

Supreme Court of Kentucky

TO BE PUBLISHED

**FINAL**

2011-SC-000206-KB

**DATE** 9-7-11 *211 AG Court + P.C.*

KENTUCKY BAR ASSOCIATION

MOVANT

V.

IN SUPREME COURT

LUANN GLIDEWELL

RESPONDENT

**OPINION AND ORDER**

The Respondent, Luann Glidewell, KBA Member Number 83981, whose Bar roster address is 100 N. 6th St., 5th Floor, Louisville, Kentucky 40202, and who was admitted to the Kentucky Bar on October 17, 1991, is alleged to have committed multiple violations of the Rules of Professional Responsibility. A trial commissioner appointed by the Chief Justice has heard the matter, found by a preponderance of the evidence that Respondent committed the violations, and recommended that Respondent be suspended from the practice of law for three years. This Court adopts the recommendation.

**I. Background**

**A. KBA File 13184**

Respondent was retained by Dwight Henning to represent him in a divorce action in April 2004. The representation continued until November 2004, at which time Respondent withdrew from the representation and Mr. Henning owed her approximately \$2000 for services rendered.

During their marriage, Mr. Henning and his wife, Genella Shaheen, resided in a house that was her premarital property. As such, Mr. Henning could have claimed at most a marital contribution for improvements and equity from payments on the mortgage. However, Mr. Henning entered into a post-nuptial agreement disclaiming any interest, marital or otherwise, in the property.

Nevertheless, Respondent filed a Notice of Attorney's Lien against the property in February 2005 in the amount of \$2,228.20. In the notice, Respondent claimed that she still represented Mr. Henning. In April 2005, Mr. Henning and his wife entered into an agreement by which he would execute a quitclaim deed conveying any interest in the property he might have to her. This agreement was incorporated into the couple's divorce decree, which was entered in May 2005. The Respondent never represented Ms. Shaheen and no longer represented Mr. Henning when she filed the lien.

Ms. Shaheen repeatedly asked Respondent to remove the lien, but she refused to do so. Eventually, she sued Respondent and, after mediation, received \$12,500 in damages. Respondent removed the lien after the mediation. Ms. Shaheen testified at the disciplinary hearing that she had tried to refinance her home when the lien was attached, but was unable to do so because of the lien.

These actions led the Inquiry Commission in October 2006 to issue a two-count charge against Respondent alleging violations of SCR 3.130-4.4<sup>1</sup> and SCR 3.130-8.3(b).<sup>2</sup> Respondent filed an answer to the charge in December 2006 and a supplemental answer in April 2008.

### **B. KBA File 13535**

Respondent represented Bradley Critchelow in a civil matter. The trial commissioner's report does not include any details about the representation. Mr. Critchelow filed a bar complaint against Respondent in October 2005. A copy of the complaint was mailed to Respondent's bar roster address, but someone other than her signed for it. Respondent did not reply to the complaint. Respondent was personally served a copy of the complaint by the Jefferson County Sheriff in December 2005. Included with the complaint was a letter from the disciplinary clerk advising her that the Inquiry Commission needed more information and that a failure to respond could result in further misconduct charges under SCR 3.130-8.1.<sup>3</sup> She did not respond to the

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<sup>1</sup> SCR 3.130-4.4(a) currently reads: "In representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person, or use methods of obtaining evidence that violate the legal rights of such a person." At the time of the violation, it read: "In representing a client, a lawyer shall not knowingly 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."

<sup>2</sup> At the time, SCR 3.130-8.3(b) read: "It is professional misconduct for a lawyer to . . . commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects . . ." It is now codified at SCR 3.130-8.4(b).

<sup>3</sup> SCR 3.130-8.1 currently reads:

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:

complaint or letter. After another letter and multiple conversations with deputy bar counsel, Respondent still failed to respond.

As a result, in April 2007, the Inquiry Commission issued a five-count charge against Respondent, alleging four substantive rules violations and a count of violating SCR 3.130-8.1(b). Respondent subsequently provided information in her defense. The Inquiry Commission dismissed the substantive charges, but issued an amended charge retaining the alleged 8.1(b) violation.

### **C. KBA File 14856**

Respondent represented Bruce Hall in a divorce matter. He filed a bar complaint against her in December 2006. As with the complaint in KBA File 13535, service by mail was attempted, personal service was successful, but no response was filed despite repeated reminders and requests for additional information.

In January 2008, the Inquiry Commission issued a six-count charge, alleging five substantive violations and a violation of SCR 3.130-8.1(b). Again, Respondent provided information in defense of the substantive charges after the issuance of the charge. And again, the commission dismissed the substantive charge, issuing an amended charge containing only the 8.1(b) violation.

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(a) knowingly make a false statement of material fact; or

(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 Rule 1.6.

#### **D. Trial Commissioner's Findings and Recommendation**

The three charges were consolidated and assigned to a trial commissioner in April 2010. The commissioner held a hearing on the matter in December 2010. The respondent was notified of the hearing but did not appear or file a post-hearing brief. At the hearing, Bar Counsel presented the testimony of Genella Shaheen and various documentary exhibits, including Respondent's eventual responses and answers to the bar complaints and charges. The trial commissioner found by a preponderance of evidence that Respondent committed all the remaining allegations of misconduct.

Respondent violated SCR 3.130-4.4, which bars a lawyer from using means that have no substantial purpose other than to embarrass, delay, or burden a third person, by filing an improper lien and then refusing to remove it. She violated SCR 3.130-8.3(b), which bars criminal conduct reflecting on honesty and fitness as a lawyer, by filing an illegal lien. KRS 434.155 states that "a person is guilty of filing an illegal lien when he files a document or lien that he . . . should have known was . . . groundless, contained a material misstatement, or was a false claim. . . . Filing an illegal lien is a Class D felony." Though Respondent has not been prosecuted or convicted for violating KRS 434.155, such a prosecution or conviction is not a prerequisite for finding a violation of the rules of professional conduct, which need only "be proven by a preponderance of the evidence." SCR 3.330.<sup>4</sup> As the trial commissioner noted,

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<sup>4</sup> The rules also anticipate that any criminal conviction will lead to disciplinary proceedings. See SCR 3.320 ("When any member of the Association has been convicted of a felony or class 'A' misdemeanor, a copy of the judgment shall be filed

“Respondent knew or should have known that the lien she filed was groundless, contained a material statement, or was a false claim, the filing of which was a Class D felony. Certainly, Respondent’s failure to remove the lien until she was sued establishes at the very least that she left the lien in place for an improper purpose, *i.e.*, to leverage payment from her client who she by that time knew had no interest in the property.”

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by the Respondent and the attorney prosecuting the case to a plea of guilty, or conviction by judge or jury, with Bar Counsel for action under SCR 3.160. Bar Counsel shall submit copies of the judgment to the Inquiry Commission which may take action under SCR 3.165.”); SCR 3.166(2), (6) (“(2) The attorney prosecuting the case to a plea of guilty, conviction by judge or jury or entry of judgment, whichever occurs first, shall immediately notify the Director of the Kentucky Bar Association and the Clerk of the Supreme Court that such plea, finding or entry of judgment has been made. . . . (6) Disciplinary proceedings against such attorney shall be initiated by the Inquiry Commission pursuant to SCR 3.160, unless already begun or unless the suspended attorney resigns under terms of disbarment.”). And any serious conviction results in automatic suspension. See SCR 3.166(1) (“Any member of the Kentucky Bar Association who pleads guilty to a felony, including a no contest plea or a plea in which the member allows conviction but does not admit the commission of a crime, or is convicted by a judge or jury of a felony, in this State or in any other jurisdiction, shall be automatically suspended from the practice of law in this Commonwealth. “Felony” means an offense for which a sentence to a term of imprisonment of at least one (1) year is authorized by law. The imposition of probation, parole, diversion or any other type of discharge prior to the service of sentence, if one is imposed, shall not affect the automatic suspension. The suspension shall take effect automatically beginning on the day following the plea of guilty or finding of guilt by a judge or jury or upon the entry of judgment whichever occurs first. The suspension under this rule shall remain in effect until dissolved or superseded by order of the Court. Within thirty (30) days of the plea of guilty, or the finding of guilt by a judge or jury, or entry of judgment, whichever occurs first, the suspended attorney may file a motion with the Clerk of the Supreme Court of Kentucky setting forth any grounds which the attorney believes justify dissolution or modification of the suspension.”). These provisions, however, do not bar disciplinary proceedings related to perceived or alleged criminal conduct that has not been prosecuted or that has resulted in not-guilty verdict. Neither the exercise of a prosecutor’s discretion not to pursue criminal charges nor a finding based on a much higher burden of proof can bar this Court’s duty to regulate the legal profession. A question remains, however, whether a finding at a lower level of proof, specifically probable cause, could collaterally bar disciplinary proceedings.

Respondent violated SCR 3.130-8.1(b), which bars an attorney from failing to respond to a lawful demand for information by a disciplinary authority, by failing to respond to the bar complaints and requests for information until well after the Inquiry Commission had gone so far as to issue formal charges.

After making these findings, the trial commissioner noted that an attorney can be disciplined for violating SCR 3.130-8.1(b) alone, *see, e.g., Kentucky Bar Ass'n v. Miniard*, 289 S.W.3d 191, 193 (Ky. 2009), in addition to more substantive violations, and that aggravating factors can “justify an increase in the degree of discipline imposed on an attorney.” *Kentucky Bar Ass'n v. Bierbauer*, 282 S.W.3d 318, 323 (Ky. 2009). The commissioner then pointed out multiple aggravators that included “the fact that this proceeding represents multiple offenses, vulnerable victims and a pattern of misconduct.” Further aggravating Respondent’s situation was her history of prior misconduct and discipline, which includes a partly probated 45-day suspension in 2007, *Kentucky Bar Ass'n v. Glidewell*, 241 S.W.3d 316, 317 (Ky. 2007); a 181-day suspension in 2009, *Kentucky Bar Ass'n v. Glidewell*, 297 S.W.3d 564, 568 (Ky. 2009); and a three-year suspension in 2010, *Kentucky Bar Ass'n v. Glidewell*, 307 S.W.3d 625, 627 (Ky. 2010). These suspensions were for a host of ethical violations, including dishonest conduct, continuing to practice law while suspended, and another instance of improperly filing an attorney’s lien against property not owned by her client. In light of these

aggravating circumstances, the trial commissioner recommended a three-year suspension.

## **II. Adoption of Recommendation and Order**

No appeal of the trial commissioner's recommendation, as allowed under SCR 3.360, .365, and .370, was sought, either by Respondent or Bar Counsel. As a result, this matter was submitted directly to this Court without going before the Board of Governors. *See* SCR 3.360(4). Because the trial commissioner's findings and conclusions are supported by the record and the law, and because the recommended sanction is appropriate in light of Respondent's extensive history of prior discipline for serious ethical violations and the seriousness of the charges, this Court elects not to review the recommendation of the trial commissioner as allowed under SCR 3.370(9). The recommendation of the trial commissioner is therefore adopted pursuant to SCR 3.370(10).

ACCORDINGLY, IT IS HEREBY ORDERED THAT:

- (1) Respondent, Luann Glidewell, is found guilty of having committed multiple violations of the Rules of Professional responsibility as described above.
- (2) Respondent is suspended from the practice of law in the Commonwealth of Kentucky for three years, with said suspension to be consecutive to any other previously imposed suspension.
- (3) To the extent necessary, since she is already suspended from the practice of law, Respondent shall, within 10 days from the entry of

this opinion and order, notify all clients, in writing, of her inability to represent them; notify, in writing, all courts in which she has matters pending of her suspension from the practice of law; and furnish copies of all letters of notice to the Executive Director of the Kentucky Bar Association. Furthermore, to the extent possible, she shall immediately cancel and cease any advertising activities in which she is engaged.

(4) In accordance with SCR 3.450, Respondent is directed to pay all costs associated with these disciplinary proceedings against her, said sum being \$665.87, for which execution may issue from this Court upon finality of this Opinion and Order.

All sitting. All concur.

ENTERED: August 25, 2011.

  
CHIEF JUSTICE

TO BE PUBLISHED

# Supreme Court of Kentucky

2009-SC-000695-KB

**FINAL**

**DATE** 3/30/10 Kelly Kleber D.C.  
MOVANT

KENTUCKY BAR ASSOCIATION

V.

IN SUPREME COURT

LUANN C. GLIDEWELL

RESPONDENT

## **OPINION AND ORDER**

On October 22, 2009, the Board of Governors of the Kentucky Bar Association filed with the Disciplinary Clerk its findings of fact, conclusions of law, and recommendations relating to Luann C. Glidewell's charges in KBA Files 14267 and 16200. Glidewell, who was admitted to practice law in this Commonwealth on October 17, 1991, and whose KBA member number is 83981, lists her bar roster address as 100 North Sixth Street, 5<sup>th</sup> Floor, Louisville, Kentucky, 40202. Following the Board's submission of its findings, neither Glidewell nor the KBA filed with this Court a notice to review the Board's decision pursuant to SCR 3.370(8), and this Court declines now to review the Board's decision pursuant to SCR 3.370(9). Therefore, per SCR 3.370(10), we adopt the decision of the Board, find Glidewell guilty of violating

SCR 3.130-1.5, 3.130-1.16(d), 3.130-3.4(c), and 3.130-5.5, and order Glidewell to be suspended from the practice of law in this Commonwealth for three years.

**KBA File 14267**

KBA File 14267 relates to Glidewell's misconduct in charging an unreasonable fee and failing to return an unearned portion of her fee during her representation of Mr. Ernest W. Lovell, an inmate at the Kentucky State Prison in LaGrange. Ernest Lovell and his mother, Nancy Lovell, retained Glidewell to negotiate with the Kentucky Department of Corrections, pursue an early medical parole, and evaluate a possible Eighth Amendment claim in federal court. Ernest Lovell paid Glidewell \$350 on July 25, 2005, and Nancy Lovell paid Glidewell \$35,000 on August 5, 2005 to secure her representation. Glidewell's contract with the Lovells stated that "any unearned balance remaining in the retainer account at the termination of counsel's representation will be refunded to the client." On September 22, 2005, Glidewell withdrew the total amount paid by the Lovells from their trust account and paid that money to the firm. Although Glidewell made a note on the withdrawal that \$26,360.48 was for her "Atty fee," no work had been done on the case to support this payment at the time it was made.

Glidewell and her partner, Mr. Barber, continued working on Ernest Lovell's case until May 2006, when Mr. Lovell died due to a heart condition. The billing records at that time indicated that the attorneys had earned a total of \$11,665 of the retainer, with \$126.17 in expenses. Although Glidewell had not refunded any of the unearned fee at the time the charges in this matter

were filed by the Inquiry Commission, on August 21, 2009, Glidewell's former partner, Mr. Barber, refunded \$23,548.83 to Nancy Lovell, which was the unearned portion of the fee.

On June 29 2009, the Inquiry Commission issued a two-count charge against Glidewell for her misconduct in representing Mr. Lovell, alleging that she violated SCR 3.130-1.5 by charging an unreasonable fee and SCR 3.130-1.16(d) by failing to refund an unearned fee. Glidewell did not file an answer to this charge and her file proceeded to the Board of Governors as a default case.

#### **KBA File 16200**

KBA File 16200 is based on Glidewell's failure to follow the orders of this Court after being temporarily suspended from the practice of law. On November 1, 2007, this Court entered a confidential order suspending Glidewell for forty-five days effective on December 1, 2007, and requiring her to pay restitution of \$479.50 to Mr. David Cook. Once Glidewell's forty-five day suspension expired, the KBA filed an objection to her automatic reinstatement pursuant to SCR 3.510(2), which was granted. Despite Glidewell's initial suspension and the fact that she has remained suspended from the practice of law since December 1, 2007, she continued to practice law during this time period. Court records from the Jefferson Circuit Court, Jefferson District Court, and Shelby Circuit Court indicate that Glidewell made numerous filings and represented several litigants while she was suspended. Glidewell also advised and corresponded with clients and collected bills for her legal services during this period.

On June 29, 2009, the Inquiry Commission charged Glidewell with violating SCR 3.130-3.4(c), which prohibits attorneys from disobeying the rules of a tribunal, and SCR 3.130-5.5, which prohibits attorneys from engaging in the authorized practice of law. Glidewell never filed an answer to these charges, and this KBA File came before the Board of Governors as a default case.

After deliberating on the charges in both of Glidewell's files, the Board determined by a vote of 17 to 0 that Glidewell was guilty of violating SCR 3.130-1.5 and SCR 3.130.1.16(d) as set forth in KBA File 14267, and concluded by a vote of 17 to 0 that she was guilty of violating SCR 3.130-3.4(c) and SCR 3.130-5.5 as set forth in KBA File 16200. In deciding what sanction to recommend for this misconduct, the Board noted Glidewell's forty-five day suspension and that she has remained suspended from the practice of law in this Commonwealth since December 2007; that two default cases against Glidewell came before the Board in June 2009, in which the Board recommended that Glidewell be suspended for 181 days; and that she received a private admonition on May 17, 2002. The Board then unanimously recommended that Glidewell be suspended from the practice of law in this Commonwealth for three years.

It is clear from the facts presented that Glidewell violated the four Rules of Professional Conduct as charged in KBA Files 14267 and 16200. Furthermore, because Glidewell failed to answer the charges submitted by the Inquiry Commission and failed to contest the Board's conclusions, she offers

no defense or explanation for why this Court should not adopt the Board's finding of guilt. Thus, this Court agrees that Glidewell is guilty of violating SCR 3.130-1.5, 1.16(d), 3.4(c), and 5.5. Moreover, we agree that given Glidewell's prior disciplinary history, a three-year suspension is the appropriate sanction. *See KBA v. Burlew*, 281 S.W.3d 768 (Ky. 2009) (imposing a three-year suspension on an attorney who was found guilty of several violations as set forth in three default KBA files and whose prior disciplinary history included several private admonitions and a 181-day suspension); *KBA v. Kaiser*, 814 S.W.2d 923 (Ky. 1991) (imposing a three-year suspension on an attorney who was found guilty of eight separate counts in two default KBA files relating to her engaging in the unauthorized practice of law). Therefore, it is hereby ORDERED that:

1. Luann C. Glidewell is guilty of violating SCR 3.130-1.5 and SCR 3.130.1.16(d) as set forth in KBA File 14267, and SCR 3.130-3.4(c) and SCR 3.130-5.5 as set forth in KBA File 16200.
2. Luann C. Glidewell is suspended from the practice of law in this Commonwealth for three years. This period of suspension shall commence on the date of entry of this Opinion and Order.
3. Pursuant to SCR 3.450, Glidewell is directed to pay all costs associated with these disciplinary proceedings in the amount of \$1,115.08, for which execution may issue from this Court upon finality of this Opinion and Order.

4. Pursuant to SCR 3.390, Glidewell shall, within ten (10) days from the entry of this opinion and order, notify all clients, in writing, of her inability to represent them; notify, in writing, all courts in which she has matters pending of her suspension from the practice of law; and furnish copies of all letters of notice to the Executive Director of the Kentucky Bar Association. Furthermore, to the extent possible, Glidewell shall immediately cancel and cease any advertising activities in which she is engaged.

All sitting. All concur.

ENTERED: March 18, 2010.

  
CHIEF JUSTICE

TO BE PUBLISHED

Supreme Court of Kentucky

2009-SC-000462-KB

FINAL

DATE 11/10/09 Kelly Klaber  
MOVANT

KENTUCKY BAR ASSOCIATION

V. IN SUPREME COURT

LUANN C. GLIDEWELL

RESPONDENT

**OPINION AND ORDER**

The Kentucky Bar Association (KBA) petitions this Court pursuant to SCR 3.370(8) to determine the limited issue of whether Luann Glidewell, whose KBA member number is 83981 and whose bar roster address is 100 North 6<sup>th</sup> Street, 5<sup>th</sup> Floor, Louisville, Kentucky, 40202, is guilty of violating SCR 3.130-8.3(c)<sup>1</sup>, which prohibits a lawyer from engaging in conduct involving dishonesty, fraud, or misrepresentation. If this Court finds Glidewell guilty of violating SCR 3.130-8.4(c), the KBA has also requested that we adopt the remainder of the findings of fact, conclusions of law, and recommendations of the Board of Governors, who found Glidewell guilty of sixteen counts of professional misconduct and proposed that she be suspended from the practice

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<sup>1</sup> Effective July 15, 2009, SCR 3.130-8.3 has been renumbered to SCR 3.130-8.4. This renumbering will be reflected throughout this opinion and order.

of law for 181 days. After reviewing the facts underlying these charges, we agree that Glidewell is guilty of violating SCR 3.130-8.4(c) and adopt the KBA's recommended discipline.

**KBA File 16917**

Glidewell was admitted to the practice of law in this Commonwealth on October 17, 1991. In January 2002, Glidewell agreed to represent Roxanna Kirk in her personal injury claim and filed her lawsuit in April 2003. On October 7, 2004, the trial court ordered all parties involved in the case to show cause why Kirk's claim should not be dismissed. Glidewell failed to appear or respond to the show cause motion, and the trial court dismissed Kirk's case on January 19, 2005. Following the dismissal, Kirk made numerous attempts to contact Glidewell, but Glidewell never responded. After learning that her case had been dismissed, Kirk retained new counsel and pursued a legal malpractice claim against Glidewell. Glidewell never appeared or filed any responsive pleadings to the malpractice complaint, which resulted in Kirk receiving a default judgment in June 2006.

Kirk filed a bar complaint against Glidewell on August 28, 2008, but after attempting to serve the complaint, the KBA learned that Glidewell's bar roster address was not valid. The complaint was eventually served through the Executive Director of the KBA pursuant to SCR 3.175(2) on December 17, 2008. Despite the inclusion of a letter notifying Glidewell of her duty to respond, and a reminder letter sent on January 8, 2009, Glidewell never responded to the bar complaint.

On March 6, 2009, the Inquiry Commission issued its seven-count charge against Glidewell, alleging that she violated SCR 3.130-1.1 for failing to provide competent representation to her client; SCR 3.130-1.3 for failing to act with reasonable diligence and promptness in representing her client; SCR 3.130-1.4(a) for failing to keep her client reasonably informed about the status of her case and failing to promptly comply with reasonable requests for information; SCR 3.130-1.4(b) for failing to explain a matter to the extent reasonably necessary to permit the client to make informed decisions about the representation; SCR 3.130-1.16(d) for failing to take the necessary steps to protect a client's interest upon the termination of the representation; SCR 3.130-8.1(b) for knowingly failing to respond to a lawful demand for information from a disciplinary authority; and SCR 3.175(1)(a) for failing to maintain a current address with the Director of the KBA.

On July 10, 2009, the Board of Governors issued its findings of fact and conclusions of law. The Board unanimously found that Glidewell was guilty of all seven counts charged in KBA File 16917 and recommended that she be suspended for 181 days for her misconduct. This Court agrees with the Board's conclusion that Glidewell is guilty of violating SCR 3.130-1.1, 1.3, 1.4(a), 1.4(b), 1.16(d), 8.1(b), and SCR 3.175(1)(a), and that a 181-day suspension is an appropriate sanction.

**KBA File 16877**

In the summer of 2007, Glidewell agreed to represent Edward Morris in a civil matter. Although Morris provided Glidewell with all the necessary

documents to proceed in his case, Glidewell failed to file an answer in a timely manner, which resulted in a default judgment being entered against Morris on October 4, 2007. Morris continued to call Glidewell following the entry of the default judgment, but Glidewell failed to return any of his calls. Eventually, Glidewell spoke with Morris and informed him that she would look into his case. During this time, Morris sought assistance from another attorney, Edward J. Smith. After learning that Glidewell had failed to file a timely answer, Morris informed Glidewell that she needed to file a motion for relief from the default judgment. Glidewell responded in emails on or about June 30, 2008, and July 1, 2008, notifying Smith that she would file Morris's motion to set aside the judgment.

Not only did Glidewell fail to file this motion, but also, Glidewell was precluded from filing such a motion because during this time, she was suspended from the practice of law in this Commonwealth. On November 1, 2007, this Court had entered a confidential order suspending Glidewell for forty-five days for violating SCR 3.130-1.3, 1.4(a), 1.4(b), 1.16(d), and 8.1(b) during her representation of David Cook in a pending divorce action. Glidewell's 45-day suspension commenced on December 1, 2007, and this Court rendered an opinion in support of its order of suspension on December 20, 2007. Kentucky Bar Association v. Glidewell, 241 S.W.3d 316 (Ky. 2007). Although suspensions lasting less than 181 days normally expire on their own terms pursuant to SCR 3.510, the KBA objected to Glidewell's automatic reinstatement on January 2, 2008. Following the KBA's objection,

Glidewell and the KBA participated in a meeting on January 31, 2008, where the KBA reiterated that due to Glidewell's pending disciplinary matters, she should remain suspended. The KBA maintains that Glidewell is, and has remained, suspended from the practice of law since this Court's final order on December 1, 2007.

On August 22, 2008, Morris filed a bar complaint against Glidewell. As with the previous complaint, due to Glidewell's invalid bar roster address, the bar complaint was served on the Executive Director of the KBA on December 17, 2008. Furthermore, despite a letter informing Glidewell of her duty to respond and a reminder letter sent on January 8, 2009, Glidewell never responded to Morris's bar complaint.

On May 6, 2009, the Inquiry Commission issued its ten count charge against Glidewell, alleging that she violated SCR 3.130-1.1 for failing to provide competent representation to her client; SCR 3.130-1.3 for failing to act with reasonable diligence and promptness in representing her client; SCR 3.130-1.4(a) for failing to keep her client reasonably informed about the status of his case and failing to promptly comply with reasonable requests for information; SCR 3.130-1.4(b) for failing to explain a matter to the extent reasonable necessary to permit the client to make informed decisions about the representation; SCR 3.130-1.16(d) for failing to take the necessary steps to protect a client's interest upon the termination of the representation; SCR 3.130-3.4(c) for knowingly or intentionally disobeying an obligation under the rules of a tribunal; SCR 3.130-8.4(a) for violating or attempting to violate the

Rules of Professional Conduct; SCR 3.130-8.4(c) for engaging in conduct involving dishonesty, fraud, deceit or misrepresentation; SCR 3.130-8.1(b) for knowingly failing to respond to a lawful demand for information from a disciplinary authority; and SCR 3.175(1)(a) by failing to maintain a current address with the Director of the KBA.

On July 10, 2009, the Board of Governors issued its findings of fact and conclusions of law. Although a majority of Board members agreed that Glidewell was guilty of nine of the counts charged in KBA File 16877, the Board was unable to reach the required eleven votes to find Glidewell guilty of violating SCR 3.130-8.4(c).<sup>2</sup> Thus, the KBA has sought review in this Court pursuant to SCR 3.370(8) to determine whether Glidewell is indeed guilty of violating this charge. Glidewell has not filed a reply brief to the KBA's position in this case. Having found that Glidewell was suspended from the practice of law when she represented to Smith that she could file a motion to set aside Morris's default judgment, we agree with the KBA that Glidewell is guilty of violating SCR 3.130-8.4(c).

SCR 3.130-8.4(c) states that "[i]t is professional misconduct for a lawyer to: Engage in conduct involving dishonesty, fraud, deceit or misrepresentation." In its findings of fact, the Board of Governors stated that because there was no record of whether Glidewell's prior discipline of a 45-day

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<sup>2</sup> According to SCR 3.370(6), the findings of fact and disciplinary recommendations must be agreed upon by eleven members of the Board of Governors. Here, only ten members found Glidewell guilty of violating SCR 8.4(c), while seven members found her not guilty.

suspension expired by its own terms or was opposed by the KBA, her status as a suspended attorney at the time of her June 30 and July 1, 2008 emails was unclear. In its current motion, the KBA asserts that due to its objection to Glidewell's automatic reinstatement on January 2, 2008, she was still suspended during the summer of 2008. See KBA v. Angela Griffin Allen, 13 S.W.3d 927 (Ky. 2000) (holding that the KBA's objection to an attorney's automatic reinstatement because of her pending disciplinary matters extended the attorney's suspension, resulting in a violation of SCR 3.130-8.3(c) if that attorney attempted to practice law). As evidence of this fact, the KBA submitted a Certificate of Membership Status for Glidewell, which states that Glidewell remained suspended and maintained the status of a "former" member of the KBA from December 1, 2007 through August 9, 2009, the date of the Certificate. Therefore, Glidewell did engage in conduct involving dishonesty and misrepresentation when she, as an attorney who was still suspended from the practice of law, agreed to file a motion to set aside Morris's default judgment.

The KBA requests that after finding Glidewell guilty of violating SCR 3.130-8.4(c), this Court adopt the remainder of the Board's findings of fact, conclusions of law, and disciplinary recommendations pursuant to SCR 3.370(10). Because the factual allegations against Glidewell are not disputed and because the Board's recommendations are appropriate in light of Glidewell's prior discipline and her failure to respond to the charges against her, this Court grants the KBA's motion. This Court has imposed a 181-day

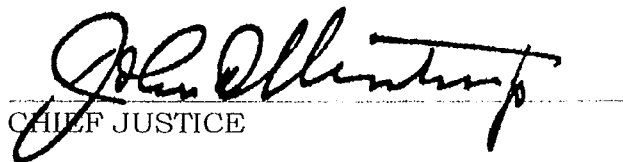
suspension in the past against attorneys who have engaged misconduct similar to Glidewell's. KBA v. Howard, 279 S.W.3d 519 (Ky. 2009) (suspending an attorney, who had previously been publicly reprimanded and suspended for 90 days, for 181 days for being found guilty of ten counts of professional misconduct involving three different clients); KBA v. Grady, 260 S.W.3d 784 (Ky. 2008) (imposing a 181-day suspension on an attorney who had previously been suspended for failing to pay his bar dues and who committed six counts of professional misconduct, including violations of SCR 3.130-1.3, 1.4(a), 1.4(b), 3.4(c), and 8.3(c)). Therefore, it is hereby ORDERED that:

1. Luann C. Glidewell is guilty of all seventeen counts of professional misconduct as charged in KBA Files 16917 and 16877, including SCR 3.130-8.3(c) (now 8.4(c)).
2. Luann C. Glidewell is suspended from the practice of law in this Commonwealth for 181 days. The period of suspension shall commence on the date of entry of this order.
3. Pursuant to SCR 3.450, Luann C. Glidewell is directed to pay all costs associated with these disciplinary proceedings in the amount of \$827.47 (\$497.17 for KBA File 16917 and \$330.30 for KBA File 16877), for which execution may issue from this Court upon finality of this Opinion and Order.
4. Pursuant to SCR 3.390, Luann C. Glidewell shall, within ten (10) days from the entry of this opinion and order, notify all clients, in writing, of her inability to represent them; notify, in writing, all courts in which

she has matters pending of her suspension from the practice of law;  
and furnish copies of all letters of notice to the Executive Director of  
the Kentucky Bar Association. Furthermore, to the extent possible,  
Glidewell shall immediately cancel and cease any advertising activities  
in which she is engaged.

All sitting. All concur.

ENTERED: October 29, 2009.

  
CHIEF JUSTICE

RENDERED: DECEMBER 20, 2007  
TO BE PUBLISHED

Supreme Court of Kentucky **FINAL**

2007-SC-000527-KB

DATE 1-14-08 E.H.A.C. Gray III, D.C.

KENTUCKY BAR ASSOCIATION

MOVANT

V.

IN SUPREME COURT

LUANN C. GLIDEWELL

RESPONDENT

**OPINION**

By confidential order entered herein on November 1, 2007, Respondent was conditionally suspended from the practice of law for a period of forty-five (45) days, and was ordered to pay restitution and costs. Prior to finality, the KBA and Respondent were given thirty days to object. Neither has filed any response or objection, and our order of November 1, 2007, is finalized. This Opinion is rendered in support of our November 1, 2007, final order.

The Board of Governors of the Kentucky Bar Association recommended that Respondent, LuAnn Glidewell, who was admitted to practice law in Kentucky on October 17, 1991, whose Bar Roster Address is 100 North Sixth Street, Fifth Floor, Louisville, Kentucky 40202, and whose KBA Member Number is 83981, be suspended from the practice of law for fifteen (15) days, probated for thirty (30) days on the condition that she pay restitution of \$479.50 to Mr. David Cook.

The Board's recommendation, as reflected in the Findings of Fact, Conclusions of Law and Recommendation filed on July 31, 2007, resolved the two pending disciplinary cases involving Respondent (KBA File Nos. 13189 and 13843).

**KBA File No. 13189**

This disciplinary matter arose from the representation of David Cook, who hired Respondent to represent him in a pending divorce action in Nelson Circuit Court. Mr. Cook paid Respondent \$1,000.00 as an advance fee payment, and the court entered an order substituting Respondent as Mr. Cook's counsel of record. Shortly thereafter, Mr. Cook's wife filed a motion to compel him to pay the mortgage payment for the marital home. The unconverted record demonstrates that although a copy of this motion was forwarded to Respondent, she failed to file a response or to appear at the hearing on the motion. Ultimately, an order was entered against Mr. Cook on February 4, 2005, to keep the mortgage payments current and to require him to pay any arrearages within ten (10) days. Three days after this order was entered, Mr. Cook sent Respondent a letter requesting that she call him back to discuss the sale of his property. With no response from Respondent, Mr. Cook filed a *pro se* objection to the February 4, 2005, order on February 15, 2005.

Mr. Cook failed to pay the arrearages on the mortgage by the court's deadline, and consequently, Mr. Cook's wife filed a motion on February 18, 2005, to hold him in contempt. Respondent received a copy of this motion, but she failed to notify her client and failed to file a response. Neither Respondent nor Mr. Cook appeared for the hearing on the motion on March 2, 2005. Thus, the court entered an order finding Mr.

Cook in contempt and issued an arrest warrant on March 3, 2005. A copy of the order was mailed directly to Mr. Cook, and he subsequently retained new counsel.

Two weeks before Mr. Cook's new attorney entered an appearance, a credit balance of \$479.50 remained from Mr. Cook's advance payment of fee. There is no evidence that any additional work was completed by Respondent over the next two weeks. Respondent failed to return any of Mr. Cook's advance payment of fee upon the termination of representation.

In addition, between December 28, 2004, and March of 2005, Mr. Cook made multiple telephone calls to Respondent's office but was never able to speak with her. Respondent did not return any of Mr. Cook's telephone calls either.

In investigating the bar complaint filed by Mr. Cook, the Office of Bar Counsel (OBC) sent a letter requesting additional information to the Respondent at her bar roster address on September 20, 2005. This letter specifically requested Respondent to explain some inconsistencies in her response to the bar complaint. This letter was not returned to the OBC, and Respondent did not reply. The OBC again attempted to obtain this information by letter on October 10, 2005. Although the letter informed Respondent that failure to reply might form the basis for a disciplinary charge for violation of SCR 3.130-8.1(b), she failed to respond.

Respondent was properly served with a copy of the bar complaint on August 9, 2005, and subsequently filed a timely response. On March 8, 2007, the Inquiry Commission issued a five-count Charge. The Charge was sent to Respondent by certified mail on March 9, 2007, and she signed the green card confirming receipt on March 12, 2007. Respondent has not filed an Answer to the Charge and has not

communicated with the KBA in any way concerning the Charge. The counts of the Charge were: (1) lack of diligence, SCR 3.130-1.3; (2) failure to keep client informed, SCR 3.130-1.4(a); (3) failure to adequately explain matter to client, SCR 3.130-1.4(b); (4) improper termination, SCR 3.130-1.16(d); and (5) failure to respond to an inquiry from a disciplinary authority, SCR 3.130-8.1(b). The Board of Governors voted 17-0 to find Respondent guilty of all five (5) counts.

#### **KBA File 13843**

The other disciplinary case arose from the representation of Donald Schraut Jr. in an action concerning the dissolution of his marriage. After the representation concluded, Mr. Schraut still owed Respondent approximately \$1,264.00 for legal services rendered. On March 9, 2005, Respondent filed a Notice of Attorney's Lien on her former client's marital home, 2014 White Oak Lane in Jefferson County. She filed the lien in the amount of \$1,264.00 plus interest without first running a title search to ascertain that the property still belonged to Mr. Schraut. In fact, the property had been conveyed to Mr. Schraut's parents, Donald Schraut Sr. and Diane Schraut, and the title was now in their names. Respondent had never represented Mr. Schraut's parents nor were they indebted to her for legal services rendered. Therefore, Mr. Schraut's parents promptly informed Respondent of this error, and Respondent subsequently attempted to file a lien release on May 3, 2005. However, Mr. Schraut's parents soon discovered and notified Respondent that the lien against their property had not been properly removed because the lien release had identified the property with an incorrect address. Respondent did not file a corrected lien release until July 10, 2006, a time which

occurred after three requests to do so, after the bar complaint had already been filed, and after more than eleven months from the original request had elapsed.

Respondent received a copy of the bar complaint on June 29, 2006, and filed a timely response on July 7, 2006. The Inquiry Commission issued a two-count Charge on March 8, 2007, and Respondent acknowledged receipt of the Charge by signing the green return receipt card on March 12, 2007. Respondent has not filed an Answer to the Charge and has not communicated with the KBA in any way concerning this Charge. The counts of the charge were: (1) using means that have no substantial purpose other than to embarrass, delay, or burden a third person, SCR 3.130-4.4; and (2) committing a criminal act, SCR 3.130-8.3(b). The Board of Governors voted 17-0 to find Respondent not guilty of both counts.

All sitting. All concur except Abramson and Minton, JJ.

**COUNSEL FOR MOVANT:**

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Linda Gosnell, Chief Bar Counsel  
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