

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

[Signature]

EXEC. SEC'Y

IN RE: WILLIAM T. WINCHESTER,
BPR # 21282, An Attorney Licensed
And Admitted to the Practice of
Law in Tennessee
(Shelby County)

DOCKET No. 2010-1902-9-RS

FINDINGS OF FACT AND CONCLUSIONS OF LAW, AND JUDGMENT

FINDINGS OF FACT

1. This is a disciplinary proceeding against the Respondent, William T. Winchester, an attorney licensed to practice law in Tennessee.
2. Disciplinary Counsel, on behalf of the Board, filed a Petition for Discipline against the Respondent on February 25, 2010.
3. On March 22, 2010, Respondent filed an Answer.
4. The Board propounded Interrogatories and Requests for Production of Documents on June 7, 2010.
5. The Hearing Panel twice extended the time for Respondent to respond to the Board's discovery requests.
6. The matter was set for hearing on October 28 and 29, 2010.

7. On October 14, 2010, the Respondent responded to the Board's discovery requests, though he provided no documents.

8. The discovery responses were admitted into evidence at the hearing as Exhibit 36.

9. The Respondent stated in his discovery responses that he had destroyed many of his client files.

10. On October 15, 2010, the Respondent moved for a continuance. That continuance was granted by the Hearing Panel.

11. The Hearing was re-set by agreement of all parties for December 21 and 22, 2010.

12. On December 20, 2010, the Respondent again moved for a continuance of the hearing.

13. The Hearing Panel denied the Respondent's request.

14. On December 21, 2010, the morning of the hearing, the Respondent informed the Hearing Panel by email that he would not attend the hearing.

15. Throughout the pendency of this matter the Respondent has refused to cooperate with Disciplinary counsel in the investigation state as evidenced by the affidavit of Rachel Waterhouse which was entered into evidence at the hearing as Exhibit 37.

16. Respondent has also refused to cooperate in discovery and has filed numerous non meritorious motions.

17. The Respondent, William T. Winchester, is an attorney admitted by the Supreme Court of Tennessee to practice law in the State of Tennessee.

18. Pursuant to Section 1 of Rule 9, any attorney admitted to practice law in Tennessee is subject to the disciplinary jurisdiction of the Supreme Court, the Board of Professional Responsibility, the Hearing Committee, hereinafter established, and the Circuit and Chancery Courts.

19. Pursuant to Section 3 of Supreme Court Rule 9, 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.

20. 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.

21. Respondent has been previously disciplined by the Board.

22. On May 15, 2003, the Respondent was publicly censured for inappropriately advising his client to secretly record a conversation.

23. On June 9, 2008, the Respondent received a private informal admonition for violating local rules by repeatedly emailing pleadings without required memorandum to judges and parties without properly filing the pleadings.

24. On July 21, 2008, the Respondent received a private informal admonition for failing to communicate with a client and failing to file her case despite being paid to do so.

25. Finally, on November 9, 2009, a Hearing Panel of the Board of Professional Responsibility recommended that the Respondent be suspended for two (2) years for

failing to represent clients diligently and failing to properly communicate with clients. That Hearing Panel decision has been appealed by the Respondent.

FILE NO. 30502c-9-SG – COMPLAINT OF KATRINA CLARK

26. On July 11, 2007, a complaint was entered as to the Respondent by the Complainant, Katrina Clark, and designated as File No. 30502c-9-SG.

27. The Respondent was notified of the complaint and afforded an opportunity to respond.

28. The Respondent responded to the complaint by letter received October 8, 2007. A copy of the complaint and response thereto is attached to the Petition for Discipline as Collective Exhibit A.

29. Respondent represented Ms. Clark beginning December 9, 2004, on a contingency basis in a medical malpractice and products liability case involving Ms. Clark's dermatological reaction to a drug.

30. A complaint was filed on or about July 29, 2005, against several defendants. Summary judgment was entered against the defendant doctor and health care facility on September 1, 2006.

31. Two drug company defendants remained in the suit, and settlement discussions ensued.

32. One of the companies was non-suited by Respondent.

33. Medical documentation was to be supplied by the Respondent to the remaining defendant, but he did not do so.

34. Attorney Prince Chambliss represented one of the defendants in Ms. Clark's case.

35. Mr. Chambliss testified that it was difficult to get in touch with the Respondent and that the Respondent never provided the medical documentation necessary to evaluate Ms. Clark's case for settlement, despite numerous requests over several months.

36. An order of dismissal for lack of prosecution was entered on February 18, 2008

37. Respondent abandoned Ms. Clark's case.

38. Judge Gina Higgins, represented Ms. Clark after the Respondent prior to Judge Higgins taking the bench.

39. Judge Higgins attempted to contact the Respondent to effectuate his withdrawal and her appearance in Ms. Clark's case, but the Respondent would not respond.

40. The Respondent represented to the Hearing Panel in his affidavit in support of one of his motions for summary judgment that he had properly completed his withdrawal from Ms. Clark's case.

41. In support of this contention, the Respondent submitted a letter from Judge Higgins requesting that the Respondent sign an Order of Substitution.

42. Judge Higgins testified that the Respondent never responded to her letter and that he failed to turn over Ms. Clark's file.

43. Judge Higgins was eventually able to obtain the file from the Respondent's former secretary.

44. Respondent failed to diligently pursue Plaintiff's case or keep her informed of the status of the case, including the dismissal.

45. Respondent failed to properly withdraw from the case. Respondent falsely represented to this Panel under oath that he properly withdrew from the case.

FILE NO. 30952c-9-TH – COMPLAINT OF DON MOORE

46. On January 1, 2008, a complaint was entered as to the Respondent by the Complainant, Don Moore, and designated as File No. 30952c-9-TH.

47. The Respondent was notified of the complaint and afforded an opportunity to respond.

48. The Respondent responded to the complaint by letter received January 31, 2008. A copy of the complaint and response thereto are attached to the Petition for Discipline as Collective Exhibit B and were admitted as evidence at the hearing as Exhibits 27 and 28.

49. Respondent agreed to represent Mr. Moore in a medical malpractice matter in 2005.

50. Respondent filed suit in Circuit Court on March 1, 2005.

51. Respondent refused to return Mr. Moore's calls on a timely basis, or to keep Mr. Moore apprised of the status of his suit.

52. Respondent abandoned Mr. Moore's case.

53. Respondent failed to properly withdraw from the case and has failed to provide Mr. Moore with his file.

FILE NO. 31605-9-RS – COMPLAINANT ANNA HOWARD

54. On October 27, 2008, a complaint was entered as to the Respondent by the Complainant, Anna Howard, and designated as File No. 31605-9-RS.

55. The Respondent was notified of the complaint and afforded an opportunity to respond.

56. A copy of the complaint and response are attached to the Petition for Discipline as Collective Exhibit C and were admitted into evidence at the hearing as Exhibit 4 and 8.

57. Respondent was hired to file a lawsuit on behalf of Ms. Howard's son, Antonio Howard who was injured in the City of Memphis Correction Center in March 2006.

58. Ms. Howard was given her son's power of attorney on April 21, 2006.

59. Ms. Howard provided a copy of the power of attorney to Respondent.

60. Respondent was paid \$1,500.00 to represent Antonio Howard.

61. The case was dismissed by the court for failure to pay the filing fee.

62. Ms. Howard met with Respondent to discuss payment of the filing fee from Complainant's son's jail account.

63. Respondent reassured Ms. Howard that he would see that he would re-file the case once the fee was paid.

64. Ms. Howard paid the filing fee into her son's prison account and notified the Respondent.

65. After placing the filing fee in her son's account, Ms. Howard repeatedly attempted to contact Respondent to inform him of this, but Respondent would not return her phone calls or emails.

66. Respondent never re-filed Ms. Howard's son's case.

67. Ms. Howard and her son have not had contact with Respondent since the summer of 2008, despite several attempts to contact Respondent.

68. Respondent misrepresented to Ms. Howard that he would re-file her son's case.

69. Respondent failed to communicate with Ms. Howard.

70. Respondent failed to represent Ms. Howard's son diligently.

71. No money has been refunded to Complainant.

72. Respondent had assured Ms. Howard that he would continue to personally handle her son's case even though he was turning over many of his cases to other attorneys.

73. Despite making this assurance, Respondent abandoned Ms. Howard's case and has abandoned his law practice.

FILE NO. 31698-9-RS – COMPLAINT OF JANNIE WILLIAMS

74. On December 15, 2008, a complaint was entered as to the Respondent by the Complainant, Jannie Williams, and designated as File No. 31698-9-RS.

75. The Respondent was notified of the complaint and afforded an opportunity to respond.

76. The Respondent responded to the complaint by letter received April 24, 2009.

77. A copy of the complaint and response thereto are attached to the Petition for Discipline as Collective Exhibit D and entered into evidence at the hearing as Exhibits 30 and 31.

78. Complainant hired Respondent for a matter involving the death of her son.

79. The case was dismissed.

80. Respondent abandoned Complainant's case and has not had contact with her in months at the time she filed this complaint in December 2008.

81. Respondent failed to notify Complainant of the dismissal of her case.

82. Respondent has not responded to Disciplinary Counsel's request to provide his file.

83. Respondent admits allowing the case to be dismissed.

FILE NO. 31699-9-KB – COMPLAINT OF VONTYNA DURHAM

84. On December 17, 2008, a complaint was entered as to the Respondent by the Complainant, Vontyna Durham, and designated as File No. 31699-9-KB.

85. The Respondent was notified of the complaint and afforded an opportunity to respond.

86. The Respondent responded to the complaint by letter received April 24, 2009.

87. A copy of the complaint and response thereto are attached to the Petition for Discipline as Collective Exhibit E and entered as evidence at the hearing as Exhibits 18 and 19.

88. Ms. Durham hired Respondent to represent her concerning a federal court civil suit against her boyfriend and Shelby County for damages resulting from the boyfriend shooting Ms. Durham while he was on duty as a code enforcement officer.

89. A complaint was filed on July 13, 2006.

90. The action was stayed pending resolution of a criminal case against the boyfriend, on April 12, 2007.

91. Respondent was instructed to continue to attempt service of process on the boyfriend.

92. Respondent failed to appear at a status conference on April 30, 2009.

93. A show cause order was entered on May 18, 2009 for failure to prosecute, and the stay lifted.

94. Respondent failed to inform Ms. Durham of the status conference or the show cause order.

95. Ms. Durham has been left to represent herself in her lawsuit.

96. Ms. Durham has been unable to contact Respondent.

97. Ms. Durham went to Respondent's office and left messages for him, all to no avail.

98. Respondent has not returned Ms. Durham's file to her

99. Respondent abandoned Ms. Durham's case and has abandoned his law practice.

FILE NO. 31754-9-KS – COMPLAINT OF KAREN EDWARDS

100. On December 29, 2008, a complaint was entered as to the Respondent by the Complainant, Karen Edwards, and designated as File No. 31754-9-KS.

101. The Respondent was notified of the complaint and afforded an opportunity to respond.

102. The Respondent responded to the complaint by letter received April 24, 2009.

103. Copies of the complaint and response are attached to the Petition for Discipline as Collective Exhibit F and were admitted as evidence at the hearing as Exhibit 13 and 14.

104. Ms. Edwards hired Respondent to litigate four separate cases and paid Respondent \$550.00.

105. Respondent dismissed one case without the permission or knowledge of Ms. Edwards.

106. A second case was dismissed for failure to prosecute without the knowledge of Ms. Edwards.

107. After learning of this dismissal, Ms. Edwards attempted *pro se* to set aside the order dismissing her case, but could not.

108. In a third case, Respondent filed a complaint on January 27, 2006. An Order for Summary Judgment was entered against Ms. Edwards on February 15, 2007.

109. Respondent filed a Motion to Alter or Amend, which was denied on January 30, 2008.

110. Despite being instructed to appeal by Ms. Edwards, Respondent failed to appeal this case.

111. In the final case, Ms. Edwards hired the Respondent to represent her in a False Claims Act case, and signed the initial complaint on April 11, 2005.

112. Respondent never filed the complaint.

113. Respondent failed to keep Ms. Edwards informed about the status of any of her cases.

114. Ms. Edwards has not heard from Respondent since July 2008, despite an e-mail around that time that Respondent intended to keep her cases.

115. Ms. Edwards has sent numerous e-mails and left many messages with no reply from Respondent.

116. Respondent has also failed to return Ms. Edwards' files.

117. Ms. Edwards provided Respondent with several boxes of documents supporting her claims in each of her potential lawsuits.

118. Respondent has not returned any of those files or documents.

119. Ms. Edwards has been unable to pursue her claims because of the Respondent's failure to return her documents and files.

120. Respondent abandoned Ms. Edwards' cases and his law practice.

FILE NO. 31852-9-KS – COMPLAINT OF MARTIN URSERY

121. On January 30, 2009, a complaint was entered as to the Respondent by the Complainant, Martin Ursery, and designated as File No. 31852-6-KS.

122. The Respondent was notified of the complaint and afforded an opportunity to respond.

123. The Respondent responded to the complaint by letter received April 24, 2009.

124. A copy of the complaint and response thereto are attached to the Petition for Discipline as Collective Exhibit G and was entered into evidence at the hearing as Exhibits 11 and 12.

125. Mr. Ursery hired Respondent in March 2008 for an interstate adoption/custody matter paying Respondent \$3,000.00 for the representation.

126. Respondent filed a complaint in Circuit Court on March 5, 2008.

127. Respondent failed to keep Mr. Ursery informed about his case and failed to communicate with Mr. Ursery.

128. Mr. Ursery eventually looked on the court docket to determine the status of his case and discovered a January 14, 2009 court date.

129. When Mr. Ursery arrived in court on January 14, 2009, Judge McCarroll told him his case had been voluntarily non-suited on November 19, 2008.

130. The case was non-suited without the knowledge of Mr. Ursery.

131. Mr. Ursery was still unable to communicate with Respondent despite repeated attempts.

132. Respondent abandoned Mr. Ursery's case.

133. Mr. Ursery filed a *pro se* Motion to Set Aside the non-suit on January 20, 2009 and has hired new counsel.

134. Mr. Ursery testified that the Respondent's delays and failure to move forward with his case caused him to lose custody of the child at issue in the case.

135. Mr. Ursery's file was never returned to him.

FILE NO. 31965-9-KS – COMPLAINT OF RUBBIE KING

136. On March 12, 2009, a complaint was entered as to the Respondent by the Complainant, Rubbie King, and designated as File No. 31965-9-KS.

137. The Respondent was notified of the complaint and afforded an opportunity to respond.

138. The Respondent responded to the complaint by letter received April 22, 2009.

139. A copy of the complaint and aforementioned responses are attached to the Petition for Discipline as Collective Exhibit H and was entered into evidence at the hearing as exhibit 22 and 23.

140. Ms. King was employed as a paralegal for Respondent.

141. Ms. King also retained Respondent to represent her and other family members in three cases.

142. One case was filed in 2004 in Circuit Court, involving medical malpractice, wrongful death and products liability.

143. The second suit, filed in 2008 in Circuit Court, was for medical battery involving a minor child.

144. Ms. King secured \$125,000.00 in private funding to litigate these cases in September 2007, of which \$71,200.00 was given directly to Respondent.

145. None of these funds were placed in an attorney trust account.

146. Respondent has failed to adequately account for the litigation funds despite numerous requests from Ms. King.

147. Respondent settled the 2004 case against two defendants, and received attorney fees for this work.

148. Respondent missed a critical deadline for the expert affidavit, severely affecting the value of the case against the remaining defendants.

149. In the medical battery case, Respondent entered an order of voluntary non-suit on February 17, 2009, without notifying Ms. King.

150. The remaining Circuit Court case was settled against the remaining defendants by Ms. King's current counsel, Kenneth Margolis, and funds were placed with the court in August, 2008.

151. The third case was a declaratory judgment action filed in Chancery Court in April 2008, which is still pending to determine if TennCare has a claim against the settlement funds from the Circuit Court case.

152. A portion of the settlement proceeds from the wrongful death action has been interpleaded in Chancery Court.

153. Kenneth Margolis testified that the original settlement offers in the Circuit Court case were significantly higher prior to Respondent's failure to meet the expert affidavit deadline.

154. Mr. Margolis and Ms. King settled that suit on theories other than medical malpractice due to the Respondent's failure to disclose an expert witness.

155. Ms. King was Respondent's paralegal during an alleged "winding down" of his practice.

156. Respondent has failed to properly communicate with his clients or turn over their files in a timely manner.

157. Respondent abandoned his law practice.

FILE NO. 31983-9-KS – COMPLAINT OF KRISTINE BUCK

158. On March 16, 2009, a complaint was entered as to the Respondent by the Complainant, Kristine Buck, and designated as File No. 31983-9-KS.

159. The Respondent was notified of the complaint and afforded an opportunity to respond.

160. The Respondent responded to the complaint by letter received April 22, 2009.

161. A copy of the complaint and aforementioned responses are attached as Collective Exhibit I and were admitted into evidence at the hearing as Exhibits 16 and 17.

162. In October 2005, Ms. Buck hired Respondent for a breach of contract/predatory lending action, paying a \$500 retainer fee.

163. In August of 2007, Ms. Buck was notified of Respondent's heart condition and was told to set up a meeting with him.

164. Since October of 2005 the Respondent has taken no action on Ms. Buck's case.

165. Ms. Buck was not given notice of Respondent's office closure.
166. Respondent has failed to adequately communicate with Ms. Buck.
167. Ms. Buck has attempted to contact Respondent by phone, e-mail, and on Facebook without any success.
168. Respondent has failed to keep Ms. Buck informed as to the status of her case.
169. Respondent never filed Ms. Buck's lawsuit.
170. In April of 2009, Respondent told Ms. Buck and the Board he would return her file.
171. Respondent has not returned Ms. Buck's file or refunded her retainer.
172. Respondent has abandoned Ms. Buck's case and his law practice.
173. The statute of limitations has run on Ms. Buck's predatory lending claim, and she was unable to pursue her claim due to the Respondent's failure to return her file to her.

FILE NO. 32056-9-KS – COMPLAINT OF JOHN HOLTZMAN

174. On December 1, 2008, a complaint was entered as to the Respondent by the Complainant, John Holtzman, and designated as File No. 32056-9-KS.
175. The Respondent was notified of the complaint and afforded an opportunity to respond.
176. The Respondent responded to the complaint by letter received May 1, 2009.

177. A copy of the complaint and response is attached to the Petition for Discipline as Collective Exhibit J and admitted into evidence at the hearing as Exhibit 1 and 2.

178. In April of 2006, Mr. Holtzman paid a \$2,500 retainer to Respondent for a divorce/custody matter.

179. Respondent appeared on behalf of Mr. Holtzman in April of 2008.

180. A follow-up hearing was scheduled for September 11, 2008.

181. Mr. Holtzman e-mailed Respondent several times for an update in August.

182. Respondent did not respond to these requests for information.

183. On September 11, 2008, the morning of the scheduled hearing, at 7:30 a.m., Respondent returned Mr. Holtzman's e-mails stating he was withdrawing from all his family law cases due to stress-related health issues and had sent letters to all his clients and opposing counsel.

184. In this email, Respondent told Mr. Holtzman to inform the court of this fact and to ask for a continuance so Mr. Holtzman could find new counsel.

185. Mr. Holtzman's September 11, 2008, follow-up e-mail requested help finding a new attorney, information on filing to reduce his child support, return of his file, a change of address for Complainant, a refund of the remaining retainer fee Complainant paid, and that Respondent finish his preparation of a quit claim deed.

186. Respondent did not respond to Mr. Holtzman's email.

187. Respondent did not properly withdraw from representation.

188. Respondent did not return Mr. Holtzman's file to him.

189. Respondent abandoned Mr. Holtzman's case and his law practice.

190. Mr. Holtzman's new counsel was not recognized by the court until January 5, 2009, as a direct result of Respondent's inaction to withdraw from his case.

191. Despite numerous requests by the Mr. Holtzman, the Respondent has not provided an accounting of his fees in this matter and has provided no refund.

CONCLUSIONS OF LAW

1. The Petitions for Discipline charge the Respondent with the violation of Rules of Professional Conduct 1.3, 1.4, 1.5, 1.15, 1.16, 8.1, and 8.4.

2. Rule 1.3 of the Tennessee Rules of Professional Conduct requires that a lawyer "act with reasonable diligence and promptness when representing a client."

3. The Respondent failed to act diligently in the Clark case by failing to provide opposing counsel with necessary medical information, in the Moore case by failing to respond to a motion for summary judgment and abandoning Mr. Moore's case, in the Howard matter by failing to diligently pursue the payment of a filing fee into court, in the Williams matter allowing the case to be dismissed without the knowledge of his client and abandoning Ms. Williams' representation, in the Durham matter by failing to appear at a status conference and failing to respond to a Order to Show Cause, in the Edwards case by allowing Ms. Edwards' cases to be dismissed without her knowledge and by abandoning the representation of Ms. Edwards, in the Ursery case by allowing the case to be dismissed without his client's knowledge and abandoning the representation of Mr. Ursery, in the King matter by voluntarily dismissing a lawsuit without his client's knowledge, failing to diligently record and account for litigation funds, and failing to meet

a critical deadline for filing an expert affidavit, in the Buck matter failing to take any actions whatsoever after being retained on the case, and in the Holtzman matter by failing to appear for a hearing and leaving his client without representation.

4. Rule 1.4 of the Tennessee Rules of Professional Conduct requires as follows:

(a) A lawyer shall keep a client reasonably informed about the status of a matter and comply with reasonable requests for information within a reasonable time.

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

5. As set forth in the findings of facts above, each complaint contained in the Petition for Discipline sets forth the Respondent's failures to communicate with his clients despite numerous and repeated attempts by his clients to contact him.

6. Further, in the Moore, Williams, Urserly and King matters the Respondent failed to inform his clients of critical developments in their case including pending motions for summary judgment (to which the Respondent did not respond), the dismissal of the client's case for failure to prosecute, or the Respondent's own voluntary dismissal of his client's case.

7. The Respondent's conduct violated Rule 1.4 in his complete failure to adequately communicate with his clients and keep them reasonable informed.

8. The Respondent has engaged in a consistent pattern of neglecting his client files and failing to act in the best interest of his clients with regard to their files.

9. The Respondent has engaged in a consistent pattern of failing to communicate with his clients, even abandoning his Memphis office leaving his clients without information regarding how to reach him.

10. The Respondent's conduct also violated Rule 1.5 which provides, in part, that a lawyer's fees and charges should be "reasonable."

11. The Respondent violated Rule 1.5 in the Howard, Buck, Ursery, Edwards, and Holtzman case by accepting payment and providing little or no legal representation.

12. Rule 1.15 requires that a lawyer "hold property and funds of clients or third parties" separate and distinct from the lawyer's own property or funds.

13. Rule 1.15 further requires that when a lawyer receives funds or other property of a client or third person, the "lawyer shall promptly notify the client or third person."

14. The Respondent violated this rule in the King matter by accepting funds from a litigation funding group and failing to adequately account for those funds.

15. The Respondent has also violated Rule 1.15 by failing to keep safe his client files. He has failed to return client files to them, and, according to his responses to the Board's discovery requests, destroyed many files.

16. The Respondent violated the provisions of Rule 1.16 that provide that proper termination of the representation of a client requires reasonably notice to the client, return of all property, paper, work product, and a prompt refund of all unearned fees.

17. The Respondent violated Rule 1.16 by abandoning his practice and the clients who have filed complaints against him without returning fees, the clients' file and without any notice to his clients or the Court.

18. Specifically, in the Clark matter, the Respondent abandoned Ms. Clark and made no effort to assist in the substitution of new counsel.

19. The Respondent failed to respond to repeated request by the Board for information and documentation both in the investigation stage and once formal proceedings were initiated by the Board.

20. This failure is a violation of Rule of Professional Conduct 8.1(b) which prohibits a lawyer from failing to "respond to a lawful demand for information from an admissions or disciplinary authority. . ."

21. Finally, the Respondent's actions violated section 8.4.

22. RPC 8.4 provides, in part, that it is professional misconduct of 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) . . .

(c) engage in conduct involving dishonesty, fraud, deceit, or misrepresentation;

(d) engage in conduct that is prejudicial to the administration of justice.

. . .

23. As detailed above, the Respondent's actions have violated a number of Rules of Professional Conduct.

24. Further, the Respondent's actions have been prejudicial to the administration of justice in that he has abandoned his clients and, in each case, denied them information and access to the justice system.

25. The Respondent has also engaged in conduct involving dishonesty, fraud, deceit or misrepresentation by continuing to misrepresent to his clients the status of their cases and the work being done on their cases and by making misrepresentations to the Board regarding his client files, specifically, in filing a false affidavit regarding his efforts to effectuate his withdrawal from the Clark matter.

26. The acts and omissions by the Respondent constitute ethical misconduct in violation of Rules of Professional Conduct 1.3, 1.4, 1.5, 1.15, 1.16, 8.1, and 8.4.

27. The Supreme Court has adopted for use by its Hearing Panels the ABA Center for Professional Responsibility Standards for Imposing Lawyer Sanctions (ABA Standards).

28. The following ABA Standards are applicable in this matter.

Section 4.41 states:

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.

Section 4.51 states:

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.

Section 4.61 states:

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

Section 5.11 state:

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.

Section 7.1 states:

Disbarment is generally appropriate when a lawyer knowingly engages 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.

Section 8.1 states:

Disbarment is generally appropriate when a lawyer:

- (a) intentionally or knowingly violates the terms of a prior disciplinary order and such violation causes injury or potential injury to a client, the public, the legal system, or the profession; or
- (b) has been suspended for the same or similar misconduct, and intentionally or knowingly engages in further similar acts of misconduct that causes injury or potential injury to a client, the public, the legal system, or the profession.

29. Further, eight (8) aggravating factors apply in this case.

30. Section 9.2 of the ABA Standards sets forth several factors that may act to increase the level of discipline imposed.

31. First, Respondent has substantial experience in the practice of law, having been licensed to practice law since 2001.

32. The Respondent has prior disciplinary offenses.

33. The Respondent's actions constitute a pattern of misconduct.

34. The Respondent's actions constitute multiple offenses.

35. The Respondent has refused to acknowledge the wrongfulness of his conduct.

36. The Respondent's victims, mostly people he purportedly represented, were particularly vulnerable in that they depend on him for legal guidance and advice.

37. The Respondent evidenced a dishonest or selfish motive.

38. The Respondent has shown an indifference to making restitution.

39. The Respondent has also engaged in bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with the rules of the Board by failing to respond to complaints made against him, destroying files, filing meritless pleadings and making every effort to delay the conclusion of this matter.

JUDGMENT

Based on the above mentioned precedent and existing aggravating factors, the Hearing Panel rules that the Respondent, William T. Winchester, be disbarred and ordered to pay restitution to the victims as follows:

Buck	\$500
Edwards	\$550
Holtzman	\$2500

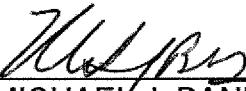
Howard \$1500

Urserly \$3000


And that the restitution payment also be a condition precedent to any future reinstatement to the practice of law.

Enter this 14 day of January, 2011.

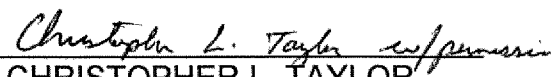
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