

IN THE CHANCERY COURT OF KNOX COUNTY, TENNESSEE

JOHN O. THREADGILL	)	
	)	
Plaintiff,	)	No. 169551-2
	)	
v.	)	
	)	
THE BOARD OF PROFESSIONAL	)	
RESPONSIBILITY OF THE	)	
SUPREME COURT OF TENNESSEE	)	
	)	
Respondent.	)	

ENTERED

OCT 20 2008

HOWARD G. HOGAN

ORDER

This cause came to be heard on the 14th day of January 2008, and on February 5, 2008 by Memorandum Opinion this Court affirmed the Findings and Conclusions of the Hearing Panel finding that Mr. Threadgill had violated various disciplinary rules. The Hearing Panel imposed a one year suspension. Mr. Threadgill argues that the punishment is excessive and requests the Court to modify the judgment of the Hearing Panel. Both parties have filed Memorandum of Law in support of their positions.

STANDARD OF REVIEW

The trial court may reverse or modify a decision of a hearing panel if the rights of the petitioner have been prejudiced because the panel's findings, inferences, conclusions or decisions are "unsupported by the evidence which is both substantial and material in the light of the entire record." Section 1.3 Rule 9, Rules of the Supreme Court. The Court has affirmed the Findings and Conclusions of the Hearing Panel. The only issue before the Court is whether a one year suspension is appropriate.

Among the findings of the Hearing Panel, Mr. Threadgill was found guilty of fraud, misappropriation of funds, deceit and misrepresentation. The Hearing Panel further found that Mr. Threadgill's conduct was criminal regarding the Nesbit matter. Mr. Threadgill argues, however, that his actions were negligent and involved fee disputes. Mr. Threadgill asserts that a private reprimand is the appropriate sanction.

The *American Bar Association Standard for Imposing Discipline*, Section 3.0 provides as follows:

In imposing a sanction after a finding of lawyer misconduct, a court shall consider the following factors:

- (a) the duty violated;
- (b) the lawyer's mental state;
- (c) the potential or actual injury caused by the lawyer's misconduct; and
- (d) the existence of aggravating or mitigating factors.

Standard 4.12 provides:

Suspension is generally appropriate when a lawyer knows or should know that he is dealing improperly with client property and causes injury or potential injury to a client.

The above Standard 4.12 is contrasted with sections 4.13 and 4.14 which deal with negligent behavior with client property and action that causes little or no actual or potential injury.

## DISCUSSION

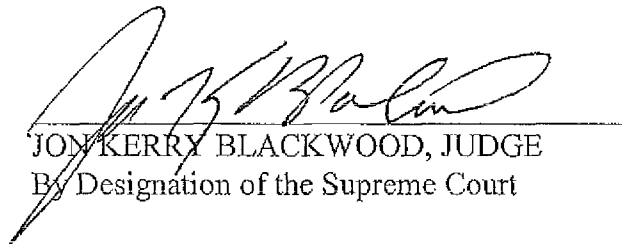
It is clear that both the Hearing Panel and this Court have rejected Mr. Threadgill's arguments that his conduct was negligent. Both the Hearing Panel and this Court have found that Mr. Threadgill's conduct was fraudulent, deceitful, involved misrepresentation and in one

instance, was criminal in nature. His actions and mental state were therefore intentional, rather than negligent.

The duty to preserve clients' property is one of the highest duties a lawyer owes to his client. Mr. Threadgill's conduct caused actual injury to his clients. The Court finds that Mr. Threadgill knew or should have known he was dealing improperly with property belonging to his clients. His action caused injury.

Both the Hearing Panel and the Court have weighted the mitigating and aggravating factors. A one-year suspension is supported by the Record.

ENTER this the 2<sup>nd</sup> day of October, 2008.

  
JON KERRY BLACKWOOD, JUDGE  
By Designation of the Supreme Court

CERTIFICATE OF SERVICE

I, Howard Hogan by Brenda Stone, Clerk and Master, hereby certify that I have mailed a true and exact copy of same to all Counsel of Record this the 23 day of October, 2008.

Wm Hunt  
Ralph Hammel

Howard Hogan by Brenda Stone  
CLERK