

TO BE PUBLISHED

Supreme Court of Kentucky **FINAL**

2004-SC-1010-KB

DATE 3-1-05 E.H.A. Gray, III, D.C.  
MOVANT

KENTUCKY BAR ASSOCIATION

V.

IN THE SUPREME COURT

DAVID P. CHINN  
(KBA MEMBER NO. 11865)

RESPONDENT

**OPINION AND ORDER**

The Kentucky Bar Association (KBA) brought this action against Respondent, David P. Chinn, for violations of SCR 3.130-1.3 (lack of diligence); SCR 3.130-1.4(a) (lack of adequate communication with a client); SCR 3.130-8.3(c) (conduct involving dishonesty, fraud, deceit, or misrepresentation); and SCR 3.130-8.1(b) (failure to respond in a disciplinary action).

The foregoing ethical violations arose in connection with Respondent's representation of Ricky and Sonya Campbell in bankruptcy and foreclosure proceedings. Respondent informed the Campbells in May 2002 that he had successfully negotiated a repayment plan with their mortgage company and instructed the Campbells to resume making payments. Relying on Respondent's advice, the Campbells made payments to the mortgage company. The mortgage company subsequently returned a payment in August 2002 informing the Campbells that their case was in foreclosure and their house would be sold in September.

The Campbells attempted to contact Respondent on numerous occasions with no response. Respondent did not return their telephone calls. Respondent repeatedly assured the Campbells from July 2002 through September 2002 that there was no problem with the mortgage on their residence, that the foreclosure sale was being cancelled because Respondent knew the Master Commissioner personally, and that the sale date had been scheduled by mistake. The Campbells later hired additional counsel but were unsuccessful in preventing the foreclosure sale. They thereafter learned that Respondent had failed to attend two noticed court hearings in the foreclosure case.

Respondent was served with a bar complaint on April 28, 2003. He failed to respond. The Office of Bar Counsel sent a warning letter dated August 18, 2003, but it was returned as undeliverable. Thereafter, the Sheriff was unable to locate Respondent to serve him with the reminder letter.

The Inquiry Commission then issued a charge against Respondent on April 13, 2004. Respondent was served with a copy of the charge at his bar roster address, but he failed to file an answer or other responsive pleading. He has failed to communicate with the Kentucky Bar Association concerning the charge.

Respondent was previously suspended from the practice of law by Order of this Court for two years with the period of suspension commencing on September 26, 2002. Ky. Bar Ass'n. v. Chinn, 84 S.W.3d 458 (Ky. 2002). Respondent has not been reinstated to the practice of law. Accordingly, IT IS HEREBY ORDERED that:

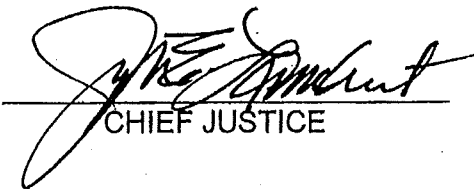
1. Respondent, David P. Chinn, is hereby suspended from the practice of law for three years to run consecutively with the current suspension now pending against him.
2. In accordance with SCR 3.450, Respondent is directed to pay all costs associated with these disciplinary proceedings against him, said sum being \$244.68,

and for which execution may issue from this Court upon finality of this Opinion and Order.

3. If he has not already done so, in accordance with SCR 3.390, Respondent shall, within ten (10) days from the entry of this Opinion and Order: (a) to the extent possible, cancel and cease any advertising activities in which he is engaged; and (b) notify, in writing, all courts in which he may have matters pending, and all clients for whom he is actively involved, of his inability to provide further legal services, and furnish the Director of the Kentucky Bar Association with a copy of all such letters.

All concur.

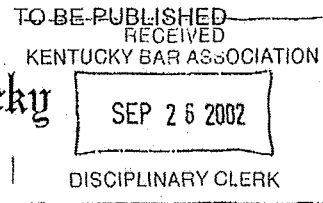
ENTERED: February 17, 2005.



CHIEF JUSTICE

# Supreme Court of Kentucky

2002-SC-0505-KB



KENTUCKY BAR ASSOCIATION

COMPLAINANT

V. IN THE SUPREME COURT

DAVID PAUL CHINN,  
KBA MEMBER # 11865

RESPONDENT

## OPINION AND ORDER

The Kentucky Bar Association ("KBA") again<sup>1</sup> recommends disciplinary action against Respondent, David Paul Chinn ("Chinn"), who was admitted to the practice of law in the Commonwealth on November 18, 1983 and whose last known address was in Louisville, Kentucky. The Inquiry Commission of the KBA charged Respondent with three (3) violations of the Kentucky Rules of Professional Conduct in connection with his representation of Pam Johnsen, DVM ("Dr. Johnsen") in a bankruptcy action. Count I charged Respondent with a violation of SCR 3.130-1.3 for failing to act with reasonable diligence and promptness on behalf of his client; Count II charged him with a violation of SCR 3.130-1.4(a) for failing to keep his client reasonably informed about the status of her bankruptcy matter and by failing to comply promptly with his client's

---

<sup>1</sup>See *Kentucky Bar Association v. David Paul Chinn*, Ky., 64 S.W.3d 289 (2002) (imposing a thirty (30) day suspension and requiring Respondent to repay an advanced fee for substantially identical violations of the Kentucky Rules of Professional Conduct).

reasonable requests for information; and Count III charged him with a violation of SCR 3.130-1.16(d) for failing to take steps to protect his client's interests or to refund the unused portion of an advanced fee after he apparently terminated the representation.

Respondent was served with a copy of the Inquiry Commission's charge, but filed no answer to the alleged violations, and, under SCR 3.210(1)'s rule for processing default cases, the Inquiry Commission ordered the record submitted to the KBA Board of Governors. The Board of Governors considered the matter at its regular meeting on May 17, 2002. Pursuant to SCR 3.370(10), we adopt the recommendation of the Board of Governors, find Respondent guilty on all counts, and set his penalty as herein described.

Dr. Johnsen sought Respondent's legal assistance in the spring of 2000, and, at that time, tendered \$2,087.50 to Respondent as payment for his representation of her. On June 22, 2000, Respondent filed a bankruptcy petition on behalf of Dr. Johnsen. Unfortunately, this action represents the entirety of the efforts Respondent exerted on Dr. Johnsen's behalf. On July 19, 2000, the Bankruptcy Court entered an order directing the creditor (Dr. Johnsen) and counsel (Respondent) to appear on August 24, 2000 prepared to show cause as to why the action should not be dismissed because of a failure to file a required statement of financial affairs and completed schedules as required by the Bankruptcy Court. Respondent did not inform Dr. Johnsen of the Bankruptcy Court's show cause order. In any event, however, on August 8, 2000, the Bankruptcy Court sua sponte dismissed Dr. Johnsen's bankruptcy action after no one appeared on Dr. Johnsen's behalf at the first creditors' meeting on July 28, 2000. Respondent had not informed Dr. Johnsen of this meeting, and Respondent did not himself appear as Dr. Johnsen's representative.

Although Respondent maintained some contact with Dr. Johnsen at the beginning of the representation, this communication ended after a short time, and Dr. Johnsen's subsequent efforts to contact Respondent were unsuccessful. Dr. Johnsen learned of the dismissal of her bankruptcy action approximately a year after the dismissal and then retained other counsel to refile her petition. While both Dr. Johnsen and her new counsel attempted to contact Respondent, neither was successful.

After examining the record, the Board unanimously found Respondent guilty of all three (3) counts charged by the Inquiry Commission, and recommended that this Court suspend Respondent from the practice of law for a period of two (2) years, and order Respondent both to repay the \$2,087.50 Dr. Johnsen advanced him as a fee and to pay the costs of this disciplinary proceeding.

Upon the foregoing facts and charges, this Court adopts the recommendation of the Board of Governors. Respondent, David Paul Chinn, is hereby found guilty of violating SCR 3.130-1.3, SCR 3.130-1.4(a), and SCR 3.130-1.16(d). Accordingly, we hereby order that:

(1) Respondent, David Paul Chinn, is hereby suspended from the practice of law in the Commonwealth of Kentucky for a period of two (2) years. This period of suspension shall commence upon the date of entry of this Opinion and Order.

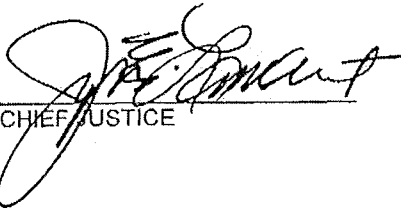
(2) Respondent is directed to refund \$2,087.50 to Pam Johnsen, DVM within thirty (30) days of the entry of this Opinion and Order.

(3) In accordance with SCR 3.450, Respondent is directed to pay costs of \$216.55 associated with these disciplinary proceedings against him, for which execution may issue from this Court upon finality of this Opinion and Order.

(4) In accordance with SCR 3.390, Respondent shall, within ten (10) days from the entry of this Opinion and Order: (a) to the extent possible, cease and desist any advertising activities in which he is engaged; and (b) notify, in writing, all courts in which he may have matters pending, and all clients, of his inability to provide further legal services, and furnish the Director of the Kentucky Bar Association with a copy of all such letters.

All concur.

Entered: September 26, 2002

  
CHIEF JUSTICE

TO BE PUBLISHED

# Supreme Court of Kentucky

2001-SC-0857-KB

**FINAL**  
DATE 1-28-02 SUP COURT D.C.

KENTUCKY BAR ASSOCIATION

COMPLAINANT

V.

IN SUPREME COURT

DAVID PAUL CHINN  
KBA Member No. 11865

RESPONDENT

## OPINION AND ORDER

The Inquiry Commission of the Kentucky Bar Association charged Respondent, David Paul Chinn, with three counts of unethical and unprofessional conduct. Count I charged Respondent with a violation of SCR 3.130-1.3 for failing to proceed with diligence on behalf of a client; Count II charged him with a violation of SCR 3.130-1.4(a) for failing to communicate adequately with a client and failing to keep the client adequately informed about the status of a matter; and Count III charged him with a violation of SCR 3.130-1.16(d) for failing to return a client's file and the unused portion of an advanced fee upon the client's termination of representation.

After the charges were filed by the Inquiry Commission, the parties, by agreement, submitted the matter to the Board of Governors, pursuant to SCR 3.210(2), as a question of law only. The Board of Governors heard the case at its regular meeting on September 14, 2001. Pursuant to SCR 3.370(10), we adopt the

recommendation of the Board of Governors and find the Respondent guilty on all counts and set his penalty as herein described.

These charges arose out of Respondent's representation of Darryl Vantrease in a bankruptcy matter. On February 7, 2000, Respondent filed a Chapter 7 bankruptcy petition on behalf of Mr. Vantrease, who paid Respondent a retainer of \$1,000.00 plus a \$200.00 filing fee. However, because Respondent failed to file financial affairs schedules as required by the bankruptcy code, the bankruptcy petition was dismissed on February 29, 2000. Respondent never informed Mr. Vantrease of this dismissal.

After discovering the dismissal, Mr. Vantrease attempted to contact Respondent to no avail and finally sought the assistance of another attorney who also attempted unsuccessfully to contact Respondent. On August 12, 2000, Mr. Vantrease sent a letter to Respondent demanding the return of the retainer and filing fees and the return of his file. Respondent failed to respond to any of these attempted contacts.

At the time Respondent filed the bankruptcy action, Vantrease had at least two civil suits pending against himself, personally, and his company, Kentuckiana Drywall. The dismissal of the bankruptcy petition resulted in a \$77,609.98 judgment being entered against Vantrease in April of 2000. Finally, Vantrease filed a complaint with the KBA which resulted in the current action. At the hearing before the Board of Governors, the parties stipulated to the above facts.

According to Respondent, during the time of the conduct in question, he was in the midst of family difficulties, and his home life was totally dysfunctional. Respondent maintains that this factual and personal situation was the reason for his negligent handling of Vantrease's bankruptcy case. Although Respondent claims to have earned the majority of the fee paid to him by Vantrease, he has offered to refund the entire

\$1,200.00 to Vantrease and to again pursue the bankruptcy matter on his behalf at no charge. This evidence of mitigation was not rebutted at the hearing before the Board of Governors.

After the hearing, the Board of Governors unanimously found Respondent guilty on all three Counts as charged by the Inquiry Commission. However, the Board found that, based on the entirety of the circumstances, this occurrence was an aberration even though there had been a previous private reprimand against the Respondent. The Board recommended a penalty of a thirty-day suspension and repayment of \$1,200.00 to Vantrease.

Upon the foregoing facts and charges, the recommendation of the Board of Governors is adopted. Respondent, David Paul Chinn, is hereby found guilty of violating SCR 3.130-1.3, SCR 3.130-1.4(a) and SCR 3.130-1.16(d). It is hereby ordered that:

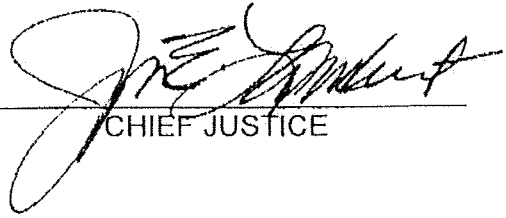
1. Respondent, David Paul Chinn, is suspended from the practice of law in Kentucky for a period of thirty (30) days. This period of suspension shall commence on the date of entry of this Opinion and Order.

2. Respondent is directed to refund \$1,200.00 to Darryl Vantrease within thirty (30) days of the entry of this Opinion and Order.

3. In accordance with SCR 3.450, Respondent is directed to pay all costs associated with these disciplinary proceedings against him, said sum being \$241.59, and for which execution may issue from this Court upon finality of this Opinion and Order.

All concur.

ENTERED: January 17, 2002.

  
CHIEF JUSTICE