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

BOARD OF PROFESSIONAL
RESPONSIBILITY

RW EXEC. SEC.

IN RE: Michael Gregory Williams Docket No. 2013-2264-3-AJ
 BPR Number 019199
 An Attorney Licensed to
 Practice Law in Tennessee
 (Hamilton County)

JUDGMENT OF THE HEARING PANEL

This case comes before the Hearing Panel on a default judgment in favor of the Board of Professional Responsibility's Petition for Discipline filed against Respondent, Michael Gregory Williams. Respondent is currently suspended from the practice of law for non-compliance with Continuing Legal Education and IOLTA requirements, and non-payment of annual dues.

I. Findings of Fact

Respondent was licensed to practice law in Tennessee in 1998, and has been practicing law in Hamilton County, Tennessee. The Board initiated a Petition for Discipline against Respondent on October 30, 2013. Respondent did not respond to the Petition for Discipline, and the Board moved for default. A Default Judgment was entered by the Hearing Panel on April 25, 2014, and a hearing set by Notice dated May 15, 2014. The Hearing Panel heard the Board's case for sanctions against Respondent in an oral hearing held in Chattanooga, Tennessee on June 9, 2014.

The Board called Lee Akers, Hamilton County Clerk and Master, to testify. Mr. Akers testified that on November 13, 2008, Respondent was appointed as Administrator of the Estate of Modesto Eliseo Valequez-Galves in the Hamilton County Chancery Court. Respondent never

filed an inventory. Respondent's father, J. Pat Williams, called Lee Akers, and told him that Respondent had some information regarding an estate for which Respondent was the appointed administrator. Mr. Akers testified that he knew Respondent's father because J. Pat Williams writes bonds for the Chancery Court.

Respondent and Respondent's father met with Mr. Akers some time the week of July 23, 2012. Respondent told Mr. Akers that he had taken \$10,000 from the Galves estate, and had used the money to pay his personal bills. Mr. Akers then called the Board, and Respondent told Disciplinary Counsel, Ms. Nancy Jones, via telephone that he had taken funds from the Galves estate and used them to pay personal expenses. Mr. Akers testified that he had signed an Affidavit recounting the above facts.¹

The Board also called Michael Buhrman, the substitute administrator, to testify at the hearing. Mr. Buhrman testified that he originally represented Benjamina Galvez of Guatemala, surviving spouse of Modesto Galves. Mr. Buhrman wrote a letter to Respondent and Respondent's father, J. Pat Williams, requesting that he be appointed substitute administrator of the Galves estate because no action had ever been taken to move the estate toward conclusion.²

Mr. Buhrman was appointed as substitute administrator on July 25, 2012. After his appointment, Mr. Buhrman reviewed the file and prepared a detailed memo summarizing the state of the Galves estates.³ Mr. Buhrman explained that the estate involved an out-of-the-country beneficiary who does not speak English. He also stated that he could not file an

¹ Letter & Affidavit of S. Lee Akers, Exhibit 1.

² Letter from Buhrman to Michael Williams and J. Pat Williams, Exhibit 2

³ Exhibit 4.

inventory until the missing funds were repaid. Mr. Buhrman tried to contact Respondent repeatedly via telephone, email and mail, but Respondent never responded to Mr. Buhrman. Mr. Buhrman testified that on May 22, 2014, \$13,700 was paid to the Galves estate by a cashier's check bearing the name Victoria Cox, who is apparently Respondent's mother.⁴

Respondent did not appear at the hearing; however, his father J. Pat Williams, appeared and testified on Respondent's behalf. Mr. Williams testified that Respondent had gone through a divorce and an emotional breakdown. Mr. Williams testified that he had sent Respondent to live at the family's vacation home in Townsend, Tennessee. He testified that Respondent is not currently engaged in the practice of law, and is working as a tile laborer. Mr. Williams testified that he was passing Respondent's mail on to him in Townsend but that he wasn't opening the mail. When asked how he had known about the hearing, Mr. Williams testified that he had visited the Chancery Court Clerk's office that day on another matter and heard about the hearing.

II. Conclusions of Law

Pursuant to Tenn. R. S. Ct. R. 9, Section 3, the license to practice law in this state is a privilege, and it is a duty of every recipient of that privilege to conduct himself at all times in conformity with the standards imposed upon other members of the bar as conditions for the privilege, to practice law. Acts or omissions by an attorney which violate the Rules of Professional Conduct⁵ ("RPC") of the State of Tennessee shall constitute misconduct and be grounds for discipline.

⁴ Cashier's Check, Deposit Slip & Notes Exhibit 3.

⁵ References are made to both versions of the Rules of Profession Conduct because Respondent's actions occurred prior to the adoption of the current version of the RPCs.

As noted above, Respondent failed to answer the Petition for Discipline or attend the hearing on June 9, 2014. This Hearing Panel entered an Order of default on April 25, 2014, and therefore, pursuant to Tenn. S. Ct. R. 9, Section 8.2, the charges are deemed admitted. The Panel has noted above the specific RPCs that were violated by Respondent's misconduct. When disciplinary actions 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. After review of the ABA Standards, this Panel finds that the appropriate discipline in this case is a four (4) year suspension, coupled with additional conditions for reinstatement more fully set forth below.

A. Failure to Safe Keep Client's Property

Rule 1.15 Safekeeping Property

- (a) A lawyer shall hold property and funds of clients or third persons that are in a lawyer's possession in connection with a representation separate from the lawyer's own property and funds. A lawyer in possession of clients' or third persons' property and funds incidental to representation shall hold said property and funds separate from the lawyers own property and funds.
- (b) Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person.

Rule 1.15 Safekeeping of Property and Funds (1/1/11)

- (a) A lawyer shall hold property and funds of clients or third persons that are in a lawyer's possession in connection with a representation separate from the lawyer's own personal property and funds.
- (b) Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person.

We find that Respondent's taking of funds from the Galves estate violates Rule 1.15.

B. Failure to Respond to Disciplinary Complaints

Rule 8.1 Bar Admission and Disciplinary Matters

An applicant for admission to the bar, or a lawyer in connection with a bar admission application or in connection with a disciplinary matter, shall not:

(b) fail to disclose a fact necessary to correct a misapprehension of material fact known by the person to have arisen in the matter, or knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by RPC 1.6.

Rule 8.1 Bar Admissions and Disciplinary Matters (1/1/11)

An applicant for admission to the bar, or a lawyer in connection with a bar admission application or in connection with a disciplinary matter, shall not:

(b) fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter, or knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by RPC 1.6.

ABA Standard 6.33 provides that suspension is an appropriate sanction for failure to respond.

We find that Respondent's failure to respond to the Petition for Discipline and failure to appear at the June 9 hearing violate both versions of Rule 8.1.

C. Misconduct

Rule 8.4 Misconduct

It is professional misconduct for a lawyer to:

(a) Violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;

- (b) Commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects;
- (c) Engage in conduct that is prejudicial to the administration of justice.

Rule 8.4 Misconduct (1/1/11)

It is professional misconduct for a lawyer to:

- (a) Violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
- (b) Commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects;
- (c) Engage in conduct that is prejudicial to the administration of justice.

We find that Respondent's actions violate both versions of Rule 8.4.

D. Aggravating Factors

ABA Standard 9.22 provides for a list of aggravating factors to be considered in determining punishment. We find that vulnerability of the victim and substantial experience in the practice of law are aggravating factors that are present in this case.

E. Mitigating Factors

ABA Standard 9.32 provides for a list of mitigating factors that may be considered when determining sanctions. We find that Respondent's lack of prior disciplinary complaints against him is a mitigating factor in this case.

III. Judgment

This Hearing Panel has carefully considered the evidence, including the aggravating and mitigating factors. Based on the foregoing findings of fact and conclusions of law, and

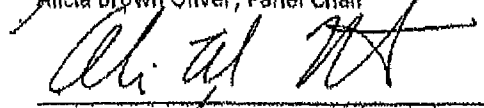
considerations of punishment in similar cases,⁶ this Hearing Panel finds that the established violations of the Rules of Professional Conduct justify a four (4) year suspension. After serving the term of his suspension, Respondent must comply with the following conditions:

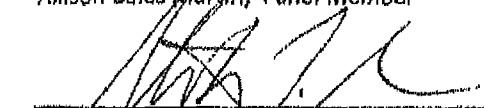
- (a) Completion of a program designed by the Tennessee Lawyers Assistance Program;
- (b) Completion of 3 hours of Continuing Legal Education on safekeeping of client funds;
- (c) Payment of the costs of this proceeding;
- (d) Compliance with any outstanding Continuing Legal Education requirements;
- (e) Compliance with any outstanding IOLTA requirements; and
- (f) Payment of any outstanding annual dues, fees or professional privilege or other taxes.

If Respondent completes the above conditions, Respondent shall be allowed to Petition the Board for reinstatement.

IT IS SO ORDERED THIS 9th DAY of JULY.


Alicia Brown Oliver, Panel Chair


Allison Bales Martin, Panel Member


Stephen T. Greer, Panel Member

⁶ See, e.g., Board of Professional Responsibility v. Love, 256 S.W.3d 644 (Tenn. 2008) (imposing a three-and-a-half-year suspension with reinstatement requirements including completion of substance abuse counseling, proof of sobriety, payment of costs and restitution); Milligan v. Board of Professional Responsibility, 37 S.W.3d 886 (Tenn. 2000) (two year suspension); Board of Professional Responsibility v. McKinnle, No. 2010-1958-6-RH (2010) (two-year suspension plus probation).