

Re: Jessica R. Boney

Nikki Haley

To: Governor Impeachment has really
his problem of Embezzlement is an attorney -
How mention

borrowed me -

she can steal money from people who go to
her & trust her. She only stopped this,
because she got caught. I can not

steal, because I am not able to bid
it - all she got was a slap on the

hand & move to another state to
start another life - Practicing Law -

I'm so disappointed in the fact that
attorneys do not go by same laws as
everyday people do - I am sending

this article to NBC & CBS to let them
know South Carolina has slack laws

The person in question's mother still
lives in Union S.C. & brags on how
well her daughter is doing - something
has not to stop or put for penalties -

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South Carolina Supreme Court Decisions › 2010 › In the Matter of Jessica R. Boney

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In the Matter of Jessica R. Boney

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THE STATE OF SOUTH CAROLINA
In The Supreme Court

In the Matter of Jessica R. Boney, Respondent.

Opinion No. 26893

Submitted October 20, 2010 – Filed November 15, 2010

DISBARRED

Lesley M. Coggiola, Disciplinary Counsel, and Barbara M. Seymour, Deputy Disciplinary Counsel, both of Columbia, for Office of Disciplinary Counsel.

Jessica R. Boney, of Union, pro se Respondent.

PER CURIAM: In this attorney disciplinary matter, the Commission on Lawyer Conduct ("Commission") investigated allegations of misconduct involving Jessica R. Boney ("Respondent") in six matters, including the failure to keep clients reasonably informed, the mishandling of client funds, and the failure to act with due diligence. The Office of Disciplinary Counsel ("ODC") filed formal charges against Respondent. A hearing panel of the Commission ("Hearing Panel") issued its Panel Report recommending disbarment based on the underlying misconduct, Respondent's failure to fully

THE NIXON DEFENSE

WHAT HE KNEW AND WHEN HE KNEW IT



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made up the difference resulting from her miscalculation from her attorney's fee.

Respondent did not timely respond to the notice of full investigation in this matter.

D. The T. Gault Matter

Respondent represented Mr. T. Gault in a domestic matter. After the hearing, the judge instructed Respondent to prepare an order. Respondent prepared and submitted the order, which the judge signed within eight days of the hearing. The same week, Respondent suffered from a serious medical episode. She then closed her office and moved out of state. The order was not actually filed until two and a half months after it was signed.

Respondent did not take appropriate steps to notify Gault or the court about the closing of her office and her departure from the state, or to protect Gault's interests upon her unilateral termination of representation. Respondent did not turn Gault's file over to the attorney appointed to protect her clients' interests and to date she has been unable to locate the file.

E. The Canupp Matter

Ms. Canupp paid Respondent a \$2,000.00 retainer in December 2005 to represent her on a DUI charge. Respondent represented to ODC that she referred Canupp's case to Mr. Wood, an attorney who agreed to take her cases when she closed her office. Wood subsequently died, however, and Respondent was unable to locate Canupp's file.

Respondent has no record of depositing Canupp's fee into her trust account or paying it to attorney Wood, and she is unable to recall or document what she did with the fee. The Lawyers' Fund for Client Protection has

reimbursed Canupp the full amount of the fee she paid to Respondent.

F. The Spooone Matter

Respondent was appointed to represent Mr. Spooone in a Department of Social Services ("DSS") matter. At the time Respondent closed her office and left South Carolina in January 2006, a hearing had been scheduled for March 2006. Respondent did not seek to be relieved as counsel or take steps to protect Spooone's interests, and she did not turn over Spooone's file to the attorney appointed to protect her clients' interests while she was on interim suspension. To date she has been unable to locate Spooone's file.

G. Hearing Panel's Findings of Misconduct

The Hearing Panel found that by her conduct, Respondent was subject to sanctions for violating the following Rules of Professional Conduct (RPC) of Rule 407, SCACR: Rule 1.1 (competence), Rule 1.2 (scope of representation), Rule 1.4 (communication with clients), Rule 1.5 (fees), Rule 1.15 (safekeeping property), Rule 1.16 (terminating representation), and Rule 8.1 (failure to respond to disciplinary authority).

The Hearing Panel further found Respondent is subject to discipline for violating the following provisions of the RLDE contained in Rule 413, SCACR: Rule 7(a)(1), RLDE (violating the RPC); Rule 7(a)(3), RLDE (knowing failure to respond to a lawful demand from a disciplinary authority); Rule 7(a)(5), RLDE (engaging in conduct tending to pollute the administration of justice, tending to bring the legal profession into disrepute, and demonstrating an unfitness to practice law); and Rule 7(a)(6), RLDE (violating the Oath of Office taken upon the admission to practice law in South Carolina).

H. Aggravating and Mitigating Circumstances

at the hearing. By letter of April 22, 2010 to this Court, the Commission reported the costs incurred amounted to \$411.69.

The Hearing Panel also recommended that "Respondent be ordered to reimburse the Lawyers' Fund for Client Protection for any amount paid to clients as a result of her misconduct prior to readmission to the practice of law." [1]

II. LAW/ANALYSIS

Neither Respondent nor ODC has filed a brief raising any exceptions to the Panel Report. In addition, as noted by the Hearing Panel, Respondent did not answer the formal charges, for which she was deemed in default, and she did not appear at the hearing on these matters.

"Failure to answer the formal charges shall constitute an admission of the factual allegations." Rule 24(a), RLDE, Rule 413, SCACR. "If the respondent should fail to appear when specifically so ordered by the hearing panel or the Supreme Court, the respondent shall be deemed to have admitted the factual allegations which were to be the subject of such appearance and to have conceded the merits of any motion or recommendations to be considered at such appearance." *Id.* Rule 24(b), RLDE.

"The authority to discipline attorneys and the manner in which the discipline is given rests entirely with this Court." *In re Tullis*, 375 S.C. 190, 191, 652 S.E.2d 395, 395 (2007). The Court "has the sole authority . . . to decide the appropriate sanction after a thorough review of the record." *In re Thompson*, 343 S.C. 1, 10, 539 S.E.2d 396, 401 (2000). "The Court is not bound by the panel's recommendation and may make its own findings of fact and conclusions of law." *In re Hazzard*, 377 S.C. 482, 488, 661 S.E.2d 102, 106 (2008).

A disciplinary violation must be proven by clear and convincing evidence. *In re Greene*, 371 S.C. 207, 216,

Carolina":

[W]e agree with the Panel's finding that Respondent's conduct indicates an obvious disinterest in the practice of law. By all accounts, Respondent has left this jurisdiction with no apparent intention of returning. Respondent departed this jurisdiction with the knowledge that disciplinary action against him was imminent, and since his departure, Respondent has shown no regard for the status of his license to practice law in South Carolina. As this Court has noted, a central purpose of the attorney disciplinary process is to protect the public from unscrupulous or indifferent lawyers. In *re Hall*, 333 S.C. 247, 251, 509 S.E.2d 266, 268 (1998). Furthermore, we have disbarred attorneys who fail to answer formal charges or appear at hearings before the Panel or this Court in egregious cases.

Id. at 194, 648 S.E.2d at 597-98 (footnote omitted).

III. CONCLUSION

Based on the foregoing, we agree with the Hearing Panel's recommended sanction of disbarment. This is warranted based on Respondent's abandonment of her law practice and other acts of misconduct. Having found Respondent has committed sanctionable misconduct, we hold she is required to pay the costs of these proceedings and to reimburse the Lawyers' Fund for Client Protection for any amounts paid to clients on her behalf, as recommended by the Hearing Panel.

DISBARRED.

TOAL, C.J., PLEICONES, BEATTY, KITTREDGE and HEARN, JJ., concur.

[1] Disciplinary counsel noted at the hearing in this matter that the Fund has reimbursed Canupp the \$2,000.00 that Respondent could not account for, and it