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IN THE CHANCERY COURT FOR DAVIDSON COUNTY, TENNESSEE
AT NASHVILLE

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2005 APR 12 PM 1:09
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DAVIDSON CO. TENNESSEE
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MICHAEL SNEED,)
Petitioner,)
)
v.)
)
BOARD OF PROFESSIONAL)
RESPONSIBILITY OF THE)
SUPREME COURT OF TENNESSEE,)
Respondent.)

F0-9

No. 04-2839-II

II

JUDGMENT

This cause came on to be heard on the 18th day of April, 2005, before Honorable Jerry Scott, Senior Judge, upon the Petition for Writs of Certiorari and Supersedas filed by the Petitioner, Michael Sneed, the Return To the Writ filed by the Board of Professional Responsibility, the Petition for Discipline filed October 9, 2002, the Supplemental Petition for Discipline filed August 11, 2003, various other pleadings, the transcript of the proceedings before a Hearing Committee of the Board on May 13, 2003, the exhibits thereto, the Judgment of the Hearing Committee filed December 29, 2003, the testimony of three witnesses in open court, the arguments of the pro se Petitioner and the Disciplinary Counsel to the Board, various post-hearing motions and responses thereto filed by the parties, and the entire record in this matter, from all of which it appears to the Court as follows:

The Petitioner is an attorney licensed to practice law in the State of Tennessee. His Board of Professional Responsibility number is 11,141.

The Respondent is the Board of Professional Responsibility created by the Tennessee Supreme Court and vested by our State's highest court with the power to investigate and, in proper cases, to recommend discipline of attorneys licensed to practice law in Tennessee by the Tennessee Supreme Court, which has plenary power over all issues relating to the practice of law. In Re: Burson, 909 S.W.2d 768, 772-73 (Tenn. 1995).

The first Petition for Discipline filed on October 9, 2002, concerns six separate complaints against the Petitioner. The Supplemental Petition for Discipline filed August 11, 2003, added a seventh complaint.

Numerous pleadings were filed by the parties, including a Motion for Default Judgment on the complaint set forth in the Supplemental Petition for Discipline, which was granted by the Hearing Panel. (The Court notes that the three attorney panel conducting the administrative hearing in the matter is sometimes referred to in the record as the "Hearing Panel" and at other times is referred to as the "Hearing Committee." The Rules of the Tennessee Supreme Court name the body conducting the administrative hearing as the "Hearing Panel." The "Hearing Committee" is the body within each disciplinary district appointed by the Supreme Court to oversee disciplinary actions in the district. The Hearing Committees consist of not less than five nor more than thirty members. The

Hearing Panels consist of three members of the Hearing Committees. Rule 9, § 6.1, 6.3, and 6.4, Tennessee Supreme Court Rules.)

Two of the complaints, those filed by Elizabeth Wynn and Sheila Lipscomb Browne, were dismissed by Disciplinary Counsel. Four witnesses were called by the Disciplinary Counsel and the accused attorney presented only his own testimony to refute the allegations against him before the Hearing Panel. Three witnesses were called by the Petitioner to testify before this Court. The Board relied on the transcript and the record before the Hearing Panel.

In the complaint of Karen D. Hodge, File No. 23655-5-CH, Ms. Hodge testified that she employed the Petitioner, Mr. Sneed, to represent her in a workers' compensation case, a civil case for damages and a Social Security disability claim, all of which arose out of an injury Ms. Hodge suffered on June 23, 1998.

Ms. Hodge was a police officer employed by Tennessee State University in Nashville. Stejani Holder hit Ms. Hodge twice with her automobile after Ms. Hodge issued her a parking ticket. Ms. Holder was convicted of aggravated assault of Ms. Hodge.

Mr. Sneed obtained "a quick settlement" of the workers' compensation claim for which he received an attorney's fee in the amount of \$21,587.80.

On June 14, 1999, Mr. Sneed filed a personal injury suit in the Circuit Court of Davidson County, Tennessee, styled Karen Hodge v. Stejani Holder and Walter Elliston, case number 99-C-1616. Mr. Sneed alleged that Ms. Holder intentionally hit Ms. Hodge (a theory clearly supported by the facts since she hit Ms. Hodge with her car twice). This theory opened the way for punitive damages, but also led to Ms. Holder being found to not have insurance coverage by Mr. Elliston's carrier. (Mr. Elliston was the owner of the car.)

Ms. Hodge repeatedly inquired about the status of her tort case, but Mr. Sneed failed to return her calls in a timely manner to keep her informed of the progress -- or lack thereof -- of her cases. Eventually, Ms. Hodge employed Frank Ingraham's firm to conclude the matter and it was settled for \$12,500.00.

Mr. Sneed also represented Ms. Hodge in regard to her claim for Social Security disability benefits. Ms. Hodge had filed her first claim prior to employing Mr. Sneed and it was denied, as was her second application filed with his assistance. Her Social Security claim was finally approved on June 12, 2002. The Hearing Panel found there was insufficient proof that the initial denials of Ms. Hodge's claim were due to anything Mr. Sneed did or did not do.

The Hearing Panel found that although Mr. Sneed was competent to represent Ms. Hodge in the tort action, he violated DR 6-101(A)(2) and (3), which provide as follows:

(A) A lawyer shall not:

- (2) Handle a legal matter without preparation adequate in the circumstances.
- (3) Neglect a legal matter entrusted to the lawyer.¹

The Hearing Panel concluded that Mr. Sneed undertook representation of Ms Hodge without adequate preparation and then neglected Ms. Hodge's tort case.

The Hearing Panel further found that Mr. Sneed violated DR 7-101(A)(2) and (3) which provide as follows:

- (A)(2) A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for communication or information.
- (3) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

The Hearing Panel found that Mr. Sneed failed to keep Ms. Hodge adequately informed about her tort case and failed to adequately explain the issues in the case to her.

The Hearing Panel concluded that a public censure is the proper punishment for Mr. Sneed's neglect of Ms. Hodge's case and his failure to keep her informed of its progress. The Court agrees that a public censure is the appropriate punishment for this attorney's failure to timely respond to his client's repeated inquiries about her pending tort case.

¹ The citations to Disciplinary Rules (DRs) refer to the mandatory provisions of the Code of Professional Responsibility which set forth the ethical standards required of attorneys until midnight on February 28, 2003. On March 1, 2003, the Code of Professional Responsibility was superseded by the Tennessee Rules of Professional Conduct. Since all of the events in these matters occurred prior to March 1, 2003, the authorities cited throughout are the former Disciplinary Rules.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that a public censure of Mr. Sneed shall issue for his neglect and refusal to respond timely to Ms. Hodge's inquiries about her pending case.

In the matter designated File No. 23700-5(N)-CH, the Hearing Panel found that Mr. Sneed created an overdraft of his Trust Account at the Bank of America on February 28, 2001, when a check for \$1,250.00 was presented for payment against an account balance of \$379.85, making his trust account overdrawn in the amount of \$870.15.

The Hearing Panel also noted in its Judgment that Mr. Sneed had on September 25, 2000, previously presented a check drawn against insufficient funds on his Trust Account.

The Hearing Panel found that Mr. Sneed failed to keep the records required for an attorney's trust account and that he failed to "offer any sound explanation regarding his accounting practices."

The Hearing Panel found that his testimony was a mitigating factor in that subsequent to February 2001 Mr. Sneed was suspended for six months and as a condition of his suspension "he received classes regarding proper office management." The Panel went on to find that his "prior suspension and his prior disciplinary record were aggravating factors."

The Hearing Panel noted that Mr. Sneed admitted he mismanaged his Trust Account by failing to "adequately maintain" the account by not balancing the account, which resulted in his writing checks against insufficient funds. Mr. Sneed testified that he paid a client's medical bills from his trust account against a check that was not received until months later. The Hearing Panel found that Mr. Sneed's overdrafts of his Trust Account violated DR 9-102(A) and (B), which are violations of DR 1-102(A)(1) and (5).

DR 9-102(A) and (B) provide as follows:

(A) All funds of clients paid to a lawyer or law firm, including advances for costs and expenses, shall be deposited in one or more identifiable insured depository institutions maintained in the state in which the law office is situated.

For purposes of this rule, "insured depository institution" shall mean an institution maintaining government insured depository accounts on which withdrawals or transfers can be made on demand, subject only to such notice period which the institution is required to observe by law or regulation. No funds belonging to the lawyer or law firm shall be deposited therein except as follows:

- (1) Funds reasonably sufficient to pay service charges may be deposited therein;
- (2) Funds belonging in part to a client and in part presently or potentially to the lawyer or law firm must be deposited therein, but the portion belonging to the lawyer or law firm may be withdrawn when due unless the right of the lawyer or law firm to receive it is disputed by the client, in which event the disputed portion shall not be withdrawn until the dispute is finally resolved.

(B) A lawyer shall:

- (1) Promptly notify a client of the receipt of the client's funds, securities, or other properties.
- (2) Identify and label securities and properties of a client promptly upon receipt and place them in a safe deposit box or other place of safekeeping as soon as practicable.
- (3) Maintain complete records of all funds, securities and other properties of a client coming into the possession of the lawyer and render appropriate accounts to the client regarding them.
- (4) Promptly pay or deliver to the client as requested by a client the funds, securities or other properties in the possession of the lawyer which the client is entitled to receive.

DR 1-102(A)(1) and (5) provide as follows:

(A) A lawyer shall not:

(1) Violate a Disciplinary Rule.

(5) Engage in conduct that is prejudicial to the administration of justice.

The Hearing Panel found that Mr. Sneed's prior disciplinary record and his failure to timely respond to any of the complaints were aggravating factors. Indeed, he did not even respond to the Petition for Discipline until Disciplinary Counsel moved for a Default Judgment.

The Hearing Panel found that Mr. Sneed should be suspended for six (6) months for his failure to properly manage his IOLTA Trust Account.

One of the worst sins an attorney can commit is to overdraw his/her trust account. Over the years many attorneys have been disbarred, suspended and reprimanded for misfeasance and malfeasance in the management of their trust accounts. Many attorneys have simply taken their clients' money from their trust accounts to pay their mortgages and to buy bought boats, cars, houses, stock, and horses. Fortunately, many of them were caught and are no longer with us at the bar.

It was that problem which prompted the Tennessee Supreme Court to require all attorneys to maintain their trust accounts in depository banks which have agreed to report

any overdrafts of an attorney's trust account to the Supreme Court. Rule 9, § 29.1A(1) and B, Tennessee Supreme Court Rules.

The salutary effect of that rule has been dramatic. Nonetheless, a few attorneys still get in a bind by overdrawing their trust accounts. Some are the results of honest mistakes by the attorneys, lack of proper oversight of their staff, theft from the trust accounts by staff members, payments stopped on deposited checks, checks received by the attorneys drawn on not sufficient funds, and occasionally, bank errors.

Mr. Sneed's dereliction was not payment of his mortgage or purchase of a boat with a client's funds, but simply inexplicable neglect of his trust account, which is, as the name implies, a sacred trust. The Court finds that, given Mr. Sneed's prior record of disciplinary action, a six (6) months suspension is warranted and is entirely appropriate.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that the Petitioner, Michael H. Sneed, be suspended from the practice of law for six (6) months, the same being a proper punishment for Mr. Sneed for overdrawing his Trust Account.

File No. 23701-5-CH relates to the complaint of Orlando Gaines. Mr. Gaines was injured during his employment at Knight Masonry Company. Another attorney represented Mr. Gaines on his workers' compensation case and Mr. Gaines testified that it was settled for \$12,000.00. Thereafter, in 1998 he employed Mr. Sneed to represent him in a wrongful termination lawsuit and he paid Mr. Sneed \$250.00 as a retainer.

On December 29, 1998, Mr. Sneed filed the suit in the Chancery Court of Davidson County and it was assigned number 98-3814-III. On January 24, 2000, Honorable Ellen Hobbs Lyle, the Chancellor of Part III of the Chancery Court, sent a notice to Mr. Sneed that a docket call was scheduled for May 5, 2000.

His client, Mr. Gaines, was aware of the docket call and contacted Mr. Sneed to inquire whether he, Mr. Gaines, needed to attend the docket call. Mr. Sneed advised him that he would attend the docket call and there was no need for Mr. Gaines to attend. Mr. Sneed did not attend the docket call and the case was dismissed by Chancellor Lyle by an Order dated May 8, 2000. Mr. Gaines testified that he first learned that his case had been dismissed when he received a cost bill by mail. Mr. Gaines subsequently employed Laura Tek to represent him in the wrongful termination case.

Mr. Gaines also alleged that Mr. Sneed failed to advise him properly of the requirement that he must exhaust his administrative remedies by filing a complaint with the Equal Employment Opportunity Commission before filing the Chancery Court lawsuit. His case was dismissed again after he refiled, apparently because of that failure.

The Hearing Panel found that the evidence regarding Mr. Sneed's failure to advise Mr. Gaines regarding the exhaustion of his administrative remedies was insufficient and the Panel questioned whether such advice was actually germane to Mr. Gaines' legal action. In a footnote in the Judgment the Hearing Panel noted that according to Mr. Sneed's

testimony, the complaint he filed in the Chancery Court on Mr. Gaines' behalf alleged wrongful termination for filing a workers' compensation claim and a claim for failing to accommodate Mr. Gaines' disability. The Hearing Panel noted there was no evidence presented that the common law tort action of wrongful termination for filing a workers' compensation claim required exhaustion of administrative remedies. The Hearing Panel refused to "substitute its judgment for the professional judgment" of Mr. Sneed, Mr. Gaines' prior counsel, and Mr. Gaines' subsequent counsel.

The Hearing Panel did find that Mr. Sneed's actions and statements regarding the failure to attend court were misleading and false, constituted fraudulent conduct and were detrimental to the practice of law.

After finding that Mr. Sneed's failure to attend court was detrimental to the practice of law and constituted fraudulent conduct, the Panel went on to note that while Mr. Gaines was not injured by Mr. Sneed's inaction since he had another attorney subsequently review his case and "there did not appear to be much merit" to Mr. Gaines' case, Mr. Sneed's actions were "misleading and his statements were false." The Panel went on to note that Mr. Sneed informed Mr. Gaines he would attend court, but did not attend, did not notify Mr. Gaines that his case would be dismissed if he did not attend and did not advise Mr. Gaines as to how he intended to proceed in restoring Mr. Gaines' case to the active docket.

The Hearing Panel found that Mr. Sneed's willingness to take the more difficult part of Mr. Gaines' action after his former counsel refused to do so, his willingness to assist Mr. Gaines in seeking vocational rehabilitation and in being compensated as a result of his inability to work, and that Mr. Gaines having subsequently retained another attorney to represent him in his case against his employer were mitigating factors.

The Hearing Panel found that Mr. Sneed's actions and inactions constituted violations of DR 1-102(A)(4), (5), and (6), DR 2-110(A)(1), (2), and (3), DR 6-101(A)(1), (2), and (3), DR 7-101(A)(1), (2), (3), and (4), DR 7-102(A)(3) and DR 9-102(B)(4).

First, DR 1-102(A)(4), (5), and (6) provide:

(A) A lawyer shall not:

- (4) Engage in conduct involving dishonesty, fraud, deceit, or misrepresentation.
- (5) Engage in conduct that is prejudicial to the administration of justice.
- (6) Engage in any other conduct that adversely reflects on his fitness to practice law.

Second, DR 2-110(A)(1), (2), and (3) provide:

(A) In General:

- (1) If permission for withdrawal from employment is required by the rules of a tribunal, a lawyer shall not withdraw from employment in a proceeding before that tribunal without its permission.
- (2) In any event, a lawyer shall not withdraw from employment until the lawyer has taken reasonable steps to avoid foreseeable prejudice to the rights of the client, including giving due notice to the client, allowing time for employment of other counsel, delivering to the client all papers and property to which the client is entitled, and complying with applicable laws and rules.
- (3) A lawyer who withdraws from employment shall refund promptly any part of a fee paid in advance that has not been earned.

Third, DR 6-101(A)(1), (2), and (3) provide:

(A) A lawyer shall not:

- (1) Handle a legal matter which the lawyer knows or should know that the lawyer is not competent to handle, without associating with a lawyer who is competent to handle it.
- (2) Handle a legal matter without preparation adequate in the circumstances.
- (3) Neglect a legal matter entrusted to the lawyer.

Fourth, DR 7-101(A)(1), (2), (3), and (4) provide:

A)(1) A lawyer shall act with reasonable diligence and promptness in representing a client.

(2) A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for communication or information.

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

(4) A lawyer shall not intentionally:

(a) Fail to seek the lawful objectives of the client through reasonably available means permitted by law and the Disciplinary Rules, except as provided by DR 7-101(B). A lawyer does not violate this Disciplinary Rule, however, by acceding to reasonable requests of opposing counsel which do not prejudice the rights of the client, by being punctual in fulfilling all professional commitments, by avoiding offensive tactics, or by treating with courtesy and consideration all persons involved in the legal process.

(b) Fail to carry out a contract of employment entered into with a client for professional services, but a lawyer may withdraw as permitted under DR 2-110, DR 5-102, and DR 5-105.

(c) Prejudice or damage the client during the course of the professional relationship, except as required under DR 7-102(B).

Next, DR 7-102(A)(3) provides:

(A) In the representation of a client, a lawyer shall not:

- (3) Conceal or knowingly fail to disclose that which the lawyer is required by law to reveal.

Finally, DR 9-102(B)(4) provides:

(B) A lawyer shall:

(4) Promptly pay or deliver to the client as requested by a client the funds, securities or other properties in the possession of the lawyer which the client is entitled to receive.

The Hearing Panel found that Mr. Sneed's actions and inaction regarding Mr. Gaines' matter merit a six months suspension from the practice of law.

After a careful review of the entire record in this matter as it relates to Mr. Gaines' complaint, it appears to the Court that the Hearing Panel's finding is fully supported by the facts. Missing a docket call is not an unusual occurrence in the practice of law. Hardly any busy attorney with an active practice can claim to having never missed a docket call. Prudent attorneys get another attorney to "cover" for them at docket calls when they are unable to attend. However, if a docket call is missed and a case is dismissed, the appropriate action is to rectify the situation as soon as the attorney is aware of the dismissal. Rectification can include seeking to have the dismissal set aside, refiling the lawsuit immediately, or other similar actions. Regardless of the action taken, the client is entitled to immediate and truthful notice of what occurred and an accurate account of why it occurred.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that Michael Sneed be and he hereby is suspended for a period of six months, the same being entirely proper discipline for the missed docket call and resulting dismissal, the lack of a

candid explanation of why it was missed and the case dismissed, and the lack of any attempt to take remedial action to right the wrong to Mr. Gaines.

In the complaint of Denetta Taylor, File No. 23766-5-CH, Ms. Taylor testified that she had surgery at Nashville General Hospital on October 8, 1998, when the nerves on one side of her face were destroyed. On March 31, 1999, she consulted Mr. Sneed about a medical malpractice suit against the surgeon and the Metropolitan Government of Nashville and Davidson County. The suit was filed by Mr. Sneed on October 8, 1999, in the Circuit Court of Davidson County and was assigned the case number 99-C-2852. Named as Defendants were Dr. Jung (with no first or middle name stated) and Metro.

Her case against Metro was dismissed with prejudice due to deficiencies in the pleadings. Mr. Sneed filed an Amended Complaint adding Dr. Williams (with no first or middle name stated) and Meharry Medical College as Defendants. The cases against both Dr. Williams and Meharry were dismissed with prejudice because the attempted joinder was not filed within 120 days of the filing of the suit as required by Tenn. R. Civ. P. 15.03.

Mr. Sneed sent Ms. Taylor a letter dated January 24, 2001, advising her of the dismissal of her suit against Dr. Williams and Meharry and that she had until February 3, 2001, to perfect an appeal. He advised her that she would have to get another attorney to represent her in the matter as his license was in suspended status at that time. The letter from Mr. Sneed to Ms. Taylor was postmarked February 8, 2001, five days after the time to appeal had expired, and was received by Ms. Taylor on February 9, 2001.

The Hearing Panel found (1) that Mr. Sneed did not have either the competency or experience to pursue a medical malpractice case for Ms. Taylor, (2) that he did not advise her of his lack of competency or experience, (3) that his failure to investigate, prepare and act on her case resulted in the loss of her right to pursue her lawsuit and (4) that he failed to inform Ms. Taylor of the February 3, 1999 (sic) (actually 2001) dismissal of her suit with prejudice or the effect of the dismissal.

The Hearing Panel found that in respect to Ms. Taylor's complaint, Mr. Sneed violated DR 1-102(A)(1), (4), (5) and (6) which provide:

(A) A lawyer shall not:

- (1) Violate a Disciplinary Rule.
- (4) Engage in conduct involving dishonesty, fraud, deceit, or misrepresentation.
- (5) Engage in conduct that is prejudicial to the administration of justice.
- (6) Engage in any other conduct that adversely reflects on his fitness to practice law.

DR 2-110(A)(1) and (2) which provide:

(A) In General

- (1) If permission for withdrawal from employment is required by the rules of a tribunal, a lawyer shall not withdraw from employment in a proceeding before that tribunal without its permission.
- (2) In any event, a lawyer shall not withdraw from employment until the lawyer has taken reasonable steps to avoid foreseeable prejudice to the rights of the client, including giving due notice to the client, allowing time for employment of other counsel, delivering to the client all papers and property to which the client is entitled, and complying with applicable laws and rules.

DR 6-101(A)(1), (2) and (3) which provide:

(A) A lawyer shall not:

- (1) Handle a legal matter which the lawyer knows or should know that the lawyer is not competent to handle, without associating with a lawyer who is competent to handle it.
- (2) Handle a legal matter without preparation adequate in the circumstances.
- (3) Neglect a legal matter entrusted to the lawyer.

DR 7-101(A)(1), (2), (3) and (4) which provide:

- (A)(1) a lawyer shall act with reasonable diligence and promptness in representing a client.
- (2) A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for communication or information.
- (3) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.
- (4) A lawyer shall not intentionally:
 - (a) Fail to seek the lawful objectives of the client through reasonably available means permitted by law and the Disciplinary Rules, except as provided by DR 7-101(B). A lawyer does not violate this Disciplinary Rule, however, by acceding to reasonable requests of opposing counsel which do not prejudice the rights of the client, by being punctual in fulfilling all professional commitments, by avoiding offensive tactics, or by treating with courtesy and consideration all persons involved in the legal process.
 - (b) Fail to carry out a contract of employment entered into with a client for professional services, but a lawyer may withdraw as permitted under DR 2-110, DR 5-102, and DR 5-105.
 - (c) Prejudice or damage the client during the course of the professional relationship, except as required under DR 7-102(B)

DR 7-102(A)(3) which provides:

- (A) In the representation of a client, a lawyer shall not:
 - (3) Conceal or knowingly fail to disclose that which the lawyer is required by law to reveal.

The Hearing Panel found that Mr. Sneed should be suspended for six months due to his actions in Ms. Taylor's case.

It is crystal clear that Mr. Sneed, by his actions – again actually by his inaction, deprived Ms. Taylor of the right to pursue her medical malpractice case and did not give her any notice of the dismissal of her case until it was already too late for any other counsel to take over the matter and attempt to remediate the damage he did to Ms. Taylor. The Court is amazed and disappointed that any attorney would attempt to sue two doctors with only their surnames listed in the complaint, making it impossible for the Circuit Court Clerk to issue a proper subpoena and impossible for a process server to serve the proposed defendants.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that in regard to File No. 23766-5-CH, Mr. Sneed is suspended from the practice of law for an additional six months for his numerous gross derelictions in Ms. Taylor's medical malpractice case.

In regard to File No. 24824-5-CH, William H. Phillips employed Mr. Sneed on February 18, 2000, to represent him in a case where he was claiming he was racially discriminated against by his employer, Pulaski Rubber Company, where he had worked for 25 years. He paid Mr. Sneed \$250.00 for filing fees and costs and Mr. Sneed filed the lawsuit that same day in the United States District Court for the Middle District of Tennessee.

On May 2, 2000, the court administratively closed the case for the parties to seek alternative dispute resolution. Since that time, no alternative dispute resolution has ever been sought and the case is still pending.

Mr. Phillips alleged that he had attempted numerous times to contact Mr. Sneed, but Mr. Sneed did not return his calls or contact him. The Hearing Panel found that "there were issues of credibility with Mr. Phillips as to whether (Mr. Sneed) failed to keep him informed." The Panel also found that Mr. Sneed had failed to rebut the allegation that he did not keep Mr. Phillips informed about his case, even though Mr. Sneed testified before the Hearing Panel that he talked to Mr. Phillips about his case by phone about 50 times over that period. So, as to this allegation the Panel found that Disciplinary Counsel had not carried his burden of proof that Mr. Sneed had failed to keep Mr. Phillips informed about his case.

As to the other aspects of Mr. Phillips' complaint, the Hearing Panel found that Mr. Sneed violated DR 6-101(A)(2) by failing to prepare for trial or arbitration (actually for any type of alternative dispute resolution) over a long period of time, violated DR 1-102(A)(5) and (6) by grossly neglecting to proceed to enforce Mr. Phillips' legal rights, violated DR 6-101(A)(3) by gross neglect of a legal matter and violated DR 7-101(A)(1) by failing to act with reasonable diligence or promptness in the matter.

First, DR 6-101(A)(2) provides:

- (A) A lawyer shall not:
 - (2) Handle a legal matter without preparation adequate in the circumstances.

Next, DR 1-102(A)(5) and (6) provide:

- (A) A lawyer shall not:

(5) Engage in conduct that is prejudicial to the administration of justice.

(6) Engage in any other conduct that adversely reflects on his fitness to practice law.

Next, DR 6-101(A)(3) provides:

(A) A lawyer shall not:

(3) Neglect a legal matter entrusted to the lawyer.

Finally, DR 7-101(A)(1) provides:

(A)(1) A lawyer shall act with reasonable diligence and promptness in representing a client.

It is clear that Mr. Sneed failed to prepare and arrange for alternative dispute resolution for three years and seven months by the time of the Hearing Panel's decision, and the case was still pending even at the time of the hearing in this Court. While Mr. Phillips would undoubtedly be reluctant at this juncture to allow Mr. Sneed to proceed with the matter, it remains a mystery why Mr. Sneed did not attempt to get Mr. Phillips other counsel to proceed with his case.

The Hearing Panel found that Mr. Sneed should be "publicly censured for his actions" (actually for his inaction) in Mr. Phillips' case. The evidence clearly supports the Hearing Panel's decision.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that a public censure of Mr. Sneed shall issue for his lengthy neglect of Mr. Phillips' racial discrimination case.

At the hearing before this Court, Mr. Sneed submitted the testimony of three witnesses who testified as to the excellent results Mr. Sneed obtained for them.

Misahaia Larkin of LaVergne, Tennessee, testified regarding the fine work Mr. Sneed did for her husband, Pierce Larkin, who was on duty in Iraq at the time of the hearing. Mr. Larkin was employed as an officer of the Metropolitan Nashville Police Department. He was charged with hitting an arrestee. Mr. Sneed took the case to trial before a jury and her husband was acquitted. His military career was saved and she was extremely grateful to Mr. Sneed for his good work for her husband.

Vincent R. Gaddes of Nashville was an employee of the Metro Public Works Department. He was terminated from his employment for engaging in an altercation with a supervisor on the job. A no true bill was returned by the Davidson County Grand Jury on the criminal charge. Mr. Sneed then represented him at the administrative hearing and got Mr. Gaddes restored to his position. Obviously, Mr. Gaddes was very pleased with Mr. Sneed's representation.

Finally, Christina Gonzales from Colombia testified about the assistance Mr. Sneed has provided to Hispanics, helping them with various problems, including getting food, medical care and drivers' licenses. He has also helped them with immigration problems. She works at an office on Gallatin Pike in Madison where Hispanics go for assistance. She refers cases to Mr. Sneed to get them good representation. She specifically

remembered the cases of Jose Diaz and Rick Annola who had on the job injuries.

Previously, other well known attorneys had failed to help them, but Mr. Sneed got results for them where the other attorneys had failed.

Certainly, the good work that Mr. Sneed did for other clients deserves praise and is proper mitigating evidence. The charges in these complaints relate only to how Mr. Sneed handled or, more properly, mishandled these clients' affairs and his trust account. The failures under consideration here deserve discipline. His prior disciplinary record of neglect of his clients' affairs is a proper aggravating factor.

In Sneed v. Board of Professional Responsibility, 37 S.W.3d 886 (Tenn. 2000), our Supreme Court heard Mr. Sneed's appeal from this Chancery Court, Honorable Tom E. Gray, Chancellor by Interchange, presiding. In that case the Board recommended, Chancellor Gray ordered, and the Supreme Court affirmed the suspension of Mr. Sneed's law license for six months for the neglect of two separate matters.

In the Jonathan Hyler case, he failed to file an application for permission to appeal to the Supreme Court from the affirmance of Mr. Hyler's conviction of rape by the Court of Criminal Appeals. To make matters worse, on one occasion he told Mr. Hyler that the application had been filed, but had not been acted upon by the Supreme Court. Later he told Mr. Hyler that it had been denied. Two witnesses corroborated Mr. Hyler's testimony and Mr. Sneed admitted that he had not filed the application and "that there was no good reason" for his having failed to do so. Sneed, 375 S.W. 3d at 887-88. He

then "simply ignored deadlines" and was untimely in responding to correspondence from disciplinary counsel and even late to attending the hearing, all "without explanation."

Sneed, 378 S.W.3d at 888.

In the R. Scott Constantino complaint filed on behalf of Arthur Bailey, David Henson and James White, Mr. Sneed was alleged to have neglected their matter and failed to comply with local rules and orders of a federal district judge in Florida. In that case, Mr. Sneed needed local counsel licensed in Florida to handle the matter. The Supreme Court noted that it was unclear from the testimony of Mr. Bailey, Mr. White or Mr. Sneed as to whether local counsel was ever employed. However, the Court noted that "[t]here was no evidence that (Mr. Sneed) made any effort to obtain local counsel in Florida." Sneed, 375 S.W.3d at 888. Even though three orders to show cause were issued against Mr. Sneed by the magistrate judge and one was issued by the federal judge, it appears that Mr. Sneed never complied with most of those orders. Finally, the federal judge scheduled a pretrial conference for February 28, 1996, which he rescheduled for February 29, 1996, at Mr. Sneed's request, but then Mr. Sneed "failed to appear" for the pretrial conference. An order dismissing the case with prejudice resulted and Mr. Sneed attempted to appeal the dismissal to the United States Court of Appeals for the Eleventh Circuit. However, the court dismissed the appeal as it was not timely filed. Sneed, 37 S.W.3d at 888-89.

From the foregoing synopsis of our Supreme Court's findings regarding Mr. Sneed's prior complaints, it is clear that nothing has changed. Mr. Sneed still takes cases and proceeds to neglect them.


From all of the above it appears that the Petitioner, Michael Sneed, shall be publicly censured in the Karen Denise Hodge case (File No. 23655-5-CH) and in the William A. Phillips case (File No. 24824-5-CH), and that he is suspended for a period of six months in the Orlando Gaines case (File No. 23701-5-CH), for a period of six months in the IOLTA Trust Account case (File No. 23700-5(N)-CH), and for six months in the Denetta Taylor case (File No. 23766-5-CH).

In view of the Petitioner's prior six months suspension by the Supreme Court as hereinabove described directly from the Supreme Court's opinion and in accordance with the Hearing Panel's Judgment, the Court finds that the three suspensions shall be served consecutively.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that the three six months suspensions of the Petitioner, Michael H. Sneed, shall run consecutively for an effective suspension of eighteen (18) months effective on the date the Supreme Court of Tennessee enters an order of enforcement of the suspension pursuant to Rule 9, § 8.4, Tennessee Supreme Court Rules. In accordance with Rule 9, § 19.1, Tennessee Supreme Court Rules, after the suspension is ordered by the Supreme Court, Mr. Sneed may not resume the practice of law until he is reinstated by an order of the Tennessee


Supreme Court. The costs of this cause are adjudged against the Petitioner, Michael H. Sneed, for which execution may issue, if necessary.

Enter this 10th day of April, 2006.


Honorable J. L. Scott, Senior Judge,
While Holding the Chancery Court
of Davidson County, Tennessee, by
Designation

CERTIFICATE OF SERVICE

I hereby certify that I have served true and exact copies of the foregoing Order upon Michael H. Sneed, 3866 Dickerson Pike, Nashville, TN 37207-1300, by certified mail, and upon Charles A. High, Jr., Disciplinary Counsel, Board of Professional Responsibility, 1101 Kermit Dr., Ste. 730, Nashville, TN 37217, by regular mail, by placing the same in the United States Postal Service, with sufficient postage thereon to take them to their destinations this the 10th day of April, 2006.


Catherine H. Hickerson

RULE 58 CERTIFICATION

A Copy of this order has been served by U. S. Mail upon all parties or their counsel named above.

T. L.
Deputy Clerk and Master
Chancery Court

4-12-06
Date