

IN THE SUPREME COURT OF TENNESSEE  
AT NASHVILLE

**In Re: PETITION OF THE TENNESSEE COMMISSION ON  
CONTINUING EDUCATION AND SPECIALIZATION TO AMEND  
SUPREME COURT RULE 21 ENFORCEMENT PROVISIONS**

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**No. M2001-02831-SC-RL1-RL**

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**Filed March 21, 2002**

**ORDER**

The Tennessee Commission on Continuing Legal Education and Specialization (“the Commission”) filed a petition asking the Court to amend the enforcement provisions contained in Rule 21. In support of its request, the Commission submitted statistical information indicating that a significant number of Tennessee lawyers are failing to comply with the CLE requirements of the rule in a timely manner; the Commission therefore asks the Court to amend the enforcement provisions of the rule to impose a graduated set of sanctions to promote timely compliance.

The Court entered an order setting out proposed amendments to the rule and soliciting public comments on the proposed changes. Comments were received from the Tennessee Bar Association, the Nashville Bar Association and one individual attorney; the Commission then filed a response to the public comments. After considering the petition filed on behalf of the Commission, the various public comments received by the Court, and the Commission’s response to those comments, the Court finds that the petition is well-taken and should be granted.

The petition filed by the Commission on CLE & Specialization is hereby granted. Rule 21, Rules of the Tennessee Supreme Court, is amended as follows:

Section 3.01 is amended to add the following new third sentence after the existing second sentence: “All hours of continuing legal education for each calendar year shall be earned by December 31 of that calendar year.”

Section 6 is amended by deleting Sections 6.01 and 6.02 in their entirety and by replacing them with the following new sections:

6.01 On or before January 31 of each year, the Commission shall prepare and mail an Annual Report Statement to each attorney covered by this Rule requesting information concerning the attorney’s compliance with Section 3 of this Rule in the preceding calendar year. The Annual Report Statement shall be mailed to the attorney’s address as shown in the most recent registration statement filed by

the attorney pursuant to Supreme Court Rule 9, Section 20.5, or to the attorney's last known address.

6.02 On or before March 1, each attorney shall complete the Annual Report Statement, indicating his or her completion of, exemption from, or approved substitute for accredited continuing legal education during the preceding calendar year, and deliver the completed Annual Report Statement to the Commission. The completed Annual Report Statement shall disclose all CLE hours earned during the preceding calendar year, including any hours to be carried forward to the following year.

Section 7 of the rule is amended by deleting the existing section in its entirety and by replacing it with the following new Section 7:

Sec. 7. Noncompliance and Sanctions.

7.01 By March 31 of each year, the Commission shall compile:

(a) A list of those attorneys who did not timely file an Annual Report Statement for the preceding calendar year; and

(b) A list of those attorneys who timely filed an Annual Report Statement indicating lack of compliance with the requirements of Section 3 of this Rule for the preceding calendar year; and

(c) A list of those attorneys who timely filed an Annual Report Statement indicating compliance with the requirements of Section 3 of this Rule for the preceding calendar year but who did not pay any and all fees due under Section 8.03 of this Rule.

7.02 On March 31 of each year, the Commission shall serve each attorney listed on any of the three foregoing lists a Notice of Non-completion requiring the attorney to remedy his/her deficiencies on or before May 31 of that year. The notice shall be served upon the attorney by registered or certified mail, return receipt requested, at the address shown in the most recent registration statement filed by the attorney pursuant to Supreme Court Rule 9, Section 20.5 or other last known address.

7.03 Each attorney to whom a Notice of Non-completion is issued shall pay to the Commission a non-completion fee of One Hundred Dollars (\$100.00). Such non-completion fee shall be paid on or

before May 31 of that year unless the attorney shows to the satisfaction of the Executive Director of the Commission that the Notice of Non-completion was erroneously issued, in which case no such fee is due.

7.04 Each attorney to whom a Notice of Non-completion is issued shall file an affidavit with the Commission on or before May 31 of that year showing that he or she has remedied his/her deficiencies. In the event an attorney fails to timely remedy his/her deficiencies or fails to timely file such affidavit, the attorney shall pay to the Commission, in addition to the non-completion fee, a delinquent compliance fee of Two Hundred Dollars (\$200.00).

7.05 On July 1 of each year, the Commission shall prepare a draft Suspension Order listing all attorneys who were issued Notices of Non-completion and who failed to remedy their deficiencies by May 31. The Commission shall submit the draft Suspension Order to the Supreme Court for informational purposes. The Commission also shall mail a copy of the draft Suspension Order to each attorney named in the draft Order by registered or certified mail, return receipt requested, to the address shown in the most recent registration statement filed by the attorney pursuant to Supreme Court Rule 9, Section 20.5 or other last known address.

7.06 On or before August 10, each attorney listed in the draft Suspension Order may file an affidavit in a form acceptable to the Commission showing compliance with Section 3 of this Rule for the preceding calendar year. Upon the Commission's approval of such affidavit and upon the attorney's payment of all outstanding fees, the Commission shall remove the attorney's name from the list of potential suspensions contained in the draft Suspension Order.

7.07 On August 15, the Commission shall submit to the Supreme Court a final Suspension Order listing all attorneys with active Tennessee law licenses who failed to comply with this Rule for the preceding calendar year. Also on August 15, the Commission shall notify the Board of Professional Responsibility of the names of all licensed attorneys who have retired, taken inactive status, been suspended, or whose license to practice law in this state is otherwise inactive, and who failed to comply with the requirements of this Rule. The Supreme Court will review the final Suspension Order and, upon the Court's approval, shall enter the Suspension Order suspending the law license of each attorney listed in the order. The Board of Professional Responsibility shall not reactivate the license

of any attorney whose license is suspended pursuant to this Rule until the Commission certifies completion of a program of remedial continuing legal education satisfactory to the Commission.

7.08 Each attorney named in the final Suspension Order entered by the Court or whose name is submitted to the Board of Professional Responsibility as ineligible for reactivation for failure to meet the requirements of this rule shall pay to the Commission a Five Hundred Dollar (\$500) Suspension Fee as a condition of reinstatement of his or her law license. The suspension fee shall be paid in addition to the non-completion fee and the delinquent compliance fee.

7.09 Payment of all fees imposed in this section shall be a requirement for compliance with this Rule.

7.10 An attorney suspended or made ineligible for reactivation by the Commission pursuant to this Rule may file with the Commission an application for reinstatement demonstrating compliance with Section 3 of this Rule. If the application is satisfactory to the Commission, if the attorney is otherwise eligible for reinstatement, and if the attorney has paid in full all fees due under this Rule, the Commission will recommend to the Supreme Court that the Court reinstate the attorney's law license.

7.11 An attorney may request a hearing before the Commission in regard to a recommendation of suspension or a recommendation against reinstatement. Additionally, any attorney not finding suitable relief before the Commission may petition the Supreme Court for modification or reversal of actions of the Commission.

These amendments shall apply to continuing legal education requirements for the 2002 calendar year (which will be reported in 2003) and for subsequent years. These amendments shall not be applied to continuing legal education requirements for the year 2001 (currently being reported) or for previous years.

**IT IS SO ORDERED.**

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Frank F. Drowota, III, Chief Justice