

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

FILED

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BOARD OF PROFESSIONAL
RESPONSIBILITY

RL EXEC. SEC'Y

IN RE: **MARK CHRISTOPHER SEVIER, Respondent**
BPR No. 26577, An Attorney
Licensed to Practice Law
in Tennessee
(Davidson County)

Docket No. 2010-1994-5-KH

PETITION FOR DISCIPLINE

Comes now the Petitioner, the Board of Professional Responsibility of the Supreme Court of Tennessee, by and through Disciplinary Counsel, pursuant to Rule 9 of the Rules of the Supreme Court, and files this Petition for Discipline against Mark Christopher Sevier.

1. The Respondent, Mark Christopher Sevier, is an attorney admitted by the Supreme Court of Tennessee to practice law in the State of Tennessee since 2007. The Respondent's most recent address as registered with the Board of Professional Responsibility is 44 Music Square East, Suite 314, Nashville, TN 37203-1124, being in Disciplinary District V. The Respondent's Board of Professional Responsibility number is 26577.

2. 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.

3. Pursuant to Section 3 of 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. 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.

4. The Respondent has failed to conduct himself in conformity with said standards and is guilty of acts and omissions in violations of the authority cited. The Board of Professional Responsibility authorized the filing of formal charges on September 10, 2010.

FILE NO. 32383-5-NJ

5. The Board's inquiry into this matter arose from a series of correspondence between Respondent, counsel for John Rich, and the Board regarding Respondent's licensure status. Both parties and the Board engaged in communication related to the Davidson Circuit matter, Case No. 09-1143, and related to a federal suit styled *Severe Records, LLC & Chris Sevier v. John Rich, Shanna Crooks, the Muzik Mafia, LLC, John D. Richafella Publishing*, Case No. 3:08-cv-00654, U.S. District Court, Middle District of Tennessee.

6. On July 14, 2009, the Board sent an inquiry to Respondent regarding statements made by him in the case of *John Rich v. Jared Ashley*, Case No. 09-1143, Davidson County Circuit Court.

7. Specifically, the Board inquired about statements made by Respondent in a pleading entitled "Memorandum in Support of the Motion to Disqualify and Request for Counsel to Publish a Public Apology, Correction, and Retraction, and Request for Other Equitable Relief" filed on June 16, 2009. (hereinafter "June 16 Memo") A copy of the Board's letter is attached hereto as Exhibit A.

8. In the June 16 Memo, page 29, Respondent stated “[M]oreover, Mrs. Parson, Mr. Ramsey, Mr. Rich, and Mr. Oswald are under investigation for the crimes that they allegedly committed during the course of their conspiracy.”

9. Respondent was counsel of record for the defendant, Jared Ashley, in *John Rich v. Jared Ashley*, Case No. 09-1143, Davidson County Circuit Court.

10. William Ramsey (“Mr. Ramsey”) and Cynthia Parson McKenzie (“Ms. Parson”) are attorneys for the plaintiff, John Rich.

11. On July 23, 2009, Respondent provided a response to the Board’s inquiry of July 14, 2009. A copy of the July 23, 2009 response is attached hereto as Exhibit B.

12. In his response, Respondent repeats his earlier statements that Mr. Ramsey and Ms. Parson are under criminal investigation and makes references to presentation of charges before a grand jury.

13. On or around June 1, 2009, Respondent attempted to file criminal charges against Mr. Ramsey, Ms. Parson, Mr. Rich, and Mr. Oswald on the basis that Mr. Ramsey and Ms. Parson had participated in the unauthorized practice of law. Specifically, Respondent alleged that Mr. Oswald attempted to settle the pending litigation at Mr. Ramsey and Ms. Parson’s direction.

14. After meeting with representatives from the District Attorney’s office, Respondent allowed himself to be interviewed by news media outside. He had apparently spoken with news media earlier that morning, as well.

15. Respondent was informed at the meeting by Anton Jackson, Assistant District Attorney, that the allegations made by Respondent did not rise to the level of a criminal offense.

16. Regardless, Respondent filed the June 16 Memo falsely stating that a criminal investigation was underway.

17. In his response to the Board, Respondent further justifies his statements by declaring that he was going to convene a grand jury to present the charges himself, thus, a criminal investigation was pending. (See Exhibit B, p. 1-3)

18. Respondent states that since he has decided to personally proceed with presentation of the criminal charges, there is “no remaining ambiguity whether Mrs. Parson and Mr. Ramsey are not currently under investigation now or on June 16, 2009....” (See Exhibit B, p. 29) He states that “it remains true today.” (See Exhibit B, p. 30)

19. Respondent omits the fact that he himself is the one who will be conducting the criminal investigation in the June 16 Memo.

20. In his response to the Board, Respondent stated that he contacted a friend who is a U.S. Attorney about the actions of Mr. Ramsey, Ms. Parsons, Mr. Rich, and Mr. Oswald. (See Exhibit B, pp. 13-14)

21. Respondent states that the U.S. Attorney found “unofficially” that an investigation should be conducted into the actions of Ramsey, et al. (See Exhibit B, pp. 13-14)

22. Respondent stated that the U.S. Attorney “suspected that Ms. Parson and Mr. Ramsey were ‘playing dirty’, as they have done in other cases, acting as ‘bullies for hire’, and in doing so, their actions had likely exceeded the scope of zealous advocacy and were per se violations of the criminal code.” (See Exhibit B, p. 13)

23. The U.S. Attorney, later identified as Heather G. Childs, denied making any representations to Respondent about a formal criminal investigation.

24. Rather, Ms. Childs confirms that she had a personal conversation with Respondent in which she expressed no opinion on whether any individual committed the unauthorized practice of law and whether Mr. Ramsey should be investigated. A copy of Ms. Child's letter to the Board is attached hereto as Exhibit C.

25. Assistant D.A. Anton Jackson wrote an e-mail to Respondent dated June 24, 2009 stating that when they met on June 2, 2009, he explained to Respondent that the allegations did not rise to the level of criminal activity. ADA Jackson further stated he listened to recordings supplied by Respondent, and his opinion had not changed. A copy of the e-mail is attached hereto as Exhibit D.

26. Senior District Attorney Rosemary Ducklo Sexton signed an affidavit on July 1, 2009, confirming that she concurred with Mr. Jackson's conclusion about the allegations on the date of the June 2, 2009 meeting. A copy of the affidavit is attached hereto as Exhibit E.

27. Following receipt of Respondent's July 23, 2009 response to the initial inquiry, the Board sent Respondent another letter making further inquiry into the statements made by Respondent. A copy of the Board's August 3, 2009 letter is attached hereto as Exhibit F.

28. In response, Respondent provided another reply on August 12, 2009. A copy of the Respondent's August 12, 2009 reply is attached hereto as Exhibit G.

29. Respondent's statement in the June 16 Memo about a pending criminal investigation demonstrates that he made a false statement of fact to the tribunal.

30. Further, Respondent's rationalization of how the statements could be considered to be true demonstrate that he persists in maintaining the falsity of his original statements.

31. Further, the Board's investigation uncovered disciplinary misconduct committed by Respondent in the underlying civil cases.

32. Respondent falsely advised Ms. Parson that the law firm of Riley, Warnock, & Jacobson, PLC, was authorized to negotiate on behalf of Respondent.

33. According to William L. Campbell, Jr., Esquire, his firm was not involved in the case. A copy of Mr. Campbell's March 25, 2009 e-mail is attached hereto as Exhibit H.

34. In the matter of *Severe Records, LLC & Chris Sevier v. John Rich, Shanna Crooks, the Muzik Mafia, LLC, John D. Richafella Publishing*, Case No. 3:08-cv-00654, U.S. District Court, Middle District of Tennessee, Respondent filed "Plaintiff's Response to Defendants' Motion to Disqualify" on March 23, 2009 in order to defend his position that he should not be disqualified from the case despite being an indispensable witness. A copy of the Plaintiff's Response to Defendants' Motion to Disqualify is attached hereto as Exhibit I.

35. Respondent represented himself *pro se* as a named party and served as the attorney of record for Severe Records, LLC, in which he was the sole managing member.

36. As Respondent acknowledged, the advice provided by the Board is not binding on any Court and is meant to be provided as guidance for attorneys. However, he relied upon this information to support his contention that the Board found that his disqualification would be a substantial hardship to the case.

37. Further, in the same pleading, Respondent admits that it was foreseeable that he would be required to provide testimony, and that it would be "important" testimony.

38. He also states that he is the "only attorney in the universe to present the same novel and complex copyright questions before two Courts in the Middle District of Tennessee..." (See Exhibit I, pp. 1-9)

39. This pleading, along with others filed in both lawsuits, demonstrates a lack of legal proficiency, competence, and professionalism.

40. In the response to the Motion to Disqualify, Respondent inserts statements that are clearly designed to assert his personal knowledge of facts in issue and his personal opinion as to the justness of a cause and credibility of a witness.

41. For instance, on page 17, Respondent states “It was only a couple of hours ago that Plaintiffs attended an Atlantic Records party, and they can attest that the evidence shows that if Atlantic Records even got the remote hint that Defendant Crooks could make it vicariously liable for any act, as she has done here with Defendants, she would likely be dropped.” (See Exhibit I, pp. 17-18)

42. Respondent defends the motion to disqualify further by stating that “[I]f the Defendants are not guilty, then why would they not want Plaintiff Sevier’s testimony to be admitted into evidence? If they were guilty, they would have of course settled.” (See Exhibit I, p. 19)

43. Respondent continues, “[O]r, Alternatively (sic), maybe their celebrity has deluded their sense of reality so greatly they are in need of serious wakeup call, and Plaintiffs know just the Honorable Judge to help do that?” (See Exhibit I, p. 19)

44. Respondent states “[O]f course, the Defendants do not want to answer the complaint, since the complaint asks them either admit their wrong and face the consequences or since it asks them to deny their fault in face of the evidence, getting deeper entangled in their ensnaring dishonesty, in which case, the Defendants will inevitably be repeatedly impeached by their own omissions at a trial by the merits.” (See Exhibit I, p. 21)

45. The Plaintiff’s Response to Defendants’ Motion to Disqualify is replete with statements that improperly insert facts, personal opinion, and speculation of Respondent thus

demonstrating that he lacks legal knowledge and skill required for competent representation of a client in violation of RPC 1.1.

46. The claims, contentions, and defenses raised in the Plaintiff's Response to Defendants' Motion to Disqualify that consist of personal opinion and speculation as to the motives of other parties is frivolous and violates the rules of the tribunal, specifically Tenn. R. Civ. P. 11, and RPC 3.1, RPC 3.4, and RPC 3.7.

47. On August 27, 2009, U.S. District Judge William Haynes, Jr. entered a Memorandum dismissing Respondent's complaint.

48. In addition to the analysis on the merits of the cause, the Court addressed Respondent's patently offensive remarks made in another pleading, entitled "Memorandum in Support of Plaintiff's Motion for a Preliminary Injunction or In The Alternative, Motion to Restrain and Enjoin the Defendants."

49. The Court stated the following:

Finally, the Court wishes to note that the Plaintiff's counsel's comparison of the Defendant Rich to 'Adolph Hitler' (sic) (Docket Entry No. 79, at pp. 23-24) is patently offensive. While Plaintiff's counsel has a personal stake in this litigation, it is still highly inappropriate for a member of the Bar to make such comparisons in documents submitted to any tribunal, particularly in an action regarding a property dispute (no matter how acrimonious).

A copy of the Court's August 27, 2009 Memorandum is attached hereto as Exhibit J.

50. On May 28, 2010, Respondent filed a new complaint styled *Severe Records, LLC* ® et al. v. *John Rich, Shanna Crooks, Cynthia S. Parson, Bill Ramsey, Mark Oswald, Muzik Mafia, LLC, Neal and Harwell, PLC*, Case No. 10C-2001, Davidson Circuit Court, alleging defamation, civil conspiracy, intentional interference with existing and prospective business relationships, intentional infliction of emotional distress, negligent infliction of emotional

distress, extreme and outrageous conduct, false light, invasion of privacy, trespass, trespass to chattel, destruction of property, and other injunctive relief. A copy of the May 28, 2010 complaint is attached hereto as Exhibit K.

51. By the filing of this pleading, Respondent continues to demonstrate an ignorance of basic legal skills and analysis in that the pleading does not meet the standards of competent practitioners as required in RPC 1.1. (See Comment 5, RPC 1.1)

52. Respondent cites no legal authority for the charges levied against the defendants.

53. Further, he employs impertinent, immaterial, and unprofessional language throughout the pleading.

54. Respondent states the following in the May 28, 2010 complaint:

- a) There is no question that Defendant is one of the ‘darling’ of the Nashville Justice (sic) system, but the insurmountable evidence of judicial favoritism toward Defendant Ramsey has been frankly disgusting – especially that demonstrated by the Board of Professional Responsibility which is the keeper of ethics. (See Exhibit K, p. 51)
- b) The ADA’s cross-examination of Defendant Rich’s witnesses was pathetic. (See Exhibit K, p. 52)
- c) One of the worst parts of this case in dealing with Defendant Ramsey, besides the fact that he thinks he is Jim Neal, when he is really a patronizing goober, who improperly asks Plaintiff Sevier to call him the ‘professor’, is the fact that Defendant Ramsey should have stopped certain injurious acts from occurring that he was involved in but allowed them to transpire anyway, causing him and his associate to be named. (See Exhibit K, p. 54)
- d) It is one thing for senior attorneys to somewhat beat up on the younger lawyers as a form of rights (sic) of passage – kind of like it was when Plaintiff Sevier joined SAE or went to combat basic training – but Defendant Ramsey and Defendant Parson took it way too far, and now its (sic) financially costing Plaintiff Sevier and prejudicing his law practice. (See Exhibit K, p. 66)

55. Further, Respondent used threatening language to gain an advantage in the lawsuit in an e-mail sent to Mr. Ramsey dated August 19, 2010, entitled “I’m coming after you.”

56. Respondent stated that Mr. Ramsey would “not like what I’m going to have to do.”

57. Respondent then stated he will “give you an opportunity for settlement of all disputes – including the State and Federal case – at 400K to be divided and paid out however the defendants see fit.” A copy of the August 19, 2010 e-mail is attached hereto as Exhibit L.

58. The cumulative effect of Respondent’s actions, including misrepresentations regarding pending criminal investigations, misrepresentations regarding statements made by third parties, and inappropriate and impertinent language employed in pleadings in both the federal and state cases, demonstrates that Respondent has failed to comply with the standards of competent practitioners.

ALLEGED VIOLATIONS

59. The acts and omissions by the Respondent constitute ethical misconduct in violation of Rules of Professional Conduct 1.1, Competence; 3.1, Meritorious Claims and Contentions; 3.2, Expediting Litigation; 3.3(a), Candor Toward the Tribunal; 3.4(e), Fairness to the Opposing Party and Counsel; 3.7(a), Lawyer as Witness; 4.1(a) Truthfulness and Candor in Statements to Others; 4.4, Respect for the Rights of Third Persons; 8.1, Bar Admission and Disciplinary Matters; and 8.4(a)(c)(d), Misconduct, as set forth below:

Rule 1.1 COMPETENCE

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation.

Rule 3.1
MERITORIOUS CLAIMS AND CONTENTIONS

A lawyer shall not bring or defend or continue with the prosecution or defense of a proceeding, or assert or controvert or continue to assert or controvert an issue therein, unless after reasonable inquiry the lawyer has a basis for doing so that is not frivolous, which includes a good faith argument for an extension, modification, or reversal of existing law. A lawyer for the defendant in a criminal proceeding, or the respondent in a proceeding that could result in incarceration, may nevertheless so defend the proceeding as to require that every element of the case be established.

Rule 3.2
EXPEDITING LITIGATION

A lawyer shall make reasonable efforts to expedite litigation.

Rule 3.3(a)
CANDOR TOWARD THE TRIBUNAL

(a) A lawyer shall not knowingly:

- (1) make a false statement of fact or law to a tribunal; or
- (2) fail to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel; or
- (3) in an ex parte proceeding, fail to inform the tribunal of all material facts known to the lawyer that will enable the tribunal to make an informed decision, whether or not the facts are adverse.

(b)-(j) ...

Rule 3.4(e)
FAIRNESS TO THE OPPOSING PARTY AND COUNSEL

A lawyer shall not:

- (a)
- (b)
- (c) knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists; or
- (d)
- (e) in trial,

(1) allude to any matter that the lawyer does not reasonably believe is relevant or that will not be supported by admissible evidence;

(2) assert personal knowledge of facts in issue except when testifying as a witness; or

(3) state a personal opinion as to the justness of a cause, the credibility of a witness, the culpability of a civil litigant or the guilt or innocence of an accused; or

(f)-(h)

Rule 3.7(a)
LAWYER AS A WITNESS

(a) A lawyer shall not act as an advocate at a trial in which the lawyer is likely to be a necessary witness except where:

(1) the testimony relates to an uncontested issue;

(2) the testimony relates to the nature and value of legal services rendered in the case; or

(3) disqualification of the lawyer would work substantial hardship on the client.

(3) disqualification of the lawyer would work substantial hardship on the client.

(b) ...

Rule 4.1(a)
TRUTHFULNESS AND CANDOR IN STATEMENTS TO OTHERS

(a) In the course of representing a client, a lawyer shall not knowingly make a false statement of material fact or law to a third person.

(b) ...

Rule 4.4
RESPECT FOR THE RIGHTS OF THIRD PERSONS

In representing a client, a lawyer shall not:

(a) use means that have no substantial purpose other than to embarrass, delay, or burden a third person or knowingly use methods of obtaining evidence that violate the legal rights of such a person; or

(b) threaten to present a criminal charge, or to offer or to agree to refrain from filing such a charge, for the purpose of obtaining an advantage in a civil matter.

**Rule 8.4 (a)(b)(c)(d)
MISCONDUCT**

It is professional misconduct for a lawyer to:

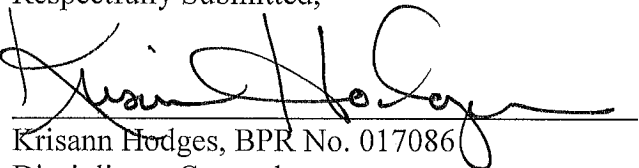
- (a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
- (b) ...;
- (c) engage in conduct involving dishonesty, fraud, deceit, or misrepresentation;
- (d) engage in conduct that is prejudicial to the administration of justice;
- (e)-(g) ...

AGGRAVATING FACTORS

- 60. The Respondent has demonstrated a pattern of misconduct.
- 61. There are multiple offenses.
- 62. The Respondent has failed to acknowledge the wrongful nature of the conduct.
- 63. The Respondent has demonstrated a dishonest or selfish motive.
- 64. The Respondent has submitted false statements or other deceptive practices during the disciplinary process.

WHEREFORE, PETITIONER REQUESTS that a Hearing Panel be appointed to hear testimony and to receive evidence in this cause and to make such finding of fact and order such disciplinary action as it may seem appropriate.

Respectfully Submitted,

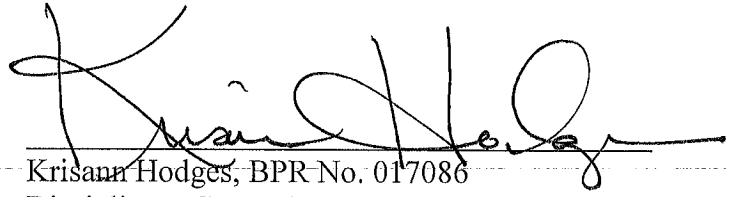


Krisann Hodges, BPR No. 017086
Disciplinary Counsel
Board of Professional Responsibility
10 Cadillac Drive, Suite 220
Brentwood, TN 37027
(615) 361-7500

NOTICE TO PLEAD

TO: Christopher Mark Sevier

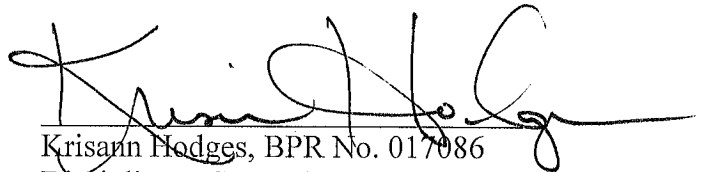
You are hereby notified that you are required to file your Answer with Rita Webb, Executive Secretary, Board of Professional Responsibility, 10 Cadillac Drive, Suite 220, Brentwood, TN 37027, and serve a copy of your Answer upon Disciplinary Counsel within twenty (20) days after service of this Petition. If you fail to file an Answer, the matters shall be deemed admitted and a default judgment taken.



Krisann Hodges, BPR No. 017086
Disciplinary Counsel

Certificate of Service

I certify that a copy of this Petition for Discipline has been served upon counsel for Respondent, John J. Griffin, Jr., at Kay, Griffin, Enkema & Brothers, 222 Second Avenue North, Suite 340-M, Nashville, TN 37201 by regular mail and Certified Mail, No. ~~7009 0826 0001 7099 1009~~, Return Receipt Requested, on this, the 29th day of November, 2010.



Krisann Hodges, BPR No. 017086
Disciplinary Counsel