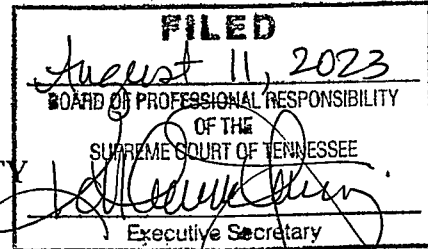


**IN DISCIPLINARY DISTRICT III
OF THE
BOARD OF PROFESSIONAL RESPONSIBILITY
OF THE
SUPREME COURT OF TENNESSEE**



**IN RE: JOHN SCOTT WESSON
BPR # 020555, Respondent
An Attorney Licensed and
Admitted to the Practice of
Law in Tennessee
(Hamilton County)**

DOCKET No. 2022-3284-3-DB

FINDINGS OF FACT, CONCLUSIONS OF LAW AND JUDGMENT

This matter came on for a final hearing on July 6, 2023 before a Hearing Panel consisting of Ariel Anthony, Jeffrey Maddux and Ronald Wells, Panel Chair. Douglas R. Bergeron, Disciplinary Counsel for the Board of Professional Responsibility and Respondent, Scott Wesson, participated in the hearing. The hearing was conducted telephonically.

STATEMENT OF THE CASE

The Petition for Discipline was filed by the Board of Professional Responsibility (hereinafter sometimes referred to as "the Board") on October 5, 2022. Following no responsive pleading being filed by Respondent, a Motion for Default Judgment and that the allegations of the Petition be deemed admitted was filed by the Board on March 3, 2023. This Hearing Panel entered an Order on May 4, 2023 granting the Board's Motion for Default and finding that the allegations of the Petition for Discipline to be deemed admitted. An Amended Order granting default to correct a clerical error was entered on May 18, 2023. A final hearing was set for July 6, 2023 with the only issue to be addressed being the appropriate disciplinary sanction.

FINDINGS OF FACT

The allegations contained in the Petition for Discipline filed by the Board were deemed

admitted pursuant to the Amended Order of Default entered in this matter and we so find by preponderance of the evidence the following facts have been proven by preponderance of evidence:

On or about April 19, 2022, Mr. Wesson initially agreed to receive a Public Censure for his conduct in the matters involved in this Petition. As a condition of the accepted Public Censure Mr. Wesson agreed to complete a Tennessee Lawyer Assistance Program (hereinafter referred to as "TLAP") monitoring agreement with mandatory reporting requirements. On May 18, 2022 TLAP advised the Board in writing that Mr. Wesson had decided not to continue with the TLAP monitoring arrangement. At its September 9, 2022 quarterly Board meeting, in accordance with Tennessee Supreme court Rule 9, section 12.8, the Board authorized reopening of the disciplinary file for further proceedings. At the final hearing in this matter, the petition and all exhibits attached thereto were admitted into evidence without objection as well as two instances of prior disciplinary conduct also admitted into evidence without objection.

File No. 59678-3-KB – Complainant – Ronald Dennis

Respondent represented the Complainant, Ronald Dennis, in a workers' compensation case, which concluded by final order filed February 11, 2016. The final order included a provision ordering that Mr. Dennis retain his right to lifetime future medical treatment related to his injury. Mr. Dennis subsequently sought medical treatment for his work-related injury. Mr. Dennis thereafter submitted a claim form to the Tennessee Valley Operating Engineers Health Fund ("TVOEHF") requesting eligibility to receive benefits to reimburse him for such medical costs. Mr. Dennis failed to disclose to TVOEHF that the claim involved a work-related injury. TVOEHF approved the claim and provided funds to Mr. Dennis in the amount of \$8,817.07.

On October 13, 2017, TVOEHF filed a civil action against Mr. Dennis in the United States District Court for the Middle District of Tennessee at Nashville alleging that Mr. Dennis was not eligible to receive benefits due to his work-related injury and seeking reimbursement for the mistaken payment to Mr. Dennis in the amount of \$8,817.07. Mr. Dennis was served with the summons and complaint on October 23, 2017. Mr. Dennis notified Respondent of the federal lawsuit, and on October 27, 2017, Respondent filed a petition to enforce the final judgment in Mr. Dennis's workers' compensation case. On February 9, 2018, Respondent filed an answer to the TVOEHF federal lawsuit asserting that the mistaken payments were not due to the actions of Mr. Dennis but to the improper billing submission of his medical treatment provider. On June 4, 2018, TVOEHF took Mr. Dennis's deposition with Respondent in attendance.

On June 7, 2018, TVOEHF filed a motion for summary judgment, and no response was filed by Respondent. On August 7, 2018, the court granted the motion for summary judgment and awarded judgment to TVOEHF in the amount of \$8,817.07 to be paid by Mr. Dennis within 30 days. On August 22, 2018, Respondent was administratively suspended by the Tennessee Supreme Court for failure to comply with his CLE obligations. Mr. Wesson never advised, as required by suspended attorneys under Supreme Court Rule 9, Section 28, his then client, Mr. Dennis, of his suspension and Mr. Wesson knowingly never advised, as required by suspended attorneys under Supreme Court Rule 9, Section 28, the opposing counsel in the suit then pending suit filed by TVOEHF of his suspension.

On September 6, 2018, counsel for TVOEHF made an application to the court for attorney fees in the amount of \$9,440.00. Respondent did not file any response on behalf of his client. On October 2, 2018, the Supreme Court entered an order lifting the suspension of Respondent's license to practice law. On November 30, 2018, the court filed an order granting

the fee application and ordering Mr. Dennis to pay \$9,960 in attorney fees within thirty (30) days. On January 15, 2019, TVOEHF filed a motion for order to show cause alleging that Mr. Dennis had not completely obeyed the prior orders of the court. TVOEHF alleged that it had obtained \$7,390.19 from Mr. Dennis but he owed an additional \$11,906.88. Respondent had failed to respond to communications sent to him in December 2018 and January 2019.

Respondent failed to provide any response. A show cause hearing was scheduled in federal Court for May 23, 2019. On January 22, 2019, Respondent was again administratively suspended for failure to comply with his CLE obligations. Mr. Wesson never advised, as required by suspended attorneys under Supreme Court Rule 9, Section 28, the opposing counsel in the suit then pending suit filed by TVOEHF of his January 22, 2019 suspension. Mr. Wesson also never advised, as required by suspended attorneys under Supreme Court Rule 9, Section 28, his then client Mr. Dennis of his January 22, 2019 suspension.

On January 24, 2019, the Supreme Court entered an order lifting the January 24, 2019 suspension of Respondent's law license. On May 23, 2019, Respondent appeared for the show cause hearing, but Mr. Dennis was not present. Respondent took full blame for the absence of his client and requested that the hearing be rescheduled. The court rescheduled the case for July 8, 2019. The court advised counsel for TVOEHF that he could make application for attorney fees for the missed deposition and the day's appearance and the court would assess those fees against Respondent and Respondent's client. Respondent and Mr. Dennis appeared at the hearing on July 8, 2019, and the parties announced that they had reached a settlement to assess \$4,400 in attorney fees against Respondent, with that sum and the remaining amounts due from Mr. Dennis to be repaid at \$1000 per month by Respondent on behalf of Mr. Dennis. The agreed monthly payments ceased at some point, and the court granted TVOEHF's motion to reopen the civil

action and set another show cause hearing for January 30, 2020, for Mr. Dennis to show cause why he and Respondent should not be held in contempt of court for failing to comply with the payment schedule. At Respondent's request, the show cause hearing was rescheduled for February 14, 2020. Neither Respondent nor Mr. Dennis appeared at the February 14, 2020 hearing, and the court set another hearing for April 20, 2020. Respondent nor Mr. Dennis participated in the April 20, 2020 telephonic hearing. Respondent's client was never made aware of any of these hearings that were unattended. On May 18, 2020, the federal district court held Mr. Dennis and Respondent in civil contempt for failing to appear at a hearing scheduled for April 20, 2020, and several other hearings. In its contempt order, the court imposed on Mr. Dennis a compliance fine of \$25 dollars a day, beginning 30 days after entry of the order, for each day that he failed to appear before the court as previously ordered. Mr. Dennis and Respondent appeared at a video conference hearing on July 2, 2020, and they satisfied the court that they had sent payment to the clerk of court to purge the contempt previously found by the court. Further, the admitted allegations show that Mr. Wesson knowingly terminated and/or refused to comply with his TLAP Monitoring Agreement with mandatory reporting requirements. It is noted that at the final hearing, Mr. Wesson testified that he decided that complying with the TLAP requirement was just not in his best interests.

CONCLUSIONS OF LAW

Pursuant to Tenn. Sup. Ct. R. 9, § 1, 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.

The preponderance of the evidence, in the complaint at issue in this disciplinary matter, establishes that Mr. Wesson has knowingly committed the following violations of the Rules of Professional Conduct:

By failing to respond to summary judgment and failing to respond to TVOEHF's application to the court for attorney fees in the amount of \$9,440.00, Mr. Wesson knowingly failed to represent his then client, Mr. Dennis, causing actual harm and as such violated Tennessee Rule of Professional Conduct 1.3 (Diligence). Mr. Wesson failed to reasonably communicate with his client relative to the hearing dates set by the Court nor the ramifications of those hearings in violation of Tennessee Rule of Professional Conduct 1.4 (communication).

In August of 2018 after Mr. Wesson was administratively suspended, Mr. Wesson never advised, as required by suspended attorneys under Supreme Court Rule 9, Section 28, his then client, Mr. Dennis, of his suspension and as such knowingly violated Tennessee Rules of Professional Conduct violated 8.4 (d) and 8.4 (g)(misconduct). Also, in August of 2018, Mr. Wesson knowingly never advised, as required by suspended attorneys under Supreme Court Rule 9, Section 28, the opposing counsel in the suit then pending suit filed by TVOEHF of his suspension. and as such knowingly violated Tennessee Rules of Professional Conduct violated 8.4(a), 8.4(d), and 8.4(g)(misconduct). Additionally following a reinstatement from administrative suspension, Mr. Wesson was once again administratively suspended on January 22, 2019 and again never advised, as required by suspended attorneys under Supreme Court Rule 9, Section 28, his then client, Mr. Dennis, of his suspension and as such knowingly violated Tennessee Rules of Professional Conduct violated 8.4 (d) and 8.4 (g)(misconduct) and knowingly never advised, as required by suspended attorneys under Supreme Court Rule 9, Section 28, the opposing counsel in the suit then pending suit filed by TVOEHF of his suspension. and as such knowingly violated Tennessee Rules of Professional Conduct violated 8.4 (a), 8.4(d), and 8.4 (g)(Misconduct).

Mr. Wesson knowingly failed to make reasonable efforts to expedite litigation and as such violated Tennessee Rule of Professional Conduct 3.2 (Expediting Litigation). Mr. Wesson, by failing to appear at the February 14, 2020 ordered show cause hearing, knowingly violated Tennessee Rule of Professional Conduct 3.4(c) (Fairness to Opposing Party and Counsel). Mr. Wesson, by failing to appear at the April 20, 2020 ordered show cause hearing, knowingly violated Tennessee Rule of Professional conduct 3.4(c) (Fairness to Opposing Party and Counsel). Mr. Wesson knowingly terminated and/or refused to comply with his TLAP Monitoring Agreement with mandatory reporting requirements and as such violated Tennessee Rule of Professional Conduct 8.4 (g) (Misconduct). Lastly, based upon these findings of fact and conclusions of law herein, Mr. Wesson knowingly violated Tennessee Rule of Professional Conduct 8.4(a) (Misconduct) by violating the Rules of Professional Conduct.

APPLICATION OF ABA STANDARDS

With disciplinary violations having been established by preponderance of the evidence, the Panel shall next consider the applicable provisions of ABA Standards for Imposing Lawyer Sanctions. As previously found herein, we deem all of Mr. Wesson's conduct to be knowing, as was averred, and admitted to pursuant to default.

The following ABA Standards have application to the findings in this case:

4.4 Lack of Diligence – Applies to violations of RPC 1.3 and 1.4

Absent aggravating or mitigating circumstances, upon application of the factors set out in Standard 3.0, the following sanctions are generally appropriate in cases involving a failure to act with reasonable diligence and promptness in representing a client:

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

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 causes injury or potential injury to a client.

6.2 Abuse of the Legal Process – Applies to violations of RPC 3.2, 3.4 and 8.4

Absent aggravating or mitigating circumstances, upon application of the factors set out in Standard 3.0, the following sanctions are generally appropriate in cases involving failure to

expedite litigation or bring a meritorious claim, or failure to obey any obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists:

6.21 Disbarment is generally appropriate when a lawyer knowingly violates a court order or rule with the intent to obtain a benefit for the lawyer or another, and causes serious injury or potentially serious injury to a party or causes serious or potentially serious interference with a legal proceeding.

6.22 Suspension is generally appropriate when a lawyer knows that he or she is violating a court order or rule, and causes injury or potential injury to a client or a party, or causes interference or potential interference with a legal proceeding.

Aggravating Factors

Pursuant to ABA Standard 9.22, aggravating factors are present in this case. The following aggravating circumstances justify an increase in the degree of discipline to be imposed against Ms. Finney:

- a. Mr. Wesson's pattern of misconduct is an aggravating circumstance justifying an increase in discipline.
- b. Mr. Wesson's multiple offenses are an aggravating circumstance justifying an increase in discipline.
- c. Mr. Wesson's substantial experience in the practice of law, having been licensed in Tennessee in 2010, is an aggravating circumstance justifying an increase in discipline.

Mitigating Factors

Mr. Wesson participated in the final hearing in which he testified as to his family struggles during this period of representation giving rise to this disciplinary matter. Mr. Wesson indicated that his family struggles led to depression and substance abuse. He further testified that he has moved from Tennessee and has no plans to practice law in the future. While no extrinsic evidence was provided, we find as mitigating factors the remorse expressed by the Respondent and personal and/or emotional problems all of which are tempered by Respondent not responding to the disciplinary petition herein until after a default judgment had been rendered.

JUDGMENT

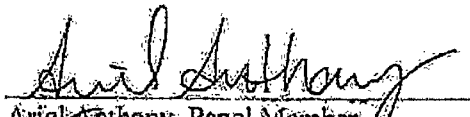
In light of the Findings of Fact and Conclusions of Law herein and the applicable ABA Standards for Imposing Lawyer Sanctions, the Hearing Panel has determined that the actions of Mr. Wesson were knowing violations of disciplinary Rules and the appropriate baseline sanction is suspension. Having established the appropriate baseline sanction the Hearing Panel, upon consideration of the aggravating and mitigating factors in this case, that an increase to the baseline sanction is warranted and so finds by a preponderance of the evidence that Mr. Wesson committed disciplinary misconduct and should be suspended from the practice of law for a period of seven (7) years. Mr. Wesson, within ninety (90) days of the Tennessee Supreme Court suspension order being entered, shall contact, and be evaluated as recommended by, the Tennessee Lawyer Assistance Program. Following the initial evaluation, Mr. Wesson shall either provide to the Board of Professional Responsibility a written statement from TLAP's executive Director that Mr. Wesson does not need any monitoring or Mr. Wesson shall enter into a monitoring agreement, abide by all diagnostic and treatment recommendations made to him, and obtain from TLAP's Executive Director a recommendation concerning the attorney's compliance with any Agreement and ultimately his fitness to practice. Mr. Wesson shall,

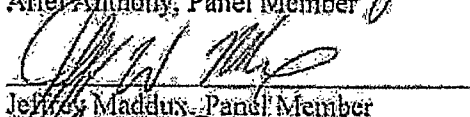
pursuant to Tennessee Supreme Court Rule 33.07, authorize TLAP to report all progress related to any such monitoring agreement to the Board.


NOTICE

This judgment may be appealed pursuant to Tenn. Sup. Ct. R. 9, § 33, by filing a Petition for Review in the Circuit or Chancery Court within sixty (60) days of the date of entry of the hearing panel's judgment.

IT IS SO ORDERED.

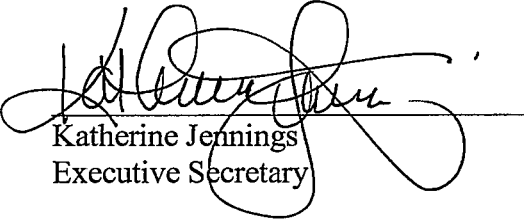

Ariel Anthony, Panel Member


Jeffrey Maddux, Panel Member


Ronald D. Wells, Panel Chair

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been sent to John Scott Wesson via email: scottwesson0@gmail.com, and hand-delivered to Douglas R. Bergeron, Disciplinary Counsel, on this the 11th day of August 2023.


Katherine Jennings
Executive Secretary

NOTICE

This judgment may be appealed by filing a Petition for Review in the appropriate Circuit or Chancery Court in accordance with Tenn. Sup. Ct. R. 9, § 33.