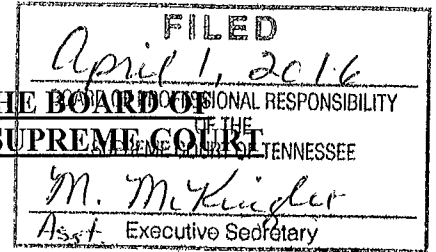


IN THE DISCIPLINARY DISTRICT I OF THE BOARD OF PROFESSIONAL RESPONSIBILITY
PROFESSIONAL RESPONSIBILITY OF THE SUPREME COURT OF THE STATE OF TENNESSEE
OF TENNESSEE



**IN RE: THOMAS ALAN SNAPP (BPR #13962),
 Respondent**

Docket No.: 2015-2437-1-AJ

JUDGMENT OF THE HEARING PANEL

This matter came to be heard on March 24, 2016 before this Hearing Panel of the Board of Professional Responsibility of the Tennessee Supreme Court. Alan D. Johnson represented the Board of Professional Responsibility and the Respondent, Thomas Alan Snapp, proceeded pro se.

PROCEDURAL HISTORY

A Petition for Discipline was filed against the Respondent on April 7, 2015. This Petition related to Board File No.: 37036-1-BG. The Respondent filed an Answer on June 9, 2015. The Respondent's Answer admitted most of the factual allegations in the Petition. The Answer further admitted that the Respondent's acts and omissions set forth in the Petition constituted ethical misconduct in violation of the following rules of Professional Conduct: 1.15, Safekeeping Property and funds; 5.5, Unauthorized Practice of Law; and 8.4, Misconduct.

FINDINGS OF FACTS

Based upon the Admissions in the Respondent's Answer, testimony and exhibits filed during the hearing, the Board makes the following findings of fact:

1. The Respondent was previously licensed to practice law in the State of Tennessee.

2. In August, 2011 the Respondent was administratively suspended from the practice of law for failure to complete CLE and for nonpayment of required registration fees.
3. The Respondent's law license has been continuously suspended from August, 2011 through the date of this hearing.
4. In April, 2012 the Respondent was retained by Scott Mendenhall to handle a personal injury and wrongful death claim on behalf of Mr. Mendenhall arising out of an automobile accident.
5. The Respondent associated attorney Donald Vowell to assist him in Mr. Mendenhall's case.
6. The Respondent did not advise Mr. Mendenhall nor Mr. Vowell that his license to practice law had been suspended.
7. At the time the Respondent was retained by Mr. Mendenhall, and at all times when he handled the Mendenhall case, the Respondent's license to practice law was suspended.
8. The Respondent settled the Mendenhall case with Mendenhall's uninsured motorist carrier for a total of \$150,000.00, which was paid in two \$75,000.00 checks, each dated December 3, 2012.
9. One of the \$75,000.00 checks was deposited into the Respondent's Trust Account and the other \$75,000.00 settlement check was deposited into the Respondent's personal account.
10. Of the \$75,000.00 check deposited into the Respondent's trust account, the Respondent paid to Mr. Vowell the sum of \$25,000.00, representing his portion of the attorney fee, and paid the remaining \$50,000.00 to Mr. Mendenhall.
11. The Respondent used the \$75,000.00 deposited into his personal account to pay his personal bills and expenses.

12. The Respondent was in a dire financial condition at the time said settlement checks were received and deposited by him.
13. In February, 2013 the Respondent informed Mr. Vowell for the first time that his law license had been suspended due to his failure to comply with the CLE requirements.
14. Sometime after May, 2013 Mr. Vowell discovered that Mr. Mendenhall had not received the remaining \$50,000.00 from the settlement proceeds and he confronted the Respondent. The Respondent falsely advised Mr. Vowell that he had escrowed this \$50,000.00 as a "litigation fund".
15. On September 5, 2013 the Respondent borrowed \$50,000.00 from his father. This loan was deposited in the Respondent's Trust Account; and then Respondent paid this sum to Mr. Vowell, who in turn paid this money to Mr. Mendenhall.
16. On March 27, 2014 the Respondent sent a letter to the Board advising the Board of the events which had occurred in connection with this Mendenhall case.
17. The Respondent subsequently paid to Mendenhall the attorney fee the Respondent had charged and received in connection with the personal injury and wrongful death case.
18. The Respondent testified that this Mendenhall case was the only legal matter he handled after his law license was administratively suspended. There was no contrary evidence presented at the hearing.
19. There is no restitution owing to Mr. Mendenhall.

VIOLATIONS OF THE RULES OF PROFESSIONAL CONDUCT

1. The Respondent violated Rules of Professional Conduct (RPC) 1.15. Rule 1.15(b) provides that "funds belonging to clients or third persons shall be deposited in a separate account maintained in an FDIC Member depository institution... and which

participates in the required overdraft notification program as required by Supreme Court Rule 9, Section 29.1.” It is undisputed that the Respondent deposited one \$75,000.00 settlement check (\$50,000.00 of which belonged to Mr. Mendenhall) into his personal account and did not deposit that check into the Respondent’s Trust Account.

2. The Respondent violated RPC 5.5, Unauthorized Practice of Law. Rule 5.5(a) provides that “a lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction”. Rule 5.5(b)(2) also provides that a lawyer who is not admitted to practice in this jurisdiction shall not “hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction”. It is undisputed that at all times in which the Respondent was retained and did handle the Mendenhall case, he was not licensed to practice law in the State of Tennessee. At a minimum, by accepting this case, associating Mr. Vowell and handling the case, the Respondent impliedly represented to Mr. Mendenhall and to Mr. Vowell that he was a licensed attorney. Based upon the Respondent’s conduct, any reasonable person would assume that at such times the Respondent was a licensed attorney.

3. The Respondent violated RPC 8.4, Misconduct. Rule 8.4 in part provides as follows:

It is professional misconduct for a lawyer to:
(c) Engage in conduct involving dishonesty, fraud, deceit or
misrepresentation.

As stated above, the Respondent engaged in misrepresentation by leading Mr. Vowell and Mr. Mendenhall to believe that he was licensed to practice law when in fact he was not. It is undisputed that the Respondent deposited money belonging to Mr. Mendenhall into the

Respondent's personal account and used Mr. Mendenhall's funds to pay the Respondent's personal bills and expenses. This conduct clearly constitutes "dishonesty, fraud, and deceit".

APPROPRIATE DISCIPLINE TO BE IMPOSED

In determining the appropriate discipline to be imposed a Hearing Panel must consider ABA Standards for imposing lawyer sanctions ("ABA Standards"). See Tenn. SUP. CT. R. 9 Section 8.4 and **Hyman v. Board of Professional Responsibility**, 436 S.W.3d 435 (Tenn. 2014). ABA Standard 3.0 provides that in imposing sanctions, the following factors should be considered:

- 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.

The Hearing Panel finds that the Respondent violated a duty to his client and to the Legal System and that the Respondent's conduct was done knowingly. The Respondent's conduct caused or could potentially have caused significant injuries to his client in that he converted his client's money to the Respondent's own use. The existence of aggravating or mitigating factors is discussed below. The Panel finds that the following ABA Standards are relevant to the discipline to be imposed in this case:

4.1 FAILURE TO PRESERVE THE CLIENT'S PROPERTY

Absent aggravating or mitigating circumstances, upon application of the factors set out in 3.0, the following sanctions are generally appropriate in cases involving the failure to preserve client property:

- 4.11 Disbarment is generally appropriate when a lawyer knowingly converts client property and causes injury or potential 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.

4.6 LACK OF CANDOR

Absent aggravating or mitigating circumstances, upon application of the factors set out in Standard 3.0, the following sanctions are generally appropriate in cases where the lawyer engages in fraud, deceit, or misrepresentation directed toward 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.
- 4.62 Suspension is generally appropriate when a lawyer knowingly deceives a client, and causes injury or potential injury to the client.

5.1 FAILURE TO MAINTAIN PERSONAL INTEGRITY

Absent aggravating or mitigating circumstances, upon application of the factors set out in Standard 3.0, the following sanctions are generally appropriate in cases involving commission of a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects, or in cases with conduct involving dishonesty, fraud, deceit, or misrepresentation:

- 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; 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.
- 5.12 Suspension is generally appropriate when a lawyer knowingly engages in criminal conduct which does not contain the elements listed in Standard 5.11 and that seriously adversely reflects on the lawyer's fitness to practice.

7.0 VIOLATIONS OF DUTIES OWED AS A PROFESSIONAL

Absent aggravating or mitigating circumstances, upon application of the factors set out in Standard 3.0, the following sanctions are generally appropriate in cases involving false or misleading communication about the lawyer or the lawyer's services, improper communication of fields of practice, improper solicitation of professional employment from a prospective client, unreasonable or improper fees, unauthorized practices of law, improper withdrawal from representation, or failure to report professional misconduct.

- 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 as a professional and causes injury or potential injury to a client, the public, or the legal system.

The Hearing Panel finds the following aggravated circumstances in this case:

9.22 (c), a Pattern of Misconduct. The Respondent's deception and misrepresentation that he was licensed to practice law continued in the Mendenhall case for a lengthy period of time.

9.22 (i), Substantial Experience in the Practice of Law. The Respondent had been licensed to practice law in the State of Tennessee in excess of 25 years at the time of the acts which were the basis for the Petition for Discipline.

The Hearing Panel finds the following mitigating circumstances:

9.32 (a), Absence of a Prior Disciplinary Record. The Respondent has no prior disciplinary record.

9.32 (c), Personal or Emotional Problems. The Respondent was in dire financial condition at the time of the events in connection with this Disciplinary Complaint. The Respondent had lost a good job and had been unable to obtain steady employment and his father was suffering substantial medical problems.

9.32 (d), Timely Good Faith Effort to Make Restitution or to Rectify Consequences of Misconduct. The Respondent has paid Mr. Mendenhall all amounts to which he was entitled and further reimburse Mr. Mendenhall the entire attorney fee the Respondent received in his case.

9.32 (l), Remorse. The Respondent exhibited sincere remorse for his conduct.

JUDGMENT

Based upon all of the foregoing, the Hearing Panel **DOES HEREBY ORDER** that the Respondent, Thomas Alan Snapp shall be suspended from the practice of law in the State of Tennessee for a period of five (5) years.

DATED: March 31, 2016.



C. DWAIN EVANS, PANEL CHAIR

Steve W. Terry
by  with permission

STEVE W. TERRY, PANEL MEMBER

M. Neil Smith
by  with permission

M. NEIL SMITH, PANEL MEMBER

NOTICE

THIS JUDGMENT MAY BE APPEALED PURSUANT TO SECTION 1.3 OF SUPREME COURT RULE 9 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 TCA §§27-8-104(a) and 27-8-106.

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Judgment of the Hearing Panel has been sent to Respondent, Thomas Alan Snapp, 539 Highway 394, Blountville, TN 3761, by U.S. First Class Mail, and hand-delivered to Alan D. Johnson, Disciplinary Counsel, on this the 5th day of April, 2016.



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.