

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

FILED  
2014 OCT 23 PM 2:04  
BOARD OF PROFESSIONAL  
RESPONSIBILITY  
*Ree* EXEC. SEC.

IN RE: HAL WILKES WILKINS  
BPR No. 17830, Mr. Wilkins,  
an Attorney Licensed to Practice  
Law in Tennessee  
(Davidson County)

DOCKET NO. 2014-2335-5-AJ

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**JUDGMENT OF THE HEARING PANEL**

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This matter came to be heard on October 7, 2014, for final hearing on the Board's Petition for Discipline before Charles K. Grant, Panel Chair; Claiborne K. McLemore, Panel Member; and, Leon Vincent Williams, Panel Member. Alan D. Johnson, Disciplinary Counsel, appeared for the Board. Mr. Wilkins did not appear.

**FINDINGS OF FACT**

1. On July 22, 2014, Mr. Wilkins was disbarred from the practice of law (Supreme Court Docket No. M2014-01300-SC-BAR-BP). 2. A Petition for Discipline, Docket No. 2013-2335-5-AJ, was filed on July 3, 2014.

3. The Petition was sent via regular and certified mail to Mr. Wilkins' address of Post Office Box 24122, Nashville, Tennessee, 37202-4144, and 320 11<sup>th</sup> Avenue South, Apt. 227, Nashville, Tennessee 37202, as registered with the Board.

4. On August 13, 2014, the certified mail addressed to Post Office Box 24122, Nashville, Tennessee, 37202-4144 was returned to the Board with the Post Office notation that it was "unclaimed".

5. On August 21, 2014, the certified mail addressed to 320 11<sup>th</sup> Avenue South, Apt. 227, Nashville, Tennessee 37202 was returned to the Board with the Post Office notation that it was "unclaimed".

6. The Board filed a Motion for Default on August 26, 2014.

7. An Order of Default was entered on September 23, 2014. As a result of the Order of Default, the factual allegations contained within the Petition are deemed admitted.

**File No. 36804c-5-BG – Complaint of Patricia Valentine**

8. Ms. Valentine was injured in May 2012 when she slipped and fell at a Shoney's restaurant.

9. In April 2013, Ms. Valentine retained Mr. Wilkins to represent her on a contingency fee basis; however, Ms. Valentine and Mr. Wilkins did not enter into a written fee agreement.

10. On May 3, 2013, Mr. Wilkins filed a complaint on behalf of Ms. Valentine. Over the next several months, Ms. Valentine had difficulty communicating with Mr. Wilkins who rarely returned her phone calls.

11. Mr. Wilkins had been negotiating with Shoney's, and in November 2013, he told Ms. Valentine that he had reached a settlement in the amount of \$17,500.00, and he would waive his fee.

12. Mr. Wilkins never presented Ms. Valentine with settlement papers or settlement proceeds. At about the same time, Mr. Wilkins abruptly stopped returning phone calls from Shoney's.

13. Shoney's then retained a lawyer who was unable to communicate with Mr. Wilkins in November and December, 2013.

14. On December 2, 2013, Shoney's filed an answer to the complaint. Mr. Wilkins was temporarily suspended from the practice of law effective on January 1, 2013.

15. Thereafter, Shoney's lowered its offer to Ms. Valentine to \$11,444.67, and Ms. Valentine filed a Motion to Enforce Settlement.

16. Ms. Valentine's motion was subsequently stricken on the ground that the parties reached a settlement.

**File No. 36905-5-BG – Complaint of Wanda Smith**

17. On August 2, 2012, Ms. Smith was injured when she fell in her apartment.

18. On August 15, 2012, Ms. Smith retained Mr. Wilkins to represent her on a contingency basis; however, Ms. Smith and Mr. Wilkins did not enter into a written fee agreement.

19. Mr. Wilkins filed a complaint on behalf of Ms. Smith on August 1, 2013.

20. Thereafter, Ms. Smith had difficulty communicating with Mr. Wilkins who did not return her phone calls and who did not keep her informed about her case.

21. Mr. Wilkins was temporarily suspended from the practice of law effective on January 1, 2013, and he did not inform Ms. Smith about his suspension.

22. Ms. Smith later retained another lawyer to represent her.

**File No. 37001-5-BG – Complaint of Claudia Velazquez**

23. On October 4, 2011, Ms. Velazquez was injured in a car wreck and retained Hughes and Coleman to represent her. In December 2012, Ms. Velazquez's case was referred to Mr. Wilkins who resumed representation and negotiated a \$30,000.00 settlement on her behalf.

24. On December 11, 2013, Ms. Velazquez met with Mr. Wilkins at the bank where she signed paper work and received a settlement check in the amount of \$12,010.00.

25. Mr. Wilkins informed her that he had negotiated her medical bills down from \$18,000.00 to \$8,000.00, and that he would pay the bills and his fee with the remainder of the settlement proceeds.

26. He also told her that he would send her copies of the paper work.

27. Mr. Wilkins did not pay Ms. Velazquez's medical, nor did he send her the promised paperwork.

28. Mr. Wilkins was temporarily suspended from the practice of law effective January 1, 2014. After her meeting with Mr. Wilkins at the bank in December 2013, Ms. Velazquez never heard from him.

29. After a previous Petition for Discipline was filed on January 2, 2014, the Nashville Bar Association filed a Petition for Appointment of Receiver Attorney, and on March 13, 2014, the Probate Court granted the Petition.

30. Disciplinary Counsel enlisted the aid of the Tennessee Lawyer Assistance Program (TLAP) in an effort to locate Mr. Wilkins and provide him with assistance from TLAP.

31. Laura McClendon, Executive Director of TLAP, reported that nobody knows where he is and she has been unable to reach him.

32. Mr. Wilkins never responded to the Petition for Discipline filed in the current case.

#### CONCLUSIONS OF LAW

33. Pursuant to Tenn. S. Ct. R. 9, § 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.

34. Based upon the admitted facts alleged in the Petition for Discipline, the Hearing Panel finds that Mr. Wilkins' actions in representing Patricia Valentine violated the following Rules of Professional Conduct: 1.3 (diligence), 1.4 (communication), 1.16 (declining or terminating representation) and 8.1 (bar admission and disciplinary matters). Moreover, by failing to notify his client, opposing counsel and the court of his temporary suspension, Mr. Wilkins violated Tenn. Sup. Ct. R. 9, § 18 (2013).

35. Based upon the admitted facts alleged in the Petition for Discipline, the Hearing Panel finds that Mr. Wilkins' actions in representing Wanda Smith violated the following Rules of Professional Conduct: 1.3 (diligence), 1.4 (communication), 1.16 (declining or terminating representation) and 8.1 (bar admission and disciplinary matters). Moreover, by failing to notify his client, opposing counsel and the court of his temporary suspension, Mr. Wilkins violated Tenn. Sup. Ct. R. 9, § 18 (2013).

36. Based upon the admitted facts alleged in the Petition for Discipline, the Hearing Panel finds that Mr. Wilkins' actions in representing Claudia Velazquez violated the following Rules of Professional Conduct: 1.3 (diligence), 1.4 (communication), 1.5 (fees), 1.15 (safekeeping property and funds), 1.16 (declining or terminating representation) and 8.1 (bar admission and disciplinary matters). Moreover, by failing to notify his client, opposing counsel and the court of his temporary suspension, Mr. Wilkins violated Tenn. Sup. Ct. R. 9, § 18 (2013).

37. When disciplinary violations are established by a preponderance of the evidence, 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:

#### 4.4 LACK OF DILIGENCE

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.

#### 7.0 VIOLATIONS OF DUTIES OWED AS A PROFESSIONAL

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 false or misleading communication about the lawyer or the lawyer’s services, improper communication of fields of practice, improper solicitation of professional employment from a prospective client, unreasonable or improper fees, unauthorized practice of law, improper withdrawal from representation, or failure to report professional misconduct. (emphasis added)

##### 7.1 Disbarment is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional 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.

38. The admitted facts establish that Mr. Wilkins knowingly abandoned his law practice which adversely affected his clients and that he is currently a threat to the public at large.

### Aggravating Factors

39. Pursuant to ABA Standard 9.22, the following aggravating factors are present in this case:
- (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;
  - (h) vulnerability of victim, and;
  - (i) substantial experience in the practice of law.

### JUDGMENT

Based on these findings of fact and conclusions of law, it is the judgment of the Hearing Panel that Mr. Wilkins shall be disbarred, pursuant to Tenn. Sup. Ct. R. 9, § 4.1 retroactive to the effective date of his first disbarment on July 22, 2014. Further, the Panel finds that Mr. Wilkins must pay full restitution, pursuant to Tenn. Sup. Ct. R. 9, § 4.7, to Claudia Velazquez in the amount of \$17,990.00, that he withheld from her settlement for payment of medical expenses and his fee.

Payment of full restitution shall be a condition precedent to reinstatement. In the event restitution is made by the Tennessee Lawyers' Fund for Protection of Clients (TLFCP), Mr. Wilkins will be responsible for reimbursement of TLFCP in the same amount.

IT IS SO ORDERED:

  
Charles K. Grant, Panel Chair

  
Claiborne K. McLemore, Panel Member

  
Leon Vincent Williams, Panel Member

NOTICE TO RESPONDENT

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.