

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

IN RE: KATHY STILLMAN
No.20298, an Attorney
Licensed to Practice Law
in Tennessee
(Knox County)

DOCKET NO. 2009-1836-2-RS

JUDGMENT OF THE HEARING PANEL

This matter came to be heard before the undersigned hearing panel on March 10, 2010, upon the Petition for Discipline filed by the Board, the Supplemental Petition filed by the Board of Professional Responsibility, the Default Judgment entered by the Hearing Panel due to the Respondent's repeated failure to respond to the Petition and Supplemental Petition, the exhibits introduced into evidence, the statements and testimony of the Respondent, the statements and arguments of Disciplinary Counsel and the Respondent, and the entire record in the cause. After carefully considering the entire record in this cause, and the applicable law, the Hearing Panel issues this Judgment.

PROCEDURAL HISTORY OF THE CASE

The Petition for Discipline was filed in this cause on August 19, 2009 and a Supplemental Petition for Discipline was filed on October 6, 2009, and sent to the Respondent by certified mail to the address registered with the Board. Those mailings were returned "unclaimed" on September 11, 2009 and October 16, 2009, respectively. Section 8.2 of Rule 9 provides that Respondent shall serve his answer upon Disciplinary Counsel and file the original with the Board within twenty days after service of the Petition, unless such time is extended by the Chair. In the event the Respondent fails to answer, the charges shall be deemed admitted; provided, however, that a Respondent who fails to answer within the time provided may obtain permission of the Chair (of the Board) to file an answer if such failure to file an answer was attributable to mistake, inadvertence, surprise or excusable neglect. No answer or response to the Petition for Discipline was filed with the Executive Secretary of the Board of Professional Responsibility and no answer or response was served on Disciplinary Counsel within the time permitted by Section 8.2 of Rule 9. The time for filing the answer or response was not extended by the Chair of the Board of Professional Responsibility, nor was a request or motion for an extension of time made or filed by Respondent to answer or respond to the Petition for Discipline. On December 7, 2009, the Hearing Panel granted the Board's Motion for Default Judgment. Therefore, the findings of fact and conclusions of law set forth herein are taken from the Petition for Discipline and the Supplemental Petition for Discipline. For the sake of completeness of this Judgment, they are set forth below.

FINDINGS OF FACT AND CONCLUSIONS OF LAW
ON THE PETITION FOR DISCIPLINE

1. The Respondent, Kathy B. Stillman, is an attorney admitted by the Supreme Court of Tennessee to practice law in the State of Tennessee. The Respondent's most recent office address, as registered with the Board of Professional Responsibility, is P.O. Box 52730, Knoxville, TN 37950-2730, being in Disciplinary District II. Respondent's Board of Professional Responsibility number is 20298.

2. Pursuant to Section 1 of Rule 9, attorneys admitted to practice law in Tennessee are subject to the disciplinary jurisdiction of the Supreme Court, the Board of Professional Responsibility, the Hearing Committee, hereinafter established, and the Circuit and Chancery Courts.

3. Pursuant to Section 3 of Rule 9, the license to practice law in this state is a privilege and it is the duty of every recipient of that privilege to conduct himself or herself at all times in conformity with the standards imposed upon members of the bar as conditions for the privilege to practice law. Acts or omissions by an attorney which violate the Rules of Professional Conduct of the State of Tennessee shall constitute misconduct and be grounds for discipline.

4. The Respondent has failed to conduct herself in conformity with said standards and is guilty of acts and omissions in violation of the authority cited. The Board authorized the filing of formal charges on June 12, 2009.

File No. 31276c-2-JV – Complaint of Michael Fitzgerald

5. Pursuant to Rule 9, Rules of the Supreme Court, the Respondent was notified of the complaint on May 8, 2008, and asked to respond within ten (10) days. The Respondent's response was received by the Board on August 5, 2008. A copy of the complaint, the Board's notice of the complaint and the Respondent's response were introduced into evidence at the hearing.

6. On February 14, 2008, Complainant retained Respondent in a wrongful termination action and an investigation into the mistreatment of lions and tigers in a non-profit organization called Tiger Haven.

7. On the same day, Complainant paid Respondent a non-refundable \$5,000.00 retainer fee.

8. Over the next eight (8) weeks, Respondent missed two (2) scheduled telephone conferences with Complainant and failed to respond to telephone messages and an e-mail message from Complainant regarding a status of the case.

9. On or about March 31, 2008, Complainant called Respondent, upset over Respondent's second straight missed telephone conference, and requested Complainant's file along with a refund of any unused retainer fees.

10. Respondent did not communicate with Complainant at that time.
11. On April 7, 2008, Complainant mailed a certified letter to Respondent requesting Complainant's file along with a partial refund of \$4,600.00.
12. Respondent contacted Complainant on April 10, 2008, and stated that she would send Complainant's file to him along with the results of Respondent's research thus far.
13. Complainant did not receive anything from Respondent until on or about May 10, 2008. On that date, Complainant received his original documents back from Respondent, but did not receive any partial refund or billing statement.
14. Respondent has admitted to missing both scheduled telephone conferences.
15. Respondent has failed to provide a billing summary/statement regarding Complainant's case and has not responded to additional requests for information by disciplinary counsel.
16. Respondent has also failed to provide a refund to the Complainant.
17. The acts and omissions of the Respondent set forth in paragraphs 5 through 16 constitute ethical misconduct in violation of the Tennessee Rules of Professional Conduct 1.4 (Communication), 1.5 (Fees), 8.1(b) (Bar Admission and Disciplinary Matters), and 8.4 (Misconduct).

File No. 31413c-2-JV – Complaint of Beth LaSuer.

18. Pursuant to Rule 9, Rules of the Supreme Court, the Respondent was notified of the complaint on March 5, 2008, and asked to respond within ten (10) days. The Respondent's response dated March 18, 2008, was received by the Board. A copy of the complaint, the Board's notice of the complaint and the Respondent's response were introduced into evidence at the hearing.
19. In August, 2007, Complainant retained Respondent to represent her in the enforcement of a Marital Dissolution Agreement related to the receipt of child support and alimony from Complainant's ex-husband.
20. Complainant paid Respondent a \$500.00 retainer fee.
21. During the course of the Respondent's representation of the Complainant, she failed to adequately communicate with and keep the Complainant apprised of the developments in her case.
22. The Respondent failed to diligently pursue the Complainant's child support claim against the ex-husband.
23. The Respondent failed to notify the Complainant that she was holding funds for her and failed to provide those funds to her in a reasonable time.

24. On March 3, 2008, Complainant brought her issues to the Board of Professional Responsibility's Consumer Assistance Program (CAP).

25. On April 2, 2008, CAP's disciplinary counsel negotiated a settlement between Complainant and Respondent whereby Respondent would refund \$180.00 to Complainant.

26. On April 30, 2008, Respondent contacted disciplinary counsel to advise that Respondent had mailed out a check for \$180.00 to Complainant on that day.

27. Respondent had not refunded the \$180.00 to Complainant by August, 2008, and a formal investigations file was opened against Respondent.

28. On September 15, 2008, Respondent filed a response to the complaint against her and alleged that a check had been mailed to Complainant and that the letter had not been returned, but that the check never cleared Respondent's account.

29. Respondent also stated that she was willing to tender to Complainant whatever disciplinary counsel thought was fair and in whatever form and by whatever means deemed necessary.

30. Several attempts were made to contact Respondent about a resolution of Complainant's matter, however Respondent has failed to respond to further correspondence from disciplinary counsel.

31. The acts and omissions of the Respondent set forth in paragraphs 18 through 30 constitute ethical misconduct in violation of the Tennessee Rules of Professional Conduct 1.3 (Diligence), 1.4 (Communication), 1.5 (Fees), 8.1 (Bar Admission and Disciplinary Matters), and 8.4 (Misconduct).

File No. 31497c-2-JV – Complaint of Angela Goodman

32. Pursuant to Rule 9, Rules of the Supreme Court, the Respondent was notified of the complaint on August 14, 2008 and asked to respond within ten (10) days. The Respondent's response dated October 15, 2008, was received by the Board. A copy of the complaint, the Board's notice of the complaint and the Respondent's response were introduced into evidence at the hearing.

33. In 2006, Complainant retained Respondent to represent her in a conservatorship matter involving Complainant's brother, who had been severely brain damaged due to an automobile accident.

34. Complainant's father had initially been appointed conservator over Complainant's brother, but Complainant's father and his wife misappropriated tens of thousands of dollars from the conservatorship without court authority.

35. Respondent substituted Complainant as conservator in the case, and Complainant's father was ordered to account for the misappropriated funds within thirty (30) days or face the possibility of incarceration.

36. Respondent opened a probate estate for Complainant's father in an attempt to recover misappropriated funds and failed to serve the executor of the estate.

37. Respondent failed to file a claim against the estate for the misappropriated funds within the filing deadline.

38. Respondent further stated that Complainant was unable to provide additional funds and Respondent ended her representation.

39. However, Respondent failed to withdraw from representation of Complainant in the conservatorship.

40. Disciplinary counsel spoke with the guardian ad litem in the conservatorship matter who stated that Respondent should have taken appropriate actions to protect Complainant.

41. Respondent has failed to respond to requests by disciplinary counsel for additional information.

42. The acts and omissions of the Respondent set forth in paragraphs 32 through 41 constitute ethical misconduct in violation of the Tennessee Rules of Professional Conduct 1.3 (Diligence), 1.4 (Communication), 1.16 (Declining and Terminating Representation), 8.1 (Bar Admission and Disciplinary Matters), and 8.4 (Misconduct).

File No. 31660c-2-KB – Complaint of Jessica Borum

43. Pursuant to Rule 9, Rules of the Supreme Court, the Respondent was notified of the complaint on October 23, 2008, and asked to respond within ten (10) days. The Respondent's response dated November 5, 2008, was received by the Board. A copy of the complaint, the Board's notice of the complaint and the Respondent's response were introduced into evidence at the hearing.

44. On July 11, 2007, Complainant paid Respondent \$1,100.00 to represent Complainant in the defense of a petition to modify parenting plan filed by Complainant's ex-husband.

1. The petition had been served upon Complainant on July 3, 2007, and a response was due to the court no later than August 3, 2007.

45. On August 31, 2007, after receiving no responsive pleading from Complainant, adverse counsel filed a motion for default judgment, forwarded to Complainant, and scheduled a hearing for September 20, 2007.

46. On September 3, 2007, Complainant visited Respondent's law office and discovered that Respondent had moved her law practice without notice to Complainant.

47. Respondent left a new telephone contact number and Complainant left a message for Respondent to return her call.

48. On September 4, 2007, Respondent returned Complainant's call and assured Complainant that Respondent would contact adverse counsel and that no court appearance would be necessary.

49. On September 6, 2007, nearly two (2) months after Respondent was retained by Complainant, Respondent sent a copy of a letter to Complainant notifying adverse counsel of Respondent's representation in the matter.

50. Complainant made attempts to communicate with Respondent prior to the court date, but was only once able to speak with Respondent during a time when the telephone reception made it difficult for Complainant to comprehend the conversation.

51. On September 18, 2007, Complainant spoke with someone in Respondent's office and was told to appear in court on September 20, 2007, and that Respondent would return the call prior to the court date. Respondent never returned the call.

52. On the morning of September 20, 2007, Complainant made several attempts to contact Respondent without success.

53. Respondent failed to appear for the court hearing and neither the judge nor adverse counsel had notice of Respondent's representation of Complainant.

54. The judge rescheduled the hearing for October 25, 2007, and advised the Complainant to immediately contact Respondent about the matter.

55. It was later discovered that Respondent had called the court and advised them that she was sick and would be unable to appear.

56. Complainant requested that Respondent refund the retainer fee due to the inadequate communication issues, but Respondent assured Complainant that she had discussed the case with adverse counsel.

57. Respondent further stated that a letter would be going out to Complainant about the contents of the discussion and a settlement conference would be scheduled to try and reach a resolution.

58. On October 1, 2007, Complainant had not received a letter from Respondent and visited Respondent's law office.

59. Complainant told Respondent's staff that no letter was received and the letter was later found not mailed.

60. Respondent ultimately scheduled a settlement conference on October 24, 2007, and Complainant alleges that Respondent failed to take her position in any dispute and allowed adverse counsel to have control over the changes.

61. Errors were made in the calculation of child support that were adverse to Complainant and Respondent failed to take appropriate action to correct the mistakes after signing off on a modification of the parenting plan.

62. Disciplinary counsel spoke with adverse counsel who stated that Respondent was nearly impossible to contact and that normally it required the setting of a court hearing to get any response from Respondent.

63. Adverse counsel has an unrelated case with Respondent and has similar communication issues.

64. Respondent failed to respond to requests from disciplinary counsel for additional information.

65. The acts and omissions of the Respondent set forth in paragraphs 43 through 65 constitute ethical misconduct in violation of the Tennessee Rules of Professional Conduct 1.3 (Diligence), 1.4 (Communication), 1.5 (Fees), 8.1 (Bar Admission and Disciplinary Matters), and 8.4 (Misconduct).

File No. 31702-2-KB – Complaint of Robert Qualls

66. Pursuant to Rule 9, Rules of the Supreme Court, the Respondent was notified of the complaint on December 22, 2008, and asked to respond within ten (10) days. The Respondent's response dated February 23, 2009, was received by the Board. A copy of the complaint, the Board's notice of the complaint and the Respondent's response were introduced into evidence at the hearing.

67. On July 25, 2008, Complainant retained Respondent to expunge a criminal charge from his record that had been successfully diverted.

68. On that date, Complainant paid Respondent \$350.00.

69. Two weeks later, Respondent's assistant contacted Complainant and stated that an additional \$150.00 filing fee was required.

70. Complainant immediately sent a check to Respondent in the amount of \$150.00.

71. Complainant stated that he had problems communicating with Respondent about the status of the case and that when Complainant was able to communicate with Respondent she would always have an excuse about why the matter had not been resolved.

72. In November of 2008, four (4) months after Respondent was retained, Respondent finally contacted Complainant and stated that the clerk's office would not accept a third party check for filing fees.

73. Complainant immediately sent Respondent a money order in the amount of \$150.00.

74. Respondent has failed to take any action on behalf of Complainant.

75. Complainant has retained new counsel who was successfully able to enter an order for the expungement of Complainant's criminal charge.

76. Respondent failed to respond to requests for additional information by disciplinary counsel.

77. The acts and omissions of the Respondent set forth in paragraphs 67 through 77 constitute ethical misconduct in violation of the Tennessee Rules of Professional Conduct 1.3 (Diligence), 1.4 (Communication), 1.5 (Fees), 8.1 (Bar Admission and Disciplinary Matters), 8.4 (Misconduct).

File No. 31791-2-KB – Complaint of Kelly Sims

78. Pursuant to Rule 9, Rules of the Supreme Court, the Respondent was notified of the complaint on January 15, 2009, and asked to respond within ten (10) days. The Respondent's response, dated February 23, 2009, was received by the Board. A copy of the complaint, the Board's notice of the complaint and the Respondent's response were introduced into evidence at the hearing.

79. In May, 2007, Complainant retained Respondent to represent her in a termination of parental rights action against the mother of a child in Complainant's custody.

80. Respondent filed a petition on behalf of Complainant seeking to terminate the parental rights of the mother. The whereabouts of the father of the child was unknown.

81. Complainant stated that soon after she was retained, Respondent repeatedly failed to return calls and has failed to appear in court on two (2) separate occasions.

82. Complainant discovered that Respondent had moved from her previous office.

83. Complainant stated that Respondent was misinformed about one of the court dates.

84. Respondent was ordered to amend Complainant's petition to include termination of father's parental rights within fourteen (14) days and Respondent has failed to comply with the order.

85. Respondent has failed to respond to requests for additional information by disciplinary counsel.

86. The acts and omissions of the Respondent set forth in paragraphs 79 through 86 constitute ethical misconduct in violation of the Tennessee Rules of Professional Conduct 1.3 (Diligence), 1.4 (Communication), 1.5 (Fees), 8.1 (Bar Admission and Disciplinary Matters), 8.4 (Misconduct).

File No. 31883-2-KB – Complaint of Misty Denson

87. Pursuant to Rule 9, Rules of the Supreme Court, the Respondent was notified of the complaint on February 10, 2009, and asked to respond within ten (10) days. The Respondent's response, dated February 23, 2009, was received by the Board. A copy of the complaint, the Board's notice of the complaint and the Respondent's response were introduced into evidence at the hearing.

88. On February 19, 2008, Complainant retained Respondent to represent her in a divorce and termination of parental rights case.

89. Complainant's husband had been convicted of kidnapping Complainant and her children at knifepoint and was serving time in prison.

90. Respondent was paid \$1,400.00 for her legal services on the same date.

91. Complainant stated that Respondent failed to communicate with her regarding the status of the case and when Complainant did get in touch with Respondent, Respondent would make excuses about why nothing had been done in the case.

92. Respondent stated that she was never hired to represent Complainant in a termination of parental rights matter.

93. Respondent also stated that she never received a filing fee from Complainant.

94. Respondent lastly stated that if Complainant wants to proceed, she must bring in the filing fee and an additional \$1,500.00 retainer for the termination of parental rights matter.

95. At the request of disciplinary counsel, Complainant sent a copy of the retainer agreement and a receipt from Respondent in the amount of \$1,400.00.

96. Respondent's retainer agreement indicates that Respondent was to represent Complainant in a divorce with children and termination of father's parental rights.

97. A non-refundable retainer fee was set at \$1,000.00 and the comments on said retainer agreement indicate that Complainant had paid \$400.00 for filing fees and costs.

98. Respondent has failed to respond to requests for additional information from disciplinary counsel.

99. The acts and omissions of the Respondent set forth in paragraphs 88 through 99 constitute ethical misconduct in violation of the Tennessee Rules of Professional Conduct 1.3 (Diligence), 1.4 (Communication), 1.5 (Fees), 8.1 (Bar Admission and Disciplinary Matters), 8.4 (Misconduct).

FINDINGS OF FACT AND CONCLUSIONS OF LAW
ON THE SUPPLEMENTAL PETITION FOR DISCIPLINE

File No. 31435-1-JV – Complaint of Michael Benns

1. Pursuant to Rule 9, Rules of the Supreme Court, the Respondent was notified on August 27, 2008 of the complaint filed against her by Michael Benns and asked to respond within ten (10) days. The Respondent's response was received by the Board on September 22, 2008. Copies of the complaint, the Board's notice of the complaint and the Respondent's response were introduced into evidence at the hearing.

2. Complainant was arrested July 26, 2008, on a charge of reckless endangerment with a firearm.

3. At the time of Complainant's arrest he had a pending application for employment as a teacher for the 2008-2009 school year.

4. Complainant states that he told Respondent he was primarily interested in getting his case handled as expeditiously as possible.

5. Respondent agreed to accept a \$400.00 fee to investigate the warrant and determine which district attorney would be handling Complainant's arraignment.

6. Complainant met again with Respondent on July 30, 2008, and paid an additional \$1,600.00 to Respondent.

7. On the day of Complainant's arraignment, Respondent did not appear in court.

8. Respondent later left a message with the clerk that she was in court in a different county and requested that the court hold Complainant's case to the end of the docket or reset the matter.

9. Respondent never appeared in court and the court reset the matter.

10. Respondent showed up to court later that day and met with Complainant.

11. Together they attempted to meet with the prosecutor, but she was out of the office.

12. Respondent later returned to determine whether the prosecutor had arrived in the office.

13. Respondent was advised that the prosecutor was still out so Respondent left her business card and requested that the prosecutor call upon her return to the office.

14. The following day, Complainant sent an e-mail to Respondent and advised that he was terminating the representation and requested a refund of the \$1,600.00 retainer paid to Respondent.

15. Respondent replied to Complainant's e-mail the same day and advised that she would be sending out a detailed billing statement but would not reimburse any funds prior to her return from vacation on August 11, 2008.

16. Respondent further advised that she would be withdrawing.

17. Complainant retained alternate counsel who advised that he received no funds from Respondent.

18. Respondent failed to notify Complainant of her upcoming vacation, which would have affected his decision to hire Respondent since he desired an expeditious handling of the criminal matter.

19. Complainant was never provided with a billing statement.

20. Respondent's fees were unreasonable.

21. Disciplinary counsel made several requests for a detailed billing statement from Respondent but did not receive the same until July 31, 2009.

22. The Respondent's billing statement is not greatly detailed but reflects that Complainant's retainer fee was completely exhausted.

23. The acts and omissions of the Respondent set forth in paragraphs 1 through 22 constitute ethical misconduct in violation of the Tennessee Rules of Professional Conduct 1.3 (Diligence), 1.4 (Communication), 1.5 (Fees), and 8.4 (Misconduct).

File No. 31863-2-KB – Complaint of Alfred & Patricia Reeder

24. Pursuant to Rule 9, Rules of the Supreme Court, the Respondent was notified on February 3, 2009 of the complaint filed against her by Alfred and Patricia Reeder and asked to respond within ten (10) days.

25. Despite this request from Disciplinary Counsel, the Respondent's response was not received until May 14, 2009.

26. Copies of the complaint, the Board's notice of the complaint and the Respondent's response were introduced into evidence at the hearing.

27. On April 4, 2008, Complainants consulted with Respondent regarding a termination of parental rights and adoption issue.

28. On April 11, 2008, the Complainants retained Respondent to handle the matters and paid the Respondent a \$1,200.00 nonrefundable retainer fee in two separate payments.

29. Respondent did not file the matter right away, but eventually filed the matter in the chancery court on or about early June, 2008.

30. Summons' were issued to both parents and were returned to the court "served" in June, 2008.

31. Respondent states that she awaited an answer from the parents but had not received anything by September, 2008.

32. Complainants attempted to contact Respondent several times and never received any response.

33. Respondent moved her office without notifying the Complainants.

34. Complainants were finally able to get in touch with Respondent around December, 2008, and the Respondent advised that all of her cases were boxed up somewhere.

35. Complainants sent a termination letter to Respondent on or about January 20, 2009, and retained new counsel to represent them.

36. Complainant's new counsel advised that Respondent had failed to notify the Tennessee Putative Father's Registry within the statutory time limit.

37. Complainant's new counsel had to amend the petition, re-serve the parents, and essentially start over.

38. The adoption was finalized on May 7, 2009.

39. The acts and omissions of the Respondent set forth in paragraphs 24 through 37 constitute ethical misconduct in violation of the Tennessee Rules of Professional Conduct 1.1 (Competence), 1.3 (Diligence), 1.4 (Communication), 1.5 (Fees), 8.1 (Bar Admission and Disciplinary Matters), and 8.4 (Misconduct).

File No. 31876c-2-KB – Complaint of Barbara Garrison

40. Pursuant to Rule 9, Rules of the Supreme Court, the Respondent was notified on February 11, 2009 of the complaint filed against her by Barbara Garrison and asked to respond within ten (10) days. The Respondent failed to respond to this request and a notice of temporary suspension was sent to the Respondent. Copies of the complaint, each of the Board's notices of the complaint, and the notice of temporary suspension were introduced into evidence at the hearing.

41. The Respondent eventually responded to this complaint on May 13, 2009. A copy of that response was also introduced into evidence at the hearing.

42. Complainant retained Respondent in May, 2008, to represent her in a grandparent visitation matter.

43. Complainant paid Respondent \$1,500.00 for legal representation.

44. Respondent advised that she would have a petition drafted for review the following day.

45. Complainant called the Respondent often over the next two weeks but never received any response.

46. Complainant eventually reached the Respondent who advised that her paralegal had been fired and that had caused a delay in proceeding with Complainant's case.

47. Respondent scheduled an appointment to meet with Complainant the following day, but Respondent never appeared for the appointment.

48. Complainant again contacted Respondent who advised that the petition was ready to be signed and an appointment was scheduled the following day.

49. Complainant appeared for the appointment and again Respondent failed to appear.

50. At the end of June, 2008, Respondent hired Complainant's sister as a paralegal.

51. It was discovered that no petition had been prepared for the Complainant.

52. In July, 2008, Respondent prepared the petition and it was filed with the court.

53. At that time, Respondent requested an additional \$1,000.00, for representation of Complainant's daughter in the same case, which was paid by Complainant.

54. On July 30, 2008, Respondent signed an agreed order substituting as attorney of record for Complainant's daughter.

55. Complainant was an intervening petitioner and the Respondent's representation of Complainant's daughter was adverse to her representation of the Complainant.

56. Complainant received no further communication from Respondent despite making several phone calls to her.

57. Complainant later found out that Respondent had closed her law office without notifying her.

58. Complainant has since been handling the case pro se.

59. The acts and omissions of the Respondent set forth in paragraphs 40 through 58 constitute ethical misconduct in violation of the Tennessee Rules of Professional Conduct 1.3 (Diligence), 1.4 (Communication), 1.5 (Fees), 1.7 (Conflict of Interest: General Rule), 8.1 (Bar Admission and Disciplinary Matters), and 8.4 (Misconduct).

File No. 31877c-2-KB – Complaint of Sherrill Ogle

60. Pursuant to Rule 9, Rules of the Supreme Court, the Respondent was notified on February 9, 2009 of the complaint filed against her by Sherrill Ogle and asked to respond within ten (10) days. The Respondent failed to respond and a Notice of Temporary Suspension was sent to the Respondent on April 2, 2009. Copies of the complaint, the Board's notice of the complaint and the Notice of Temporary Suspension were introduced into evidence.

61. The Respondent eventually answered the complaint against her on May 14, 2009. A copy of that response was introduced into evidence.

62. Complainant and Vickie Parker retained Respondent to represent them regarding their rights concerning checks that were presented to them that were returned for insufficient funds.

63. Respondent collected a \$400.00 retainer fee and a \$130.00 filing fee.

64. After the initial consultation the Complainants were not able to contact the Respondent for five months despite several attempts.

65. Complainants discovered later that Respondent had moved her law office without notifying them.

66. Respondent failed to respond to additional requests for information from disciplinary counsel.

67. The Respondent failed to perform the work for the Complainants that she was paid to perform.

68. The acts and omissions of the Respondent set forth in paragraphs 60 through 67 constitute ethical misconduct in violation of the Tennessee Rules of Professional Conduct 1.3 (Diligence), 1.4 (Communication), 1.5 (Fees), 8.1 (Bar Admission and Disciplinary Matters), 8.4 (Misconduct).

File No. 31913-2-KB – Complaint of Patsy Phillips

69. Pursuant to Rule 9, Rules of the Supreme Court, the Respondent was notified on February 24, 2009 of the complaint filed against her by Patsy Phillips and asked to respond within ten (10) days. The Respondent failed to respond and a Notice of Temporary Suspension was sent to the Respondent on April 2, 2009. Copies of the complaint, the Board's notice of the complaint and the Notice of Temporary Suspension were introduced into evidence at the hearing.

70. The Respondent eventually answered the complaint against her on May 14, 2009. A copy of her response was introduced into evidence at the hearing.

71. On August 19, 2008, Respondent was appointed to represent Complainant in a child custody/visitation matter.

72. Respondent scheduled an appointment for August 25, 2008, to meet with Complainant.

73. Complainant arrived at Respondent's office for the appointment, but Respondent failed to appear.

74. Complainant contacted the clerk of the juvenile court about the problem.

75. The clerk of court contacted Respondent and advised her to contact Complainant.

76. On August 27, 2008, Respondent contacted Complainant and apologized for missing the appointment.

77. A new appointment was scheduled for September 8, 2008. Complainant showed up for the appointment 10 minutes early and waited 40 minutes and Respondent again failed to appear.

78. Complainant contacted the court clerk again and advised her of the problem.

79. The court clerk contacted Respondent and handed the phone to Complainant.

80. A third appointment was scheduled for September 12, 2008, and Respondent appeared for the appointment.

81. Complainant discussed her case with Respondent and Respondent advised that she would work on getting increased visitation with Complainant's child.

82. Complainant contacted Respondent on October 10, 2008, regarding a status of the case and Respondent advised that she was working on the case.

83. Complainant has left numerous messages for Respondent requesting an update in the case, but Respondent had not communicated with Complainant in five (5) months.

84. In May, 2009, Respondent finally contacted Complainant and set a court date for May 12, 2009.

85. Complainant traveled 50 miles to the courthouse on May 12, 2009, and Respondent failed to appear for court.

86. The Respondent also failed to inform opposing counsel of the court date.

87. At that time, Complainant requested that the court appoint new counsel to represent her.

88. The court granted Complainant's request.

89. The Respondent failed to adequately communicate with her client and failed to diligently represent her client.

90. The acts and omissions of the Respondent set forth in paragraphs 69 through 89 constitute ethical misconduct in violation of the Tennessee Rules of Professional Conduct 1.3 (Diligence), 1.4 (Communication), 8.1 (Bar Admission and Disciplinary Matters), and 8.4 (Misconduct).

File No. 31922-2-KB – Complaint of Karissa Stinnett

91. Pursuant to Rule 9, Rules of the Supreme Court, the Respondent was notified on February 27, 2009 of the complaint filed against her by Karissa Stinnett and asked to respond within ten (10) days. The Respondent failed to respond and a Notice of Temporary Suspension was sent to the Respondent on April 2, 2009. Copies of the complaint, the Board's notice of the complaint and the Notice of Temporary Suspension were introduced into evidence at the hearing

92. The Respondent eventually answered the complaint against her on May 14, 2009. A copy of that response was introduced into evidence at the hearing.

93. On June 11, 2008, Complainant retained Respondent to represent her in a first offense DUI.

94. Complainant paid Respondent a \$1,000.00 non-refundable retainer fee which was to be billed at \$200.00 per hour.

95. On Complainant's initial court date, Respondent was late, but did appear later to discuss the matter with the prosecutor.

96. Respondent advised that she discussed Complainant's field sobriety test with the prosecutor in an effort to negotiate a possible resolution of the case.

97. The case was rescheduled for November 18, 2008, and on that date Complainant states that Respondent called her and advised that she was sick and not to come to court.

98. Respondent also stated to Complainant that she lost her paralegal and would be working out of her home.

99. Respondent further questioned whether Complainant had paid her any money for the case.

100. Neither Respondent nor Complainant appeared in court on November 18, 2008, and the court issued a bench warrant for Complainant's arrest for failure to appear.

101. Complainant's bondsman contacted her and advised of the bench warrant for her arrest. Complainant was unable to contact Respondent.

102. Complainant contacted the court and the clerk gave Complainant a new court date to appear.

103. The clerk also advised that she was unable to contact Respondent.

104. Complainant appeared in court on February 24, 2008, and Respondent did not appear.

105. The judge appointed new counsel to represent Complainant.

106. Respondent has failed to reimburse Complainant any amount of the retainer fee paid to her.

107. The acts and omissions of the Respondent set forth in paragraphs 91 through 106 constitute ethical misconduct in violation of the Tennessee Rules of Professional Conduct 1.3 (Diligence), 1.4 (Communication), 1.5 (Fees), 8.1 (Bar Admission and Disciplinary Matters), 8.4 (Misconduct).

File No. 32081c-2-KB – Complaint of Billie Joe Allen-Hall

108. Pursuant to Rule 9, Rules of the Supreme Court, the Respondent was notified on April 21, 2009 of the complaint filed against her by Billie Joe Allen-Hall and asked to respond within ten (10) days. The Respondent failed to respond and a Notice of Temporary Suspension was sent to the Respondent on May 12, 2009. Copies of the complaint, the Board's notice of the complaint and the Notice of Temporary Suspension were introduced into evidence at the hearing.

109. The Respondent eventually answered the complaint against her on May 27, 2009. A copy of that response was introduced into evidence at the hearing.

110. On October 10, 2008, Complainant retained Respondent to represent her in a child support matter.

111. Complainant made two separate payments to Respondent totaling \$800.00.

112. Complainant states she made several attempts to contact Respondent but never received any response.

113. At or about November 22, 2008, Complainant made contact with Respondent, but the Respondent failed to inform her of any upcoming court dates.

114. On December 18, 2008, Respondent appeared in court but Complainant was not present.

115. The court ruled against Complainant regarding the issues of support and limited Complainant's parenting time to supervised visitation.

116. No order was entered with the court regarding visitation, but an order regarding child support was entered.

117. Adverse counsel in the matter, Martin Cash, advised that Respondent was often difficult to contact in the instant case and other cases he has with Respondent.

118. He further advised that Respondent appeared in court on the day of the hearing but that Complainant did not appear.

119. Mr. Cash further stated that Complainant's new counsel, Brenda Hall-McDonald, advised the court that Complainant never received notice from her counsel of the court date.

120. Ms. Hall-McDonald was not aware that any order had been entered regarding the previous court hearing until a wage garnishment for child support issued against Complainant's employer.

121. The Respondent failed to adequately communicate with her client and failed to diligently represent her client.

122. Respondent has failed to reimburse Complainant any amount of the retainer fee paid to her.

123. The acts and omissions of the Respondent set forth in paragraphs 108 through 122 constitute ethical misconduct in violation of the Tennessee Rules of Professional Conduct 1.3 (Diligence), 1.4 (Communication), 1.5 (Fees), 8.1 (Bar Admission and Disciplinary Matters), 8.4 (Misconduct).

File No. 32118-2-KB – Complaint of Paul Branson

124. Pursuant to Rule 9, Rules of the Supreme Court, the Respondent was notified on April 30, 2009 of the complaint filed against her by Paul Branson and asked to respond within ten (10) days. The Respondent failed to respond and a Notice of Temporary Suspension was sent to the Respondent on July 17, 2009. Copies of the complaint, the Board's notice of the complaint and the Notice of Temporary Suspension were introduced into evidence at the hearing.

125. The Respondent never responded to this complaint.

126. On October 15, 2007, Complainant retained Respondent to represent him in a property dispute regarding a right-of-way.

127. Complainant paid Respondent \$750.00 for said representation.

128. After three months, Complainant had not heard from Respondent and he visited her office.

129. Respondent had not worked on the case.

130. Respondent advised Complainant not to contact her and that she would contact him.

131. Respondent again failed to communicate with the Complainant.

132. Complainant again tried to contact the Respondent several times without success.

133. Eighteen (18) months passed without any word from the Respondent.

134. Respondent moved her offices without notifying the Complainant.

135. The Respondent failed to adequately communicate with her client and failed to diligently represent her client.

136. Respondent has failed to reimburse Complainant any amount of the retainer fee paid to her.

137. The acts and omissions of the Respondent set forth in paragraphs 124 through 136 constitute ethical misconduct in violation of the Tennessee Rules of Professional Conduct 1.3 (Diligence), 1.4 (Communication), 1.5 (Fees), 8.1 (Bar Admission and Disciplinary Matters), 8.4 (Misconduct).

DISCIPLINARY COUNSEL'S CONTENTIONS CONCERNING DISCIPLINE

The Board maintains that a suspension of a year or greater is the appropriate discipline in this matter. The Board's memorandum of law states: "In light of the Respondent's failure to communicate with the Board regarding these complaints and the egregious failure to diligently communicate and represent her clients, the Board maintains that a suspension of a year or greater is necessary in this case in order to require the Respondent to apply for reinstatement before returning to the practice of law."

ABA STANDARDS CITED BY DISCIPLINARY COUNSEL

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

Section 4.42 of the ABA Standards state:

Suspension is generally appropriate when:

- (a) a lawyer knowingly fails to perform services for a client and causes injury or potential injury to a client, or
- (b) a lawyer engages in a pattern of neglect and causes injury or potential injury to a client.

Section 7.2 of the ABA Standards states:

Suspension is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed to the profession, and causes injury or potential injury to a client, the public or the legal system.

COMPARATIVE DISCIPLINE CITED BY DISCIPLINARY COUNSEL

The Board has cited three comparative cases within Tennessee which it contends support the imposition of a suspension in this matter. A summary of the three cases is as follows:

“On July 10, 2005, David D. James, Jr. was suspended for one (1) year for neglecting his client’s bankruptcy case and failing to file an appropriate Motion to Reopen.”

“On April 27, 2000, Cynthia N. Asbury was suspended by the Supreme Court of Tennessee for thirty (30) days for neglect including failing to appear in court on three occasions which lead to a judgment being obtained against her client.”

“ On January 6, 1992, Fernando J. Ramos was suspended by the Supreme Court of Tennessee for neglecting his clients’ bankruptcy matters.”

LACK OF RESPONSE BY THE RESPONDENT

The Respondent has not filed anything with the Hearing Panel to contradict the assertions of the Disciplinary Counsel concerning the applicable ABA standards, the Board’s proposed discipline, or any comparative discipline cases. The Respondent has provided the Hearing Panel with nothing to consider in this matter other than her statements made at the hearing, which are discussed below.

CONCLUSIONS OF THE HEARING PANEL

Because of the Default Judgment entered in this matter, the Hearing Panel has adopted as its findings of fact and its conclusions of law the factual allegations and conclusions of law contained within the Petition for Discipline and the Supplemental Petition for Discipline.

The Respondent did appear for the hearing on March 10, 2010. At the hearing that occurred on March 10, 2010, the Respondent did not attempt to contest any of the allegations contained in the Petition or the Supplemental Petition. She did advise the Hearing Panel that one reason she did not respond to the Petition or the Supplemental Petition was that she was “not familiar with the rules.” Upon closer questioning by the Panel, she stated she was familiar with the “ethics rules” but she never did specify the rules that she was not familiar with or how her lack of familiarity with the rules somehow excused her from filing a response to the Petition or Supplemental Petition.

The Respondent also offered another excuse for her failure to respond to the Petition or Supplemental Petition. She stated she had been very overwhelmed due to a combination of her mother’s heart condition that began in August 2009, her own health problems with kidney stones, and her father sustaining a stroke in February 2009. During the hearing, she made the statement: “I have been without a legal secretary, and I am simply overwhelmed.” She also stated: “I don’t know that I intend to ever return to the practice of law.” At another point, she stated she has thought about placing her license on disability inactive status. On cross-examination by Disciplinary Counsel, the Respondent admitted that her license is currently suspended because she has failed to comply with CLE requirements, and also because she has

failed to respond to another Petition for Discipline which was filed subsequent to the Supplemental Petition for Discipline in this case.

Disciplinary Counsel outlined for the Hearing Panel the dollar amounts of restitution that Disciplinary Counsel contends should be awarded in this matter. Because of the number of Complainants involved in both the Petition and the Supplemental Petition, the amount of restitution, along with the name of each Complainant, is set forth in the following table:

COMPLAINANT	RESTITUTION
Fitzgerald	\$ 4,600.00
LaSuer	\$ 180.00
Goodman	\$ -0-
Borum	\$ 1,100.00
Qualls	\$ 500.00
Sims	\$ -0-
Denson	\$ 1,400.00
Benns	\$ 1,600.00
Reeder	\$ 1,200.00
Garrison	\$ 2,500.00
Ogle	\$ 530.00
Phillips	\$ -0-
Stinnett	\$ 1,000.00
Allen-Hall	\$ 800.00
Branson	\$ 750.00
TOTAL	\$ 16,160.00

On the issue of restitution, the Respondent offered no relevant evidence to contradict the dollar amounts listed in the Petition and the Supplemental Petition. She advised the Hearing Panel that she had not brought any files with her to provide any documentation to contradict any of the restitution figures asserted by the Board. On one matter, the Fitzgerald complaint, Respondent said that her computer had been struck by lightning and she offered that event as an excuse as to why she never provided Mr. Fitzgerald with an itemized statement. Upon closer questioning, she acknowledged that she had a paper file that was substantial in size, but she had

made no effort to reconstruct a bill or a statement for Fitzgerald because she "didn't have a secretary."

The Respondent conceded she owed the amount of restitution owed to Complainant LaSeur, but that she had never paid it. She stated "I don't have the money". On all of the other complaints where restitution was sought, she offered no evidence to contradict the Board's position. She was asked multiple times by the Chair of the Hearing Panel whether she had any evidence to provide to the Panel that was relevant on the issue of the amount(s) of restitution. She repeatedly stated: "Not with me."

Given the state of the record in this matter, the remaining issue to be decided by the Hearing Panel is the amount and type of discipline to be imposed.

Aggravating factors are present in this matter. First, the Respondent has substantial experience in the practice of law, having been licensed since 1999. She attempted to mitigate her experience by saying that she had not practiced law "that long" because she had been a clerk for a senior judge, and she had worked for the second injury fund. Nevertheless, the panel finds she has substantial experience in the practice of law.

Another aggravating factor is that the Respondent is guilty of multiple offenses of misconduct. The respondent has violated numerous disciplinary rules in matters involving 15 different clients.

Another aggravating factor is the Hearing Panel further finds that the Respondent has failed to acknowledge the wrongdoing and wrongful nature of the conduct. Respondent did not offer any excuse for her conduct, other than an assertion that all of her clients were filing complaints so they could get some money.

Disciplinary Counsel contends that a suspension from the practice of law of a period of at least one (1) year is appropriate, given the number of complaints and disciplinary violations. He contends that the Respondent should have to go through the reinstatement process before she is re-admitted to the practice of law.

Based upon all the evidence presented, the Hearing Panel concurs with Disciplinary Counsel. Specifically, the Hearing Panel finds that due to the number of violations set forth in the Petition and the Supplemental Petition, the Respondent should be suspended from the practice of law for a period of one (1) year. As a further condition of her reinstatement, the Hearing Panel believes that the Respondent should be required to pay restitution in the amount of \$16,160.00.

During the hearing, the Disciplinary Counsel also requested that the Panel refer the Respondent to the Tennessee Lawyers Assistance Program for an evaluation, given her testimony as to how her personal and family problems had overwhelmed her and affected her ability to practice law.

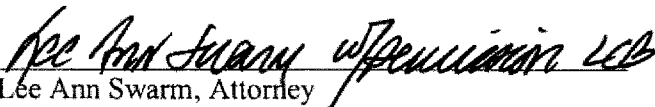
To the extent that the Hearing Panel has that authority, the Hearing Panel concurs with Disciplinary counsel and believes that the Respondent should undergo an evaluation by the Tennessee Lawyers Assistance Program as a condition to reinstatement to the practice of law.

JUDGMENT

Based upon the entire record in this cause, it is the Judgment of the Hearing Panel that the Respondent should be suspended from the practice of law for a period of one (1) year. It is further the Judgment of the Hearing Panel that as a condition of her reinstatement to the practice of law, the Respondent should pay restitution in the amount of \$16,160.00. The restitution should be paid prior to her reinstatement to the practice of law. The specific amounts of individual restitution to be paid to her individual clients are set forth in the body of this Judgment. It is further the Judgment of the Hearing Panel that, to the extent permitted by law, the Respondent should be required to submit herself to the Tennessee Lawyers Assistance Program for an evaluation prior to being considered for reinstatement to the practice of law.

SIGNATURES OF HEARING PANEL:


Luis C. Bustamante, Attorney


Lee Ann Swarm, Attorney


John F. Kimball, Attorney