid more than \$100,000 by the AOC for indigent defense during fiscal years 2009-2010 and 2010-2011. From January 2009 until December 31, 2010, there are approximately 478 days on which Mr. Sams billed more than eight hours to the AOC. For many of those days, Mr. Sams billed ten to eleven hours per day. There are more than a dozen days in which Mr. Sams billed the AOC for twelve or more hours. The AOC paid Mr. Sams a total of \$142,167 from July 1, 2009 to June 30, 2010.

As a result of the audit referred to, Ms. Hancock met with Mr. Sams on June 9, 2011. During his meeting with Ms. Hancock, Mr. Sams admitted to billing for court time when other attorneys filled in on his behalf. This practice is prohibited by Tenn. Sup. Ct. R. 13, § 2(b) which disallows billing for co-counsel. Mr. Sams was asked to bring to the June 9, 2011 meeting all documentation supporting his bills to the AOC. When asked to do so at the June 9, 2011 meeting, Mr. Sams was unable to produce a single letter corresponding to specific billings for preparing letters. When asked to do so, Mr. Sams was unable to produce any notes corresponding to specific billings for meetings with clients and witnesses. Mr. Sams told Mrs. Hancock that it was his practice to bill the AOC if he happened to think about a file while taking a shower.

As a specific example, Sunday, December 6, 2009, Mr. Sams drove from Knoxville, Tennessee to Tunica, Mississippi for the purpose of attending a continuing legal education

seminar. On that day, Mr. Sams billed the AOC for 11.9 hours. On Monday, December 7, 2009, Mr. Sams attended an all day CLE event in Tunica, Mississippi yet billed the AOC for 11.8 hours, including .2 hours of "in court hours". The "in court hours" for which Mr. Sams billed the AOC on December 7, 2009 represent one occasion on which another attorney appeared in court on Mr. Sams' behalf due to his attendance at the CLE event in Tunica, Mississippi.

Mr. Sams significantly inflated the time he worked on indigent fee cases. Mr. Sams billed the AOC when other lawyers appeared for him in court, a practice prohibited by Tenn. Sup. Ct. R. 13. Mr. Sams knowingly submitted claims for compensation to judges and to the AOC that were false, deceptive, unreasonable and in excess of the amount to which he was entitled. Mr. Sams knowingly engaged in conduct involving dishonesty, fraud, deceit, and/or misrepresentation. Mr. Sams engaged in conduct prejudicial to the administration of justice.

Mr. Sams violated the prohibition in RPC 1.5 against unreasonable fees.

Mr. Sams violated the prohibition in RPC 3.3 (a)(1) against making a false statement to a tribunal.

Mr. Sams violated the prohibition in RPC 3.4(c) by disregarding the obligations imposed upon him by Tenn. Sup. Ct. R. 13.

Mr. Sams engaged in conduct involving dishonesty, fraud, deceit and misrepresentation in violation of RPC 8.4 (c) and conduct prejudicial to the administration of justice in violation of RPC 8.4 (d).

Bankruptcy Petition

On April 9, 2009, Mr. Sams filed a Voluntary Petition in the United States Bankruptcy Court for the Eastern District of Tennessee seeking a Chapter 7 bankruptcy. In his petition, Mr. Sams declared under penalty of perjury that his gross income for 2007 was -\$62, 413.00, for

2008 was -\$36,959.00 and for 2009 was \$10,000.00. However, during 2007, Mr. Sams was paid approximately \$141,435.24 by the AOC. During 2008, Mr. Sams was paid approximately \$163,076.88 by the AOC. During January, February and March 2009, prior to filing the petition, Mr. Sams was paid approximately \$38,044.48 by the AOC. Mr. Sams knowingly and significantly understated his gross income in his bankruptcy petition. Subsequently, Mr. Sams filed no amended schedules.

A meeting of creditors was held on May 11, 2009. Mr. Sams testified at that hearing that he had read and reviewed the schedules submitted with his petition and maintained their accuracy. When asked about the income from his law practice at that meeting, Mr. Sams testified under oath that "I do appointed work and I generally get about \$6,000 a month from my law practice." Instead from January 2007 through March 2009, Mr. Sams received an average of approximately \$12,687.28 per month from the AOC. Mr. Sams knowingly and significantly understated his gross income at the meeting of creditors.

Mr. Sams violated the prohibition in RPC 3.3(a)(1) against making a false statement to a tribunal.

Mr. Sams engaged in conduct involving dishonesty, fraud, deceit and misrepresentation in violation of RPC 8.4(c).

Application of the ABA Standards

The Panel concludes that ABA Standards 5.11, 6.11 and 7.1 recommending disbarment apply to the Respondent's conduct. The Panel further finds that Respondent's conduct seriously adversely reflects on his fitness to practice law.

5.11 Failure to Maintain Personal Integrity

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 to conspiracy or solicitation of another to commit any of these offenses; or
- (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.

Mr. Sams' dishonest billing practices were intentional. Those practices involved dishonesty, fraud, deceit and misrepresentation and seriously adversely reflect on his fitness to practice law as set forth in 5.11(b). Mr. Sams also engaged in intentional conduct involving dishonesty by understating his income to the bankruptcy court, also contrary to 5.11(b).

6.11 Violations of Duties Owed to the Legal System

Disbarment is generally appropriate when a lawyer, with the intent to deceive the court, makes a false statement, submits a false document, or improperly withholds material information, and causes serious or potentially serious injury to a party, or causes a significant or potentially significant adverse effect on the legal proceeding.

Mr. Sams knowingly submitted false bills to the various courts in which he appeared for their approval, resulting in a potentially significant adverse effect to the indigent defense fund of the AOC. He knowingly made false statements to the bankruptcy court by understating his gross income with a potentially significant adverse effect on that legal proceeding.

7.11 Violation of Duties Owed as a Professional

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.

Mr. Sams' deceptive billing practices were done knowingly. His deceptive practices were committed with the intent to obtain a personal benefit. They resulted in a potentially serious injury to the indigent defense funds of the AOC.


Aggravating and Mitigating Factors

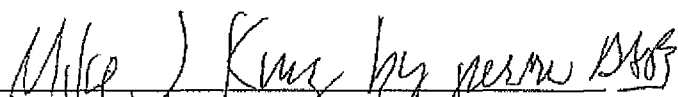
The Panel finds that there are several aggravating factors including a dishonest or selfish motive, a pattern of misconduct, multiple offenses, bad faith obstruction of a disciplinary proceeding by intentionally failing to comply with rules and orders of the disciplinary agency, and substantial experience in the practice of law. The Panel finds that there are no mitigating factors.

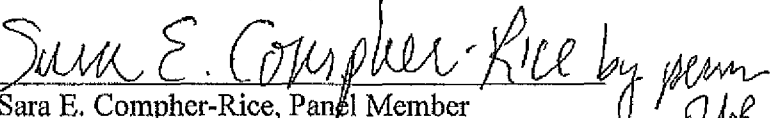
JUDGMENT

Accordingly, it is the decision of the Panel that Respondent should be disbarred.

IT IS SO ORDERED.


Donald A. Bosch, Panel Chair


Michael J. King, Panel Member


Sara E. Compher-Rice, Panel Member

NOTICE: The judgment may be appealed pursuant to Tenn. Sup. Ct. R. 9, § 1.3 by filing a Petition for Writ of Certiorari, which petition shall be made under oath or affirmation and shall state that it is the first application for the Writ. See Tenn. Code Ann. § 27-8-104(a) and 27-8-106.