

IN DISCIPLINARY DISTRICT IX
OF THE
BOARD OF PROFESSIONAL RESPONSIBILITY
OF THE
SUPREME COURT OF TENNESSEE

FILED

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BOARD OF PROFESSIONAL
RESPONSIBILITY
CW
EXEC. SEC.

IN RE: KAREN WILSON TYLER,
BPR # 14165, Respondent,
An Attorney Licensed to
Practice Law in Tennessee
(Shelby County)

DOCKET NO. 2012-2154-9-KB

FINDINGS AND RECOMMENDATION OF THE HEARING PANEL

This cause came to be heard by the Hearing Committee of the Board of Professional Responsibility of the Supreme Court of Tennessee (the "Panel") on February 20, 2013, upon the pleadings, presentation by counsel representing the State of Tennessee, and the entire record, including the following exhibits:

1. Petition for Discipline dated September 7, 2012;
2. Motion for Default Judgment and That Allegations Contained in Petition be Deemed Admitted dated November 8, 2012;
3. Order of temporary suspension was entered April 5, 2012; and
4. Order granting the motion of the Board of Professional Responsibility's for default judgment dated January 3, 2013.

A hearing took place on Wednesday, February 20, 2013, in the Tennessee Supreme Courtroom at the Shelby County Courthouse. The Board was represented by Kevin Balkwill, Disciplinary Counsel. The Respondent did not appear. The Hearing Panel consisted of Les Jones, Esq., Marc Reisman, Esq., and David M. Cook, Esq., Hearing Panel Chair.

The following findings of fact and conclusions of law were unanimously determined by the Panel:

FINDINGS OF FACTS

5. On July 26, 2011, the Honorable Robert Benham, a Shelby County Probate Court judge, submitted to the Board documentation concerning the conduct of Respondent, Karen Wilson Tyler, as it pertained to a probate matter assigned to his court.

6. On October 12, 2011, the Board sent a letter to Ms. Tyler which included a copy of Judge Benham's documentation and requested that Ms. Tyler provide a written response within ten (10) days from receipt of the letter.

7. The Board sent additional communications to Ms. Tyler by letters dated November 4, 2011, November 8, 2011, November 29, 2011, December 16, 2011, December 28, 2011, January 12, 2012, January 26, 2012, and February 24, 2012.

8. Ms. Tyler sent additional communications to the Board by letters faxed November 8, 2011, and December 20, 2011.

9. Ms. Tyler's failure to respond to specific inquiries from Disciplinary Counsel led to the filing of a Petition for Temporary Suspension against her.

10. On April 5, 2012, the Tennessee Supreme Court filed an Order of Temporary Suspension against Ms. Tyler.

11. On March 19, 2009, Ms. Tyler filed a Petition to Appoint Administrator on behalf of her client, Eddie Stokes, regarding the estate of decedent Jeanette Marie Stokes.

12. On March 20, 2009, the Court entered an Order appointing Eddie Stokes as administrator for the estate of Jeanette Marie Stokes.

13. Between June and August of 2009, several claims were filed against the estate of Jeanette Marie Stokes by her creditors.

14. Ms. Tyler failed to file an exception to any of the claims filed against the estate.

15. Ms. Tyler failed to ensure that an accounting was filed with the Court by Mr. Stokes as required by law.

16. On September 17, 2010, the Court clerk sent a notice to Ms. Tyler and Mr. Stokes advising that an accounting was overdue in the estate matter.

17. On January 19, 2011, the Court issued an Order to Show Cause requiring Mr. Stokes to appear in Court on February 24, 2011, to show cause why he should not be held in contempt of court and/or removed as fiduciary for failure to render an accounting in the case.

18. On February 24, 2011, Mr. Stokes appeared in Court but Ms. Tyler failed to appear.

19. On March 3, 2011, Judge Benham sent a letter to Ms. Tyler directing her to file an accounting in the case by March 22, 2011, without any further delays or continuances.

20. Ms. Tyler failed to meet the accounting filing deadline set forth in Judge Benham's March 3, 2011 letter.

21. On March 25, 2011, Judge Benham's secretary sent a letter to Ms. Tyler instructing her that an accounting should be filed prior to April 19, 2011, at which time Ms. Tyler and Mr. Stokes must appear in Court to address Judge Benham regarding the inaction in the case.

22. On March 29, 2011, Ms. Tyler filed a Motion for Case File Closure requesting that the probate matter be closed and suggesting that she no longer represented Mr. Stokes in the matter.

23. On April 19, 2011, both Ms. Tyler and Mr. Stokes appeared in Court. As a result of the hearing, the Court entered an Order Denying Motion Filed By Attorney Karen Wilson-Tyler On March 29, 2011.

24. The above Order required that proper steps be taken to close the estate on or before June 20, 2011, without any further continuances or delays.

25. On June 16, 2011, a Final Accounting was filed with the Court.

26. Ms. Tyler failed to properly close the estate on or before June 20, 2011.

27. On June 22, 2011, the Court filed a Notice of Hearing on Exceptions to Accounting and set the matter for a hearing on July 22, 2011.

28. Ms. Tyler failed to appear for the July 22, 2011 Court hearing.

29. In one of her communications to the Board, Ms. Tyler stated in a letter that Judge Benham was a "closet racist".

30. Ms. Tyler failed to file an affidavit with the Board of Professional Responsibility within ten (10) days of the effective date of her temporary suspension pursuant to Tenn. Sup. Ct. R. 9, § 18.8.

CONCLUSIONS OF LAW

31. Ms. Tyler failed to provide competent representation to Mr. Stokes, in violation of RPC 1.1.

32. Ms. Tyler failed to act with reasonable diligence and promptness in her representation of Mr. Stokes, in violation of RPC 1.3.

33. Ms. Tyler failed to explain matters to Mr. Stokes to the extent reasonably necessary to permit him to make informed decisions regarding the representation, in violation of RPC 1.4(b).

34. Ms. Tyler failed to comply with applicable law requiring notice to or permission of the Shelby County Probate Court when terminating her representation of Mr. Stokes, in violation of RPC 1.16(c).

35. Ms. Tyler failed to make reasonable efforts to expedite the litigation, in violation of RPC 3.2.

36. Ms. Tyler knowingly disobeyed an obligation under the rules of the Shelby County Probate Court, in violation of RPC 3.4(e).

37. Ms. Tyler failed to respond to a lawful demand for information from Disciplinary Counsel for the Board, in violation of RPC 8.1(b).

38. Ms. Tyler made a statement against Judge Benham's integrity that was known to be false or made with reckless disregard as to its truth, in violation of RPC 8.2(a)(1).

39. Ms. Tyler engaged in conduct prejudicial to the administration of justice, in violation of RPC 8.4(d).

40. The following ABA Standards are applicable to Ms. Tyler's rule violations set forth in paragraphs 31-39:

4.42 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.

4.52 Suspension is generally appropriate when a lawyer engages in an area of practice in which the lawyer knows he or she is not competent, and causes injury or potential injury to a client.

6.22 Suspension is appropriate when a lawyer knowingly violates a court order or rule, and there is injury or potential injury to a client or a party, or interference or potential interference with a legal proceeding.

7.2 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.

RECOMMENDATION

In evaluating the evidence, the panel unanimously concluded that the Respondent had acted in contravention of the cited rules. The panel agrees that the sanction sought, a one (1) year suspension retroactive to the date of the temporary suspension of April 5, 2012, is appropriate.

It is so ordered this 6th day of April, 2013.

David M. Cook

David M. Cook, Esq., Hearing Panel Chair

15/ Let Jones, w/ permission

Les Jones

Les Jones, Esq.

15/ Marc Reisman w/ permission

David M. Cook

Marc Reisman, Esq.

NOTICE

This judgment may be appealed pursuant to Tenn. Sup. Ct. R. 9, § 1.3 by filing a petition for writ of certiorari, which petition shall be made under oath or affirmation and shall state that it is the first application for the writ. *See* Tenn. Code Ann. §§ 27-8-104(a) and 27-8-106.