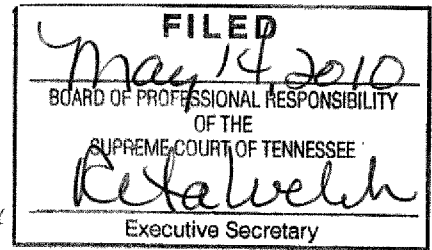


**IN DISCIPLINARY DISTRICT IV
OF THE
BOARD OF PROFESSIONAL RESPONSIBILITY
OF THE
SUPREME COURT OF TENNESSEE**



**IN RE: ANTHONY W. TURNER,
Respondent, BPR No. 15058
An Attorney Licensed
to Practice Law in Tennessee
(Cumberland County)**

DOCKET NO. 2009-1864-4-KH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter came before a duly appointed Hearing Panel on April 31, 2010 upon a Petition for Discipline filed by the Board of Professional Responsibility against Anthony W. Turner, Respondent; upon an Order of Default entered on March 26, 2010; upon statements of counsel; evidence presented; and upon the entire record in this cause. Pursuant to Tennessee Supreme Court Rule 9, Section 8, the Hearing Panel makes the following findings of fact and conclusions of law.

STATEMENT OF THE CASE

The Board filed a Petition for Discipline on November 24, 2009. The Petition was served upon Respondent via certified mail and was returned to the Board "unclaimed". The Board filed a Motion for Default Judgment on January 28, 2010. Respondent did not file a response to the Board's Motion. On March 26, 2010, the Hearing Panel entered an Order granting the Board's Motion. As a result of the Order of Default, the allegations contained within the Petition for Discipline are deemed admitted pursuant to Tennessee Supreme Court Rule 9, Section 8.2.

The Respondent was temporarily suspended on March 16, 2009 pursuant to Tennessee Supreme Court Rule 9, Section 4.3, for failure to respond to disciplinary complaints. He has not

filed a petition to dissolve the temporary suspension and, therefore, remains on temporary suspension as of entry of this Order.

FINDINGS OF FACT

The allegations in the Petition for Discipline have been deemed admitted due to the Respondent's failure to respond to the filings by the Board. Those facts are incorporated herein and the Panel's conclusions are based fully on each allegation deemed admitted.

1. File No. 31767-4-KB – Complaint by John Wilson

On January 9, 2009, a complaint was filed by John Wilson alleging ethical misconduct by Respondent. On January 12, 2009, the Board sent a copy of the complaint to Respondent requesting a response within ten (10) days. Having received no response, the Board sent a Notice of Petition for Temporary Suspension on February 4, 2009 to Respondent alerting him that the Board intended to file a Petition for Temporary Suspension in the event he did not respond to the complaint within ten (10) days. When Respondent failed to respond to the Notice, the Board filed a Petition for Temporary Suspension on March 13, 2009. The Tennessee Supreme Court entered an Order of Temporary Suspension on March 16, 2009.

In June, 2005, Mr. Wilson was injured in a motor vehicle accident. He retained Respondent to represent him in a civil action against the at-fault driver. Mr. Wilson gave Respondent all of the appropriate medical documentation regarding his injuries and requested that Respondent contact the medical providers and acknowledge his representation in the matter. Mr. Wilson began to receive collection letters from his medical providers and forwarded them to Respondent. Respondent assured Mr. Wilson that he would handle the matters. Respondent timely filed a civil action on behalf of Mr. Wilson.

The defendant sent discovery requests to Respondent on September 21, 2006. Respondent did not send responses to the discovery until August 6, 2007. Depositions were completed in February, 2008, and settlement negotiations began in late July, 2008.

Mr. Wilson agreed to settle the matter for \$7,500.00 with the condition that the settlement funds be disbursed in a timely manner, and Respondent subsequently received a settlement check in August, 2008. Mr. Wilson signed a release of any future claims on August 12, 2008. An Order of Compromise and Dismissal with Prejudice was entered on August 26, 2008. Mr. Wilson met with Respondent and endorsed the settlement check, which was then deposited into Respondent's trust account.

Thereafter, Mr. Wilson made numerous attempts to contact Respondent about the disbursement of settlement funds, and was continually advised that the delay was caused by negotiations with Mr. Wilson's medical providers. On December 10, 2008, Respondent finally drafted a settlement statement wherein he waived all of his fees and showed settlement funds reserved for Rowan Chiropractic, Cumberland Medical Center, and Plateau Orthopedics. Mr. Wilson's settlement amount came to \$4,623.72. Rowan Chiropractic received payment from Respondent on December 22, 2008. Mr. Wilson has advised that Plateau Orthopedics eventually received payment from Respondent in April, 2009.

Respondent contacted Cumberland Medical Center on December 10, 2008 to request a reduction of the medical bill. Cumberland Medical Center agreed to reduce the bill by 30% if he was prepared to pay in full. However, Cumberland Medical Center has never received payment from Respondent and has not heard from Respondent since he negotiated the reduction of Mr. Wilson's bill in December, 2008.

On April 20, 2009, Respondent finally sent \$4,623.72 to Mr. Wilson pursuant to the settlement statement.

The acts and omissions of the Respondent as stated above constitute ethical misconduct in violation of the Rules of Professional Conduct 1.3, 1.4, 1.15(b), 1.16(d), 8.1(b) and RPC 8.4(a) and (d).

2. File No. 31743-4-KB – Complaint by Elaine Mullen

On December 29, 2008, a complaint was filed by Elaine Mullen alleging ethical misconduct by Respondent. On January 7, 2008, the Board sent a copy of the complaint to Respondent requesting a response within ten (10) days. Having received no response, the Board sent a Notice of Petition for Temporary Suspension on February 6, 2008 to Respondent alerting him that the Board intended to file a Petition for Temporary Suspension in the event he did not respond to the complaint within ten (10) days. When Respondent failed to respond to the Notice, the Board filed a Petition for Temporary Suspension on March 13, 2009. The Tennessee Supreme Court entered an Order of Temporary Suspension on March 16, 2009.

Ms. Mullen was the landlord for Paula Keagle (a.k.a. Selby), a client of Respondent. Ms. Keagle was delinquent in her rent and met with Ms. Mullen to discuss a possible resolution. Ms. Keagle told Ms. Mullen that she had received a large sum of money from a personal injury settlement that was tied up in a trust in Indiana. Respondent was retained to manage the trust and transfer the funds to a local bank. Ms. Keagle showed Ms. Mullen a power of attorney she had transferred to Respondent that indicated that Respondent had the authority to provide support and protection to Ms. Keagle and her family.

Ms. Mullen met with Respondent and Respondent confirmed that Ms. Keagle had a large sum of money in a trust account that was to be transferred to a local bank account for

management by Respondent. Based upon Respondent's representations, Ms. Mullen continued to allow Ms. Keagle to reside as a tenant in her property and loaned Ms. Keagle money from time to time with the understanding that it would be paid back when the transfer of her settlement funds occurred. Respondent continually made excuses as to why the money had not been transferred, but at no time did he indicate that there were no funds available. Ms. Keagle eventually moved out of Ms. Mullen's premises. Ms. Keagle, with participation from Respondent, was intentionally deceiving Ms. Mullen and other members of the community about her ability to repay outstanding bills such as the one owed to Ms. Mullen.

The acts and omissions of the Respondent as stated above constitute ethical misconduct in violation of the Rules of Professional Conduct 4.1, RPC 4.3, RPC 4.4, 8.1(b) and RPC 8.4(a)(b) and (c).

3. File No. 31873c-4-KB – Complaint by Arnold Allen, Dana Allen, Doug Hoskins, Dottie Hoskins

On January 4, 2009, a complaint was filed by Arnold Allen, Dana Allen, Doug Hoskins and Dottie Hoskins (hereinafter "Complainants") alleging ethical misconduct by Respondent. On February 9, 2009, the Board sent a copy of the complaint to Respondent requesting a response within ten (10) days. Respondent did not timely respond to the disciplinary complaint. On May 29, 2009, Respondent provided a response.

On September 4, 2008, Complainants went to Respondent's office to learn details about an investment opportunity they learned of through a family member. The "investment", they were told, involved Ms. Paula Keagle's pending settlement/trust funds that were being held in Indiana. Ms. Keagle was seeking financial assistance to tide her over until the funds were released. Respondent assured Complainants that Ms. Keagle had ample funds to provide a return

on their promise to provide her with financial assistance. Respondent also advised that he had been in contact with the attorneys in Indiana regarding the matter. Complainants felt secure with the assurances made by Respondent and on September 5, 2008, Complainants pooled together \$25,000.00 and paid the same to Respondent in exchange for promissory notes executed by Ms. Keagle promising to return \$100,000.00 to Complainants within four (4) days.

Thereafter, Complainants contacted Respondent on numerous occasions requesting an update on receipt of the funds but were always told that the funds were expected by Respondent in due time. Complainants subsequently filed a civil action against Ms. Keagle and Respondent.

The acts and omissions of the Respondent as stated above constitute ethical misconduct in violation of the Rules of Professional Conduct 4.1, RPC 4.3, RPC 4.4, 8.1(b) and RPC 8.4(a)(b) and (c).

4. File No. 32348-4-KB – Complaint by Skidmore Garrett, Esquire

On July 9, 2009, a complaint was filed by Skidmore Garrett, Esquire, on behalf of Greg and Gary Green, alleging ethical misconduct by Respondent. On July 17, 2009, the Board sent a copy of the complaint to Respondent requesting a response within ten (10) days. Respondent never provided a response to the disciplinary complaint.

Mr. Garrett initiated the complaint to the Board of Professional Responsibility on behalf of his client, Gary Green. Mr. Green was also deceived by Respondent and Ms. Keagle similarly to the facts in the previous cases.

On August 29, 2008, Mr. Green met with Respondent and Ms. Keagle. Respondent assured Mr. Green that Ms. Keagle had a substantial amount of money in an account in Indiana and that the money would be transferred to Crossville, Tennessee, within a few days. Based upon Respondent's assurances, Mr. Green agreed to loan Ms. Keagle the money.

Respondent prepared a promissory note with terms that Ms. Keagle would pay \$200,000.00 within 30 days from the date the note was executed. Ms. Keagle executed the promissory note that same day and Mr. Green paid Respondent \$10,000.00 in cash for the benefit of Ms. Keagle.

Mr. Green never received the money as promised. Respondent failed to return messages left with him by Mr. Green. On one occasion, however, Respondent returned a call from Mr. Green and advised that the account had been set up and that Respondent was working on getting a finance team together to manage Ms. Keagle's money.

On or about January, 2009, Mr. Green's brother received a phone call from Ms. Keagle's sister who advised that there was no settlement account in Indiana and that the whole thing was a scam.

The acts and omissions of the Respondent as stated above constitute ethical misconduct in violation of the Rules of Professional Conduct 4.1, RPC 4.3, RPC 4.4, 8.1(b) and RPC 8.4(a)(b) and (c).

5. File No. 32021c-4-KB – Complaint by Diana Koontz

On January 26, 2009, a request for assistance was filed by Diana Koontz alleging ethical misconduct by Respondent. Following Respondent's failure to send a response to the Consumer Assistance Program, the Board assigned the case for investigation. On March 27, 2009, the Board sent a copy of the complaint to Respondent requesting a response within ten (10) days. Respondent did not respond to the complaint in a timely manner. However, Respondent sent a response to the Board on May 29, 2009.

In November 2007, Ms. Koontz hired Respondent for a fee of \$2,000.00 for representation in the reformation of a deed. Complainant sought to have an individual removed

from the property deed to her home. Respondent advised that the matter could be handled in the local Chancery Court.

Complainant contacted Respondent in April, 2008, to get an update on the progress of the case. Respondent advised that Complainant's case was in line to be heard, but that Respondent had not received notice from the Court at that time. Complainant contacted Respondent in July, 2008, and Respondent continued to advise Complainant that the Court had not contacted him as to a court date yet.

Complainant attempted to contact Respondent in September, 2008, but was unable to do so after several attempts. Complainant then contacted the Chancery Court to inquire about her case. Complainant discovered that Respondent had not even filed anything with the Court. Complainant sent Respondent a certified letter requesting a full refund plus damages for failing to adequately represent Complainant's interests. The letter further stated that if Respondent would not agree to pay, that Complainant would initiate a civil action against Respondent.

Respondent failed to address Complainant's request and Complainant filed a civil action in the General Sessions Court. On July 9, 2009, Respondent paid Complainant \$2,317.00, and on July 14, 2009, Complainant dismissed her civil action against Respondent.

The acts and omissions of the Respondent as stated above constitute ethical misconduct in violation of the Rules of Professional Conduct 1.3, 1.4, 1.5(a), 1.16(d), 3.2, 8.1(b) and RPC 8.4(a)(c) and (d).

6. File No. 32046-4-KB – Complaint by Clifford Miles

On April 1, 2009, a complaint was filed by Clifford Miles alleging ethical misconduct by Respondent. On April 8, 2009, the Board sent a copy of the complaint to Respondent requesting a response within ten (10) days. Respondent did not respond to the complaint in a timely

manner. On May 29, 2009, Respondent sent a response to the complaint.

On October 31, 2008, Mr. Miles and his wife paid Respondent \$3,500.00 for representation in a termination of parental rights and adoption case. Mr. Miles made several attempts to contact Respondent by telephone and in person but was unsuccessful. In January, 2009, Mr. Miles was finally able to get in contact with Respondent's secretary, who scheduled a meeting with Respondent.

At the meeting, Respondent stated that he had done a substantial amount of work in the case, but that his wife had recently suffered three (3) heart attacks and that he was unable to handle his caseload due to attending to his wife's medical needs.

Respondent never sent Mr. Miles any paperwork regarding the termination/adoption case. Further, he did not inform Mr. Miles that the biological mother of the child filed a counter-petition.

Additionally, Respondent failed to notify Mr. Miles that he had been suspended from the practice of law effective March 16, 2009, pursuant to Supreme Court Rule 9, Section 18.

Mr. Miles subsequently filed a civil action against Respondent in General Sessions Court. Respondent reimbursed Mr. Miles the \$3,500.00 retainer fee.

The acts and omissions of the Respondent as stated above constitute ethical misconduct in violation of the Rules of Professional Conduct 1.3, 1.4, 1.5(a), 3.2, 8.1(b) and RPC 8.4(a)(c) and (d).

7. File No. 32051-4-KB – Complaint by Brandy Smith

On April 2, 2009, a complaint was filed by Brandy Smith alleging ethical misconduct by Respondent. On April 14, 2009, the Board sent a copy of the complaint to Respondent requesting a response within ten (10) days. Respondent did not respond to the complaint in a

timely manner. On May 27, 2009, Respondent sent a response to the complaint.

Ms. Smith scheduled a consultation with Respondent the day before she was scheduled to appear in court to respond to a petition regarding the custody and visitation of her daughter. Respondent did not appear for the appointment, and Respondent's secretary stated that Respondent would represent Complainant upon payment of a \$1,500.00 retainer fee. Ms. Smith made payment on the same day.

The following day, Respondent appeared in court and requested additional time to respond to the petition filed by the opposing party. The court granted an extension to provide a response to the petition. Respondent only spoke briefly with Ms. Smith after court and stated that he had another appointment to attend to. Respondent advised Ms. Smith to schedule another appointment with his office to prepare a response to the petition.

Ms. Smith scheduled several appointments but Respondent failed to appear at each designated time. A response to the petition was eventually drafted and Ms. Smith executed the response, but it was never filed with the court. Ms. Smith appeared on her next scheduled court date but Respondent failed to appear.

On May 27, 2009, Respondent advised disciplinary counsel that he would be reimbursing the full retainer fee to Ms. Smith. Respondent has failed to provide any additional proof demonstrating that he has made a refund to Ms. Smith.

The acts and omissions of the Respondent as stated above constitute ethical misconduct in violation of the Rules of Professional Conduct 1.1, 1.3, 1.4, 1.5(a), 3.2, 8.1(b) and RPC 8.4(a)(c) and (d).

8. **File No. 32155c-4-KB – Complaint by Rebecca Jackson**

On March 25, 2009, a complaint was filed by Rebecca Jackson alleging ethical misconduct by Respondent. On May 11, 2009, the Board sent a copy of the complaint to Respondent requesting a response within ten (10) days. Respondent had previously failed to respond to requests for information from the Consumer Assistance Program. Respondent did not respond to the complaint in a timely manner. On May 27, 2009, Respondent sent a response to the complaint.

On December 15, 2008, Ms. Jackson retained Respondent to represent her in a child custody matter. Ms. Jackson paid Respondent \$900.00 for his representation. Ms. Jackson made several attempts to contact Respondent after he was retained without success. On March 26, 2009, Ms. Jackson read a news article that indicated that Respondent's law license had been suspended on March 16, 2009.

On March 23, 2009, Respondent sent Ms. Jackson a letter advising that he could not file her petition within the next 30 days and would be mailing a full refund of her retainer. There is no mention in the letter of Respondent's suspension from the practice of law.

On May 27, 2009, Respondent provided disciplinary counsel a letter that included a copy of a check that Respondent mailed out to Complainant on April 14, 2009, in the amount of \$900.00. Complainant has confirmed that she did receive payment from the Respondent.

The acts and omissions of the Respondent as stated above constitute ethical misconduct in violation of the Rules of Professional Conduct 1.1, 1.3, 1.4, 1.5(a), 3.2, 8.1(b) and RPC 8.4(a)(c) and (d).

9. **File No. 32168-4-KB – Complaint by Mabel Rakowski**

On May 5, 2009, a complaint was filed by Mabel Rakowski alleging ethical misconduct

by Respondent. On May 13, 2009, the Board sent a copy of the complaint to Respondent requesting a response within ten (10) days. Respondent sent a response to the complaint on May 29, 2009.

Ms. Rakowski hired Respondent to represent her in a personal injury suit. Ms. Rakowski was injured in a fall outside of a leased premises on May 12, 2007. Respondent filed a civil action on May 12, 2008, and a Summons was issued and handed back to Respondent for service. It was later discovered that Respondent never served the Summons to the defendant and has not filed any return of service within 90 days as prescribed by Rule 4 of the Tennessee Rules of Civil Procedure.

On January 19, 2009, Ms. Rakowski communicated with Respondent who advised that he was waiting for a response from the defendant. Respondent scheduled an appointment to meet with Ms. Rakowski on February 18, 2009, but Respondent failed to appear for the appointment. Ms. Rakowski has not heard from the Respondent since that time.

In his response to the Board, Respondent provided a letter to Ms. Rakowski dated March 17, 2008, expressing concerns about the likelihood of a reasonable settlement of her case. He advised her to get a second opinion in the matter. Respondent also provided a second letter to Ms. Rakowski dated May 12, 2008, that confirms that Respondent filed a civil action, but requests that she retain alternate counsel in the matter. Ms. Rakowski disputes that Respondent ever sent those letters to her.

Ms. Rakowski discovered that Respondent's license to practice law was suspended and states that she was never notified of such by Respondent. Respondent has failed to properly withdraw from the civil action where he is still listed as attorney of record. Respondent has failed to return Ms. Rakowski's file as requested.

The acts and omissions of the Respondent as stated above constitute ethical misconduct in violation of the Rules of Professional Conduct 1.1, 1.3, 1.4, 1.5(a), 3.2, 8.1(b) and RPC 8.4(a)(c) and (d).

10. - File No. 32196c-4-KB – Complaint by Joshua Davis

On April 14, 2009, a request for assistance was filed by Joshua Davis alleging ethical misconduct by Respondent. On May 20, 2009, the Board sent a copy of the complaint to Respondent requesting a response within ten (10) days. Respondent had previously failed to respond to requests for information from the Consumer Assistance Program. Respondent sent a response to the complaint on May 29, 2009.

Respondent was retained on January 16, 2008, to represent Mr. Davis in a domestic assault case and a paternity/visitation matter. Mr. Davis paid a total of \$2,000.00 for the representation. As it turned out, the domestic assault case was dismissed at the request of the victim requiring very little work by Respondent.

Mr. Davis alleges that he made numerous attempts to contact Respondent about the paternity/visitation matter but that his calls were not returned. Mr. Davis alleges that appointments were scheduled with Respondent's secretary to meet with Respondent but that Respondent would fail to appear or be late. When Respondent did appear for appointments he did not have any status updates regarding the case.

Mr. Davis signed a petition to establish parentage on May 27, 2008, but that Respondent did not file it with the court until September 8, 2008. Respondent asserts that he had the visitation matter worked out with opposing counsel and was ready to enter into an agreed order, but that Respondent was suspended from the practice of law and could not proceed in the case. The opposing counsel in the case disputes that there was ever an agreement.

Mr. Davis states that the failure of Respondent to resolve the visitation issue has been prejudicial because the mother of the child only allows him to have visitation when she wants.

The acts and omissions of the Respondent as stated above constitute ethical misconduct in violation of the Rules of Professional Conduct 1.1, 1.3, 1.4, 1.5(a), 3.2, 8.1(b) and RPC 8.4(a) and (d).

11. File No. 32214-4-KB – Complaint by Gregory Zerillo

On June 1, 2009, a complaint was filed by Gregory Zerillo alleging ethical misconduct by Respondent. On June 3, 2009, the Board sent a copy of the complaint to Respondent requesting a response within ten (10) days. Respondent did not respond to the complaint in a timely manner. A Notice of Temporary Suspension was sent to Respondent at his business and home address on June 26, 2009 and July 28, 2009, respectively. Respondent has failed to respond to the disciplinary complaint against him.

Mr. Zerillo retained Respondent on September 18, 2008, to represent him in a DUI charge. Mr. Zerillo paid Respondent \$3,000.00 for representation. Respondent appeared for an initial court date, but Mr. Zerillo was later unable to reach Respondent by telephone. Mr. Zerillo went to Respondent's office and discovered that his law office was locked up. Respondent failed to appear for Mr. Zerillo's court date on May 21, 2009. Mr. Zerillo eventually pled guilty to the offense without the benefit of counsel.

Respondent did not advise his client that he was suspended from the practice of law effective March 16, 2009, pursuant to Supreme Court Rule 9, Section 18.

The acts and omissions of the Respondent as stated above constitute ethical misconduct in violation of the Rules of Professional Conduct 1.1, 1.3, 1.4, 1.5(a), 1.16(d), 3.2, 8.1(b) and RPC 8.4(a) and (d).

12. File No. 32281c-4-KB – Complaint by Anna Dayton

On May 18, 2009, a complaint was filed by Anna Dayton alleging ethical misconduct by Respondent. On June 26, 2009, the Board sent a copy of the complaint to Respondent requesting a response within ten (10) days. Respondent had previously failed to respond to requests for information from the Consumer Assistance Program. Respondent did not respond to the complaint in a timely manner. A Notice of Temporary Suspension was sent to Respondent at his business and home address on July 20, 2009. Respondent did not provide a response to the complaint.

On June 11, 2008, Respondent was retained by Ms. Dayton to investigate the criminal record of her grandson and clear up some old charges and restore his rights. Respondent failed to complete the work he was hired for in a diligent and timely manner.

Respondent did not advise his client that he was suspended from the practice of law effective March 16, 2009, pursuant to Supreme Court Rule 9, Section 18.

The grandson met with Respondent who advised that he would fully reimburse the \$2,000.00 retainer paid to him. Ms. Dayton made attempts to contact Respondent after said meeting but was unsuccessful. On or about July 13, 2009, Respondent sent a check to Ms. Dayton for \$2,000.00 following the complaint for misconduct.

The acts and omissions of the Respondent as stated above constitute ethical misconduct in violation of the Rules of Professional Conduct 1.1, 1.3, 1.4, 1.5(a), 1.16(d), 3.2, 8.1(b) and RPC 8.4(a) and (d).

13. File No. 32329-4-KB – Complaint by Joyce Stone

On July 7, 2009, a complaint was filed by Joyce Stone alleging ethical misconduct by Respondent. On July 10, 2009, the Board sent a copy of the complaint to Respondent requesting

a response within ten (10) days. Respondent did not respond to the complaint.

On October 30, 2007, Ms. Stone paid Respondent \$10,000.00 to appeal a trial court's ruling of October 24, 2007, dismissing a motion to set aside Ms. Stone's final decree in a divorce matter. Respondent requested that Ms. Stone obtain supporting proof of her psychological condition from a certified counselor. Respondent advised Ms. Stone that this might be helpful in the appeal process.

Ms. Stone made several attempts to communicate with Respondent but he never returned her phone calls. On one occasion, however, Ms. Stone was able to reach Respondent by phone and he advised that he was in communication with the appellate court clerks' office regarding the appeal.

In January or February, 2009, Ms. Stone provided Respondent with information regarding her appointments with a counselor and a referral that had been made to another counselor.

Ms. Stone has not had any communication from Respondent since that time. She later discovered that Respondent's law license had been suspended. Respondent did not advise his client that he was suspended from the practice of law effective March 16, 2009, pursuant to Supreme Court Rule 9, Section 18.

Further, Ms. Stone discovered that Respondent had never filed the appeal.

The acts and omissions of the Respondent as stated above constitute ethical misconduct in violation of the Rules of Professional Conduct 1.1, 1.3, 1.4, 1.5(a), 3.2, 8.1(b) and RPC 8.4(a)(c) and (d).

14. File No. 32375c-4-KB – Complaint by Betty Roberts

On June 25, 2009, a complaint was filed by Betty Roberts alleging ethical misconduct by Respondent. On July 29, 2009, the Board sent a copy of the complaint to Respondent requesting a response within ten (10) days. Respondent had previously failed to respond to requests for information from the Consumer Assistance Program. Respondent did not respond to the complaint in a timely manner. A Notice of Temporary Suspension was sent to Respondent at his business and home address on August 18, 2009. Respondent did not provide a response to the complaint.

On July 1, 2008, Respondent was retained to represent Ms. Roberts in a custody dispute. Ms. Roberts paid Respondent \$990.00 for his legal representation in the matter. Respondent took no action in the case and failed to file any pleadings on Ms. Roberts' behalf. Ms. Roberts attempted to contact Respondent on several occasions and Respondent failed to return any calls.

Respondent did not advise his client that he was suspended from the practice of law effective March 16, 2009, pursuant to Supreme Court Rule 9, Section 18.

The acts and omissions of the Respondent as stated above constitute ethical misconduct in violation of the Rules of Professional Conduct 1.1, 1.3, 1.4, 1.5(a), 3.2, 8.1(b) and RPC 8.4(a) and (d).

CONCLUSIONS OF LAW

Pursuant to Tenn. S. Ct. R. 9, Section 3, 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 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 (hereinafter "RPC") of the State of Tennessee shall constitute misconduct and be grounds for discipline.

As noted above, Respondent has failed to answer the Petition for Discipline. The Hearing Panel has already entered an Order of Default and, therefore, pursuant to Tenn. S. Ct. R. 9, Section 8.2 the charges are deemed admitted.

Therefore, the Panel finds that the Board has demonstrated by a preponderance of the evidence that Respondent has violated the following Rules of Professional Conduct ("RPC"s): 1.1, Competence; 1.3, Diligence; 1.4, Communication; 1.5(a), Fees; 1.15(b), Safekeeping Property; 1.16(d), Declining and Termination Representation; 3.2, Expediting Litigation; 4.1, Truthfulness and Candor in Statements to Others; 4.3, Dealing with an Unrepresented Person; 4.4, Respect for Rights of Third Persons; 8.1(b), Bar Admission and Disciplinary Matters; and 8.4(a)(b)(c)(d), Misconduct.

Once a disciplinary violation has been established, the appropriate discipline must be based upon application of the *ABA Standards for Imposing Lawyer Sanctions*, ("ABA Standards") pursuant to Section 8.4, Rule 9 of the Rules of the Supreme Court. The following ABA Standards apply in this matter:

4.1 Failure to Preserve the Client's Property

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

4.4 Lack of Diligence

4.41 Disbarment is generally appropriate when:

- a) a lawyer abandons the practice and causes serious or potentially serious injury to a client; or
- b) a lawyer knowingly fails to perform services for a client and

- c) causes serious or potentially serious injury to a client; or
a lawyer engages in a pattern of neglect with respect to client matters and causes serious or potentially serious injury to a client.

4.5 Lack of Competence

- 4.51** Disbarment is generally appropriate when a lawyer's course of conduct demonstrates that the lawyer does not understand the most fundamental legal doctrines or procedures, and the lawyer's conduct causes injury or potential injury to a client.

4.6 Lack of Candor

- 4.61** Disbarment is generally appropriate when a lawyer knowingly deceives a client with the intent to benefit the lawyer or another, and causes injury or potential injury to the client.

5.1 Failure to Maintain Personal Integrity

- 5.11** Disbarment is generally appropriate when:

- a) ...
- b) a lawyer engages in any other intentional conduct involving dishonesty, fraud, deceit, or misrepresentation that seriously adversely reflects on the lawyer's fitness to practice.

7.0 Violations of Duties Owed to the Profession

- 7.1** Disbarment is generally appropriate when a lawyer knowingly engaged in conduct that is a violation of a duty owed to the profession with the intent to obtain a benefit for the lawyer or another, and causes serious or potentially serious injury to a client, the public, or the legal system.

Further, pursuant to ABA Standard 9.22, a number of aggravating factors are present in this case and are listed below.

- a) prior disciplinary offense;
- b) dishonest or selfish motives;
- c) a pattern of misconduct;
- d) multiple offenses;
- e) bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary agency; and
- f) substantial experience in the practice of law.


JUDGMENT

Based upon the foregoing, it is the judgment of this Hearing Panel that Anthony W. Turner is hereby disbarred from the practice of law. The Hearing Panel further finds that Anthony W. Turner should make restitution to the following individuals as set forth below. Restitution shall be a condition precedent to reinstatement.

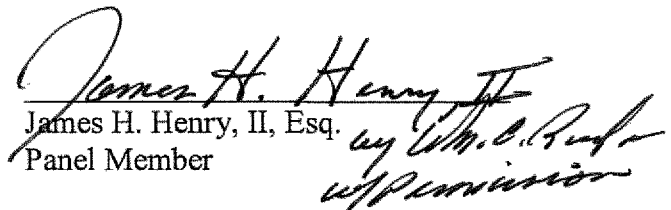
- 1. John Wilson - \$2,240.00
- 2. Brandy Smith - \$1,500.00
- 3. Mabel Rakowski – all fees that have been paid to Respondent but not refunded as of the date of this Order
- 4. Joshua Davis - \$2,000.00
- 5. Gregory Zerillo - \$3,000.00
- 6. Joyce Stone - \$10,000.00
- 7. Betty Roberts - \$990.00

Further, in light of the disposition of this disciplinary proceeding, the Hearing Panel recommends that the temporary suspension pursuant to Section 4.3 of Supreme Court Rule 9 be dissolved upon entry of the Order of Enforcement.

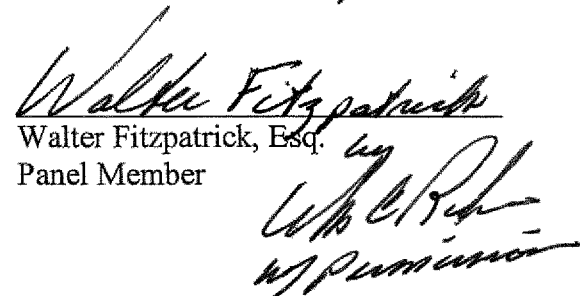
IT IS SO ORDERED.



William Clay Rieder, Esq.
Panel Chair


by W.C. Rieder
w/permission

James H. Henry, II, Esq.
Panel Member


by W.C. Rieder
w/permission

Walter Fitzpatrick, Esq.
Panel Member

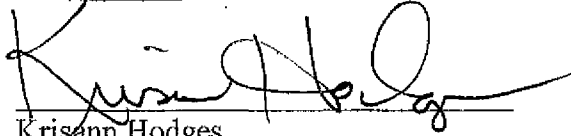
PREPARED BY:



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Certificate of Service

I certify that a copy of the foregoing FINDINGS OF FACT AND CONCLUSIONS OF LAW has been mailed to Respondent, ANTHONY TURNER, at 1882 Little Cove Road, Crossville, TN, 38555 by regular mail on this the 7th day of May, 2010.

A handwritten signature in black ink, appearing to read "Krisann Hodges", written over a horizontal line.

Krisann Hodges
Disciplinary Counsel.