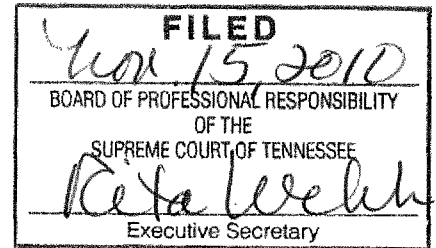


**IN DISCIPLINARY DISTRICT V
OF THE
BOARD OF PROFESSIONAL RESPONSIBILITY
OF THE
SUPREME COURT OF TENNESSEE**



**IN RE: MICHAEL H. SNEED,
BPR # 011141, Respondent
An Attorney Licensed and
Admitted to the Practice of
Law in Tennessee
(Davidson County)**

DOCKET No. 2009-1825-5-RS

JUDGMENT OF THE HEARING PANEL

This matter came to be heard on October 4, 2010, at 9:00 AM, before a duly appointed Hearing Panel of the Board of Professional Responsibility of the Supreme Court of Tennessee. Due to a scheduling conflict which prevented a third member from participating as a member of the Hearing Panel on October 4th, the Hearing Panel consisted of the undersigned and Phillip Robinson, which was duly noted on the record without objection. Respondent, Michael H. Sneed, was duly notified of said hearing but failed to appear or otherwise to present any defense to the charges discussed herein.

Based upon the proof introduced at the hearing and the entire file of this matter, the Hearing Panel makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. This is a disciplinary proceeding against the Respondent, Michael H. Sneed, an attorney licensed to practice law in Tennessee.
2. Disciplinary Counsel, on behalf of the Board, filed a Petition for Discipline against the Respondent on July 22, 2009.

3. On August 24, 2009, Respondent filed an Answer. On October 1, 2009, a Supplemental Petition for Discipline was filed.
4. On November 19, 2009, Respondent filed an Answer to the Supplemental Petition for Discipline.
5. On April 27, 2010, the Board filed a Notice of Partial Voluntary Dismissal of five cases referenced in either the Petition for Discipline or the Supplemental Petition for Discipline (file numbers 31997-5-KS, 32031-1-KS, 32069-5-KS, 32176-5-KS, and 32323-5-KS).
6. On September 1, 2010, the Board filed a Second Supplemental Petition for Discipline.
7. The Respondent failed to respond to the Second Supplemental Petition for Discipline and a Order Granting Default Judgment and Deeming Allegations in the Second Supplemental Petition for Discipline was entered by the Hearing Panel on September 29, 2010.
8. Pursuant to a Notice of Hearing filed on July 29, 2010, this matter was heard before a duly appointed Hearing Panel of the Board of Professional Responsibility on October 4, 2010.

A. Petition for Discipline

File No. 31538-5-KS – Complaint of LaVonda Grimes

9. Pursuant to Rule 9, Rules of the Supreme Court, the Respondent was notified of the complaint on November 3, 2008, and asked to respond within ten (10) days. The Respondent's response was received by the Board. A copy of the complaint, the Board's notice of the complaint and the Respondent's response are attached to the Petition for Discipline as Collective Exhibit M. *See* Petition for Discipline, para. 28; Answer to Petition for Discipline, para. 28.

10. Ms. Grimes retained the Respondent to represent her in a personal injury case in General Sessions Court. The Respondent's Fee Agreement with Ms. Grimes is attached to the Petition for Discipline as Exhibit N. *See* Petition for Discipline, para. 29; Answer to Petition for Discipline, para. 29.

11. The Respondent failed to attach Ms. Grimes' medical bills to the General Sessions Warrant. *See* Petition for Discipline, para. 30; Answer to Petition for Discipline, para. 30.

12. The Respondent non-suited Ms. Grimes' case. *See* Petition for Discipline, para. 31; Answer to Petition for Discipline, para. 31.

13. The Respondent agreed to compensate Ms. Grimes \$18,000. *See* Petition for Discipline, para. 32; Answer to Petition for Discipline, para. 32.

14. When the Respondent failed to pay Ms. Grimes as agreed, Ms. Grimes obtained a Judgment against the Respondent in General Sessions Court in the amount of \$18,000. A copy of this Judgment is attached to the Petition for Discipline as Exhibit O. *See* Petition for Discipline, para. 34; Answer to Petition for Discipline, para. 34.

15. On March 25, 2009, Ms. Grimes obtained a Judgment in the amount of \$7,223 against the Respondent. A copy of this March 27, 2009 Judgment is attached to the Petition for Discipline as Exhibit P. *See* Petition for Discipline, para. 35; Answer to Petition for Discipline, para. 35.

16. The Respondent has failed to pay Ms. Grimes in full. *See* Petition for Discipline, para. 36; Answer to Petition for Discipline, para. 36.

File No. 31013c-5-TH – Complaint of Donald L. Johnson

17. Pursuant to Rule 9, Rules of the Supreme Court, the Respondent was notified of the complaint on April 8, 2008, and asked to respond within ten (10) days. The Respondent's response, dated May 5, 2008, was received by the Board. A copy of the complaint, the Board's notice of the complaint and the Respondent's response are attached to the Petition for Discipline as Collective Exhibit Q. *See* Petition for Discipline, para. 38; Answer to Petition for Discipline, para. 38.

18. The Respondent defended Mr. Johnson in a landlord/tenant case. *See* Petition for Discipline, para. 39; Answer to Petition for Discipline, para. 39.

19. Plaintiff Waynetta Patterson obtained a Judgment against Mr. Johnson in the amount of \$3,850.35. *See* Petition for Discipline, para. 40; Answer to Petition for Discipline, para. 40.

20. Mr. Johnson failed to pay the settlement within thirty (30) days and opposing counsel filed a Motion to Enforce the Settlement / General Sessions Order. *See* Petition for Discipline, para. 42; Answer to Petition for Discipline, para. 42.

21. The Respondent failed to respond to opposing counsel's Motion to Enforce Settlement. *See* Petition for Discipline, para. 43; Answer to Petition for Discipline, para. 43.

22. The Respondent did not appear at the hearing on opposing counsel's Motion to Enforce Settlement. *See* Petition for Discipline, para. 44; Answer to Petition for Discipline, para. 44.

23. On October 1, 2007, the Circuit Court entered an Order requiring Mr. Johnson to pay \$3,850.35. A copy of this Order is attached to the Petition for Discipline as Exhibit R. *See* Petition for Discipline, para. 45; Answer to Petition for Discipline, para. 45.

B. Supplemental Petition for Discipline

File No. 32227-5-KS – Complaint of Fidencio Villareal

24. Pursuant to Rule 9, Rules of the Supreme Court, the Respondent was notified on June 8, 2009, of the complaint filed against him by Fidencio Villareal and asked to respond within ten (10) days. No response was received by the Board. A copy of the complaint and the Board's notice of the complaint are attached to the Supplemental Petition for Discipline as Collective Exhibit A. See Supplemental Petition for Discipline, para. 5; Answer to Supplemental Petition for Discipline, para. 5.

25. Mr. Villareal hired Respondent to represent him in an immigration matter. Mr. Villareal visited Respondent's office a week before his February 10, 2009 court date. See Supplemental Petition for Discipline, para. 6; Answer to Supplemental Petition for Discipline, para. 6.

26. At the February 10, 2009 hearing, Respondent appeared with Mr. Villareal and requested voluntary departure for Mr. Villareal. See Supplemental Petition for Discipline, para. 8; Answer to Supplemental Petition for Discipline, para. 8.

27. Mr. Villareal's possible claim for asylum expired. The Respondent failed to respond to this complaint. See Supplemental Petition for Discipline, para. 13-14; Answer to Supplemental Petition for Discipline, para. 13-14.

File No. 32233-5-KS – Complaint of Blanca Corpeno and Francisca Guzman

28. Pursuant to Rule 9, Rules of the Supreme Court, the Respondent was notified on July 24, 2009, of the Complaints filed against him by Blanca Corpeno and Francisca Guzman and asked to respond within ten (10) days. No response was received by the Board. A copy of the complaints and the Board's notice of the complaint are attached to the Supplemental Petition

for Discipline as Collective Exhibit B. See Supplemental Petition for Discipline, para. 16; Answer to Supplemental Petition for Discipline, para. 16.

29. Respondent was suspended from the practice of law on February 24, 2009, for a period of eighteen (18) months. See Supplemental Petition for Discipline, para. 17.

30. Respondent was hired in December, 2008, by Complainant Corpeno for an immigration case involving her husband. See Supplemental Petition for Discipline, para. 18; Answer to Supplemental Petition for Discipline, para. 18.

31. Respondent charged Ms. Corpeno's husband \$3,500.00, and Ms. Corpeno testified that \$1100.00 was paid to Respondent. See Supplemental Petition for Discipline, para. 19; Answer to Supplemental Petition for Discipline, para. 19.

32. Ms. Corpeno also testified that Respondent never informed Complainants of his suspension and continued to accept money to reopen the asylum case. See Supplemental Petition for Discipline, para. 21.

33. Respondent accepted \$200.00 on April 25, 2009 from Ms. Corpeno's husband. See Supplemental Petition for Discipline, para. 22; Answer to Supplemental Petition for Discipline, para. 22.

34. A true and exact copy of the receipt the Respondent provided Ms. Corpeno's husband after accepting the \$200.00 on April 25, 2009 is attached to the Supplemental Petition for Discipline as Exhibit C. See Supplemental Petition for Discipline, para. 23; Answer to Supplemental Petition for Discipline, para. 23.

35. Ms. Corpeno's further testified that the Respondent informed she and her husband that he filed a petition to reopen the case.

36. Ms. Corpeno testified Respondent never took any action on Ms. Corpeno's husband's case, and that, because of the Respondent's failure, her husband has been deported.

37. Ms. Corpeno also testified that the Respondent failed to communicate with her or her husband. *See* Supplemental Petition for Discipline, para. 27.

File No. 32353-5-KS – Complaint of Edgar Lara

38. Pursuant to Rule 9, Rules of the Supreme Court, the Respondent was notified on July 24, 2009 of the complaint filed against him by Edgar Lara and asked to respond within ten (10) days. The Respondent failed to respond to this July 24, 2009 letter. A copy of the complaint and the Board's notice of the complaint to the Respondent's are attached to the Supplemental Petition for Discipline as Collective Exhibit G. *See* Supplemental Petition for Discipline, para. 53; Answer to Supplemental Petition for Discipline, para. 53.

39. Mr. Lara hired Respondent to represent him in an immigration matter around April of 2008. *See* Supplemental Petition for Discipline, para. 54; Answer to Supplemental Petition for Discipline, para. 54.

40. Mr. Lara paid the Respondent a total of \$2,500. Copies of the receipts for these payments are attached to the Supplemental Petition for Discipline as Exhibit H. *See* Supplemental Petition for Discipline, para. 55; Answer to Supplemental Petition for Discipline, para. 55.

41. At the first court date, which was set up as a conference call, Respondent had the court date reset. *See* Supplemental Petition for Discipline, para. 57; Answer to Supplemental Petition for Discipline, para. 57.

42. Mr. Lara testified that the Respondent rescheduled the second court date for June 10, 2009. *See* Supplemental Petition for Discipline, para. 59.

43. Respondent was suspended from the practice of law on February 24, 2009, for a period of eighteen (18) months. *See* Supplemental Petition for Discipline, para. 60; Answer to Supplemental Petition for Discipline, para. 60.

44. Despite the Respondent's suspension, a week before the June 10, 2009 hearing date, Mr. Lara testified that he confirmed the upcoming hearing date with Respondent's secretary. *See* Supplemental Petition for Discipline, para. 61.

45. Mr. Lara testified that he tried to contact the Respondent prior to the hearing date, but that Respondent failed to return Mr. Lara's calls. *See* Supplemental Petition for Discipline, para. 62.

46. Mr. Lara testified that he did not appear for the court date because he was afraid Respondent would not appear on his behalf, and that he would be deported. *See* Supplemental Petition for Discipline, para. 63.

47. Mr. Lara testified that it was approximately two weeks later when he found out that Respondent had been suspended from the practice of law. *See* Supplemental Petition for Discipline, para. 64.

48. Mr. Lara has hired another attorney to reopen his case, and the Mr. Lara testified that the new attorney had to start completely over. *See* Supplemental Petition for Discipline, para. 65.

49. Mr. Lara testified that the Respondent failed to perform the work he was paid to perform. *See* Supplemental Petition for Discipline, para. 66.

50. Mr. Lara also testified that the Respondent failed to properly withdraw from the case or provide Mr. Lara or the Court with notice of his suspension. *See* Supplemental Petition for Discipline, para. 67.

File No. 32377-5-KS – Complaint of James and LaTonya Blue

51. Pursuant to Rule 9, Rules of the Supreme Court, the Respondent was notified on July 30, 2009 of the complaint filed against him by James and LaTonya Blue and asked to respond within ten (10) days. No response was received by the Board. A copy of the complaint and the Board's notice of the complaint are attached to the Supplemental Petition for Discipline as Collective Exhibit 1. See Supplemental Petition for Discipline, para. 69; Answer to Supplemental Petition for Discipline, para. 69.

52. The Blues hired Respondent to represent them in a civil suit in January, 2008, paying \$500.00 in legal fees. See Supplemental Petition for Discipline, para. 70; Answer to Supplemental Petition for Discipline, para. 70.

53. The suit was concerning a tire company's failure to provide tire rims which The Blues had paid for in advance. See Supplemental Petition for Discipline, para. 71; Answer to Supplemental Petition for Discipline, para. 71.

54. Mr. Blue testified that the Respondent was handling both sides of this case and deliberately failed to file documents with the clerk's office on their behalf as a result of his dual representation. See Supplemental Petition for Discipline, para. 72.

55. Mr. Blue testified that he hired a new attorney during this suit, and when the new attorney went with him to court, Respondent appeared for the defendant as its attorney. See Supplemental Petition for Discipline, para. 74.

56. Mr. Blue testified that the Respondent hindered their available legal remedies by delaying the lawsuit and representing an opposing party. See Supplemental Petition for Discipline, para. 75.

57. Mr. Blue testified that the new attorney obtained a judgment, but was unable to successfully levy against the business for the full amount of the judgment, because the company had gone out of business. *See* Supplemental Petition for Discipline, para. 76.

File No. 32378-5-KS – Complaint of Julia Lee

58. Pursuant to Rule 9, Rules of the Supreme Court, the Respondent was notified on July 30, 2009 of the complaint filed against him by Julia Lee and asked to respond within ten (10) days. No response was received by the Board. A copy of the complaint and the Board's notice of the complaint are attached to the Supplemental Petition for Discipline as Collective Exhibit J. *See* Supplemental Petition for Discipline, para. 78; Answer to Supplemental Petition for Discipline, para. 78.

59. Ms. Lee hired Respondent after she fell and was injured on June 6, 2008. *See* Supplemental Petition for Discipline, para. 79; Answer to Supplemental Petition for Discipline, para. 79.

60. On February 19, 2009, Ms. Lee called Respondent to inform him of her new address. *See* Supplemental Petition for Discipline, para. 80; Answer to Supplemental Petition for Discipline, para. 80.

61. Respondent was suspended from the practice of law on February 24, 2009, for a period of eighteen (18) months. *See* Supplemental Petition for Discipline, para. 82; Answer to Supplemental Petition for Discipline, para. 82.

62. Ms. Lee testified that Respondent never informed her of his suspension as required by Section 18 of Rule 9 of the Rules of the Tennessee Supreme Court. *See* Supplemental Petition for Discipline, para. 83.

63. Ms. Lee testified that she has received no further communication from Respondent and does not know the status of her case. *See* Supplemental Petition for Discipline, para. 86.

64. Ms. Lee testified that in March of 2009 she attempted to contact Respondent. *See* Supplemental Petition for Discipline, para. 87.

65. Respondent's phone had been disconnected. *See* Supplemental Petition for Discipline, para. 88; Answer to Supplemental Petition for Discipline, para. 88.

File No. 32354c-5-KS – Complaint of Fitnat Carter

66. Pursuant to Rule 9, Rules of the Supreme Court, the Respondent was notified on July 24, 2009 of the complaint filed against him by Fitnat Carter and asked to respond within ten (10) days. No response was received by the Board. A copy of the complaint and the Board's notice of the complaint are attached to the Supplemental Petition for Discipline as Collective Exhibit K. *See* Supplemental Petition for Discipline, para. 93; Answer to Supplemental Petition for Discipline, para. 93.

67. A judge in Ms. Carter's divorce ordered Ms. Carter's ex-husband to pay to the circuit court \$167.50 for filing fees the Ms. Carter had previously paid. *See* Supplemental Petition for Discipline, para. 94; Answer to Supplemental Petition for Discipline, para. 94.

68. Although Ms. Carter was told she would receive a refund, Respondent received the refund instead. *See* Supplemental Petition for Discipline, para. 95; Answer to Supplemental Petition for Discipline, para. 95.

69. On December 9, 2008, a check was sent to Respondent in the amount of \$102.50. *See* Supplemental Petition for Discipline, para. 96; Answer to Supplemental Petition for Discipline, para. 96.

70. Respondent was suspended from the practice of law on February 24, 2009, for a period of eighteen (18) months. *See* Supplemental Petition for Discipline, para. 97; Answer to Supplemental Petition for Discipline, para. 97.

71. Respondent never informed Ms. Carter of his suspension as required by section 18 of Rule 9 of the Rules of the Tennessee Supreme Court. *See* Supplemental Petition for Discipline, para. 98; Answer to Supplemental Petition for Discipline, para. 98.

72. On March 16, 2009, a second check was sent to Respondent in the amount of \$65.00. *See* Supplemental Petition for Discipline, para. 99; Answer to Supplemental Petition for Discipline, para. 99.

73. Respondent cashed both checks. *See* Supplemental Petition for Discipline, para. 100; Answer to Supplemental Petition for Discipline, para. 100.

74. Respondent failed to provide the monies to Ms. Carter. *See* Supplemental Petition for Discipline, para. 101; Answer to Supplemental Petition for Discipline, para. 101.

75. Sometime in March, Respondent told Ms. Carter he would have his secretary send Ms. Carter a check. *See* Supplemental Petition for Discipline, para. 102; Answer to Supplemental Petition for Discipline, para. 102.

76. Ms. Carter never received the monies. *See* Supplemental Petition for Discipline, para. 103; Answer to Supplemental Petition for Discipline, para. 103.

77. Respondent has converted the monies to his own use and purpose. *See* Supplemental Petition for Discipline, para. 104; Answer to Supplemental Petition for Discipline, para. 104.

78. Ms. Carter has called Respondent's office several times without success. *See* Supplemental Petition for Discipline, para. 105; Answer to Supplemental Petition for Discipline, para. 105.

C. Second Supplemental Petition for Discipline

File No. 32328-5-KS – Complaint of Rob McKinney, Esq.

79. Pursuant to Rule 9, Rules of the Supreme Court, the Respondent was notified on July 8, 2009, of the complaint filed against him by Rob McKinney, Esq. and asked to respond within ten (10) days. No response was received by the Board. A copy of the complaint and the Board's notice of the complaint are attached to the Second Supplemental Petition for Discipline as Collective Exhibit B. *See* Second Supplemental Petition for Discipline, para. 5.

80. Mr. McKinney filed this complaint on behalf of his current clients Abigail Ramos and Jorge Salomon. *See* Second Supplemental Petition for Discipline, para. 6.

81. On October 7, 2008, Ms. Ramos and Mr. Salomon hired Respondent to represent Mr. Salomon. *See* Second Supplemental Petition for Discipline, para. 7.

82. Mr. Salomon had been charged with vehicular homicide. *See* Second Supplemental Petition for Discipline, para. 8.

83. Ms. Ramos and Mr. Salomon paid the Respondent \$3,500.00 in three (3) payments. *See* Second Supplemental Petition for Discipline, para. 9.

84. A true and exact copy of the receipt provided to Ms. Ramos and Mr. Salomon for one of these payments is attached to the Second Supplemental Petition for Discipline as Exhibit C. *See* Second Supplemental Petition for Discipline, para. 10.

85. Respondent advised the client husband that his charges would be resolved immediately and that the client would be deported right away. *See* Second Supplemental Petition for Discipline, para. 11.

86. Respondent took no action on behalf of Mr. Salomon. Respondent failed to provide any of the services for which he was paid. *See* Second Supplemental Petition for Discipline, para. 12-13.

87. Respondent ceased communicating with Mr. Salomon and Ms. Ramos. *See* Second Supplemental Petition for Discipline, para. 14.

88. Respondent failed to diligently represent Mr. Salomon. *See* Second Supplemental Petition for Discipline, para. 15.

89. Respondent has failed to properly withdraw from representation. *See* Second Supplemental Petition for Discipline, para. 16.

90. Respondent failed to appropriately respond to the requests of the Board in this matter. *See* Second Supplemental Petition for Discipline, para. 17.

File No. 32449-5-KS – Complaint of Elbia Romero

91. Pursuant to Rule 9, Rules of the Supreme Court, the Respondent was notified on August 31, 2009 of the Complaints filed against him by Elbia Romero and asked to respond within ten (10) days. No response was received by the Board. A copy of the complaint and the Board's notice of the complaint are attached hereto as Collective Exhibit D. *See* Second Supplemental Petition for Discipline, para. 19.

92. Mr. Romero hired Respondent to represent him in a divorce matter. *See* Second Supplemental Petition for Discipline, para. 20.

93. Mr. Romero paid Respondent \$600.00 for the representation on April 22, 2009. *See* Second Supplemental Petition for Discipline, para. 21.

94. A true and exact copy of the check Mr. Romero provided to the Respondent is attached to the Second Supplemental Petition for Discipline as Exhibit E. *See* Second Supplemental Petition for Discipline, para. 22.

95. Respondent was suspended from the practice of law on March 6, 2009. *See* Second Supplemental Petition for Discipline, para. 23.

96. Respondent took money from Mr. Romero knowing he could not provide representation. *See* Second Supplemental Petition for Discipline, para. 24.

97. Respondent misappropriated \$600.00 of Mr. Romero's money. *See* Second Supplemental Petition for Discipline, para. 25.

98. Respondent failed to notify Mr. Romero of his suspension. *See* Second Supplemental Petition for Discipline, para. 26.

99. Respondent has failed to communicate with Mr. Romero. *See* Second Supplemental Petition for Discipline, para. 27.

100. Respondent failed to return Mr. Romero's file. *See* Second Supplemental Petition for Discipline, para. 28.

101. Respondent failed to appropriately respond to the requests of the Board in this matter. *See* Second Supplemental Petition for Discipline, para. 29.

File No. 32479-5-KS – Complaint of Mettie Anna Good

102. Pursuant to Rule 9, Rules of the Supreme Court, the Respondent was notified on September 16, 2009 of the complaint filed against him by Mettie Anna Good and asked to respond within ten (10) days. The Respondent failed to respond to this complaint. A copy of the

complaint and the Board's notice of the complaint are attached hereto as Collective Exhibit F.
See Second Supplemental Petition for Discipline, para. 31.

103. Ms. Good hired Respondent in 2001 for a personal injury matter against the U.S. Postal Service. *See* Second Supplemental Petition for Discipline, para. 32.

104. Respondent never filed her claim. *See* Second Supplemental Petition for Discipline, para. 33.

105. The last correspondence Respondent sent on her behalf was in 2006. *See* Second Supplemental Petition for Discipline, para. 34.

106. Respondent failed to diligently represent Ms. Good. *See* Second Supplemental Petition for Discipline, para. 35.

107. Respondent failed to adequately communicate with Ms. Good. *See* Second Supplemental Petition for Discipline, para. 36.

108. Respondent has failed to properly withdraw from representation. *See* Second Supplemental Petition for Discipline, para. 37.

109. Respondent failed to appropriately respond to the requests of the Board in this matter. *See* Second Supplemental Petition for Discipline, para. 38.

CONCLUSIONS OF LAW

1. The Petitions for Discipline charge the Respondent with the violation of Rules of Professional Conduct 1.1, 1.3, 1.4, 1.5, 1.7, 1.8, 1.9, 1.15, 1.16, 3.2, 5.5, 8.1, 8.4 (a), (b), (c) and (d). Based upon the Findings of Fact set forth above, the pleadings in this matter and the proof presented at the hearing, the Hearing Panel concludes that the Respondent has violated each of the Rules of Professional Conduct set forth above.

2. Rule of Professional Conduct 1.1 requires that an attorney “provide competent representation to a client. Rule 1.1 further states that competent representation “requires legal knowledge, skill, thoroughness, and preparation reasonable necessary for the representation.”

3. In the Villareal matter, the Respondent failed to provide competent representation to his client by failing to fully explain to the client the implications of agreeing to a voluntary departure, by failing to fully explain the Complainant’s right to appeal and by failing to investigate an asylum claim.

4. In the Corpeno/Guzman matter, the Respondent failed to provide competent representation by failing to move to reopen the Complaints’ case.

5. In the Lara matter, the Respondent again failed to provide competent representation by failing to pursue the case at all.

6. The Respondent failed to provide competent representation in the Blue matter by failing to competently pursue the matter to judgment prior to the opposing party becoming insolvent.

7. In the Lee matter, the Respondent again failed to provide competent representation by failing to take any action on his client’s behalf.

8. In each of these instances, the Respondent’s actions violated Rule of Professional Conduct 1.1.

9. Rule 1.3 of the Tennessee Rules of Professional Conduct requires that a lawyer “act with reasonable diligence and promptness when representing a client.”

10. The Respondent failed to act diligently in the Grimes case by failing to attach the appropriate documentation to the complaint.

11. In the Johnson matter, the Respondent failed to act diligently by failing to notify his client of the Motion to Enforce Settlement and failing to appear for the hearing on that motion.

12. In the Villareal matter, the Respondent failed to act diligently by failing to fully explain to the client the implications of agreeing to a voluntary departure, by failing to fully explain the Complainant's right to appeal and by failing to investigate an asylum claim.

13. In the Corpeno/Guzman matter, the Respondent failed to act diligently by failing to move to reopen the Complaints' case.

14. In the Lara matter, the Respondent again failed to act diligently by failing to pursue the case at all.

15. The Respondent failed to act diligently in the Blue matter by failing to competently pursue the matter to judgment prior to the opposing party becoming insolvent.

16. In the Lee matter, the Respondent again failed to act diligently by failing to take any action on his client's behalf.

17. Rule 1.4 of the Tennessee Rules of Professional Conduct requires as follows:

(a) A lawyer shall keep a client reasonably informed about the status of a matter and comply with reasonable requests for information within a reasonable time.

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

18. The Respondent's conduct violated Rule 1.4 in his complete failure to adequately communicate with his clients and keep them reasonably informed.

19. As set forth above, the Respondent's deficient counseling and communication with his clients is evident in the Johnson matter, the Villareal matter, the Corpeno/Guzman

matter, the Lara matter, the Lee matter, the Carter matter, the McKinney matter, the Romero matter and the Good matter.

20. The Respondent's conduct also violated Rule 1.5 which provides, in part, that a lawyer's fees and charges should be "reasonable."

21. The Respondent violated Rule 1.5 in the Corpeno/Guzman matter by accepting \$1100.00 and providing little or no representation and accepting a portion of those funds after he was suspended from the practice of law.

22. In the Lara case, the Respondent's fee of \$2500 was unreasonable because he failed to provide the representation he was hired to provide.

23. In the Blue matter, the Respondent took an unreasonable of \$500 fee because he provided no service to the Complainant.

24. In the Romero matter, the Respondent's \$600 fee was unreasonable because it was taken after he was suspended from the practice of law.

25. In the Ramos matter, the Respondent took an unreasonable of \$3500 fee because he provided no service to the Complainant.

26. We find that each of the fees set forth above is unreasonable and that the Respondent should be required to pay restitution to each complainant as a condition to reinstatement to the practice of law.

27. Further, the Respondent violated Rule 1.7(a) which provides that

A lawyer shall not represent a client if the presentation of that client will be directly adverse to another client, unless:

- (1) the lawyer reasonably believes the representation will not adversely affect the relationship with the other client; and
- (2) each client consents in writing after consultation.

28. In the Blue matter, the Respondent engaged in the representation of a business after representing Mr. and Ms. Blue in negotiations with that very business.

29. This representation violated Rule 1.7.

30. Rule 1.8(h) provides as follows:

(h) A lawyer shall not:

(1) enter into an agreement with a prospective, current, or former client to prospectively limit the lawyer's liability to the client for malpractice; or

(2) settle a claim for such liability, unless:

(a) the client is represented in the matter by independent counsel; or

(b) the lawyer fully discloses all the terms of the agreement to the client in a manner that can reasonably be understood by the client, advises the client to seek the advice of independent counsel, and affords the client a reasonable opportunity to do so.

31. The Respondent violated Rule 1.8 in the Grimes matter by entering into an agreement with his client to settle and limit his liability for malpractice.

32. Rule 1.9 prohibits a lawyer from representing a client in a matter when he has previously represented another client whose interests are materially adverse to the first client in the same or a substantially related matter.

33. In the Blue matter, the Respondent represented the opposing party against his former clients, the Blues, in the very same matter in which he represented the Blues, thereby violating Rule 1.9.

34. Rule 1.15 requires that a lawyer "hold property and funds of clients or third parties" separate and distinct from the lawyer's own property or funds. Rule 1.15 further requires that when a lawyer receives funds or other property of a client or third person, the "lawyer shall promptly notify the client or third person."

35. The Respondent violated this rule by misappropriating for his own use a filing fee refund in the Carter matter.

36. The Respondent violated the provisions of Rule 1.16 that provide that proper termination of the representation of a client requires reasonably notice to the client, return of all property, paper, work product, and a prompt refund of all unearned fees.

37. The Respondent violated Rule 1.16 by abandoning the representation in the Lara, Lee, McKinney and Good matters without returning fees, the clients' file and without any notice to his clients or the Court.

38. The Respondent further violated Rule 1.16 in the Carter matter by failing to return all funds owed Ms. Carter at the end of his representation of her.

39. The Respondent has also violated Rule of Professional Conduct 3.2 by failing to expedite the Johnson matter as set forth above.

40. Rule 5.5 provides that a lawyer shall not "practice law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction."

41. Respondent was suspended from the practice of law on February 24, 2009, for a period of eighteen (18) months.

42. Despite this suspension, the Respondent continued to hold himself out as a lawyer with a valid and active law license by accepting advance payment for legal services in the Corpeno/Guzman matter and in the Romero matter.

43. The Respondent failed to respond to many of the complaints set forth above. This failure is a violation of Rule of Professional Conduct 8.1(b) which prohibits a lawyer from failing to "respond to a lawful demand for information from an admissions or disciplinary authority. . ."

44. Finally, the Respondent's actions violated section 8.4(a), (b), (c) and (d). RPC 8.4 provides, in part, that it is professional misconduct of a lawyer to:

- (a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
 - (b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects;
 - (c) engage in conduct involving dishonesty, fraud, deceit, or misrepresentation;
 - (d) engage in conduct that is prejudicial to the administration of justice.
- ...

45. As detailed above, the Respondent's actions have violated a number of Rules of Professional Conduct.

46. Further, the Respondent's actions have been prejudicial to the administration of justice in that he has abandoned his clients and, in each case, denied them information and access to the justice system.

47. The Respondent has also engaged in criminal conduct and conduct involving fraud and deceit by taking fees and failing to perform services and taking fees for services he knew he could not provide in light of his suspension from the practice of law.

48. The acts and omissions by the Respondent constitute ethical misconduct in violation of Rules of Professional Conduct 1.1, 1.3, 1.4, 1.5, 1.7, 1.8, 1.9, 1.15, 1.16, 3.2, 5.5, 8.1, 8.4 (a), (b), (c) and (d).

49. The Supreme Court has adopted for use by its Hearing Panels the ABA Center for Professional Responsibility Standards for Imposing Lawyer Sanctions (ABA Standards).

50. The following ABA Standards are applicable to this matter in light of the Findings of Fact and Conclusions of Law set forth above.

Section 4.11 of the ABA Standards states:

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

Section 4.31 of the ABA Standards states:

Disbarment is generally appropriate when a lawyer, without the informed consent of client(s):

- (a) engages in representation of a client knowing that the lawyer's interests are adverse to the client's with the intent to benefit the lawyer or another, and causes serious or potentially serious injury to the client; or
- (b) simultaneously represents clients that the lawyer knows have adverse interests with the intent to benefit the lawyer or another, and causes serious or potentially serious injury to a client; or
- (c) represents a client in a matter substantially related to a matter in which the interests of a present or former client are materially adverse, and knowingly uses information relating to the representation of a client with the intent to benefit the lawyer or another, and causes serious or potentially serious injury to a client.

Section 4.41 states:

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.

Section 4.51 states:

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.

Section 4.61 states:

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.

Section 5.11 state:

Disbarment is generally appropriate when:

- (a) . . .
- (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.

Section 7.1 of the ABA Standards states:

Disbarment is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed to the profession 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.

Section 8.1 states:

Disbarment is generally appropriate when a lawyer:

- (a) intentionally or knowingly violates the terms of a prior disciplinary order and such violation causes injury or potential injury to a client, the public, the legal system, or the profession; or
- (b) has been suspended for the same or similar misconduct, and intentionally or knowingly engages in further similar acts of misconduct that causes injury or potential injury to a client, the public, the legal system, or the profession.

51. The Respondent's public disciplinary history includes four (4) public censures, a six (6) month suspension from the practice of law, an eighteen (18) month suspension from the practice of law, and, most recently, a disbarment.

52. The Hearing Panel further finds that the Respondent's prior disciplinary history is an aggravating factor in the consideration of the discipline to be imposed in this case.

53. In total, nine (9) aggravating factors apply in this case. Section 9.2 of the ABA Standards sets forth several factors that may act to increase the level of discipline imposed.

54. First, Respondent has substantial experience in the practice of law, having been licensed to practice law since 1985.

55. The Respondent has refused to acknowledge the wrongful nature of his conduct.

56. The Respondent has numerous prior disciplinary offenses. The Respondent's actions constitute a pattern of misconduct.

57. The Respondent's actions constitute multiple offenses.
58. The Respondent's victims, mostly people he purportedly represented, were particularly vulnerable in that they depend on him for legal guidance and advice.
59. The Respondent evidenced a dishonest or selfish motive.
60. The Respondent has shown an indifference to making restitution.
61. The Respondent has also engaged in bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with the rules of the Board by failing to respond to complaints made against him.
62. Accordingly, the Hearing Panel finds that the Respondent should be disbarred from the practice of law.
63. Further, prior to reinstatement to the practice of law, the Respondent must pay restitution to the following complainants in the following amounts: (i) Blanca Corpeno:\$1100; (ii) James & LaTonya Blue: \$500; (iii) Edgar Lara: \$2500; (iv) Fitnat Carter: \$167.50; (v) Abigail Ramos: \$3500; and (vi) Elbia Romero: \$600.

CONCLUSION & JUDGMENT

Based on the foregoing, it is the unanimous judgment of the Hearing Panel that Respondent should be disbarred from the practice of law. The Hearing Panel further finds that Respondent should make restitution to the following persons and in the following amounts: (i) Blanca Corpeno:\$1100; (ii) James & LaTonya Blue: \$500; (iii) Edgar Lara: \$2500; (iv) Fitnat Carter: \$167.50; (v) Abigail Ramos: \$3500; and (vi) Elbia Romero: \$600. Said restitution shall be a condition precedent to reinstatement to the practice of law.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "W. Brantley Phillips, Jr.", written over a horizontal line.

W. Brantley Phillips, Jr., Chairman
Hearing Panel