

# Supreme Court of Kentucky

2023-SC-0461-KB

INQUIRY COMMISSION

MOVANT

V.

IN SUPREME COURT

GARY ALAN TABLER

RESPONDENT

## **OPINION AND ORDER**

Pursuant to SCR 3.165(1)(a) and (b), the Inquiry Commission of the Kentucky Bar Association (KBA) has petitioned this Court to enter an order temporarily suspending Respondent, Gary Alan Tabler, from the practice of law in the Commonwealth of Kentucky. Tabler was admitted to the practice of law in Kentucky on October 1, 1980. His KBA number is 69510, and his bar roster address is 7209 Ben Franklin Ct., Louisville, Kentucky 40214.

The Inquiry Commission seeks the temporary suspension of Tabler's license because there is probable cause to believe Tabler is or has been misappropriating funds he held for others to his own use. The Inquiry Commission further asserts there is probable cause to believe his conduct poses a substantial threat of harm to his clients or the public. Tabler has not responded to the petition.

In its petition, the Inquiry Commission set forth the facts underlying its request for a temporary suspension. On January 13, 2012, Tabler was

appointed as administrator of the Estate of Joyce Hardin by the Jefferson District Court. After receiving an order to show cause why he should not be held in contempt for failing to timely file an inventory for the Estate, Tabler filed an inventory on June 26, 2012, showing the Estate assets were valued at \$180,847.60. Between June 18, 2012, and June 24, 2019, Tabler wrote himself thirty checks drawn on the Estate's Fifth Third Bank account totaling \$180,725.00.

On September 17, 2018, the district court ordered Tabler to show cause why he should not be in contempt for failure to file a settlement in the estate. A second show cause order was issued in February of 2019 as Tabler had still not filed a settlement. Between March and June of that year, Tabler wrote five checks to himself totaling \$71,000.00 from the Estate's account. On July 8, 2019, Tabler filed an informal periodic settlement which the district court rejected for Tabler's failure to file a settlement since 2014 and failure to distribute the assets of the Estate.

The district court subsequently issued four notices for Tabler to file a response to the rejected settlement or appear in court to explain his failure to do so. Tabler did not respond or appear. On April 13, 2022, the district court removed Tabler as administrator of the Estate, appointed the public administrator to replace Tabler, and ordered Tabler to provide a full accounting of the Estate. The public administrator filed a motion to compel Tabler to turn over documents related to the Estate's assets and, despite three subsequent orders from the district court for him to appear and produce the documents,

Tabler did not respond or appear.

On August 25, 2022, the public administrator filed an inventory revealing the Estate's assets were valued at \$9,198.34. After reviewing subpoenaed records from Fifth Third Bank, the public administrator filed a verified bar complaint on May 2, 2023, asserting Tabler had written over \$200,000.00 in unauthorized checks to himself from the Estate's account.<sup>1</sup> On July 18, 2023, Tabler, through counsel, filed a response to the bar complaint asserting that due to health reasons Tabler could not determine whether the allegation of his misappropriating funds was true.

Upon receipt of all this information, the Inquiry Commission filed the instant petition, alleging Tabler is or has been misappropriating funds he held for others to his own use or has otherwise been improperly dealing with those funds, and that his conduct poses a substantial threat of harm to his clients or the public. Tabler has not filed a response.

SCR 3.165(1)(a) permits the temporary suspension of an attorney if "[i]t appears that probable cause exists to believe that an attorney is or has been misappropriating funds the attorney holds for others to his/her own use or has been otherwise improperly dealing with said funds." Further, SCR 3.165(1)(b) permits the Inquiry Commission to petition this Court for an order of temporary suspension if "[i]t appears that probable cause exists to believe that an attorney's conduct poses a substantial threat of harm to his clients or to the

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<sup>1</sup> The bank subsequently prepared a detailed spreadsheet which showed the actual amount to be \$180,725.00.

public[.]” The Inquiry Commission believes the facts set forth above are sufficient to meet this burden in requesting Tabler be suspended pending the outcome of the disciplinary proceedings currently underway.

This Court has reviewed the uncontroverted allegations of the Inquiry Commission and agrees that probable cause exists to believe Tabler is or has been misappropriating funds or has been otherwise improperly dealing with said funds as required by SCR 3.165(1)(a). We further agree a reasonable basis exists to believe Tabler’s conduct poses a substantial threat of harm to his clients as required by SCR 3.165(1)(b). Consequently, we agree with the Inquiry Commission that his license to practice law should be temporarily suspended pursuant to SCR 3.165(1).

ACCORDINGLY, IT IS HEREBY ORDERED as follows:

1. Gary Alan Tabler is temporarily suspended from the practice of law in the Commonwealth of Kentucky, effective upon the date of entry of this order;
2. The temporary suspension shall persist for a period of 180 days unless otherwise extended or dissolved by subsequent order of this Court;
3. Disciplinary proceedings against Tabler may be initiated by the Inquiry Commission pursuant to SCR 3.160, unless already begun or unless Tabler resigns under terms of disbarment;
4. Pursuant to SCR 3.165(4), Tabler may request dissolution or amendment of the temporary suspension. In the event any such request is filed, the Inquiry Commission shall file its response with utmost speed, and the

matter shall then be heard and determined as expeditiously as the ends of justice require;

5. No later than 30 days prior to the expiration of the period of temporary suspension, the parties shall each file a status update regarding the progress of any disciplinary proceedings and setting forth their respective positions on whether the term of suspension should be extended, dissolved, or amended;

6. Pursuant to SCR 3.165(5), Tabler shall, within twenty (20) days from the date of the entry of this Opinion and Order, notify in writing all clients of his inability to provide further legal services and furnish the Director of the Kentucky Bar Association with copies of all such letters;

7. Pursuant to SCR 3.165(6), Tabler shall immediately, to the extent reasonably possible, cancel and cease any advertising activities in which he is engaged.

All sitting. All concur.

ENTERED: December 14, 2023.

  
CHIEF JUSTICE